CalHHS
California Health & Human Services Agency

CARE FAQ

Community Assistance, Recovery, and Empowerment (CARE) Act

Updated based on the enacted law SB 1338

What is CARE?

The CARE Act will ensure mental health services are provided to the most severely impaired Californians who too often languish without the treatment they desperately need.

CARE goes upstream to divert and prevent more restrictive conservatorships or incarceration. It connects 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.

A new approach is needed to act earlier and to provide support and accountability for individuals with severe untreated mental illnesses as well as for local governments responsible for providing behavioral health services. Through California's civil courts earlier action, support, and accountability is provided through the CARE process.

CARE provides individuals with clinically appropriate community-based services and supports that are trauma-informed and culturally and linguistically competent, including stabilization medications, wellness and recovery supports, and connection to social services and housing.

Advances in treatment models such as new longer acting antipsychotic treatments, along with the right clinical team and housing plan, can successfully stabilize and support individuals in the community who have historically suffered tremendously on the streets or during avoidable incarceration.

What are the Criteria for Participation in CARE?

CARE is NOT for everyone experiencing homelessness or mental illness; CARE focuses on people with schizophrenia spectrum or other psychotic disorders who meet specific criteria described below. The CARE process is intended to be the least restrictive alternative to help these individuals before they are committed to a State Hospital or become so impaired that they end up in an involuntary Lanterman-Petris Short (LPS) Mental Health Conservatorship.

To be eligible, a person must meet the following criteria:

- Is 18 years of age or older.
- Is currently experiencing a severe mental illness, as defined in paragraph (2) of subdivision (b) of Section 5600.3, and has a diagnosis identified in the disorder class: schizophrenia spectrum and other psychotic disorders, as defined in the most current version of the Diagnostic and Statistical Manual of Mental Disorders. This section does not

establish respondent eligibility based upon a psychotic disorder that is due to a medical condition or is not primarily psychiatric in nature, including, but not limited to, physical health conditions such as traumatic brain injury, autism, dementia, or neurologic conditions. A person who has a current diagnosis of substance use disorder as defined in paragraph (2) of subdivision (a) of Section 1374.72 of the Health and Safety Code, but who does not meet the required criteria in this section shall not qualify for the CARE process.

- Is not clinically stabilized in on-going voluntary treatment.
- At least one of the following is true:

  (1) The person is unlikely to survive safely in the community without supervision and the person's condition is substantially deteriorating.

  (2) The person is in need of services and supports in order to prevent a relapse or deterioration that would be likely to result in grave disability or serious harm to the person or others, as defined in Section 5150.

- Participation in a CARE plan or CARE agreement would be the least restrictive alternative necessary to ensure the person's recovery and stability.
- It is likely that the person will benefit from participation in a CARE plan or CARE agreement.

How do the CARE Proceedings Work?

Referral/ Petition Process

CARE proceedings begin with a petition filed by a family member, roommate, first responder, provider/clinician, public guardian, authorized representative of the county behavioral health services, adult protective services, Indian health services/ tribal courts, or the respondent. The petition is a presentation of facts supporting the petitioner's assertion that the individual meets the criteria described above.

The court may also refer respondents to CARE proceedings from assisted outpatient treatment, conservatorship proceedings, or misdemeanor proceedings pursuant to Section 1370.01 of the Penal Code.

CARE Proceedings

Once a petition is filed, the court promptly reviews the petition 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 written report within 14 days with a determination as to whether the respondent meets, or is likely to meet, CARE criteria. The written report must also include conclusions and recommendations regarding the respondent's ability to voluntarily engage in treatment and services. Counties may be granted an additional 30 days to submit this report if they are making progress to engage the respondent.

If the respondent voluntarily agrees to receive services, or if there is insufficient evidence that the respondent meets the CARE criteria, the case 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 on the petition within 14 days.

Before the initial appearance, the court appoints counsel for the respondent and orders the county to provide notice of the hearing to the petitioner, respondent, counsel, and county behavioral health.

The petitioner as well as a representative from the county behavioral health agency must be present at the initial appearance, but the respondent may waive personal appearance and appear through counsel.
A tribal representative may also be present if applicable.

If the petitioner is not the county behavioral health agency, the court will relieve the petitioner and appoint the county behavioral health agency as the substitute petitioner. A petitioner who is relieved can make a statement at the hearing on the merits of the petition. If the petitioner is a family member or roommate and the respondent consents, the court may assign ongoing rights of notice and allow for continued participation and engagement in the respondent's CARE proceedings.

A hearing on the merits of the petition is scheduled within 14 days of the initial appearance, at which time the court will determine if the respondent meets CARE criteria. If the court finds that the respondent meets the CARE criteria, the court will order the county behavioral health agency to work with the respondent, respondent's counsel, and the voluntary supporter to engage in behavioral health treatment and enter into a CARE agreement, which is a voluntary settlement agreement entered into by the parties.

