



Guardian Monitoring Program Workgroup Meeting

Wednesday, January 26, 2022

Zoom Meeting

8:00 a.m. – 9:00 a.m.

Meeting Minutes

Members Present

Jacalyn Brudvik
Arielle Finney
Ana (Forston) Kemmerer
Julie Higuera
Audrey Pitigliano
Jane Severin
Daniel Smerken

Staff

Ms. Amber Collins
Ms. Heather Lucas

Members Not Present

Sujatha Jagadeesh Branch
Chris Fournier
David Lord
Judge Nancy Retsinas
Tracie Thompson

Guests – No guests invited/admitted

1. Meeting Called to Order

Ms. Amber Collins called the January 26, 2022 Guardian Monitoring Program (GMP) Workgroup meeting to order at 8:00 a.m.

2. Welcome

Ms. Collins welcomed all present and spoke about the meeting agenda. She stated she would be speaking about the agenda items out of order (items are listed below in the order they were discussed).

3. Recap & Updates: Effectuate GMP in Finalized Cases

Ms. Collins stated Less Restrictive Alternatives will be revisited and added to the GMP manual. She informed the Workgroup that county visits are going well and that four have occurred so far. Ms. Collins revisited the question about when the GMP comes into effect: after speaking with management, it was confirmed the GMP becomes involved once a guardianship is finalized.

Ms. Collins added that interviews for the Regional Volunteer Coordinator will be conducted next week.

4. Discussion: Utilizing Volunteers; should volunteers be based in partnering counties or recruited from another region?

Ms. Collins asked the group about volunteers for the program. She stated that GMP staff will look for five to seven counties to pilot the GMP. She asked the Workgroup if it is best to select and recruit volunteers from that county or from other regions. Ms. Audrey Pitigliano stated it's best to select volunteers from the region. Ms. Ana (Forston) Kemmerer concurred.

5. Discussion: Question From County Visits (not on agenda)

Ms. Collins informed the Workgroup that a question was asked during a county visit about the difference between a court visitor and GMP volunteers. She asked the Workgroup what aspect is best for the GMP visitor to be beneficial to program, sighting she believes it is flexibility. She asked if the GMP should have more frequent visits when receiving concerns of abuse from APS, and if GMP staff visit the guardian and adult subject to guardianship.

Mr. Dan Smerken asked if it is appropriate to use the term "court visitor." Ms. Collins stated that it's the term she's using for the moment until another name is determined. Mr. Smerken stated the term "court monitor" might be a better term. Ms. Kemmerer stated her office used the term "volunteer visitor" instead of "court visitor." She added they would assign oldest cases first and have a visit every year, and prioritized cases, less priority if someone was in a facility as there were others also monitoring that person. She added that when complaints came in and the court assigned a court visitor to visit, they became the eyes and ears of the court as they're charged with making sure a person is cared for. Ms. Kemmerer added that other states and counties have asked the Spokane County GMP if they'd ever had a problem with court visitors and they did not. She stated there was training that was effective and also encouraged people to not go into a home if they did not feel safe.

Ms. Jacalyn Brudvik stated that she likes that Mr. Smerken wants to rename terms as there's specific verbiage used in the [law](#) and courts. She asked if sending out a volunteer is the intent to make the GMP independent from what the court is doing. She added that the Snohomish County GMP is under umbrella of the court and no one is doing visitations without court say so, and asked what Ms. Collins envisions. Ms. Collins responded that during a county visit with Yakima County, a staff member asked about GMP volunteer visits. Ms. Collins stated she was unsure, but when envisioning a volunteer visitor, this person would visit a person subject to guardianship if the volunteer auditor or volunteer researcher came across something not up to standards. She added she's open to comments and suggestions: does the GMP just write up a report? Even though this is a voluntary program, does the GMP need to get permission?

Ms. Brudvik asked if the GMP is under the umbrella of the courts. She added that as a guardian, if someone visits her sister for a purpose she's not aware of, that's not good. She stated that as a guardian she has responsibility and authority with her sister. Ms. Brudvik asked if the GMP would like to have a backup from the court if irregularities are found. Then the GMP could say they'd like to send someone out. She urged caution about sending a visitor without integrating the guardian or the court.

