

SPOTLIGHT: Public Benefits for Court-Involved Youth FAQ

What are the different financial options for families when they come to the attention of the child welfare system (e.g. probate guardianship, 300 petition, and VPA)?

Probate Court Guardianships

- For **relative caregivers**, probate guardianships do not offer any additional financial assistance, are not a pathway to subsidized guardianship, and do not provide any additional educational or housing supports. Relative caregivers may be eligible for CalWORKs as a non-needy or needy caregiver regardless of whether they have obtained a guardianship through probate court. Similarly, relative caregivers may consent to education and medical decisions through signing a caregiver affidavit regardless of whether there has been any probate court involvement.¹
- For **non-relative caregivers**, probate guardianships may make the non-relative eligible for Title IV-E Aid to Families with Dependent Children-Foster Care (AFDC-FC) benefits.² Non-relative caregivers are not eligible for financial benefits, such as CalWORKs, and therefore need a probate guardianship in order to receive cash assistance as a caregiver.

Voluntary Placement Agreement (VPA)

- Voluntary Placement Agreements are formal contracts between the County and the Parent that allow for AFDC-FC funding for up to 180 days. They are entirely voluntary and may be terminated by either party at any time. Pursuant to WIC § 16507.3, VPAs may be extended for an additional 180 days under certain circumstances, including if the parent is in a residential substance use treatment facility or the child is in a residential facility. If the child is in a relative caregiver's home through a VPA and it ends up becoming a longer-term solution, it may be possible to move directly from a VPA to a subsidized guardianship pursuant to WIC § 360(a)(5).³

¹ See <https://www.courts.ca.gov/documents/caregiver.pdf>.

² See [WIC § 11401](#).

³ “[I]f the court appoints an approved relative caregiver as the child’s legal guardian, the child has been in the care of that approved relative for a period of six consecutive months under a voluntary placement agreement ... the child shall be eligible for aid under the Kin-GAP Program.” WIC § 360(a)(5).

Foster Care Placement

- Placing a child in foster care comes with more financial benefits and supports than other diversion programs or placing a child at home through a straight release order on probation. A foster care placement means access to AFDC-FC or other foster funding as well as pathways to subsidized permanency through the [Kinship Guardian Assistance Payment \(Kin-GAP\) program](#) or the [Adoption Assistance Program \(AAP\)](#). A youth may be eligible for [Independent Living Program \(ILP\)](#) services up to age 21, and [Chafee funds](#) up to age 26 if they were/are in foster care at any time after their 16th birthday.⁴ The youth is entitled to foster care education rights under AB 490 (e.g. right to immediate enrollment, school of origin, partial credits, etc.) while in foster care.⁵ If the child is in foster care at 18, the child will also be eligible for guaranteed housing until 21, [Medicaid regardless of income until 26](#), and [priority housing until 25](#). This includes children who exit to a subsidized guardianship or adoption from a foster placement at age 16 or after and then re-enter care after age 18 due to the their guardian or adoptive parent no longer providing care.⁶
- Clothing allowances are solely at the discretion of counties and consequently vary based on county policy.⁷ Some counties no longer have clothing allowances. The state stopped providing a separate clothing allowance outside of the basic rate in 2011.⁸ For more information, please refer to your local county's policies.

What is the difference between a 3C and 4C order and how does it impact available benefits?

“3C” and “4C” orders are used as shorthand by some counties to refer to, respectively, placement orders or straight release orders to parents. A “3C” placement order refers to a court order that the **care, custody, and control** of the youth be under the supervision of the probation officer.⁹ A “4C” straight release order refers to a court order that the **care, custody, control, and conduct** of the youth be under the supervision of the probation officer in the home of the parent or guardian.¹⁰

⁴ MPP § 31-525.31

⁵ Ed. Code §§ 48853, 48853.5, 49069.5

⁶ See WIC § 388.1 *et. seq.*

⁷ WIC 11461(f)(1).

⁸ WIC 11461(f)(2).

⁹ WIC § 727(a)(3).

¹⁰ WIC § 726; CRC Rule 5.790(h)(2).

