

Act No. 497  
Public Acts of 2004  
Approved by the Governor  
December 27, 2004  
Filed with the Secretary of State  
December 29, 2004  
EFFECTIVE DATE: March 30, 2005

**STATE OF MICHIGAN**  
**92ND LEGISLATURE**  
**REGULAR SESSION OF 2004**

**Introduced by Senators Patterson, Bernero, George, Cropsey, Brater, McManus, Goschka, Schauer,  
Birkholz and Thomas**

**ENROLLED SENATE BILL No. 684**

AN ACT to amend 1974 PA 258, entitled "An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending sections 226 and 469a (MCL 330.1226 and 330.1469a), section 226 as amended by 2002 PA 595 and section 469a as added by 1996 PA 588, and by adding section 433.

*The People of the State of Michigan enact:*

Sec. 226. (1) The board of a community mental health services program shall do all of the following:

(a) Annually conduct a needs assessment to determine the mental health needs of the residents of the county or counties it represents and identify public and nonpublic services necessary to meet those needs. Information and data concerning the mental health needs of individuals with developmental disability, serious mental illness, and serious emotional disturbance shall be reported to the department in accordance with procedures and at a time established by the department, along with plans to meet identified needs. It is the responsibility of the community mental health services program to involve the public and private providers of mental health services located in the county or counties served by the community mental health program in this assessment and service identification process. The needs assessment shall include information gathered from all appropriate sources, including community mental health waiting list data and school districts providing special education services.

(b) Annually review and submit to the department a needs assessment report, annual plan, and request for new funds for the community mental health services program. The standard format and documentation of the needs assessment, annual plan, and request for new funds shall be specified by the department.

(c) In the case of a county community mental health agency, obtain approval of its needs assessment, annual plan and budget, and request for new funds from the board of commissioners of each participating county before submission of the plan to the department. In the case of a community mental health organization, provide a copy of its needs assessment, annual plan, request for new funds, and any other document specified in accordance with the terms and conditions of the organization's inter-local agreement to the board of commissioners of each county creating the organization. In the case of a community mental health authority, provide a copy of its needs assessment, annual plan, and request for new funds to the board of commissioners of each county creating the authority.

(d) Submit the needs assessment, annual plan, and request for new funds to the department by the date specified by the department. The submission constitutes the community mental health services program's official application for new state funds.

(e) Provide and advertise a public hearing on the needs assessment, annual plan, and request for new funds before providing them to the county board of commissioners.

(f) Submit to each board of commissioners for their approval an annual request for county funds to support the program. The request shall be in the form and at the time determined by the board or boards of commissioners.

(g) Annually approve the community mental health services program's operating budget for the year.

(h) Take those actions it considers necessary and appropriate to secure private, federal, and other public funds to help support the community mental health services program.

(i) Approve and authorize all contracts for the provision of services.

(j) Review and evaluate the quality, effectiveness, and efficiency of services being provided by the community mental health services program. The board shall identify specific performance criteria and standards to be used in the review and evaluation. These shall be in writing and available for public inspection upon request.

(k) Subject to subsection (3), appoint an executive director of the community mental health services program who meets the standards of training and experience established by the department.

(l) Establish general policy guidelines within which the executive director shall execute the community mental health services program.

(m) Require the executive director to select a physician, a registered professional nurse with a specialty certification issued under section 17210 of the public health code, 1978 PA 368, MCL 333.17210, or a licensed psychologist to advise the executive director on treatment issues.

(2) A community mental health services program may do all of the following:

(a) Establish demonstration projects allowing the executive director to do 1 or both of the following:

(i) Issue a voucher to a recipient in accordance with the recipient's plan of services developed by the community mental health services program.

(ii) Provide funding for the purpose of establishing revolving loans to assist recipients of public mental health services to acquire or maintain affordable housing. Funding under this subparagraph shall only be provided through an agreement with a nonprofit fiduciary.

(b) Carry forward any surplus of revenue over expenditures under a capitated managed care system. Capitated payments under a managed care system are not subject to cost settlement provisions of section 236.

