

WA Office of Public Guardianship Program Manual

Recently Revised January 31, 2021

Providing decision making support for individuals that continue to defy traditional approaches through innovative and flexible options



Contents

- Program Overview: Priorities, Referrals for Services, Acceptance and Transitions..... 1
 - Outreach and Community Relations 1
 - Multi-disciplinary Input and Integration 2
 - Eligibility and Priorities for Public Guardianship Services..... 3
 - Referrals and Petitioning for Appointment..... 3
 - OPG Referral: Who Typically Files and What They Need to Consider..... 4
 - Program Priorities, Case Transitions and Reimbursement Rate 4
 - Legislative Priority: Program Review, Audits and Monitoring..... 7
- OPG Contractor Considerations 9
 - Contractor Caseloads..... 9
 - Communication with OPG: Documents and Notice Requirements 9
 - Background Checks and Disclosure 10
 - Reporting of Suspect Abuse, Neglect and Exploitation..... 11
 - Billing Records..... 12
 - Case File Documentation..... 12
- OPG Client Considerations..... 14
 - Client Visits..... 14
 - Communication with OPG Clients 15
 - Client Civil Rights 16
 - Cultural Awareness and Supporting Client Self-Determination 16
- Contract Maintenance 18
 - Quality Assurance Plan 18
 - Complaints Filed Against the Contracted Public Guardian..... 18
 - OPG Investigation of Complaints..... 19
 - Corrective Action Plan 20
- Appendix A: Sample Referral Announcements 22
- Appendix B: Petitioning Process to Establish Guardianship 23

Program Overview: Priorities, Referrals for Services, Acceptance and Transitions

The Office of Public Guardianship (OPG) contracts with Certified Professional Guardians (CPGs) to provide guardianship and other decision making support for low income clients *who need them and for whom adequate services may otherwise be unavailable.*¹ Individuals accepted into the program must also be experiencing imminent danger from loss of resources, at risk of harm and/or are homeless. The Program seeks to contract with CPGs statewide and within ten years the OPG envisions a two fold increase in program capacity to serve the significant unmet need for these guardianship services in Washington.

Outreach and Community Relations

OPG Contractors² work with a myriad of professionals as well as friends and family to ensure clients can exercise their civil rights and liberties by maximizing their self-determination *to the greatest extent consistent with their protection and safety.*³ These professionals often include:

- Social Workers
- Nursing Home Administrators and Staff
- Hospital Administrators and Staff
- WA Department of Social and Health Services Divisions, Home and Community Services, Adult Protective Services, and Developmental Disabilities Administration Staff
- Area Agencies on Aging
- Veterans Administration
- Mental Health Facilities
- Judicial Officers
- Guardian Ad Litem
- Assistant Attorney Generals
- Homeless Shelters
- Law Enforcement
- Long Term Care Ombudsman
- Mental Health Facilities
- Disability Advocates
- Domestic Violence Advocates

To reinforce the balance of self-determination consistent with protection and safety, the OPG and its contractors are available to provide education and technical assistance to these professionals. Topics may include changes in law and policy, the role of contractors, the role of the OPG and collaborating across services to create person-centered common goals for the client. Nearly 85% of guardianships in Washington State are managed by lay guardians, friends or family working as surrogate decisions makers on behalf of individuals in need of support. As advocates for the program working in the community, the OPG and its contractors can also

¹ RCW 2.72.005(1) OFFICE OF PUBLIC GUARDIANSHIP Intent.

² CPGs who enter into a contract with the WA Administrative Office of the Courts to provide guardianship and other decision support services to OPG clients.

³ SOP 403.1 Self-Determination of Incapacitated Person.

provide education and technical assistance for these guardians. Former OPG clients have successfully graduated from the program and transitioned to lay guardians.

Multi-disciplinary Input and Integration

As CPGs, contractors are required to uphold standards of practice that rely upon the insight and expertise of other professionals to create person-centered goals for their clients. Contractor's decisions are also subject to the scrutiny of these professionals as well as friends and family and they must acknowledge and seek input from others when their client's needs exceed their experience. Ultimately, the contractor as a fiduciary is responsible for all decisions, except those excluded by court order, and when seeking services for their clients.

This multidisciplinary input ensures that medical, mental, nutritional, functional, environmental and financial needs of a client are addressed in an appropriate manner and through the least restrictive means available. These teams provide a problem solving forum for discussing difficult cases and sharing information, expertise and resources, to support necessary redundancy and promote effective services for clients. This coordination also honors a client's preferences whenever possible, protects the right to associate with others of their choosing, supports self-determination and residual capacity and complements the process of informed consent for medical treatment. To track participation and integration of multidisciplinary input, contractors complete a **QUARTERLY GUARDIANSHIP STATUS REPORT** with questions that highlight these connections.⁴ Some county social and health departments, regional DSHS offices and Area Agencies on Aging also host community treatment or Program for Assertive Community Treatment (PACT) teams, multidisciplinary groups that collaborate to provide individualized support for individuals with chronic and severe needs. In communities where these groups are available, contractors should seek out opportunities to collaborate.

Multidisciplinary input should also be integrated into an OPG client's **GUARDIANSHIP CARE PLAN**⁵. Developed by the OPG contractor, this plan serves as a guideline to assure that an OPG client's realistic vision and values⁶ are accounted for and to verify progress towards an OPG client's vision. Additionally periodic updates or changes in circumstances may require additional input from these professionals, friends and family. During site visits with the OPG client, the contractor and other staff members should seek input on their client's satisfaction with services and/or his or her quality of life.

Finally, service provider networks offer opportunities to explore community resources critical to sustain quality of life for OPG clients. These groups exist in a variety of forums and often meet on a monthly basis to share resources and provide a forum for integrated problem solving. Contractors are encouraged to attend these meetings and are provided compensation for participating based on contract. The OPG tracks these opportunities periodically and encourages contractors to share details of similar networks⁷.

⁴ See questions 1.25, 1.35, 3.15 and 6.05 of the **QUARTERLY GUARDIANSHIP STATUS REPORT**.

⁵ OPG contractors consider multidisciplinary input and integrate their input when developing a guardianship care plan on cases meeting criteria established by the OPG. For other cases, guardians should be prepared to share periodic court reports that address similar considerations, upon request by OPG staff. OPG care plan templates are available as a resource to incorporate client preferences and capacities, substituted judgment and best interest considerations. **GUARDIANSHIP CARE PLAN** templates are available through the OPG and EMS.

⁶ See **CLIENT VALUES HISTORY** available in EMS or upon request.

