



# Guardianship Budgets & Plans

Administrative Office of the Courts  
Guardianship Compliance Office

**A GUIDE FOR JUDGES  
AND COURT STAFF**

## PERSON CENTERED PHILOSOPHY

A plan that is person centered will balance what is important to the person with what is important for the person. The plan will emphasize the person's individual preferences, priorities and perspective, while also addressing areas of life that the person needs to be healthy and safe. Person Centered plans and budgets are created with the person, to the best of the protected person's ability.

A Person Centered Plan and Budget will also emphasize values related to:

- Maximization of Independence
- Maximization of Individual Choice of the Protected Person
- Social Inclusion
- Preservation of Individual Rights
- Individuality
- Privacy
- Dignity
- Respect

A Person Centered plan will take into consideration, and build upon, natural supports and generic community services before paid support services. Natural supports include those provided by families, friends and community connections (church communities, social groups/clubs). This is beneficial in that (1) it reduces costs of care and (2) increases social inclusion, thereby reducing risk for abuse and neglect.

## WHEN SHOULD A COURT REQUIRE AN INITIAL PLAN OR BUDGET?

- 60 days after the appointment of a special or general guardian of the person, estate or person and estate, or upon such further time as the court may allow.

## WHY IS AN INITIAL PLAN AND BUDGET NECESSARY?

- They create a roadmap for the guardian, and others who care for the Protected Person, to ensure the Protected Person's goals, needs and preferences are met during the administration of the guardianship.
- Combined with annual reports and accountings, they also provide the Court with additional information to better monitor the effectiveness and necessity of the guardianship during the course of the guardianship.

## CONTENTS OF PLANS

- Person Centered Philosophy
- Residential Setting
- Medical, Psychiatric, Social, Vocational, Educational, Training and Recreational goals, needs and preferences of the person.
- Ability of the person's finances and budget to meet the person's known and reasonably anticipated needs.

## CONTENT OF BUDGETS

- Person Centered Philosophy
- Goal of prudent management
- Available assets and income
- Known and reasonably anticipated expenses, including attorney and guardian fees.
- Public and insurance benefits that the person may be or is eligible for are addresses.

## SHOULD PLANS AND BUDGETS BE SUBMITTED ANNUALLY?

This will depend on the Protected Person's individual situation. Consider if there has been a change in:

- Residential care, personal care, health or mental health needs
- Individual desires or wishes
- Estate needs
- The ability of the budget to provide for the Protected Person's needs
- Guardian or attorney fees

If there are significant changes, the Court may order an updated Plan or Budget.

### A FEW RISK FACTORS FOR ABUSE/NEGLECT RISK

- Dependence on others for all needs
- Behavior challenges
- Social isolation/lack of natural supports
- Difficulty with communication
- Caregiver burnout/lack of respite
- Placement in supervised facilities
- Lack of access to information and support
- Lack of self determination

### RESOURCES

- Nevada Revised Statutes Chapter 159.0445 and 159A.0445
- Nevada Supreme Court Guardianship Rule 6 Plans and Budgets
- Nevada Supreme Court Guardianship Forms
- National Probate Court Standards, Standard 3.3.16 Reports
- National Guardianship Association Standards of Practice 13 Guardian of Person: Initial and Ongoing Responsibilities
- National Guardianship Association Standards of Practice 18 Guardian of Estate: Initial and Ongoing Responsibilities
- Supporteddecisionmaking.org
- <https://www.ada.gov/olmstead/>
- [www.medicaid.gov/Medicaid/hcbs](http://www.medicaid.gov/Medicaid/hcbs)

### QUESTIONS TO CONSIDER FOR PLANS

- Does the plan emphasize a Person Centered Philosophy?
- Is the residential setting the least restrictive possible?
- Does the residential setting represent the preference and perspective of the protected person?
- Are the social activities those that the person prefers?
- Do personal care services represent the person's perspective and wishes?
- Do the health and mental health services meet the person's specific needs?
- Do services maximize the person's ability to maintain as much independence as possible?
- Has the protected person been able to participate in the development and implementation of the plan?
- Does the plan maximize the person's ability to choose activities, service providers, and health care providers?
- Are social and recreational activities occurring in inclusive environments?

### QUESTIONS TO CONSIDER FOR BUDGETS

- Does the budget allow the protected person to live a quality of life they are accustomed to?
- Does the budget include the amount of assets and income available?
- Does the budget include reasonable expenses for the protected person, including home expenses (rent, mortgage, home repair and expenses), facility expenses (if applicable), food, clothing, health care.
- Does the budget include reasonable fees for the guardian and attorney, as applicable?
- Does the budget include an investment plan, as applicable?
- Does the budget include plans to sell or liquidate property to pay the protected person's monthly expenses, as applicable?
- If the protected person's estate cannot support the protected person's monthly expenses, is there a need to liquidate property?
- Is there a plan to obtain benefits that will provide long term support services for the protected person?

### A NOTE ON INTEGRATED SETTINGS

Federal laws overlap with person centered principles and a court should be cautious if approving restrictive plans, as they may jeopardize an individual's funding for care, if that care is provided through the Home and Community Based Waiver through the Centers for Medicare and Medicaid Services (CMS). Discussion and consideration should include CMS regulations as well as the mandates of *Olmstead*<sup>1</sup>. *Olmstead* generally provides that persons with disabilities have a right to be in integrated settings. Therefore, a plan that does not include integration could be in violation.

<sup>1</sup>See *Olmstead v. L.C.*, 527 U.S. 581 (1999)