

**Arizona Department of Health Services  
Division of Behavioral Health Services  
PROVIDER MANUAL**

*Magellan Health Services of Arizona Edition*

**Section 3.18**      **Pre-Petition Screening, Court-Ordered  
Evaluation, and Court-Ordered Treatment**

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**3.18.1      Introduction**

This section is only applicable to behavioral health providers under contract with a Regional Behavioral Health Authority (RBHA).

At times, it may be necessary to initiate civil commitment proceedings to ensure the safety of a person, or the safety of other persons, due to a person's mental disorder when that person is unable or unwilling to participate in treatment. In Arizona, state law permits any responsible person to submit an application for pre-petition screening when another person may be, as a result of a mental disorder:

- A danger to self (DTS);
- A danger to others (DTO);
- Persistently or acutely disabled (PAD); or
- Gravely disabled (GD).

Pre-petition screening includes an examination of the person's mental status and/or other relevant circumstances by a designated screening agency. Upon review of the application, examination of the person and review of other pertinent information, a licensed screening agency's medical director or designee will determine if the person meets criteria for DTS, DTO, PAD, or GD as a result of a mental disorder.

If the pre-petition screening indicates that the person may be DTS, DTO, PAD, or GD, the screening agency will file an application for a court-ordered evaluation. Based on the immediate safety of the person or others, an emergency admission for evaluation may be necessary. Otherwise, an evaluation will be arranged for the person by a designated evaluation agency within timeframes specified by state law.

Based on the court-ordered evaluation, the evaluating agency may petition for court-ordered treatment on behalf of the person. A hearing, with the person and his/her legal representative and the physician(s) treating the person, will be conducted to determine whether the person will be released and/or whether the agency will petition the court for

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court-ordered treatment. For the court to order ongoing treatment, the person must be determined, as a result of the evaluation, to be DTS, DTO, PAD, or GD. Court-ordered treatment may include a combination of inpatient and outpatient treatment. Inpatient treatment days are limited contingent on the person's designation as DTS, DTO, PAD, or GD. Persons identified as:

- DTS may be ordered up to 90 inpatient days per year;
- DTO and PAD may be ordered up to 180 inpatient days per year; and
- GD may be ordered up to 365 inpatient days per year.

If the court orders a combination of inpatient and outpatient treatment, a mental health agency may be identified by the court to supervise the person's outpatient treatment. In some cases, the mental health agency may be a RBHA; however, before the court can order a mental health agency to supervise the person's outpatient treatment, the agency medical director must agree and accept responsibility by submitting a written treatment plan to the court.

At every stage of the pre-petition screening, court-ordered evaluation, and court-ordered treatment process, a person will be provided an opportunity to change his/her status to voluntary. Under voluntary status, the person is no longer considered to be at risk for DTS/DTO, and agrees in writing to receive a voluntary evaluation.

County agencies and RBHA contracted agencies responsible for pre-petition screening and court-ordered evaluations must use the following forms prescribed in 9 A.A.C. 21, Article 5 for persons determined to have a Serious Mental Illness:

- [ADHS/DBHS Form MH-100, Application for Involuntary Evaluation;](#)
- [ADHS/DBHS Form MH-103, Application for Voluntary Evaluation;](#)
- [ADHS/DBHS Form MH-104, Application for Emergency Admission for Evaluation;](#)
- [ADHS/DBHS Form MH-105, Petition for Court-Ordered Evaluation;](#)
- [ADHS/DBHS Form MH-110, Petition for Court-Ordered Treatment;](#) and
- [ADHS/DBHS Form MH-112, Affidavit, Addendum No. 1 and Addendum No. 2.](#)

Agencies may also use these forms for all other populations.

In addition to court ordered treatment as a result of civil action, an individual may be ordered by a court for evaluation and/or treatment upon: 1) conviction of a domestic violence offense; or 2) upon being charged with a crime when it is determined that the individual is court ordered to treatment, or programs, as a result of being charged with a crime and appears to be an "alcoholic." RBHAs and RBHA providers responsibilities for the provision and coverage of those services, is described in subsection 3.18.7-E.

The intent of this section is to provide a broad overview of the pre-petition screening, court-ordered evaluation, and court-ordered treatment process. Depending on a behavioral health provider's designation as a screening, evaluation, or court-ordered treatment agency, the extent of involvement with persons receiving pre-petition screening, court-ordered evaluation, and court-ordered treatment services will vary.

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RBHAs will provide explicit expectations for behavioral health providers regarding this content area within subsection 3.18.7.

**3.18.2 References**

The following citations can serve as additional resources for this content area:

[A.R.S. § 13-3601.01](#)

[A.R.S. Title 14, Chapter 5](#)

[A.R.S. Title 36, Chapter 5](#)

[A.R.S. § 36-2005](#)

[A.R.S. § 36-2027](#)

[A.A.C. R9-20-802](#)

[A.A.C. R9-20-803](#)

[9 A.A.C. 21, Article 5](#)

[AHCCCS Contractor Operations Manual, Policy 423](#)

[ADHS/RBHA Contracts](#)

[Section 3.4, Co-payments](#)

[Section 3.9, Assessment and Service Planning](#)

[Section 3.10, SMI Eligibility Determination](#)

[Section 3.11, General and Informed Consent to Treatment](#)

[Section 3.17, Transition of Persons](#)

[Section 4.2, Behavioral Health Medical Record Standards](#)

[TAD 5, Information Sharing with Family Members of Adult Behavioral Health Recipients](#)

**3.18.3 Scope**

**To whom does this apply?**

All persons who are unwilling or unable to seek behavioral health treatment, who may be DTS, DTO, PAD, or GD due to a mental disorder, and who may require pre-petition screening, court-ordered evaluation, and/or court-ordered treatment.

