

202A.0823 Substantial failure to comply with court-ordered assisted outpatient treatment -- Review committee -- Emergency admission -- Transportation.

- (1) A person's substantial failure to comply with a court order for assisted outpatient treatment may constitute presumptive grounds for the court or an authorized staff physician to order a seventy-two (72) hour emergency admission to allow for reexamination of the person to determine whether he or she meets the criteria for involuntary hospitalization under KRS 202A.026.
- (2)
 - (a) Upon the refusal of a person subject to a court order for assisted outpatient treatment to participate in any or all aspects of his or her treatment plan, the person's outpatient provider may establish a review committee that is made up of three (3) qualified mental health professionals to examine the appropriateness of the person's treatment plan. The review committee shall include at least one (1) qualified mental health professional who is directly involved with the person's treatment, if available. Within three (3) days of the refusal, the review committee shall meet the person and his or her counsel or other representative to discuss its recommendations.
 - (b) If the person still refuses to participate in any or all aspects of his or her treatment plan, the person's outpatient provider may petition the District Court for a de novo determination of the appropriateness of the proposed treatment.
 - (c) Within seven (7) days, the court shall conduct a hearing, consistent with the person's rights to due process of law, and shall utilize the following factors in reaching its determination:
 1. Whether the treatment is necessary to protect the person or others from harm;
 2. Whether the person is incapable of giving informed consent to the proposed treatment;
 3. Whether any less restrictive alternative treatment exists; and
 4. Whether the proposed treatment carries any risk of permanent side effects.
 - (d)
 1. Upon completion of the hearing, the court shall enter an appropriate judgment.
 2. An order entered under this paragraph shall not allow for a person to be physically restrained in order to administer any medication in any outpatient treatment setting.
 - (e) A judgment entered under paragraph (d) of this subsection may extend to treatment provided during a seventy-two (72) hour emergency admission.
- (3)
 - (a) Failure to comply with an order for assisted outpatient treatment shall not be grounds to find the person in contempt of court but shall be prima facie evidence that:
 1. The person can benefit from inpatient hospitalization; and
 2. Inpatient hospitalization is the least restrictive mode of treatment.
 - (b) If a new petition for involuntary hospitalization is filed within twelve (12) months of an order for assisted outpatient treatment, the clerk of the court

shall provide the prior order to:

1. The court with the petition for involuntary hospitalization; and
 2. The qualified mental health professional along with the court's order for examination.
- (c) The qualified mental health professional who conducts the examination as described under paragraph (b)2. of this subsection shall independently evaluate the person, considering the person's prior order for assisted outpatient treatment, and certify whether he or she meets the criteria for involuntary hospitalization under KRS 202A.026.
- (d) A person shall not be involuntarily hospitalized based solely on his or her failure to comply with a prior order for assisted outpatient treatment.
- (4) (a) Any person admitted to a hospital under subsection (1) of this section or transferred to a hospital while ordered hospitalized under subsection (1) of this section shall be transported from the person's home county by the sheriff of that county or other peace officer as ordered by the court.
- (b) The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to the hospital.
- (c) The transportation costs of the sheriff, other peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A.
- (5) (a) Any person released from the hospital under subsection (1) of this section shall be transported to the person's county of discharge by a sheriff or other peace officer, by an ambulance service designated by the cabinet, or by other appropriate means of transportation which is consistent with the treatment plan of that person.
- (b) The transportation cost of transporting the patient to the patient's county of discharge when performed by a peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A.

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