



April 7, 2009

The Honorable Curtis L. Coy
Acting Assistant Secretary for Children and Families
U.S. Department of Health and Human Services
901 D Street, SW
Washington, D.C. 20024

Dear Mr. Coy:

We are writing to express our concern regarding the Program Instructions ACYF-CB-PI-08-007 issued for the Guardianship Assistance Program (GAP) on December 24, 2008. The Program Instructions do not follow congressional intent.

Since the President signed into law the Fostering Connections to Success and Increasing Adoptions Act (P.L. 110-351) on October 27, 2008, states have had the option to operate a federally subsidized guardianship assistance program. Interested states can amend their Title IV-E plan and, once approved by the department, begin the guardianship assistance program. According to this law, states can receive IV-E reimbursement for foster children who live with prospective relative guardians for at least six months and are eligible for a foster care maintenance payment during that period. The intention of Congress was to allow states to claim retroactive reimbursement for cases dating back to October 7, 2008.

The Program Instructions of December 24, 2008 however, allow states to only claim GAP reimbursement starting the first day of the first quarter in which their IV-E plan is approved, and then only for cases in which a child exits from IV-E foster care into a kinship arrangement.

Practice models have shown that placing children with relatives is safe and provides a good, stable environment for their success. In line with best practice, many states currently operate a state-only or TANF-only GAP program. States are very interested in pursuing this new option under P.L. 110-351. However, the December 24, 2008 Program Instructions do not allow states to incorporate current guardianship caseloads into the new program, even when such cases meet the other criteria of the law.

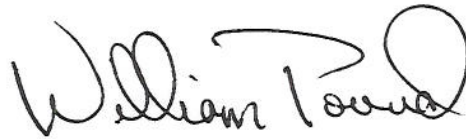
While the overarching purpose of the law was to support the permanency of children and youth in foster care, the Program Instructions penalize those states that have been leaders in developing their own guardianship program and other innovative permanency options for children in foster care. Children currently in state guardianship programs should not be rendered ineligible for the services provided by IV-E kinship care, including Medicaid eligibility and the ability to receive services until 21, simply because they are now in a state-funded program. If the Program Instructions stand, such children could be forced into foster care placements with non-relatives to get those services.

We strongly encourage the Administration for Children and Families to rescind the Program Instructions issued last Christmas Eve and follow congressional intent by issuing new instructions that allow states to claim current eligible cases retroactive to October 7, 2008.

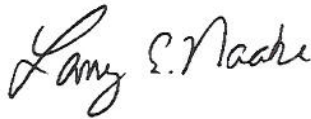
Sincerely,



Raymond C. Scheppach, Executive Director
National Governors Association



William T. Pound, Executive Director
National Conference of State Legislatures



Larry Naake, Executive Director
National Association of Counties



Jerry Friedman, Executive Director
American Public Human Services Association

cc: Mr. John Monahan, Counselor for Human Services Policy