

# How the Death of an Adoptive Parent(s) Affects Adoption Assistance

Wisconsin Department of Children and Families  
Division of Safety and Permanence



*This publication is written as a resource for adoptive parents who have a signed Adoption Assistance Agreement in effect with the Wisconsin Department of Children and Families, as well as to assist the appointed guardian of the child. The information below describes what happens to the adoption assistance being received when the adoptive parents die.*

**1. Will a child continue to receive adoption assistance and medical assistance upon the death of the adoptive parents?**

No. The Adoption Assistance Agreement is between the State of Wisconsin and the adoptive parents. Upon death, the agreement is no longer in effect. The Adoption Assistance Agreement does not transfer from the adoptive parents to the child's guardian. Medical assistance benefits provided under the original Adoption Assistance Agreement are also discontinued.

**2. How will the child's daily physical, emotional and medical costs be met after the death of the adoptive parents and before the adoption by the appointed guardian?**

Under the current law, there are no provisions in place that will automatically cover these costs. Social Security benefits, life insurance, inheritance or the county human / social services department may be able to assist with some of the expenses. If the guardian is licensed as a foster / adoptive parent for the child, foster care payments would be made to offset these costs and medical assistance would be provided for the child(ren). Generally, the child will be eligible for medical benefits. The child may be eligible for Medicaid under the general Medicaid eligibility guidelines, or if the guardian qualifies as a kinship care placement the child would receive medical assistance through the Kinship Care Program. Staff at the county human / social services department can assist in determining medical assistance eligibility.

**3. Does the appointed guardian have to adopt the child in order to receive adoption assistance?**

Yes. Adoption assistance funds can only be paid if the child is adopted. If the guardian wishes to adopt the child, the guardian must apply and be approved to adopt the child.

**4. Is there a department issued guideline available for an appointed guardian to follow if he or she wishes to adopt the child in the event of the adoptive parents' death that can be attached to the will?**

Not at this time. It is suggested that the adoptive parents consult with an estate planner. The guardian or estate planner may call the phone numbers listed below to obtain information about how to begin the adoption process.

North / Northeastern Wisconsin: (920) 448-5312

North / Northwestern Wisconsin: (715) 836-3399

South / Southeastern Wisconsin: (608) 264-6838

Milwaukee: (414) 453-1400

Adoption Assistance Information Line: (866) 666-5532

**5. Is the adoption assistance amount re-evaluated when the appointed Guardian adopts the child?**

Yes. The adoption assistance rate will be based on the needs of the child at the time the child is adopted by the guardian.

**6. Will the appointed guardian be automatically approved for adoption?**

No. It is necessary for the appointed guardian to qualify as a foster / adoptive parent in accordance with licensing requirements defined in Wisconsin Administrative Code Chapter DCF 56, Foster Home Care for Children, and Wisconsin Administrative Code Chapter DCF 51, Adoption of Children with Special Needs.

**7. Is the income of the appointed guardian a factor in pursuing the subsequent adoption?**

Adoption assistance cannot be denied because the applicant's income is too high. However, an applicant's lack of income may affect eligibility. The applicant needs to demonstrate that family income is sufficient to meet the other family obligations without reliance on adoption assistance payments for the child as provided in Wisconsin Administrative Code Section DCF 51.07(8)(b). This is the same requirement for any family that adopts and applies for adoption assistance.

**8. Can the appointed guardian receive legal guardianship and not apply for adoption assistance?**

Yes. If criteria for the legal guardianship are met, the law is the same as that for any child in need of a guardian. The family should apply for assistance (e.g., medical assistance) through the human / social services department in the county where the appointed guardian and child reside.

**9. If the adoptive parent has a terminal illness, can the individuals to be appointed guardians of the child do anything prior to the death of the adoptive parent to prepare for adoption of the child?**

Yes. The individuals can begin the foster / adoptive parent licensure process. Staff in the regional adoption office will instruct the individual on the steps necessary to become approved as a foster / adopt resource.

**10. If a person adopts as a single individual, marries after adoption and later dies, will their spouse automatically continue to receive adoption assistance for the adopted child?**

No. If the individual who signed the Adoption Assistance Agreement with the Department of Children and Families would like their spouse to become a party to the Agreement, their spouse must complete a step-parent adoption of the child referenced in the Agreement. The adoptive parent listed on the Agreement should then provide a written request to the department to add their spouse to the agreement. A copy of the Step-Parent Adoption Order must accompany the request.

**For more information, please contact:**

Adoption Assistance  
DCF/DSP  
P.O. Box 8916  
Madison, WI 53708-8916

Telephone: (866) 666-5532 (toll-free)  
Fax: (608) 264-6750

The Wisconsin State Code mentioned in this publication may be accessed on the following websites:

Chapter DCF 51: [http://docs.legis.wisconsin.gov/code/admin\\_code/DCF/021\\_099/51.pdf](http://docs.legis.wisconsin.gov/code/admin_code/DCF/021_099/51.pdf)

Chapter DCF 56: [http://docs.legis.wisconsin.gov/code/admin\\_code/DCF/021\\_099/56.pdf](http://docs.legis.wisconsin.gov/code/admin_code/DCF/021_099/56.pdf)

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