

Instructions for Motion for Order to Allow Payment of Room & Board

Don't include these instructions when you serve or file the completed forms.

Important! Read Before Using this Packet of Forms.

ND Legal Self Help staff and court employees **can't** help you fill out the form(s). If you're unsure if these forms and instructions suit your circumstances, consult a lawyer.

ND Legal Self Help Center forms **aren't** official court forms. Judges and courts **aren't** required to accept them. There's no guarantee Center forms will be accepted. Use at your own risk.

If you need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota. Go to ndcourts.gov/legal-self-help/finding-a-lawyer for information about finding a lawyer to represent you.

When you represent yourself, you're expected to know and follow the law, including:

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
 - North Dakota Rules of Civil Procedure;
 - North Dakota Rules of Court;
 - North Dakota Rules of Evidence;
 - North Dakota Administrative Rules and Orders; and
 - Any local court rules.

Links to the state laws, case law, and court rules are available at ndcourts.gov.

A glossary with definitions of legal terms is available at ndcourts.gov/legal-self-help.

When you represent yourself, you're held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures.

*These instructions and forms **aren't** a complete statement of the law. They cover the basic procedure for asking a North Dakota State District Court to allow payment of room and board in an existing guardianship of an adult. There's no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center isn't responsible for any consequences that may result from the forms or information provided.*

Use these forms and instructions at your own risk.

Before Using These Forms

Before deciding whether to ask a court to allow payment of room and board from the Ward's estate, you may want to discuss any potential tax implications with a tax professional.

You may also wish to discuss any implications for financial benefits, such as community services or Medicaid, with your local service providers.

Who May Use This Packet of Forms?

These forms may be used by the Guardian or Co-Guardian appointed by a North Dakota state district court when:

1. The **Guardian or Co-Guardian**, or the **Guardian's or Co-Guardian's spouse, parent, or child** are currently providing room and board to the Ward;
2. **No conservator** is currently appointed to manage the Ward's estate; and
3. The judge or judicial referee granted the **Guardian or Co-Guardian** authority to make financial decisions on behalf of the Ward.

If you're the current Guardian representing yourself, you may complete and sign the forms. If you're unsure how to proceed, or unsure if these forms are suitable for your situation, consult a lawyer who can agree to represent you.

If a separate conservator is appointed for the Ward, **don't** use these forms. [North Dakota Century Code Section 30.1-28-12\(6\)](#) **only** applies when a separate conservator **hasn't** been appointed.

Purpose

In North Dakota, [North Dakota Century Code Section 30.1-28-12\(6\)](#) requires the judge or judicial referee assigned to the guardianship case to preapprove payment when the Guardian or Co-Guardian or their family members provide room and board to the Ward.

These forms may be used to request the use of funds from the Ward's estate to pay for room and board.

If a North Dakota state district court already ordered the use of funds from the Ward's estate to pay for room and board, these forms may be used to request an adjustment to the amount.

What is Room and Board?

Generally, room and board includes the costs for food and housing for a person or a family.

This usually includes the costs for groceries, heating and cooling, cleaning, maintenance, and related costs of keeping a house or apartment.

When the Guardian or Co-Guardian or their family members provide room and board to the Ward, the judge or judicial referee must pre-approve these costs. The judge or judicial referee decides which costs and how much of the costs are appropriate to charge the Ward.

When there are multiple people in the household, you need to figure out how much room and board costs **only** for the Ward. These forms can help you calculate a reasonable monthly total of the Ward's room and board expenses. Once the judge or judicial referee approves an amount, the Guardian or Co-Guardian can then reimburse the person providing room and board to the Ward from the Ward's account.

If the judge or judicial referee approves your request, the approved amount you're allowed to charge the Ward is called the room and board fee. On your annual reports to the court, type or write "Room and Board" on an "Other" line under "Expenses and withdrawals" and list the total. Don't use the lines under "Expenses and withdrawals" to list any totals that make up the approved room and board fee.

