



Bulletin

NUMBER

#16-68-07

DATE

March 29, 2016

OF INTEREST TO

County Directors

Social Services Supervisors
and Staff

Tribal Directors

Tribal Supervisors and Staff

Financial Assistance
Supervisors and Staff

Other organizations that
support relative placements

ACTION/DUE DATE

Review and use when
processing Relative
Custody Assistance.

EXPIRATION DATE

March 29, 2018

Overview of Relative Custody Assistance

TOPIC

Policy and procedure guidance for Relative Custody Assistance.

PURPOSE

To ensure continued policy guidance on Relative Custody Assistance and provide answers to frequently asked questions. This bulletin replaces and updates bulletin #13-68-12.

CONTACT

Heidi Ombisa Skallet, agency policy specialist:
heidi.ombisa.skallet@state.mn.us, or 651-431-5889

SIGNED

JAMES G. KOPPEL
Assistant Commissioner

TERMINOLOGY NOTICE

The terminology used to describe people we serve has changed over time. The Minnesota Department of Human Services (DHS) supports the use of "People First" language.

I. Background

The Minnesota Legislature established Relative Custody Assistance (RCA) in 1997 to support the permanency option of permanently transferring legal and physical custody of children in foster care to a relative by providing financial and medical support to eligible children and relative custodians. During the 2013 legislative session, Northstar Care for Children was passed by the Minnesota Legislature and signed into law by Governor Mark Dayton, with an effective date of January 1, 2015. One of the components of Northstar Care for Children, Northstar Kinship Assistance, was created as a result of Minnesota opting into the federal Title IV-E Guardianship Assistance Program to improve the permanency option of transfer of permanent legal and physical custody to a relative. As of January 1, 2015, Northstar Kinship Assistance replaced Relative Custody Assistance.

Children and families receiving Relative Custody Assistance prior to January 1, 2015, will continue to receive benefits under the “legacy” (pre-Northstar Care for Children) RCA program. However, the last day to execute a Relative Custody Assistance agreement was November 26, 2014, so as of November 27, 2014, local agencies can no longer enter into new Relative Custody Assistance agreements with relative custodians.

The purpose of this bulletin is to maintain policy guidance on Relative Custody Assistance and provide answers to frequently asked questions about the legacy RCA program.

II. Overview of Relative Custody Assistance

Relative Custody Assistance, or RCA, is a monthly cash grant made to a relative custodian per a Relative Custody Assistance agreement in the amount calculated under Minnesota Statutes, section 257.85, subdivision 7. The full RCA benefit is a combination of Minnesota Family Investment Program (MFIP) child-only grant (if eligible), Medical Assistance and RCA. Relative custodians are required to apply for MFIP in order to receive the full RCA benefit. The MFIP child-only grant is considered an income offset to the RCA payment.

To determine the amount of an RCA payment, a local agency first determines what a child would receive in basic and supplemental payments from the legacy (pre-Northstar Care for Children) Adoption Assistance program, then subtracts the amount received from MFIP and any other income attributable to the child, including Supplemental Security Income (SSI), veteran’s benefits and child support. The remaining balance is the RCA payment.

For more information on how to calculate the RCA benefit, see [DHS bulletin #14-32-08](#).

Families receive the full amount of the net RCA payment when gross family income is less than or equal to 200 percent of the federal poverty guidelines (see Table 1 below). When gross family income is more than 200 percent of the federal poverty guidelines, the RCA payment is reduced. When gross family income is greater than 300 percent of the federal poverty guidelines, the RCA payment is zero.

[Minnesota Statutes, section 257.85, subdivision 7]

The 2016 U.S. Department of Health and Human Services Poverty Guidelines are available at [2016 Poverty Guidelines](#), and are also listed in the table below. The federal poverty guidelines are issued by the U.S. Department of Health and Human Services each year and are used to determine eligibility for certain programs.

Table 1. Federal Poverty Guidelines for 2016

Persons in Family/Household	Poverty Guideline	200% of Poverty Guideline	300% of Poverty Guideline
1	\$11,880	\$23,760	\$35,640
2	\$16,020	\$32,040	\$48,060
3	\$20,160	\$40,320	\$60,480
4	\$24,300	\$48,600	\$72,900
5	\$28,440	\$56,880	\$85,320
6	\$32,580	\$65,160	\$97,740
7	\$36,730	\$73,460	\$110,190
8*	\$40,890	\$81,780	\$122,670

*For families/households with more than eight persons, add \$4,160 for each additional person to the Poverty Guideline column. Double the new Poverty Guideline for 200% of Poverty Guideline column, and triple the new Poverty Guideline for 300% of Poverty Guideline column.

