



*The Guardian* is a quarterly newsletter published by the Greater Wisconsin Agency on Aging Resources' (GWAAR) Wisconsin Guardianship Support Center (GSC).

The GSC provides information and assistance on issues related to guardianship, protective placement, advance directives, and more.

**To contact the GSC:**

**Call:**  
(855) 409-9410

**E-mail:**  
[guardian@gwaar.org](mailto:guardian@gwaar.org)

**Website:**  
<http://gwaar.org/guardianship-resources>

Subscriptions to *The Guardian* are free. To subscribe, fill out our newsletter contact form.

## In This Issue:

**Points of Interest**.....2-3

- NCLER’s Spotlighting Equity Series: Conversation with Legal Action of Wisconsin
- Upcoming NCLER Webinar – Legal Basics: Medicaid Long-Term Services & Supports
- Recent NCLER Webinars
- National Town Hall on Scams & Older Adults
- Resources for Hispanic Heritage Month
- NCOA Report: How to Engage Caregivers in Evidence-Based Programs
- GSC Welcomes Legal Intern Taylor Earing

**News**.....4-10

- Justice in Aging Releases Issue Brief: Supporting Tribal Elders through Social Security
- Social Security’s Office of the Inspector General Releases Scam Report to Congress
- Expanded Care Choices Coming to Members in Nine Wisconsin Counties in 2025
- Heating Assistance Programs in Wisconsin
- Voters Living in Residential Settings
- Prescription Drug Take-Back Day
- Free Covid-19 Tests Available by Mail
- HUD Expanding Access to Housing Benefits for Veterans

**Helpline Highlights**.....11

- What is the recording space area and return address blank for on the state POA-F form?
- My spouse is unconscious and unable to sign a Power of Attorney for Finances. As the spouse, can’t I just sign the document for them?
- I was very ill recently and my power of attorney for health care was activated. I have now recovered and no longer need any assistance. What should I do?

**Case Law**.....12-15

- *Ozaukee County v. S.S.*—evidence and reports required for continuing protective placement
- *Brown County v. L.M.R.*—sufficiency of evidence and right to effective counsel in mental commitments



## *National Center on Law & Elder Rights (NCLER) Spotlighting Equity Series: Conversation with Legal Action of Wisconsin*

The National Center on Law & Elder Rights' ongoing series, *Spotlighting Equity*, features interviews with legal services professionals across the country about their efforts to advance equity for older adults. In June, NCLER [interviewed Legal Action of Wisconsin attorney Brittany Schoenick](#) and discussed Legal Action's efforts to support older adults and families impacted by Estate Recovery in Wisconsin. Other videos in the series are available [on Vimeo](#).

## *Upcoming NCLER Webinar – Legal Basics: Medicaid Long-Term Services & Supports, Oct. 23, 1 pm*

Medicaid is often the only type of long-term care coverage available for older adults. Medicaid Long-Term Services and Supports (LTSS) covers more than six out of every ten nursing home residents, and covers millions of others through Medicaid Home- and Community-Based Services (HCBS). Additionally, Medicaid LTSS often has different income and asset rules from other Medicaid programs, expanding the number of individuals who may be covered. Despite its magnitude, Medicaid LTSS can be very complicated with various rules that differ across states and populations. This webinar will cover the basics of Medicaid LTSS eligibility for nursing home residents and HCBS enrollees. Attendees will better understand the different ways in which states cover HCBS and protections available to all LTSS beneficiaries.

Note: the webinar is not Wisconsin-specific but may provide useful information for attorneys and advocates who work with benefits programs and individuals who are enrolled in them. The webinar is free, but you must [register in advance](#).

## *Recent NCLER Webinars*

The National Center on Law & Elder Rights held a number of webinars over the summer on topics that may be of interest. Materials and recordings are available at the

links below:

*Tenants' Rights in the Federal Rural Housing Programs* (Aug. 13)

- [Recording](#)
- [Slides](#)

*Legal Basics: Supplemental Security Income (SSI) Resources* (Aug. 28)

- [Recording](#)
- [Slides](#)

*Medicare Savings Programs* (Sept. 18)

- [Recording](#)
- [Slides](#)
- [Issue Brief](#)

*HUD Homeless Assistance Programs and Permanent Supportive Housing* (Oct. 2)

- [Recording](#)
- [Slides](#)

*National Town Hall on Scams & Older Adults – Oct. 30, 12 pm CDT*

Older adults, families, and professionals who work with older adults are invited to an action-oriented National Town Hall on Scams & Older Adults on Wednesday, Oct. 30, from 12-1 pm CDT. Presented jointly by the Consumer Financial Protection Bureau (CFPB), AARP, and Federal Deposit Insurance Corporation (FDIC), this online event will feature:

- Real-life examples of elder financial exploitation that illustrate how it can happen to anyone as they grow older
- Money Smart for Older Adults, an easy-to-use curriculum from the CFPB and FDIC that helps people avoid, prevent, and respond to scams
- Findings from AARP research report on Blame and Shame in the Context of Financial Fraud
- Five things you can do right now to help prevent scams and financial exploitation

The event is free, but you must [register in advance](#).

