Regional Behavioral Health Authority
Involuntary Commitment Forum

The Involuntary Commitment Process for Native Americans: Challenges and Solutions

Thursday, March 5, 2009
9:00 am – 2:00 pm

Arizona Department of Health Services/Division of Behavioral Health Services, (ADHS/DBHS)
150 N. 18th Avenue, Room 215 A & B
Phoenix, Arizona
Our first care is your health care
ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

AHCCCS “In Lieu of” Explanation
August 2008

Federal law states that federal financial participation, the federal financial match for Medicaid (FFP) is not available for any covered services provided to persons age 22 to 64 who reside in an “institution” for mental disease (42 CFR 435.1009(a)). An institution for mental disease (IMD) is an inpatient facility with more than 16 beds that is primarily engaged in the treatment of mental disease. Facilities, such as hospitals, that are primarily engaged in the treatment of medical conditions are not IMDs, even if they provide inpatient mental health services.

While technically a person is still eligible for Medicaid services when he or she resides in an IMD, the lack of FFP has the same effect as a termination (or at least suspension) of eligibility because no services are covered for the member. Historically, AHCCCS has assured compliance with this coverage prohibition by terminating the AHCCCS eligibility of persons who reside in an IMD.

Under the Arizona State Plan (the State Plan is the contract between AHCCCS and CMS), inpatient psychiatric services that are not provided in an IMD are covered. However, as it has done in 25 other states, CMS has approved AHCCCS managed care contracts (including the contract with ADHS/DBHS) that include in the contract and capitation calculations the cost of inpatient psychiatric services in any behavioral health licensed inpatient setting, regardless of its designation.

CMS has approved these contracts based on the “in lieu of” provisions found at 42 CFR 438.6(e). Under this federal regulation, CMS has the authority to approve Managed Care contracts and capitation rates that allow for the provision of services in lieu of approved State Plan services, so long as the in lieu of services cost less than the State Plan services (thereby saving both the Federal and State governments money). CMS has been assured by AHCCCS that the in lieu of services are lower cost via an actuarial attestation that has been provided by the State with the Managed Care contract for CMS approval. CMS approval of both the Managed Care contract and Capitation rates is necessary in order to receive FFP funds. As a result of this CMS approval, inpatient psychiatric services in Arizona can be covered by managed care entities in any licensed behavioral health setting.

While the provision of in lieu of services is only available for services paid for by a Medicaid managed care entity, behavioral health services for all AHCCCS members except Long Term Care Fee for Service Members are provided through managed care contracts with ADHS/DBHS, Acute Care Health Plans, or Long Term Care Program Contractors. Behavioral health services for some Acute Care Native Americans are paid for by ADHS/DBHS using capitation payments received from AHCCCS, even though ADHS/DBHS makes the payments to providers on a fee-for-services basis. Since the payments are made from capitation received by the ADHS, use of in lieu of services is appropriate for this population.

The logical consequence of CMS’ approval is that placement of an enrolled person in any inpatient behavioral health licensed setting by a managed care entity (including ADHS/DBHS) will not result in the termination or suspension of the person’s AHCCCS eligibility. Accordingly, AHCCCS members who reside in these facilities will remain enrolled in a health plan and receive coverage for both their medical and behavioral health services.
We would like to thank you for attending today's Forum. Please use this form to provide feedback regarding the information you received today and to submit any additional questions you may have regarding the topics addressed by today's Forum.

If you would like to provide your contact information at the bottom the form so that we can contact you about any additional questions you may have, please feel free to do so.

Thank you. Your comments and questions are greatly appreciated.

**Feedback regarding topics addressed by today's Forum:** (ie, Which presentation provided the most helpful information, what would you like to hear more about, what topics do you think were left out or not addressed adequately)

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**Additional Questions concerning topics addressed by today's Forum:**

Name: 

T/RBHA: 

Telephone Number: 

Email: 
Regional Behavioral Health Authority Involuntary Commitment Forum

The Involuntary Commitment Process for Native Americans: Challenges and Solutions

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150 N. 18th Avenue, Room 215 A & B
Phoenix, Arizona

AGENDA

9:00 am  I. Introductions – Lydia Hubbard-Pourier, Tribal Contract Administrator, ADHS/DBHS

9:15 am  II. Key Note - Dr. Laura K. Nelson, Acting Deputy Director, ADHS/DBHS

9:30 am  III. Legal Presentation (T36, T12-136, T/ RBHA Obligations)

Margaret Vick, Inter Tribal Council of Arizona
Catherine Dodd Plumb, Assistant Attorney General, State of Arizona

10:30 am  BREAK

10:45 am  IV. Continuum of Care

Michael Stumpf, M.D.
Associate Medical Director, ADHS/DBHS

11:15 am  V. Tribal/Urban/Indian Health Service Panel

Dr. Carolyn Morris, Psy D., Director, Navajo Nation TRBHA
Dr. Peter Stuart, Psychiatric Consultant, Navajo Area Indian Health Service
Dr. Thea Wilshire, Director, San Carlos Apache Tribe, Behavioral Health Service
David Sampson, BA, LISAC, Treatment Coordinator, Tohono O’odham Division of Behavioral Health
Diana Yazzie, Executive Director, Native American Connections, Inc.
Dr. Patricia Nye, M.D., Tucson Area Indian Health Service

12:00 pm  VI. System Improvements Discussion – All participants

**Working Lunch** (Individuals can order box lunches which will be brought in)

Moderator: Lydia Hubbard Pourier
Recorder: Andrea Bonilla, Sr. Legal Assistant, Arizona Attorney General’s Office
1:30 pm   VII.  Involuntary Commitment Payment Description – How it is supposed to work
            Kate Aurelius, Assistant Director of Health Care Management, Arizona Health Care Cost Containment System (AHCCCS)

2:00 pm   VIII.  Summarization and Close Meeting – Lydia Hubbard-Pourier
# Table of Contents

## Key Note Presentation
Dr. Laura K. Nelson  
Acting Deputy Director, ADHS/DBHS ................................................................. Tab 1

