



AHCCCS Legislation: Tribal Court Ordered Treatment

Christopher Vinyard



AHCCCS Legislative Agenda

- Tribal Court Ordered Treatment
- AHCCCS Budget Recommendation
Restoring Adult Emergency Dental

Civil Commitment

- Civil commitment is a legal process to determine whether a person with mental illness should be ordered to receive court ordered evaluation (COE) or court ordered treatment (COT).
- A civil commitment is not a criminal proceeding or conviction

Civil Commitment

- In Arizona, the criteria for civil commitment (COE/COT) are that a person is:
 - Unwilling or unable to accept voluntary evaluation/treatment; and
 - As a result of a mental illness is:
 - A danger to self;
 - A danger to others;
 - Gravely disabled (unable to take care of one's basic physical needs); or
 - Persistently or acutely disabled (likely to suffer severe mental or physical harm because of impaired judgement caused by a mental health condition).
- Civil commitment is not available for persons who have a substance abuse and/or alcoholism condition

Initiating Civil Commitment

- Any person can submit an application for COE.
- Typically, the applicant is someone who has interacted with the person.
- The application must contain facts to show the person meets the criteria for civil commitment.
- Following submittal of the application...

Initiating Civil Commitment

The mental health agency will conduct a pre-petition screening, which includes:

- Review of the facts in the application
- Interviews with the applicant and if possible the proposed patient.
- At conclusion of the pre-petition screening process, the mental health agency may decide to file a petition for COE if the proposed patient does not voluntarily submit to an evaluation.

Initiating Civil Commitment

- If voluntary COE is not agreed to, a judge will order the person to an inpatient or outpatient mental health treatment facility (based on the needs of the person) to evaluate whether the person could benefit from COT.

What happens after COE?

- When the evaluation is completed, the evaluation agency will determine whether to:
 - Release the person;
 - Offer a choice to receive voluntary treatment;
 - File a petition for COT if the person does not voluntarily submit to treatment – this requires both independent evaluators to agree COT is needed

Court Ordered Treatment

- The court order may include inpatient treatment, outpatient treatment, or a combination of both but cannot exceed 365 days.
- Inpatient treatment will be limited to 90, 180, or 365 days depending on the criteria that is determined by the court.

Tribal Court Order Recognition

- If the Tribal court order includes inpatient treatment, and options are not available to the member within that jurisdiction, the member must receive inpatient treatment off tribal land.
- Pursuant to A.R.S. 12-136, in order for a mental health treatment facility to admit the tribal member, the tribal court order must first be recognized in superior court.

Current Issue

- Due to the current statutory construct, AHCCCS has been made aware that tribal members needing COT services outside of tribal land are waiting upwards of 48 hours or more.

Current Issue

- Not receiving any form of definitive behavioral health treatment when placed in an alternative setting when found to be a danger to self and others, gravely and/or persistently/acutely disabled requires immediate action.
- HB 2084 seeks to take a positive first step in addressing this important issue

AHCCCS Legislation – HB 2084

- Amends A.R.S. 12-136 to allow a mental health treatment facility to admit a tribal member pending recognition of the tribal court order.
- Requires the mental health treatment facility to discharge and provide transportation for the member back to the jurisdiction of the tribal court if the order is not filed with the clerk of the superior court by the close of business on the next day the court is open;

AHCCCS Legislation – HB 2084

- Updates statute to reference AHCCCS, rather than DHS, in regards to intergovernmental agreements.
 - This clean up is a result of Administrative Simplification, which was effectuated July 1, 2016.
- HB 2084 does **not** affect COE, and is **not** a mandate on any Tribe, Provider, or the Courts.

AHCCCS Legislation – HB 2084

- Due to the varying dynamics and timeframes with getting tribal court orders recognized in superior court, the AHCCCS proposal seeks to accomplish three things:
 - Improve processes and efficiencies within state government;
 - Reduce unnecessary incarceration for our tribal members; and
 - Ensure timely delivery of behavioral health services

Thank You.

