



Yakima County
Mental Health Court

Eligibility and Referral Procedure

ELIGIBILITY FOR MENTAL HEALTH COURT

1. Persons Not Eligible for MHC:

1. Individuals who do not have a qualifying mental disorder.
2. Individuals who have a primary diagnosis of chemical dependency.
3. Individuals with a primary diagnosis of dementia, developmental disabilities, or traumatic brain injury where the impairment is so pronounced that executive functioning is significantly impacting an individual's ability to understand and make changes.
4. Individuals who do not have or are not Medicaid eligible.
5. Individuals that do not meet the legal system criteria for MHC.

2. Financial Eligibility for MHC:

Due to current funding limitations, participants must be Medicaid eligible and must meet State of Washington DSHS/DBHR Access to Care Criteria to be considered for MHC. Restitution may not exceed \$1,500 unless special arrangements are made through the prosecuting attorney's office.

3. Mental Health Criteria for MHC:

To be considered for MHC, an individual must have a serious and persistent mental illness that is related to the behavior that led to the charged offense. Serious and persistent mental illnesses include a primary Axis I diagnosis of schizophrenia, other psychotic disorders, bipolar disorders, major depression, PTSD and other mental disorders that affect judgment, cognitive processing. Individuals with a primary mental disorder as defined here and a secondary co-occurring chemical dependency disorder may also be considered.

In many cases the referred individual may have existing mental health treatment history that can be used to make a decision on qualifying mental health criteria for admission. In some cases it may be necessary for the mental health professional within the MHC team to meet and briefly assess for qualifying criteria. In complex cases, a psychiatric assessment may need to be done for definitive diagnostic information prior to an admission decision being made.

The person must be legally competent. If any questions exist regarding competency, they must be first addressed and resolved in the criminal case, including competency restoration if needed.

4. Criminal Charge and History / Other Legal System Criteria for MHC:

- a. Current Arrest /Offense: Any felony charge with an SRA Seriousness Level of I, II or III (restricted), equivalent unranked felony or misdemeanor **except**:
 - Class A felony
 - "Sex Offense" (including allegation of sexual motivation)
 - Firearm offense (including illegal theft or possession of a firearm) or any offense with a firearm enhancement or element
 - "Serious Violent" or "Violent" felony as defined by RCW 9.94A.030 (45) and RCW 9.94A.030 (54).
 - DUI's

- b. Prior Adult or Juvenile Criminal History: Any number of prior misdemeanor convictions and no more than three (3) prior felony convictions entered on different dates, except:
- No prior Class A felony
 - No prior “sex offense” (including allegation of sexual motivation)
 - No prior firearm offense (including illegal theft or possession of a firearm) or any prior offense with a firearm enhancement or element
 - No prior “violent” felony as defined by RCW 9.94A.030(38)
- c. Other Legal System Criteria:
- Only residents of Yakima County, Washington
 - No holds from courts or agencies outside Yakima County
 - No cases pending in courts or agencies outside Yakima County
 - No long-term jail sentences from courts within Yakima County
 - No persons who are in the United States illegally
 - The upper end of the offender’s sentence range cannot exceed 18 months on the presenting charge
 - No previous failure in “Mental Health Court”
 - Restitution for the current charge(s) must normally be \$1,500 or less unless the offender affirmatively shows the ability to pay the restitution due or unless other arrangements are made by the time of acceptance into Mental Health Court. ‘Other arrangements’ could include third party payment or victim waiver of all or part of restitution. Restitution issues relating to acceptance exceptions will be resolved by the Drug Court Judge.
- d. Exceptions: Case referrals are to be reviewed on an individual basis for legal system criteria, and the State / MHC may make exceptions if the candidate is otherwise well-qualified for the MHC program.

5. Referral and Acceptance Process

Referrals for MHC may come from a number of sources: Jail Mental Health Team, judicial officers, prosecutors, and defense attorneys. The MHC prosecutor or defender may require that the referring entity complete the MHC screening form.

Referrals are sent by fax to the Mental Health Court’s Judicial Assistant, who will then send it to the full MHC Operations Team as early notice of the referral.

The MHC prosecutor and the MHC defender shall confer and consider referrals. If both agree, the referral will be sent to the MHC PACT Liaison for assessment.

