

Determining the most appropriate long-term living situation and legal option for a child placed in your home is an extremely important decision for you and your family. In Wisconsin, there are a few options available based on your situation that provide different levels of resource eligibility and legal authority. You may need to access legal support when making determinations about the best permanency option. ***Nothing in this fact sheet should be considered legal advice from DCF. Please consult with an attorney with any legal questions.***

Rights and Responsibilities

	Adoption	Ch. 48.977 or Ch. 54 Guardianship		Subsidized Guardianship
		with No Subsidy	with Kinship Care	
What are my legal rights and responsibilities to the child?	All parental rights, duties and other legal responsibilities are transferred to the adoptive parent when the court finalizes an adoption. You are legally the child's parent.	The court order will outline the rights and responsibilities that were transferred to you as the guardian. In general, all rights, duties and other legal responsibilities are transferred to the guardian when the court finalizes the transfer of guardianship, unless a partial guardianship order is issued as described below.		
When do my legal rights and responsibilities to the child end?	Your legal rights and responsibilities to the child last forever.	Your legal rights and responsibilities to the child last until the child becomes an adult at age 18, or until the guardianship ends for any other reason <i>(for example, if guardianship responsibilities are returned to the child's parents)</i> .		
What rights and responsibilities do the former parents maintain for the child?	The former parents have no rights or responsibilities to the child. Their rights to the child were terminated prior to the adoption.	Most of the rights and responsibilities for the child are transferred to you as the guardian. However, the court may order a partial guardianship order so that certain rights or responsibilities stay with the parent. Review the court order to find out which rights and responsibilities were transferred to you as guardian.		
Can I make educational decisions for the child?	YES —Adoption transfers rights, duties and legal responsibilities to the adoptive parent.	In general, YES —be sure to review the court order, which will outline the specific rights and responsibilities that were transferred to you as the guardian.		
Can I make medical decisions for the child?	YES —Adoption transfers rights, duties and legal responsibilities to the adoptive parent.	In general, YES —be sure to review the court order, which will outline the specific rights and responsibilities that were transferred to you as the guardian.		
Am I responsible for the child's misconduct?	YES —Adoption transfers rights, duties and legal responsibilities to the adoptive parent.	YES —as guardian, you are legally responsible for the child's conduct.		
Will I need consents to make any decisions?	NO —as parent of the child, all decision-making is your responsibility unless modified by a family court order (e.g. divorce, partial guardianship, etc.)	In general, NO —be sure to review the court order, which will outline if the child's parent maintains responsibility for any decision-making. If the court orders that a parent maintains responsibility for certain decisions, they would be required to consent for those decisions. <i>(For example, if the parent maintains the right to make medical decisions for the child, they would need to consent prior to any medical service.)</i>		

