

## 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](https://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 can be found at [ndcourts.gov](https://ndcourts.gov).

A glossary with definitions of legal terms is available at [ndcourts.gov/legal-self-help](https://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 wish 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.

## Purpose

[North Dakota Century Code Section 30.1-28-12\(6\)](#) relates to the requirement that funds from the ward's estate **can't** be used for room and board when room and board is being furnished by the Guardian, or the Guardian's spouse, parent or child. A court order is required to allow funds from the ward's estate to be used for room and board in these instances. 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.

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.

## Forms

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

- 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);
- Declaration of Service by Hand Delivery; and
- Declaration of Service by Mail.

## Step One: Complete The Forms

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

- **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.
- **Date and Signature**
  - Sign and date the form.
  - Complete the lines following the signature.

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

- **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.
  - Fill in the name of the guardian/co-guardians.
- **Complete Paragraphs 1 and 2 of the Form**
  - Select the person(s) providing room and board. Fill in the person's name.
  - To determine the amount of room and board, see Paragraphs 5 and 6 of the Declaration in Support of Motion for an Order to Allow Payment of Room and Board form.
- **Date and Signature**
  - Sign and date the form.
  - Complete the lines following the signature.

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

- **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.
  - Fill in the legal name of the ward in the first sentence.

- **Complete Paragraph 3 of the Form**

- Attach additional sheets, if necessary.
- If additional sheets are necessary, write “(Additional sheets are attached)” on the last line of Paragraph 3.
- Write or type only on one side of any additional sheets.

- **Date and Signature**

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

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

- **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.

- **Complete Paragraphs 1 through 9 of the Form**

- Attach additional sheets, if necessary.
- 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.

- **Read Paragraph 10 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**

- Indicate the county, state, and country where you sign the form.
- Print the date you sign the form.
- Sign the document;
- Print your name, address, telephone number, and email address.

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

- **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 judicial officer assigned to the motion decides to use this proposed order, the judicial officer will complete and sign the rest of the form.

## Step Two: Serve Copies Of The Completed Forms

### **Make Copies of Completed and Signed Forms**

Make a copy of the following completed and signed forms for the ward, each interested person designated in the Court's order establishing the guardianship, and at least one of the next of kin of the ward:

- 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 8 of your Declaration.

### **Arrange to Serve Copies of the Completed Forms** (*Current guardian arranges for service.*)

You must serve a copy of the completed forms on the ward and each interested person designated in the Court's order establishing the guardianship.

Additionally, North Dakota Century Code Section 30.1-28-12(6) requires that at least one of the next of kin of the ward receive a copy of each completed Motion for an Order to Allow Payment of Room and Board forms, if notice is possible.

Before the North Dakota State District Court will act on your motion, the Court requires proof that the ward, each interested person, and at least one of the next of kin of the ward received a copy of the completed forms. A Declaration of Service is your proof.

### If you arrange to have copies of the completed forms hand delivered:

- The person who hand delivers the copies **must be** 18 years old or older, and **can't** be a party or interested in the guardianship case.
- The person who hand delivered the copies completes and signs the Declaration of Service by Hand Delivery form.
- Make a copy for your records. The original(s) will be filed with the Clerk of Court.

If you arrange to have copies of the completed forms mailed:

- The person who takes the envelope(s) containing the copies to the U.S. Post Office and pays the postage **must be** 18 years old or older.
- The person who took the envelope(s) containing the copies to the U.S. Post Office and paid the postage completes and signs the Declaration of Service by Mail form.
- Make a copy for your records. The original(s) will be 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 jurisdiction of 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 8 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](https://ndcourts.gov/court-locations).

#### **After the Original, Completed Forms are Filed**

The people who received copies of the completed forms have 14 days to serve and file a response or objection to your request to use funds from the ward's estate for room and board.

You will be notified if a hearing on your request is scheduled, or if the court requires you to do something before the court will make a decision.

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

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL DISTRICT

**IN THE MATTER OF THE GUARDIANSHIP OF**

\_\_\_\_\_

**AN INCAPACITATED INDIVIDUAL**

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 in accordance with Rule 3.2, 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  
COUNTY OF \_\_\_\_\_

IN DISTRICT COURT  
\_\_\_\_\_ JUDICIAL DISTRICT

**IN THE MATTER OF THE GUARDIANSHIP OF**

\_\_\_\_\_

**AN INCAPACITATED INDIVIDUAL**

**Case No.** \_\_\_\_\_

**MOTION FOR ORDER TO ALLOW PAYMENT OF ROOM AND BOARD**

The guardian, \_\_\_\_\_ (*guardian's name*), of the above-named incapacitated individual, hereby moves the court for an Order in accordance with 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:

1. Granting the guardian/co-guardians approval to use funds from the incapacitated individual's estate for payment of room and board provided by (*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: \_\_\_\_\_

2. Granting payment for the charge for room and board in an amount not to exceed \$\_\_\_\_\_ per month.



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  
COUNTY OF \_\_\_\_\_

IN DISTRICT COURT  
\_\_\_\_\_ JUDICIAL DISTRICT

**IN THE MATTER OF THE GUARDIANSHIP OF**

\_\_\_\_\_  
**AN INCAPACITATED INDIVIDUAL**

**Case No.** \_\_\_\_\_

**BRIEF IN SUPPORT OF MOTION FOR ORDER TO ALLOW PAYMENT OF ROOM AND BOARD**

Pursuant to Rule 3.2 of the North Dakota Rules of Court, the guardian of the above-named incapacitated individual, \_\_\_\_\_, submits this Brief in Support of the Motion for an Order to Allow Payment of Room and Board.

