

A sepia-toned photograph of a woman and a child sitting on a stone ledge outdoors. The woman is on the left, looking down at the child. The child is on the right, wearing a striped shirt. A large tree trunk is on the left side of the frame. The text 'Guardianship Assistance' is overlaid in white at the top, and 'Relative caregivers and foster parents may be eligible for assistance' is overlaid in dark brown at the bottom.

Guardianship Assistance

**Relative caregivers
and foster parents
may be eligible for assistance**



What is guardianship?

Guardianship ends Department of Human Services' custody and awards guardianship to the relative or non-related caregiver. That person becomes the legal guardian of the child. After guardianship is approved by the court, DHS will not be involved with the family except to provide the assistance payment and medical coverage. DHS will also annually review those benefits.

If:

- Caregivers (relative and non-relative) are ready to make a permanent commitment to the child in their care; AND
- The child is not likely return to the home of their birth parents; AND
- Adoption is not a viable plan.
- The family does not require supportive case management from the branch.

Guardianship with relative caregivers or foster parents could be an option.

Who is eligible for subsidized guardianship?

The DHS caseworker will help determine if the child is eligible for subsidized guardianship. The following are minimum requirements for eligibility. The child must:

- Be a ward of the court and in the Department's legal care and custody.
- Be in foster care and receiving a Title IV-E foster care payment.
- Be at least 12 years old if the foster parent is a non-relative. (The child may be any age if the foster parent is a relative. Other exceptions may be made for sibling groups, ICWA children and those in Tribal foster care with specific Tribes.)
- Have been in DHS custody for more than 12 months and likely to remain in care.
- Have lived with the foster parent or relative for at least six months. (This requirement may be waived for siblings when at least one sibling meets all other criteria.)
- Be residing in the certified foster home of the prospective guardians. A current criminal record check must be completed on the prospective guardians.
- Have permanency goals of return home and adoption ruled out.
- Have the consent of the birth parents to the guardianship arrangement when possible. If the birth parents are unwilling or unavailable to consent, they must have been provided notice of the court hearing.

NOTE: These are partial guidelines. Other circumstances may prevent participation in the guardianship project.



How is subsidized guardianship different from adoption?

Adoption requires the complete termination of birth parents' rights. Guardians have powers and responsibilities similar to those of a parent. However, guardians are not financially liable to third persons for acts of the child or youth.

Guardians must submit an annual written report to the court and the Department about the child's residence, physical and mental health, financial situation, and other information.

Guardianship allows parents to visit with the child unless the court has made a specific ruling about parental visitation.

What decisions can a guardian make for the child?

Rights of care, custody and supervision of the child are assigned to the guardian. The guardian makes important decisions affecting the life and development of the child. This includes the child's education, social and may include religious activities. The guardian also has the right to consent to the child's marriage and major medical treatment.

How much is the subsidy?

Each child in the subsidized guardianship program is eligible for a subsidy. The amount of the guardianship payment is usually the same as the foster care payment. Child Support payments for the child must be assigned to DHS. Types of payments a guardian might receive are:

One-time only payments, if required, to help with legal costs in the transfer of guardianship.

Monthly payments based on the basic foster care payment rate. Payments for title XIX Personal Care services for eligible children. No additional monthly special rate payment will be authorized. Household benefits such as Social Security Administration (SSA) benefits reduce the monthly payment.

Medical services are provided through Oregon Medicaid coverage when health and special care needs are not paid by private insurance. The DHS Office of Permanency and Adoptions approves the subsidy and Medicaid coverage.



Accessing services after guardianship

When Guardianship Assistance is approved, the foster care case at the branch is closed. Should the Guardian require services, they are available through the Oregon Post Adoption Resource Center and the local DHS office.

What if circumstances occur within the household which cannot be improved with services?

Depending on the circumstances, the case may be brought back into court, the guardianship terminated and the child's legal custody awarded to DHS. Legal guardianship is non-transferable.

What if the parents attempts to regain custody after guardianship is established?

The court must consider whether it is in the best interest of the child to modify or vacate a guardianship. The court must consider the child's emotional and developmental needs, the child's need to maintain existing attachments and relationship and to form attachments and relationships, the child's health and safety, and the child's wishes. The parent must also show that the return of the child will not result in emotional and developmental problems for the child, or create attachment disorders.

When does guardianship end?

Guardianship terminates at age 18, regardless of whether the child has graduated from high school. There are no exceptions to this rule.

Can children receive Independent Living services under the guardianship program?

Children in need of ILP services or educational assistance to become self-sufficient and independent may qualify if they are 14 or older and were in foster care for 180 days after the age of 14 and currently they are less than age 21.

Children placed under a guardian's care do not qualify for an Independent Living Subsidy or for Chafee Housing.

The Oregon Department of Human Services (DHS) is committed to providing permanent, safe and stable homes for the children in its care.

Foster care is temporary. Children in foster care need a permanent home. Sometimes they cannot return to their birth parents' home. However, adoption may not meet the needs of these children.



What if I believe that my rights have been violated under the subsidized guardianship agreement?

If there is a problem with guardianship, most cases can be reviewed through the DHS appeals process.

If you would like more information on how this appeals process works, contact:

Oregon Department of Human Services
Adoption Assistance Unit
500 Summer St. NE
Salem, OR 97301

DHS will not discriminate against anyone. This means DHS will help all who qualify. DHS will not deny help to anyone based on age, race, color, national origin, gender, sexual orientation, religion, political beliefs or disability. You can file a complaint if you think DHS singled you out because of any of these things.

If you have questions or need this document in a different format, please contact your local DHS office.



Department of Human Services
500 Summer Street NE, Salem, OR 97310
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