GUARDIANSHIP ASSISTANCE ACT
Act 260 of 2008

AN ACT to provide for assistance payments to certain guardians of minors; and to provide for duties and responsibilities of certain state departments and agencies.

History: 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009.

The People of the State of Michigan enact:

722.871 Short title.

Sec. 1. This act shall be known and may be cited as the "guardianship assistance act".

History: 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009.

722.872 Definitions.

Sec. 2. As used in this act:

(a) "Child" means a person less than 18 years of age.

(b) "Department" means the department of health and human services.

(c) "Eligible child" means a child who meets the eligibility criteria under section 3 for receiving guardianship assistance.

(d) "Guardian" means a person appointed by the court to act as a legal guardian for a child under section 19a or 19c of chapter XIIA of the probate code, MCL 712A.19a and 712A.19c.

(e) "Guardianship assistance agreement" means a negotiated binding agreement regarding financial support as described in section 5 for children who meet the qualifications for guardianship assistance as specified in this act or in the department's administrative rules.

(f) "Legal custodian" means an individual who is at least 18 years of age in whose care a child remains or is placed after a court makes a finding under section 13a of chapter XIIA of the probate code, MCL 712A.13a.

(g) "Probate code" means the probate code of 1939, 1939 PA 288, MCL 710.21 to 712B.41.

(h) "Relative" means that term as defined in section 13a of chapter XIIA of the probate code, MCL 712A.13a.

(i) "Successor guardian" means a person appointed by the court to act as a legal guardian when the preceding guardian is no longer able to act, as a result of his or her death or incapacitation, under section 19a or 19c of chapter XIIA of the probate code, MCL 712A.19a and 712A.19c. Successor guardian does not include a person appointed as a guardian if that person's parental rights to the child have been terminated or suspended.

(j) "Title IV-E" refers to the federal assistance provided through the United States Department of Health and Human Services to reimburse states for foster care, adoption assistance payments, and guardianship assistance payments.

History: 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015;—Am. 2022, Act 210, Imd. Eff. Oct. 7, 2022.

722.873 Guardianship assistance; eligibility.

Sec. 3. A child is eligible to receive guardianship assistance if the department determines that all of the following apply:

(a) The child has been removed from his or her home as a result of a judicial determination that allowing the child to remain in the home would be contrary to the child's welfare.

(b) The child has resided in the home of the prospective guardian for, at a minimum, 6 consecutive months.

(c) Reunification and placing the child for adoption are not appropriate permanency options.

(d) The child demonstrates a strong attachment to the prospective guardian and the guardian has a strong commitment to caring permanently for the child until the child reaches 18 years of age.

(e) If the child has reached 14 years of age, he or she has been consulted regarding the guardianship arrangement.

History: 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015.

722.874 Guardianship assistance; payment to eligible guardian; criteria; eligibility for federal funding under title IV-E; sibling ineligible for federal funding; successor guardian.

Sec. 4. (1) Subject to subsection (2), a guardian who meets all of the following criteria may receive

CAUTION: This document is not an archive and may contain outdated information.

© Courtesy of www.legislature.mi.gov

guardianship assistance on behalf of an eligible child:

(a) The guardian is the eligible child's relative or legal custodian.

(b) The guardian is a licensed foster parent and approved for guardianship assistance by the department. The approval process shall include criminal record checks and child abuse and child neglect central registry checks on the guardian, all successor guardians, and all adults living in the guardian's or successor guardian's home as well as submission of the guardian's or successor guardian's fingerprints to the department of state police and the Federal Bureau of Investigation for a criminal history check.

(c) The eligible child has resided with the prospective guardian in the prospective guardian's residence for a minimum of 6 months before the application for guardianship assistance is received by the department.

(2) Only a relative who is a licensed foster parent caring for a child who is eligible to receive title IV-E-funded foster care payments for 6 consecutive months is eligible for federal funding under title IV-E for guardianship assistance. A child who is not eligible for title IV-E funding who is placed with a licensed foster parent, related or unrelated, and who meets the requirements of section 3(a) to (e) may be eligible for state-funded guardianship assistance.

