

HUMAN SERVICES OF FARIBAULT & MARTIN COUNTIES	<u>AUTHORITY</u> January 18, 2023 <u>Revisions March 22,</u> <u>2023,</u> <u>November 22, 2023</u> Date of Board Action	<u>EFFECTIVE DATE</u> January 1, 2023 REVISED March 22, 2023 January 1, 2024	<u>SECTION</u> 422 Page number: 1 of 8
POLICY AND	<u>/s/ Chera Sevcik</u> Executive Director		
PROCEDURES	<u>SUBJECT:</u> PROFESSIONAL GUARDIANS/CONSERVATORS – Fee Policy and Procedure		

INTRODUCTION

This fee policy covers the payment rate and billing process for court appointed professional guardians/conservators. To become a professional guardian/conservator, a petitioner must file a petition with the Faribault or Martin County Court. If a ward is considered low income, an In Forma Pauperis (IFP) may be filed to waive the court fees. After the court approves the petition, professional guardians/conservators may use this fee policy to request compensation from Human Services of Faribault & Martin Counties (HSFMC).

DEFINITIONS

Conservator: A conservator is appointed to make financial decisions for the protected person (“Conservatee”.) The conservator typically has the power to enter into contracts, pay bills, invest assets, and perform other financial functions for the protected person.

Guardian: A guardian is appointed by the court to make the personal decisions for the protected person (“Ward”.) The guardian has authority to make decisions on behalf of the protected person about such things as where to live, medical decisions, training, and education, etc. For more information on guardianship and conservatorship, visit: <http://www.mncourts.gov/Help-Topics/Guardianship-and-Conservatorship.aspx>.

In Forma Pauperis (IFP): Minnesota Statute 563.01 states that the court may authorize guardianship or conservatorship proceedings to proceed in forma pauperis, which waives payment of court fees for low income individuals. For more fee waiver information, visit: <http://www.mncourts.gov/Help-Topics/Fee-Waiver-IFP.aspx>.

Petitioner: The person who brings a petition before the court. For more information on petitioning for appointment of general conservator or guardian, visit: <http://www.mncourts.gov/GetForms.aspx?c=21&f=433>.

Professional Guardian or Conservator: A guardian or conservator who (usually) has no prior relationship with the ward or conservatee and charges the ward or conservatee a fee for performance of duties.

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Protected persons: Protected persons are those individuals who have had conservators appointed for them because they lack similar capacity and have demonstrated an inability to make decisions regarding their financial affairs or estate.

Ward: Wards are incapacitated adults who have a court appointed guardian, lack sufficient understanding or capacity to make or communicate responsible personal decisions, and who have an inability to meet personal needs for medical care, nutrition, clothing, shelter, or safety.

POLICY

In accordance with Minnesota Statute § 524.5-502, professional guardians and conservators may request compensation for necessary services rendered under the following billing policy and procedure:

1. Eligible Representatives

A court appointed professional guardian/conservator in an In Forma Pauperis case (or when a finding of indigence is made) that Letters have been issued to.

2. Payment Rate

The current rate of pay is \$50.00 per hour for professional guardian/conservator services and \$50.00 per hour for travel time for In forma Pauperis/Indigent cases. There is also a three-tiered hourly cap of up to 48, 60, OR 80 hours per year based on the following living situation of the ward/protected person as set by Human Services of Faribault & Martin Counties' Board. Travel hours are included in these caps.

Tier 1	Ward/protected person lives in a nursing home or long-term residential facility or is absent without leave (awol).	Up to 4 hours per month or 48 hours per year for maximum reimbursement of \$2400.00 at \$50.00/hour.
Tier 2	Ward/protected person lives in an assisted living, group home, foster/parents' home, or in his/her own apartment with 24-hour services.	Up to 5 hours per month or 60 hours per year for maximum reimbursement of \$3000.00 at \$50.00/hour.
Tier 3	Ward/protected person lives independently or in community without residence (example: staying with friends).	Up to 6.6 hours per month or 80 hours per year for maximum reimbursement of \$4000.00 at \$50.00hour.

