
5.0 ASSISTED GUARDIANSHIP IN NORTH CAROLINA

Only eight of the 19 waiver counties in North Carolina took advantage of the assisted guardianship (AG) option under the waiver. Of the eight counties that completed any guardianships, one county did nearly half of them. These findings raise two questions:

1. Why did most counties decide not to use assisted guardianship?
2. Why did Durham County decide assisted guardianships were an appropriate way to achieve permanency for children?

To answer the first question, it is important to understand the context of national and state policies regarding kinship care and guardianship, and the evolution of North Carolina's policy over the term of the waiver. To answer the second question, we must consider how local conditions and agency practices made AG a more attractive option in Durham than elsewhere in the state. We begin with a discussion of the policy contexts influencing North Carolina's decision to pursue AG as part of the waiver and then go on to describe its implementation (or not) in the waiver counties.

5.1 Kinship Care and Guardianship: A National Perspective

Since the 1990's, there has been a dramatic increase in the number of children being cared for by their relatives. Most of these arrangements are informal and not under the oversight of the child welfare system (U.S. Department of Health and Human Services, 2000). In recent years, child welfare agencies have faced rapidly growing foster care caseloads and greater difficulty recruiting and retaining unrelated foster parents. As a result, child welfare policy makers have gradually embraced the idea of kinship care as an important placement resource for the children in agency custody. Paralleling this development, child welfare agencies have generally adopted a philosophy of family-centered practice, in which relatives are treated preferentially as caregivers who can provide the most beneficial placements for children who must be removed from their own homes. These policy changes are supported by research that suggests that: (1) kin care provides children with a sense of continuity in family support (Dubowitz et al., 1994); (2) children cared for by relatives also have more frequent and consistent contact with their birth parents and siblings than children in non-kin care (Chipungu et al. 1998). Broader use of kinship care also resulted from a series of court decisions mandating that relatives were to receive the same level of compensation as unrelated foster parents, which made it easier for kin to take on the care of these children.

Models of kinship care vary considerably among the states. Historically, New York, Illinois and California—states that account for a substantial fraction of the national foster care caseload—provided kin caregivers the same benefits as foster parents. Other states, including North Carolina,

Ohio, and others, have used a different model of kinship care in which families have received payments formerly under Aid to Families With Dependent Children (AFDC) and, more recently, Temporary Assistance to Needy Families (TANF). This history and prevailing approaches to kinship care in North Carolina define a context within which the experience with assisted guardianship in this state can be understood.

5.2 Kinship Care in North Carolina

Across North Carolina's 100 counties, 44,977 children entered out-of-home care for the first time during the period from SFY94 through SFY02. Of these children, 16,235 (37%) were placed at some time with a relative. The proportion of children placed with a relative caregiver varied by county groups. In waiver counties, 36% of children initially entering agency custody in these years lived with a relative at some time while in out-of-home placement, compared to 43% of children in comparison counties and 34% in other non-waiver counties. The lower rate of kinship care in the waiver counties suggests that there may be less demand for AG as an alternative permanency option.

In keeping with Section 471(a)(19) of Adoptions and Safe Families Act (Printz-Winterfeld, 1999), the North Carolina Division of Social Services (NC-DSS) gives preference to kinship care over non-relative foster care. In general, kin caregivers who meet the same licensing standards and training requirements as non-kin foster parents receive the same foster care payment. However, county staff report that few kin caregivers become licensed foster care providers even though NC-DSS can waive some requirements of kin foster homes if waiving these requirements would not be detrimental to the health and safety of the child. In many instances, however, relatives caring for children in child welfare placement authority are eligible for a range of state and federal programs, including "child only" cash assistance through TANF, food stamps, and state-subsidized health insurance or Medicaid.

North Carolina's policy appears to have achieved its aim. Children in kinship care in North Carolina tend to have shorter lengths of stay than in states in which relatives are provided subsidies at foster care board rates. Even though they receive minimal or no subsidies, relatives in North Carolina often become legal guardians of the children in their care. Following permanent placement, these children have lower rates of re-entry into foster care than children who are reunified with their birth families. Despite these positive outcomes, advocates for kinship care have argued that this approach is inequitable because it fails to provide appropriate financial assistance and other needed

support and services to caregiving relatives. It was within these national and local policy contexts that North Carolina developed its AG policy under the waiver.

5.3 Assisted Guardianship Policy in North Carolina

In North Carolina, the option for AG under the waiver was available to any minor child:

- who was a resident in a county that participated in the demonstration and included an AG subsidy in its waiver implementation plan;
- who was in the custody or was the legal responsibility of DSS for 12 months;
- for whom a plan for reunification had been explored, but ruled out;
- for whom adoption had been found to be inappropriate to the child’s needs, and for whom legal guardianship had been determined to be the most appropriate permanency option; and
- who had resided at least six months with a caregiver who wanted to assume legal guardianship, and who participated in a home study and had been shown capable of engaging in a safe, nurturing, stable relationship with the child.

