

1 **320-U PRE-PETITION SCREENING, COURT-ORDERED EVALUATION,**  
2 **AND COURT-ORDERED TREATMENT**

3  
4 REVISION DATE: TBD, 6/16/2021

5 REVIEW DATE: 9/6/2023

6 EFFECTIVE DATE: October 1, 2019

7 REFERENCES: A.R.S. Title 36, Chapter 5; A.R.S 12-136; A.A.C. Title 9,  
8 Chapter 21, Article 5; AdSS Medical Policies 320-O, 320-P, 320-Q; AdSS  
9 Operations Policies 423, 437

10  
11 **PURPOSE**

12 This policy applies to the Division of Developmental Disabilities's (Division)  
13 Administrative Services Subcontractors (AdSS) and by outlines the duties and  
14 responsibilities applicable to the AdSS regarding Pre-Petition Screening,  
15 Court-Ordered Evaluation (COE) and Court-Ordered Treatment (COT)  
16 proceedings, as specified in A.R.S. § 36- 501 et seq., the establishinges  
17 requirementsguidelines, as applicable, for the provision and and to ensure  
18 coordination careof behavioral health services continuity of care and  
19 coordination of behavioral health services for Members during that process.  
20 regarding the Pre-Petition Screening, Court-Ordered Evaluation, and Court-  
21 Ordered Treatment process.

22 **DEFINITIONS**

23 1. "Admitting Officer" means a psychiatrist or other physician or

24 psychiatric and mental health practitioner with experience in  
25 performing psychiatric examinations who has been designated as an  
26 admitting officer of the Evaluation Agency by the person in charge of  
27 the Evaluation Agency.

28 1.2. "Court-Ordered Evaluation" means evaluation ordered by the court  
29 under A.R.S. Title 36, Chapter 5. ~~The COE process as specified in this~~  
30 ~~Policy.~~

31 2.3. "Court-Ordered Treatment" means the treatment ordered by the court  
32 under A.R.S. Title 36, Chapter 5. ~~The COT process as specified in this~~  
33 ~~policy.~~

34 3.4. "Evaluation Agency" means a health care agency licensed by the  
35 Arizona Department of Health Services that has been approved  
36 pursuant to A.R.S. Chapter 5 Title 36, providing those services  
37 required of such agency.

38 5. "Health Care Decision Maker" means an individual who is authorized to  
39 make health care treatment decisions for the patient. As applicable to  
40 the situation, this may include a parent of an unemancipated minor or  
41 a person lawfully authorized to make health care treatment decisions  
42 pursuant to A.R.S. §§ Title 14, chapter 5, article 2 or 3; or A.R.S. §§  
43 8-514.05, 36-3221, 36-3231 or 36-3281.

44 6. "Member" means the same as "Client" as defined in A.R.S. § 36-551.

45 4.7. "Mental Disorder" means a substantial disorder of the individual's  
46 emotional processes, thought, cognition, or memory as defined in  
47 A.R.S. § 36-501.

48 8. "Peace Officer" means sheriffs of counties, constables, marshals and  
49 policemen of cities and towns.

50 5.9. "Pre-Petition Screening" means the review of each application  
51 requesting court-ordered evaluations, including an investigation of  
52 facts alleged in such application, an interview with each applicant and  
53 an interview, if possible, with the proposed individual. The purpose of  
54 the interview with the proposed member is to assess the problem,  
55 explain the application, and, when indicated, attempt to persuade the  
56 proposed member to receive, on a voluntary basis, evaluation or other  
57 services as specified in A.R.S. § 36-501.

58 6.10. "Screening Agency" means a health care agency licensed by Arizona  
59 Department of Health Services ~~ADHS~~ and that provides those services  
60 required of such agency pursuant to A.R.S. ~~Chapter 5 Title 36~~ (A.R.S.  
61 § 36-501).

