



**Information
on
Legal Relationships
and
Public Benefits for
Relative Caregivers**



Atlanta
Legal Aid
Society

Public Benefits

What do public benefits have to do with kinship care?

- The type of legal relationship you have with your grandchild can affect the type of public benefits that your grandchild receives
- Understanding the different benefits available will help you make informed decisions

What is TANF?

- **T**emporary **A**ssistance to **N**eedy **F**amilies
- A monthly payment plus Medicaid insurance coverage for the child
- A monthly payment of \$155/month for 1 child; \$235 for 2; \$280 for 3; etc.
- Children who do not live with their biological or adoptive parents are eligible to receive TANF benefits on their own
- To apply, contact the Division of Family and Children Services (DFCS) office in the county where the child lives

What is Medicaid?

- Health insurance for people with little or no income
- To apply for Medicaid or for more information, call **1-800-766-4456**

What is PeachCare for Kids?

- Healthcare for children in low income families
- No cost for children ages 5 and under
- Premiums are based on family income for children over 5
- To apply for PeachCare for Kids or for more information, call
1-877-427-3224

What are Food Stamps?

- A monthly subsidy to be used on approved food items
- Intended for households, not for individuals
- Eligibility is based on the income and assets of the household
- To apply, contact the DFCS office in your county

What are Social Security Benefits?

- Retirement and disability benefits for people who worked enough quarters to qualify
- Children of people who receive Social Security may be eligible to receive a child's

portion of the benefits, if they meet certain conditions

- Social Security Survivor's benefits are for children whose parents are deceased but the parents worked enough quarters to qualify
- For more information, call Social Security at **1-800-772-1213**

What is Supplemental Security Income (SSI)?

- SSI pays monthly benefits to older and disabled people who have not worked enough quarters to qualify for regular Social Security benefits and have the need for financial assistance based on their income and assets
- If the person is receiving SSI, the person will also qualify for Medicaid
- For more information, call Social Security at **1-800-772-1213**

What is Public Housing?

- Subsidized housing for people who receive little or no income
- Tenants are usually allowed to have relatives living with them but must tell the landlord
- Tenants must tell the landlord of any income changes
- Minor children cannot live in senior-only communities
- For questions, contact your local housing authority

Adoption

What is an Adoption?

- Creates a legal parent/child relationship between the relative caregiver and the child
- Cuts off any existing legal relationship between the child and the child's biological parents
- The adoptive parent is responsible for the care, custody, and support of the minor child
- An adoption is permanent

To be eligible to adopt in Georgia, the relative caregiver must:

1. Have lived in Georgia for at least 6 months before filing the adoption;
2. Be at least 10 years older than the child;
3. Must be at least 25 years old, unless married and living with spouse;
4. If married, must adopt with spouse; and
5. Have the ability to take care of the child.

Where do you file a petition for adoption?

- Superior Court in the county where the adoptive parents live

Do the parents have to agree to the adoption?

- No, in certain circumstances, the court may take away the parents' rights

Impact of Adoptions on Public Benefits

Can an adoption affect TANF eligibility?

- YES
- Before an adoption, children who are not living with their biological parents are eligible to receive their own TANF benefits
- After the adoption, the adoptive parents' income must be counted; depending on the adoptive parents' income, the children may lose their TANF benefits after the adoption
- Medicaid comes with TANF; if the child loses TANF, Medicaid will be lost (except in special circumstances)

Can an adoption affect Food Stamp eligibility?

- No, eligibility should not change

How can an adoption affect Social Security benefits?

- If the adoptive parent is receiving regular Social Security benefits (not SSI), the adopted child may be eligible to receive a child's portion of the Social Security

benefits

- If the adopted child is receiving Social Security survivor's benefits based on a deceased biological parent's record, the benefits should continue after the adoption
- The adopted child cannot receive survivor's benefits if the biological parents died after the adoption

Can an adoption affect Supplemental Security Income (SSI)?

- If a child receiving SSI is adopted, the child's SSI should not be terminated; however, the amount the child receives might change depending on the household income

Adoption Assistance Benefits

One-time Adoption Assistance

- A one-time payment to cover the required adoption fees, court costs, attorney fees, and other expenses associated with the adoption
- The child must be "special needs"
- The maximum available for attorney fees is \$1,500 per child
- Must apply at DFCS before the court finalizes the adoption

Monthly Adoption Assistance Benefits

- A monthly payment, per child, with Medicaid
- Child must have been or currently be in foster care or be receiving SSI
- To qualify, the child must also be “special needs”
- Must apply at DFCS before the court finalizes the adoption

What is a “special needs” child?

- a child who has been in the care of a public or private agency or individual other than the legal or biological parent for more than 24 consecutive months;
- a child who is a member of a sibling group of two or more placed in the same home; or
- a child with a physical, mental or emotional disability, as validated by a licensed physician or psychologist.

Temporary Guardianship of Children

What is Temporary Guardianship?

