



**320-U<sup>1</sup> PRE-PETITION SCREENING, COURT ORDERED EVALUATION AND COURT ORDERED TREATMENT**

INITIAL

EFFECTIVE DATE: 07/01/2016<sup>2</sup>

**I. PURPOSE**

~~This pPolicy applies to Acute Care, ALTCS/EPD, CRS, RBHA Contractors, and TRBHAs, and Tribal ALTCS. is applicable to behavioral health providers under contract with a Regional Behavioral Health Authority (RBHA), and/or a Tribal Regional Behavioral Health Authority (TRBHA) and/or an AHCCCS Contractors~~  
This Policy establishes guidelines regarding responsible for the provision of behavioral health services and TRBHAs<sup>3</sup>. The intent of this Policy is to provide a broad overview of regarding the pre-petition screening, court-ordered evaluation, and court-ordered treatment process.<sup>4</sup>

**II. DEFINITIONS<sup>5</sup>**

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| <b><u>Court Ordered Evaluation</u></b> | 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:<br><br>(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 |
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<sup>1</sup> Information for DBHS Policy 109 has been considered for merger in this Policy

<sup>2</sup> Arizona Laws 2015, Chapter 19, Section 9 (SB 1480) enacts that from and after June 30, 2016, the provision of behavioral health services under DBHS in the Department of Health Services is transferred to and shall be administered by the AHCCCS

<sup>3</sup> Updated intro to include all entities responsible for the provision of behavioral health services as appropriate for this policy – made this clarification throughout policy

<sup>4</sup> Moved from below

<sup>5</sup> Added definitions from DBHS Policy definitions



|                                      |  |
|--------------------------------------|--|
|                                      | <p><u>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.</u></p> <p><u>(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.</u></p> |
| <u>Court Ordered Treatment (COT)</u> | <p><u>In accordance with the A.A.C. R9-21-101 and A.R.S. § 36-533 In Arizona, an individual can be ordered by the court to undergo mental health treatment if found to fit one of the following categories due to a mental disorder:</u></p> <ul style="list-style-type: none"><li><u>• A Danger to Self;</u></li><li><u>• A Danger to Others;</u></li><li><u>• Gravely Disabled, which means that the individual is unable to take care of his/her basic physical needs; or</u></li><li><u>• Persistently or Acutely Disabled, which means that the individual is more likely to suffer severe mental or physical harm that impairs his/her judgment such that the person is not able to make treatment decisions for himself.</u></li></ul>  |
| <u>Pre-petition Screening</u>        | <p><u>The review of each application requesting court-ordered evaluation, including an investigation of facts alleged in such</u></p>  |



|                             |   |
|-----------------------------|---|
|                             | <u>application, an interview with each applicant and an interview, if possible, with the proposed patientmember<sup>6</sup>. The purpose of the interview with the proposed patientmember is to assess the problem, explain the application and, when indicated, attempt to persuade the proposed patientmember to receive, on a voluntary basis, evaluation or other services.</u>   |
| <u>Voluntary Evaluation</u> | <u>An inpatient or outpatient evaluation service that is provided after a determination that a person will voluntarily receive an evaluation and is unlikely to present a danger to self or others until the voluntary evaluation is completed. A voluntary evaluation is invoked after the filing of a pre-petition screening but before the filing of a court ordered evaluation and requires the informed consent of the person.</u> |

III. POLICY

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, In accordance with Arizona~~ state law ~~permits~~ In accordance with the A.A.C. R9-21-101 and A.R.S. § 36-533<sup>7</sup> any responsible person ~~to may~~ submit an application for pre-petition screening when another person ~~may is alleged to~~ be, as a result of a mental disorder:

1. ~~A danger-Danger to~~ To self-Self (DTS),
2. ~~A danger-Danger to~~ To others-Others (DTO),
3. Persistently or ~~acutely-Acutely~~ disabled-Disabled (PAD), or
4. Gravely ~~disabled-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

<sup>6</sup> POST APC CHANGE: changing “patient to member” throughout the policy

<sup>7</sup> POST APC CHANGE: adding reference



and enforcing a tribal court order are found in [this Policy under Subsection 3-gJ, Court-Ordered Treatment for American Indian Tribal Members in Arizona](#).<sup>8</sup>