62 7.11. "Voluntary Evaluation" means ~~For purposes of this Policy,~~ an inpatient  
63 or outpatient professional multidisciplinary service based on analysis of

64 data describing the individual person's identity, biography, and  
65 medical, psychological and social conditions that is provided after a  
66 determination that an individual willingly agrees to consent to receive  
67 the service and is unlikely to present a danger to self or others until  
68 the service is completed. A voluntary evaluation is invoked after the  
69 filing of a pre-petition screening but before the filing of a court-ordered  
70 evaluation and requires the informed consent of the individual.  
71 Additionally, the individual must be able to demonstrate the capacity  
72 to give informed consent.

## 73 POLICY

### 74 A. GENERAL OVERVIEW REQUIREMENTS

75 1. The AdSS shall have is Ppolicies that outlines the processes and  
76 responsibilities applicable when it is necessary to initiate Pre-  
77 Petition Screening, Court-Ordered Evaluation (COE) / and Court-  
78 Ordered Treatment (COT) proceedings, as detailspecified in  
79 A.R.S. § 36-501 et seq., This process is used to ensure the  
80 safety of a Member or the safety of others when, due to a  
81 Member's mental disorder, that Member is unable or unwilling to  
82 participate in treatment.

- 83 2. Responsibilities may vary for Pre-Petition Screening and COE  
84 based on contractual arrangements with individual between  
85 AHCCCS, Contractors, and Arizona counties.
- 86 3. The AdSS shall ensure providers responsible for the ~~COE/COT~~  
87 process adhere to requirements of this policy.
- 88 4. An electronic signature, in lieu of a wet signature, is an  
89 acceptable method for obtaining consent and acknowledgement.
- 90 2.5. Any ~~When necessary, as specified in A.A.C. R9-21-101 and~~  
91 ~~A.R.S. § 36-520, any~~ responsible individual may submit an  
92 application requesting an agency conduct a Pre-Petition  
93 Screening when another individual is alleged to be, as a result of  
94 a mental disorder:
- 95 . Danger to Self (DTS),
  - 96 b. Danger to Others (DTO),
  - 97 c. Persistently or Acutely Disabled (PAD), ~~or~~
  - 98 d. Gravely Disabled (GD), or
  - 99 ~~d.e.~~ Is unwilling or unable to undergo a Voluntary Evaluation.
- 100 5. If the individual who is the subject of a court-ordered  
101 commitment proceeding is subject to the jurisdiction of a tribal

102 nation, rather than the [Statestate](#), the laws of that tribal nation  
103 will govern the commitment process. ~~Information about the~~  
104 ~~tribal court process and the procedures under state law for~~  
105 ~~recognizing and enforcing a tribal court order are found in this~~  
106 ~~Policy.~~

107 6. Pre-Petition Screening includes an examination of the Member's  
108 mental status and/or other relevant circumstances by a  
109 designated Screening Agency.

110 7. Upon review of the application, examination of the Member and  
111 review of other pertinent information, a licensed Screening  
112 Agency's medical director or designee will determine if the  
113 Member meets criteria for DTS, DTO, PAD, or GD as a result of a  
114 mental disorder.

115 8. If the pre-petition application screening indicates that the  
116 Member may be DTS, DTO, PAD, or GD, the Screening Agency  
117 will file an Application for Emergency Admission for Evaluation as  
118 specified in A.R.S. 36-524 for a COE. Based on the immediate  
119 safety of the Member or others, an emergency admission for  
120 evaluation may be necessary. The Screening Agency, upon

121 receipt of the application, shall determine the need for continued  
122 evaluation and immediately act as prescribed, not to exceed 48  
123 hours of the filing of the application excluding weekends and  
124 holidays as specified in A.R.S. § 36-520.

125 9. Based on the COE, the Evaluating Agency may petition for COT  
126 on behalf of the Member. The subsequent hearing is the  
127 determination as to whether the Member will be court ordered to  
128 treatment as specified in A.R.S. § 36-539. COT may include a  
129 combination of inpatient and outpatient treatment. Inpatient  
130 treatment days are limited contingent on the Member's  
131 designation as DTS, DTO, PAD, or GD. Members identified as:

- 132 a. DTS may be ordered up to 90 inpatient days per year.  
133 b. DTO and PAD may be ordered up to 180 inpatient days per  
134 year, ~~and~~  
135 c. GD may be ordered up to 365 inpatient days per year.