A “3C” out-of-home placement order can only be issued if the court finds:

- 1) That the parent or guardian is incapable of providing or has failed or neglected to provide proper maintenance, training, and education for the minor.
- 2) That the minor has been tried on probation while in custody and has failed to reform.
- 3) That the welfare of the minor requires that custody be taken from the minor's parent or guardian.¹¹

Once a 3C placement order is issued, the probation officer may place the youth in a foster care placement, including in the home of a relative, with a non-related foster family, or in a Short-term Residential Therapeutic Program (STRTP).¹² Youth on placement orders through the juvenile justice system who are placed with non-parents are eligible for AFDC-FC funding in the same way that foster youth in similar placements would be eligible. This includes foster care payments to support kin caregivers such as grandparents. Such payments are frequently two to six times higher than what grandparents would otherwise receive through CalWORKs.

Additionally, these youth on placement orders are entitled to reunification and permanency services, including the opportunity for subsidized guardianship and Kin-GAP, or adoptions and AAP payments. These youth may also be eligible for money for college and/or training vouchers through the Chafee program and services and supports through the Independent Living Program (ILP).

Lastly, a youth who is on a 3C placement order on their 18th birthday may be eligible for [extended foster care under AB 12](#), which includes guaranteed housing until 21, Medicaid regardless of income or assets until 26, and priority housing eligibility until 25.¹³

Youth on “4C” straight release orders are not categorically eligible for any of the above entitlements and supports.

¹¹ WIC § 726(a). See also, CRC Rule 5.760(d).

¹² WIC § 727(a)(4).

¹³ See also, WIC § 450 and ACL 11-85.

Can a juvenile justice involved youth be placed with a relative as a foster placement through the juvenile justice system?

Yes. Foster care is one of the options when a child is adjudged a ward of the court,¹⁴ and the relative placement preference applies to juvenile justice involved youth.¹⁵ In addition, the probation officer can make an emergency placement with a relative by following the emergency placement process, and the Court can authorize an emergency placement with a relative regardless of the status of any criminal record exemption or Resource Family Approval (RFA), if the court finds that the placement does not pose a risk to the health and safety of the child.¹⁶

Note: There is a difference between *placement* with a relative and *release* to a relative. The former is a foster care placement, the latter is not.

If a youth in the juvenile justice system is originally released on probation to their parent's home, but would now like to live with their grandparent, can Probation make this a foster placement even though the youth was recently put on probation?

Yes. If the youth is under the Court's jurisdiction under WIC § 601 or WIC § 602, the Court may modify the existing probation order to a placement order under WIC § 727(a)(3). Pursuant to WIC § 727(a)(4), the Probation Department may then place the minor or nonminor in an appropriate placement, including the home of a relative. Pursuant to WIC § 727.05, the Probation Department can also make an emergency placement with the relative by following the emergency placement process.

Under the above scenario, to petition the Court to modify the existing order from a straight release to parent to an out-of-home placement order with a relative, the Probation Department may file a WIC § 778 petition (for change of circumstance so that the Court can consider modifying the order if it is in the best interest of the child pursuant to WIC § 778(a)(2)). The same court order modification is also possible via a WIC § 777 petition (for a probation violation).

¹⁴ WIC § 727.

¹⁵ [WIC §§ 281.5, 706.6\(d\)](#), & [727.1](#).

¹⁶ [WIC § 727.05](#)

When a youth is released to their parents after being adjudicated a ward of the court pursuant to WIC § 602, would a subsequent detention make them eligible for Title IV-E funding?

To be eligible for Title IV-E foster care maintenance payments (AFDC-FC), a youth must be removed from their home through a court order or a voluntary placement agreement. In California, “detained” refers to “any removal of the child from the person or persons legally entitled to the child's physical custody, or any release of the child on home supervision under section 628.1 or 636;” however, “[a] child released or placed on home supervision is not detained for the purposes of federal foster care funding.”¹⁷ Therefore, a youth adjudicated a ward of the court but released to their parents would not be considered “detained” in order to receive Title IV-E funding, but a subsequent removal and out-of-home placement order would make the youth eligible for such funding.¹⁸

In a 602 case, detention findings may happen subsequent to adjudication if the court subsequently places the youth in out-of-home placement. For example, the court may, in response to a petition filed under WIC § 777 or 778, remove the child from the parents’ home and place the child in a STRTP, foster home, or other non-parent placement. This may be the court order authorizing removal of the child from the home and the beginning of the foster care episode.