**3.18.4 Did you know...?**

- Arizona Counties are responsible for managing, providing, and paying for pre-petition screening and court-ordered evaluations and are required to coordinate provision of behavioral health services with the Arizona Department of Health Services/Division of Behavioral Health Services (ADHS/DBHS) system. Some counties contract with RBHAs to process pre-petition screenings and petitions for court-ordered evaluations.
- Arizona Health Care Cost Containment System/ Arizona Long Term Care Services (AHCCCS/ALTCS) Program Contractors are responsible for providing and funding services under court-ordered treatment of elderly and physically disabled (EPD) ALTCS-enrolled persons.
- Upon determination that a person is gravely disabled, the person must be recommended for appointment of a guardian and/or conservator if one is not already assigned to the person.

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- A person found to be gravely disabled and who is undergoing court-ordered treatment receives an annual examination and review to determine whether the continuation of court-ordered treatment is appropriate.
- The medical director of the agency providing court-ordered treatment must inform persons of their right to judicial review and their right to consult with counsel at least once each sixty days while undergoing court-ordered treatment. This notification must be recorded in the clinical record of the person by the individual who gave the notice.

### **3.18.5 Definitions**

#### [Danger to Self \(DTS\)](#)

(a) Behavior which, as a result of a mental disorder, constitutes a danger of inflicting serious physical harm upon oneself, including attempted suicide or the serious threat thereof, if the threat is such that, when considered in the light of its context and in light of the individual's previous acts, it is substantially supportive of an expectation that the threat will be carried out.

(b) Behavior which, as a result of a mental disorder, will, without hospitalization, result in serious physical harm or serious illness to the person, except that this definition shall not include behavior which establishes only the condition of gravely disabled.

#### [Danger to Others \(DTO\)](#)

The judgment of a person who has a mental disorder is so impaired that he is unable to understand his need for treatment and as a result of his mental disorder his continued behavior can reasonably be expected, on the basis of competent medical opinion, to result in serious physical harm to others.

#### [Persistently or Acutely Disabled \(PAD\)](#)

A severe mental disorder that meets all the following criteria:

(a) If not treated has a substantial probability of causing the person to suffer or continue to suffer severe and abnormal mental, emotional or physical harm that significantly impairs judgment, reason, behavior or capacity to recognize reality.

(b) Substantially impairs the person's capacity to make an informed decision regarding treatment and this impairment causes the person to be incapable of understanding and expressing an understanding of the advantages and disadvantages of accepting treatment and understanding and expressing an understanding of the alternatives to the particular treatment offered after the advantages, disadvantages and alternatives are explained to that person.

#### [Gravely Disabled \(GD\)](#)

A condition evidenced by behavior in which a person, as a result of a mental disorder, is likely to come to serious physical harm or serious illness because he/she is unable to provide for his/her basic physical needs.

#### [Pre-petition Screening](#)

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The review of each application requesting court-ordered evaluation, including an investigation of facts alleged in such application, an interview with each applicant and an interview, if possible, with the proposed patient. The purpose of the interview with the proposed patient is to assess the problem, explain the application and, when indicated, attempt to persuade the proposed patient to receive, on a voluntary basis, evaluation or other services.

[Court-Ordered Evaluation](#)

A professional multidisciplinary analysis based on data describing the person's identity, biography and medical, psychological and social conditions carried out by a group of persons consisting of not less than the following:

(a) Two licensed physicians, who shall be qualified psychiatrists, if possible, or at least experienced in psychiatric matters, and who shall examine and report their findings independently. The person against whom a petition has been filed shall be notified that he may select one of the physicians. A psychiatric resident in a training program approved by the American Medical Association or by the American Osteopathic Association may examine the person in place of one of the psychiatrists if he is supervised in the examination and preparation of the affidavit and testimony in court by a qualified psychiatrist appointed to assist in his training, and if the supervising psychiatrist is available for discussion with the attorneys for all parties and for court appearance and testimony if requested by the court or any of the attorneys.

(b) Two other individuals, one of whom, if available, shall be a psychologist and in any event a social worker familiar with mental health and human services which may be available placement alternatives appropriate for treatment. An evaluation may be conducted on an inpatient basis, an outpatient basis or a combination of both and every reasonable attempt shall be made to conduct the evaluation in any language preferred by the person.

[Mental Disorder](#)

A substantial disorder of the person's emotional processes, thought, cognition or memory. Mental disorder is distinguished from:

- (a) Conditions that are primarily those of drug abuse, alcoholism or mental retardation, unless, in addition to one or more of these conditions, the person has a mental disorder;
- (b) The declining mental abilities that directly accompany impending death; and
- (c) Character and personality disorders characterized by lifelong and deeply ingrained antisocial behavior patterns, including sexual behaviors that are abnormal and prohibited by statute unless the behavior results from a mental disorder.

**3.18.6 Objectives**

To inform behavioral health providers of the pre-petitioning screening, court-ordered evaluation, and court-ordered treatment process for persons who are unable or unwilling to seek behavioral health treatment and, due to a mental disorder, may be DTS, DTO, PAD, or GD.

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**3.18.7 Procedures**

**3.18.7-A. Licensure Requirements**

Behavioral health providers who are licensed by the Arizona Department of Health Services/Division of Assurance and Licensure Services/Office of Behavioral Health Licensure (OBHL) as a court-ordered evaluation or court-ordered treatment agency must adhere to OBHL requirements.

**3.18.7-B. Pre-Petition Screening**

Counties may contract with RBHAs for pre-petition screening services, or counties may provide their own pre-petition screening services. Procedures for pre-petition screening are outlined below.

