Regulatory Analysis

Notice of Intended Action to be published: 441—Chapter 231
"Office of Public Guardian"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 231E and 633
State or federal law(s) implemented by the rulemaking: Iowa Code chapters 231E and 633

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

June 3, 2025 11 a.m.	Microsoft Teams Meeting ID: 244 623 271 706 Passcode: Fe7Jj6DN

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Phone: 515.829.6021
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Purpose and Summary

This proposed chapter implements the Office of Public Guardian as created in Iowa Code chapter 231E and establishes standards and procedures for those appointed as public guardians. It also establishes the qualifications of consumers eligible for services. This proposed chapter is being moved from agency [17], 17—Chapter 22, to agency [441] pursuant to 2023 Iowa Acts, Senate File 514.

The Office of Public Guardian provides assistance to both public and private guardians, conservators, and representative payees throughout the state in securing necessary services for their protected persons and clients, and to assist guardians, conservators, representative payees, protected persons, clients, courts, and attorneys in the orderly and expeditious handling of guardianship, conservatorship, and representative payee proceedings.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs associated with this proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

Iowa adults who are unable to meet essential requirements to maintain their physical health or to manage essential aspects of their financial resources and are in need of guardianship, conservatorship, or representative payee services will benefit from this proposed chapter.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

In SFY 2023, the Office of Public Guardian served a total of 103 protected persons. In SFY 2024, the program served 143 protected persons.

- **Qualitative description of impact:**

This proposed chapter is being updated to reflect current practices and procedures.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department incurs personnel and other administrative costs to implement this proposed chapter.

- **Anticipated effect on state revenues:**

This proposed chapter has no impact on state revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Administrative rules are required by Iowa Code section 231E.4.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Because rulemaking is required by the Iowa Code, no other alternatives were considered.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This proposed rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** 441—Chapter 231:

CHAPTER 231
OFFICE OF PUBLIC GUARDIAN

441—231.1(231E,633) Purpose. This chapter implements the office of public guardian as created in Iowa Code chapter 231E and establishes standards and procedures for the state office of public guardian and local offices of public guardian. It also establishes the qualifications of consumers eligible for services.

441—231.2(231E,633) Definitions. Words and phrases used in this chapter are as defined in Iowa Code chapter 231E or 633 unless the context indicates otherwise. The following definitions also apply to this chapter:

"Case opening" means the internal administrative process used by the local office in establishing a temporary or ongoing case, including but not limited to collecting and reviewing necessary financial, legal, medical or social history information pertaining to the protected person or client or the protected person or client's estate; opening bank or other financial accounts on the protected person or client's behalf; assigning staff to perform public guardianship responsibilities for the protected person or client; collecting and receiving the protected person or client's property; creating files, summaries and other documents necessary for the management of the protected person or client or the protected person or client's estate; and any other activities related to preparing for and assuming the responsibilities as a public guardian.

"Evaluation" means a comprehensive, in-depth evaluation to identify an individual's current situation, ability to function, strengths, problems, and care needs in the following major functional areas: physical health, medical care utilization, activities of daily living, instrumental activities of daily living, mental and social functioning, financial resources, physical environment, and utilization of services and support.

"Fee" or *"fees"* means any costs assessed by the state office or a local office against a protected person or a client for public guardianship services.

"Guardian case manager" means an employee of the state office or a local office, or a contractor of a local office, who provides public guardianship services to protected persons or clients or who supervises employees, contractors, or volunteers who provide public guardianship services to protected persons or clients. A guardian case manager does not include employees or contractors whose responsibilities are strictly administrative in nature.

"Program" means the activities and services offered by the office of public guardian pursuant to Iowa Code chapter 231E.

"Record" means any information obtained by the state or local office in the performance of its duties.

441—231.3(231E,633) Public guardian qualifications. All public guardians shall have graduated from an accredited four-year college or university or shall have an equivalent combination of education and full-time equivalent work experience working with older adults, people with disabilities, or people overcoming social, economic, psychological or health problems. All guardian case managers shall be certified by the Center for Guardianship Certification within 12 months of assuming duties as a guardian case manager. This certification shall be kept current while the person is serving as a guardian case manager.

