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FACT SHEET

March 2023

Community Assistance, Recovery, and Empowerment (CARE) Act

The Community Assistance, Recovery, and Empowerment (CARE) Act (Stats. 2022, ch. 319) authorizes specified adult persons to petition a civil court to create a voluntary CARE agreement or a court-ordered CARE plan that can include treatment, housing support, and other services for persons with untreated schizophrenia or other psychotic disorders.

Overview

The CARE Act seeks to provide mental health services, support, and accountability for Californians living with untreated schizophrenia or other psychotic disorders. The act aims to divert and prevent restrictive conservatorships or incarcerations through a court-ordered CARE plan or court-approved CARE agreement for up to 12 months that is initiated via a petition through the courts. Once the court ensures the credibility of the petition and that the respondent meets CARE criteria, local government and respondents work together to either develop and enter into a CARE agreement or develop and implement a court-ordered CARE plan that supports the respondent in accessing treatment through community-based services and supports. Unlike the process under the Lanterman-Petris-Short Conservatorship Act, the CARE Act does not include custodial settings or long-term involuntary medications. The California Health and Human Services Agency (CalHHS) is tasked with coordinating efforts with and between the Department of Health Care Services (DHCS) and the Judicial Council throughout the implementation process. The state has dedicated significant funding to provide behavioral health care services as well as housing support services where CARE respondents will be prioritized.

Implementation

The CARE Act took effect on January 1, 2023. It will be implemented in a phased-in approach, with counties separated into two cohorts. The first cohort will include 7 counties—Glenn, Orange, Riverside, San Diego, San Francisco, Stanislaus, and Tuolumne—and will begin implementing CARE no later than October 1, 2023. Los Angeles County will accelerate its implementation of CARE one year ahead of

schedule, with an implementation by December 1, 2023. The remaining 50 counties will begin implementing CARE no later than December 1, 2024. Counties may request an extension to delay the start of CARE from DHCS beyond December 1, 2024; however, all counties must implement CARE no later than December 1, 2025.

Process

Petitioners and respondents

CARE Act proceedings can be initiated once an individual files a CARE Act petition. The following adults may file a petition:

- A person with whom the respondent resides;
- A spouse, parent, sibling, child, or grandparent, or other individual who stands in loco parentis¹ to the respondent;
- The director of a hospital in which the respondent is hospitalized;
- The director of a public or charitable organization, agency, or home who has provided or who is currently providing behavioral health services to the respondent;
- A licensed behavioral health professional who is or has been either supervising the treatment of, or treating the respondent for a mental illness;
- A first responder² who has had repeated interactions³ with the respondent;
- The public guardian or public conservator of the county in which the respondent is present or reasonably believed to be present;
- The director of a county behavioral health agency of the county in which the respondent resides or is found;
- The director of county adult protective services of the county in which the respondent resides or is found;

¹ An individual with a legal responsibility to perform the functions or responsibilities of a parent.

² This includes a peace officer, firefighter, paramedic, emergency medical technician, mobile crisis response worker, or homeless outreach worker.

³ This includes multiple arrests, multiple detentions, and transportation under Welfare and Institutions Code section 5150, multiple attempts to engage the respondent in voluntary treatment, or other repeated efforts to aid the respondent in obtaining professional assistance.

- The director of a California Indian health services program or California tribal behavioral health department; or
- The judge of a tribal court that is located in California.⁴

In order to participate in CARE Act proceedings, a respondent must be 18 years of age or older; be currently experiencing a severe mental illness and have a diagnosis of schizophrenia spectrum or other psychotic disorders (schizophrenia, schizoaffective, schizophreniform, and catatonia)⁵; not be clinically stabilized in ongoing voluntary treatment; be unlikely to survive safely in the community without supervision and their condition be substantially deteriorating or be in need of services and support to prevent a relapse or deterioration likely to result in grave disability or serious harm to themselves or others; be in a situation where participation in a CARE plan or CARE agreement would be the least restrictive alternative to ensure recovery and stability; and be likely to benefit from participation in a CARE plan or CARE agreement.

