



Policy Title: **Guardianship for Incapacitated Individuals**

Policy #: **03-003-0015**

Effective Date: 07/24/2025

Approved by: Telly Delor, Chief Operating Officer

Functional Area: Service Delivery

Responsible Leader: Kathleen Gallagher, Chief Clinical Officer

Policy Owner: Service Directors

Applies to: Community Agency Contractor, Contracted Network Providers, Directly Operated Programs, Specialized Residential Providers, SCCCMH Staff, SCCCMH Board

Purpose: To provide guidance to St. Clair County Community Mental Health (SCCCMH) staff about:

- Evaluating the necessity and scope of *guardianship* for an incapacitated individual.
- The requirements for petitioning for *guardianship* of incapacitated individuals established by the Michigan Mental Health Code and Michigan Probate Court.

I. Policy Statement

It is the policy of St. Clair County Community Mental Health (SCCCMH) to process *guardianship* in accordance with the procedures established by the Michigan Mental Health Code and Michigan Probate Court.

II. Standards

- A.** The need for and scope of guardianship services provided by this agency shall take into account the individual's abilities and shall be advocated for only to the extent necessitated by the individual's actual mental and adaptive limitations to provide protection from neglect, exploitation, and abuse.
- B.** Guardianship status should be reviewed when:
 1. A determination has been made that perhaps the guardian is no longer needed.
 2. Circumstances are such that it may be appropriate for a different guardian to be appointed. Such circumstances include:

- a. A suspected misappropriation of the individual's funds.
- b. The safety of the individual is at risk.
- c. Lack of responsiveness is affecting the individual's ability to meet their goals or potential in an area.
- d. The current living situation is a hindrance to improvement for the individual.

III. Procedures, Definitions, and Other Resources

A. Procedures

Actions- Petition Process for *Legally Incapacitated Individuals*

Action Number	Responsible Stakeholder	Details
1.0	Primary caseholder	<ol style="list-style-type: none"> 1. Discuss the need for guardianship with the individual's Planning Team, the individual, and <i>Petitioner</i>. 2. Advise potential Petitioner as to the roles and responsibilities of a guardian. 3. Provide Petitioner with the following forms and assist with completion. <ol style="list-style-type: none"> a. Petition for Appointment of Guardian of Incapacitated Individual, Form PC 625, located at: https://www.courts.michigan.gov/4a0f63/siteassets/forms/scao-approved/pc625.pdf b. Protected Personal Identifying Information, Form MC97, located at: https://www.courts.michigan.gov/49ce24/siteassets/forms/scao-approved/mc97.pdf 4. Inform Petitioner of the required fees. (Fees can be waived by filing a Fee Waiver Request, Form MC20, found at: https://courts.michigan.gov/Administration/SCAO/Forms/courtforms/mc20.pdf If SCCCMH staff is serving as the Petitioner, this form is not completed. 5. Submit completed petition to Probate Court and inform the individual being served and Petitioner of status. 6. Inform individual being served that a court representative will be contacting them to discuss their rights. 7. Brief individual being served and significant others on hearing process. (See Exhibit A, Guardianship: Hearing Procedures.) 8. Obtain signatures from newly appointed guardian on all

Action Number	Responsible Stakeholder	Details
		necessary “Consent Forms” and adds updated information regarding guardianship to the demographics section of the electronic health record, OASIS 9. Obtain a copy of the guardianship order from Probate Court.
2.0	Probate Court	10. Ensure guardianship papers are scanned/uploaded into the electronic health record, OASIS.

Actions – Conservator For Legally Incapacitated Person

Action Number	Responsible Stakeholder	Details
1.0	Primary Caseholder	<ol style="list-style-type: none"> 1. Discuss the need for a <i>conservator</i> with the individual being served, Planning Team and Petitioner. 2. Provide Petitioner with the Petition for Appointment of Conservator and/or Protective Order, Form PC639, located at: https://courts.michigan.gov/Administration/SCAO/Forms/courtforms/pc639.pdf 3. Forward documents to Probate Court. 4. Obtain signature from new conservator on all necessary financial papers. 5. Add updated information regarding conservator to the demographics section of the electronic health record, OASIS.
2.0	Records Staff	6. Ensure all documents are scanned/uploaded into the electronic health record, OASIS.

