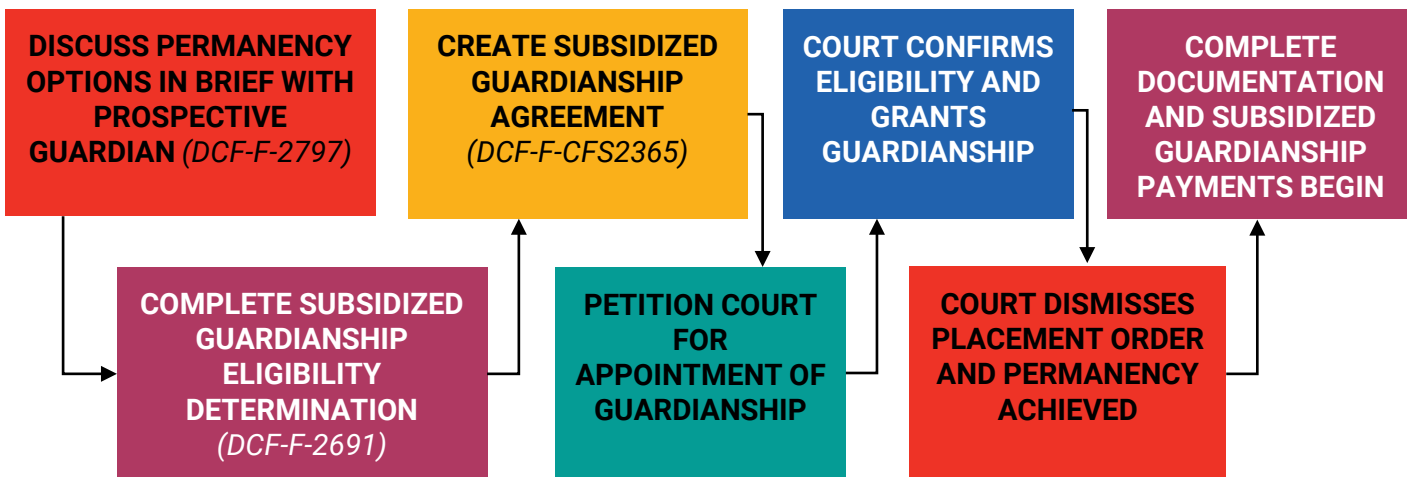




# Subsidized Guardianship

Subsidized guardianship, which is governed by Wisconsin Stat. § 48.623 and Wis. Admin. Code § DCF 55, supports the legal permanence option of guardianship, when reunification cannot occur and termination of parental rights and adoption is not in the child's best interests. Nothing in this desk guide should be considered legal advice. Please consult with your agency's attorney with any legal questions.



## Permanency Decision Considerations

- ☐ What are the implications of permanently severing the child's relationship with their parents, siblings, and other relatives?
- ☐ What permanency option does the Indian child's tribe support?
- ☐ Will the prospective guardian maintain the child's connection to their parents, siblings, and other relatives after permanency is achieved?
- ☐ Will the child maintain access to their culture and sense of identity?

## Agency Responsibilities

- ☐ Explain to each relative and fictive-kin foster parent their eligibility for the various permanency options using the Permanency Options in Brief form (DCF-F-DCF2797)
- ☐ Document the identified child and prospective guardian's eligibility for subsidized guardianship payments using the Subsidized Guardianship Eligibility Determination and Permanency Plan Addendum form (DCF-F-2691).
- ☐ Enter into a written, signed Subsidized Guardianship Agreement (DCF-F-CFS2365) with the prospective guardian **before** guardianship is established under Wis. Stat. § 48.977 or under a tribal court order that is substantially similar to an order under § 48.977.
- ☐ Provide monthly subsidized guardianship payments to the child's guardian

# A child and prospective guardian are eligible to receive subsidized guardianship payments if the agency determines that all the following eligibility criteria apply:

## Child:

- ☐ Placed in out-of-home care under: VPA, CHIPS, JIPS (938.13(4) only), or substantially similar tribal court order
- ☐ Resided with prospective guardian for 6 consecutive months before guardianship is established
- ☐ Demonstrates strong attachment to the prospective guardian
- ☐ Determined that reunification and adoption are not in the child's best interests
- ☐ If age 14 or older, they have been consulted on the arrangement

