

ALLEGHENY COUNTY

MENTAL HEALTH COURT



SUPERVISING JUDGE, THE HONORABLE BETH A. LAZZARA

AUTHORED BY*: DEBRA BARNISIN LANGE, ADA

CHARLES VANKEUREN, APD

ALLEGHENY COUNTY MENTAL HEALTH COURT: A GUIDE AND FREQUENTLY ASKED QUESTIONS

What is Mental Health Court?

Mental Health Court (MHC) is a treatment court designed to provide intensive treatment and supervision for defendants with qualifying criminal charges, who have a documented qualifying mental health diagnosis. The Court is designed to promote communication between the criminal justice system and mental health systems, as well as to provide intensive supervision and treatment services for appropriate individuals. Typically, MHC clients are dual diagnosis, meaning they suffer from both mental illness and drug/alcohol addiction, so for those persons, treatment in MHC strives to address both mental health and drug/alcohol issues. Mental Health Court is not only an appropriate manner with which to support this segment of the community, but it also provides multi-level benefits including a proven lower recidivism rate for participants, improved community safety, and substantial savings of tax dollars.

Who makes up MHC?

MHC is a joint program of the Court of Common Pleas, the District Attorney's Office, the Public Defender's Office, Justice Related Services (JRS) (an agency of the Allegheny County Office of Behavioral Health and Department of Human Services), and Adult Probation. These agencies participate in and form the procedures and policies for MHC. Although these agencies sometimes have different goals, and periodically, conflicting positions, there is a very high degree of cooperation and communication among them.

How are the cases docketed?

Cases proceed through the normal progression of prosecution and court assignment until such a time as they are referred and accepted to MHC. Once a case is considered acceptable to enter the program, the case is transferred to the designated MHC Judge in the Criminal Division who hears and presides over every MHC case at all stages from acceptance to graduation or closing. The Honorable Judge Beth A. Lazzara currently presides over all MHC cases.

Is MHC like ARD?

No. MHC is not a 'diversionary program' in which a conviction is expunged upon successful completion of the program. A conviction through MHC will remain on a person's record the same as any criminal court conviction. However, the District Attorney's Office has provided for select qualifying cases to be admitted to ARD with the probation supervised through MHC. The records of joint ARD/MHC participants are expunged like those of any other ARD case.

Must a defendant plead guilty to enter MHC?

Nearly all defendants agree to a general plea or a negotiated plea with MHC and case appropriate sentence and conditions in order to enter MHC. Offers are made in writing and require defense acceptance in writing prior to case transfer to MHC. Jury trials are not permitted in MHC due to the volume of cases, and time and docketing restraints. In extremely limited circumstances for previously agreed upon cases, a non-jury or stipulated non-jury may be approved, however, the overwhelming majority of cases accepted into MHC are resolved by plea.

What are the requirements for a case to enter MHC?

The following are requirements for a client to enter MHC, and their discussion will outline the basics of the referral and acceptance (or denial) procedure:

1. **Referral:** A referral to initiate MHC consideration is made using a standard JRS/MHC referral form that must be fully and properly completed and accompanied by all required supporting documentation. JRS prequalifies all referred individuals for MHC services as well as initiates support services pending a MHC admission decision. Anyone may refer a case to MHC; most referrals come from defense counsels, county mental health workers, and counselors at the jail. However, referrals also have been made by probation officers, District Attorneys, Judges, counselors, psychologists, social workers, and a defendant's family or friends. Some defendants initiate their own referral.
2. **Diagnosis:** All participants must have a qualifying mental health diagnosis. Qualifying disorders are defined by the current Diagnostic and Statistical Manual of Mental Disorders (DSM) and were previously defined in DSM-IV as Axis I disorders. The diagnosis must be current (psychological evaluation completed within the previous 12 months) and confirmed through a person or agency qualified to make said diagnosis. JRS confirms diagnosis information for MHC.
3. **Assessment:** JRS meets personally with each person referred, to perform an assessment which is designed to gain a holistic view of the referral's history (mental health, social, legal, medical, etc.) and needs. JRS will also confirm that the referral is a resident of Allegheny County.
4. **Consent:** MHC is a voluntary program. JRS obtains the initial consent from a defendant as part of their referral assessment. Persons who refuse participation in the program cannot be forced to enter Mental Health Court.
5. **JRS vetting of referrals:** Once JRS confirms a diagnosis, obtains the referral's consent, and the person is otherwise an appropriate candidate for MHC, the referral is placed on a case list that is discussed jointly by the MHC referral team.
6. **The MHC referral team** is comprised of the MHC District Attorney, MHC Public Defender, the MHC JRS Supervisor, and the MHC Probation Court Coordinator. The referral team vets and evaluates all referrals on a case-by-case basis, and shares at the referral meeting all information relevant to the referral, the defendant, and all pending criminal case matters, including advocacy for the defendant, as well as any concerns, reservations, and/or community safety issues. The DA must approve each case coming into MHC: there is no "right" to MHC, and the DA has absolute discretion to accept or reject MHC referrals. Periodically, a team member may advise refusal/denial/rejection of a referral from MHC consideration based on past supervision history, legal or strategic reasons, or joint concerns/reservations.

