

Updated 5/2025

## What is Assisted Outpatient Treatment (AOT)?

AOT, which is also referred to as “Kendra’s law,” is court-ordered **psychiatric outpatient civil commitment**. AOT allows courts to order certain at-risk individuals with serious mental illness to comply with mental health treatment while living in the community. Because AOT is **involuntary treatment**, a referral to this program should only be considered as a last resort after all efforts have been made to encourage and support voluntary treatment.

The body of law that governs AOT is the NYS Mental Hygiene Law 9.60.

### What are the eligibility criteria for AOT?

To be eligible for AOT, the at-risk person must be:

- 18 years of age or older
- Diagnosed with a mental illness
- Unlikely to survive in the community without supervision based on a clinical determination **AND**
- Have a history of lack of compliance with treatment for mental illness which has led to:
  - Two hospitalizations for mental illness in the preceding three years **OR**
  - One act of violence towards self or others, or threats of serious physical harm to self or others, within the preceding four years.
- Be unlikely to voluntarily participate in outpatient treatment that would enable them to live safely in the community
- Based on treatment history and current behavior, need outpatient treatment to prevent a relapse or deterioration that is likely to result in serious harm to self or others **AND**
- Be likely to benefit from AOT

To be court ordered to AOT, all the items above need to be proven in civil court and supported by evidence.

### How can one make an AOT referral?

Referrals can come from almost anyone that has personal contact with the at-risk individual, including treatment providers, hospital psychiatrists, family members and others. To make a referral, contact the AOT team in the borough that the person resides. Phone numbers for these teams are located toward the end of this document. The AOT teams are helpful and will walk you through the referral process.

It is important to note that the referral and eligibility determination process takes much less time when the individual is hospitalized, and the referral is made by the **inpatient psychiatrist**. The information below describes the differences between a hospital versus a community referral.

## What happens after an AOT referral is made?

There are several phases of the AOT referral process. They are described below.

### ***The Investigation Phase***

#### **Hospital Referral**

If the individual is referred to the AOT unit by a *psychiatrist at an inpatient psychiatric unit* where the at-risk person is **currently** hospitalized, the hospital will conduct an initial *investigation*. This means that the hospital will collect and compile concrete evidence (hospital records, assessments, etc.) to show that the person meets the AOT criteria outlined above.

Once the referral and accompanying evidence is sent to the AOT team, they will review the documents and make a preliminary eligibility determination. If the AOT team determines that the referred individual appears to meet the AOT criteria, the referral application will move forward to the next phase of the process.

#### **Community Referral**

If a family member makes a referral from the community, then the AOT team will conduct the investigation. Toward this end, they will attempt to contact the referred person to ask them to voluntarily sign releases for medical records. If the referred person does not sign medical releases, AOT program staff will subpoena hospitals, clinics, and pharmacies to compel them to produce medical records needed. Unfortunately, it can take many months for courts to grant subpoenas because of the backlog of cases they manage.

Once the court grants a subpoena, the AOT team will use this subpoena to obtain the medical evidence needed to determine eligibility. It is important to understand that hospitals can take weeks or months to produce medical records, even with a subpoena. This is why it takes a long time for a community-based referral to make its way to court.

### ***The Examination Phase***

If after receiving all necessary medical records, the AOT team determines that there is enough evidence to substantiate court-ordered treatment, a psychiatric examination will take place. During the examination, the referred person has the right to legal representation by a Mental Hygiene Legal Services (MHLS) attorney, who is appointed free of charge.

#### **Hospital Referral**

If the case was referred by a hospital, the hospital psychiatrist will conduct the examination in the presence of the referred person's attorney. During the examination, the doctor must explain the purpose of the evaluation and the AOT program, the treatment that will be recommended and the consequences of not following through, should a judge grant the AOT order.

In addition, during the examination the psychiatrist will devise a treatment plan for the court to consider. This always includes:

- Community-based case-management

The treatment plan may also include other appropriate services:

- Medication compliance, including the specific medication to be taken (often long-acting intramuscular medication).
- Outpatient treatment that is appropriate to the person's needs
- Substance use treatment in the community (for dually diagnosed individuals)

### **Community Referral**

If a family or community member referred the case, then a DOHMH psychiatrist affiliated with the AOT team will conduct the examination in the presence of the person's attorney.

For community referrals, the AOT psychiatrists are sometimes unable to get the referred individual to participate in the examination. In these cases, the program gives the referred person 2 - 3 opportunities to show up voluntarily for the exam. If they do not, the AOT program obtains an "Order to Compel the Examination" from the court. When that order is granted, the sheriffs will take the person to a hospital where the exam will occur.

## ***The Hearing Phase***

### **Testifying before the Judge**

If an examination supports the need for an AOT court order, the case will proceed to a hearing. At the hearing, the examining psychiatrist will testify before the judge and make a case for court ordered treatment. The psychiatrist will present the evidence and their findings from the evaluation. In addition, the psychiatrist will present the proposed treatment plan.

The referred person has the right to be at the hearing, but they can waive that right if they choose.

Upon hearing the case, the judge will either grant the order as it was laid out, grant it with modifications, or deny the order.

If granted, an initial AOT court order can be anywhere from 6-12 months in length. When the order expires, the AOT team must return to court if they believe there should be an extension.

