

# VA Guardianship Assistance Project Guidelines

## INTRODUCTION

The VA Guardianship Assistance Project is a partnership between the VA and Indiana Legal Services (ILS) Military Assistance Project (MAP) and has been made possible through a grant from the Indiana Department of Veterans Affairs. The project's goal is to assist with establishing guardianships for veterans who are cognitively impaired to the point that a less restrictive means of assisting the veteran is not possible.

The project is designed to take referrals from VA staff **ONLY**. While VA Staff will make the referrals, they will need to work with the proposed guardian to complete the Referral Form. Further, the project is intended to assist with guardianships for veterans who are currently staying at an Indiana VA Hospital. However, if resources are available, the project may also assist with establishing guardianships for veterans who are **NOT** currently staying at a VA Hospital.

At this time, this project is only available if there is a named guardian who can authorize the release of information to ILS MAP. In the future, this project may become available to assist volunteer guardians establish guardianships for veterans who do **NOT** have a family member who can act as a guardian.

## REFERRALS

Referrals to the project are done through completing the VA Guardianship Assistance Project Referral Form. **ONLY** VA Staff can make referrals, though they will need to work with the proposed guardian to complete the form. Once the form is completed, then the form can be either scanned and emailed to TBD (encryption?) or faxed to 317.631.9775 (Attn: TBD).

### *The Referral Form*

- ***Veteran Information.***
  - With the permission of the proposed Guardian, provide the ***Veteran's name*** in the space provided on the referral form. The veteran is also referred to as the "protected person."
  - Identify the ***county where the veteran is currently*** and whether the veteran is ***currently staying at a VA Hospital***. This information will assist with assigning the closest attorney and identify the jurisdiction in which the petition for guardianship will be filed. Additionally, veterans who are currently staying at a VA hospital is priority, while veterans who are **NOT** at a VA hospital will be assisted only if resources are available.
  - Provide the ***earliest discharge date*** from the VA Hospital. If the veteran can be released now, then identify "ASAP." This will allow for the prioritizing of cases.
- ***Threshold Questions.*** The threshold questions are designed to give the attorney enough information to determine whether a guardianship is appropriate, whether a less restrictive means of support is more appropriate, or whether further investigation is required. If the veteran's physician has prepared a Physician's Report, please provide this document with the referral.
- ***Veteran Demographics.*** Either provide a copy of the Veteran's DD Form 214 or answer the questions in the Demographics Section. This information is needed for our grant reporting to the Indiana Department of Veterans Affairs. **NOTE:** Under this grant, we can only assist veterans with either an Honorable or a General Under Honorable discharge. If the veteran has more than one enlistment and the last enlistment was **NOT** Honorable or General, you can identify the discharge as "Honorable" since the veteran could **NOT** reenlist unless his previous enlistment was honorable.

- **Referring VA Staff Information.** Provide the referring VA staff member's name, phone number, and email address. The referring staff member must sign and date the form. Note that the staff member is certifying that they have the authority to sign the form and that they reviewed these guidelines with the proposed guardian.
- **Proposed Guardian Information.**
  - Please provide the proposed Guardian's name; date of birth; complete mailing address, including state and zip code; county where the proposed guardian lives; phone number; and relationship to the veteran.
  - **Proposed Guardians Income / Expenses / Assets.** This information is needed to determine eligibility. The proposed Guardian will be the client and must be income eligible. The proposed guardian must be 400% of poverty or less to be eligible as determined by the Federal Poverty Guidelines (see chart below).

To be eligible for ILS services, applicants generally must be 200% of poverty or less – unless there is a specific grant that allows for higher income. Because this grant is intended to allow for family members to be guardians of vulnerable veterans who cannot be discharged from the VA hospital without a guardianship in place, the Indiana Department of Veterans Affairs has allowed for a higher percentage over poverty for this grant.