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. [The screening agency, upon receipt of the application shall act as prescribed within 48 hours of the filing of the application excluding weekends and holidays as described in A.R.S. §36-520. Otherwise, an evaluation will be arranged for the person by a designated evaluation agency within timeframes specified by state law.](#)<sup>9</sup>

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<sup>10</sup> 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:

1. DTS may be ordered up to 90 inpatient days per year,
2. DTO and PAD may be ordered up to 180 inpatient days per year, and
3. 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 will~~ be identified by the court to supervise the person's outpatient treatment. ~~In some cases, the mental health agency may be a RBHA Contractor or TRBHA; however, b~~Before the court can order a mental health agency to supervise the person's outpatient treatment, the agency medical

<sup>8</sup> Clarification

<sup>9</sup> POST APC CHANGE: Providing timeline as indicated in statute

<sup>10</sup>



director must agree and accept responsibility by submitting a written treatment plan to the court.<sup>11</sup>

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~~ Entities responsible for pre-petition screening and court-ordered evaluations must ensure the use of the following forms prescribed in 9 A.A.C. 21, Article 5 for persons determined to have a Serious Mental Illness and, agencies may also use these forms for all other populations:<sup>12</sup>

- ~~Policy Form 109.1, ADHS/DBHS MH 100~~ AMPM Exhibit 320-U-1, Application for Involuntary Evaluation,
- ~~Policy Form 109.2, ADHS/DBHS MH 103~~ Exhibit 320-7, Application for Voluntary Evaluation,
- ~~Policy Form 109.3, ADHS/DBHS MH 104~~ AMPM Exhibit 320-U-2, Application for Emergency Admission for Evaluation,
- ~~Policy Form 109.4, ADHS/DBHS MH 105~~ AMPM Exhibit 320-U-3, Petition for Court-Ordered Evaluation,
- ~~Policy Form 109.5, ADHS/DBHS MH 110~~ AMPM Exhibit 320-U-4, Petition for Court-Ordered Treatment, and
- ~~Policy Form 109.6, ADHS/DBHS MH 112~~ AMPM Exhibit 320-U-5, Affidavit, Addendum No. 1 and Addendum No. 2.
- ~~AMPM Exhibit 320-U-7, Application for Voluntary Evaluation,~~

~~In addition to court ordered treatment as a result of civil action, an person 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 person 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 provider's rResponsibilities for the provision and coverage of those services, services areis described underin this~~

<sup>11</sup> Revised for clarification

<sup>12</sup> Revised form names to conform with AMPM – refer to AAC R9-21 for forms and requirements



~~Policy in sSubsection 3.f, Court Ordered Treatment for Persons Charged With, or Convicted of, a Crime.~~<sup>13</sup>

~~The intent of this section is to provide a broad overview of the pre-petition screening, court ordered evaluation, and court ordered treatment process.<sup>14</sup> 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. <sup>15</sup> RBHAs ~~Contractors shall~~ will provide explicit expectations for behavioral health providers regarding this content area within subsection F of this policy.<sup>16</sup>~~

~~Although the Contractor may not be contracted for pre-petition screening services, emergency/crisis petition filing, and court ordered evaluation services in all counties, the Contractor must provide policies and procedures for providers outlining these processes.<sup>17</sup>~~

~~Arizona counties may contract with AHCCCS Contractors for pre-petition screening services, emergency/crisis petition filing, and court ordered evaluation services.<sup>18</sup>~~

~~For Court Ordered treatment for DUI/Domestic Violence or other Criminal Offenses see ACOM Policy 423.<sup>19</sup>~~

## ~~II. POLICY~~

### A. LICENSING REQUIREMENTS

~~Behavioral health providers who are licensed by the Arizona Department of Health Services/Division of Public Health Licensing Assurance and Licensing Services/Office of Behavioral Health Licensing (OBHL) as a court-ordered~~

<sup>13</sup>Removed, covered in the purpose section

<sup>14</sup> Moved to purpose

<sup>15</sup> Removed – not necessary to outline in this policy.

