



MONEY FOLLOWS THE PERSON GUARDIANSHIP EXPECTATIONS

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MEDICAL SERVICES DIVISION - MFP

DN 1369 (03-2023)

In making decisions on behalf of the person, the guardian is expected to act in the best interests of the person and to use judgment and care which persons of prudence discretion and intelligence exercise in the management of their own affairs. If possible, the guardian should act as they believe the ward would act if the ward had full knowledge and decision-making capacity. The guardian should try to decide what a reasonable person would do in the situation of the person under guardianship.

The responsibility of a personal guardian should be seen as far more than arranging for food and a warm place to live. A guardian is responsible for seeking services that will help the person to reach or maintain his or her fullest potential, and that will allow the person to live and work in the least restrictive environment possible. The guardian is also responsible for assuring the persons' rights and dignity as a person is defended. In order, to fulfill this responsibility, a guardian of the person should:

- Learn about sources of funding and appropriate services for the person. A guardian is responsible for knowing what is available to provide income, medical care, vocational services etc., and for making sure that applications are filed and followed through.
- Know the circumstances and condition of the person. Knowing what supports and services are needed will mean consulting with the person, learning about the disability, and talking to professional and others involved in the person's life. Guardians should try to attend all staffing and should learn to ask questions and seek more than one opinion.
- Statute doesn't define "level of contact" a good guidance is that the guardian should have some personal contact with the person at least every month, and a personal visit to the person at least every 3 months. If possible, it is useful to see the person in a variety of settings such as the home, work, or day program, at a restaurant etc. A guardian who lives far away should arrange either to make visits or to find someone locally who can visit and report to the guardian.
- Act as an advocate for the person, not only in obtaining services but also assuring his or her rights are defended. This means the guardian must learn about basic rights of people receiving services for mental or developmental disabilities and about specific rights for the person's residential setting or workplace.
- Assure that the person's freedom is not more restricted than it needs to be. The person has a legal right to the least restrictive living and service environment consistent with his or her needs. In addition, a good guardian will involve the person in all decisions and will try to give the person the opportunity to make choices of his or her own, so that the guardian exercises the least possible control and so that the person has an opportunity to learn responsible decision-making and, hopefully, can gain greater independence. This may involve allowing the person to take some risks,



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but a good guardian must recognize his or her responsibility to help the person learn to be independent, as well as his or her responsibility to assure that the person has needed supports.

- Remember that need for guardianship in many cases result from the fact that the person was never taught how to make choices and take responsibility. A good guardian will try to give the person these opportunities and will seriously reevaluate whether the guardian ship is still needed.
- The purpose of guardianship is to help and protect the ward (the person for whom a guardian is appointed) and to promote the ward's best interests. The chief matter to be considered is the ward's welfare – not the wishes or convenience of the guardian or relatives.
- A guardian should become or remain personally acquainted with the ward and maintain sufficient contact with the ward to know of the ward's needs, capacities and limitations, development, activities, opportunities, and physical and mental health.
- A guardian should be involved not only when major decision must be made. A guardian should try to obtain that which is beneficial to the ward in everyday matters. The possibilities for constructive involvement in the ward's daily real-life concerns are unlimited.
- Accepting appointment as a guardian is a major commitment. Being guardian will require expenses of time and effort for which the guardian will not be compensated with tangible reward. A guardian will likely face difficulties and frustrations in trying to find what is best for the ward.
- Guardianship should be viewed positively as a means of implementing rights and opportunities with as much participation by the ward in all decisions as is practical. The underlying goal of a guardian should be to do as much as possible to help the ward be self-sufficient in all respects.