



# Paths to Permanency

Overview of legal issues and financial supports about adoption and custody options for relatives and foster families



## Northstar Care for Children

Supporting safe, permanent families for children



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## **Children need permanent families**

Children do best in permanent, safe, nurturing homes, where there are lifelong relationships with caring adults. For foster children, permanency planning begins right away. The agency tries at the same time to reunify and create an alternative permanency plan. When foster children cannot safely return to their parent's care, they need a permanent family that commits to nurture and care for them.

Permanency plans need to involve the child's family, the foster family, the child when appropriate and others. Everyone needs current and reliable information about legal options and potential impacts.

This document is intended to help when a foster child cannot be reunified. It covers basic legal and financial information about the two remaining paths to permanency: adoption and transfer of custody.

## **Making choices for the long run**

Reunification is the first choice, adoption is second, and what the courts call a Transfer of Permanent Legal and Physical Custody is third. Adoption is preferred over a transfer of custody in state and federal law, as it is considered a permanent, lifelong commitment.

Both adoption and transfer of custody provide:

- Permanent caregivers with many of the same legal rights as birth parents, but they are not the same.
- Benefits for the child, but there are practical and financial differences.

This guide is not a financial plan or a substitute for professional legal advice. It was developed for you to use with agency social workers to help you with this important decision.

It outlines the legal differences between adoption and Transfer of Permanent Legal and Physical Custody. It describes the similarities and differences between Northstar Adoption Assistance and Northstar Kinship Assistance, including how monthly payments are structured for eligible families.

As you consider the options, ask questions, and don't stop until you feel you understand the choices involved – a choice that's right for the child or children who have been in foster care as well as you and the rest of your family.

Even as you explore your options and preferences, know that the county or tribal judge for your case has the final say about permanency plans. Judges have to decide what's best for children in the long run.

## Legal options: Adoption and transfer of custody

All children need a permanent family, but if you are providing child foster care to someone you love, which path is best? The lifetime commitment of adoption, or the path the courts call Transfer of Permanent Legal and Physical Custody? What's the difference between the two?

Legal and tax differences	Adoption	Transfer of Permanent Legal and Physical Custody (TPLPC)
<b>Legal rights and responsibilities</b>	<p>The adoptive parents are given all the rights and responsibilities that once belonged to the birth parents.</p>	<p>The permanent relative custodians have primary rights and responsibilities for a child's protection, education, care, supervision and decision-making on behalf of the child. A child continues to have a legal parent-child relationship with birth parents, but the birth parents' rights are secondary, subject to limits imposed by the rights of the relative custodians.</p>
	<p>Adoption is a permanent, lifetime, legal relationship.</p>	<p>TPLPC is a legal relationship that ends when a child reaches age 18. The relative custodians may not return a child to the permanent care of the parent without notice to the social service agency and court approval.</p>
	<p>Birth parents' rights are voluntarily relinquished or involuntarily terminated forever.</p>	<p>Legal parents may retain important rights: visitation, access to information, notice of accidents or serious illness, etc. Legal parents can request that the TPLPC court order be vacated and a child be returned to their care.</p>
	<p>Birth parents are no longer obligated to pay child support.</p>	<p>Legal parents may have an ongoing child support obligation.</p>
	<p>When the adoptive parents are married, both spouses must adopt, unless the court approves adoption by only one spouse.</p>	<p>When married, either one or both spouses may be named relative custodians.</p>
<b>Decision making</b>	<p>Adoptive parents have complete rights to decision-making about the child.</p>	<p>Relative custodians have the authority to make all decisions affecting the child regarding school, medical treatment and consent for most other major life decisions.</p>

<p><b>Relationship with the birth parent(s) and siblings</b></p>	<p>In many cases, ongoing connections with previous legal parents, siblings or other relatives will be in a child’s best interest.</p> <p>Adoptive parents have the right to determine ongoing contact, unless the court specifies family contact agreements in the final adoption order.</p>	<p>In most cases, the intention is for a child to continue ongoing connections with previous legal parents, siblings or other relatives.</p> <p>When in the best interest of the child, relative custodians can facilitate safe visitation and involvement with the legal parents, siblings or other relatives as long as the court has not ruled against it. Connections to the child’s family can be maintained in a way that works best for the child and the relative custodians. The court may specify family contact agreements in the final TPLPC court order.</p>
<p><b>Child’s legal name</b></p>	<p>Adoptive parents determine a child’s legal name.</p>	<p>A child retains their own legal name, unless changed by court order.</p>
<p><b>Child’s right to inheritance</b></p>	<p>A child inherits from the adoptive parents unless the legal will provides otherwise.</p>	<p>A child has no right to inherit from the relative custodians unless included in the legal will. A child has the right to inherit from their legal parents.</p>
<p><b>Returning a child to the county or tribe</b></p>	<p>As with biological children, an adoptive child could enter the child welfare system due to abuse or neglect. Existing child welfare laws would apply and a county or tribal agency could again assume custody of the child.</p>	<p>Relative custodians may ask the court to have the TPLPC court order modified, or to be relieved of permanent legal responsibility for a child. Good cause for modification must exist and the judge may modify or not modify the order. The county or tribal agency is a party to any motion requesting modification of a TPLPC order.</p>
<p><b>Tax credit</b></p>	<p>Adoptive parents may be eligible for a federal tax credit based on the year the adoption finalized. For additional information, see the Internal Revenue Service website at <a href="http://www.irs.gov">www.irs.gov</a> or call toll free 1-800-829-1040.</p>	<p>There is no tax credit for a TPLPC.</p>