<sup>16</sup> Clarification of applicability added

<sup>17</sup> Removed from various separate sections throughout the policy and added one statement here

<sup>18</sup> Added to clarify that the requirements outlined may apply to a subcontracted AHCCCS contractor to perform these duties

<sup>19</sup> Removed duplicative section further down in the policy and cited policy 423 where these provisions are outlined



evaluation or court-ordered treatment agency must adhere to [ADHS](#) ~~their licensing~~ ~~OBH~~ requirements.<sup>20</sup>

## B. PRE-PETITION SCREENING

1. 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 member's Contractor responsible for the provision of behavioral health services~~.<sup>21</sup> <sup>22</sup>
2. Reimbursement for court ordered screening and evaluation services are the responsibility of the County pursuant to A.R.S.§36-545. For additional information regarding behavioral health services refer to 9 A.A.C. 22, 2 & 12. Refer to ~~the AHCCCS Contractors Operations Manual (ACOM)~~ Policy 437 for clarification regarding financial responsibility for the provision of medically necessary behavioral health services rendered after the completion of a Court Ordered Evaluation.
  - ~~3. Counties may contract with AHCCCS Contractors RBHAs for pre-petition screening services, or counties may provide their own pre-petition screening services. Procedures for pre-petition screening are outlined below.~~<sup>23</sup>
3. 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:
  - a. ~~The pre-petition screening agency must offer~~ assistance, if needed, to the applicant in the preparation of the application for court-ordered evaluation (see ~~Policy Form 109.1, ADHS/DBHS MH-100~~ ~~AMPM Exhibit 320-U-1; Application for Involuntary Evaluation~~).
  - b. ~~Any behavioral health provider that receives an application for court-ordered evaluation (see Exhibit 320 U 1 Policy Form 109.1, ADHS/DBHS 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.~~

<sup>20</sup> [Nomenclature](#)

<sup>21</sup> [Changed due to merger.](#)

<sup>22</sup> [Clarification of applicability](#)

<sup>23</sup> [Removed - Outlined above](#)



~~RBHAs may or may not be contracted to provide pre-petition screening, while other RBHAs are not contracted to provide pre-petition screening. In other areas, both sections may be applicable to RBHAs whose geographic service areas (GSAs) include multiple counties. However, pre-petition screening services must be made available by the Contractor in counties in which they are responsible for the COE process.~~

4. ~~RBHAs Contractors must shall~~ develop ~~a policy and procedure policies~~ that ~~outline its role and responsibility specifically defines the roles and responsibilities of the RBHA and its providers~~ related to the treatment of ~~persons individuals~~ who are unable or unwilling to consent to treatment. The policy must address:<sup>24</sup>
  - a. Involuntary evaluation/petitioning process,
  - b. Court ordered process, including tracking the status of Court orders,
  - c. Execution of Court orders, and
  - d. Judicial Review

5. ~~Any behavioral health provider that receives an application for court-ordered evaluation (see Exhibit 320-U-1) must immediately refer the applicant for pre-petition screening and petitioning for court-ordered evaluation to the Contractor designated pre-petition screening agency or county facility.~~<sup>25</sup>

#### C. ~~RBHA~~ RESPONSIBILITY FOR PROVIDING PRE-PETITION SCREENING<sup>26</sup>

When ~~the a RBHA Contractor~~ is responsible for pre-petition screening and petitioning for court-ordered evaluation, the ~~RBHA Contractor~~ must refer the applicant to a ~~designated subcontracted~~ pre-petition screening agency.

The pre-petition screening agency must follow these procedures:

1. Provide pre-petition screening within ~~forty eight~~48 hours excluding weekends and holidays,
2. Prepare a report of opinions and conclusions. If pre-petition screening was not possible, the screening agency must report reasons why the screening was not possible, including opinions and conclusions of staff members who attempted to conduct the pre-petition screening,
3. ~~Have the~~Ensure medical director or designee ~~of the RBHA screening agency~~ review ~~of~~ the report if, ~~the report~~ ~~it~~ indicates that there is no reasonable cause

<sup>24</sup> ~~Reworded to align with contract language~~

<sup>25</sup> ~~Reference updates moved from original placement above~~

<sup>26</sup> ~~Made revisions in this section to clarify contractor vs. screening agency responsibilities~~





to ~~believe~~ support the allegations for court-ordered evaluation of the by the applicant ~~for the court-ordered evaluation~~,

4. Prepare a petition for court-ordered evaluation and file the petition if the RBHA screening agency 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. Policy Form 109.4, ADHS/DBHS Form MH-105 Exhibit AMPM Exhibit 320-U-3, Petition for Court-Ordered Evaluation documents pertinent information for court-ordered evaluation,
5. Ensure completion of Exhibit 320-U-2, and take all reasonable steps to procure hospitalization on an emergency basis, if it determines that there is reasonable cause to believe that the person, without immediate hospitalization, is likely to harm themselves or others.