Costs to Consider for a Room and Board Fee

(These aren't official court system approved examples and this list isn't all inclusive):

Room and Board – includes groceries and all housing-related costs. Examples include:

- Real estate related costs, i.e. taxes, insurance, maintenance, repairs
- Home maintenance related costs, i.e. air conditioner, fans, heater, appliances, plumbing
- Utilities, i.e. electricity, gas, cable, internet, phone, garbage, water
- Groceries, i.e. snacks, Boost
- Paper products, i.e. bathroom tissue, facial tissue, napkins, paper towels
- Cleaning supplies, i.e. sprays, wipes, mops, dish soap, laundry soap, bleach, sponges

Expenses that Probably Aren't Room and Board. Examples include:

- Personal needs, i.e. clothes, makeup, lotion, soap, hair products, toothpaste, haircuts
- Medical, i.e. vitamins, pain relievers, cold medicines, supplements, prescriptions
- Entertainment, i.e. dining out, videos, movies, books, batteries, nails/spa, travel
- Cell phone/internet, if the Ward has their own phone or internet plan (not family plan)
- Other, i.e. furniture, bedding, decorations, tv, DVD's, other personal property

Forms

****You Must Complete All Six of the Forms in the Packet****

You Must Complete All of the Forms in the Packet. If you don't, the Clerk of Court **Won't** accept your motion for filing.

The forms in the Motion for an Order to Allow Payment of Room and Board are:

- Notice of Motion for an Order to Allow Payment of Room & Board;
- Motion for an Order to Allow Payment of Room & Board;
- Brief in Support of Motion for an Order to Allow Payment of Room & Board;
- Declaration in Support of Motion for an Order to Allow Payment of Room & Board;
- Order Allowing/Denying Payment of Room & Board (proposed); and
- Declaration of Service by Mail.

Step One: Complete the Forms

You Must Complete All of the Forms in the Packet. If you don't, the Clerk of Court **Won't** accept your motion for filing.

Notice of Motion for an Order to Allow Payment of Room and Board

This is your **required**, written notice that you're making a motion to request an order in the guardianship case.

- **Top of Form (Caption)**
 - Enter the same county and district court names as the top (caption) of your current Letters of Guardianship.
 - Fill in legal name of the Ward.
 - Enter the case number from your Letters of Guardianship.
- **Date and Signature**
 - Sign and date the form.
 - Complete the lines following your signature.

Motion for an Order to Allow Payment of Room and Board

This is your **required**, written request for an order in the guardianship case. Your motion document is a short, plain statement that includes the specific rules and laws that support your request for an order.

- **Top of Form (Caption)**
 - Fill in top (caption) exactly as you filled in the top (caption) of your Notice of Motion.
- **Date and Signature**
 - Sign and date the form.
 - Complete the lines following your signature.

Brief in Support of Motion for an Order to Allow Payment of Room and Board

This is your **required**, written explanation of why you should have your request for an order granted by the judge or judicial referee.

Your brief takes the specific rules and laws that support your request and explains how they apply to the facts of your particular situation. The facts are included in your Declaration in Support of Motion document.

- **Top of Form (Caption)**
 - Fill in top (caption) exactly as you filled in the top (caption) of your Notice of Motion.
- **Read Paragraphs 1 through 4 Carefully**
 - If these paragraphs aren't accurate for your situation, you can't use this form set.
- **Complete Paragraph 5**
 - If you know where to find at least one of the Ward's next of kin, put a check (✓) in the "is" box.
 - If you **don't** know where to find at least one of the Ward's next of kin, put a check (✓) in the "is not" box.
- **Read Paragraph 6 Carefully**
 - You **Must** complete the Declaration in Support of Motion form in this packet.

- **Complete Paragraph 7**

- **Complete the Declaration in Support of Motion Before you complete Paragraph 7.**
- List the maximum amount of the room and board fee you believe is appropriate for the Ward to pay each month.
- This must be the same amount you list in Paragraph 7 of your Declaration.

- **Date and Signature**

- Sign and date the form.
- Complete the lines following your signature.