441—231.4(231E,633) Ethics and standards of practice. The state office adopts the National Guardianship Association Standards of Practice adopted in 2000, and revised in 2022, and as amended to October 1, 2025, as a statement of the best practices and the highest quality of practice for persons serving as guardians or conservators. The adoption of standards of practice in this document is not intended to amend or diminish the statutory scheme, but rather to supplement and enhance the understanding of the statutory obligations to be met by public guardians when serving as a public guardian. Upon appointment to serve a protected person or client, the public guardian shall perform all duties imposed by the court or other entity having jurisdiction and imposed by applicable law and, as appropriate, shall utilize standards found in the National Guardianship Association Standards of Practice as amended to October 1, 2025. Representative payees will adhere to the standards of the Social Security Administration, as well as any service contracts or grants established by the department.

441—231.5(231E,633) Staffing ratio. The state office or a local office will be responsible for no more than 40 protected persons per full-time equivalent guardian case manager at any one time. In the state office's sole discretion, the state office or a local office may exceed staffing ratios only under the following circumstances:

1. A priority situation exists as defined in subrule 231.7(2), and
2. Acceptance of case(s) will not adversely affect services to current protected persons or clients.

441—231.6(231E,633) Conflict of interest. A conflict of interest arises when the state office or a local office serving a protected person or client has any personal or departmental interest that is or may be perceived as self-serving or adverse to the position or best interest of the protected person or client. When assigning the state office or a local office, all reasonable efforts shall be made to avoid a conflict of interest or the appearance of a conflict of interest.

231.6(1) The assigned state office or local office shall not:

a. Provide direct services to the protected person or client receiving public guardianship services;

b. Enter into any transaction, take any action, or make any decision related to the protected person's or client's finances that would benefit the state office or a local office; any of the state office's or a local office's employees, volunteers, or contractors; or any relatives of any of the state office's or a local office's employees, volunteers, or contractors;

c. Employ friends or family to provide services to the protected person or client for a fee; or

d. Solicit or accept incentives from service providers.

231.6(2) The state office or a local office shall be independent from all service providers, thus ensuring that the public guardian remains free to challenge inappropriate or poorly delivered services and to advocate on behalf of the protected person or client.

441—231.7(231E,633) Individuals eligible for services. The office of public guardian will seek to restrict appointments to only those necessary. The state office or a local office will not accept an appointment based upon a voluntary petition unless that appointment is as a successor guardian or conservator and the court has, after notice and hearing, found by clear and convincing evidence that the protected person meets the legal standard for appointment of a guardian in Iowa Code section 633.552, the legal standard for appointment of a conservator in Iowa Code section 633.553, or both.

231.7(1) In order to qualify for services, an individual shall meet all of the following criteria:

a. Is a resident of the state of Iowa;

b. Is aged 18 or older or is at least 17 years and six months of age for appointment of a guardian or conservator on a standby basis for a minor approaching majority pursuant to Iowa Code section 633.567;

c. Does not have a suitable individual or appropriate entity willing and able to serve as guardian, conservator, or representative payee;

d. Is "incompetent" as defined in Iowa Code section 633.3(25) (for appointment of a guardian or conservator) or is incapable of managing their social security or supplemental security income (SSI) payments as determined by the Social Security Administration (for representative payee);

e. Is an individual for whom guardianship, conservatorship, or representative payee services are the least restrictive means of meeting the individual's needs; and

f. A viable plan for improving the care and safety of the individual is possible.

231.7(2) The following cases shall be given priority:

a. Those involving abuse, neglect or exploitation that public guardianship services can address;

b. Those in which a critical medical decision must be made; or

c. Any situation that may cause serious or irreparable harm to the individual's mental or physical health or finances.

441—231.8(231E,633) Application and intake process—guardianship, conservatorship, and representative payee.

231.8(1) Any person may submit an application for services on behalf of an individual believed to be in need of public guardianship services. Applications are available on the department's website. Incomplete applications will not be considered. Communication with the state office or a local office or the submission of an application does not guarantee eligibility for public guardianship services and does not create any type of fiduciary relationship between the state office and the individual on whose behalf the application is submitted.

231.8(2) The state office will make a determination regarding eligibility of the individual and acceptance or denial of the case based on a review of the completed application.

231.8(3) The state office will grant or deny an application for services as soon as practicable, but, in any event, within 60 days of receipt of the application.