~~4. Ensure completion of Exhibit 320-U-2, and take all reasonable steps to procure hospitalization on an emergency basis, if the screening agency determines that there is reasonable cause to believe that the person, without immediate hospitalization, is likely to harm themselves or others~~

~~5. If the RBHA screening agency determines that there is reasonable cause to believe that the person, without immediate hospitalization, is likely to harm himself/herself themselves or others, the RBHA screening agency must ensure completion of Policy Form 109.3, ADHS/DBHS Form MH-104 Exhibit Exhibit 320-U-2, Application for Emergency Admission for Evaluation, and take all reasonable steps to procure hospitalization on an emergency basis.~~

~~6.~~

~~7. Contact the county attorney prior to filing a petition if it alleges that a person is DTO, and.~~

~~7.7.~~

~~When the RBHA is not contracted to provide pre-petition screening services, RBHAs must develop and make available to providers policies and procedures regarding specifically where a behavioral health provider would file pre-petition screens and court-ordered evaluations if other than the RBHA's contracted, designated pre-petition screening agency. Although the RBHA may not be the contracted screening agency to for these services in all counties, the RBHA must provide policies and procedures for providers specifically identifying where a behavioral health provider would file pre-petition screens and court-ordered evaluations.<sup>27</sup>~~

<sup>27</sup> Duplicative to statement in the beginning of the policy



**D. EMERGENT/CRISIS PETITION FILING PROCESS FOR RBHAs CONTRACTORS  
CONTRACTED ~~WITH DBHS~~ AS EVALUATING AGENCIES**

1. When it is determined that there is reasonable cause to believe that the person ~~is~~ being screened ~~is~~ in ~~such~~ a condition that without immediate hospitalization ~~they is are~~ likely to harm themselves or others, an emergent application can be filed. The petition must be filed at the appropriate agency as determined by the RBHA Contractor.
2. Only applications indicating ~~Danger to Self and/or Danger to Others~~ DTS and/or DTO can be filed on an emergent basis.
- 2.3. The applicant must have personally seen or witnessed the behavior of the person that is a danger to self or others and not base the application on second hand information.
- 3.4. The applicant must complete Exhibit 320-U-2.
- 4.5. The applicant and all witnesses identified in the application as direct observers of the dangerous behavior, may be called to testify in court if the application results in a petition for COE.
- 5.6. Within 48 hours of receipt of ~~Policy Form 109.3~~ Exhibit 320-U-2 and all corroborating documentation necessary to successfully complete a determination, the admitting physician will determine if enough evidence exists for an emergency admission for evaluation. If there is enough evidence to support the emergency admission for evaluation, the facility is not currently operating at or above its allowable patient-member capacity, and the person does not require medical care; then, facility staff will immediately coordinate with local law enforcement for the detention of the person and transportation to the appropriate facility.
- 6.7. If the person requires a medical facility, or if placement cannot be arranged within 48 hours after the approval of ~~Exhibit 320-U-2~~ Policy Form 109.3, the Medical Director of the RBHA Contractor will be consulted ~~and the Medical Director of the RBHA will~~ arrange for a review of the case.
- 7.8. ~~An Exhibit 320-U-2~~ Policy Form 109.3, Application for Emergency Admission for Evaluation may be discussed by telephone with the facility admitting physician, the referring physician and a police officer to facilitate transportation of the person to be evaluated.