The MHC Liaison will review referrals for prior mental health history, conduct an assessment regarding the defendant’s suitability for MHC, and schedule the case for staffing by the MHC Team.

The MHC Team will review available information and decide whether to accept the defendant into MHC. Acceptance is subject to agreement by all Team members.

The proposed participant must observe at least one and preferably two MHC court sessions prior to acceptance. The MHC may place persons applying on the MHC calendar and if in custody have them transported to the MHC docket.

The MHC defender and/or MHC prosecutor will advise the lead prosecutor and lead defense attorney on the pending case of acceptance. The lead defense attorney will then review the necessary pleadings, agreements, and waivers with the proposed participant and appear in MHC for an acceptance hearing. If the court accepts the pleadings the person is then admitted to MHC.

A more detailed MHC Referral process and forms are attached as Appendix A.

6. Informed and Voluntary Choice / Opt Out

MHC is voluntary. Individual who are eligible and want to participate in MHC will need to waive rights to trial and sign necessary releases of information to share their behavioral health (mental health and chemical dependency) treatment information. The individual must be legally competent, have the ability to make an informed decision and have the capacity to fully understand the intent of MHC.

Defense counsel representing the defendant in the pending criminal charge plays a critical role in making sure the defendant understands the implications of participation. Defense counsel should provide the defendant a program handbook, discuss the requirements of program participation; the consequences for failure to abide by the MHC conditions, and assist the potential participant weigh the MHC option against traditional criminal case processing.

Opt Out: An individual can opt out of MHC within the first two (2) weeks after acceptance and be returned to the original criminal court for case processing. An individual can self-terminate after the initial two (2) weeks, but this will result in a stipulated trial.

APPENDIX A

Referral Procedures and Forms

**Yakima County
MENTAL HEALTH COURT**

REFERRAL AND ACCEPTANCE PROCEDURES

Referrals from Superior Court Defense Attorney:

- 1) Check to see if client appears to meet initial eligibility criteria, especially:
 - a) Demonstrated mental health history, diagnosis, or symptoms,
 - b) Medicaid enrollment or eligibility
 - c) Restitution not to exceed \$1500 but able to be paid by defendant.
 - d) Prior criminal history
 - e) Current charge
- 2) Confer with MHC Defender and/or case prosecutor and/or MHC prosecutor about case and potential eligibility issues.
- 3) Confer with client about referral. Provide client a copy of MHC Handbook and outline the program. If client wishes to proceed, a MHC Release of Information must be signed. Client must also agree to waive speedy trial and reset omnibus and trial dates as needed to allow time for the referral.
- 4) Assemble MHC Referral Packet:
 - a) Completed MHC Screening Referral Form
 - b) Signed Release of Information
 - c) Charging Information
 - d) Probable Cause Report
 - e) Any supplemental material deemed useful, especially prior mental health reports.
- 5) Fax, e-mail, or deliver MHC Referral Packet to the MHC Judicial Assistant.
- 6) The MHC Judicial Assistant logs referral and transmits to the other Team members. The referral is scheduled for a staffing at the next Team meeting. In addition:
 - a) Case is docketed for MHC but only for “First Referral Review”.
 - b) Client and defense attorney do not attend MHC court or staffing. Jail does not bring defendant to MHC unless an order is entered.
 - c) ACT Team conducts initial review of prior mental health history and suitability for program. Outlines any further work that needs to be done before final decision on suitability.
 - d) MHC Prosecutor and Defender review files, confer with case attorneys (if not already done), and make initial determination that referral may be proceed.
- 7) First Referral Staffing: Team staffs the referral and determines whether referral proceeds or not. Identifies what additional information is needed, if any. Court may trigger observations by applicant by court order transmitted to case attorneys by the Judicial Assistant.
- 8) If application is approved for further processing;
 - a) ACT team contacts client, schedules and conducts formal intake assessment.
 - b) Team decides if observations of MHC can start. If so, the regular case attorneys are notified.
- 9) Second Referral Staffing: Client will be staffed for admission to MHC by Court Team at the next regularly scheduled docket. Case is discussed and decision reached on whether or not client

appears suitable for Mental Health Therapeutic Court program. Acceptance is subject to agreement by all Team members. An Acceptance Hearing is scheduled, with sufficient time to complete any remaining observations. MHC Defender will advise regular case defender of decision.