Exhibit 5.1. North Carolina Kinship Care: Waiver and Comparison Counties, 1993-2002

Year	Waiver Counties			Comparison Counties		
	Total number of children entering DSS placement authority	Total number of children ever placed with a relative	%	Total number of children in entering DSS placement authority	Total number of children ever placed with a relative	%
SFY94	1,681	549	34.2%	1,644	556	33.8%
SFY95	1,813	550	35.2%	1,766	677	38.3%
SFY96	1,723	518	33.5%	1,684	656	39.0%
SFY97	1,433	441	30.8%	1,737	716	41.2%
SFY98	1,378	536	38.9%	1,862	812	43.6%
SFY99	1,376	505	36.7%	1,858	856	46.1%
SFY00	1,438	558	39.0%	1,763	839	47.6%
SFY01	1,222	431	35.3%	1,706	770	45.1%
SFY02	924	265	28.7%	1,080	391	36.2%
Total	13,838	4794	34.6%	16,680	6,836	41.0%

The initial formulation of the AG policy tested the assumption that caregivers who were willing to assume guardianship were less interested in the stipends than in being free of DSS

oversight (Stanley, 1997). With AG, the state added a third tier to kin care subsidies. Guardians under the waiver received stipends of \$250 per month per child, a rate less than the standard foster care board rate, but greater than a child-only TANF payment. Since there was no guarantee that AG would continue as state policy after the end of the demonstration, it was assumed that guardianship would be a preferred option for older children who would age out before the demonstration ended.

During the first three years of the demonstration, no counties used the AG option (see Exhibit 5.4). Among the reasons agencies reported was that the kin care providers who were licensed foster families were reluctant to become guardians because it would result in significant financial losses due to decreased subsidies. The standard foster care board rate is graduated according to the age of the child, from \$315 per month for infants and young children up to age 5 to \$415 for teenagers aged 13 to 18. Under the original waiver subsidized guardianship policy, licensed foster parents of one child who decided to become guardians under the waiver would have \$65 to \$165 per month less to cover that child’s needs. Effective October 2000, NC-DSS arranged for the guardianship subsidy to be increased so that the rate was equal to the foster care board rate in hopes of making the AG option more attractive.

5.4 Characteristics of Children Achieving Permanency in North Carolina through Assisted Guardianship

Placement data summarized in Exhibit 5.2 demonstrate the limited extent to which AG was implemented. Only eight counties used AG at all: Buncombe, Caldwell, and Durham were responsible for more than 70 percent of AG placements. Durham alone did 45 percent of all the placements.

Exhibit 5.2. Number of AG Placements in waiver Counties (N = 38)

County	Number	%
Durham	17	45
Buncombe	6	16
Caldwell	4	11
Alamance	3	8
Haywood	3	8
Brunswick	2	5
Cleveland*	2	5
Pasquotank	1	3
Total	38	100%

The characteristics of children placed in AG in the participating counties are shown in Exhibit 5.3. The typical child placed in AG in North Carolina was an African-American female who lived in Durham County (see Exhibit 5.3). She came into DSS placement authority at age 12 because of a substantiated report of neglect and remained in care for 626 days. This child was cared for by a relative who agreed to become her legal guardian under the terms of waiver, during her first spell in care.

Exhibit 5.3. Characteristics of Children in Assisted Guardianship (N = 38)

Race	
White	32%
Black	66%
Other minority	3%
Gender	
Male	47%
Female	53%
Reason for placement	
Abuse	21%
Neglect	66%
Other	8%

While AG was aimed at finding permanent homes for children who were considered impossible to adopt, Exhibit 5.4 shows that children placed under this option tended not to have been in DSS backlogs prior to the start of the waiver. While five (14%) of the children placed using AG were in cohorts that entered between 1985-1995, 12 (31%) entered care within a year of the start of the waiver in 1997. Twenty (53%) of them entered care during or after 1998.

Even after children who were appropriate for guardianship were identified, AG arrangements required a relatively long time to finalize. No guardianships were completed between 1996 and 1998. The first ten guardianships under the waiver were only completed in 1999. Over the next two years, children exited into AG at an increasing rate. Use of AG dropped off almost completely in 2002. Based on focus group reports, counties stopped using the AG option because they saw the window of opportunity closing with the ending of the demonstration period.