Human Services of Faribault & Martin Counties will only pay the tier rate up to the annual allotment. Guardians are responsible for managing their time to work within the allowed annual allotment, and billing as appropriate for hours used.

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Additional hours may be allowed under the following:

- When a new guardianship/conservatorship is established, hours for the first two months of this arrangement will not be counted as part of the tiered amount. This does NOT apply to transfer of or successor guardianships.
- If a ward/protected person has both a Guardian and a Conservator, additional hours may be allowed for Conservatorship not to exceed twenty-four additional hours in a year.-
- Prior authorized non-routine, non-emergency situations – Supervisor may prior authorize additional time and/or travel for these situations such as multiple medical appointments in Rochester when physician requests guardian be in attendance.
- Emergency – An invoice submitted by Guardian/Conservators for an emergency (routine services do not constitute an emergency) that required more than the ward/protected person's established tier rate shall be accompanied by a written memo of explanation of the emergency and necessity of services along with an itemized listing of the date of service, brief and comprehensive description of services, billable time in actual time which for the invoice will be converted into quarter-hours, and if applicable, the amount received from the ward/protected person's income.
- Emergency – Rather than waiting for invoicing, guardian may contact Supervisor within 72 hours of the emergency to receive authorization for additional time and/or travel.
- Additional exceptions may be considered in unusual circumstances. All exceptions must be approved by Social Services Supervisor and Behavioral Health/Social Services Division Director, with documentation noted in case file and billing detail.

Upon the death of a ward/protected person, Guardian/Conservator will make a request to the Social Services Supervisor for payment of needed hours.

Human Services of Faribault & Martin Counties does not pay relatives of the ward/protected person for services provided as an appointed guardian/conservator.

All persons providing services for which payment is being sought must have signed consents filed with and background checks done by/provided to the court and updated as required by the court.

3. Payment Policy

- A. All guardians/conservators seeking reimbursement from Human Services of Faribault & Martin Counties must complete an Acknowledgement that verifies receipt of and agreement to this Fee Policy.
- B. The guardian/conservator in cases designated In Forma Pauperis/Indigent can be paid for attending the initial hearing (up to one hour plus travel time) if their appointment becomes confirmed and the Letters issue.

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- C. The guardian/conservator In Forma Pauperis/Indigent billings may commence from the date of the issuance of Letters (the date is the court file stamped date).
- D. Court appointed guardian/conservators representing ward/protected person on In Forma Pauperis/Indigent case **must** submit an initial invoice within 60 days of the Letter issuance. All subsequent billings should be submitted within 30 days of the end of the month services were rendered. **Any subsequent billing not submitted within 60 days of the service rendered shall not be paid.**
- E. Payment will be made within 35 days from receipt of invoice.
- F. All invoices must be sent to:
 - Social Services Supervisor
 - Human Services of Faribault & Martin Counties
 - 115 West First Street
 - Fairmont, MN 56031
- G. All invoices must be submitted in a manner and format acceptable to Human Services of Faribault & Martin Counties.
- H. An itemized listing of service for each ward/protected person (printed in a legible fashion and in a font not less than 12 points) shall be submitted with each invoice. The itemized listing will have, at a minimum:
 - i. Ward/protected person's name and court case number,
 - ii. Date of service,
 - iii. Explanation of the necessary service (specify client service, travel, and Conservatorship activities separately),
 - iv. Actual length of time for each service, rounded to the nearest tenth or quarter hour (depending on billing system),
 - v. Name of employee who provided the service,
 - vi. All telephone calls must list the contact person with phone number,
 - vii. One grand total, rounded to the nearest tenth or quarter hour for all the services on the invoice.
- I. Double billing is not permitted.
 - i. When providing services for a ward/protected person, you shall not bill another ward/protected person for services within the same time period.
 - ii. When on paid time by another employer, you shall not have any charges for ward/protected persons.
 - iii. If providing a group visit with several In Forma Pauperis/Indigent ward/protected persons, the complete time will be divided equally among all ward/protected persons billings.