Annual Affidavit for Continued Payments

While no new RCA agreements can be executed, relative custodians currently receiving RCA will continue receiving benefits pursuant to Minnesota Statutes, section 256N.20, subdivision 7, provided they continue to meet eligibility requirements each year as documented in the annual affidavit. A relative custodian must submit an annual affidavit no later than 30 days after the RCA agreement's anniversary date. The anniversary date is the date of the court order transferring permanent legal and physical custody to a relative. For example, if the court order was on November 20, 2011, the annual affidavit must be submitted each year by December 20.

The affidavit must show the following:

- The child is still in the physical custody of the child's relative custodian
- The relative custodian continues to need RCA payments due to the child's physical, mental, emotional, or behavioral needs
- The current gross family income.

Upon determination that an RCA agreement should be terminated or modified, the local agency must provide notice of the proposed change to the relative custodian at least 10 days before the proposed action. Information about appealing the proposed action to DHS must be included with the notice. See Appendix A for more information on modifying or terminating RCA agreements.

[Minnesota Statutes, section 257.85, subdivision 4 (e) and (f), subdivision 8, and subdivision 9]

Reporting on RCA by Local Agencies

On a quarterly basis, and on a form provided by the commissioner of human services, a local agency shall make claims for reimbursement from the commissioner for RCA payments. For expenditures made on or after January 1, 2015, reimbursements shall be subject to the Northstar Care for Children fiscal reconciliation process under Minnesota Statutes, section 256N.27. See [DHS bulletin #14-32-18](#), Northstar Care for Children Fiscal Processes, for more information.

Prior to April 1, 2014, reimbursements for RCA were based on expenditures reported by local agencies in the SEAGR report (DHS-2557). Beginning April 1, 2014, DHS requires local agencies to record RCA payments in SSIS (Social Services Information System). Payments must be supported by an effective (finalized) RCA Payment Worksheet, which is found in SSIS. More information on reporting requirements is in [DHS bulletin #14-32-08](#).

[Minnesota Statutes, section 257.85, subdivisions 4 and 11]

III. Relative Custody Assistance and Northstar Kinship Assistance

Effective January 1, 2015, Relative Custody Assistance was replaced by Northstar Kinship Assistance. Both provide benefits to relative custodians who had legal and physical custody of their relative children permanently transferred to them by juvenile court order under Minnesota Statutes, section 260C.515, subdivision 4. However, there are a few notable differences between these two programs that may cause confusion when reviewing relative custodians' annual affidavits for continued RCA payments. Table 2 below provides clarification regarding these differences.

Note that Table 2 does not highlight all components of Northstar Kinship Assistance. For more information on Northstar Kinship Assistance, see [DHS bulletin #15-68-15](#).

Table 2. Comparison of Key Eligibility and Procedural Differences Between Relative Custody Assistance and Northstar Kinship Assistance

[Minnesota Statutes, sections 257.85 and 256N.22]

	Relative Custody Assistance	Northstar Kinship Assistance
Who determines eligibility?	The local agency	The local agency completes the eligibility determination and benefit agreement. DHS approves the eligibility determination and signs the benefit agreement to make it fully executed.
Is an annual affidavit required?	Yes, in order to show that a family still meets income and other eligibility requirements	No
Is family income considered?	Yes, because this program is means-tested	No, because this program is not means-tested
How is the program funded?	Through local agency funds, which are reimbursable by the state, subject to availability of state funds. Payments may be reduced or suspended if there are insufficient funds.	Through a combination of local, state and federal (Title IV-E) funds. This is a forecasted program, so state funds will be available each year.
Does a child need to meet any special needs criteria?	Yes, a child must either be a member of a sibling group to be placed together or have a physical, mental, emotional, or behavioral disability requiring financial support from the relative custodian	No, there is no special needs requirement

Americans with Disabilities Act (ADA) Advisory

This information is available in accessible formats for people with disabilities by calling (651) 431-4670 (voice) or toll free at (800) 627-3529 or by using your preferred relay service. For other information on disability rights and protections, contact the agency's ADA coordinator.

