

THE YOUNG ADULT VOLUNTARY FOSTER CARE ACT

Voluntary Foster Care and Extended
Guardianship to Age 21

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WHAT TO EXPECT FROM THIS PRESENTATION

- Brief Overview of Federal and State Laws
- Young Adult Voluntary Foster Care
 - Law
 - Policy
 - Procedure
- Young Adult Guardianship Extension
 - Law
 - Policy
 - Procedure
- Q & A

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2008 FEDERAL FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT

- ◉ Federal law which amended the Social Security Act (SSA)
- ◉ Added a new definition of “child” to the SSA to include youth 18 - 21
- ◉ Expanded the definition of “child care institution” in the SSA to include a supervised setting in which a youth is living independently
- ◉ Most significantly, *2008 Fostering Connections Act* provided an option for States to extend IV-E funding for youth 18 - 21 in foster care or guardianship

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MICHIGAN LAW

- ◉ The Young Adult Voluntary Foster Care Act (2011)
 - MCL 400.641 - 400.671
 - ◉ Michigan Court Rules
 - MCR 3.616 (approved)
 - MCR 3.979(C)(1) (pending)
 - ◉ DHS Policy
 - FOM 722-16 (voluntary foster care)
 - FOM 902-21 (IV-E payments)
 - GDM 716 (guardianship)
- <http://www.mfia.state.mi.us/olmweb/ex/html/>

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PART 1: VOLUNTARY FOSTER CARE

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VOLUNTARY FOSTER CARE

MCL 400.645 - 663

- ◉ Who is eligible?
 - Foster Youth ages 18 - 21 who have or had an Abuse/Neglect case and exited care at age 18.
 - Delinquency youth are not eligible unless they are dual wards.
- ◉ What is "Voluntary"?
 - The Youth must willingly agree to enter into the voluntary foster care program and remain under state child welfare supervision.
 - This entry is accomplished by a *signed* written voluntary agreement with DHS whereby the youth pledges compliance with the eligibility requirements of the program.
 - The youth may enter or re-enter at any time prior to their 21st birthday, as long as the eligibility requirements are met.

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VOLUNTARY FOSTER CARE ELIGIBILITY REQUIREMENTS MCL 400.649

1. Actively completing high school or a program leading to a GED; or
2. Enrolled at least part-time in a college, university, vocational program or trade school ; or
3. Employed either full - or part-time, or participating in a program that promotes employment (minimum 80 hours per month); or
4. Unable to participate in any of the required activities due to a documented medical condition.

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COURT PROCEDURE

- Abuse/Neglect case closure.
- DHS caseworker will petition the court to open a Voluntary Foster Care case using SCAO form CCFD 20.
 - The petition will include the signed voluntary agreement and a statement of facts to support the agreement as well as why remaining in foster care is in the youth's best interests and the reasonable efforts made to achieve permanency
- DHS **must** file the ex parte petition and supporting documentation within 150 days after the voluntary agreement is signed. MCL 400.655
- The petition **must** be filed in the county where the youth resides.
- Upon receipt of the petition, the court will open a new court case with a "VF" case code.

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COURT PROCEDURE JUDICIAL DETERMINATION

MCR 3.616

- ◉ Within 21 days of the filing of the VF petition, the court shall review the petition and supporting documents and determine whether continuing in voluntary foster care is in the youth's *best interests*.
- ◉ If the best interests determination is not made within 21 days, the youth will not be eligible for IV-E funding and DHS will cancel the agreement.
- ◉ The court shall issue an order (using new SCAO Form CCFD 21) that includes the determination and **individualized findings** that support it's determination.

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SERVICE OF PROCESS MCR 3.616(F)(2)

The court must serve the order on:

- DHS; and
- The youth; and
- The court that had jurisdiction pursuant to MCL 712A.2(b), if different than the court in which the petition is filed; and
- The foster parent or parents, if any.

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VF CASE CLOSURE

- ◉ Once service is completed, the court will close the VF case.
- ◉ DHS will continue to service the case as an agency case with monthly caseworker visits and periodic case reviews, as required by statute. MCL 400.661
- ◉ Does the court HAVE to close the case? Yes, pursuant to MCL 400.659.

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SCAO RECOMMENDATIONS

1. Discuss the youth's options for voluntary foster care at review hearings beginning when the youth is 17 years old.
2. In those cases where voluntary foster care is the clear next step for the youth, the VF agreement should be entered into, the petition filed, and the VF order issued by the court the **same day** following the NA dismissal hearing and case closure.
3. Evaluate each youth on a case-by-case basis: Voluntary Foster Care should not be automatically implemented for every young adult. The courts are not obligated to close the NA case when a youth turns 18 if it is not in the child's best interests. There may be other services more appropriate during that time frame.

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FINAL COMMENTS ON VOLUNTARY FOSTER CARE

- ◉ Payment for placement in voluntary foster care are generally funded by federal Title IV-E dollars and will not affect the CCF.
- ◉ Payments may be made to the youth themselves. The funds are intended as additional support to other grants such as ETVs, Chaffee funds, or other state assistance.

