

SENIOR AND LONG-TERM CARE, ADULT PROTECTIVE SERVICES BUREAU NP 22003 - Adult Protective Services Guardianship 3.0 PB Request

Background:

In 2021, Adult Protective Services (APS) established the Social Services Unit with grant funding, to manage state-appointed adult guardianship cases and provide follow-up on closed investigations having active service plans. Prior to the unit's creation, APS investigators were responsible for managing guardianship cases in addition to their primary role of investigating allegations of adult maltreatment. This dual responsibility sometimes required APS to investigate peers who also served as guardians for state wards, leading to potential conflicts of interest. The establishment of the Social Services Unit created a separation between APS's investigative and guardianship roles.

- The unit consists of five social services workers (SSWs), with all positions funded through the American Rescue Plan Act of 2021 (ARPA) grant and an innovation grant in partnership with Purdue University.
- The unit oversees 75 guardianship cases. Staff are required to have in-depth knowledge of support systems for vulnerable adults in Montana, who live in various settings across 17 counties. Three wards are out-of-state, located in Idaho, Wyoming, and Texas.
- The recommended staff to client ratio for guardianships is 1:20 according to the National Study of Public Guardianship report. With the three requested PB, if guardianship cases stay consistent, the ratio would be 1:25.
- Pursuant to [MCA 52-3-804](#), a judge may appoint the state as guardian when no other individual or entity is available or willing to serve. In some counties, public administrators may also be appointed. APS does not serve as a conservator and does not manage a ward's property or finances directly. Social service workers provide annual court reports that detail each ward's health, safety, well-being, and financial accounting. APS requires guardians to maintain monthly contact with wards, and in-person visits are conducted every 90 days to ensure quality of care and promote support service sustainability.
- APS can provide emergency protective services when a vulnerable adult lacks capacity to accept voluntary services and is at imminent risk of injury or death due to abuse or neglect. APS may petition the court for temporary guardianship if no individual or agency is available or willing to serve as guardian.



Compliance Requirements:

The Administration on Community Living (ACL), which provides federal oversight of APS, adopted rules effective June 7, 2024, require that for all dual relationships, meaning APS serving as guardians, the APS program must document the dual relationship and describe mitigation strategies. APS's mitigation strategy consists of separating the roles of investigators from SSWs who manage guardianship cases.

Impact:

The increasing volume and complexity of reports received, coupled with a growing demand for state intervention and guardianship appointments, have highlighted a critical need for expanded resources. This demand is particularly evident in requests for guardianship from the public, Montana State Hospital, and Child Protective Services. Currently, Montana lacks a comprehensive statewide guardianship program, leaving many smaller and rural communities without access to the necessary support services that can mitigate risks for vulnerable adults who may require a surrogate decision-maker. As well, the few service providers that do take guardianships in more populated communities are reaching maximum capacity and are no longer taking on clients. This gap underscores the importance of sustained support for the Social Services Unit, which is currently funded through grants set to expire on Sept. 30, 2025.

Losing the SSW positions would result in the following impact:

- Increased caseload for investigators: National standard for maximum active caseload per investigator is 25, according to the National Adult Protective Services Association. As of 1/10/25, APS investigators average 31
- Non-compliance with ACL federal rules may result in loss of federal funding
- Public safety impacts, including:
 - Delays in protective services, care decisions, referrals, criminal case reporting, and ward visitation
 - Inability to accept new guardianship cases
 - Delays in investigating critical incidents involving Medicaid waiver recipients