*(Continued on page 3)*



## *Resources for Hispanic Heritage Month*

[National Hispanic Heritage Month](#) recently took place from September 15-October 15. This is a month to recognize the contributions and influence of Hispanic and Latino Americans. It also marks a time to reflect on and continue to improve the delivery of services to Hispanic and Latino older adults. Advocates and service providers working with Hispanic and Latino adults can help by learning more about the issues that most impact them and developing outreach and partnerships in the community. A number of resources are available:

- National Hispanic Council on Aging (NHCOA) [Resource Center](#)
- National Center on Elder Abuse (NCEA): [Mistreatment of Latinx Older Adults](#) (PDF)
- NCEA: [Tips & Tools for Providing Culturally Competent and Responsive Care to Older People who Experience Abuse](#) (PDF)
- NCLER: [Language Access Rights: Tips for Advocates Serving Limited English Proficient Older Adults](#) (PDF)

## *NCOA Report: How to Engage Caregivers in Evidence-Based Programs*

The National Council on Aging recently released an article on working with caregivers to engage in evidence-based programs around chronic disease self-management, falls prevention, nutrition, and other topics. The article provides a number of strategies for organizations that work with and support caregivers and families. More information is available from [NCOA](#).

## *GSC Welcomes Legal Intern Taylor Earing*

The GSC would like to welcome Legal Intern Taylor Earing for the fall semester! Taylor is a third-year law student at the University of Wisconsin Law School. She was drawn to the GSC's mission of providing clear, accessible information on guardianship and other issues, as it aligns with her passion for helping individuals and families navigate the complexities of the legal system. A fun fact about her is that she is a triplet! ☐

## **What is the Guardianship Support Center able to help with?**

The GSC is a neutral statewide informational help-line for anyone throughout the state. We can provide information on topics such as Powers of Attorney, Guardianship, and Protective Placement. The GSC is unable to provide information on minor guardianships, wills, trusts, property division, or family law. The GSC is also unable to give legal advice or specific direction on completing court forms such as the inventory and annual accounting. The GSC does not have direct involvement in cases and is not able to provide legal representation.

## **What are some other free or low-cost legal resources?**

Other resources include the American Bar Association's Free Legal Answers [website](#) where members of the public can ask volunteer attorneys legal questions. The State Bar of Wisconsin also offers a Modest Means Program for people with lower income levels. The legal services are not free but are offered at a reduced rate. Income qualifications must be met. For more information, visit the State Bar's [website](#) or call **800-362-9082**.

## **Interested in Receiving *The Guardian*?**

Do you want more information about guardianship, POAs, and related issues?

Signing up is easy with a link on our website: [Guardian Newsletter Sign-Up](#).

You can also subscribe by emailing your name, email address, and organization to [guardian@gwaar.org](mailto:guardian@gwaar.org).





## ***Justice in Aging Releases Issue Brief: Supporting Tribal Elders through Social Security***

On September 24, Justice in Aging released the [first of two issue briefs](#) to ensure advocates are aware of the services available to American Indian and Alaska Native older adults and the unique challenges they may face. This first brief discusses the benefits available to tribal elders through the Social Security Administration, the unique rules that may apply to tribal communities, and the barriers and cultural factors that advocates should be aware of when supporting tribal elders in accessing these benefits.

## ***Social Security's Office of the Inspector General Releases Scam Report to Congress***

In July, the Social Security Office of the Inspector General (OIG) released its quarterly scam report to Congress. The report provides information about scam trends in the second quarter of federal Fiscal Year 2024 (Jan. 1 – Mar. 31, 2024). Scam reports to OIG have significantly declined in the past few years. However, OIG continues to receive complaints about scammers impersonating Social Security and OIG employees via phone calls, texts, emails, social media, and U.S. mail.

Government imposters try to steal money or personal information from potential victims by contacting them about fake Social Security-related problems. OIG received about 27,000 scam allegations in the second quarter:

- About 45% of reported cases claimed there was a problem with a person's Social Security number.
- Nearly 17% of cases mentioned a problem with Social Security benefits.
- One-third of scams used official-looking documents or images (such as the Social Security logo).

Scammers target people of all ages. More people 50 and older lost money to government imposter scams than those under 50, according to the report. Older adults ages 70 to 84 reported the largest payments to impost-

ers — an average loss of \$10,562.

## ***Expanded Care Choices Coming to Members in Nine Wisconsin Counties in 2025***

The Department of Health Services recently announced that Family Care and Family Care Partnership members in South Central Wisconsin will have more choices in who helps manage their care, starting in January 2025. Members in Adams, Columbia, Dane, Dodge, Green Lake, Jefferson, Marquette, Rock, and Waushara counties will be able to choose from four managed care organizations (MCOs) for Family Care. That's an increase from the two currently available. Wisconsin residents in these nine counties will also all have the option to participate in Family Care Partnership — a first for residents in five of these counties.

Family Care and Family Care Partnership members do not need to take any action at this time. They will receive letters detailing their new options and next steps if they want to change their MCO or program.

More information is available via the [DHS press release](#).

## **Heating Assistance Programs in Wisconsin**

*By the GWAAR Legal Services Team (for reprint)*

As winter approaches and temperatures drop, many Wisconsin residents may struggle to afford their heating bills. Fortunately, several programs are available to provide financial assistance and improve the energy efficiency of homes for low-income individuals and families.

