

November 1, 2021

W. Charles Smithson  
Secretary of the Senate  
State Capitol Building  
Des Moines, Iowa 50319

Meghan Nelson  
Chief Clerk of the House of Representatives  
State Capitol Building  
Des Moines, Iowa 50319

Re: Office of Public Guardian Annual Report

Dear Mr. Smithson and Ms. Nelson:

The Office of Public Guardian submits this report for state fiscal year 2021 pursuant to Iowa Code §231E.4(3)(i).

### **Local Offices of Public Guardian**

Iowa Code §231E.4(3)(a) requires the Office of Public Guardian to establish local offices of public guardian.<sup>1</sup> Since November 2017, the Office of Public Guardian has had a single Local Office of Public Guardian through a contract with Corridor Care Management, LLC. Originally, Corridor Care Management agreed to serve as local office of the southeastern portion of the state, but in May 2018 the contract was amended to cover the entire state.

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<sup>1</sup> Iowa's Office of Public Guardian is modeled on the Florida Office of Public and Professional Guardians (OPPG). According to the Florida Department of Elder Affairs' 2020 Summary of Programs and Services, they had 17 public guardian programs throughout the state serving approximately 5,289 wards. In addition to providing public guardianship services, the Florida OPPG also maintains a registry of professional guardians, developed standards of practice for professional guardians, and investigates complaints against professional guardians. For SFY2019-2020, the Florida OPPG had a budget of \$9,703,357.

[https://elderaffairs.org/wp-content/uploads/2020\\_SOPS\\_C.pdf](https://elderaffairs.org/wp-content/uploads/2020_SOPS_C.pdf)

In FY2021, the Local Office of Public Guardian served a total of 80 consumers. Of these, 61 cases were opened prior to the start of the fiscal year. Nineteen new cases were opened during the fiscal year. Eighteen cases were closed during FY2021: sixteen consumers being served by the office passed away, and two consumers had their rights restored after regaining decision-making capacity.

### **Expanding the Capacity of Professional Guardianship Providers**

Pursuant to Iowa Code §231E.4(3)(f), the Office of Public Guardian maintains a listing of professional guardianship providers in the state. The OPG has worked to expand access to professional guardianship services, especially in the western part of the state. Corridor Care Management has subcontracted with two other professional guardianship providers during their tenure as Local Office of Public Guardian – Decisions for Life, LLC in Altoona and Guardians of Northeast Iowa, Inc. in Calmar.

These subcontracting experiences have been mutually beneficial. Corridor Care Management is located in Coralville, so the subcontractor relationships allowed them to reduce travel costs and staff time spent visiting and coordinating care for clients in areas of the state farthest from their office. The subcontractor relationships also aided both of these providers in expanding their businesses and developing experience with the statutory and contractual requirements for being a local office of public guardian. Both Guardians of Northeast Iowa and Decisions for Life have also established contracts for guardianship services with one or more MHDS regions in the geographic areas they serve.

The Office of Public Guardian and the Iowa Department on Aging have begun discussions with the Iowa Department of Human Services to identify possible avenues of funding for OPG through a partnership with DHS Adult Protective Services

as well as through IDA's existing Medicaid Administrative Claiming system. Additionally, there is potential for allowing an additional income deduction for guardianship expenses when calculating client participation for Medicaid beneficiaries residing in facilities.<sup>2</sup> This would expand access to professional guardianship services to a significant number of older adults and people with disabilities. It would also draw on federal Medicaid funds in addition to state funds for the OPG, as approximately two-thirds of current OPG consumers reside in facilities, and all of them are either on Medicaid or have pending Medicaid applications.

### **Office of Public Guardian Waiting List**

In 2018, the OPG reached its capacity for the number of consumers that can be served at the current funding level. As a result, the OPG established a waiting list for public guardianship services on October 9, 2018. The waiting list has continued to grow since that time, even with continual efforts to identify alternatives to public guardianship and to remove from the waiting list individuals who no longer need or qualify for public guardianship services.

- In FY2019, the OPG received 105 applications for service
  - 8 applications were denied because they were incomplete

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<sup>2</sup> At least sixteen states have similar provisions related to income deductions for guardianship expenses, with Texas and Washington having the most robust models that accurately reflect the actual cost of guardianship services and related court and attorney expenses.