The pre-petition screening includes an examination of the person's mental status and/or other relevant circumstances by a designated screening agency. The designated screening agency must follow these procedures:

- The pre-petition screening agency must offer assistance, if needed, to the applicant in the preparation of the application for court-ordered evaluation (see [ADHS/DBHS Form MH-100, Application for Involuntary Evaluation](#)).
- Any behavioral health provider that receives an application for court-ordered evaluation (see [ADHS/DBHS Form MH-100, Application for Involuntary Evaluation](#)) must immediately refer the applicant for pre-petition screening and petitioning for court-ordered evaluation to the RBHA designated pre-petition screening agency or county facility.

When the county is contracted with the RBHA for pre-petition screening services  
Magellan does not contract directly with Maricopa County for pre-petition screening. There is an intergovernmental agreement between Maricopa County and the Arizona Department of Health Services for these services. In-turn, ADHS/DBHS contracts with Magellan to provide Pre-Petition Screening and Court Ordered Evaluation Services.

When the county does not contract with a RBHA for pre-petition screening and petitioning for court-ordered evaluation;

**Non-Emergent Filing and Process**

For Filing of Non-Emergent Petitions

\_This provides instruction to the Case Manager and EMPACT Pre-Petition Team relative to AAC and ARC requirements, not intended to be instructive to provider/community members

- Pre-petition screens and COEs can be filed on a non-emergent basis at the MIHS Desert Vista Campus Legal Office 570 West Brown Road, Mesa, AZ 85201, (480) 344-2000. This involves all Persistently or Acutely Disabled (PAD) and Gravely Disabled (GD) petitions. Danger to Self (DTS) and Danger to Others (DTO) petitions that do not require immediate intervention can also be filed on a non-emergent basis.

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Please use the following forms for filing the non-emergent petition: form [ADHS/DBHSMH-105 Petition for Court-Ordered Evaluation](#) and form [ADHS/DBHS .MH-100 Application for Involuntary Evaluation](#)

- Eight copies and the original [ADHS/DBHS MH-105 Petition for Court-Ordered Evaluation](#), [ADHS/DBHS MH-100 Application for Involuntary Evaluation](#), [Application for Court-Ordered Evaluation](#), Pre-Petition Screening Report ([PM Form 3.18.2](#)) and Police Mental Health Detention Information Sheet ([PM Form 3.18.1](#)) must be submitted by the behavioral health recipient's Case Manager or the EMPACT pre-petition team to the Legal Department at Maricopa Integrated Health System (MIHS) Desert Vista Campus for review by the County Attorney, preparation of the Detention Order, and filing with the Superior Court. These documents must be filed within 24 hours of completion, excluding weekends and holidays.
- Once the petition is filed with the court, the Legal Department at MIHS Desert Vista Campus Delivers the Detention Order to the Police Department to have the behavioral health recipient brought to a PRC for evaluation. NOTE: The Petition and Police Mental Health Detention Information Sheet ([PM Form 3.18.1](#)) expire 14 days from the date the judge signs off on the order for COE.
- One of the eight copies of petition documents shall be stored by the behavioral health recipient's Case Manager or the EMPACT pre-petition team in a secure place (such as a locked file cabinet) to ensure the behavioral health recipient's confidentiality. A petition for involuntary evaluation may not be stored in the medical record if the behavioral health recipient has not been court ordered to receive treatment.

Non-emergent process

For behavioral health recipients receiving RBHA PNO Clinic Services, the following steps will be completed by the PNO Clinic Clinical Team. For all other residents of Maricopa County (not enrolled with Magellan), the responding outpatient provider will complete these steps for petitions for COE. Any responsible individual may apply for a COE of a person who is alleged to be, as a result of a mental disorder, a danger to self or to others, persistently or acutely disabled, or gravely disabled and who is unwilling or unable to undergo a voluntary evaluation.

- For Maricopa County residents not enrolled with Magellan PNO Clinic Services, an applicant contacts the Magellan Customer Service Line at 1-800-564-5465 and requests a PAD or GD petition application be completed on an identified person in the community. The Pre-Petition team shall receive the referral and will contact the applicant to assist the applicant in completion of the Application for Involuntary Evaluation when a non-emergency COE is requested. All other steps, when applicable, will be the same as for Magellan PNO Clinic enrolled behavioral health recipients.
- For Magellan PNO Clinic enrolled behavioral health recipients, the Case Management Team shall assist applicants in the completion of the application and evaluation when a non-emergency COE is requested. If at anytime during the process the behavioral health recipient is determined to be in imminent danger of harming self or others, Urgent Psychiatric Center (UPC or PRC West) will be

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contacted for assistance in evaluation and possible application for an emergency petition.

