

**KENTUCKY'S ADULT PUBLIC
GUARDIANSHIP SERVICES**

June 2008 - PERFORMANCE AUDIT

The Auditor Of Public Accounts Ensures That Public Resources Are Protected, Accurately Valued, Properly Accounted For, And Effectively Employed To Raise The Quality Of Life Of Kentuckians.

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CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

June 2, 2008

Janie Miller, Secretary
Cabinet for Health and Family Services
275 East Main Street
Frankfort, Kentucky 40621

RE: Performance Audit of Kentucky's Public Guardianship Services

Dear Secretary Miller:

We present our report on Kentucky's Public Guardianship Services. The report details a total of 16 findings and 43 recommendations to improve Kentucky's Guardianship. We will be distributing the final version of this report in accordance with the mandates of Kentucky Revised Statute 43.090. Additionally, we also distribute report copies to the Governor's Office and to members of the General Assembly committees as well as other interested parties.

In accordance with Kentucky Revised Statute 43.090(1), the Cabinet for Health and Family Services must notify the Legislative Research Commission and the Auditor of the audit recommendations it has implemented and of the recommendations it has not implemented, and reasons therefore, within sixty (60) days of the completion of the final audit.

Our Division of Performance Audit evaluates the effectiveness and efficiency of government programs as well as completing risk assessments and benchmarking of state operations. We will be happy to discuss with you at any time this audit or the services offered by our office. If you have any questions, please call Brian Lykins, Acting Director of the Division of Performance Audit, or me.

We greatly appreciate the courtesies and cooperation extended to our staff during the audit.

Respectfully submitted,

A handwritten signature in cursive script that reads "Crit Luallen".

Crit Luallen
Auditor of Public Accounts





Kentucky’s Adult Public Guardianship Program

Background

Guardianship is a legal relationship between a guardian and an adult ward. A guardian is a court-appointed person or entity with the duty and power to make personal and/or property decisions for another (the ward). The ward is an adult, 18 years or older, who has been declared by the court to be either wholly or partially disabled, and who is unable either to care for personal needs or to manage personal financial resources, or both. After a jury trial determines that a person is disabled, a judge rules on who should become the guardian.

Public guardianship results when the courts appoint a publicly funded organization to serve as legal guardian, instead of a private citizen or professional organization. A public guardian is usually appointed due to the absence of willing and suitable family members or friends, or the absence of resources to employ a private guardian. (

Kentucky has statutory language and case law that makes the state the guardian of last resort, which is why Kentucky’s public guardians cannot refuse a guardian appointment. A 1984 case that determined a state guardian may be appointed by the court, even when the state agency is unwilling to serve and had not sought the appointment, had a profound effect on the frequency with which a state guardian has been appointed by the courts to serve the needs of disabled adult wards in Kentucky.

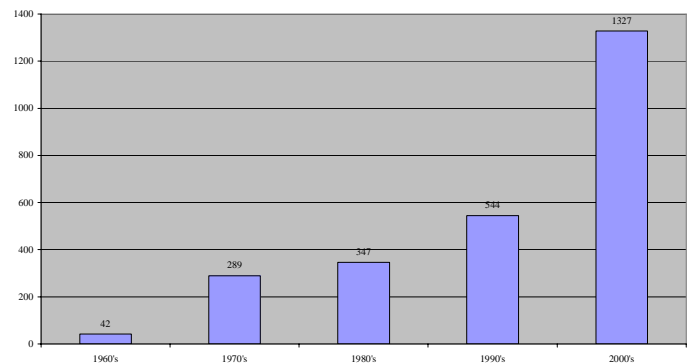
The established process to be followed for the state to be notified that it was appointed public guardian of an individual is for the court to notify a representative of the Division of Service Regions (DSR). A case manager in DSR is then assigned to care for the daily personal needs of the ward and the Fiduciary Services Section within the Division of Protection and Permanency is notified by DSR of its responsibility to manage the financial affairs of the new ward.

The Guardianship Branch within the Division of Protection and Permanency contains the Fiduciary

Services Section with nine permanent positions to manage the financial affairs of 2,555 active wards, ages 18 to 104, with account balances totaling at any give time approximately \$5 million and \$25 million deposited in wards’ accounts annually. In addition, the DSR has nine regional offices throughout the state with 44 case managers and nine supervisors to provide direct support and services to the wards.

A significant increase of ward assignments has occurred since the 1990s. The following chart illustrates the increase compared to past decades.

Active Wards by Date of Appointment



Source: Auditor of Public Accounts, based on information obtained from KY GFIS, as of August 21, 2007.

Scope and Methodology

The Kentucky Auditor of Public Accounts conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In order to reach this primary goal, we focused on the following objectives:

- Assess the controls related to the management of the wards’ assets.

- Evaluate whether Kentucky's public guardians are adequately staffed and properly appointed to meet the needs of their wards.

Findings

Findings Related to the Management of the Ward's Assets

Finding #1: The Fiduciary Section of the Guardianship Branch lacks sufficient staffing to adequately perform their duties.

Inadequate staffing to perform the required duties and responsibilities of the Fiduciary Section has contributed, in part, to many of the weaknesses reported. Temporary staff was assigned to assist the Fiduciary Section; however, this created additional administrative issues including training and program continuity due to the high employee turnover and program complexity. For fiscal year 2007, agency personnel estimated that between twelve and sixteen temporary staff were assigned for seven positions. Furthermore, to better ensure proper security, many Fiduciary responsibilities cannot be delegated to temporary staff. (See page 8)

Finding #2: Disbursements on behalf of the wards were not properly reviewed or supported.

Special needs (non-routine) payments advanced to wards were identified that were not supported by receipts. In addition, quarterly statements of expenditures and receipts from the wards' health care facilities and providers were not obtained to support disbursements. The Fiduciary Section has the challenge of obtaining support from the field case managers and other third party providers. However, obtaining the required support is to one extent beyond the control of the Fiduciary Section. A lack of adequate staffing affects the ability to effectively track and send follow-up requests when needed. Without adequate internal controls over the cash disbursements process, the risk of employee error or theft is increased and the Cabinet has no assurance that funds were spent appropriately. (See page 9)

Finding #3: Controls related to receiving, depositing, and recording cash receipts were inadequate.

Currently, one employee opens the mail and delivers all cash receipts to another employee who posts the receipts within KY GFIS and makes the bank deposits. No one reviews or approves these

transactions prior to posting in KY GFIS. In addition, the Commonwealth's bonding and general insurance policies do not cover the employees who perform these tasks. The Cabinet has a responsibility to adequately safeguard ward assets. Given that over \$7,400,000 was deposited via this process in FY 2007 and over \$25,000,000 for this fiscal year, internal controls over the cash receipts process are needed to safeguard ward assets. (See page 12)

Finding #4: Assets and investments are not adequately monitored or recorded in KY GFIS.

Investment activity is not accurately recorded in KY GFIS. In addition, the wards' investments are not being adequately monitored and reconciled. The KY GFIS system as implemented, insufficient staffing, and a lack of staff expertise contributed to these deficiencies. Failure to adequately account for and record the wards' assets and investments makes it difficult to present accurate and reliable financial records, court reports, tax returns, etc. Therefore, this is a breach in the Cabinet's fiduciary responsibility and could have adverse consequences including poor investments and a loss of investment income, which in certain cases could cause the ward to require public assistance. (See page 14)

Finding #5: Inadequate internal controls exist within KY GFIS.

KY GFIS does not limit access to ensure proper segregation of duties or safeguard ward information. Due to the inadequate internal controls, an unacceptable number of opportunities exist for intentional or unintentional errors to be made and not detected in a timely manner. (See page 17)

Finding #6: Bank Reconciliations are not performed or reviewed timely, and variances have not been resolved.

Bank statements were accumulated for several months before they were reconciled to the general ledger in KY GFIS. For example, the reconciliation for December 2006 should have been performed in January 2007; however, it was not started until June 2007. The bank reconciliations performed for the months of September, October, and November 2006 had unexplained variances of \$58,816, \$57,198, and \$71,985, respectively. The unexplained variances could mean that between \$57,198 and \$71,985 of funds that belong to wards were either not collected, are missing, or were not recorded correctly within KY GFIS. (See page 21)

Finding #7: Over \$200,000 in interest income has not been distributed to the wards of the state.

Interest income earned has not been distributed to wards. Instead, the interest income posts to a “Fiduciary Account” within the KY GFIS system. We noted \$212,052.17 of interest income was earned but remains undistributed to the wards of the state. In addition, Fiduciary Section staff does not verify the correct amount of interest income was received. This verification is made difficult since the contract between the Cabinet and the bank does not state a specific interest rate. This contract only states that interest shall be earned based upon a rate to be determined by the bank. (See page 23)

Finding #8: The inventory listing of Guardianship’s safe and safety deposit box is not up-to-date.

The inventory of the safe and safety deposit box is not current or taken periodically. Several items were not included on the inventory list and there were items on the list that could not be located in the safe/safety deposit box. Because assets such as certificates of deposit, savings accounts, stock certificates, life insurance policies, bonds, or jewelry are not recorded in KY GFIS, the current status of these assets is unknown. (See page 24)

Finding #9: Guardianship’s Fiduciary Section does not have an accounting procedures manual.

The Fiduciary section does not have a formal policies and procedures manual. Field staff (case managers) have Standard Operating Procedures (SOP’s) that were last revised in August 2003 and we were informed that an updated version is currently in progress. However, formal procedures have not been developed for the Fiduciary Section. (See page 27)

Finding #10: State public assistance payments are not direct deposited.

Approximately 500 wards receive checks for state public assistance benefits instead of having the payments direct deposited. Payments to these wards total an estimated \$225,000 monthly or \$2,700,000 annually. (See page 28)

Finding #11: Dating back to 1989, deceased wards had account balances of over \$1 million that had not been closed or finalized.

As of August 21, 2007, KY GFIS contained 1,803 deceased wards whose accounts were not yet closed.

Cash balances and other assets in 847, or 47 percent, of these deceased wards accounts ranged from two cents to \$75,052 and totaled over \$1,097,244. Though the legal relationship between the guardian and ward ends at the ward’s death, KRS 387.710(3) requires the ward’s conservator to submit a final report and account to the court and the personal representative of the ward’s estate. However, this statute specifies no time requirement to submit this report, other than that it shall be submitted “forthwith” upon the termination of the conservatorship (which occurs upon the death of the ward). Closing the fiduciary relationship should be completed in a timely manner to allow for the proper distribution of the ward’s assets and to ensure staff resources are allocated to serve the active wards of the state. Maintaining information for 1,803 deceased wards, as well as the over 2,500 active wards, further burdens state resources. (See page 29)

Findings Related to Public Guardian Appointments and Ward Needs

Finding #12: Kentucky’s case managers are unable to adequately meet the ward’s personal needs due to higher than recommended staff-to-ward ratios.

With 44 case managers and 2,555 wards, the staff-to-ward ratio for Kentucky averages 1 to 58. According to the responses to our electronic survey, 40 percent of the case manager’s responding stated that their caseload is too high to “have frequent contact with wards to determine service needs” and “with high caseloads each ward is receiving minimal services at best.” To further support this finding, 60 percent of the survey respondents said “no” when asked if they were meeting the needs of their current caseload. The April 2005 report *Wards of the State: A National Study of Public Guardianship* recommended a staff-to-ward ratio of 1 to 20. (See page 34)

Finding #13: Kentucky’s public guardianship program is not structured to effectively manage the program or advocate for the ward.

Kentucky’s guardianship program is organized within a social services agency. In addition, the two components of Kentucky’s guardianship program, case managers and fiduciary workers, are not placed together within the Guardianship Branch. Only the Fiduciary Section that manages the wards’ financial affairs is located within the Guardianship Branch of

the Division of Protection and Permanency. In another Division, DSR, that includes Adult Protective Services (APS) Branch and the Child Safety Branch, the case managers and their supervisors care for the daily needs of the wards. A national study on wards recommended avoiding a social services agency model due to its inherent conflict of interest. Regardless of the model used, the functions of monitoring a ward's personal care and managing their finances are dual responsibilities that should be supervised within the same organizational unit. (See page 36)

Finding #14: Additional training resources and a certification program are needed for Kentucky guardians.

Currently, no continuing education requirement exists for guardianship case managers and 35 percent have not received any guardianship training since 2005. The training received is more related to the APS and Child Protective Services duties within the Department of Community Based Services. Kentucky needs to ensure that its public guardians are receiving specialized guardianship training to ensure wards are provided appropriate and consistent guardianship services. Certification of guardians is beginning to be required in some states and should be considered in Kentucky. (See page 41)

Finding #15: In 2007, 26 percent of the guardianship appointments to the state were emergency appointments.

According to the data in the Kentucky Guardianship Fiduciary Information System (KY GFIS), as of August 21, 2007, 26 percent, or 72 of the 277, active appointments made to the state's guardianship program in 2007 were emergency appointments. Of the 2,555 active wards of the state, 96 of these are listed as emergency appointments. For those 96 wards, their emergency appointments have been in effect for an average of 241 days or approximately eight months. One ward has had an emergency appointment since 2001. (See page 45)

Finding #16: Increasing public guardian appointments without controls places the wards and their finances at risk.

Kentucky's public guardianship program is threatened by a lack of resources and increasing court appointments. Public guardian appointments cannot be refused, yet additional resources have not

been provided. Without adequate resources, public guardianship will continue to suffer from high caseloads that cause staff to fall behind in accounting and other guardianship activities. Education and monitoring are needed to control this threat and protect Kentucky's wards and their finances. (See page 50)

Summary

The audit revealed significant control and operational deficiencies that require action to ensure the personal, medical, and financial needs of Kentucky's wards are properly managed. A total of 43 recommendations were made to address these findings and to facilitate the implementation of procedures to improve Kentucky's guardianship program.

Introduction

Audit Objective-Why the APA conducted this audit.

The Kentucky Auditor of Public Accounts conducted a performance audit of Kentucky’s public guardianship services. A public guardian serves as guardian of last resort for Kentucky’s most vulnerable citizens. As the number of wards of the state increases the state’s guardianship program must operate efficiently and effectively to meet the needs of its wards.

The objectives of the performance audit are to evaluate whether Kentucky’s public guardian processes and controls function properly and are being properly appointed to meet the needs of their wards. The Guardianship information system, KY GFIS, was used to review the wards financial and case management information as well as analyzing ward demographics and staff caseloads. Appendix I contains a detailed description of the scope and methodology used to develop the findings in this report.

Kentucky’s public guardianship process.

Guardianship is a legal relationship between a guardian and a ward. A guardian is a court-appointed person or entity with the duty and power to make personal and/or property decisions for another (the ward). The ward is an adult, 18 years or older, who has been declared by the court to be either wholly or partially disabled, and who is unable either to care for personal needs or to manage personal financial resources, or both. After a court hearing, and a jury determines that a person is disabled, a guardian is appointed by the court.

Kentucky’s statutory provisions relating to guardianship for disabled persons are found in KRS 387.500 through 387.770. KRS 387.590 defines various levels of a ward’s guardianship as follows:

- If the disabled person is found by the court to be partially disabled in managing his or her personal affairs, a **limited guardian** shall be appointed.
- If the disabled person is found by the court to be partially disabled in managing his or her financial resources, but not partially disabled or disabled in managing his personal affairs, a **limited conservator** shall be appointed.
- If the disabled person is found by the court to be partially disabled in managing both his or her personal affairs and financial resources, a **limited guardian** shall be appointed, unless the court considers it in the best interest of the ward to appoint both a limited guardian and a limited conservator.
- If the disabled person is found by the court to be disabled in managing his or her financial resources, but not partially disabled or disabled in managing his or her personal affairs, a **conservator** shall be appointed.

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- If the disabled person is found by the court to be disabled in managing both his or her personal affairs and financial resources, a **guardian** shall be appointed, unless the court considers it in the best interest of the ward to appoint both a limited guardian and a conservator.

Difference between guardianship and public guardianship.

Public guardianship is initiated when the courts appoint a publicly funded organization to serve as legal guardian, instead of a private citizen or professional organization. A public guardian is usually appointed due to the absence of willing and suitable family members or friends to assume this responsibility, or the absence of resources to employ a private guardian.

Traditionally, entities appointed by the court to serve in a guardian or conservator role have been family members, friends, or neighbors of the disabled person who were willing and legally able to assume the serious legal responsibilities of guardianship. When no such suitable person was available, the court would appoint a “public,” or state guardian, typically appointing the department of state government responsible for providing public health and welfare services to Kentuckians. The 1984 case, Commonwealth of Kentucky v. Cabinet for Human Resources, et al., 686 S.W.2d 465 (Ky. App. 1984), held that if no family member, friend, or neighbor exists who is willing and able to serve as guardian to care for the disabled individual, then, as a **last resort**, a state guardian may be appointed by the court, even when the state agency being appointed is unwilling to serve and had not sought the appointment.

Thus, the state is now rendered as guardian of last resort. Prior to this legal ruling, the state agency being appointed guardian had to agree to the appointment before a state guardian could be appointed. After this court decision was rendered, however, the state agency being appointed guardian had to accept the court’s appointment, regardless of whether the agency agreed to the appointment. This change in the law has had a profound effect on the frequency with which a state guardian has been appointed by the courts to serve the needs of disabled adult wards in Kentucky.

National studies and issues on guardianship and public guardianship.

Wards of the State: A National Study of Public Guardianship was a report released in 2005 by the American Bar Association Commission on Law and Aging, which consists of “a 15-member interdisciplinary body of experts in aging and law, including lawyers, judges, health and social services professionals, academics, and advocates.” This report discusses the history and current state of public guardianship, and also compares the current conditions with the findings from the only other comprehensive study that was released in 1981, *Public Guardianship and the Elderly*. In

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developing this report, the Commission studied state statutes and procedures, reviewed court cases regarding public guardianship, interviewed public guardianship staff in seven states, and conducted onsite visits in three states. Among the report's conclusions:

- “Public guardianship programs serve a wide variety of individuals and serve a population of clients that include more, younger individuals with more complex needs than 25 years ago.”
- “Staff size and caseload in public guardianship programs show enormous variability.”
- “Public guardianship programs are frequently understaffed and underfunded.”
- “Although some public guardianship programs use ratios to cap the number of clients, most serve as guardian of last resort without limits on intake.”

Kentucky's public guardianship program.

Since the early 1800s, Kentucky law has recognized the legal responsibility of guardians to properly account to the courts for their handling of the personal needs and the property of their wards. But it was not until the 1960s that Kentucky established the Kentucky Guardianship Program pursuant to KRS 210.290. This statute authorizes the Cabinet for Health and Family Services (Cabinet) to petition and be appointed as a legal guardian for a disabled adult resident. The Guardianship Program was originally established in the Bureau for Health Services with an office located at each of the state mental hospitals. The first guardianship cases dealt with those who were living in state facilities at the time that an incompetency hearing was filed with the court. Each office had one Guardianship Officer who made all of the decisions for the state's wards, both personal and financial. The offices were also staffed with two or three clerical personnel who spent the majority of their time managing the wards' financial affairs.

The established process to be followed for the state to be notified that it was appointed public guardian of an individual is for the court to notify a representative of the Division of Service Regions (DSR). A case manager in DSR is then assigned to care for the daily personal needs of the ward and the Fiduciary Services Section within the Division of Protection and Permanency is notified by DSR of its responsibility to manage the financial affairs of the new ward. To provide direct services and support for the wards, there are nine regional service offices with case managers and a supervisor.

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The Fiduciary Services Section, within the Guardianship Branch, is responsible for managing the financial resources of the wards in the state guardianship program. More specifically, the Fiduciary Section is responsible for all financial issues of the wards of the Commonwealth, which can include “applying for benefits; maintaining benefit eligibility; depositing checks (over 4,000 per month in addition to the checks direct deposited); last approval of request for funds; issuing checks for requested funds; ensuring monthly room, board, personal needs, mortgage, utilities, grocery funds, work allowances, etc are paid timely; investing the ward's funds in a prudent manner; individual income taxes accounting for ward's funds in compliance with laws and regulations; manually balancing 10,000 transactions monthly; ensuring internal control and accounting principles are in place; and all issues related to financial issues of the wards of the commonwealth.”

Kentucky's guardianship program also consists of Guardianship Social Services Workers (GSSW) and Guardianship Family Service Office Supervisors (GFSOS), who will be referred to as case managers and supervisors throughout the report. These case managers and supervisors are in the DSR that have nine regions throughout Kentucky. See Appendix II for a complete listing of service regions.

Once a case manager is assigned to a ward, they are responsible for providing the level of care deemed necessary per the court orders, which should be based on the disabled person's needs. A great deal of the case manager's time is spent reviewing the ward's accounts; creating a budget for the ward; making payment requests to Fiduciary Services to pay the ward's bills; dealing with medical matters that may include Medicare/Medicaid issues; home and life insurance matters; grocery shopping, inventorying the ward's assets; and buying burial insurance just to name a few of their responsibilities. They are also required to make at least one yearly visit for each of their wards, but there are times when the case manager will visit a ward more often depending on the neediness of the ward.

A ward of the state is legally deprived of certain rights upon the determination of disability. According to KRS 387.590, these rights “include but are not limited to the right to dispose of property, execute instruments, enter into contractual relationships, determine his living arrangements, consent to medical procedures, and obtain a motor vehicle operator's license.”

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Kentucky public guardianship statistics.

The APA obtained the state’s ward information from the KY GFIS, which is the information system used by the Guardianship Program case managers and Fiduciary Section to document significant legal and financial events for each ward, as well as case manager activities. As of August 21, 2007, there are 2,555 **active** wards, ages 18 to 104, in the state’s custody; there are also 620 wards that have **resigned** from the state’s custody due to recovery or the appointment of a private guardian; and 1,803 that are **expired** or deceased. KY GFIS was not put in place until 2004, which means that information prior to this was manually transferred to the system. While the completeness of the historical information is questionable, this is the only source for the information.

