

WAC 388-106-2105 Definitions. (1) "**Aging and long-term support administration**" or "**AL TSA**" means an administration within DSHS.

(2) "**Client**" means a person who is an applicant for, or recipient of, any Washington apple health program, including managed care and long-term care. See definitions for "applicant" and "recipient" in RCW 74.09.741.

(3) "**Contractor**" means a certified professional guardian and conservator who has met contractor eligibility criteria and has executed a contract with DSHS to provide guardianship and conservatorship services through the state funded home and community services guardianship and conservatorship assistance program.

(4) "**Court order**" means any judgment, decree, instruction, or order of a Washington state superior court, a court of comparable jurisdiction of an Indian tribe, another state, or country.

(5) "**Decision-making assistance**" means support for an individual with diminished decision-making ability in making decisions affecting health, safety, or to manage financial affairs. Assistance includes, without limitation, acting as a representative payee, fiduciary, an attorney-in-fact, a trustee, or a certified professional guardian or conservator.

(6) "**DSHS**" means the department of social and health services.

(7) "**Due diligence**" means the acute care hospital has adequately investigated whether a family member or friend would be able and willing to serve as a lay guardian, and, if not, has contacted agencies and individuals providing professional guardianship and conservatorship services, has submitted a referral to the statewide guardianship listserv managed by the office of public guardianship (OPG) through the administrative office of the courts (AOC), and at least 14 days have elapsed without identification of a potential professional guardian for nomination.

(8) "**Estate Recovery**" means the state's process for recapturing the cost of long-term care services, related hospital, and prescription drug services from a recipient's estate. Federal and state laws allow states to recover state-funded services and certain medicaid costs.

(9) "**Guardian**" or "**Conservator**" means a professional individual, agency, or a corporate fiduciary (such as a nonprofit corporation or bank trust department) appointed by a court to assist and protect an individual who the court has determined requires assistance in managing their own affairs.

(10) "**Home and community services**" or "**HCS**" means a division within the DSHS aging and long-term support administration.

(11) "**LTSS**" means long-term support and services under the home and community services division.

(12) "**Neuro-cognitive disorder**" means a primary diagnosis of dementia, Alzheimer's, Parkinson's, Huntington's, traumatic brain injury, or stroke which results in the individual's lack of decision-making capacity impacting accessibility for long-term care benefits.

(13) "**Notice of department decisions**" means a generated written notice provided to an individual client or their legal representative or both identifying them of:

(a) The action taken by DSHS that impacts the individual client's benefits;

(b) The reason DSHS took said action;

(c) The legal authority to take said action;

(d) Date of the notice;

(e) Effective date of the action taken;

- (f) Department representative contact information;
- (g) Hearing rights; and
- (h) Information about continued benefits, if any.

(14) "**Overpayment**" means any payment or benefit to a recipient or to a vendor in excess of that to which is entitled by law, rule, or contract, including amounts in dispute as outlined in chapter 41.05A RCW.

(15) "**Participation**" means the portion of the client's responsibility or financial obligation paid by the client to the provider to cover part or all of their cost of care.

(16) "**Private pay**" means the status for any period of time in which a client is ineligible for medicaid-funded LTSS and must use their own personal resources to pay for their services.

(17) "**Program hold**" means an intervention taken by DSHS to place future payment authorizations on hold whenever an approved state funded guardianship and conservatorship assistance program recipient is identified as financially ineligible for medicaid LTSS per chapter WAC 182-513-1315 (1)-(3). Under a program hold, a recipient's state funded guardianship and conservatorship assistance program slot can be held for up to 90 days from date of financial ineligibility discovery.

(18) "**Program recipient**" means an individual meeting eligibility criteria for inclusion into the state funded home and community services guardianship and conservatorship assistance program.

(19) "**Program slot**" means a program vacancy based on timeframe of needed resources as designated by "tier 1" and "tier 2". A tier 1 program slot is a slot with a maximum service benefit of up to 12 months duration. A tier 2 program slot is a continuous slot for individuals not required to pay participation towards their cost of care based on financial thresholds per WAC 182-513-1315 (1)-(3) or individuals who are not United States citizens.

(20) "**Provider one**" means the invoice processing system used by DSHS to process and pay some social service providers and contractors who provide care or services to medicaid clients.

(21) "**Provisional approval**" means the process of allowing clients a conditional approval for accessing the state funded guardianship and conservatorship assistance program under medicaid long-term services and supports (LTSS), without having to wait for the full functional and financial medicaid eligibility determination.

(22) "**Split appointment**" means when two or more individuals are appointed to serve as either a guardian, a conservator, co-guardians, or co-conservators on a single case appointed under chapter 11.130 RCW.

(23) "**Successor guardian or conservator**" means a successor or replacement guardian or conservator appointed by the court to act on behalf of an individual subject to either guardianship, conservatorship, or both if the existing guardian or conservator resigns, dies, becomes incapacitated, is determined no longer qualified to serve, declines to serve the individual, or due to noncompliance with court reporting requirements or duties.

(24) "**Termination**" means the final termination order of a preestablished guardianship or conservatorship judicial matter or both which negates the previous orders of case establishment. Such an order restores the individual's civil rights and decision-making authority. A termination is completed through a judicial process by which the court determines that a preestablished guardianship or conservatorship matter or both no longer meets judicial grounds under RCW 11.130.265, that termination would be in the best interest of the adult based on a

change in functionality or circumstances, or that less restrictive alternative protective arrangement is available to meet the needs of the individual.

(25) **"The certified professional guardian and conservator review board"** or **"CPGCRB"** means the regulatory board tasked by the administrative offices of the court (AOC) to oversee the statutory and regulatory requirements and to investigate guardian and conservator complaints of certified professional guardians and conservators (CPGCs) statewide.

(26) **"The guardianship or conservatorship"** means the establishment of a guardianship or conservatorship matter from the date of appointment of a guardian or conservator agent, not from the date of original petition.

(27) **"Tier 1"** means a one-year contract term for state-funded guardianship and conservatorship services under the state funded guardianship and conservatorship assistance program.

(28) **"Tier 2"** means an ongoing, renewable contract term for state-funded guardianship and conservatorship services under the state funded guardianship and conservatorship assistance program:

(a) When an individual is determined to:

(i) Not have financial ability to pay monthly guardianship or conservatorship fees through alternative participation reduction procedures due to lack of or limited income; or

(ii) Be a noncitizen approved for long-term care through the state-funded long-term care services program for noncitizens under WAC 182-507-0125.

(b) When starting the 13th month from the original appointment date, a contractor will be paid a monthly rate of \$235.00, or a medic-aid aligned guardianship or conservatorship monthly rate, whichever is greater, for a tier 2 client.

[Statutory Authority: RCW 43.17.060, 43.20B.030, and 74.08.090. WSR 24-16-044, § 388-106-2105, filed 7/30/24, effective 8/30/24.]