



## **TEXAS KINCARE PRIMER**

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Pages 32 – 35, 40 - 55  
Revised: March 24, 2022

Developed by Texas Legal Services Center

On Behalf of the Texas KinCare Taskforce,  
With the Assistance of Members of the Taskforce,  
The Texas State Relatives as Parents Program

Sponsored by the Brookdale Foundation

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#### A Note About Dollar Amounts:

In this Primer, there are several areas where dollar amounts are stated. Amounts paid by the Social Security Administration (such as for Supplemental Security Income) change effective January 1<sup>st</sup> of each year (if they change). The change in the Federal Poverty Income Limits (or “Guidelines”) was effective January 12, 2022. The most recent change in the income limits for the Women, Infants and Children Program (“WIC”) was effective March 15, 2021.<sup>1</sup> The benefit levels under the Temporary Assistance for Needy Families Program (TANF) change effective October of each year. If the benefit levels under the Supplemental Nutrition Assistance Program (“SNAP” – formerly food stamps) change, they change effective October.

Some dollar amounts in this Primer refer to tax benefits, such as the earned income tax credit or the child tax credit.

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<sup>1</sup> <https://www.fns.usda.gov/wic/2021-2022-income-eligibility-guidelines>

## **Kincare. What is “Kincare?”**

Kincare occurs when a minor child does not live under the control of either parent, but rather is being cared for by a grandmother or grandfather, great-grandmother or great-grandfather, aunt or uncle, older sibling, or another relative.

The mother or father can be living in the same home with the minor child and the family member who is managing the household but very often neither mother nor father is in the home.

The need for adults to raise grand-daughters, grandsons, great-grand-daughters, great-grandsons, nieces, nephews, or younger siblings, may arise for various reasons.

It sometimes occurs due to the death of both parents (at the same or separate times). It sometimes occurs due to the absence of both parents. The absence may be for a short time or for a long time.

The absence of both parents can occur due to drug abuse, incarceration, child abuse, child neglect, child abandonment, mental illness, pregnancy of a teen-age mother, serious illness of a mother or father, natural disaster, divorce, the mother or father is a victim of violent crime, or due to another cause.

Thus, there are many reasons why a relative may experience the task of carrying out the role of a parent.

A Texas-based source of a wide range of information on Kincare is the Web site Grandparents Raising Grandkids. This Web site is maintained by the Texas AgriLife Extension Service, an agency of the Texas A&M System. The Texas AgriLife Extension Services Web site is at <http://grandparentsraisinggrandkids.tamu.edu> and can be accessed from a home computer or at any public library. This Web site has information for grandparents, for educators and support group leaders, and information about legal resources, support groups, and links.

### How many children in Texas are being raised by relative caregivers?

It is estimated that, in Texas, there are over 600,000 children in any one year who, at least for part of the year, are cared for by a relative who is not their parent. The majority of these children are not under the supervision of “child protective services” (“CPS”). CPS is a division of the Texas Department of Family and Protective Services which investigates allegations of abuse or neglect of children. If CPS finds

that a child has been abused or neglected, CPS can seek court-ordered managing conservatorship (custody) of the child.

### The Purpose of this Primer.

This Primer is meant to be informative for the family that is headed by a relative caregiver, whether or not CPS has involvement with the child(ren). For families that have a child for whom CPS has rendered a finding of abuse or neglect, there is a “Kinship Program” which is described at the Web site [https://www.dfps.state.tx.us/Child\\_Protection/Kinship\\_Care/default.asp](https://www.dfps.state.tx.us/Child_Protection/Kinship_Care/default.asp). For families in its caseload, CPS has produced a “Kinship Manual,” which is available at that same Web site.

This Kincare Primer has the purpose of providing to families (headed by a relative) information about their rights and responsibilities. This Primer also gives references concerning additional sources of information.

The Texas Legal Services Center can provide households of modest means cost-free advice concerning the Authorization Agreement for Voluntary Adult Caregiver, which allows a parent to authorize a grandparent, aunt or uncle, or older sibling, to make health care and certain other decisions for a child. Texas Legal Services Center provides legal counsel and advice regarding kincare, if household income does not exceed 125% of the federal poverty income limit (FPIL) (based on income of the child(ren)). The statewide toll-free number for this counsel and advice is 1-866-979-4343. (The Authorization Agreement is discussed at pages 28 - 31.)

A telephone number, through which older persons can receive cost-free legal information on a wide range of subjects, from the Legal Hotline for Texans, is: 1-800-622-2520. The Legal Hotline for Texans provides free legal information to seniors (persons sixty (60) years of age or older), and to persons covered by Medicare (health insurance for older persons and persons with disabilities). The Legal Hotline for Texans does not have an income cap on seniors or Medicare beneficiaries who can receive its services.

Page 7 mentions an Internet portal for free legal information – [www.texaslawhelp.org](http://www.texaslawhelp.org).

Pages 8 through 12 have additional information regarding legal services for households of modest means.

## General Information for Kinicare Families

This Primer was prepared by the Texas Legal Services Center, as coordinator of the Texas Kinicare Taskforce.

The Texas Kinicare Taskforce is dedicated to assisting relatives as parents – grandparents, aunts, uncles, and older siblings, raising minor children – in knowing what services may be available to the child or the adult.

**2-1-1.** Texas has established a 2-1-1 system, which answers questions regarding where you can apply for health and human services and related services (such as legal services). **2-1-1 is available 24 hours a day.**

For public services (such as food stamps, Medicaid, CHIP, Temporary Assistance for Needy Families), child care, and mental health services, you can also go to the Web site at [www.yourtexasbenefits.com](http://www.yourtexasbenefits.com), to see if you or others in your household may be eligible for services.

If you do not find information needed in this Primer, you can call Texas Legal Services Center at 1-866-979-4343, to learn how to locate the information or services you are seeking.

There is not always a service to meet a need – there is not a service for every need. But the Texas Legal Services Center wants you to know about the services that are available.

Many services are limited to persons with low income and few assets. This is called “means-testing.” Not all services have such “means-testing” though.

Many services are provided through local programs. So, some services available in some communities may not be available in other communities.

State-administered services, such as the Supplemental Nutrition Assistance Program (SNAP – formerly food stamps), Medicaid, CHIP, and Temporary Assistance for Needy Families, are available to those who qualify, on the same basis throughout the entire State. Federally-administered services, such as Social Security, Supplemental Security Income, Railroad Retirement, Black Lung Benefits (for coal miners), Veterans Benefits, and Medicare, are available on the same basis throughout the United States.

**The role of Texas’ Area Agencies on Aging.** Texas’ Area Agencies on Aging can provide information free of charge to adults who are 55 years of age or older who are relative caregivers for children not yet 18 years of age. Every county in Texas is served by an area agency on aging. The list of Texas’ 28 area agencies on aging is at <http://www.dads.state.tx.us/contact/aaa.cfm>. A call to 800-252-9240 will connect an older Texan with the local area agency on aging. Family caregiver specialists in area agencies on aging may have information about support groups and other resources which may ease the challenge of being a relative caregiver, for those who are 55 years of age or older. Page 12 and pages 46 – 48 have further information regarding the role of the Area Agencies on Aging.

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**Documents you may need in seeking services.**

Raising a minor child that is not your own is an awesome responsibility. You will be able to obtain available services needed for the child in your care and for yourself, if you have certain documents on hand.

Documents that are very important to have for each child in your care include:

Birth certificate

Social Security card

Court orders pertaining to the child, such as custody orders.

In Texas, child custody is called “managing conservatorship.”

Report cards

Immunization records

Health insurance cards

(Such as the Medicaid card, CHIP enrollment form, or a card for a private insurance that may cover the health care for a child in your care).

**2-1-1** can provide information to help you obtain documents that you do not have for a child in your care.

In addition to documents about the child in your care, you may need other documents when you apply for services. You will need your own ID – either a driver’s license or a state-issued ID or a passport.

You may also need a copy of:

Wage stubs for yourself and other persons in your household who are employed (sometimes for as many as four pay periods)

Your income tax return

Your lease or your mortgage payment book

Your real estate tax statement



Utility bills (light, gas, water, sewer, garbage, telephone)

Note: The cost of cable TV or Internet service is not a factor in eligibility for or the amount of public assistance.

Health care bills

Notices of award of Social Security, Supplemental Security Income, Railroad Retirement, Black Lung Benefits, and Veterans Benefits.

Receipts for expenses paid for you by someone else

Court documents

Court documents include documents:

Giving you custody (managing conservatorship) of a minor child,

Setting child support,

Establishing visitation rights for the parent(s) of the child; and

Juvenile justice or child protective services documents pertaining to the child.

Other legal documents

Other important legal documents to keep handy if they exist include:

Power of attorney giving you authority to make decisions about the child;

Forms for consent to health care treatment, and/or consent to counseling;

A will or trust that shows a child in your care is a beneficiary.

Note: A will only takes effect when the person who signed it has died. A trust, depending on its terms, can be effective even while the person who set it up is still living.