Table 1 below illustrates the wards that are Active, Resigned and Expired by date of appointment. It also provides the total wards assigned to the state per decade/year and the percentage of wards that were assigned per decade/year. From the 1930s through the 1990s, the wards are listed in decades. Please note that the 2000s only contain wards assigned through August 21, 2007.

Table 1: Overall Total of Wards by Date of Appointment

Decade	Active	Resigned	Expired	Total Appointments per Decade	Percent of Total Appointments per Decade
1930's	0	0	1	1	0.02%
1940's	0	0	0	0	0.00%
1950's	0	0	0	0	0.00%
1960's	42	1	75	118	2.38%
1970's	289	24	179	492	9.92%
1980's	347	30	144	521	10.51%
1990's	544	143	888	1575	31.76%
2000's	1327	414	511	2252	45.41%
Grand Total	2,549	612	1,798	4,959	100.00%

Source: Auditor of Public Accounts, based on information obtained from KY GFIS, as of August 21, 2007.

Note: The following were not included in the above totals due to data errors or blanks in the Date of Appointment field: Active – 6, Resigned – 8, Expired – 5.

There has been a steady increase of ward assignments to the state since the inception of Kentucky’s Guardianship Program. Almost half, 45.4 percent of the 4,978 wards, have been assigned since 2000.

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The largest age segment of Kentucky's wards are 50 to 59, which make up 20.36 percent of the total adult ward population. Table 2 below shows the total wards in the state's custody by age and provides the percentage of each range.

Table 2: Age of the State's Active Wards as of August 21, 2007

Age	Number of Active Wards	Percent of Total
100-104	4	0.16%
90-99	86	3.37%
80-89	267	10.45%
70-79	336	13.16%
60-69	410	16.05%
50-59	520	20.36%
40-49	439	17.19%
30-39	262	10.26%
20-29	213	8.34%
19	11	0.43%
18	6	0.23%
Total	*2554	100.00%

*Total does not match 2,555 as one birth date not provided.

Source: Auditor of Public Accounts, based on information obtained from KY GFIS, as of August 21, 2007.

Per *Wards of the State: A National Study of Public Guardianship*, which was a report funded in 2005 by a grant from The Retirement Research Foundation, shows that the average age of wards in state's custody across the United States tends to be on the younger end of the age spectrum, 18 to 64, and that over the past few decades a younger population became wards of the state.

Of the 2,555 active wards assigned to Kentucky's Guardianship Program as of August 21, 2007, the level of care needed ranges from skilled nursing facilities to self-care. The following table illustrates the level of care recorded in KY GFIS for the active wards along with the percentage within each level.

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Table 3: Levels of Care for Kentucky's Ward Population

<i>Level of Care</i>	Number of Active Wards	Percent
Absent Without Leave (AWOL)	4	0.16%
Acute Hospitalization	41	1.60%
Assisted Living, Boarding/Group Residence	32	1.25%
Caretaker (Other than family)	17	0.67%
Family	49	1.92%
Intermediate Care Facility (ICF), Skilled Nursing	908	35.54%
Jail	10	0.39%
Licensed Family Care	36	1.41%
Personal Care Home	492	19.26%
Respite, Convalescent Care, Other	13	0.51%
Self	111	4.34%
State/Private Psychiatric Hospital	74	2.90%
Support for Community Living (SCL) and Mental Retardation/Developmental Disabilities (MRDD) Residences	768	30.06%
Total	2555	100.00%

Source: Auditor of Public Accounts, based on information obtained from KY GFIS, as of August 21, 2007.

Online survey of case managers.

The audit team surveyed all of the case managers that provide direct support and service for the wards across Kentucky. The response rate for the survey was 94 percent, with 50 of the 53 case managers responding. The field staff provided insight as to what they see on a day-to-day basis and offered their comments and suggestions as we requested. Results from this survey are discussed in part throughout the text of this report and is presented in Appendix III.

Findings and Recommendations

Finding #1: The Fiduciary Section lacks sufficient staffing to adequately perform their duties.

Inadequate staffing to perform the required duties and responsibilities of the Fiduciary Section has contributed, in part, to many of the weaknesses reported. Temporary staff was assigned to assist the Fiduciary Section; however, this created additional administrative issues including training and program continuity due to the high employee turnover and program complexity. For fiscal year 2007, agency personnel estimated that between twelve and sixteen temporary staff were assigned for seven positions. Furthermore, to better ensure proper security, many Fiduciary responsibilities cannot be delegated to temporary staff.

Currently, nine permanent Fiduciary Section positions exist with a caseload of approximately 553 wards per employee in the Fiduciary section. As of August 21, 2007, there were 2,555 active wards, ages 18 to 104, in the Guardianship program. In addition, 620 wards had resigned from the state's custody due to recovery or private guardian appointments; and 1,803 deceased wards were identified. Therefore, a total of 4,978 wards are active, resigned, or deceased that require staff assistance to manage or report on their financial situation.

According to a December 2004 memo from the Guardianship Branch, it was estimated that 23.5 full-time equivalents are needed to meet its statutory responsibilities and additional fiduciary positions were requested. The effects of not having sufficient staffing are apparent in the other findings discussed in this report.

Recommendation

We recommend that the Cabinet review the responsibilities assigned to the Guardianship Branch to evaluate the need for additional permanent staffing in the Fiduciary Section. The actual number of additional staff should be determined after a detailed analysis is performed of the functions needed. Furthermore, should additional resources be provided, we recommend the Cabinet's Division of Audits and Detection within the Office of the Inspector General, which has specific internal control and audit experience, work with the Fiduciary section to reallocate existing responsibilities to prevent segregation of duties concerns.

Agency Response

The Fiduciary Services of the Guardianship Branch actually manages the financial and benefit affairs of over 2600 active wards and over 2500 resigned or expired wards statewide with staffing of 8 full time employees and 9 temporary staff.

Findings and Recommendations

Over the last 1-1/2 years, an employee on medical leave held the 9th permanent position. That position should be filled by the end of January 2008 with a Graduate Accountant I.

After reviewing the personnel records of temporary staff, it appears that Fiduciary Services trained 43 persons to fill 9 temporary positions from January 1, 2007 through November 5, 2007. This is a ratio of 1:4.78 for each position. Temporary staff is not allowed to sign letters or documents or complete payment requests and should not, at the direction of the Office of Legal Services, be inputting receipts (checks) or making deposits because of liability issues. One temporary staff is currently inputting checks under direct supervision of a permanent staff.

Fiduciary Services recognizes the need for a detailed analysis of Fiduciary Services functions to determine the number of full time employees needed to provide services to our wards in the prudent manner required by federal and state law. The last analysis of full-time equivalents (FTE) completed by the Branch Manager (previously Assistant Director) in November 2004 determined the need for 23.5 FTE staff. Many functions have changed since that time.

The Director of Protection and Permanency has regularly briefed Cabinet leadership on the need for more staffing in Fiduciary Services and this is currently being investigated.

Finding #2: Disbursements on behalf of the wards were not properly reviewed or supported.

Special needs (non-routine) payments advanced to wards were identified that were not supported by receipts. In addition, quarterly statements of expenditures and receipts from the wards' health care facilities and providers were not obtained to support disbursements. The Fiduciary Section has the challenge of obtaining support from the field case managers and other third party providers. However, obtaining the required support is to an extent beyond the control of the Fiduciary Section. A lack of adequate staffing affects the ability to effectively track and send follow-up requests when needed. Without adequate internal controls over the cash disbursements process, the risk of employee error or theft is increased and the Cabinet has no assurance that funds were spent appropriately.

The following list provides more details regarding the discrepancies that were found related to cash disbursements.

1. **Adequate documentation was not obtained or maintained to support expenditures.** Routine payments such as utilities, television, and telephone had supporting documentation. Special needs payments, however, are advanced to wards or the facility where the wards reside as needed for personal purchases or to spend down the ward assets so the wards remain eligible for government assistance. Cabinet policy requires receipts to support

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expenditures in excess of \$100 for these types of payments. Documentation to support numerous payments could not be provided. Based on the results of a statistical sample of disbursements made from wards' accounts, the number of unsupported payments was estimated to be \$951,310. In another test of disbursements, an additional \$31,350 of unsupported payments were identified. Combined, these two amounts total almost \$1,000,000 of unsupported payments.

2. **Payments were issued without documentation of supervisory review.** A \$1,080.60 payment to the Social Security Administration (SSA) was made without documentation of supervisory review. A representative of SSA stated SSA overpaid the ward and a check on behalf of the ward was issued to reimburse this overpayment. A review of the ward's file found no evidence the ward was overpaid. The Fiduciary Section agreed and has subsequently requested reimbursement for the ward. Supervisory reviews were not performed on other documents as well.
3. **Quarterly statements of receipts and expenditures were not obtained consistently from third party care facilities and providers.** The Fiduciary Section requires that third party care facilities and providers to submit a quarterly report showing the receipts and the details of how ward funds were spent at the facility. These reports were not on file for the majority of the wards reviewed.

Recommendations

We recommend the Cabinet implement the following controls in the Guardianship Branch:

1. Implement policies and procedures to ensure that ward expenditures are properly documented and supported. Case managers should obtain all supporting documentation for special needs disbursements. This documentation should be uploaded into the Guardianship Fiduciary Services accounting system (KY GFIS) or submitted to the Fiduciary Section. To facilitate this, the Fiduciary Section should request that reports be developed within KY GFIS that illustrate to case managers which payments lack supporting documentation. Third party care facilities and providers should be contacted routinely to request quarterly reports. A tracking system should be developed to follow-up and obtain the information requested.

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2. Ensure the accounting supervisor or branch manager review all payments and related supporting documentation prior to approving transactions in the system. This review will serve as a check and balance to ensure that payments are adequately supported.

Agency Response

Fiduciary Services agrees with recommendation #1. It is the field's responsibility as set out in SOP 5C.5.3 and 5C.5.7 to obtain back up documentation for payment requests. KY GFIS is currently able to generate a report that list transactions without back up documentation. However, this report is unwieldy and not user friendly. Fiduciary Services is working with the KY GFIS software provider so that a payment request needing back up documentation can be marked and a report of outstanding backup documentation needed can be generated. However, as pointed out in the audit, Fiduciary Services lacks staff to perform this follow-up. Fiduciary Services recognizes that not only is the back up documentation necessary for accountability, but it is required by the Social Security Administration and the Veteran's Administration.

Fiduciary Services staff has been directed not to refund SSA unless we have written documentation to justify the refund. However, it should be noted that SSA and the Veterans Administration can reclaim funds by ACH debit of our bank account on any ward at any time without notification to the Cabinet.

Fiduciary Services respectfully disagrees with the recommendation that the Accounting Supervisor or Branch Manager should review all payments prior to approving them in the system. Requests from the field are input by the Guardianship Social Services Worker (GSSW), reviewed and approved by the Guardianship Family Services Office Supervisor (GFSOS) and are reviewed by and approved by a permanent Fiduciary Services staff.

Fiduciary Services recognizes the need to implement a plan to sample all other daily payment requests and recurring payments before marking and printing to ensure accuracy. However, as pointed out in the audit, Fiduciary Services lacks staff to perform this simple audit step at this time. At the first of the month, Fiduciary Services can print over 4,000 checks in one day. During other times, Fiduciary Services prints weekly, biweekly, and daily batches. For the month of October 2007, Fiduciary Services printed 9,842 disbursements of which 2,687 were daily batch entries and reviewed by permanent Fiduciary Services staff for accuracy and allowability before being approved, marked and printed.

Findings and Recommendations

Finding #3: Controls related to receiving, depositing, and recording cash receipts were inadequate.

Currently, one employee opens the mail and delivers all cash receipts to another employee who posts the receipts within KY GFIS and makes the bank deposits. No one reviews or approves these transactions prior to posting in KY GFIS. In addition, the Commonwealth's bonding and general insurance policies do not cover the employees who perform these tasks. The Cabinet has a responsibility to adequately safeguard ward assets. Given that over \$7,400,000 was deposited via this process in FY 2007 and over \$25,000,000 for this fiscal year, internal controls over the cash receipts process are needed to safeguard ward assets.

Insufficient staffing and inadequate design of internal controls in this area has contributed to inadequate oversight of the cash receipts process. Without a detailed list of receipts, the completeness of deposits cannot be assured. Since the same employee makes deposits and records receipts within the accounting system, it is conceivable that receipts could be lost or stolen without being detected, receipts could post to the wrong ward or for the wrong amount, etc. Furthermore, failure to insure (bond) all employees handling cash receipts and disbursements presents a risk to the wards and the Cabinet in the event of a loss or theft.

Recommendations

We recommend the Cabinet implement the following controls in the Guardianship Branch:

1. Perform the mail opening process in a supervised environment. If this is not feasible, compensating controls should be implemented, such as installing a security camera for monitoring purposes.
2. Log all cash and checks that are received daily, prior to submitting them to the person responsible for depositing the funds. The log should be compared to deposit slip totals to determine that all receipts were promptly deposited in the ward's account. Furthermore, the person opening the mail should not be able to enter or approve transactions in KY GFIS.
3. Forward the log to the accounting section supervisor for 1) a comparison with the bank deposit, and 2) a comparison of the receipts to be posted to the ward's account. This provides an additional safeguard to ensure the accuracy of the receipts that are posted in system.
4. Consider bonding the employees as a practical and relatively inexpensive supplement to internal controls:
 - Scheduled bond – Covers only certain named employees.
 - Blanket bond – Covers all employees, including automatic coverage for new employees.

Findings and Recommendations

- Position bond – Covers specific positions rather than certain named employees.

Agency Response

Fiduciary Services agrees with the recommendation that mail should be opened in an environment where it can be monitored by permanent Fiduciary Services staff but is currently unable to achieve this because of the logistical layout of office space and for the same reason, a camera would not provide any more safe guard. Upper management is aware of this recommendation and will look at options available in order that an appropriate environment for processing mail can be achieved.

Fiduciary Services agrees with a procedure of having the person who opens incoming mail to prepare a list of cash and check items received daily, at the time of opening the mail and before the cash and checks are routed to the person responsible for depositing funds. Fiduciary Services has implemented a plan where the temporary employee opening the mail logs all checks on a spread sheet which includes date received, check number, check type, client name, who the check is from and the check amount. This list is printed and given to the section supervisor. All checks not entered on the day they are received will be locked in the safe that has limited access by Fiduciary Services staff.

In accordance with recommendation #2, the user level in KY GFIS for temporary staff opening the mail has been reset to Advisor. As Advisor user level, this person has read only access for the KY GFIS application. The only thing an Advisor can do in the system is enter an Event.

Two calculator tapes to ensure accuracy of the deposit will be run for each bank deposit. One tape will be run by the staff preparing the deposit. The other will be run by the Section Supervisor. One tape will go with the deposit to the Bank. The other tape will be attached to the posted print out sheet. The Section Supervisor will perform random sampling of the deposit using the spreadsheet prepared above to ensure all checks received are deposited accurately.

After discussion with Office of Legal Services and management, Fiduciary Services will request that bonding be looked into as a safe guard for staff and the Cabinet. As the audit points out, the Cabinet and staff are vulnerable to loss and mishandling of funds of wards of the state due to lack of staffing resources. Therefore, it would be prudent for the Cabinet to look into bonding coverage.

Findings and Recommendations

Finding #4: Assets and investments are not adequately monitored or recorded in KY GFIS.

Investment activity is not accurately recorded in KY GFIS. In addition, the wards' investments are not being adequately monitored and reconciled. The KY GFIS system as implemented, insufficient staffing, and a lack of staff expertise contributed to these deficiencies. Failure to adequately account for and record the wards' assets and investments makes it difficult to present accurate and reliable financial records, court reports, tax returns, etc. Therefore, this is a breach in the Cabinet's fiduciary responsibility and could have adverse consequences including poor investments and a loss of investment income, which in certain cases could cause the ward to require public assistance.

Most wards do not have sufficient assets that necessitate regular monitoring. However, some wards have sizeable estates and the Cabinet has a fiduciary responsibility to manage and monitor these assets on behalf of the wards.

We noted the following weaknesses in the controls over assets and investments managed by the Guardianship Branch:

1. The Fiduciary Section has not adequately monitored client investments.

- The Fiduciary Section was unaware that different interest rates were paid to different individuals depending upon the type of account set up for the ward. The funds for most wards are held in a general checking account that earns between 3.6 percent and 3.65 percent interest, or certificates of deposit or money market accounts earning various rates of interest. Some clients received 4 percent interest on their money market accounts, while other clients only received 1 percent interest on their money market account during FY07, including one ward with over \$400,000 in assets. None of the \$212,052 of interest income earned on the Fiduciary checking account has been distributed to the wards, which is discussed in Finding #7 of this report.
- One ward had over \$10,000 of Series HH US savings bonds that were purchased in 1974 that were stored in the safe located in the Fiduciary Section. These savings bonds reached their full/final maturity in 1994, which means that no interest income has been received on this investment in 14 years.
- Several certificates of deposit for various amounts were found in the Fiduciary Section's safe and safety deposit box. The value and current status of these funds is unknown.

Findings and Recommendations

2. **The KY GFIS investment module is currently insufficient to adequately monitor and account for ward investment activity.** Each investment account is set up as an asset within KY GFIS. Investment accounting for assets in KY GFIS is very limited and only shows the current balance (or the last balance entered) and a few other fields of information. Changes in investment activity, such as transfers in or out, investment income, realized or unrealized gains/losses are not recorded within the system. The lack of functionality or system programming makes it difficult to ensure that all client assets have been recorded and handled appropriately.
3. **Investment activity currently is not reconciled.** Monthly investment activity is not reconciled with KY GFIS to ensure that all funds are accounted for in the system. As noted above, currently only the asset balance is recorded within KY GFIS. Money market ending account balances for some clients are tracked in a Microsoft Excel spreadsheet. Furthermore, many investment account statements could not be located for review or were misfiled in another ward's file.
4. **Assets and liabilities of wards are not accurately reflected within KY GFIS.** While money market account balances are tracked within KY GFIS, many other assets were not recorded within KY GFIS. Furthermore, liabilities were not recorded within KY GFIS even though the system has the capability to track liabilities. This was discovered when a ward's account did not show evidence of an automobile loan.
5. **Assets and liabilities held by the Guardianship Branch for financial reporting purposes were understated.** As of June 30, 2007, the Cabinet's Guardianship Branch reported \$6,214,911.23 in assets on the closing package to the Finance and Administration Cabinet. This amount is representative of the cash held within the Guardianship checking account, but it does not reflect other assets and liabilities of the wards. According to Guardianship staff, one ward's estate alone was valued at more than \$30,000,000. A report showing total assets and liabilities reported within KY GFIS was requested but not provided.

Recommendations

We recommend the Cabinet implement the following controls in the Guardianship Branch:

1. Request additional functionality within KY GFIS to track each type of investment account (savings accounts, certificates of deposit, money market accounts, brokerage accounts, etc.) within its own general ledger. If the software provider is not able to provide this

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function, an alternative means of accounting for this information should be considered.

2. Ensure that each investment account is reconciled to the accounting system periodically.
3. Regularly monitor both the quality and type of investments to ensure that ward funds are invested properly and are receiving an adequate return on their investment. When a client's assets or investments are too numerous or complex, consider using the ward's funds to obtain a professional financial planner/investment advisor.
4. Record all ward assets and liabilities within KY GFIS.
5. Establish a tracking and filing system so that the ward's account statements are available and all activity can be accounted for and reconciled to KY GFIS.
6. Provide a report of total ward assets and liabilities that are managed by the Guardianship Branch to the Finance and Administration Cabinet at year-end.

Agency Response

Due to lack of staffing, Fiduciary Services has concentrated on the daily needs of wards and ensuring facility, personal needs and medical needs are met before handling assets and liabilities. We understand that we are responsible for management of assets and liabilities as set out in KRS 386 which requires financial matters are handled in a prudent manner and are very aware of the impact the lack of controls and management can have on the financial affairs of our wards.

Fiduciary Services held a conference call on November 27 with the KY GFIS software provider and reviewed the investment, asset/liability module of the KY GFIS. The function to capture changes in investment, asset and liability activity is in KY GFIS. The software provider walked Fiduciary Services through the procedure and Fiduciary Services will begin using this module in KY GFIS. The software provider will develop ledger reports for all assets and liabilities of each ward so accounts can be monitored and reconciled. Until the ledger report is created and all entries are completed in KY GFIS, Fiduciary Services will continue to use the spreadsheet to monitor investments.

Findings and Recommendations

Fiduciary Services requested that the software provider add a column to the asset grid that will list the date of maturity and a report will be created so staff can monitor these dates in order that the investments may be tracked and decisions made in a timely manner.

After the discrepancy in interest earned by the general account and money market accounts was brought to the attention of Fiduciary Services, the bank was contacted and all wards with money market accounts are earning between 4.55% and 5%. Fiduciary Services will continue to monitor this closely.

Fiduciary Services agrees that it would be prudent to set a time that all investments, assets and liabilities are correctly and accurately entered in KY GFIS. At this time, staffing is not sufficient to be able to project this and be able to adhere to this timetable.

Fiduciary Services agrees with the recommendation, management is aware that all assets and liabilities, not just cash assets need to be reported on Form AFR-10A. However, this was not possible because the information was not entered into KY GFIS due to lack of staffing and therefore a complete and accurate report could not be generated from KY GFIS that contained this information. Also due to lack of complete and accurate information, a total amount cannot be extrapolated at this time.

Finding #5: Inadequate internal controls exist within KY GFIS.

KY GFIS does not limit access to ensure proper segregation of duties or safeguard ward information. Due to the inadequate internal controls, an unacceptable number of opportunities exist for intentional or unintentional errors to be made and not detected in a timely manner.

The following are segregation of duties and system access concerns within the Fiduciary Section:

- All accountants currently have the ability to enter, approve, and post payments to ward accounts in KY GFIS without any review or approval by the accounting supervisor or branch manager. They also have the ability within the system to print these payments, although access to check stock is restricted to two accountants, the supervisor, and branch manager.
- Journal entries and other adjustments to ward funds can be entered into the accounting system by staff without any review or approval by the accounting supervisor or branch manager.
- Transfers of funds from money market accounts, certificates of deposit, and other investment accounts can be made between banks by an employee who also records this activity into KY GFIS. No review or approval of this activity by any other employee is required.