### **Home Energy Plus (HE+)**

Home Energy Plus (HE+) includes the Wisconsin Home Energy Assistance Program (WHEAP), Weatherization Assistance Program, and HE+ Program Services. WHEAP provides assistance for heating and electric costs, as well as energy crisis situations. Weatherization helps homeowners and renters reduce energy consumption. The HE+ Program Services enables eligible homeowners and

*(Continued on page 5)*





renters to repair or replace their furnaces and other heating systems, broken water heaters, leaky fixtures, toilets, and piping. The programs are operated with federal and state funding and provide energy assistance payments to over 200,000 households and provide weatherization services to over 6,000 households in Wisconsin each year.

## Eligibility

To be eligible for WHEAP, the Weatherization Assistance Program, and HE+ Program Services, applicants must be Wisconsin residents, have a Social Security Number, be responsible for paying for some of their own energy costs, and have income that falls below a certain threshold amount. There is no asset test to qualify for any of these programs.

## WHEAP

WHEAP assistance is a one-time payment during the heating season (October 1-May 15). The funding pays a portion of energy costs, and it is not intended to cover a household's entire seasonal energy expenses. The amount of the benefit depends on a number of factors, including the household's size, income, and energy costs. Typically, the energy assistance benefit is paid directly to the energy provider.

## Crisis Assistance

Crisis assistance may be available for households that do not currently have heat, or for households that have received a disconnection notice, or that are nearly out of fuel and are unable to purchase more. WHEAP agencies provide a 24-hour crisis phone line to help with emergencies after business hours. Non-emergency assistance may be available to provide information on how to reduce energy costs, counseling on budgeting and money management, as well as payments to energy providers.

## HE+ Program Services

The HE+ Program Services can assist eligible renters and homeowners whose boiler or furnace stops working. The program can pay for repairs or, in certain situations,

a total replacement of a non-operational system. Call your local WHEAP agency or the statewide Customer Care Center at 1-800-506-5596 if you are ever experiencing a no-heat situation.

## Weatherization Assistance Program

The Weatherization Assistance Program helps eligible renters and homeowners reduce energy costs while increasing comfort in their homes.

Weatherization improvements can also make your home environment safer and healthier. Improvements are usually installed by local professionals in your area. If your residence qualifies for weatherization services, you may receive one or more of the following types of energy efficiency solutions: insulation, sealing air leaks, heating system updates and/or energy-saving products (e.g., water-saving faucet aerators and shower heads, LED bulbs, etc.).

## Utility Disconnection Prohibition for Non-Payment

Wisconsin law prohibits utility providers from disconnecting residential heating services for nonpayment from November 1st – April 15th each year. No one should have to go without heat during the winter due to inability to afford their bills. If this happens to you, contact your local ADRC immediately for assistance!

## Resources for More Information and to Apply:

For more information or to locate your local WHEAP agency, call 1-866-HEATWIS or visit <https://energyandhousing.wi.gov/>

To apply online for WHEAP benefits, go to <https://energybenefit.wi.gov>

Other Energy Resources:

KEEP WISCONSIN WARM/COOL FUND: 1-800-891-WARM (9276); [www.kwwf.org](http://www.kwwf.org)

HEAT FOR HEROES (Program for Veterans): 1-800-891-9276; [www.heat4heroes.org](http://www.heat4heroes.org)

FOCUS ON ENERGY: 1-800-762-7077;  
[www.focusonenergy.com](http://www.focusonenergy.com)

*(Continued on page 6)*



## Voters Living in Residential Settings

By the GWAAR Legal Services Team (for reprint)

With the upcoming presidential election in November, it is important to understand the voting rights of individuals who live residential settings like skilled nursing facilities, adult family homes, or community based residential facilities (CBRFs). We will also review some alternative means for people to cast their ballots if they are unable to vote in person.

### Who Can Vote

Any US citizen who will be at least 18 years old on or before the election and who is not currently serving a sentence for a felony conviction and who has not been determined by a court to be ineligible to vote can vote. A voter also must have resided at their current address in Wisconsin for 28 days prior to the election.

Only a court can remove the right to vote of a person alleged incompetent. The standard for removing this right is if someone is deemed “incapable of understanding the objective of the elective process.” A guardian, family member, activated power of attorney, medical provider, or any other individual cannot stop a person from voting.

To find out if a person under guardianship has lost their right to vote, you would look to the “Determination and Order on Petition for Guardianship Due to Incompetency” form (GN-3170). This form will state whether the right to vote has been retained or removed.

The person under guardianship or someone acting on their behalf may file a petition with the court to have their right to vote restored.

Sample petitions and detailed resources on the process to restore the right to vote are available at:

- Disability Rights Wisconsin: [disabilityrightswi.org/resource-center/guardianshipand-voting/](https://disabilityrightswi.org/resource-center/guardianshipand-voting/)
- Disability Vote Coalition: [disabilityvote.org/2022/](https://disabilityvote.org/2022/)

[guardianship-and-votingresources/](https://guardianship-and-votingresources/)

### Registering to Vote

All voters in Wisconsin must register to vote. You may need to re-register if you’ve moved, changed your name, had your voting rights restored, or haven’t voted in over four years. You can check your voter registration status or register to vote online here: <https://myvote.wi.gov/en-us/>. You will need a valid photo identification to register online and a way to upload a photo to the site such as a scanner or smartphone camera.

