



MISSOURI DEPARTMENT OF MENTAL HEALTH



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
4.563

KEITH SCHAFER, DEPARTMENT DIRECTOR

CHAPTER Program Implementation and Records	SUBCHAPTER Transfer/Direct Admission Procedures	EFFECTIVE DATE 2-17-2015	NUMBER OF PAGES 7	PAGE NUMBER 1 of 7
SUBJECT Hearings for Transfer/Direct Admission of Minor to Adult Wards		AUTHORITY Section 630.050, RSMo		HISTORY See Below
PERSON RESPONSIBLE Director, CPS			SUNSET DATE: July 1, 2018	

PURPOSE: Prescribes policy regarding hearings for minors being transferred or directly admitted to adult wards as required by section 632.370, RSMo.

APPLICATION: Applies to facilities of the Division of Behavioral Health.

(1) Minors recommended for transfer or directly admitted to adult facilities shall be provided due process hearings as set forth in this DOR.

(2) For the purposes of this DOR, the following definitions apply:

(A) "Minor," any person under the age of eighteen (18) years. This definition includes persons under the age of eighteen who are certified by the juvenile/family courts to stand trial as an adult following the alleged commission of a crime and excludes persons whose minority status has been extended by the juvenile family courts beyond the age of eighteen (18).

(B) "Director of Children's Services," the individual appointed by the Director of the Division of Behavioral Health or designee to provide policy leadership and program oversight for children and youth services through the division.

(C) "Receiving facility," the facility that has the adult unit to which the minor is to be, or has been, transferred or admitted.

(D) Hawthorn Children's Psychiatric Hospital, the referring facility requesting the transfer of or admission of a minor to an adult treatment setting, whether or not the minor was ever admitted to Hawthorn.

(E) "Appropriate transfer or admission," the receiving facility has the resources to effectively provide for a minor's developmental needs, including medical, educational, psychiatric, and safety needs.

(F) "Necessary transfer or admission," when Hawthorn Children's Psychiatric Hospital cannot effectively provide for the medical needs, psychiatric needs, and safety needs of the minor patient, and for the safety of other patients, staff or the general public.



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(G) "Required parties," the minor, the minor's parents, guardian or other legal custodian, the minor's last known attorney of record, all courts maintaining jurisdiction, the assistants general counsel for Hawthorn Children's Psychiatric Hospital, and the proposed receiving facility, the Chief of Children's Community Operations in both the referring region, and in the receiving region.

(3) The Director of Children's Services shall be copied on all correspondence sent to and from the designee as directed by this DOR.

(4) A minor may be admitted to an adult facility only if the transfer or admission is necessary and appropriate as defined in subsections (2)(E) and (2)(F) of this DOR. The Chief Operating Officer of Hawthorn Children's Psychiatric Hospital shall have the burden to document that the transfer or direct admission is necessary and appropriate.

(5) The hearings required by this DOR shall be conducted by the hearings administrator for the Department of Mental Health or his/her designee. The hearings administrator shall not be an employee of Hawthorn Children's Psychiatric Hospital or the receiving adult facility.

(6) Before any pre-transfer, post-transfer, or direct admission hearing, the treatment team of the receiving adult facility shall review the minor's current status and recommend on the appropriateness of the transfer or direct admission in meeting the needs of the minor and public safety in consultation with Hawthorn Children's Psychiatric Hospital. The team's evaluation and recommendation shall be filed in the minor's medical record and be presented to the hearings administrator at the hearing.

(7) Pre-Transfer Hearing Process:

(A) The Chief Operating Officer of Hawthorn Children's Psychiatric Hospital may apply for a pre-transfer hearing on DMH Form "Application For Transfer Or Direct Admission Hearing For Minor To Be Admitted Or Transferred To Adult Ward" and send to the Director of Children's Services. The Director of Children's Services shall approve or deny the application for a pre-transfer hearing.

(B) The Director of Children's Services shall approve or deny the application for a pre-transfer hearing within three (3) working days of receipt and notify the Chief Operating Officer of Hawthorn Children's Psychiatric Hospital, and the hearings administrator of said decision;

(C) If the application is approved, the hearings administrator shall set the date, time and location of the hearing, which should be within five (5) working



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days of the Director of Children’s Services approval of a hearing and notify the Chief Operating Officer of Hawthorn Children’s Psychiatric Hospital;

(D) The Chief Operating Officer of Hawthorn Children’s Psychiatric Hospital shall provide written notification to the required parties at least two (2) working days before a pre-transfer hearing of the time, date, place and reasons for the transfer.

(E) If the application for a pre-transfer hearing is denied by the Director of Children’s Services, the minor shall not be transferred.

