

MONTGOMERY COUNTY MANAGED ASSIGNED COUNSEL MENTAL HEALTH PLAN OF OPERATION

The Montgomery County Managed Assigned Counsel MH Program (MACMH) is a program developed in accordance with a grant from the Texas Indigent Defense Commission and with Texas Code of Criminal Procedure art. 26.047. This program is specifically targeted to the legal representation of indigent defendants with mental illnesses, specifically, major depression, bipolar disorder and schizophrenia spectrum disorders.

In April 2011, Montgomery County posted a request for proposal for a non-profit entity to run the MACMH program. There were no responses. Thus, Montgomery County hired a Managing Attorney to oversee the program. The Managing Attorney will have an Administrative Assistant. The Program will have a contracted Clinician, Social Worker and Case Worker, with a maximum of two (2) Social Workers and Case Workers.

In accordance with Texas Code of Criminal Procedure, art. 26.047(c), the MACMH submits this plan of operation.

Budget for program, including salaries:

Budget Category	Costs
1) Personnel ¹	\$130,000.00
2) Fringe Benefits	\$47,956.00
3) Travel and Training	\$8,000.00
4) Equipment	\$2,100.00
5) Supplies	\$18,342.76
6) Contract Services	\$445,267.24
TOTAL	\$651,666.00²

Description of each personnel position, including program director:

The MACMH Program has two full-time employees, the Managing Attorney and an Administrative Assistant. The Program also contracts with social workers, case workers and a clinician.

¹ The County has two county employees in the MACMH, the Managing Attorney and the Administrative Assistant. The Managing Attorney's salary is \$90,000 and the Administrative Assistant's salary is \$40,000. Each county employee receives fringe benefits, including health insurance through the County. The other staff members, the clinician, social workers and case workers, are paid through the contracted services line item as they are temporary, contract employees.

² The MACMH Program is funded, in part, through a multi-year grant from the Texas Indigent Defense Commission.

Managing Attorney: The Managing Attorney acts as the manager of the program, with duties including establishment of the attorney wheel, management of the wheel, training of the attorneys on the appointment list and administrative duties of the office. Additionally, the Managing Attorney is the contact person for the grant for the Texas Indigent Defense Commission and is responsible for the reporting duties under the grant. The Managing Attorney also coordinates with Tri-County Services (formerly Tri-County MHMR) regarding staff job descriptions and the Sheriff's Department regarding videoconferencing between the jail and the Managed Assigned Counsel office so that appointed attorneys, social workers and case workers may meet with jailed defendants via videoconferencing.

The Managing Attorney also reviews the fee vouchers submitted by the appointed attorneys for payment and forwards those vouchers to the applicable court for payment.

Administrative Assistant: The Administrative Assistant (AA) is responsible for the administrative duties of the office, including purchasing, payroll and budgeting. The AA assists the Managing Attorney with the operation of the appointed attorney wheel and also the reporting requirements under the grant. The AA assists with scheduling of conferences between the attorneys, social workers and case workers and the defendants as needed, including the use of the videoconferencing equipment. The AA interacts with the public in general and acts as the first point of contact for the office.

Clinician: The Clinician performs activities at the Montgomery County Jail on behalf of the Montgomery County Managed Assigned Counsel Mental Health Program, including screening, assessment, and court liaison services, to determine eligibility of incarcerated persons to participate in Montgomery County Managed Assigned Counsel Mental Health and the Continuity of Care Court programs. Identify incarcerated persons who meet the requirements for the managed assigned counsel program and the Texas Department of State Health Services priority population definition. Coordinate intake services with current jail diversion program and Tri-County Services staff in support of diversion from jail or to community-based services upon release from jail. Participates in planning of programs, policies or objectives for own work group and department. Works closely with court appointed counsel for defendant. Assists defense counsel and case managers for defense counsel to provide advice to defense counsel about appropriate actions and alternative placements and diversions.

Social Worker: The social worker provides social work services to clients and families to include case management, psychosocial and/or resource needs assessments. The social worker participates in planning of programs, policies or objectives for own work group and department and also works closely with court appointed counsel for applicant, assists defense counsel and provides advice to defense counsel about appropriate actions regarding defendant's treatment.

Case Worker: The case worker assists the appointed defense counsel and provides advice to defense counsel about appropriate actions regarding the defendant's care. The case worker determines applicants' eligibility for a variety of social services available and/or provides other social services related to crisis intervention and short-term case management. The case worker also participates in planning of programs, policies or objectives for own work group and department.

Maximum allowable caseload for each attorney appointed to the program:

The MACMH Program is a form of a Contract Defender Program subject to the rules adopted by the Texas Indigent Defense Commission and ratified by the Texas Judicial Council, which became effective in 2007. In those rules, the following caseload standards, originally developed by the National Advisory Commission on Criminal Justice Standards and Goals in 1973, are set forth as follows:

TYPE OF CASE:	MAXIMUM CASELOAD:
Felonies	150
Misdemeanors	400
Juvenile	200
Mental Health Act	200
Appeals	25

These caseload standards are for all appointed cases, not just those cases that would fall under the MACMH program. The appointments made under the MACMH program would fall within those standards utilized by the Office of Indigent Defense. In other words, if an attorney receives 400 misdemeanor appointments by the OID, he would not be allowed additional misdemeanor appointments under the MACMH program. The attorney's appointments under the MACMH program would count towards the OID 400 cases appointment limit.