## Legal Presentation (Title 36, Title 12-136, T/RBHA Obligations)
*Basic Principles of Indian Law in Relation to Court Ordered Treatment of Native Americans*
Margaret Vick, Inter-Tribal Council of Arizona

*Recognizing and Enforcing Tribal Court Involuntary Commitment Orders*
Catherine Plumb, Assistant Attorney General,  
for the Arizona State Hospital ............................................................................... Tab 2

## Statutes and Rules
Arizona Revised Statutes § 12-136

Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders

Rules of Procedure for the Recognition of Tribal Court Civil Judgments ................................................................. Tab 3

## Continuum of Care
Michael H. Stumpf, MD, DFAPA  
Associate Medical Director, ADHS/DBHS .............................................................. Tab 4

## Tribal/Urban/Indian Health Service Panel
Dr. Carolyn Morris, Psy D., Director,  
Navajo Nation TRBHA

Dr. Peter Stuart, Psychiatric Consultant,  
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San Carlos Apache Tribe, Behavioral Health Service

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Tucson Area Indian Health Service ........................................................................ Tab 5
System Improvements Discussion
Moderator: Lydia Hubbard-Pourier, Tribal Contact Administrator
ADHS/DBHS

Recorder: Andrea Bonilla, Sr. Legal Assistant,
Arizona Attorney General’s Office

Involuntary Commitment Payment Description – How it is Supposed to Work
Kate Aurelius, Assistant Director of Health Care Management,
Arizona Health Care Cost Containment System (AHCCCS)

Important Contact Numbers
Melissa “Megan” Mitscher, Tribal Liaison/Admissions Social Worker,
Arizona State Hospital

Tribal Health Directors & Chairmembers by Tribe

RBHA Contacts for COE/COT, Petition Information and Tribal Liaison

Tab 6
Tab 7
Tab 8
The Involuntary Commitment Process for Native Americans: Challenges and Solutions

Laura K. Nelson, M.D.
Acting Deputy Director
ADHS/DBHS
March 5, 2009
ADHS/DBHS and T/RBHA Goal

- Participate in a seamless, high-quality, culturally responsive continuum of behavioral health care for Native Americans
  - Understand the T/RBHA role and responsibilities
  - Understand tribal sovereignty laws and tribal needs
  - Identify process improvement needs and training topics
Vision

All Arizona residents touched by the public behavioral health system are easily able to access high quality prevention, support, rehabilitation and treatment services that have resiliency and recovery principles at their core, which assist them in achieving their unique goals for a desired quality of life in their homes and communities.
Mission

To provide strong clinical and administrative leadership for Arizona that:

- Recognizes and promotes behavioral health as an integral factor in overall health and wellness;

- Promotes innovative, high-quality, culturally responsive, outcome-based services provided to a diverse population who may face multiple challenges;

- Delivers outstanding customer service;
Mission (cont.)

To provide strong clinical and administrative leadership for Arizona that:

- Promotes and fosters recovery, independence and empowerment for service recipients;

- Increases meaningful peer and family voice and involvement;

- Facilitates ongoing and effective clinical supervision for the workforce in the community;
Mission (cont.)

To provide strong clinical and administrative leadership for Arizona that:

• Emphasizes the importance of accountability for the timeliness and quality of services provided;

• Emphasizes the importance of accountability for the responsible use of finite financial resources; and

• Attracts and retains a caring and highly competent workforce.
Values

- Integrity and Honesty
- Collaboration and Communication
- Responsibility
- Respect and Empowerment
- Quality
- Accountability and Responsiveness
- Diversity and Inclusion
- Credibility and Competency
### Regional Contractors - 2009

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<th>RBHA/TRB HA</th>
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<td>Colorado River Indian Tribes, Cocopah Tribe, Quechan Tribe, San Carlos Apache Tribe, Tohono O'odham Nation</td>
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<td>Maricopa</td>
<td>Ft. McDowell Yavapai Nation, Salt River Indian Community, Tohono O'odham – San Lucy District</td>
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# Regional Contractors - 2009

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<td>San Carlos Apache Tribe, Tohono O'odham Nation</td>
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<td><strong>Tribal RBHAs:</strong></td>
<td><strong>Tribal members &amp; Federally recognized tribal members on Navajo reservation,</strong></td>
<td><em>Gila River Indian Community members,</em> <em>Pascua Yaqui Tribal members,</em> <em>Gila River Indian Community members,</em> <em>Colorado River Indian Tribal members,</em> <em>White Mountain Apache Tribe members.</em></td>
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Background leading up to today

Intertribal Council of Arizona requests training on Involuntary Commitment for Native Americans

Workgroup meetings, analysis from March 2008 through January 2009

Present Issue Paper to DBHS Senior Leadership Team and discuss with T/RBHA CEOs


ADHS Workgroup established; participants from ADHS/DBHS, ITCA, Tribal HIS, State Hospital

Tribal Forum

T/RBHA Forum to plan for training

Leadership for a Healthy Arizona
Next Steps

- Develop training materials and conduct statewide training sessions for T/RBHAs and T/RBHA providers, courts and tribal behavioral health programs.

- Develop NA Involuntary Commitment Web page on ADHS/DBHS website.

- Continue development of AzSH inter-agency/intertribal communication network for NA admissions.

- Update ADHS/DBHS policies re: NA involuntary commitments, where applicable
What to consider...

- Native Americans access behavioral health services from a variety of providers:
  - AHCCCS Native American Health Plan (FFS)
  - Indian Health Services
  - TRBHA (FFS)
  - RBHA (managed care)

- Continuum of care must include:
  - Enrollment and provision of local services
  - Inpatient treatment when needed, including mandatory local treatment
  - Access to the State Hospital when needed
  - Well-coordinated discharge to the community and back to local care
Issues to consider...

