

Marshaling Assets

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2020

The conservator of the estate has an enormous responsibility to protect all assets of the person placed under a conservatorship order to ensure the care of the ward is provided. Failure to effectively control and manage estate property creates fiduciary liability. (For purposes of this training, the term conservatorship is used to denote estate powers, conservator or fiduciary is used to name the person appointed with estate powers, and conservatee is used to name the person under a conservatorship order.)

Once appointed as a conservator, immediate steps must be taken to manage the personal care and financial affairs of the conservatee. The conservator must understand the extent of their authority and the nature and value of the conservatee's assets. In almost every state, the Court will require a conservator to post a surety bond before issuing Letters of Conservatorship (estate) unless the Court waives this requirement.

Conservators are required to collect assets, redirect income, protect assets and pay the expenses of the conservatee. This self-study guide provides information on where a conservator should begin; what steps to take to obtain Letters of Conservatorship; how to find information on assets and income and how bring them under control; and a sample checklist to follow.

Letters of Conservatorship

Once the Court grants a conservatorship appointment, the Letter of Conservatorship is proof of the fiduciary's authority. The Court grants authority based upon the Petition for Appointment. The Petitioner requests authority over the person, the estate or both. Authority of the estate is needed to marshal assets.

Prior to issuing Letters of Estate Conservatorship, the court requires the issuance of a Surety Bond unless the court waives the bond.

A conservatee's bond is like an insurance policy to protect the conservatee's estate. This bond protects the estate from the fiduciary's dishonesty, misconduct, or negligence. The premium for this bond is paid by the estate. If the court determines that there has been a loss to the conservatee's estate, the surety company pays the estate for the loss. The surety then attempts to collect the amount it paid out from the conservator's own money or property.

Errors and Omission Insurance (E&O): Fiduciary's errors and omission insurance is a type of professional liability insurance that protects the fiduciary against claims of inadequate work or negligent actions. The fiduciary pays the cost of this insurance. The insurance policy outlines the types of losses it will cover.

After the bond is provided to the Court, Letters of Conservatorship are issued. Determine how many Certified Copies of the Letters are needed to marshal assets. Certified Letters are needed for:

- Dealing with banks and credit unions.
- Stock brokerage accounts.
- Filing proof of conservatorship on real property (within the State) with the County Recorder.
- Redirecting income such as social security and pension funds.
- Dealing with Insurance companies (life insurance policies, medical/health insurance).
- Post office, if redirecting mail.
- Selling personal property such as vehicles, trailers, boats etc.

Certified Letters. At the bare minimum, two (2) Certified Letters of Estate Conservatorship are needed, one to close bank accounts and a second to redirect pension benefits. When sending out Certified Letters request the receiving party to return the letters. If the Court charges for each certified letter, re-using the same letters is a cost savings for the estate.

Finding Assets

The first step for family, private, non-profit and public fiduciaries is to conduct an investigation to identify all assets. How is this done? The best method is to ask the conservatee (if the conservatee is able) to disclose the location of bank accounts, investment accounts, insurance policies, title/ownership to any real property, valuable personal property, vehicles, prior tax returns and estate planning documents.

A partnership between the conservator and conservatee is a good start. If the conservatee is at his/her personal residence, the conservator can collect some of these assets for safekeeping. (How to inventory these items is discussed later.) If the conservatee is living outside his/her home, do an initial search (sometimes called cursory search) of the residence, to look for cash and documents.

Conducting a cursory search at the last residence of the conservatee is necessary to find any documentation of assets, such as credit card statements,, bank statements, insurance company information, brokerage

accounts, stock certificates, ownership documents “pink slips”, and any legal documents, such as wills, powers of attorney, deeds, or leases. Gather these documents for further investigation.

When a conservatee is unable to provide information, other methods are: (1) ask relatives for information, (2) review incoming mail or temporarily redirect mail, (3) look for copies of tax returns. Family members may be able to provide information on family structure, emergency contacts and pre-need mortuary/burial preferences.

Locating assets can be time-consuming activity. Be diligent at the beginning to avoid any errors. It’s important that once an asset is discovered, immediate steps are taken to control the asset.

Title Vesting

An important initial task is ownership verification. Pay close attention to how each asset is owned prior to taking possession of any asset. How ownership or “title” is vested in real property, personal property including vehicles, bank accounts and investment accounts is found in the documentation creating the respective asset. The various types of title vesting are listed below.

Fee Simple or sole ownership: A “fee simple” estate is one in which one owner is entitled to the entire property, with unconditional power of disposition during the owner’s life and passing on death to his/her heirs, beneficiaries, and/or legal representatives. The individual owner has the right to sell it, rent it, transfer it by will and use in any legal way. The conservator, standing in for the conservatee, likewise has authority to make the same transactions the conservatee would.