231.8(4) Failure of the state office to grant or deny an application within the specified time period may be deemed a denial of the application by the state office.

231.8(5) In the event that the state office or a local office does not have sufficient resources to accept new cases, the state office will place applications that are eligible for public guardianship services on a waiting list.

a. Cases will be taken off the waiting list in the order in which they were received.

b. Cases that meet the priority criteria outlined in subrule 231.7(2) will be moved to the top of the waiting list and will be taken off the waiting list in the order in which they were received.

231.8(6) The state office or a local office will only file a petition to be appointed as guardian or conservator of an individual if there is no person or entity that has an interest in the welfare of the adult who could petition pursuant to Iowa Code section 633.556(1).

441—231.9(231E,633) Case records.

231.9(1) The state office or a local office will establish a case record for each protected person or client the state office or a local office is appointed to serve. At a minimum, the case record must contain demographic information, including:

a. Copies of the assessments, medical records, and updates, if any;

b. A separate financial management folder containing an inventory, an individual financial management plan, a record of all financial transactions made on behalf of the protected person or client by the public guardian, copies of receipts for all expenditures made by the public guardian on behalf of the protected person or client, and copies of all other documents pertaining to the protected person or client's financial situation as required by the state office;

c. Itemized statements of costs incurred in the provision of services for which the public guardian received court-authorized reimbursement directly from the protected person or client's estate; and

d. Other information as required by the state office.

231.9(2) All case records maintained by the public guardian shall be confidential as provided in Iowa Code section 231E.4(6)*"g."*

441—231.10(231E,633) Confidentiality. Notwithstanding Iowa Code chapter 22, the following provisions shall apply to records obtained by public guardians in the course of their duties.

231.10(1) Unless otherwise provided by rule or law, records and information of the state office of public guardian are governed by 441—Chapter 9.

231.10(2) Records and information obtained as part of an application for public guardianship services are confidential.

a. If more than one application for public guardianship services is submitted on behalf of the same individual, the state office may disclose the following information to the applicants:

(1) The date of any other application submitted on behalf of the individual;

(2) The name and contact information of the other applicant or applicants;

(3) The status of the other application or applications, including copies of any notices sent to the other applicant or applicants.

b. The state office or a local office may disclose the existence of an application and information contained in an application to family members, service providers, case managers, or others named in an application for public guardianship services in order to gather supplemental information necessary to determine eligibility for public guardianship services or to attempt to locate an individual for whom an application was submitted.

c. The state office may release records and information obtained as part of an application for public guardianship services to a local office of public guardian in anticipation of the local office providing public guardianship services to the individual.

231.10(3) Records and information about a protected person or client obtained or maintained for use by the state office or a local office of public guardian are confidential. Once appointed as an individual's guardian, conservator, or representative payee, the state office or a local office may, at the state office's or a local office's sole discretion, exercise the authority granted by the court or federal agency to obtain, disclose, or consent to the release of confidential records or information about the protected person or client if doing so is necessary and in the best interest of the protected person or client. The state office or a local office will obtain the written consent of the protected person or client prior to obtaining or disclosing confidential records or information outside the scope of the state office's or a local office's authority. Disclosure of a record or information under this rule does not affect the confidential nature of the record.

231.10(4) Records and information may be redacted so that personally identifiable information is kept confidential.

231.10(5) The state office or a local office may enter into contracts or agreements with public or private entities in order to carry out the state office's or a local office's official duties. Information necessary to carry out these duties may be shared with these entities.

441—231.11(231E,633) Termination or limitation. Either a local office or the state office may seek the termination or limitation of a local office's duties under circumstances including:

1. Public guardianship services are no longer needed or do not benefit the protected person or client;
2. The protected person's or client's assets allow for hiring a paid guardianship or conservatorship service provider;
3. A conflict of interest or the appearance of a conflict of interest arises;
4. The state or a local office lacks adequate staff or financial resources;
5. The protected person or client moves outside the state or outside the local office's service area;
6. Public guardianship is no longer the last resort for assistance;
7. The contract between the state office and a local office is terminated by either party and there is no other local office that can be appointed as a successor;
8. Termination of the program by law; or
9. Other circumstances that indicate a need for termination or limitation.