- Native Americans reside in RBHA Geographic Service Areas (GSAs)
  - T/RBHAs are responsible for these individuals when they seek assistance from the T/RBHA
  - They may not be enrolled with the T/RBHA at the time they are court-ordered for treatment at the State Hospital
  - Requires collaboration between two governmental systems
  - Requires understanding about sovereignty of Tribal governments and Tribal Courts
  - Requires development of local treatment options when sought by the tribe
  - Requires culturally sensitive and responsive treatment options
Forum is Designed to:

1. Share critical information,
2. Receive input on issues from a T/RBHA perspective,
3. Discuss potential solutions, and
4. Identify topics to be included in future training
Thank you for your participation, assistance, and commitment.
T/RBHA Forum  
March 5, 2009  

Basic Principles of Indian Law  
In relation to  
Court Ordered Treatment of Native Americans  

1. Tribal governments predate the formation of the United States.  
   a. The British, French, Spanish and the colonial states entered treaties with  
      tribes to which the United States acceded upon formation of the union.  
   b. The United States entered treaties with tribes until 1871.  
   c. Tribes are subject to the laws of the United States.  

2. The state of Arizona does not have jurisdiction in Indian country.  
   a. Tribal governments are not subject to the laws of Arizona.  
      i. Supremacy of the United States.  
      ii. Arizona Enabling Act disclaimed jurisdiction.  
         1. "that until the title of such Indian or Indian tribes shall have  
            been extinguished the same shall be and remain subject to  
            the disposition and under the absolute jurisdiction and  
            control of the Congress of the United States"  
            a. 36 U.S. Stat. 557, 568-579, Section 20, June 10,  
               1910.  
      iii. State officers and agents cannot intrude on the right of reservation  
            Indians to make their own laws and be governed by them. Does  
            the state action undermine the authority of tribal courts over  
            Reservation affairs?  

3. Tribal Reservations in Arizona are lands reserved by tribes from much larger  
   territories controlled prior to occupation by white settlers.  
   a. Treaties and executive orders established reservations to protect Indians  
      and provide permanent homelands.  

4. Indians in Arizona are citizens of the state.  
   a. Natural born Indians were granted United States citizenship in 1924.  
   b. The 14th Amendment to the US Constitution: all citizens of the United  
      States are citizens of the state in which they reside.  
   c. Arizona Supreme Court recognized the right of Indians to vote in 1948.  

5. Tribal Sovereignty  
   a. Inherent power of tribal governments to make their own laws and be  
      governed by them.  
      i. Tribal governments are different from states and local  
         governments.
6. The case of Florence Red Dog a member of the Oglala Sioux Tribe of the Pine Ridge Reservation in South Dakota

7. Arizona ARS §12-136, Indian tribal courts; involuntary commitment orders; recognition
   a. Arizona Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders with Forms

8. Jurisdictional window is created but treatment doors remain closed.
Recognizing and Enforcing Tribal Court Involuntary Commitment Orders

By: Catherine Plumb
Assistant Attorney General
For the Arizona State Hospital
Bridging the Chasm Between the Tribal Court and the State System

A.R.S. §12-136 and the Rules of Procedure for Tribal Court Involuntary Commitment Orders
ARS § 12-136 Was Only Designed to Address Jurisdictional Issues...

So each segment of the process is viewed as independent of the next.

**Tribe**

**Rule 1:** Determinations regarding recognition of the tribal court commitment order pursuant to these rules have no effect upon the independent authority of the tribal court order.

**State**

**Rule 6(b):** "All proceedings following the commitment of the proposed patient shall be governed by Arizona law."

Domestication
Door Number 1: The Commitment Process in Tribal Court
What happens in tribal court before the A.R.S. §12-136 process is initiated?

- For members who reside on the reservation, everything that happens prior to the entry of a court order must occur on the reservation
- This includes assessment & evaluation
- The process follows tribal law, not state law
- Pursuant to federal law a patient has “freedom of choice” (fee-for-service or managed care)
The Tribal Court Retains Sovereignty Over the Initial Commitment Process

- What happens in tribal court stays in tribal court
- State has no jurisdiction to impose state law or state processes
- State has no jurisdiction to assess validity of statements in the court order or clinical assessments and evaluations
- State can only assess consistency with state law pursuant to the statute and rules
While on the reservation . . .

- The tribal order and tribal processes control
- The patient retains freedom of choice and may elect to receive local services without engaging with the RBHA
Door Number 2: The Domestication Process Lies at the Intersection Between the State and Tribal Systems

- Filing
- Notice
- Objections
- Enforceability
Requirements for State Recognition and Enforcement
Rule 5 (c – e)

Jurisdiction of tribal court

Procedural due process in the tribal court

Patient meets Arizona criteria for civil commitment
Patient Meets Criteria For Civil Commitment In Arizona

- Rule 5(c)(3 & 4) are designed to insure that the patient meets commitment criteria under Arizona law:

3. Based upon the diagnosis by a licensed physician, the proposed patient suffers from a mental disorder as defined by Arizona law which renders the proposed patient a danger to self, a danger to others, persistently or acutely disabled and/or gravely disabled.

4. The treatment ordered is the least restrictive treatment which meets the needs of the proposed patient, and the proposed patient is unable or unwilling voluntarily to receive this treatment.
Resolving Problems with the Tribal Court Order

- Deficiencies in the tribal court order are resolved by the tribal court.

- The state superior court judge is required to try to resolve any problems or deficiencies by contacting the tribal court.

- Reasons for the denial must be specifically stated.

- Right to rehearing.
A.R.S. §12-136 is the first legal point of contact, but not necessarily the first clinical point of contact

- Often the first time the State Hospital or a RBHA hears about a proposed admission is when the tribal order is filed with the State court

- By this point in time, the patient has already been through the tribal commitment process and frequently has been sitting in jail with no treatment for months!
Door Number 3: In the State System, State Law Controls

Once it has gone through the A.R.S. §12-136 process, the tribal court order is subject to state procedures

• The tribal court order then must be given the same recognition and the same effect as if it had originally been issued by the state superior court

• The patient is committed for the same commitment time periods as under state law

• The same rules apply to these patients as would apply to patients committed under state law
The Patient is already under a court order for treatment

- Some court orders are combined inpatient/outpatient, some are just inpatient, and some specify that the patient must be admitted to the State Hospital

- Failure to comply with the court order at this point could result in contempt proceedings

- Placement options must be addressed
RBHA responsibilities

- Once the patient enters the state system, there is no longer a freedom of choice because the only option for behavioral health services is managed care.
- At this point enrollment is critical and urgent.
- Enrollment processes must be adjusted to recognize the findings set forth in the court order.
Sovereignty

- RBHA processes must be adapted to recognize the sovereignty of the tribal court and the validity of the findings set forth in the tribal court order.
- The RBHA should not engage in "second-guessing" the diagnosis or functionality of the patient.
- If a patient must be admitted to the State Hospital, a certificate of need and letter of authorization should be provided.
Enrollment

- Because many of the patients referred are not already enrolled, the RBHA will be contacted immediately to enroll eligible individuals in their geographic service region.

