

Guardian of the Estate Fact Sheet

A guardian of the estate (GOE) is an individual appointed by a probate court pursuant to Ch. 54 of the Wisconsin Statutes to manage the financial affairs of another person (called the ward) who the court has determined is either incompetent or a spendthrift. The guardian of the estate has no authority over personal and health care decisions of the ward unless also appointed as the ward's guardian of the person.

Duties and Powers of a Guardian of the Estate

The "Letters of Guardianship" issued to the guardian by the court will state the scope of the guardian's authority. The guardian's authority is divided into four categories:

1. **What the guardian of the estate may never do.**

- Loan any of the ward's money or property to himself or herself
- Use any of the ward's money or property for the benefit of the guardian

2. **What a guardian of the estate must do.**

File an inventory of the ward's property within 60 days after appointment or by the date specified by the court **[GN-3440]**. The **GN** number forms may be obtained from www.wicourts.gov, the probate office, or the public library.

- Account for all funds received and spent by filing an annual account by April 15 for the preceding calendar year **[GN-3500]**
- File with the register of deeds of any county in which the ward possessed real property a sworn statement that describes the property, the date the ward was determined to be incompetent, and the contact information of the guardian **[GN-3450]**
- Apply to be appointed representative payee for any governmental benefits if none is already appointed
- Notify the court of any change of address of the guardian or ward **[GN-3520]**
- Advocate for the ward's best financial interest. Exercise the degree of care, diligence and good faith when acting on behalf of a ward that an ordinarily prudent person exercises in his or her own affairs.
- Determine if the ward executed a will and, if so, the will's location and the appropriate persons to be notified of ward's death. If death occurs, notify them of death.

3. What the guardian may do **without** prior approval of the court.

- Support another person whom the ward is legally obligated to support.
- Settle claims and accounts for the ward, and appear for and represent the ward in actions.
- Apply for benefits.
- Pay the ward's legally enforceable debts, including any taxes owed, from the ward's assets and income.

4. What the guardian may **not do unless they obtain specific prior approval of the court.**

- Make gifts of the ward's property. (**An individual whose income and assets are under conservatorship may make gifts of his or her income and assets, subject to the approval of the conservator. 54.76(3).)
- Be paid for the guardian's own time or services or be reimbursed for out-of-pocket expenses incurred on behalf of the ward.
- Minor Guardianship – no disbursements are permitted without the approval of the court
- Buy/sell real estate

The Inventory

The inventory records assets owned by the ward, and the ward's secured debts and sources of income on one specific day. The account records income and expenses over a period of time, such as a calendar year. The inventory must be completed before the first account can be completed.

Use form **GN-3440**.

- File the inventory **within 60 days of your appointment** as guardian; and
- Pay the filing fee. The fee is paid from the ward's assets.
 - For estates of \$50,000 or less, the fee is \$20.
 - For estates of more than \$50,000, the fee is .2% of the net value of the property. Your inventory cannot be accepted unless you also pay the fee at the time the inventory is filed.

When completing the inventory:

- List all the ward's assets. Assets include cash, bank accounts, CDs, mutual funds, stocks, real estate, vehicles, boats, life insurance, interests in a life estate and burial funds.
- Include any items of value in which the ward has an ownership interest
- **Do not include** personal items such as clothing and furniture if they have little value.
- List the fair market value of each asset – determine the value as of the date you were appointed guardian
- List all of the ward's sources of income.

The Court may issue an OTSC why the GOE should not be removed for failure to file a complete and accurate inventory within the sixty (60) days, as required. The hearing on the OTSC will be removed from the court calendar if a complete and accurate inventory is filed, provided it is done before the hearing date.

- Filing an incomplete inventory will not remove you from the court calendar.

If the guardian is unable to file the inventory within the 60 days, they can contact the Probate Office to request an Extension of Time to File **prior to the date the inventory is due**.

Accounting: An annual account of activity must be filed with the court on or before April 15th each year.

Additional Resources:

Forms, www.wicourts.gov

Informational Brochure(s), Coalition of Wisconsin Aging Groups, www.cwag.org