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- J. If the ward/protected person is on Medical Assistance, a guardian or conservator may be allowed to retain a portion of the ward/protected persons' monthly income. A guardian/conservator **is required** to apply to the MA financial case worker to see what MA rules allow. The amount, if allowable, shall be shown on the invoice as Other Reimbursement when billing HSFMC. This amount shall then be deducted from the fee indicated above. If the amount obtained from income exceeds the fees, there will be no payment by HSFMC. This also applies for any fees collected for being Rep Payee for ward.

Guardianship or conservator fees established by the court and representative payee fees allowed by Social Security Administration can be collected from the ward/protected person being served. These fees will be used as a deduction in a client's Group Residential Housing (Housing Support, MSA, and Medical Assistance) budgets. The Department of Human Services will pay the difference.

The calculation for the fee paid by the ward/protected person is as follows: Five percent (5%) of the enrollee's gross monthly income, up to a maximum of \$100, for fees paid to a guardian, conservator, or representative payee is deducted. This deduction cannot be increased over \$100 even if a higher amount is allowed to be paid by SSA or a court.

Guardian/Conservator/Rep Payee must provide proof of the fee collected to the ward/protected person's eligibility worker so the deduction can be used in the budget. This deduction should be adjusted by providing new notice to the eligibility worker whenever there is a significant change in income; generally, one time per year when cost of living adjustments occur.

Fees collected from ward/protected person will need to be recorded on the guardianship invoice as "other reimbursement" in the month it is received. This reduces county tax dollars paid for guardianship services; utilizing state or federal dollars instead.

{Combined Manual 0018.39 Prior and Other Income Deductions; EPM 2.4.2.5.1 LTC Income Calculation Deductions, and Combined Manual 0018 Determining Net Income}

- K. The guardian/conservator shall reimburse fees previously paid by Human Services of Faribault & Martin Counties:
- i. If an In Forma Pauperis is revoked.
 - ii. If a ward/protected person receives an inheritance, or otherwise acquires or liquidates assets (except if there is a Special Needs Trust or Supplemental Needs Trust of which the ward/protected person is a beneficiary. The assets in such a trust shall not be considered for purposes of repayment.)
 - iii. If there is a Medical Assistance spenddown, after the necessary needs of the ward/protected person have been met.

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The guardian/conservator shall reimburse HSFMC for past payments before the guardian/conservator may submit new billings for subsequent time periods to either HSFMC or the other source(s) of payment. Small reimbursements may be made by reducing future invoices as long as that is clearly stated for audit purposes.

4. Non-Reimbursable Activities and Expenses:

- A. Human Services of Faribault & Martin Counties will not pay for clerical/secretarial time, internal tickler noticing, more than one (1) staff member per service, phone messaging, and billing inquiry and/or time. Note that “phone messaging” refers to leaving of callback information only (e.g., name and number). Electronic communication, such as voice mail exchanges of relevant information are not considered “phone messaging.”
- B. Mileage, as it is considered to be included in the hourly travel fee.
- C. Office and business expenses, such as paper, postage, telephone expenses, internet expenses, photocopies, and training/consultation of/with in-house personnel.

5. Billing Adjustment and Appeals

Human Services of Faribault & Martin Counties may reduce or deny payment without notice on non-compliant or excessive items. If the guardian/conservator wishes to file a challenge for any billing reduction or denial, that challenge should be sent by written request to:

Executive Director Chera Sevcik
Human Services of Faribault & Martin Counties
115 West First Street
Fairmont, MN 56031

6. Right to Audit

All invoices and supporting documentation (visit log and itemized statements) are subject to random audit of fees and billing practices for seven (7) years after services. Acceptance of payment from Human Services of Faribault & Martin Counties indicates willingness of guardian/conservator to comply with all audits.