- Preferably the patient should be enrolled prior to admission. However, if this is not possible, the patient should be enrolled immediately upon admission. THIS PROCESS SHOULD NOT BE DELAYED!
Best Way to Meet Mandatory Local Treatment Needs:

• If the patient has already received psychiatric treatment in a local setting, please provide that information to the State Hospital for Continuity of Care

• If the patient has not received psychiatric services in a local setting, and no services are available on the reservation, the RBHA or TRBHA should begin the enrollment process

• If the patient has an urgent need that cannot be met in a local setting or local treatment is contraindicated, contact the CMO of the State Hospital and provide relevant information
Door Number 4: Transferring the Matter Back to the Tribe

• Decisions regarding discharge or release are made by the facility providing inpatient treatment
• Tribal court is notified 10 day prior to discharge

(If the RBHA and State Hospital agree the patient does not meet criteria for continued stay or the RBHA has a less restrictive placement alternative, the patient may be discharged after giving the tribe a ten-day notice)
Other State Laws

- Mandatory local treatment. A.R.S. § 36-541
- Recommitment hearings. A.R.S. § 36-542
- AWOL patients. § 36-544
- Role of Guardians.
- Release hearings. § 36-541.01
Addressing the patient’s medical needs: Guardianships, etc.
What If the Patient Has a Tribal Guardian?

The State Hospital always honors the guardian's right to be involved if the patient is amenable.

If the patient is not amenable, . . .
• Has the guardianship been filed in state court?
• Is it enforceable under state law?
• What powers does a tribal guardian have?
• Is the tribal guardianship consistent with system principles?
• How do we know if it has been altered or terminated in the tribal court?
Option #1: Filing for State Recognition of the Tribal Guardianship

Arizona Rules of Procedure for the Recognition of Tribal Court Civil Judgments

Rule 5: unless an objection is filed in accordance with rule 4, a tribal judgment shall be recognized and enforced to the same extent and have the same effect as any judgment, order, or decree of a court of this state.

Recommended if the patient will be off-reservation often or for a long duration of time
Option #2: Include Guardianship In the Involuntary Commitment Order

Just reference and include the guardian’s authority as part of the involuntary commitment order under A.R.S. § 12-136 and the Judicial Rules of Procedure for Involuntary Tribal Court Commitment Orders.

Faster, but limited to duration of the court order

Note: It may be helpful to have the court include a copy of the specific code provision or a description of the guardian’s powers in the court order.
Cooperative Model

Needs of the Patient for Speedy Access to Mental Health Treatment

- Tribal Court Process
- Domestication Process
- State Court Process
Time for change
A. Notwithstanding any law to the contrary, an involuntary commitment order of an Arizona tribal court filed with the clerk of the superior court shall be recognized and is enforceable by any court of record in this state, subject to the same procedures, defenses and proceedings for reopening, vacating or staying as a judgment of the court. The Arizona supreme court may adopt rules regarding recognition of tribal court involuntary commitment orders. The state, through the attorney general, shall be given notice of the filing at the time the commitment order is filed and shall have five days from receipt of the written notice of the filing of the order to appear as a party and respond. A patient committed to a state mental health treatment facility under this section shall be subject to the jurisdiction of the state.

B. Decisions regarding discharge or release of a patient committed pursuant to subsection A shall be made by the facility providing involuntary treatment. Ten days prior to discharge or release, the state mental health treatment facility shall notify the tribal court which issued the involuntary commitment order of the facility's intention to discharge or release a patient. Any necessary outpatient follow-up and transportation of the patient to the jurisdiction of the tribal court, within the time set forth in the notice, shall be provided for in an intergovernmental agreement between the tribe and the department of health services.

CREDIT(S)

Added by Laws 1992, Ch. 260, § 1.

LAW REVIEW AND JOURNAL COMMENTARIES


LIBRARY REFERENCES

Indians ☞ 32(7).
Mental Health ☞ 47, 59.
Westlaw Topic Nos. 209, 257A.
C.J.S. Indians §§ 60 to 62, 139 to 143, 152.
C.J.S. Mechanics' Liens §§ 82 to 83.

RESEARCH REFERENCES
Treatises and Practice Aids


A. R. S. § 12-136, AZ ST § 12-136
Current through the end of the Forty-Eighth Legislature, Second Regular Session (2008), and also includes election results from the November 4, 2008 general election

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END OF DOCUMENT
Arizona Revised Statutes Annotated Currentness
Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders (Refs & Annos)

→ Rule 1. Applicability

These rules govern the procedure for recognition and enforcement by the superior court of an involuntary commitment order of the court of any federally recognized Indian tribe within the State of Arizona, as authorized by A.R.S. § 12-136. Determinations regarding recognition of the tribal court commitment order pursuant to these rules have no effect upon the independent authority of the tribal court order. Whenever reference is made to the proposed patient in these rules, it means the person who is the subject of the tribal court commitment order.

CREDIT(S)


LIBRARY REFERENCES

   Indians ⇆ 32(7).
   Westlaw Topic No. 209.
   C.J.S. Indians §§ 60 to 62, 139 to 143, 152.

17B A. R. S. Tribal Court Invol. Commitment Orders, Rule 1, AZ ST TRIBAL CT COMMIT ORDERS Rule 1
Current with amendments received through 10/15/08

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Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders (Refs & Annos)
→ Rule 2. Filing Procedure and Fees

(a) Documents to be Filed. A copy of the tribal court order, authenticated in accordance with the procedures of the tribal court, may be filed in the office of the clerk of the superior court in a county in which the tribal court has jurisdiction within 30 days of its entry in the tribal court. The order shall be accompanied by a signed and notarized statement from the appropriate tribal court officer stating that no subsequent orders vacating, modifying or reversing the order filed have been entered by the tribal court and that the order has not been stayed pending appeal. The clerk shall treat the tribal court order in the same manner as an order of involuntary commitment issued by the superior court of this state.