You may also register to vote up to 20 days before election day by mailing the voter registration form to your municipal clerk along with proof of residence such as a current utility bill, lease, paycheck or paystub, or government issued document (e.g., driver’s license or state ID, vehicle registration, social security notice, fishing and hunting license, etc.) that shows your name and current address. You can also register in person at your municipal clerk’s office up to the Friday before election day. Finally, you may register at your polling place on election day. You will need to bring proof of residence and a photo ID.

### Voter Identification and Exceptions

Wisconsin law requires that voters present some form of photo identification to vote, such as a driver’s license or U.S. passport. For a complete list of acceptable photo identification, visit: <https://bringit.wi.gov/do-i-have-right-photo-id>

There are exceptions to the law to allow for accommodations for voters who are indefinitely confined to their homes or live in a nursing home or care facility. These voters do not need to provide a photo ID. Instead, the witness’ signature on the absentee ballot certificate envelope satisfies the photo ID requirement. More information on the voting process for voters in a special care facility is below.

### Voting from a Residential Care Facility

For those living in certain special care facilities or retire-

*(Continued on page 7)*





ment homes, the municipal clerk appoints two Special Voting Deputies (SVDs) to facilitate voting and collect absentee ballots. The SVDs will start visits to facilities 22 days prior to election day and will continue those visits until the Monday before election day, visiting each facility up to 2 times. The visits must be publicly posted at the facility in advance.

Special Voting Deputies will bring absentee ballots and envelopes to the facility and will sign the Absentee Ballot Certification Envelopes, which satisfies the voter ID requirement. SVDs will also provide voting assistance to voters as needed, including reading the ballot to the voter, marking the ballot at the voter's direction, and signing the ballot on behalf of the voter. If the SVD provides this assistance, they will fill out the assistor section on the certification envelope.

If a voter is not available during one of the two SVD visits, they can also vote absentee by mail, absentee in person (early voting), or vote in person at their polling place on election day. If a voter needs help reading or filling out their ballot or absentee return envelope, they may ask for assistance from anyone who is not their employer, representative of their labor union, or a candidate on the ballot. This assistant can read the ballot to the voter and/or help fill out the ballot under the voter's direction but cannot tell them how to vote. Like an SVD assistant, anyone providing this type of assistance must fill out and sign the certification of voter assistance section on the envelope.

Each absentee ballot must be witnessed (an assistor may also be a witness) by someone who is at least 18 years of age and a U.S. citizen. Absentee ballots may be returned by mail (the US Postal Service recommends mailing your ballot at least one week before election day) or in person at the municipal clerk's office. To find your municipal clerk, visit: <https://myvote.wi.gov/en-us/My-Municipal-Clerk>.

**For additional information or assistance, please see the following resources below.**

Wisconsin Elections Commission: 866-VOTE-WIS / 866-

868-3944 (The phone line is staffed Monday—Friday from 7:45 AM – 4:30 PM, but they have longer hours on Election Day.) Email: [elections@wi.gov](mailto:elections@wi.gov); Website: [elections.wi.gov](http://elections.wi.gov)

Disability Rights Wisconsin Voter Hotline: Call: 844-DIS-VOTE / 844-347-8683 or Email: [info@disabilityvote.org](mailto:info@disabilityvote.org)

Wisconsin Election Protection (non-partisan assistance from volunteer attorneys): Call 866-687-8683 or text "Our Vote" to 97779

Wisconsin DMV Voter ID Hotline: Call (844) 588-1069  
[Vote411.org](http://Vote411.org): nonpartisan information about the candidates

Disability Vote Coalition: [disabilityvote.org](http://disabilityvote.org) or Facebook [www.facebook.com/wisconsin Disability Vote/](https://www.facebook.com/wisconsin Disability Vote/)

MyVote Wisconsin (register to vote, check your voter registration status and more): [myvote.wi.gov](http://myvote.wi.gov)

Absentee Voting in Residential Care Facilities and Retirement Homes (SVD Voting), Wisconsin Elections Commission: [elections.wi.gov/resources/manuals/absentee-voting-residential-carefacilities-and-retirement-homes-svdvoting](http://elections.wi.gov/resources/manuals/absentee-voting-residential-carefacilities-and-retirement-homes-svdvoting)

Board on Aging and Long-Term Care: [longterm-care.wi.gov/Documents/Ombudsman/Voting%20Rights\\_onepage\\_2024.pdf](http://longterm-care.wi.gov/Documents/Ombudsman/Voting%20Rights_onepage_2024.pdf)



(Continued on page 8)



## Press/News Release

Contact: Danielle Long, [longdb@doj.state.wi.us](mailto:longdb@doj.state.wi.us), (414) 403-4437

(Reprint, credit: Wisconsin Department of Justice)

Link: <https://www.doj.state.wi.us/dles/prescription-drug-take-back-day>

## Prescription Drug Take-Back Day

October 26, 2024

The Wisconsin Department of Justice (DOJ) will coordinate a Prescription Drug Take Back Initiative throughout Wisconsin. The Prescription Drug Take-Back Day goal is to provide a safe, convenient, and responsible means of disposal of prescription medications, while also educating the general public about the potential for abuse of these medications. Unused prescription medications in homes create a public health and safety concern, because they can be accidentally ingested, stolen, misused, and abused.