## Questions for families to consider

1. If the child cannot return home to their parents, can I commit to a lifetime relationship with him or her?
2. Am I interested in caring for the child without court oversight?
3. Am I capable of caring for the child without county child protection services, and am I able to access services on my own?
4. Do I have support from my family, friends, and community, needed to raise the child to adulthood?
5. Am I willing and able to work with the school to address the child's educational needs?
6. Am I willing and able to continue providing a safe and stable home environment for the child until age 18?
7. Am I confident in my ability to manage family issues such as illness and child-rearing, emotional/behavioral problems?
8. Am I in good physical and mental health, and do not have conditions that would limit my ability to care for the child? the child?
9. Am I willing to accept legal and financial responsibility for the child?
10. Is the child well integrated (blended) into my family and home?
11. Am I comfortable changing the legal status of our family relationships?
12. Am I willing to pursue adoption or a transfer of permanent legal and physical custody?

If your answers are all “yes,” consider adoption or a transfer of permanent legal and physical custody of the child in your care, and discuss your decision with the agency social worker.

If several of your answers are “no,” discuss those issues with the agency social worker.

## **Financial supports through Northstar Care for Children**

Northstar Care for Children is a unified program that supports foster children who are becoming permanent family members through adoption (Northstar Adoption Assistance) or transfers of custody (Northstar Kinship Assistance).

### **How are Northstar Adoption Assistance and Northstar Kinship Assistance similar?**

#### **Financial responsibility**

Permanent caregivers (adoptive parents and relative custodians) are financially responsible for their child, even if there are no benefits through Northstar Adoption Assistance.

Caregivers may decline Northstar Care benefits.

#### **Other income**

No component of Northstar Care is means tested. That means decisions about payment rates are not based on your family's income, and the payments do not change with family income. However, the payment amount is offset (reduced) if one or more of these four types of income is received on behalf of the child:

- Retirement Survivor's Disability Insurance (RSDI)
- Veteran's Benefits
- Railroad Retirement Benefits
- Black Lung Benefits

#### **Eligibility**

There are many eligibility requirements. Two of key requirements that are the same for both Adoption Assistance and Kinship Assistance are:

- Caregivers must successfully complete a background study
- A child must meet citizenship or immigration requirements

#### **Benefit agreement**

After eligibility is determined, the county or tribal social services agency negotiate with the prospective adoptive parent or relative custodian. A benefit agreement provides details about the child's benefits and is signed by the agencies, prospective adoptive parent or relative custodian and department staff prior to the court finalizing the adoption or transfer of permanent physical and legal custody.

## Amount of payment

The monthly payment includes the monthly basic payment and possibly a monthly supplemental payment. The monthly payment follows an eligible child from foster care to permanency, but the amount depends on the age of a child at the time of final court action on adoption or a transfer of permanent legal and physical custody:

For eligible children who are **age 6 or older** at the time of application, the monthly payment is the same as they would have had in foster care.

For eligible children who are **age 5 or younger** at the time of application, the monthly payment is half what they would have had in foster care (the Pre-School Entry Alternate Rate).

## Monthly basic payment

<b>Monthly Basic Payment Rates</b> (Effective Jan. 1, 2015 – June 30, 2016)		
<b>Group or Age</b>	<b>All young people in foster homes or independent living and those who enter permanency at age 6 or older</b>	<b>Pre-School Entry Alternate Rate for all young people who enter permanency age 5 or younger</b>
<b>Level A (At-Risk)</b>	No monthly payments	No monthly payments
<b>Basic: Ages 0-5</b>	\$565	\$283
<b>Basic: Ages 6-12</b>	\$670	\$335
<b>Basic: Ages 13 and older</b>	\$790	\$395

## Monthly supplemental payment

The monthly supplemental difficulty of care payment, if any, is based on an assessment by the agency. It considers the extra care, attention and impact on the family associated with parenting duties provided in the home to nurture the child; preserve the child's connections and support the child's functioning in the home and community. Child care needs may be included.