(b) Notice of Filing. The person filing the order shall promptly serve a notice of filing substantially similar to Form I of these rules and a copy of the tribal court commitment order on the proposed patient or the patient's guardian or representative and the Attorney General of the State of Arizona. Proof of service shall be filed with the clerk of the superior court.

(c) Fees. There shall not be a fee for filing a tribal court order under this rule.

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Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders (Refs & Annos)

→ Rule 3. Responses

Any responses to the enforcement of the tribal court order shall be filed within 5 days of receipt of the notice of filing the order. If a response is filed within this time period, the enforcement proceeding under this rule shall have the same priority as a civil commitment proceeding originating in the superior court. The superior court may, in its discretion, set a time period for replies and/or set the matter for hearing.

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17B A. R. S. Tribal Court Invol. Commitment Orders, Rule 3, AZ ST TRIBAL CT COMMIT ORDERS Rule 3
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If a response is filed, the court may, in its discretion, or at the request of the proposed patient, appoint counsel to represent the proposed patient at any enforcement proceedings.
(a) Certification by the Clerk of Court. If no responses are timely filed, the next court day after the expiration of the time period to respond the clerk shall, on a form substantially similar to Form II of these rules, issue a certification that no responses were timely filed, and the tribal court order shall be enforceable in the same manner as if issued by the superior court.

(b) Standard of Review Following Response. The superior court shall not assess the validity of the tribal court order, but shall only assess its consistency with A.R.S. § 12-136 and these rules. A tribal court commitment order which contains all of the findings indicated in these rules shall be enforced subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of the superior court. The superior court judge shall attempt to resolve any issues raised regarding a tribal court order by contacting the tribal court judge who issued the order. If enforcement of an order is denied due to incomplete findings or unresolved issues regarding those findings, the superior court judge shall specifically state the reasons for the denial.

(c) Findings Required in the Tribal Court Order. The tribal court order shall be enforceable if it contains the following findings:

1. The legal and factual basis of the tribal court jurisdiction over the civil commitment proceedings and over the proposed patient.

2. The proposed patient received notice of the civil commitment proceeding and the allegations regarding the patient's mental condition and had the opportunity to be heard with the assistance of a person recognized by the tribal court as competent to represent the proposed patient.

3. Based upon the diagnosis by a licensed physician, the proposed patient suffers from a mental disorder as defined by Arizona law which renders the proposed patient a danger to self, a danger to others, persistently or acutely disabled and/or gravely disabled.

4. The treatment ordered is the least restrictive treatment which meets the needs of the proposed patient, and the proposed patient is unable or unwilling voluntarily to receive this treatment.

(d) Other Information Required in the Tribal Court Order. To aid in enforcement and sending required notices, the tribal court order shall include the following information:
1. The title, address and county of the tribal court entering the order of involuntary commitment.

2. The date the tribal court order was entered.

3. The name, address and location of the proposed patient.

4. The names and addresses of any attorneys, guardians or other persons with legal standing to represent the proposed patient and a brief statement of their authority and relationship.

5. The tribal official authorized to receive service under these rules and the address at which service may be made.

(e) Commitment Period. The period of commitment shall not be enforceable for a longer period of time or in a manner different than permitted by Arizona law and shall commence on the date the tribal court order was entered.

CREDIT(S)


LIBRARY REFERENCES

Indians $\implies$ 32(7).
Westlaw Topic No. 209.
C.J.S. Indians §§ 60 to 62, 139 to 143, 152.

17B A. R. S. Tribal Court Invol. Commitment Orders, Rule 5, AZ ST TRIBAL CT COMMIT ORDERS Rule 5
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(a) Rehearing. In the event enforcement of a tribal court order is denied, any affected person may move for a rehearing within 20 days after the denial. Any supplemental or revised tribal court orders shall be attached to the motion. A copy of such motion shall be served upon all parties to the original proceeding. A response to the motion may be filed within 5 days of receipt of notice of the motion for rehearing.

(b) Review and Administration Following Commitment. All proceedings following the commitment of the proposed patient shall be governed by Arizona law. Any documents filed with the court regarding the proposed patient shall be served upon the tribal official designated for receipt of service in the tribal court order.

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17B A. R. S. Tribal Court Invol. Commitment Orders, Rule 6, AZ ST TRIBAL CT COMMIT ORDERS Rule 6
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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

COUNTY

In re: Involuntary Commitment ) No. ______

of (Patient's Name) )

) NOTICE OF FILING

) OF TRIBAL COURT

) IN VOLUNTARY

) COMMITMENT

) ORDER

YOU ARE HEREBY NOTIFIED that the Order of Involuntary Commitment issued by the Tribal Court on , 19__, under which (patient's name) has been ordered to undergo treatment, was filed with the Clerk of the Court for County on , 19__. Cause No. .

YOU ARE FURTHER NOTIFIED that you have 5 days from receipt of this notice to respond in writing to the Clerk of the Court for County. If no response is filed within this time period pursuant to A.R.S. § 12-136 and Rule 3, Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders, the Order of Involuntary Commitment issued by the Tribal Court shall be recognized and shall be enforceable in the same manner as if issued by the Superior Court.

A copy of the tribal court order is attached hereto.

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Name

Address
Instructions: When the notice is complete it must be filed with the clerk of the court and served on the Attorney General for the State of Arizona and the patient. It shall be served in the manner set forth in Rule 4.1, Ariz.R.Civ.P.