**Note:** When you provide information in written or printed form to an office, agency, or individual, you should get a receipt for what you have delivered, and keep a copy of what you have delivered.

**TexasLawHelp.org.** In addition to the organizations mentioned in pages 8 – 12, another legal resource that can be accessed through the Internet is TexasLawHelp.org. TexasLawHelp.org provides a wide range of legal information, free of charge, developed by Texas lawyers who serve persons of modest means.

The Web location for TexasLawHelp.org is [www.texaslawhelp.org](http://www.texaslawhelp.org).

**Legal Resources for Kincare Families.**

Information about legal services for persons of modest means follows on pages 8 – 12.

Additional notes and numbers:

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## Legal Resources

Legal services may be available to help you.

### Statewide legal services programs.

#### **Legal services for low-income Texans in kincares-related matters – Texas Legal Services Center.**

People of modest means in Texas who need legal advice on the Authorization Agreement, can call the Texas Legal Services Center at 1-866-979-4343. For the purposes of kincares, “modest means” is income of the child(ren) at or below 125% of the Federal Poverty Income Limit. This is also the usual income limit for eligibility for Legal Aid. The chart below shows the monthly and annual income limits of 125% of the Federal Poverty Income Limit as of January 12, 2022.

Household size	Monthly Income Limit (125% of the Federal Poverty Income Limit)	Annual Income Limit (125% of the Federal Poverty Income Limit)
1.	\$1,416	\$16,988
2.	\$1,907	\$22,888
3.	\$2,399	\$28,788
4.	\$2,891	\$34,688
5.	\$3,382	\$40,588
6.	\$3,874	\$46,488
7.	\$4,366	\$52,388
8.	\$4,857	\$58,288

#### **Legal services for older persons.**

Any person in Texas who is 60 years of age or older can call the Legal Hotline for Texans at 1-800-622-2520 for free legal information. The Legal Hotline for Texans has a wide range of brochures on many different legal topics. The Legal Hotline for Texans also serves persons who are eligible for Medicare, regardless of age or income.

#### **Legal services for participants and beneficiaries of pension and retirement plans.**

The South Central Pension Rights Project (SCPRP) is funded by the U.S. Administration on Aging and sponsored by Texas Legal Services Center. SCPRP answers questions about pension

benefits, locates benefits for individuals who believe they are entitled to a benefit but cannot locate that benefit, and advocates on behalf of individuals that have been unjustly denied their benefits. SCPRP helps individuals regardless of age or income and all services are completely free. The toll-free number to contact SCPRP is 1-800-443-2528.

**Legal services for victims of violent crime.**

The Crime Victim Civil Legal Services Program at 1-888-343-4414 provides free legal information to persons of modest means who are victims of violent crime, and to their family members. For the purposes of the Crime Victim Civil Legal Services Program, “modest means” is income at or below 187.5% of the Federal Poverty Income Limit. The chart below shows the monthly and annual income limits of 187.5% of the Federal Poverty Income Limit, as of January 12, 2022.

Household size	Monthly Income Limit (187.5% of the Federal Poverty Income Limit)	Annual Income Limit (187.5% of the Federal Poverty Income Limit)
1.	\$2,123	\$25,481
2.	\$2,861	\$34,331
3.	\$3,598	\$43,181
4.	\$4,336	\$52,031
5.	\$5,073	\$60,881
6.	\$5,811	\$69,731
7.	\$6,548	\$78,581
8.	\$7,286	\$87,431

**The Advocacy Project**

The Advocacy Project focuses on legal information for victims of domestic violence and sexual assault. Their phone numbers are: Family Violence Legal Line, 1-800-374-4673 (Austin: 512-476-5770); Family Law Hotline, 1-800-777-3247 (Austin: 512-476-1866).

**Disability Rights, Texas**

Disability Rights, Texas is the “Protection and Advocacy” agency in the State of Texas. Disability Rights, Texas was formerly called Advocacy, Inc. Disability Rights, Texas provides legal services for persons with mental retardation, developmental disabilities, for persons seeking vocational rehabilitation services, for persons with mental illness, and for persons with other disabilities. Their phone number for new clients is 1-800-252-9108.

## The Legal Aid Programs of Texas.

Every county in Texas is served by a Legal Aid program. Texas has three multi-county programs funded by the Legal Services Corporation, which are generally referred to as “Legal Aid” programs. 2-1-1 can give you the phone number of the Legal Aid program that serves your county. These programs typically serve persons whose income is at or below 125% of the Federal Poverty Income Limit (FPIL). (See the chart on the previous page under “Legal services for health care problems” for the 125% FPIL figures.) Depending on the type of case, the income limit may be 200% FPIL. These programs provide legal services in civil cases (not criminal). The cases handled are cases that are not “fee-generating” (thus, personal injury cases are not handled by Legal Aid). Although Legal Aid programs typically handle only civil cases and not criminal cases, in the southern part of Texas, Texas RioGrande Legal Aid is developing criminal public defender services in some counties. Every Legal Aid office is required to establish “priorities” and that means that the types of cases accepted for services will vary from office to office.

The next page has descriptions of Texas’ three Legal Aid programs. The three Legal Aid programs described on the next page have contributed content that can also be accessed at [www.texaslawhelp.org](http://www.texaslawhelp.org). The office locations indicated are for civil legal aid.

**For Veterans**, the Legal Aid income limits are 200% of the Federal Poverty Income Limit, namely:

Household size	Monthly Income Limit (200% of the Federal Poverty Income Limit)	Annual Income Limit (200% of the Federal Poverty Income Limit)
1.	\$2,265	\$27,180
2.	\$3,052	\$36,620
3.	\$3,839	\$46,060
4.	\$4,625	\$55,500
5.	\$5,412	\$64,940
6.	\$6,199	\$74,380
7.	\$6,985	\$83,820
8.	\$7,772	\$93,260

### **Legal Aid of Northwest Texas.**

This program serves counties from the Panhandle and the High Plains through the Dallas – Fort Worth metroplex. It has offices in Amarillo, Plainview, Lubbock, Midland, Odessa, Abilene, Brownwood, San Angelo, Wichita Falls, Denton, Weatherford, Fort Worth, Dallas, Waxahachie, and McKinney. Their website is [www.lanwt.org](http://www.lanwt.org).

### **Lone Star Legal Aid.**

This program serves Texas counties from the Louisiana and Arkansas border westward to some counties along IH-35. It has offices in Angleton, Beaumont, Belton, Bryan, Conroe, Galveston, Houston, Longview, Nacogdoches, Paris, Texarkana, Tyler, and Waco. Their website is [www.lonestarlegal.org](http://www.lonestarlegal.org).

### **Texas RioGrande Legal Aid.**

This program serves Texas Counties from the Mexican border northward to Williamson County. It has offices in Brownsville, Edinburg, Harlingen, Weslaco, Laredo, Eagle Pass, Del Rio, Alpine, El Paso, Corpus Christi, Victoria, Sinton, San Antonio, and Austin. Their website is [www.trla.org](http://www.trla.org).

Texas RioGrande Legal Aid also serves migrant farmworkers regardless of where they are in Texas.

In regard to the Legal Aid programs, even if you do not live in one of the listed cities, if you live in a county served by the office in that city and if your case is of a type handled by that office, you can receive services, if your income is low enough to qualify.

### **Income limits for Legal Aid.**

As mentioned, Legal Aid programs generally use the 125% of Federal Poverty Income Limit (FPIL) for eligibility for their services (or, depending on the type of case, 200%). See the income limit chart under the section above with the heading “Legal services for health care problems” for the 125% limits. For Veterans, the Legal Aid income limits are 200% of the FPIL. The chart at the foot of page 10 shows the 200% FPIL limits.

### **Area Agencies on Aging.**

As mentioned on page 4, every county in Texas is served by an area agency on aging. Area agencies on aging serve grandparents and other relatives who are fifty-five (55) years of age or older, if they are caregivers for children under the age of eighteen (18), or children with disabilities of any age. Some area agencies on aging serve younger persons enrolled in Medicare. You can reach your area agency on aging by calling 1-800-252-9240, or by calling 2-1-1. The services provided by an area agency on aging are based on the local “area plan” and thus different area agencies on aging provide different services. Some area agencies on aging may provide legal services either through a benefits counseling program, a contract with a local law firm, or arrangements with volunteer attorneys. Many area agencies on aging especially focus on legal problems concerning Medicare, Medicaid, Social Security, Supplemental Security Income, food stamps, and other publicly-funded services programs.

### **Texas LawHelp.org.**

The Web site [www.texaslawhelp.org](http://www.texaslawhelp.org) provides information on a wide variety of legal topics. The Web site has forms for some legal matters that can be handled by a person on their own (“pro se”). The Web site also has addresses and phone numbers for individual Legal Aid offices, area agencies on aging, volunteer legal services programs, offices of Advocacy, Inc., and for other providers of legal services to persons of modest means.