## Monthly Supplemental Payment Rates

(Effective Jan. 1, 2015 – June 30, 2016)

	All young people in foster homes or independent living and those who enter permanency at age 6 or older	Pre-School Entry Alternate Rate for all young people who enter permanency age 5 or younger
<b>Level A (At-Risk)</b>	None	None
<b>Level B (Basic Only)</b>	None	None
<b>Level C</b>	\$100	\$50
<b>Level D</b>	\$200	\$100
<b>Level E</b>	\$300	\$150
<b>Level F</b>	\$400	\$200
<b>Level G</b>	\$500	\$250
<b>Level H</b>	\$600	\$300
<b>Level I</b>	\$700	\$350
<b>Level J</b>	\$800	\$400
<b>Level K</b>	\$900	\$450
<b>Level L</b>	\$1000	\$500
<b>Level M</b>	\$1100	\$550
<b>Level N</b>	\$1200	\$600
<b>Level O</b>	\$1300	\$650
<b>Level P</b>	\$1400	\$700
<b>Level Q</b>	\$1500	\$750

### Reassessment

If circumstances change, the permanent caregivers may ask the agency to do a reassessment. The request must be in writing. The result of the reassessment may be a change in the monthly supplemental difficulty of care payment.

### Monthly payment adjustments

Monthly payments may be adjusted for a number of reasons. These include adjustments every July based on the cost of raising a child, which usually means an increase. As the child ages, the

monthly basic payment increases. The amount available for child care goes down as the child gets older. If child income offsets change, the amount may increase or decrease.

### **Non-recurring expenses**

Caregivers may receive a one-time reimbursement up to \$2,000 per child. This is to cover costs directly related to the adoption or transfer of permanent legal and physical custody.

### **When payments stop**

Caregivers must stay legally responsible for the support of a child and be actually providing that support.

Northstar Care benefits usually end when a child turns 18.

Caregivers may ask for an extension past age 18 up to 21. An extension may be granted if special requirements are met. The requirements are easier to meet if a child is 16 or older at the time of final court action on adoption or a transfer of permanent legal and physical custody.

### **Minnesota Family Investment Program (MFIP)**

A child receiving Northstar Adoption Assistance or Kinship Assistance is not eligible for Minnesota Family Investment Program (MFIP) or federal Temporary Assistance for Needy Families (TANF) grants.

### **Death of caregivers**

If the sole caregiver or both caregivers die, Northstar Care benefits may be continued. The agreement may move to an individual appointed by the court. However, the child is no longer Title IV-E even if they had previously been Title IV-E eligible.

## How are Northstar Adoption Assistance and Northstar Kinship Assistance different?

	Northstar Adoption Assistance	Northstar Kinship Assistance
<b>Purpose</b>	Northstar Adoption Assistance provides financial support for eligible children who are <b>adopted</b> from the foster care system.	Northstar Kinship Assistance provides financial support for eligible children from the foster care system who have a <b>transfer of permanent legal and physical custody</b> (TPLPC) to a relative or kin.
<b>Eligibility</b>	The key is for a child to be determined to have a special need. There are other eligibility requirements, but most are the same as for Northstar Kinship Assistance.	The key is for a child to be placed in foster care with the prospective relative custodian while that custodian is a licensed child foster parent for at least six months in a row. There are other eligibility requirements, but most are the same as for Northstar Kinship Assistance.
<b>At Risk</b>	One way some children become eligible is to be “at risk” (having potential to develop a disability that has not yet manifested). If a child’s eligibility for Northstar Adoption Assistance is based only on this “at-risk” status, they may receive Medical Assistance, but are not eligible for a monthly payment until the potential disability occurs during childhood.	There is no “at-risk” status in Northstar Kinship Assistance.

<p><b>Receiving monthly payments</b></p>	<p>All children in Northstar Adoption Assistance receive monthly payments unless designated as “at-risk”.</p> <p>Because at-risk children do not now have a disability, they do not receive a basic monthly payment or a supplemental payment.</p>	<p>All children in Northstar Kinship Assistance receive monthly payments.</p>
<p><b>Home and vehicle modifications</b></p>	<p>Many children are eligible for reimbursement for reasonable costs of home and vehicle modifications needed to accommodate a child’s special needs. The special needs must be what eligibility for Northstar Adoption Assistance was based on, and be included as part of the negotiation of the benefit agreement.</p> <p>This is <b>not</b> available for children designated “at-risk”.</p> <p>All modifications must be pre-approved by the Minnesota Department of Human Services, which may set limits on amounts and frequency.</p>	<p>Not available with Northstar Kinship Assistance</p>
<p><b>Medical coverage for Title IV-E children</b></p>	<p>All Title IV-E children are automatically eligible for Medicaid (Medical Assistance in Minnesota). This is from their state of residence, as long as their Northstar Care benefit continues, including any extension.</p>	<p>Same as Northstar Adoption Assistance</p>
<p><b>Medical coverage for children who are not Title IV-E</b></p>	<p>Children who are not Title IV-E eligible and reside in Minnesota are eligible for Medical Assistance (Minnesota’s Medicaid).</p> <p>Children who are not Title IV-E eligible and reside outside Minnesota always receive medical coverage. Some states allow eligibility for Medicaid in that state. If not, a child will receive Medical Assistance (Minnesota’s Medicaid). However, if that happens, coverage will be limited to providers authorized by Minnesota’s Medical Assistance Program.</p>	<p>Children who are not Title IV-E eligible are not automatically eligible for Medicaid. However, children may meet eligibility criteria independently. To receive this benefit, the relative custodians will need to apply on behalf of the child to their county of residence or appropriate tribal agency, and meet all eligibility criteria.</p>