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- The accountant who performs the bank reconciliation has the ability to cancel checks in the accounting system after the checks have been printed. This same employee also sends data in an editable text file to the bank for positive payee verification. This segregation of duties weakness could potentially allow the person performing the bank reconciliation to commit and conceal fraudulent activity.
- All Fiduciary and Guardianship workers who are assigned the role of system administrator, accounting administrator, administrator, and accountant can create user IDs, change user access rights, and reset passwords within KY GFIS. Twenty-two users, and one test user, currently have this ability. This poses a significant security risk to the wards of the state given that any of these workers could potentially reset other workers' passwords, log in under their user ID, and initiate/approve payments.
- One information technology employee had a user ID that allowed the employee to potentially initiate payment requests into the system.
- One employee's KY GFIS user ID was used by a different KY GFIS user.

In addition, the following are access concerns with the security of ward information in KY GFIS.

- The Cabinet has not adequately safeguarded the personal information of wards. Social security numbers of wards were listed on all payments to vendors for wards. In addition, their social security numbers are displayed on the outside of ward case files that are filed in unlocked cabinets that can be accessed by anyone walking through the Fiduciary section.
- User ID's and passwords were not changed to inactive status timely after the termination of employment of Fiduciary section workers. Since KY GFIS is a web-based application, this presents an unnecessary risk to ward information.

Recommendations

We recommend the Cabinet implement the following controls in the Guardianship Branch:

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1. Modify the programming of KY GFIS immediately to not allow a single user to enter a payment into the system, approve (mark for printing), post to a ward's account, or print the payment. The system's programming should be modified to require all transactions to be approved by a user other than the initiator prior to posting to a ward's account.
2. Modify KY GFIS to automatically assign transaction numbers for journal entry adjustments and maintain documentation to support each adjustment. This documentation should be initialed by the person preparing the adjustment as well as initialed by the reviewer to support that the transaction is necessary, correct, and appropriate.
3. Limit transfers of ward funds from investment accounts to the person who is the approved signer on the account (which should be someone other than the employee that will perform investment reconciliations). These transfers should also be reviewed and approved within the accounting system by the accounting supervisor or branch manager.
4. Request the software provider to immediately remove the "password reset" button/option from all system access roles and assign this function solely to the Cabinet's Information Technology System Administrator. When passwords are reset, they should be changed to a strong password that is different for every reset and emailed or communicated to the user after the password has been reset.
5. Establish the procedure that canceling checks within KY GFIS should not be performed by the person who prepares the bank reconciliation or by the person who sends check information for the positive payee verification process to the bank.
6. Develop a policy that prohibits employees from using the login ID and passwords of other employees and require that terminated employees login ID's and passwords are immediately deactivated or revoked within the accounting system. The policy should also prohibit the Cabinet's Information Technology personnel from having a user ID or password that would allow this personnel to initiate and/or authorize transactions.
7. Adopt reasonable measures to prevent identity theft by protecting the wards' social security numbers.

Findings and Recommendations

Agency Response

Fiduciary Services recognizes the risk of not having segregation of duties.

Fiduciary Services agrees in part with recommendation #1 above. KY GFIS does not allow any guardianship staff to perform all functions from entering a payment to printing that payment. Daily Payment requests can be generated by any guardianship staff, field or fiduciary. However, the payment requests must be approved by supervisors at both ends. Field staff can not mark, print or post to a ward's account. Accountant user level can enter a payment request, approve a request, and mark payments to print. Accountant Administrator user level can enter a payment request, approve a request, print and post. Administrator can do all the above except print. Policy directive states that no staff entering a payment request can approve their own request. Increased staffing levels as recommended would better permit segregation of these duties. CHFS is conscientious of this and will review the personnel cap to determine feasibility.

After discussion with the auditor, Fiduciary Services has set a policy that journal entry requests are emailed to the Accounting Supervisor and to the Accountant who makes all journal entries. The requests are reviewed by the accountant and it is determined what entry will be necessary to make the correction requested. The journal entry is made and supporting documentation is attached to the posted journal entry. The supporting documentation is again reviewed during the reconciliation of the bank statement. We propose to change the journal entry procedure to include approval via email by the accounting supervisor before the entry is made and that the Accounting Supervisor would be the one to mark and actually post the transactions. We will discuss the possibility of assigning numbers to the journal entries with the KY GFIS provider as proposed in the audit recommendations.

To address recommendation #3 above, Fiduciary Services has set policy and procedure. Before money market or CDs accounts are established, transfers are made or investment is closed, an e-mail will be sent by staff to Accounting Supervisor for approval. The journal entry to account for this will follow the procedure set out above.

Fiduciary Services and the KY GFIS software provider reviewed KY GFIS. The only person who has ever been able to spoil or re-set checks in KY GFIS is the System Administrator.

Fiduciary Services agrees with recommendation #4 above. KY GFIS has already been modified to ensure that only the System Administrators and Administrator can insert or edit users and set or reset passwords. The password reset button has been removed. To set or reset a password, a new password has to be entered and must conform to State guidelines which mean it is at least 8 characters long and has 1 upper case, 1 lower case, and 1 number.

Findings and Recommendations

The Cabinet has a “termination check list” that includes the activity of terminating all access to all CHFS systems. Fiduciary Services will ensure the check list is used every time a staff member leaves Fiduciary Services.

Administrator will review a list of users and ensure all users are current on a monthly basis.

IT personnel can no longer initiate or authorize transactions in KY GFIS.

Fiduciary Services agrees with recommendations #7 above. Fiduciary Services staff has been directed to include only the ward’s name and the last four digits of the social security number on file tabs. Fiduciary Services has also sent the auditor’s concerns to the field for their review and encouraged that they adopt the same format as Fiduciary Services.

Finding #6: Bank Reconciliations are not performed or reviewed timely, and variances have not been resolved.

Bank statements were accumulated for several months before they were reconciled to the general ledger in KY GFIS. For example, the reconciliation for December 2006 should have been performed in January 2007; however, it was not started until June 2007. The bank reconciliations performed for the months of September, October, and November 2006 had unexplained variances of \$58,816, \$57,198, and \$71,985, respectively. The unexplained variances could mean that between \$57,198 and \$71,985 of funds that belong to wards were either not collected, are missing, or were not recorded correctly within KY GFIS.

The causes of the unexplained variances are unknown but could result from various items including bank errors, improperly recorded transactions, reconciliation errors, or theft. These variances have been carried forward because it takes time to investigate these issues and no reviews are being performed on the bank reconciliations after completion. Because six months or more have passed since receiving the bank statements, any variances will be difficult to investigate. Not reconciling the accounts on a monthly basis means that errors or other problems might not be recognized and resolved on a timely basis.

In addition, 282 checks from wards’ accounts were outstanding for more than one year totaling \$139,174. Some of these outstanding checks date back to September 1994. In a 2006 letter from the SSA, it was recommended that outstanding checks be written off after 90 days, but this recommendation has not been implemented.

Recommendations

We recommend the Cabinet implement the following controls in the Guardianship Branch:

Findings and Recommendations

1. Reconcile bank accounts on a timely basis each month. The Guardianship Branch should focus attention on bank reconciliations until up-to-date. Differences not reconciled should be investigated and resolved prior to completing the bank reconciliation instead of carrying them forward from month to month. Insignificant amounts should be written off without further investigation based upon policy determined by management.
2. Establish a formal, written policy concerning bank reconciliation procedures that includes a review process. Bank reconciliations should be reviewed for accuracy and completeness. The reconciliation should be signed and dated by the person conducting the reconciliation and the person conducting the review.
3. Establish a formal, written policy concerning the write-off of outstanding checks. Such a policy should specify aging milestones with required actions. For example, this policy might specify that when checks are past 90 days old, the payee should be contacted. After 120 days, the checks should be written off.

Agency Response

Bank reconciliations are usually three to four months behind due to lack of time available to work on the reconciliation. However, bank corrections and notices from the bank are resolved immediately when received (for example: Stop payments, deposit correction notices, ACH debit notices, etc.). The large unexplained variance is probably due to checks listed on the outstanding check spreadsheet that have actually cleared but were not removed from the outstanding check spreadsheet. The problem of manually clearing 3,400 checks each month is a continuing problem. Fiduciary Services is currently working with the bank to implement a program that would download to KY GFIS and would clear the checks automatically. Fiduciary Services expects to carry this to automated reconciliation. For the present, Fiduciary Services will prepare a request for an accounting temporary service staff person who could research the old outstanding checks and work with permanent Fiduciary Services staff in getting the reconciliation up to date.

There has never been written guidelines as to policies for write offs for outstanding checks or unreconciled differences. While it was Fiduciary Services' intent to void uncashed or stale dated checks that were more than 180 days old, staff has lacked time to devote to the research of why these checks were uncashed. Fiduciary Services would like to be able to research uncashed/ stale dated checks and void them to the appropriate ward's fund.

While the bank reconciliations have not been formally reviewed by the Accounting Supervisor or Branch Manager, supervisors have been informed of any problems. Fiduciary Services proposes to have a

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preliminary review of the bank statement reconciliation conducted before any journal adjustments are entered. The Supervisor could approve the journal entries at that time and again after all adjustments have been made. Both the accountant and supervisor will sign and date the final reconciliation.

Finding #7: Over \$200,000 in interest income has not been distributed to the wards of the state.

Interest income earned has not been distributed to wards. Instead, the interest income posts to a “Fiduciary Account” within the KY GFIS system. We noted \$212,052.17 of interest income was earned but remains undistributed to the wards of the state. In addition, Fiduciary Section staff does not verify the correct amount of interest income was received. This verification is made difficult since the contract between the Cabinet and the bank does not state a specific interest rate. This contract only states that interest shall be earned based upon a rate to be determined by the bank.

The Fiduciary Section began participating in an overnight sweep program with their contracting bank in July 2006 where all of the wards’ funds (maintained in one bank account), except for \$1,000,000 are swept out and invested overnight. The funds and the accrued interest on the overnight investments are redeposited the next business day.

The Fiduciary Section receives reports detailing the collateralization levels for the securities pledged as well as a listing of the securities pledged by the bank. It is our understanding that neither the collateralization level nor the quality of the securities pledged is monitored.

Not distributing interest income to each ward’s account affects active, resigned, and deceased wards. If a ward resigns or dies and their funds are transferred to their executor/administrator or successor guardian, interest income will not be included in their account. Active wards are disadvantaged because they could benefit by having these funds available to spend on personal needs.

Recommendation

We recommend the Cabinet implement the following controls in the Guardianship Branch:

1. Begin working with the software provider to develop a system to distribute interest income. Interest income should be allocated monthly in a systematic and rational manner.

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2. Ensure, each month, the correct interest rate is received on overnight sweeps and maintain documentation to support the recalculation of interest earnings.
3. Ensure that future contracts with the bank specify significant terms, such as the interest rate due on the overnight sweep program, collateralization levels, etc., so that compliance can be verified.

Agency Response

Fiduciary Services agrees with the auditor's recommendations.

When the SWEEP account was initiated in late July 2006, no procedures were established to properly monitor the interest earned each night or to monitor the collateralization. The accountant in charge of the bank reconciliation was assigned to retrieve the daily report of interest and collateralization. These reports were accumulated and verified to the bank statement during the bank reconciliation for that month. Interest earned was recorded in the fiduciary account by journal entry.

KY GFIS has the ability to allocate interest income to individual wards' accounts. Fiduciary Services has scheduled a meeting with the KY GFIS software provider (Monday, December 3, 2007) to walk Fiduciary Services through allocation of interest to all wards' accounts that have not been archived and are not a zero balance. Monthly interest statements are received by Fiduciary Services around the 7th of each month. After the initial allocation, as soon as a monthly statement is received and reviewed, the interest will be allocated to wards' accounts. Fiduciary Services will work with the auditor to set up a monitoring tool to ensure recalculations are correct.

Fiduciary Services is working with the bank on determination of interests rates paid in the SWEEP account and the regular checking account. The contract in force currently is a standard form used by the bank. Fiduciary Services will discuss updating the contract and have it reviewed by CHFS accounting and request assistance from Kentucky's Office of Financial Management and Economic Analysis (OFMEA) to ensure compliance with state and federal laws and regulations. A procedure will be implemented to ensure that the collateralization is monitored on a monthly basis. OFMEA will be asked to assist in reviewing securities provided as collateral to ensure they are in compliance with state laws.

Finding #8: The inventory listing of Guardianship's safe and safety deposit box is not up-to-date.

The inventory of the safe and safety deposit box is not current or taken periodically. Several items were not included on the inventory list and there were items on the list that could not be located in the safe/safety deposit box. Because assets such as certificates of deposit, savings accounts, stock certificates, life insurance policies, bonds, or jewelry are not recorded in KY GFIS, the current status of these assets is unknown.

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Also, security issues exist because the combination to the safe in the Fiduciary Section was not changed when an employee with access was terminated. Since the safe is located in an open area of a public building and inventories are not taken, it is possible that if a theft occurred it would not be detected timely. Additionally, the combination to a safe located in a field service office was lost and the contents of the safe are unknown.

The following examples identified by our auditors illustrate the problems associated with not maintaining an accurate inventory listing.

- Two certificates of deposit (CD's) for one ward totaling \$150,000 that matured in 2000 and 2001 were found in the safe/safety deposit box, but were not recorded on the inventory listing. The current status of these CD's is unknown.
- Two CD's totaling \$12,000 were included on the inventory listing for one ward but could not be located and the ward's general ledger did not document any deposits of these funds.

In addition, items are maintained in the safe and safety deposit box for wards that are deceased. Examples of items found by our auditors include:

- Two CD's totaling \$59,100, a savings account totaling over \$41,000, and various small denomination savings bonds were included on the inventory listing for a deceased ward but could not be located in the safe/safety deposit box and the ward's general ledger did not document any deposits of these funds.
- The safe/safety deposit box contained insurance policies dating back to 1935, the 1950s and 1960s. The current status or value of these policies is unknown.
- Numerous items of jewelry including a gold band and diamond ring were included in the inventory for wards that were deceased.
- Stock certificates of both public and privately held corporations.

The task of maintaining an accurate inventory listing does not appear to have been assigned to Fiduciary Section staff. Failing to check inventory periodically could result in fraud or abuse of ward assets that would not be detected timely. Failing to record and update the wards' assets within KY GFIS could result in a ward's assets not being transferred completely to successor guardians, executors/administrators of estates, beneficiaries, etc. In addition, not maintaining accurate records of the ward's assets could cause a ward's resources to be inaccurate for determining eligibility for Medicaid and Social Security/Disability benefits.

Findings and Recommendations

Recommendations

We recommend the Cabinet implement the following controls in the Guardianship Branch:

1. Conduct an annual physical count of the inventory held in the safe and safety deposit boxes. Documentation of inventory changes should be maintained and any discrepancies should be investigated. Changes should be dated, initialed, and a description of the purpose of the change should be noted.
2. Update KY GFIS for all assets on the safe and safety deposit box inventory listing. The inventory listing should be reviewed and reconciled to KY GFIS.
3. Change the combination to the safe located at the Cabinet and in the field office, and implement a policy whereby this is performed when employees with access are terminated. A locksmith should be hired to open the field office safe in the presence of at least two employees. The contents should be inventoried and a determination made if the contents should be transferred to the Fiduciary Section instead of maintaining a safe in a field office.
4. Transfer all assets (including those in the safe/safety deposit box) to successor guardians, executors, beneficiaries, or the state after wards pass away in accordance with the state's fiduciary responsibility.

Agency Response

Fiduciary Services agrees with the auditor's conditions.

Inventory in the safe located in the Fiduciary Services offices and three safety deposit boxes located at the bank was documented during the last APA examination in 2002. Since that time, responsibility for this duty has been assigned by management to several different staff. As with many other good intentions of Fiduciary Services, this duty was on the bottom of the list of priorities and with limited staffing, necessary needs of the wards were met first.

By policy and as a result of the APA Examination in 2002, one Fiduciary Services staff and one DCBS, Division of Administration and Financial Management (DAFM) staff must go to the bank any time the safety deposit boxes are opened. Fiduciary Services has contacted DAFM about dates that one staff can accompany Fiduciary Services staff to conduct a physical count of the inventory stored in the safety deposit boxes. An inventory will be made and all findings will be updated in the safety deposit box manual log maintained in the Fiduciary Services office and entered into wards' asset accounts in KY GFIS. The manual log and the KY GFIS asset management tool are set up to capture changes in inventory including dating, initialing by staff, and a description of change, beginning values, current values, and status of inventory.

Findings and Recommendations

Fiduciary Services will inventory the safe located in our offices and perform the same steps as set out for the safety deposit boxes above.

Fiduciary Services will investigate all properties belonging to resigned or expired wards and forward to appropriate person or entity. All steps taken will be documented in the safety deposit log and/or KY GFIS.

The safe deposit boxes should be renewed soon. Fiduciary Services will ensure that authorized staff is current and that the bank will monitor staff accessing the lock box. Fiduciary Services supervisor or branch manager can monitor the sign in sheet periodically to ensure proper access.

Fiduciary Services has not changed the lock on the safe located in Fiduciary Services offices. A CHFS-96 has been submitted to Purchasing explaining the need to have the lock changed. DAFM has determined that the safe in Fiduciary Services' office was made by a company that was bought out by another company several years ago. A service tech from the new company estimates the cost to change the combination at \$235.00 for labor.

Some field offices do have either small safes or lock boxes. Fiduciary Services has contacted field staff supervisors and will encourage them to inventory these repositories and forward appropriate property to Fiduciary Services in accordance with SOP 5A.2.

**Finding #9:
Guardianship's Fiduciary
Section does not have an
accounting procedures
manual.**

The Fiduciary section does not have a formal policies and procedures manual. Field staff (case managers) have Standard Operating Procedures (SOP's) that were last revised in August 2003 and we were informed that an updated version is currently in progress. However, formal procedures have not been developed for the Fiduciary Section.

The preparation and maintenance of written policies and procedures would benefit the Guardianship Branch in the following ways:

- Establishes consistent practices;
- Assists in the preparation of timely and accurate accounting records and court reports using KY GFIS;
- Establishes timeframes when supervisory reviews should be performed;
- Provides guidance to new employees; and,
- Possibly allows for delegation of job responsibilities of permanent staff to temporary staff.

Findings and Recommendations

Documentation of significant accounting and financial reporting processes, may reveal whether procedures are performed as prescribed, the kinds of exceptions or errors that occur, and the types of actions that should be taken to correct errors. Thus, it will assist in assessing controls over financial reporting. Documentation of operational and accounting processes also provides an opportunity for persons involved in a process to consider whether there are inadequacies in the process or whether there are more effective and efficient methods.

Recommendation

We recommend the Cabinet establish a formal accounting and operating procedures manual for the Guardianship Branch. The manual should include detailed explanations of account content, a chart of accounts, appropriate descriptions of all accounting procedures and routines, and definitions of job authority and responsibility.

Agency Response

The Guardianship Branch's resources have been directed toward completing standards of practice (SOP) for guardianship field staff. The guardianship SOPs were completed between federal and state directives that had to be completed (child protection issues) due to accreditation demands. The SOPs for the field were completed and implemented statewide on October 15, 2007. These SOPs set out field direction only and all Fiduciary Services standards were deleted in accordance with SOP direction.

Fiduciary Services Supervisor and Guardianship Branch Manager will begin drafting policies and procedures for Fiduciary Services in 2008 and expect to have them in use by the end of the year.

As the audit noted, pieces of policies and procedures are currently in use. Fiduciary Services recognizes that it is best practice to have a complete set of policies and procedures for just the reasons set out in the audit and also in respect to Fiduciary Services massive temporary staff turnover.

Finding #10: State public assistance payments are not direct deposited.

Approximately 500 wards receive checks for state public assistance benefits instead of having the payments direct deposited. Payments to these wards total an estimated \$225,000 monthly or \$2,700,000 annually.

Having the checks direct deposited could save the Guardianship Branch much needed time that could be spent working on other tasks. Failing to have these checks direct deposited increases the labor hours for Guardianship staff and the cost to the Commonwealth. Furthermore, having these funds direct deposited could reduce the risk of intentional or unintentional theft or error and possibly increase the interest earned because of more timely deposits.

Recommendation

The Cabinet should ensure that state public assistance checks are direct deposited.

Findings and Recommendations

Agency Response

Fiduciary Services and Family Support have been discussing direct deposit of public assistance checks for wards of the state for at least the last four years and have been trying to get direct deposit implemented since April 2007. Prior to this year, the technology was unable to support direct deposit.

Currently, Family Supports plans to begin direct deposit of wards' checks as the benefit eligibility recertification comes up in 2008. That means that the wards whose eligibility is reviewed in February should have their April public assistance checks direct deposited. Once the direct deposit information is entered on the eligibility system then one issuance must occur for bank verification purposes before the check will actually be direct deposited. By April of 2009, all the existing public assistance checks of state wards should be direct deposited.

Finding #11: Dating back to 1989, deceased wards had account balances of over \$1 million that had not been closed or finalized.

As of August 21, 2007, KY GFIS contained 1,803 deceased wards whose accounts were not yet closed. Cash balances and other assets in 847, or 47 percent, of these deceased wards accounts ranged from two cents to \$75,052 and totaled over \$1,097,244. Though the legal relationship between the guardian and ward ends at the ward's death, KRS 387.710(3) requires the ward's conservator to submit a final report and account to the court and the personal representative of the ward's estate. However, this statute specifies no time requirement to submit this report, other than that it shall be submitted "forthwith" upon the termination of the conservatorship (which occurs upon the death of the ward). Closing the fiduciary relationship should be completed in a timely manner to allow for the proper distribution of the ward's assets and to ensure staff resources are allocated to serve the active wards of the state. Maintaining information for 1,803 deceased wards, as well as the over 2,500 active wards, further burdens state resources.

For the deceased wards with an outstanding cash balance, Table 4 shows the calendar year of the ward's date of death, number of deceased wards that died that year, and the total outstanding balance for the deceased wards.