Does the RFA process have to be completed before the child can be placed in the home of a relative?

No. There are three ways the placement can be made:

1. A county can place a child with a relative prior to completion of the Resource Family Approval (RFA) process based on a compelling reason;¹⁹
2. The social worker or probation officer can make an emergency placement with a relative or nonrelative extended family member pending the detention hearing, after detention

¹⁷ [CRC Rule 5.502](#).

¹⁸ For more information, see YLC’s Fact Sheet: [Title IV-E for Youth in the Juvenile Justice System](#) (2021).

¹⁹ See [Resource Family Approval Written Directives, §§ 4-08 & 4-09 \(11/1/2022\)](#).

and pending disposition, or when the sudden unavailability of a foster caregiver requires a change in placement;²⁰

3. The court can authorize a temporary emergency placement prior to Resource Family Approval if the court finds that the placement does not pose a risk to the health and safety of the child.²¹

Children placed with a nonrelative extended family member, or if the child is an Indian child, with a relative extended family member, are eligible for [Emergency Caregiver \(EC\) funding](#)²² if (1) the child is not eligible for AFDC-FC or Approved Relative Caregiver (ARC) funding, and (2) the emergency caregiver has filed an application for Resource Family Approval (RFA) or Tribal Approved Home (TAH). This includes when (a) the social worker has made a temporary emergency placement, (b) the child has been placed for emergency or compelling reasons (RFA), or (c) the juvenile court has authorized the placement prior to the completion of the criminal record exemption process or the resource family approval process. The child must be living in California.

The beginning date of aid is the date of placement into the home, and funding in the amount of the basic family foster care maintenance rate is available for 120 days from the date of placement and up to 365 days with documented good cause for the delay.

The Approved Relative Caregiver Funding Program (ARC) is available for children when placement with a relative has been authorized by the juvenile court and the placement is ineligible for both emergency caregiver funding and AFDC-FC due to the denial of resource family approval.²³

Can a relative who is undocumented be approved as a resource family? How does it impact the child's eligibility for public benefits?

Yes. A child can be placed with a relative who has been approved via the RFA process or who has been assessed for emergency placement and is awaiting approval as a Resource Family regardless of the relative's immigration status.²⁴

²⁰ [WIC §§ 309\(d\)\(2\), 361.45](#), 727.05.

²¹ [WIC § 319\(h\)\(3\)](#).

²² For more information on emergency caregiver funding, see WIC § 11461.36.

²³ See WIC § 11461.3(l); ACL 22-33 at 8.

²⁴ [WIC § 361.2 \(e\)](#).

According to the [Resource Family Approval Written Directives, §§ 5-01 & 10-01A\(d\)\(3\) \(11/1/2022\)](#), any adult can apply for Resource Family approval regardless of immigration status, and a County cannot deny or rescind approval based on immigration status. In addition, the relative placement preference applies regardless of the relative's immigration status.²⁵

The relative's immigration status does not affect the child's eligibility for public benefits or foster care funding, such as AFDC-FC, [Approved Relative Caregiver \(ARC\)](#) funding, or [Emergency Caregiver \(EC\)](#) funding. Even though the relative caregiver may receive the payment, it is for the benefit of the child, and it is the child who qualifies for the program.

What immigration status is required for Kin-GAP in California? Does DACA qualify as lawful immigration status for Kin-GAP?

Children who are Deferred Action for Childhood Arrivals (DACA) recipients are generally not considered lawfully present by the United States Department of Health and Human Services and therefore may not be eligible for federal Kin-GAP.²⁶ However, children who are not eligible under the stricter eligibility criteria for federal Kin-GAP may be eligible under California's state Kin-GAP program.