However, within the MACMH itself, the program anticipates appointment of counsel in approximately 600 cases per year. Approximately 225 persons per month are matched in the TLETS CCQ system when they are booked into the Montgomery County Jail. The TLETS CCQ system is the first mechanism used to identify defendants with mental illnesses as it shows whether a defendant has received mental health services through the state or local mental health agencies in the past. Approximately 600 of the 2,700 persons who are booked into the Montgomery County Jail are indigent. The MACMH Program intends to have at least 12 attorneys on its appointment list. Thus, the 12 attorneys would receive 50 appointments apiece, with the breakdown between misdemeanors and felonies dependent on what types of cases for which the attorney is qualified. However, one of the purposes of a managed assigned counsel program is to assign cases according to the caseload that the attorney can handle and still provide competent, effective representation to his client. Thus, the MACMH program requires the appointed attorney to notify the MACMH Managing Attorney if he cannot handle any new appointments in the event the lawyer believes his workload (both appointed and retained cases of all types) is such that he is unable to meet the basic ethical obligations required of him in the representation of a client. In the event that the attorney believes he needs to withdraw from representation in any currently pending cases, the attorney must notify the MACMH Managing Attorney of his intention to request withdrawal before filing any motion to withdraw with the appropriate court. If the attorney is allowed to withdraw, the subsequent appointment will be made through the MACMH Program. If the attorney is not allowed to withdraw, he must obey the court's order while taking all steps reasonably feasible to insure that his client receives competent and diligent representation, and the MACMH Program will provide the lawyer with

whatever additional resources can be made available to assist the lawyer in continuing to represent the client(s) in a manner consistent with the Texas Disciplinary Rules of Professional Conduct. The MACMH Program will also not assign any new cases to the attorney until such time that the attorney's caseload allows for new case appointments.

Provisions for training personnel of the program and attorneys appointed by the program

The Managing Attorney will attend the Indigent Defense symposium presented by the Texas Indigent Defense Commission. The AA will receive standard County training on administrative duties and additional training from the Texas Indigent Defense Commission on reporting requirements.

The social workers and case workers will be provided the opportunity to visit with the Travis County Mental Health Public Defender Program to visit with their counterparts and shadow their counterparts to learn more about the positions and how to carry out their duties. To the extent these staff members are licensed, they are required to maintain their license, which necessarily requires minimum, State-mandated training. Additionally, these staff members will be instructed on the office procedures and policies.

The in-house clinician is a licensed position, which requires minimum, State-mandated training in order to maintain the license. The clinician is required to maintain that license as a condition of employment and receive any required training. The clinician will be instructed on the office policies and procedures.

The Managed Assigned Counsel program will provide six (6) hours of continuing legal education to the attorneys placed on the MACMH appointment list. In fact, this is a training requirement for placement on the list. The six hours will focus on dealing with criminal cases and mental health issues. This training is in addition to the CLE requirements in place for placement on the appointment lists in Montgomery County under the Fair Defense Act.

Description of anticipated overhead costs

The initial overhead costs of the MACMH include renovation of office space in the courthouse, equipment, furniture, office technology, and startup office supplies. Reoccurring costs include an online research subscription, cell phone plans and office supplies, and seminar costs, including travel. The MACMH also anticipates initial travel costs for trips to observe and discuss other MAC programs.

Policy regarding licensed investigators and expert witnesses used by attorneys appointed by the program:

The MACMH program will use the same policy as found in the Fair Defense Act plans already in place for County and District Courts. Defendants who receive appointed counsel through the MACMH program must request investigators and expert witness through the courts as this MAC program does not have a budget for those items.

Policy to ensure that appointments are reasonably and impartially allocated among qualified attorneys.

One of the critical features of a MAC program is the continuous monitoring of caseloads of the appointed attorneys. Through this monitoring, the MACMH program will work to ensure that the caseloads are reasonably and impartially allocated. Additionally, the MACMH program will endeavor to match attorneys to the appropriate types of cases based on the attorney's skill level and, if appropriate, specialization, and to match the needs of individual clients to the appropriately skilled attorney.

Policy to ensure that an attorney appointed under the program does not accept appointment in a case that involves a conflict of interest for that attorney that has not been waived by all affected clients.

Where co-defendants both qualify for appointment of counsel from the MACMH program, the MACMH program will appoint a separate attorney to each defendant. Co-Defendants shall not be represented by appointed attorneys who are in the same law firm. No waiver of conflict from the co-defendants is acceptable.

The MACMH program will coordinate with the Appointment Designee for Indigent Defense to ensure that attorneys with a conflict of interest are not appointed to represent co-defendants of a MACMH defendant.

MACMH Program attorneys shall comply with the Texas Disciplinary Rules of Professional Conduct.