- For all Magellan PNO Clinic enrolled or non-enrolled persons, pre-petition screening must be attempted within forty-eight (48) hours, excluding weekends and holidays, of completion of the application. Pre-petition screening process includes informing the individual that an application for evaluation (form [ADHS/DBHS MH-100 Application for Involuntary Evaluation](#)) has been completed, explaining the individual's rights to voluntary evaluation, reviewing the allegations, and completing a mental status examination. The Pre-Petition Screening Report ([PM form 3.18.2](#)) is a detailed report of the information obtained during the assessment. This report must be completed by someone other than the applicant. If the person does consent to a voluntary evaluation, [ADHS/DBHS MH-103 Application for Voluntary Evaluation](#) shall be used.
- During the pre-petition screening, at least three attempts to contact the behavioral health recipient should be completed. If attempts at contacting the behavioral health recipient are unsuccessful and screening is not possible, screening staff will staff this information with a physician. The screening agency shall prepare a report giving reasons why the screening was not possible, including opinions/conclusions of staff members who attempted to conduct pre-petition screening.
- If the behavioral health recipient does not consent to an outpatient evaluation or an outpatient evaluation is not appropriate as determined by the evaluating psychiatrist, the involuntary process shall continue.
- The Case Management Team or EMPACT Pre-Petition Team will staff the application for involuntary evaluation ([ADHS/DBHS MH-100 Application for Involuntary Evaluation](#)) and Pre-Petition Screening Report ([PM Form 3.18.2](#)) with a psychiatrist who will:
  - Review the report to determine if it indicates that there is reasonable cause to believe the allegations of the applicant for the COE.
  - Prepare a Petition for COE and file the petition if the psychiatrist determines that the person, due to a mental disorder, including a primary diagnosis of dementia and other cognitive disorders, is DTS, DTO, PAD or GD. [ADHS/DBHS Form MH-105, Petition for Court-Ordered Evaluation](#) documents pertinent information for COE;
  - If the psychiatrist determines that there is reasonable cause to believe that the person, without immediate hospitalization, is likely to harm himself/herself or others, the psychiatrist must coordinate with the UPC/PRC-W and ensure completion of [ADHS/DBHS Form MH-104, Application for Emergency Admission for Evaluation](#), and take all reasonable steps to procure hospitalization on an emergency basis.

Pre-petition screens, application, and petition for Inpatient Court Ordered Evaluation can be filed on a non-emergent basis at the MIHS Desert Vista Campus Legal Office 570 West Brown Road, Mesa, AZ 85201, (480) 344-2000. This involves all Persistently or Acutely Disabled (PAD) and Gravely Disabled (GD) petitions. Danger to Self (DTS) and Danger to Others (DTO) petitions that do not require immediate intervention can also be filed on a non-emergent basis. Please use the following forms for filing the non-emergent petition: form [ADHS/DBHSMH-105 Petition for Court-Ordered Evaluation](#) and form [ADHS/DBHS .MH-100 Application for Involuntary Evaluation](#)

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- Eight copies and the original [ADHS/DBHS MH-105 Petition for Court-Ordered Evaluation](#), [ADHS/DBHS .MH-100 Application for Involuntary Evaluation](#), [ADHS/DBHSMH-105 Petition for Court-Ordered Evaluation](#), Pre-Petition Screening Report ([PM Form 3.18.2](#)) and Police Mental Health Detention Information Sheet ([PM Form 3.18.1](#)) must be submitted by the behavioral health recipient's Case Manager or the EMPACT pre-petition team to the Legal Department at Maricopa Integrated Health System (MIHS) Desert Vista Campus for review by the County Attorney, preparation of the Detention Order, and filing with the Superior Court. These documents must be filed within 24 hours of completion, excluding weekends and holidays.
- Once the petition is filed with the court, the Legal Department at MIHS Desert Vista Campus Delivers the Detention Order to the Police Department to have the behavioral health recipient brought to a PRC for evaluation. NOTE: The Petition and Police Mental Health Detention Information Sheet ([PM Form 3.18.1](#)) expire 14 days from the date the judge signs off on the order for COE.
  - One of the eight copies of petition documents shall be stored by the behavioral health recipient's Case Manager or the EMPACT pre-petition team in a secure place (such as a locked file cabinet) to ensure the behavioral health recipient's confidentiality. A petition for involuntary evaluation may not be stored in the medical record if the behavioral health recipient has not been court ordered to receive treatment.

**Court Ordered Outpatient Evaluation**

- After the pre-petition screening, if the person is refusing a voluntary evaluation and the psychiatrist determines the person is safe to go through an Outpatient Court Ordered Evaluation, then the Case Manager or EMPACT pre-petition team will deliver the original [ADHS/DBHS MH-100 Application for Involuntary Evaluation](#) , *Pre-Petition Screening Report* ([PM Form 3.18.2](#)), and [ADHS/DBHSMH-105 Petition for Court-Ordered Evaluation](#) are delivered to the Magellan Court Advocacy Department.
- The Magellan Court Coordinator will arrange for an outpatient Court Ordered Evaluation at Desert Vista Hospital and notify the Case Manager of the date and time of the evaluation.
- The Magellan Court Coordinator will arrange for the person to be notified of the date and time of the COE through being formally served the order by a process server. The Case Manager will arrange for transportation for the person to and from the Outpatient COE and will provide any documents requested by the psychiatrists conducting the evaluation. If the person is not enrolled at a PNO Clinic, the Magellan Court Coordinator will assist the person in arranging for transportation.
- If the two evaluating psychiatrists do not believe that the person is in need of COT, then the Magellan Court Coordinator will forward the physicians' affidavits to the Case Manager with an explanation that the person has been determined not to be in need of COT.
- If the two evaluating psychiatrists, completing the Outpatient Court Ordered Evaluation, determine the person is in need of COT, then the two physician's

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[ADHS/DBHS form MH-112 Affidavits](#) and social work report will be delivered to the Magellan Court Advocacy Department within 1 business day of the evaluation. The Magellan Court Coordinator will then file a *Petition for Court Ordered Treatment* with the Maricopa County Superior Court within 2 business days.