### **Appointment of counsel in civil cases.**

Texas statutes authorize *but do not require* county court judges and district court judges to appoint attorneys for poor parties to civil lawsuits. These statutes are Texas Government Code Section 26.049 (authorizing county court judges to appoint counsel for poor persons in civil cases) and Texas Government Code Section 24.016 (giving district court judges the same authority). Neither of these statutes has any provision for payment of the attorney. Courts are very, very hesitant to appoint attorneys in civil cases under these statutes, because the attorneys basically have to work without pay once appointed. The Texas Kinicare Taskforce can provide sample motions and affidavits for appointment of counsel under these statutes but it must be understood that counsel will not be appointed in any case that is not very complicated.

## **Public Benefits for Kinicare Families – State-Administered Programs**

Note: Persons wanting an indication of whether they, their household, or someone in their household may qualify for a public benefit can use these benefit screens: [www.yourtexasbenefits.com](http://www.yourtexasbenefits.com) (for state benefits) and [www.benefitscheckup.org](http://www.benefitscheckup.org) (for federal benefits). The application for TANF, food stamps, or Medicaid can be started at [www.yourtexasbenefits.com](http://www.yourtexasbenefits.com). Social Security benefits and Supplemental Security Income benefits can be applied for at the website [www.ssa.gov](http://www.ssa.gov).

### **Temporary Assistance for Needy Families (TANF).**

TANF (child-only). Are you a grandparent, aunt, or uncle, raising a child in place of the child's parent(s)? If neither parent is in the household, the child can qualify for Temporary Assistance for Needy Families (TANF) – cash assistance – on the basis of the child's income and resources. Your income and resources do not have to count, if you do not want to be included in the benefit. As of October of 2021, maximum monthly TANF benefits are \$107 (one child), \$153 (two children), \$215 (three children) and more if there are more children. These are amounts for cases in which the adult is not included in the grant.

Child-only TANF is:

Cash assistance to meet the needs of the child(ren)

Paid monthly

Based on the income and resources of the child(ren) only, in the case of children being raised by the grandparent(s), aunt or uncle

How to start:

You can start the process of applying for TANF by dialing 2-1-1

You can also use the website [www.yourtexasbenefits.com](http://www.yourtexasbenefits.com).

Notice and appeal rights:

If you apply for child-only TANF you have the right to notice of the decision on your application. If you disagree with the decision you have the right to appeal the decision to a “fair hearing.” At the fair hearing



you have the right to be represented by a person of your choosing, or you can represent yourself. Your local legal aid office may be able to help you in such an appeal. Please see the section of the Texas KinCare Primer on “Legal Resources.”

***If you are a relative caregiver applying for child-only TANF, it helps to write boldly at the top of the application “Payee.” That will signify that you as the adult do not want to be included in the TANF grant – that you are submitting the application on behalf of a minor child, and that you merely want to be “payee” for the TANF benefit.***

**What sections of the Texas Human Resources Code and the Texas Administrative Code have the Texas TANF program provisions?**

**Texas Human Resources Code Chapter 31 and Title 1, Chapter 372 of the Texas Administrative Code have the Texas TANF program provisions.**

One-Time TANF. If a grandparent or great-grandparent is raising a child who is receiving TANF, and the adult is at least 45 years of age, and has monthly income not exceeding 200% of the Federal Poverty Income Level, and not more than \$1000 in the bank, the adult may qualify to receive a one-time TANF benefit of \$1000. As noted, to qualify for this one-time \$1000 benefit, household income cannot exceed 200% of the Federal Poverty Income (in the box below, as of January 2022).

Household size	Monthly Income Limit (200% of the Federal Poverty Income Limit)	Annual Income Limit (200% of the Federal Poverty Income Limit)
1.	\$2,265	\$27,180
2.	\$3,052	\$36,620
3.	\$3,839	\$46,060
4.	\$4,625	\$55,500
5.	\$5,412	\$64,940
6.	\$6,199	\$74,380
7.	\$6,985	\$83,820
8.	\$7,772	\$93,260

One-time TANF is:

Cash assistance to meet the needs of the household  
Paid at one time

Based on the income and resources of the household

How to start:

You can start the process of applying for TANF by dialing 2-1-1

You can also use the website [www.yourtexasbenefits.com](http://www.yourtexasbenefits.com).

Notice and appeal rights:

If you apply for one-time TANF you have the right to notice of the decision on your application. If you disagree with the decision you have the right to appeal the decision to a “fair hearing.” At the fair hearing you have the right to be represented by a person of your choosing, or you can represent yourself. Your local legal aid office may be able to help you in such an appeal. Please see the section of this Texas KinCare Primer on “Legal Resources.”

TANF (caretaker in the grant) If you are a grandparent, aunt or uncle raising a child who is not your child, you can apply for regular Temporary Assistance for Needy Families (TANF). If you apply for regular TANF (as opposed to child-only TANF), then your income and resources will be a factor in whether and the child or children you are raising can receive TANF. As of October 2021, for a caretaker and one child, the maximum monthly TANF grant in Texas is \$130, and for a caretaker and two children, the maximum monthly TANF benefit in Texas is \$270.

Regular TANF is:

Cash assistance to meet the needs of the household

Paid monthly

Based on the income and resources of the household

How to start:

You can start the process of applying for TANF by dialing 2-1-1

You can also use the website [www.yourtexasbenefits.com](http://www.yourtexasbenefits.com).

Notice and appeal rights:

If you apply for one-time TANF you have the right to notice of the decision on your application. If you disagree with the decision you have the right to appeal the decision to a “fair hearing.” At the fair hearing you have the right to be represented by a person of your choosing, or you can represent yourself. Your local legal aid office may be able to

help you in such an appeal. Please see the section of the Texas Kinicare Primer on “Legal Resources.”

Time-limit for decision on application: Temporary Assistance for Needy Families (TANF): Your eligibility should be decided within 45 days of when you apply.

**Medicaid and the Children’s Health Insurance (CHIP) Program.** Eligibility of a child being raised by a grandparent, aunt, or uncle, for Medicaid can be determined on the basis of the income and resources of the child alone. Thus, most children raised by grandparents, aunts, or uncles, can qualify for Medicaid, because the income and resources of the adult do not count in the determination of eligibility. Medicaid is a program that provides children with doctors’ services, hospital services including surgery when necessary and reasonable, prescription drugs, immunizations, regular health care check-ups including physicals, and mental health services. CHIP provides health care for children in certain households that have income or resources too high for Medicaid.

Medicaid eligibility for children being raised by grandparent(s), an aunt or uncle is:

Based on the income and resources of the child(ren).

Medicaid pays health care providers for providing services

How to start:

You can start the process of applying for Medicaid or CHIP by dialing 2-1-1

You can also use the website [www.yourtexasbenefits.com](http://www.yourtexasbenefits.com).

Notice and appeal rights:

If you apply for Medicaid you have the right to notice of the decision on your application. If you disagree with the decision you have the right to appeal the decision to a “fair hearing.” At the fair hearing you have the right to be represented by a person of your choosing, or you can represent yourself. Your local legal aid office may be able to help you in such an appeal. Please see the section on “Legal Resources.”

Time-limit for decision on application: Medicaid: Your eligibility should be decided within 45 days of when you apply, unless “disability” has to be determined, in which case the time-frame is 90 days from when you apply.

**What sections of the Texas Human Resources Code and the Texas Administrative Code have the Texas Medicaid program provisions?**

**Texas Human Resources Code Chapter 32 has Medicaid program provisions. Title 1, Chapter 366 of the Texas Administrative Code has eligibility provision for the Texas Medicaid program, and Chapter 363 has provisions concerning the Medicaid Early, Periodic Screening, Diagnosis and Treatment (EPSDT) program, called “Texas Health Steps.”**

**Food Stamps (also known as “Supplemental Nutrition Assistance Program” or “SNAP”).** Households in which one or more children are being raised by a grandparent, aunt, or uncle, can often qualify to receive food stamps (SNAP). If the adult is 60 years of age or older, or disabled, she or he can apply for food stamps apart from the children. Households with an elderly or disabled person often receive special deductions of medical expenses, shelter expenses, and child care or elder care expenses -- so their food stamp benefits can often be increased above those of other households. Food stamp (SNAP) benefits vary from household to household, depending on household composition, income, and deductions.

Household size	1	2	3	4	5	6	7	8	Each Additional Household Member
<i>Maximum</i> possible monthly food stamp benefit (as of October of 2021)	\$250	\$459	\$658	\$835	\$992	\$1,190	\$1,316	\$1,504	\$188

Food stamp (SNAP) benefits are:

- Based on household income for households with modest resources
- Households with an elderly or disabled person have special deductions from income for medical expenses, shelter and day care
- Provided monthly

How to start:

You can start the process of applying for food stamps (SNAP) by dialing 2-1-1

You can also use the website [www.yourtexasbenefits.com](http://www.yourtexasbenefits.com)

Notice and appeal rights:

If you apply for food stamps (SNAP) you have the right to notice of the decision on your application. If you disagree with the decision you have the right to appeal the decision to a “fair hearing.” At the fair hearing you have the right to be represented by a person of your choosing, or you can represent yourself. Your local legal aid office may be able to help you in such an appeal. Please see the section on “Legal Resources.”