Ms. Collins expressed thanks to Ms. Brudvik and asked the Workgroup about reports of exploitation and neglect. She stated that when APS receives a report of concern they can do unannounced visits with the adult subject to guardianship, and asked if the GMP should also give the guardian notice about receiving a report and wanting to conduct a visit. Ms. Kemmerer stated that when Spokane County GMP conducted court visits they'd send a letter to the

guardian and never did anything unannounced. She added the only time the court states a second visit is necessary is if there's grave concern about a situation, like hoarding.

Mr. Smerken concurred there's a potential conflict unless there's clarity about hierarchy in decision making. He stated the court should be directing visits and the GMP shouldn't be acting independent of the court. He stated there's a different perspective with guardians being notified and added it's nice to be notified, but the guardian is an agent of the court and has responsibility to communicate to persons subject to guardianship. Ms. Collins stated she's taking this discussion into consideration as the GMP partners with counties.

Ms. Collins asked how it will look when the GMP partners with counties. Ms. Pitigliano stated the main area to work on is figure out what cases need looking at, and added she doesn't know if courts have a good handle on all guardianship cases. She added that court visitors may be inundated and will need the GMP Workgroup and volunteers to assist with and do leg work, but the GMP should not be a separate entity.

Ms. Collins asked the Workgroup how GMP volunteer visitors would assist appointed court visitors. Ms. Brudvik stated she wanted to revisit whether a party can visit a person subject to guardianship. She stated if law enforcement has to go out to investigate abuse of funds by someone who's not the guardian, there are parties who would need to receive notice about that. She added that there are a variety of parties who may need notice about certain actions. Mr. Smerken asked if that refers to the actions by the guardian. He also asked if Ms. Brudvik was suggesting GMP staff would have to give notice to all parties. Ms. Brudvik stated there are different things that may occur. She stated the statute is 26 days old, and there's a lot of uncertainty. She added that if things are terminated or changed, then certain parties get notice. She asked if there's theft, and law enforcement is there, does the guardian get notice under the statute.

Ms. Collins agreed with sending out notices, and cited her background in APS. She stated notices weren't sent by APS as they didn't want to give a person of interest in matter of abuse notice that they should look the part before an investigator came out. She added that universally notice is given to all parties. Ms. Brudvik stated notice must be given to specific people, but maybe not banking institutions or family in another state. She stated under the prior statute, the court is the super guardian and must operate to not create issues downstream.

Ms. Collins asked the Workgroup for clarifications on notices from the courts. Ms. Brudvik stated it may depend as things could come into court and give notice to parties about having to set a hearing. She added it puts the onus on the court to proper determination. Ms. Kemmerer stated that the Spokane County GMP was very aware that they didn't have anything stating that Spokane County GMP utilizes volunteers, so they added language to forms that stated guardians work with volunteers and the program.

Ms. Pitigliano thanked the Workgroup for explaining how APS visits work and added that there are federal regulations that state there must be guardian involvement for adults who are developmentally disabled. Mr. Smerken suggested Ms. Collins ask an AOC attorney general to look at the statute and look at liability issues. He added that Ms. Kemmerer's solution is an elegant way to codify at the local level that a guardian has to cooperate. Ms. Collins stated that GMP staff have a meeting set with the attorney general, but wanted to get comments and considerations from the Workgroup.

Ms. Arielle Finney stated that from her perspective at APS, she would want consideration for notice provided. She stated it can sometimes create a barrier for a person subject to guardianship. APS must be mindful of the impact of notification and make sure the person subject to guardianship's voice is still heard without influence of the guardian, and without being coached. She added her one concern about notification ahead of time is a person could be coached and she's been part of situations where people have been coached or told what to do.

Ms. Collins asked Ms. Finney when APS receives a notification of abuse, what steps are taken under [Chapter 6](#). Ms. Finney replied that if a guardian is the alleged perpetrator, they don't have to interview them before the person subject to guardianship. She added it can be infuriating for guardians as they want to know what is happening with their person, and APS understands, but wants to hear the person subject to guardianship's voice without influence. They provide notice to the alleged perpetrator, but not until later so they know what's going on. Ms. Finney stated for guardians who aren't the alleged perpetrator, they notify them as soon as possible after interviewing the person subject to guardianship. She added that they're in a different position as they're investigating allegations and that can create conflict.

Ms. Collins asked if at any point during the investigation does APS notify the court. Ms. Finney stated APS specifically notifies the CPGC Board when it's a public guardian and they have substantiation, but they try not to notify if there's no notice or proof. APS doesn't want to create unnecessary burden of proof.