Unused or expired medicine should never be flushed or poured down the drain. Removing potentially dangerous pharmaceutical substances from our state's medicine cabinets helps to prevent them from going into our water supply. Water reclamation facilities are not designed to remove all of them and trace amounts of pharmaceuticals are showing up in rivers and lakes around the world.

**No businesses allowed. All waste pharmaceuticals must be generated by a household.**

On Saturday, October 26, 2024, participating law enforcement agencies can host one or more collection sites at locations and times of their choosing. Law Enforcement agencies do not need to host a take-back event in order to participate in this program. Agencies offering a permanent drug drop box can turn over the collected drugs to DOJ for disposal.

**Bring:** Prescription (controlled and non-controlled) and over-the-counter medications, ointments, patches, non-aerosol sprays, inhalers, creams, vials and pet medications.

**Do Not Bring:** Illegal drugs, needles/sharps, aerosol cans, bio-hazardous materials (anything containing a bodily fluid or blood), mercury thermometers, personal care products (shampoo, soaps, lotions, sunscreens, etc...), household hazardous waste (paint, pesticides, oil, gas).

Participants may dispose of solid, non-liquid medication (s) by removing the medication from its container and disposing of it directly into a disposal box or into a clear sealable plastic bag. Plastic pill containers should not be collected. Blister packages are acceptable without the medications being removed.

Liquids will be accepted during this initiative. However, the liquids, creams and sprays must be in their original packaging and evenly distributed within the boxes of collected solid prescription medications. Liquids without the original packaging will not be accepted.

Illicit substances such as marijuana or methamphetamine are not a part of this initiative and should not be placed in collection containers.

All participants must retain possession of their own medication during the surrender process. Law enforcement personnel should not handle the medications at any time.

[Click here to search for a prescription drug take-back location near you.](#)

For questions, please contact Danielle Long at [longdb@doj.state.wi.us](mailto:longdb@doj.state.wi.us) or (414) 403-4437.

## Free COVID-19 Tests Available by Mail

*By the GWAAR Legal Services Team (for reprint)*

The federal government has once again made at-home COVID-19 tests available by mail this fall. U.S. households can order four free COVID-19 tests at [COVIDTests.gov](https://www.covidtests.gov). The tests will detect current COVID-19 variants and can be used through the end of the year.

If you need a COVID-19 test immediately, and cannot

*(Continued on page 9)*





wait for tests to be mailed, contact your doctor, pharmacy, or local health department to learn about testing options near you. If you have COVID-19 tests at home, and you are concerned that they may have expired, you can find information on at-home COVID-19 test expiration dates on the Food and Drug Administration's (FDA's) website: <https://www.fda.gov/medical-devices/coronavirus-covid-19-and-medical-devices/home-otc-covid-19-diagnostic-tests>. The expiration dates of many at-home tests have been extended.

At-home COVID tests typically provide results within 30 minutes. If your test is positive, it means that you likely have COVID-19. You should follow Centers for Disease Control and Prevention guidance to avoid spreading the virus to others: <https://www.cdc.gov/respiratory-viruses/prevention/precautions-when-sick.html>.

Treatments for COVID-19 are widely available. If you have a positive test result and are at high risk of severe illness, talk to your doctor as soon as possible about treatment options. COVID-19 treatments are covered by most major insurance plans, and patient assistance programs are available for eligible individuals: <https://aspr.hhs.gov/COVID-19/Treatments/Pages/Possible-Treatment-Options-for-COVID19.aspx#PAP>.

A negative at-home test result means that the test did not find the virus. However, a single negative at-home test does not mean that you are not infected, especially if you do not have symptoms. If you have symptoms, the FDA recommends taking a second at-home test 48 hours later. If you do not have symptoms, the FDA recommends that you take a total of three at-home tests, performed 48 hours apart in order to rule out COVID-19 infection.

If you have any questions, please contact your doctor, local pharmacy, or local health department for more information.

## HUD Expanding Access to Housing Benefits for Veterans

*By the GWAAR Legal Services Team (for reprint)*

The U.S. Department of Housing and Urban Development (HUD) recently [announced](#) a new set of policy changes aimed at helping more veterans receive assistance under the HUD-Department of Veteran Affairs (VA) Supportive Housing (HUD-VASH) Program and improving their access to supportive housing developments.

HUD is expanding access to HUD-VASH for veterans by:

- Adopting an alternative definition of annual income for applicants and participants of the HUD-VASH program that excludes veterans' service-connected disability benefits when determining eligibility. Veterans experiencing homelessness often receive VA benefits as the result of an illness or injury that was acquired or worsened during military service. Before this change, these benefits were considered income when determining eligibility for certain supportive housing developments, causing some veterans to have income in excess of the threshold for these programs. HUD's policy changes will help more homeless veterans with service-connected disability benefits be able to gain access to these housing developments. This alternative annual income definition could also be adopted by other housing subsidy programs to determine income eligibility.
- Requiring public housing agencies (PHAs) that administer HUD-VASH to set the initial income eligibility for veterans at 80%, rather than 50%, of Area Median Income. The use of this higher initial income eligibility threshold had previously been optional, but HUD is now making it mandatory.
- The revised HUD-VASH [operating requirements](#) also include additional policy changes aimed at improving administration of the HUD-VASH program.