Why are some referrals rejected?

Aside from not fulfilling the requisites listed above, there are several common reasons for exclusion, denial, or rejection of a referral:

1. The referral does not have a pending criminal case in the Criminal Division. PFA violations, child support issues, and juvenile cases, for example, are not accepted. In limited circumstances, where the court feels a case is appropriate, a probation/parole case may be considered. The fact that a referral has probation/parole matters pending *in addition to* an open, pending criminal case will not block acceptance into MHC.
2. Defendant lacks a qualifying diagnosis and/or therapeutic amenability
3. Defendant is not a resident of Allegheny County, or does not have a potential residence in the county. Due to funding, treatment, and supervisory issues, MHC participants must reside in Allegheny County.
4. Defendant has a federal or out-of-county detainer. Detainers from state probation and parole are dealt with on a case by case basis.
5. Defendant is subject to Megan's Law/Sorna reporting and/or the referred case would result in Megan's Law/Sorna reporting.
6. Nature of the charges—some charges will automatically prevent a case from MHC acceptance. See below for further discussion.
7. Facts of the case—some cases may present factual allegations that raise concerns about the case coming into MHC. See below for further discussion.
8. Defendant has an extensive criminal history involving violent or otherwise serious crimes.
9. Defendant has previously unsuccessfully participated in MHC.
10. Victim / Police / ADA Objection— for relevant cases, victim and/or police officer consent must be obtained; for example, assaults, thefts, burglary, etc. Additionally, for more serious cases, the special unit trial ADA assigned has the right to refuse consideration of the case for MHC admission.

What types of cases are automatically prohibited from entering MHC?

Cases prohibited from MHC include but are not limited to: Homicides, Attempted Homicides, Megan's Law/Sorna reporting, most sex offenses (cases such as indecent exposure are decided on a case by case basis), VUFA, offenses committed with a firearm, drug trafficking offenses (possession with intent to deliver and/or delivery), most Felony 1 cases, victim is a juvenile, victim and/or police officer do not consent, criminal charges/facts of case are unacceptable per MHC protocols, and/or would require supervision restrictions, defendant refuses MHC, defendant is a fugitive, case requires state incarceration and/or mandatory state sentence, and cases where the defendant has a history of violent crime.

Are Felony cases excluded from MHC?

Many Felony 1 cases are not acceptable to MHC; however, the *specific facts of the case* and the *totality of the circumstances* play an important role in the decision-making process. Certain subsections of charges such as Robbery, Burglary, Kidnapping, Aggravated Assault, Arson, and other felonies are prohibited from MHC consideration, while other subsections which may involve lesser degrees of force are examined on a case-by-case basis. Generally speaking the following factors are considered:

- Was a weapon possessed or used?
- Did the victim suffer a serious injury? Was there serious property loss or damage?

- How “sophisticated” was the crime?
- To what extent and degree did the defendant’s mental illness play a role in the case?
- Does the victim and/or police officer consent to MHC?

Again, each case is reviewed on a case by case basis to determine if particular circumstances exist that would cause a potentially unacceptable case to be considered for acceptance.

What about gun cases?

Cases where a firearm was used in the commission of a crime, or serious gun charges are NOT admissible to MHC. Infrequently, an exception may be made for certain extreme circumstances, such as a case where a defendant is charged with a crime involving the presence or use of a firearm but the facts of the case indicate the actor may have been attempting to hurt themselves or commit suicide without endangering the lives or welfare of others. In those limited circumstances, the *specific facts of the case* and the *totality of the circumstances* play an important role in the decision-making process.