⁷ Venues that commonly host these events include Area Agencies on Aging, county government, and grassroots consortiums.

Eligibility and Priorities for Public Guardianship Services

Washington statute identifies eligibility criteria for recipients of public guardianship and conservatorship, decision-making assistance and estate administration services⁸. Each request for services (referral) is screened by OPG staff to ensure program participants meet eligibility criteria and legislative priorities.

Public guardianship clients:

- Must be a Washington State resident,
- Must be 18 years or older,
- Must not have an income that exceeds 200 percent of the federal poverty level determined by the US Department of Health and Human Services annually,
- **OR** are receiving long term care services through Washington Department of Social and Health Services **and**
- Must have no one else that is qualified, willing and able to serve.

Due to limited resources⁹, recipients must also demonstrate one or more of the program priorities identified in statute:

- Indigent/homeless,
- At significant risk of harm from abuse, exploitation, abandonment, neglect or self-neglect,
- **OR** imminent danger of loss, or significant reduction in public services that are necessary to live successfully in the most integrated, and least restrictive environment that is appropriate for a specific individual.

OPG staff review referrals and issue program acceptance announcements on a monthly basis to contractors depending on their case load and specialization¹⁰, client preference, GAL input and regional availability. Announcements are designed to provide salient details to assist contractors in assessing how a prospective client may align and assimilate with their current caseload¹¹. All appointments are contingent upon contractor acceptance and program budget. The OPG maintains an active waitlist and reviews current clients on a periodic basis to ensure program priorities continue to be fulfilled.

Referrals and Petitioning for Appointment

Referrals for services to the Office of Public Guardianship come from a variety of entities, representing local and state government agencies and personnel, non-profits, residential facilities, hospitals, in-patient facilities and private parties. The OPG relies upon these entities to provide accurate and timely information concerning their client's eligibility and how their circumstances meet program priorities. Referrers are required to certify that the information provided is true and accurate upon submission.

⁸ RCW 2.72.010 (9) *Decision-making assistance* means support for an individual with diminished decision-making ability affecting health or safety concerns or to manage financial affairs. RCW 2.72.010 (3) *Estate administration* means services provided for a fee to the estate of an individual who died at age eighteen or older, in circumstances where a contract service provider is granted letters under RCW 11.28.120 (7).

⁹ In 2011, the Washington State Institute for Public Policy estimated between 4,000 and 5,000 individuals in Washington are eligible to receive services through the OPG. Current OPG capacity services between 2 and 3% of this need.

¹⁰ Fields of specialization may include intellectual/developmental disabilities, mental illness, complex medical conditions, dementia, elderly, and bilingual to name a few.

¹¹ See Appendix A for sample referral announcements.

Seeking services from the OPG involves two steps, to ensure clients meet eligibility criteria and program priorities. In Step One, the referrer shares basic details¹² about the client by completing a Guardian Search Form. This information, which constitutes about a paragraph, is distributed to all Certified Professional Guardians statewide. Step One helps ensure all options for locating a guardian have been exercised. If no CPG responds within 14 business days, the referrer can complete Step Two, the OPG referral form. This form is more detailed¹³ and is used to assess whether an individual qualifies for services through the OPG.

The OPG strives to review referrals at the first of the month for the previous month and will follow up with referrers at that time when information is incomplete. If the case is accepted, it will be referred to a contracted public guardian, based on location. When more than one contractor works in a region, other considerations will come into play. A client's preferences (e.g. languages spoken, gender), a contractor's area of expertise or specialization, a contractor's current caseload and GAL input are all factors considered. The OPG maintains an active waitlist and reviews it periodically to ensure current clients fulfill program priorities.

OPG Referral: Who Typically Files and What They Need to Consider

Ideally, a referral submitted by a Title 11 Guardian ad litem (GAL) should include information contained in any GAL and Medical/Psychological reports. This information helps demonstrate the need for a guardian, supports information sharing on behalf of the client and promotes a transparent process allowing contractors to assimilate new clients into their caseloads.

In cases of abuse, neglect and exploitation, Adult Protective Services (APS) may seek guardianship for the victim and contact the Attorney General Office to file a petition. Also, any individual or entity other than a public guardian or the OPG may file a petition. The petitioner for guardianship is not assuming responsibility for the alleged incapacitated person, but is alerting the court to the possibility that a guardianship may be necessary. A petition for guardianship must be filed in the county where the alleged incapacitated person lives. A petitioner may use court approved forms to file the petition on their own or contact a pro bono attorney. Once the petition is filed, the superior court will appoint a GAL to investigate the need for a guardian.¹⁴

Program Priorities, Case Transitions and Reimbursement Rate

When the Washington Legislature founded the Office of Public Guardianship in 2007, they made it clear that certain priorities remain at the forefront of providing and maintaining services. These program priorities are laid out in statute and used to determine program acceptance. See [Eligibility and Priorities for Public Guardianship Services](#). OPG clients typically face great challenges and often represent the highest need cases in Washington. In recognition of the additional effort and skills required to address their needs, contractors receive \$710/month for their first three months of service. This higher reimbursement rate also affords contractors an opportunity to become familiar with their client's baselines and other tendencies.

After the initial three months, it's presumed that a client's needs are more accurately defined and appropriate services are in place to address those needs. At this point the reimbursement

¹² Details include gender, disability, diagnosis, residential setting, friends/family, and income.

¹³ Additional details include contact information for GAL, specifics on income and sources, and connection to program priorities.

¹⁴See Appendix B for more details on the petitioning process including a timeline.

rate ratchets back to \$440/month. A client’s stability can be fleeting and tenuous; however, the legislature does direct the program to

Adopt and maintain eligibility criteria to enable it to serve individuals with the greatest need when the number of cases in which courts propose to appoint a public guardian exceeds the number of cases in which public guardianship...can be provided.¹⁵

To ensure services are being provided to individuals with the greatest need but also recognizing the fleeting nature of a current client’s stability, OPG staff review cases to ensure they continue to meet program eligibility and priorities once a client has been in the program for at least two years and maintains a consistent level of work for the contractor. The **QUARTERLY GUARDIANSHIP STATUS REPORT** asks guardians to assess whether guardianship through the OPG remains appropriate and will be used as a guide to conduct a dialogue with the contractors about how their client compares to the Program Suitability Assessment (PSA). This assessment consists of a five tiered scale that focuses on residential setting, diagnosis, third party interaction and financial control. See Table 2: Program Suitability Assessment. Guardians will review this table, assign their client to a tier and explain their choice during a quarterly check-in. OPG staff will also consider how the client’s current situation compares to when the client was first approved to receive services through the program. After the initial two year period, OPG staff in partnership with contractors will conduct these assessments on an as needed basis.