*(Continued on page 10)*





These will give PHAs the authority to:

- Set a separate minimum rent policy (including a zero minimum rent) for HUD-VASH participants;
- Make non-competitive awards of project-based HUD-VASH contracts to housing projects or units on VA facilities that serve HUD-VASH families; and
- Approve Exception Payment standards as reasonable accommodations up to 140% of the fair market rent.

In addition to these policy changes, HUD awarded \$20 million for additional administrative fee funding to 245 public housing agencies in 43 states currently administering HUD-VASH. With this funding, PHAs are encouraged to expand their housing search assistance to support veterans, help veterans with security deposits, expand landlord recruitment for the program, offer incentives and retention payments, and provide landlord-tenant mediation activities. Of this additional funding award, housing authorities in Wisconsin received \$191,553.

Since the program's inception, HUD-VASH has assisted over 200,000 veterans to find permanent affordable housing and exit homelessness. In fact, the HUD-VASH program has reduced the number of homeless veterans in the U.S. by more than 50% since 2010.

If you are a veteran or legal representative of a veteran looking for housing assistance, please contact a VA medical center [near you](#) and mention your interest in HUD-VASH, or contact the [National Call Center for Homeless Veterans](#) by dialing 1-877-424-3838. The call center is staffed 24 hours a day, 7 days a week.

Other useful Quick Links for information on housing for homeless veterans can be found here:

HUD Homelessness Assistance Exchange: <https://www.hudexchange.info/homelessness-assistance/resources-for-homeless-veterans/>

Local Homeless Assistance by State: <https://www.hud.gov/topics/homelessness/localassist>

U.S. Interagency Council on Homelessness: <https://www.usich.gov/>

Veterans' National Resource Directory: <https://nrd.gov/>

HUD Resource Locator: <https://resources.hud.gov/>

Department of Health and Human Service's Homeless Resource Center: <https://www.hhs.gov/programs/socialservices/homelessness/index.html> . □



# Helpline Highlights



## What is the recording space area and return address blank for on the state POA-F form?

The recording area, name and return address lines, and parcel identification number box are all requirements for a document that will be recorded in a county register of deeds office. See Wis. Stat. § 59.43 (2m). These sections do not need to be completed for a power of attorney (POA) for finances to be considered valid.

This month, the Department of Health Services released an updated version of the financial POA form that includes language to clarify this section. Older forms remain valid and usable.

↑  
Recording Area (For Registrar's Office Use Only)  
Name and Return Address\*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Parcel Identification Number (if any)  
\_\_\_\_\_  
\*Include only if filing with County Registrar of Deeds

## My spouse is unconscious and unable to sign a Power of Attorney for Finances. As the spouse, can't I just sign the document for them?

No. The individual who executes a Power of Attorney document (the principal) must be the one to determine they want a POA and must be able to indicate who they want as their agent. The principal must sign or direct another to sign in their conscious presence. The principal's signature will be presumed to be genuine if the signature is notarized. A spouse or family member does not have authority to sign a Power of Attorney on someone's behalf if they have not been directed by the principal to do so. The existence of a legal spousal relationship does not give a spouse the authority to sign legal documents for the other spouse. See Wis. Stat. § 244.05.

## I was very ill recently and my power of attorney for health care was activated. I have now recovered and no longer need any assistance. What should I do?

There are two options: first, the individual may keep the current POA and have their current state of capacity acknowledged, essentially "deactivating" the POA. Second, the individual may revoke the POA, although the individual would then need to create a new one for future needs.

For the first option, deactivation, Wisconsin statutes are largely silent on the matter, noting only that the desires of a principal with capacity supersede the effect of the document at all times. Wis. Stat. § 155.05(4). The presumption is therefore that a healthcare power of attorney is no longer in effect once the principal regains capacity. Because there is no required formal process for deactivation in the statutes, practices and policies vary between providers, facilities, and health systems. Some may prefer to reverse the initial activation procedure with a capacity assessment from two clinicians; some may accept one physician's assessment. There is no standard state form for either activation or deactivation.

If the individual would instead prefer to revoke the POA entirely, there are several ways to do that. Per Wis. Stat. § 155.40, a principal may revoke their POA-HC at any time. The principal may do so by destroying or defacing the document, writing a statement expressing their intent to revoke the POA-HC, orally revoking it in the presence of two witnesses, or executing a new document. The GSC's publication, [Revoking a Power of Attorney for Health Care](#), includes more information and a sample statement for this purpose. □



**Title:** *Ozaukee County v. S.S.*

**Court:** Court of Appeals, District II

**Date:** 09/11/2024

**Citation:** [2024AP759](#)

## Case Summary

This case involves the appeal of the circuit court's orders continuing a protective placement of S.S. ("Samuel"). On review, Samuel raised several questions regarding the court's decision to continue a protective placement: Could the court rely on the entire record of Samuel's case? Was the court limited to evidence introduced at the annual review? Was the County required to present an expert to meet its burden of proof? The Court of Appeals ultimately affirmed the circuit court's order of continuing Samuel's protective placement.