- A legal relationship authorized by the court that gives the guardian responsibility to care for the child

- The guardian has the right to make educational, medical, financial, and other decisions for the child
- The guardian has the right to decide whether to allow the child to visit the biological parents

Where do I apply for Temporary Guardianship?

- Probate court in the county where the child resides

What role do the biological parents play in Temporary Guardianship?

- The parents must consent or fail to object after being notified of the guardianship petition
- The biological parents' rights are not terminated
- Does not release the parents from their financial obligations to the child; the guardian can seek child support from the biological parents
- The biological parent can file an application with the court to terminate the relationship; the guardian must file an objection within 10 days of the filing date

How long can a Temporary Guardianship last?

- Until the child is 18 or
- Until the biological parent goes to court to revoke it

Will Temporary Guardianship impact the child's public benefits?

- No, the child's eligibility for benefits should continue depending on the amount of child support the child receives from the biological parents

Can I get Permanent Guardianship?

- Permanent guardianship is only granted if both parents are deceased

Legal Custody

What is legal custody?

- The relative caregiver becomes the child's custodian
- Decisions concerning the child's educational, medical, financial, and other needs are made by the custodian
- The parent loses physical custody of the child
- Custody may last for a set period or until the child is 18 years old

What court has the authority to grant legal custody?

- Juvenile Court or Superior Court in the county where the child lives

When can relative caregivers be granted legal custody?

- When the court determines that it is in the best interest of the child to remain with the relative caregiver

What role do the biological parents play in legal custody?

- Legal custody can be granted against the biological parent's will
- The biological parents' rights are usually not terminated
- If the court grants it, the biological parents may get visitation
- The custodian can seek child support from the biological parents

How long can temporary legal custody last?

- Until the child is 18
- The parents can petition the court to revoke it if there has been a change in circumstances affecting the best interest of the child

Can obtaining legal custody affect the benefits the child receives?

- No, the child should continue to be eligible depending on the amount of child support the child receives from the biological parents

Foster Care

What is foster care?

- Provides temporary substitute homes for children who are not in a safe or nurturing environment
- Children in foster care are in the legal custody of DFCS

Can the relative caregiver be a foster parent for the child?

- Yes, although case by case decisions are made by DFCS

Prospective foster parents must complete:

- 30 hours of pre-service training
- Physical exams
- Drug screens
- Criminal background checks

Other requirements:

- Home must meet safety requirements
- Foster parents must complete 15 hours of parent development training and re-evaluation every year

What assistance do foster parents receive?

- A monthly payment per child
- Medicaid coverage for the child
- Some clothing costs for the child

Is a child in foster care eligible for TANF benefits?

- No, the child will be receiving a monthly foster care benefit instead

Is a child in foster care eligible for Medicaid?

- Yes, the monthly foster care benefit includes Medicaid

Is a child in foster care able to receive Social Security Survivor's benefits?

- If the foster child loses a biological parent and qualifies to receive survivor's benefits, the child is still eligible for those benefits
- The survivor's benefits may be paid to the agency for the child rather than directly to the child

Grandparent Power of Attorney (POA)

What is a Grandparent Power of Attorney?

- A legal document that allows the parents of a child to appoint a grandparent

to care for the child

- The grandparent can make decisions concerning the child's educational, medical, financial and other needs

Who needs to sign the POA?

- Both parents if they live together or share joint legal custody OR
- The parent with legal custody

How long does the POA last?

- Until the parent revokes it

What effect will the POA have on the child's public benefits?

- Eligibility for benefits should not be affected

To obtain the POA form, contact the Georgia Relative Caregiver Hotline, a project of the Georgia Senior Legal Hotline, at 1-888-257-9519

Visitation

In Georgia, can grandparents seek visitation rights with their grandchildren?

- Yes

- The right to seek visitation does not mean that visitation will be granted; it is very difficult to get visitation against the biological parents' wishes
- A judge may only grant visitation if the health or welfare of the child would be harmed unless such visitation is granted, and if the best interests of the child would be served by such visitation

Other Tips for Relative Caregivers

You may be eligible for a program that helps with the costs of Medicare:

- Medicaid offers 3 kinds of assistance to help pay some Medicare costs
- If you qualify, QMB will pay your Medicare premiums, deductibles, and co-pay amounts
- If you qualify, SLMB will pay your Medicare premiums
- If you qualify, QI-1 will pay your Part B Medicare premiums
- You may be eligible if you meet the income and asset guidelines
- For information, contact your local DFCS office

If you are raising a child, you may be eligible for a tax credit(s):

- Earned Income Tax Credit (EITC)
- Child and Dependent Care Credit

- Child Tax Credit
- For information on eligibility, call the IRS at **1-800-829-1040**

Adoptive parents should have advance planning documents:

- An adoptive parent needs a will to nominate a guardian for the child, if the adoptive parent passes away
- A nomination of guardian form can specify who will care for the child if the relative caregiver becomes incapacitated

**For more information, call the
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