CalHHS
California Health & Human Services Agency

CARE Act Overview

1. What is the CARE Act?

CARE stands for Community Assistance, Recovery, and Empowerment. The CARE Act will ensure mental health and other support services are provided to the most severely impaired Californians who too often languish without the treatment they desperately need. CARE will ***divert and prevent more restrictive conservatorships or incarceration*** to connect a person in crisis with a court-ordered CARE plan or agreement for up to 12 months, with the possibility to extend for an additional 12 months. Individuals engaged in CARE plans and agreements may be prioritized for a range of services and programs, including supportive housing. The design of the CARE Act provides support and accountability for individuals with severe, untreated mental illnesses, as well as for local governments responsible for providing behavioral health services. The CARE process functions as a structure for counties to intensively engage individuals over a sustained period who may need additional support to consistently access services.

Specifically, the CARE Act is a way to allow certain people, called "petitioners," to request court-ordered treatment, services, support, and a housing plan for certain people 18 years of age or older, called "respondents," who have untreated severe mental illnesses, specifically schizophrenia or another psychotic disorder and who meet certain health and safety criteria. Petitioners are encouraged to consider alternatives to CARE Act proceedings in advance of filing a petition.

CARE Act proceedings involve assessments and hearings to determine whether the respondent meets eligibility requirements. A county behavioral health agency will be involved in the process. If the respondent meets the standards for CARE eligibility, a CARE agreement or plan may be created and, if approved, ordered by the court.

2. Who is eligible for CARE?

All eligibility determinations are case-specific and respondents must meet all of the eligibility criteria below for a petition to be considered. **Homelessness and a diagnosis alone are not sufficient to meet eligibility requirements.** While CARE respondents may and are often likely to be experiencing homelessness or housing insecurity, untreated severe mental illness and the resulting impairment is the primary driver of CARE eligibility. A respondent must meet the following criteria to be eligible for CARE:

- Have a diagnosis of a schizophrenia spectrum disorder or another psychotic disorder in the same class, as defined in the current *Diagnostic and Statistical Manual of Mental Disorders.*
- Be currently experiencing a mental illness that:
  - Is severe in degree and persistent in duration
  - May cause behavior that interferes substantially with activities of daily living, **and**
  - May lead to an inability to maintain

stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period.

- Not be clinically stabilized in ongoing voluntary treatment.

Additionally, at least one of the following must be true:

- The respondent is unlikely to survive safely in the community without supervision **and** the respondent's condition is substantially deteriorating.
- The respondent needs services and supports to prevent a relapse or deterioration that would likely result in grave disability or serious harm to the respondent or others.

The respondent's participation in a CARE plan or CARE agreement must:

- Be the least restrictive alternative necessary to ensure the respondent's recovery and stability, **and**
- Be likely to benefit the respondent.

Petitioners are required to provide facts and supporting information at the time of filing to demonstrate that a respondent is eligible for CARE Act proceedings, as laid out in form CARE-050-INFO. Supporting documentation must include either a declaration by a licensed behavioral health professional (form CARE-101) or evidence that the respondent was detained for a minimum of two intensive treatments, the most recent one within the last 60 days.

3. What rights does a respondent have?

Supporting a self-determined path to recovery and self-sufficiency is core to CARE. Respondents have the right to be informed of the proceedings, the right to take part in the proceedings, the right to be represented in all stages of the process, the right to replace the court-appointed attorney with an attorney of their choosing, the right to have a supporter of their choosing throughout the process, and other rights. The role of the supporter is to help the respondent understand, consider, and communicate decisions to ensure the respondent can make self-directed choices to the greatest extent possible. A supporter is an adult chosen by the respondent to assist them to understand, make, and express their decisions throughout navigating the CARE process. The supporter may be a friend, family member, faith leader, mentor, person with lived experience in mental health and/or substance use disorder, or other support person chosen by the respondent. The Department of Health Care Services, in consultation with disability rights groups, county behavioral health and aging agencies, individuals with lived expertise, families, racial justice experts, and other appropriate stakeholders will be providing optional training and technical resources for volunteer supporters on the CARE process, community services and supports, supported decision-making, people with behavioral health conditions, trauma-informed care, and psychiatric advance directives.

If the respondent requires translation or disability accommodations, requests can be made with the court.

4. Who can file a petition?

To file a petition, petitioners must fit one of the following categories:

- A person who lives with the respondent
- A spouse or registered domestic partner, parent, sibling, child, or grandparent of the respondent.
- A person who stands in the place of a parent to the respondent.
- The director of a hospital, or their designee, in which the respondent is or was recently

hospitalized.

- The director of a public or charitable agency, or their designee, who has within the last 30 days provided or who is currently providing behavioral health services to the respondent or in whose institution the respondent resides.
- A licensed behavioral health professional, or their designee, who is or has been supervising the treatment of or treating the respondent for mental illness within the last 30 days.
- The director of a county behavioral health agency, or their designee, of the county where the respondent resides or is found.
- A first responder.
- A judge of a tribal court located in California, or their designee.

If the petitioner lives with the respondent, is their spouse, parent, sibling, child, or grandparent, or is someone who stands in the place of a parent, they have the right to participate during the hearing to determine the merits of the petition. The court may assign these petitioners ongoing rights of notice. If the respondent agrees, the court may allow the petitioner to participate in the proceedings.