Time-limit for decision on application: Food stamps (SNAP): The agency must give you an interview within 30 days of applying so that you can receive food stamps within 30 days of applying if you meet eligibility requirements. If you have less than \$150 in monthly gross income and if your liquid resources do not exceed \$100, you have the right to receive food stamps within one (1) day of applying.

**What sections of the Texas Human Resources Code and the Texas Administrative Code have the Texas Food Stamp (SNAP) program provisions?**

**Texas Human Resources Code Chapter 33 and Title 1, Chapter 372 of the Texas Administrative Code have the Texas Food Stamp (SNAP) program provisions.**

**Women, Infants, and Children (WIC).** The WIC program provides a prescription of basic foods (such as formula, milk, bread, tortillas, rice, canned fish, fresh or frozen fruits and vegetables, cheese, eggs, cereal, juice, beans, peanut butter) for children up to age five who have nutrition health-related problems, pregnant women, breastfeeding mothers, and women who have given birth in the last six months. The food package is to be tailored to address the nutritional needs of the participant. Not each participant will receive each type of food in their WIC prescription. The food packages (prescriptions) under WIC for children 1 year of age but not yet 5 years of age, include milk, cheese, cereal, juice, eggs, beans, peanut butter, fruits and vegetables, and whole grains.

WIC also provides nutrition education, referrals to other health and human services programs, and immunizations.

For some individuals, eligibility can be based on the fact that a member of the household receives Temporary Assistance for Needy Families (TANF), or Medicaid for pregnant women or infants, or Supplemental Nutrition Assistance Program

(SNAP) benefits (food stamps). If the applicant herself or himself receives TANF, Medicaid, or SNAP, the applicant does not have to meet a separate WIC income test. Individuals in such households do not have to meet income criteria for WIC, but they must still have nutritional risk to be eligible. For individuals who *do* have to meet a household income test, household income cannot exceed 185% of the Federal Poverty Income Limit. Under WIC, if there is not eligibility for TANF, Medicaid, or SNAP, and thus the WIC income limits are used, gross income of all household members (including grandparents, aunts, uncles, older siblings) is included.

The U.S. Department of Agriculture has issued the income guidelines in the following box for WIC, effective as of July 1, 2021.

Household size	Monthly Gross Income Limit (185% of the Federal Poverty Income Limit)	Annual Gross Income Limit (185% of the Federal Poverty Income Limit)
1.	\$1,986	\$23,828
2.	\$2,686	\$32,227
3.	\$3,386	\$40,626
4.	\$4,086	\$49,025
5.	\$4,786	\$57,424
6.	\$5,486	\$65,823
7.	\$6,186	\$74,222
8.	\$6,886	\$82,621

WIC food benefits are:

Provided as a prescription and allow for items in the prescription to be purchased at participating grocery stores.

How to start:

You can start the process of applying for WIC by dialing 2-1-1.  
You can also call 1-800-942-3678.

Notice and appeal rights:

If you apply for WIC you have the right to notice of the decision on your application. If you disagree with the decision you have the right to appeal the decision to a “fair hearing.” At the fair hearing you have the right to be represented by a person of your choosing, or you can represent yourself. Your local legal aid office may be able to help you in such an appeal. Please see the section on “Legal Resources.”

**What sections of the Texas Health and Safety Code and the Texas Administrative Code have the Texas WIC program provisions?**

**Texas Health and Safety Code Chapter 1001 establishes the Texas Department of State Health Services (DSHS). The WIC program is one of the programs that DSHS operates. Title 25, Chapter 31, Rule 31.22 of the Texas Administrative Code has the Texas WIC program provisions.**

**Child care.** The availability of child care varies from community to community. There may be copayments. 2-1-1 can refer you to local child care resources.

**A word about child support:** When Temporary Assistance for Needy Families or Medicaid or CHIP is applied for and granted, the state is supposed to pursue child support against any parent not in the household. As part of establishing child support, the state can seek an order establishing child custody (“managing conservatorship”) and visitation (“possession” of the child, or “access” to the child). A grandparent, aunt or uncle, or older sibling, caring for a child, may have to be very clear that, in addition to child support, an order establishing managing conservatorship is desired (if that is the case). An application for food stamps or WIC does not by itself require the state to seek child support against an absent parent.

Information about federally-administered public benefits that may assist some members in certain kinship households follows on pages 21 – 22.

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## **Public Benefits for Kinicare Families – Federally-Administered Programs**

### **Social Security.**

Child's Benefits. A surviving child can receive child's Social Security benefits if the worker-parent died "fully" or "currently" insured. (A worker is "fully" insured if the worker has 40 credits of Social Security earnings. A worker is "currently" insured if the worker has 20 Social Security credits in the last 40 calendar quarters. In 2022, each \$1,510 of earnings equals a credit; a worker can earn have a maximum of four credits posted to the worker's Social Security record each year.) The child must have been the child of the worker who died. The child must be either under age 18, or under 19 and a full-time student in elementary or secondary school, or under a disability which began before age 22. The child must have been dependent on the deceased worker-parent. The child cannot be married. The child's benefit is three-fourths of the deceased parent's "primary insurance benefit."

The \$255 lump-sum Social Security payment, usually made to a surviving spouse, will be paid to the child or children of the deceased worker if there is no surviving spouse. The application for the lump-sum payment must be made within two years of the worker's death.

Parent's Benefits. Under some circumstances, the parent of a deceased worker can receive Parent's Benefits. For the parent of a deceased worker to receive parent's benefits, the worker must have died fully insured. The parent of the worker must be at least 62 years of age. The parent of the worker cannot have married after the death of the worker. The parent must have received at least one-half support from the worker.



Grandchildren's benefits. Minor children can receive Social Security based on the earnings record of their grandparent, under certain circumstances. If the parents of the child are deceased or disabled, benefits may be payable based on the earnings of the grandparent, when the grandparent retires, becomes disabled, or dies. The grandchild must have begun living with the grandparent before age 18. The grandchild must have received at least one-half of his or her support from the grandparent in the year before benefits are payable (in the year before the grandparent retired, became disabled, or died).

**Federally-administered access to health insurance.** The federal government operates the exchange for the health insurance Marketplace that serves Texas, under the Affordable Care Act. Information about health insurance under the Affordable Care Act is available at HealthCare.gov at <https://www.healthcare.gov/>. One can apply for health insurance through the HealthCare.gov website. If a person applying for health insurance through HealthCare.gov is potentially eligible for Medicare or Medicaid, the person will be referred to those programs. Persons with household income of less than 400% of the federal poverty income limit, who qualify for health insurance under the Affordable Care Act, may also qualify for a subsidy of the premium.

**Supplemental Security Income (SSI).** Children's SSI. SSI can be received by a disabled child. If the child is not living with a parent, but is living with a grandparent, aunt, or uncle, only the child's income and resources are used in determining if the child qualifies for SSI. However, for a child to qualify for SSI, the child must be disabled. Adult's SSI. A person age 65 or older, or who is disabled or blind, can receive SSI, if income and resources are low enough. The maximum monthly SSI benefit for an adult or a child as in 2022 is \$794.

Social Security and SSI benefits are:

Cash benefits, paid monthly. Eligibility for SSI benefits depends on are based on income and resources.

How to start:

You can start the process of applying for Social Security or SSI by dialing 1-800-772-1213. You can also use the website [www.ssa.gov](http://www.ssa.gov).

Notice and appeal rights:

If you apply for Social Security or SSI, you have the right to notice of the decision on your application. If you disagree with the decision you have the right to appeal the decision to an “administrative law judge hearing.” At the hearing you have the right to be represented by a person of your choosing, or you can represent yourself. Your local legal aid office may be able to help you in such an appeal. Please see the section on “Legal Resources.”

## **Earned Income Credit and Child Tax Credit**

### **Earned Income Credit**

Raising a grandchild can result in eligibility for the federal Earned Income Credit (EIC). The maximum EIC for tax year 2022 is \$3,618 for a taxpayer with one qualifying child, and \$5,980 if there are two qualifying children, and \$6,728 with three or more qualifying children. Form 1040, 1040A, or 1040EZ can be used to claim the EIC.

To be a “qualifying child,” the child must:

- (1) Be a descendant of your child or step-child;
- (2) Be under age 19 at the end of the year, *or* under age 24 and a student, *or* permanently and totally disabled at any time during the year, regardless of age;
- (3) Have lived with you in the United States for more than half the year.

To receive the earned income tax credit, the claiming tax payer must have earned income and adjusted gross income in 2022 of less than \$55,952 (married, filing jointly, 3 qualifying children). Investment income cannot exceed \$10,000.

In addition to the earned income tax credit, the claiming taxpayer may be able to claim, due to the same child or children, other tax benefits, such as: Head of

household filing status, the exemption for a dependent, the child tax credit, and the child and dependent care credit.

The Earned Income Credit is the topic of IRS Publication 596. This publication can be downloaded from the Web site <https://www.irs.gov/pub/irs-pdf/p596.pdf>.

