

**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**

- 3.18.1**      **Introduction**
- 3.18.2**      **References**
- 3.18.3**      **Scope**
- 3.18.4**      **Did you know...?**
- 3.18.5**      **Definitions**
- 3.18.6**      **Objectives**
- 3.18.7**      **Procedures**
- 3.18.7-A.**    **Licensing Requirements**
- 3.18.7-B.**    **Pre-Petition Screening**
- 3.18.7-C.**    **Court-Ordered Evaluation**
- 3.18.7-D.**    **Court-Ordered Treatment following Civil Proceedings under A.R.S. Title 36**
- 3.18.7-E.**    **Court-Ordered Treatment for persons charged with, or convicted of, a crime**
- 3.18.7-F.**    **Court-Ordered Treatment for American Indian Tribal Members in Arizona**

**3.18.1 Introduction**

This policy is applicable to behavioral health providers under contract with a Regional Behavioral Health Authority (RBHA) and/or a Tribal Regional Behavioral Health Authority (TRBHA).

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).

If the person who is the subject of a court ordered commitment proceeding is subject to the jurisdiction of an Indian tribe rather than the state, the laws of that tribe, rather than state law, will govern the commitment process. Information about the tribal court process and the procedures under state law for recognizing and enforcing a tribal court order are found in subsection [3.18.7-F](#).

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

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

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 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

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

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. 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. § 12-136](#)

[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 3.21, Service Package For Non-Title XIX/XXI Persons Determined to Have a Serious Mental Illness \(SMI\)](#)

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

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

[ADHS/DBHS Tribal Court Procedures for Involuntary Commitment webpage](#)

### **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

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

RBHAs to process pre-petition screenings and petitions for court-ordered evaluations.

- Arizona law provides for the recognition and enforcement or “domestication” of tribal court orders for involuntary commitment to treatment, including admission to the Arizona State Hospital (AZSH) for American Indians residing on tribal reservations. The Arizona statute (see [A.R.S. § 12-136](#)) is necessary, as Tribal governments are sovereign and have sole jurisdiction over Tribal members on reservations. Legal, jurisdictional, and continuity of care issues exist related to the coordination of tribal and state courts ordering treatment for American Indians.
- American Indians living off of or experiencing a crisis off of the Tribal reservation are subject to county jurisdiction and can be court ordered under state law (see [A.R.S. Title 36, Chapter 5](#)).
- 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.
- 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.
- A person found to be persistently or acutely disabled and who is undergoing court-ordered treatment shall have an annual examination and review to determine whether the continuation of court-ordered treatment is appropriate.
- The medical director shall review the condition of a patient on conditional outpatient treatment at least once every thirty days and enter the findings in writing in the patient’s medical record.
- 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.
- If the medical director rescinds an order for conditional outpatient treatment and the patient is returned to a mental health treatment agency for inpatient treatment, the

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

patient shall be informed of the patient's right to judicial review and right to consult with counsel.

**3.18.5 Definitions**

[American Indian Tribal Member](#)

[Court-Ordered Evaluation](#)

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

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

[Domestication or Recognition of Tribal Court Order](#)

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

[Mental Disorder](#)

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

[Pre-petition Screening](#)

[Tribal sovereignty in the United States](#)

**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.

**3.18.7 Procedures**

**3.18.7-A. Licensing Requirements**

Behavioral health providers who are licensed by the Arizona Department of Health Services/Division of Assurance and Licensing Services/Office of Behavioral Health Licensing (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.

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

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 RBHA is contracted to provide 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 RBHA is not contracted to provide pre-petition screening 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 Petitions 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](#)

- 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)



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

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 for Inpatient Court Ordered Evaluation 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 either the Response Recovery Center-West (RRC-W) or Urgent Psychiatric Care (UPC) 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 RBHA PNO Clinic), the EMPACT pre-petition team 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 other, 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 the applicant 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, UPC or RRC-W will be contacted for assistance in evaluation and possible application for an emergency admission.

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

- 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 a voluntary outpatient evaluation or voluntary inpatient evaluation or a voluntary 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/RRC-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



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

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](#).