What about most misdemeanor cases?

Few misdemeanor cases present serious concerns about entry into MHC. But once again, the *specific facts of the case* and the *totality of the circumstances* play an important role in the decision-making process. Just as a victim’s consent to MHC for a felony or more factually serious case may tip the scales in favor of acceptance, a victim or police officer’s objection may keep a misdemeanor case from acceptance to MHC; misdemeanor cases previously excluded in this manner have included stalking, domestic violence cases, etc.

How is MHC different from regular court?

The main element distinguishing a MHC case from a regular case is sentencing and supervision. These differences are as follows, with each element being an inherent part of MHC:

1. **Sentencing**: The Court may fashion a sentence, or the MHC DA may offer a plea agreement, which is designed to allow the defendant to begin treatment and intensive supervision by being released from or remaining out of jail. Whether the sentence imposed is for county jail time, probation, or a combination of both, the defendant generally is paroled as soon as possible to commence treatment with the condition that they be released only to their caseworker or their designated treatment program. Sentencing options include electronic monitoring, placement in a treatment program, or placement in appropriate housing with court ordered intensive outpatient treatment
2. **JRS representative**: All MHC participants are assigned a representative from JRS who will serve as a caseworker throughout their time in MHC. JRS reps are responsible for a very wide variety of activities including the formulation of a service plan (see (3) below), arranging for and monitoring treatment, working with various agencies to obtain funding and public assistance benefits, transporting participants, and reporting participants’ progress to the court among other responsibilities.
3. **Service plan**: All participants are required to sign and comply with a service plan. A service plan is a written contract between the defendant and Allegheny County that outlines the specifics of their treatment and supervision in MHC. The MHC JRS representative is responsible for designing an appropriate service plan, as well as initiating any subsequent modifications as required. Service plans consist of individualized supervision requirements and are tailored to address each defendant’s

needs and requirements (i.e. where they will commence treatment, where they will reside, attending recommended programming, taking any prescribed medicine, staying in contact with probation and JRS, etc.). See Attachment 2 for a sample service plan.

4. **Prescription Drug Policy:** All participants are required to sign and comply with the Court's prescription drug policy which details acceptable use and behavior regarding prescribed, over the counter, and prohibited drugs, as well as use of any other substances that may interfere with defendant's medical or treatment issues.
5. **Reviews:** Unlike other court cases, MHC defendants are required to attend reviews in court throughout their participation to monitor their progress. Based on the totality of circumstances, reviews are classified as positive, negative, or neutral. Clients who do well have their reviews scheduled in graduated increments (30 days, then 60 days, then 90 days, then every 120 days). Clients who receive negative reviews start over again with a review in 30 days. "Problem" clients may be ordered to report more frequently—both to the Court and to probation—sometimes weekly or biweekly until further order of the court permitting them to step down.
6. **Specially assigned probation officer:** Allegheny County has a Probation Supervisor and a team of specially trained probation officers who supervise MHC clients. These officers attend each court session personally (as opposed to a probation liaison) and report on a defendant's progress, issues, and compliance with MHC.

Can MHC participants live in their own home?

Housing options depend entirely upon each individual's situation and support team's housing recommendations, as well as the individual's stability and abilities. Housing depends largely upon the assessment and recommendation of an individual's assigned JRS representative, and is related to each person's progress and ability to live on their own in the community.

What if it is determined that an MHC participant cannot or should not live on his/her own?

There are a variety of other placement options. Based on changes of a participant's progress throughout their time in MHC, JRS may recommend a housing change at any time. If there is disagreement as to the best course of action for a client, the Judge makes the decision. Some of the commonly used options are:

1. **Dual-diagnosis, in-patient facilities.** These are residential facilities that specifically address both drug/alcohol issues *and* mental illness. Cove Forge, Pyramid, and White Deer Run are popularly used. Like other rehabs, these are usually only 14-28 days, although most feature "3C" programs, which are 90 days.
2. **Residential facilities with longer residential possibilities.** They include official alternative housing programs (i.e. ACTA, Renewal, Goodwill), halfway houses, ¾ houses, CRR's (community residential rehabs), MISA (mental illness / substance abuse) programs, recovery homes, personal care homes, homeless shelters, faith-based shelters, etc. The extent of time required (or permitted) and the extent to which these programs cater to the needs of the mentally ill varies from place to place. JRS usually recommends a particular place based on a holistic assessment of the defendants needs and abilities.
3. **De-tox units and in-patient rehabs** (i.e. Gateway, Greenbriar).