Declaration in Support of Motion for an Order to Allow Payment of Room and Board

This is your **required**, written statement of the facts that support your request for an order. The facts you include in your Declaration must support the law and arguments in your Brief.

- **Top of Form (Caption)**

- Fill in top (caption) exactly as you filled in the top (caption) of your Notice of Motion.

- **Complete Paragraph 1**

- Fill in your name as the Guardian or Co-Guardian.

- **Read Paragraph 2 Carefully**

- If this paragraph isn't accurate for your situation, you can't use this form set.

- **Complete Paragraph 3**

- Fill in the address where the Ward is currently living.
- Put a check (✓) in each box that's accurate for your situation.
- For each box you check (✓), fill in the name(s) of the individuals with whom the Ward currently lives. **Their address must be the same as the Ward's address.**

- **Complete Paragraph 4**

- You must list every individual who lives at the address for the Ward listed in Paragraph 3.

- **Complete Paragraphs 5 and 6**

- Paragraphs 5 and 6 help you figure out what the maximum fee for the Ward's room and board might be.

- **For Paragraph 5**, list the monthly expenses for the **entire household**.
 - For each category, list the total average amount spent in a month for the entire household. If you have a bill, such as property tax, that's only paid once per year, divide that bill by 12 to get the monthly average.
 - The goal is to come up with the expenses for the entire household for an average month.
- **For Paragraph 6**, list the monthly expenses for the **Ward**.
 - The amount you assign to the Ward may depend on how many people live in the household.
 - Households and people are different. Consider the Ward's situation and needs for each category.
 - If the Ward has expenses that aren't shared with others in the household, such as their own cell phone or internet plan, don't include those expenses in Paragraph 5 or Paragraph 6. These expenses should be paid directly from the Ward's own account to the vendor.
- **Complete Paragraph 7**
 - List the maximum amount of the room and board fee you believe is appropriate for the Ward to pay each month. The amount shouldn't be higher than the total listed in Paragraph 6 without further explanation in Paragraph 8.
 - **This must be the same amount you list in Paragraph 7 of your Brief.**
 - If the fee is approved, you may charge less than the amount you list in Paragraph 7 in any month the Ward either can't afford to pay the full fee, or in any month the Ward's expenses are significantly less than average.
 - For example, if the Ward spends part of the summer months with other family members.
 - If the fee is approved, the fee is paid from the Ward's checking account to the family member paying the household costs.
- **Complete Paragraph 8**
 - Explain in detail the amount you request in Paragraph 7, including why the amount is reasonable and appropriate. **You Must explain how you came up with this amount.**
 - If additional sheets are necessary, write "(Additional sheets are attached)" on the last line of the Paragraph for which you attach additional sheets.
 - Write or type **only** on one side of any additional sheets.

- **Complete Paragraph 9**

- If you believe you need to include copies of any documents to explain any of your answers in your Declaration, list the name and short description of each document in Paragraph 9.
- You're not required to have additional documents.

- **Complete Paragraph 10**

- You're required to give notice of this motion to at least one of the Ward's next of kin, if possible.
- You must put a check (✓) in the same box as in Paragraph 5 of your Brief.
- If notice isn't possible, you **Must** explain why.
 - The judge or judicial referee decides if your reason notice isn't possible is legally sufficient.

- **Read Paragraph 11 Carefully**

- Make sure everything you type or write is true and correct. Make any corrections before you sign and date this form.

- **Date and Sign this Form**

- Print the date you sign the form.
- List the city, county, state, and country where you sign the form.
- Sign the document.
- Complete the lines following your signature.

Order Allowing/Denying Payment of Room and Board (proposed)

This is your proposed order for the judge or judicial referee to sign, if they grant your request for payment of room and board from the Ward's estate.

The judge or judicial referee decides if your request and the amount you request are legally sufficient.

- **Top of Form (Caption)**

- Enter the county and district court names.
- Fill in legal name of the Ward.
- Enter the case number from your Letters of Guardianship.