(3) If a child is eligible for title IV-E-funded guardianship assistance under section 3 but has a sibling who is not eligible under section 3, both of the following apply:

(a) The child and any of the child's siblings may be placed in the same relative guardianship arrangement in accordance with chapter XIIA of the probate code, MCL 712A.1 to 712A.32, if the department and the relative agree on the appropriateness of the arrangement for the sibling.

(b) Title IV-E-funded relative guardianship assistance payments may be paid on behalf of each sibling placed in accordance with this subsection.

(4) A successor guardian may receive guardianship assistance payments if the eligibility criteria set forth in section 3 are met.

History: 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015;—Am. 2019, Act 95, Eff. Jan. 22, 2020.

722.875 Guardianship assistance; negotiating and entering guardianship assistance agreement; specifications; duration; limitation on payment; review by department; eligibility determination.

Sec. 5. (1) Subject to the provisions of this act, the department may pay guardianship assistance to an eligible guardian on behalf of an eligible child.

(2) The guardian shall apply for guardianship assistance under this act to the department.

(3) For a child who is eligible under section 3 and a guardian who is eligible under section 4, the department may negotiate and enter into a written, binding guardianship assistance agreement with the child's prospective guardian and shall provide the prospective guardian a signed copy of the guardianship assistance agreement.

(4) The guardianship assistance agreement shall specify all of the following:

(a) The amount of the guardianship assistance to be provided under the agreement for each eligible child, and the manner in which the payment may be adjusted periodically in consultation with the guardian, based on the guardian's circumstances and the child's needs.

(b) The additional services and assistance the child and the guardian will be eligible for under the guardianship assistance agreement.

(c) The procedure by which the guardian may apply for additional services, if needed.

(d) That the department will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of an eligible child, to the extent the total cost does not exceed $2,000.00.

(5) The guardianship assistance agreement shall remain in effect without regard to the state residency of the guardian.

(6) A guardianship assistance payment on a child's behalf shall not exceed the foster care maintenance payment that would have been paid on that child's behalf if he or she had remained in a foster family home.

(7) The department shall review the eligibility of the guardian and the child for continuation of guardianship assistance annually. The guardian shall provide the eligibility information requested by the department for purposes of the annual review.

(8) The department shall make an eligibility determination within 30 days after receipt of a request for guardianship assistance.

History: 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009.

722.875a Permanency plan including placement with guardian and receipt of guardianship assistance payments; information to be included in case service plan.

CAUTION! This document is from an archive and may contain outdated information.

© Courtesy of www.legislature.mi.gov

Sec. 5a. For a child whose permanency plan includes placement with a guardian and will include the receipt of guardianship assistance payments, the department shall include in the case service plan for the child all of the following:

(a) The steps that the child placing agency or the department has taken to determine that reunification and placing the child for adoption are not appropriate permanency options.

(b) The reason for any separation of siblings during placement.

(c) The reason a permanent placement through guardianship is in the child's best interest.

(d) The way in which the child meets the eligibility criteria for a guardianship assistance payment.

(e) The efforts the child placing agency or the department has made to discuss adoption by the prospective guardian as a permanent alternative to legal guardianship and documentation of the reasons the prospective guardian has chosen not to pursue adoption.

(f) In cases where the parental rights have not been terminated, the efforts the department has made to discuss with the child's birth parent or parents the guardianship assistance arrangement, or the reasons why the efforts were not made.

History: Add. 2009, Act 15, Imd. Eff. Apr. 9, 2009;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015.

722.875b Legal guardianship as judicially created relationship; transfer of parental rights to guardian.

Sec. 5b. The legal guardianship shall be a judicially created relationship as provided for under sections 19a and 19c of chapter XIIA of the probate code, MCL 712A.19a and 712A.19c, between the child and his or her guardian that is intended to be permanent and self-sustaining as evidenced by the transfer to the guardian of the following parental rights with respect to the child:

(a) Protection.

(b) Education.

(c) Care and control of the person.

(d) Custody of the person.

(e) Decision making.

History: Add. 2009, Act 15, Imd. Eff. Apr. 9, 2009;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015.

722.875c Guardianship assistance; successor guardian.

Sec. 5c. (1) Subject to provisions of this act, the department may pay guardianship assistance to an eligible successor guardian on behalf of an eligible child.