CARE Act proceedings

Petition to initial hearing

After a petition is filed with the court, the county behavioral health agency must investigate whether the person meets CARE criteria and submit a report with its findings. Upon reviewing the report, if the court finds the person likely to meet CARE criteria, it will set a date within 14 days for an initial appearance⁶ and appoint legal counsel to represent the person in all CARE Act proceedings.⁷ The court will determine at the initial appearance if the person meets CARE criteria. If criteria are met, the county behavioral health agency works with the person, their counsel, and the person's supporter to engage in behavioral health treatment and determine

⁴ For all of the listed agency directors and other professionals who may file a petition to initiate the CARE Act process, their designees may also file a petition under the CARE Act.

⁵ Eligibility does not include a psychotic disorder that is due to a medical condition or is not primarily psychotic in nature (e.g., traumatic brain injury, autism, dementia, or neurologic conditions).

⁶ The county agency must notify the respondent and all relevant parties of the initial hearing date set by the court. The court may grant county request for up to 30 additional days to continue to work with, engage, and enroll the individual in voluntary services if the agency is making progress.

⁷ CARE Act proceedings are a qualified legal services project. If legal counsel through a legal services project is not available, a public defender is assigned to represent the respondent. The court must notify the petitioner and other relevant parties.

whether the parties will be able to enter into a CARE agreement. The court will set a case management hearing within 14 days.

Case management hearing to CARE agreement or clinical evaluation

At the case management hearing, the court assesses whether the parties have entered into a CARE agreement. If they have, and the court approves the CARE agreement, the court sets a progress hearing for 60 days.⁸ If the parties have not reached a CARE agreement, the court orders the county behavioral health agency to conduct a clinical evaluation of the person.⁹ The court will set a clinical evaluation hearing within 21 days¹⁰.

Clinical evaluation to CARE plan

At the clinical evaluation hearing, if it is determined that CARE criteria have been met, the county behavioral health agency, the person, and the person's counsel and supporter work jointly to develop a CARE plan.¹¹ The court must set a hearing to review the proposed CARE plan or plans¹² within 14 days¹³. At the CARE plan review hearing, the court considers the plans and adopts the elements that support the recovery and stability of the person¹⁴. The approval of a CARE plan by the court marks the beginning of the year-long CARE process.

Status review hearings

Throughout the year, the person is expected to attend status review hearings at intervals set by the court¹⁵ to ensure they are adhering to the CARE plan. The county

⁸ The court may also modify the terms of the CARE agreement and approve the agreement as modified.

⁹ The clinical evaluation is done through a licensed behavioral health professional. The court must provide the evaluation to the respondent's counsel.

¹⁰ This may be continued up to 14 days upon stipulation of respondent and county behavioral health agency unless there is a good cause for an extension.

¹¹ The CARE plan includes the same elements as the CARE agreement.

¹² The county behavioral health agency, the respondent, or both, may present a proposed CARE plan.

¹³ Either party may request an extension of time.

¹⁴ Court may grant continuance of up to 14 days if parties need additional time. If court needs additional information, court shall order a supplemental report for which court may grant a continuance of no more than 14 days. Timelines may be extended further upon good cause.

¹⁵ These hearings will occur at least every 60 days (subject to change depending on future legislation).

behavioral health agency must file a report¹⁶ with the court containing information about the progress the person has made, which services and supports were and were not provided, any issues the person expressed in adhering to the CARE plan, and recommendations for changes. At any time during the program, the county behavioral health agency or the person may request a hearing to address a change of circumstances.

CARE plan to graduation

At the 11th month of the program, the court will hold a one-year status hearing to review the report filed by the county behavioral health agency¹⁷ on the person's status. The person may choose to remain in the program for an additional year or receive a voluntary graduation plan. This plan will be developed jointly by the county behavioral health agency and the person to support the person in their transition out of court jurisdiction.¹⁸ The graduation plan will be presented to and reviewed by the court at a hearing scheduled a year from when the CARE plan was adopted. After the hearing, the person officially graduates from the program. If the court, however, finds the person did not successfully complete the CARE plan and would benefit from continuing in the program, it may involuntarily reappoint the person.

Funding

The CARE Act creates the CARE Act Accountability Fund in the State Treasury to receive fines collected under the act. DHCS is responsible for allocating and distributing funding annually to the local government entities that paid the fines to serve individuals who have schizophrenia spectrum or other psychotic disorders who are experiencing or are at risk of homelessness, criminal justice involvement, hospitalization, or conservatorship. Funds allocated to each court are intended to support court-based functions required by the CARE Act. The funding must only cover the portions of those costs of services that cannot be paid for with other funds, including other mental health funds, public and private insurance, and other local, state, and federal funds. For example, the CARE Act clarifies that funding from the Mental Health Services Fund and the 1991 and 2011 Realignment may be used to

¹⁶ The report must be submitted at least 5 days before the hearing. The county agency must serve the report on the respondent and the respondent's counsel and supporter.