Joint Tenants: Joint tenants are more than one individual who own an asset by a joint title. Joint tenants have one and the same interest in the entire asset. This means they have equal ownership and rights to use the property. When one of the joint owners dies, the surviving owner or owners automatically continue to own the property. All joint owners must agree to sell or mortgage the property. The conservator must respect and protect the rights and interests of any joint owners.

Tenants in Common: Tenants in common are two or more individuals or entities who hold the same asset, typically real estate. Tenants in common can sell their respective interest and determine who they wish to inherit their interest. Surviving tenants do not inherit any greater interest or share in the property. The conservator can manage the conservatee’s common interest as would the conservatee.

Community Property: Nine states have special laws regarding property acquired during a marriage. The laws vary but the basic theory is that each spouse acquired an equal interest in real estate. When a spouse dies, only half of the marital property is inheritable because the surviving spouse already owns in his or her own right half of the marital property. As with joint property, the conservator must protect and respect the rights and interests of the community spouse.

Life Estate: An individual may have the right to use and possess an interest in real property for the duration of their life. Upon death, the life estate interest reverts to the designated property owner. The conservator has no greater rights or interests than has the conservatee with a life estate.

Protecting Assets

When an asset is located, take control of the asset to prevent any loss or illegal conversion. For example, guard against funds disappearing from bank accounts or a third party trying to change ownership interest in real property or borrowing money against the real property. Keep in mind that failure of effectively marshal and control assets creates potential liability.

To safeguard assets, consider freezing the assets and providing notice to third parties to avoid any losses.

Change of address (postal) – Redirect all of the conservatee’s mail to the fiduciary’s address. Postal change of address is filed with the local Post Office and can be either permanent or temporary.

The conservatee has a right to receive mail. The fiduciary balances the right of the conservatee to receive mail and the conservator’s need to learn about income and expenses. If the conservatee continues to reside in their personal residence, consider the conservatee’s preferences. Personal letters and cards are always given to the conservatee. If the conservatee is living outside the home, mail is redirected to the conservator for initial sorting, with personal mail promptly delivered to the conservatee.

The conservator sends correspondence to all known vendors (i.e. utility, credit card and insurance companies) requesting a change of address. Notice is given to all persons or institutions, including Social Security, who provide income to the estate.

Redirect Retirement Income

Conservators must apply to become the representative payee through all sources of pension/disability/supplemental income once Letters of Conservatorship are received. The governmental agencies do not recognize a state conservatorship appointment.

In order to access public or private employer pensions, the organization sending the pensions must be contacted for instructions to re-direct the income. Government pensions include state and local pensions.

When dealing with public employee or corporate pension funds, request information about health insurance coverage or life insurance plans provided by the pension fund. Some companies such as Boeing, Hughes, Disney and Unions (Teamsters etc.) provide lifetime medical insurance as an employee benefit. Life insurance policies can also be provided. Public employee pension plans allow the conservatee to purchase "Medigap" health insurance or purchase products such as life insurance policies, dental insurance or pet insurance.

Bank Accounts

The fiduciary reviews all bank account statements to determine if income is automatically deposited or expenses debited from the account. Be sure that any withdrawals made from the account do not interfere with the deposits or withdrawals until the both the income source is redirected to the conservatorship account and service providers have been contacted to send invoices to the fiduciary.

- a) If the conservatee is the sole owner, the fiduciary closes the account when no further income is automatically deposited or expenses debited.
- b) When opening a fiduciary bank account (either checking or savings) the title vesting includes the name of the fiduciary as conservator and the conservatee's name, using the conservatee's Social Security number.
- b) If the conservatee's account is a joint account, investigate and determine each joint owners' rights to the funds. The fiduciary must work with the joint owner to determine ownership interest in deposits. If the joint owner denies any interest in the account, obtain a letter from the joint owner indicating he/she has no interest in the account, then close the account. If the joint tenant has rights to the account, freeze the account until there is a determination of each party's ownership interest.
- c) Totten Trust – A bank account where the conservatee has named a beneficiary. In some states this type of bank account may be called a pay on death (POD) account. The funds in the account

belong to the conservatee but the conservatee has named a beneficiary to automatically receive the balance at the time of death. In order to close out a Totten trust or POD account, the fiduciary may need to request a court order allowing the conservator to close this account. The rationale is that a Totten trust is an estate-planning instrument.

