



Hospital Discharge for NGRI Patients

Q&A's

Disability Rights Michigan, when it was still Michigan Protection & Advocacy Service, sued the Michigan Department of Health and Human Services claiming many rights violations of patients on NGRI status and how they are released from hospital. In July 2021 DRM and MDHHS settled the lawsuit. MDHHS did not agree that it had done anything wrong but did agree to make many changes in their policies about how patients get out of the state psychiatric hospitals and how they are followed by the NGRI Committee after they are out of the hospital. These changes are meant to increase patients' freedom in the community and protect patients' rights while keeping NGRI Committee involved in patients' care after release from the hospital.

I Am Currently A Patient In A State Psychiatric Hospital On NGRI Status How Does This Settlement Affect Me?

The settlement is mostly about how patients are discharged from the hospital so it will affect you when you are up for discharge. However, the agreement supports your rights to receive treatment, care, and services in the least restrictive setting that is appropriate for your medical needs.

What Are My Rights When I Am Up for Discharge?

Persons ready for discharge will be released on Leave of Absence (LOA) until their yearly hospitalization order comes up for renewal. At that time if you are still a person in need of medical treatment as defined in the Mental Health Code you will be petitioned for a yearly Assisted Outpatient Treatment (AOT) order. If the court approves the petition, your treatment will be overseen by the Community Mental Health (CMH) from your home County.

Will I Still Be Required to Follow an ALS Contract?

Alternative Leave of Absence (ALS) Contracts are being done away with. Instead, if you are treated outside of the hospital but continue to be a person requiring treatment, you will have an AOT order and an Individual Plan of Service (IPOS).

What is an AOT?

An AOT is an Order issued by a Probate Court Judge that can be for both hospitalization and outpatient treatment or for outpatient treatment only for up to one year. The Court will generally order the local CMH to oversee the treatment plan of the patient. For NGRI Patients the NGRI Committee is also included in the oversight. The AOT is based on a petition filed by your treatment team or the CMH. You have the right to an attorney, the right to object to the court issuing the order and to the conditions in the treatment order.

How Is This Any Different or Better Than Before?

In the past, many ALS contracts contained restrictions on patients' actions (work restrictions, housing restrictions, drug testing etc.) that had no relation to the patients' medical needs. With the new agreement, IPOS terms and restrictions must be based on the individual's treatment needs, risk of harm reduction, and must consider the least restrictive environment for the patient. Restrictions can still be put in place, but any restrictions must be medically necessary for that specific patient.

The biggest change is that after you are out of the hospital for five continuous years you are automatically discharged from the NGRI Committee's oversight forever. CMHs can continue to seek AOTs from the probate court if you meet the legal standard for a person in need mental health treatment, but you will no longer be on NGRI status.

What If I Don't Like the Restrictions in the IPOS?

You can challenge restrictions in an IPOS. But simply not liking the restriction is not good enough. If you can show the restriction is not related to your medical needs, risk of harm reduction and/or is not the least restrictive setting based on your needs, you have the right to challenge the restriction. You can file a complaint with the State Office of Recipient Rights. If you are out of the hospital, you can file a local appeal with the CMH. You can object to the restriction during your probate hearing on a one-year AOT renewal or six-month review.

What if I am already out on an ALS Contract?

All current ALS contracts will automatically terminate when your current hospitalization order is due for renewal. At that time, you will be changed over to an IPOS/AOT. However, if you want this done sooner, you have the right to request the change to an IPOS/AOT at any time. Because this involves CMH, the NGRI Committee, the Probate Court, and because you will have the right to legal counsel, it is probably best to wait until your six-month review to object and request the change. Again, the change to IPOS/AOT will be automatic on your one-year review.

Is There Anything Else I Should Know?

- Please be sure to discuss any concerns you have regarding the terms of your IPOS or your treatment with your Treatment Team and your Plan Coordinator (social Worker)
- Attached is the NGRI Handbook. MDHHS is required to provide this handbook to all NGRI Patients and their guardians (if applicable) on or before August 25, 2021.
- This Settlement was approved by the Court on July 26, 2021. MDHHS is working on training its staff, CMH's, and the CMH staff, on the requirements of the settlement. These trainings must be completed no later than January 2022.
- DRM has the right to monitor the progress MDHHS is making in implementing the settlement agreement for up to two years.

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Disability Rights Michigan (DRM) is mandated by federal and state law to protect the legal rights of individuals with disabilities in Michigan. DRM receives part of its funding from the Administration on Intellectual and Developmental Disabilities, the Center for Mental Health Services-Substance Abuse and Mental Health Services Administration (SAMHSA), the Rehabilitation Services Administration and the Social Security Administration.

Updated August 2021