In recent years, the IRS has been concerned about the Earned Income Tax Credit being claimed on basis of children who had not lived for more than half the year with the claimant. To make sure that the child has lived with the claimant for more than half the year, the IRS may require the claimant to complete Form 8836, “Qualifying Child Residency Statement.” This may require the gathering and submission of documents showing that the child lived with the claimant for more than half the year.

### **Child Tax Credit**

Like the Earned Income Credit, the Child Tax Credit is “refundable.” That means it can be received, even if no taxes are owed. The maximum credit is \$3000 per child. The credit can be received, if a person filing an income tax return has a “qualifying child.” A “qualifying child” for the Child Tax Credit includes a grandchild, niece or nephew, who was under age 17 at the end of the year, did not provide half of his or her own support during the year, and lived with you for more than half of the year.

The credit phases out if income is above a threshold. For married taxpayers filing jointly, the threshold is \$150,000. For single taxpayers (not married) the threshold is \$112,500. . Unlike the Earned Income Tax Credit, Form 1040EZ *cannot* be used to claim the child tax credit. Persons wishing to claim the Child Tax Credit must use either Form 1040, 1040A, or 1040NR. There is also a new \$500 for other dependents.

IRS Fact Sheet 2022-17 covers the Child Tax Credit. This publication can be downloaded from the Web site <https://www.irs.gov/pub/taxpros/fs-2022-17.pdf>. More information about the Child Tax Credit can be found at <https://www.childtaxcredit.gov/#key-facts-about-the-child-tax-credit>.

## Family Law

**Managing Conservatorship** – this is what Texas calls court-ordered child custody. The legal action for managing conservatorship in Texas is called a “**Suit Affecting the Parent-Child Relationship**” (SAPCR). A SAPCR order from a court can determine child custody, visitation rights, and child support obligations. As in other suits, if parties enter agreements, an order proper for the child can result that otherwise might not result. A parent or both parents, for instance, can consent to a grandparent being conservator.

**The following are among the persons who can file a SAPCR:**

- A person, other than a foster parent, with actual care, control, and possession of the child for at least 6 months in Texas ending not more than 90 days before the filing of the petition; or
- A person with whom the child and the child’s parent or guardian have lived for at least 6 months within 90 days of the filing of the petition, if the guardian or parent has died; or
- If both parents are deceased, a relative within the third degree of consanguinity. For example the child's aunt, uncle, or grandparent.

**Additionally grandparents may file a SAPCR for managing conservatorship under certain additional provisions.** A grandparent, or another relative within the third degree of consanguinity may file a SAPCR if (1)The child's present circumstances would significantly impair the child's physical health or emotional development; or (2) Both parents, the surviving parent, the managing conservator, or custodian either filed the petition or consented to the suit.

**There are certain basic concepts in regard to court orders concerning children.**

The best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child. Unless the court finds that the appointment of the parent or parents would not be in the best interest of the child because the appointment would significantly impair the child’s physical health or emotional development, a parent shall be appointed sole managing conservator or both parents shall be appointed as joint managing conservators of the child. This presumption that a parent should be appointed or retained as managing conservator of the child is rebutted if the court finds that: (1) the parent has voluntarily relinquished actual care, control, and possession of the child to a nonparent for a period of one year or more, a portion of which was within 90 days preceding the date of intervention or filing of the suit; and (2) the appointment of the nonparent is in best interests of the child.

**Also**, although a grandparent cannot file “an original suit requesting possessory conservatorship,” a grandparent who has had “substantial past contact with the child” can be granted “leave to intervene” by the court (in a SAPCR filed by another person authorized to file the SAPCR) if there is “satisfactory proof to the court” that the appointment of the parent as “sole managing conservator” or both parents as “joint managing conservators” would “significantly impair the child’s physical health or emotional development.”

**A grandparent may request “possession” of or “access” to a child in a suit filed for that sole purpose.** The court shall order “reasonable” possession of or access to a grandchild by the grandparent if (1) at least one parent of the child has not had their parental rights terminated, (2) a preponderance of the evidence shows that denial of possession of or access to the child by the grandparent would “significantly impair the child’s physical health or emotional well-being,” *and* (3) the grandparent seeking possession of or access to the child is a parent of a parent of that child and that parent of the child: (A) Has been in jail or prison during the three-month period preceding the filing of the petition; (B) Has been found by a court to be incompetent; (C) Is dead; or (D) Does not have actual or court-ordered possession of or access to the child.

If the order granting a grandparent possession of or access to a child is rendered despite the objections of the child’s parent, the order must specify that: (1) At least one parent of the child has not had his or her parental rights terminated, (2) The presumption has been overcome that a parent acts in the best interests of the child and that this presumption has been overcome by proof to a preponderance of the evidence that the denial of possession or access would significantly impair the child’s physical health or emotional well-being. The grandparent requesting possession or access must also show that she or he is a parent of a parent of the child and that the parent of the child (A) has been in jail or prison during the three-month period preceding the filing of the petition for possession or access, or (B) has been found by a court to be incompetent, or (C) is dead, or (D) does not have actual or court-ordered possession of or access to the child.

## **Guardianship**

What is Guardianship?

Guardianship is a legal process designed to protect vulnerable persons from abuse, neglect, and exploitation.

Parents are able to sign a consent to guardianship form, which simplifies the guardianship process.

**If one parent of the child is still living:**

- Unless the surviving parent's rights have been terminated, the parent has been found unfit or incapacitated, the surviving parent is considered the guardian.

**If the minor child is an orphan:**

- If the surviving parent did not appoint a guardian, then the nearest relative in direct line is entitled to guardianship.
- If more than one relative exists, then the court shall appoint one of them, according to the best interests of the minor.
- If the minor has no direct relative, the nearest kin shall be appointed, according to the best interests of the minor.

**Family and Medical Leave Act**

The federal Family and Medical Leave Act, 29 United States Code Section 2601 *et seq.*, may allow some family caregivers to have unpaid leave. Employers who employ 50 or more persons within a 75 mile radius must comply with this law. To workers who qualify, up to 12 workweeks of unpaid family or medical leave in a 12-month period must be provided. Up to 12 workweeks of leave in a 12-month period must be provided for eligible employees whose spouse, son, daughter, or parent is on active duty or has been notified of an impending call or order to active duty, in support of a contingency operation. This is in the case of individuals in the National Guard or Reserves; it is not occasioned by service in the Regular Armed Forces. The is called “Qualifying Exigency Leave.” Up to 26 workweeks of unpaid leave in 12-month period must be provided for an employee who is the spouse, son, daughter, parent, or next of kin, of a service member with a serious injury or illness (incurred in the line of duty). This service member for this type of leave can be a member of the Regular Armed Forces, the National Guard, or the Reserves. This is called “Military Caregiver Leave.”

To qualify, the employee must have worked at least 1,250 hours in the 12 months prior to asking for leave.

Events that trigger a right to regular Family and Medical Leave (for those who are entitled to it) include a child having a serious health condition or the employee having a serious health condition making the employee unable to carry out the functions of the job. An adult standing “in loco parentis” to a child can take the unpaid leave provided for by the law, if the circumstances of the child warrant. An

adult, under the law, stands “in loco parentis” to a child if the adult has day-to-day responsibility to care for the child and to financially support the child. Because it is illegal in Texas to neglect a child that one is caring for, a grandparent, aunt, or uncle providing kincare to a child may well meet the test of “financially supporting the child.”

The U.S. Department of Labor’s Wage and Hour Division has published two Fact Sheets on the Family and Medical Leave Act. Fact Sheet #28 is at <http://www.dol.gov/whd/regs/compliance/whdfs28.pdf>. It addresses the Family and Medical Leave Act in general. Fact Sheet #28A, addressing the military aspects, is at <http://www.dol.gov/whd/regs/compliance/whdfs28a.pdf>.

### **School Enrollment**

By virtue of 42 United States Code Section 11302 (the “McKinney-Vento Act”) and 42 United States Code Section 11434 (“No Child Left Behind”), it is the right of a child to attend school in the district where the child lives, whether that is with a grandparent, aunt, or uncle, or with the child’s natural or adoptive parent. Moreover, by virtue of the Texas Education Code Section 25.085, children between the ages of six (6) and eighteen (18) years of age are required to attend school, with certain narrow exceptions.

School boards are allowed to “adopt reasonable guidelines for” determining residency. The school board can require evidence of residency, can establish minimum proof of residency, and can make reasonable inquiries to verify eligibility for admission. These provisions are at Texas Education Code Section 25.001(d).

School districts vary in the documentation they require to enroll a child in school. But remember – it is the right of the child to attend school in the district where the child lives. A decision of a school district to deny admission can be appealed to the Texas Education Commission. Texas Education Code Section 7.057(C).

The Texas Education Agency’s Web site has a memorandum issued to Texas school district in which enrollment rights and procedures are set forth. Recently, every summer, the Texas Education Agency has issued this memorandum in July or August. The Web site of the Texas Education Agency is at [www.tea.texas.gov](http://www.tea.texas.gov).