Findings and Recommendations

Calendar Year	Number of Deceased Wards	Outstanding Balance
No Year Provided	20	\$20,724.07
1989	1	\$22.00
1991	4	\$7,517.00
1992	5	\$1,108.98
1993	9	\$9,068.13
1994	11	\$13,091.53
1995	23	\$17,389.56
1996	13	\$4,922.20
1997	39	\$23,192.48
1998	41	\$33,302.02
1999	44	\$54,270.10
2000	56	\$57,002.66
2001	54	\$72,952.64
2002	55	\$56,090.47
2003	58	\$74,639.78
2004	149	\$147,923.55
2005	81	\$213,327.10
2006	114	\$122,660.78
2007	70	\$168,039.01
Total Outstanding Balance	*847	\$1,097,244.06

Source: Auditor of Public Accounts, based on information obtained from KY GFIS, as of August 21, 2007.
 *There are 3 wards that do not have a balance, \$0 or otherwise, and they are excluded from this calculation.

The majority of deceased wards with outstanding balances expired over 1.5 years ago. A total of 643 wards died from 1989 to 2005 yet still have a total asset balance of \$785,820. The 643 deceased wards, excluding 20 wards with no date of death, account for 76 percent of all deceased wards with an asset account balance. The remaining 24 percent of wards who died in 2006, 2007, or had no date of death had total asset account balances of \$311,423.

The asset account balances from deceased wards continue to earn interest for a single Guardianship bank account. The interest was not allocated to the individual ward accounts. Please see Finding #7, which discusses that interest income from ward accounts has not been distributed to the wards.

Deceased wards with a zero cash balance.

The remaining 953 or 53 percent of the deceased wards in KY GFIS had a \$0 account balance yet the accounts were not classified as closed within the system. A ward’s file should be closed upon completing the deceased ward’s final report and accounting process. Table 5 below illustrates the number of deceased wards whose accounts were not closed in KY GFIS.

Findings and Recommendations

Table 5: Deceased Wards with Zero Balance & Not Archived	
Calendar Year	Number of Deceased Wards
No Year Provided	137
1991	1
1992	5
1994	2
1995	3
1996	4
1997	93
1998	74
1999	36
2000	46
2001	55
2002	37
2003	37
2004	177
2005	112
2006	72
2007	62
Total Wards Not Archived	*953
Source: Auditor of Public Accounts, based on information obtained from KY GFIS, as of August 21, 2007. *There are 3 wards that do not have a balance, \$0 or otherwise, and they are excluded from this calculation.	

Deceased ward information is not archived.

According to the Standard Operating Procedures (SOPs) for Guardianship Services revised October 15, 2007, case managers are to contact fiduciary staff to provide information as to the ward’s death. In addition, the funeral home selected by the ward is notified, as well as, relatives and other concerned persons. If funds are not available for burial expenses, the case manager attempts to contact known family members and may also seek assistance from the county fiscal court and/or local funeral homes. When the case manager determines that the deceased ward’s paper file is complete or six (6) months from the date of death passes, the file is to be forwarded to the Fiduciary Section.

Currently, four wards were coded as closed in KY GFIS. The SOPs include a procedure for the Case Manger to change the status of the ward to “expired” and enter the date of death, but the SOPs do not discuss using the “closed” function. A lack of communication, lack of staff, and a lack of training contribute to the large number of deceased wards whose accounts were not finalized. For further information, please see Finding #1.

Findings and Recommendations

Recommendation

We recommend that the Guardianship Branch give priority to documenting the services and financial information of deceased wards. The ward's property should be transferred to the ward's estate based on the final report and accounting submitted to the Courts. The information contained in KY GFIS should be current and accurate. We further recommend the Fiduciary Section continue to work the accounts of the deceased wards until appropriate action is complete.

Agency Response

The Cabinet agrees with the Auditor of Public Accounts' findings but respectfully disagrees with the recommendation.

Fiduciary Services in the Guardianship Branch is responsible for management of wards' files after resignation or death. SOPs only relate to field staff. Fiduciary Services is in the process of developing policies and procedures.

As of June 1, Guardianship Branch will consist of one Branch Manager and one Internal Policy Analysis III who retires in July 2008. The Fiduciary Section consists of one Section Supervisor and seven staff who handle all financial issues including benefits application and recertifications. Until staffing levels change, Guardianship Branch management feels it is in the best interest of the wards of the state to apply our staff to handling matters of the living wards.

Taking into consideration the above, the Cabinet does not disagree that estates of expired wards should be handled more expeditiously. It should be noted that until the conserved funds are transferred out of Fiduciary Services and the ward's account has a \$0 balance, interest is posted on a monthly basis to that account. Prior to July 2006, the Fiduciary Account for CHFS Wards did not generate interest. After an SSA Audit, Veterans Administration Audit and APA Audit of Fiduciary Services were completed Chase Bank that holds the Fiduciary Account determined that the account could accrue interest. Therefore, in December 2007, Fiduciary Services allocated on a month to month basis all interests accruing since June 2006. Now it is allocated on a monthly basis to all accounts in KY GFIS having a balance for that month.

The field staff is correct in not using the "Closed" or Archived" status. These statuses are for Fiduciary Services use only. APA is correct when it says that the field sets the status to resigned or expired with a status date as set out in SOP. Guardianship Branch Manager has reviewed all six "closed" cases and redistributed them. Fiduciary Services staff have been instructed on the use of the "closed" status and directed to move appropriate cases into either "closed-expired" or "closed-resigned" status.

Findings and Recommendations

When a ward is resigned, Fiduciary Services audits the financial file, completes a review of assets and liabilities, gathers any original documents and bills payable, requests a check for conserved funds, prepares the final report to the court and forwards conserved funds, original documents and bills payable with a copy of the final report to the court to the successor guardian. Once notification of acceptance of the final report is received by the court, Fiduciary Services should change the status of the case to “Closed-Resigned”. Resigned cases are not archived because the Cabinet is often reappointed.

When a ward is expired, Fiduciary Services audits the financial file, completes a review of assets and liabilities, gathers any original documents and bills payable. Fiduciary Services also notifies the funeral home of burial arrangements in place that the Cabinet is aware of, requests a copy of the funeral statement to include with the final report to the court and tells the funeral home that it can apply to the court for conserved funds by filing a Petition to Dispense. Fiduciary Services also sends letters of condolences to any known next of kin. In this letter, Fiduciary Services requests notification of appointment of an administrator/executrix.

When notice of appointment of an administrator/executrix is received by Fiduciary Services, all conserved funds and assets are forwarded to that person, a final report to the court is completed and the file status is set to “Closed-expired” until notice of approval of the final from the court is received. When this notice is received, the ward’s case can be archived.

However, most of the time, no one comes forward to become administrator/executrix. Only Jefferson County has a process to handle conserved funds. Since the statutes are unclear as to when the final needs to be completed, Fiduciary Services’ policy is to complete the final within six months. Once completed the status is set to “closed-expired” as in the paragraph above. However, unlike the paragraph above, this file is not archived when conserved funds and/or assets exists.

When staffing level permits, the Cabinet will set up a procedure to escheat to the state so files can be closed and archived. It should be noted that no staff time is expended once the final report and acceptance is received from the Court. Therefore, as noted in the findings, there is actually no burden to staff or state resources. The KY GFIS is very capable of maintaining information for all guardianship cases and contains information dating back to 1996.

Findings and Recommendations

Finding #12: Kentucky’s case managers are unable to adequately meet the ward’s needs due to higher than recommended staff-to-ward ratios.

With 44 case managers that provide for the personal needs of the 2,555 wards, the staff-to-ward ratio for Kentucky averages 1 to 58. According to the responses to our electronic survey, 40 percent of the case manager’s responding stated that their caseload is too high to “have frequent contact with wards to determine service needs” and “with high caseloads each ward is receiving minimal services at best.” To further support this finding, 60 percent of the survey respondents said “no” when asked if they were meeting the needs of their current caseload. The April 2005 report *Wards of the State: A National Study of Public Guardianship* recommended a staff-to-ward ratio of 1 to 20.

Excluding the nine case manager supervisors, Table 6 provides the number of case managers within each service region, the active wards per region as of August 1, 2007, and the resulting case manager to ward ratio for each region.

Service Regions	Case Managers Per Region	Active Wards Per Region	Regional Ratio
Cumberland	7	389	1 to 56
Eastern Mountain	3	151	1 to 50
Jefferson	6	379	1 to 63
Northeastern	3	172	1 to 57
Northern Bluegrass	3	137	1 to 46
Salt River Trail	3	206	1 to 69
Southern Bluegrass	4	298	1 to 75
The Lakes	8	431	1 to 54
Two Rivers	7	392	1 to 56
Grand Total	44	2555	1 to 58

Source: Auditor of Public Accounts, based on information obtained from KY GFIS, as of August 21, 2007.

As Table 6 illustrates, the staff-to-ward ratios for the case managers are not evenly distributed. Four regions have double the number of case managers compared to the other regions. Southern Bluegrass, Salt River Trail, and Jefferson regions have the highest staff-to-ward ratios.

Recommended staff-to-ward ratio is 1 to 20.

Kentucky’s public guardianship program does not apply a cap to the staff-to-ward ratios as recommended by the American Bar Association’s Commission on Law and Aging. The Commission, through the National Study previously referenced, recommended that public guardianship programs should be capped at specific staff-to-ward ratios. It cautioned that chronic understaffing means that protective intervention of the state may not be in the best interest of a vulnerable individual. Further, according to the Commission, state programs and policymakers should determine an appropriate ratio using pilot programs to demonstrate the outcomes and cost savings achieved with specified ratios, i.e. improved management of ward assets and federal benefits, ensuring proper medical care, and use of the least restrictive alternative environment for the ward.

Findings and Recommendations

The National Study referenced the 1981 report on this same topic that indicated a staff-to-ward ratio of 1 to 20 would best enable adequate individualized ward attention. When the Commission on Law and Aging's report was published in 2005, Kentucky's staff-to-ward ratios were reported to be "approximately 1:80, with many staff shouldering caseloads far higher, along with administrative duties. The mixture of rural and urban locations in the state has created additional difficulties in meeting ward needs and visiting them in a timely manner."

Staff comments concerning caseloads

In order to gather additional information regarding caseloads, the state's 53 case managers in all nine regions were surveyed and asked their opinion on caseloads, resources, safety, and improvements they indicated could be made in the field and within the Fiduciary Section. The response rate for the survey was 94 percent, with 50 of the 53 case managers responding.

Per the survey, 38 percent of the respondents felt that having a caseload of 31 to 40 wards per case manager would be the best scenario. A caseload of 41 to 50 wards was desirable for 34 percent of respondents. Therefore, 72 percent of the respondents believe that at most, the case managers should have a caseload of no more than 50 active wards. Only the Eastern Mountain and Northern Bluegrass Regions met that criteria with an average staff-to-ward ratio of 1 to 50 and 1 to 46, respectively.

An overwhelming percentage of case managers responded that the caseloads are too large to manage efficiently. When case managers were asked if they were meeting the needs associated with their current caseload, 60 percent of the respondents said no. Most case managers that responded to the survey indicated that they have increasingly less time to visit their wards in face-to-face meetings due to the increased caseloads. A reduction of wards would provide them more time to visit their wards on a regular basis and to be able to provide more than just crisis intervention.

One of the surveys most repeated recommendations to improve the State's guardianship program was to provide additional staff. The case managers desire additional staff to assist with fieldwork and an increasing ward population.

Recommendation

We recommend that the Cabinet and the Guardianship Branch determine an appropriate and manageable staff-to-ward ratio cap and work with Kentucky's legislature for the cap to be codified in a statute or regulation. Pilot programs could be used to determine an appropriate staff-to-ward ratio. While adequate funding remains a challenge to ensure sufficient staffing levels exist, case-planning information on the extent of guardianship services needed for each ward should be maintained and used to assign the wards to the case managers so that workloads can be equally distributed.

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Agency Response

The Cabinet agrees with the concept of staff-to-ward ratio. However, the Cabinet is last resort and must take persons awarded to the Cabinet from the courts. The pros and cons of this concept have been discussed and continue to be discussed in the Guardianship Subcommittee.

Currently, the Cabinet has 46 GSSW positions, 9 GFSOS positions and 9 Secretarial positions in the field who are supervised by Service Region Clinical Associates or Service Region Administrative Associates. The Service Region Administrators oversee these employees and answer to the Department for Community Based Services in Frankfort. The Guardianship Branch in Frankfort does not have any oversight of the field staff. The Guardianship Branch is composed of a Branch Manager who oversees two IPAIIs and the Fiduciary Section Supervisor. The two IPAIIs are the guardianship consultants for laws, regulations, SOPs and policies for the state. There are no consultants or guardianship experts in the field.

As of April 24, 2008, the field has 43 GSSWs, 8 GFSOSs and 9 Acting GFSOSs. There are 2616 active wards. This gives a case load of 61 per GSSW. Within the year, the field will be losing through retirement 3 more GFSOSs and 1 GSSW. The Guardianship Branch will be losing both IPAIIs.

While staff cannot be transferred between regions, the concept of weighing case loads may be an option to ensure workloads are equally distributed within a region. This concept has been employed in the past by guardianship.

Finding #13: Kentucky's public guardianship program is not structured to effectively manage the program or advocate for the ward.

Kentucky's guardianship program is organized within a social services agency. In addition, the two components of Kentucky's guardianship program, case managers and fiduciary workers, are not placed together within the Guardianship Branch. Only the Fiduciary Section is located within the Guardianship Branch. The case managers and their supervisors are organizationally placed within the Division of Service Regions (DSR) with Adult Protective Services (APS) Branch and the Child Safety Branch. A national study on wards recommended avoiding a social services agency model due to its inherent conflict of interest. Regardless of the model used, the functions of monitoring a ward's personal care and managing their finances are dual responsibilities that should be supervised within the same organizational unit.

The April 2005 report, *Wards of the State: A National Study on Public Guardianship*, recommends that states avoid a social services model even though it was used by 33 states when the report was written. According to the report, "[a]t stake is the inability of the public guardian program to effectively and freely advocate for the ward. If the public guardian program is housed in an entity also providing social services, then the

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public guardian cannot advocate for or objectively assess services – or bring legal suit against the agency on the ward’s behalf.”

In addition to being placed within the Cabinet, all facets of the guardianship program are not supervised by the Guardianship Branch Manager. This means case managers that monitor a ward’s personal care and prepare the ward’s budgets do not report to the same manager as the fiduciary workers responsible for accounting and tracking the ward’s finances and assets.

Though a background in social work is beneficial for both Guardianship case managers and APS workers, the two branches have different responsibilities. The APS Branch is responsible for ensuring the protection from abuse, neglect, exploitation of adults with a mental or physical disability, and domestic violence victims. It is the individual’s option to seek services, unless the court determined that the adult is unable to make an informed choice. Once the adult has been declared “legally disabled” and the state has been appointed guardian, the Guardianship Branch case managers assumes the responsibility of providing care to the ward and/or managing their finances.

APS has the duty to make any needed court referrals regarding an adult’s vulnerability and petition for public guardianship appointments. As referenced in the April 2005 report above, a conflict exists because the case managers report to the same management as APS workers, but not to the manager of the Guardianship Branch. The Guardianship Branch Management effectively only supervises the Fiduciary Section.

Guardianship case manager comments.

One of the predominant recommendations provided by Kentucky’s case managers to improve public guardianship was to place case managers and the Fiduciary workers under the same management. According to the responses provided in the case manager survey, see Appendix III, discontent exists with the supervision provided by the DSR. The following are excerpts of comments received about the organizational placement of Guardianship case managers when asked for recommendations to improve public guardianship.

- Service Region Administrators (SRAs) do not truly understand Guardianship services and make decisions that handicap Guardianship workers from efficiently completing their duties.
- Guardianship should be moved back to being supervised at the Frankfort level and out of regional supervision. It is a conflict of interest for the workers and for the clients.
- Place Guardianship back under the Fiduciary Services in Frankfort not SRAs that know nothing about Guardianship.

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- Adult Protective Services (APS) thinks that we can change behavior and makes numerous referrals that are not last resort.
- Bring all supervisors back under same branch manager as Fiduciary so program is unified again. Supervisors should never do Adult Protective Services and Child Protective Services for conflict of interest.
- SRAs are unable to provide any actual assistance. Each region does things differently. There is no person in management who can resolve issues of conflict between the regions because we all answer to a different SRA. Fiduciary and the field need to be together so they work as a cohesive unit.
- Remove Guardianship from regions and put under one program leader or leadership. There is no one at the regional level advocating for the needs of Guardians. We are on our own as we remain the stepchild of the Cabinet. Also, we should be put under the Department for Aging and Independent Living.

Placement of public guardianship in other states.

According to the 2005 national survey on public guardianship included in the *Wards of the State: A National Study on Public Guardianship*, the majority of public guardianship programs were administratively located within existing social services agencies. From the survey analysis, 48 states had some form of public guardianship, while only the District of Columbia, Nebraska, and Wyoming did not. The report categorized the different administrative models along with the states that used that model. The following information summarizes the different models as well as the number of programs using this model.

- **Court Model:** The public guardian is an official of the court and the chief judge appoints the public guardian when needed. “The Chief Administrative Judge of the state has rulemaking power for the purpose of statewide uniformity.” (**four public guardianship programs**)
- **Independent State Office:** “Established in the executive branch of government with the public guardian appointed by the governor.” (**four public guardianship programs**)
- **Social Service Agency:** The public guardian is established within a social services agency with the public guardian appointed by the governor. “This model is considered a conflict of interest model” because the agency provides services to the same clients for whom they are guardians, thus encouraging use of services that may not be in the best interests of the ward. (**33 public guardianship programs**)
- **County Model:** The county government in each county appoints a public guardian. The state attorney general would regulate these county offices. (**10 public guardianship programs**)

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According to the survey results, APS was the primary referral source for guardianships for the Independent State Office and the Social Service Agency models. Hospitals made the most referrals for the Court Model, while mental health entities were the primary source of referrals for the County Model.

The *Wards of the State A National Study on Public Guardianship* contained case studies of Kentucky and six other states. Of those other states' public guardianship programs, Kentucky was more closely aligned with APS. The following are brief synopses from the national study of the other states and how their public guardianship programs have been organized.

Missouri: “Missouri law provides for an elected county public administrator to serve as guardian of last resort in each of the states 115 jurisdictions.” While this provides statewide coverage, using elected officials interferes with continuity and results in a wide variability in the background and experience of public administrators. High caseloads and insufficient funding was reported. The lack of funding has resulted in the administrators also providing private guardianship services. The Missouri Public Administrators Association recently adopted the National Guardianship Association’s standards and code of ethics.

Wisconsin: There is no statewide public guardianship program and no statutory provision, but it does have three mechanisms to provide for guardianship of last resort. (1) Corporate guardians, located in all parts of the state, provide guardianship services with payment by counties or from the estate of the ward, (2) Volunteer guardianship programs operated by county agencies or nonprofit entities, and (3) County-paid guardians that serve five or fewer wards.

Indiana: “Public guardianship program is coordinated by the state unit on aging with regional programs through area agencies on aging and mental health associations.” It is reported to be at maximum capacity, and the program does not serve as guardian of last resort. The program served approximately 289 individuals in FY2004.

Iowa: “Currently public guardianship needs are met in a piecemeal fashion and in many areas not at all.” Legislation creating a system of volunteer guardianship programs was enacted but not funded, and only one county has a volunteer program.

Florida: A statewide public guardianship office is located administratively in the Florida Department of Elder Affairs and provides services to half the counties. The Office contracts with local programs, usually non-profit entities, to cover the other counties. The state program also has oversight of Florida’s private professional guardians. Florida law

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provides for a 1 to 40 staff to ward ratio, with the last resort need not being met once this cap was reached.

Illinois: A dual system of public guardianship is used. (1) The Office of State Guardian (OSG) is an independent state office that operates through seven regional offices to serves wards with estates of \$25,000 or less. (2) The Office of Public Guardian (OPG) operates at the county level to serve wards with estates of \$25,000 or more. The OSG serves approximately 5,500 wards with a staff to ward ratio of 1 to 132 for guardianship of person and 1 to 31 for guardianship of property only. OSG provides extensive staff training, having nearly all staff tested and certified as Registered Guardians with the National Guardianship Association.

Recommendation

We recommend that the Cabinet initiate a change in the organization of the Guardianship Branch so that the Fiduciary section and case managers are located and managed under the same branch with one administrator. Consideration should be given to moving this group to another department to ensure more independence from the APS Branch due to the conflict of interest arising from the fact that APS are the main source of referrals. One potential location is Kentucky's Department of Aging and Independent Living (DAIL) within the Cabinet. Relocation to this department should be considered because Guardianship would remain in its current Cabinet, DAIL provides services on behalf of Kentucky's elders and people with disabilities, which could allow the federal funds to be maximized.

Agency Response

The Cabinet does not agree or disagree with Finding #13. In accordance with KRS 387.600, the court appoints, as last resort, the Cabinet for Health and Family Services. A legislative change would have to occur to move the statewide guardianship program from the Cabinet for Health and Family Services Therefore, unless this statute is changed, the guardianship program must remain in the Cabinet for Health and Family Services and the Cabinet must look at ways to structure the program to ensure its integrity and independence from service providers.

There has been a guardianship program in the state of Kentucky for 40 years. The statewide guardianship program has seen many changes over the years. In 1977, the Legislative Research Interim Subcommittee completed a study on "Long-Term Care in Kentucky" and thus became the beginning of the guardianship program we see today. By Administrative Order in 1980 guardianship responsibilities were assigned to the Office of the Ombudsman in an effort to emphasize and promote a perception of objectivity and neutrality on the part of the Cabinet.

Findings and Recommendations

In 1990 the guardianship program was moved from the Ombudsman's Office to, what was then, the Department of Social Services within the Cabinet for Human Resources. This was done because the services provided were seen as ongoing adult protection services paralleling the ongoing protective services provided to committed children. But the program remained statewide under a Branch Manager in the Division of Protection and Permanency, DCBS. At that time, this Branch Manager had responsibility for Adult Protective Services and Guardianship Program.