Appendix A: Frequently Asked Questions

Gross Family Income

1. Whose income should be included when calculating gross family income?

RCA payments are based on the gross income of a relative custodian's family. Family includes the relative custodian, the relative custodian's spouse (if applicable), any biological or adopted children living in the home, and any child eligible for RCA.

[Minnesota Statutes, section 257.85, subdivision 7]

2. What types of income should be included when determining the amount of RCA (including income of minor children, earned income and unearned income)?

The following types of income are considered offsets for a child who is receiving RCA:

- The portion of the MFIP child-only grant (or similar program of another state)
- Supplemental Security Income (SSI)
- Veteran's benefits
- Any other income of the child, including child support payments.

Gross family income is the sum of gross (pre-tax) earned and unearned income.

Earned income means:

- Cash or in-kind income earned through the receipt of wages
- Salary
- Commission
- Profit from employment activities
- Net profit from self-employment activities
- Payments made by an employer for regularly accrued vacation or sick leave
- Any other profit from activity earned through effort or labor (income must be in return for, or as a result of, legal activity).

Unearned income means income received by a person that does not meet the definition of earned income (e.g., interest, dividends, disability insurance payments, insurance payments, insurance settlements, etc.).

[Minnesota Statutes, section 257.85, subdivision 7 (2)]

3. How does a child's RCA payment factor into determining gross family income?

A child's RCA payment should not be considered when determining gross family income. However, the RCA payment of any other children residing in the home should be considered, which means gross family income could be different for each child receiving an RCA payment in a household.

For example: Child A is the subject of the RCA worksheet. Child A receives \$250 per month for his RCA payment. Child B lives with Child A. Child B receives \$160 per month for her RCA payment. Child A's RCA worksheet should include Child B's RCA payment of \$160 per month, but should exclude Child A's RCA payment of \$250 per month.

4. What happens if the RCA payment worksheet shows a \$0 payment?

If the RCA payment worksheet shows that a child has a \$0 monthly payment, the child will not receive a monthly payment. However, this does not mean that the RCA agreement should be terminated; rather, the county must keep the RCA agreement in effect and require the relative custodians to continue submitting annual affidavits. Based on a later affidavit, a future RCA payment worksheet may determine that a payment should begin. Also, children with active RCA agreements whose RCA payment worksheets reflect a \$0 monthly payment may receive a commissioner transition to Northstar Kinship Assistance, which is more likely to result in a monthly payment even if their RCA payment has been zero.

Annual Affidavit

5. What is the difference between the anniversary date and the effective date?

The anniversary date is the first effective date of the RCA agreement, which is the date of the court order that established permanent legal and physical custody. It never changes.

The effective date is when new information becomes known that impacts the RCA agreement. Local agencies can decide what the effective date is and change the effective date based on new information, even if the relative custodian has already received payments while pending the outcome of the annual affidavit review.

[Minnesota Statutes, section 257.85, subdivision 5 (b) and (d)(3)]

6. If the annual affidavit is submitted late, does the submission date of the next annual affidavit change?

No. The annual affidavit is always due on the RCA agreement's anniversary date, regardless of when the affidavit is actually submitted. If the annual affidavit is submitted on December 15, 2015, but the anniversary date is November 20, 2011, the annual affidavit for 2016 must still be submitted on or within 30 days of November 20, 2016.

7. What happens if the annual affidavit is not submitted?

Per Minnesota Statutes, section 257.85, subdivision 5 (d)(4), the RCA agreement includes a provision stating that failure to submit the annual affidavit is considered to be grounds for terminating the agreement. Local agencies should have in place policies regarding this circumstance as well as when annual affidavits are submitted more than 30 days from the RCA agreement's anniversary date.

Terminating and Modifying Agreements

8. What length of time can a child reside out of the home designated as the relative custodian's home without having RCA terminated?

For RCA, pursuant to Minnesota Statutes, section 257.85, subdivision 3 (h), the definition of "remains in the physical custody of the relative custodian" is that a relative custodian is providing day-to-day care for a child who lives with the relative custodian. A child's absence from a relative custodian's home for more than 120 days raises a presumption that the child no longer remains in the physical custody of the relative custodian, and the relative custodian is no longer providing day-to-day care for the child.

9. Are there circumstances in which payments can continue if a child has been out of the home for an extended period of time?

Prior to a child being out of the home for 120 days, a relative custodian receiving RCA could choose to temporarily stop receiving payments under the RCA agreement by providing the local agency with a 30-day notice. When the child returns to the home, the relative custodian would need to provide the same notice to the local agency for payments to resume. Any payments a relative custodian chooses not to receive are forfeited.

