

BERRIEN/CASS REGIONAL MENTAL HEALTH COURT

Administrative Order 2014-13J

ORDER FOR THE ESTABLISHMENT OF A REGIONAL MENTAL HEALTH COURT

IT IS ORDERED:

This administrative order is entered to establish a Regional Mental Health Court (RMHC) in Berrien County Trial Court, 4th Judicial District Court and 43rd Judicial Circuit Court upon approval by the State Court Administrative Office (SCAO). This order replaces and rescinds Berrien County Trial Court Administrative Order 2009-1 and expands the reach of the program to Cass County.

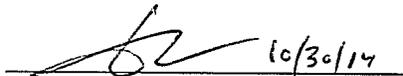
The courts will collaborate with The Riverwood Center, Woodlands Behavioral Healthcare Network, Berrien County Prosecutor, Cass County Prosecutor, Berrien County Sheriff, Cass County Sheriff, Michigan Department of Corrections in Berrien and Cass Counties, Berrien County Trial Court Misdemeanor Probation, Cass County Misdemeanor Probation and Defense Counsel Representatives to better serve individuals with diagnoses of mental illness, developmental disability, or serious emotional disturbance. All parties have entered into a Memorandum of Understanding, a copy of which is attached hereto. *See attachment B.

1. In the development of the program's policies and procedures, consideration was given to the ten essential elements of a mental health court as described by the U.S. Department of Justice, Bureau of Justice Assistance (BJA).
*See attachment A.
2. A multidisciplinary group of stakeholders participated in the planning and program design of the regional mental health court.
3. Legal and clinical eligibility criteria are both clearly defined, policies to identify the target population have been developed, and those individuals responsible for referring participants have been trained to identify eligible participants.
4. Policies that facilitate timely participant identification, referral, and admission into the regional mental health court have been developed.
5. Policies and procedures describing the program length, level of supervision, treatment plan development, requirements for successful completion, expulsion criteria, case disposition upon successful completion of the program, any sanctions, incentives, and other key program components are

developed and will be explained to eligible participants as part of the terms of participation.

6. Guidelines to identify and expeditiously resolve any participant competency concerns have been developed.
7. Local evidence-based mental health and substance abuse treatment services and other ancillary services (e.g., medication compliance, housing and benefit issues, crisis intervention, peer and family support) have been identified and are available resources for program participants to utilize.
8. The courts shall maintain case files in compliance with Trial Court General Schedule 16, the Michigan Case File Management Standards. The court has established procedures to ensure substantial compliance with Part 2 of Title 42 of the Code of Federal Regulations, and the Health Insurance Portability and Accountability Act (HIPAA) to safeguard the confidentiality of participants' medical records.
9. Each regional mental health court team member and their roles are described in the Policies and Procedures document. Each team member has completed training on working with individuals who have been diagnosed with a mental illness or developmental disability.
10. Policies and procedures on the methods and frequency in which the responsible individuals will monitor participant compliance with the program requirements have been developed.
11. Funding sources and local treatment service resources have been identified as part of the plan for sustaining the regional mental health court. The plan also includes the collection of data for SCAO to use in conducting a process and outcome evaluation that may be used to demonstrate the effectiveness of the program and thereby help secure future funding.

Effective Date: 11-1-14



Hon. Thomas E. Nelson
Chief Judge
Berrien County Trial Court

Date



Hon. Susan L. Dobrich
Chief Judge
Cass County Courts
by Hon. Michael E. Dodge
with permission

Date

Attachment A

The Essential Elements of Mental Health Treatment Courts

1. Planning and Administration
2. Target Population
3. Timely Participant Identification and Linkage to Services
4. Terms of Participation
5. Informed Choice
6. Treatment Supports and Services
7. Confidentiality
8. Court Team
9. Monitoring Adherence to Court Requirements
10. Sustainability

Memorandum of Understanding BERRIEN/CASS REGIONAL MENTAL HEALTH COURT

This Memorandum of Understanding (MOU) is entered into between the following agencies to document the roles and responsibilities of each agency in the planning and operation of the Berrien/Cass Regional Mental Health Court:

- County of Berrien
- Berrien County Trial Court (BCTC)
- Berrien Mental Health Authority (Riverwood Center)
- Berrien County Prosecutor's Office
- Berrien County Sheriff's Office
- Berrien County Public Defenders (Felony Defense Counsel PLC, Niles Defense PLLC)
- BCTC Misdemeanor Probation Office
- Michigan Department of Corrections (MDOC)
- Cass County Courts (4th Judicial District Court, 43rd Judicial Circuit Court)
- Cass County CMH Authority (Woodlands Behavioral Healthcare Network)
- Cass County Prosecutor's Office
- Cass County Sheriff's Office
- Cass County Public Defense
- 4th District Court Probation Office

A. Program Description

The Berrien/Cass Regional Mental Health Court (RMHC) is a problem solving court solution for defendants with diagnosable mental health conditions. The program pairs court supervision with access to community resources in an effort to stabilize and monitor participants on the program and prevent future offenses. Operations of the RMHC will be in keeping with the Bureau of Justice Assistance's 10 Essential Elements of Mental Health Courts.