- **Leave the Rest of the Form Blank**

- If the judge or judicial referee decides you meet the legal requirements and decides to use your proposed order, they complete and sign the rest of the form.

Step Two: Serve Copies Of The Completed Forms

Gather Addresses of All Persons Required to Receive Notice of Your Motion:

You're required to mail a copy of all of your completed forms to all of the following persons:

- The Ward;
- Each interested person listed in the Court's order establishing the guardianship; and
- At least one of the next of kin of the Ward, **if you checkmarked (✓) the "is" box** in Paragraph 5 of your Brief and Paragraph 10 of your Declaration.

Get the mailing addresses for every person above.

Make Copies of Completed and Signed Forms

Make a copy of the following completed and signed forms for each of the persons listed above:

- Notice of Motion for an Order to Allow Payment of Room & Board;
- Motion for an Order to Allow Payment of Room & Board;
- Brief in Support of Motion for an Order to Allow Payment of Room & Board;
- Declaration in Support of Motion for an Order to Allow Payment of Room & Board;
- Order Allowing/Denying Payment of Room & Board (proposed); and
- All additional documents you listed in Paragraph 9 of your Declaration (*you may not have any documents*).

Arrange to Serve Copies of the Completed Forms (*Current Guardian or Co-Guardian arranges for service.*)

You must serve a copy of the completed forms on each person listed above.

Before the judge or judicial referee will act on your motion, they require proof that the Ward, each interested person, and at least one of the next of kin of the Ward was served a copy of the completed forms. A Declaration of Service is your proof.

You may arrange to have copies of the completed forms mailed:

- The person who mails the envelope(s) containing the copies by certified mail or first class mail **must be** 18 years old or older.
- The person who mails the envelope(s) containing the copies by certified mail or first class mail completes and signs the Declaration of Service by Mail form.
- Make a copy for your records. The original(s) are filed with the Clerk of Court.

Step Three: File Originals of The Completed Forms

File the Original, Completed Forms with the Clerk of Court

File the following original, completed forms with the Clerk of Court of the North Dakota State District Court that has authority over the guardianship:

- Notice of Motion for an Order to Allow Payment of Room & Board;
- Motion for an Order to Allow Payment of Room & Board;
- Brief in Support of Motion for an Order to Allow Payment of Room & Board;
- Declaration in Support of Motion for an Order to Allow Payment of Room & Board;
- Order Allowing/Denying Payment of Room & Board (proposed);
- All additional documents you listed in Paragraph 9 of your Declaration; and
- Declaration of Service forms showing service on the Ward, each interested person, and at least one of the Ward's next of kin.

You may be required to pay a filing fee. Contact the Clerk of Court for the amount, if any.

Contact information for Clerks of Court by North Dakota county is available at ndcourts.gov/court-locations.

After You File the Original, Completed Forms

After You File the Original, Completed Forms

The people who received copies of the completed forms have 17 calendar days to serve and file a response or objection to your motion.

You're notified if a hearing on your request is scheduled, or if the judge or judicial referee requires you to do something before they make a decision.

If Your Motion is Granted: the judge or judicial referee signs an order approving the amount of room and board that can be paid from the Ward's estate.

On your annual reports to the court, type or write "Room and Board" on an "Other" line under "Expenses and withdrawals" and list the total. **Don't** use the lines under "Expenses and withdrawals" to list any totals that make up the approved room and board fee.

If Your Motion isn't Granted: the judge or judicial referee signs an order denying your request to pay room and board from the Ward's estate.

State of North Dakota

In District Court

County of _____ Judicial District

In the Matter of the Guardianship of

_____.

Case No. _____

Notice of Motion for Order to Allow Payment of Room and Board

1. The following Motion for Order to Allow Payment of Room and Board is brought under Rule 3.2 of the North Dakota Rules of Court. The motion will be decided on the documents filed with the court unless oral argument or the taking of testimony is timely requested by a party or required by the Court.