What is the typical MHC sentence?

MHC sentences generally range from a sentence of 2 years probation, to 11 ½ to 23 months ACJ with permission for parole to EM, TAD/EM, program or placement plus 4 years probation. In some cases, probation may be higher. The sentence is given with the understanding that, if a defendant consistently does well, has been compliant with MHC and their service plan, and had mostly positive reviews, the court will consider approving graduation and closing interest in the case/supervision once no less than one half to two thirds of the sentence has been served.

What are the conditions of acceptance and/or sentence which will become conditions of Probation? These conditions include but are not limited to requirements such as:

- Comply with the individualized service plan which is made part of the sentence, and may include any number of programs available for, and specifically tailored to, a participant's needs. Participants must sign all medical, mental health, or other consent and/or authorization forms as required for the court, and all treatment or programs
- Demonstrate honesty, decorum, and respect at all times towards the Court, the Mental Health Court team members and participants, treatment providers, and case workers
- Compliance with all treatment, appointments, and medication
- Compliance with the MHC Prescription Drug Policy
- Maintain regular contact with Probation and JRS
- Comply with Drug and Alcohol testing. Use of alcohol, illegal drugs, or other substances is strictly prohibited, as is abuse of prescribed medications
- Live at the reported and agreed upon address. Current address information must be maintained with probation, JRS, defense counsel. Seek court and probation and/or JRS approval prior to any proposed change in address
- Drug & Alcohol Evaluation, Inpatient Treatment, Random Drug Testing
- Must take prescribed medications (periodically, if medication is refused, court will order injectable medication, or request that medication be administered in the courtroom)
- No contact/no violent contact with victim(s), witnesses, or prohibited places
- Make regular, good faith payments towards Restitution
- Narcotics Anonymous/Alcoholics Anonymous (NA/AA) meeting attendance, and regular contact with sponsor
- Anger Management, Parenting Class, Batterers Intervention Class, or others as ordered
- Any other course of treatment as determined by the Court, or as requested by the ADA, defense, JRS and/or Probation Officer and ordered by the Court
- Obey all laws of the Commonwealth of Pennsylvania

Who determines how a defendant's review is classified?

The defendant's JRS representative makes a recommendation to the court as to whether the defendant's review should be positive, negative, or neutral. All participants (DA, PD, JRS, Probation) are given an opportunity to advocate for their position. Generally, all parties reach consensus regarding classification of the review, but in absence of agreement, the Court ultimately makes the decision.

What factors are considered when deciding how to classify a defendant's review?

Although the totality of the circumstances is considered, defendants are expected to comply with the following mandates, and will receive a positive review for doing so:

1. Follow all conditions of their service plan
2. Attend treatment and take their prescribed medicine(s)
3. Stay in touch with their JRS rep
4. Report to probation as instructed
5. Avoid drugs and alcohol (monitored with frequent drug testing)
6. Generally stay out of trouble

There are times when non compliant or "bad behavior" may be mitigated by the defendant's subsequent actions. For example: a defendant who relapses on drugs, but who also contacts his JRS rep and/or probation officer, informs them of the relapse, and follows through with the recommended treatment, may receive a neutral review (as opposed to a negative) because of the person's honesty, insight, and desire to remedy the situation with the appropriate action. When a defendant's "bad" behavior is due largely or exclusively due her mental illness, this may also be considered a mitigating factor not likely to result in a negative review.

What happens when a client receives a negative review?

The Court employs a broad range of sanctions, ranging on the low end from a verbal "pep talk" to the most serious sanction of revocation of the defendant's probation and imposition of state jail time. Clearly, the Court exercises broad discretion, and frequently employs many options between the two extremes. Sanctions include, but are not limited to:

1. Verbal admonishment
2. Increased reporting for Court reviews (once a month, every 2 weeks, once a week, etc.)
3. Increased reporting to defendant's probation officer and/or increased drug testing
4. Placing defendant on house arrest with electronic monitoring
5. Incarceration—Defendant is remanded to ACJ for an unstated period of time. This may genuinely be an unknown duration, or a specific time may be ordered—anywhere from several hours to several weeks.