(2) The successor guardian shall apply for guardianship assistance under this act to the department.

(3) The preceding guardianship assistance agreement may be transferred to a successor guardian who has been appointed by the court. This occurs when the successor guardian enters into a written, binding guardianship assistance agreement with the department.

(4) Payment of guardian assistance shall not be made to a successor guardian until the court appoints a successor guardian. If the successor guardian began caring for the child before the court appoints the successor guardian, guardianship assistance payments can be made retroactively to either the date of death of the relative guardian, the date of incapacity of the relative guardian, or the date the successor guardian assumed care of the child, whichever is later.

(5) A successor guardian may be eligible to receive guardianship assistance on behalf of an eligible child if the department determines that all of the following apply:

(a) A guardianship assistance agreement for the child was in effect before the appointment of the successor guardian.

(b) The successor guardian was appointed by the court as a result of the death or incapacitation of the preceding guardian.

(c) The preceding guardian had an active guardianship assistance agreement for the child before his or her death or incapacitation.

(d) The successor guardian meets all of the conditions set forth in this act.

History: Add. 2015, Act 227, Imd. Eff. Dec. 17, 2015.

722.875d Rules.

Sec. 5d. The department may promulgate rules according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that are necessary to implement and administer the program under this act in compliance with federal law.

History: Add. 2015, Act 227, Imd. Eff. Dec. 17, 2015.

CAUTION! This document is from an archive and may contain outdated information.

© Courtesy of www.legislature.mi.gov

722.876 Guardianship assistance; prohibition; conditions; notice of termination.

Sec. 6. (1) Except as provided in subsection (2), the department shall not provide guardianship assistance after 1 of the following occurs:

(a) The child reaches 18 years of age.

(b) The department determines that the guardian is no longer legally responsible for support of the child.

(c) The department determines that the child is no longer receiving any support from the relative guardian.

(d) The death of the child.

(e) The child is adopted by the guardian or another individual under the Michigan adoption code, chapter X of the probate code, MCL 710.21 to 710.70, or the adoption laws of any other state or country.

(f) The guardianship is terminated by order of the court having jurisdiction in the guardianship proceeding.

(g) The death of the guardian unless a successor guardian has been appointed by the court.

(2) The department may provide extended guardianship assistance until the youth reaches the age of 21 if the youth meets the requirements set forth in the young adult voluntary foster care act, 2011 PA 225, MCL 400.641 to 400.671.

(3) The department shall send notice of termination of guardianship assistance under this section by mail to the guardian at the guardian's current or last known address and to the court with jurisdiction over the guardianship case. Notice mailed under this subsection shall include a statement of the department's reason for termination.

History: 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009;—Am. 2011, Act 229, Imd. Eff. Nov. 22, 2011;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015.

722.877 Public or private medical insurance or assistance; application and maintenance.

Sec. 7. The guardian or successor guardian shall apply for and maintain on behalf of the child any public or private medical insurance or assistance for which the child is eligible, including eligibility under applicable laws providing financial assistance for medical or health care expenses.

History: 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015.

722.878 Collecting, assembling, and reporting data and information.

Sec. 8. (1) The department is responsible for collecting, assembling, and reporting all data and information required for reporting purposes.

(2) The guardian or successor guardian shall cooperate with the department and provide all information that the guardian or successor guardian possesses as requested by the department to facilitate compliance with this section.

History: 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015.

722.879 Appeal of decision.

Sec. 9. An applicant for guardianship assistance under this act or a guardian, successor guardian, or child who has received guardianship assistance under a guardianship assistance agreement may appeal a decision of the department denying the application, establishing or modifying the guardianship assistance, or terminating guardianship assistance according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015.

722.880 Repealed. 2009, Act 15, Imd. Eff. Apr. 9, 2009.

Compiler's note: The repealed section pertained to department being subject to federal laws and regulations if title IV-E is approved.

722.881 Postpermanency services; eligibility.

Sec. 11. Families are eligible for postpermanency services in the same manner as adoptive families.

History: 2008, Act 260, Imd. Eff. Aug. 4, 2008.

CAUTION! This document is from an archive and may contain outdated information.

© Courtesy of www.legislature.mi.gov