- d) Certificates of Deposit - A certificate of deposit (CD) is an account held at a financial institution, for a particular term and at a specific rate of interest. If the conservatee owns any CDs, the fiduciary must determine whether the funds should remain on deposit until maturity or if it should be closed.

If it is decided to allow the Certificate to mature, the account must be closely monitored to ensure that funds are received as soon as the CD matures. If the Certificate is withdrawn before maturity, some banks will impose a penalty for early withdrawals.

Send bank inquiry letters prior to closing any bank account. Request information on how the bank account is titled or owned, the cash balance on the date of the fiduciary's court appointment and whether any beneficiaries are on the account. It is helpful to ascertain as quickly as possible if the bank will provide information on income that is deposited each month or what expenses are debited. Other information to seek is the existence of a debit card, credit card, or line of credit attached to the bank account.

Partial closing of the bank account allows time for the fiduciary to redirect income or contact vendors to redirect bills. Closing the account prior to the redirection triggers "stop" payments from the source of income and vendors.

In establishing a new bank account, the conservatee's name is always listed. The fiduciary places his/her name on the account and reports the relationship. Example: Mary Jones, conservator of the estate of Elizabeth Smith. The fiduciary recognizes the ownership of the account is the conservatee's. When setting up the account use the conservatee's social security number. The fiduciary's social security number is never disclosed.

The conservator should never commingle the assets of the conservatee with others. Separate accounts are always created.

Uncashed Checks

During a search of a conservatee's residence, the conservator may locate uncashed checks or stale dated checks. The conservator takes possession of the uncashed/stale dated checks and records taking possession on his/her

property record. Check are deposited in the conservator's bank account established for the benefit of the conservatee.

If an old uncashed check is discovered indicating that the check cannot be negotiated after 6 months from the date on the check, write to the sender to re-issue the check.

Investment Accounts

The fiduciary must be aware of the various financial instruments that are often found in investment and IRA (Individual Retirement Accounts). Here are some useful definitions:

Stocks: A stock is a general term used to describe the ownership certificates of a company. A share, on the other hand, refers to the stock certificate of a particular company. Having a particular company's share makes the owner a shareholder.

Stocks are of two types – common and preferred. The difference is that the holder of the former has voting rights that can be exercised in corporate decisions, while the later doesn't. However, preferred shareholders are legally entitled to receive a certain level of dividend payments before any dividends can be issued to other classes of shareholders.

Convertible preferred stock is a preferred stock with an option of converting into fixed number of common shares, usually any time after a predetermined date.¹

Bond is a fixed income investment in which an investor loans money to an entity (typically corporate or governmental) which borrows the funds for a defined period of time at a variable or fixed interest rate. Bonds are used by companies, municipalities, states and sovereign government to raise money and finance a variety of projects and activities. Owners of bonds are debtholders, or creditors, of the issuer.

Mutual fund is a professionally-managed investment scheme, usually run by an asset management company that brings together a group of people and invests their money in stocks, bonds and other securities.

An Exchange-Traded Fund (ETF) is a marketable security that tracks a stock index, a commodity, bonds, or a basket of assets. Although similar in many ways, ETFs differ from mutual funds because shares trade like common stock on an exchange. The price of ETF shares will change throughout the

¹ The following definitions are found at economic.times.indiatimes.com/definition.

day as they are bought and sold. The largest ETFs typically have higher average daily volume and lower fees than mutual fund shares which makes them an attractive alternative for individual investors.

While most ETFs track stock indexes, there are also ETFs that invest in commodity markets, currencies, bonds, and other asset classes. Many ETFs also have options available for investors to use income, speculation, or hedging strategies.²

Diversification is a risk management technique that mixes a wide variety of investments within a portfolio. The rationale behind this technique contends that a portfolio constructed of different kinds of investments will, on average, yield higher returns and pose a lower risk than any individual investment found within the portfolio.

Futures are financial contracts obligating the buyer to purchase an asset or the seller to sell an asset, such as a physical commodity or a financial instrument, at a predetermined future date and price. Futures contracts detail the quality and quantity of the underlying asset; they are standardized to facilitate trading on a futures exchange. Some futures contracts may call for physical delivery of the asset, while others are settled in cash.

Money Market Accounts - Banks, stock brokerage companies and investment firms may hold money market accounts. The interest paid on these accounts may vary according to the financial institution. These accounts may be closed without penalty. The decision on collection should be based upon the needs of the Estate and the interest rate being paid.