Ms. Collins asked Ms. Finney how APS handles substantiated claims for lay guardians. Ms. Finney replied that APS goes through the AAGs office to petition for a change in guardian. They don't notify the courts if the claim is unsubstantiated or unfounded.

Ms. Collins stated that she's unsure how it works with a case like that getting to GMP staff's attention. Mr. Smerken stated there are lots of rights lost under guardianship, like right of association, so a person might not always know who they can associate with unless it's specifically prohibited by the court. Mr. Smerken suggested that the GMP could become similar to the CPGC Board, but act as an oversight to lay guardians. He added that the UGA holds lay guardians to the same standards, but there's no current board. Ms. Collins stated she'd be open to that challenge.

Ms. Collins asked the group what it looks like for counties to work with the GMP. She stated that some counties don't have a GMP, and some have informal guardianship coordinators. She asked if the Workgroup sees a potential conflict. Ms. Kemmerer stated she doesn't know the overall intent from the AOC GMP, but loves the idea that the GMP would become a governing board for family guardians. She added that the Spokane GMP senses that guardians feel the court is saying they're guilty, and they have to prove their innocence. Ms. Kemmerer stated it'd be helpful if lay guardians understood there was an entity to monitor them as professionals that was always looking for more opportunities for them to understand what it means to be a guardian as opposed to being a family member or friend. She added it's very different being a family member and as opposed to a guardian, and that lay guardians don't always think they grasp the situation because they're just being a parent. She added that's not an excuse in the court of law.

6. Discussion: Methods of Support to Lay Guardians

Mr. Smerken stated that he'd recently joined a national guardianship group that has come up with goals. He's been appointed to come up with a bill of rights for persons subject to guardianship: a simple document with ethics principals for courts, guardians, and persons subject to guardianship so they know their civil rights and what rights are impaired. Mr. Smerken added that some persons subject to guardianship may not understand what rights are affected by guardianship and what aren't, and added that something like that could be helpful here.

Ms. Kemmerer stated that Spokane County GMP is interested in the AOC GMP as their program is going through a revamp to assist with the new law, but thinks anything can be more efficient. She stated one of the things she's pushing Spokane County for is a brown bag lunch Zoom meeting for guardians to visit the website and review forms. They're not there to talk about specific cases, but to make guardians familiar with resources. She added it would be nice to know if the AOC GMP is going to conduct similar initiatives so no one does duplicative work. She suggested to Ms. Collins that this may be a conversation offline with counties that have an established GMP.

Ms. Brudvik stated that different modalities may be beneficial for lay guardians, like brown paper bag lunches may touch a lot of guardians; providing a variety of webinars, downloadable sheets, making all forms available on court websites and in courts, providing facilitators. She stated it's important to look at outreach in every way we can think.

Ms. Collins reiterated that if the GMP had a facilitator position, that staff member would be assisting in education. Ms. Brudvik agreed and stated that facilitators can't fill out the forms for people, but facilitators can use highlights on what needs to be filled out. She added that a training for facilitators was scheduled in Snohomish County for Monday, January 31st. Ms. Brudvik stated they have training for facilitators, who can provide process and procedure but not legal advice. Facilitators could have forms and general guardian information sheets, share links to websites and provide a computer to look at the websites at court, but not all counties have facilitators. She added that for minors you can provide facilitators and charge \$20, but the fee needs to go back into a facilitator program. Ms. Collins agreed that a lot of counties don't have a facilitator, so that work would go back to the GMP. She wondered if the GMP would have capacity and stated that discussion will be tabled for the time being.

Ms. Pitigliano asked if the Workgroup could help develop facilitator programs in counties to show what's needed or helpful. Ms. Kemmerer stated she will push back on that piece because every county does things differently. She added that Spokane County has people using state forms, but they don't hold hearings for every case they have. Ms. Julie Higuera stated one thing they've done in Benton & Franklin Counties is once a guardian is appointed, they email info on where to get forms for the initial and periodic reporting as that's the point in the process where they provide it. She added that for counties that don't have a GMP, maybe the AOC GMP could put together info to get to the guardians.

7. Discussion: Frequency of Visits Contingent upon Severity of Cases

This topic was tabled due to lack of time.

8. Wrap Up/Adjourn

The next Guardian Monitoring Program Workgroup meeting will take place via Zoom Conference on Wednesday, February 23, 2022, at 8:00 a.m. With no other business to discuss, the January 26, 2022 meeting was adjourned at 8:55 a.m.