

November 1, 2022

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 2022 pursuant to Iowa Code §231E.4(3)(i).

About the Office of Public Guardian

Iowa's Office of Public Guardian serves as guardian or conservator of last resort for the neediest Iowans who:

- Are 18 years of age or older
- Do not have suitable family or other persons willing and able to serve as a guardian or conservator
- Are incompetent as defined in Iowa Code chapter 633
- A guardianship or conservatorship is the last resort for meeting the person's needs

Priority is given to those persons who are experiencing abuse, neglect, or exploitation; persons who need critical medical decisions to be made on their behalf; and other situations where serious or irreparable harm could occur. Iowa Admin Code 17-22.7(2).

The Office of Public Guardian attempts to direct people to alternatives to public guardianship whenever possible as well as supporting private guardians and conservators through training and education.

Office of Public Guardian Funding

The Office of Public Guardian (OPG) has reached capacity for the number of lowans that can be served at the current state funding level. In SFY22, the Office of Public Guardian received \$380,000 in state appropriations, \$217,048 (57%) of which was budgeted for direct guardianship and conservatorship services. This amount has remained essentially unchanged since 2016. However, this funding - which has allowed the Office of Public Guardian to serve approximately 60 to 65 clients at a time - has been insufficient to meet the need for public guardianship services. In October 2018, the Office of Public Guardian began operating a waiting list for services.

By January 2022, there were 81 applications on the waiting list - the oldest of which dated back to September 2019.

In February 2022 the OPG received \$502,200 of temporary federal ARPA funding to clear the waiting list. Beginning in March 2022 the OPG processed the 81 applications that were on the waiting list.

In March 2022 the OPG began a partnership - the Care Transitions Pilot Project - with the Iowa Department of Health and Human Services to provide public guardianship services to individuals receiving adult protective services in the Eastern Iowa and Cedar Rapids Service Areas. These cases are funded by federal CARES Act and ARPA funds received by HHS Adult Protective Services.

As a result of the ARPA funding and the Care Transitions Project partnership, the OPG increased its caseload by 55% - from 62 consumers in January of 2022 to 96 as of June 30, 2022.

The ARPA funding and Care Transitions Project funding are available through September 30, 2024. Expanding stable funding sources will be critical for the OPG to meet the need for future services.

The Office of Public Guardian continues to explore supplementing its funding through IDA's existing Medicaid Administrative Claiming system. This would allow the OPG to draw down federal Medicaid dollars to cover its Medicaid-related activities. Nearly all of the OPG's clients are on Medicaid or have a pending Medicaid application.

Because guardianship is a long-term service for most consumers served by the OPG, there is a high level of carryover of existing consumers from year to year. Without additional long-term funding, the OPG's ability to accept new consumers is dependent on attrition.

The OPG's attrition rate consists of consumers who no longer require services because:

- they have died
- a successor guardian can be appointed
- they no longer need guardianship
- they have moved out of state

The OPG's attrition rate averages about 2% per month.

The OPG had to resume its waiting list almost immediately after clearing the waiting list. Applications have increased at an alarming rate starting in March 2022 due to word of mouth about increased funding for the office. As a result, the OPG already has 52 applications on the waiting list or pending review. Assuming that applications continue at a rate of 6-8 eligible applications per month, by July 1, 2023 the waiting list will be at 93.

Additionally, with the current funding, the OPG is limited in its ability to carry out its duties under Iowa Code 231E.

Increased funding levels would allow the OPG to:

- Expand the number of local offices, increasing the availability of public guardianship services across the state
- Provide administrative support and assistance with the state office's monitoring, oversight, training, and education programs
- Provide public guardianship services in a timely manner to lowans in need of such services without a waiting list
- Enhance information gathering and data analysis regarding public guardianship services
- Accept appointments directly from the courts as contemplated in Iowa Code § 231E.6
- Intervene in cases as contemplated in Iowa Code §231E.7
- Develop a training program for guardians and conservators and update it as laws and best practices change
- Develop an information and referral service for the public relating to guardianship, conservatorship, and representative payee services as contemplated in Iowa Code §231E.4(3)(f) and (g)

Local Offices of Public Guardian

Iowa Code §231E.4(3)(a) requires the Office of Public Guardian to establish local offices of public guardian. 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.

Using the ARPA funding, the OPG was able to contract with a second provider, Guardians of Northeast Iowa, Inc. An RFP was issued in August 2022 with the intent of formally establishing two permanent local offices of public guardian.

In FY2022, the Local Office of Public Guardian served a total of 106 consumers. Of these, 62 cases were opened prior to the start of the fiscal year. Forty-four new cases were opened during the fiscal year. Seventeen cases were closed during FY2022: eleven consumers being served by the office passed away, one consumer had a successor guardian appointed, and two consumers had their rights restored after regaining decision-making capacity. Three cases were dismissed after the courts found a permanent guardianship was not needed.

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 agreements have allowed the local offices of public guardian to reduce travel costs and have allowed staff to be closer to the client for visiting and coordinating care. Both Guardians of Northeast Iowa and Decisions for Life have been awarded contracts to serve as local offices of public guardian based on the August 2022 RFP.

Additionally, IDA and HHS have discussed the potential for allowing an additional income deduction for guardianship expenses when calculating client participation

for Medicaid beneficiaries residing in facilities.¹ This would expand access to professional guardianship services for 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 individuals from the waiting list 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
 - 49 were denied because they were not eligible for public guardianship services.
 - 17 were withdrawn by the applicant.

¹ At least sixteen states have similar provisions related to income deductions for guardianship expenses, with Texas and Washington having models that 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>

- 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 remained 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 remained on the waiting list
- In FY2022, the OPG received 82 applications for service
 - 3 applications were denied because they were incomplete
 - 27 were denied because they were not eligible for public guardianship services
 - 4 others were withdrawn by the applicant
 - 10 priority cases were accepted without first being placed on the waiting list
 - 13 other cases were accepted after first being placed on the waiting list

- 24 cases remain on the waiting list

At the time of this report, there are 52 applications on the waiting list or pending review. The oldest application currently on the waiting list was received in January 2022.

At the start of FY2023, the OPG served 90 consumers from all areas of the state. The projected cost of serving these consumers was \$435,800. This included a projected \$206,800 of state appropriations, \$208,000 of ARPA funds and \$21,000 of Care Transitions Project funds. Starting in November 2022, service rates will increase for both local offices.

Of the FY2023 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 FY2023 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.

As a result, the Office of Public Guardian is only accepting appointment in new cases under the Care Transitions Pilot project.

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, Iowa HHS adult protective services workers often have

emergency need for guardians and conservators, which the OPG is not equipped to meet. The OPG has worked with Iowa HHS 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.

- 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. Using the ARPA funding, the OPG was able to serve hospitalized individuals whose applications had been on the waiting list. On average, those individuals were hospitalized for 127 prior to OPG accepting their case and were discharged within 41.5 days after OPG accepted their case. However, limited funding has prevented the OPG from continuing to take cases. Hospitalized individuals in need of public guardianship services are once again being placed on a waiting list for services.
- 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 FY2022 the State Public Guardian presented to twenty-one groups with a combined total of 478 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.

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

Sincerely,

Jennifer Donovan, Public Guardian

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