Within 14 days, a case management hearing will determine if the parties have entered, or are likely to enter, into a CARE agreement. If so, the court will approve or modify the terms of the agreement and set a progress hearing for 60 days.

If not, the court will order the county behavioral health agency, through a licensed behavioral health professional, to conduct a clinical evaluation of the respondent, unless there is an existing clinical evaluation of the respondent completed within the last 30 days and the parties stipulate to the use of that evaluation.

During the clinical evaluation hearing, the county will present its findings from the clinical evaluation, and the respondent will have an opportunity to address the court in response to the evaluation. If the court finds that the respondent meets the CARE criteria, the court will order the county behavioral health agency, the respondent, and the respondent's counsel to jointly develop and submit to the court a CARE plan within 14 days.

During the CARE plan review hearing, the court reviews the proposed CARE plan and listens to all parties involved and will adopt the elements of the CARE plan that support the recovery and stability of the respondent. The court may issue any orders necessary to support the respondent in accessing appropriate services and supports, including prioritization for those services and supports, subject to applicable laws and available funding. The evaluation and all reports, documents, and filings submitted to the court shall be confidential.

Once the court approves the CARE plan, the CARE timeline begins for up to one year. The court will have status review hearings not less frequently than 60-day intervals throughout the implementation of the CARE plan. Status review hearings will provide the following information:

- Progress the respondent has made on the CARE plan.
- What services and supports in the CARE plan were provided, and what services and supports were not provided.
- Any issues the respondent expressed or exhibited in adhering to the CARE plan.
- Recommendations for changes to the services and supports to make the CARE plan more successful.

Graduation

The court will hold a one-year status hearing in the 11th month of the CARE

process to determine whether to graduate the respondent from CARE or reappoint the respondent to the program for one more year.

The respondent may elect to continue to in the program or to be graduated from the program. If they respondent elects to be graduated, 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.

If a respondent elects to remain in CARE, the respondent may request any amount of time, up to and including one additional year. The court may permit the ongoing voluntary participation of the respondent if the court finds both of the following:

- The respondent did not successfully complete the CARE plan.
- The respondent would benefit from continuation of the CARE plan.

The court will issue an order permitting the respondent to continue in the CARE plan or deny the respondent's request to remain in the CARE plan, and state its reasons on the record.

A respondent may be involuntarily reappointed to CARE only if the court finds that the individual did not successfully complete the CARE process, all services and supports required through CARE process were provided, the respondent will benefit from continuation in CARE, and the respondent currently meets criteria. Reappointment to CARE can only be once and up to one additional year.

How is Self-Determination Supported in CARE?

Supporting a self-determined path to recovery and self-sufficiency is core to CARE. Each respondent is offered legal counsel and may choose a volunteer supporter in addition to their full clinical team. The role of the supporter is to help the respondent understand, consider, and communicate decisions to ensure the respondent is able to make self-directed choices to the greatest extent possible.

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 shall provide 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.

The CARE plan ensures that supports and services are coordinated and focused on the individual needs of the respondent. A Psychiatric Advance Directive provides further direction on how to address potential future episodes of a mental health crisis that are as consistent as possible with the expressed interest of the respondent.

Why doesn't CARE include all Behavioral Health Conditions?

CARE is meant for people with a focused diagnosis that is both severely impairing and highly responsive to treatment, including stabilizing medications. Broader behavioral health redesign is being led by the Administration, so all Californians have easy access to high quality and culturally responsive behavioral health care. This includes expansion of behavioral health

capacity through treatment and workforce infrastructure improvements and reducing fragmentation in the behavioral health system.

What does a Respondent in CARE Receive?

CARE provides respondents with a clinically appropriate, community-based set of services and supports that are culturally and linguistically competent. This includes short-term stabilization medications, wellness and recovery supports, and connection to social services and housing. Respondents will also be provided with legal representation for court proceedings.

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.

In the 2021 Budget Act, the state made a historic $12 billion investment to prevent and end homelessness, included funding for new community based residential settings and long-term stable housing for people with severe behavioral health conditions. Additionally, the 2022- 2023 budget includes $1.5 billion to support Behavioral Health Bridge Housing, which will fund clinically enhanced bridge housing settings that are well suited to serving CARE respondents. CARE respondents will be prioritized for any appropriate bridge housing funded by the Behavioral Health Bridge Housing program.

What is meant by Court-ordered Stabilization Medications?

Stabilization medications may be included in the CARE plan. Court-ordered stabilization medications cannot be forcibly administered. Seeking an involuntary medication order for a respondent would be outside the proceedings and subject to existing law.