136 10. If the ~~Courteourt~~ orders a combination of inpatient and  
137 outpatient treatment, a mental health agency will be identified  
138 by the ~~Courteourt~~ to supervise the Member's outpatient  
139 treatment. Before the ~~Courteourt~~ can order a mental health

140 agency to supervise the Member's outpatient treatment, the  
141 agency medical director must agree and accept responsibility by  
142 submitting a written treatment plan to the court.

143 11. At every stage of the Pre-Petition Screening, COE and COT  
144 process, a Member who ~~demonstrates~~manifests the capacity to  
145 give informed consent pursuant to A.R.S. § 36-518 will be  
146 provided an opportunity to change ~~their~~the status to "voluntary"  
147 for evaluation purposes. Under voluntary status, the Member will  
148 voluntarily receive an evaluation and ~~may notis unlikely to~~  
149 present as DTS or DTO during the time pending the voluntary  
150 evaluation.

151 12. Entities responsible for COE shall ensure the use of the ~~following~~  
152 forms prescribed in 9 A.A.C. 21, Article 5, for individuals  
153 determined to have a Serious Mental Illness (SMI) designation.  
154 ~~Theand may also use these~~ forms may also be used for  
155 individuals who do not have an SMI designation, as applicable.~~all~~  
156 ~~other populations.~~

157 13. Although the AdSS may not be contracted for providing Pre-  
158 Petition Screening services, emergency/crisis petition filing, and



159 COE services in all counties, the AdSS ~~shall~~must provide policies  
160 and procedures for providers outlining these processes.

161 **B. LICENSING REQUIREMENTS**

162 Behavioral health providers who are licensed by the Arizona  
163 Department of Health Services ~~/Division of Public Health Licensing~~ as a  
164 COE or COT agency must adhere to the licensing requirements.

165 **C. PRE-PETITION SCREENING~~Pre-Petition Screening~~**

166 1. Unless otherwise indicated in an Intergovernmental Agreement  
167 (IGA) with a county, Arizona counties are responsible for  
168 managing, providing, and paying for Pre-Petition Screenings and  
169 COEs, and are required to coordinate the provision of behavioral  
170 health services with the member's health plan~~AdSS~~ or fee-for-  
171 service~~FFS~~ program responsible for the provision of behavioral  
172 health services. ~~For additional information, visit the AHCCCS~~  
173 ~~website, <https://www.azahcccs.gov>.~~

174 2. During the Pre-Petition Screening, the designated Screening  
175 Agency ~~shall~~must offer assistance, if needed, to the applicant in  
176 the preparation of the application for involuntary COE. Any  
177 behavioral health provider that receives an application for COE

178 shall immediately refer the application for Pre-Petition Screening  
179 and petitioning for COE to the AdSS-designated Pre-Petition  
180 Screening agency or county facility.

181 3. The AdSS shall develop policies that outline ~~the audits role and~~  
182 ~~responsibilities~~ related to the treatment of Members who are  
183 unable or unwilling to consent to treatment. The policy must  
184 conform to the processes provided in A.R.S. § 36-501 et seq.,  
185 and at a minimum address:

- 186 a. Involuntary evaluation,
- 187 b. Petitioning process,
- 188 c. COE/COT process, including tracking the status of Court  
189 Orders,
- 190 d. Execution of Court Orders, and
- 191 e. Judicial Review.

192 **D. RESPONSIBILITY FOR PROVIDING PRE-PETITION SCREENING**

193 1. When the AdSS ~~are is~~ responsible, through an IGA with a  
194 county, for Pre-Petition Screening and petitioning for COE, the  
195 AdSS ~~shall~~ **must** refer the applicant to a subcontracted Pre-  
196 Petition Screening Agency.

