

FAQs
COMPENSATION OF CONSERVATORS
UNDER REGULATION 16
Effective July 1, 2016

Probate Court Regulation 16 governs the compensation of conservators when the person under conservatorship is unable to pay for a conservator. These FAQs are intended to help conservators understand recent changes to the regulation.

Q #1: What is the effective date of the changes to Regulation 16?

A: The effective date of the new rules for conservator compensation is **July 1, 2016**. This means that all services performed through June 30, 2016 should be billed under Regulation 16 before the changes. Services performed on or after July 1, 2016 must be billed under the revised rules.

Q #2: Can I be paid under Regulation 16 if I am related to the conserved person?

A: No. Section 16.4 (c) provides that a conservator who is related to the conserved person by blood or marriage is ineligible for compensation under the regulation.

Q #3: Is there a new invoice form?

A: Yes. There are two different CO-17 forms posted on the ctprobate.gov website under "Conservators," one for services performed through June 30, 2016 and another for services beginning on July 1. **Use of the new invoice form is MANDATORY for services performed on or after July 1.**

Q #4: Can I combine a bill for services performed before and after July 1, 2016 into a single bill?

A: No. You must bill all your time through June 30, 2016 using the old invoice form and you must use the new invoice form for services performed on or after July 1, 2016.

Q #5: How frequently must I submit my invoices?

A: You can choose how frequently to bill for services as a conservator. For most cases, quarterly billing is a good practice. Keep in mind that we cannot pay for services that you performed more than 6 months before submission of the invoice.

Q #6: What is the deadline to submit an invoice?

A: The deadline to submit an invoice is 6 months from the date of activity. We are prohibited by law from paying invoices beyond the 6 month deadline.

Q #7: Is there a minimum amount for invoices?

A: The minimum amount for an invoice is \$50. A conservator may submit an invoice for less than \$50 if the invoice includes activity that occurred at least 5 months ago.

Q #8: Can I round my time to the nearest 0.25 hours or 0.5 hours?

A: No. Regulation 16 now requires conservators to report their time in increments of 0.1 hours. The chart below converts minutes into 0.1 hour increments:

Minutes	0.1 hour
6	0.1
12	0.2
18	0.3
24	0.4
30	0.5
36	0.6
42	0.7
48	0.8
54	0.9
60	1.0

Q #9: Can I enter the same amount of time for recurring activities each month based on the average time it takes me to complete the tasks?

A: No. You must enter the exact time spent on the case for each day that services are performed.

Q #10: What are the hourly rates under the new regulation?

A: The hourly rate for conservators is \$50. Effective July 1, 2016, the conservator can also bill \$25 per hour for the conservator's employees when performing compensable activities (see Question 11 below). Each entry on an invoice must identify the individual performing the activity to ensure that the proper hourly rate is applied.

Q #11: Are there restrictions on the types of activities that I can bill on?

A: Section 16.5 contains a list of activities that are eligible for compensation and a list of activities for which compensation is not paid.

The following activities are compensable if within the scope of duties that the court assigned to you as a conservator:

- Making decisions about medical and personal care
- Arranging and supervising services
- Arranging procurement of necessities such as food and medication
- Meeting and communicating with the conserved person and third parties about the conserved person's needs

- Obtaining public assistance and benefits
- Managing mail
- Preparing for and attending hearings in Probate Court and preparing petitions and annual reports
- Managing records
- Handling emergency situations

In addition, the following activities are compensable for a person serving as conservator of the estate:

- Applying for Medicaid and executing a spend-down plan
- Managing income and assets
- Paying bills
- Banking
- Reconciling bank statements
- Bookkeeping
- Preparing financial reports and accounts
- Preparing tax returns

NO COMPENSATION is paid for the following activities:

- Shopping
- Delivering goods
- Delivering a cash allowance, unless there is no practical alternative
- Travelling to the bank to make deposits when direct deposit is available
- Providing transportation
- Providing companionship
- Acting as attorney for the person under conservatorship
- Performing home maintenance and improvement activities
- Moving furniture and possessions (except as needed to safeguard valuables)
- Caring for pets (except if the person under conservatorship is temporarily unable)
- Timekeeping and billing activities
- Purely secretarial work

Q #12: Are there any special rules about when a *conservator of the estate* can be paid under Regulation 16?

A: Section 16.3 provides that services as conservator of the estate are not eligible for compensation in the following two circumstances:

1. The conserved person has been determined eligible for Title XIX, the requirements of the spend-down plan have been satisfied and the person resides in a nursing home, hospital or similar facility; or

2. The conserved person has been determined eligible for Title XIX, the requirements of the spend-down plan have been satisfied and the person's finances can be managed by a person other than the conservator (for example, a family member), acting as representative payee.

In either of these situations, the conservatorship of estate should be terminated. The conservator of person can continue to oversee the conserved person's care. In addition, the court can grant the conservator of person authority to handle minor financial matters as provided under C.G.S. section 45a-660 (a). The conservator of person continues to be eligible for compensation.

Q #13: If a conserved person who is on Title XIX and living in a nursing home has no conservator of the estate, who will handle periodic Title XIX redeterminations? What about pension checks that are not made payable to the nursing home?

A: As indicated in Q #12 above, no compensation is allowed under Regulation 16 for a conservator of the estate for a conserved person who is on Title XIX and residing in a nursing home, hospital or similar facility. C.G.S. section 45a-660 (a) provides that the court can authorize a conservator of the person to handle the conserved person's financial affairs if the conserved person's assets do not exceed the Title XIX limit. Under the statute, the court can grant specific powers to the conservator of the person to address Title XIX redetermination issues and other incidental financial tasks.

