



## Rights of Person Subject to Guardianship

### **At time of hearing, initial appointment:**

- To be provided notice of a hearing and that a petition for guardianship has been filed
- To be present at the hearing, unless excused by court for good cause
- To nominate (suggest) someone that you would prefer to serve as your guardian if guardianship is granted
- To be represented by a lawyer if you request a lawyer, the visitor appointed by the court recommends that you have a lawyer or the court believes you need a lawyer
- To present evidence, subpoena witnesses and documents, question witnesses and otherwise participate in the hearing
- To request that the hearing be closed (not open to the public)
- Court should only appoint a guardian if the judge finds by clear and convincing evidence that:
  - You are incapacitated
  - Your needs cannot be met by less restrictive means, including technological assistance
- Court should only grant a guardian the powers necessary as determined by your limitations and needs and should make orders that will “encourage the development of [your] maximum self-reliance and independence.”

### **Once guardian is appointed:**

- Within 30 days, you should be provided with a copy of the appointment order and information about your right to request to modify or terminate the guardianship
- To be provided with notice of a filing of a report by the guardian and with a copy of the report within 10 days after the filing of the report.
- Participate in decisions the guardian makes for you, to the extent possible
- Have a guardian who becomes and remains personally acquainted with you and maintains enough communication with you to know your capacities, limitations, needs, opportunities and physical and mental health
- Have guardian take “reasonable care” of your belongings
- Have guardian spend your money to meet your needs for support, care, education, health and welfare, and to save any money you have remaining
- To keep responsibilities for some decisions affecting your well-being, if “reasonable under all circumstances”
- To have any compensation paid to the guardian approved by the court or by your conservator
- Not to have your guardian revoke a medical power of attorney that is already in place or make decisions in the place of an agent you have selected, without court approval
- Not have guardian “commit” you for mental health treatment over your objection except as allowed under the law for civil commitment (*see C.R.S. §27-65-106-119*)
- To be represented by a lawyer *at your expense* after a guardian is appointed, unless the court finds by clear and convincing evidence that you lack the capacity to give informed consent to be represented (in which case the court should appoint a guardian ad litem to represent your best interest)

### **To modify/terminate guardianship:**

You have a right to petition the court to modify (change, limit) or terminate guardianship. The court should terminate guardianship if you no longer meet the standard for establishing guardianship (see above). For more information, see handout and flow chart on Modification/Termination of Guardianship.