B. Mission Statement and Program Goals

The RMHC's mission is to improve public safety through effective sentencing, monitoring and treatment of defendants with serious mental illness.

Parties to the RMHC agree to work cooperatively in an effort to:

1. Reduce the number of defendants with a serious mental illness confined in local or state correctional facilities.
2. Increase the rate of compliance for these defendants.
3. Enhance the quality of life for defendants with mental illness.
4. Coordinate the delivery of services with enforcement from the criminal justice system to maximize the impact of mental health treatment for program participants.

C. Provisions

All parties to the RMHC agree to the following:

1. All staff involved with the RMHC, including the assigned judges, must strive to obtain expertise in working with defendants with mental illness.
2. Regular appearances before the judge are an effective and necessary method for maintaining participant compliance with court orders and treatment requirements.
3. Decisions regarding participant supervision and treatment are best made collaboratively, by a multi-disciplinary team tasked with program operations and participant well-being.
4. This same team should be tasked with determining participant eligibility due to their diverse knowledge of behavioral health, legal and practical program requirements.
5. In the interest of public safety, deferred sentences may only be given with authorization from the corresponding County Prosecuting Attorney or his/her assign.
6. Participating defendants should be accountable for their actions and behavior, and could face incremental sanctions or positive rewards as a result of those actions.
7. A defendant's participation in the Mental Health Court is strictly voluntary.
8. Participants must consent to the disclosure of confidential information in writing at the time of entry into the program.
9. Each of the here-in named parties will make personnel available for stakeholder meetings as required by the program.

In addition to the above program objectives, each party has specific responsibilities to the RMHC program:

Berrien County Trial Court, 4th District Court of Michigan, and 43rd Circuit Court of Michigan:

1. Designate and train judges to preside over the RMHC.
2. Maintain and provide access to pertinent court records as necessary to program operations.
3. Appoint and train court support staff and provide the resources necessary to conduct team meetings, hearings and other RMHC activities.

Berrien Mental Health Authority and Cass County CMH Authority:

1. Designate a position to serve as the primary point of contact between the RMHC and the Community Mental Health Service Provider (CMHSP) and to serve on their local treatment team.
2. Provide mental health assessments of defendants referred to the RMHC and care to those participants if accepted to the program.
3. Maintain complete and accurate billing records of all services to be paid by the RMHC.

Berrien County Prosecutor's Office and Cass County Prosecutor's Office:

1. Provide a representative to the local treatment team.
2. Act as the gatekeeper for all referrals seeking a deferred sentence.
3. Seek and refer defendants who may be eligible for RMHC services.

Berrien County Sheriff's Office and Cass County Sheriff's Office:

1. Provide access to RMHC personnel to meet with referrals or participants if incarcerated in the jail.
2. Cooperate and aid in the identification of in-custody defendants who may be eligible for the program.
3. Attempt to locate and apprehend RMHC participants with outstanding warrants.

Berrien County Defense Counsels and Cass County Public Defenders:

1. Provide a representative to the local treatment team.
2. Be available as counsel to defendants seeking representation at probation violation hearings.
3. Seek and refer defendants who may be eligible for RMHC services.

Berrien County Trial Court Misdemeanor Probation Office and 4th District Court Probation:

1. Provide a representative to the local treatment team.
2. Supervise RMHC participants who are placed on probation due to a misdemeanor offense.
3. Seek and refer probationers who may be eligible for RMHC services as a term of probation or as the result of a probation violation.

Michigan Department of Corrections:

1. Provide a representative to the local treatment team.
2. Supervise RMHC participants who are placed on probation due to a felony offense.
3. Seek and refer probationers who may be eligible for RMHC services at the time of the pre-sentence investigation or as a result of a probation violation.

D. Methods for Exchanging and Maintaining Confidential Information

All confidential information is to be handled with discretion and care by team members. All team members and stakeholders must abide by the regulations of the Health Insurance Portability Accountability Act (HIPAA) and 42 CFR Part 2.

Participating defendants must consent in writing to the release of certain information to the RMHC program, and for the exchange of that information between parties as necessary for the operation of the court.

E. Program Administration and Financial Controls.

The County of Berrien will act as the program's fiduciary. In this role, the County of Berrien and the Berrien County Trial Court will be responsible for the timely application of grant funds and program reports. It is the responsibility of all other parties to the RMHC to provide the necessary information in a timely manner.

The amount of the program's grant award may vary from cycle to cycle. The amount of the award, as well as the availability of grant funds to stakeholder agencies will be negotiated and determined as part of the grant application process. Stakeholder agencies receiving a portion of the award amount will be considered subrecipients, and will be required to enter into cycle-specific MOU's which specify the amounts available, services to be provided, and terms of payment.