In 2003 the direct supervision of Guardianship Case Management was moved from the Branch Manager and placed under the supervision of the Service Regions. The Guardianship Field Office Supervisors continued to supervise field staff while the Fiduciary Services Section remained under the Branch Manager in P&P. In 2006, APS and Guardianship Services in P&P were divided into two branches.

Today, as set out in the audit, the Guardianship Case Management consisting of Guardianship Field Office Supervisors and Guardianship Social Service Workers are under supervision of Service Region Administrator Associates. The Guardianship Branch in P&P houses the statewide Guardianship consultants on policy and the Fiduciary Section.

Relocating to DAIL as the audit suggests creates the same conflicts of interest as P&P since DAIL is a service provider. On their website they say that they administer programs and services. They are partners with Kentucky's 15 Area Agencies on Aging who provide services.

It may be time to bring the program back under one umbrella in a position under the Cabinet's organization to ensure the "perception of objectivity and neutrality" envisioned by the 1977 Legislative study.

The Cabinet will review the current organization of the statewide guardianship program and take in to consideration the APA's findings and recommendations when making decisions on the location of the program.

Finding #14: Additional training resources and a certification program are needed for Kentucky guardians.

Currently, no continuing education requirement exists for guardianship case managers and 35 percent have not received any guardianship training since 2005. The training received is more related to the APS and Child Protective Services duties within the Department of Community Based Services. Kentucky needs to ensure that its public guardians are receiving specialized guardianship training to ensure wards are provided appropriate and consistent guardianship services. Certification of guardians is beginning to be required in some states and should be considered in Kentucky.

Findings and Recommendations

According to Guardianship staff, a 20-hour guardianship-training requirement existed for the case managers and was used as criteria for employee annual evaluations. Due to funding limitations, this requirement was abandoned.

Training related to guardianship issues has been sporadic based on an analysis of the training records provided for 52 of the 53 case managers and supervisors since their employment with the Cabinet. According to the Cabinet’s training data, 18 or 35 percent of the 52 employees had not received specialized guardianship training since 2005. This does not include KY GFIS computer training.

Only four case managers had more than 50 percent of their total training in “guardianship related” topics. The remaining training sessions were usually related to other social work activities or general workplace training. The following table illustrates the percentages of guardianship training for the 52 case managers and supervisors:

Table 7: Guardianship Training Percentages for Regional Staff

Percent of Guardianship to Total Training	Regional Staff Numbers *
60% to 69%	3
50% to 59%	1
40% to 49%	7
30% to 39%	4
20% to 29%	8
10% to 19%	15
0% to 9%	14

* Includes Guardianship case managers and supervisors from all nine regional offices.

Source: Auditor of Public Accounts, based on training records provided by the Cabinet for Health and Family Services on September 10, 2007.

Guardianship case manager survey comments.

In our survey of the regional case managers, 58 percent of the respondents indicated that the training provided was not adequate to perform the job. According to the responses provided, see Appendix III, this is an area that needs improvement. The following are excerpts of case manager comments regarding the need for additional training:

- More intensive training on aging and mental health issues should be offered.
- Medicaid/Medicare overview of eligibility requirements, how to sell a house, and liquidate.
- Frontline staff needs general understanding of insurance, real estate, legal documents.
- Advanced ethical decision-making.

Findings and Recommendations

- We need training that deals with adults, not children.
- Training on what guardianship is, what the SOP's and laws are prior to starting to work.
- Training on most common medications and diagnosis of clients.
- A training that walks a new worker or supervisor through a case from beginning to end; a training that is specific about spend downs and which wards need budgets.
- I believe it would be beneficial to get with other guardianship offices to discuss how they handled difficult cases, etc.
- Medical training – terminology and medications, mental illness/mental retardation training, legal training – since we are now selling property and assets.
- Medical training as we are making serious medical decisions for our clients.
- Should be able to complete formal guardianship training prior to getting a caseload.
- Training to deal with physically aggressive wards with violent felony records.
- Yearly guardianship training to help staff stay on top of changes, standard protocol, and discuss issues that workers may have.

Certification and training.

According to *Wards of the State: A National Study on Public Guardianship*, certification of guardians is beginning to be required. It notes several states where training and certification is receiving more attention. In **Illinois**, the Office of the State Guardian attempts to compensate its workers for its high caseload by providing extensive staff training and having 95 percent of its entire staff certified as Registered Guardians through the National Guardianship Association. The state of **Missouri** indicated that one of its elected public guardians is certified as a Master Guardian by the National Guardianship Association. **Florida** instituted a policy at the time of this national report that all guardians must be certified through a licensing examination. All guardians, including the public guardians, were required to have 16 hours of continuing education every two years. Many guardians attend the Florida State Guardianship Association Conference and receive continuing education from that entity as well as through the state office.

The Center for Guardianship Certification proposes to partner with states in developing a certification process. Two options discussed are: 1) Work with a state guardianship association to establish a voluntary state-specific examination that would be given in conjunction with the Registered Guardian exam; and 2) Contracting with a state agency to establish a mandatory certification and testing process, which it is doing with Florida's public guardianship program. Specific details must be discussed and negotiated between the state and the Center for Guardianship Certification. A state also needs to consider funding and associated expenses of the certification process.

Findings and Recommendations

Kentucky's guardianship program has three staff members that are certified as Registered Guardians, but it does not have a state guardianship association affiliated with the National Guardianship Association. Twenty-one states have state guardianship associations that receive support from the National Guardianship Association with a goal of improving local guardianship services. An affiliate association fee does apply.

Recommendation

We recommend that the Cabinet and the Guardianship Branch provide specialized and continuing guardianship training for case managers and supervisors. The Cabinet should develop and/or adopt training and continuing education standards. Initial guardianship training should be mandatory for staff prior to the assignment of cases that are their sole responsibility. We further recommend that the Cabinet consider certification requirements for all or a portion of Guardianship staff through a partnership agreement with the National Guardianship Association.

Agency Response

The Cabinet agrees with the recommendations and will look at training and certification options.

Guardianship Basics, Working with Adult Guardianship and Guardianship: Professional Ethics and Standards of Practice have been developed over the last few years. KY GFIS training is held when a new application is implemented that has major changes in place. Also, Guardianship Branch attends staff meetings and answers questions on KY GFIS.

Guardianship staff are encouraged to attend Meeting the Needs of Vulnerable Adults; Meeting Needs of Families in Domestic Violence; Investigations in Alternate Care Facilities; and Working with Adults who have Developmental Disabilities currently offered through EKU.

Guardianship Branch has worked with EKU Training Branch in developing a training schedule for FY 2009 that will include 2 presentations of Guardianship Basics, 4 presentations of Working with Adult Guardianship and 4 presentations of Guardianship: Ethics and Standards of Practice. The newly formed Kentucky Guardianship Association, Inc. (KGA) will be holding its annual convention in November 2008. Guardianship Branch would like to coordinate statewide guardianship training around this convention that would include some of the topics requested by staff. Guardianship Branch will work with the Commissioner's Office on budgetary issues.

Findings and Recommendations

None of the above training is mandatory for guardianship staff. Guardianship Branch will work with the Commissioner's Office to create mandatory training for guardianship staff.

As of June 1, there will be only one registered guardian in the Cabinet. To retain certification, that person must attend the National Guardianship Association (NGA) meeting in October. Guardianship Branch will meet with the Commissioner's Office and work out a way to ensure that certification is not lost. We will also look at ways to promote recognition of the professionalism throughout the program including certification. The KGA is affiliated with NGA. The Cabinet could also look at aligning training initiatives and certifications through KGA.

Finding #15: In 2007, 26 percent of the guardianship appointments to the state were emergency appointments.

According to the data in the Kentucky Guardianship Fiduciary Information System (KY GFIS), as of August 21, 2007, 26 percent, or 72 of the 277, active appointments made to the state's guardianship program in 2007 were emergency appointments. Of the 2,555 active wards of the state, 96 of these are listed as emergency appointments. For those 96 wards, their emergency appointments have been in effect for an average of 241 days or approximately eight months. One ward has had an emergency appointment since 2001.

Even though KRS 387.570 requires a hearing with a jury to determine if the respondent, an individual alleged to be partially disabled or disabled, is in fact disabled or partially disabled, KRS 387.740 allows for emergency appointments. According to KRS 387.740, courts may make emergency appointments of a limited guardian or a limited conservator if, during the disability proceeding, it appears that there is danger of serious impairment to the health or safety of the respondent or damage or dissipation to his property if immediate action is not taken. For an emergency hearing, the respondent is entitled to counsel but the judge makes the sole determination as to whether a guardian is needed and whom that guardian should be.

With emergency appointments of a limited guardian or conservator, the court determines which legal and civil rights that the ward will retain or lose. KRS 387.590 states that all legal and civil rights are retained except for those designated by court order as legal disabilities or those that have been specifically granted to the limited guardian or conservator. Legal and civil rights include but are not limited to the right to dispose of property, execute instruments, enter into contractual relationships, determine his living arrangements, consent to medical procedures, and obtain a motor vehicle operator's license. A ward will only be deprived of the right to vote if the court separately and specifically makes a finding on the record.

Findings and Recommendations

Table 8 provides the number of emergency appointments that existed as of August 21, 2007 and the year in which the appointment occurred.

Year	Active
2001	1
2002	1
2003	1
2004	2
2005	3
2006	16
2007	72
Total	96

Source: Auditor of Public Accounts, based on information obtained from KY GFIS, as of August 21, 2007.

The Commonwealth is currently divided into nine service regions, which can be seen in Appendix II. Most of the active emergency wards are located in the Two Rivers Region, which has care over 22 of the 96 wards. The second highest is the Salt River Trail Region with 15. Jefferson County, which is a stand-alone region, has the most active emergency wards of any single county in Kentucky with 11. The second highest county to have active emergency wards is Daviess County with six, which is located in the Two Rivers Region. Table 9 below illustrates the number of active emergency wards per region.

Regions	Number of Active Emergency Wards
Cumberland	13
Eastern Mountain	6
Jefferson	11
Northeastern	6
Northern Bluegrass	3
Salt River Trail	15
Southern Bluegrass	9
The Lakes	11
Two Rivers	22
Grand Total	96

Source: Auditor of Public Accounts, based on information obtained from KY GFIS, as of August 21, 2007.

Findings and Recommendations

Case manager comments on emergency appointments.

The comments made by case managers using our electronic survey further confirm the frustration with emergency appointments. When asked for their comments regarding the court process and the changes they would recommend, some stated that they are concerned with the length of time a ward spends as an emergency appointment but also that emergency appointments are being made when there is no imminent danger to the ward. One case manager stated, “emergency guardianships should be rare, not the “norm.” Some case managers feel that the wards should only be considered “an emergency” when there is a protective need.

Possible reasons for emergency appointments.

One purpose for frequent emergency appointments may be to avoid a jury hearing. Several of the court personnel that were contacted think that the “trials by jury” are a nuisance since an interdisciplinary evaluation is done by a team of at least three qualified professionals: a physician, a licensed/certified psychologist, and a licensed/certified social worker within the Cabinet, when possible.

Since Kentucky does not allow optional jury trials, it is the purpose of the jury, during the disability hearing, to determine if the respondent is disabled, partially disabled, or has no disability. The judge will then determine who will serve as guardian based on the finding of the jury. The respondents are expected to be present, no matter their physical or mental state; unless at least one of the interdisciplinary team members documents that it is not in the respondent’s best interest to appear. In past legislative sessions bills have been filed to make the jury trials optional, but have never passed. During the 2008 General Assembly, HB 129 was introduced that stated, in part, that “the hearing shall be a jury trial unless the parties, the counsel for the respondent, and the attorney for the Commonwealth agree to a bench trial.” This bill was assigned to the House Judiciary Committee where no further action was taken.

Emergency appointments are quick because only a hearing with the judge is conducted and the interdisciplinary evaluation is not required. According to one district judge, emergency placements are “the devil” and some people think they can avoid filing a disability petition even though it is a statutory requirement per KRS 387.740.

The lack of clarity in KRS 387.740 could be another reason that emergency appointments are made without a determination of disability. While the statute requires that the petition for an emergency appointment provide the date in which the petition for disability was filed, the statute does not state specifically that a petition for determination of disability should be filed or that a disability hearing should be conducted within 60 days. Neither of the forms provided by the Administrative Office of the Courts (AOC) that must be completed for emergency appointments, AOC-747 “Petition/Application for Emergency Appointment of Fiduciary for Disabled Persons” and AOC-748 “Order for Emergency Appointment of

Findings and Recommendations

Emergency appointments are made prior to a disability determination or an independent evaluation.

Fiduciary,” offers the applicant any guidance as to what situations warrant an emergency appointment or the period of time an emergency order can remain enforce.

When a jury trial to determine disability is avoided, a statutorily required report by an interdisciplinary evaluation team may not be provided to the courts. The evaluation report is required to be compiled by at least three individuals, including a physician, a licensed or certified psychologist, and a person licensed or certified as a social worker. The social worker is usually employed by the Cabinet and resides or works in that area. KRS 387.540 requires that this evaluation report be filed with the court at least 10 days prior to the hearing and the respondent may file a response no later than five days prior to the hearing. This report is entered as evidence in the case and should be considered by the jury during the hearing. According to our contacts in the court system, the jury almost never rules against the recommendations of the evaluation team.

The interdisciplinary team’s report includes the following information:

- The disabilities of the ward;
- The social, intellectual, and physical condition of the ward;
- An opinion as to whether guardianship is needed;
- The length of time the guardianship is needed;
- A description of the social, educational, medical, and rehabilitative services currently being utilized by the respondent;
- A determination as to whether alternatives to guardianship are available;
- A recommendation as to the most appropriate treatment or rehabilitation plan and living arrangement; a listing of medications;
- An opinion whether attending a hearing on a petition filed under KRS 387.530 would subject the respondent to serious risk of harm;
- Names and addresses of all individuals who examined or interviewed the ward or otherwise participated in the evaluation; and
- Any dissenting opinions or other comments by the evaluators.

A possible cause for the emergency appointment continuing without an order of disability is that the interdisciplinary evaluation report is not submitted timely or it has expired. An order of disability cannot be based on evaluations that are more than three months old. If and when the hearing must be rescheduled, the interdisciplinary team must provide a new evaluation and report that presents updated information to the court concerning the emergency appointment.

Findings and Recommendations

Emergency appointments add to the workload of scarce state resources without the ward being found disabled or partially disabled. The more wards that are appointed to the state's guardianship program mean higher caseloads for the local case managers and the fiduciary staff that support the local case managers in administering the ward's finances.

Recommendation

We recommend the Cabinet contact AOC to discuss specific training opportunities for court personnel on the issue of emergency appointments and preventing these from extending past 60 days. Emergency appointments should only be made when there is imminent danger to a person's health or property and should not go on indefinitely without a jury trial to determine whether the person is disabled or partially disabled. In addition, the Cabinet should work with Kentucky's legislature to amend KRS 387.740 to clarify that a petition for a determination of disability must be filed prior to an emergency appointment and clearly define the situations that warrant an emergency appointment.

Agency Response

The Cabinet agrees with Finding #15 and Recommendations. We agree that the only way to stop the influx of emergency appointments is with education. The Cabinet, through the Guardianship Subcommittee of the legislatively mandated Elder Abuse Committee has been working with a district judge who is a member of the training committee for District Judges. Cabinet staff along with representatives from Protection and Advocacy met with this Judge to discuss concerns related to emergency appointments. This District Judge along with another District Judge, presented the guardianship session, which included emergency appointments, to the Fall College for District Judges. As a result of this training, the Judges are asking question. Through outreach and training of law enforcement through the Department of Criminal Justice Training, guardianship and adult protective services staff from central office are discussing issues related to emergency protection issues and guardianship.

Along with the reasons cited for emergency appointments languishing listed above by APA, Guardianship sees emergency appointments extended due to county refusal to pay for the evaluations necessary for a disability hearing. Emergency appointments also drop through loop holes when a person moves from one county to another county before the disability hearing on the guardianship is heard. The Cabinet agrees with the recommendation that the Kentucky Legislature needs to amend and clarify parts of KRS 387. The Guardianship Subcommittee and also the newly formed Kentucky Guardianship Association has committees established to look at these issues and recommend legislative changes. APA's recommendations will be forwarded to both entities.

Findings and Recommendations

Finding #16: Increasing public guardian appointments without controls places the wards and their finances at risk.

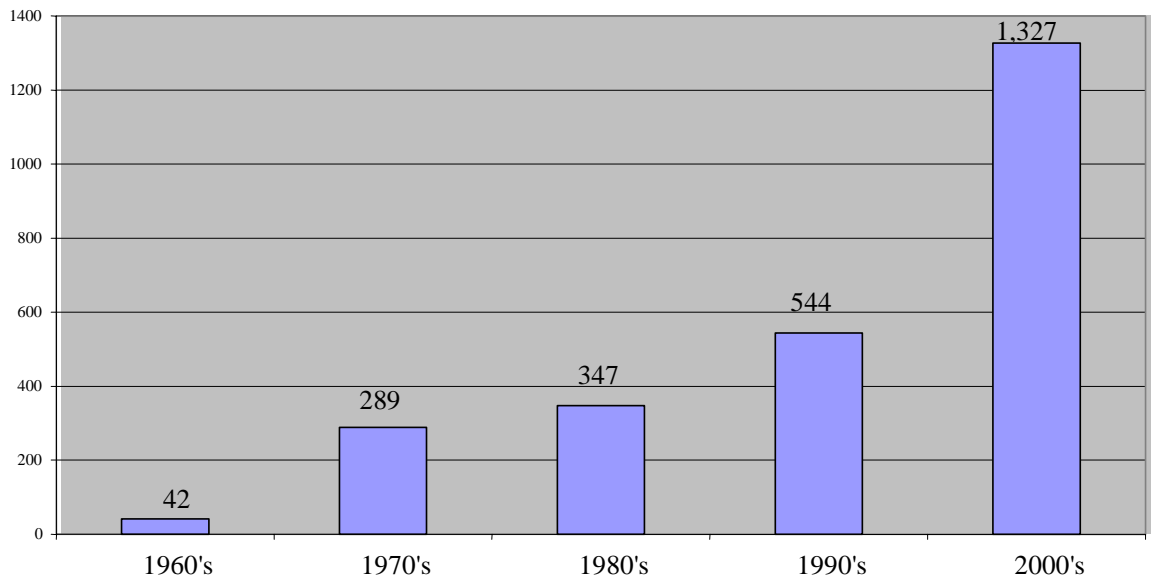
Kentucky’s public guardianship program is threatened by a lack of resources and increasing court appointments. Public guardian appointments cannot be refused, yet additional resources have not been provided. Without adequate resources, public guardianship will continue to suffer from high caseloads that cause staff to fall behind in accounting and other guardianship activities. Education and monitoring are needed to control this threat and protect Kentucky’s wards and their finances.

Kentucky’s public guardianship program has numerous strengths. These strengths can also cause funding to be stretched too thin. Some of these strengths are as follows:

- Provides statewide public guardianship services.
- Public guardianship agency cannot refuse a court appointment, which means that vulnerable adults can always receive this assistance if court ordered.
- Implemented a statewide database that is able to track the services provided to the wards and manage the ward’s finances.

Of the active wards, the number of appointments made from 2000 to August 21, 2007, were 144 percent higher than the number of appointments in the 1990’s. The following chart illustrates the increase compared to past decades.

Chart 1: Active Wards by Date of Appointment



Source: Auditor of Public Accounts, based on information obtained from KY GFIS, as of August 21, 2007.

Findings and Recommendations

Kentucky has statutory language and case law that makes the state the guardian of last resort, which is why public guardians cannot refuse a guardian appointment. KRS 210.290 states that the **Cabinet**, through its designated officer, **may apply** in District Court **for appointment as guardian or conservator** when a resident of the state is adjudged partially disabled or disabled and no suitable person or entity is available and willing to be appointed. However, a 1984 case, Commonwealth of Kentucky v. Cabinet for Human Resources, et al., 686 S.W.2d 465 (Ky. App. 1984), held that if no family member, friend, or neighbor exists who is willing and able to serve as guardian, as a *last resort*, a state guardian may be appointed by the court, even when the state agency is unwilling to serve and had not sought the appointment.

Even though the state is the guardian of last resort, other statutes exist that limit the state being named guardian. Pursuant to KRS 387.605, the court shall give preference to people who meet the following qualifications: kinship; education and business experience; capability to handle financial affairs; and the ability to carry out the requirements set forth in KRS 387.660 to 387.710 and 387.750. Additionally, KRS 387.600 states that the court shall not ordinarily or customarily appoint the Cabinet unless no other suitable person or entity is available and willing to be appointed.

The following are disadvantages that families and courts should consider when public guardians are appointed.

- Additional appointments given to the public guardians reduce the amount of time case managers have to provide services to their current wards.
- A family member or friend has knowledge of the ward's finances and property, as well as the ward's needs and preferences. If the ward is not able to communicate with the public guardian due to their medical condition, case managers must conduct investigative research to find out such issues as what loans are outstanding, where the ward's bank accounts are located, what types of insurance do they have, and what preferences do they have related to personal issues. This research is needed to allow the case managers to make decisions for the wards and act on their behalf.
- Kentucky's Public Guardianship program does not have additional funds to spend on the ward's behalf. Public guardians are limited to using only the ward's money to provide food, shelter, and clothing. Some concerns have been expressed that families and judges may have a false concept that a state ward receives financial support.

Findings and Recommendations

Courts do not specifically track the number of public guardian appointments. The Administrative Office of the Courts (AOC), which serves as the administrative staff to the Kentucky Court of Justice, was able to produce a report on the number of guardianships per county, but the number of public guardian appointments was not possible.

An analysis was conducted to compare the county's total guardianship appointments to the public guardian appointments to determine if there were some counties that were appointing public guardians more often than others. The number of guardianship appointments by county for calendar year 2006 was provided by the AOC, while the number of public appointments by county was computed from KY GFIS.