## **What happens when an AOT order is granted by a Judge?**

### ***Court Ordered Treatment and Monitoring***

When an AOT court order is granted, monitoring begins immediately by the court appointed care coordinator or Case Management

The case management team is supposed to see the AOT client 4 to 6 times a month. During these meetings, the team will attempt to develop a relationship with the client. They will collaborate with them to identify goals, attend treatment, and support the person in many ways. The treatment relationship that the team has with the AOT client will hopefully be a productive and positive one. The team will do what they can to establish a trusting therapeutic alliance with the AOT client. Sometimes AOT clients try to evade and avoid contact with their provider and it is difficult for the team to establish that relationship or contact them.

Every week, the case manager must report the clinical condition and compliance level of the AOT client to the AOT program staff.

### ***Significant Events***

If a “*significant event*” occurs at any time during court-ordered treatment, a member of the case management team must notify the AOT program staff immediately. A significant event includes:

- The AOT client shows sign of being a danger to self or other
- They have a psychiatric decompensation
- They are abusing substances
- They are arrested
- They are hospitalized or have an ER visit
- They are missing treatment
- They become homeless
- They are deceased

The case management team will do whatever they can to help the client through the event by supporting them or trying to collaborate with them to accept voluntary treatment. If the AOT client does not collaborate with their case management team or accept treatment, this will trigger a “removal.”

### **What happens when an AOT client does not comply with treatment?**

#### ***Removal***

A “removal” happens when an AOT client is non-adherent to the AOT court-ordered treatment, and the team is unable to collaborate with the client to develop a voluntary solution. Two psychiatrists must approve all removals.

When a removal is indicated, the AOT team will enlist the City-Wide Assistance Team (CAT) to remove the AOT client from the community and transport them to a psychiatric emergency room. The sheriff accompanies the CAT team to conduct a removal. Both the CAT team and the sheriff are trained to work sensitively and compassionately to perform an AOT removal.

Once the AOT client is in the psychiatric emergency room, it is up to the ER psychiatrists to determine if inpatient hospitalization is indicated. While the AOT and case management team will attempt to communicate with the ER psychiatrist to make a case for an involuntary hospitalization, this decision lies with the hospital. All decisions regarding involuntary hospitalization are up to the hospital psychiatrist. AOT and case management staff have no decision-making power in this regard.

### **What Happens when an AOT order expires?**

Shortly before an AOT order expires, an AOT psychiatrist will conduct a psychiatric evaluation with the client, provide feedback and let them know if they will seek a renewal order. This meeting must be held in the presence of the client’s attorney.

If the psychiatrist requests an AOT renewal, a hearing must be conducted again, and the renewal must be granted by a judge.

Another outcome is that the AOT psychiatrist can convert the case to a voluntary agreement with the client's permission. The psychiatrist will let the client know that they've done well in the program, but that it may be in the best interest of the client to continue their relationship with their team voluntarily. If all goes well during this voluntary period, then the AOT team will close the case. If the AOT client backslides, the AOT staff will request an AOT renewal.

## Conclusion

AOT can be helpful to some people. Once the client gets the right services, AOT can be a life-saving intervention. However, it is important to understand that AOT is an **intervention of last resort**. All efforts should be made to support a person seeking **voluntary treatment**.

For others, AOT may not provide the solution that you are seeking. It is important to manage your expectations when seeking an AOT order; many people on AOT have long histories of treatment rejection. Even with court-ordered treatment, there may be obstacles to getting the AOT client into treatment. That said, there have been many situations in which AOT can be the intervention that allows the client to move forward in their recovery, restore connections to family and community and find new meaning.

## Tips for concerned family members

- If your loved one is hospitalized and you would like the hospital to make a referral, the psychiatrist may be reluctant to do so -- as it may require more work from the hospital and a longer stay on their unit.
- If the hospital is unwilling to engage in a conversation with you and you believe an AOT referral is critical to your loved one's wellbeing, contact the patient advocacy department within the hospital to see if you can get a meeting with the treatment team. This can be tricky (since the hospital can only speak with a family member if the adult patient authorizes communication). That said, you can still have a "one way" conversation with the doctor, without asking for information in return. In this "one way" conversation, you can outline all the reasons why you think an AOT referral is critical to the welfare of your loved one.
- You can also advocate by providing the psychiatrist with a detailed and succinct letter that outlines all the reasons you believe an AOT referral is needed. Be sure to include why your loved one is at risk. Be specific and include recent information. Send that letter to the treating psychiatrist and cc this letter to the chief psychiatrist at the hospital. In addition, you can also contact the [Customer Relations Department at the Office of Mental Health](#).

## Assistance

To learn more about the AOT process or get guidance on how to make an AOT referral, you can contact one of the field offices where the at-risk person resides.

The contact information for the four NYC AOT Teams is:

- Manhattan & Correctional Team: 347-396-7373
- Brooklyn/Staten Island: 347-396-7374
- Queens: 347-396-7004
- Bronx: 347-396-7375

## Links for more information about her AOT Information:

- [OMH Information about AOT](#)
- [DOHMH Information about AOT](#)
- [NYC AOT Pamphlet](#)

## [About NAMI-NYC](#)

At the National Alliance on Mental Illness of New York City (NAMI-NYC), we assist thousands of families and individuals affected by mental illness annually through free education, support, and advocacy.

NAMI-NYC offers [mental health classes](#), [support and social groups](#), [family mentoring](#), and a [Helpline](#) with translation services in 180+ languages. Our support services are free regardless of income, insurance, or immigration status. Contact our Helpline M-F from 10am to 6pm and we'll connect you to NAMI-NYC services or provide you with community resources that can help you take the next step in your journey.

**Phone:** 212-684-3264

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