

**DRAFT**

Guardianship Advisory Council (GAC) Meeting  
Friday, September 17, 2010 (9:30 a.m.)

- Minutes -

Chair: Duane Christensen (absent)  
Co-Chair: Leticia Garcia  
Minutes Taken by: Cecelia L. Salazar, Office of Guardianship  
Members Present: Doris Husted, ARC; Marsha Shasteen, Senior Citizens Law Office; Leticia Garcia, Tierra Alta Guardianship Service; Leo Garza, AARP; Dennis Drucker, Disability Rights; Sandy Skaar, DDPC Council Member; Christine Wester, DOH, DDSD; Frank Fajardo, Manager Office of Guardianship  
Telephonically: Judith Liddell, Family Member; Grace Escamilla, Department of Veterans' Services; Ed Kaul, ARCA  
Absent: Eleanor Bratton, Attorney; Scott Aaron, Attorney; Decades, Corporate Guardian; Erin Ruscetti, Necessity Case Management; Ann Christensen, CornerStone Guardianship Services; Elder and Self Directed Program; Ling Faith Heuertz, NM ARC; Angie Thompson, DDPC Council Member; Dianne Griego, DDPC Council Member; Jim Jackson, DDPC Council Member; Terri McCaslin, DDPC Council Member; Tina Sibbitt, AOC; Ana Marie Ortiz, ALTSD; Shanon Cupka, Ombudsman; Joanie Roybal, Public Education Department-Special Education; Gabrielle Sanchez-Sandoval, DOH; Department of Human Services, Division of Vocational Rehabilitation, Simon Romo, CYFD; Jose Arturo Camacho, VA Medical Center  
General Public:  
(Non-members)

Leticia Garcia called the meeting to order at 9:35 a.m.; she moved to review the agenda before beginning, and it was also read for those that did not receive it and were participating telephonically. There were no additions to the proposed agenda. Doris Husted moved to accept the minutes and Leticia accepted. The minutes were approved.

1.) Frank reviewed the OG Budget and Workload projections for 2010-2011 and clarified what cases would not be processed. Frank explained the monthly tracking for the Office of Guardianship Contract Budget. An increase in July was due to other expenditures. Every effort is being made to keep the monthly budget at \$255,000 which is 1/12<sup>th</sup> of the annual budget. A Budget Finance Committee Meeting will be held on Thurs. Oct. 21<sup>st</sup> (1:00 p.m.) We received \$209,800 additional from the Governor (Federal stimulus funds) – this is to keep us from over-spending our budget through Dec. 31<sup>st</sup> (mid-year for Fiscal Year 2011) under the 50% Rule. These additional funds covered ½ of our overall shortfall, including ½ of our shortfall in Salaries & Benefits (1/2 of \$69,216.42). The budget presented does not include other possible sources of funding (donations, funds from spend-downs, Medicaid, etc.). We approved Mental Health Treatment guardians through the end of December, thereafter we will go back to approvals on a month-by-month basis depending on available funds. We plan to go to the Legislative Finance Committee (LFC) to request Supplemental funding. The Office of Guardianship is trying to stay within the attrition rate which will keep us within our budget limitations. If we go above the attrition rate, we will go above our budget limitations. Legal services for family guardianship remain on our Waiting List unless we can obtain Pro Bono legal services.

2.) Other possible sources of funding - the Office of Guardianship is currently trying to receive a Medicaid match, donations, and other. NAMI will accept donations for Mental Health Treatment Guardians. Donations for this and other guardianship services may also be sent to the Office of Guardianship. We did

not get any funds from the Governor's Commission on Disability. We are getting some reimbursements from personal funds (e.g. Spend Downs, deceased, etc.).

The Office of Guardianship currently is working with Law Access New Mexico for Pro Bono services: 21 cases at Law Access and there are 4 cases at UNM Law Clinic. **Direct pay:** 12 family cases where they have decided to pay for the legal services (since January).

3.) At the time of the Guardianship Advisory Council meeting, there was a Waiting List of 33 cases for legal services for family guardianships as of Aug. 30<sup>th</sup>. There was also a Waiting List of 22 for "Emergencies with no one available" which is part of the Priority Categories but were rated "Low" Need for Guardianship (legal services + corporate guardianships), and Spend Downs (from private pay). A discussion was made on what the Office of Guardianship should do to assist (assign) the cases where no one else is available, but rated low. Doris motioned and Sandy Skaar seconded the motion to accept the following:

- a.) Accept criteria for Waiting List allocation
- b.) Review the criteria after high (emergency) score then assign by date of application.
- c.) if the Office of Guardianship is over-budget, it did not actively choose to do so.

The Office of Guardianship will be requesting a Supplemental this Fiscal Year during the legislative session.

4.) Dennis Drucker led a discussion on the possibility of a proposed protected person in a Priority case objecting to the proposed guardianship. Should this be automatically considered not appropriate for any follow-up by the OG, based on the protected person's "wishes and desires" versus their "Best Interests"? The Office of Guardianship does not know at the time a referral is received if the case will be contested. If this was known, this office would most likely reject the referral. Dennis, Marsha Shasteen, and Sarah Steadman will discuss this further to come up with a recommendation. APS will also be invited to this discussion. There may also be a need to add a form on the application if the proposed protected person is objecting to the guardianship.

5.) Frank will be sending out information for December's meeting on the Proposed Rule-making for changes to our OG Regulations:

- A.) The Foley lawsuit settled with a provision that we would initiate the rulemaking process to allow former individuals who were at one time residents of the State Training Schools and released after January 1, 1970, to be prioritized with the Jackson Class.
- B.) Other possible changes (e.g. eligibility criteria for legal services for family guardianships with sliding payment scale, complaints, re-evaluations).

6.) Students and need for guardianship (age 18+) – There are difficulties re: parental involvement in decisions and access to records after the student becomes an adult. A revision was proposed to the PED for changes to their regulations; they informed us they do not have legal authority. This may be referred to the Attorney General re: who has the authority to make the revision.

7.) Alternatives to guardianship – the Video is near completion and further education/training is needed throughout the State on this.

8.) Remaining items from the Strategic Planning Session – Duane Christensen wanted to work more on the goals and objectives; this will be tabled for the next Guardianship Council Meeting.

9.) New Business: Item 8 will be tabled to be set for the next Guardianship Council meeting. Leticia submitted her resignation as Co-Chair. Doris nominated Sandy Skaar. Dennis seconded this motion, with all in favor.

10.) The scheduled future Quarterly meetings (on 3<sup>rd</sup> Friday) are: December 17<sup>th</sup>, March 25<sup>th</sup>, June 17<sup>th</sup>, September 16<sup>th</sup>, and December 16, 2011

The meeting was adjourned at 11:15 A.M.

The purpose of the Guardianship Advisory Council is to provide advisory counsel to the NMDDPC Office of Guardianship regarding the needs and rights of persons who are incapacitated or allegedly incapacitated.