- 197 2. The AdSS shall ensure theThe Pre-Petition Screening Agency is  
198 responsible for the following:~~must follow these procedures:~~  
199 a. Provide Pre-Petition Screening within 48 hours excluding  
200 weekends and holidays.  
201 b. Prepare a report of opinions and conclusions. If Pre-  
202 Petition Screening was not possible, the Screening Agency  
203 must report reasons why the screening was not possible,  
204 including opinions and conclusions of staff members who  
205 attempted to conduct the Pre-Petition Screening.  
206 c. Ensure the agency's medical director or designee review of  
207 the report if the report indicates that there is no  
208 reasonable cause to support the allegations for COE by the  
209 applicant.  
210 d. Prepare a Petition for COE and file the petition if the  
211 Screening Agency determines that, due to a mental  
212 disorder, there is reasonable cause to believe that the  
213 Member meets the criteria set forth in A.R.S § 36-521(D).  
214 e. Ensure completion of the Application for Emergency  
215 Admission for Evaluation and take all reasonable steps to  
216 procure hospitalization on an emergency basis, if it

217 determines that there is reasonable cause to believe that  
218 the Member, without immediate hospitalization, is likely to  
219 harm themselves or others.

220 f. Contact the county attorney prior to filing a petition if it  
221 alleges that a Member is in need of or may be in need of a  
222 Health Care Decision Maker~~DTO~~.

223 **E. EMERGENT/CRISIS PETITION FILING~~Emergent/Crisis Petition~~**  
224 **Filing Process for Contractors Contracted as Evaluating**  
225 **Agencies**

226 1. When it is determined that there is reasonable cause to believe  
227 that the Member being screened is in a condition that, without  
228 immediate hospitalization, is likely to be a DTS, DTO, is PAD or is  
229 GD~~harm themselves or others~~, an emergent application must be  
230 filed. The petition ~~shall~~must be filed at the appropriate agency as  
231 determined by the AdSS.

232 2. ~~When Pursuant to A.R.S. § 36-501 et seq., when~~ considering the  
233 emergent petition process, the following apply:

234 a. ~~Only~~ applications indicating DTS, ~~and/or~~ DTO, PAD, or  
235 GD can be filed on an emergent basis.

- 236           b.     The applicant shall have knowledge of the behavior(s)  
237           displayed by the Member that is a DTS, DTO, is PAD or is  
238           ~~GD~~danger to self or others consistent with requirements  
239           specified in A.R.S. § 36-524.
- 240           c.     The applicant shall complete an Application for Emergency  
241           Admission for Evaluation.
- 242           d.     The applicant and all witnesses identified in the application  
243           as direct observers of the dangerous behavior(s) may be  
244           called to testify in court if the application results in a  
245           petition for COE.
- 246           3.     Immediately upon receipt of an Application for Emergency  
247           Admission for Evaluation and all corroborating documentation  
248           necessary to successfully complete a determination, the  
249           Admitting Officer~~physician~~ will determine if enough evidence  
250           exists for an emergency admission for evaluation.
- 251           4.     If there is enough evidence to support the emergency admission  
252           for evaluation, the appropriate facility is not currently operating  
253           at or above its allowable member capacity, and the Member does  
254           not require medical care, then facility staff will immediately

255 coordinate with local law enforcement or other transportation  
256 service contracted by the county, city, town, or tribal community  
257 for the detention of the Member and transportation to the  
258 appropriate facility.

259 5. If the Member requires a medical facility, or if appropriate  
260 placement cannot be arranged within the 48-hour timeframe  
261 identified above relating to an Application for Emergency  
262 Admission for Evaluation, as specified in A.R.S. § 36-524, the  
263 AdSS' medical director of the agency will be consulted to arrange  
264 for a review of the case.

265 6. The Application for Emergency Admission for Evaluation, as  
266 specified in A.R.S. § 36-524, may be discussed by telephone  
267 with the facility admitting physician, the referring physician, and  
268 a peace officer or other authorized third-party transportation  
269 provider contracted by the county, city, or town in which the  
270 evaluation is being provided to facilitate transportation of the  
271 Member to be evaluated.