441—231.12(231E,633) Service fees.

231.12(1) The state office and a local office shall be entitled to reasonable compensation for their public guardianship services as determined by using the following criteria:

a. Such compensation shall not exceed actual costs.

b. Collection of fees may be adjusted or waived based upon the ability of the protected person or client to pay, upon whether financial hardship to the protected person or client would result, or upon a finding that collection of such fees is not economically feasible.

c. The state office may collect a fee from the estate of a deceased consumer.

231.12(2) Fees for guardianship and conservatorship services provided by the state office will be assessed according to the following fee schedule:

Action or Responsibility	Fee
One-time case opening:	
Guardianship	$200
Conservatorship	$300
Guardian and conservatorship	$500
Monthly guardianship and/or conservatorship services.	
Total value of liquid assets:	
$1,500 - $9,999	$100
$10,000 - $19,999	$125
$20,000 - $29,999	$150
$30,000 - $39,999	$175
$40,000 - $49,999	$200
$50,000 - $59,999	$225
$60,000 - $69,999	$250
$70,000 - $79,999	$275
$80,000 - $89,999	$300
$90,000 - $99,999	$325
$100,000 or above	$350

231.12(3) Fees for guardianship and conservatorship services provided by a local office will be assessed at the rates established by contract between the state office and a local office. Contracts between the state office and local offices are public records.

231.12(4) Fees for representative payee services will be as established by the federal governmental agency that appoints the representative payee.

231.12(5) Notwithstanding the foregoing, the state office or a local office may collect fees pursuant to court order for other actual, necessary and extraordinary services or expenses, including legal fees. Necessary and extraordinary services or expenses may include but are not limited to services or expenses related to:

a. Recovering real or personal property or funds belonging to the protected person,

b. Bringing or defending against a suit or claim on behalf of the protected person,

c. Challenging the actions or accounting of a prior fiduciary, or

d. Establishing a trust for the benefit of the protected person.

231.12(6) The state office or a local office may collect fees even when claims of creditors of the consumer may be compromised.

441—231.13(231E,633) Denial of services—appeal.

231.13(1) An application for services will be denied when it is determined by the state office that:

a. The application is incomplete;

b. The individual is not a resident of Iowa;

c. The individual is not aged 18 or older (or at least 17 and 6 months of age for appointment of a guardian or conservator on a standby basis for a minor approaching majority pursuant to Iowa Code section 633.567);

d. The individual has a suitable individual or appropriate entity willing and able to serve as guardian, conservator, or representative payee;

e. The individual has adequate financial resources available to compensate a professional guardian, conservator, or representative payee;

f. The individual is not incompetent as defined in Iowa Code section 633.3(25) (for appointment of a guardian or conservator);

g. The individual is not incapable of managing the individual's social security or SSI payments as determined by the Social Security Administration (for representative payee);

h. The individual is not an individual for whom guardianship, conservatorship, or representative payee services are the least restrictive means of meeting the individual's needs; or

i. A viable plan for improving the care and safety of the individual is not possible.

231.13(2) Notice of denial will be provided in accordance with 441—Chapter 16.

231.13(3) Applicants wishing to challenge a denial based on paragraph 231.13(1)*"f"* may file a petition pursuant to Iowa Code section 633.556 within 30 days of the date of the denial and give notice of the filing of the petition to the state office of public guardian.

231.13(4) Applicants wishing to challenge a denial for any other reason listed in subrule 231.13(1) may appeal in accordance with 441—Chapter 7.

231.13(5) If the state office or a local office petitions to terminate services, a protected person or client may challenge that decision in the appropriate court or federal agency.

441—231.14(231E,633) Contesting the actions of a guardian, conservator, or representative payee.

231.14(1) Each local office shall develop a complaint procedure for the internal investigation and resolution of complaints. The complaint procedure shall be made available on the local office's website. The local office will provide a copy of the complaint procedure to each protected person and client.

231.14(2) If a complaint is not resolved by the local office to the satisfaction of the complainant, the complainant may express the complainant's concerns to the state office in writing or verbally.

231.14(3) The state office will advise the complainant that the complainant may also raise any concerns with the court or with the federal governmental agency with oversight of the representative payee.

These rules are intended to implement Iowa Code chapters 231E and 633.