**FACTS**

1. The facts 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**

2. North Dakota Century Code Section 30.1-28-12(6)(b) provides that “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 . . . .”

3. The court should allow payment of room and board from the ward's estate in an amount not to exceed \$\_\_\_\_\_ per month because (*explain*):

**CONCLUSION**

4. 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  
COUNTY OF \_\_\_\_\_

IN DISTRICT COURT  
\_\_\_\_\_ JUDICIAL DISTRICT

**IN THE MATTER OF THE GUARDIANSHIP OF**

\_\_\_\_\_  
**AN INCAPACITATED INDIVIDUAL**

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 name*), the guardian/co-guardian of the above-named incapacitated individual.

2. The name(s), address(es) and telephone number(s) of the guardian or co-guardians appointed for the incapacitated individual are as follows:

Name(s):

Address:

City:

State:

Zip:

Telephone number(s):

Email address(es):

3. The incapacitated individual lives at \_\_\_\_\_  
\_\_\_\_\_ (*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 furnishes room and board to the incapacitated individual.

4. The following other people also live in this household (*name, age, relationship to me*):

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 **incapacitated individual** 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 **Incapacitated Individual**: \$ \_\_\_\_\_
- e. Other \_\_\_\_\_: \$ \_\_\_\_\_
- f. Total Average Incapacitated Individual Expenses: \$ \_\_\_\_\_

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

8. The following additional documents that support my Motion for an Order to Allow Payment of Room and Board are attached (*list name and short description of each document*):

9. I would like the court to consider the following additional information in making a decision (*explain*):

10. 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 of Guardian)*

\_\_\_\_\_  
*(Address)*

\_\_\_\_\_  
*(City, State, Zip Code)*

\_\_\_\_\_  
*(Telephone Number)*

\_\_\_\_\_  
*(Email Address)*



STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL DISTRICT

**IN THE MATTER OF THE GUARDIANSHIP OF**

\_\_\_\_\_

**AN INCAPACITATED INDIVIDUAL**

**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 incapacitated individual.

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

The motion is granted. \_\_\_\_\_, may be reimbursed for room and board provided to the incapacitated individual out of the incapacitated individual's estate in an amount not to exceed \$\_\_\_\_\_ per month. Reimbursement may continue for as long as the incapacitated individual lives with this household at the following address: \_\_\_\_\_.

The motion is denied.

BY THE COURT:

\_\_\_\_\_  
Judge/Judicial Referee of the District Court

STATE OF NORTH DAKOTA  
COUNTY OF \_\_\_\_\_

IN DISTRICT COURT  
\_\_\_\_\_ JUDICIAL DISTRICT

**IN THE MATTER OF THE GUARDIANSHIP OF**

\_\_\_\_\_  
**AN INCAPACITATED INDIVIDUAL**

**Case No.** \_\_\_\_\_

**DECLARATION OF SERVICE BY HAND DELIVERY**

*(A separate affidavit is required for each person served.)*

**The person serving court documents by hand delivery states:**

1. My name is \_\_\_\_\_  
*(name of person who hand delivered documents).*

2. I am at least 18 years of age. I am **not a party or interested in the above named civil matter.**

3. **List of Court Documents Served (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
- Motion for Order Allowing Payment of Room and Board
- Declaration in Support of Motion
- Proposed Order for Payment of Room and Board
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

4. **Date, Time, and Address of Service by Hand Delivery:**

Date: \_\_\_\_\_ Time: \_\_\_\_\_  a.m. (or)  p.m.

Address:

\_\_\_\_\_  
(street address) (city) (zip code)

5. **Service by Hand Delivery:**

As required by Rule 5(b)(3) of the North Dakota Rules of Civil Procedure, I served a true and correct copy of each of the court documents listed in Paragraph 3 to \_\_\_\_\_  
\_\_\_\_\_ (name of person served) at the date, time and address listed in Paragraph 4 by handing the court documents directly to him/her. I know the person I served is the person intended to be served because (explain how you identified the person): \_\_\_\_\_  
\_\_\_\_\_

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

Signed on \_\_\_\_\_ in \_\_\_\_\_ (city),  
\_\_\_\_\_ County, \_\_\_\_\_ (country).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address City, State, Zip Code

\_\_\_\_\_  
Telephone Number Email Address

STATE OF NORTH DAKOTA  
COUNTY OF \_\_\_\_\_

IN DISTRICT COURT  
\_\_\_\_\_ JUDICIAL DISTRICT

**IN THE MATTER OF THE GUARDIANSHIP OF**

\_\_\_\_\_  
**AN INCAPACITATED INDIVIDUAL**

**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

Motion for Order Allowing Payment of Room and Board

Declaration in Support of Motion

Proposed Order for Payment of Room

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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