For the state as a whole, public guardian appointments were 10 percent of the total guardianship appointments. Most of the outliers were counties with a larger urban population. The following table illustrates the percentages that the counties' District Court is appointing the state as a guardian. In 2006, Livingston and Russell counties had no guardian appointments according to AOC or KY GFIS.

Chapter 2

Findings and Recommendations

Table 10: Public Guardian Appointment Percentages Per County - Calendar Year 2006

County	Total Guardian Appointments (Per AOC)	Total Public Guardian Appointments (Per KY GFIS)	Percent of Public to Total Appointments	County	Total Guardian Appointments (Per AOC)	Total Public Guardian Appointments (Per KY GFIS)	Percent of Public to Total Appointments
ADAIR	15	1	6.67%	KNOX	52	2	3.85%
ALLEN	27	3	11.11%	LARUE	5	0	0.00%
ANDERSON	19	1	5.26%	LAUREL	128	4	3.13%
BALLARD	12	0	0.00%	LAWRENCE	15	1	6.67%
BARREN	48	2	4.17%	LEE	4	0	0.00%
BATH	19	2	10.53%	LESLIE	6	0	0.00%
BELL	85	1	1.18%	LETCHER	17	2	11.76%
BOONE	36	2	5.56%	LEWIS	13	1	7.69%
BOURBON	13	0	0.00%	LINCOLN	34	0	0.00%
BOYD	62	6	9.68%	LOGAN	13	2	15.38%
BOYLE	67	3	4.48%	LYON	4	0	0.00%
BRACKEN	11	0	0.00%	MADISON	44	7	15.91%
BREATHITT	17	1	5.88%	MAGOFFIN	5	0	0.00%
BRECKINRIDGE	8	2	25.00%	MARION	38	3	7.89%
BULLITT	65	2	3.08%	MARSHALL	50	1	2.00%
BUTLER	15	0	0.00%	MARTIN	5	1	20.00%
CALDWELL	9	4	44.44%	MASON	16	1	6.25%
CALLOWAY	26	3	11.54%	MCCRACKEN	132	2	1.52%
CAMPBELL	24	3	12.50%	MCCREARY	5	2	40.00%
CARLISLE	10	1	10.00%	MCLEAN	12	1	8.33%
CARROLL	10	0	0.00%	MEADE	13	1	7.69%
CARTER	32	2	6.25%	MENIFEE	8	0	0.00%
CASEY	7	0	0.00%	MERCER	22	1	4.55%
CHRISTIAN	75	11	14.67%	METCALFE	14	3	21.43%
CLARK	14	5	35.71%	MONROE	9	0	0.00%
CLAY	11	4	36.36%	MONTGOMERY	16	2	12.50%
CLINTON	17	0	0.00%	MORGAN	19	0	0.00%
CRITENDEN	14	0	0.00%	MUHLENBERG	13	1	7.69%
CUMBERLAND	6	0	0.00%	NELSON	17	2	11.76%
DAVIESS	85	8	9.41%	NICHOLAS	28	0	0.00%
EDMONDSON	15	0	0.00%	OHIO	12	3	25.00%
ELLIOTT	10	0	0.00%	OLDHAM	18	1	5.56%
ESTILL	16	1	6.25%	OWEN	13	0	0.00%
FAYETTE	65	18	27.69%	OWSLEY	8	3	37.50%
FLEMING	6	1	16.67%	PENDLETON	25	1	4.00%
FLOYD	65	4	6.15%	PERRY	2	2	100.00%
FRANKLIN	24	0	0.00%	PIKE	11	0	0.00%
FULTON	8	0	0.00%	POWELL	24	1	4.17%
GALLATIN	10	1	10.00%	PULASKI	86	10	11.63%
GARRARD	32	1	3.13%	ROBERTSON	4	0	0.00%
GRANT	11	0	0.00%	ROCKCASTLE	38	2	5.26%
GRAVES	24	2	8.33%	ROWAN	15	1	6.67%
GRAYSON	10	2	20.00%	SCOTT	9	1	11.11%
GREEN	14	1	7.14%	SHELBY	24	0	0.00%
GREENUP	16	1	6.25%	SIMPSON	18	3	16.67%
HANCOCK	4	1	25.00%	SPENCER	20	7	35.00%
HARDIN	28	7	25.00%	TAYLOR	31	3	9.68%
HARLAN	16	1	6.25%	TODD	11	0	0.00%
HARRISON	13	1	7.69%	TRIGG	7	0	0.00%
HART	20	4	20.00%	TRIMBLE	4	0	0.00%
HENDERSON	21	5	23.81%	UNION	25	0	0.00%
HENRY	14	1	7.14%	WARREN	43	8	18.60%
HICKMAN	10	0	0.00%	WASHINGTON	11	0	0.00%
HOPKINS	72	4	5.56%	WAYNE	10	2	20.00%
JACKSON	28	3	10.71%	WEBSTER	20	0	0.00%
JEFFERSON	276	85	30.80%	WHITLEY	48	2	4.17%
JESSAMINE	81	4	4.94%	WOLFE	13	0	0.00%
JOHNSON	19	0	0.00%	WOODFORD	28	0	0.00%
KENTON	56	14	25.00%	BLANK	0	2	0.00%
KNOTT	21	0	0.00%	TOTALS	3199	321	10.03%

Source: Auditor of Public Accounts, based on information obtained from the Administrative Office of the Courts and KY GFIS, as of August 21, 2007.

Findings and Recommendations

Guardianship case manager comments.

When asked what changes to the court process the guardian case managers would recommend to assist public guardians, the overwhelming response was training and education. According to the responses provided in the case manager survey, see Appendix III, case managers do not think that court personnel are knowledgeable about what a guardian is able to accomplish for a ward and that not enough is done to find alternatives to state appointments. The following are excerpts of case manager recommendations from our survey regarding the court process:

- Judges and attorneys to be educated on appropriate appointments and the limitations of Guardianship resources.
- Judges should be better trained on what state guardianship is and not use us as a catch all when they don't know what to do with an individual.
- Restrictions on when and how the courts can order us to take clients.
- We need a voice in trying to educate the judges, clerks, and community partners.
- Training for judges to understand limitations of the state in acting as guardians; i.e., criminal behavior cannot be addressed through guardianship.
- The court needs to research for family or any other possibility before appointing the state. We should always be last resort, not easy way out.
- Some mechanism put in place so that courts can't appoint the state without prior knowledge.
- Judges and county attorneys need to be trained about the statutes related to guardianship and the Cabinet. Every county handles guardianship appointments differently and often times they do not follow the statute.
- We are being used as a dumping ground by judges and APS that do not understand the guidelines and really just want these people out of the way.

Recommendation

We recommend that the Cabinet discuss and expand on the recommendation made in the previous finding to include opportunities for court personnel with AOC to ensure that public guardian appointments are truly the last resort. Tracking all guardianship appointments should also be discussed with AOC to ensure that courts are aware of how many private versus public appointments have been made. When a public guardian appointment is ordered by the court, the Guardianship Branch should ensure that all known information has been provided to the assigned case manager. If ward information is considered lacking, a Guardianship Branch attorney should file a motion for a review or direction to obtain the facts of the case and additional information on the ward.

Findings and Recommendations

Agency Response

The Cabinet agrees with the Auditor's Findings and Recommendations.

The Cabinet has been and continues to be in discussions with AOC about guardianship issues including what the Cabinet's legal department considers to be inappropriate appointments. The Kentucky Guardianship Association, Inc. has had discussions with AOC regarding tracking systems and has attempted to work with AOC on a system. Tracking solutions require technology that is not currently available statewide at the county level.

Adult Protective Services is usually the point of entry for a ward of the Cabinet. By Standards of Practice, APS completes as fully as possible the Adult CQA and forwards it to the Guardianship Supervisor. If the CQA is incomplete, APS and guardianship work together to acquire information necessary for the care and protection of the ward. This has been and continues to be addressed through training.

When the Cabinet receives an appointment other than through APS, the Guardianship Supervisor obtains information from all available sources. If those sources do not comply with requests for information, it has been and continues to be the practice for Office of Legal Services to notify the courts and request compliance.

Scope

The Kentucky Auditor of Public Accounts conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In order to reach this primary goal, we focused on the following objectives:

- Assess the controls related to the management of the wards' assets.
- Evaluate whether Kentucky's public guardians are adequately staffed and properly appointed to meet the needs of their wards.

Methodology

The audit team reviewed physical, documentary, testimonial, and analytical evidence by observing the guardianship information system (KY GFIS), interviewing employees within the Cabinet for Health and Family Services (Cabinet), examining available national studies involving public guardianship, and computing and comparing various data sets.

Our work began by reviewing the *Examination Report of the Fiduciary and Guardianship Sections* issued by the Auditor of Public Accounts in 2002. We interviewed Fiduciary employees to obtain an understanding of the Guardianship program. We also interviewed Cabinet information technology employees responsible for maintaining KY GFIS. In addition to learning about the program by speaking with employees, we observed the daily processes and procedures involving depositing client income, paying client bills, reconciling banking activity, and managing client financial affairs and observed how these transactions were recorded and handled within KY GFIS. Procedures were then performed to evaluate the adequacy of the accounting records related to client income and expenses, bank reconciliations, investment assets and earnings, inventories of the safe and safety deposit boxes and security over KY GFIS for the period July 1, 2006 through June 30, 2007.

Research

The relevant sections of Kentucky Revised Statutes and the Administrative Regulations pertaining to adult wards 18 and older, as well as the Cabinet's Standard Operating Procedures (SOP) were examined in order to understand the criteria of the program. We also reviewed available national reports involving/concerning public guardianship programs. One of the authors of *Wards of the State: A National Study of Public Guardianship* was interviewed for further information. Interviews with Legislative Research Commission staff, Kentucky's case managers, and court personnel were also conducted.

Data Review and Analysis

This audit was conducted in accordance with generally accepted Government Accounting Standards promulgated by the Comptroller General of the United States, with the exception of the standard 7.59 related to validating data from computer based systems. The source data provided by the Cabinet from the KY GFIS system was used in this report to determine statistical characteristics; however, evidence that the computer-processed data was valid or reliable was not obtained. The audit team decided to use the information from the KY GFIS system without testing the system's general controls because the data from this system was the only source of statewide data.

The APA requested data from Cabinet staff concerning all of Kentucky's wards, which we received as of August 21, 2007. We analyzed the data for the following: the length of time the ward was in the state's custody; caseloads of the case managers; the location of the ward (physical location verses court location); the level of care the wards require; the type of guardianship (conservator, etc.); the date of appointment; and their account balance.

APA Online Survey

To obtain information from all field case managers concerning their caseload and ward needs, we developed an online survey. All case managers in all nine regions in Kentucky, 53 total, serving all of the wards of the state were sent a link to the survey on September 17, 2007. The response rate for the survey was 94 percent, with 50 case managers responding. This survey was used to determine caseloads of the case managers; opinions of the case managers concerning their caseloads, training, educational background, and safety issues; training provided by the Cabinet; program improvements; and daily challenges encountered by the case managers.

Listed below are the nine statewide service regions. The Directory of Service Regions lists information pertaining to each region. More information can be found at <http://chfs.ky.gov/dcbs/ServiceRegions.htm>.

Cumberland Service Region

Adair, Bell, Casey, Clay, Clinton, Cumberland, Green, Harlan, Jackson, Knox, Laurel, McCreary, Pulaski, Rockcastle, Russell, Taylor, Wayne, and Whitley

Eastern Mountain Service Region

Breathitt, Floyd, Johnson, Knott, Lee, Leslie, Letcher, Magoffin, Martin, Owsley, Perry, Pike, and Wolfe

Northeastern Service Region

Bath, Boyd, Bracken, Carter, Elliott, Fleming, Greenup, Lawrence, Lewis, Mason, Menifee, Montgomery, Morgan, Robertson, and Rowan

Northern Bluegrass Service Region

Boone, Bourbon, Campbell, Carroll, Gallatin, Grant, Harrison, Kenton, Nicholas, Owen, Pendleton, and Scott

Jefferson Service Region

Jefferson

Salt River Trail Service Region

Anderson, Breckinridge, Bullitt, Franklin, Grayson, Hardin, Henry, Larue, Marion, Meade, Nelson, Oldham, Shelby, Spencer, Trimble, Washington, and Woodford

Southern Bluegrass Service Region

Boyle, Clark, Estill, Fayette, Garrard, Jessamine, Lincoln, Madison, Mercer, and Powell

The Lakes Service Region

Ballard, Caldwell, Calloway, Carlisle, Christian, Crittenden, Fulton, Graves, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, Muhlenberg, Todd and Trigg

Two Rivers Service Region

Allen, Barren, Butler, Daviess, Edmonson, Hancock, Hart, Henderson, Logan, McLean, Metcalfe, Monroe, Ohio, Simpson, Union, Warren, and Webster

All 53 case managers that provide direct support and service for the wards across Kentucky were surveyed. The response rate for the survey was 94 percent, with 50 of the 53 case managers responding. (Not all questions in this survey were required to be answered, which means that there will not always be 50 responses per question.)

1. Please provide your current caseload.

0 or N/A wards-4, 300+ wards-5, 160 wards-3, 30 or more wards-2, 40 or more wards-6, 50 or more wards-11, 50 or more wards-10, 70 or more wards-5, 80 or more wards-3, and 96 wards-1

2. Do you think you are meeting the needs of your current caseload?

Yes-20, No-30

3. If no, what services are you unable to provide to your wards due to your caseload demand? “Comments” by the completers of the survey but not all comments are listed:

- “More placement options, more money, more time, less area to cover.”
- “Unable to give the necessary attention to each individual ward for their specific need.”
- “Not being able to see them as often as I or they would like. Not able to follow up on little things they want.”
- “Visits on a regular basis.”
- “I supervise 5 workers who serve 383 wards. Only minimal service can be provided. Workers are unable to have frequent contact with wards to determine service needs.”
- “I am not able to give client’s individual attention. I am expected by the community to make very important decisions regarding a client and due to caseload, I have limited knowledge on client.”
- “Unable to make personal contact & visit facilities to better serve our wards.”
- “Not being able to get out in the field more often due to having to cover the office and answer phones.”
- “Too many for one supervisor to oversee.”
- “This number has just been lowered in the past month and a half. I still do not feel I have the time to properly document and return calls.”
- “TIME per client to visit more often, follow up on benefits, medical needs, check housing, communicate more with support systems.”
- “Feel we are the best resource for these clients that have no one, but our hands are tied when it comes to appropriate placements & resources for difficult clients. This program was never designed to take criminals/substance abusers etc.”
- “More face to face assessments, we are tied to a computer.”
- “Timely and frequent visits.”
- “Annual court reports on time/seeing them every quarter.”
- “More frequent visits and more thorough case management.”
- “More one on one time with the ward: finding appropriate placements.”
- “Currently not able to meet with each client on a consistent basis to provide preventative services, just crisis intervention. Not able to complete required annuals timely due to time required to meet crisis needs. Case notes behind due to lack of time.”
- “Transportation to/from appointments, support, ability to check on wards frequently.”
- “For my workers it would be not doing enough face to face with clients and providers. As supervisor, I have not been able to go out with the workers as much as I would like or work with APS and courts to explore alternatives to guardianship.”
- “Personal contact; no time to visit our clients; unable to complete court reports and documentation; we have to rely on what the caregivers report to us about the needs of our clients b/c of our lack of time to visit them or attend care plan meetings.”
- “I am so busy trying to make everyone happy my paperwork suffers.”
- “I feel I am meeting the SOP expectations but the facilities and general public expects more. The state guardian case worker is not like a family member and takes care of day to day issues.”
- “If caseloads were lower we would be able to be more through.”
- “The number of individuals that are being appointed Guardianship Services keeps increasing. We are getting appointed people who are homeless or in jail. Nursing homes, Comp Cares, other facilities and families are getting the state appointed Guardian.”
- “Unable to provide face to face contact as needed.”
- “Ensuring clients are place on waiting lists for services as SCL.”

- “Unable to find appropriate placement that will meet the ward's needs.”
- “Insufficient time with client and insufficient time to complete necessary paperwork.”
- “Money needs to be available for emergency situations.”
- “Face to face visits; attending care plan meetings and other conferences with mental health/care taking providers; advocacy roles where services are denied/not accessible. With high caseloads each ward is receiving minimal services at best.”
- “Placement issues, not enough field visits, no able to dedicate enough time to issues, Most time is spent on crisis management and problem solving.”

4. What do you think is a desired caseload?

20 to 30 wards-9, 31 to 40 wards-19, 41 to 50 wards-17, 51 to 60 wards-2, 61 to 70 wards-1, Other-2

5. What education level did you obtain?

High School/GED-2, Bachelors Degree-26, Masters Degree-20, Other-2

6. Do you think that your formal education prepared you for this job?

Yes-33, No-15

7. Do you think the Cabinet provides adequate training for this job?

Yes-21, No-29

8. What types of additional training do you think would be beneficial in meeting the needs of the ward?

“Comments” by the completers of the survey but not all comments are listed:

- “Classes geared totally toward guardianship.”
- “More training on safety when dealing with mental health, more mr training, more dual diagnosis training.”
- “Joint trainings to include judges, attorneys and other community partners.”
- “Specific limitations for guardianship workers pertaining to the wards rights.”
- “Adult aps training.”
- “More Financial Information, Additional Computer training, Medical & Property/Legal training.”
- “Financial training.”
- “More intensive training on aging and mental health issues should be offered.”
- “Updated laws, limits on guardianship, new sop.”
- “Medicaid/Medicare overview of eligibility requirements; how to sell a house and liquidate.”
- “My degree is in social work, however most of the work I am doing on behalf of client's is managing accounts. We have wonderful assistance from staff in Frankfort, however frontline staff need general understanding of insurance, real estate, legal documents.”
- “More in depth training on resources available, diagnoses criteria and Fiduciary understanding.”
- “Training on severe mental illness such as Borderline Personality disorders and possible treatments.”
- “Placement, legal issues, client rights.”
- “Now that they actually provide the training, I think training on what is available in the community and what our rights are.”
- “I think that training in specific mental health disorders, aging, grief and loss, Alzheimer's.”
- “Training on what guardianship is, what the SOPs and laws are prior to starting to work; training on most common medications and diagnosis of clients.”
- “We need training that deals with adults not children. We are forced to send our new employees to computer systems that aps/cps uses. We have our own system & we train our employees on the job. We are not aps/cps, we are a specialized group.”
- “Inventory control, the use of property appraisals and could we use private ones, rights vs. protection.”
- “Advanced ethical decision-making.”
- “Process of guardianship, responsibilities of worker, consistency in meeting statutes, directions.”
- “A training that walks a new worker or supervisor through a case from beginning to end; a training that is specific about spend downs and which wards need budgets for new staff.”
- “Need additional training on medical issues, laws as they pertain to our clients, and financial matters--assets, investments, real property, benefits.”
- “I believe it would be beneficial to get with other guardianship offices to discuss how they handled difficult cases, etc.”

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- “The Cabinet training focus on CPS and Not APS.”
 - “Training regarding mental illness, vulnerable adults, developmentally disabled, and does everyone need a guardian?”
 - “Medical information, due to the fact we make medical decisions for our wards. Medicaid and Medicare training. Updated training on aging-Summer Series. Updated training on Adult protection.”
 - “Medical training-terminology and medications, mental illness/mental retardation training, legal training-since we are now selling property and assets.”
 - “Topics like mental health issues, Medicaid eligibility, guardianship computer system, Section 8 housing requirements, OIG regs, and training in main points of guardianship sops.”
 - “The training does not prepare the new workers for this position. Training needs to include learning about Medicare/Medicaid: training on MH/MR; medical and services available; medical training as we are making serious medical decisions for our clients.”
 - “More knowledge /understanding of what other agencies like DMR, Mental Health can and should be providing.”
 - “Fellow workers do not have the time to do on the job training adequately. Guardianship, basically we are in a computer lab but are going over more book work than paperwork.”
 - “A better understanding of what programs are responsible for. For example, SCL programs and what DMR expects of them, front line training or information we would use every day.”
 - “There should be a yearly Guardianship training to help staff stay on top of changes, standard protocol and discuss issues that workers may have.”
 - “The Cabinet focus seems to be on Child protection Services not the needs Guardianship. The training needs to address the issues with Guardianship. It should be mandatory for APS / CPS who do referrals to Guardianship.”
 - “Service processes need to be consistent across the area.”
 - “On going training on any services that would benefit our clients such as Section 8 housing, low costs hearing aides, Medicaid, food stamps, housing, available community services, etc.”
 - “Financial services.”
 - “Preparing the ward for becoming their own guardian/conservator.”
 - “There should be competency based training for guardianship as well as annual training to review the basics and needed updates. Also, training specifically in financial, Medicare D, burial, legal, and other areas for case managers as well as supervisors!”
 - “All the training in the world cannot provide 100% for this job you must have common sense also.”
 - “Mental health training regarding psychiatric diagnoses, treatment options, medications and strategies for working with such clientele.”
 - “GSSW should be able to complete formal Guardianship Training prior to getting a caseload. Joint Training with APS, Judges and Attorneys.”
 - “Training to deal with physically aggressive wards with violent felony records.”
 - “Statewide Guardianship meetings, contract law, sale of real property, deed searches, Medicaid, Medicare, social security.”

9. Are you able to comply with the requirements of the Cabinet’s Standard Operating Procedures (SOP 5)?

Yes-33, No-16

Why do you feel this way? “Comments” by the completers of the survey but not all comments are listed: Of the completers who answered, “Yes”:

- “Because we follow the SOP’s.”
- “Not always notified of appointments in a timely manner. Inappropriate appointments are given to the Cabinet with no resources to meet the needs of individuals with mental illness/criminal behaviors.”
- “It seems pretty self explanatory.”
- “Some of the standards are very high but I just work harder to get the job done for my wards.”
- “My documentation is always completed within 30 days of a new case assignment, at least one face to face visit is made quarterly, annual reports are conducted on a timely basis, and all other procedures are followed accordingly.”
- “Review with supervisor and refer to it when working with wards.”
- “I feel we do because we are dedicated and professional staff.”
- “Supportive staff and team members.”
- “I think that the sop currently is written very loosely.”
- “At this time we have 50 -67 cases per worker if it goes over 70 one cannot really be on top of things issue's fall through the crack. You only deal with the here and now not preventive issue's.”
- “CHFS provides the basic resources to complete my job.”