## Prospective Guardian:

- ☐ Is a relative of the child or fictive-kin to the child
- ☐ Licensed for 6 consecutive months immediately before being named as the guardian of the child
- ☐ Committed to caring permanently for the child
- ☐ Enters into subsidized guardianship agreement with the agency before being appointed the child's guardian

**Relative** is defined pursuant to Wis. Stats. § 48.02(15)

"Relative" means a parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, brother-in-law, sister-in-law, first cousin, first cousin once removed, 2nd cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce. For purposes of the application of § 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, "relative" includes an extended family member, as defined in § 48.028 (2)(am), whether by blood, marriage, or adoption, including adoption under tribal law or custom. For purposes of placement of a child, "relative" also includes a parent of a sibling of the child who has legal custody of that sibling.

OR

**Fictive-Kin** is defined pursuant to Wis. Admin. Code DCF 55.02(5g)

"Fictive-Kin" means a person who has a significant emotional relationship with the child or the child's family and to whom any of the following applies:

- ☐ Prior to the child's placement in out-of-home care, the person had an existing relationship with the child or the child's family that is similar to a familial relationship, OR
- ☐ During the child's placement in out-of-home care, the person developed a relationship with the child or the child's family that is similar to a familial relationship and all the following apply:
  1. The person is a foster parent who has had a relationship with the child for at least 2 years,
  2. The child is 14 years of age or older,
  3. The child has been placed in out-of-home care for 15 out of the last 22 months, and
  4. The agency or court determines that placement with a fit and willing relative is not in the child's best interest.

## PETITIONING THE COURT

When the agency petitions the court to appoint the prospective guardian under Wis. Stats. § 48.977 or under a tribal court order that is substantially similar to § 48.977, the petition must include the Subsidized Guardianship Eligibility Determination and Permanency Plan Addendum form (DCF-F-2691)

- ❑ It is encouraged that a prospective successor guardian is listed on the subsidized guardianship agreement.

## COURT FINDINGS

The court must:

- ❑ Confirm subsidized guardianship eligibility requirements are met, and
- ❑ After the guardianship is ordered, the VPA, CHIPS, JIPS, or substantially similar tribal court order continuing the placement of the child outside of their home must be dismissed.

## Changes that may affect eligibility for continued subsidized guardianship payments

- ❑ There has been a change in the child's guardian
- ❑ The child has entered the military
- ❑ The child is married
- ❑ The child is no longer living with the guardian
- ❑ The child's parent moved into the guardian's home
- ❑ The child is deceased
- ❑ The guardian is no longer supporting the child
- ❑ The child has graduated, completed, or dropped out from a full-time, kindergarten to 12th grade educational program or it's equivalent
- ❑ The guardian's legal responsibility for the child has ended
- ❑ The child has been placed outside the guardian's home at public expense

## Agency must review child and guardian's eligibility for subsidized guardianship payments at the following times:

- ❑ Annually, starting 12 months after the date the agency made the first payment to the guardian
- ❑ 30 days after the child's parent began residing with the guardian and child (unless § DCF 55.10(2)(b)1.-2. apply)
- ❑ 6 months prior to the child's 18th birthday
- ❑ When the agency receives notice from the guardian or otherwise knows that a change in circumstances under Wis. Admin. Code § DCF 55.10(1) has occurred

### Annual Review:

The agency sends the Subsidized Guardianship Request for Information to Determine Continued Eligibility form (DCF-F-2736) to the guardian:

**60 days prior to annual review date**

Upon receipt from the guardian, document an eligibility determination for Annual Review in eWiSACWIS

**If not received, 30 days prior to annual review date**

Upon receipt from the guardian, document an eligibility determination for Annual Review in eWiSACWIS

**If not received, suspend payment until received**

### Eligibility After Age 18 Review:

The agency sends the Advance Notice of Termination of Subsidized Guardianship at Age 18 form (DCF-F-2421) to the guardian:

**6 months prior to the child's 18th birthday**

Upon receipt from the guardian, document an eligibility determination for Child Over 18 in eWiSACWIS

**If not received, 60 days prior to the child's 18th birthday**

Upon receipt from the guardian, document an eligibility determination for Child Over 18 in eWiSACWIS

**If not received, last payment is for the month of the child's 18th birthday**

**Change in Circumstances Review** can be entered at any time. The agency sends the Subsidized Guardianship Request for Information to Determine Continued Eligibility form (DCF-F-2736) to the guardian. Upon receipt from the guardian, document an eligibility determination for Change in Circumstances in eWiSACWIS.