Program Suitability	Stipend Rate	Case Description
OPG	\$710/month	At least 1 apply: <ul style="list-style-type: none"> • Placement - transitioning with many tasks to be accomplished: new placement & work with client to accept, close down home/apt., dispose of personal items, transfer bank accounts, establish entitlements, establish representative payee, etc. • Diagnosis - a primary SPMI diagnosis, is psychiatrically unstable; may also be living in a community setting with inadequate or inconsistent community supports. • Major Event - (e.g. illness, injury, arrest, displacement, abuse, exploitation, initial APS referral) requiring intensive guardianship interventions (e.g. major medical decisions, legal intervention, behavioral assessment, new placement).

¹⁵ See RCW 2.72.030 (2)

OPG and/or Medicaid	\$440/month	<p>At least 2 apply:</p> <ul style="list-style-type: none"> • Placement - permanent protective environment, but many tasks still need to be accomplished: close down home/apt., dispose of personal items, transfer bank accounts, establish entitlements, etc.; • Diagnosis - multiple, complex physical and/or behavioral health needs that require routine major medical decisions and intensive care coordination. • Diagnosis - a primary SPMI diagnosis and living in a community environment with consistent noncompliance with medication and/or mental health plan of care. • Behavior - consistently exhibits high risk behaviors. • Financial Control - guardian responsible for oversight of representative payee services, personal needs account, and advocating for the appropriate level of services for a client through maintenance of benefits. • Third Parties - disruptive family or third party involvement. <p>At least 3 apply:</p> <ul style="list-style-type: none"> • Placement - permanent protective or community environment with tasks primarily accomplished; adequate community supports. • Diagnosis - a primary SPMI diagnosis and is living in a community environment. Adequate community supports. Major medical decisions to be made. • Diagnosis - a terminal diagnosis; hospice in place or being contemplated; end of life medical decision making. • Behavior - exhibits ongoing behavioral issues. • Financial Control - guardian responsible for oversight of representative payee services, personal needs account, and advocating for the appropriate level of services for a client through maintenance of benefits. • Third parties - disruptive family or third party involvement.
OPG and/or Medicaid	\$325/month	<ul style="list-style-type: none"> • Placement - a nursing home or protective community environment (e.g. group home) and a few issues are ongoing (e.g. difficult behaviors). • Diagnosis - medical condition is mostly stable. • Financial Control - guardian responsible for oversight of representative payee services, personal needs account, benefits.
Medicaid	\$235/month	<ul style="list-style-type: none"> • Placement - client is stable in a nursing home or protective community environment (e.g. group home), few if any issues. • Diagnosis - medical condition is stable.

		<ul style="list-style-type: none"> Financial Control - guardian responsible for oversight of representative payee services, personal needs account, benefits.
--	--	--

Table 2: Program Suitability Assessment

A temporary increase in fees to accommodate clients with long standing instability may be considered; the guardian needs to demonstrate that a few thresholds have been met. First, the guardian should provide a brief description of how the client fits within the \$710 tier. Next, they should also provide a description of additional steps taken to address their client’s situation and instability. Possible steps above and beyond those typically taken may include seeking instructions from the court, repeated but unsuccessful attempts to address the concern or requests to the court to restructure the relationship due to client resistance. No additional reporting requirements other than the request, a brief description of how their clients meets the \$710 tier and an A-19 requesting the difference in payment for the corresponding month are necessary as accurately completed status reports, time and expense reports and case notes should capture this additional work. However, if the guardian fails to provide sufficient detail in these reporting mechanisms, additional documentation will be required. These temporary increases should be reviewed during the final quarter of the FY and be granted contingent upon the budget and/or appropriations.

Former OPG clients may also experience episodes of instability once they’ve left the program. To accommodate these episode that may cause hardship for contractors, these procedures will facilitate remittance to the program in a timely and reasonable manner to minimize the impact on the client. To begin the process of returning a client to the program, contractors must provide justification:

1. Obtain a request for transfer form from the OPG and fill it out completely (failure to do so will result in delay of transfer). This form asks the contractor to access where their client fits on the program suitability table and to provide backup documentation justifying their assessment.
2. Upon request, transfer complete and current records to the OPG;
3. Secure appropriate residential placement for the client prior to transfer to the OPG;
4. If applicable, provide all medical information regarding the client to the new guardian;
5. If applicable, turn over all original legal documents such as birth certificates, social security cards, Medicaid cards, etc., to contractor upon appointment;
6. If applicable, agree to cooperate with the new guardian on matters, including, but not limited to, providing any information the contractor might need, which may be in the possession of the current guardian and
7. Provide a complete accounting¹⁶ to the OPG at the time of transfer.

In addition to meeting the criteria laid out above, all transfers are contingent upon available funds, local contractor capacity and waitlist candidates.

Legislative Priority: Program Review, Audits and Monitoring

The AOC may periodically conduct an independent comprehensive program review of a contractor’s business practice. Statute that founded the program identifies the importance of

¹⁶ Accounting in the context refers to current care plans, decisional accounting, time and expense reports and other reports to the court.

monitoring. Contract language identifies criteria considered when OPG staff conduct these reviews.

A follow-up review of identified program deficiencies may be conducted if deemed necessary by OPG staff, to ensure the delivery of quality services consistent with the terms of the contract. These program reviews along with monthly and quarterly reports may be used to obtain data concerning demographic and statistical information of clients and to analyze use of services. The data may be used to establish program priorities.

OPG Contractor Considerations

OPG contractors work with some of the most challenging clients and receive reimbursement and support that acknowledges the work and commitment required to support them. As a program that receives direct funding from the legislature and as an extension of the contractual relationship, contractors are subject to additional considerations and reporting requirements.

Contractor Caseloads

Under statute, a contractor's caseload must be no more than 20 clients per CPG, whether they are OPG, private pay or pro bono clients. However, the OPG may authorize contractors to provide services to more than 20 clients. To receive authorization, a contractor must complete a case weighting form¹⁷, where they provide a brief description of each client in their case load and rank their relative difficulty, based on a five tiered rating system. Each tier has a corresponding point value. The OPG may authorize contractors to provide services for up to 36 clients or 550 points.

