**COUNTY GUARDIANSHIP GUIDELINES**

**DRAFT: 7/5/2017**

**Initial ADRC Intake Call and Key Assessment Questions:**

1. **Does this individual need a legal decision maker?** A guardian can make decisions about someone’s personal well-being, health, property and finances.
2. **Does this individual likely meet the court’s incompetency standards?** Incompetency is based on the individual having an *impairment* defined as developmental disability, serious and persistent mental illness, degenerative brain disorder, or other like incapacities. These impairments have to be expected to continue indefinitely and be defined as to substantially impair an individual from providing his or her own care.
3. **What type of income and assets does the individual have?** County will proceed on a guardianship action on behalf of the individual if the individual has less than $2000 assets If this individual exceeds these limits, than a private guardianship can be suggested. Private guardianships do have an estimated cost of $2-5,000. Lawyers suggested are…
4. **Does this person need a guardianship due to placement?** 
   * **When is the proposed discharge date?**
   * **What type of placement and level of restrictiveness is being recommended?** 16 bed nursing homes need to be *protective placements*
5. **How long does it take to get a guardian in place?** A typical process can take approximately 60-90 days if the guardianship is not contested.
6. **Others**

COUNTY GUARDIANSHIP CONSIDERATIONS:

1. Timeframe:

* Adult Guardianships: Filing of Petition occurs and hearing can be held within 30 days of filing.
* Transitional Adults: Court can be held within 90 day before individual turns 18. Filing of petition should occur after 17.5 and social worker should have info to Corporation Counsel by 70 days before 18 to allow 60 days for the court to schedule hearing

1. Required elements to request a petition for permanent guardianship include:

* INTERESTED PARTIES
  + Interested parties’ names, address, and phone number
  + WI. Stats. 54.01 lists the following relationships
    - Identified individual if 14 years old or older
    - Individual’s spouse
    - Individual’s children
    - Individual’s Parents
    - Individual’s prospective guardian
    - Individual’s trustee
    - Individual’s power of attorney for health and/or finance
    - If identified individual is a minor, the individual who has exercised principal care and custody 60 days prior to filing the petition
* EXAMINER’S REPORT
  + This is completed by a physician or psychologist
    - If consumer is in hospital setting, the hospital needs to be encouraged to have a a physician or psychologist complete one there
    - If consumer is in a nursing home, the nursing home often has internal resources
    - If consumer is at home, a family doctor appointment would be suggested with the APS worker providing documentation OR Behavioral doctor can complete them at ADRC cost as a last resort.

* + The examiner’s report should not be confused with a *statement of incapacity* utilized for power of attorney activation
* Collection of financial information
  + Property values and tax portal
  + Income
  + Bank accounts
  + Insurance policies

1. Required elements to request a petition for temporary guardianship or quick process include:

ACT 187 Requirements:

* Interested parties
* Examiner’s report
* Financial assessment

Temporary guardianships requirements

* Need for physical procedure
* Needs for access to financial information
* No family members
* “likely to be permanent”
* Certificate of incapacity