

FACT SHEET

DDPC Office of Guardianship (of adults)

MISSION STATEMENT

To provide assistance and guardianships state-wide for persons (adults) meeting the criteria in the NM Probate Code for “incapacitated person” – this means:

any person who demonstrates over time either partial or complete functional impairment by:

- reason of mental illness, mental deficiency,
- physical illness or disability,
- chronic use of drugs, chronic intoxication or other cause,

to the extent that the individual is unable to manage their personal affairs or is unable to manage estate or financial affairs or both.

To train and have Mental Health Treatment Guardians available to the courts for appointment state-wide.

MAJOR GOAL

To help “incapacitated persons” and help families by providing a statewide, publicly funded guardianship services program for guardians of “last resort” to incapacitated income and resource eligible adults.

BASIC BELIEFS

Guardianship should be:

as a last resort;

only as necessary to promote and to protect the well being of the person (and others);

designed to encourage the development of maximum self-reliance and independence.

monitored and have safeguards against wrongdoing;

available for all “incapacitated persons.”

ROLE OF THE GUARDIAN

the guardian takes the place of the individual’s own decision-making

coordinates and monitors professional and other services needed

the guardian’s authority is based on the court order - limited or plenary (full)

individual rights removed from the protected person may vary:

- determining residence; consenting to medical treatment; driver’s license; signing contracts
- managing, buying, or selling property; owning or possessing a firearm or weapon;

- filing lawsuits; making end-of-life decisions; marrying.
- Guiding Principle: least intrusive/restrictive measures for most autonomy possible.

ABOUT THE OFFICE OF GUARDIANSHIP

Services within the Office of Guardianship:

Our office contracts for “Corporate Guardians” to provide guardianships for those without family or anyone willing to serve as their guardian.

Our office contracts for Legal services for guardianship court proceedings, including Petitioning Attorney, Guardian Ad Litem (GAL), and Court Visitor.

Provide information, educational opportunities, training, and related services for improving guardianships state-wider.

PROGRAM DESCRIPTIONS

Services for “incapacitated persons”:

Income and Resource Eligibility: the alleged incapacitated person must be financially eligible for institutional Medicaid (income does not exceed 200% of the federal poverty level).

Services for Family members wanting to be the guardian:

For legal services, where the proposed guardian is not a contracted service provider, the proposed guardian’s household gross income must not exceed 200% of the federal poverty level.

Adult Protective Services Referrals:

Our office provides the contract corporate guardians.

Mental Health Treatment Guardians:

Mental Health Treatment Guardians only have the authority to make substitute decisions for the client who is incapable of informed consent for mental health/psychiatric treatment or administering of psychotropic medications under the Mental Health Code Commitment Procedures statute. However, the same Treatment Guardian may also be appointed as a full or limited guardian under the Uniform Probate Code.

Mental Health Treatment Guardians are appointed for a specified length of time during which they may exercise their powers, up to a maximum period of one year.

Generally any previously appointed or named/designated agent (decision-maker) should be given priority to serve as Treatment Guardian to avoid more than one agent. Likewise, Treatment Guardians may be considered for a full or limited guardian to be appointed under the Uniform Probate Code.

FUNDING

The Office of Guardianship is funded entirely by state general funds.

Contracting:

Corporate Guardianship Services are paid a fixed fee: \$3650/Yr. = \$304/mth.
[Last increase \$50/yr. in 2004]

Contract Legal Services are paid a fixed fee:

Petitioning Attorney = \$600, GAL = \$300, Court Visitor = \$150; Total = \$1050
[Average Open Market Cost \$3,000 - \$10,000]

CONTACT INFORMATION

Website: http://www.nmddpc.com/guardianship_program

Phone: 505-841-4549

Fax: 505-841-4590

Staff:

Barbara Ibanez, *Program Manager*: (505) 841-4543 or Barbara.Ibanez@state.nm.us

Marina Tapia, *Senior Attorney*: (505) 841-4556 or Marina.Tapia@state.nm.us

Mary H. Smith, *Attorney*: (505) 841-4586 or Mary.Smith2@state.nm.us

Donald Martinez, *Compliance Officer*: (505) 841-4552 or Donald.Martinez2@state.nm.us

Jannel M. Vigil, *Intake Coordinator*: (505) 841-4549 or Jannel.Vigil@state.nm.us

Joeann Montoya, *Compliance Officer*: (505) 841-4540 or Joeann.Montoya@state.nm.us