## Amendments to the Monthly Payment Amount

The guardian may request that the subsidized guardianship agreement be amended to increase the amount of the monthly payments if the guardian believes that there has been a substantial change in circumstances and the timing of the request is any of the following:

- ☐ 12 months after the guardianship was established or after a previous request for an amendment was denied
- ☐ Within 120 days before the expiration date of a current amendment

### Amendment Request Process

1. Guardian observes change in child's needs and contacts the agency to request an amendment.
2. Agency sends guardian the applicable subsidized guardianship amendment request packet.
3. Guardian completes the amendment request form by providing specific examples of the child's identified needs and provides the confirmation of needs forms to a professional working with child to complete.
4. Guardian sends completed documentation to the agency.
5. Agency completes a child abuse and neglect background check on the guardian to determine if there is a final substantiated maltreatment finding of the identified child by the guardian.
6. If the guardian does not have a final substantiated maltreatment finding, the agency determines the new monthly payment amount by updating the child's CANS to determine if there is a change in the child's supplemental points.
7. Agency provides guardian written notice of the agency's decision to approve or deny the request.

Amendment Request Packet	Child aged 0-5 <sup>th</sup> birthday	Child aged 5-21 <sup>st</sup> birthday
Completed by guardian	Subsidized Guardianship Amendment Request – Age Birth to 5 Child and Adolescent Needs and Strengths (CANS) Version (DCF-F-2867-E)	Subsidized Guardianship Amendment Request – Age 5 to 21 Child and Adolescent Needs and Strengths (CANS) Version (DCF-F-2868-E)
Completed by professional working with the child (which includes, but is not limited to their doctor, therapist, teacher, etc.)	Subsidized Guardianship Amendment Request – Confirmation of Needs: -Emotional Characteristics (DCF-F-2869-E) -Behavioral Characteristics (DCF-F-2871-E), and/or -Physical/Personal Care Characteristics (DCF-F-2873-E)	Subsidized Guardianship Amendment Request – Confirmation of Needs: -Emotional Characteristics (DCF-F-2870-E) -Behavioral Characteristics (DCF-F-2872-E), and/or -Physical/Personal Care Characteristics (DCF-F-2874-E)

#### Approve if:

- ☐ Guardian was licensed as a Level 2+, or tribal equivalent provider, prior to establishment of the guardianship
- ☐ Guardian has not been substantiated for the maltreatment of the identified child
- ☐ Child's supplemental points increased

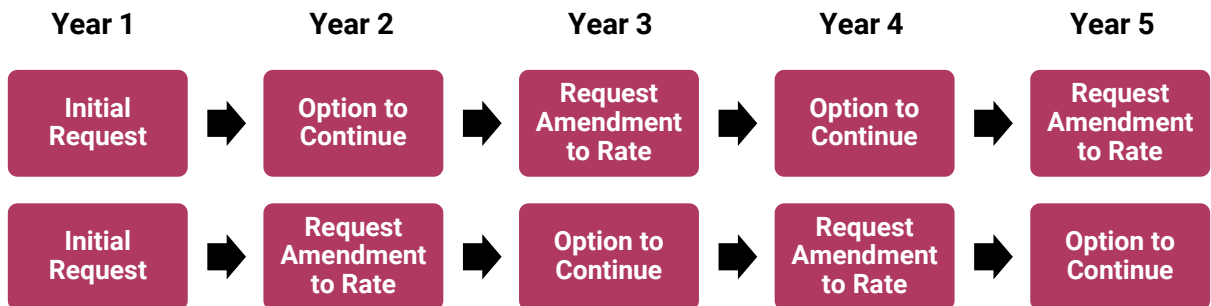
#### Deny if:

- ☐ Guardian was licensed as a Level 1, or tribal equivalent provider, prior to establishment of the guardianship
- ☐ Guardian has been substantiated for the maltreatment of the identified child
- ☐ Child's supplemental points even out or decreased

## Subsequent Amendments

Amendments must be reviewed by the agency on an annual basis to assess the continued needs of the child. At least 120 days before the expiration of an amendment, the agency must send the guardian information on how to request the continuation of the payment amount in the amendment. The guardian has the option to continue with the same payment amount for one year or request an amendment to the payment amount.

