



# MENTAL HEALTH COURT

## Notice of Appeal against decision of Mental Health Review Tribunal

*Mental Health Act 2000 Queensland  
Sections 321, 322 & 331*

Approved form No: MHC.04

- ◆ The following decisions may be appealed to the Mental Health Court—
  - ◆ a review decision;
  - ◆ a decision of the Mental Health Review Tribunal on a treatment application;
  - ◆ a decision of the Mental Health Review Tribunal on an application for approval that a patient move out of Queensland.
- ◆ The persons who may appeal to the Mental Health Court against one of the above decisions are—
  - ◆ a party to the proceedings for the decision – within 60 days of receiving notice of decision;
  - ◆ a person on behalf of the patient for whom the decision is made
  - ◆ the Director of Mental Health, other than if the decision is a decision to make a non-contact order – within 60 days after decision is made.
- ◆ When making this appeal a request for a stay of decision may be made pending appeal.

**BLOCK LETTERS**

The patient who is the subject of the appeal

**Patient's details**

Given name/s	Family name		
Residential address			
Town/suburb	State	<input type="text"/>	Postcode <input type="text"/>
Date of birth	<input type="text"/>	/	<input type="text"/>
	<input type="text"/>	/	<input type="text"/>
	<input type="text"/>		<input type="text"/>
or		Age	

**PLEASE PRINT**

Provide details of the Mental Health Review Tribunal decision you are appealing against

**Decision being appealed against**

Details of decision

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Date of Mental Health Review Tribunal decision  /  /

**PLEASE PRINT**

State fully the grounds of the appeal & the facts relied on

**Reasons**

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**PLEASE PRINT**

Mark  applicable box

**Request for stay of decision**

Stay of decision is requested NO  YES  *if yes, provide reasons*

If yes, provide reasons

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<b>BLOCK LETTERS</b>	<b>Notice</b>	
	Patient for whom the decision was made <input type="checkbox"/> Director of Mental Health <input type="checkbox"/> Attorney-General <input type="checkbox"/> Person on behalf of the patient <input type="checkbox"/> <i>specify relationship to patient</i> _____	
Mark <input checked="" type="checkbox"/> applicable box	Person making appeal	Signature
		Print name
	Date <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	
	Address	
Town/suburb		State <input type="text"/> <input type="text"/> <input type="text"/>
Postcode		<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Phone no. <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>		

**To: Registrar, Mental Health Court**  
 GPO Box 48, BRISBANE QLD 4001

**To be completed by Registrar, Mental Health Court**

Registrar	<b>Notice</b>	
	An appeal has been filed at the Mental Health Court.	
	Signature	<i>seal</i>
	Print name	
Date <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/>		

**To: Mental Health Review Tribunal**  
**Director of Mental Health** – other than if the decision appealed against is a decision to make a non-contact order  
**the other parties to the appeal**  
**anyone else to whom notice of the Mental Health Review Tribunal's hearing for the review or application was given**  
**administrator, authorised mental health service**



# MENTAL HEALTH COURT

## Appeals against Mental Health Review Tribunal Decisions

### Information for Patients and Other Parties

One of the functions of the Mental Health Court (the Court) is to sit as an appeal body to the Mental Health Review Tribunal (MHRT).

The Mental Health Court consists of a Judge of the Supreme Court of Queensland, assisted by two psychiatrists. The Court conducts its hearings in the Supreme Court at the Law Courts Complex, George Street, Brisbane. Appeal proceedings are not open to the public.

#### **Which decisions are appealable?**

- A review decision by the MHRT (eg The Involuntary Treatment Order is confirmed or The Forensic Order is confirmed)
- A decision by the MHRT on a treatment application (eg Electroconvulsive Therapy is approved)
- A decision by the MHRT on an application for approval for a patient move out of Queensland

#### **Who may appeal?**

- A party to the proceeding for the MHRT decision (For the definition of 'party' refer to Schedule 2 of the *Mental Health Act 2000*)
- A person on behalf of the patient for whom the MHRT decision is made
- The Director of Mental Health

#### **How to start appeal**

A notice of appeal must be in the approved form which is available by phoning the Registry, or from the Court's website ([www.courts.qld.gov.au/4428.htm](http://www.courts.qld.gov.au/4428.htm)). You must fully state the grounds of the appeal and the facts relied on.

The appeal must be lodged with the Mental Health Court Registry within 60 days after receiving written notice of the MHRT decision.

The Registry is situated on the 12<sup>th</sup> Floor, Queensland Health Building, 147-163 Charlotte Street, Brisbane Qld 4000. Alternatively applications may be mailed to The Registrar, Mental Health Court, GPO Box 48, Brisbane Qld 4001, or faxed to 07 3235 9566.

**NB.** Where the appellant is the Director of Mental Health the notice of appeal must be lodged with the MHC Registry within 28 days after the decision by the MHRT.

Office  
Mental Health Court Registry  
Level 12, Qld Health Building  
147-163 Charlotte Street  
Brisbane Qld 4000

Postal  
GPO Box 48  
Brisbane Qld 4001

Phone                      Fax  
07 3234 0703              07 3235 9566

## **What is a stay of decision?**

A stay of a decision can be considered like a suspension of the MHRT decision.

If the stay is granted by the Court, the Tribunal's decision cannot take effect until the Court hears the appeal and makes its decision.

If the stay is not granted, the Tribunal's decision will remain in effect until the Court makes its decision on the appeal.

## **Court Examination Order**

The Mental Health Court may order the person the subject of the appeal to submit to an examination by a stated psychiatrist, doctor or other health practitioner and the examining practitioner must provide a written report on the examination to the Court. The person the subject of the appeal will be notified in writing if such an examination is to occur.

## **Mental Health Court Hearing**

The Mental Health Court will rehear the case and refer to the material that was available to the MHRT and any further evidence permitted by the Court.

### ***Right of appearance***

Any party to the proceeding has a right to appear.

The person the subject of the appeal may be represented at the hearing by a lawyer or, with the leave of the Court, an agent.

A support person may also attend to help the patient express their views, wishes and interests.

A support person is not a party to the proceeding and may be the patient's allied person who advocates on their behalf or some other person granted leave to attend by the Court.

Expert witnesses (such as a treating psychiatrist) may also be called to give evidence.

## **Outcome of Hearing**

In deciding the appeal the Mental Health Court may confirm or set aside the decision appealed against.

The Court may also make new orders if a decision is made to set aside the Tribunal's decision.

The decision of the Court is final. It cannot be appealed against, reviewed, quashed or invalidated in any court.

## **Legal Representation**

It is highly recommended that the person the subject of the appeal have legal representation at Mental Health Court hearings. Legal Aid Queensland may be able to assist in this manner and can be contacted on phone 07 3238 3264. Alternatively, patients should speak to their case manager who may also be able to assist in helping obtain legal representation.