- ~~8.9.~~ A person proposed for emergency admission for evaluation may be apprehended and transported to the facility under the authority of law enforcement using the written ~~Exhibit 320-U-2-Policy Form 109.3.~~
- ~~9.10.~~ A 23-hour emergency admission for evaluation begins at the time the person is detained involuntarily by the admitting physician 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.
- ~~10.11.~~ During the emergency admission period of up to 23 hours the following will occur:
- The person's ability to consent to voluntary treatment will be assessed.
  - The person 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 ~~person~~ individual or others, i.e. seclusion/restraint or pharmacological restraint in accordance with A.R.S § 36-513.
  - The psychiatrist will complete the Evaluation within 24 hours of determination that the person no longer requires involuntary evaluation.

#### E. COURT-ORDERED EVALUATION

~~Arizona Counties may contract with RBHAs for Court Ordered Evaluation Services, or counties may provide their own Court Ordered Evaluation services. Procedures for COE Services are outlined below.<sup>28</sup>~~

- 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:

~~The following actions include requirements for RBHAs contracted to provide court ordered evaluation services and for RBHAs not contracted to provide court ordered evaluations within specific counties in their contracted geographic service area. Both sections may be applicable to RBHAs whose GSAs include multiple counties. RBHAs must develop and make available to providers policies and procedures that specifically define the requirements for their GSA.~~

- When the ~~RBHA Contractor~~ is contracted to provide court-ordered evaluations, the following procedures must be followed:

<sup>28</sup> Moved above



- a. A person being evaluated on an inpatient basis must be released within 72 hours if further evaluation is not appropriate, unless the person makes application for further care and treatment on a voluntary basis,
- b. 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 Contractor's RBHA ~~Medical Director~~ or designee, and
- a.c. Title XIX/XXI funds must not be used to reimburse court-ordered evaluation services.

~~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 Title XIX persons determined to have SMI, unless other prior payment arrangements have been made with another entity (e.g. County, hospital, provider).<sup>29</sup>~~

2.3. For any Title XIX enrolled member, who has been admitted to an evaluation agency under a petition for court ordered treatment, the evaluation period is deemed to end upon the filing of a petition for court ordered treatment by the evaluation agency. At this time, the Contractor RBHA must pay for all medically necessary services associated with the period of time between the filing of the Petition for Court Ordered Evaluation and the hearing set for the purposes of a judicial determination for the need for Court Ordered Treatment.

3.4 Contractor RBHA responsibility for payment of medically necessary days begins on the day a Petition for Court Ordered Treatment is filed following the completion of the COE, ~~as opposed to being and is not~~ automatically linked to the end of the 72-hour COE period.

~~Fiscal responsibility for acute/physical medical services provided during the COE process remains with the health plan or Integrated RBHA enrolled person's when applicable, and is not the responsibility of the County of origin.<sup>30</sup>~~

~~The issue of voluntarily participating in treatment is not, in itself, a factor in the determination of medical necessity, and~~

<sup>29</sup> No longer applicable

<sup>30</sup> Removed - Added reference in policy to ACOM 423 and 437



~~The refusal of the Title XIX member to accept medication is not, in and of itself, a factor in rejecting the encounter or determining the medical necessity of the service.<sup>31</sup>~~

#### F. VOLUNTARY EVALUATION

1. ~~The Contractor shall require Any RBHA contracted~~ behavioral health providers that receives an application for voluntary evaluation ~~must to~~ immediately refer the person to the facility responsible for voluntary evaluations. ~~RBHAs The Contractors must shall~~ develop and make available to providers information regarding specifically where a behavioral health provider would refer a person for a voluntary evaluation.

2. ~~The RBHA contracted behavioral health provider evaluation agency must shall~~ follow these procedures:

~~a.~~

~~b.a. The evaluation agency must obtain the person individual's~~ informed consent prior to the evaluation (see ~~Policy Form 109.2, ADHS/DBHS Form MH-103 Exhibit Exhibit 320-7, 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, ~~and~~

~~e.~~

~~d.b. For inpatient evaluations, the evaluation agency must complete~~ evaluations in less than 72 hours of receiving notice that the person will voluntarily receive an evaluation, ~~and~~

~~e. Comply with RBHA specific requirements as developed and made available by the RBHA for providers.~~

~~2.3. The Contractor shall require If a behavioral health providers that conducts a~~ voluntary evaluation services ~~as described in this section, to include in~~ the comprehensive clinical record (see ~~AMPM Policy 940, Medical Records and Communication of Clinical Information~~) ~~must include the following:~~

~~a.~~ A copy of the application for voluntary evaluation, ~~Policy Form 109.2, ADHS/DBHS Form MH-103 Exhibit 320-7, Application for Voluntary Evaluation,~~

~~a.~~

~~b.~~ A completed informed consent form (see ~~AMPM Policy Policy 320-Q, General and Informed Consent to Treatment~~), and

~~e.~~

<sup>31</sup> ~~Removed - Added reference in policy to ACOM 423 and 437~~



d.c. A written statement of the person's present medical condition.