Exhibit 5.4. Timing of Children’s Entry into Care and Exit to Assisted Guardianship (N = 38)

Year of entry to spell ending with AG	n	%
SFY85 thru SFY95	5	14
SFY96	7	18
SFY97	5	13
SFY98	9	24
SFY99	1	3
SFY00	10	26
Year of exit to AG	n	%
SFY96	0	0
SFY97	0	0
SFY98	0	0
SFY99	10	26
SFY00	13	34
SFY01	14	37
SFY02	2	5

5.5 Barriers to Implementation

Why were most waiver counties reluctant to use AG? During site visits in 1999, counties reported their reasons for not widely implementing AG under the waiver. A later survey followed up on those reports to determine whether these reasons continued to deter use of the new policy. Respondents in agencies that used AG fewer than four times between 1997 and 2002 were asked to answer a series of questions to indicate why they had chosen to use the AG option rarely or not at all. Respondents were given four possible reasons identified from the earlier site visits, and the option of specifying other reasons. Respondents could rate each reason as “a major reason,” “true for the agency, but not a major reason,” or “not a reason” for not using AG.

Among the 16 counties completing this section of the questionnaire, the reason reported most consistently was the *financial risk*. During the site visits, staff in six counties pointed out that

AG was not a viable option because the state did not guarantee to continue AG funding after the end of the waiver. Thus, counties that placed many children in AGs would be forced to maintain payments after waiver resources were discontinued. This criticism of AG proved to be a persistent and growing concern. In the survey, 15 of the 16 responding counties reported that they had not used the AG option due to concerns about what would happen to the guardians—and their agencies’ fiscal obligations to them—after the waiver ended. In nine of the counties, this was deemed to be a major deterrent.

In the initial site visits, staff in many counties complained about the *low subsidy rate*. In the survey, there appears to have been a shift in workers’ opinions about subsidy rates as a reason for not using AG. By spring 2001, a majority of the counties (56%) dismissed the idea that the initially low reimbursement rates was a reason their agencies had not used AG much. No data indicate whether these changing opinions about the adequacy of the subsidy rates were due to the increases that occurred late in SFY00, because the caretakers they were recruiting for AG had not raised the issue, or because most agencies were no longer recruiting guardians.

During the initial site visits, staff in several of the counties expressed the view that the *overriding goal of their agency was to find adoptive homes* for children who could not be reunified with their families. In six counties, staff reported that they did not believe that AG was a stable placement option. Nearly half of the counties reported that they felt AG had limited applicability, speaking of it as “a last resort.” Others thought that addressing the therapeutic needs of children in their care was a higher priority than making sure they utilized the AG placement option.

In the survey, nine of the 16 county respondents (56%) reconfirmed this orientation, indicating that their agencies rarely used “any kind of guardianship for minor children.” Nine counties reported this as a reason for not using AG; four rated it as “a major reason.” It is possible that agency-wide resistance to any kind of guardianship influenced how children were assessed for guardianship. In the survey, nine counties that answered the question also indicated that they had not had any children in care they considered appropriate for AG placement. In five counties, this response was given as a major reason. During the site visits in SFY99-SFY00, staff in seven of the counties expressed *confusion about specific AG rules*. At that time, even in counties that had successfully placed children through AG, staff reported that they had been confused about NC-DSS’ support for AG, waiver rules, and regulations for guardianship, such as Medicaid eligibility and whether children would receive SSI along with AG subsidy payments. By December 2002, there was

much less uncertainty about NC-DSS' support for AG. Most counties (69%) did not endorse the statement that the "state wanted them to be very sparing and cautious in the use of this option."

To answer the second question, why Durham pursued AG more aggressively than other waiver counties, evaluation team members conducted two focus groups in Durham County. The purpose of these focus groups was to obtain DSS workers' and guardians' perspectives on AG implementation issues. Four experienced child welfare workers, a supervisor and the program manager who oversaw the implementation of the waiver participated in the DSS focus group. Despite continued efforts to recruit assisted guardians for the second focus group, only 3 participated in the discussion. For this reason, we only present results of the DSS group in this report.

5.6 Assisted Guardianship Implementation: Themes

The DSS focus group session lasted 90 minutes. The discussion was taped and the co-facilitator took detailed field notes. The field notes were transcribed and used as the basis for the thematic and content analyses of the discussion. Over the course of the discussion, four themes emerged: the early development of agency's AG strategy, examples of completed guardianships, and advantages of AG for the Durham's client population.

5.6.1 Staff Training for Assisted Guardianship

Participants reported that the agency had not decided whether to use AG when it submitted its initial plan for implementing the waiver. In SFY98, the agency amended its plan and the program manager and supervisors developed guidelines for determining which children could be considered for AG. Supervisors were assigned the responsibility of training the workers in their sections on the state's requirements and agency procedures.