Points Per Case	# of Cases to Manage	Case Description
50	11 Maximum	Client is in transition from one setting to another. Many tasks to be accomplished: Stabilize housing and work with client to accept placement, move to facility, dispose of personal items, transfer bank accounts, establish all entitlements, etc.
30	18 Maximum	Client is in a permanent protective environment but many tasks need to be accomplished: close down home/apt., dispose of personal items, transfer bank accounts, establish all entitlements, etc.
20	27 Maximum	Client does not live in a facility and is living in the community.
15	36 Maximum	Client is in a protective environment and still has issues to manage, and/or there are major medical decisions to be made.
5	36 Maximum	Client is in a facility with few, if any, issues. Client's entitlements have been established and affairs are in order.

Table 1. Case Weighting Tiers

Contractors with caseloads greater than 20 clients must submit a case weighting form and its corresponding tiers. (Table 1). During quarterly check-ins, Contractors provide updates to staff on whether client circumstances have caused a change in their caseload point rating. Also across the state need for services varies considerably. These considerations can be a factor when referring new clients.

Communication with OPG: Documents and Notice Requirements

Each OPG client presents a unique set of circumstances due to diagnosis, residential setting, support system, historical experiences, capacities, and behavioral tendencies, to name a few. It's their unique circumstances that ultimately qualify them for OPG services due to the risks or imminent dangers they experience. Documentation and notice of their situation demonstrates effective and prudent use of public resources while ensuring that the appropriate professionals are tasked with addressing an OPG client's needs.

¹⁷ Case weighting forms are also available through EMS for contractors who utilize the system for their entire caseload.

These documentation and notice lists establish minimum reporting requirements to demonstrate commitment to program priorities identified in statute and support program efficiencies. OPG staff reserve the right to request other OPG client records, in line with contract stipulations and statutory intent¹⁸.

Documents

- Initial assessment, Guardianship Care Plan, Decisional accounting, and Client Values History¹⁹
- Order(s) appointing, terminating or modifying the guardianship
- Full practice case list submitted on a quarterly basis including client initials, case number, and guardian fee reimbursement source (OPG, Medicaid, Pro Bono, Private) or case weighting report²⁰
- **QUARTERLY GUARDIANSHIP STATUS REPORT** for each OPG client
- DSHS Letter reflecting change in cost of care to pay guardianship and attorney fees
- Contractor complaint process and any subsequent complaints generated through [Complaints Filed Against the Contracted Public Guardian](#)
- A-19 and A-20 forms and time and expense reports via EMS for each client on a monthly basis via electronic submission
- Materials generated through [Background Checks and Disclosure](#)
- Other documentation relating to client upon request

Notice via email to OPG Program Staff

- Notice of client acceptance by guardian
- Notice of change in residence, change in conditions or abilities and substantial change of client

[Background Checks and Disclosure](#)

Under OPG contract, all employees, agents, board members and volunteers of contractors having direct contact with an OPG client's person, estate and/or benefits must agree to a WSP/FBI criminal background check and APS/CAN registry review. Standards of Practice (SOP) Regulation and the Washington Supreme Court General Rule 23 require a similar level of scrutiny over CPGs and their staff.

Also under contract, contractors are also required to provide annual updates, disclosing whether they or staff have received a finding by a court or state agency of abuse or CPG has an interest that is adverse to the client²¹. One approach to obtaining this information is through an annual

¹⁸ 2.72.030(15) The office shall establish a system for monitoring the performance of contract service providers, and office staff shall make in home visits to a randomly selected sample of public guardianship and supported decision-making assistance clients. The office may conduct further monitoring, including in-home visits, as the administrator deems appropriate. For monitoring purposes, office staff shall have access to any information relating to a public guardianship, supported decision-making assistance, and estate administration client that is available to the guardian.

¹⁹ These forms are identified in statute and are available either through EMS or upon request. Other document and reports to the court may provide detail sufficient to satisfy these reporting requirements. Be sure to check with program staff for additional clarification.

²⁰ Full practice case list can be submitted through EMS for contractors who utilize the system for their entire caseload.

²¹ Disclosable topics include removal by court, findings by a court, licensure, disciplinary body, or DSHS and has an interest adverse to the client. See contract language for additional details.

APS/CAN registry review. The contract also states that upon evaluation of these facts, the OPG may at its sole discretion, prohibit the contractor from providing services under contract.

The Washington State Patrol website has great resources on how to complete a background check. For an APS/CAN registry review, please submit a request to OPG staff for staff and others who have direct contract with clients and return to OPG staff.²²

Reporting of Suspect Abuse, Neglect and Exploitation

If an OPG contractor is notified or has reasonable cause to believe or suspect any allegation of abuse, neglect, or exploitation of their client, or if their client may be at risk of abuse, neglect, self-neglect, abandonment or exploitation, the contractor must:

1. Report the allegation to Adult Protective Services (APS) or Residential Care Services (RCS) within 24 hours of notification of the incident;
2. Initiate actions to secure the safety of their client, if applicable;
3. Obtain immediate medical or psychological services;
4. Contact local law enforcement, if applicable;
5. Document all actions;
6. Report allegations, in writing, to the OPG. If the alleged perpetrator is a contractor's employee, the contractor must remove the employee from working with the client until all allegations have been investigated or the contractor has reasonable cause to believe that the client is safe.

If the allegations of abuse, neglect, or exploitation are found to be substantiated, the contractor must take appropriate action that align with guardianship agency policy and procedure or other directives from the investigative body. The alleged perpetrator has the right to appeal. If the appeal process determines the employee was not the perpetrator or was unfounded, the contractor must document the findings and re-orient the employee to work. Please see [Background Checks and Disclosure](#) for details on disclosure if the employee is placed on the APS/CAN registry.

The contractor must ensure that their client is informed orally, and in writing of procedures, both internal and external, for reporting emergencies, crisis situations, and complaint resolution. Consideration must be given to their capacity and level of functioning for comprehending the information.

The contractor must instruct its employees to immediately report any suspected abuse, neglect, or exploitation to APS or RCS. The contractor must provide all employees in writing with the toll free number and the online reporting site for reporting to APS and RCS, and for other reporting agencies.

The contracted public guardian will provide the OPG:

- Copies of all closed reports from APS upon receipt (if received) noting whether the case was substantiated, unsubstantiated or inconclusive or from RCS of failed practice or no failed practice and;

²² These requests take between 2-6 weeks and should be completed on an annual basis. To complete a registry review, please provide to OPG staff authorization from the individual being reviewed that allowing access to the results along with a few personal identifiers (name, county of residence, and birthdate).

- Copies of all correspondence made to any disciplinary or investigative entity involving the client and any concerns regarding abuse, neglect, exploitation, or rights violation.