- 10) Observations of MHC by Client before Acceptance: Case remains on regular trial docket and schedules. But, MHC judge may enter order for client to attend or be brought by jail staff to sessions of MHC for observation. Clerk transmits copy to regular case defense counsel, who must notify client if out of custody. Both client and regular defense attorney appear.
- 11) Preparation for Acceptance Hearing:
 - a) Observations of MHC required unless waived by both court and client.
 - b) Criminal case defense attorney prepares Agreement and Waiver of Rights and reviews with client.
- 12) Acceptance Hearing: Defense attorney for criminal case appears with client and pleadings for entry. Court reviews them with client. If all is still appropriate, then order accepting client into MHC is signed and entered.
- 13) Client has two weeks from Acceptance into MHC to exercise the 'opt out' provision.

Referrals from Others:

- 1) Referrals will be also accepted from any of the following sources: Judge or Court Commissioner, Jail, mental health services staff, probation department, law enforcement, medical provider, or family member.
- 2) Referrals from others will require only the completed Referral form sent transmitted to the MHC Judicial Assistant.
- 3) The MHC will transmit the referral to the defense attorney for the defendant, who will then confer with client.
- 4) Steps afterwards are the same as "Referral from Defense Attorney".

Referrals from District Court:

The same as for Superior Court cases with the following exceptions:

- 1) District Court cases will remain filed and pending in District Court during the entire acceptance process, plus four weeks from date of the client's formal acceptance into MHC.
- 2) It is the responsibility of the regular defender and regular prosecutor to maintain status and trial dates in District Court that will accommodate this process.
- 3) If any change to the charge(s) or any sentencing recommendation is negotiated by the District Court prosecutor and defender, they must notify the MHC prosecutor and defender at the time of the referral.
- 4) If the referral proceeds to the point of acceptance, the MHC prosecutor will file the same or appropriate charge(s) in the Superior Court as a parallel case. The Superior Court case is the case that will be used for MHC purposes.
- 5) The District Court defender remains responsible for preparing the Superior Court pleadings for acceptance and appearing with the defendant in Superior Court at the acceptance hearing.

- 6) Both the Superior Court case and the District Court case will remain pending for four weeks after acceptance to allow for a voluntary opt out and return to District Court.
- 7) If there is an 'opt out' and restoration of rights during the first two weeks after acceptance, then the matter will be referred back to District Court to be completed in the pending case in that court and the Superior Court case will be dismissed.
- 8) If the client is still in MHC four weeks after acceptance, then the MHC prosecutor will notify the District Court prosecutor to prepare and enter a dismissal of the District Court case.

Yakima County
MENTAL HEALTH COURT
509-574-2670

SCREENING REFERRAL FORM

FAX TO: MHC Clerk at (509) 574-2701

Date: _____ Client in Custody? ☐ Yes ☐ No

Client Name: _____ DOB: _____
Last Middle First

Location: _____ Phone: _____
(Jail /Address)

Case 1: _____ ☐ DV
Cause Number Charge
Prosecutor: _____ Defender: _____

Case 2: _____ ☐ DV
Cause Number Charge
Prosecutor: _____ Defender: _____

Reason(s) for the Referral: (Check all that apply)

- ☐ Possible suicide risk/danger to others
☐ Possible inability to care for self in or outside of the jail setting
☐ Possible evidence of mental disorder (e.g. psychosis, depression)
☐ Diagnosis (if known): _____
☐ Possible evidence of substance dependence/abuse **IN ADDITION TO** mental disorder
☐ Other: _____

Brief summary of the presenting problem (**required**): _____

Referred by: ☐ Judicial Officer ☐ Law Enforcement ☐ Probation
☐ Treatment Provider ☐ Jail Mental Health Staff ☐ Jail Corrections Staff
☐ Prosecuting Attorney ☐ Defense Attorney ☐ Other