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Will the court consider the child's opinion?	There is no legal requirement for a child to consent to adoption. A child who is 14 years old or older will be required to be at the adoption hearing, unless the court orders otherwise.	This depends on the laws associated with the type of guardianship you have for the child. More than one of the following may apply: <ul style="list-style-type: none"> • Chapter 54: does not require a child to consent to the guardianship. • Wis. Stat 48.977(4)(cm)1. requires that children over 12 years old state their opinion related to the guardianship. The court will consider their opinion when making a decision. • Wis. Stat 48.623 also requires that the child be consulted regarding a Subsidized Guardianship if 14 years old or older. 		
Can I change the child's name?	The adoptive parents may legally change the child's full name at the time of adoption. This decision should be made carefully, as it may impact the child's identity. If the child is old enough, they should help make this decision.	The guardianship process generally does not allow the new guardian to change the child's name. A decision to change the child's name must be made in connection with the child and their parents.		
Will the Child Welfare agency still be involved in my life?	After an adoption is finalized, there is no follow-up required from the child welfare agency. If you are receiving Adoption Assistance, you may receive notices from DCF regarding your payments.	The Child Welfare agency will generally end supervision once permanence is achieved through guardianship.	The Child Welfare agency will visit your home each year to ensure you continue to be eligible for Kinship Care benefits.	The Child Welfare agency will send you a review letter each year to follow-up regarding your continued eligibility for payments.
Will the court still be involved in my life?	After an adoption is finalized, there are no additional court dates or court involvement related to adoption.	After guardianship is transferred, there are generally no additional court dates related to the guardianship. Under some circumstances, the court may request updates on the child and family situation each year. In addition, the court may become involved if the child's parent requests that the guardianship be terminated or modified. At that time, additional court involvement would determine if termination or modification of the guardianship is in the best interest of the child.		
Will the child ever go back into foster care?	The child may return to foster care only if an agency found that you abused or neglected the child, that you were unable or unwilling to continue to care for the child, if you voluntarily place the child into out-of-home care, or based on other statutory grounds. In addition, the child may return to out-of-home care if you passed away or became otherwise incapacitated.			
Can I decide to adopt the child later?	Not Applicable	<p>YES—as long as you meet all requirements for adoption. However, the child would no longer be eligible for a Public Adoption or Adoption Assistance payments. This means, you would be required to complete the adoption through a Private Adoption agency. Private agencies that complete adoptions charge fees for the adoptive home study, training, and other adoption related costs. In order to adopt, you would be required to pay these fees.</p> <p>In addition, the child's parents' rights must be terminated. This will require additional legal services and may require you to hire an attorney to complete the court processes.</p>		

Relationship with Parents and Other Relatives

Although there may be no requirement to maintain a relationship with the child's biological family, *it is important for the child to maintain a connection with his/her culture and family history*. A positive relationship with biological parents and other relatives may provide the child with an even larger network of support and information that can be an asset as they develop their own personal identity and transition to adulthood. Although not every family member will be a healthy connection to maintain, it is important to maintain connections with those who can be healthy and positive. The most important factor contributing to positive outcomes for children involved in the Child Welfare system is meaningful connections and lifelong relationships with family.

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Am I required to allow birth parents to visit the child?	NO —there is no legal requirement for birth parent visitation. This is a decision made by the adoptive parents.	NO —in most cases there is no legal requirement for parent visitation. This is a decision made by the child's guardian. In some cases, courts will order specific visitation schedules for the child and his/her parent. If the court orders a visitation schedule, this schedule must be followed.		
Am I required to maintain relationships with siblings or other relatives?	NO —there is generally no requirement for continued relationship with siblings or other relatives. This is a decision made by the adoptive parents. However, severing these relationships may impact the child's identity. It is important to maintain them whenever it is safe to do so in order to support the child.	NO —in most cases there is no legal requirement for sibling or other relative visitation. This is a decision made by the child's guardian. In some cases, courts will order specific visitation schedules for the child and siblings and/or other relatives. If the court orders a visitation schedule, this schedule must be followed.		
Can the parents come back to claim the child?	NO —the birth parents' rights have been terminated and they have no claim to the child.	YES —the parents can ask the court to terminate the guardianship. The court schedules a hearing where both the parent and guardian would have the opportunity to be heard. The court decides if the guardianship should be terminated; and if terminated, the authority to make decisions for the child is returned to the child's parent.		

Financial Assistance

The type of permanency the child obtains and your relationship with the child (relative or non-relative) will impact your ability to receive financial assistance to support the child in your home.

Will I receive any financial assistance?	After adoption, any payments you received as a foster parent will end. If the child is eligible for Adoption Assistance, monthly payments will continue.	NO —you will not receive any financial assistance following guardianship.	YES —you will continue to receive the monthly payment as long as you continue to be eligible for Kinship Care.	YES —you will receive a monthly payment as long as you continue to be eligible for Subsidized Guardianship.
How much will my monthly payment be?	If the child is eligible for Adoption Assistance, your monthly payment will be equal to or lower than your last foster care rate. Payments are based on the Uniform Foster Care Rate Setting Policy.	Not Applicable	The Kinship Care payment is set by Wisconsin State Statute; <u>§48.57(3m)(am)</u>	Your monthly payment will be equal to or lower than your last foster care rate. Payments are based on the Uniform Foster Care Rate Setting Policy.