(8) Post-Transfer Hearing Process:

(A) The Chief Operating Officer of Hawthorn Children’s Psychiatric Hospital shall request a post-transfer hearing for any minor transferred to an adult facility on an emergency basis without a pre-transfer hearing only if special circumstances require the immediate transfer and a pre-transfer hearing is not feasible. The Chief Operating Officer of Hawthorn Children’s Psychiatric Hospital shall document in the minor’s medical record the special circumstances that caused the transfer and has the burden to show an emergency transfer is necessary and appropriate. Following an emergency transfer, the hearing process for a post-transfer hearing shall be followed.

(B) The Chief Operating Officer of Hawthorn Children’s Psychiatric Hospital shall contact the Director of Children’s Services within twenty-four (24) hours following the transfer using DMH Form “Application for Transfer or Direct Admission Hearing for Minor Transferred/Admitted to Adult Unit” (excluding Saturdays, Sundays and legal holidays observed by the department).

(C) Once the application for transfer has been approved by the Director of Children’s Services, the Chief Operating Officer of Hawthorn Children’s Psychiatric Hospital shall notify the hearings administrator.

(D) The hearings administrator is to arrange a date, time and location for the hearing and notify the Chief Operating Officer of Hawthorn Children’s Psychiatric Hospital.

(E) The hearing shall be held within five (5) working days following the transfer/ direct admission unless a continuance is requested by the minor, the minor’s parents, legal custodian or the minor’s attorney and the request is approved by the hearings administrator.



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(F) The Chief Operating Officer of Hawthorn Children’s Psychiatric Hospital shall provide written notification to the required parties at least two (2) working days before a post-transfer hearing of the time, date, and place of the hearing and reasons for the transfer.

(9) Direct Admission Hearing Process:

(A) A minor may be directly admitted to an adult facility only if special circumstances require such direct admission. In such instances, the Chief Operating Officer of an adult facility shall request a hearing for any minor directly admitted to an adult facility without first admitting the child to Hawthorn Children’s Psychiatric Hospital. The Chief Operating Officer of Hawthorn Children’s Psychiatric Hospital shall document the special circumstances that necessitate the direct admission and immediately forward those to the Director of Children’s Services, and the Chief Operating Officer of the receiving facility. The Chief Operating Officer of Hawthorn Children’s Psychiatric Hospital has the burden to show a direct admission is necessary and appropriate. The Director of Children’s Services will consult with the Director of Psychiatric Facilities, as necessary, and forward the determination to the Chief Operating Officer of the adult admitting facility. Following a direct admission, the hearing process for direct admission shall be followed.

(B) The Chief Operating Officer of the adult facility shall contact the Chief Operating Officer at Hawthorn Children’s Psychiatric Hospital, and the Director of Children’s Services within twenty-four (24) hours following the direct admission using DMH form “Application For Transfer Or Direct Admission Hearing For Minor To Be Admitted Or Transferred To Adult Ward” (excluding Saturdays, Sundays and legal holidays observed by the department).

(C) Once the application for direct admission has been approved by the Director of Children’s Services, the Chief Operating Officer of the admitting adult facility shall notify the hearings administrator.

(D) The hearings administrator is to arrange a date, time and location for the hearing and notify the admitting adult facility.

(E) The hearing shall be held within five (5) working days following the admission unless a continuance is requested by the minor, the minor’s parents, legal custodian or the minor’s attorney and the request is approved by the hearings administrator;

(F) The Chief Operating Officer of the admitting adult facility shall provide written notification to the required parties at least two (2) working days before a



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hearing of the time, date, place, and reasons for direct admission to the adult facility.

(10) During the pre- or post-transfer or direct admission hearing, the minor, the minor’s guardian, and/or the minor’s legal representative shall be allowed to attend the hearing, present information, and question witnesses.

(11) The hearings administrator shall decide whether the minor shall be transferred or, if the minor is already in an adult facility, whether the minor shall remain in the adult facility. Within four (4) working days following the hearing, the hearings administrator shall submit written findings of fact, conclusions, and decision as to the necessity and appropriateness of the transfer, admission, or proposed transfer to the Director of the Division of Behavioral Health, the Director of Children’s Services, and the Chief Operating Officer at Hawthorn. The Chief Operating Officer at Hawthorn will send written findings and decision as to necessity and appropriateness of the transfer, admission, or proposed transfer to all required parties.

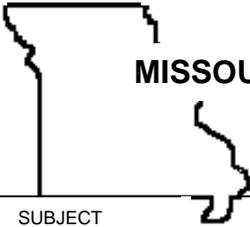
(12) Refusal of Direct Admit: In the case that the adult facility will not directly admit the minor, the Chief Operating Officer of the adult facility will contact the Chief Operating Officer at Hawthorn Children’s Psychiatric Hospital to consult. If a decision is mutually agreed upon, the decision should be documented in the minor’s chart and appropriate action taken. If a mutually agreed upon decision cannot be reached, the case should be presented to the Director of Children’s Services, and the Director of Psychiatric Facilities. The Director of Children’s

Services will provide a response.

