

## **Department of Human Services Policies and Guidelines**

### **CHAPTER 3 – Adult Protection Services (APS)**

#### **ARTICLE I - General Provisions**

##### **Sec. 3.1.10. - Conservatorship and Guardianship**

###### **A. Purpose**

APS staff work with vulnerable at-risk adults who may, or may not, have the ability to enter into verbal or other agreements independently or with complete understanding. As a result, it is prohibited for APS staff to take possession of the personal property, original paperwork, or handle money or any financial instruments of APS Clients.

1. Client Property. In the rare and unforeseen circumstance where property may be lost or damaged due to inaction, the APS Supervisor or Area Agency on Aging (AAA) Division Head are required to be consulted and their prior approval given to take possession of a Client's property if there is no other viable option available at the time. Without approval of APS Supervisor or AAA Division Head, APS Staff are not to take possession of Client's property.
2. Client Paperwork. APS Staff have technology to take or scan documents in the field and the ability to obtain documents electronically or by mail. APS staff should not take original documents from a Client but, instead, should take possession of copies of documents. Original Court documents needed from Guardianship and Conservatorship cases should only be obtained from the Court or DHS Legal Department.
3. Client Financial Instruments. Weld County Department of Human Services (DHS) does not provide financial services to APS Clients (Section 12 Colorado Code of Regulations 2518-1-30.640 Representative Payee). As a result, there is no circumstance where APS Staff should take possession, nor be in control, of any financial instruments of a Client, including cash, checks, coin collections, or anything of monetary transferable value at any time.

###### **B. Conservatorship**

Pursuit to Section 12 Colorado Code of Regulations 2518-1-30.630 (Court Intervention), and in compliance with all requirements of this section when determined by APS Assessment, supporting medical and/or psychiatric documentation, and financial need of the Client, the APS Supervisor shall consult with the AAA Division Head about the need for a Conservator to be appointed for a Client. Upon determination of need for a Conservator, the APS Supervisor, AAA Division Head, DHS Director or their designee, and the County Attorney will be consulted about the need for a Conservator to be petitioned and/or appointed.

1. The final decision of Conservator involvement will be at the discretion of the DHS Director or their designee.

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2. The APS Unit will be responsible for gathering the required information and completing the petition for Conservatorship to be reviewed and approved by the County Attorney and DHS Director.
3. The Supervisor will be responsible for providing testimony to the Court regarding a Conservatorship petition.
4. The Weld County Public Administrator will be the primary appointee unless an alternative Conservator is available or deemed more appropriate based on the Client's need.
5. At no time will Weld County DHS serve in the role of Conservator on either a temporary or permanent basis.
6. If the need for a Conservator is identified in conjunction with the need for a Guardian, DHS will inform the Court during the Guardianship hearing of need for a Conservator and allow the Court to appoint a Conservator off the bench if deemed appropriate by the Court.

### **C. Guardianship**

Pursuit to Section 12 Colorado Code of Regulations 2518-1-30.630 (Court Intervention), and in compliance with all requirements of this section, "it is urged to petition the Court for an order authorizing the appointment of an emergency Guardian and/or Special Conservator in order to resolve the immediate safety concern(s)," when determined by APS Assessment, supporting medical and/or psychiatric documentation, and need of the Client to resolve Safety concerns, and there is no other identified responsible party who is able to serve as Guardian.

1. The DHS Director will be the Guardian of last resort.
2. The APS Supervisor, upon determination of need for a Guardian, shall consult with the AAA Division Head about the need for a Guardian to be appointed for a Client.
3. Upon determination of need for an emergency or permanent Guardianship, the APS Supervisor, AAA Division Head, DHS Director or their designee, and the County Attorney will be consulted about the need for a Guardian to be petitioned and/or appointed.
4. The final decision of Guardianship will be at the discretion of the DHS Director or their designee.
5. The APS Unit will be responsible for the following:

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- a) Completing searches through available documentation and records obtained during APS Assessment;
  - b) Utilizing the Family Finder Unit for a search of relatives or known associates of the Client who may be able to serve as Guardian in preference of the DHS Director;
  - c) Gathering the required information and completing the petition for emergency or permanent Guardianship to be reviewed and approved by the County Attorney and DHS Director; and
  - d) Providing case management services for the Client on behalf of the DHS Director;
    - i. The DHS Director must make all medical and placement decisions.
    - ii. The APS Unit has no authority to make decisions on behalf of the Client.
6. The APS assigned Caseworker and/or APS Supervisor will be responsible for providing testimony to the Court regarding a Guardianship petition.
  7. The APS approved Guardianship Letter will be updated as warranted with instructions to parities for after-hours contacts and how to disseminate information about the Client to the APS Unit.
  8. Pursuant to Colorado Revised Statute (C.R.S.) 15-18.5-103(8), the County Department (Weld County DHS) does not seek Guardianship solely to make medical decisions on behalf of the Client.
  9. Pursuant to Section 12 Colorado Code of Regulations 2518-30.630-D, the County Department shall initiate proceedings to withdraw as Guardian and/or Conservator when:
  10.
    - a) Medical or psychiatric evidence indicates a Guardian and/or Conservator is no longer necessary;
    - b) Another appropriate Guardian or Conservator has been identified; or,
    - c) The County Department (Weld County DHS) is no longer able to fulfill Guardianship responsibilities, as appointed.