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Can I request a new rate if the child's needs increase?	<p>YES– you may request an amendment to your Adoption Assistance Rate if the child's needs increase.</p> <p>Amendments can be requested beginning one year after the adoption was finalized.</p>	Not Applicable	The Kinship Care rate is a rate set by Wisconsin State Statute and cannot be amended or changed.	<p>YES– you may request an amendment to your Subsidized Guardianship Rate if the child's needs increase.</p> <p>Amendments can be requested beginning one year after the guardianship was established.</p>
If I do receive an amended rate, will this become the new rate forever?	<p>NO-Amended rates are reviewed each year to determine if the child's needs continue to require a higher rate. If a higher rate is not continued, the payment will return to the original Adoption Assistance rate.</p>	Not Applicable	Not Applicable	<p>NO-Amended rates are reviewed each year to determine if the child's needs continue to require a higher rate. If a higher rate is not continued, the payment will return to the original Subsidized Guardianship rate.</p>
Will my payments be reviewed regularly?	<p><i>If you receive Adoption Assistance and have not requested an amendment to that rate,</i> there will be no regular review of your rate.</p> <p><i>If you request an amendment to your Adoption Assistance Rate,</i> the amendment will be reviewed each year.</p>	Not Applicable	Your eligibility for the Kinship Care monthly payment will be reviewed each year.	<p>You will receive a form each year to review your continued eligibility for payments.</p> <p><i>If you request an amendment to your monthly payment,</i> the amendment will also be reviewed each year.</p>
Am I eligible for tax credits for the child?	Federal and State Tax Credits are sometimes available. Please check with your tax professional and visit the Internal Revenue Service (IRS) website for more information.	There is no tax credit for children under guardianships. Please check with your tax professional and visit the Internal Revenue Service (IRS) website to inquire about other available tax credits.		
Can I claim the child as a dependent?	After adoption, you may claim the child as a dependent for tax purposes.	Following guardianship, you may be able to claim the child as a dependent for tax purposes. Please consult with your tax professional before claiming the child.		
Is the monthly payment considered taxable income?	The Adoption Assistance subsidy is generally not considered taxable income for. <i>Please consult with a tax professional.</i>	Not Applicable	The Kinship Care Rate is generally not considered taxable income. <i>Please consult with a tax professional</i>	The Subsidized Guardianship rate is generally not considered taxable income. <i>Please consult with a tax professional.</i>

Health Care Coverage

Health Care Coverage options for the child differ based on the type of permanency. Under some options, children are eligible to receive Wisconsin Medicaid based off their Subsidized Guardianship or adoption agreement without a financial requirement. If the child is not eligible based on a Subsidized Guardianship or adoption agreement, you will need to apply to Wisconsin Medicaid to determine if they are eligible for other Wisconsin Medicaid options or locate private insurance coverage for the child.

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Will the child be eligible for Medicaid?	<p><i>If you have an Adoption Assistance Agreement and the child resides in Wisconsin,</i> the child is eligible for Wisconsin Medicaid based on the adoption agreement.</p> <p><i>If you do not have an Adoption Assistance Agreement,</i> the child must apply for Wisconsin Medicaid in order to be eligible.</p>	The child in your care may be eligible for Wisconsin Medicaid, but you must apply in order to determine eligibility.		<p>YES— all children under a Subsidized Guardianship Agreement whose state of residence is Wisconsin are eligible for Wisconsin Medicaid due to the guardianship agreement.</p>
What if the child is not eligible for Medicaid?	If the child is not eligible for Medicaid based on the adoption agreement, or you apply and the child is not eligible, you will need to place the child on your own private health insurance or access other private health insurance to cover your child's healthcare needs.	If you apply for Wisconsin Medicaid and the child is not eligible, you will need to place the child on your own private health insurance or access other private health insurance to cover the child's healthcare needs.		<p>Not applicable. All children under Subsidized Guardianship Agreements whose state of residence is Wisconsin are eligible for Medicaid.</p>
Am I required to put the child on my private health insurance?	<p>NO— you are not required to put the child on your private health insurance plan. However, you should be able to put the child on your private health insurance if you choose to do so.</p>	<p>NO— you are not required to put the child on your private health insurance plan. However, you should be able to put the child on your private health insurance if you choose to do so. You will need to provide proof of guardianship to your insurance provider.</p> <p>If you choose to put the child in your home on your private health insurance plan, and the child also receives Medicaid, your private insurance must be used as “primary insurance” for the child. <i>See below for more details.</i></p>		
Can I put the child on my private health insurance plan even if they are covered by Medicaid?	<p>YES— your private health insurance becomes the “primary insurance” and Medicaid becomes “secondary insurance.” This means your private insurer will be billed first, and Medicaid is billed second. As secondary insurance, Medicaid is considered the “payer of last resort” and will be charged for services not covered by your private health insurance plan.</p>			