Billing Records

The contractor shall maintain detailed records that specifically indicate the date, amount of time, nature of services rendered and the identification of the person(s) providing the specific services to each client. This information should be accessible to OPG staff through EMS.

The contractor shall bill for allowable services, as described in contract, rendered for OPG eligible clients receiving court appointed guardianship, decision support or estate management services. When a new individual is added to the contractor's client list, the month that the contractor is appointed guardian for the client, is the first month that payment will be allowed. The date of death for a client or guardian resignation will be the last month that payment will be allowed for that client. If an OPG client transitions to a less restrictive alternative such as decision support or estate management, then a contractor may continue to provide services and receive reimbursement. The contractor may bill for services rendered to close a guardianship after the death of a client. Pre-appointment visits and associated mileage are also reimbursable under the contract and will be incurred prior to actual appointment.

The OPG shall make every effort to pay the contractor within thirty (30) days after receipt and approval of a detailed, certified monthly statement of services. Monthly statements shall be submitted within thirty (30) days after the end of the month during which the services were performed.

Contractors shall request reimbursement of fees from program clients who are receiving long-term care services through the Washington State Department of Social and Health Services (DSHS) to the extent, and only to the extent, that such reimbursement may be paid, consistent with an order of the superior court, from income that could otherwise be required by the department to be paid toward the cost of the client's care. Contractors shall provide documentation received from DSHS for clients paying for a portion of their guardianship fees through Medicaid and A-19s shall reflect this deduction from OPG guardian fees.

All billing records shall be subject to immediate inspection and copying by the OPG, the Certified Professional Guardian Board and the superior court. The OPG shall have the right to audit all billings and monthly reports both before payment is made and for five years after payment has been made. Payment pursuant to the contract shall not foreclose the right of the OPG to recover any excessive, illegal and/or improper payments made to the contractor. At the discretion of the OPG, an outside auditor may be brought in to audit billing records.

Case File Documentation

The contracted public guardian shall maintain a centrally organized records management system. These documents may be accessed during periodic monitoring or audits conducted by OPG program staff. Records maintained shall include, but are not limited to:

- a) Client intake and initial assessment data;
- b) Quarterly status information including changes in condition or abilities;
- c) Quarterly certification that the need for continued guardianship services been reviewed;
- d) Staff time logs;
- e) Audit reports;
- f) Financial eligibility information;

- g) All legal documents (Letters and Orders of Guardianship and an annual Guardianship Report).
- h) Other annual reports;
- i) A copy of the client grievance procedures form signed by the client or his/her appropriate representative;
- j) Previous comprehensive assessments conducted by physicians, psychiatrists or other evaluators that can provide critical information about past history and service;
- k) Current medical, therapeutic and other assessments;
- l) The Individualized Guardianship Care Plan;
- m) The client's personal financial information such as quarterly reconciliations of checking accounts, and an inventory of personal property receipts;
- n) A detailed client budget, where appropriate;
- o) Values history, where appropriate;
- p) Copies of consents, releases and freedom of choice selections;
- q) The client's case notes, visitation summaries and record reviews;
- r) Incident reports and record of all incident investigations with findings and outcomes;
- s) Correspondence, including requests for dispute resolution, letters and memoranda documenting concerns;
- t) All supervisory reviews, memos and notes, if applicable;
- u) Personal identification information for each individual such as birth certificates and social security information;
- v) Any other information sufficient to provide a full picture of the individual's status.

In cases where limited services are provided, the file shall contain only relevant items listed. The contractor must ensure that all information concerning a client is maintained and released in accordance with state and federal laws and regulations as well as GR 22 and 31 which governs access to guardianship court records. The contractor shall maintain guardianship records and files in a secure manner. The contractor shall assure that all records are available to the superior court, the OPG, the AOC, the CPG Board and APS. The contractor shall document all case actions within ten (10) days of activity.

OPG Client Considerations

The OPG program was founded with the intent *to promote the availability of guardianship and alternate services...for individuals who need them and for whom adequate services may otherwise be unavailable*. Additionally statute reaffirms the *commitment to treat liberty and autonomy as paramount*²³. These dual purposes, to provide services while respecting an OPG client's autonomy, support additional opportunities and considerations for the individuals served through this program.

Client Visits

Contractors shall visit their OPG clients at least monthly at their residence. An in person visit at a client's residence ensures safe surroundings and provides expanded opportunities to support OPG clients. The designated guardian for an agency or the contractor for sole proprietors must conduct the initial visit and thereafter on a quarterly basis. Other visits may be delegated to employees, independent contractors or others specifically approved by the court. When these individuals conduct the visit, the designated guardian must be prepared to provide a rationale for why the delegation is appropriate²⁴. Factors to consider include needs of the client and the skills, education and experience of the delegate.

During monthly visits, contractors and their delegates should assess their client's status and document conditions. The **QUARTERLY GUARDIANSHIP STATUS REPORT** provides a template for conducting monthly visit assessments and is required backup documentation for seeking reimbursement of public funds from the OPG. After documenting conditions, contractors need to consider and report out:

- Whether public guardianship services are still appropriate (serving clients who remain eligible for the program and meet program priorities);
- Whether guardianship remains appropriate for the client; and
- What changes are anticipated next quarter as a result of changes in the current quarter?

To complete the quarterly reporting requirement, the monthly visits should include a review of the:

- Client's physical and mental condition, as well as attitude,
- Cleanliness and safety of their living environment and the client's belongings,
- Appropriateness and quality of services being provided to the client and
- Current needs of the client and the services in place to address these needs.

The monthly assessment may also include a review of:

- Advance directives, medical history and physician's orders
- Medication compliance, physician's examination and consultation notes,
- Care plans, nursing/progress notes and therapy evaluation notes,
- Dietary assessments, lab and test results,
- Social service notes,
- Weight chart,

²³ RCW 2.72.005 Intent.

²⁴ Further under contract, if a contractor seeks to subcontract OPG services to another CPG not employed by their agency and who does not currently contract with the OPG, requests must be submitted and approval received in writing from the AOC prior to subcontracting. A request in writing must highlight provisions identified under SOP 403.3.