Actions – Petition Process for Review and/or Modification of a Guardianship

Action Number	Responsible Stakeholder	Details
1.0	Primary Caseholder	<ol style="list-style-type: none"> 1. Discuss the need to end a guardianship because it is no longer needed with the individual, the planning team and petitioner. 2. Provide petitioner with following form(s) to end or modify guardianship: Petition to Terminate/Modify Guardianship, Form PC675, Petition to Terminate/Modify Conservatorship, Form PC676, or Petition to Terminate/Modify Guardian for Developmentally Disabled Individual, Form PC677. All of the forms are located at: https://courts.michigan.gov/Administration/SCAO/Forms/

Action Number	Responsible Stakeholder	Details
		Pages/Probate-Court-Index.aspx 3. Submit all documents to Probate Court. 4. Ensure updated information regarding guardianship is added to the demographics section of the electronic health record, as well forwards any subsequent orders to Records staff for uploading/scanning into the electronic health record, OASIS. Or 5. Discuss the need to change the guardian to a different individual with appropriate parties.
2.0	Petitioner	6. Using the appropriate form, (see the following forms listed) request another guardian be appointed. Forms to be used for petitions for new guardians/conservators: Petition to Terminate/Modify Guardianship, Form PC675, Petition to Terminate/Modify Conservatorship, Form PC676, or Petition to Terminate/Modify Guardian for Developmentally Disabled Individual, Form PC677. All of the forms are located at: https://courts.michigan.gov/Administration/SCAO/Forms/Pages/Probate-Court-Index.aspx

B. Related Policies N/A

N/A

C. Definitions

1. *Alleged*: A declare or stated to be described condition. For the purposes of this administrative procedure a medical and /or clinical diagnosis.
2. *Competency*: The quality of being competent, adequacy, possession of required skill, knowledge, qualifications. The person's ability to handle their own affairs in an adequate manner.
3. *Conservator*: An individual who has been appointed by the Court to help an individual manage their property and financial affairs when the individual is unable to manage such affairs. (If a conservator is appointed, the conservator will make decisions for the individual, except for, to make a will).
4. *Durable Power of Attorney*: A legal document that indicates an individual has been selected to handle the affairs of a principal individual, if the principle individual become mentally incompetent. The durable power of attorney can be called the General Power of Attorney, Limited Power of Attorney or Medical Power of Attorney and may be referred to as an "agent." If given medical/health authority, it may be referred to as "Patient Advocate" when medical or health

related authority is given.

5. *Full Guardian*: A guardian who may possess all the legal rights and powers provided of the person under certain circumstance.
6. *Guardianship*: The legal appointment of a substitute decision maker. There are two types of guardianship. Guardianship – Legally Incapacitated Individual and Guardianship – Developmentally Disabled Individual.
7. *Incapacitated Person*: A mentally ill and/or physically incapacitated and/or mentally incompetent person, who is so impaired that they either poses an immediate and substantial danger to their own health and safety or is endangering the health and safety of the public.
8. *Interested Person or Entity*: An adult relative or friend of the “respondent,” an official or representative of an agency or association concerned with the individual’s welfare, including protection from neglect, exploitation, and abuse.
9. *Legally Incapacitated Individual*: According to Michigan Estates and Protected Individuals Code section 700.1105 means an individual with any condition which impairs the person to the extent of lacking sufficient understanding or capacity to make or communicate informed decisions. Can include: mental illness, mental deficiency, physical illness or disability, chronic use of drugs or chronic intoxication.
10. *Limited Guardian*: A guardian who possesses fewer than all of the legal rights and powers of a plenary guardian, and whose rights, powers, and duties have been specifically enumerated by court (such as medical only, financial only) for a legally incapacitated adult or minor. (This is not the same as a representative payee).
11. *Partial Guardian*: A guardian who possesses fewer than all of the legal rights and powers of a plenary guardian, and whose rights, powers, and duties have been specifically enumerated by court (such as medical only, financial only) for a developmentally disabled individual. (This is not the same as a representative payee).
12. *Petitioner*: An individual who initiates the process of obtaining guardianship.
13. *Plenary Guardian*: A guardian who possesses the legal rights and powers provided of the person, or the estate (if also awarded fiduciary guardian), or both for an intellectual/developmentally disabled individual. A Plenary Guardian must have an order from the court to execute a Do Not Resuscitate.
14. *Respondent*: The individual who is the subject of a petition for guardianship.
15. *Stand-by Guardian*: The legal appointment of a substitute decision maker in the event the Guardian is unable to perform their duties only for individuals who are intellectual/developmentally disabled.

D. Forms

N/A

E. Other Resources (i.e., training, secondary contact information, exhibits, etc.)

[Exhibit A, Guardianship: Hearing Procedures](#)

F. References

1. St. Clair County Court website
2. Guardians' Rights and Responsibilities – Judge John D. Tomlinson (2.1.19)

IV. History

- Initial Approval Date: /2025
- Last Revision Date: 06/2025- split from policy #03-003-0020, Guardianship of Individuals with an Intellectual/ Developmental Disability BY: Kristen Thompson
- Last Reviewed Date: N/A
- Non-Substantive Revisions: N/A
- Key Words: incapacitated, guardianship, petition, guardian, intoxicated, alcohol, drug use