Voluntary inpatient or Voluntary Outpatient evaluation

- If the individual agrees to a voluntary evaluation, complete the [ADHS/DBHS MH-103 Application for Voluntary Evaluation](#) and review with a psychiatrist.
  - If the psychiatrist determines that a voluntary evaluation is appropriate, then a decision as to whether the evaluation is to take place on an inpatient or outpatient basis will be made by the psychiatrist.
- If the psychiatrist determines an inpatient evaluation is necessary, the Case Manager is to arrange for a voluntary admission to UPC, in order for the evaluation to take place, assist the person in signing in and deliver the original notarized [ADHS/DBHS MH-103 Application for Voluntary Evaluation](#) to the UPC Coordinator.
- If the psychiatrist determines an outpatient voluntary evaluation is acceptable, then the Case Manager will deliver the original, notarized [ADHS/DBHS MH-103 Application for Voluntary Evaluation](#) to the Magellan Court Advocacy department. An outpatient evaluation will then be scheduled at Desert Vista Hospital and the Case Manager will be responsible for notifying the person of the date and time of the evaluation, provide transportation to and from the evaluation, and provide any documentation requested by the physician's conducting the evaluation.
- The voluntary outpatient or inpatient assessment must include evaluation by two psychiatrists and the involvement of either two social workers, or one social worker and one psychologist, who shall complete the outpatient treatment plan. The voluntary psychiatric evaluation shall include determination regarding the existence of a mental disorder, and whether, as a result of a mental disorder, the individual meets one or more of the standards. The psychiatric evaluation must also include treatment recommendations. The psychiatrists completing the outpatient psychiatric evaluations will submit a written affidavit to the Magellan Court Advocacy Department regarding their findings.
- If the psychiatrists do not believe that the person is in need of COT, then the Magellan Court Coordinator will forward the physicians' affidavits to the Case Manager with an explanation that the person has been determined not to be in need of COT.
- If the psychiatrists completing the voluntary inpatient evaluation or voluntary outpatient evaluation determines the person is in need of COT, then the two physician's [ADHS/DBHS form MH-112 Affidavits](#) and a social work report will be delivered to the Magellan Court Advocacy Department within 1 business day of the evaluation. The Magellan Court Coordinator will then file a *Petition for Court Ordered Treatment* with the Maricopa County Superior Court within 2 business days

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**Emergent Filing and Process**

For Filing of Emergent Petitions

In cases where it is determined that there is reasonable cause to believe that the person is in such a condition that without immediate hospitalization he is likely to harm himself or others, an emergent petition can be filed. Only petitions indicating Danger to Self and/or Danger to Others can be filed on an emergent basis and shall be filed at the Urgent Psychiatric Care (UPC), 903 North 2<sup>nd</sup> Street, Phoenix, AZ 85004, (602) 416-7600 or Psychiatric Recovery Center West 11361 N. 89<sup>th</sup> Ave Suite 6401, Peoria AZ 85345 602 650 1212.. Magellan contracts with the UPC/PRC-W to assist the applicant in preparing the [ADHS/DBHS Form MH-104, Application for Emergency Admission for Evaluation](#) when an emergent evaluation is requested.

Emergent process

- The applicant is a person who has, based on personal observation, knowledge of the behavioral health recipient's behavior that is danger to self or danger to others. The applicant shall complete the [ADHS/DBHS Form MH-104, Application for Emergency Admission for Evaluation](#) with assistance of PRC staff.
- The applicant must have seen or witnessed the behavior or evidence of mental disorder.
- The applicant, as a direct observer of dangerous behavior, may be called to testify in court if the application results in a petition for COE.
- The PRC psychiatrist determines if enough evidence exists for an emergent COE.
- A Request for Emergency Evaluation may be discussed by telephone with a PRC physician, the referring physician, and a police officer to facilitate transport of the person to be evaluated at a PRC.
- A person proposed for evaluation may be apprehended and transported to the PRC by police officials through a written Request for Emergency Evaluation faxed to the police.
- A 23-Hour Emergency Admission begins at the time the behavioral health recipient is detained involuntarily by an Admitting Officer who determines there is reasonable cause to believe that the person, as a result of a mental disorder, is a DTS or DTO and that during the time necessary to complete prescreening procedures the person is likely, without immediate hospitalization, to suffer harm or cause harm to others.
- During the emergency admission period of up to 23 hours the following will occur:
- The behavioral health recipient's ability to consent to voluntary treatment will be assessed.
  - The behavioral health recipient shall be offered and receive treatment to which he/she may consent. Otherwise, other than calming talk or listening, the only treatment administered involuntarily will be for the safety of the individual or others, i.e. seclusion/restraint or pharmacological restraint in accordance with A.R.S. § 36-513.

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- PRC shall contact the County Attorney prior to filing a petition if it alleges that a person is DTO.
- The psychiatrist will complete the Release from Evaluation within 24 hours of determination that the person no longer requires involuntary evaluation.
- If the behavioral health recipient does not meet the criteria for an emergent petition but is determined to meet criteria for PAD and/or GD, PRC will notify the applicant of the non-emergent process.

**3.18.7-C. Court-Ordered Evaluation**

If the pre-petition screening indicates that the person may be DTS, DTO, PAD, or GD, the screening agency will file an application for a court-ordered evaluation. The procedures for court-ordered evaluations are outlined below:

When the county is contracted with the RBHA for court-ordered evaluations

Maricopa County does not contract with Magellan to provide court-ordered evaluation services.

When the county is not contracted with the RBHA for court-ordered evaluations

Magellan contracts with Maricopa Integrated Health Systems for inpatient Court-Ordered Evaluations and Med-Pro for Outpatient Court-Ordered Evaluations.