~~3. When the county does not contract with the RBHA for court-ordered evaluations, RBHAs must develop and make available to providers policies and procedures regarding which counties, if any are contracted with the RBHA for court-ordered evaluations and indicate when the county is responsible for court-ordered evaluations and voluntary evaluations.<sup>32</sup>~~

#### G. 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 Contractor shall require behavioral health providers must to follow these procedures:

1. Upon determination that a personn individual is DTS, DTO, GD, or PAD, and if no alternatives to court-ordered treatment exist, the Mmedical Ddirector of the agency that provided the court-ordered evaluation must file a petition with the court, for court-ordered treatment (see Policy Form 109.5, ADHS/DBHS Form MH-110 Exhibit 320-U-4, Petition for Court-Ordered Treatment),
2. 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,
3. 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 Policy Form 109.6, ADHS/DBHS Form MH-112 Exhibit 320-U-5, Affidavit and attached addenda),
4. A copy of the petition, in cases of grave disability, must be mailed to the public fiduciary in the county of the patient's person's<sup>33</sup> residence, or the county in which the patient-person was found before evaluation, and to any person nominated as guardian or conservator, and
5. A copy of all petitions must be mailed to the superintendent of the Arizona State Hospital.

#### H. PERSONS WHO ARE TITLE XIX/XXI ELIGIBLE AND/OR DETERMINED TO HAVE A SERIOUS MENTAL ILLNESS (SMI).

<sup>32</sup> Duplicative to statement in the beginning of the policy

<sup>33</sup> Change for consistency



1. 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 Contractor must** shall:
  - a. Conduct an evaluation to determine if the person has a Serious Mental Illness in accordance with **AMPM** Policy 320-P, ~~Serious Mental Illness 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 ~~former DBHS Policy 109 and~~<sup>34</sup> **AMPM Policy 320-O**, ~~Service Planning, Assessments and Discharge Planning~~.
  - b. 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 ~~member person's behavioral health recipient~~, family members, and other involved parties (see **AMPM Policy 320-O**, ~~Service Planning, Assessments and Discharge Planning~~), and
  - c. 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.
  - d. ~~DRBHAs must develop and make available to providers policies and procedures that specifically define the requirements for their GSA.~~
1. ~~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:~~

- a. ~~The person does not have a court appointed guardian;~~
- b. ~~The medical director of the receiving behavioral health provider accepts the transfer, and~~
- c. ~~The consent of the court for the transfer is obtained as necessary (see Policy 520 of this Manual for more details.); and~~
- a. ~~—~~
- b. ~~—~~

~~RBHAs must develop and make available to providers policies and procedures that specifically define the requirements for their GSA.~~

**~~I. COURT-ORDERED TREATMENT FOR PERSONS CHARGED WITH, OR CONVICTED OF, A CRIME<sup>35</sup>~~**

<sup>34</sup> POST APC CHANGE: Adding reference to the former DBHS Poli

<sup>35</sup> See acom policy 423 – reference to appropriate policy added to policy 320-U



- ~~1. T/RBHAs or T/RBHA providers RBHAs, TRBHAs and their providers may be responsible for providing evaluation and/or treatment services when a person individual has been ordered by a court due to:
  - a. Conviction of a domestic violence offense, or
  - b. Upon being charged with a crime when it is determined that the person individual is court ordered to treatment, or programs, as a result of being charged with a crime and appears to be an “alcoholic.”~~
- ~~2. Domestic violence offender treatment may be ordered by a court when an person 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 RBHA or AHCCCS Administration for TRBHA members, 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 person individual can be billed for the DV services.~~
- ~~3. 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/DBHSAHCCCS, or a RBHAT/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.~~

#### **J.I. COURT-ORDERED TREATMENT FOR AMERICAN INDIAN TRIBAL MEMBERS IN ARIZONA**

1. 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.
2. 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.

