WEST VIRGINIA CODE: §44A-1-15

§44A-1-15. Eligibility of guardians or conservators employed pursuant to a Department of Human Services waiver program.

(a) A person employed pursuant to a written contract or other employment arrangement with a licensed provider of behavioral health services for the purpose of providing services to a protected person, may be appointed by a court as the guardian or conservator of the protected person if:

(1) Payment for services provided under the contract or employment agreement is made pursuant to a waiver program;

(2) The person is related to the protected person by blood, marriage or adoption;

(3) The contract or arrangement is disclosed in writing to the court; and

(4) The court finds that the appointment is in the best interests of the protected person.

(b) Without the prior approval of a court, a guardian or conservator may not enter into a written contract or other employment arrangement with a licensed provider of behavioral health services in which the guardian or conservator will receive compensation pursuant to a waiver program.

(c) For the purposes of this section:

(1) "Behavioral health services" means services provided for the care and treatment of persons with mental illness, intellectual disability, developmental disabilities or alcohol or drug abuse problems in an inpatient, residential or outpatient setting, including, but not limited to, habilitative or rehabilitative interventions or services and cooking, cleaning, laundry and personal hygiene services provided for such care; and

(2) "Waiver program" means a Department of Human Services administered waiver program, including, but not limited to, the "MR/DD" or "Intellectual and Developmental Disabilities" waiver program authorized by section 1915(c) of the Social Security Act.

(d) A person appointed to serve as a guardian or conservator prior to the effective date of this section, enacted during the 2011 Regular Session of the Legislature, who meets the requirements contained in subsection (a), shall retain his or her authority, powers and duties in that capacity under the provisions of this section: *Provided*, That the guardian or conservator informs the court, in writing, that he or she is employed pursuant to a written contract or other employment arrangement with a licensed provider of behavioral health services under the waiver program.

WV Legislature