2. You have 14 days after service of this motion upon you within which to serve and file a response or objection to the Court granting the attached motion. Upon the filing of an answer, or upon expiration of the time for filing, the motion is deemed submitted to the Court, unless a party timely requests oral argument or the taking of testimony.

Dated _____

Signature of Guardian

Printed Name

Address

City, State, Zip Code

Telephone Number: _____

Email: _____

State of North Dakota

In District Court

County of _____ Judicial District

In the Matter of the Guardianship of

_____.

Case No. _____

Motion for Order to Allow Payment of Room and Board

1. The guardian appointed in this case hereby moves the court for an Order under North Dakota Century Code Section 30.1-28-12(6)(b) and Rule 3.2 of the North Dakota Rules of Court providing as follows:
2. Granting the guardian/co-guardians approval to use funds from the ward's estate for payment of room and board.
3. A brief and declaration in support of this motion are attached.

Dated _____

Signature of Guardian

Printed Name

Address

City, State, Zip Code

Telephone Number: _____

Email: _____

State of North Dakota

In District Court

County of _____ Judicial District

In the Matter of the Guardianship of

_____.

Case No. _____

Brief in Support of Motion for Order to Allow Payment of Room and Board

1. Under Rule 3.2 of the North Dakota Rules of Court, the guardian appointed in this case submits this Brief in Support of the Motion for an Order to Allow Payment of Room and Board.

Facts

2. The facts and explanation of the guardian's proposed monthly payment for room and board are stated in the Declaration in Support of the Motion for an Order to Allow Payment of Room and Board, which is filed with the Motion for an Order to Allow Payment of Room and Board and incorporated by reference.

Law and Argument

3. North Dakota Century Code Section 30.1-28-12(6)(b) provides that:

If no conservator for the estate of the ward has been appointed and if the guardian has been granted authority to make financial decisions on behalf of the ward, the guardian shall:

. . . .

b. Receive money and tangible property deliverable to the ward and apply the money and property for support, care, and education of the ward; but, the guardian may not use funds from the ward's estate for room and board which the guardian or the guardian's spouse, parent or child have furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one of the next of kin of the ward, if notice is possible. The guardian shall exercise care to conserve any excess for the ward's needs.

4. Currently, no conservator has been appointed for the ward's estate and the guardian is granted authority to make financial decisions on behalf of the ward.

5. Notice to at least one of the ward's next of kin (*choose one*) ☐ is ☐ is not possible.

6. The amount the guardian is requesting for payment of room and board is reasonable under the circumstances as stated in the Declaration in Support of the Motion for an Order to Allow Payment of Room and Board.

7. The court should allow payment of room and board from the ward's estate in an amount not to exceed \$_____ per month.

Conclusion

8. The guardian respectfully requests that the court enter an Order consistent with the guardian's motion.

Dated _____

Signature of Guardian

Printed Name

Address

City, State, Zip Code

Telephone Number: _____

Email: _____

State of North Dakota

In District Court

County of _____ Judicial District

In the Matter of the Guardianship of

_____.

Case No. _____

Declaration in Support of Motion for Order to Allow Payment of Room and Board

The undersigned states as follows:

1. I am, _____ (*guardian's or co-guardian's name*), the guardian/co-guardian appointed in this case.

2. I am granted authority to make financial decisions on behalf of the ward and no conservator is currently appointed for the ward's estate.

3. The ward lives at _____
_____ (*address*)

and lives at the same address with (*select all that apply and fill in name(s)*):

☐ The guardian/co-guardians: _____

☐ The guardian's/co-guardians' spouse: _____

☐ The guardian's/co-guardians' parent: _____

☐ The guardian's/co-guardians' child: _____

who provides room and board to the ward.

