

**STATE OF NEVADA
AGING AND DISABILITY SERVICES DIVISION**

**SERVICE SPECIFICATIONS
LEGAL WARD REPRESENTATION**

Any exceptions to these Service Specifications must be requested in writing and approved by the Deputy Administrator of the Aging and Disability Services Division.

PURPOSE:

To promote quality of service, the Aging and Disability Services Division (ADSD) has established service specifications that contain general guidelines. The service specifications that each grantee must follow consist of GENERAL REQUIREMENTS and PROGRAM-SPECIFIC REQUIREMENTS established for each type of funded service.

SERVICE DEFINITION:

This service provides assistance, consultation and representation in legal matters to maintain rights and improve the quality of life of older persons who are being considered by the court for guardianship or under guardianship.

SERVICE CATEGORIES AND UNIT MEASURES:

The following service category and unit measure must be used to document the amount of service provided:

Ward Representation: Provision of legal advice, counseling and/or representation by an attorney or other person acting under the supervision of an attorney for older persons who are being considered by the court for guardianship or under guardianship.

One unit equals one hour of legal assistance.

GENERAL REQUIREMENTS:

- A. Legal services must be provided by, or under the direction of, an attorney admitted to and in good standing with the State Bar of Nevada pursuant to SCR 49 et seq. and in accordance with the rules of professional conduct pursuant to SCR 150 et seq.
- B. A policy shall be written and implemented concerning conflict of interest. This policy shall include a statement that attorneys are prohibited from privately representing any Legal Ward Representation client while the attorney is employed by, or under contract with, the Legal Ward Representation program. The policy may include a provision prohibiting representation for a period of one year after termination of employment or contract.
- C. Legal Ward Representation providers must maintain malpractice insurance, or be underwritten by a program sponsor approved by the Aging and Disability Services

Division, in an amount sufficient to cover any and all potential liabilities, but in no event for an amount less than \$500,000 per single occurrence and \$1,000,000 aggregate.

SPECIFICATIONS:

1. Required Services:

- 1.1 Provide legal representation services to persons who are being considered by the Court for guardianship or who are currently under guardianship.
- 1.2 Provide legal representation for people who are over the age of 60 wishing to gain guardianship over a spouse, child or grandchild when no other appropriate legal assistance is available.
- 1.3 Court can appoint the legal assistance provider, or the ward or potential ward can ask the legal assistance provider to represent them. Referrals from the Private Bar can also be accepted.
- 1.4 With court approval, meeting with client prior to court appointment for the purpose of determining that client has capacity to form an attorney-client relationship. This does not include detailed reports to the court on the capacity of the potential ward or recommendations on whether or not the potential ward needs a guardian.

2. Service Prohibitions:

- 2.1 In addition to the service prohibitions listed in the General Requirements, legal assistance programs are prohibited from accepting cases that generate fees or handling criminal cases.
- 2.2 Does not include funding for *guardian ad litem* services.

3. Documentation:

- 3.1 A report must be sent to the Legal Services Developer by July 30 of each year. The report will contain:
 - 3.1.1 The types of cases handled (see Attachment A);
 - 3.1.2 The numbers of each type of case;
 - 3.1.3 The number of hours spent on each type of case;
 - 3.1.4 The location(s) of each type of case;
 - 3.1.5 The average age and income of the clients for each type of case; and
 - 3.1.6 Outcomes.
- 3.2 Records of all open cases shall contain a sufficient documentation of the issues involved, rule or rules of law that apply, analysis undertaken and conclusions

derived. If case records are electronic, there should be sufficient information in the client file to allow access to the electronic record.

- 3.3 Documentation shall be maintained, which annually verifies that each attorney is a member in good standing of the State Bar of Nevada.

4. Operating Procedures:

- 4.1 Legal Ward Representation attorneys must establish written protocols for paralegals to utilize when conducting interviews, and procedures for proper oversight by the attorney of the paralegals' work.
- 4.2 Legal program staff must establish a written list of legal resources for client referrals. The list may include Lawyer's Referral Service, pro bono, reduced-fee and legal service practitioners in specific areas of legal expertise. A referral policy will be established, which at a minimum includes:
 - 4.2.1 A "no favoritism" referral approach to rotate providers when there are more than one;
 - 4.2.2 A procedure for adding and removing resources from the list; and
 - 4.2.3 A procedure to document referrals in client files.
- 4.3 A policy shall be written and implemented to assure that the conduct of each employee is compatible with the professional obligations of Legal Ward Representation attorneys and the delivery of legal services. The program must notify the Aging and Disability Services Division if any attorney has been reported to the State Bar of Nevada for misconduct and the conclusions of the Bar, including disciplinary actions.
- 4.4 Legal Ward Representation providers shall develop a system for tracking assistance, causes and cases to ensure that deadlines are met in a timely fashion and to maintain this information in a database form. It is recommended that the database include client name, nature of the case, calendared events, outcome and referrals, as well as any other pertinent information.

**ATTACHMENT A
LEGAL WARD REPRESENTATION PRIORITIES**

Area of Law	Priority Issues
1. Guardianship	<p>Provide legal representation for elders facing or under guardianship. Consider partial guardianships. Also, provide legal representation for those needing removal and replacement of a guardian. Insure that all of ward or potential ward's rights under law are protected.</p> <p>When no other appropriate representation is available, provide legal representation to persons over 60 who are seeking to gain guardianship over a spouse, child or grandchild.</p> <p>With court approval, meet with potential client in advance of court appointment to determine if client has capacity to form attorney-client relationship.</p>