

## **DD Guardianship Establishment Fund - Frequently Asked Questions**

- Q. Who determines a person to be incapacitated?**  
**A.** Known as expert examiners: A Physician, Psychiatrist, Clinical Psychologist, Advanced Practice Registered Nurse, or a Physician Assistant.
- Q. What if two people are wanting to be co-guardians?**  
**A.** This is okay. Only one application (SFN 1453) needs to be completed, however, both proposed guardians will need to sign the form. Once funds are approved, the hired attorney will guide the proposed guardians on next steps.
- Q. Is it acceptable for a DD Program Manager (DDPM) to be a referral source?**  
**A.** Yes, a DDPM can be a referral source, however, they cannot petition the court or act as the petitioner.
- Q. Who is responsible to petition the court and securement of attorney?**  
**A.** The proposed guardian or the referral source (Not DDPM) will be responsible for this.
- Q. Is there a timeframe the money needs to be spent in?**  
**A.** The department has the authority to spend the DD guardianship establishment funds through June 30, 2025.
- Q. Is the attorney retainer waived once payment is approved?**  
**A.** This is determined on a case-by-case basis. Most guardianship attorneys do not charge a retainer fee. Some attorneys are willing to wait for payment once the funding is approved and dispersed. Please staff case with the state office if further questions.
- Q. Can the funding be used for new guardianship for a person that already has a guardian in place (emergency or non)?**  
**A.** If there is already a court-ordered guardianship but someone else wants to be appointed the guardian, either as a replacement guardian or a co-guardian to help the current guardian, the person can file a **Petition for Appointment of Successor/Co-Guardian**. The DD Guardianship Establishment Funding will not be utilized for this service. Emergency cases will be reviewed on a case-by-case basis.
- Q. Does the proposed ward need to be eligible for Medicaid and meet the federal poverty level guidelines?**  
**A.** No. If the proposed ward is eligible for Medicaid, financial eligibility does not need to be reviewed. If the proposed ward is **NOT** Medicaid eligible, they will need to meet the financial requirements listed on the application (SFN 1453).
- Q. What is the age minimum of when the funding can be requested?**  
**A.** 17 years and 6 months. At this age, they can start the process of requesting the DD guardianship establishment funds.
- Q. If someone is in the process of requesting guardianship and they have already paid the petitioning fees, can we request funds to pay the family back?**

**A.** Unfortunately, no. The request must be approved before the petitioning process begins.

**Q.** **Is there an appeal process if an application is denied?**

**A.** No. Typically, the denial is due to the proposed ward not meeting the financial eligibility requirements or there is a lack of medical evidence that the person has been found “incapacitated”. If the denial is due to lack of medical evidence, if new information is found, they can reapply for funding.

**Q.** **Do we allow individuals wishing to use a guardianship agency to apply for DD guardianship funds?**

**A.** Yes. Private guardianship agencies can apply for DD Guardianship funding if they do not have their own funding source such as Catholic Charities of North Dakota.