3. Additional information on the history of the tribal court process, legal documents and forms as well as contact information for the tribes, RBHA-tribal liaisons, and TRBHAs/ RBHA liaisons, and tribal court representatives can be found on the AHCCCS website under ADHS/DBHS web page titled, Tribal Court Procedures for Involuntary Commitment webpage Tribal Court Procedures for Involuntary Commitment Information Center.<sup>36</sup>
- ~~4. RBHAs must develop and make available to providers policies and procedures that specifically define the requirements for their GSA and/or tribes for this process.~~<sup>37</sup>
- ~~5.4.~~ 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.
- ~~6.5.~~ The process for establishing a tribal court order for treatment under the jurisdiction of the state is a process of recognition, or “domestication/enforcement”<sup>38</sup> 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. Policy Attachment 109.1 Exhibit 320-U-6, A.R.S. §-12-136 Domestication or Recognition of Tribal Court Order is a flow chart demonstrating the communication between tribal and state entities.
- ~~7.6.~~ Regional Behavioral Health Authorities RBHAs Contractors 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 Contractors 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 Contractors are encouraged to enter into agreements with tribes to address behavioral health needs and improve the coordination of care for tribal members.

<sup>36</sup> Revised to include AHCCCS webpage link

<sup>37</sup> Duplicative to statement in the beginning of the policy

<sup>38</sup> POST APC CHANGE: Changing domestication to enforcement throughout policy



8.7. This ~~domestication enforcement~~ 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 Contractor~~. This clinical communication and coordination with the ~~Contractor 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.

9.8. A.R.S. §—36-540(B) states, “The Court shall consider all available and appropriate alternatives for the treatment and care of the ~~patient member~~. The Court shall order the least restrictive treatment alternative available.” ~~The Contractor is 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.

10.9. 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 ~~and/or coordinated~~ through a TRBHA, ~~RBHA Contractor, or Tribal ALTCS, or IHS/638 provider.~~ ~~(See on the AHCCCS website under Tribal Court Procedures for Involuntary Commitment - Behavioral Health Services Payment Responsibilities on the ADHS/DBHS Tribal Court Procedures for Involuntary Commitment web page Tribal Court Procedures for Involuntary Commitment for a diagram of these different payment structures).~~<sup>39</sup>

#### REFERENCES

- ~~Chapter 300 of this Manual, Policy 320-O~~
- ~~for information regarding Service Planning, Assessments and Discharge Planning~~
  1. ~~—~~
- ~~Chapter 300 of this Manual, Policy 320-P~~
  2. ~~or information regarding Serious Mental Illness Eligibility Determination~~
  3. ~~—~~
- ~~Chapter 300 of this Manual, Policy 320-Q~~
  4. ~~for information regarding General and Informed Consent to Treatment~~
  5. ~~—~~

<sup>39</sup> Revised to include AHCCCS webpage link and applicable entities providing BH services



~~— [AMPM Policy 940](#)~~

~~• [Chapter 900](#)~~

~~6. of this Manual for member rights and responsibilities, medical records and communication of clinical information and additional related definitions.~~

~~7.—~~

~~— [ACOM Policy 423](#)~~

~~— [ACOM Policy 437](#)~~

~~• —~~

~~• [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](#)~~

~~• [A.A.C. R9-21- Article 5](#)~~

~~• [ADHS/Pima County Office of Medical Services IGA](#)~~

~~• [ADHS/Maricopa County Board of Supervisors IGA](#)~~

~~• [ADHS/Coconino County Public Health Services District IGA](#)~~

~~• [ADHS/RBHA Contracts](#)~~

~~[Information Sharing with Family Members of Adult Behavioral Health Recipients](#)~~

~~• [ADHS/DBHS Tribal Court Procedures for Involuntary Commitment webpage](#)~~  
~~[Tribal Court Procedures for Involuntary Commitment](#)<sup>40</sup>~~

<sup>40</sup> ~~Removed reference list- applicable references are included in the policy~~