Local agencies should develop policies on how to handle specific circumstances to ensure consistency in practice. Examples include when:

- A stop-payment request has been made and the child is unlikely to return home
- A relative custodian does not provide the local agency with notice to stop payment, and there are circumstances the local agency believes warrants an extension beyond the 120 days.

Once an agreement is terminated, it cannot be reinstated.

[Minnesota Statutes, section 257.85, subdivision 5 (d)(10)]

10. Under what circumstances can RCA be terminated?

- If a family no longer meets eligibility requirements
- If a family fails to submit an annual affidavit
- If a family fails to notify a local agency within 30 days when there is a change in:
 - The child's status
 - The relationship between the relative custodian and the child
 - The composition or level of income of the relative custodian's family
 - Eligibility or receipt of benefits under MFIP or another assistance program
 - Anything that could affect eligibility for or amount of RCA
- When a child turns 18 years old
- If there is a commissioner transition from RCA to Northstar Kinship Assistance.

Note that the RCA agreement must not be terminated when there is a \$0 payment on the RCA payment worksheet. Relative custodians must continue submitting annual affidavits in this circumstance.

[Minnesota Statutes, section 257.85, subdivisions 5 (d) and 8; Minnesota Statutes, section 256N.28, subdivision 7]

11. Can RCA agreements be reinstated?

No. Once an agreement is terminated, it cannot be reinstated.

12. Can RCA be extended beyond a child's 18th birthday?

No. Per Minnesota Statutes, section 257.85, subdivision 5 (d)(5), RCA agreements terminate on a child's 18th birthday. There are no extensions to this program.

13. When can adjustments to an RCA agreement be made?

When an RCA agreement remains in effect for more than one year, a local agency shall require a relative custodian to submit an affidavit annually in a form to be specified by the commissioner. The affidavit must be submitted to the local agency each year, no later than 30 days after the RCA agreement's anniversary date.

An RCA agreement may be modified based on information or documentation presented to a local social services agency under this requirement, and as required by annual adjustments to the federal poverty guidelines.

A local agency is only required to modify or review an agreement annually according to Minnesota Statutes, section 257.85, subdivision 5 (d)(2), and Minnesota Statutes, section 257.85, subdivision 8. Local agencies should develop policies regarding how to handle situations in which an agency receives information regarding a family that warrants a review or modification prior to the family's annual review.

Other Circumstances Affecting Payments

14. What happens to an RCA agreement if a relative custodian dies?

RCA agreements may only be entered into with relative custodians to whom the court awarded permanent legal and physical custody of a child.

- If two individuals were awarded permanent legal and physical custody of a child, and one of those individuals dies, the RCA agreement is still valid
- If two individuals were awarded permanent legal and physical custody of a child, and both of those individuals die, the RCA agreement is terminated
- If only one individual was awarded permanent legal and physical custody of a child, and that individual dies, the RCA agreement is terminated

[Minnesota Statutes, section 257.85, subdivisions 2 and 3 (f)]

15. Can an RCA agreement be transferred to another relative?

No. An RCA agreement can only be entered into with a relative custodian to whom the court transferred permanent legal and physical custody of a child on or before November

26, 2014. If the court permanently transfers legal and physical custody of a child to someone other than the child's court-ordered relative custodian, the RCA agreement is terminated. The local agency may not enter into a new RCA agreement with the new relative custodian.

If a local agency is planning on asking the court to permanently transfer legal and physical custody of a child who is currently the subject of an RCA agreement to a different person, as part of juvenile protection proceedings, the prospective relative custodian and child may be eligible for Northstar Kinship Assistance under Minnesota Statutes, section 256N.22. The local agency may pursue this option only if the court order for a transfer of permanent legal and physical custody to a relative has not been finalized.

[Minnesota Statutes, section 260C.515, subdivision 4; Minnesota Statutes, section 257.85, subdivision 2; Minnesota Statutes, section 256N.22, subdivision 1 (a)(6)]

16. What happens with RCA payments when relative custodians divorce? What if a local agency has identified one person on the RCA agreement, a divorce occurs, and the non-designated relative obtains custody of the child? Can the RCA agreement be transferred?

RCA payments cannot be split. A relative custodian who has custody of a child is the recipient of the RCA payment. If during a divorce proceeding joint custody is granted, the relative custodians must determine who will receive the RCA payment.