7. Compliance with Policy

Human Services of Faribault & Martin Counties reserves the right to request that the Court NOT appoint a Guardian/Conservator on future cases or to remove a Guardian/Conservator who is non-compliant with the policy, including the audit provisions, or for any reason that is deemed in a ward/protected person’s best interests.

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PROCEDURES

In accordance with Minnesota Statute § 524.5-502, professional guardians and conservators may request compensation for necessary services rendered under the following billing procedures.

In order to effectively implement these policies, Human Services of Faribault & Martin Counties requires that the below procedure be followed by all guardian/conservators appointed by the court to represent the ward/protected person in an In Forma Pauperis case (or when a finding of indigence is made) seeking payment from Human Services of Faribault & Martin Counties.

1. A valid signed **Acknowledgement of the Fee Policy and Procedure** must be on file. Every year a new acknowledgement should be signed, or any time there are changes made to the policy. Payments cannot be made unless there is a signed Acknowledgement on file.
2. One (1) HSFMC Guardian/Conservator Invoice must be submitted for each ward/protected person served in a format consistent with the invoice form suggested by HSFMC and found online at www.fmchs.com – Social Services/Guardianship tab.
3. Invoices and cover sheets should not be submitted more than once. If a Guardian/Conservator has a question about receipt of an invoice and/or cover sheet, they should contact the HSFMC contact point as identified in #3.F.
4. All Human Services of Faribault & Martin Counties Guardian/Conservator Invoices must contain the signature of the Guardian/Conservator appointed to provide services as well as their printed name.
5. The Invoice must include either the date the In Forma Pauperis was signed or provide a court order finding that the ward/protected person is indigent as required under Minnesota Statute § 524.5-502.
6. An itemized listing of services (Individual Service Record) must accompany all invoices. See H above.

DO NOT STAPLE TO INVOICE

7. If the Guardian/Conservator is submitting invoices for multiple ward/protected persons, a cover sheet is required that lists all ward/protected person names with court file numbers, amount claimed per ward/protected person, and total amount claimed. The cover sheet(s) must have Guardian/Conservator name, address, and vendor number as a heading on all pages. The cover sheet must be consistent with the HSFMC sample. HSFMC reserves the right to require a Guardian/Conservator to re-format any cover sheet to a format acceptable by HSFMC. A separate signed letter is NOT necessary and should not be included.

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8. All invoices are to be filled in legibly and the itemized statements and cover sheets shall be legible (printed in a legible fashion and in a font not less than 12 points).
9. All invoices must be filled out completely. If not completely filled out, they will be returned and could jeopardize payment if not filed in compliance with the timelines established in this fee policy.
10. Invoices in excess of established tier rate will be reduced to tier rate except for the exceptions noted above:
11. If a ward/protected person changes their residence and that affects the established tier rate, indicate the change on the invoice or attach a statement explaining the change of residence.
Note: Any changes in ward/protected person residency should be reported to the County Court within 30 days of the change.
12. Mail all cover sheets and invoices with itemized statements to:

Social Services Supervisor Jeani Tennyson
Human Services of Faribault & Martin Counties
115 West First Street
Fairmont, MN 56031

For convenience, there is also a drop box at both the Faribault County Human Services Center (412 N Nicollet, Blue Earth, MN), near Door F and the Martin County Human Services Center (115 West First St, Fairmont, MN) near Door 1 and Door 4 that may be used.

13. Any reimbursements due to Human Services of Faribault & Martin Counties shall be sent to the normal billing address above with checks made out to Human Services of Faribault & Martin Counties. Reimbursements owed and not paid shall be turned over to collections.
14. Policy or procedure questions should be directed to Behavioral Health Division Director Anna Garbers, 507-238-4757.
15. Appeals should be sent in writing to:

Executive Director Chera Sevcik
Human Services of Faribault & Martin Counties
115 West First Street
Fairmont, MN 56031

16. Website address is: www.fmchs.com

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