When are participants remanded to the jail?

Because MHC is a treatment court, jailing participants is used only as a last resort attempt to conform participant's behavior to MHC requirements. Defendants who are incarcerated usually fall into one of four categories:

1. As a preventative measure when the defendant's drug / alcohol use or mental condition is so severe that the judge fears for their life or the safety of the community. These defendants are incarcerated with the understanding that they will be released to their JRS representative as soon as a plan of treatment and/or for placement is formulated. If the defendant's mental condition is serious and the Court's primary concern, the Judge may order the defendant to Torrance State Hospital for evaluation and treatment.
2. The defendant is MIA, not compliant with sentence, supervision, treatment, reporting, review attendance, and/or rules of the Court. A warrant is issued for said defendants. Once incarcerated on the warrant, the defendant will be placed on the Court schedule for video review from ACJ. Inquiry is made regarding their non-compliance(s), and the team provides recommendations to the Court either for appropriate treatment and placement, which will result in defendant's release from jail into an appropriate

program, or the Court may accept recommendations for sanctions up to and including removal from court.

3. The defendant engages in undesired behavior ear-marked by deceitful, manipulative, or uncivil behavior toward the Court. This behavior may be addressed with a 'swift intervention' sending the defendant to jail for a period of time not known to them. Loss of liberty may last anywhere from several hours to several weeks, depending on the nature of the non-compliance(s) before a defendant is brought before the court to answer for their actions, and the Court determines how best to move forward.
4. The defendant is continually and substantially non-compliant with the terms of their service plan, and/or demonstrates no improvement or desire to improve. The Judge may remove them from MHC, revoke their probation, and resentence them to the State IP program, the Re-Entry program at ACJ. county or state time. On occasion, the Court may simply remove a defendant from MHC and close interest in their case if they have already served a significant amount of time in jail, or may have numerous pending charges for which they are facing incarceration, and/or the defendant has received a significant sentence on unrelated cases.

What happens when a client successfully completes MHC?

Mental Health Court celebrates successful program completion for participants with Graduations, which are held quarterly. The MHC team (the Court, DA, PD, Probation, JRS) recommends participants for graduation when they have demonstrated the insight, personal growth, consistency, and success necessary to complete supervision. Participants may only be nominated for graduation upon successful completion of no less than one half to two thirds of their sentence. The Court makes all final decisions regarding which participants may graduate from MHC, and the Court will sign an order formally closing the defendant's case(s)/supervision. The announcement is made in a ceremony in open court with the graduates present. The graduate is given a certificate of accomplishment and a gift card, and is offered an opportunity to express his/her thoughts about their MHC experience and successes. Graduations are well received by the other court participants, and are cause for applause, congratulations, and celebration in the courtroom. The ceremonies are held in open court as a means to honor the graduates, as well as to serve as an inspiration to other MHC participants.

Allegheny County Mental Health Court Team Contact Information

The Honorable Beth A. Lazzara
Allegheny County Court of Common Pleas
Allegheny County Courthouse, 510
436 Grant Street
Pittsburgh, PA 15219
PHONE: 412-350-5981
EMAIL: Judy Sarna (jsarna@alleghenycourts.us)

Debra Barnisin-Lange, Esq.
Allegheny County District Attorney's Office
303 Courthouse, 436 Grant Street
Pittsburgh, PA 15219
PHONE: 412-350-5519
EMAIL: DBarnisin@alleghenycountyda.us
Jim Tierney, MHC Paralegal, DA's Office
JTierney@alleghenycountyda.us

Shannon DeMino Sommers, Specialty Courts Unit Supervisor
Allegheny County Justice Related Services
101 Bellevue Road
Pittsburgh, PA 15229
PHONE: 412-301-8220
EMAIL: Shannon.sommers@alleghenycounty.us

Georgene Siroky, Esq.
Allegheny County Public Defender's Office
300 Ross Street, Pittsburgh, PA 15219
PHONE: 412-350-2469
EMAIL: Georgene.Siroky@alleghenycounty.us

Robert Panigal, Probation, Court Coordinator
Allegheny County Adult Probation
Adult Probation Center
337 5th Avenue, McKeesport, PA 15132
PHONE: 412-339-6356
EMAIL: RPanigal@alleghenycourts.us