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FAQS

Is a Filing Fee Required?

- ◉ Yes, there is a collectable filing fee of \$150.00 that will be paid through Title IV-E Funds.
- ◉ Authority: The Revised Judicature Act (MCL 600.2529).
- ◉ Legislation is being developed to waive fee.

Administrative Review?

- ◉ A formal hearing on the record is not required under court rule or statute.
- ◉ It is sufficient that the judicial officer perform an administrative review of the petition, the agency report supporting the petition, and the voluntary foster care agreement, and issue an order based on that review.

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PART 2: YOUNG ADULT GUARDIANSHIP EXTENSION

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YOUNG ADULT GUARDIANSHIP EXTENSION (YAGE) MCL 400.665 - 667

- ◎ Who is Eligible?
 - Youth who transitioned from foster care to a juvenile guardianship between the ages of 16 and 18.
 - The YAGE subsidy may continue up until the youth's 21st birthday.
- ◎ Voluntary Agreement
 - Both the youth and the guardian must sign a voluntary agreement with DHS under which the youth and the guardian pledge compliance with the same eligibility requirements as those required for voluntary foster care:
 - Completing high school or a GED, enrolled in college/university/trade school program, employed at least part-time, or unable to participate in a required activity due to a documented medical condition.

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DHS PROCEDURAL POLICY GDM 716

- DHS determines the youth's initial and subsequent eligibility for guardianship assistance.
- The caseworker will mail an application and notice of potential eligibility for YAGE to the guardian no later than 90 days *before* the youth's 18th birthday.
- The caseworker will send a copy of that notice to the court with a **request that the court not close the JG case for 120 days** following the youth's 18th birthday to allow time for DHS to complete the application and eligibility determination process.

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COURT PROCEDURE

- If DHS approves the YAGE application, it will send a formal notice to the court that guardianship extension has been approved. The notice will also include a signed copy of the voluntary YAGE agreement.
- The court shall retain jurisdiction of a youth receiving YAGE until that youth no longer receives guardianship assistance. MCL 400.669 (1) and MCR 3.979(C)(1)
- The court shall hold a hearing regarding the youth's continued participation in extended guardianship assistance not less than 1 time every 12 months. MCL 400.669 (2) and MCR 3.979(D)(1)(b)

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ANNUAL HEARING REQUIREMENT

- ◉ Unlike a voluntary foster care case, an extension of a juvenile guardianship requires formal judicial oversight throughout the remainder of the case.
- ◉ Note that prior to the youth turning 18, the court is required only to *review* the JG case (e.g. could be conducted by a paper review). However, after the youth turns 18, if they enter YAGE, the court will be required to hold an annual review hearing on the record.

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SERVICE OF PROCESS

- ◉ Notice of the annual review hearing must be sent by the court to the guardian and the youth. MCR 3.979 (D)(1)(b) and MCR 3.920(D)(1)
- ◉ The court shall serve the issued order from the annual review hearing on: MCR 3.979(D)(1)(b)
 - DHS; and
 - The guardian; and
 - The youth.
- ◉ DHS Subsidy Office Address:
 - P.O. Box 30037, Lansing, MI 48909

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SCAO RECOMMENDATIONS

- Collaborate at the local level to identify a court employee who is responsible for YAGE cases and will be the point of contact regarding notices and service with the DHS Subsidy Office.
- Upon receipt of a signed voluntary YAGE agreement and notice of case extension by DHS, the court should immediately schedule the required annual review hearing to ensure that a judicial determination is made within 365 days of the youth's 18th birthday and annually thereafter.

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FINAL COMMENTS ON YAGE

- The Guardian is the payee, but the payment should be used to support the youth in the development of their independence.
- The youth does not need to remain in the home of the guardian for the guardianship to continue.
- JG Case closure prevents the youth from ever being eligible for any YAVFCA program again. There may be certain cases where the guardianship should be ended before the youth's 18th birthday and the youth placed back into foster care to ensure access to the voluntary foster care program options.

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VOLUNTARY FOSTER CARE V. GUARDIANSHIP EXTENSION

Voluntary Foster Care	Extended Juvenile Guardianship
NA Case Closure	DHS notifies the court to keep JG case open for eligibility determination.
DHS petitions court where youth resides, to open a VF case.	JG court case remains open.
Within 21 days of receiving petition, court opens VF case and determines if VF is in youth's best interests. After best interests determination, court closes VF case.	Upon receiving notice of potential JG assistance extension, court will keep case open for 120 days. DHS will determine eligibility within that time frame and notify the court. If eligible, court will keep JG open (extend the case).
No court involvement (including no annual review hearing) after best interests finding and case closure.	Court must hold annual review hearings.
DHS assumes all further responsibility and oversight of youth's foster care case.	Court continues to provide oversight.
Youth is payee (generally)	Guardian is the payee

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LIVE Q & A

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SCAO CONTACT INFORMATION

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