Texas: <https://statutes.capitol.texas.gov/Docs/HR/htm/HR.32.htm#32.02451> and <https://statutes.capitol.texas.gov/Docs/ES/htm/ES.1155.htm#1155.202>

Washington: <https://apps.leg.wa.gov/wac/default.aspx?cite=182-513-1530>

- 49 were denied because they were not eligible for public guardianship services.
- 17 were withdrawn by the applicant.
- 22 cases were accepted without first being placed on the waiting list, either because they were priority cases or because they were accepted before the waiting list was started.
- 8 more cases were accepted after first being placed on the waiting list.
- In FY2020, the OPG received 46 applications for service.
  - 4 applications were denied because they were incomplete
  - 14 were denied because they were not eligible for public guardianship services.
  - 3 others were withdrawn by the applicant.
  - 1 priority case was accepted without first being placed on the waiting list.
  - 3 more cases were accepted after first being placed on the waiting list.
  - 21 cases remain on the waiting list.
- In FY2021, the OPG received 97 applications for service
  - 13 applications were denied because they were incomplete
  - 19 were denied because they were not eligible for public guardianship services.
  - 9 others were withdrawn by the applicant.
  - 9 priority cases were accepted without first being placed on the waiting list.
  - 1 other case was accepted after first being placed on the waiting list.
  - 46 cases remain on the waiting list

At the time of this report, there are 82 applications on the waiting list and 5 additional applications pending review. The oldest application currently on the waiting list was received in September 2019.

At the start of FY2022, the OPG served 66 consumers from all areas of the state. The projected cost of serving these consumers was \$223,300. Of the FY2022

appropriations to the Office of Public Guardian, \$217,048 (57%) is budgeted for contractual guardianship and conservatorship services on behalf of these existing consumers. The remainder of the FY2022 appropriations cover the salary and benefits of the State Public Guardian and administrative expenses for the State Office of Public Guardian. Only 3% of the appropriations are non-fixed costs for things such as travel, office supplies, printing, postage, etc. All funding that can be diverted to direct services has been diverted to those services. Without additional funding, the OPG is not able to serve additional consumers.

As a result, the Office of Public Guardian is only accepting appointment in new cases as existing cases are closed. In FY2021, the Office of Public Guardian closed eighteen cases and accepted appointment on nineteen new cases. Of these new cases, eleven met the priority criteria under Iowa Administrative Code 17.22.7(2) while seven met the eligibility criteria in Iowa Administrative Code 17.22.7(1) but did not meet priority criteria. The applications that met priority criteria were on the waiting list for an average of 81.5 days. The applications that did not meet priority criteria were on the waiting list for an average of 653.5 days.

### **Effect on Other Publicly Funded Services in Iowa**

The long wait for public guardianship services puts a strain on other publicly funded service providers in the state.

- Cases involving abuse, neglect, or financial exploitation are priority cases for the OPG. However, DHS adult protective services workers often have emergency need for guardians and conservators, which the OPG is not equipped to meet. The OPG is working with DHS to develop a pilot project in the Eastern Iowa and Cedar Rapids service areas to provide public guardianship services for dependent adults involved with Adult Protective Services.

- In 2020, six of Iowa's MHDS regions reported paying some amount for guardianship/conservatorship services for people in their service areas. Combined, these six regions reported paying \$201,077.40 for services to 293 adults and three minors. The reports do not indicate whether these payments were to professional guardians for ongoing services or whether these were payments for other expenses related to guardianship and conservatorship cases, such as attorney's fees for filing a petition.
- Hospitals, including the University of Iowa Hospital and Clinics, often apply for public guardianship services on behalf of patients who are medically ready for discharge but whose impaired decision-making capacity prevents them from safely returning home or consenting to facility placement. Without timely access to public guardianship services, these patients remain hospitalized much longer than necessary, other patients face reduced access to hospital care, and hospitals face increased costs in the form of uncompensated care. This has become a more urgent need since the Covid-19 pandemic has led to shortages of hospital beds across the state. Timely access to public guardianship services could alleviate these shortages by helping patients discharge safely from the hospital.
- Nursing facilities and home and community-based service providers often serve people whose impaired decision-making capacity affects their ability to consent to medical treatment, manage their finances, protect themselves from harm, or provide for their basic necessities. These service providers are called on to fill in gaps for their consumers and respond to challenging or crisis situations that might have been avoided with timely access to public guardianship services.

### **Education of Guardians, Conservators, and the Public about Substitute Decision Making**

The Office of Public Guardian has continued outreach efforts throughout the state to educate guardians, conservators, and the general public about guardianship,

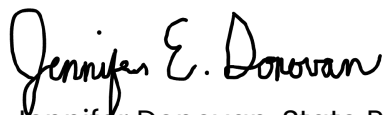
conservatorship, and less restrictive alternatives for supporting individuals who need assistance with decision making. In FY2021 the State Public Guardian presented to sixteen groups with a combined total of 1,011 attendees.

The Office of Public Guardian has established a curriculum committee as required by Iowa Code §231E.5(3)(i) to develop an education and training program for Iowa guardians, conservators, and representative payees. However, there are no funds in the OPG budget to cover any initial or ongoing costs associated with developing this program outside of existing staff and resources.

Additionally, the Office of Public Guardian is developing materials related to supported decision making in an effort to educate Iowans about this less-restrictive alternative to guardianships and conservatorships.

If you have questions, please contact the Office of Public Guardian at (515) 975-5084 or via email at [jennifer.donovan@iowa.gov](mailto:jennifer.donovan@iowa.gov).

Sincerely



Jennifer Donovan, State Public Guardian

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