The Legislature finds and declares that the continuation of the state-funded Kinship Guardianship Assistance Payment Program is intended to enhance family preservation and stability by recognizing that some dependent children and wards of the juvenile court who are not otherwise eligible under Subtitle IV-E (commencing with Section 470) of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.) are in long-term, stable placements with relatives ...²⁷

Eligibility for the state Kin-GAP program per WIC § 11363 does not have immigration requirements for a child recipient.

²⁵ [WIC § 361.3\(a\)](#).

²⁶ See 45 C.F.R. § 152.2(8): "An individual with deferred action under the Department of Homeland Security's deferred action for childhood arrivals process, as described in the Secretary of Homeland Security's June 15, 2012, memorandum, shall not be considered to be lawfully present with respect to any of the above categories in paragraphs (1) through (7) of this definition."

²⁷ WIC § 11361.

When guardianship is the permanent plan, does a successor guardian need to be identified before the dependency case is dismissed?

No, a successor guardian²⁸ may be identified after the dependency case is dismissed. Per All County Letter (ACL) 15-66:

To ensure eligibility is maintained for federally-funded Kin-GAP cases, it is strongly recommended that a successor guardian be named when executing the initial Kin-GAP agreement. If the current guardian is not able, or is unwilling, to identify a successor guardian at the time of the initial agreement, a successor guardian may be subsequently named in an amendment to the agreement.²⁹

The successor guardian will need to pass a background check and home assessment to receive Kin-GAP funding.³⁰ They do not, however, need to meet the requirement of an additional six months of placement before eligibility.³¹

For more information on Kin-GAP, please refer to the [YLC's fact sheet on Kinship Guardianships](#).

If a foster care case is ready for adoption to be established but the RFA process is still pending, would the child be eligible for AAP if the case is dismissed before the RFA process is completed?

An adoptive family does not need to be fully approved as a Resource Family to receive AAP; however, they do need to successfully complete a background check per WIC § 16120(h). California Department of Social Services has issued guidance on this matter in ACL 22-33:

In the case when adoption is ordered as a permanent plan for a child who is placed in a court authorized placement with a caregiver who was denied RFA, the prospective adoptive parents may receive AAP benefits on behalf of an AAP eligible child and will

²⁸ A brief overview of successor guardianship is provided in ACL 15-66: "With the enactment of P.L. 113-183, federal law now allows continued eligibility in the federally-funded Kin-GAP Program in the event the current relative guardian passes away or is otherwise incapacitated and is no longer able to care for the child; the replacement guardian is referred to in statute as a 'successor guardian.'"

²⁹ [ACL 15-66](#).

³⁰ WIC § 11386(i)

³¹ WIC § 11386(i)(1).

be eligible to receive AAP funding if WIC section 16120(h) is met.³²

Are adoptive parents able to continue receiving AAP appropriately if they stop providing care for the child?

No. AAP is a program that grants funds to help encourage the adoption of youth that would otherwise likely remain in the foster care system for a long time.³³ AAP funds are to be terminated if “the department or county adoption agency determines that the child is no longer receiving support from the adoptive family.”³⁴

Note: An adoptive parent may be continuing to provide for the care of the child even if the child does not live with them, e.g., if the child has moved away to attend school or college, etc.³⁵

If a youth is on Supplemental Security Income/State Supplementary Payments (SSI/SSP) prior to age 18, do benefits automatically continue after the youth turns 18 or does the youth need to reapply? If not, or if not already on SSI/SSP, how far in advance of turning 18 can the application for SSI/SSP be made?

Within a year of their 18th birthday, the federal Social Security Administration (SSA) will begin the redetermination process for a youth on SSI to confirm that they remain eligible under the adult standard.³⁶ The youth does not need to apply again or submit a request as this process begins automatically. If needed, SSA will send a request for information to the youth and will send a Notice of Action if benefits will be terminated or changed.

There is no limit on how far in advance an SSI application may be filed for a youth in foster care. By law, the County must screen youth in foster care, including non-minor dependents and youth in foster care through Probation, and, if they are likely to be eligible, assist them in applying for SSI beginning at the age of 16.³⁷

³² ACL 22-33 at page 9.

³³ See [CDSS AAP webpage](#).

³⁴ WIC § 16119(f)(2). See also, Federal Child Welfare Manual 8.2D.5.