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- “I don't believe that Fiduciary services should dictate change to the SOP for the field staff. Example-limiting the time to get information into the computer on a new case - sometimes we don't even have a birthdate or SS#.”
 - “We work had to follow up with the needs of the clients.”
 - “Yes, I am able to comply. Sometimes it is hard to review all the information. Each office should review their SOP every 6 mos. and discuss new additions and question anything not understood.”
 - “But I feel the current sop is very broad and is not helpful in most cases. Almost all of the situations that come up in my region are not covered in the sop.”
 - “Most of the time. Some time frames are unrealistic.”
 - “On the whole we meet the requirements of SOP. There are times due to inability to gather information or other commitments we are not able to meet the time guidelines in meeting a client. I feel like we complete reports and make visits as required.”
 - “We are able to comply with the SOP. As far as the referral process, I don't think that process is being done properly.”
 - “Guardianship workers comply with the requirements of the SOP 5 but as the case loads increase the workers will have a hard time complying with the requirements.”
 - “I've done so regularly with minimal problems.”
 - “I believe I am complying with policy.”
 - “As the GSSW I am able to provide the appropriate and immediate care for the wards by complying to the SOP 5 as I learn the SOP 5.”
 - “With a great deal of difficulty at times.”
 - “I am battled harden.”
 - “Policy under development at this time. There are some issues that are of concern with the new policy due to workloads.”

Of the completers who answered, “No”:

- “If a client has no money many placements will not keep clients or even begin to provide them services....”
- “THE SOP'S address what we should do. However, we have great difficulty for our clients that have no money or existing programs refuse to serve them.”
- “We do the best we can with the time and resources we have with a problematic case load.”
- “Lack of supervisory assistance when multiple issues come in at once.”
- “Not always, since especially our sop's for guardianship are being written by staff in the fiduciary branch. when we disagree it does not seem to matter.”
- “There are no approved ones.”
- “I don't feel that guardianship is used as a last resort. I feel that many times judges and other people use as a way to limit their own liability.”
- “Time constraints not always feasible; SOP's are not realistic in some cases; have situations with no SOP.”
- “Cases are often referred to us without appropriate information. Too many cases are assigned to meet all requirements within a timely manner.”
- “I am not familiar with this SOP being a new employee. I do not feel comfortable answering this question.”
- “Mostly but with no resources, there are problems of finding placements for clients with no income and we have high #s of mentally ill and criminal, we can't lock them up and they won't stay where placed. We aren't always noticed of new clients timely.”
- “Not enough time and absolutely no training on our SOPs. We are just supposed to know it. We can access it. Every region interprets the SOPs in their own way.”
- “I can not do KYGFIS the way it should be done properly because I am either on the phone or in the field.”
- “Time limitations.”
- “Insufficient time, training and insufficient knowledge and/or guidance from supervisors.”
- “High case loads and lack of resources prevent best practice especially in regarding to placement issues.”

10. Do you have any safety concerns with this job?

Yes-38, No-10

Why do you feel this way? “Comments” by the completers of the survey but not all comments are listed: Of the completers who answered, “Yes”:

- “Only slightly since so many of our clients are schizophrenic and you don't know when they will have an episode.”
- “Everyday we hug are family's good bye and have to trust that God brings us home safely. We are dealing with clients that have extreme behaviors and do not know how they are going to respond.”
- “Courts are appointing the Cabinet as guardian for individuals with extensive criminal backgrounds to include murder, rape and etc. The State does not have the appropriate resources for these individuals.”

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- “We are often asked to do danger work such as going into potential meth labs and into unsanitary conditions. We are also asked to transport wards who are dangerous.”
 - “CHFS is not addressing the increased risk to APS and Guardianship staff. The court is granting guardianship to criminal mentally ill and mentally retarded. In most of the cases we have great difficulty providing services due to their aggressive behavior.”
 - “I have had one client so far get very angry and verbally agitated with me.”
 - “Wards that live in the community.”
 - “We are assigned client's that do not want guardians and are mentally ill. They can be threatening and assaultive. The answer in the court/community is instead of finding resources to help, is appoint a state guardian.”
 - “We receive clients from Jail now that are incompetent to stand trial and have murdered or raped.”
 - “Some risk with current appointments with behavioral problems, drug problems, and hx of violence.”
 - “There always concerns in dealing with people, especially a population with mental health issues.”
 - “We are faced with dangerous wards each day. Health issue's like MRSA and very sick people. Going into homes to do inventory that has been with no one for years almost got blown up due to gas leak once bitten by spiders required treatment.”
 - “At times we must interact with clients who have significant mental and behavioral impairments.”
 - “There is no available pool of persons to draw from when you need to do a two person transport; there is no training available to us on identifying a meth home or what to do, there is no backup for hostile cases in the community.”
 - “We have many wards who are currently living in their own homes but we have guardianship of them; they are homeless or mentally ill with serious criminal charges. I think these cases are extremely dangerous resources are limited to protect staff. Getting more cases on criminals with violent history, history of drug abuse, dangerous behavior.”
 - “Dealing with clients that may try to hurt the staff. The clients are homes, mentally ill and off of their medication.”
 - “Caseloads consist individuals with mental illness and mental retardation. Most not understanding consequences for their actions. Often criminals and drug addicts. We remove adults from homes, transport to placements.”
 - “We deal with mentally ill wards that have violent tendencies. Many of our wards have criminal charges in their past.”
 - “In the Northeastern Region we have several aggressive clients. We have been asked by the Sheriffs Dept. to transport. I feel this puts us in danger.”
 - “The more clients we get with violent behaviors, the more danger I feel we are in. The court sometimes appoints us as guardian of people the police are afraid of and won't deal with.”
 - “My caseload consists of mainly mentally ill clients that have a hx of violence. There are not enough workers to go two at a time to visit clients in the community. Also, when we remove individuals from their homes families are often irate and threaten.”
 - “Depending on the situation, many of our wards can be violent.”
 - “Getting hurt on someone's property.”
 - “We continue to get client's with a history of violence towards others. Staff has been hit several times and it is unsafe to enter some of these client's homes. Every time we enter a home we are taking a chance with our safety.”
 - “Guardianship are appointed people who are in jail, homeless, mentally ill off of their medication. Guardianship workers are expected to get the clients from jail and transport.”
 - “Visiting clients in the community that did not ask for our services, inventorying homes that supposedly have been vacant for sometime.”
 - “Guardianship is receiving more wards with criminal charges, but the local courts are dismissing without having the ward evaluated by kcpc. Their thought is if their incompetent by jury the person does no wrong. Guardianship is looked more as a police agency.”
 - “We are receiving an increasing number of referrals of wards who are incarcerated and/or have current legal charges. The Courts appear to be looking to us to change people's behaviors.”
 - “When GSSW has transport one of the male wards from jail to an facility.”
 - “We work with individuals with mental health and mental retardation and their behavior is not always predictable or controllable. Some individuals are very aggressive.”
 - “We regularly face combative/unstable clients due to mental health issues as well as medical concerns with HIV and active TB clients.”
 - “The Mental Health/Criminal Ward that is being appointed to Guardianship with limited to no resources.” “Schizo clients have histories of physical violence directed toward others.”
 - “Wards that are criminals, drug addicts, severely mentally ill, murders, community nuisances. Some people do not want to be helped but want to be left alone.”

Of the completers who answered, “No”:

- “I mainly deal with facilities thus a reduced threat.”
- “The majority of my visits are conducted in facilities where there is always access to staff for assistance.”
- “The majority of the clients are in a safe environment and there are no issues with us going there.”
- “Our office does not transport clients unless there are two staff members. We are in a fairly secure building.”
- “I feel safe where I work. We have been having safety meetings and now when no one is out front we keep our door locked. We have had meetings on lighting, storms, etc.”
- “I haven't experienced any difficulty in this area.”

11. Do you think the courts have appropriately placed the wards with the state?

Yes-12, No-36

12. Do you use Area Development Districts to provide needed services for the wards?

Yes-21, No-28

13. Do you think improvements are needed in the Fiduciary Section to assist in managing your caseload?

Yes-35, No-14

Why do you feel this way? “Comments” by the completers of the survey but not all comments are listed: Of the completers who answered, “Yes”:

- “It is hard enough to make the visits and see that our clients have necessary items besides applying for Med D etc.”
- “They are doing a great job but are in need of more staff to assist them as we are getting more cases. They are very helpful.”
- “They have more than they can do. They need additional staff.”
- “Too many clients state wide for the limited staff in Fiduciary.”
- “A great deal of time is spent reviewing client's accounts and making payment request. Often times it is difficult for workers to determine if the amount shown in the ledger is the actual amount of if money is owed. Fiduciary must then be contacted.”
- “They need to handle more of the payment-billing issues. Most of them are clueless concerning casework and the field because they have never been social workers or carried a caseload.”
- “We do a lot of inventory, dealing with insurance, and finding bank accounts for new clients this should be Fiduciary function.”
- “Fiduciary continues to shift work to the field because they do not have enough staff to manage Fiduciary.”
- “It seems like a lot is still put back on the field staff to perform.”
- “It doesn't seem there is consistency in dealing with the cases.”
- “They need more staff.”
- “We need to be in the same section & not separated. Now it seems it the field against fiduciary. They also need more permanent staff, more resources to invest our clients monies.”
- “Inconsistency is the biggest problem; no way to meet the financial needs of persons living in the community.”
- “Fiduciary dictates what the field does but offer little in way of solutions to problems that come up; they have told me as a new supervisor they have given me mixed messages on when I can contact them for assistance. They offer limited assistance.”
- “We are under region, and they should be; or we should be under same supervision as they for consistency.”
- “The field staff spends a lot of time checking the ward's accounts for accuracy when doing spend downs, etc. Burials could be taken care of by fiduciary.”
- “It often takes months to set up a new case and have the money transferred. Sometimes the biannual reports are not filed and the field staff are ordered into court.”
- “Sometimes our clients lose benefits as they are not applied for in a timely manner. This is a lot better that it used to be.”
- “Clear roles and responsibilities need to be determined and given directly to the workers in the fields.”
- “I think that all financial aspects of the case should be handled by the fiduciary section: selling property, bank accounts, assets, medical bills.”
- “More staff would be helpful as we sometimes are following up on fiduciary issues in the field that could be followed up on by fiduciary if they had the staff.”
- “Overall they are very good, but I would like to see them investigate more to find client assets and insurance. They often ask the worker to do this when it is clearly a fiduciary matter.”

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- “Better communication. The field workers do not always understand all the guidelines of Medicare, Medicaid, various funding sources, etc. and clearer understanding/communication of what fiduciary is doing / has done on behalf of clients would be helpful.”
 - “I think we all need to understand what each other do and the limits we have and we need to have better communication.”
 - “Some things should be handled by the fiduciary office, example (Medicare insurance enrollment).”
 - “Fiduciary and Guardianship needs to be together. Field workers being in the field under P&P are receiving direction from the service regions to do things the way CPS and not understanding Guardianship.”
 - “Field workers take on the role of “middle man” in many instances that could be resolved easier if fiduciary directly addressed a situation.”
 - “Fiduciary needs more employees to meet the demands of our clients.”
 - “They need more staff to assist in locating assets, services.”
 - “I would like Fiduciary to advocate for our clients with Medicaid regulations to secure more personal needs income availability for our clients. For many of our clients \$30.00, even \$50.00 monthly is simply not enough to meet their personal needs.”
 - “Responsibilities should be more clearly defined. Field workers should not have to be a go between when Fiduciary could pick up the phone and obtain the same information as the field worker.”
 - “Most financial matters of wards could be handled directly by FS such at utility payments, etc. without having to go through field staff.”
 - “I feel they need more staff to be able to assist Field Staff.”
 - “Yes, I believe there is always room for improvement. They overall do a good job, but some workers are overwhelm by the numbers. I believe staff is needed decreasing the time it take to contact SSA to get control of client checks.”
 - “Full time trained staff that are state employees. Their issue for years has been staffing to do the job. I am certain they also need other resources also.”

Of the completers who answered, “No”:

- “I believe that Fiduciary Services are highly effective in assisting me with my caseload.”
- “Fiduciary is very helpful with keeping us on track.”
- “I have found our fiduciary to be helpful and considering their caseload are always responsive and helpful.”
- “These people need full time staff instead of all of these temps. These people really work hard and are on top of issues to help front line workers.”
- “I believe that the accounting and disbursement functions are adequate.”
- “I feel Fiduciary does a wonderful job of supporting and providing appropriate information in a timely manner.”
- “We need clerical help in the office. My FSOS is in the same county as me but the clerical is 30 miles away in a county I never go to.”

14. Please provide the percentage of your total time as a guardian spent on clients with the following diagnoses:

Alzheimer’s/Dementia: 0 to 30%-39 responses, 50%-3 responses, 80%-2 responses

Brain Injury: 0 to 10%-35 responses, 11 to 20%-4 responses, 21 to 30%-2 responses

Mental Illness: 0 to 30%-27 responses, 31 to 50%-9 responses, 51 to 75%-7 responses, 76 to 100%-2 responses

Developmental Disorders: 0 to 30%-31 responses, 31 to 50%-7 responses, 51 to 100%-7 responses

Substance Abuse: 0 to 30%-27 responses, 31 to 50%-8 responses, 51 to 100%-8 responses

Dual Diagnosis: 0 to 30%-34 responses, 50%-2 responses, 75%-1 response

Other: 0 to 15%-29 responses, 16 to 25%-2

15. List any recommendations to improve state guardianship. “Comments” by the completers of the survey but not all comments are listed:

- “More state guardians.”
- “More placement options for clients with dual diagnosis criminal AWOL behaviors. Less emergency guardianship cases that last over 60 days. More communication between the APS team and guardianship. There are more APS workers per county than guardianship workers. The door needs to be open. WE have to work together.”
- “The guardianship program is in drastic need of more workers. The focus of the Cabinet is on child welfare and more focus needs to be brought to the adult population. The caseload for guardianship has drastically increased and will continue to due so due to the aging population. The two areas that I believe would improve state guardianship would be a joint training for judges, attorneys, APS workers and guardianship workers and the hiring of additional guardianship staff.”
- “Placement of persons with mental illness. No structured environment to meet their needs.”
- “More staff for fiduciary. Training for the judges. Additional secretaries.”

- “Decreased caseloads, more workers, improved pay for employees.”
- “Guardianship and APS should be moved and placed under Office of Aging. CPS and Family Support issues dominate DCBS internal resources.”
- “More resources available to workers.”
- “I do not think in our county that CHFS is the last choice. I have found cases that there is family, and if approached first they would have become guardian. However, once the State is appointed the family seldom pursues because the State has already been appointed. It may help in our County to either have workers or community verify they have made an effort to notify all family involved. Maybe have a staff person assigned to just researching for family members.”
- “Move State Guardianship away from Direct Supervision of DCBS. DCBS, SRA's, and SRAA's do not truly understand Guardianship Services and make decisions that handicap Guardianship workers from efficiently completing their duties. Guardianship Teams should work together and not be spread throughout various field offices.”
- “Reduce caseloads so we are able to be in the facilities more often and better serve our individuals.”
- “Centralized intake. Need to be separate from Regions, P and P, and not have dual roles with Adult P and P due to conflicts.”
- “Further staff and support staff. More state-wide meetings and less isolation of staff.”
- “More training for new workers. More opportunities for all state guardians to meet as a group to share ideas. More workers. Guardianship should be moved back to being supervised at the Frankfort level and out of regional supervision. It is a conflict of interest for the workers and for the clients.”
- “Fid & field staff need to be under the same roof. Shouldn't have been put in service regions. Need one roof, one supervisor, need more placement options for difficult clients. Need to educate, APS, public & especially the courts on what we can provide for our clients.”
- “Place guardianship back under the fiduciary services in Frankfort not SRA's that know nothing about guardianship.”
- “Workloads may need to be reduced in order for workers to spend more quality time with clients.”
- “SOPs need to be approved, implemented and other P and P referring agencies need to be educated.”
- “A better monitoring of APS procedures. APS does not follow SOP the way they should. They routinely give cases to guardianship and an open case could be utilized. APS thinks that we can change behavior and make numerous referrals that are not a last resort.”
- “Bring all supervisors back under same branch manager as Fiduciary so program is unified again. Supervisors ONLY do guardianship--should never do APS and CPS for conflict of interest. Improve computer program.”
- “Lower caseloads-although since the reorg we do have smaller caseloads. When a difficult case arises it would be beneficial for more central office staff to be able to trouble shoot and help field staff out.”
- “Put Fiduciary and Guardianship together, not separate.”
- “Provide adequate training to ongoing and new staff. Define clear roles within the regions. Support is needed from Regional staff. WE NEED REGIONAL STAFF to understand guardianship and our needs within the program. We need more guardianship staff to reduce caseloads. We need more assistance from our APS offices in screening and gathering initial information when referrals are made.”
- “I believe every state guardian should have access and training on all state systems. Medicaid/food stamps/drivers licensing/birth records/criminal records, etc. It is very hard to help a ward when I have to call and wait for someone in fiduciary to check on Medicaid.”
- “More staff, crisis funds for our clients, courts using guardianship more appropriately (not as alternative to jail or mental hospital), dedicated APS staff in counties so alternative services can be explored prior to guardianship and so more information can be obtained and forwarded to guardianship when guardianship is needed (per sop).”
- “Dramatically improve training; consistency through out all regions; more workers; train management that oversees guardianship what guardianship actually is (such as the SRA's and SRAA's) - for the most part they have absolutely no idea what we do and are not qualified and unable to provide guidance on difficult cases - we are left to make those decisions on our own. There is absolutely no support from management.”
- “I work in an office where there are two other workers this is a satellite office. I think if we had a secretary that could answer our phone, do some of the clerical stuff we do then you could deal with a higher caseload or visit and do more for your clients.”
- “APS should not be allowed to do emergency or regular guardianship petitions unless they show they have completed all the necessary steps of trying to reach relatives or friends that have been in the wards life. We have found that once we get the case there are relatives that are willing to assist but was never contacted.”
- “Improving state Guardianship is to have an understanding of the job that the workers have and how difficult things can be for the workers. The court systems need to understand that state Guardianship is last resort and stop the facilities from letting people file with the intent to give the cases to state Guardianship. It would be better to have Guardianship and

Fiduciary together and not separate. The Guardianship workers should not have to take the P&P academy because it focuses on CPS.”

- “In my opinion, it would be better if guardianship teams were supervised out of Frankfort rather than at the regional level. The caseloads need to be 40-50 depending on needs.”
- “Educate the court system and local DCBS system about guardianship services and what they can and can't provide.”
- “More scl slots, placement assistance, more outside services.”
- “Lower caseloads. Better communication and cooperation from court systems.”
- “As a new GSSW I recommend that the GSSW be trained thoroughly on the guardianship program before carrying a full caseload.”
- “Fiduciary and the field should be supervised by one management person. SRAS are not knowledgeable and are unable to provide any actual assistance. Each region does things differently. There is no person in management who can resolve issues of conflict between the regions because we all answer to a different SRA. Fiduciary and the field need to be together so they can work as a cohesive unit. Need paperwork reduction. Reduced caseloads. Better and ongoing training of staff and supervisor.”
- “This unit need to be under Frankfort as the supervisor. The people that are not active in guardianship do not know what we do and they don't make the best choices.”
- “In addition to more frontline staff, the lack of resources is the major obstacle facing workers in guardianship. A recent example is where we were able to have ward's teeth pulled but did not have resources to provide dentures. Adequate housing in the area of family and personal care homes is another major issue with the number of wards increasing. Additional staff training as noted above would greatly improve services.”
- “Joint trainings with judges, attorneys and APS Workers. More resources for Criminal/Mentally Ill. More Field Staff and Fiduciary Staff.”
- “Remove guardianship from regions and put under one program leader or leadership. There is no one at the regional level advocating for the needs of Guardian. We are on our own as we remain the stepchild of CHFS. Also, we should be put under Department for Aging and Independent Living cabinet. It is what we do.”
- “Enough staffing, supervised under one branch, need equipment to do job (digital camera's, video cameras, laptops that are usable in the field to access the system, cell phones).”

16. Regarding the court process, what changes would you recommend to assist you as a guardian? “Comments” by the completers of the survey but not all comments are listed:

- “Better understanding by the Judge of our role.”
- “Less time in the emergency state of guardianship.”
- “For the judges and county attorneys to be educated on the guardianship process. We are receiving way too many emergency guardianship appointments when there is no imminent danger. We are also being appointed as guardian for individuals with an extensive criminal background. We do not have the resources to deal with individuals with violent criminal histories. I have two individuals that have been charged with murder and I have been told that I am responsible for the community's safety.”
- “Judges, jails and law enforcement that refuse to prosecute or hold high functioning individuals for criminal acts.”
- “APS be more involved from the first step with the fsos of guardianship.”
- “Disability Hearings should be performed in a timely manner. Some cases are postponed due to reports not filed with the court.”
- “Emergency guardianship may be given in one county and the client has to be moved to provide services. The originating county will transfer the case and the ID Team responsibilities to another county. We have an increasing case in emergency limbo status because counties, mental health locals won't pay for the assessments. Judges give many guardianship clients to CHFS for liability reasons.”
- “Judges and attorneys being trained appropriately.”
- “I think at times the court and community does not understand what a guardian can and cannot do. We cannot make a person take meds or cooperate with medical or therapy. We can make a facility take a person or that person stay in placement. A guardian should be appointed because that person meets criteria as incompetent. Poor judgment in managing life or budget does not mean you need a guardian. If a client has anger issues/violent behavior is does not mean they need a guardian.”
- “Educate Judges, Prosecutors and DCBS Adult Protection workers of Guardianship's Role and responsibilities.”
- “I think the Judges should be better trained on what state guardianship is and not use us as a catch all when they don't know what to do with an individual.”
- “More understanding and cooperation from judges and the prosecutors.”