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.

Stabilizing medications will primarily consist of antipsychotic medications, which are evidence-based treatments to reduce the symptoms of hallucinations, delusions, and disorganization that cause impaired insight and judgment in individuals living with schizophrenia spectrum and other psychotic disorders. Medications may be provided as long-acting injections which reduce the day-to-day adherence challenges many people experience with daily medications.

What if a Respondent does not Participate in the Court-ordered CARE plan?

A respondent who does not participate in the court-ordered CARE plan may be subject to additional court hearing(s). If a respondent cannot successfully complete a CARE plan, the respondent may be

terminated from the CARE proceedings. They will still be entitled to all services and supports for which they are eligible. The Court may utilize existing authority under the LPS Act to ensure the respondents safety. The court will notify the county behavioral health agency and the Office of the Public Conservator and Guardian if the court utilizes that authority.

If the respondent was provided all the services and supports in the CARE plan, the respondents failure to participate in the CARE process will be considered in any subsequent hearings under the LPS Act that occur within 6 months, and shall create a presumption at that hearing that the respondent needs additional intervention beyond the supports and services provided by the CARE plan.

What if a Local Government does not Provide the Court-ordered CARE plan?

If the court finds that the county or other local government entity is not complying with court orders, the court will report that finding to the presiding judge of the superior court. If the presiding judge finds that the local government entity has substantially failed to comply, the presiding judge may issue an order imposing a fine up to one thousand dollars ($1,000) per day, not to exceed $25,000 for each individual violation.

Fines collected will be deposited in the CARE Act Accountability Fund and will be used to support the efforts of the local government entity that paid the fines to serve individuals who have schizophrenia spectrum or other psychotic disorders and who are experiencing, or are at risk of, homelessness, criminal justice involvement, hospitalization, or conservatorship.

If the court finds that the local government entity is persistently noncompliant, the presiding judge may appoint a receiver to secure court-ordered care for the respondent at the local government entity's cost. The court will consider whether there are any mitigating circumstances impairing the ability of the local government entity to fully comply with court orders, and whether they are making a good faith effort to comply.

How is CARE funded?

County behavioral health agencies are responsible for Medi-Cal Specialty Mental Health Services, substance use disorder treatment, and community mental health services.

Most respondents in CARE will be Medi-Cal beneficiaries or eligible for Medi-Cal.

For a respondent who has commercial insurance, CARE requires that a health plan reimburse the county for eligible behavioral health care costs.

Existing funding sources for CARE-related services and supports include nearly $10 billion annually for behavioral health care, including the Mental Health Services Act and behavioral health realignment funds. Additionally, various housing and clinical residential placements are also available to cities and counties, including over $14 billion in state funding that has been made available over the last two years to address homelessness. CARE process participants will be prioritized for any appropriate bridge housing funded by the Behavioral Health Bridge Housing program which provides $1.5 billion in funding for housing and housing support services.

In addition, the state will provide funding for technical assistance, data and evaluation, legal representation for the respondent, and funding to support court and county administration.

How will CARE be Evaluated?

The Department of Health Care Services (DHCS) will produce an annual CARE Act report which will include information on the effectiveness of CARE in improving outcomes and reducing disparities, homelessness, criminal justice involvement, conservatorships, and other outcomes as specified by law. The annual report will include measures to examine the impact and monitor the performance of CARE implementation. Data in the report will be stratified by age, sex, race, ethnicity, languages spoken, disability, sexual orientation, gender identity, health coverage source, and county, to the extent statistically relevant data is available.

DHCS will also contract with an independent, research-based entity to conduct an evaluation of the effectiveness of CARE. The independent evaluation shall highlight racial, ethnic, and other demographic disparities, and include causal inference or descriptive analyses regarding the impact of CARE on disparity reduction efforts.

DHCS will provide a preliminary report to the Legislature three years after the implementation date of the CARE Act and a final report to the Legislature five years after the implementation date of the CARE Act.

How will the State support Implementation?

CalHHS will convene a 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. The working group shall meet no more than quarterly and end no later than December 2026.

Will CARE be Available Statewide and When?

Yes—all counties will participate in CARE through a phased-in approach. The first cohort of counties to implement the CARE Act include the counties of Glenn, Orange, Riverside, San Diego, Stanislaus, Tuolumne, and San Francisco. This cohort will be required to implement the CARE Act by December 31 2023, with all remaining counties to begin implementation by October 1, 2024, unless the county is granted additional time by DHCS. Counties will not have an option to opt-out.

Plans will include housing. Individuals who are served by CARE will have diverse housing needs on a continuum ranging from clinically enhanced interim or bridge housing, licensed adult and senior care settings, supportive housing, to housing with family and friends.

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