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17B A. R. S. Tribal Court Invol. Commitment Orders, Form 1, AZ ST TRIBAL CT COMMIT ORDERS Form 1
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Arizona Revised Statutes Annotated Currentness
Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders (Refs & An-
os)

→ Form II. Certification

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

________________ COUNTY

In re: Involuntary Commitment  )  No. ______

of (Patient's Name)  )

) CERTIFICATION RE:

) ENFORCEMENT OF

) TRIBAL COURT

) INVOLUNTARY

) COMMITMENT

) ORDER

Pursuant to A.R.S. § 12-136 and the Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders, I hereby certify that the statements contained herein are an accurate representation of the contents of the record of the above captioned matter.

An Order of Involuntary Commitment was issued by the ________________ Tribal Court on ________________ , 19____, under which (patient's name) was ordered to undergo treatment. The Order was filed herein on ________________ , 19____.

_______ The record reflects that the Notice of Filing was personally served on (patient's name) on ________________ , 19____, and at least 5 court days have since elapsed.

OR

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The record reflects that the Notice of Filing was sent by certified mail to (patient's name) on ____________, 19__, it was received on ____________, 19__, and at least 5 court days have elapsed since its receipt.

AND

The record reflects that the Notice of Filing was personally served on the Attorney General for the State of Arizona on ____________, 19__, and at least 5 court days have since elapsed.

OR

The record reflects that the Notice of Filing was sent by certified mail to the Attorney General for the State of Arizona on ____________, 19__, it was received on ____________, 19__, and at least 5 days have elapsed since its receipt.

No responses have been filed.

Given under my hand and the Seal of the Court on this date, _________________, 19__.

Clerk of the Superior Court

By:

CREDIT(S)


17B A. R. S. Tribal Court Invol. Commitment Orders, Form 2, AZ ST TRIBAL CT COMMIT ORDERS Form 2
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Arizona Revised Statutes Annotated Currentness
Rules of Procedure for the Recognition of Tribal Court Civil Judgments (Refs & Annos)

↑ Rule 1. Applicability

These rules shall govern the procedures for recognition and enforcement by the superior
courts of the State of Arizona of trial court civil judgments of any federally recognized Indian
tribe. Determinations regarding recognition and enforcement of a tribal judgment pursuant to
these rules shall have no effect upon the independent authority of that tribal judgment. To the
extent that they are not inconsistent with these rules, the Arizona Rules of Civil Procedure
shall apply.

These rules do not apply to tribal judgments for which federal law requires that states grant
full faith and credit recognition or for which state law mandates different treatment.

Nothing in these rules shall be deemed or construed to expand or limit the jurisdiction either
of the State of Arizona or any Indian tribe.

CREDIT(S)


LAW REVIEW AND JOURNAL COMMENTARIES

Indian tribal law under the Federal Tort Claims Act. Katherine C. Pearson, 32 Ariz.St.L.J. 695
(2000).

LIBRARY REFERENCES

Indians ؆ 32(7).
Westlaw Topic No. 209.
C.J.S. Indians §§ 60 to 62, 139 to 143, 152.

17B A. R. S. Tribal Ct. Civ. Judgment Rules, Rule 1, AZ ST TRIBAL CT CIV JUDGMENTS
Rule 1
Current with amendments received through 10/15/08

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Arizona Revised Statutes Annotated Currentness
Rules of Procedure for the Recognition of Tribal Court Civil Judgments (Refs & Annos)

→ Rule 2. Definitions

As used throughout these rules:

(a) "Tribal court" means any court or other tribunal of any federally recognized Indian nation, tribe, pueblo, band, or Alaska Native village, duly established under tribal or federal law, including courts of Indian Offenses organized pursuant to Title 25, Part 11 of the Code of Federal Regulations.

(b) "Tribal judgment" means any final written judgment, decree or order of a tribal court duly authenticated in accordance with the laws and procedures of the tribe or tribal court.

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Arizona Revised Statutes Annotated Currentness
Rules of Procedure for the Recognition of Tribal Court Civil Judgments (Refs & Annos)
→ Rule 3. Filing Procedures

(a) Documents to be Filed. A copy of any tribal judgment may be filed in the office of the clerk of the superior court in any county of this state.

(b) Notice of Filing. The person filing the tribal judgment shall make and file with the clerk of the superior court an affidavit setting forth the name and last known address of the party seeking enforcement and the responding party. Promptly upon the filing of the tribal judgment and the affidavit, the enforcing party shall serve upon the responding party a notice of filing of the tribal judgment, together with a copy of the judgment, in accordance with Rule 4.1, Arizona Rules of Civil Procedure, or shall mail by certified mail, return receipt requested, the notice of filing and a copy of the judgment to the responding party at the last known address. If the responding party is the State of Arizona, or any of its officers, employees, departments, agencies, boards, or commissions, the notice of filing shall be mailed to the Attorney General’s Office. The enforcing party shall file proof of service or mailing with the clerk. The notice of filing shall include the name and address of the enforcing party and the enforcing party’s attorney, if any, and shall include the text of Rules 4 and 5(a) and (b).

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Rule 3
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Any objection to the enforcement of a tribal judgment shall be filed within twenty (20) days of service or of receipt of the mailing of the notice of filing the judgment, or within twenty-five (25) days of the date of mailing, whichever last occurs. If an objection is filed within this time period, the superior court may, in its discretion, set a time period for replies and/or set the matter for hearing.

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Rule 4
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Rules of Procedure for the Recognition of Tribal Court Civil Judgments (Refs & Annos)

→ Rule 5. Recognition of Tribal Judgments

(a) Enforcement of Tribal Judgment. A tribal judgment, unless objected to in accordance with Rule 4, shall be recognized and enforced by the courts of this state to the same extent and shall have the same effect as any judgment, order, or decree of a court of this state.

(b) Certification by Clerk of Court. If no objections are timely filed, the clerk shall issue a certification that no objections were timely filed, and the tribal judgment shall be enforceable in the same manner as if issued by the superior court.

(c) Mandatory Considerations Following Objection. A tribal judgment shall not be recognized and enforced if the objecting party demonstrates to the court at least one of the following:

1. The trial court did not have personal or subject matter jurisdiction.
2. The defendant was not afforded due process.

(d) Discretionary Considerations Following Objection. The superior court may, in its discretion, recognize and enforce or decline to recognize and enforce a tribal judgment on equitable grounds, including:

1. The tribal judgment was obtained by extrinsic fraud.
2. The tribal judgment conflicts with another final judgment that is entitled to recognition.
3. The tribal judgment is inconsistent with the parties' contractual choice of forum.
4. Recognition of the tribal judgment or the cause of action upon which it is based is against fundamental public policy of the United States or the State of Arizona.