Q #14: Is travel time compensable?

A: Time for travel between your office and other locations on conservatorship business is compensable. Travel time from your home is not allowed unless your residence is your sole place of business.

Q #15: Can I bill for the time it takes me to keep timesheets or prepare invoices?

A: No.

Q #16: The conserved person for whom I am conservator has a matter in Superior Court. Can I be paid for my services as attorney for the conserved person in the Superior Court case?

A: No. Compensation under Regulation 16 is strictly limited to services as conservator and not as attorney. As conservator, you should arrange representation for the conserved person through the Superior Court, if available (for example, a public defender in a criminal proceeding, a court-appointed attorney in a Juvenile Court matter or legal aid in a Housing Court case).

Q #17: Are there any changes to the annual caps for conservator compensation?

A: The caps have not changed, but the standard to exceed the cap in a case has changed. The court may authorize excess fees if it concludes that the conservator used the most efficient method to perform each activity for which compensation is sought.

The standard to exceed the cap under the prior regulation was extraordinary circumstances.

A conservator who seeks fees in excess of an applicable cap must include a request to exceed with the invoice.

The caps are as follows:

Conserved person does not reside in a nursing home, hospital, or similar facility:

- \$1,000 for the first 6 months
- \$500 per year thereafter

Conserved person resides in a nursing home, hospital, or similar facility:

- \$500 for the first 6 months
- \$250 per year thereafter

Conserved person has a diagnosis of psychiatric disability

- \$1,000 for the first 6 months
- \$1,000 per year thereafter

Q #18: What is the definition of psychiatric disability?

A: Section 16.2 (c) defines psychiatric disability as a diagnosed mental illness of a severe and persistent nature. Dementia and intellectual disability are not considered psychiatric disabilities for the purposes of the regulation.

Q #19: In some of my cases, I am paid for my work as a conservator from the income and/or assets of the conserved person rather than being paid from the Probate Court Administration Fund. Does Regulation 16 apply to my compensation in those cases?

A: No. Regulation 16 only applies if the Probate Court has determined that the conserved person is unable to pay for a conservator. Otherwise, your compensation is paid from the conserved person's resources. While the court will review your fees for reasonableness, you are not limited to the regulation hourly rates in private pay cases.

Q #20: How do I determine whether Regulation 16 applies to a case?

A: A conservator is paid by the Probate Court system under Regulation 16 only if the court determines that the conserved person is unable to pay for the conservator's services. To be considered unable to pay, the conserved person must meet two requirements:

1. The court must have granted the conserved person's fee waiver request (PC-184A); and

2. The conserved person's counted assets must not exceed the maximum for Title XIX (in most cases, \$1,600).

If the court has not previously determined that the conserved person is unable to pay, it is the responsibility of the conservator to submit a fee waiver request (PC-184A) on behalf of the conserved person. The fee waiver request will provide the necessary information for the court to determine if the conserved person meets both of the above requirements to be considered unable to pay.

The court may periodically request an updated PC-184A to verify that the conserved person continues to be unable to pay.

Q #21: What happens if the court determines that the conserved person who was previously considered unable to pay does not qualify under the revised regulation?

A: Under revised Regulation 16, a conserved person is considered unable to pay for a conservator only if the court has granted a fee waiver request **and** the conserved person's counted assets do not exceed the Title XIX maximum. Since the asset test is new, it is possible that a conserved person who was deemed unable to pay under the previous version of Regulation 16 will no longer qualify. In that event, the conservator would be paid from the conserved person's income and assets, rather than being paid from the Probate Court Administration Fund, on a going forward basis.

Q # 22: What happens if I discover previously unknown assets after the court has determined that the conserved person is unable to pay?

A: If the conservator discovers that the conserved person has assets in excess of the Title XIX maximum after the court has determined that the conserved person is unable to pay, the conservator must reimburse any fees paid from the Probate Court Administration Fund. This is done by sending a check to Probate Court Administration (payable to Treasurer, State of Connecticut). The conservator can then be paid for the services associated with the reimbursed fees from the conserved person's resources.

Q # 23: What happens if the conserved person acquires assets after the court has determined that the conserved person is unable to pay?

A: If the conserved person receives assets in excess of the Title XIX maximum after the court has determined that the conserved person is unable to pay, the conservator will be paid from the conserved person's resources on a prospective basis.

Q #24: What are my responsibilities when I am spending down the assets of an individual in anticipation of Title XIX eligibility?

A: Section 16.6 requires the conservator to plan for payment of administration expenses from the conserved person's income and assets when the conserved person is expected to become eligible for Title XIX within the next year. This means that the conservator should make arrangements for payment of all anticipated conservator fees,

attorney's fees and Probate Court fees (including the fee on the conservator's final account) before the conservator uses the conserved person's funds for other purposes. The conservator should not set up a prepaid funeral until the administration expenses are covered.

Q #25: Where can I find more information about Regulation 16?

A: The conservator link on the website for the Probate Courts (ctprobate.gov) contains a Fee Schedule for Conservators, which summarizes the applicable rules. It also contains the new invoice form, which must be used for all services performed on or after July 1, 2016. Finally, the complete text of Regulation 16 is available by clicking on "Administrator's Office" and then clicking the button for "Regulations."