When the RBHA is contracted to provide court-ordered evaluations

When the county contracts with the RBHA to perform court-ordered evaluations, the RBHA or its subcontracted behavioral health provider must follow these procedures:

- A person being evaluated on an inpatient basis must be released within seventy-two hours if further evaluation is not appropriate, unless the person makes application for further care and treatment on a voluntary basis;
- A person who is determined to be DTO, DTS, PAD, or GD as a result of a mental disorder must have a petition for court-ordered treatment prepared, signed and filed by the RBHA medical director or designee;
- Title XIX/XXI funds must not be used to reimburse court-ordered evaluation services; and

Voluntary Evaluation

- Any RBHA contracted behavioral health provider that receives an application for voluntary evaluation must immediately refer the person to the facility responsible for voluntary evaluations.
- The RBHA contracted behavioral health provider must follow these procedures:
  - The evaluation agency must obtain the individual's informed consent prior to the evaluation (see [ADHS/DBHS Form MH-103, Application for Voluntary Evaluation](#)) and provide evaluation at a scheduled time and place within five days of the notice that the person will voluntarily receive an evaluation;

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- For inpatient evaluations, the evaluation agency must complete evaluations in less than seventy-two hours of receiving notice that the person will voluntarily receive an evaluation; and
- If a behavioral health provider conducts a voluntary evaluation service as described in this section, the comprehensive clinical record (see [Section 4.2, Behavioral Health Medical Record Standards](#)) must include:
  - A copy of the application for voluntary evaluation, [ADHS/DBHS Form MH-103, Application for Voluntary Evaluation](#);
  - A completed informed consent form (see [Section 3.11, General and Informed Consent to Treatment](#)); and
  - A written statement of the person's present medical condition.

When the county does not contract with the RBHA for court-ordered evaluations

**3.18.7-D. Court-Ordered Treatment following Civil Proceedings**

Based on the court-ordered evaluation, the evaluating agency may petition for court-ordered treatment. The behavioral health provider must follow these procedures:

- Upon determination that an individual is DTS, DTO, GD, or PAD, and if no alternatives to court-ordered treatment exist, the medical director of the agency that provided the court-ordered evaluation must file a petition for court-ordered treatment (see [ADHS/DBHS Form MH-110, Petition for Court-Ordered Treatment](#));
- Any behavioral health provider filing a petition for court-ordered treatment must do so in consultation with the person's clinical team prior to filing the petition;
- The petition must be accompanied by the affidavits of the two physicians who conducted the examinations during the evaluation period and by the affidavit of the applicant for the evaluation (see [ADHS/DBHS Form MH-112, Affidavit and attached addenda](#));
- A copy of the petition, in cases of grave disability, must be mailed to the public fiduciary in the county of the patient's residence, or the county in which the patient was found before evaluation, and to any person nominated as guardian or conservator; and
- A copy of all petitions must be mailed to the superintendent of the Arizona State Hospital.

Persons who are Title XIX/XXI eligible and/or determined to have a Serious Mental Illness (SMI).

- When a person referred for court-ordered treatment is Title XIX/XXI eligible and/or determined or suspected to have a Serious Mental Illness, the RBHA must:
  - Conduct an evaluation to determine if the person has a Serious Mental Illness in accordance with [Section 3.10, SMI Eligibility Determination](#), and conduct a behavioral health assessment to identify the person's service needs in conjunction with the person's clinical team, as described in [Section 3.9, Assessment and Service Planning](#); and
  - Provide necessary court-ordered treatment and other covered behavioral health services in accordance with the person's needs, as determined by the person's

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clinical team, the behavioral health recipient, family members, and other involved parties(see [Section 3.9, Assessment and Service Planning](#)).

- RBHAs must perform, either directly or by contract, all treatment required by A.R.S. Title 36, Chapter 5, Article 5 and 9 A.A.C. 21, Article 5.

### Transfer from one behavioral health provider to another.

- A person ordered by the court to undergo treatment can be transferred from one behavioral health provider to another behavioral health provider if:
  - The person does not have a court appointed guardian;
  - The medical director of the receiving behavioral health provider accepts the transfer; and
  - The consent of the court for the transfer is obtained as necessary (see [Section 3.17, Transition of Persons](#), for more details).
  - In order to coordinate a transfer of a person under court-ordered treatment to ALTCS or another RBHA, the behavioral health recipient's clinical team will coordinate with the Magellan Court Advocacy Department at (602) 652-5941.

### Clinical Team Responsibilities for Serving a Recipient Receiving Services under COT

- After a recipient has been court ordered to receive treatment, a copy of the Court Order for Treatment and Court Ordered Evaluation shall be filed with the Pre-Petition Screening (non-emergent) in the recipient's Magellan medical record.
- Throughout the duration of COT, the ISP shall be reviewed and updated as clinically indicated.
- The recipient is seen as frequently as indicated in the ISP, but never less than one face-to-face contact per month by both the Case Manager and the assigned clinician.
- Contacts, actions, activities, consultations, and progress toward ISP goals shall be documented in the recipient's progress notes.
- Every recipient receiving COT shall have a needs assessment and COT treatment goals developed during the first appointment with the BHMP after being placed on COT. These are to be incorporated into the ISP. The Clinical Director will be available to assist the BHMP in writing the ISP goals as needed.
- If the recipient does not attend scheduled clinic appointments, outreach begins immediately in an effort to locate and engage the recipient in services. If the team cannot locate and/or engage the recipient in services within 48 hours, the COT shall be amended. Appropriate outreach will be consistent with the ISP, which may include the following:
  - Home visits by the Case Manager and/or other clinical team members.

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- Phone calls and/or visits to homeless shelters, hospitals, jails and may other known locations that the recipient might frequent;
  - Calls to family members, friends, Parole Officers, Probation Officer, Guardian or acquaintances that may know the whereabouts of the recipient if confidentiality allows; and
  - Filing a Missing Person's Report with the appropriate authorities, if the recipient's whereabouts are unknown and determined appropriate by the team.
- A recipient's care shall not be closed while the Court Order is active. The Case Manager/Clinical Liaison shall follow the process described under the Termination of Court Orders prior to closing a recipient's case.
  - When a recipient is court ordered to receive treatment, the Case Manager shall request that appointments be scheduled for the recipient to see the BHMP once a month for the next 12 months. Efforts will be made to schedule the appointments on the same day and the time each month.