(c) Carry forward the operating margin up to 5% of the community mental health services program's state share of the operating budget for the fiscal years ending September 30, 2005, 2006, 2007, and 2008. As used in this subdivision, "operating margin" means the excess of state revenue over state expenditures for a single fiscal year exclusive of capitated payments under a managed care system. In the case of a community mental health authority, this carryforward is in addition to the reserve accounts described in section 205(4)(h).

(d) Pursue, develop, and establish partnerships with private individuals or organizations to provide mental health services.

(e) Share the costs or risks, or both, of managing and providing publicly funded mental health services with other community mental health services programs through participation in risk pooling arrangements, reinsurance agreements, and other joint or cooperative arrangements as permitted by law.

(3) In the case of a county community mental health agency, the initial appointment by the board of an individual as executive director is effective unless rejected by a 2/3 vote of the county board of commissioners within 15 calendar days.

(4) A community mental health services program that has provided assisted outpatient treatment services during a fiscal year may be eligible for reimbursement if an appropriation is made for assisted outpatient treatment services for that fiscal year. The reimbursement described in this subsection is in addition to any funds that the community mental health services program is otherwise eligible to receive for providing assisted outpatient treatment services.

Sec. 433. (1) Any individual 18 years of age or over may file a petition with the court that asserts that an individual meets the criteria for assisted outpatient treatment specified in section 401(d). The petition shall contain the facts that are the basis for the assertion, the names and addresses, if known, of any witnesses to the facts, the name and address of the mental health professional currently providing care to the individual who is the subject of the petition, if known, and the name and address of the nearest relative or guardian, if known, or, if none, a friend, if known, of the individual who is the subject of the petition.

(2) Upon receipt of a petition, the court shall inform the subject of the petition and the community mental health services program serving the community in which the subject of the petition resides that the court shall hold a hearing to determine whether the subject of the petition meets the criteria for assisted outpatient treatment. Notice shall be provided as set forth in section 453. The hearing shall be governed by sections 454 and 458 to 465.

(3) If in the hearing, the court verifies that the subject of the petition meets the criteria for assisted outpatient treatment and he or she is not scheduled to begin a course of outpatient mental health treatment that includes case management services or assertive community treatment team services, the court shall order the subject of the petition to receive assisted outpatient treatment through his or her local community mental health services program. The order shall include case management services. The order may include 1 or more of the following:

(a) Medication.

- (b) Blood or urinalysis tests to determine compliance with or effectiveness of prescribed medications.
- (c) Individual or group therapy.
- (d) Day or partial day programs.
- (e) Educational and vocational training.
- (f) Supervised living.
- (g) Assertive community treatment team services.
- (h) Alcohol or substance abuse treatment, or both.

(i) Alcohol or substance abuse testing, or both, for individuals with a history of alcohol or substance abuse and for whom that testing is necessary to prevent a deterioration of their condition. A court order for alcohol or substance abuse testing shall be subject to review every 6 months.

(j) Any other services prescribed to treat the individual's mental illness and to either assist the individual in living and functioning in the community or to help prevent a relapse or deterioration that may reasonably be predicted to result in suicide or the need for hospitalization.

(4) To fulfill the requirements of an assisted outpatient treatment plan, the court's order may specify the service role that a publicly-funded entity other than the community mental health services program shall take.

(5) In developing an order under this section, the court shall consider any preferences and medication experiences reported by the subject of the petition or his or her designated representative, whether or not the subject of the petition has an existing individual plan of services under section 712, and any directions included in a durable power of attorney or advance directive that exists. If the subject of the petition has not previously designated a patient advocate or executed an advance directive, the responsible community mental health services program shall, before the expiration of the assisted outpatient treatment order, ascertain whether the subject of the petition desires to establish an advance directive. If so, the community mental health services program shall direct the subject of the petition to the appropriate community resources for assistance in developing an advance directive.

(6) If an assisted outpatient treatment order conflicts with the provisions of an existing advance directive, durable power of attorney, or individual plan of services developed under section 712, the assisted outpatient treatment order shall be reviewed for possible adjustment by a psychiatrist not previously involved with developing the assisted outpatient treatment order. If an assisted outpatient treatment order conflicts with the provisions of an existing advance directive, durable power of attorney, or individual plan of services developed under section 712, the court shall state the court's findings on the record or in writing if the court takes the matter under advisement, including the reason for the conflict.

