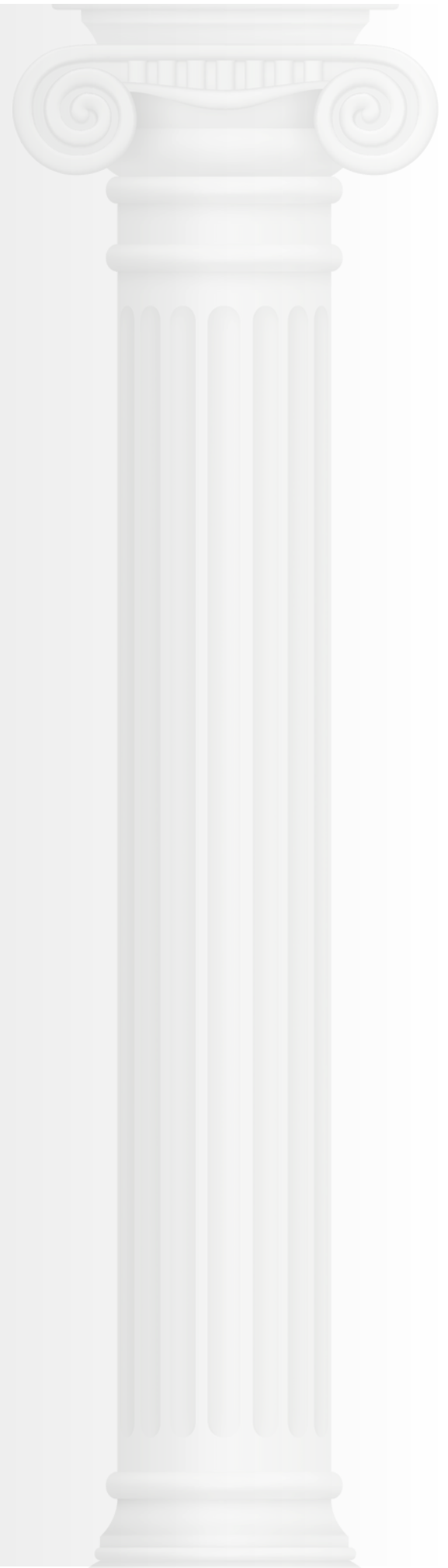




RESOURCE PACKET FOR FAMILY/LAY GUARDIANS IN PENNSYLVANIA





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RESOURCES

Actions Requiring Prior Court Approval for a Person Under Guardianship

GUARDIAN OF THE PERSON ITEMS REQUIRING PRIOR COURT APPROVAL

- Electroconvulsive therapy (ECT)
- Prevent a marriage or consent to divorce
- Sterilization or abortion
- Participation in medical experiment
- Removal of healthy organ
- Psychosurgery
- Commitment to a mental health facility
 - A guardian cannot commit a person under guardianship to a mental health facility. However, if the person with a guardian is in crisis and exhibiting behaviors that may require hospitalization, a person under guardianship must be evaluated by a psychiatrist to determine if there is a need for an involuntary commitment under section 302 of the Mental Health Procedures Act.

GUARDIAN OF THE ESTATE ITEMS REQUIRING PRIOR COURT APPROVAL

- Sale of real estate
 - The sale price of the real estate must be supported by affidavits, attached to the petition to the Court, from two real estate professionals who have inspected the property and are familiar with values in the area, and each provide an opinion of the fair market value of the property. Court approval is also required for the public sale of a home.
- Expending of principal
 - If the income of a person under guardianship does not meet their needs, a court order approving necessary expenditures of principal (savings/investments) is required.
- Gifting
 - All gifts and donations, regardless of value, must be approved by the court. An annual gift limit may be established by the court in an order.
- Estate planning
 - If estate planning is needed due to significant assets of the person under guardianship, the court requires a presentation of the plan for approval.

(continued, next page)

RESOURCES

Actions Requiring Prior Court Approval for a Person Under Guardianship

(continued)

PETITIONING THE COURT FOR APPROVAL

A request for court approval for the items referenced on page 2 is initiated by a petition. A petition is a document filed with the court detailing the request being made by the filer. A petition is commonly filed by an attorney, but an attorney may not be required in all situations. The court may approve or deny the petition with or without a hearing.

- Contact the clerk of the orphans' court in the county where the guardianship was filed to discuss local filing requirements. Contact information for each county can be found at: <https://www.pacourts.us/courts/courts-of-common-pleas/orphans-court-clerks>
- Gather information needed for the petition. The information needed will vary based on the above list of actions requiring court approval.
- Contact an attorney for assistance with filing the petition, if needed.





RESOURCES

Fraud Reporting

REPORT FRAUD: HOTLINES

- Call Medicare at 1-800-633-4227
- Contact Senior Medicare Patrol Resource Center 1-877-808-2468
- PA Assistance Program Fraud Tip Hotline 1-844-347-8477

PENNSYLVANIA OFFICE OF ATTORNEY GENERAL: ONLINE RESOURCES

- Pennsylvania Office of Attorney General website: <https://www.attorneygeneral.gov/>
- Facts on elder abuse, senior protection complaint referral form links, and more can be found at <https://www.attorneygeneral.gov/protect-yourself/seniors/>
- Educational offerings via their Office of Public Engagement can be found at <https://www.attorneygeneral.gov/office-of-public-engagement/programs-for-seniors/>
- Report fraud and elder abuse online at the senior complaint form page, found at <https://www.attorneygeneral.gov/submit-a-complaint/senior-complaint/>





RESOURCES

Fair Share of Household Expenses: Social Security

If you are the guardian of a person living in your household that receives Social Security Administration (SSA) benefits, the person with a guardian's SSA income can be used to pay their fair share of the household expenses.