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COMMENTS


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(App. 1980).

[Rule 5(c)(2)] The due process requirement stated in this rule does not require that a tribe utilize judicial procedures identical to those used in state courts. However, tribal court proceedings must afford the parties the basic tenets of due process established by the federal and state constitutions. See Wilson v. Marchington, 127 F.3d 805, 811 (9th Cir. 1997).


LAW REVIEW AND JOURNAL COMMENTARIES


LIBRARY REFERENCES

Indians C⇒ 32(7).
Westlaw Topic No. 209.
C.J.S. Indians §§ 60 to 62, 139 to 143, 152.

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If the objecting party demonstrates to the superior court that an appeal from the tribal judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the tribal judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.

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The superior court shall, after notice to the parties, attempt to resolve any issues raised regarding a tribal judgment under Rule 3 or Rule 5 of these rules, by contacting the tribal court judge who issued the judgment.

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Continuum of Care

Michael H. Stumpf, MD, DFAPA
Associate Medical Director
Arizona Dept. of Health Services/Div. of Behavioral Health Services
Clinical Associate Professor
Midwestern University/Arizona College of Osteopathic Medicine

Axiom # 1: A range of services is necessary to meet needs.
Axiom # 2: People should be treated in the least restrictive setting that meets the person's needs.
Axiom # 3: People should be treated in or near their home community as much as possible.

Behavioral Health Care Recipients:
General Mental Health Adults
Seriously Mentally Ill Adults
Substance Dependent Adults
Children & Adolescents
SED Children and Adolescents
Special Populations:
   Ethnicity
   Pregnant Females
   Elderly
   At risk youth
   CPS
   Forensic
Co-occurring Disorders
   DD
   Substance
   Medical

Treatment:
Psychiatric Assessment
Pharmacy
Laboratory
Individual Counseling
Group Counseling
In Home Therapy
School-based Therapy
Court Ordered Evaluation
Housing
Educational/Vocational
Transportation
Entitlements
Family Education and Support
Respite
Substance
   Detox
   Residential
   Outpatient, 12 step

Co-ordination with:
Family/Caregivers
School
Court/jail/prison/PO
AHCCCS
DDD
DOC/JDOC
DBHS
Community

Internal Oversight:
QM/UM
Grievance and Appeals
Consumer/Human Rights

External Oversight:
Licensure
Payors
DBHS
Human Rights/Advocacy Groups
Local Government
Professional Bodies/Licensure

Programs/Settings:
Psychiatric:
   Clinic/Outpatient
   Crisis Phones
   Mobile Crisis Teams
   Crisis Centers
   Crisis Inpatient
   Inpatient
   AzSH
   Residential
Substance:
   Detox
   Residential
   12 step
   Outpatient
Children & Adolescents:
   Psychiatric/Substance as above
   In Home
   Respite
   Residential
Prevention/Education
Outreach
System Improvements Discussion

NOTES
Court-Ordered

1. Screening
   Non-Title XIX

2. Evaluation

3. Treatment
   If Medically-Necessary Covered Services
   No AHCCCS FFS for BH/Acute
   All ADHS Responsibility:
   ADHS manages or T/RBHA manages

AHCCCS → DBHS
   ADHS/Acute
   Delegate FFS Mental Health
   IHS (Claims to AHCCCS)
   → RBHA
   → TRBHA

Pt. (TXIX FFS) → Managed Care
   → No – Ineligible for Medicaid until d/c unless
     1) Leave 24 hr +
     2) Over 65 yrs.
     3) Under 21 yrs.
   → Yes
     1) RBHA = TXIX (MH)
     2) HP = TXIX (Medical)
Behavioral Health Services
Payment Responsibilities*

Non-T/RBHA Enrolled Member

IHS/638 Provider

AHCCCS DFSM pays using 100% fed $

Member Enrolled in TRBHA

TRBHA as Provider

ADHS pays TRBHA capitation for TRBHA-provided services using fed/state $

AHCCCS DFSM pays using 100% fed $

Non-IHS/638 Provider

Provider bills AHCCCS which acts as TPA for TRBHA using ADHS capitation funds on a FFS basis using fed/state $

Member Enrolled in RBHA

IHS/638 Provider

Non-IHS/638 Provider

AHCCCS DFSM pays using 100% fed $

RBHA pays using fed/state $

*Non-ALTCS members

Updated: February 2009
Admission Contact for Native American Patients

Tribal Liaison/ Admissions Social Worker
Melissa “Megan” Mitscher
Arizona State Hospital
2500 East Van Buren Street Office D-159
Phoenix, Arizona 85008

Office Phone Number: (602) 629-7066
Fax Number: (602) 210-6198
## Contacts
(Tribal Health Directors & Chairmembers By Tribe)