Termination of Court Orders

- Behavioral health recipient Initiated COT
  - When the Court Order is issued, the recipient shall be advised by the Clinical Team of the right for Judicial Review every 60 days. The Clinical Team shall document the fact that the recipient was notified of his/her right in the Progress Notes section of the recipient's medical record.
  - A recipient can request a Judicial Review any time after the first 60 days of the Court Order. The Clinical Team shall assist in this process.
- Case Management Initiated Court Order Termination
  - A Clinical Team can request to terminate a Court Order. Once it has been determined that the Case Management Team will initiate termination of a recipient's court order, the team shall complete the following steps:
    - Recipient moved to a new area
      - i Write a letter stating the reason for the termination of the COT to be signed by a psychiatrist at the State.
      - ii If within the State, obtain a letter of intent to treat from the RBHA provider where the recipient will be receiving treatment.
      - iii Send above two documents, if applicable, with a copy of the Court Order to the Magellan Court Coordinator.
    - The recipient is deceased
      - i The Clinical Team Psychiatrist will write a letter stating the termination of the COT is due to the death of the recipient.
      - ii Send above letter with a copy of the Court Order to the Magellan Court Coordinator.
    - Lack of Clinical Necessity
      - i The Clinical Team Psychiatrist will write a letter stating the clinical reason for the termination of the COT. The letter will state clinically

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- why the recipient is no longer considered to be DTS, DTO, GD, or PAD.
- ii Send above letter with a copy of the Court Order to the Magellan Court Coordinator.

Requests for continued COT for Persistent or Acute Disability (PAD) or Grave Disability (GD)

- Sixty days prior to the expiration of the recipient's Court Order, the Clinical Team will meet to review the recipient's ISP. During this meeting, the team will determine whether the recipient would benefit from continued COT under the standard of Persistently or Acutely Disabled or Gravely Disabled.
- The Clinical Liaison will ensure completion of the *Final Court Ordered Treatment Status Report* outlining the recipient's current status and indicating the need for continued COT.
- If the recipient requires continued COT, the Clinical Team will indicate on the *Final Court Ordered Treatment Status Report* that the team is recommending COT renewal. Two witness statements attesting to PAD or GD behaviors exhibited in the past 90 days will be submitted to the Magellan Court Advocacy Department along with the *Final Court Ordered Treatment Status Report*.
- After receipt of the *Final Court Ordered Treatment Status Report*, the Magellan Court Coordinator will arrange for the recipient to meet with a psychiatrist at Desert Vista Hospital for an outpatient appointment to complete either the *Psychiatric Report for the annual Review of a Persistently or Acutely Disabled Person* or the *Psychiatric Report for the Annual Review of a Gravely Disabled Person*. If the clinical team prefers, a psychiatrist at the Direct Care Center can also complete this review.
- If the recommendation provided in the *Psychiatric Report for the Annual Review of a Persistently or Acutely Disabled Person* or the *Psychiatric Report for the Annual Review of a Gravely Disabled Person* is for the COT to continue, then the Magellan Court Coordinator will prepare a Petition for Continued Treatment and file the petition, along with the annual report, with the Probate/Mental Health Court.
- The Magellan Court Coordinator will notify the Clinical Liaison of the date and time of the COT Renewal Hearing and will instruct the Clinical Liaison to notify the witnesses and the recipient of the need to appear at the hearing.
- If the witnesses do not attend the hearing, the Petition for Continued Treatment will be dismissed and recipient's COT will expire on the original expiration date.

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- If the recipient does not appear for the hearing, the Clinical Liaison will be instructed by the Court to amend the COT to inpatient treatment in order to secure the recipient's presence at the hearing.

Court Ordered Medications for Treatment Adherence

- Recipients who are under a Court Order for Treatment and who are refusing to voluntarily consent to treatment may be treated against their will.
- When implementing a *Special Treatment Plan Referral for Involuntary Administration of Medications*, the following shall occur:
  - Medications can be forcibly administered only at the UPC, PRC West or an inpatient facility. If administered at the UPC or PRC West, the recipient's stay must be less than 24 hours unless an order amending the COT from an outpatient to inpatient status is signed by a Judicial Officer.
  - The Clinical Team shall complete the *Special Treatment Plan Referral for Involuntary Administration of Medications* to include the following information:
    - How the recipient's condition is expected to improve through the use of court ordered medications;
    - Medications recommended for administration;
    - Whether the recipient has received the recommended medication in the past;
    - Know allergies; and
    - Whether side effect medication may be administered with the recipient's consent or through forced administration.
  - The Clinical Team shall complete a Police Mental Health Detention Information Sheet ([PM form 3.18.1](#)) and include this in the paperwork sent to the UPC. THIS IS NOT A DETENTION ORDER OR PICK UP ORDER. This form is used by the UPC or PRC West to complete a pick up order. A pick up order CAN ONLY BE COMPLETED BY AN ADMITTING OFFICER AT THE UPS OR PRC WEST.
  - The *Special Treatment Plan Referral for Involuntary Administration of Medications* and the *Police Mental Health Detention Information Sheet* ([PM Form 3.18.1](#)) shall be faxed to the UPC or PRC West, or to the designated inpatient facility.
  - The Case Manager shall coordinate the recipient's treatment with the UPC, PRC West, or the inpatient facility staff prior to the recipient arriving at the designated facility.
  - The BHMP shall initiate a consult with the UPC, PRC West, or the inpatient BHMP, regarding recommendations for psychotropic medications to be prescribed and administered, as well as any other pertinent clinical issues.
- If an emergency situation arises where the recipient or another individual is considered to be in imminent danger, then the Clinical Team will follow steps for completing the emergent amendment to the recipient's Court Order.