The program manager, supervisor, and a social worker all spoke on this topic. All three commented that the training on AG that they had initially received had not been very comprehensive and that there had been little ongoing training for new workers. In some cases, the lack of systematic training had unfortunate consequences for clients. One social worker reported that she had understood, inaccurately, that AG funding would be retroactive to the day the court approved the placement. In fact, the payments did not start up for several months and the guardians were not paid for that interim period. The guardian was disappointed and very frustrated that her expectation of an immediate increase in much-needed resources had not been met.

5.6.2 Examples of Assisted Guardianship Cases

After deciding to pursue the AG option for children in their care, the agency set eligibility guidelines. Children considered for AG had to be old enough to age out of DSS placement authority before the end of the waiver in June 2002. Given the five-year duration of the waiver, this meant that children as young as 13 could be considered in the first year, but the age limit was raised to 14 in the second year, 15 in the third year, and so on. During the discussion it became evident that, in practice, the agency had made exceptions to these guidelines. The program manager noted, in addition, that over two-thirds of the children placed in guardianship in Durham were adolescent African-American boys, “a group that is very hard to place.”

When asked about their most recent cases, the social workers presented the following examples:

- a pregnant teenager who would not be 18 before the end of the waiver, and who had no relatives in North Carolina willing to assume custody or adopt her. Her birth mother’s foster mother, who lived out of state, was willing to assume guardianship of both the girl and the baby when it was born.
- a boy [age unspecified] with learning disabilities and many emotional problems, who had thrived while living with his foster parents for several years;
- an adolescent girl with behavior problems who had been placed with her aunt and uncle for a couple of years;
- a sibling group, a boy and a girl, who had been living with their grandmother, a licensed foster parent, “for a long time” after their drug-addicted mother’s parental rights had been terminated.

5.6.3 Advantages of Assisted Guardianship

“ . . . It's really about permanency—especially for teens who aren't going to consent to adoption. This is why we targeted the teens. For the teens who have been in custody, two, three, some five or six years, who aren't going to be adopted and who don't want to consent [to TPR], but who want to stay with family, this has been a plus to help get them permanence. When they increased the stipend, that was another plus. . . .”
—Durham Social Worker

While participants reported that they had many of the similar concerns identified by the other counties in the survey, they also identified three main advantages of AG as a permanency option. First, all of the participants mentioned that the greatest advantage of AG was being able to

offer financial assistance to kin caregivers. The subsidy made it possible for some caregivers to provide permanent homes for children who otherwise would have been removed for adoption after time limits for foster care ran out. “They’re not after the money—they just need it for clothes and food. [Caring for a child] is expensive, especially when a child has special needs”

Second, a program manager noted that all of the children who had been placed using AG had been in foster care for several years. With some education, the court and guardians ad litem have come to accept the idea that AG can be an acceptable permanent placement for this group of children. One social worker described a case in which the caregiver had given up her foster care license and was planning to adopt, but the home study was taking a long time. By using AG, the agency was able to reduce the time to permanency with some financial support.

Finally, participants spoke repeatedly about the value of AG in preserving family relationships between children and their birth parents, and between kin caregivers and birth parents. Two social workers noted that children over the age of 12 have to agree to be adopted, but many would rather have a guardian than have their parents’ rights terminated. One also pointed out that in African American communities, family members usually did not want to adopt children of their relatives—especially if those relatives had not agreed to the adoption.

Participants noted that their experiences with AG led them to see a greater value in guardianship in general, subsidized or not, as a permanency option. It could reduce the time to permanence because the birth parents were less likely to contest the decision. Afterwards, it provided guardians with buffer against birth parents’ demands to relinquish custody by subjecting any changes in arrangement to legal review. Finally, guardianship was relatively flexible. A guardian could still go on to adopt or, if a birth parent became able to assume care of the child, reunification was easier.

5.7 Conclusions

Assisted guardianship was not widely utilized by waiver counties over the five years of the demonstration. Counties that used AG rarely or not at all appear to have decided early on that there were good reasons for not using it, including: concern about the agency’s long term financial obligation after the end of the demonstration, agency norms against placing any children with guardians, and lack of children whom they considered appropriate for AG. The survey data show that little changed in agency beliefs over the intervening years.

In the Durham focus group, however, participants reported that AG met the needs of some African-American adolescents who resisted the idea of TPR. In addition, DSS staff experience with

AG led to a change in agency norms for the use of guardianship in general. Staff began to value guardianship, subsidized or not, as a way of expediting permanency without eliminating future options for reunification or adoption. At this point, only anecdotal data are available on the well-being of children who achieved permanency through AG. In a focus group with Durham DSS staff, participants reported that children with whom they still had occasional contacts seemed to be doing reasonably well. Although few in number, the anecdotal reports from the three participants reports from guardians' focus group support this impression.

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