- Inventory of belongings and
- Other assessments by professionals and family involved in the client's life

Also on a quarterly basis, the designated guardian will certify that the assessment has occurred, and that where termination or modification of a guardianship order appears warranted, the superior court has been asked to take the corresponding action. The contractor will follow the procedure specified by the courts and the OPG to seek graduation from the program or termination of the guardianship.²⁵

If a guardian is unable to make face to face monthly contact with their client at their residence, the contractor should notify OPG staff and be prepared to discuss alternatives for the interim. Possible alternatives may include:

- Does a colleague or another contractor also visit the residence? Does another state agency visit the residence? Can these individuals make meaningful in person contact with the client?
- Does the client initiate contact with the contractor via other means? How often, for how long and what is the nature of the conversation?

Requests for exceptions to this procedure will be reviewed on a case by case basis, subject to an audit inquiring²⁶. If after 90 days the guardian has been unable to visit their client, because he or she avoids all contact with the guardian, and the guardian has made every attempt to meet their client and provide guardianship services, but has been unsuccessful, the guardian should petition the court for instructions.

Communication with OPG Clients

Contractors shall ensure that OPG clients and their service providers have access to her/him/they or an employee who serves on behalf of the contractor, 24 hours a day, seven (7) days a week. A certified professional guardian who serves as the standby guardian must also be available to respond to problems or emergencies if the contractor or its employees cannot be reached within four hours.

The contractor shall ensure communication with OPG client served is effective. She/he/they shall consult with others who are experienced in communicating with the OPG client, and shall make use of recommended communication techniques and technology in order to identify the choices and preferences of the client.

Where requested by the client or otherwise appropriate, the contractor shall facilitate communication by using a registered interpreter unless the contractor or her/his/their employees are fluent in the client's preferred language. Even though the OPG client may speak English as a second language, whenever possible, the contractor should offer the client the option of communicating in the client's preferred language.

The Language Line provides 24 hour access to over-the-phone interpretation. Reimbursement can be sought for these services under contract stipulations.

²⁵ See [Program Priorities, Case Transitions and Reimbursement Rate](#)

²⁶ An auditing inquiry may include process, procedure and internal controls to maintain and improve program effectiveness and efficiency. Factors may include integrity, professional duty and professional judgment, how current actions impact future operations, evidence based approach implementation, and confidentiality.

Client Civil Rights

Due to the drastic nature of guardianship and its implications on civil rights, the contractor shall promote self-determination and protect those civil rights retained by their OPG clients. Recent significant changes to statute reaffirm the connection between what is limited under the court order and the client's right to engage in decision making²⁷. Except those that have been expressly limited by court order or have been specifically granted to the guardian by the court, an OPG client retains all other legal and civil rights. These rights may include:

- a. To be free from unlawful discrimination;
- b. To be treated humanely, with dignity and respect, and to be protected against emotional or psychological abuse, physical abuse, sexual abuse, neglect and exploitation;
- c. To be served in the most integrated setting appropriate to the needs of the individual;
- d. To practice the religion of his or her choice, or to abstain from the practice of religion;
- e. To receive visitors and communicate with others;
- f. To privacy;
- g. To participate in the political process, including to vote;
- h. To voice grievances and complaints without interference, coercion, or reprisal;
- i. To counsel, and access to available advocacy services;
- j. To have access to the courts;
- k. To receive services to which he or she is entitled;
- l. To be restored to capacity at the earliest possible time;
- m. To have review of the need for restriction of rights;
- n. To have a qualified guardian;
- o. To remain as independent as possible;
- p. To determine his or her place of residency, or to have his or her preference honored;
- q. To own, use, and control his or her property, or to have his or her property managed prudently, and to have timely information about how his or her property is being managed;
- r. To consent to, or refuse medical treatment;
- s. To seek or retain employment;
- t. To travel (if appropriate); and
- u. To notice of all proceedings relating to his or her capacity.

For clients residing in long term care facilities²⁸, additional and concurrent rights regarding the quality of the facility are ensured. Known as "residential rights²⁹," they should be exercised by the client and/or their advocate.

Cultural Awareness and Supporting Client Self-Determination

OPG contractors shall strive to provide culturally competent guardianship services. These services take into consideration the OPG client's cultural beliefs, lifestyle choices and needs. Cultural competency may be achieved through identifying the importance of social and cultural influences in their client's lives³⁰ and providing opportunities to exercise and enhance self-determination in pursuit and preservation of these lifestyle choices.

²⁷ RCW 11.130.325(1) Except as otherwise limited by the court, a guardian for an adult shall make decisions regarding the support, care, education, health, and welfare of the adult subject to guardianship to the extent necessitated by the adult's limitations.

²⁸ Including nursing homes, boarding homes (also called assisted living facilities), adult family homes, or state operated veterans' homes.

²⁹ See <https://www.waombudsman.org/residents-rights/> for more details.

³⁰ Some experts believe cultural competence includes the following components:

An OPG contractor supports and engages their client's self-determination through reliable and competent services that

- Provide clients with adequate opportunities to be the causal agent in their lives, make choices, and learn self-determination skills and
- Enable them to maximally participate in their lives and communities; and ensuring that appropriate supports and accommodations are in place.

Certified Professional Guardian Standards of Practice³¹ also highlight the critical importance of supporting client self-determination through culturally competent services. Practices to keep in mind on behalf of clients include

- Protecting of civil rights and liberties,
- Practicing substituted judgment, including *acknowledge the residual capacity* of clients,
- Striving for the least restrictive residential placement,
- Providing notice of court proceedings and other pertinent notices to their clients upon request,
- Identifying ethnic, religious and cultural values and considering those values when making decisions and
- Acknowledging and protecting sexual expression.

•**Cultural Knowledge** means that you know about some cultural characteristics, history, values, beliefs and behaviors of other ethnic or cultural group.

•**Cultural Awareness** means being open to the idea of changing cultural attitudes.

•**Cultural Sensitivity** is knowing that differences exist between cultures, but not assigning values to the differences (better or worse, right or wrong).

³¹ See SOP 403 Self Determination of Incapacitated Person for additional details.

Contract Maintenance

This section supplements quality assurance stipulations and how to address concerns that arise from performance under the contract.

Quality Assurance Plan

The contractor will develop a quality assurance mechanism or plan describing their internal and external systems to monitor policies and procedures to ensure the quality care for their clients. This plan should be available in writing and be developed in a manner appropriate for the size and scope of the contractor's business practices to account for details.

Complaints Filed Against the Contracted Public Guardian

The contractor shall establish and implement written procedures available to their clients to present complaints relating to the contractor's operations or services. These procedure provides an internal, informal process for swift resolution of disputed issues that affect the individual client. These procedures are not available for complaints concerning abuse, neglect or exploitation. It's also not available to address violations of standards of practice or rules, regulations and statutes, and do not involve the courts or the Certified Professional Guardian Board and to document the resolution of the dispute. Templates are available upon request. The OPG also has access to alternative dispute resolution funding and resources.