272 7. A Member proposed for emergency admission for evaluation may  
273 be apprehended and transported to the facility under the

274 authority of law enforcement or other transportation entity  
275 contracted by the county, city, or town using the Application for  
276 Emergency Admission for Evaluation as specified in accordance  
277 with A.R.S. §§ 36-524(D) and 36-525(A), which outlines criteria  
278 for a peace officer or other county, city, or town contracted  
279 transportation provider to apprehend and transport an individual  
280 based upon either a telephonic or written application for  
281 emergency admission.

- 282 8. An emergency admission for evaluation begins at the time the  
283 Member is detained involuntarily by the Admitting  
284 Officer ~~physician~~ who determines if there is reasonable cause to  
285 believe that the Member, as a result of a mental disorder, is a  
286 DTS, ~~or~~ DTO, PAD, or GD, and that during the time necessary to  
287 complete pre-screening procedures the Member is likely, without  
288 immediate hospitalization, to suffer harm or cause harm to  
289 others.

- 290 9. During the emergency admission period of up to 23 hours the  
291 following occurs:

292 a. The Member's ability to consent to voluntary treatment is

293 assessed;

294 ~~b.~~—The Member ~~shall~~must be offered and receive treatment to

295 which the Member may consent; otherwise, the only

296 treatment administered involuntarily will be for the safety

297 of the Member or others; ~~including~~i.e.,

298 ~~seclusion/ and restraint or pharmacological restraint in~~

299 ~~accordance with A.R.S. § 36-513,~~ and

300 ~~e.b.~~ When applicable, the psychiatrist will complete the

301 Voluntary Evaluation within 24 hours of determination that

302 the Member no longer requires an involuntary evaluation.

303 **F. COURT-ORDERED EVALUATION**

304 1. If, after review of the petition for evaluation, the Member is

305 reasonably believed to be DTS, DTO, PAD, ~~or~~ GD as a result of a

306 mental disorder, the ~~Courteourt~~ can issue an order directing the

307 Member to submit to an evaluation at a designated time and

308 place, ~~and include. The order must specify~~ whether the

309 evaluation will take place on an inpatient or an outpatient basis.

310 The ~~Courteourt~~ may also order that, if the Member does not or

311 cannot submit, the Member be taken into custody by a peace



312 officer, or other county, city, or town contracted transportation  
313 provider and delivered to an Evaluation Agency. ~~For further~~  
314 ~~requirements surrounding COEs on an inpatient basis, refer to~~  
315 ~~A.R.S. § 36-529.~~

316 2. If the Pre-Petition Screening indicates that the Member may be  
317 DTS, DTO, PAD, or GD, the Screening Agency will file a petition  
318 for COE.

319 ~~2.~~ 3. When, through an IGA with a county, the designated  
320 agency AdSS is contracted to provide COE, they ~~shall~~must adhere  
321 to the following requirements when conducting COEs:

322 a. A Member who is reasonably believed to be a DTS, DTO,  
323 PAD, or GD, as a result of a mental disorder, ~~shall~~must  
324 have a petition for COE prepared, signed and filed by the  
325 Medical Director of the agency or designee.~~.~~

326 b. A Member admitted to an Evaluation Agency must receive  
327 an evaluation as soon as possible, and receive care and  
328 treatment as required by their condition for the full period  
329 they are hospitalized.~~.~~

330 c. A clinical record ~~shall~~must be kept for each Member that

331 details all medical and psychiatric evaluations and all care  
332 and treatment received by the Member.<sup>7</sup>

333 d. An inpatient evaluation must be completed within a  
334 72-hour period. Holidays and weekends do not count  
335 in this evaluation-hour period. A Member shall be  
336 released within this 72-hour period. ~~A Member being~~  
337 ~~evaluated on an inpatient basis shall~~ must be released  
338 within 72 hours, not including weekends or court  
339 holidays, if further evaluation is determined by the  
340 Admitting Officer or provider as not appropriate,  
341 unless the Member agrees to a Voluntary Evaluation or  
342 additional care that ensures their safety, ~~makes~~  
343 ~~application for further care~~ and treatment on a  
344 voluntary basis, or unless an application for COT has  
345 been filed, ~~and~~

346 e. An ~~On a daily basis, at minimum, an~~ evaluation shall ~~must~~  
347 be conducted on a daily basis throughout the COE process  
348 for the purpose of determining if a Member desires to be  
349 switched to a voluntary status or qualifies for discharge.

