



Emergency Mental Health Holds

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This *issue brief* addresses Colorado's emergency mental health hold procedure, which allows for an individual to be involuntarily held for a 72-hour period of treatment and evaluation if he or she appears to have a mental illness and, due to the mental illness, appears to be an imminent danger to self or others, or appears to be gravely disabled. The brief also discusses treatment options following a mental health hold and the newly created Community Transition Specialist Program.

Definitions

An individual is considered to be a danger to self if he or she poses a substantial risk of self-harm, as evidenced by recent threats of or attempts at suicide or serious bodily harm. An individual is considered a danger to others if he or she poses a substantial risk of physical harm to another individual, as evidenced by recent homicidal or violent behavior, or by evidence that others are reasonably fearful of such harm, as indicated by a recent overt act, attempt, or threat to commit harm.

The term "gravely disabled" means that an individual has a mental illness and, due to that mental illness, is unable to make informed decisions about, or provide for, essential needs without significant supervision and assistance. State law notes that as a result of having a mental illness that prevents an individual from making informed decisions about self-care, such an individual is at a risk of bodily harm, dangerous worsening of any co-occurring serious physical illness, serious psychiatric deterioration, or mismanagement of essential needs that could result in substantial bodily harm. The term

"gravely disabled" does not apply to an individual whose decision-making abilities are limited solely by a development disability.

72-Hour Mental Health Holds

Initiating a mental health hold. When an individual's mental health disorder appears to present an imminent danger to him or herself or others, the individual may be placed in a 72-hour hold by a certified peace officer; a medical professional; a registered nurse; a licensed counselor or marriage and family therapist; a licensed clinical social worker; or the court in response to a petition.

Petitioning the court. Any person may petition the court to place an individual who is a danger to him or herself or others, or is gravely disabled, to be given a mental health evaluation and placed in a 72-hour mental health hold. Once the court receives the petition, the court shall have a designated facility or a medical professional provide a screening of the individual's mental health. If it is found that the individual is a danger to him or herself or others or is gravely disabled, and the individual has refused to accept evaluation voluntarily, the court can issue an order authorizing a certified peace officer to take him or her into custody for a 72-hour mental health hold. The courts or intervening professionals decide on what facility an individual will go based on proximity and availability of services. Once placed in a mental health hold, the individual will be advised of his or her rights to consult with an attorney. If the individual cannot afford an attorney, one may be provided by the state.

Treatment and Evaluation

When a 72-hour hold is initiated, the individual is taken to an emergency medical service facility or a facility approved by the director of the Colorado Department of Human Services (DHS). The individual may not be taken to a jail. The facility will evaluate and treat the individual for no more than 72 hours, excluding Saturdays, Sundays, and holidays if evaluation and treatment services are not available on those days. Individuals placed on a 72-hour hold are expected to pay for their services unless the services are provided through the Colorado Crisis System. Mental health facilities approved by DHS are in charge of determining the reimbursement process.

Each individual admitted to a facility must receive an evaluation as soon as possible and receive treatment and care for the full period that he or she is held. If at any time the individual admitted no longer requires treatment, the individual must be released. If 72 hours have passed and the individual is still in need of treatment, the individual may be referred to more treatment on a voluntary basis. If the individual does not accept voluntary treatment, the individual may be certified for short-term treatment.

Short-Term Treatment

An individual may be certified for short-term treatment for no more than three months if the individual, after 72 hours, is still a danger to him or herself or others or is gravely disabled, and has been advised of voluntary treatment but refused.

If the qualifications are met, staff at the evaluation facility must fill out a certification stating that the individual has a mental health disorder and is a danger to him or herself or others or is gravely disabled. Within 24 hours of the certification, copies must be given to the individual and the individual must designate another person to inform of the certification. The individual must be informed of his or her right to have the matter heard before the court or jury and be represented by an attorney. If the individual cannot afford an

attorney, one may be provided by the state. At any time during the treatment, the individual may file a request for the short-term treatment to be reviewed.

If it is determined that more time is needed, the professional individual in charge of the evaluation and treatment may file an extended certification to the court for three more months of treatment. The individual has the right to another court hearing.

Long-Term Treatment

If, after five consecutive months of short-term treatment, the individual is still a danger to him or herself or others, the professional in charge of the treatment may file a petition with the court for long-term treatment. The court must hold a hearing on the petition and the individual has the right to request a jury trial. If the court or jury finds that the individual is still a danger to him or herself or others, the court must issue an order of long-term care for no more than six months.

An extension of no more than six months may be sought, if the professional individual certifies to the court that an extension is necessary for the care and treatment of the individual. The individual may request a hearing, or if no hearing is requested, the court can continue *ex parte*. If the court finds that the individual is a danger to him or herself or others, the court will issue the order.

Community Transition Program

In 2018, the Colorado General Assembly passed Senate Bill 18-270, which appropriated \$1.6 million in FY 2018-19 and \$ 3.2 million in FY 2019-20 to create the Community Transition Specialist Program. Starting in 2019, DHS will oversee the statewide program that allows individuals who were discharged from a 72-hour mental hold, short-term treatment, or long-term treatment to voluntarily pair with transition specialists to help identify transition needs, such as housing, behavioral health treatment, and follow-up services.