



# Calhoun County Senior Services Minimum Service Standard

## SERVICE NAME: GUARDIANSHIP

**DEFINITION:** The guardianship program shall offer the following types of service:

1. Representative Payee: A recipient designated by the Social Security Administration to receive cash payments on behalf of a beneficiary if there is positive evidence of the beneficiary's incapability of managing the funds. The duties and responsibilities of a representative payee are delineated in Social Security law and regulations.
2. Trust Agreement: A special Trust Agreement has been developed for use by the guardianship service agency, where the agency and recipient enter into a legal agreement regarding the recipient's funds "in trust" and has specified responsibilities in handling the financial affairs of the recipient. The Trust Agreement is signed by the agency and recipient before witnesses.
3. Conservator: A recipient appointed by the court under Act 642, P.A. 1978, to exercise full powers over the estate of a recipient determined by the court to be unable to manage his/her property and affairs effectively and the recipient has property which will be wasted or dissipated unless proper management is provided.
4. Guardian: A recipient appointed by the court under P.A. Act 398 of 1988. A guardian is responsible for the care, custody, and control of the ward but is not liable to third party recipients by reason of that responsibility for the actions of the ward. A guardian has the following powers and duties except as modified by order of the court: 1) power to decide where the ward will live, 2) consent to medical or other professional treatment, 3) if a conservator or trustee is not appointed, to receive money and property of the ward and use it for support, care, and education of the ward.
5. Power of Attorney: A document that evidences the creation of a relationship between two people who are designated as the "principal" and the "agent." It is designed to meet the particular needs of a recipient (principal) and transfer power to Guardian (agent) to receive income and pay debts. This is a voluntary contract.

**UNIT OF SERVICE:** For representative payee service one unit equals one recipient per month. For all other types of assistance covered in this standard one unit equals one hour of service. Units of service will be limited to professional time with or on behalf of individual recipients.

**INCOME REQUIREMENT:** Yes. Recipients must be at or below \$500 in liquid assets as verified by the service provider, and must be at or below 200% of the poverty level as published in the most recent Federal Register.

**DESIRED OUTCOME:** For older adults, age 60 and over, to remain safe and as independent as possible..

### MINIMUM SERVICE STANDARD:

- A. Recipient Eligibility Criteria** – In addition to the recipient eligibility criteria contained in the "ALL SERVICES" Minimum Service Standard, each program shall have written eligibility criteria which will include at a minimum:



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1. The service provider shall determine if a recipient is covered by another grant or is able to pay for the service.
2. The service provider shall be used for providing supervision of a recipient or his/her finances or affairs only when a suitable and willing relative or friend is not available to provide the supervision.
3. Recipient must have liquid assets of \$500 or less, exclusive of Medicaid exempt assets.

#### **B. Staffing/Supervision/Training**

1. The staff providing service shall have experience in business administration or accounting, and have social work/case management skills.
2. Staff and volunteers shall be trained in subject areas pertaining to guardianship, conservatorship, representative payee, and power of attorney and trust agreements by individuals competent in these areas, including existing guardianship programs, the Probate Court, community mental health, and representatives of long-term care advocacy organizations.
3. Staff and volunteers, designated with authority to manage the financial affairs of a recipient, including the power to deal with real estate, shall be insured with a total bonded money management capability of \$250,000.
4. Responsibilities and duties of staff shall include, but not be limited to the following:
  - a. Record keeping – filing all required legal documents, accounting, contracts, recipient records (including recipient data authorizations)
  - b. Participation in legal proceedings as required
  - c. Visitation of guardian and conservator recipients every quarter, or more frequently as is feasible and necessary
  - d. Authorization of medical treatment as needed and written policies or procedures concerning emergency situations shall be developed
  - e. Take appropriate steps for institutional (psychiatric hospital) placement if necessary and insure that the least restrictive setting required is obtained should recommendation for institutional placement be necessary
  - f. Responsibility for all management of an accounting for funds belonging to or for the benefit of a recipient
  - g. Ensure that all eligible benefits are in place and current, i.e., Medicaid, Medicare A, Part B, and Part D and food stamps
5. The Service provider will strive to receive and maintain a Registered Guardian Certification by the National Guardianship Association.
6. A person acting on behalf of the guardianship service provider shall be available 24 hours a day, seven days a week.



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### C. Service Method

1. The least restrictive level of supervision parallel to the recipient's ability to manage him/herself, finances and recipient decisions shall be used:
  - a. If a recipient needs assistance in managing his/her money and receives benefits that enable management by a representative payee, then the supervision shall be limited to management of only those benefits.
  - b. If a recipient needs assistance in managing his/her money and affairs only, then a Trust Agreement should be the form of supervision provided and the power given in the Trust Agreement shall be limited to specific finances and affairs to be managed.
  - c. If a recipient is deemed incompetent by court authority and is not capable of managing any of his/her finances or any of his/her financial affairs, and the nature of these is such that it requires management, but is able to make decisions regarding medical treatment, where to live, and other matters regarding his/her recipient, then a conservator is the most appropriate form of supervision.
  - d. If a recipient is deemed incompetent by Court authority and not capable of making or communicating decisions regarding his/her recipient, then guardianship is the appropriate form of supervision and shall be limited where appropriate to the degree of supervision needed with a preference for partial rather than plenary guardianship for developmentally disabled recipients.
  - e. If a recipient is not capable of managing his/her finances and/or his/her financial affairs, he/she may voluntarily designate a power of attorney.
  - f. The program shall petition the court for modification or termination of guardian/conservator arrangements when they are no longer needed; the program will notify Social Security Administration when payeeship is no longer needed.
  - g. The service provider shall strive to utilize volunteer assistance whenever possible. Assistance may be in the form of gathering recipients needed items, serving as "friendly visitors," etc.
2. The service provider shall comply with the Estates and Protected Individuals Act of April 1, 2000, where possible.