## Authorization Agreement for Voluntary Adult Caregiver

In 2009, at the urging of members of the Texas Kinicare Taskforce, the 81<sup>st</sup> Texas Legislature enacted Chapter 34 of the Texas Family Code. This provides for an Authorization Agreement, by which a parent can authorize a grandparent, aunt or uncle, or older sibling of a minor child, to make certain decisions for the minor child.

The Authorization Agreement was developed pursuant to Chapter 34, by the Texas Department of Family and Protective Services (DFPS). It is Form 2638 on the Web site of DFPS at [http://www.dfps.state.tx.us/site\\_map/forms.asp](http://www.dfps.state.tx.us/site_map/forms.asp).

The Authorization Agreement is pages 32–37. It is in this Primer, after the following “Q & A” concerning its pages.

Page 1 of the form: Must at least one parent complete the Authorization Agreement for it to be in effect?

Yes – at least one parent must complete the Authorization Agreement.

Must both parents complete the Authorization Agreement?

No.

Who can be authorized by the Authorization Agreement to make decisions? The caregiver relative can be:

A voluntary adult caregiver.

Must the caregiver complete the Authorization Agreement?

Yes.

Page 2 of the form: What types of decisions can the caregiver relative make for the child, with the Authorization Agreement? Examples are:

Health care decisions, obtaining insurance, school enrollment, participation in extracurricular activities, obtaining a driver’s license, state-issued ID, birth certificate, social security card, authorizing employment, applying for public benefits.



Is court permission needed to permit the Authorization Agreement to be effective?

Court permission is needed if there is a court order in effect concerning the child or if there is a pending court case concerning the child. Otherwise, court permission is not needed. If the Authorization Agreement is signed and court action concerning the child later starts, the court must decide whether the Authorization Agreement remains in effect.

Page 3 of the form: Does the Authorization Agreement have any warnings and disclosures?

Yes – the warnings and disclosures are on page 3. They should be read very carefully.

Are there requirements as to how the Authorization Agreement must be mailed to a non-signing parent?

There are stringent mailing requirements when only one parent signs the Authorization Agreement. Unless the non-signing parent is the subject of a protective order due to having committed family violence, or has been convicted of certain listed offenses, a copy of the signed Authorization Agreement must be sent to the non-signing parent by certified mail or international registered mail, as applicable, *return receipt requested*. This must be done not later than the 10<sup>th</sup> day after the date that the Authorization Agreement has been signed.

The parties must also mail a second copy of the Authorization Agreement by first class mail or international first class mail, as applicable, to the non-signing parent. This also must be done not later than the 10<sup>th</sup> day after the date that the Authorization Agreement has been signed.

These mailing requirements are set forth at the top of page 4 of the Authorization Agreement. They must be read and followed very carefully.

Page 4 of the form: Can the Authorization Agreement have an expiration date earlier than the 18<sup>th</sup> birthday of the child?

Yes. It can be revoked in writing, or it can have an expiration date written into it. The Authorization Agreement has a “term” of six months, unless a short term is otherwise specified. If the term is six months, it renews automatically for additional six month terms unless terminated earlier.

Must the Authorization Agreement be notarized?

Yes. Both the voluntary adult caregiver and the parent(s) must sign before a notary. If only one parent signs (along with the caregiver relative) the Authorization Agreement nonetheless can be valid.

Are witnesses required in addition to notarization?

No.

Who can I call for cost-free advice and consultation concerning the Authorization Agreement?

Persons whose household income is not more than 125% of the federal poverty income limit can call the Health Law Project at 1-866-979-4343 (toll-free). Household income at or below 125% of the federal poverty income limit is set forth in the chart on page 6.

Persons who are sixty years of age or older can call the Legal Hotline for Texans, at 1-800-622-2520 (toll-free). The Legal Hotline also serves persons who are Medicare beneficiaries, regardless of age.

The Form 2638 developed by the Texas Department of Family and Protective Services does not require the involvement of the Department; the Legislature simply required the Department to develop the form. It can be completed by parents and the specified relative caregivers (grandparents, aunts, uncles, older siblings) without the involvement of the Department.

The Authorization Agreement form has been revised. A blank form follows on the next six pages. The blank form is the revised, current version.

If neither parent will sign the Authorization Agreement, the court-ordered Temporary Authorization for Care of Minor Child, in Chapter 35 of the Texas Family Code, may be appropriate. More information about that court-ordered authorization is at [www.texaslawhelp.org](http://www.texaslawhelp.org).

As noted, a blank form Authorization Agreement for Voluntary Adult Caregiver follows on the next six pages.















## **Consent to Medical Treatment by a Non-Parent**

The Texas Family Code, at Section 32.001, allows certain non-parents to consent to medical treatment of a minor child. Section 32.001 allows certain non-parents to consent to medical, dental, psychological, and surgical treatment of a child “when the person having the right to consent as otherwise provided by law [the natural parent] cannot be contacted and that person has not given actual notice to the contrary.” Thus, if the Authorization Agreement has not been signed, it may nonetheless be possible, under the above circumstances, for consent to medical, dental, psychological, and/or surgical treatment of a minor child to be given.

“When the person having the right to consent as otherwise provided by law [the natural parent] cannot be contacted and that person has not given actual notice to the contrary,” the following persons can consent to medical, dental, psychological, and/or surgical treatment of a child:

- (1) a grandparent of the child;
- (2) an adult brother or sister of the child
- (3) an adult aunt or uncle of the child
- (4) an educational institution in which the child is enrolled that has received written authorization to consent from a person having the right to consent;
- (5) an adult who has actual care, control, and possession of the child and has written authorization to consent from a person having the right to consent;
- (6) a court having jurisdiction over a suit affecting the parent-child relationship of which the child is the subject;
- (7) an adult responsible for the actual care, control, and possession of a child under the jurisdiction of a juvenile court or committed by a juvenile court to the care of an agency of the state or county; or

- (8) a peace officer who has lawfully taken custody of a minor, if the peace officer has reasonable grounds to believe the minor is in need of immediate medical treatment.

Source: Texas Family Code, Section 32.001(a).

Based on this section of the Family Code, the Texas Kinicare Taskforce has developed a consent to medical treatment form. The next page has the instructions for the form and the page after the next page has the form itself.

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## Instructions for Consent to Medical Treatment by a Non-Parent

At the end of line #1, **print** the full name of the child. Only one child's name can go on the form. Use a separate form for each child.

In area #2, mark whichever space describes your relationship to the child. Use a check mark or an "x". If written authorization is available, attach a copy to the form.

For lines #3 and #4, **print** the full name of the child's father and the full name of the child's mother.

In line #5, if a *court* has appointed someone to be managing conservator of the child or guardian, **print** the full name of that person. If no person has been court-appointed managing conservator or guardian, **print** "None" on the line.

In area #6, **print** details about the treatment that you will consent to for the child to receive. If more space is needed, you can attach an additional sheet.

In line #7, **print** the date that the treatment, for which you are consenting, is to begin.

In line #8, **print** your full name. In line #9, **sign** your name. In line #10, **print** the date when you sign the form.

**The health care provider, who will carry out the treatment you have consented to by the use of this form, will want either the original or a copy of the form. Make sure that you keep a copy of the form in a safe place.**

CONSENT TO MEDICAL TREATMENT BY A NON-PARENT

1. I consent to treatment of the child whose name is:

\_\_\_\_\_.  
(Print name of child on the line)

2. (Mark one space only). I am:

- \_\_\_\_\_ the child's grandparent
- \_\_\_\_\_ the child's adult brother or sister
- \_\_\_\_\_ the child's adult aunt or uncle
- \_\_\_\_\_ an adult who has the actual care, control and possession of the child and I have written authorization to consent to the treatment, from another person who has the *right to consent*.

3. The name of the child's father is:

\_\_\_\_\_  
(Print child's father's name on the line)

4. The name of the child's mother is:

\_\_\_\_\_  
(Print child's mother's name on the line)

5. If the child has a managing conservator or legal guardian, the name of the managing conservator or legal guardian is:

\_\_\_\_\_  
(Print name of managing conservator or guardian on the line)  
(Leave line blank if the child does not have a managing conservator or a guardian)

6. The nature of the treatment to be given is (describe the medical, dental, psychological, and/or surgical treatment, that you are consenting for the child to have):

\_\_\_\_\_  
\_\_\_\_\_

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7. The date the treatment is to begin is:

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(Print month, day, and year the treatment is to begin, on the line)

8. My printed name is:

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9. My signature

is: \_\_\_\_\_.

10. Today's date is:

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## **Power of Attorney**

A power of attorney is simply an “agency” – a written document by which one adult empowers another adult to handle a matter or a set of matters. The power of attorney in Texas is notarized. The Texas Probate Code at Section 490 contains the standard power of attorney used in most business situations – to grant authority to handle real property transactions, personal property transactions, stock and bond transactions, commodity and options transactions, banking or other financial institution transaction, business operating transactions, insurance and annuity transactions, estate, trust and other beneficiary transactions, claims and litigation, personal and family maintenance, applications for benefits, retirement plan transactions, tax matters, and other powers that are added to the one just listed (by “special instructions extending the power granted to your agent”).

