

GUARDIANSHIP CORPORATION
SCOPE OF WORK
SFY 2019

Background

The move to a managed care system of providing mental health services in North Carolina has effectively terminated the ability of a director or assistant director of an LME to serve as a client's guardian as a "disinterested public agent" because the 1915 (b/c) Medicaid Waiver for MH/DD/SAS prohibits a managed care organization (MCO) from serving as the guardian of an individual whose care is managed by that MCO.

Furthermore, N.C. Session Law 2012-151 amended the definition of "disinterested public agent" in G.S. 35A-1202(4) so that only a director or assistant director of a county department of social services can serve as a guardian as a "disinterested public agent."

In order to facilitate the transition described above, Session Law 2012-142 appropriated \$4,356,604 in Social Services Block Grant (SSBG) funds to the Division of Aging and Adult Services (DAAS) for guardianship services.

The original contract with DAAS covered wards served as of July 1, 2012, who had been served as a ward under the contractor's previous contractual agreement for SFY 2011-2012 with an LME and/or DMH/DD/SAS.

Purpose

The purpose of this contract is to provide guardianship services to individuals who are found to be incompetent pursuant to the provisions of Chapter 35A of the North Carolina General Statutes. Services and supports are provided in the least restrictive manner possible; the personal preferences and desires of the individual are important and are given total consideration; and every opportunity is made available to the individual to exercise all rights within his or her judgment.

A. The Division will:

1. Be available to the Contractor for consultation and technical assistance.
2. Make the "*Basic Skills Guardianship Training*" and "*Decision Making: An Ethical Perspective*" available for Contractor staff.
3. During the term of the contract, review documents related to the provision of guardianship services for a random sample of wards. Additional monitoring, including follow-up to corrective action(s), as well as consultation and technical assistance, will be provided if it is needed, as determined by the Division.

4. Inform the Contractor of any changes in or to the statutes and rules governing the guardianship services program.
 5. Pay the Contractor as specified in this SOW.
 6. Review the Contractor's monthly invoices and reconcile with the Contractor any discrepancies. The Division will maintain a master list of wards covered by this contract as a point of comparison to the invoiced list from the Contractor.
- B. Contractor shall:
1. Provide adult guardianship services to incompetent adults included in the Division's master list of wards covered by this contract, as directed by court order.
 2. Comply with all requirements of the Order of Appointment entered by the various Clerks of Court, fulfill the duties of Guardian of the Person and/or Guardian of the Estate, and meet qualifications set forth in Chapter 35A of the North Carolina General Statutes. Contractor warrants that it has read and understands those duties and qualifications. This includes 35A-1213(f), which states that "An individual who contracts with or is employed by an entity that contracts with a local management entity (LME) for the delivery of mental health, developmental disabilities, and substance abuse services may not serve as a guardian for a ward for whom the individual or entity is providing these services, unless the individual is one of the following:
 - (1) A parent of that ward.
 - (2) A member of the ward's immediate family, a licensed family foster care provider, or a licensed therapeutic foster care provider who is under contract with a local management entity (LME) for the delivery of mental health, developmental disabilities, and substance abuse services and is serving as a guardian as of January 1, 2013. For the purposes of this subsection, the term "immediate family" is defined as a spouse, child, sibling, parent, grandparent, or grandchild. The term also includes stepparents, stepchildren, stepsiblings, and adoptive relationships.
 - (3) A biologically unrelated individual who was serving on March 1, 2013, as a guardian without compensation for guardianship services."
 3. Arrange for the care, comfort and maintenance for each ward, and provide services in the least restrictive living environment. This may include the following activities:
 - (1) Working with Transition to Community Living Initiative (TCLI) when the ward is eligible; and
 - (2) Obtaining information from the following sources regarding current facility inspections, ratings, penalties and statements of deficiencies for facilities being considered for the ward's placement:
<https://www2.ncdhhs.gov/dhsr/acls/star/search.asp>
<https://www2.ncdhhs.gov/dhsr/facilities/results.asp>
<https://www2.ncdhhs.gov/dhsr/mhlcs/facilities.html>
<https://www.medicare.gov/nursinghomecompare/search.html>