350 For information on individuals being released from COE,

351 ~~and on COE dispositions, refer to A.R.S. § 36-531.~~

352 **G. VOLUNTARY EVALUATION**

353 1. The AdSS shall require behavioral health providers who receive  
354 an application for Voluntary Evaluation to immediately refer the  
355 Member to a facility responsible for Voluntary Evaluations. The  
356 Voluntary Evaluation may be on an inpatient or outpatient  
357 basis. Voluntary Evaluation may be carried out only if chosen  
358 by the Member during the course of a Pre-Petition Screening  
359 after an application for evaluation has been made.

360 2. When a Member consents to Voluntary Evaluation, the  
361 evaluating agency shall follow these procedures:

- 362 a. Obtain the Member's informed consent prior to the  
363 evaluation,
- 364 b. Provide an evaluation at a scheduled time and place within  
365 five business days of the notice that the Member will  
366 voluntarily receive an evaluation, and
- 367 c. For inpatient Voluntary Evaluations, complete evaluations  
368 in less than 72 hours, not including weekends or court  
369 holidays, of receiving notice that the Member will

370 voluntarily receive an evaluation.

- 371 3. The AdSS ~~shall~~must require behavioral health providers that  
372 conduct Voluntary Evaluation services to include the following in  
373 the ~~comprehensive~~Member's clinical record ~~as specified in~~(see  
374 AdSS Medical Policy 940):
- 375 a. A copy of the application for Voluntary Evaluation,
  - 376 b. A completed informed consent form ~~as specified in~~(see  
377 AdSS Medical Policy 320-Q), and
  - 378 c. A written statement of the Member's present medical  
379 condition.

380 **H. COURT-ORDERED TREATMENT FOLLOWING CIVIL PROCEEDINGS**

- 381 1. Based on the COE, the evaluating agency may petition for COT.  
382 ~~The As specified in A.R.S. §§ 36-501 et seq., the~~ AdSS ~~shall~~must  
383 require behavioral health providers to follow these procedures:
- 384 a. Upon determination that a person is DTS, DTO, PAD, or  
385 GD, and if no alternatives to COT exist, the medical  
386 director of the agency that provided the COE shall file a  
387 petition with the court for COT.
  - 388 b. Any behavioral health provider filing a petition for COT

- 389 must do so in consultation with the Member’s clinical team  
390 prior to filing the petition.
- 391 c. The petition shall be accompanied by the affidavits of the  
392 two physicians who conducted the examinations during the  
393 evaluation period and by the affidavit of the applicant for  
394 the evaluation.
- 395 d. In cases of DTS, DTO, PAD, or GD, a copy of the petition  
396 shall~~must~~ be mailed to the public fiduciary in the county of  
397 the Member’s residence, or the county in which the  
398 Member was found before evaluation, and to any person  
399 nominated as Health Care Decision Maker/guardian/legal  
400 representative if one is either requested or identified as  
401 being necessary as part of the COE or/— COT process. In  
402 addition, a copy of all petitions shall~~must~~ be mailed to the  
403 superintendent of the Arizona State Hospital.
- 404 2. For information regarding court options for treatment, release, discharge,  
405 annual reviews, or COT violations, refer to A.R.S. ~~§~~ 36-540 et seq. For  
406 requirements relating to Judicial Review, refer to~~see~~ A.R.S. §§ 36-546  
407 and 36- 546.01.

408 3. For COT relating to driving under the influence, domestic  
409 violence, or other criminal offenses, refer to AdSS Operations  
410 Policy 423.