The contractor's internal complaint process must be consistent with the following guidelines:

- a. The client is notified of the grievance procedure in a language/communication style that he or she best understands;
- b. A complaint may be made orally or in writing by the client or another person on behalf of the client, including but not limited to a friend, relative, advocate, or other interested person, such as a caregiver or provider;
- c. An impartial person or representative of the contractor, who may be an employee, shall discuss the complaint with the client and complainant;
- d. A determination will be made about the complaint in writing, within fifteen (15) working days of receipt;
- e. The complaint and its resolution will be forwarded to the complainant, and maintain a copy in the client's file;
- f. The complaint resolution will be written and explained to the client in terms that he/she/they may best understand and document the explanation, including date, time and person making the explanation;
- g. The complaint and its resolution will be forwarded to OPG staff within five (5) working days of the determination;
- h. All unresolved complaints/grievances must be forwarded to the OPG within two (2) working days of the 15-day deadline for grievance resolution;
- i. Full cooperation with OPG staff if complaint constitutes a grievance and staff will forward all complaints to the CPGB;
- j. The complaint procedure is subject to amendment and approval by the OPG and
- l. All complaints and resolutions are public.

Within 48 hours of receipt, the contractor shall send to the OPG any court or administrative action filed against the contractor if the action alleges conduct that would constitute a violation of the terms of the contract. For example, actions alleging employment discrimination. If a superior court complaint or CPGB grievance is being investigated, the contractor will follow the grievance procedure specified by the investigating entity. However, the OPG reserves the right

to impose additional sanctions or corrective actions relating to the performance of contract requirements.

OPG Investigation of Complaints

The OPG may investigate a complaint of a contractor's services as it relates to program requirements, rules, and/or procedures. This investigation may be conducted at any time without notice to the contractor. OPG will not disclose the name of a complainant unless under court order or requested by law enforcement.

Filing of Complaints

Complaints may be submitted by any organization, association or person. Written complaints are preferred, but oral complaints will be accepted. The complainant shall provide sufficient specificity to warrant further investigation. Please feel free to use the Complaint Form provided.

The OPG coordinator may direct an investigation into allegations of misconduct or violation of statutes, court rules, program requirements, rules, and/or procedures, which may result in a complaint, if such investigation protects and serves the best interest of the public.

Stage I. Preliminary Investigation

OPG staff makes a prompt, discreet preliminary investigation and prepares a written report recommending to the OPG manager whether to proceed to the second stage.

Stage II. Investigation

If the manager moves the matter to the next stage, the manager notifies and provides the contractor an opportunity to respond to the allegations, and if necessary directs the staff to investigate further. The manager may dismiss the complaint if there are no sufficient grounds for further investigation. At any time prior to final disposition, a matter may be resolved with a stipulation/agreement.

The stipulation may impose any terms and conditions deemed appropriate by the manager. A stipulation/agreement includes all material facts relating to the complaint and the conduct of the contractor. If the manager determines there is probable cause to believe that the contractor has violated statutes, court rules, program requirements, rules, policies and/or procedures, or is suffering from a disability that seriously interferes with the performance of contractor duties, the manager prepares a statement of charges and disposition of complaint and provides service of process to the contractor.

Stage III. Statement of Charges and Disposition

The statement of charges is public after the contractor has been served. The statement of charges shall be forwarded to the Certified Professional Guardian Board and may be forwarded to the superior court, Adult Protective Services, the Attorney General or other law enforcement if warranted.

The decision of the OPG will be final and the contractor shall implement the decision. If OPG imposes a sanction against the contractor as a result of the complaint, the contractor shall have the right to due process including a fair hearing. The hearing shall be conducted according to the Administrative Procedures Act.

Types of Sanctions

The following types of sanctions may be applied for violation of statutes, court rules, program requirements, rules, policies and/or procedures of the contract:

- 1) Action Plans - OPG requires the contractor to take immediate action and put into place an abbreviated and immediate corrective action plan if health or safety issues are identified. The plan must address the contractor's actions to be taken to ensure the health and safety of the OPG client.
- 2) Recoupment of Contract Funds - OPG collects money the contractor owes as the result of overpayments or other billing irregularities or both.
- 3) Referral Hold - OPG does not refer new clients to the contractor. The referral hold is released when OPG determines the contractor has resolved the reason for the hold.
- 4) Contractor Hold - OPG withholds the contractor's payments. The contractor hold is released when OPG determines the contractor has resolved the reason for the hold.
- 5) Involuntary Contract Termination - OPG may terminate the contractor's contract for cause by citing the contractor's failure to comply with the terms of the contract or with OPG program rules, policies, and procedures.
- 6) SUSPENSION - OPG MAY TEMPORARILY SUSPEND THE CONTRACTOR'S RIGHT TO CONDUCT BUSINESS WITH OPG. THE CAUSES FOR, AND CONDITIONS OF SUSPENSION ARE DESCRIBED ABOVE. A SUSPENSION IS IN EFFECT UNTIL AN INVESTIGATION IS CONCLUDED AND OPG CAN MAKE A DETERMINATION ABOUT THE AGENCY'S FUTURE RIGHT TO CONTRACT. OPG MAY IMPUTE THE CONDUCT OF AN INDIVIDUAL, CORPORATION, PARTNERSHIP, OR OTHER ASSOCIATION TO THE CONTRACT.

Corrective Action Plan

If the contractor fails to meet its performance or program related obligations under the contract, the OPG, at its sole discretion, may implement a Corrective Action Plan (CAP).

The OPG shall notify the contractor in writing of the deficiencies leading to the need for a Corrective Action Plan. Upon receipt of the written notification, the guardianship services contractor shall develop a CAP within twenty one (21) days addressing the following items:

- a) Identification of the problem and areas that need to be addressed;
- b) The "pro-active" steps to be taken to resolve the issues;
- c) The time frames necessary for completion of each step to be taken to resolve the issues and
- d) The names of the persons responsible for each of the corrective action steps.

If the identified areas are addressed and resolved within thirty (30) days from the date of written notification by the OPG, a follow-up review will be conducted by the OPG. If all is found to be in compliance, the CAP will not be implemented. If corrective action is necessary, then on the date of implementation (which would be the 31st day after the initial written notification), the guardianship services contractor shall have a maximum of ninety (90) days to achieve full compliance with the CAP.