³⁵ See MPP § 35334(4).

³⁶ See POMS DI 23570.006. See also, Section 1614(a)(3)(H)(iii) of the Social Security Act.

³⁷ See WIC § 13757(a)(2).

Are Specialty Mental Health Services (SMHS) limited to Medicaid/Medi-Cal eligible children? What if the parents have private insurance, such as Kaiser? Does it matter if the child is in the home or in foster care?

First, nearly all children in foster care should be eligible for Medi-Cal, including children who were previously ineligible due to immigration status.³⁸ If children are living at home with their parent, their eligibility for Medi-Cal or other health insurance may be dependent on the eligibility and health insurance status of their parents.

Second, children on Medi-Cal are eligible for SMHS if they meet access criteria and medical necessity. Youth in the foster care, juvenile justice, or youth homelessness systems automatically meet access criteria for SMHS and should receive a service based on medical necessity.³⁹ Youth may also meet access criteria for SMHS based on diagnosis or scoring in the high-risk range on an approved trauma screening tool.

How do the eligibility requirements for SMHS under California Advancing and Innovating Medi-Cal (CalAIM) work?

Behavioral Health Information Notice (BHIN) No. 21-073 provides updated access criteria requirements and the relevant definitions for SMHS under CalAIM.⁴⁰ For youth under 21 years of age, simply being in the child welfare system meets access criteria for SMHS and those youth should subsequently be referred to a provider to determine what service they should receive under medical necessity.

What options does a youth have if they are denied access to therapeutic services because they have been found to not meet medical necessity?

If a child has been denied a service under Medi-Cal, the child may file an administrative appeal. [The Health Consumer Alliance](#) or a local legal aid office may be able to assist the youth with the appeal.

³⁸ For more information on California's expansion of full scope Medi-Cal benefits to eligible individuals regardless of immigration status, see [DHCS Older Adult Expansion webpage](#).

³⁹ WIC § 14184.402(d)(1).

⁴⁰ [BHIN 21-073](#).

- The appeal must be submitted within 60 days of the issuance of an adequate notice, if the child is in a Medi-Cal managed care health plan.
 - The health plan has 30 days to review, and can extend up to 14 days.
 - An expedited appeal must be resolved within 72 hours.⁴¹
 - The managed care member may request a state administrative hearing after exhausting the Managed Care Plan’s appeal process within 120 days after receiving a notice of the adverse decision or after deemed exhaustion.⁴²
- Children in fee-for-service Medi-Cal may request a state administrative hearing within 90 days after an adverse notice of action or within 180 days of the action if there was no notice or there is another good cause reason for delay.⁴³
 - Please Note: Many foster youth are in fee-for-service Medi-Cal as these youth may only be enrolled in managed care in certain circumstances, such as if it is determined to be in their best interest⁴⁴ or if they are in a County Organized Health Systems (COHS) county.⁴⁵

Where can I learn more about *Katie A.* services?

Katie A. v. Bonta was filed in the US District Court for the Central District of California and decided on March 14, 2006.⁴⁶ The plaintiffs challenged the State’s failure to provide home- and community-based mental health services to youth in foster care. The case resulted in the creation of Pathways to Wellbeing services, including Intensive Care Coordination (ICC), Intensive Home-Based Services (IHBS), and Therapeutic Foster Care (TFC). These services are covered under Medicaid’s Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit, and are now available to all youth in California under the age of 21 who meet access criteria and medical necessity, not just youth in foster care.

- The complaint is available [here](#).
- The settlement agreement is available [here](#).
- The Medi-Cal manual for *Katie A.* services, including ICC, IHBS, and TFC, is available [here](#).

⁴¹ WIC § 14197.3; APL 21-011.

⁴² WIC § 10951.

⁴³ WIC §§ 10951, 10950. *See also* [42 U.S.C. § 1396a\(a\)\(3\)](#); 42 C.F.R. § 431.205(d).

⁴⁴ WIC § 14093.09(a).

⁴⁵ WIC § 14184.200(b)(2)(H).

⁴⁶ [Katie A. v. Bonta, 433 F. Supp. 2d 1065.](#)