- Eight copies and the original [ADHS/DBHS MH-105 Petition for Court-Ordered Evaluation](#), [ADHS/DBHS .MH-100 Application for Involuntary 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 the UPC or RRC-W 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.

### **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/she is likely to harm himself/herself 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 Response Recovery Center-West (RRC-W) 11361 N. 99<sup>th</sup> Ave Suite 402, Peoria AZ 85345 (602) 636-4605. Magellan contracts with the UPC/RRC-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

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

- others. The applicant shall complete the [ADHS/DBHS Form MH-104, Application for Emergency Admission for Evaluation](#) with assistance of UPC/RRC-W 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.
  - Within 12 hours of receipt of the Application for Emergency Admission for Emergency Evaluation (MH-104) the UPC/RRC-W admitting officer will determine if enough evidence exists for an emergency admission for evaluation. If there is enough evidence to support the emergency admission for evaluation and the person does not require medical care beyond the capacity of UPC/RRC-W, then the UPC/RRC-W staff will immediately coordinate with local law enforcement for the detention of the person and transportation to UPC/RRC-W.
  - If the Application for Emergency Admission for Evaluation is accepted by the UPC/RRC-W admitting officer and the person requires a level of medical support not available at either the UPC or RRC-W, then within 24 hours the UPC/RRC-W admitting officer will coordinate admission to the MIHS Psychiatric Annex. If admission to the MIHS Psychiatric Annex cannot be completed within 24 hours of the Application for Emergency Admission for Evaluation being accepted by the UPC/RRC-W admitting officer, then the Magellan of Arizona Medical Director must be notified.
  - An Application for Emergency Admission for Evaluation may be discussed by telephone with a UPC/RRC-W admitting officer, the referring physician, and a police officer to facilitate transport of the person to be evaluated at a UPC/RRC-W.
  - A person proposed for emergency admission for evaluation may be apprehended and transported to the UPC/RRC-W by police officials through a written Application for Emergency Admission for Evaluation faxed by the UPC/RRC-W admitting officer to the police.
  - A 23-Hour Emergency Admission for Evaluation begins at the time the behavioral health recipient is detained involuntarily by the Admitting Officer at UPC/RRC-W 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.

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

- 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.
  - UPC/RRC-W 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, UPC/RRC-W 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 RBHA is contracted to provide court-ordered evaluations

Magellan does not contract directly with Maricopa County for court-ordered evaluations. 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 Court Ordered Evaluation Services.

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; and
- Title XIX/XXI funds must not be used to reimburse court-ordered evaluation services.

RBHAs are encouraged to utilize outpatient evaluation or inpatient only court orders.

RBHAs shall not be responsible to pay for the costs associated with Court Ordered Evaluation outside of the limited "medication only" benefit package available for Non

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

Title XIX persons determined to have SMI, unless other prior payment arrangements have been made with another entity (e.g. County, hospital, provider).

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](#) to the Legal Department at Maricopa Integrated Health System(MIHS) Desert Vista Campus for review by the County Attorney, preparation of the service order, and filing with the Superior Court.
- Once the petition is filed with the court, the Legal Department at MIHS Desert Vista delivers the service order to the police department in order to have the person served legal notice of the date/time/location of the outpatient evaluation. One of the eight copies of the petition documents shall be stored by the person's Case Manager or EMPACT PAD 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.
- The MIHS Legal Department will arrange for an outpatient Court Ordered Evaluation and notify the Case Manager or EMPACT Pre-Petition Team of the date and time of the evaluation.
- If the Outpatient COE is scheduled to take place at Desert Vista, 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 Liaison will assist the person in arranging transportation.
- If the two evaluating psychiatrists do not believe that the person is in need of COT, then the MIHS Legal Department will forward the physicians' affidavits to the Case Manager or Pre-Petition Team 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 [ADHS/DBHS form MH-112 Affidavits](#) and social work report will be delivered to the MIHS Legal Department within 1 business day of the evaluation. The Magellan Court Liaison will then file a *Petition for Court Ordered Treatment* with the Maricopa County Superior Court within 2 business days.

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.