4. The following other people also live in this household (*list the name, age, relationship to the guardian or co-guardian of every individual who lives in the household*):

5. The total average **monthly** expenses for the **household** are as follows (*don't leave any blanks. If a line doesn't apply, type or write 0.00*):

- a. ☐ Rent ☐ Mortgage (*choose one*): \$ _____
- b. Insurance & Property Taxes: \$ _____
- c. Utilities (*water, sewer, electricity, gas, trash*): \$ _____
- d. Food for **Household**: \$ _____
- e. Other _____: \$ _____
- f. Total Average **Household** Expenses: \$ _____

6. The total average **monthly** expenses for the **ward** are as follows (*don't leave any blanks. If a line doesn't apply, type or write 0.00*):

- a. ☐ Rent ☐ Mortgage (*choose one*): \$ _____
- b. Insurance & Property Taxes: \$ _____
- c. Utilities (*water, sewer, electricity, gas, trash*): \$ _____
- d. Food for **Ward**: \$ _____
- e. Other _____: \$ _____
- f. Total Average **Ward** Expenses: \$ _____

7. The monthly room and board payment that I am requesting for housing the ward is an amount not to exceed \$_____. I am requesting to charge the ward's estate on a monthly basis for as long as the ward is living at the address in Paragraph 3.

8. I would like the court to consider the following information in making a decision (*explain how you came up with the amount in Paragraph 7, why the amount is reasonable and appropriate balanced against costs from the ward's estate for the ward's support, care, and education, and any other factors*):

(Paragraph 8, continued.)

9. I am attaching these documents that support my Motion (*list name and short description of each document. If you don't have documents, type or write "No documents"*):

10. Notice to at least one of the ward's next of kin (*choose the same checkbox as Paragraph 5 of your Brief*) ☐ is ☐ is not possible. If notice is not possible, this is why (*explain*):

11. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration in Support of Motion for Order to Allow Payment of Room and Board is true and correct.

Signed on _____ (date) in _____ (city),
_____ County, _____ (state), _____ (country).

Signature of Guardian

Printed Name

Address

City, State, Zip Code

Telephone Number: _____

Email: _____

State of North Dakota

In District Court

County of _____ Judicial District

In the Matter of the Guardianship of

_____.

Case No. _____

Order ☐ Allowing / ☐ Denying Payment of Room and Board

1. This matter came before the Court on a Motion for an Order to Allow Payment of Room and Board from the estate of the above-named ward.

2. The Court having reviewed the Motion and accompanying Brief, Declaration and other documentation, and being fully advised, **Hereby Orders:**

☐ The motion is granted. Room and board provided to the ward may be reimbursed out of the ward's estate in an amount not to exceed \$_____ per month. Reimbursement may continue for as long as the ward lives within this household.

☐ The motion is denied.

By the Court:

Judge/Judicial Referee of the District Court

State of North Dakota

In District Court

County of _____ Judicial District

In the Matter of the Guardianship of

_____.

Case No. _____

Declaration of Service by Mail

*(May serve multiple persons **Only If** envelopes are mailed same day.)*

The person serving court documents by mail states:

1. My name is _____ *(name of person who mailed documents)*. I am at least 18 years of age.

2. **List of Court Documents Served** *(checkmark (✓) the box of each item served. If you have additional documents, checkmark the box and list the document):*

☒ Notice of Motion for Order to Allow Payment of Room and Board

☒ Motion for Order to Allow Payment of Room and Board

☒ Brief in Support of Motion for Order to Allow Payment of Room and Board

☒ Declaration in Support of Motion for Order to Allow Payment of Room and Board

☒ Proposed Order Allowing/Denying Payment of Room and Board

☐ _____

☐ _____

☐ _____

3. **Service by Mail:**

I served a true and correct copy of each of the court documents listed in Paragraph 2 by mailing them, enclosed in an envelope, by ☐ Certified Mail (OR) ☐ First-Class mail, postage prepaid, and by depositing them in the United States Mail, directed to each person listed in Paragraph 5.

4. **Date of Service by Mail:**

Date Court Documents Were Served by Mail: _____

5. **Person or Persons Served by Mail:**

1. Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

2. Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

3. Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

4. Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

6. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Service by Mail is true and correct.

Signed on _____ in _____ (city),
_____ County, _____ (country).

Signature

Printed Name

Address City, State, Zip Code

Telephone Number Email Address