4. Submit a completed data collection tool (DAAS-7016A) to the Adult Protective Services/Guardianship Coordinator and the Guardianship Consultant at the Division within five (5) business days of any termination of a guardianship appointment.
5. Submit an updated data collection tool (DAAS-7016A) to the Adult Protective Services/Guardianship Coordinator and the Guardianship Consultant at the Division within five (5) business days after any change to any existing ward's demographic information.
6. Submit a completed data collection tool (DAAS-7016A) to the Adult Protective Services/Guardianship Coordinator and the Guardianship Consultant at the Division within five (5) business days after the Contractor is appointed guardian to each new individual ward.
7. Ensure that all guardianship staff who provide services to wards attend the "Basic Skills Guardianship Training" provided by the Division. In addition, staff hired after 7/1/16 who provide services to wards will be required to attend the "Decision Making: an Ethical Perspective" training provided by the Division.
8. Have contact with each ward and/or the ward's caregiver at least once each calendar month, and conduct or arrange for a minimum of one face-to-face visit with each ward every 90 calendar days. If the contractor arranges for another corporation or county department of social services to make the face-to-face visit on its behalf, there should be a written agreement in place and documentation of the date and results of each visit.
9. Obtain legal counsel, at its sole expense, when such is required to fulfill its statutory duties pursuant to Chapter 35A of the N.C. General Statute.
10. Maintain an individual guardianship record for each ward served, including a current guardianship service plan developed from strengths and needs identified from an assessment of the ward's situation, ongoing notes and documentation of all guardianship contacts and services, and other relevant documentation.
11. Complete and maintain all reports required by the Clerk of Court, and maintain a copy of each report in the ward's record. These reports shall include, but are not limited to, any required annual accountings and the yearly status report sent to the Clerk of Court, which includes:
 - (1) A report or summary of recent medical and dental examinations of the ward by one or more physicians and dentists. In instances when the guardian has made diligent but unsuccessful attempts to secure this information, the guardian shall include in the status report an explanation and documentation of all actions taken to attempt to secure this information; and
 - (2) A report of the guardian's performance of the duties set forth in Chapter 35A and in the clerk's order appointing the guardian; and

- (3) A report on the ward's residence, education, employment, and rehabilitation or habilitation; and
 - (4) A report of the guardian's efforts to restore competency; and
 - (5) A report of the guardian's efforts to seek alternatives to guardianship; and
 - (6) A report of the guardian's efforts to identify alternative guardians; and
 - (7) The guardian's recommendations for implementing a more limited guardianship; and
 - (8) Any additional reports or information required by the clerk.
12. If a ward of the Contractor dies, has his or her competency restored, or is transferred to the care of an individual successor guardian, the Contractor shall accept appointment as successor guardian of a ward currently being served by a county department of social services or of a new ward who otherwise would have been served by a county department of social services. The Contractor is not required to accept a referral for an individual with no income, an individual who cannot be located, or an individual needing an interim guardian. The county department of social services where the terminated ward resided has first option to fill the vacancy left by that ward, and the Contractor must make initial contact with that county department of social services within 48 hours of the termination. The Contractor may contact another county department of social services served by the corporation if the initial county department of social services does not identify a ward and establish a time line for filing a motion with the Clerk of Court within 10 working days of the Contractor's first contact, or the initial county department of social services confirms it has no wards to refer to the Contractor. As soon as the Contractor has knowledge of its replacement plan and prior to being appointed as guardian of a replacement ward and submitting a monthly invoice that includes the name of the ward, the Contractor must submit the DAAS Guardianship Replacement Information Form to the Adult Protective Services/Guardianship Coordinator and the Guardianship Consultant at the Division, via email (per obligations of the NCDHHS Business Associate Addendum), fax or US Postal Service. This form should include the following information:
- (1) Verification that the replacement ward is (1) a ward with a diagnosis of an intellectual or developmental disability, mental illness or substance use disorder who is currently a ward of a county department of social services; or (2) an individual with a diagnosis of an intellectual or developmental disability, mental illness or substance use disorder for whom the county department of social services would be appointed guardian; and
 - (2) A narrative of the circumstances of the vacancy and the actions taken to fill the vacancy, including all communications with the involved county department of social services and Clerk of Court.

13. Ensure that all allocated slots are effectively utilized throughout the contractual year. When a slot becomes vacant, the Contractor will fill the slot within 60 calendar days of the previous ward's date of termination. If the Contractor is unable to fill the vacant slot within the timeframe, the Division reserves the right to review the vacancy situation and the actions taken by the Contractor to fill the vacancy, and to reallocate the vacant slot if the Contractor is unable to effectively utilize the slot.
14. Notify the Adult Protective Services/Guardianship Coordinator and the Guardianship Consultant at the Division of any adult protective services reports concerning wards covered in this contract as soon as the Contractor has knowledge of the report.
15. File with the various Clerks of Court any and all motions necessary to fulfill its obligations as a guardian under Chapter 35A of the North Carolina General Statutes.
16. In the event that the contractor seeks to be removed as guardian, when and where there is a need for a successor guardian, the contractor agrees to file all necessary motions before the Clerk of Court and to develop a plan to assure that each ward covered by the contract has continued services by a legal guardian. Plans should be submitted to DAAS at least 45 calendar days in advance of a proposed change. The plan should include the ward(s) names, county of location, documented contacts with clerk(s) and potential successor guardian(s).
17. In the event that there is a successor guardian appointed, the resigning guardian shall provide to the successor guardian(s) all pertinent court records, medical and psychological records, as well as any financial records maintained on each ward.

Compensation

1. The Contractor shall submit monthly invoices to the Division.
2. Each monthly invoice shall list the name of each ward receiving guardianship services during the month in question.
3. The Contractor must submit its invoices for the months of July through May by the 10th working day of the following month, and upon approval by the Division, receive payment within 30 days. The Contractor must submit its invoice for the month of June 2019 by no later than June 9, 2019, to allow for payment before the end of the State's 2018-2019 Fiscal Year.
4. The Division will pay the Contractor at the rate of \$226.09 per-ward-per-month for a maximum of (number) eligible wards.
5. The Contractor must provide guardianship services to a ward for at least the first day of the month for which payment is requested in order to receive payment for the named ward.