

Rule 7. Periodic Review of Orders for Commitment and Admission

(a) Initiation of review. The initial review of the commitment of a respondent committed to a facility pursuant to D.C. Code §§ 7-1303.04 or 7-1303.06 or 7-1304.06a (2003 Supp.) shall be scheduled by the Court in the commitment order or in a subsequent order of the Court. All other reviews of the status of residents may be commenced by the filing with the Court of a motion for review, or by the Court on its own motion ordering the scheduling of a hearing. The Court shall send notice of the date of the hearing to the resident, the resident's parent or guardian, attorney, advocate, and the Office of the Attorney General.

(b) Necessary documentation for consideration by Court. The Court shall order the Department of Human Services Mental Retardation and Developmental Disabilities Administration to file a comprehensive evaluation report and individual habilitation plan no later than 10 days before the date of the hearing, unless a motion for review is accompanied by a current report and plan. Both the report and the plan shall have been prepared no earlier than one year before the date of the hearing, pursuant to D.C. Code § 7-1305.04(a) (2003 Supp.). The Department of Human Services Mental Retardation and Developmental Disabilities Administration shall file this material no later than 10 days before the hearing. The Court shall thereafter send copies of the report and plan to the resident's attorney, advocate, parent or guardian, and the Office of the Attorney General. The Court may order the preparation and filing of other documentation deemed necessary and appropriate for rendering its decision in connection with the review hearing.

(c) Preparation and discovery. Upon notification of the hearing date, the advocate and the resident's attorney shall review the documents filed with the Court and shall consult with appropriate facility personnel to insure that all required documentation has been filed in a timely manner and that the attorney and the advocate are informed about the care and habilitation the resident is receiving.

(d) Independent comprehensive evaluation report and individual habilitation plan. The Court shall inform the resident and his or her attorney of the right to have prepared an independent comprehensive evaluation report and individual habilitation plan. If these are requested and the Court is satisfied that the resident is unable to afford the development of this material, the District of Columbia shall pay such costs, pursuant to D.C. Code § 7-1304.04 (2003 Supp.).

(e) Standards for review.

(1) The Court shall order the discharge of a resident whose admission was ordered prior to March 3, 1979, or whose commitment is being reviewed, unless it finds that:

(A) The resident has benefited from the habilitation;

(B) Continued residential habilitation is necessary for the resident's habilitation program;

(C) The resident is a resident of the District of Columbia; and

(D) The resident meets the requirements for commitment in D.C. Code §§ 7-1303.04(b) and 7-1303.06(a) (2003 Supp.).

(2) A respondent committed pursuant to D.C. Code § 7-1304.06a(d) (2003 Supp.) shall not be discharged if the Court finds that the respondent, if discharged, would likely cause injury to others as the result of his or her mental retardation.

(3) In determining whether the standards set forth in subparagraph (e)(1) of this rule

have been fulfilled, the Court may take into consideration the standards for admission pursuant to D.C. Code § 7-1303.02 (2003 Supp.).