Traditional IRA: "A tax-qualified savings account for individuals that allows the account holder to set aside money for retirement. A traditional IRA differs from a Roth IRA in that the contributions to a traditional IRA are tax deductible at the time they are deposited, and both the principal and the income earned in the account are taxed as regular income when they are withdrawn as distributions." (www. Businessdictionary.com)

Roth IRA: "A tax qualified savings account for individuals that allows the account holder to set aside money for retirement. A Roth IRA differs from a traditional IRA in that the contributions to a Roth IRA account are fully taxable at the same time they are deposited and that both the principal and the income earned in the account are tax free when they are withdrawn as distributions." (www.Businessdictionary.com)

² www.investopedia.com/terms

401(k) Plan: "Employer-sponsored employee benefit scheme supported by the US tax code. Under this plan, a limited amount of an employees before tax salary is deposited into tax-deferred retirement plan where it accumulates free of tax. Withdrawals by the employee before he or she reaches the age of 59 ½ years attract penalties except in certain cases of hardship." (www. Businessdictionary.com)

457 Plan: "Plans of deferred compensation described in IRC section 457 are available for certain state and local governments and non-governmental entities tax exempt under IRC Section 501. They can be either eligible plans under IRC 457(b) or ineligible plans under IRC 457(f). Plans eligible under 457(b) allows employees of sponsoring organizations to defer income taxation on retirement savings into future years. Ineligible plans may trigger different tax treatment under IRC 457(f)

Investment Accounts can be managed by a stock brokerage firm, private financial advisor, a plan administrator held by a corporation, designated plan administration – public entities, or the conservatee. The fiduciary determines the type of account and reviews the information. The title vesting of the account is changed to reflect the existence of the conservatorship.

Bonds

Bonds - Typically the broker holds most bonds, so check with any financial advisors. Check safe deposit boxes in case the conservatee has any bonds stored there. Bonds may include treasury, municipal, savings or corporate bonds.

If U.S Savings bonds are located, verify the date of issue, the beneficiary and the value of the bond at maturity. If any bonds have reached their maturity, redeem them, as they will accrue no further benefit for the conservatee. Go to:

https://www.treasurydirect.gov/indiv/research/indepth/ebonds/res_e_bonds_eeredeem.htm

for instructions on how to redeem any savings bonds. A copy of Letters showing authority to make the redemption, will need to be presented.

Municipal Bonds are issued by government entities such as cities, school districts, water districts or corporations. Bonds may be issued over a recognized stock exchange or privately by the issuing entity. When "Bond" Certificates are found, the fiduciary verifies the value, how interest is paid and the principal payoff when the bond matures. If the conservatee has a municipal bond, contact the entity who issued it and change the title vesting and address to reflect the conservatorship.

Portfolio Investment Accounts

When a conservatee has an investment/portfolio account the fiduciary requests a copy of the investment summary with account detail. The statement identifies each asset, original purchase value (number of shares and purchase values). It is important to determine if the account is a managed account or if it was managed by the conservatee.

If the account is managed, talk directly to the broker managing the account to ascertain the risk model employed by the broker. In addition to ascertaining the model, change the title vesting to show the conservatorship relationship. Never change the title vesting to show the fiduciary's name alone. The conservatee's name is always listed as the owner.

When a conservatee owns stock evidenced by Stock Certificate, collect the Certificate for safekeeping. It is common to have brokerage agencies hold information on stock ownership. (Common ones include Fidelity, Morgan Stanley, or banks.)

A fiduciary has an option of keeping the investment account with the conservatee's original broker or transfer the account to another broker. If the investment account remains with the original investment company, change the title vesting to show the conservatorship relationship and redirect the statement.

Whether the account is maintained or transferred, always check the rating of the broker through FINRA (Financial Individual Regulatory Authority) at <https://brokercheck.finra.org/>. If the fiduciary discovers a problem with a broker, complaints should be made to FINRA.

The conservator ascertains the value of the investment account as of the date of appointment. This information allows the conservator to have a value for the Inventory and Appraisal (if required by the Court) or the beginning balance of a Court Accounting.

The account statement discloses if a company (stock or mutual fund) sends interest or dividends to the account. Determine if these proceeds are sent directly to the conservatee or reinvested into the account.

IRA Accounts

When the fiduciary verifies the existence of an IRA pay particular attention to the title vesting, listing of assets and beneficiaries. If the conservatee is 70 ½ or older determine the minimum annual withdrawal requirements and make sure the distribution is timely made. If there is a failure to ensure

timely RMD distributions or withdraw money prior to age 59 ½, the distribution is subject to substantial penalties and taxes (except in 2020).

Similar to Investment Portfolio's, the fiduciary keeps the IRA with the original brokerage firm or has the option of transferring the IRA to another firm. In either case, the fiduciary changes the title vesting to include the relationship of the conservator.

Brokerage agencies will require Letters of Conservatorship (certified within 60 days of a request) be provided to communicate with a conservator about the conservatee's account. Additionally, the broker can require documents be signed with a Medallion Signature.

A Medallion Signature Guarantee is a special signature guarantee used in the transfer of securities. It is a guarantee by the transferring financial institution that the signature is genuine, and the financial institution accepts liability for any forgery. Signature guarantees protect shareholders by preventing unauthorized transfers and possible investor losses. They also limit the liability of the transfer agent who accepts the certificates. They are offered through a financial firm like a broker, bank, or credit union that participates in one of the following Medallion Guarantee programs:

- STAMP – Securities Transfer Agents Medallion Program.
- SEMP – Stock Exchange Medallion Program
- MSP – New York Stock Exchange, Inc. Signature Program (<https://uslegal.com/>)

Annuities

If a conservatee owns an annuity, contact the insurance company to determine the type of annuity, value, who is entitled to receive the funds and if the conservatee is the recipient, redirect income.

Gain an understanding of the different types of annuities:

Here is how they work:

- Fixed annuity. The insurance company promises a minimum rate of interest and a fixed amount of periodic payments. Fixed annuities are regulated by state insurance commissioners.
- Variable annuity. The insurance company allows the annuitant to direct their annuity payments to different investment options, usually mutual funds. The payout will vary depending on how much is put in, the rate of return on the selected investments, and expenses. The SEC regulates variable annuities.

- Indexed annuity. This annuity combines features of securities and insurance products. The insurance company credits the annuity with a return that is based on a stock market index, such as the Standard & Poor's 500 Index. Indexed annuities are regulated by [state insurance commissioners](#).

Life Insurance Policies

Upon discovering an insurance policy, the fiduciary verifies the, ownership, type of life insurance, face value, cash surrender value, status of premium payments, and beneficiaries.

It is important to determine the cash surrender value and the beneficiaries. If the conservatee exhausts cash and the fiduciary needs to apply for Medicaid the cash surrender value is included in evaluating resource limits.

Another issue that might arise is whether the estate is unable to afford paying the premiums. If this occurs, one option is to ask the beneficiaries to pay the premium.

To help decipher any insurance policy, here are some important terms:

Certificate: A document provided to a person insured under a group insurance policy that provides evidence that the coverage exists.

Face Amount: The amount to be paid to the beneficiary when the insured dies. It will be reduced by any unpaid policy loans and interest on those loans and may be increased by any dividends.

Grace period: A period of time (usually 31 days) after the premium due date when an overdue premium may be paid without penalty. The policy remains in force throughout the period.

Insured: The person whose life is covered by a life insurance policy, the policy owner; the policy holder.

Loan value: The amount which can be borrowed by the policy owner from the company using the value of the policy as collateral. Usually the interest rate payable on the loan varies based on an index defined in the policy.

Ownership: All rights, benefits, and privileges under a policy controlled by the owner, who is usually the insured. Ownership may be transferred or assigned to someone else by written request of the current owner.

Paid up insurance: A life insurance policy where all premiums have already been paid, with no further premium payment due.

Policy: The printed document issued to the policy owner by the company stating the terms of the insurance policy.

Premium: The payment a policy owner is required to make an insurance company to purchase insurance coverage and keep the policy in force.

Reinstatement: The restoring of a lapsed or surrendered policy to full force and effect. The company requires evidence on insurability and payment of all amounts necessary, including interest to put the policy into the condition it would have been in had the lapse or surrender not occurred. The company is not obligated to reinstate a policy.

Term life is a form of life insurance having no cash surrender value and generally furnishing insurance protection for only a specified or limited period of time.

Cash surrender value is the amount which the insurer will pay (usually to the owner) upon cancellation of the policy before death of the insured or before maturity of the policy.

Insurance for Long Term Care

If the conservatee has a long-term care policy, it is important to fully understand the type of policy the conservatee owns, what care services are covered and if the conservatee owes any premiums.

Long-term insurance provides financial support for a person's care in cases of chronic illness or disability. Policies are available with a wide range of coverage options including community health care, nursing home care, and home support.

Generally, long-term insurance operates as an indemnity program for potential nursing home and/or home health-care costs. Additionally, many policies provide coverage for adult daycare, for care delivered in an assisted-living facility, and for hospice care. Rarely are all costs covered.

Some long-term care policies are pure indemnity programs which pay the insured a daily benefit contracted for by the insured. The pure indemnity program pays the full daily benefit regardless of the cost of care that the insured receives per diem.

Other long-term care policies pay for covered losses, or the cost of care actually received each day, up to the selected daily benefit level. This type of policy is also referred to as a "pool-of-money" contract.

Benefits under a long-term care contract are triggered in a tax-qualified policy when the insured becomes unable to perform a specific group of activities associated with normal daily living or has a cognitive impairment that requires supervision.

Non tax-qualified policies usually offer more liberal eligibility criteria, which includes long-term benefits because of a medical necessity.

Intellectual Property

In general terms, intellectual property is any product of the human intellect that the law protects from unauthorized use by others. The ownership of intellectual property inherently creates a limited monopoly in the protected property. Intellectual property is traditionally comprised of four categories: patent, copyright, trademark, and trade secrets.

The law of intellectual property is commonly understood as providing an incentive to authors and inventors to produce works for the benefit of the public by regulating the public's use of such works in order to ensure that authors and inventors are compensated for their efforts.

If it is determined that the conservatee receives income from a copyright or patent, work with an attorney to determine who to contact to redirect income and provide the value.

Wages

Wages includes severance pay, disability, vacation, or sick leave owed to the conservatee. If the conservatee is actively working and is paid for his/her services, some states prohibit the conservator from collecting wages. Discuss the issue with an attorney.

If the conservatee is an employer, verify if there is an employment contract, and if the employee is an independent contractor, or works for an agency. If the employee works directly for the conservatee look for documentation for workers compensation, withholdings, employer ID number issued by the state and returns.

Medical Insurance:

Locating proof of medical coverage is important for ensuring the medical needs of the conservatee are met. Look in wallets, desk drawers for any

insurance cards. Check credit card statements or check registers for signs of premium payments.

Contact the medical insurance provider to redirect notices to the fiduciary. Obtain patient insurance numbers and request duplicate identification cards.

Some companies/governmental entities provide medical insurance to their retirees. If this applies, contact the company/government entity to report the change of address and relationship.

If the conservatee has no medical insurance, purchase it through a state's Health Insurance Marketplace or apply for government medical coverage through Medicare or Medicaid/MediCal. Failure to maintain medical insurance for the conservatee could create liability for the conservator.

While every state's Medicaid is somewhat different, most states provide a core set of health benefits, including doctor visits, hospital care, immunization, pregnancy-related services and nursing home care for those who are eligible.

The Affordable Care Act ensures that all Marketplace health plans offer what is known as "essential health benefits." These 10 comprehensive services include the following categories:

- a) Outpatient ambulatory services.
- b) Emergency services.
- c) Hospitalization.
- d) Maternity and newborn care.
- e) Mental health and substance use disorder service including behavioral health treatment.
- f) Prescription drugs.
- g) Programs such as physical and occupational therapy known as rehabilitative and habilitative services) and devices.
- h) Laboratory services.
- i) Preventive/wellness services and chronic disease management.
- j) Children's services, including oral and vision care.

Here are some basics about Medicare coverage:

Medicare Part A (health insurance) covers hospital services including semi-private rooms. Meals, general nursing, drugs as part of the inpatient supplies. Part B pays for physician services. Part D covers prescription drugs.

Medigap plans: Medicare does not pay the full cost of care, so a Medicare Supplement plan or Medigap plan pays for some of the difference. Medigap policies are offered through private insurance companies. These policies help

pay for some of the hospital and medical costs that Original Medicare doesn't cover, such as copayments, coinsurance and yearly deductibles. In order to purchase Medigap coverage, Medicare must remain in effect.

Medicare Part D: Part D insurance, also purchased through private insurance companies, provides assistance with the cost of prescription drugs.

Medicare Advantage plans: An alternative to Original Medicare is to purchase a Medicare Advantage plan through a private insurance company. Most MA plans offer additional coverage, such as vision and dental, but require that beneficiaries use only in-network providers, hospitals, and lab services.

Deeds of Trust/Rental Property

When a conservatee is receiving income from a Deed of Trust or mortgage, the fiduciary should locate the original deed of trust that indicates the value, interest and term of the note. If it is not found in the conservatee's papers, get a copy at the local register of deeds.

Track the balance of the principal still owing and interest paid.

The fiduciary is responsible for notifying the persons paying off the Deed of Trust (sometimes referred to as mortgage) to send the income to them. Checks or money order should reference the name of the conservatee and the property address.

If the conservatee owns real property and it is rented, locate the existing rental agreement to determine security, cleaning deposits and rent. The conservator directs the tenant to redirect rent to them noting the property address and amount. If there are multiple units or duplexes/fourplexes, the payment should note the specific unit.

Safe Deposit Boxes

If the ward/conservatee owns a safe deposit box, close the box after inventorying all the contents. Make an appointment with the bank representative to close the box. If the box key cannot be located, make arrangements with the institution where the box is held to obtain a locksmith to drill the box and obtain information on the cost to drill the box. The cost of "drilling the box" is an allowable expense against the estate. There must be a witness to verify the contents of the safe deposit box.

The conservatee may decide to keep the safe deposit box to store valuable personal property. In that case, add the name of the conservator the conservatee's name remains on the box. If the conservatee does not have a

safe deposit box, but owns valuable personal property such as jewelry, coins or other items, the conservator may consider opening a safe deposit box.

Real Property

Real Property includes land, houses, condominiums, townhouses, mobile homes that are attached to land and are not located in a mobile home park, apartment buildings and commercial buildings of any sort.

In most cases, real property is the most valuable asset owned by the conservatee. When marshaling real property, the items to check are occupancy, security of the premises, general condition, title vesting, insurance coverage, status of all the utilities, status of the property taxes and if there are homeowners' association costs.

If the property is vacant, verify the insurance coverage. Many insurance companies will not insure properties that are vacant. Obtain special insurance for vacant property. If the property has no insurance, purchase coverage as soon as possible. It is also prudent to file a copy of Letters of Conservatorship with the local County Recorder and contact the Tax Collector to redirect tax statements.

Security of the Property

If the conservatee resides in the home, the premises must be inspected for safety and overall condition. Take pictures of the premises to show the general condition of the home. Ensure all electrical, heating, plumbing and water supplies are in good working condition.

If the property is vacant, inspect it to ensure the premises are secure and safe from vandalism. Make sure all doors and windows are locked and if broken, hire a contractor to repair. Check water supply to reduce risks from potential fires.

The fiduciary records letters of conservatorship against the real property with the County Recorder where the property is located to provide notice to all third parties of the existence of a conservatorship order.

Conservatorship orders on real property are recognized in the State where the property is located. If the real property is located in another state, take steps in that other state to have authority recognized if needed. Most states have a uniform process to register orders from another state.

Status of insurance coverage

Homeowners' insurance policies are reviewed to ensure the insurance remains "in force" and the coverage is reasonable. Homeowners insurance covers fire damage, damages to the structure due to plumbing and electrical problems, general liability coverage for persons who are injured on the premises. In some "high risk" areas, coverage for fires in rural areas, flood or earthquake is not included. Be sure to note the status of the premiums and when payments are due.

Review the status of property taxes to make sure they have been paid and when next payment is due. Notify the appropriate taxing authority to redirect the tax bill.

Personal Property

Personal Property is everything that is not real property. This includes fine jewelry, unique coins, art pieces, books, prints, collectables, firearms, furniture and furnishings, household items and personal effects.

At the onset of the conservatorship the fiduciary conducts an initial search and takes possession of small valuable items such as fine jewelry, unique coins, collectables and art pieces. These items are stored in a safe, safe deposit box opened by the fiduciary or inside storage units. (Outside storage facilities are often subject to theft.) Later some of these items are professionally appraised to ascertain market/replacement value.

When first entering the conservatee's personal residence taking photos is prudent to avoid any future misunderstanding of what was actually in the home.

Vehicles:

Identify and take photographs of all vehicles, including cars, motorcycles, trucks, off-road all-terrain (ATV), and mobile homes. The fiduciary obtains copies of proof of ownership, loan information if applicable, registration, vehicle identification number, and license plate number.

Once identified, determine if the registration is current and the vehicle is insured. The auto insurance policy is reviewed for coverage and payment status. If the vehicle is not driven, it is prudent to the department of motor vehicles and the insurance company.

If the conservatee drives, check to see that the drivers' license is current and the driver is insured.

Furniture and Furnishing

All furniture and furnishing located in the conservatee's premises are inspected and photographed. When reviewing the furniture and furnishings, determine if anything requires storage or needs to be discarded due to its poor condition. If the property is located in an apartment or other short-term residence, make immediate decisions about what to do with the contents. The conservator takes possession of small valuables to avoid theft or loss. If firearms need to be secured, only use someone well trained in handling firearms, such as a local law enforcement agency or firearm dealer.

Documents

There is a long list of original documents that need to be collected and stored in a firesafe cabinet. Look for birth certificates, marriage licenses, divorce papers, settlements, titles to personal property such as automobiles and boats, deeds, deeds of trust, trusts, Social Security cards, Medicare cards, and other medical insurance cards, estate planning documents, advance directives, and powers of attorney. Also look for burial plans, burial insurance policies and plots.

All documents should be carefully reviewed to determine if any money needs to be collected or is owed. Typical sources are spousal support, income from lawsuits and income from a trust.

Powers of Attorney

It is possible to have a conservatorship of the estate and a financial power of attorney in place at the same time. Discuss with an attorney to determine if both instruments continue to co-exist, or if the appointment of a conservator affects the power of attorney, or if there is a reason to petition the Court for authority to terminate the Power of Attorney.

ATM/Credit Cards

Depending upon the abilities of the conservatee, the conservator has option of allowing the conservatee to maintain some of these cards if used appropriately. The conservator cancels the older cards and request re-issuance of the cards to reflect the conservatorship.

If the conservatee is unable to use the cards, cancel all cards. Blank checks are destroyed since the conservator opens up a new fiduciary account. Expired cards and blank checks are destroyed.

Pets

The conservatee may have a special relationship with any pets. As the estate conservator, address the needs and placement of the pet. If the conservatee resides at home, budget for veterinary care and licensing. If the conservatee is going to move into a residential setting, the personal and estate conservator need to work closely together to determine the best options for the pet. Options to discuss with the conservatee could include finding a placement where the pet is allowed, having a friend care for the pet, or adopting the pet out. (If at all possible, use no-kill shelters.) Take action quickly to meet the needs of the pets.

Trust/Wills Documents

Trust and will documents are securely placed in a locked fireproof cabinet for safekeeping. Wills should be reviewed to determine the named executor, identify any personal property that that is to be bequeathed, the names and addresses of all beneficiaries, and whether any pre-need burial arrangements have been made or preferences specified.

In regard to a Trust, the fiduciary must ascertain the type of Trust; Trust Settlers; Trust assets; Trust funding; Beneficiaries; named Trustee and named Successor Trustees. Review the trust instrument to determine if it is an active "living trust" or "testamentary trust. If an active "living trust" the fiduciary determines what assets have been placed in the trust. They are not part of the conservatorship estate. The conservator notifies the trustee of the existence of the conservatorship

Income Taxes

If the conservatee's personal income tax returns are located, they should be reviewed to see if all sources of income have been identified and have had changes of address issued. Collecting old income tax returns provide valuable information on sources of income and assets.

Business Interests

In the event the conservatee owns an interest in business, the fiduciary must determine the type of ownership, holdings, assets, status of all taxes, source of income and if there are current expenditures.

Managing business interests are complex and the initial steps includes creating a team to manage and advise all aspects of the business. This may include consultants, the corporation's attorneys and accountants to recommend if the business continues or is sold.

Assets that Aren't Part of the Conservatorship Estate

Certain assets are income of the conservatee that are not part of the conservatorship estate. These assets are state specific, so check with an attorney. Typical assets are current salary or wages of the conservatee, assets in a trust and community property of a married conservatee. The conservator is not responsible for these assets.

Development of an Estate Plan

After all the assets are collected or known, the fiduciary develops an estate plan taking into account the needs of the conservatee. This includes cost of housing, food, medical care, clothing, social and educational activities, and the cost of maintaining any real property including necessary maintenance and upkeep of the residence.

After all the needs are identified, the conservator analyzes source of income, assets, and expenses. This analysis is necessary to determine if any assets need to be sold.

Some jurisdictions may require the fiduciary to file an Estate Plan with the Court. When developing a plan, it should be comprehensive and include the known expenses of the conservatee for at least two years.

Conclusion

Effective marshaling of assets allows the conservator to administer the estate. Marshaling assets is an ongoing responsibility as assets not initially located may be located later. If thoroughly completed, liability for the conservator is reduced.

PROPERTY RECORD (SAMPLE)

Date: _____
Location _____

Prepared by: _____

(only items where the conservator takes possession)

Number	Item	Estimated Value
1	Cash found at:	
2	US Savings Bond: \$50 Issued to: John Doe Date	
3	Stock Certificate Company. CUSIP # Shares	
4	Coin collection 1861 "S" \$20.00 gold piece	
5	Ladies yellow metal ring with two clear stones	
6	Miscellaneous papers: Birth certificate, marriage certificate, immigration papers, VA papers.	

Marshaling Assets Check List (Sample)

Date requested	Date completed	Activity
		Create permanent case file
		Change of Address
		Bank inquiry Letter
		Bank closure Letter
		Application for SSA payee and duplicate SSA card
		Application to be payee for private/public pension
		Note to Brokerage Account
		Bank closure letter
		Letters to Vendors
		Inquiry about Life Insurance Policy
		Letter to health insurance provide – notice and duplicate health ID card
		Request Property Profile on Real. Property
		Request to warehouse staff (internal or contract) to store personal property
		File Letters of Conservatorship with the County Recorder
		Letter to homeowner insurance company regarding status of insurance.