As can be seen from the above list, the standard power of attorney is not explicitly directed to the situation of a grandparent, aunt, uncle, or older sibling raising a minor child. Also, with the enacted of Chapter 34 of the Texas Family Code, the Authorization Agreement may lessen the need for attorney-drafted powers of attorney for decisionmaking with third parties (such as health care providers or school administrators).

Grandparents, aunts, uncles, or older siblings raising a minor child may want to consider using a “Special Power of Attorney” so that one or both natural parents can provide the adult raising the child – the grandparent, aunt or uncle – with wider authority to take steps to care for and raise the minor child. An example of such a Special Power of Attorney starts on the next page. A non-attorney cannot provide advice about or prepare for another person, a power of attorney such as the Special Power of Attorney on the following three pages.



foregoing powers as fully as I might or could do if personally present. I hereby ratify and confirm all my attorney shall lawfully do or cause to be done by virtue of this power of attorney.

Nothing in this document can or should be construed as in any way limiting my own powers as the mother of the children. I do not relinquish my rights to the child. In executing this document, I do not relinquish any of my parental rights nor do I relinquish conservatorship or my child. This document is not to be interpreted as granting or an agreement to grant conservatorship rights to anyone else.

Choose one:

- No court has issued orders about this child.
- A court has issued orders about this child in \_\_\_\_\_, County, Texas, in Cause No. \_\_\_\_\_.

I hereby specifically retain the following rights:

- 1) To be notified within 8 hours of any medical condition of the children requiring surgical intervention and /or hospitalization and within 24 hours of any medical treatment;
- 2) To communicate and visit with the child at any reasonable time as long as it does not interfere with their school or their school work.

Choose one:

- This Power of Attorney will expire on \_\_\_\_\_, 2\_\_\_\_.
- This Power of Attorney may be voluntarily revoked by me by execution of a written revocation filed in this cause.

IN WITNESS WHEREOF, I have hereby set my hand this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Parent's signature: \_\_\_\_\_



Parent's Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Witness' signature

\_\_\_\_\_  
Witness' Printed Name

\_\_\_\_\_  
Witness' Printed Address

\_\_\_\_\_  
Witness' signature

\_\_\_\_\_  
Witness' Printed Name

\_\_\_\_\_  
Witness' Printed Name

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

This document was acknowledged before me on the \_\_\_\_\_ day  
of the month of \_\_\_\_\_ in the year 20\_\_\_\_\_.

(Seal, if any, of notary)

\_\_\_\_\_  
Name of Notary (Printed)

My commission expires:

\_\_\_\_\_.

## **Health and Human Services Commission Early Childhood Intervention Services**

**Children are unique little individuals.** They may develop and learn new skills at a slower rate than other children because of illness, an accident, or one of many other reasons. You may have a child in your care who has just experienced trauma or has multiple needs associated with a disability. If you have questions or concerns about how your child's development is progressing, where can you turn to find support and answers to your questions? Contact Early Childhood Intervention (ECI).

### **☆ What is Early Childhood Intervention?**

Early Childhood Intervention (ECI) is a statewide system of support and services for families of babies and toddlers, birth to three, with developmental delays, disabilities that may lead to developmental delays, or atypical development. ECI helps babies and toddlers develop and reach their potential by providing support, education and family services. The state agency responsible for ECI services is the Texas Health and Human Services Commission (HHSC). HHSC contracts with local agencies and organizations to provide ECI services in every Texas County.

### **☆ What does research say about Early Intervention Services?**

The earlier children with disabilities and delays receive help, the better. Research provides evidence that well-designed, timely intervention for children with disabilities, delays, or at risk for delays can:

- Enhance the child's development
- Provide support for the family; and
- Provide long-term benefits for society

### **☆ Who qualifies for ECI and what services do they receive?**

Children ages birth to three years with a developmental delay, disability, or atypical development may qualify for ECI services. ECI offers developmental evaluations at no cost to families. Developmental specialists will discuss your concerns and goals for your family while evaluating your child's development. The developmental specialist will evaluate your child's level of interacting with others, eating, communicating, moving around, and learning.

If your child is experiencing a delay in development, services to assist your child and family may include family education; service coordination; developmental services; audiology and vision services; nursing and nutrition services; and physical, occupational and speech-language therapies.

If your child is not experiencing a noticeable delay but you still have concerns, ECI offers a follow-along program. The follow-along program allows the ECI developmental specialist the opportunity to share developmental information with you and contact you periodically to check on your child's developmental progress.

### ☆ **What makes ECI Unique?**

ECI services are individualized and family-centered. ECI professionals work with families and medical providers to develop a plan that best fits the needs of the family and child. Family members and ECI staff are equal partners in the child's development and learning. Services are provided in homes, day care centers or other community settings to help families identify learning opportunities for their children throughout normal daily routines and activities.

### ☆ **How much do ECI services cost?**

Families of all income levels may participate in ECI. ECI families participate in a Family Cost Share system which applies a monthly fee based on the family's income. Families with children enrolled in Medicaid or CHIP, or whose income is less than 250% of poverty will not have a family cost share amount. Screening, evaluation, and service coordination services are provided at no cost. If services are covered by insurance, ECI will ask for permission to bill for these services. Talk with your local ECI program to learn more about the Family Cost Share system.

### ☆ **What do I do if I have a concern?**

Contact the Ombudsman Line at 1-877-787-8999 or visit the ECI section of the HHS website at [www.hhs.texas.gov/eci](http://www.hhs.texas.gov/eci) (click on "Services and Eligibility") to find your local ECI office and receive more information about ECI services.

### ☆ **Where can I get more information about developmental delays?**

For more information on child development, ECI can provide Developmental Brochures (describes developmental milestones at different stages of growth), Growth Charts (child-friendly chart to see how the child is growing), and General Brochures (describes ECI services in general terms). These publications are offered in both English and Spanish and are available by calling the number listed above.

You may also borrow materials from the ECI Collection at the Brown-Heatly Library. The library has books, video tapes, audio tapes and journals with information on child development and early intervention. Anyone in Texas may borrow materials for only the cost of return postage. Call the library at (512) 458-7260 or toll-free at (888) 963-7111 ext 7260.

If you have questions about ECI, call the Ombudsman Line at 1-877-787-8999.

***Area Agencies on Aging***  
**A Link to Services for Grandparents  
and other relatives raising relative children**

In November 2000, Congress created the new National Family Caregiver Support Program as part of the Older Americans Act Amendments of 2000. This program was established to assist and support informal caregivers as they care for older adults and/or relative children. In 2006, Congress lowered the age of eligibility for the caregiver of a minor child or a child with disabilities from sixty (60) to fifty-five (55). (Also eligible for services are: Caregivers, of persons who are sixty (60) years of age or older; and caregivers, of persons regardless of age with Alzheimer's disease or a related dementia.)

The Area Agencies on Aging are the local agencies that implement the caregiver support services as outlined by the federal Administration on Aging. There are 28 Area Agencies on Aging in Texas. Caregiver Support Services are an important part of their core services.

***Caregiver Support Services:***

Caregiver support services provide education, training and support services to assist informal, non-paid caregivers as they care for someone else.

***Who is eligible?***

Informal caregivers who are:

1) Caring for a person age 60 years or older who needs assistance with activities of daily living, or a person of any age with Alzheimer's disease or a related dementia, and

***2) Grandparents or other relatives over 55 years of age who are raising relative children age 18 or younger, or a child with disabilities of any age.***

***How does it work?*** A care coordinator will assess your needs and the needs of your children and develop a care plan to help meet those needs. Services are available on a short-term limited basis and *may* include:

- ◆ Caregiver resource information and support groups

- ◆ Respite Care; in-home, after school and/or camp programs for your children
- ◆ Assistance with the purchase of clothing and/or school supplies
- ◆ Connections to counseling resources for the whole family
- ◆ Limited assistance with utilities or other basic needs
- ◆ Connections to legal & financial assistance services
- ◆ Assistance with access to other programs and services that may benefit them

*Some caregivers may be caring for a spouse or other older adult family member in addition to caring for minor children. They may have concerns for their own healthcare, legal, financial and / or in-home support needs. The Area Agency on Aging offers other core services to assist older adults and their caregivers.*

**Information & Referral/Assistance** – Assists individuals in locating and accessing AAA services or other public and private resources to meet the needs of clients and/or their caregivers.

**Benefits Counseling & Legal Assistance/Legal Awareness** – Assists older persons with information regarding public & private benefits and eligibility for local community support programs. Helps eligible individuals understand their options and rights under Medicare, Medicaid, Long-term Care insurance and other possible local benefits programs.

**Ombudsman Program** – Provides advocacy for residents in long-term care facilities and their families with a focus on residents' rights. Ombudsman also assist consumers by providing information about choosing a long-term care facility and accessing quality care.

