

M E M O R A N D U M

TO: Professional Guardians Registered in the Sixth Judicial Circuit
FROM: Judge George W. Greer, Administrative Probate Judge
RE: Determination of Guardian Fees
DATE: April 16, 2007

The Guardian Fee Guidelines, which were a product of the recommendations made to the Court by the Joint Circuit Workgroup on Guardian Fees (Sixth Circuit & Thirteenth Circuit), have been in place for more than a year now. Those recommendations resulted in nearly all of our guardians being compensated at a higher hourly rate for guardianship services rendered and most guardians have done an excellent job in adjusting their billing practices, including their detailed billing statement, in conformity with the Guidelines. Please accept our sincere appreciation for your efforts in that regard.

While these improvements have been very helpful to date, we are also aware that additional improvements are necessary to further streamline the process and to aid in the turn around time for getting fee orders back to the guardians. Decreasing the number of orders for reduced amounts would go a long way toward fixing that problem. In order to do that, the Thirteenth Judicial Circuit has solicited assistance from some of the guardians and attorneys. They have taken affirmative steps to address some common fee issues and concerns raised by guardians and their attorneys. The goal in doing so was to continue our Circuit's efforts to streamline the guardian fee process as much as possible.

Enclosed is a document, entitled "SIXTH CIRCUIT GUARDIAN FEE ISSUES". It is not an administrative order, but rather a tool that we have been using internally. We thought that some of you might find it useful. Review of the document will help with expediting the processing of your fee petitions and increase the percentage of your petitions that are approved without any reductions. In that document we have addressed some very specific billing issues – some of which apply to only one or two guardians. Below, we offer some more general information about the review of guardian fee petitions, which has been discussed in the hopes of eliminating guardian fee issues and improving the Court's turn-around-time on those petitions.

PROVIDING MORE DETAILED INFORMATION –

An easy way to help avoid reductions is to provide a more complete description of the activity being billed. Many reductions result from the Court being unable to determine, based upon the brief descriptions given, how the guardian's billed activity benefited the ward or how the seemingly routine activity described took such an unusually long period of time to complete. Sometimes it is not possible to understand what is being billed (e.g., when a guardian bills to complete a form that they have never billed for in the past and the Court would have no way of knowing who and what the form was for). Other times, the descriptions almost fall in a grey area. For instance: "Receive and review mail from pharmacy" may be an appropriate billing for reviewing information about a ward's medications or it may be an inappropriate billing for reading a non-substantive pharmacy mailing about the addition of a new pharmacist.

The intent is not to provide the guardian with more work to do. In fact, we envision that this nominal amount of additional effort on the part of the guardian will go a long way. The more detailed/specific the description, the more likely it is that there will be no preliminary reduction, which will further expedite the review process. It should not be the case that a guardian must routinely file an objection to a reduced-amount fee order or a response that includes more detailed descriptions on a regular basis. The guardian's fee petition and attached detailed billing should provide the Court with all the information it needs in the

first place to see how the work performed benefited the ward and that the guardian is entitled to the fees requested. This has been confirmed by our Florida appellate courts. Our own Second District Court of Appeal has stated that “[a] *contrary rule would encourage the filing of incomplete petitions and require the court and interested parties to schedule hearings that might otherwise be avoided in order to obtain the necessary information. This would result in the inefficient use of scarce judicial resources and increased expense to everyone concerned, including the estates of the wards.*” [See, Guardianship of Sapp v. Hamric, 868 So.2d 687 (Fla. 2d DCA 2004)]

If every guardian fee petition resulted in a hearing, the length of time that it would take to get a final determination on a fee petition would, more likely than not, drastically increase. The Guardian Fee Guidelines and these helpful pointers are intended to help the Court process guardian fee petitions in an expedient fashion by offering our professional guardians the information they need to have these fees authorized without reduction or delay.

THE PROCESSING OF GUARDIAN FEE PETITIONS:

When a guardian fee petition is filed, the Clerk’s Office is responsible for sending the file up to the General Magistrate’s Office for review. Sometimes that can not immediately be done, because the court file may be in one of the magistrates’ offices or Judges office, in connection with a hearing, or the file could be in the Audit division of the clerk’s office for review of initial or annual reports. When the file is available, the Clerk will send it to the Magistrate’s office for their initial review and preparation of the Guardian Fee Checklist for Judge’s consideration.

While the volume of work being processed at any particular time may also cause delay in the review of a guardian’s fee petition, some causes of delay are within the control of the guardian. Based upon direction from the Administrative Judge, a fee petition will not be processed until a professional guardian is registered with the Statewide Public Guardianship Office and has filed the investigation fee. It is not unusual for a professional guardian to have a window of time (with some guardians – almost yearly) when they are not in compliance with the statutory registration/filing requirements. Our Court is notified immediately by the Statewide Public Guardianship Office and/or the Clerk when one of our local professional guardians is no longer on their active registration list, due to a compliance issue. Additionally, the general magistrate’s office has been directed not to review fee petitions and forward to the Judge for review until a guardian has complied with any pending orders of disapproval (relating to annual reports).

When the file has been reviewed and forwarded to the Judge for consideration, the Judge is either entering an order awarding the fees requested or an order awarding that portion of the guardian’s fees that are not at issue and specifying reductions that appear appropriate based upon the face of the fee petition itself. Guardians are ALWAYS entitled to a hearing on their fee petitions before any final reduction is made by the Court. However, it should also *always* be the goal of the guardian and this Court to avoid the need for such a hearing. By clarifying the Guidelines for our professional guardians, it is our sincere hope that the process for petitioning for and being awarded guardian fees will be substantially streamlined and will result in the award of fees without the need for hearings in most instances. Most of our professional guardians have already adjusted to the fee guidelines and have been experiencing essentially problem free petitions. But, the problems encountered by some of our guardians have contributed to the delay in processing these petitions for all guardians. By affirmatively addressing the problems and communicating the Court’s expectations to our guardians, the turnaround time on fee petitions should notably increase.

IMPLEMENTING THE CHANGES:

Additionally, all guardians will start with “a clean slate” in regard to compliance issues. Only fee petitions submitted after the issuance of this memorandum (after May 15 2007) will be considered when determining issues of repeated non-compliance. We recognize and truly appreciate all of the hard work that each of you do on behalf of the wards of this Court.

Thank you for your careful review of the information provided. If you should have any questions in this regard, please do not hesitate to contact either one of General Magistrates.

Copies to: Chief Judge David A. Demers
Courts Administrator Gay Inskeep
General Magistrate Cynthia McCormick, Keela R. Samis and Eve. Walker