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

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 voluntary evaluation is necessary, the Case Manager or EMPACT PAD Team 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 or EMPACT PAD Team will deliver the original, notarized [ADHS/DBHS MH-103 Application for Voluntary Evaluation](#) to the MIHS Legal Department. An outpatient evaluation will then be scheduled at Desert Vista Hospital and the Case Manager or EMPACT PAD Team 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 MIHS Legal Department regarding their findings.
- If the psychiatrists do not believe that the person is in need of COT, then the MIHS Legal Department will forward the physicians' affidavits to the Case Manager or EMPACT PAD Team 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 MIHS Legal Department within 1 business day of the evaluation. The Magellan Court Liaison will then file a *Petition for Court Ordered Treatment* with the Maricopa County Superior Court within 2 business days.

The RBHA contracted behavioral health provider must follow these procedures:

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

- 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;
- 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.

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

**3.18.7-D. Court-Ordered Treatment following Civil Proceedings under  
A.R.S. Title 36**

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



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

- 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 [Section 3.21, Service Package For Non-Title XIX/XXI Persons Determined to Have a Serious Mental Illness \(SMI\)](#); 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 clinical team, the behavioral health recipient, family members, and other involved parties (see [Section 3.9, Assessment and Service Planning](#)); and
- 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) 572-5941.
- In order to coordinate a transfer of a person under COT from one PNO to another, the behavioral health recipient's current psychiatrist will discuss the transfer with the receiving psychiatrists. If both PNOs agree that the transfer is appropriate, the receiving psychiatrist will then provide a Letter of Intent to Treat to the PNO Court Coordinator of the sending PNO. The PNO Court Coordinator will then prepare a motion to transfer treatment provider, review with PNO attorney, and file with the

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

court. The person's care will not be transitioned to the receiving PNO until the new treatment provider is reflected on the COT.

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 medical record.
- Throughout the duration of COT, the ISP shall be reviewed and updated as clinically indicated.
- Every recipient on COT will be assigned a Case Manager and receive services from a Supportive or an Assertive Community Treatment (ACT) Team.
- The recipient is seen as frequently as indicated in the ISP, but never less than one face-to-face per month by both the Case Manager and the Behavioral Health Medical Professional (BHMP).
- Contacts, actions, activities, consultations, and progress toward ISP goals shall be documented in the progress notes.
- Every recipient receiving COT shall have a needs assessment and COT treatment goals developed during the first appointment with the BMHP after being placed on COT. These are to be incorporated into the ISP as needed. The Clinical Director will be available to assist the BHMP in writing the ISP goals as needed.
- If the recipient receiving COT 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.
  - 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 shall follow the process described under the Termination of Court Orders prior to closing a recipient's case.

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

- 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 Termination of COT
  - When the Court Order for Treatment is issued, the recipient shall be advised by the Case Manager or BHMP of the right for Judicial Review every 60 days. The Case Manager or BHMP 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 Case Manager or Non Title XIX Coordinator shall assist in this process.
- BHMP Initiated Court Order Treatment Termination
  - A BHMP can request to terminate a Court Order For Treatment. Once it has been determined to have a COT terminated, the BHMP 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 PNO.
      - 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 PNO Court Coordinator.
    - The recipient is deceased
      - i The BHMP 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 PNO Court Coordinator.
    - Lack of Clinical Necessity
      - i BHMP will staff with the PNO Medical Director the clinical reason for the termination of the COT. If in agreement, the PNO Medical Director will complete a Certification of Release From Treatment stating that the recipient is no longer considered to be DTS, DTO, GD or PAD.
      - ii. PNO Medical Director will provide the PNO Court Coordinator with the Certification.
      - iii PNO Court Coordinator will file Certification with the court and obtain the Order to Terminate Treatment.