The cost of the allowable expenses is required to be split evenly amongst all persons, regardless of age, living in the household. For example, if there are three people living in the house in total the person with a guardian would be allowed to pay 1/3 of the allowable household expenses per month using SSA income.

Household Expenses Eligible Under SSA's Fair Share Rules:

- Food
- Rent
- Mortgage
- Property taxes
- Heating fuel
- Gas
- Electricity
- Water
- Sewage
- Garbage collection service

The guardian must document the costs of each household expense and be prepared to provide documentation to the SSA or the court upon request.

Supplemental Security Income (SSI) may be reduced by 1/3 if the person with a guardian is living in the household and is not paying their fair share. This penalty may also apply if someone outside the household is paying any of the household expenses.

The expenses charged to the person with a guardian must be included on the Annual Report of Guardian of the Estate filed with the court by the guardian of the estate (if applicable).

For more information on fair share expenses, visit the SSA website at:

https://www.ssa.gov/OP_Home/cfr20/416/416-1133.htm



RESOURCES

Guardian Log

It is important to keep a log or record of what you do on behalf of the person for whom you are a guardian. Be clear, concise and accurate in what you document. Start with the date, identify key information to include a notification, request for authorization, meeting attended, participating parties, etc.

Indicate issues addressed, decisions made, agreed upon plan for next steps.

Guardian of person log examples:

- Notifications received from a facility/nursing home.
- Permission given for vaccines.
- Emergency room and doctor visits.
- List of medication/new prescriptions.
- Date and discussion in care plan meeting with the treatment team. (Short guiding examples: “The following was discussed...,” “The following changes or additions were made...,” etc.)
- Permission given to case managers or others to take the person with a guardian shopping or other errands.

Guardian of estate log examples:

- Completed and sent in the mail rent rebate application.
- Checking account withdrawals and deposits.
- Purchases using the person with a guardian’s money (keep receipts if available).
- Deposits into resident account at a facility.
- Completed renewal/application for Medical Assistance.
- Signed room and board agreement. Note any increase in cost.
- Requested funds from special needs trust.
- Discussions with banks and other financial institutions.
- Payment of bills.

Your log will provide invaluable help to you in your role as an advocate and decision maker.

When it comes time to fill out the Annual Report of Guardian of the Person your log can help provide you with the information needed to complete the report.

There is no standard “template” or “layout” for a log. Some guardians use a notebook or journal, Excel spreadsheet, or another digital platform. Use the format and layout that will work best for you.



RESOURCES

Getting Organized: Creating a Guardianship File

Keeping a guardianship file is highly recommended. It will help you stay organized and track the personal and/or financial wellbeing of the person under guardianship. It is also a useful tool when it is time to complete the required annual reports for the court.

The file can be a paper or electronic file. Keep the file secure so only you have access to it. It is your responsibility to protect the personal information and privacy of the person with a guardian.

Items to include in the file:

- Court order appointing you guardian
- A copy of annual reports filed with the court
- Court orders and notices related to the guardianship (gift approval, etc.)
- Copy of advance care directive (if applicable)
- Copy of Will

File items for guardian of person:

- Contact information for doctors, residence home, etc.
- Social Security card
- Health insurance/prescription card
- Insurance information (renters, homeowners, car insurance, etc.)
- Access card for SNAP benefits
- Copy of residential agreement
- Medical information sheet to include medical providers and medical conditions
- Medical records of all types, including hospital discharge summaries
- List of medications
- Visitation log to include date of visit, provider seen, reason for visit, next steps/plan, hospitalization dates, and any additional notes.

File items for guardian of estate:

- The Inventory filed with the court
- List of current assets (home, car, bank accounts, etc.)
- List of the sources of income and amounts
- Bill payment log to include recipient, purpose of payment, and amount
- Receipts for all expenditures/payments
- SSA Rep payee reports and information
- Bank account statements
- Investment account statements
- Local, state and federal tax filings
- Copies of rent or homeowners rebate applications
- Copies of benefit applications/renewal forms
- Safe deposit box information



RESOURCES

Informed Consent

Informed consent is the process to make sure you understand the diagnosis and treatment options for a medical situation affecting the person with a guardian before deciding. It is important to have ongoing and clear conversations with the person with a guardian's doctor, or healthcare provider, to gather all information needed to evaluate the situation and provide informed consent.

Before consenting to a medical procedure for a person with a guardian:

- Determine if this decision needs to be made now or can be considered later.
- Determine why this decision needs to be made now rather than later.
- Have a clear understanding of the issue for which informed consent is being sought.
- Have a clear understanding of the options, expected outcomes, risks and benefits of each alternative.
- Determine the conditions that indicate treatment or action.
- Determine what will happen if a decision is made to take no action.
- Obtain a second medical or professional opinion when necessary.
- Obtain written documentation of all reports relevant to each decision.
- Maximize the person's participation in making the decision.
- Obtain relevant input from family, friends and other professionals.
- Determine whether the person has previously stated preferences regarding a decision of this nature.
- Determine what the least restrictive alternative is for the situation.
- Petition the court if the healthcare decision requires prior court approval.

Examples of when informed consent is required include:

- Anesthesia
- Biopsies
- Blood transfusions
- Cancer treatments
- Certain vaccines
- Childbirth interventions
- Clinical trials
- Medical implants
- Most surgeries
- Treatment with high-risk medications (opioids, etc.)
- And more



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