The guardian may request an amendment to the payment amount every year but can only pursue the option to continue the current rate for one consecutive year before they are required to request an amendment to the rate to maintain their amendment. Diagrams below illustrate the every-other year process for subsequent amendments.



## Subsequent Amendments Process

### Option to Continue

1. Agency sends Notice of Amendment Expiration – Option to Continue Current Rate form (DCF-F-2767) and Subsidized Guardianship Amendment Request – Option to Continue Current Rate form (DCF-F-2782) to the guardian.
2. Guardian signs and returns the Subsidized Guardianship Amendment Request – Option to Continue Current Rate form (DCF-F-2782) to the agency 30 days or more before the expiration date of the amendment.
3. Agency completes a child abuse and neglect background check on the guardian to determine if there is a final substantiated maltreatment finding of the identified child by the guardian.
4. If the guardian does not have a final substantiated maltreatment finding, the amendment request is approved, and the agency sends Notice of Approval for Amendment for Subsidized Guardianship (DCF-F-2756).

### Request Amendment to Rate

1. Agency sends Notice of Amendment Expiration - Complete Documentation Request form (DCF-F-2766) and the amendment request packet to the guardian.
2. Guardian completes the amendment request form by providing specific examples of the child's identified needs and provides the confirmation of needs forms to a professional working with child to complete.
3. Guardian sends completed documentation to the agency 30 days or more before the expiration date of the amendment.
4. Agency completes a child abuse and neglect background check on the guardian to determine if there is a final substantiated maltreatment finding of the identified child by the guardian.
5. If the guardian does not have a final substantiated maltreatment finding, the agency determines the new monthly payment amount by updating the child's CANS to determine if there is a change in the child's supplemental points.
6. Agency provides guardian written notice of the agency's decision to approve or deny the request.

## Successor Guardian

A prospective successor guardian is eligible to enter into a new subsidized guardianship agreement with the agency responsible for the current agreement if the agency determines all the following apply:

- ☐ The prospective successor guardian was listed on the current subsidized guardianship agreement prior to the death or incapacitation of the original guardian.
- ☐ The prospective successor guardian demonstrates a strong commitment to caring permanently for the child.
- ☐ If the child is age 14 or older, the child has been consulted regarding this arrangement.
- ☐ The prospective successor guardian and any nonclient residents in the home meet background check requirements in § 48.685 and § DCF 55.13.
- ☐ The agency inspects the prospective successor guardian's home, interviews them, and determines that placement of the child with the successor guardian is in the best interests of the child.\*

The new subsidized guardianship agreement must be completed and signed by the agency and the prospective guardian **before** the court enters the guardianship order under § 48.977(5m) or under a tribal court order that is substantially similar to § 48.977(5m). Once the guardian is appointed, the agency may begin making payments to the successor guardian

## Interim Caretaker

A prospective interim caretaker is eligible to receive monthly subsidized guardianship payments for a period of up to 12 months, if all the following conditions are met:

- ☐ The original guardian dies, becomes incapacitated, resigns or terminates their guardianship.
- ☐ The prospective interim caretaker and any nonclient residents in their home meet background check requirements in § 48.685 and § DCF 55.13.
- ☐ The agency inspects the prospective interim caretaker's home, interviews them, and determines that placement of the child with the interim caretaker is in the best interests of the child.\*
- ☐ The prospective interim caretaker assists the agency in finding a permanent placement for the child.

If the interim caretaker decides that they want to become the child's guardian and receive monthly subsidized guardianship payments, both the child and interim caretaker must meet the eligibility requirements described on page 2.

If a successor guardian is waiting to be appointed guardian and they meet the eligibility requirements for interim caretaker, they may receive monthly payments as an interim caretaker.

\* If the agency knows or has reason to know that the child is an Indian child, the agency must provide notice of the child's placement in the home of the successor guardian or interim caretaker to the child's parents, Indian custodian, and tribe, and determine that the home of the successor guardian or interim caretaker complies with the order of placement preferences in Wis. Stat. § 48.028(7)(b) or § 48.028(7)(c), unless the agency finds good cause (described in § 48.028(7)(e)) to depart from that order.

The Department of Children and Families is an equal opportunity employer and service provider. If you have a disability and need to access services, receive information in an alternate format, or need information translated to another language, please call the Division of Safety and Permanence at (608) 266-8787. Individuals who are deaf, hard of hearing, deaf-blind or speech disabled can use the free Wisconsin Relay Service (WRS) – 711 to contact the department.