(13) The Chief Operating Officer at Hawthorn Children’s Psychiatric Hospital shall notify, in writing, any court of competent jurisdiction of the outcome of the transfer hearing noting the facility name, address and contact where the minor is currently in treatment.

(14) A copy of the hearings administrator’s decision and notice of the right to appeal shall be filed in the minor’s medical record and sent to all required parties.

(15) Appeal Process: A minor’s legal guardian or attorney may request the Director of the Department or designee to review the decision of the hearings administrator. (If the decision to transfer the minor is upheld by the hearings administrator, the minor shall remain on the adult facility during the pendency of the appeal to the Department Director unless transfer back to a youth treatment setting is determined appropriate as set forth in section (18).)



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(A) The minor’s guardian or attorney may request, in writing, the review within fifteen (15) days following the receipt of the decision of the hearings Administrator. The review request shall be delivered to the head of the facility where the minor is currently admitted.

(B) Upon receiving notice of the written request, the head of the facility where the minor is currently admitted shall notify the Department Director’s office. The Department Director or designee shall request a copy of the transcription of the hearing before the hearings administrator. Such transcription and the record from the hearing shall be prepared and delivered to the Director or designee within ten (10) working days of the date the hearing transcript is requested by the Department Director or designee.

(C) During the review, the Department Director or designee may receive additional written information on the behalf of the minor, Hawthorn Children’s Psychiatric Hospital and/or the receiving facility. Such information shall be submitted within twelve (12) working days the date of the appeal request was received by the head of the facility where the minor is currently admitted.

(D) Within seven (7) working days after receiving the hearing transcript and records, the Department Director or designee shall issue an order sustaining, overruling, or remanding for further evidence the decision of the hearings administrator. The decision of the Department Director or designee shall be final and documented on DMH Form, “Review Decision by Department Director.”

(E) The head of the facility where the minor is currently admitted shall file the decision of the Department Director in the minor’s medical record and give notice to all required parties.

(F) If the Department Director or designee upholds the transfer or direct admission, the minor’s guardian or attorney may appeal to the Circuit Court in accordance with Chapter 536, RSMo. The appeal may be made to the Circuit Court of the county in which the referring or receiving facility is located, or in Cole County, Missouri. The appeal must be filed within thirty (30) days of the date the Department Director or designee decision is issued. The minor shall remain at the adult facility during the pendency of any such appeal unless transfer back to a youth treatment setting is determined appropriate as set forth in section (18).

(16) If a minor has been admitted to an adult unit, the Chief of Children’s Community Operations or designee in the region of the adult facility shall be notified by Hawthorn Children’s Psychiatric Hospital to assist in monitoring that youth and assuring his/her needs are being met, including but not limited to educational needs, and facilitate provision of any specialized consultation or



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services with the adult facility that may be needed to specifically address the developmental needs of that youth.

(17) When a minor has been transferred or admitted to an adult facility, the necessity and appropriateness of that placement should be reviewed and documented within each treatment plan review at least within fourteen (14) days of admission for an initial treatment plan review and every thirty (30) days thereafter as required in 42 CFR, Sections 441.154 and 441.155.

(18) If a minor has been transferred or directly admitted to an adult unit, and the treatment team of the adult unit feels the minor may now be appropriate for transfer back to a youth treatment setting, the adult unit treatment team shall conduct a joint staffing with Hawthorn Children’s Psychiatric Hospital. If a decision is mutually agreed upon, the decision should be documented in the minor’s chart and appropriate action taken, with all required parties notified including any court of competent jurisdiction. If a mutually agreed upon decision cannot be reached, the case should be presented to the Director of Children’s Services, and the Director of Psychiatric Facilities. The Director of Children’s Services shall provide a response.

(19) The Chief Operating Officer at Hawthorn Children’s Psychiatric Hospital and the Chief Operating Officer of the adult receiving facility where a minor is directly admitted or transferred shall ensure that all appropriate staff are trained regarding the policies and procedures contained in this DOR. Likewise, the Chief Operating Officer of the adult receiving facility shall maintain appropriate documentation regarding the implementation of the policies and procedures contained in this DOR.

History: Original DOR effective February 15, 1982. Amendment effective July 1, 1999. On July 1, 2003 the sunset date was extended to July 1, 2004. Amendment effective November 1, 2004. On July 1, 2008 the sunset date was extended to July 1, 2011. On June 23, 2011 the sunset date was extended to July 1, 2014. Amendment effective May 15, 2012. Amendment effective February 17, 2015.