

Policies & Procedures

FORCED MEDICATION HEARING

Section: Clinical Policies

Pages: 2

Subject: Forced Medication Hearing

Effective Date: 12/2005

Revision Date: 11/2023

PURPOSE

Davis Behavioral Health is intent on balancing the interests of the consumer in freedom from unnecessary medical treatment against the legitimate and medically necessary treatment needs for those consumers the court has deemed unable to make his/her own treatment decisions.

POLICY

Adult consumers (18 years of age and older) who are under civil commitment to the local mental health authority are entitled to certain due process proceedings prior to being administered medication treatment against their will.

PROCEDURES

1. If a consumer is able to give informed consent to medication treatment, but refuses to do so, or if the consumer is unable to give consent, the treating physician may request a Medication Hearing be held to determine if the medication treatment is medically necessary and authorized.
2. With the exception of exigent (STAT) circumstances, no involuntary treatment occurs prior to the consumer being afforded a hearing with a decision on that hearing in accordance with the procedures outlined in this policy.
3. The DBH designee contacts committee members (at least 1 non-treating psychiatrist and 2 non-treating designated examiners) and sets a date and time for the hearing. The DBH designee forwards a *Notice to Convene a Medication Hearing* form to the attending physician for completion which advises the consumer of the diagnosis, the factual basis for the diagnosis, and why the treating physician believes

medication treatment is necessary. The consumer receives a copy of the notice at least 24 hours prior to the scheduled hearing.

4. If the consumer refuses to attend the hearing or otherwise waives his/her right to attend the hearing, the hearing is held in the absence of the consumer. The consumer's absence from the hearing does not alter the decision reached with respect to whether or not to proceed with the proposed course of treatment.
5. Prior to the hearing, the treating physician (or designee) provides the Hearing Committee access to documentation regarding the consumer's mental condition, including medical records, doctor's orders, nursing notes, and any other documents available that are pertinent to the determination of whether to proceed with the course of treatment. The consumer has the right to examine these documents unless releasing the information would be detrimental to the consumer's health or safety of any individual.

THE MEDICATION HEARING

1. Medication hearings are conducted on the treatment units and are conducted in an informal, non-adversarial manner so as not to have a harmful effect upon the consumer.
2. The consumer has the following rights at the hearing:
 - a. to attend the hearing
 - b. to present evidence on his/her behalf
 - c. to call witnesses; and
 - d. to question witnesses called by committee members. Neither physician nor consumer has the right to legal representation; however, should the consumer choose, he/she may be represented by a lay advisor.
 - i. d.1. If the consumer has a previously appointed legal guardian, the legal guardian is notified of the hearing and permitted to attend
3. One committee member chairs and conducts the hearing. The chair begins each hearing by informing the consumer and others present of the purpose of the hearing and the manner in which the hearing will proceed.
4. The treating physician attends the hearing and presents the physician's finding and recommendations with respect to the consumer's treatment. The committee members and consumer may question the treating physician and any other members who present information.
5. The consumer has the right to present information, which may include witnesses. The committee may question any witnesses called by the consumer.

6. If any person becomes disruptive during the proceedings, the chair may have that person removed and the hearing continues in the absence of said person.
7. Following the presentation of the information, the consumer, the treating psychiatrist, and others leave the room while the committee deliberates. Upon reaching a decision, the consumer and others are permitted to return to the room to hear the committee's decision.
8. The committee signs the Involuntary Medication Treatment Form which specifies the criteria for involuntary commitment as well as
 - a. The proposed medical treatment is in accordance with prevailing standards of accepted medical practice;
 - b. The proposed medical treatment is in the medical best interest of the consumer, taking into account the possible side effects of the treatment as well as the potential benefits of the treatment.

RIGHT TO APPEAL

1. The consumer has the right to appeal the committee's decision to the Medical Director or designee of the Local Mental Health Authority within 24 hours of the committee's decision by signing an Appeal of Involuntary Treatment Hearing Decision Form.
2. The consumer will receive a written decision from the Medical Director or designee within two business days of appeal.