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

- Loss of Benefit  
There is no benefit other than crisis services for persons who are on COT and Non Title XIX and Non SMI. Should a person who is Title XIX and Non-SMI lose Title XIX status while on COT, the PNO clinical team will immediately begin plans to transition the person's care to another provider in the community. A letter requesting the PNO be removed as the assigned outpatient treatment provider will be signed by the psychiatrist and submitted to the PNO Court Coordinator who will work with the PNO attorney to file a notice of loss of benefit and motion to be removed as treatment provider with the Superior Court

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

- An Annual Review will be completed between 90 days and 60 days prior to the expiration of the recipient's COT. This process shall include a face-to-face assessment with the BMHP and a review of the mental health treatment and clinical records contained in the recipient's treatment file. The recipient's history before and during the current period of COT, compliance with recommended treatment, and any other evidence relevant to the recipient's ability and willingness to follow recommended treatment with or without a court order must be considered as part of the Annual Review. The findings and recommendations from the annual review will be documented on the GBMHP monthly progress note.
- Sixty days prior to the expiration of the COT, the Clinical Team will meet to review the recipient's ISP and findings of the Annual Review. 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 Team will ensure completion of the *Final Court Ordered Treatment Status Report* indicating justification for the recommendation of whether or not to pursue continued COT.
- If the team does not recommend renewal for the person on COT as PAD or GD, then the BMHP shall consult with the PNO Medical Director or psychiatrist designated by the PNO medical director, regarding reasons for not recommending renewal. The PNO Medical Director or designee will then sign the Final Status Report to the Court.
- 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.
- After receipt of the *Final Court Ordered Treatment Status Report*, the PNO Court Coordinator will notify the Case Manager or Physician Extender of the due date for 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*

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

*Person.* Two witness statements attesting to PAD or GD behaviors exhibited in the past 90 days and/or a history of non-adherence while not on Cot will be submitted to the PNO Court Coordinator along with the Psychiatric Report for Annual 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 PNO 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 PNO Court Coordinator will notify the Case Manager of the date and time of the COT Renewal Hearing and will instruct the Case Manager 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.
- If the recipient does not appear for the hearing, the Case Manager will be instructed by the Court to amend the COT to inpatient treatment in order to secure the recipient's presence at the hearing or the court may re-set the COT renewal hearing date and continue the COT until the hearing takes place.

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, RRC-W or an inpatient facility. If administered at the UPC or RRC-W, 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 Case Manager shall complete a [Police Mental Health Detention Information Sheet \(PM form 3.18.1\)](#) and include this in the paperwork sent to

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

the UPC. THIS IS NOT A DETENTION ORDER OR PICK UP ORDER. This form is used by the UPC or RRC-W to complete a pick up order. A pick up order CAN ONLY BE COMPLETED BY AN ADMITTING OFFICER AT THE UPC OR RRC-W.

- The *Special Treatment Plan Referral for Involuntary Administration of Medications* and the [Police Mental Health Detention Information Sheet \(Form 3.18.1\)](#) shall be faxed to the UPC, RRC-W, or to the designed inpatient facility.
  - The Case Manager Coordinator shall coordinate the recipient's treatment with the UPC, RRC-W, or the inpatient facility staff prior to the recipient arriving at the designated facility.
  - The BHMP shall initiate a consult with the UPC, RRC-W, 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 Case Manager will follow steps for completing the emergent amendment to the recipient's Court Order.

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 RRC-W only and the amendment is processed by the UPC or RRC-W. The following paperwork shall be faxed to the UPC or RRC-W when requesting an emergent amendment of a Court Order. If the recipient is admitted to the UPC or RRC-W and remains inpatient for more than 24 hours, then the amendment letter must also be faxed to the Magellan Court Liaison. 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;
  - Copies of the last three Progress Notes from the BHMP and the Case Manager;
  - A copy of the COT;
  - A complete [Police Mental Health Detention Information Sheet \(Form 3.18.1\)](#) indicating location of the recipient.
- The completed paperwork is sent to the PNO Court Coordinator by 9:30 AM, and will be filed the same business day.
- The PNO Court Coordinator presents the proposed Court Order Amendment to the Probate Mental Health Division of the Maricopa County Superior Court.



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

- To rescind a non-emergent amendment of a Court Order, the Case Manager must do the following:
  - Contact the PNO Court Coordinator by e-mail, copy the Director of Court Advocacy and advise that the amendment is no longer necessary. The PNO Court Coordinator will contact the police agency and advise them that the amendment 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 shall sign the letter; and
  - Immediately fax the letter to the PNO Court Coordinator for processing.