Referring Party – Please Print Name _____ Signature _____

Phone/ e-mail: _____

Referring Party's Firm/Agency _____

IF DEFENSE ATTORNEY REFERRAL: ATTACH A FULLY COMPLETED AND SIGNED RELEASE OF INFORMATION

Yakima County Superior Court
MENTAL HEALTH COURT (MHC)
128 North 2nd Street, Room 308
Yakima, WA 98901
Phone: (509) 574-2670 Fax: (509) 574-2701

AUTHORIZATION TO RELEASE AND EXCHANGE HEALTHCARE INFORMATION

PATIENT'S NAME: _____ **DOB:** _____

PREVIOUS NAME: _____ **SS#:** _____

I REQUEST AND AUTHORIZE the following agencies:

- | | |
|--|--|
| <input checked="" type="checkbox"/> CWCMS | <input checked="" type="checkbox"/> Department of Corrections |
| <input checked="" type="checkbox"/> Yakima County Jail Mental Health Team | <input checked="" type="checkbox"/> Yakima County Assessment & Referral Services |
| <input checked="" type="checkbox"/> Yakima County Jail Medical Services | <input type="checkbox"/> Barth Clinic |
| <input checked="" type="checkbox"/> Yakima County Jail | <input type="checkbox"/> State Casa de Esperanza |
| <input checked="" type="checkbox"/> Yakima Valley Memorial Hospital | <input type="checkbox"/> Center for Addiction Recovery Education (CARE) |
| <input checked="" type="checkbox"/> Greater Columbia Behavioral Health (RSN) | <input type="checkbox"/> Merit Resources |
| <input checked="" type="checkbox"/> Eastern State Hospital | <input type="checkbox"/> Triumph Treatment Services |
| <input checked="" type="checkbox"/> Catholic Family and Child Services | <input type="checkbox"/> Yakima Neighborhood Health Services |
| <input checked="" type="checkbox"/> Yakima Farmer Worker's Clinic | <input type="checkbox"/> Veteran's Administration, Yakima |
| <input checked="" type="checkbox"/> District Court/City of Yakima Probation | <input type="checkbox"/> Other: _____ |

TO RELEASE, COMMUNICATE, AND EXCHANGE THE FOLLOWING INFORMATION AND RECORDS REGARDING ME TO AND WITH THE **YAKIMA COUNTY SUPERIOR COURT, MENTAL HEALTH COURT (MHC)** and any of its participating MHC Team agencies and agents:

- ☒ Medical Diagnosis and Treatment ☒ including STD and HIV/AIDS
☒ Alcohol and Drug Abuse Treatment
☒ All Mental Health Information: evaluations, tests, treatment, medications, treatment plans, and progress reports
☒ Criminal History ☒ Custody records ☒ Probation records
☒ Educational and school records

The above information will be used for the purpose of (a) providing referral information for determining my eligibility and suitability for participation in the Yakima County Mental Health Court (MHC), (b) coordinating treatment services; (b) providing referral information; and (c) monitoring for compliance with a treatment program, including informing the court of diagnosis, treatment issues, participation in treatment, attendance or non-attendance, progress, prognosis and completion of treatment.

This information may, by implied or express authority from me, be disclosed to third parties as necessary in good faith for my referral to and/or and participation in Mental Health Therapeutic Court. This authorization applies to all requested information you currently possess and all future information you acquire within the time limits of this Authorization.

I understand I do not have to sign this authorization. I understand that my medical, mental health, and alcohol/substance treatment records are otherwise protected and confidential under Federal and/or Washington State law including one or more of the following statutes or regulations: Medical Records (including mental health records), RCW 70.02; Drug or Alcohol Treatment Records, RCW 70.96A.150 and/or Code of Federal Regulations, Title 42, Volume 1, Part 2 and/or Health Insurance Portability and Accountability Act of 1996, 45 C.F.R. Parts 160 and 164.

This authorization may be revoked at any time by providing notice in writing to the agencies listed above, except to the extent that action has already been taken in good faith reliance on it. However, I understand that this will result in my termination of eligibility and participation in MHC. Unless revoked by me, this Authorization is valid for 90 days for purposes of referral to the Yakima County MHC and if accepted as a participant is valid until 90 days following the completion or termination of my participation in MHC. I waive my right to a shorter duration of this Authorization.

This authorization may be photocopied for duplication as necessary for the use in gathering additional information.

DATED: _____ **PATIENT Signature** _____