**Percentages Over 2020 Federal Poverty Guidelines**

| Family Size                       | 100%     | 133%     | 150%     | 200%     | 250%      | 300%      | 400%      |
|-----------------------------------|----------|----------|----------|----------|-----------|-----------|-----------|
| 1                                 | \$12,760 | \$16,971 | \$19,140 | \$25,520 | \$31,900  | \$38,280  | \$51,040  |
| 2                                 | \$17,240 | \$22,929 | \$25,860 | \$34,480 | \$43,100  | \$51,720  | \$68,960  |
| 3                                 | \$21,720 | \$28,888 | \$32,580 | \$43,440 | \$54,300  | \$65,160  | \$86,880  |
| 4                                 | \$26,200 | \$34,846 | \$39,300 | \$52,400 | \$65,500  | \$78,600  | \$104,800 |
| 5                                 | \$30,680 | \$40,804 | \$46,020 | \$61,360 | \$76,700  | \$92,040  | \$122,720 |
| 6                                 | \$35,160 | \$46,763 | \$52,740 | \$70,320 | \$87,900  | \$105,480 | \$140,640 |
| 7                                 | \$39,640 | \$52,721 | \$59,460 | \$79,280 | \$99,100  | \$118,920 | \$158,560 |
| 8                                 | \$44,120 | \$58,680 | \$66,180 | \$88,240 | \$110,300 | \$132,360 | \$176,480 |
| For each additional family member | \$4,480  | \$5,958  | \$6,720  | \$8,960  | \$11,200  | \$13,440  | \$17,920  |

If the proposed guardian is 200% of poverty or less, then they will be eligible to have the filing fees waived. However, if they are between 201% and 400% of poverty, then they will need to pay the filing fees. These fees are reimbursable from the veteran's estate after petitioning the Court. Filing fees are \$177.00 or \$205.00 if the sheriff serves notice for the proposed guardian.

If the proposed Guardian does NOT want to provide the VA staff with their income, expenses, and asset information, there is a space on the form to check. If this box is checked, then the VA staff should NOT enter any income, expenses, or asset information. However, if the proposed guardian does NOT want to disclose this

information on this form, the Guardian must agree to disclose this information to ILS staff. Additionally, they must understand that assistance cannot be provided unless this information is provided and assistance may be delayed because ILS staff will need to follow up to determine eligibility.

- ***Proposed Guardian's Household:*** Please check whether there is no one else in the household or if there is a spouse. If there are children in the household, identify how many. If there are any adults that are NOT a spouse but expenses are shared rather than divided, such as a live-in partner, adult child, or a parent, please identify the number of additional people in the household that share expenses.
- ***Proposed Guardian's Monthly Income:*** If there are people in the household who share expenses, then their income **MUST** be included in the monthly income totals. Please identify the income from employment, benefits, and other sources. Please identify what benefits are received and the source of other income. Please total the amount of income.
- ***Proposed Guardian's Monthly Expenses:*** If there are people in the household who share expenses, then all of their expenses should be included in monthly expenses totals. Please identify the amounts paid for rent/mortgage, utilities (including cable and cell phones), child and/or spousal support paid, and other monthly expenses. Please total the expenses.
- ***Proposed Guardian's Assets:*** List the types of assets and value that the Proposed Guardian and members of the household (if expenses are shared) own or has an interest in (car(s), home, property, bank accounts, 401(k), stocks, bonds, trusts, etc).
- ***Disclosures & Citizenship (to be signed by the Proposed Guardian).*** The Proposed Guardian must sign the Disclosures and the Citizen Attestation. By signing the disclosure, the Proposed Guardian understands and agrees to the following:
  - Nothing in the form guarantees any legal representation, service(s), or outcome(s)
  - An attorney-client relationship is NOT created by completing the form
  - The form could be shared with other attorneys, interns, or volunteers with Indiana Legal Services
  - It is the Proposed Guardian's duty to update their address, phone number or details of this case
  - All referrals are subject to conflicts checks, availability of resources, or other limitations
  - The Proposed Guardian agrees to pay filing fees if their income is over 200% of poverty (is reimbursable from veteran's estate?)
  - The Proposed Guardian will provide income, expenses, and assets to ILS staff if they declined to provide this on the referral form

The Proposed Guardian **MUST** be either a US Citizen or in the US legally. If the Proposed Guardian is a US Citizen, then the Proposed Guardian may sign and date the citizen attestation on the form. If they are NOT a US Citizen, but they are in the US legally, then please copy their green card and attach it to the Referral Form.