Judicial Review

- Recipients on COT may ask for a judicial review after they have been on COT for 60 days. The BHMP or Case Manager 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 Case Manager.
- 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 the PNO Court Coordinator. 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 PNO Court Coordinator as soon as possible to assure the report is filed with the court within three working days. Hand delivery to the PNO Court Coordinator 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 the PNO Court Coordinator 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 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.”

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

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. 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.

**3.18.7-F. Court-Ordered Treatment for American Indian Tribal Members in Arizona**

Arizona tribes are sovereign nations, and tribal courts have jurisdiction over their members residing on reservation. Tribal court jurisdiction, however, does not extend to tribal members residing off the reservation or to state court ordered evaluation or treatment ordered because of a behavioral health crisis occurring off reservation.

Although some Arizona tribes have adopted procedures in their tribal codes, which are similar to Arizona law for court ordered evaluation and treatment, each tribe has its own laws which must be followed for the tribal court process. Tribal court ordered treatment for American Indian tribal members in Arizona is initiated by tribal behavioral health staff, the tribal prosecutor or other person authorized under tribal laws. In accordance with tribal codes, tribal members who may be a danger to themselves or others and in need of treatment due to a mental health disorder are evaluated and recommendations are provided to the tribal judge for a determination of whether court ordered treatment is necessary. Tribal court orders specify the type of treatment needed.

Additional information on the history of the tribal court process, legal documents and forms as well as contact information for the tribes, T/RBHA liaisons, and tribal court representatives can be found on the ADHS/DBHS web page titled, [Tribal Court Procedures for Involuntary Commitment - Information Center](#).

Since many tribes do not have treatment facilities on reservation to provide the treatment ordered by the tribal court, tribes may need to secure treatment off reservation for tribal members. To secure court ordered treatment off reservation, the court order must be “recognized” or transferred to the jurisdiction of the state.

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

The process for establishing a tribal court order for treatment under the jurisdiction of the state is a process of recognition, or “domestication” of the tribal court order (see [A.R.S. § 12-136](#)). Once this process occurs, the state recognized tribal court order is enforceable off reservation. The state recognition process is not a rehearing of the facts or findings of the tribal court. Treatment facilities, including the Arizona State Hospital, must provide treatment, as identified by the tribe and recognized by the state. [Attachment 3.18.1. A.R.S. § 12-136 Domestication or Recognition of Tribal Court Order](#) is a flow chart demonstrating the communication between tribal and state entities.

Regional Behavioral Health Authorities and RBHA providers must comply with state recognized tribal court orders for Title XIX/XXI and Non-Title XIX SMI persons. When tribal providers are also involved in the care and treatment of court ordered tribal members, RBHAs and RBHA providers must involve tribal providers to ensure the coordination and continuity of care of the members for the duration of court ordered treatment and when members are transitioned to services on the reservation, as applicable. RBHAs are encouraged to enter into agreements with tribes to address behavioral health needs and improve the coordination of care for tribal members.

This process must run concurrently with the tribal staff’s initiation of the tribal court ordered process in an effort to communicate and ensure clinical coordination with the appropriate RBHA. This clinical communication and coordination with the RBHA is necessary to assure continuity of care and to avoid delays in admission to an appropriate facility for treatment upon state/county court recognition of the tribal court order. The Arizona State Hospital should be the last placement alternative considered and used in this process

[A.R.S. § 36-540\(B\)](#) states, “The Court shall consider all available and appropriate alternatives for the treatment and care of the patient. The Court shall order the least restrictive treatment alternative available.” RBHAs are expected to partner with American Indian tribes and tribal courts in their geographic service areas to collaborate in finding appropriate treatment settings for American Indians in need of behavioral health services.

Due to the options American Indians have regarding their health care, including behavioral health services, payment of behavioral health services for AHCCCS eligible American Indians may be covered through a TRBHA, RBHA or IHS/638 provider (see [Behavioral Health Services Payment Responsibilities](#) on the [ADHS/DBHS Tribal Court Procedures for Involuntary Commitment web page](#) for a diagram of these different payment structures).