### AZ Behavioral Health Alcohol/Substance Abuse ITCA

<table>
<thead>
<tr>
<th>Tribe</th>
<th>Contact Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ak-Chin Tribe</td>
<td>Larisa Davis, Counselor Ak-Chin ASAP 42597 W. Peters &amp; Nall Rd. Maricopa, AZ 85239</td>
</tr>
<tr>
<td>Gila River Indian Community</td>
<td>Reuben Howard, CEO Desert Visions Youth RTC P.O. Box 458 Sacaton, AZ 85247</td>
</tr>
<tr>
<td>Chemehuevi Tribe</td>
<td>Eagle Levy, Counselor P.O. Box 1976 Lake Havasu, CA 92363</td>
</tr>
<tr>
<td></td>
<td>Kelly Vickrey, Director Department of Human Services P.O. Box 2171 Sacaton, AZ 85247</td>
</tr>
<tr>
<td>Cocopah Indian Tribe/ADAP</td>
<td>Director Count 15th St &amp; Ave. G Somerton, AZ 85350</td>
</tr>
<tr>
<td>Hopi Tribe</td>
<td>Rob Robin, Director Hopi Tribe Guidance Center P.O. Box 68 Second Mesa, AZ 86403</td>
</tr>
<tr>
<td>Colorado River Indian Tribes</td>
<td>Gerald Szymanski, Program Manager CRIT Behavioral Health/Recovery Cntr. 12033 Agency Road Parker, AZ 85344</td>
</tr>
<tr>
<td>Havasupai Tribe</td>
<td>Substance Abuse Program Director Supai Health Center General Delivery Supai, AZ 86435</td>
</tr>
<tr>
<td>Lmuel Jones, Counselor</td>
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</tr>
<tr>
<td>Hualapai Tribe</td>
<td>Shirley Reed, S/A Program Director P.O. Box 397 Peach Springs, AZ 86434</td>
</tr>
<tr>
<td>Fort McDowell Tribe</td>
<td>Evan Hughes, Counselor Family &amp; Community Srvs. P.O. Box 17779 Fountain Hills, AZ 85269</td>
</tr>
<tr>
<td>Sandra Irwin, Health Director</td>
<td>Dept. of Health, Wellness and Education P.O. Box 397 Peach Springs, AZ 86434</td>
</tr>
<tr>
<td>Fort Mojave Tribe</td>
<td>Collett Lewis, Program Director ADAP 500 Merriman Ave. Needles, CA 92363</td>
</tr>
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<td>Richard Diwald, Director</td>
<td>Hualapai Tribe Mental Health Program P.O. Box 397 Peach Prings, AZ 86434</td>
</tr>
<tr>
<td>Kaibab-Paiute Tribe</td>
<td>Fenny Keller, Program Director A/SA Program HC 65 Box 2 Fredonia, AZ 86022</td>
</tr>
</tbody>
</table>
Contacts
(Tribal Health Directors & Chairmembers By Tribe)

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White Mountain Apache Tribe
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Rainbow Treatment Center
White Mountain Apache Tribe Meth Coalition
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<table>
<thead>
<tr>
<th>RBHA Name and Contact Person</th>
<th>Contact Information</th>
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<tbody>
<tr>
<td>Magellan Health Services of Arizona</td>
<td>Jill Andersen,</td>
</tr>
<tr>
<td></td>
<td>Arizona State Hospital Liaison</td>
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<tr>
<td></td>
<td><a href="mailto:JAndersen@magellanhealth.com">JAndersen@magellanhealth.com</a></td>
</tr>
<tr>
<td></td>
<td>(Primary Contact)</td>
</tr>
<tr>
<td></td>
<td>Dean McKenzie</td>
</tr>
<tr>
<td></td>
<td>Associate Medical Director</td>
</tr>
<tr>
<td></td>
<td>(602) 652-5933</td>
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<td></td>
<td><a href="mailto:DMcKenzie@magellanhealth.com">DMcKenzie@magellanhealth.com</a></td>
</tr>
<tr>
<td></td>
<td>(Secondary Contact)</td>
</tr>
<tr>
<td></td>
<td>Ms. Darcy Roybal</td>
</tr>
<tr>
<td></td>
<td>Tribal Liaison</td>
</tr>
<tr>
<td></td>
<td>(602) 797-8373</td>
</tr>
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<td></td>
<td><a href="mailto:DJRoybal@magellanhealth.com">DJRoybal@magellanhealth.com</a></td>
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<tr>
<td>Community Partnership of Southern Arizona</td>
<td>Patty Schach</td>
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<tr>
<td>(CPSA)</td>
<td>Court Ordered Treatment Coordinator</td>
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<td></td>
<td>(520) 318-6978</td>
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<tr>
<td></td>
<td><a href="mailto:patty.schach@cpsa-rbha.org">patty.schach@cpsa-rbha.org</a></td>
</tr>
<tr>
<td></td>
<td>Acting Tribal Liaison:</td>
</tr>
<tr>
<td></td>
<td>Cyndi Deines</td>
</tr>
<tr>
<td></td>
<td>Director, Workforce Development</td>
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<td></td>
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</tr>
<tr>
<td>Cenpatico Behavioral Health of Arizona</td>
<td>Andrea Harwig</td>
</tr>
<tr>
<td></td>
<td>GSA 4 - Court Ordered Treatment Contact</td>
</tr>
<tr>
<td></td>
<td>866 495.6738 x26195</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:aharwig@centene.com">aharwig@centene.com</a></td>
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<tr>
<td></td>
<td>(primary contact)</td>
</tr>
<tr>
<td></td>
<td>Laurel Rettie</td>
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<tr>
<td></td>
<td>866 495.6738 x26118</td>
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<td><a href="mailto:lrettie@centene.com">lrettie@centene.com</a></td>
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<td>Mily Schroeder</td>
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<td>GSA 2 Court Ordered Treatment Contact</td>
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<td></td>
<td>866 495.6738 x26417</td>
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<td></td>
<td><a href="mailto:mschroeder@centene.com">mschroeder@centene.com</a></td>
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<tr>
<td></td>
<td>Sheina Yellowhair</td>
</tr>
<tr>
<td></td>
<td>Tribal Liaison, Both GSA 2 &amp; 4</td>
</tr>
<tr>
<td></td>
<td>866 495.6738 x26192</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:syellowhair@centene.com">syellowhair@centene.com</a></td>
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<tr>
<td>Organization</td>
<td>Contact Information</td>
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</tr>
</tbody>
</table>
| Northern Arizona Regional Behavioral Health Authority (NARBHA) | Cheri Wells,  
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928-774-7128  
cheri.wells@narbha.org |
| White Mountain Apache T/RBHA (Apache Behavioral Health Services, Inc.) | Jacqui Naue, Compliance  
Court Ordered Treatment Contact  
(928) 338-4811  
jnaue@wmabhs.org  
(primary contact) |
|                                                  | Bill Arnett, CEO  
(928) 338-4811  
Bill.arnett@wmabhs.org |
|                                                  | Location address:  
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|                                                  | Mail address:  
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| Pascua Yaqui T/RBHA (Centered Spirit Program)     | CONTACT INFO PENDING  
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Tucson AZ 85757 |