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Court Order Amendments

- An emergent amendment may occur when a recipient is posing an imminent danger to themselves or others. The Order for Detention is issued by the UPC or PRC West only and the amendment is processed by the UPC or PRC West. The following paperwork shall be faxed to the UPC or PRC West when requesting an emergent amendment of a Court Order. If the recipient is admitted to the UPC or PRC West and remains inpatient for more than 24 hours, then the amendment letter must also be faxed to the Magellan Court Coordinator. The request to amend the COT from outpatient to inpatient status will then be presented to a Judicial Officer for review and will include the following:
  - A letter describing the specific behavior that has led to the recommendation of the Court Ordered Treatment Amendment. The letter must be signed by the BHMP and the Case Manager/Clinical Liaison;
  - Copies of the last three Progress Notes from the BHMP and the Case Manager;
  - A copy of the Court Order;
  - A complete *Police Mental Health Detention Information Sheet* ([PM Form 3.18.1](#)) indicating location of the recipient;
  - The most current medication sheet; and
  - The *Special Treatment Plan Referral for Involuntary Administration of Medications* form in case the recipient needs to be emergently medicated while at UPC or PRC West.
  
- A non-emergent amendment occurs when a clinical decision is made that a COT recipient is in need of inpatient services or a change of treatment location because the recipient is no longer able to adhere to outpatient treatment.
  
- To initiate a non-emergent amendment of a Court Order, the Clinical Team must complete the following:
  - A letter describing the specific behavior that has led to the recommendation of the Court Ordered Treatment Amendment from an outpatient to an inpatient status. The letter must be signed by the BHMP and the Case Manager/Clinical Liaison;
  - Copies of the last three Progress Notes from the BHMP and the Case Manager;
  - A copy of the Court Order; and
  - A complete *Police Mental Health Detention Information Sheet* ([PM Form 3.18.1](#)), indicating the location of the recipient.
  
- The completed paperwork is sent to the Magellan Court Coordinator by 9:30 AM, and will be filed the same business day.
  
- The Court Coordinator presents the proposed Court Order Amendment to the Probate Mental Health Division of the Maricopa County Superior Court.

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- To rescind a non-emergent amendment of a Court Order, the Clinical Team must do the following:
  - Contact the Court Coordinator by e-mail, copy the Director of Court Advocacy, and advise that the amendment is no longer necessary. The Court Coordinator will contact the police agency and advise them that the Court Order will be rescinded so the recipient will not be picked up;
  - Prepare a letter describing the change of circumstances that makes an amendment to the Court Order no longer necessary. The BHMP and the Case Manager shall sign the letter; and
  - Immediately fax the letter to the Magellan Court Coordinator for processing.
- The Court Coordinator shall prepare a Motion to Vacate the Amendment and Order, which shall be presented to the Probation Mental Health Division of the Maricopa County Superior Court.

Judicial Review

- Recipients on COT may ask for a judicial review after they have been on COT for 60 days. The Clinical Team must notify all recipients on COT of their right to judicial review. This notification is documented both on the *behavioral health recipient's Notice of Right to Judicial Review* form (English or Spanish version) and in the medical record through a progress note by the BHMP or other team member.
- If a recipient asks for a Judicial Review, a member of the team needs to assist her/him in completing the *Request for Judicial Review*. This needs to be filed with the court along with the *Psychiatric Report for Judicial Review* within three working days of the date the recipient signs the request form and gives it to Magellan. This means that once the recipient gives you the form, the BHMP will determine the need to see the recipient, complete the *Psychiatric Report for Judicial Review*, and send the report to the Court Advocacy Department as soon as possible to assure the report is filed with the court within three working days. Hand delivery to the Court Advocacy Department is recommended as inter-office mail may delay the filing process beyond the required time limits.
- There are also occasions when at the time a recipient is placed on COT, the Commissioner will order a Judicial Review take place as part of the 45-day status review. When this occurs the Clinical Team will be notified by Court Advocacy Department a few weeks prior to the deadline for filing the *Psychiatric Report for Judicial Review*.

**3.18.7-E. Court-Ordered Treatment for persons charged with, or convicted of, a crime**

T/RBHAs or T/RBHA providers may be responsible for providing evaluation and/or treatment services when an individual has been ordered by a court due to: 1) conviction

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of a domestic violence offense; or 2) upon being charged with a crime when it is determined that the individual is court ordered to treatment, or programs, as a result of being charged with a crime and appears to be an “alcoholic.”

**Domestic Violence Offender Treatment**

Domestic violence offender treatment may be ordered by a court when an individual is convicted of a misdemeanor domestic violence offense. Although the order may indicate that the domestic violence (DV) offender treatment is the financial responsibility of the offender under [A.R.S. § 13-3601.01](#), the T/RBHA will cover DV services with Title XIX/XXI funds when the person is Title XIX/XXI eligible, the service is medically necessary, required prior authorization is obtained if necessary, and/or the service is provided by an in-network provider. Additionally, T/RBHAs will cover DV services for Non-Title XIX/XXI eligible persons determined to have SMI who pay premiums for behavioral health coverage in accordance with requirements in [PM Section 3.4, Co-payments](#). For Non-TXIX/XXI eligible persons court ordered for DV treatment, the individual can be billed for the DV services.

**Court ordered substance abuse evaluation and treatment**

Substance abuse evaluation and/or treatment (i.e., DUI services) ordered by a court under [A.R.S. §36-2027](#) is the financial responsibility of the county, city, town or charter city whose court issued the order for evaluation and/or treatment. Accordingly, if ADHS/DBHS or a T/RBHA receives a claim for such services, the claim will be denied with instructions to the provider to bill the responsible county, city or town.