Eligibility for Other Services

Based on the permanency type and family situation, you may be eligible for other services to support the child in your home.

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Child Support	Any obligation by the parents to pay child support for the child is ended due to Termination of Parental Rights and Adoption.	As the child's guardian, you can request that the court order the parent to pay you child support for the care of the child in your home.	The child's parent may be ordered to make child support payments to the agency that is paying for Kinship Care, unless good cause has been filed.	The child's parent may be ordered to make child support payments to the agency that is paying for Subsidized Guardianship.
Social Security Survivor Benefits	An adopted child is entitled to continue to receive survivor benefits due to the death of his or her birth parents. Also—an adopted child is entitled to receive survivor benefits due to the death of his or her adoptive parents.	A child under a guardianship may still receive survivor benefits from the death of his or her parents. The child would not be eligible to receive survivor benefits due to the death of his or her guardian.	A child under a guardianship generally may still receive survivor benefits from the death of his or her parents. The child would not be eligible to receive survivor benefits due to the death of his or her guardian. Because the guardian receives a monthly payment, the agency providing the reimbursement will receive the Social Security benefits on the child's behalf to pay for the child's cost of care. Any benefit above the cost of care will be placed in a trust that may be accessed to support additional child needs.	
Wisconsin Shares Child Care Subsidy	Adoption does not automatically qualify your child for this program. General eligibility criteria applies to you and your child.	Guardianship does not automatically qualify your child for this program. General eligibility criteria applies to you and your child.	The child's eligibility for this program will first be based on the household income of their parent. If the household income of the child's parent is higher than the income eligibility, the income based test for eligibility will then be based off the guardian's income.	
Residential Treatment Services	YES — you can access residential treatment. It will not be state or county funded unless the child enters out-of-home care through your local child welfare agency. You will need to access your private insurance to pay, or utilize another funding source.		YES — you can access residential treatment the same way any parent would. It will not be state or county funded unless the child enters out-of-home care through your local child welfare agency. You will need to access your private insurance to pay, or utilize another funding source. <i>If the child does move in to a residential treatment program, it may affect your ability to continue to receive a monthly payment.</i>	
Free or Reduced Lunch	Adoption does not automatically qualify your child for free or reduced lunch. General eligibility criteria applies to you and your child.	Children under guardianships are not automatically eligible for free or reduced lunch. General eligibility criteria applies to you and your child.		

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Independent Living Services and Education Vouchers	<p>Youth adopted after their 16th birthday are eligible for independent living services and education vouchers.</p> <p>Youth who were adopted are not eligible for room and board supports.</p>	<p>If the youth was previously in out-of-home care and guardianship under Wis. Stat 48.977 is transferred after their 16th birthday, the youth is eligible for independent living services and education vouchers, also known as the Brighter Star Program in Wisconsin.</p>		
Financial Aid (FAFSA)	<p style="text-align: center;"><i>If the youth was in out-of-home care for at least one day after their 13th birthday prior to finalization of adoption or guardianship, the child may be eligible to apply for federal financial aid with “independent” status.</i></p> <p style="text-align: center;"><i>If the youth was never in out-of-home care after their 13th birthday or adoption or guardianship were finalized prior to their 13th birthday, they will apply for federal financial aid by following the same general criteria as other students.</i></p>			

Moving Out of State

Moving out of state may impact your eligibility for services and your ability to continue to receive payment.