411 **I. INDIVIDUALS WHO ARE TITLE XIX/XXI ELIGIBLE OR**  
412 **DETERMINED TO HAVE A SERIOUS MENTAL ILLNESS**

413 When a Member referred for COT is Title XIX/XXI eligible and/or  
414 determined or suspected to meet criteria for, ~~have an an~~ SMI  
415 designation, the AdSS ~~shall~~must:

- 416 a. Conduct an evaluation to determine if the Member meets  
417 the criteria for~~has an an~~ SMI designation, as specified ~~in~~  
418 ~~accordance with the~~ AdSS Medical Policy 320-P, and  
419 conduct a behavioral health assessment to identify the  
420 Member's service needs, in conjunction with the Member's  
421 clinical team, as specified in the AdSS Medical Policy 320-  
422 O.
- 423 b. Provide necessary COT and other covered behavioral  
424 health services in accordance with the Member's needs, as  
425 determined by the Member's clinical team, family  
426 members, other involved parties.
- 427 c. Perform, either directly or by contract, all treatment

428 required by A.R.S. Title 36, Chapter 5, Article 5, and 9

429 A.A.C. 21, Article 5.

430 **I. COURT-ORDERED TREATMENT FOR AMERICAN INDIAN TRIBAL**  
431 **MEMBERS IN ARIZONA**

432 1. Arizona tribes are sovereign nations and tribal courts have  
433 jurisdiction over their members residing on reservation. Tribal  
434 court jurisdiction, however, does not extend to tribal members  
435 residing off the reservation or to [State](#) issued COE or COT due  
436 to a behavioral health crisis occurring off reservation.

437 2. Several Arizona tribes have adopted procedures in their tribal  
438 codes, which are similar to Arizona law for COE and COT,  
439 however, each tribe has its own laws that must be followed for  
440 the tribal court process.

441 3. Additional information on the history of the tribal court process,  
442 legal documents and forms, a diagram of payment structures, as  
443 well as contact information for the tribes, tribal liaisons, TRBHAs,  
444 and tribal court representatives can be found on the AHCCCS  
445 website under Tribal Court Procedures for Involuntary  
446 Commitment.

- 447 . Tribal (COT) for American Indian tribal members in Arizona  
448 is initiated by the tribal behavioral health staff, the tribal  
449 prosecutor, or other individuals as authorized under tribal  
450 laws. In accordance with tribal codes, tribal members who  
451 may be a danger to themselves or others and in need of  
452 treatment due to a mental disorder are evaluated and  
453 recommendations are provided to the tribal judge for a  
454 determination of whether tribal COT is necessary. Tribal  
455 court orders specify the type of treatment needed.
- 456 b. Since many tribes do not have treatment facilities on  
457 reservation to provide the treatment ordered by the  
458 tribal court, tribes may need to secure treatment off  
459 reservation for tribal members. To secure COT off  
460 reservation, the court order must be “recognized” or  
461 transferred to the jurisdiction of the [Statestate](#).
- 462 c. The process for establishing a tribal court order for  
463 treatment under the jurisdiction of the [Statestate](#) is a  
464 process of recognition or “enforcement” of the tribal court  
465 order (see A.R.S. § 12-136). Once this process occurs, the  
466 [Statestate](#) recognized tribal court order is enforceable off



467 reservation. The Statestate recognition process is not a  
468 rehearing of the facts or findings of the tribal court.  
469 Treatment facilities must provide treatment as identified by  
470 the tribe and recognized by the Statestate. AMPM 320-U  
471 Attachment B is a flow chart demonstrating the  
472 communication between tribal and state entities in  
473 accordance with A.R.S § 12-136  
474 d. Contractors and providers shall comply with notice  
475 requirements as specified in A.R.S. § 12-136(B) and A.R.S.  
476 § 36-541.01.  
477 e. The Contractors and providers shall comply with Statestate  
478 recognized tribal court orders for Title XIX/XXI and Non-  
479 Title XIX individuals with an SMI designation  
480 ~~determination~~.  
481 f. When tribal providers are also involved in the care and  
482 treatment of court ordered tribal members, ~~the~~ the  
483 ContractorsAdSS and providers shall ~~must~~ involve tribal  
484 providers to ensure the coordination and continuity of care  
485 of the members for the duration of COT and when  
486 members are transitioned to services on the reservation,

487 as applicable. [ContractorsAdSS](#) are encouraged to enter  
488 into agreements with tribes to address behavioral health  
489 needs and improve the coordination of care for tribal  
490 members.