- a) The OPG shall withhold 10% of the guardianship services contractor's reimbursement for the first month of noncompliance, 15% of the guardianship services contractor's reimbursement for the second month of noncompliance and 20% of the reimbursement for the third month of noncompliance.

- b) The withholding for any given month shall remain in effect, even if the guardianship services contractor comes into compliance during that given month.
- c) The OPG shall proceed to terminate the guardianship services contract if all noted deficiencies in the CAP are not corrected to the OPG's satisfaction within ninety (90) days after the implementation date of the CAP.

The OPG, at its sole discretion, may reallocate monies withheld as a sanction. The contractor shall have neither a claim upon nor opportunity to recoup monies withheld as a sanction. The OPG will remove any sanctions imposed upon the contractor if it determines that the guardianship services contractor has met its performance or program related obligations during a subsequent month. The payment process will then resume pursuant to the requirements of the contract.

Appendix A: Sample Referral Announcements

Once an individual is accepted to receive services through the OPG, contractors and referrers receive notice via email. These descriptions are designed to provide salient details of the individual to assist contractors in accessing how they may be able to assimilate the individual into their caseload. A few examples are provided:

ET, case # 18-4-02096-7, is a 26 year old male currently under guardianship, living in Pierce County at a private residence without support. He and his brother, JT, are both disabled and in similar situations. He receives \$771/month from SSA/SSI and Medicaid. ET needs 24/7 ADL care and supervision. APS and DDA are heavily involved due to allegation of abuse by mother and her denial of DDA services. ET is in danger of losing representative payee, Share and Care, due to lack of cooperation by mother and is at risk due to persistent neglect by his mother. According to the GAL, it is in ET's best interest to have his mother removed as guardian and a successor appointed who is a non-relative.

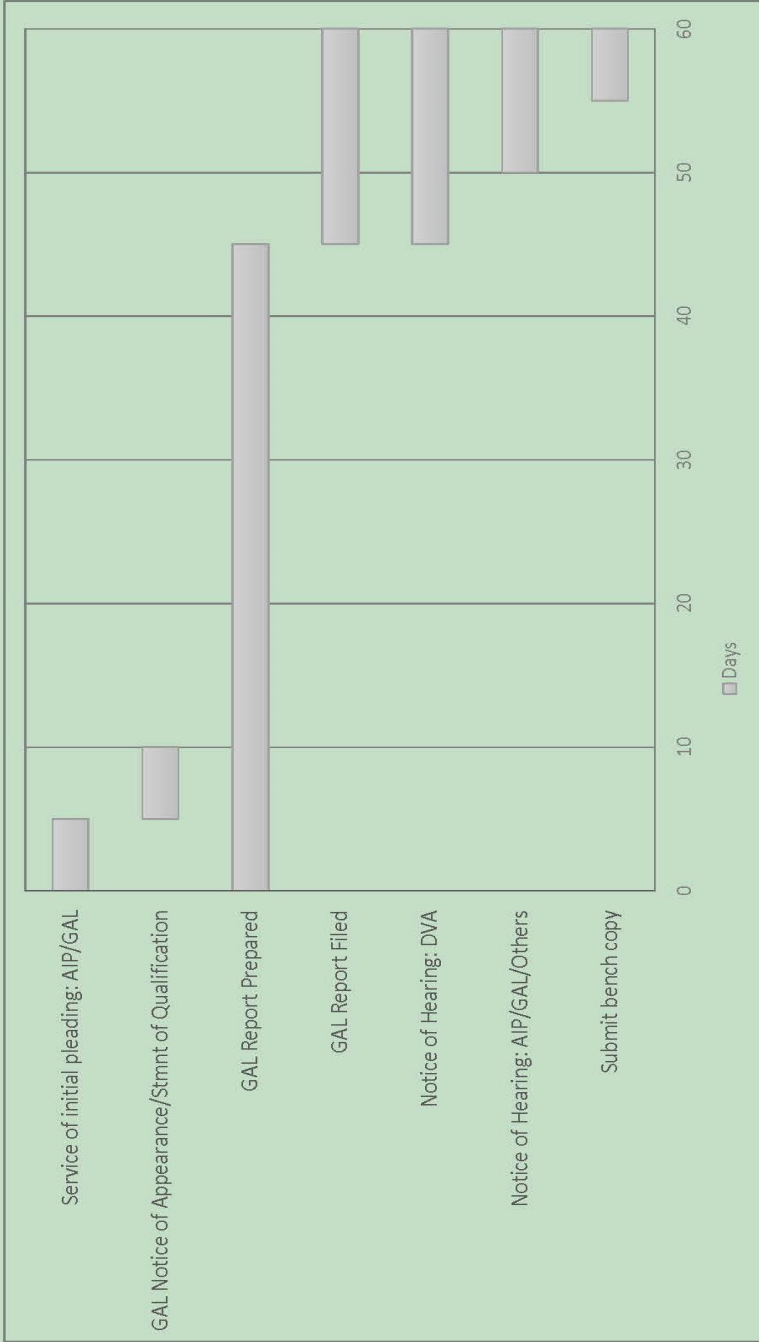
ET is conditionally accepted to receive guardianship services through the OPG program, contingent upon acceptance by a guardian. Please contact Suzanne Thompson at 253.863.0207 or suzanne@ctwcaringsolutions.com for additional information and/or to accept the appointment.

TG, a 59 year old female not currently under guardianship, is living in Pierce County at WSH since January 2019 due to grave disability. She receives \$771/month SS. She currently needs assistance with medication administration, and continues to present with delusional thought processes, interfering with meaningful conversation about treatment or discharge. She is at risk due to lack of a decision maker as she transitions back to the community and will be at risk of becoming indigent once again and an inability to address ADLs.

TG is conditionally accepted to receive guardianship services through the OPG program, contingent upon acceptance by a guardian. Please contact Risa Salters at 253-984-5870 or risa.salters@dshs.wa.gov for additional information and/or to accept the appointment.

Appendix B: Petitioning Process to Establish Guardianship

Timelines: Initial Pleading to Hearing



Who we are, what we do and who we serve

The OPG collaborates with policy makers, CPGs and others who support vulnerable adults to serve low income, high needs individuals who need support with decision making and have no other options.

How are we different

*The OPG provides direct financial **support for cases that continue to defy traditional approaches with innovative and flexible options** including less restrictive alternative. This mission helps the program achieve **success through purpose**. OPG contractors have access to forums for coordination and resources apart from Medicaid.*

What happens next

The OPG provides opportunities for individuals in need and the CPGs willing to serve on their behalf. Learn more about the program's success stories and opportunities to serve.