Will my financial benefits continue if I move out-of-state?	<p>YES— if your Adoption Assistance Agreement is still in effect, your payments will continue if you move out-of-state.</p> <p><i>You must notify DCF prior to your move.</i></p>	<i>Not Applicable</i>	<p>NO—you may only receive the Kinship Care payment if you reside in Wisconsin.</p>	<p>YES—if your Subsidized Guardianship is still in effect, your payments will continue out-of-state.</p> <p><i>You must notify the agency that maintains your payment prior to your move.</i></p>
Will Wisconsin Medicaid eligibility continue if I move out of state?	<p>LIKELY—depending on the state you move to, your child’s Medicaid eligibility may continue.</p> <p>Some states do not recognize Wisconsin Medicaid; in this case, you would then be required to apply for Medicaid in your new state or find alternative coverage.</p> <p><i>You must notify DCF prior to your move. DCF will be able to let you know if your new state of residence will accept Wisconsin Medicaid.</i></p>	<p>NO—You will need to re-apply for Medicaid in your new state of residence.</p>	<p>NO—You will need to re-apply for Medicaid in your new state of residence.</p>	<p>LIKELY—depending on the state you move to, your child’s Medicaid eligibility may continue.</p> <p>Some states do not recognize Wisconsin Medicaid; you would then be required to apply for Medicaid in your new state or find alternative coverage.</p> <p><i>Contact DCF to find out if your new state of residence accepts Wisconsin Medicaid.</i></p>

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Can the child's biological parent restrict my ability to move out-of-state?	Adoptive parents have decision making responsibility regarding connections with birth families. Moving out of state may affect a child's ability to maintain contact with biological family or other community supports.	Guardians are able to move out of state with the children placed in their care. However, that child's parent can petition the court to restrict your ability to move with the child. If the court agrees that the child should stay in Wisconsin in order to maintain contact with their parents, you may be unable to move out of state and maintain guardianship of the child.		

Death Planning

How do I make plans for who will care for the child after I pass away?	<p>You will make plans for the child in the same way any other parent plans. Be sure to have conversations with the individual(s) that you would like to take over care responsibility should you pass away. You may also want to contact an attorney to create or update your Will to reflect your wishes for the child.</p> <p>If a Child Welfare Agency was involved in finalizing the child's adoption or guardianship, they may become involved again if you pass away to identify a new permanent caregiver for the child.</p>		<p>Subsidized Guardianship allows you to identify a "successor guardian." The person you identify will be contacted as the individual to take over care responsibility if you pass away or become otherwise incapacitated.</p> <p>Contact the agency that maintains your payment to add a Successor Guardian to your Agreement.</p>
Will my monthly payment transfer to the child's new caregiver?	<p>NO—Adoption assistance will not transfer to the new caregiver.</p> <p>The child's new caregiver would need to adopt the child and apply for Adoption Assistance.</p>	<p>Not Applicable</p>	<p>NO—the child's new caretaker will need to apply for Kinship Care Benefits.</p> <p>YES—if you have a Successor Guardian identified, the payment will transfer to them while a new Subsidized Guardianship Agreement is being developed.</p>
Will the child receive an inheritance when I pass away?	<p>YES—Adoptive and Biological children have the same right to inheritance when the parent does not have a Will. If a Will is developed, inheritance rights depend on the contents of that will.</p> <p>The child's right to inherit from birth parents is ended.</p>	<p>NO—Children under a guardianship do not have a right to receive inheritance from their guardian if the guardian dies without a will in place that provides for the child to receive an inheritance. If you would like the child to receive inheritance, you should consult with an attorney to create or update your "Last Will and Testament."</p>	