- If the petitioner is someone not on the list above, they have the right to make a statement at the hearing on the merits of the petition but will not be assigned ongoing rights.
- If the matter is dismissed and later there is a change in circumstances, petitioners may file a new petition with the court.
- If the petitioner requires translation or disability accommodations, those requests can be made with the court.

Note: After the initial appearance, the petitioner will be replaced by the director of the county behavioral health agency, or designee.

5. What happens during the CARE process?

Once a petition is filed, the court reviews it to determine if a respondent meets, or may meet, the criteria for CARE. If not, the matter is dismissed.

If the petition is not dismissed, the court orders the county to investigate and submit a report that determines if the respondent meets, or is likely to meet, CARE criteria, and includes conclusions and recommendations regarding the respondent's ability to voluntarily engage in treatment and services. If the respondent engages in services voluntarily, the matter is dismissed.

If the respondent is likely to meet the CARE criteria and does not engage in services voluntarily, the court will set an initial appearance and hearing on the merits (which may be combined if all parties agree). Before the initial appearance, the court will appoint counsel for the respondent and order the county to provide notice of the hearing to the petitioner, respondent, counsel, and county behavioral health.

If the court finds that a respondent meets the CARE Act requirements, the court will order the county behavioral health agency to work with the respondent, their attorney, and their supporter (if applicable), to participate in behavioral health treatment and determine if a CARE agreement will be possible. The court will also set a case management hearing.

If it is determined at the case management hearing that a CARE agreement is likely to be reached, a progress review hearing

will be set If it is determined that a CARE agreement is not likely to be reached, then there will be a clinical evaluation followed by a hearing to review that clinical evaluation.

If the clinical evaluation finds that the respondent is eligible, a CARE plan will be developed and reviewed in a hearing. There will then be a status review hearing at least every 60 days.

At month 11, there will be a 1-year status review hearing to determine next steps, including graduation or reappointment (which requires certain criteria be met and can only happen once). If the respondent and the court agree that graduation is appropriate, the court orders the creation of a graduation plan and schedules a graduation hearing in the 12th month. Upon successful completion and graduation by the court, the participant remains eligible for ongoing treatment, supportive services, and housing in the community to support long term recovery.

6. What is a CARE agreement or a CARE plan?

A CARE agreement and a CARE plan are written documents that specify services designed to support the recovery and stability of the respondent, which can include clinical services: behavioral health care; counseling; specialized psychotherapies, programs and treatments; stabilization medications; a housing plan; and other supports and services provided directly and indirectly through a local government entity. If included in the CARE plan or agreement, stabilization medications would be prescribed by the treating licensed behavioral health care provider, and medication management supports will be offered by the care team. The treating behavioral health care provider will work with the respondent to address medication concerns and make changes to the treatment plan as necessary. Stabilization medications may not be forcibly administered.

A CARE agreement is a voluntary agreement entered into by the respondent and the county behavioral health agency after a court has found that the respondent is eligible for the CARE process. If a CARE agreement is not reached, the court will order the creation of a CARE plan, which will include an individualized range of community-based services and supports.

If a CARE plan is ordered by the court, there will be periodic status review hearings during which progress and challenges are discussed. Adjustments to the services and supports in the CARE plan can be made to support the respondent's success.

7. What housing is available to a respondent in CARE?

Housing is an important component to CARE, since finding stability and staying connected to treatment is next to impossible while living outdoors, in a tent or a vehicle. Respondents served by CARE will need a diverse range of housing, including clinically enhanced interim or bridge housing, licensed adult and senior care facilities, supportive housing, or housing with family and friends. The court may issue orders necessary to support the respondent in accessing housing, including prioritization for these services and supports. The state made significant investments in the 2021-2022 and 2022-2023 budgets in order to support the development of supportive housing, including a $1.5 billion allocation to support Behavioral Health Bridge Housing, which will fund clinically enhanced bridge housing settings that are well suited to serving CARE respondents.

8. What is the implementation process for CARE?

All counties will participate in CARE through a phased-in approach. On October 1, 2023, Cohort 1 counties will implement CARE, including Glenn, Orange, Riverside, San Diego, Stanislaus, Tuolumne, and San Francisco, and Los Angeles on December 1. All remaining counties will begin implementation by October 1, 2024, unless the county is granted additional time by DHCS. Counties will not have an option to opt-out. To support successful implementation, CalHHS convenes regular meetings of the CARE Act Working Group to provide coordination and on-going engagement with, and support collaboration among, relevant state and local partners and other stakeholders during implementation of CARE.

9. How does CARE ensure accountability?

Accountability in care goes both ways. If a respondent cannot successfully complete a CARE plan, the Court may use existing law to ensure their safety. The CARE Act also holds local governments accountable for using the variety of funding streams available to provide care to the people who need it. If local governments do not meet their responsibilities under CARE plans, Courts have the ability to order sanctions.

10. Where can I find more information about the CARE Act?

For more information, please visit: the CalHHS CARE Act site, the DHCS CARE Act site, the Judicial Council's CARE Act site, and the Training and Technical Assistance site, where you can also sign up for updates. You can also send a message to CAREAct@chhs.ca.gov to join the CalHHS CARE Act email list for information and notifications.