## Case Details

In 2020, Ozaukee County filed petitions for protective placement and guardianship over Samuel. A report filed by the County stated that Samuel was unable to care for himself and had a long history of alcohol-related problems, which caused him to neglect his health and basic needs. This neglect further deteriorated his cognitive functioning. A psychologist also diagnosed him with alcohol-related persisting dementia. Based on this information, the court found that Samuel was incompetent due to a degenerative brain disorder and other like incapacities, ordering his protective placement in May 2020.

The court reviewed Samuel's placement in April 2021. At that time, staff at the facility where Samuel resided reported that he continuously caused problems and recommended his transfer to a smaller facility. The circuit court then ordered an independent evaluation of Samuel. The evaluating psychologist diagnosed Samuel with a mild neurocognitive disorder with behavioral disturbances, severe alco-

hol use disorder, and unspecified bipolar disorder. She concluded he continued to meet the criteria for guardianship and protective placement, and his condition was likely to remain permanent. After hearing testimony from the psychologist, Samuel, and a guardian *ad litem* (GAL), the circuit court continued his protective placement but ordered that he be housed in a less restrictive environment.

In March 2022, the County filed another petition to continue Samuel's protective placement. Once again, the circuit court ordered an independent evaluation at Samuel's request. The examining psychologist filed a report that reviewed Samuel's extensive placement history, prior diagnoses, and the psychologist's impressions from his interview with Samuel. The psychologist concluded that Samuel's incapacity rendered him incapable of providing for his own care or custody, creating a substantial risk of serious harm to himself or others. As a result, the psychologist recommended that Samuel continue to be placed in a locked setting with round-the-clock supervision. The circuit court agreed and continued his protective placement.

In April 2023, the County filed a third petition to continue Samuel's protective placement, along with an annual report of his condition. The report detailed Samuel's prior diagnoses and addressed his physical and mental capabilities. It indicated that Samuel required assistance from caregivers for specific tasks, had impaired decision-making abilities, and struggled with comprehension. A social service specialist who worked with Samuel also testified that she did not believe his condition had improved over the past year. She noted that he continued to experience memory problems and a lack of insight into his mental health. Samuel's GAL also submitted a report recommending the continuation of his protective placement. The report summarized Samuel's history in protective placement, including his trans-





(*Ozaukee County v. S.S.*, cont. from pg 12)

fer in 2021 to a less restrictive setting, his subsequent struggles with mental health and alcohol and drug issues, and his later transfer to a more restrictive locked unit. After considering this information, the court concluded that the County had met its burden, and that Samuel satisfied the four statutory requirements for protective placement. This included suffering from a "degenerative brain disorder" and "other like incapacities" that rendered him unable to care for himself, creating a substantial risk of serious harm to himself or others.

Under Wis. Stat. ch. 55, protective placement may be ordered if an individual: (1) "has a primary need for residential care and custody"; (2) "has been determined to be incompetent by a circuit court"; (3) "is so totally incapable of providing for his or her own care or custody as to create a substantial risk of serious harm to himself or herself or others" due to "developmental disability, degenerative brain disorder, serious and persistent mental illness, or other like incapacities"; and (4) "has a disability that is permanent or likely to be permanent." Wis. Stat. §55.08(1)(a)-(d). Once an individual is placed in protective placement, their status is reviewed annually. During the annual review, the County must evaluate the individual's physical, mental, and social condition and file a report as part of the individual's permanent record. If the individual contests the placement during the review, the circuit court must hold a hearing and prove that the individual continues to meet the four requirements for protective placement. Samuel argued that the County failed to establish the third requirement, which led to his first question: Could the court rely on Samuel's permanent record?

The circuit court's decision was based on the most recent annual report as well as previous reports and records of Samuel's protective placements. The

County argued that the court could consider past reports and documents in Samuel's permanent record to decide whether he continued to meet the four requirements for protective placement. Samuel disagreed, arguing that the court should not rely on past reports and documents. The Court of Appeals held that the court may consider reports, testimony, and other documents from prior proceedings to determine whether an individual continues to meet the requirements for protective placement. The Court of Appeals also reasoned that the impairments and issues that led to Samuel's initial protective placement in 2020 continued to affect his ability to care for himself. There was no evidence to suggest that the opinions of the psychologists who had previously examined Samuel had become outdated, or that his alcohol-related and other disorders had materially improved or resolved to the point where they no longer constituted "degenerative brain disorders, serious and persistent mental illnesses, or other like incapacities." Wis. Stat. §55.08(1)(c).

Samuel also challenged his continued protective placement by arguing that the County failed to meet its burden of proof because it did not present testimony from a medical expert confirming that he met the four statutory requirements for protective placement. However, the Court of Appeals disagreed, holding that no statute required testimony from a medical professional in a continued protective placement proceeding. The court distinguished Samuel's case from *Therese B.*, where the Court of Appeals held that the government must present an expert witness to appoint a guardian under Chapter 55. See *Walworth County v. Therese B.*, 2003 WI App 223, 267 Wis. 2d 310, 671 N.W.2d 377. The court emphasized that no such requirement existed for continued protective placement.

