

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE FEE COLLECTION BY)
THE OFFICE OF PUBLIC GUARDIAN)

**STANDING ORDER NO. 10
APPROVING PAY COMPENSATION FOR SERVICES RELATED
TO GUARDIANSHIP OR REPRESENTATIVE PAYEE DUTIES**

WHEREAS:

A. Under 12 *Del. C.* § 3986(a), “[t]he Public Guardian may collect fees for the provision of its services from the income or resources of any person for which it has been appointed guardian of the person or property or for whom it acts as representative payee.”

B. Under 12 *Del. C.* § 3986(b), “[a] person receiving services from the Office of the Public Guardian whose financial resources are deemed sufficient, pursuant to standards to be established by the Guardianship Commission and to be approved by the Court, shall be required to pay compensation for services related to guardianship or representative payee duties in accordance with such established standards.”

C. The Guardianship Commission has established the standards for fee collection, has sought the Court’s approval of such standards, and has advised that it will request Court approval for any additional pay compensation standards established in the future.

IT IS SO ORDERED, this 27th day of July, 2022:

1. The following standards established by the Guardianship Commission are hereby approved, subject to the additional qualifications established in this Order.

a. Fee: If the person's financial resources are deemed sufficient, the Office of the Public Guardian may collect a monthly fee equivalent to the fee allowable by the Social Security Administration in cases where they are appointed as guardian of the property. Where the Office of the Public Guardian seeks compensation for services related to guardianship duties in excess of the allowable representative payee fee, the Office of the Public Guardian shall petition the Court. On a petition for additional compensation, the Court may consider: the amount and character of the guardianship property, the extent of the risk and responsibility of the guardian, the character of services rendered, the degree of difficulty in administering the guardianship, the skill and success of the administration, and any other relevant and material circumstances.

b. Financial sufficiency: The Guardianship Commission approved a staged approach for collecting fees based on financial sufficiency, starting with individuals residing in nursing facilities who qualify for long-term Medicaid. A resident of a nursing facility, for whom the Office of the Public Guardian is appointed guardian by this Court, shall be deemed to have sufficient financial resources for fee collection by the Office of the Public Guardian if the individual qualifies for Medicaid, and the fee falls within the parameters of the allowable monthly guardianship fee as established under Medicaid guidelines.

2. The Office of the Public Guardian may collect a monthly fee equivalent to the fee allowable by the Social Security Administration from a resident of a nursing facility for whom the Office of the Public Guardian is appointed guardian by this Court, if (i) the

individual qualifies for Medicaid, and (ii) prior to collecting fees, the Office of the Public Guardian files a notice of collection on the guardianship docket notifying the Court that the Office of the Public Guardian is initiating fee collection in the guardianship, and identifying the monthly amount to be collected. Additional notices must be filed by the Office of the Public Guardian on the guardianship docket if the fee amount being collected changes, or if there are other changes related to fee collection in the guardianship.

3. If the Office of the Public Guardian seeks fees above the fee allowable by the Social Security Administration for a nursing home resident on Medicaid for whom it is a guardian, it must first file a petition for approval with the Court, and receive the Court's approval, before collecting any additional fee.

4. At this time, the Office of the Public Guardian may not collect fees for persons with a disability who do not fall within the first collection category identified in Paragraph 2 of this Order.

5. The Office of the Public Guardian shall display this Order prominently on its website to provide notice to the public regarding the fee collection standards.

FOR THE COURT:

/s/ Kathaleen St. J. McCormick
Chancellor Kathaleen St. J. McCormick