**Nutrition Services** – Provided by AAA and the service providers with whom they establish contracts and vendor agreements. Services include; congregate meals (served in a group setting outside the home), home delivered meals, nutrition education, and nutrition counseling and consultation.

**Transportation** – Designed to transport older persons to and from medical appointments, meals programs, senior centers and other non-emergency activities. Clients request transportation in advance of need.

**Care Coordination** - Care coordinators assess client needs and level of impairment, develop a care plan, coordinate and follow-up on services that meet the needs of the client. Service interventions may include; Homemaker Assistance, Chore Maintenance, Personal Assistance, Residential Repair, Adult Day Care, Emergency Response Systems, Health Screening, Health Maintenance, Transportation, Hospice, and Instruction and Training.

### ***Client Eligibility***

Family caregiver services are provided to persons 55 years or older who are caring for a child under the age of 18, or a child with disabilities of any age. Other services are available to persons who are 60 years of age or older. Services are targeted to individuals with the greatest economic and social need, with particular attention to low-income minority individuals and older individuals residing in rural areas. Some of the core services require an assessment to determine client impairment in their ability to perform activities of daily living and instrumental activities of daily living.

### ***Service Availability***

There are 28 Area Agencies on Aging throughout Texas. Service priorities and available resources vary across the state, individuals should contact their local AAA for information regarding services in their area. Contact the local AAA or call 1-800-252-9240 to be connected to the AAA in your area. A list of all 28 AAA's in Texas is available at <http://www.dads.state.tx.us/contact/aaa.cfm>.



### **Kin Caregivers: Tips for Taking Care of Yourself**

**Take care of your own health.** Be sure to eat well, exercise and schedule your regular health check-ups.

**Take a break.** Seek relief through a friend, relative, church or formal support agency that can provide respite care, giving you time to rest & recharge.

**Share your concerns** with family, friends, or support group members.

**Avoid isolation;** keep in contact with friends and maintain those special relationships.

**Set limits** for yourself & the children you care for. Let them know what you expect of them. Learn to say no when outside activities become too much.

**Look into parenting classes** for practical tips and information.

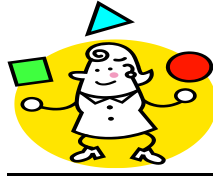
**Get to know more about...** the resources in your area for medical care, legal advice, financial assistance, education and caregiver support services.

**Set realistic goals.** Being a grandparent or kin caregiver is a fulltime job. Nobody can do it all. Accept the help that is offered.

**Let go of the guilt.** Your adult child's situation is not your fault.

**Look to your faith community** & your own spirituality for strength.

**Focus on the positive** & the here and now. Maintain your sense of humor.



## **Success in the “Sandwich Generation”**

### The Challenge to Achieve Balance

Many kin caregivers find themselves faced with more than one caregiver “role.” They may be spouse, daughter, aunt, granddaughter & mother.... son, stepfather, grandfather & nephew. Caring for one person is challenging enough but caring for loved ones across generations requires a new set of skills and a crash course in “juggling”. Balance is essential when trying to keep all the “balls” in the air.

### **B**e ready!

**PLAN, PLAN, PLAN, anticipate the future needs of your children/grandchildren and your parent/grandparent as well as yourself. Review plans for healthcare, retirement and education. Include your needs in the plans. Seek to balance safety with quality of life.**

### **A**llow yourself time and attention.

Take a break. Ask for help. Find a support group. Maintain friendships. Stay connected to your faith community. Do whatever it is you do to relieve the stress of caregiving. Learn to say “No.”

### **L**et go! ...

...Of the dirty laundry and perfectly clean house. Let go of the “I should be able to do it all by myself” attitude. Let go of the guilt. Do not take it personally; you are not in control of all that is happening.

### **A**utomatically assume...

...that tomorrow will not be the same as today. Your caregiving journey is unpredictable. Take your challenges one day at a time. Focus on the here and now.



## **N**urture the independence and abilities of the loved ones you care for.

Encourage the children to help you in any way they can. Kids want to contribute. Continue to focus on the skills and abilities of the older adults you care for. Let them assist you in caring for themselves in any way they can. Be patient with their pace.

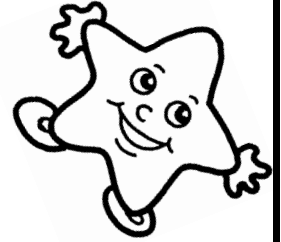
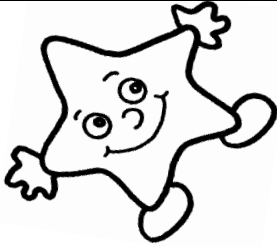
## **C**onnect...

...your parents, grandparents and other grand relatives to your kids, grandkids and other young family and friends. Promote fun activities where all family members can participate. Share the treasure of family histories.

## **E**ducate yourself and enjoy the ride!

Find out about the formal and informal caregiver support resources in your area. Focus on the positives share humor whenever you can. Laughter is a great stress reliever.

Created, June 2004 by: Patricia Bordie, Program Manager  
Area Agency on Aging of the Capital Area~ Austin, Texas



Do you know

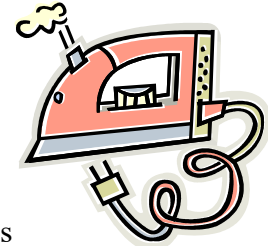
How to live longer?

Here are the tips !

- 1) Break a sweat
- 2) Sleep more
- 3) Learn to meditate
- 4) Make new friends
- 5) Indulge in activities you enjoy
- 6) Rent a Mars Brother movie
- 7) Re-assess your stress & strengths
- 8) Just let go!



## *Make an Emergency Kit*



The first step is to consider how an emergency might affect your individual needs. Plan to make it on your own, for at least three days. It's possible that you will not have access to a medical facility or even a drugstore. It is crucial that you and your family think about what kinds of resources you use on a daily basis and what you might do if those resources are limited or not available.

Basic Supplies: Think first about the basics for survival – food, water, clean air and any life-sustaining items you require. Consider two kits. In one kit put everything you will need to stay where you are and make it on your own for a period of time. The other kit should be a lightweight, smaller version you can take with you if you have to leave your home.

Recommended basic emergency supplies include:

- Water, one gallon of water per person per day for at least three days, for drinking and sanitation;
- Food, at least a three-day supply of non-perishable food and a can opener if kit contains canned food;
- Battery-powered or hand crank radio and a NOAA Weather Radio with tone alert and extra batteries for both;
- Flashlight and extra batteries;
- First aid kit;
- Whistle to signal for help;
- Dust mask to help filter contaminated air and plastic sheeting and duct tape to shelter-in-place;
- Moist towelettes, garbage bags and plastic ties for personal sanitation;
- Wrench or pliers to turn off utilities;
- Local maps;
- Pet food, extra water and supplies for your pet or service animal



## *Money-saving Tips for Grandparents* *Make it a Frugally Happy Holiday*

Can you have a nice holiday without going into debt? Can you spend less without grand- children being unhappy? Yes and yes! Just follow these tips for a happy and frugal holiday:

**Emphasize holiday rituals.** Take grandkids caroling. Make a gingerbread house together. Prepare gift boxes for the homeless. Read a holiday book together. String popcorn. Kids will remember what they did, not what they got.

**Set a budget.** How much will you spend on the holiday this year? Divide the amount by 12. Try to save that much each month during the *next* year. Then you'll enjoy a debt-free holiday.

**Leave your credit cards home** when you shop. Decide in advance how much you will spend and only bring that amount of cash.

**Shop early.** Avoid December shopping. Instead, shop the sales in October and early November. Start buying for next year at the end of December. You'll find many items at half price!!

**Be creatively frugal.** Cut your old Christmas cards from last year in half and send the pretty side as a postcard. Old Christmas cards make great gift tags too!!

# *Know Your Legal Options*

*Do you want to change your legal relationship with a grandchild?  
There are several options:*



## **1. Adoption**

When a grandparent adopts, he or she becomes the child’s parent. This makes it easier for the grandparent to get services for the child. In order for this to occur, both parents’ “parental rights” must have been legally terminated.

## **2. Legal Custody (“Managing Conservatorship” in Texas)**

This may be temporary or permanent. It may be shared with one or both parents, or not. It requires a court case.

## **3. Guardianship**

A guardian can access services on behalf of a child. In Texas, most courts that handle guardianships prefer that, if either parent is living, child custody be handled by the court that handles family law matters. If both parents are deceased and no child custody order was in place giving a relative caregiver custody, the court that handles guardianships can establish a guardianship for a minor child who is an orphan. Another role for guardianship is the circumstance of a child who has a disability and who is turning 18. Guardianship can provide an adult caregiver (parent or nonparent relative) with decisionmaking authority that will extend after the child (with a disability) turns 18.

## **4. Power of Attorney**

This allows one to act on behalf of the child. It can be either general or only regarding specific, stated matters (eg. medical care, education). It requires the parent(s)’ signature and witnesses to the signature who also sign the witness portion. A Texas power of attorney should be notarized. Only an attorney can assist another person with advice or document preparation regarding a power of attorney.