

Probate Mental Health FAQs

1: Do I have to be a relative to get someone committed to the hospital?

No, any person that is 18 years of age or older and has witnessed the behavior of another person that would qualify them as a “person requiring treatment” may file the petition.

2: What is a “person requiring treatment?”

Not all mentally ill persons qualify for Involuntary Treatment. To be a person requiring treatment, the person must have a mental illness and meet at least one of the following factors (MCL 330.1401):

- Can reasonably be expected within the near future to intentionally or unintentionally seriously harm himself/herself or another person, and who has already done so or threatened to do so
- Is unable to attend to his/her basic physical needs such as food, clothing, or shelter
- Is unable to understand his/her need for treatment which may result in significant physical harm to himself/herself or to others.

3: How do I file a Petition?

If the person that needs treatment lives in Alpena County or can be found in Alpena County, begin the process of filing a petition for Mental Health Treatment asking a Judge to enter and order that the person is brought to the hospital for evaluation. Also known as a “pick-up order”

<https://www.courts.michigan.gov/SCAO-forms/mental-health-treatment-forms/>

Note: If the person lives in a different county, you will have to contact the Probate Court of that county.

4: Is there a filing fee?

There are no costs for filing a Petition.

5: What happens after the “pick-up order” is signed by the Judge?

The order will be sent to the appropriate law enforcement agency to pick up the individual and put them in protective custody. This order will expire after 10 days.

Once in protective custody, the officer will transport the person to the hospital to be examined.

6: What happens if the pick-up order expires?

Once 10 days have passed, the pick-up order is no longer valid. The Court will enter an order closing the case.

If the person still requires treatment, another Petition would need to be filed.

7: What happens after the person is picked up and brought to the hospital?

Once the person is brought to the hospital, the person will be examined within 24 hours. The examining physician or psychologist will decide if the person needs treatment.

If the person is found not to need treatment, the examining physician will enter a negative clinical certificate and the person will be released immediately. A negative certificate will be forwarded to the Court and the case will become confidential.

The person may also consent to treatment at this time and sign a voluntary application for admission. If the person has consented to voluntary treatment, no further hearing will occur. The Court case will be dismissed.

If the person does need treatment, two clinical certificates will be completed by the hospital to be forwarded to the Court for a hearing to be set. The person will remain hospitalized pending the hearing. If a person is found to need treatment, the Court case is public record.

8: What is a clinical certificate?

The clinical certificate certifies that the individual personally examined is mentally ill and a person requiring treatment.

Two clinical certificates of the person's mental illness must be completed (unless the request is for assisted outpatient treatment AOT) and sent to the Court.

The first certificate can be executed by any physician or licensed psychologist and is good for up to 72 hours prior to hospitalization. The second certificate must be completed by a psychiatrist within 24 hours of hospitalization.

9: How does the person find out about the Petition?

The individual and the individual's attorney are personally served. All other interested persons are served by mail/email.

10: When is the hearing set?

When a Petition for Mental Health Treatment is filed requesting hospitalization or a combination of hospitalization and assisted outpatient treatment only along with two clinical certificates, a hearing will be held within 7 days of the court's receipt of the paperwork.

If a Petition is filed that requests Assisted Outpatient Treatment only and the person is not hospitalized, then the hearing will be held within 28 days.

11: What happens once the hearing is set?

Once the hearing is set, an attorney will be appointed for person alleged to be in need of treatment unless that person is privately represented.

Once the Petition is filed, and if the person is deemed clinically suitable, the individual may decide to sign a Formal Voluntary Admission Application. The individual may also request to defer the hearing at a deferral conference or stipulate to a treatment order.

The individual may also demand a jury at any time up to the time of the first hearing. If the person does demand a jury, the hearing will be adjourned until a jury may be convened.

12: What is a Deferral Conference?

Within 72 hours of the filing of the Petition, a deferral conference is scheduled with the subject of the petition, the attorney representing the subject, a representative of the treatment team and a representative of the local community mental health center.

At this conference, the individual may agree to submit to hospitalization for up to 60 days, assisted outpatient treatment for up to 180 days, or a combination of both assisted outpatient and hospitalization up to 180 days with hospitalization not to exceed 60 days.

The individual will sign a [Request to Defer Hearing on Commitment](#). When this agreement is signed, the hearing on the petition may be deferred for not longer than 60 days if hospitalization only is requested or not longer than 180 days if assisted outpatient treatment or a combination of assisted outpatient treatment and hospitalization is requested.

13: What happens if the person is non-compliant during the Deferral period?

If the individual does not comply with the agreement, a [Demand for Hearing](#) will be filed by the hospital or right to be present at the hearing unless waived, and the attorney appointed for the person is present.

A physician or psychologist who has personally examined the person must testify at the hearing. Assisted Outpatient Treatment only petitions require **either** the testimony or deposition of an evaluating doctor/psychologist and psychiatrist OR a clinical certificate from a psychiatrist plus the testimony or deposition of an evaluating doctor/psychologist.

The judge will listen to the testimony and make a decision whether or not to order mental illness hospitalization and/or outpatient treatment for the person.

After hearing testimony, the Judge may dismiss the case or grant the Petition.

14: What does it mean if the person stipulates?

The person may agree to the entry of an order for involuntary treatment and sign a stipulation.

Once the stipulation is signed by the subject, the subject's attorney, and the prosecuting attorney, the document is forwarded to the Court. The Court may then grant the petition and enter an initial order for treatment based upon the stipulated agreement.

15: What happens at the hearing?

The petitioner must be present at the hearing. The person who is alleged to be in need of treatment also has a right to be present at the hearing unless waived, and the attorney appointed for the person is present.

A physician or psychologist who has personally examined the person must testify at the hearing. Assisted Outpatient Treatment only petitions require **either** the testimony or deposition of an evaluating doctor/psychologist and psychiatrist OR a clinical certificate from a psychiatrist plus the testimony or deposition of an evaluating doctor/psychologist.

The judge will listen to the testimony and make a decision whether or not to order mental illness hospitalization and/or outpatient treatment for the person.

After hearing testimony, the Judge may dismiss the case or grant the Petition.

16: What does it mean if the Petition is granted?

If the Petition is granted, the Judge will sign an Initial Order for Mental Health Treatment. The typical initial order will authorize up to 60 days of hospitalization, up to 180 days of assisted outpatient treatment, or a combination of hospitalization and assisted outpatient treatment.

The initial order may contain a conditional pick-up order such that if after release from the hospital the person fails to abide by a psychiatrist's order to return to the hospital, law enforcement will pick up the person and transport him/her to the hospital.

17: What if the person is not complying with treatment?

If the person is not complying with treatment, then a [Notification of Noncompliance](#) is completed by the agency or mental health professional that is supervising the assisted outpatient treatment and filed with the Court.

A copy of the Notification of Noncompliance and initial order is sent to law enforcement to pick up the individual and return them to the hospital for treatment.

18: What happens if the person will need treatment longer than the initial treatment period?

If the person is believed to still require treatment, a Petition for Second Orders than 14 days prior to the expiration of the initial order. If granted, the Second Order allows for an additional 90 days of hospitalization, assisted outpatient treatment only, or a combination of hospitalization or assisted outpatient treatment.

A Petition for Continuing Mental Health Treatment Order (PCM 218a) may be filed not expiration of the second Order or not less than 14 days prior to the expiration of the last continuing treatment order. If granted, the Court may enter an order for hospitalization, assisted outpatient treatment or combined hospitalization and assisted outpatient treatment for up to one year.