Ultimately, the Court of Appeals concluded that the record supported the circuit court's order to contin-

(Continued on page 14)



*(Ozaukee County v. S.S., cont. from pg 13)*

ue Samuel's protective placement. However, it noted that the circuit court's oral ruling and written order were inconsistent in identifying the specific portions of the record it had relied upon when finding that Samuel met the requirements for protective placement. The Court of Appeals emphasized that a circuit court ordering continued protective placement must include in its order the information on which it relied.

**Title:** *Brown County v. L.M.R.*

**Court:** Court of Appeals, District III

**Date:** 08/06/2024

**Citation:** [2023AP2314](#)

### Case Summary

This case involves the appeal of the circuit court's orders granting an involuntary commitment and an involuntary medication and treatment order for L.M.R. ("Luke"). Luke argued that the court failed to find sufficient evidence to support the involuntary commitment and medication order and that his right to effective legal counsel had been violated. The Court of Appeals disagreed with Luke and affirmed the circuit court's involuntary commitment and involuntary medication and treatment order.

### Case Details

In 2022, Luke was found walking naked down a public street in freezing temperatures, claiming he was following divine instructions. He was emergently detained and claimed he had been unable to sleep for two days and could not remember the last time he had eaten or drank water. The circuit court found probable cause to support an involuntary commitment for Luke and scheduled a final hearing.

During the final hearing, Luke testified that he had stopped taking his medication because it interfered with his ability to work. He also stated that, on the day of the incident, he had been following the will of the Lord. A psychiatrist who evaluated Luke after the incident testified that Luke had bipolar disorder and was experiencing mania and psychosis. The psychiatrist further testified that Luke's mental illness prevented him from understanding the advantages of medication, thereby rendering him incompetent to refuse medication. Additionally, the psychiatrist claimed that Luke posed a danger to himself under Wis. Stats. §§ 51.20(1)(a)2c and 2d, noting his exposure to freezing temperatures while naked — a behavior he also exhibited in 2019 when he suffered frostbite. Luke's counsel did not object to the mention of the 2019 incident. Ultimately, the circuit court found that Luke was mentally ill, a proper subject for treatment, and a danger to himself. As a result, the court ordered Luke to be involuntarily committed and involuntarily medicated and treated for six months.

Luke filed a post-commitment motion to vacate the involuntary commitment and medication orders, arguing ineffective assistance of counsel. The circuit court denied Luke's motion, leading to Luke's appeal.



(*Brown County v. L.M.R.*, cont. from pg 14)

First, the Court of Appeals addressed the issue of Luke's involuntary commitment. Under Wis. Stat. ch. 51, for a person to be involuntarily committed, they must be (1) mentally ill; (2) a proper subject for treatment; and (3) dangerous to themselves or others. Luke did not contest that he was mentally ill or a proper subject for treatment. Therefore, the court focused on whether he was dangerous and whether the court's findings met the standard outlined in *Langlade County v. D.J.W.*, 2020 WI 41, 391 Wis. 2d 231, 942 N.W.2d 277.

In *D.J.W.*, the Wisconsin Supreme Court mandated that (1) the circuit court make specific factual findings regarding the patient's dangerousness and (2) identify the specific standard of dangerousness on which the recommitment was based. Luke argued that the circuit court failed to provide specific facts showing he was dangerous and did not identify the standard on which it relied. However, the Court of Appeals rejected this argument. The court found that there were specific factual findings regarding Luke's dangerousness. Luke exhibited a continuing and severe lack of insight and detachment from reality, which led to his failure to eat, drink water, and sleep, and which also caused him to walk outside naked in freezing temperatures, where he could have been badly injured. Then, the Court of Appeals concluded that the court did not need to directly quote the exact statutory language defining dangerousness, as the language used was sufficient to satisfy the *D.J.W.* requirements.

Second, the Court of Appeals addressed Luke's claim of ineffective assistance of counsel. Luke argued that his right to effective legal counsel had been violated because his lawyer failed to object to the mention of a similar prior 2019 incident. The Court of Appeals dismissed this argument and held that his right to effective legal counsel had not been violated, as the circuit court would have reached the same conclusions regardless of whether his lawyer had objected to the mention of the 2019 incident. There was clear evidence outside of the 2019 incident that Luke's judgment was impaired, such that there was a substantial probability of physical impairment or injury to himself.

Lastly, the Court of Appeals addressed the issue of Luke's involuntary medication and treatment. Under Wis. Stat. §51.61(1)(g)4, to determine whether a person was incompetent to refuse medication, the court had to find that the advantages and disadvantages of, and the alternatives to, medication had been adequately explained to the patient. Luke argued that his psychiatrist failed to provide a sufficient explanation of these factors. However, the psychiatrist's report indicated that a thorough discussion about Luke's medication had taken place, including the specific advantages, disadvantages, and alternatives of that medication. Based on this report, the Court of Appeals concluded that Luke had been given a sufficient explanation and was incompetent to refuse medication.

The Court of Appeals thus affirmed Luke's involuntary commitment and medication order. □