¹⁷ The report must be submitted to the court at least 5 days before the hearing. The county mental health agency must serve the report on the respondent and the respondent's counsel and supporter. The respondent must be permitted to respond to the report and to the county behavioral health agency's testimony.

¹⁸ The graduation plan may include a psychiatric advance directive.

provide services to individuals under a CARE agreement or a CARE plan. Additionally, given most CARE respondents are estimated to be Medi-Cal beneficiaries or eligible for Medi-Cal, the responsibility of providing specialty mental health services, substance use disorder treatment, and community mental health services falls with county behavioral health agencies. Finally, social services for specific respondents may be funded through programs such as Supplemental Security Income/State Supplementary Payment (SSI/SSP), Cash Assistance Program for Immigrants (CAPI), CalWORKs, California Food Assistance Program, In-Home Supportive Services program, and CalFresh.

CARE Act appropriations for fiscal year 2022–23 include \$2,828,000 for the first cohort of courts. Budgetary estimates account for courts hiring additional staff to meet the required functions under the CARE Act; however, courts have discretion to determine how to utilize this funding. For example, courts may choose to hire staff, expand courtroom space, or enhance security systems. Other court-based functions, such as data collection and information technology, will be funded separately. Funding for representation is not a court responsibility. Legal representation will be funded outside the court allocation and counties will receive funding to support social services. The CARE Act requires the Legal Services Trust Fund Commission at the State Bar to provide funding for qualified legal services agencies to represent respondents.¹⁹

Role of CalHHS and DHCS

The California Health and Human Services Agency is tasked with coordinating efforts with and between the Department of Health Care Services and the Judicial Council. CalHHS is responsible for engaging and conducting outreach with specified partners at the city and county level, supporting DHCS training, technical assistance and evaluation efforts, monitoring housing-related needs, and supporting communications via the web and community outreach throughout implementation. DHCS oversees the training and technical assistance of county behavioral health agencies, counsel, and volunteer supporters; supports data collection and evaluation efforts; and administers CARE Act implementation funding annually.

Role of the Judicial Council

The Judicial Council is required to develop a mandatory form for filing a CARE process petition and other necessary forms required for CARE Act proceedings, as

¹⁹ The CARE Act requires that health plans reimburse counties for eligible behavioral health costs in cases where respondents have commercial insurance.

well as to outline the process by which these forms are filed and reviewed.²⁰ In consultation with DHCS, other agencies, and the County Behavioral Health Directors Association, the Judicial Council is responsible for providing training and technical assistance to judges and other necessary court staff regarding the CARE process, CARE agreement and CARE plan services and supports, working with the supporter, supported decisionmaking, the supporter role, the family role, trauma-informed care, elimination of bias, best practices, and evidence-based models of care for people with severe behavioral health conditions. The Judicial Council may be consulted by DHCS for decisionmaking training about best practices for persons with mental illnesses, intellectual and developmental disabilities, other disabilities, and older adults.

Data reporting and collection

The CARE Act requires the Judicial Council, in consultation with DHCS, to develop an annual reporting schedule for the submission of CARE Act data²¹ from the trial courts and to collect, aggregate, and submit this data to DHCS according to this schedule. DHCS, in consultation with state and local government entities, must produce an annual report on the CARE Act using data collected from the county behavioral health departments, each county CARE court, and any other state or local government entity. DHCS is responsible for determining the data measures, specifications, and format, and for publishing them. DHCS must also retain an independent, research-based entity to evaluate the effectiveness of the CARE Act and produce a preliminary and final report based on the evaluation.

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Additional resources:

CARE Act information, www.courts.ca.gov/cfcc-mentalhealth.htm

California Health and Human Services Agency, www.chhs.ca.gov/care-act/

²⁰ This includes requiring the petition to be signed under penalty of perjury and to contain specified information supporting the claim that the respondent meets the CARE criteria.

²¹ This consists of the number of petitions submitted, the number of initial appearances on the petition, and the total number of hearings (Welf. & Inst. Code, § 5985(d)).