(7) Nothing in this section negates or interferes with an individual's rights to appeal under any other state law or Michigan court rule.

Sec. 469a. (1) Before ordering a course of treatment for an individual found to be a person requiring treatment, the court shall review a report on alternatives to hospitalization that was prepared under section 453a not more than 15 days before the court issues the order. After reviewing the report, the court shall do all of the following:

(a) Determine whether a treatment program that is an alternative to hospitalization or that follows an initial period of hospitalization is adequate to meet the individual's treatment needs and is sufficient to prevent harm that the individual may inflict upon himself or herself or upon others within the near future.

(b) Determine whether there is an agency or mental health professional available to supervise the individual's alternative treatment program.

(c) Inquire as to the individual's desires regarding alternatives to hospitalization.

(2) If the court determines that there is a treatment program that is an alternative to hospitalization that is adequate to meet the individual's treatment needs and prevent harm that the individual may inflict upon himself or herself or upon others within the near future and that an agency or mental health professional is available to supervise the program, the court shall issue an order for alternative treatment or combined hospitalization and alternative treatment in accordance with section 472a. The order shall state the community mental health services program or, if private arrangements have been made for the reimbursement of mental health treatment services in an alternative setting, the name of the mental health agency or professional that is directed to supervise the individual's alternative treatment program. The order may provide that if an individual refuses to comply with a psychiatrist's order to return to the hospital, a peace officer shall take the individual into protective custody and transport the individual to the hospital selected.

(3) If the court orders assisted outpatient treatment as the alternative to hospitalization, the order shall require assisted outpatient treatment through a community mental health services program or any other publicly-funded entity necessary for fulfillment of the assisted outpatient treatment plan. The order shall include case management services. The order for assisted outpatient treatment may include 1 or more of the following:

(a) Medication.

(b) Blood or urinalysis tests to determine compliance with prescribed medications.

- (c) Individual or group therapy.
- (d) Day or partial day programs.
- (e) Educational and vocational training.
- (f) Supervised living.
- (g) Assertive community treatment team services.
- (h) Alcohol or substance abuse treatment, or both.

(i) Alcohol or substance abuse testing, or both, for individuals with a history of alcohol or substance abuse and for whom that testing is necessary to prevent a deterioration of their condition. A court order for alcohol or substance abuse testing shall be subject to review every 6 months.

(j) Any other services prescribed to treat the individual's mental illness and to either assist the individual in living and functioning in the community or to help prevent a relapse or deterioration that may reasonably be predicted to result in suicide or the need for hospitalization.

(4) In developing an order under this section, the court shall consider any preferences and medication experiences reported by the subject of the petition or his or her designated representative, whether or not the subject of the petition has an existing individual plan of services under section 712, and any directions included in a durable power of attorney or advance directive that exists. If the subject of the petition has not previously executed a durable power of attorney or an advance directive, the responsible community mental health services program shall, before the expiration of the assisted outpatient treatment order, ascertain whether the subject of the petition desires to establish an advance directive. If so, the community mental health services program shall offer to provide assistance in developing an advance directive.

(5) If an assisted outpatient treatment order conflicts with the provisions of an existing advance directive, durable power of attorney, or individual plan of services developed under section 712, the assisted outpatient treatment order shall be reviewed for possible adjustment by a psychiatrist not previously involved with developing the assisted outpatient treatment order. If an assisted outpatient treatment order conflicts with the provisions of an existing advance directive, durable power of attorney, or individual plan of services developed under section 712, the court shall state the court's findings on the record or in writing if the court takes the matter under advisement, including the reason for the conflict.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

- (a) Senate Bill No. 683.
- (b) Senate Bill No. 685.
- (c) Senate Bill No. 686.
- (d) Senate Bill No. 1464.

*Carol Morey Viventi*

Secretary of the Senate

*Ray E. Randall*

Clerk of the House of Representatives

Approved .....

.....  
Governor