The accounting procedures and internal financial controls of the RMHC shall conform to generally accepted accounting principles (GAAP) in order that the cost allowed by this MOU can be readily ascertained and revenues and expenditures verified.

Most programmatic matters will be handled by the Mental Health Court Case Worker, who will be employed by the County of Berrien.

F. Compliance with Applicable Law and Venue:

This MOU shall be construed according to the laws of the State of Michigan as to the interpretation, construction and performance.

The venue for the bringing of any legal action under this MOU shall be the County of Berrien, State of Michigan. In the event that any legal action is commenced in Federal Court, the venue for such legal action shall be the United States District Court, Western District of Michigan, Southern Division.

The parties hereto and their offices, employees, and agents shall perform all their respective duties and obligations under this MOU in compliance with all applicable federal, state and local laws, ordinances, rules and regulations.

G. Nondiscrimination:

In performing their duties and responsibilities under this MOU, the parties hereto shall comply with all applicable federal and state laws, rules and regulations prohibiting discrimination.

H. Conflict of Interest:

It is expressly understood and acknowledged that this MOU and each of the parties hereto is subject to conflict of interest provisions and requirements of federal, state and respective local laws, ordinances, rules, and regulations and the policies applicable to each party.

I. Liability:

Each party to this MOU must seek its own legal representative and bear its own cost, including judgments, in any litigation that may arise out of its activities carried out pursuant to its obligations under this MOU. It is specifically understood and agreed that none of the parties will indemnify any other party in such litigation.

J. Waivers:

No failure or delay on the part of either of the parties to this MOU in exercising any right, power or privilege hereunder shall operate as a waiver, thereof, nor shall a single or partial exercise of any right, power or privilege preclude any other further exercise of any other right or privilege.

K. Amendment:

Modification, amendments or waivers of any provision of this MOU may be made only by the written mutual consent of the parties hereto.

L. Assignments:

Neither this MOU nor any rights or obligations hereunder shall be assignable by any party hereto without the prior written consent of the other parties hereto nor shall the duties imposed herein be delegated by any party hereto without the prior written consent of the other parties hereto. Any attempted assignment in violation of this section shall be void *ab initio*.

The MOU shall be binding upon the parties hereto as well as any successors or assigns permitted pursuant to above.

M. Term of Agreement

This MOU is effective on October 1, 2014 and will renew annually on that date barring any reason for amendment to this MOU; for discontinuation of the program; for termination by any party as provided herein; and provided that all terms and conditions of this MOU are expressly subject to the continuation of funds or available funding for RMHC operations.

N. Termination of Memorandum of Understanding

Upon mutual consent of all parties, this memorandum of understanding is subject to further negotiation and revision as required to support the needs of the mental health treatment court program. This MOU may be terminated by any party for any reason by giving a 60 calendar day written notice.

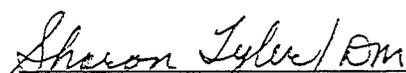
O. Review of the Memorandum of Understanding

Revision of this memorandum may be undertaken at any time, and recommendations for such changes may be enacted in writing with the consensus of the RMHC stakeholders.

Signatures of Authorized Representatives:



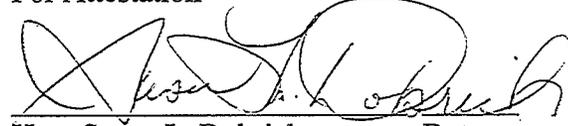
Jon Hinkelman, Chair 11-6-14
Berrien County Board of Commissioners Date



Sharon Tyler, Berrien Clerk 11/6/14
For Attestation Date



Hon. Thomas E. Nelson 10/21
Chief Judge, Berrien County Trial Court Date



Hon. Susan L. Dobrich 10/21/14
Chief Judge, Cass County Courts Date



Allen Edlefson, CEO 11/03/14
The Riverwood Center Date



Kathy Emans, CEO 10/28/14
Woodlands Behavioral Healthcare Network Date

Mike Sepic 10/31/14
Date
Berrien County Prosecutor

Victor Fitz 10-24-14
Date
Cass County Prosecutor

Paul Bailey 10-30-14
Date
Berrien County Sheriff

Joseph M. Underwood Jr. 10/27/14
Date
Cass County Sheriff

Ernest L. White 10-30-14
Date
Felony Defense Counsel PLC

Gregory H. Feldman 10-27-14
Date
Cass County Public Defense

Albert Mais 11/3/14
Date
Niles Defense PLLC

Daniel H. Heyns, Director 10/23/14
Date
Michigan Department of Corrections

Leo Spreitzer 10/30/14
Date
Berrien County Misdemeanor Probation

Hon. Stacey A. Rentfrow 10-27-14
Date
Cass County Misdemeanor Probation

Hon. Michael E. Dodge 10-27-14
Date
Cass County Circuit Court