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- “Restrictions on when and how the courts can order us to take clients. Some way of screening clients for acceptability. Training for the judges, lawyers, county attorneys. Judges should not be allowed to appoint the state or anyone as emergency guardian without at least hearing evidence.”
 - “We need a voice in trying to educate the judges, clerks, & community partners. AOC forms need to be updated, they are hard to understand and repeat their selves. Need idt evals paid for by funding source other than fiscal cts. Try to educate the families so they may take responsibility for their relatives and not dump on guardianship program. Give the courts placement options other than dumping on us.”
 - “Instead of a court order in today’s mail naming us guardian what about some heads up so we can prepare. Judges and GAL’s that follow the law. A full time lawyer just for guardianship to challenge some of the awful court orders that are illegal. GAL’s that stand up for their wards, more money to the GALS so they can fight for the rights of others. Virtual offices out of the homes of guardianship workers, less distractions, move guardianship back under fiduciary control with one boss.”
 - “Having a full-time CHFS attorney.”
 - “Training for judges to understand limitations of the state in acting as guardian i.e. criminal behavior cannot be addressed through guardianship.”
 - “Judges need to be educated on laws regarding guardianship they routinely do not follow the law and then the field has to correct their mistakes. They also need to realize we are a last resort and cannot change behavior.”
 - “We should not be appointed for placement reasons for criminals.”
 - “That individuals are not able to go to court and file the petition to have the State appointed as Guardian. They should be appointed. The courts do not need to think that the state has a locked place for difficult individuals. The court should not appointment the state for people in jail and then think that we need to take them when there is not a safe placement for the person.”
 - “The court often appoints us the guardian for people that are in jail and it is very hard to place these people in some of our facilities. At the same time we are trying to ensure that all our other clients are protected. The courts seem to think we can magically place people even with a criminal background.”
 - “We need our courts to make appropriate referrals to APS offices to offer services before an emergency guardianship is made. We also need training for County Attorneys, and Judges to understand our program and it’s limitations.”
 - “The court needs to research for family or any other possibility before appointing the state. We should always be last resort, not easy way out. Currently if a possible guardian cannot be bonded the court appoints the state. The court should offer that potential guardian the ability to be personal guardian only. This is not currently happening. There also needs to be consistency between the court counties, at this time every court county handles guardianship differently.”
 - “Increasing the timeliness in selling real estate.”
 - “Some mechanism put in place so that courts can’t appoint the state without prior knowledge. Also if courts would recognize our limitations and understand that we cannot be the solution to every mentally ill or homeless person that is brought to their attention. An office with the courts that would mediate family issues so that family differences would not lead to the state appointment and educate families so that they don’t feel as overwhelmed and be more apt to do it themselves.”
 - “Judges and county atty need to be trained about the statutes related to guardianship and the Cabinet. Every county handles guardianship appointments differently and often times not they do not follow the statute. They also need to be trained about the Cabinet’s power and our inability to force our clients into placements; psychiatric hospitals or drug treatment.”
 - “The courts ie: judges and county attorneys become more knowledgeable of what a state guardian realistically can and can’t do. They often think that because we are a state agency we can make other agencies/providers serve wards, etc. Some use us to sort out more complex situations, using us to investigate and for placement purposes.”
 - “Train the APD worker(s), GAL(s), and judges. What happened to APS services, the solution I see that is being utilize is guardianship. When I did APS we had utilization reviews prior to filing but that does not happen now.”
 - “I think the courts and staff need education and training on guardianship and when state guardianship is appropriate. The courts tend to think the Cabinet is a cure all for all things.”
 - “The Court system should not be allowed to accept emergency appts without the approval of the Guardianship Superv. State Guard is suppose to be the last resort, but it has not been going that way. Family members should be contacted prior to Cabinet being appointed. When a guard is removed the Cabinet should not be automatically appointed. Emergency Guard should not be done when a client refuses to take meds, see the DR or chooses to live on the streets. We cannot force them to cooperate.”
 - “The courts need to stop just any one file for the state Guardianship to be appointed guardian. Emergency appointments should be appropriate and exparte done first if emergency placement is a protective need. The courts also need to

understand that there are no lock Guardianship facilities in Kentucky and that Placement is difficult and can be impossible for clients who are violent. Some courts think Guardianship provides services but we have to find services for the clients.”

- “Consistency, education for referral sources.”
- “Judges need to receive on going training from the Cabinet and have a team review referral prior to hearing.”
- “Ensure that everyone follows the procedures rather than simply making appointments and leaving it up to the guardian.”
- “If the law is broken by the ward have the person assessed; GAL to advocate more for the person, especially if they are not found mentally or physically disabled by SSA.”
- “Individuals able to live independently should not be eligible for full guardianship. Emergency guardianships should be rare, not the "norm." Would like to see initiative developed in which Frankfort specialists, regional supervisors and local workers schedule meetings with individual judges and county attorneys across the state to develop better understanding of purpose and limitations of guardianship.”
- “Change in statute that prevents just anyone petitioning for the state to become guardian.”
- “We are being used as a dumping ground by judges and APS they do not understand guidelines and really just want these people out of the way.”
- “Judges and Attorneys to be educated on appropriate appointments and the limitations of Guardianship resources.”
- “The courts, especially the county attorneys have totally abused the guardianship process. Any one can file a petition and request that the cabinet be appointed the guardian without notifying us. This process has been so abused that we are now the guardians of people with violent criminal backgrounds including incarcerated murders, homeless people etc. We were even appt the emergency guardian for a pedophile.”
- “Equipment, staffing, training, community resources, auxiliary funds, support legal, nurse consultants, APS workers need to follow policy and supervisors need to scrutinize cases that are filed for state guardianship. Information needs to be supplied quickly to assist with applying for benefits.”

17. What is the biggest challenge to the Guardianship Program? “Comments” by the completers of the survey but not all comments are listed:

- “Clients with property and disposing of that property.”
- “Placement options. Time it takes to get money for our clients.”
- “The court system!”
- “Persons with mental illness for housing and maintenance. Liability in caring for people that elope from facilities.”
- “We are often too busy putting out fires that just rekindle. We need lower caseloads so we can give our clients individualized attention.”
- “Lack of resources to provide what the client needs- MONEY.”
- “Ensuring quality care is being provided to all clients.”
- “Our caseloads are dramatically increasing and there are no resources for some of our critical cases. The state restructure estimated there would be 150 cases in our new region. After 5 months we had 180 cases; at present we have 204...in just one year. Over 1/2 of the new opened case were given from court without Guardianship recommendations or involvement in the emergency hearing. I have 3 social workers to cover 17 counties.”
- “Visiting and spending enough time with clients.”
- “Caseloads.”
- “Unrealistic expectations. That once a person is appointed a guardian, I have the ability to resolve all issues in that wards life, from medical, therapy, housing, financial, legal, etc..... That within the agency/community if there is an issue with an individual, the best resolve is file for a guardian.”
- “Lack of understanding of Guardianship's role by DCBS supervisory staff, the Courts and other agencies.”
- “Individuals with criminal backgrounds that facilities do not want to take or that we can not keep in a placement due to behavior or running away.”
- “Placement for those with MI, substance abuse problems, or behavioral problems. These individuals hard to place and will not stay. Our state hospitals will not keep. The courts appoint us as they are tired of dealing with them. We have the responsibility without any options. A big risk is being absorbed by P and P.”
- “Education to the public that we can't solve their family problems and change behaviors of these wards.”
- “Too many clients and not enough workers. Too many inappropriate appointments.”
- “Staying together as a specialized program. Right now fid & the field are separated. We now have 9 fsos's that for the most part are new & need to experience of the older staff. Again we should never have been put in the service region & tried to be cloned as an APS worker. Appropriate placement options have always been the biggest problem with this program. We could take more clients if we had placements & long term places for our clients with severe behavior problems.”

- “Courts and adult protection workers that are not following the KRS and dept policy.”
- “So many questions from family members/clients coming in that (most of the time) are taking work time away. Most of the time spent on that is unwarranted.”
- “Coordinating resources for clients.”
- “Not being notified of appointments timely, financial assets not being available sooner, lack of placements, lack of respect from other agencies and community.”
- “Inappropriate discharge from hospitals is a major concern. We are struggling getting hospitals to understand if we recommend placement and our wards are homeless we cannot help them. Also getting wards who live in their own homes, money is a challenge and fiduciary has no good solutions on how to help with this.”
- “Lack of resources for placements for our clients, especially those with behavior problems or history of violence.”
- “Placement! The state needs to provide for the more challenging individuals that we serve. We have no resources for those difficult individuals.”
- “Finding placement for difficult individuals with mental illness.”
- “In the midst of all the changes and updates we continue to do our jobs and try to add to and incorporate all this into the job we are already doing.”
- “High case loads. No regional support due to lack of knowledge of the program.”
- “Having enough time to act in the wards best interest. To understand the ward's health and diagnosis and give consent with the medical knowledge needed.”
- “Finding the resources, and assisting caregivers in accessing these resources.”
- “To keep up with growth of guardianship program, as large population age and develop dementia and as drug-related issues lead to more clients.”
- “No one in the Cabinet has any idea what we do in Guardianship. There are not enough workers so we are unable to develop relationships with our clients in order to really understand their disabilities, illnesses, or their specific needs. There is no supervision of the staff from management. There are no auxiliary funds to assist our clients.”
- “Doing all that I can do to realistically provide/oversee adequate services for my clients. Some facilities still think of us as being able to do more as if we were a "family" member who is guardian of their loved one.”
- “Legal, I fear becoming sick because it is so easy for my rights to be taken away because of some untrained/unqualified/no experience APS worker.”
- “Although I said we get appropriate clients from the court there are times they are not appropriate and these are the individuals that no one knows what to do with. They are mentally ill criminals. There is no answer for them.”
- “The overwhelming caseloads that keeps growing and growing. No new workers to help cover the growing caseloads. Educating the Court System that we cannot force anyone to see the Dr, take meds or live in a certain place.”
- “The Guardianship program needs to stay together and help support each other, only other Guardianship workers understand the difficulty of the job tasks. The program needs to respect the workers that have done the job for years and the devotion of the new staff.”
- “Financial issues.”
- “Placement, enough money to meet clients needs especially on an emergency basis.”
- “Lack of placement options for many of our clients in the 'least restricted' setting.”
- “Placing the ward to a facility that will meet the person's needs. Guardianship uses the person's finances and when they are found incompetent, but not disabled by SSA you face challenges of placement and obtaining needs for the ward.”
- “The community and court system see guardianship as the "catch all" to deal with problematic behaviors of individuals.”
- “Knowing the program thoroughly and feeling comfortable making decisions.”
- “Finding appropriate placements. Dealing with inappropriate referrals/appointments. Dealing with no money or too much money.”
- “Finances, placements. Too many chiefs that are not qualified to make decisions.”
- “Lack of resources [housing, medical, etc.]”
- “Staffing and the Court System.”
- “Stopping local county attorneys from accepting inappropriate petition. I would ask that you examine filed petition that are being accept for trial by the county attorney. I believe a good place to start would be Jefferson County.”
- “Equipment, staffing, training, community resources, auxiliary funds, support legal, nurse consultants. Fiduciary needs more staff and the field and support staff needs to be increased.”

18. What is the biggest personal challenge you face serving wards? “Comments” by the completers of the survey but not all comments are listed:

- “Not getting too involved.”

- “Safety has to come first. Being able to protect myself from disease and from being physically hurt or assaulted.”
- “I find that I spend a great deal of my time dealing with individuals with mental illness who exhibit criminal behavior. It is almost impossible to find placement for an individual who assaults others, who has been convicted of murder, who has been convicted of rape or various other violent crimes. When you do secure a placement for one of these individuals they may be stable for a couple of days or a month and then you are seeking another placement because of their behaviors.
- “Constant complaining. The system does not hold the individuals accountable for behaviors thus enabling them to act out negatively without consequences.”
- “Not having money to purchase items for the wards like a pop or cigarette when they ask for one.”
- “Being able to separate myself from the clients and not crossing any boundaries. Often times you would like to do more for clients than possible.”
- “I am trying to supervise and carry 36 cases in one county to help my team due to the increasing caseload and difficulty in cases. Most of DCBS resources go to Family Support or CPS Teams. Guardianship barely gets the crumbs!”
- “Making big decisions on behalf of my clients.”
- “I am a social worker, however so it has been a challenge for me to learn and become more comfortable in handling a client's financial and legal affairs.”
- “Lack of appropriate placement facilities.”
- “Multiple responsibilities without any resources for those difficult to place and keep placed. No central office help. Just the same old nothing.”
- “Keeping them happy and in a decent environment.”
- “Finding appropriate placement.”
- “Lack of a centralized supervisor for the program to be able to make decisions when we have an impasse within the system. We have always had problems with our difficult clients & I don't know if that will ever change, but as least if we were a unit under the same roof we could be more consistent in dealing with our problems across the state, right now we do not have that.”
- “KY guardianship is a wonderful program. My biggest challenge is getting commitments that are most restrictive. No money to assist the wards to become independent. No funeral money. Guardianship ends at the time of death. Sad to see people put in a paper box with roots present as they are laid to rest with no one present except me.”
- “Maintaining effective communication with all agencies and individuals serving the client.”
- “Time.”
- “Helping my region understand how complex guardianship is especially while serving two program areas. Also helping my region make guardianship a priority in our region with upper management.”
- “Want to do a good job and feel like spread too thin to cover everything I feel like should be covered to completely ensure ward is getting best services and care.”
- “I personally worry about the safety and well being of the wards I serve. I pray that I make the right decisions for their lives.”
- “The hospitals are starting to want someone in person for the appointments and surgeries, with over 162 clients in our area that is impossible.”
- “To ensure that all their needs are met. To keep them under resources so they can continue to get their benefits. To get all my notes, reports, etc. in so everything I have done is in their permanent record.”
- “Lack of appropriate services for individuals with a criminal history, dual diagnosis, and drug addictions. We serve many individuals that are not appropriate for placements. Therefore they remain the community with minimal support and continue to face issues with mental illness and drug/alcohol addictions.”
- “Knowing what is best for each ward and how far state guardianship extends in personal rights. Example: right of the ward to refuse treatment and medication.”
- “Attending training, and trying to attend to my clients needs while being away from the office for extended periods of time.”
- “Try to balance an individual's potential need for guardianship with their right to choose their life style. Always try to look at whether their situation is a lifestyle choice or due to can't make informed decision. It is hard be the bad guy and so not to getting involved sometimes even if I believe the person is competent.”
- “Not enough time to visit my clients and do paperwork. We spend 100% of our time dealing with crises and "putting out fires". Finding placement, making serious and life threatening decisions and making decisions about issues like changing someone's code status to DNR (Do not resuscitate). We spend a great deal of time dealing with Fiduciary matter such as making certain a client is under resource for Medicaid, paying all of their bills and setting up burials. There just isn't enough time.”
- “Gaps in mental health services and placement options for wards with mental illness.”
- “Trying not to do the APS part of it and focusing on the guardianship aspect.”

- “Sometimes I would like to do more for my clients like a family member would if they were the guardian for another family member. Another issue is finding resources for our individuals that are on the waiting list for SCL. Also working with the local mental health system as they do not meet the needs of clients and there is no other system in place. Also there are no psychiatrists that are willing to go into the nursing home facilities and work with our clients.”
- “Staying safe, we continue to get client's that are aggressive and violent. Staff has been hit and injured by wards of the state, they face no consequences for their action. Some wards show aggressive behavior towards women workers.”
- “The biggest challenge is having so many clients and providing for their needs without support or understanding of the needs of our clients from the Cabinet. When the Cabinet is appointed the person does not have anyone else. Trying to find placement for individuals who are mentally ill and violent is almost impossible. Also getting appointed individuals who are violent and may try to harm the workers.”
- “Legal process.”
- “Ensuring their personal needs are met and for example, dental care, glasses, etc.”
- “Not having the available support resources to allow the person to live independently. Most agencies have waiting list or the ward does not meet standards to qualify them for services.”
- “Expectation from community, courts and treatment providers for us to “fix behaviors.”
- “Not being able to provide the best service possible to the wards because of my lack of knowledge.”
- “Lack of resources. Lack of support from supervisors and/or Cabinet heads or delegates.”
- “Lack of time available to devote to better assess each client: that is, just getting to know them, their needs, fears, wishes, hopes and dreams that they have a right to pursue just like everyone else and that we, as state guardians, do our utmost to ensure those rights/opportunities.” “Not enough time and resources.” “Safety and housing.”
- “They do not get the individualized attention that they may need and have funding issues. Most of the time in guardianship is spent on correcting issues.”

19. Additional Comments. “Comments” by the completers of the survey but not all comments are listed:

- “We have great supervisors that assist us in making decisions. They need to be recognized. Guardianship is still not placed on the reorganization map as part of protection and permanency when this Cabinet sends it out. What does that tell us as workers when we receive it. The message is clear!”
- “The State of Kentucky needs to review its current placement options for those with mental illness and criminal behavior. It places a huge liability on the worker as well as the State when there are not appropriate placements for these individuals. I have felt afraid for my safety on more than one occasion and do not feel that there has ever been any emphasis on guardianship worker's safety. I guess it will take the death of a guardianship worker to open the eyes of those above.”
- “Recently several supervisors & fiduciary staff have retired and the program has lost valuable leadership. Staff retention is a must to continue to have a successful program.”
- “As a fairly new employee with guardianship, I have been greatly impressed by the program and the many wonderful aspects of care that is covered.”
- “DCBS's increased services to adults and the elderly is bull. It is only on paper. APS staff is still doing CPS work all over the state and that takes away from service to the adults/elderly in need. Then, APS can't provide ongoing services so they pass on the work/liability to Guardianship which has the least amount of staff to cover huge regional areas. We have been “DCBS modernized”....and it doesn't feel good or meet the needs of our clients!”
- “I think the agency needs to have periodic trainings on a local level with court, attorneys, and court personal on whom meets criteria for guardianship, that a guardian can not make a client take medications, go to doctor/mental health treatment, resolve financial debt, stay in housing, be accepted for housing, keep a client from becoming threatening, becoming violent, committing crimes, nor do we have immediate access to financial.”
- “Guardianship workers being separated from team members and placed in remote field offices creates undue hardship and is not necessary to efficiently completed guardianship responsibilities.”
- “The Legislature needs to make a decision about caring for those with MI. The Psych Hospitals will not keep them just in and out over and over. We get no help from Comp Cares and private facilities will not keep them. We need long term facilities for problematic clients that they cannot just walk off from. Way too much exposure without any placement resources.”
- “We are not equipped to deal with criminals and should not be appointed as guardians over clients just because they have committed a crime and the courts don't want to put them in jail.”
- “I've been with this program since 1981. I've seen the field together with fiduciary and I've seen it separated. We have always been a better program when we were together in a department or branch with one supervisor. This worked when we were under the ombudsman's office. I think we need to be moved ASAP to another section in order to work together with fid on our mutual problems. This will not solve all of our problems but I think it will be a start.”

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- “Put guardianship under Frankfort control not SRA that no nothing of guardianship. Provide laptops to each worker for mobile work. Obtain social service aids to each team to assist with transportation and ongoing needs.”
 - “The Guardianship program is a much needed service that only seems to grow larger with each passing year. Needy clients will make for a much greater call for social workers in the future.”
 - “I believe that the state guardianship program is a great program. I love my job and the individuals that I serve.”
 - “We have a very big job to do. I believe last year the Teachers in Ky. received a 15% raise. Are our venerable adults any less important? It is hard to feel appreciated for a job well done when we no longer even get a 5% raise.”
 - “Case loads need to be reduced.”
 - “Guardianship used to get funds for training and client emergencies from guardianship fees charged to clients with money. That is one way that expense of program could be offset.”
 - “My caseload has been as high as the 90's. I feel like I am on my own making these life altering decisions that no one has prepared me for. We are so overwhelmed. The workers get their support from each other, not management. When we secure a residence when we move a client from their home to a nursing home there are no funds to assist and the worker is expected to move the furniture themselves and go through all of their belongings. The client usually has no money to pay movers.”
 - “Education is needed for people to understand mental illness and that because someone has an episode doesn't mean they need a guardian.”
 - “As a worker with 20 years of experience doing investigations, working with foster care and adoption and working in the TWIST system there are a lot of good things I could say about the Guardianship program. On the whole I think the caseworkers care about their clients and have the best interest in serving the client. And the computer program is great compared to TWIST.”
 - “Guardianship is a great program that is needed to help those in need. The Courts need to be educated about the Cabinet's limitations and the fact that we cannot do a lot of things a private guardian can do.”
 - “The Guardianship workers have stayed for years and there has been little turnover in the past. Guardianship needs to consider the workers that are committed to the program and want to keep the program strong.”
 - “Enjoy my work with guardianship.”
 - “When a ward is appointed to the state most cases do not get to court soon enough and people are losing their belongings because there is no money to save the person's things before a landlord or family throws the things to the streets. Guardianship does not have funds to protect the person's things. FIDUCIARY is applying for services but they are overworked and the federal government is behind.”
 - “I think it would benefit new GSSW to be thoroughly trained before officially taken on a full caseload.”
 - “The guardianship program has made some progress, but in many, many ways overall it has gone backwards, not forwards. The system is much more difficult and time consuming and it takes away from direct services to the client.”
 - “Guardianship and Fiduciary need people, equipment, support staff (Legal, Nurse Consultants), training, and resources for storing items, funding until new cases get set up, vehicles to move wards items. There needs to be a significant focus directed and getting what the Guardianship branch needs. Courts be trained about guardianship cases. APS workers need to supply the information requested in an expedient manor, APS policy needs to be followed and APS supervision needs to scrutinize cases.”

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General Questions

General questions should be directed to Terry Sebastian, Director of Communication, at (502) 573-0050 or the address above.