491 g. The enforcement process ~~shall~~[must](#) run concurrently with  
492 the tribal staff's initiation of the tribal court-ordered  
493 process in an effort to communicate and ensure clinical  
494 coordination with the appropriate AdSS. This clinical  
495 communication and coordination with the AdSS is  
496 necessary to assure continuity of care and to avoid delays  
497 in admission to an appropriate facility for treatment upon  
498 state/county court recognition of the tribal court order. The  
499 Arizona State Hospital must be the last placement  
500 alternative considered and used in this process.

501 h. The Court ~~shall~~[must](#) consider all available and appropriate  
502 alternatives for the treatment and care of the member.  
503 The Court ~~shall~~[must](#) order the least restrictive treatment  
504 alternative available [as specified in](#) ~~(A.R.S. § 36-540(B).)~~  
505 The [ContractorAdSS](#) ~~is~~[are](#) expected to partner with  
506 American Indian tribes, TRBHAs, and tribal courts in their

507 geographic service areas to collaborate in finding  
508 appropriate treatment settings for American Indians in  
509 need of behavioral health services.

510 i. Due to the options American Indians have regarding their  
511 health care, including behavioral health services, AHCCCS  
512 eligible American Indians may be covered and/or  
513 coordinate behavioral health services through an [AIHP](#),  
514 TRBHA, [Tribal ALTCS](#), ~~AIHP, Tribal Health Plan (Division for~~  
515 ~~AIHP-DDD-ALTCS members)~~, ~~AHCCCS contractor,~~  
516 ~~Tribal ALTCS~~, IHS, or 638 tribal provider.

517 **J. [REPORTING REQUIREMENTS](#) ~~Reporting Requirements~~**

518 **1.** ~~COE and COT processes, tracking,~~ and reporting shall align with  
519 ~~and adhere to~~ the requirements of A.R.S. Title 36, Chapter 5,  
520 and A.A.C. Title 9, Chapter 21, including requirements for COE  
521 and COT forms ~~prescribed as delineated~~ in A.A.C. Title 9, Chapter  
522 21, Article 5:

- 523 a. Exhibit A - Application for Involuntary Evaluation
- 524 b. Exhibit B - Petition for Court-Ordered Evaluation
- 525 c. Exhibit C - Application for Emergency Admission for
- 526 Evaluation

- 527 d. Exhibit D - Application for Voluntary Evaluation
- 528 e. Exhibit E - Affidavit
- 529 f. Exhibit F - Petition for Court-Ordered Treatment
- 530 g. Exhibit G - Demand for Notice by Relative or Victim
- 531 h. Exhibit H - Petition for Notice
- 532 i. Exhibit I - Application for Voluntary Treatment
- 533 2. The AdSS shall submit the Outpatient Commitment COT
- 534 Monitoring and Pre-Petition Screening and COE Report
- 535 deliverables to the Division as specified in the AdSS' Division
- 536 contract.

537 **K. REIMBURSEMENT**

- 538 1. Reimbursement for court-ordered screening and evaluation
- 539 services are the responsibility of the county pursuant to A.R.S. §
- 540 36-545. ~~For additional information regarding behavioral health~~
- 541 ~~services refer to 9 A.A.C. 22.~~
- 542 2. ~~The AdSS shall refer~~Refer to AdSS Operations Policy 437 ~~for~~
- 543 ~~clarification~~ regarding financial responsibility for the provision of
- 544 medically necessary behavioral health services rendered after
- 545 the completion of a COE. ~~Title XIX/XXI funds must not be used~~

\$46

~~to reimburse COE services.~~

547

3. For COEs that do not require an inpatient stay, any medically

548

necessary physical health services provided to the Member

\$49

shall be the responsibility of the AdSS ~~of enrollment.~~

550

551 Signature of Chief Medical Officer: