

Obtaining Temporary and Permanent Guardianship Policy

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Any information referenced within this document is considered to be a part of this policy with the exception of the "related resources" section.

Summary:

The Division of Milwaukee Child Protective Services (DMCPS) pursues temporary guardianship of a child when the child's parent is unavailable or unwilling to consent to necessary services or medical treatment for the child pursuant with Wisconsin Statutes §54.40 and §48.023. Permanent guardianship of a child is pursued when a parent is not available for an extended period of time and is, therefore, unable to meet the child's needs pursuant with Wisconsin Statutes §54.34

This policy establishes the process for obtaining temporary and permanent guardianship and obtaining consents from the DMCPS when guardianship has been granted.

Policy:

Temporary guardianship may be sought by an Initial Assessment Specialist (IAS) or Ongoing case Manager (OCM) in the following situations:

- The parent/guardian cannot be located.
- The parent/guardian refuses to provide consent for an imperative service(s) for the child. Services may include necessary medical care, Wraparound, or counseling.
- The parent/guardian is deceased.
- The court orders services to which the parent refuses to consent or fulfill.

Temporary guardianship is sought when a child is in need of a specific service, often within a short timeframe. If temporary guardianship is granted, the DMCPs has the authority to consent to the specific service(s) requested in the temporary guardianship order.

In contrast to temporary guardianship, **permanent guardianship** is sought by an OCM in the following situations:

- When it is known the parent/guardian is not available or willing to consent to services or address the needs of the child;
- When the parent/guardian has not made themselves available for an extended period of time, or,
- When the parent/guardian is deceased.

Permanent guardianships are not conducive to securing services or consent for a child within a short timeframe, as the initial court hearing may be scheduled at least 30 days from the filing date (§54.44).

Procedures:

The five sections of this policy detail the process for obtaining temporary and permanent guardianship by ongoing case management and initial assessment:

- Ongoing Case Management: Requesting Approval to Pursue Temporary or Permanent Guardianship from the DMCPs (pg. 2)
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Ongoing Case Management: Requesting Approval to Pursue Temporary or Permanent Guardianship from the DMCPs

1. The OCM completes the required paperwork noted below:
 - a. If pursuing **temporary guardianship**, the *Temporary Guardianship Worksheet* in eWiSACWIS must be completed detailing the specific services that the child needs. See job aid for additional guidance.
 - b. If pursuing **permanent guardianship**, the *DMCPs Permanent Guardianship Request Form* must be completed and the original **notarized GF150 form: Uniform Child Custody Jurisdiction and Enforcement Act Affidavit (UCCJEA)** must be provided.
 - i. If the parent/guardian is refusing to consent to services, the OCM must document at least three efforts to obtain consent from both parents.
 - ii. If the OCM is unable to locate the parent, they must document their diligent efforts to locate the parent. More than one attempt to contact each parent must be made and

may include the following, depending upon the urgency of the situation:

1. Trying the last known address
 2. Calling collaterals or relatives
 3. Using CCAP or online search engines
2. The OCM must send the completed worksheet/form(s) to their supervisor for approval. Once approved, the supervisor must obtain their program manager's approval.
 3. If approved by an Ongoing program manager, the program manager sends the worksheet/form(s) to the DMCPs at (DCFDMCPsconsents@wisconsin.gov) and designated DMCPs attorney with the subject line: "Temporary Guardianship Request" or "Permanent Guardianship Request" - (Dash) "the initials of the child in question." The following must be noted in the email:
 - a. Whether the request is urgent or non-urgent and the associated timeline
 - b. An explanation of the situation and other important details (if not already noted in the worksheet or questionnaire)
 4. The DMCPs administration reviews the request
 - a. If temporary guardianship is requested, the DMCPs Quality Operations bureau director, designated DMCPs attorney, and the DMCPs medical director review the worksheet to ensure sufficient information is provided. This team considers several factors including whether the case is more suitable for a permanent guardianship and who is suitable to serve as guardian.
 - i. Within 72 hours, the DMCPs Quality Operations bureau director sends an temporary guardianship approval notification to the Ongoing program manager, OCM, OCM's supervisor, designated DMCPs attorney, and the DMCPs medical director or requests additional information to issue a decision.
 - b. If permanent guardianship is requested, the following occurs:
 - i. The attorney reviews the documents for accuracy in order to complete the requisite court paperwork. Should the document(s) not be properly completed, the DMCPs attorney notifies the requestor to make appropriate corrections and to resubmit the document(s).
 - ii. Designated DMCPs administration schedule a permanent guardianship staffing within 2-3 weeks of receiving the request that involves the DMCPs designated attorney, DMCPs administrator or designee, and the OCM, OCM's Supervisors, and/or Ongoing program manager.
 - iii. During the staffing, the case is discussed, the permanent guardianship petition (provided and drafted by the DMCPs attorney) is reviewed, and approval is provided by the DMCPs administrator or designee.

Ongoing Case Management: Submitting the Petition for Temporary Guardianship

1. After receiving DMCPs approval, the OCM sends the *Temporary Guardianship Worksheet* (in Word document format) to the District Attorney's (DA) office (childwelfaremilwreferrals@da.wi.gov) and ensures the worksheet is completed in eWiSACWIS.
2. The DA's office completes the *Order on Petition for Temporary Guardianship (GN3250)* and obtains a court date.
3. After the DA's office informs the OCM of the court date, the OCM provides notice to the parent/guardian and attends the temporary guardianship court hearing to testify.
4. If temporary guardianship is granted, the OCM must update the child's legal record to reflect that there has been a Temporary Guardianship Petition ordered; upload the order to eWiSACWIS (under legal images); and, create a case note that details the legal action.
5. Once the temporary guardianship order is granted, the OCM must send the *DMCPs Consent Request Form (DCF-F-5237-E)* and any related documents to DCFDMCPsconsents@wisconsin.gov within one business day. The *Consent Request Form* includes the following information:
 - c. Expiration date of order
 - d. Any anticipated plans and/or need for reauthorization of the order
 - e. Reason for guardianship
 - f. Why consent is being requested
 - g. Whether this is a medically generated consent and detailed description of the procedure, surgery or medication being requested.
5. When the consent request is received by the DMCPs, the designated DMCPs Office Associate (OA) will track each temporary guardianship order and upload the consent request form(s) to eWiSACWIS.
 - a. Temporary guardianship orders are issued for 60 days. Twenty days prior to the temporary guardianship order expiring, the DMCPs OA will notify the Ongoing program manager of the impending temporary guardianship expiration.
6. When the OCM receives notification that the temporary guardianship order is expiring they must consider doing one of the following actions (below) and then notify DMCPs (DCFDMCPsconsents@wisconsin.gov) no later than 5 business days before the order expires:
 - a. Initiate an extension request for 60 days
 - i. The process for obtaining an extension is the same as the initial request for approval for temporary guardianship as outlined above.
 - b. Allow the order to expire (as it is no longer needed)
 - c. Determine whether or not to seek permanent guardianship
 - i. *Note: if the OCM wishes to pursue permanent guardianship an extension will likely be needed as permanent*

guardianship initial court hearings are typically scheduled at least 30 days after the filing date.

7. If additional consents are needed during the temporary guardianship, the OCM must send an updated *DMCPS Consent Request Form* to DCFDMCPSconsents@wisconsin.gov.
 - a. Non-emergency consents must be received at least 72 hours before consent is needed.
 - b. As soon as it is determined medical or mental health treatment is needed the DMCPS must be notified and a consent form must be submitted. If in-patient hospitalization has occurred, a courtesy email to DCFDMCPSconsents@wisconsin.gov is required.

Documentation: The OCM must complete the *Temporary Guardianship Worksheet* in eWiSACWIS, update the child's legal record, and upload the Temporary Guardianship Order to eWiSACWIS under the legal window. The DMCPS designated OA will upload the consent request form to eWiSACWIS.

Ongoing Case Management: Submitting the Petition for Permanent Guardianship

1. Once the petition is submitted to the Milwaukee Children's Court Clerk of Courts by the DMCPS attorney, the designated DMCPS attorney must inform the OCM, OCM's supervisor, and Ongoing program manager of the initial court date. The DMCPS attorney sends official notice to all parties for the initial guardianship hearing. Ten days' notice is required [§54.38(2)(b)]. The DMCPS attorney may request the assistance of the OCM/OCM supervisor to provide notice to some parties.
 - a. The OCM must attend the guardianship court hearing to testify.
2. If permanent guardianship is granted, the OCM must update the child's legal record, upload the order to eWiSACWIS (under the legal window), create a case note, and notify DMCPS at DCFDMCPSconsents@wisconsin.gov that the order was granted. If a consent request is needed it should be included in the email to DMCPS.
3. When the notification is received by DMCPS, the designated DMCPS OA will track each permanent guardianship order and, if applicable, upload the *Consent Request Form* to eWiSACWIS.
 - a. Note: Permanent guardianship orders only expire when the child turns 18 years old. If the child remains on a CHIPS order beyond their 18th birthday they are legally able to consent to (or decline) the services being offered to them.
4. If additional consents are needed during the permanent guardianship, the OCM must send a *Consent Request Form* to: DCFDMCPSconsents@wisconsin.gov.
5. A request for consent must be received in compliance with the following timeframes and requirements:
 - a. Travel outside the country: 45 days' notice from date approval is needed.

- b. Wrap-around disenrollment: Detailed information about the reason for disenrollment must be provided within the consent form.
- c. Medical or mental health treatment: As soon as it is determined treatment is needed the DMCPs must be notified and a “Consent Request Form” must be submitted. If in-patient hospitalization has occurred, a courtesy email to DCFDMCPSconsents@wisconsin.gov is required.

Documentation: The OCM must update the child’s legal record to reflect Permanent Guardianship; and must upload the completed the *Permanent Guardianship Order* and the *GF150 Form UCCJEA* to eWiSACWIS under the legal window. The DMCPs designated OA will upload the *DMCPs Permanent Guardianship Request Form* to eWiSACWIS.

Initial Assessment: Requesting Temporary Guardianship

1. Determine whether the reported issue is a CPS matter for which DMCPs would have jurisdiction (i.e. information supports opening a case with DMCPs)
2. The IAS must determine if the DMCPs has custody of the child.
 - a. If the DMCPs does not have custody, IAS must determine the information supports that DMCPs has authority to take TPC. TPC must be authorized before proceeding with the subsequent steps noted below.
 - b. If the DMCPs has custody, follow the steps noted below:
3. The IAS completes the *Temporary Guardianship Worksheet* in eWiSACWIS, detailing the specific service(s) that the child needs, and submits the worksheet to their Initial Assessment Supervisor and then an Initial Assessment Program Manager for approval.
 - a. If the parent/guardian is refusing to consent to services, the IAS must document at least three efforts to obtain consent from both parents.
 - b. If the IAS is unable to locate the parents, they must document their diligent efforts to locate the parents. More than one attempt must be made to contact each parent, such as trying the last known address, calling collaterals or relatives, using CCAP or other online resources.
4. After receiving a supervisor’s and a program manager’s signature, the IAS sends the *Temporary Guardianship Worksheet* (in word document format) to the DA’s office (childwelfaremilwreferrals@da.wi.gov) and must cc DCFDMCPSconsents@wisconsin.gov. The worksheet must be filled out completely and the IAS must ensure the worksheet is completed in eWiSACWIS.
5. The DA’s office completes the *Order on Petition for Temporary Guardianship (GN3250)* and obtains a court date.

6. After the DA's office informs the IAS of the court date, the IAS provides notice to the parent/guardian and attends the temporary guardianship court hearing to testify.
7. If temporary guardianship is granted, the IAS must update the child's legal record and upload the *Temporary Guardianship Court Order* to eWiSACWIS under the legal window.
8. Within one business day of the temporary guardianship court order being granted, the IAS must send the *DMCPS Consent Request Form* to DCFDMCPSconsents@wisconsin.gov to obtain consent from the DMCPS designee (Quality Operations bureau director). The *Consent Request Form* includes the following information:
 - a. Expiration date of order
 - b. Any anticipated plans and/or need for reauthorization of the order
 - c. Reason for guardianship
 - d. Why consent is being requested
 - e. Whether this is a medically generated consent and detailed description of the procedure, surgery or medication being requested.
9. When the case is transferred, the IAS and OCM must discuss the status of the temporary guardianship order (which expires after 60 days unless an extension is sought and granted for an additional 60 days).

Documentation: The IAS must complete the *Temporary Guardianship Worksheet* in eWiSACWIS, update the child's legal record, and upload the *Temporary Guardianship Order* to eWiSACWIS under the legal window. The DMCPS designated OA will upload the *Consent Request Form(s)* to eWiSACWIS.

Initial Assessment After-Hours

During after hours, a temporary guardianship may need to be initiated to secure emergency medical care or services for a child. This process is detailed below:

1. Determine whether the reported issue is a CPS matter for which DMCPS would have jurisdiction (i.e. information supports opening a case with DMCPS)
2. The IAS must determine if the DMCPS has custody of the child.
 - a. If the DMCPS does not have custody, IAS must determine the information supports that DMCPS has authority to take TPC. TPC must be authorized before proceeding with the subsequent steps noted below.
 - b. If the DMCPS has custody, follow the steps noted below:
3. The IAS must gather all the information required on the *Temporary Guardianship Worksheet* and notify the on-call after-hours supervisor for approval. If the request is for emergency medical care, the IAS must also notify and consult the DMCPS medical director or other DMCPS designee.
4. If approved by the IA Supervisor, the IA Supervisor contacts the on-call Milwaukee Children's Court judge for verbal approval of the temporary

- guardianship and shares the information gathered for the temporary guardianship worksheet.
- a. Note: the on-call judge and their contact information are detailed in the after-hours schedule email alert sent by the designated DMCPs OA. A duty judge list is provided by Children's Court to the designated DMCPs OA throughout the year.
 - b. The IAS may also need to send the request in writing (via email) to the judge and cc the DMCPs on-call supervisor, on-call program manager, and medical director, if requested by the judge.
 - c. The medical provider may request the judge's contact information to confirm with the judge by phone that temporary guardianship has been granted.
5. Once the judge verbally approves the temporary guardianship, the IAS will notify the medical or service provider and the provider will send the IAS a consent form. The IAS must complete the consent form and the on-call supervisor will sign the form on the DMCPs' behalf if required by the medical provider; otherwise this will be done the next day.
- a. The IAS must create a case note that details the legal action and consent(s) given.
6. After emergency temporary guardianship has been obtained and consent has been provided for emergency services the following must occur:
- a. If the case is not open in ongoing, the IAS must send the completed *Temporary Guardianship Worksheet* and Temporary Physical Custody documentation to the judge the next business day. The IAS must also inform the DA's office (childwelfaremilwreferrals@da.wi.gov) about what has occurred and must cc DCFDMCPsconsents@wisconsin.gov.
 - b. If the case is open with Ongoing, the IAS sends a notification email the next business day to the assigned OCM, supervisor, and program manager and forwards the information and paperwork the IAS has generated.
 - i. The assigned OCM then sends temporary guardianship worksheet and Temporary Physical Custody documentation to the judge the next business day and informs the DA's office (childwelfaremilwreferrals@da.wi.gov) about what has occurred and must cc DCFDMCPsconsents@wisconsin.gov.

Documentation: The IAS or OCM must complete the *Temporary Guardianship Worksheet* in eWiSACWIS and the IAS or OCM must upload the *Temporary Guardianship Order* to eWiSACWIS under the legal window. If the case is open with ongoing, the OCM is responsible for ensuring the documentation is completed.

Responsibilities:

IAS, IA supervisor and program manager

OCM, OCM's Supervisor, and program manager

DMCPS bureau director
DMCPS medical director and designated DMCPS attorney

Related Resources:

[DMCPS Policies](#)

- IA 9.00, IIHS 2.00, OCM 4.00 Medical evaluations for children

[DMCPS Forms and Job Aids](#) on DCF website

- The Order on Petition for Temporary Guardianship ([GN3250](#))
- Temporary Guardianship Request Worksheet (available in eWiSACWIS)
- [Temporary Guardianship Request Worksheet Job Aid](#)
- DMCPS Consent Request Form ([DCF-F-5237](#))
- DMCPS Permanent Guardianship Request Form ([DCF-F-5238](#))