

# COPPS DiPAOLA SILVERMAN, PLLC

Kathleen ("Casey") Copps DiPaola, Esq., \*Partner  
Lorraine R. Silverman, Esq., Partner  
Anne Reynolds Copps, Esq., \* Of Counsel  
Kayla Molinaro, Esq., Associate  
Veronika Grochowalski, Esq., Associate  
Joseph R. Williams, Esq., Associate  
Rebecca M. Wager, Law Clerk  
Shannon M. Wickenden, Paralegal  
Christine M. Wilson-Smith, Closing/Paralegal  
Jennifer Tromblee, Certified Paralegal  
Amy Shake, Paralegal/ Legal Assistant

## Important KinGAP Victory for Copps DiPaola Silverman!!

In New York, there are two possible placement options for a child in foster care who has not yet been freed for adoption: continued foster care, or the preferred option, placement with a relative or other legal guardian through the KinGAP program. A relative guardian in a KinGAP placement is entitled to receive monthly kinGAP subsidy payments for the care and support of the child.

If adoption becomes a good option for the child after KinGAP has been put in place, an adoption can be completed. In 2015, attorney Casey Copps DiPaola took on what was believed to be the first case in New York where a KinGAP case was converted to an adoption. There was no clear answer as to what would happen to the KinGAP subsidy after the adoption was completed, so Casey offered to take on the appeal of the denial of the subsidy *pro bono* if it was terminated after the adoption finalized.

Unfortunately, the KinGAP subsidy was terminated after the adoption finalized. Since New York has also determined that a child is not eligible for an adoption subsidy if he or she is adopted from a KinGAP placement, rather than from foster care, this created a big problem. It provides a disincentive for foster parents to become legal guardians of the child (thereby delaying permanency for the child), and a disincentive for those who are already relative guardians to adopt (denying the child the ultimate form of permanency).

Casey Copps DiPaola and Joseph Williams of Copps DiPaola Silverman were recently successful in reversing this determination to deny the subsidy and reinstating KinGAP subsidy payments (including retroactive payments and Medicaid coverage for the child) to the relative guardians post-adoption. This is an important victory as it creates the first decisional caselaw in New York on the issue of KinGAP payments if a child is subsequently adopted. It provides additional protection for relatives assuming guardianship of children in the foster care system and for relative guardians who are seeking to subsequently adopt. We hope that this decision will help other families who may be in a similar situation and will encourage families to consider the KinGAP permanency options for children in their care.

If you or someone you know is navigating the foster care and/or KinGAP system and would like to speak with someone for guidance, please do not hesitate to contact us at Copps DiPaola Silverman.



Attorneys  
Casey Copps DiPaola  
and Joseph Williams