

# **FAMILY SUPPORT AND CHILD WELFARE SERVICES**

## **FSCWS-06-06**

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**TO: County Directors of Social Services**

**ATTENTION: Children's Services Program Managers and Supervisors**

**Children's Services Social Workers**

**DATE: June 29, 2006**

### **SUBJECT: CLARIFICATION OF POLICY ON GIVING LEGAL CUSTODY TO RELATIVES**

**EFFECTIVE DATE: IMMEDIATELY**

The purpose of this Administrative Letter is to clarify policy regarding the practice of giving legal custody to relatives and kin as a way to secure legal permanence for children. This letter will also clarify the implications for the licensing of relatives and kin as foster parents, for the use of IV-E administrative funds in providing services to children in relative/kinship care placements and for adoption assistance in the future.

First, there needs to be a distinction made between a "safety resource" with a relative or kin versus "placement" with relative or kin, sometimes referred to "kinship care." In the course of assessing safety during a CPS Assessment, one option if it is determined that a child cannot safely remain in the home is for the parent/caretaker to arrange an alternative placement with another resource (family, friend, etc.). The social worker is responsible for assessing the safety of this arrangement to include the Kinship Care tools or other means of assessment. This is stated in the "Policy and Procedures" document that accompanies the North Carolina Safety Assessment.

The use of a safety resource is intended to be temporary and is not legally secure. The child at that point is not in the legal custody of the county Department of Social Services, and court involvement may not have been initiated. The use of a safety resource should provide for a safe place to stay until the issues affecting the child's safety in their own home are resolved and the child can return home or the decision is for the child to enter the custody and placement responsibility of a county Department of Social Services either through a voluntary placement agreement or court order.

According to Chapter IV (Child Placement), Section 1201 (Placement Decision Making), of the Children's Services Manual: "The initial decision to remove the child should be based on whether or not it is safe for the child to remain in the home." Except in emergency situations that threaten the child's safety, the social worker responsible for

services to the family shall seek the consultation of other agency staff and the supervisor before removing the child from his home. Multiple Response System (MRS) policy, which is now statewide, requires that: "A Child and Family Team (CFT) meeting must be convened when the social worker and supervisor believe the child cannot be maintained safely in his or her own home under current circumstances." "If a child's immediate safety is threatened, the social worker must ensure the child's safety first and convene a team meeting as soon as possible (i.e., the next working day.)" The CFT ensures that the birth parents, foster parents, and all service providers are working cooperatively towards a safe, permanent plan for the child." It may be at this point that a relative or kinship care provider can be identified.

If the DSS has custody, and the child is placed with a relative, current federal law provides that the DSS may use Title IV-E administrative funds for a IV-E eligible child while licensing the relative's home as a foster home for the average time it takes to license foster homes or for twelve months, whichever is less. In NC the average time for licensure is currently considered to be twelve months. Therefore, the DSS may use Title IV-E administrative funds for a IV-E eligible child for up to twelve months while licensing the relative's home. Once the home is licensed, the cost of care can then be charged to IV-E for maintenance and administrative costs for IV-E eligible children. If the relative's home is not licensed by the end of the twelve months, the DSS will have to charge their administrative costs to another funding stream, as they can no longer use IV-E funds. If the relative does not choose to be licensed, the agency cannot charge IV-E for administrative costs at all. However, if the relative later becomes licensed and the child is IV-E eligible, then both maintenance payments and administrative costs can be charged to IV-E. For kinship care providers that do not meet the definition of "relative" for IV-E purposes, the agencies cannot use IV-E administrative services at all if the kinship care provider is not licensed as a foster home, not even during the licensing process.

Placement with relatives or kin is the preferred placement arrangement for children who have to be removed from their homes. Whether it is a safety resource without the DSS having custody or whether it is a kinship care placement with DSS having custody, policy requires that the DSS remain involved and maintain the required contacts with the child, the family providing placement, and the birth family until safety can be assured and the child can be reunified with the birth family or until the child is in a legally secure placement, whether it be custody or guardianship or adoption. Parents must be involved, as well as the safety resource or kinship care provider, with the DSS in planning at every stage of the case.

Whenever a relative or kin is identified either as a safety resource or as a kinship care provider while DSS has custody, it is imperative that full disclosure of all the possibilities be shared with them at the very beginning. This is a very important part of concurrent planning and provides the kinship care provider or safety resource with valuable information that has implications later, especially as plans for permanency change for the child as time goes on.

One critical piece of information for the relative or kin considering taking the child into their home has to do with the potential for adoption down the road, even if that is not the plan at the time. If the child has never been in the custody of a county DSS before being adopted, Adoption Assistance is not an option. There have been situations where DSS has been involved with a child and family and the parents place the child with a safety resource and DSS never has custody. If that relative or kin later adopts the child, they cannot receive Adoption Assistance. According to policy, DSS should not close the case until legal security for the child has been established through reunification with the parents or custody or guardianship to the relative or kin. It is very difficult for relatives to understand that DSS may be involved and not have custody; therefore it is critical because of future implications as described above, that your agency is very clear about this when working with relatives.

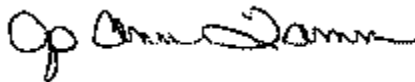
At other times, DSS files a petition for abuse or neglect and obtains a non-secure custody order. At the adjudication/disposition, DSS does not ask for custody but recommends custody to the relative or kinship caregiver. Adoption Assistance later would be an option because the child was in the custody of a DSS, though briefly.

In any of these situations, these distinctions are not readily apparent. At the first conversations with relatives or kin about having the child placed with them, either by the parent with DSS involvement, or by the DSS through court order, **all** options must be explained to the caregiver.

This should occur during the kinship care assessment, as well as ongoing when changes in the planning occur. In this manner, the relative or kinship caregiver can make informed decisions.

If you have any questions about the information included in this Administrative Letter, please contact your Children's Programs Representative or call the Work First/CPS Policy Team at (919) 733-4622 or the Foster Care and Adoption Policy Team at (919) 733-2580.

Sincerely,



Jo Ann Lamm, Chief

Family Support and Child Welfare Services Section

cc: Sherry S. Bradsher

Sarah Barham

Family Support and Child Welfare Services Team Leaders

Children's Program Representatives

Local Business Liaisons

Child Welfare Attorneys