

NUMBER

#19-68-05

DATE

March 11, 2019

OF INTEREST TO

County Directors

Social Services Supervisors and
Staff

Tribal Directors

Tribal Social Services
Supervisors and Staff

Financial Assistance Supervisors
and Staff

ACTION/DUE DATE

Please read information and
implement.

EXPIRATION DATE

March 11, 2021

Overview of Relative Custody Assistance

TOPIC

Policy and procedure guidelines for Relative Custody Assistance.

PURPOSE

To ensure continued policy compliance of Relative Custody Assistance, and provide answers to frequently asked questions. This bulletin replaces and updates #16-68-07.

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SIGNED

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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 relative custodians who accepted a permanent transfer of legal and physical custody of children in foster care. Northstar Kinship Assistance replaced Relative Custody Assistance as of January 1, 2015. While many children receiving RCA have undergone commissioner transitions to Northstar Kinship Assistance, there are still children receiving RCA benefits. The purpose of this bulletin is to maintain policy guidance for existing RCA cases, and provide answers to frequently asked questions about the RCA program.

II. Program Overview

RCA is a monthly cash grant made to a relative custodian under a Relative Custody Assistance agreement. The monthly amount is determined based on a formula in 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.

A. Determining RCA Payment

Relative custodians must apply for MFIP 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), veterans benefits and child support. The remaining balance is the RCA payment.

For more information on how to calculate RCA benefits, see [DHS bulletin #18-32-03](#).

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]

B. The 2019 Federal Poverty Guidelines

The [2019 U.S. Department of Health and Human Services Poverty Guidelines](#) are listed in the table below. These guidelines are issued by the U.S. Department of Health and Human Services annually and are used to determine eligibility for certain programs.

Persons in Family/Household	Poverty Guideline	200% of Poverty Guideline	300% of Poverty Guideline
1	\$12,490	\$24,980	\$37,470
2	\$16,910	\$33,820	\$50,730
3	\$21,330	\$42,660	\$63,990
4	\$25,750	\$51,500	\$77,250
5	\$30,170	\$60,340	\$94,770
6	\$34,590	\$69,180	\$103,770
7	\$39,010	\$78,020	\$117,030
8*	\$43,430	\$86,860	\$130,290

*For families/households with more than eight persons, add \$4,420 for each additional person to the poverty guideline column. Double the new poverty guidelines for 200 percent of the poverty guideline column, and triple the new guidelines for 300 percent of poverty guideline column.

C. 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 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. This is the date of the court order transferring permanent legal and physical custody to a relative. For example, if a court order was dated November 20, 2011, the annual affidavit must be submitted by December 20.

The affidavit must show the following:

- The child is still in the physical custody of their 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 a proposed action to the Minnesota Department of Human Services must be included with the notice. See Appendix A for modifying or terminating RCA agreements.

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

D. Reporting on RCA by Local Agencies

RCA payments are made using local agency funds, which are reimbursable by the Minnesota Department of Human Services, subject to availability of state funds. On a quarterly basis, local agencies make claims for reimbursement from the commissioner for RCA payments, using a form in the Social Services Information System (SSIS). For expenditures made on or after January 1, 2015, reimbursements are subject to the Northstar Care for Children fiscal reconciliation process under Minnesota Statutes, section 256N.27.

Prior to April 1, 2014, reimbursements for RCA were based on expenditures reported by local agencies in the SEAGR report (DHS-2557). Since April 1, 2014, agencies are required to record RCA payments in SSIS. Payments must be supported by an effective (finalized) RCA Payment Worksheet in SSIS. More on reporting requirements is in [DHS bulletin #18-32-03](#).

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

Americans with Disabilities Act (ADA) Advisory

This information is available in accessible formats for people with disabilities by calling (000) 000-0000 (voice) (division's general information phone number) or toll free at (800) 000-0000 (include if available within the division) 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

A. Annual Affidavit for Continued Payments

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, their 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 receiving RCA:

- The portion of the MFIP child-only grant (or similar program of another state)
- Supplemental Security Income (SSI)
- Veterans 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 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, they 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 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.

B. Annual Affidavit

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

The anniversary date is the first effective date of an 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 an RCA agreement. Local agencies can decide what the effective date is and change the date based on new information, even if a 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)]

2. If an 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, 2018, but the anniversary date is November 20, 2011, the annual affidavit for 2019 must still be submitted on or within 30 days of November 20, 2019.

3. What happens if an 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 grounds for terminating an 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.

C. Terminating and Modifying Agreements

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

Minnesota law defines "remains in the physical custody of the relative custodian" as a relative custodian 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.

[Minnesota Statutes, section 257.85, subdivision 3 (h)]

2. 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 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 while a child is out of the home 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 a child is unlikely to return home
- A relative custodian does not provide the local agency with notice to stop payment, and there are circumstances local agency staff believe warrant an extension beyond 120 days.

Once an agreement is terminated, it cannot be reinstated.

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

3. 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 relative custodian and child
 - The composition or level of income of 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 an 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, sections 257.85, subdivisions 5 (d) and 8; 256N.28, subdivision 7]

4. Can RCA agreements be reinstated?

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

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

No. RCA agreements terminate on a child's 18th birthday. There is no legal authority to provide extensions.

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

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

Relative custodians with active RCA agreements are required to submit annual affidavits to their local agency no later than 30 days after an RCA agreement's anniversary date. Adjustments are made as part of this review process. Local agencies are only required to modify or review an agreement annually.

RCA agreements can also be modified outside the annual affidavit process based on information or documentation received by a local social services agency. 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 a family's annual review. Annual affidavits must still be submitted when adjustments to an agreement are made outside of an annual affidavit.

RCA agreements must be modified as required by annual adjustments to federal poverty guidelines.

[Minnesota Statutes, section 257.85, subdivisions 5 (d)(2) and 8]

D. Other Circumstances Affecting Payments

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

Only relative custodians named in an RCA agreement, who were awarded permanent legal and physical custody of a child by a court, can receive RCA payments on behalf of a child.

- If two individuals named on an RCA agreement 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 named on the RCA agreement were awarded permanent legal and physical custody of a child, and both of those individuals die, an RCA agreement is terminated
- If only one individual named in an RCA agreement 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)]

2. 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 a new relative custodian after November 26, 2014, the existing RCA agreement is terminated. The local agency may not enter into a new RCA agreement with the new relative custodian.

If a local agency plans to ask 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, a prospective relative custodian and child may be eligible for Northstar Kinship Assistance under Minnesota Statutes, section 256N.22. A local agency may pursue this option only if a court order for transfer of permanent legal and physical custody to a relative has not been finalized.

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

3. 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.