

# Des Moines Register

## CRIME & COURTS

# How a new Iowa program seeks to keep mentally ill people out of jail while awaiting trial



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Des Moines Register

Published 6:00 a.m. CT Aug. 12, 2024 | Updated 10:13 a.m. CT Aug. 14, 2024

## Key Points

Community Support Advocates is launching an outpatient competency restoration program, a service the state currently doesn't have.

The program aims to help mentally ill defendants charged with nonviolent offenses become competent to stand trial.

The goal is for the program to soon be fully operational and serving a dozen or more defendants at a time statewide.

*Second of a two-part series.*

Community Support Advocates has often seen its clients stuck in jail for long periods, waiting for treatment in Iowa's bottlenecked system to restore them to competency so they can face criminal charges. Now, the agency is preparing to offer those services itself.

CSA, a disability and mental health service provider that recently opened a new headquarters in West Des Moines, was the sole bidder on a 2023 request for proposals to launch an outpatient competency restoration program — a service the state currently doesn't have.

The agency has now added staff and is working to pilot the new program with a handful of test clients. The goal is to soon be fully operational and serving a dozen or more defendants at a time statewide.

The project is a natural extension of the work CSA already was doing, CEO Christina Smith told the Des Moines Register.

**Read Part 1:** Iowans found incompetent for trial wait in jail for treatment, their mental health ebbing

"It fit within our mission because we do serve a lot of individuals who we've seen struggle sitting waiting for competency," Smith said. "We've seen it's not in the best interest for their families and for the court. ... We have a really great team here who was interested in looking at where the gaps in care are for our community, and this was a really important one that was needed."

At a glance, here's how the new program came about and how it works:

## **What led to the new Iowa program to offer outpatient competency treatment?**

The request for proposals CSA answered is the fruit of an effort by the Iowa Legislature to plug a longstanding hole in the state's criminal justice and mental health systems.

Iowans charged with crimes cannot be tried or enter pleas if they are declared not mentally competent to understand the proceedings and assist in their defense. Although courts were permitted to release some detainees on pretrial release to seek competency restoration treatment, no mental health providers in Iowa have offered outpatient competency treatment programs.

That left the great majority of the defendants too mentally ill to move forward with their cases stuck in jail, often for many months, waiting for a space to open at the state's medical prison in Oakdale or at Cherokee Mental Health Institute, the only places in the state with adult inpatient competency restoration programs.

**Previously:** Man accused of killing Algona police officer may be incompetent for trial, attorney says

In 2023, though, a new state law initially proposed by the Iowa Department of Health and Human Services added outpatient competency restoration as a new "core service" required to be offered by DHHS. DHHS asked the Polk County Behavioral Health & Disability Services Department to implement an outpatient treatment program statewide, said Annie Uetz, CEO of the department.

That led to the request for proposals that Community Support Advocates answered in September. The resulting contract, which Uetz provided to the Register, anticipates paying

CSA nearly \$380,000 per year to run the program. Uetz said all of the state's mental health service regions, which get funding from DHHS, will pay for a portion of the new program's cost.

## **Who is eligible for the outpatient competency restoration program?**

The new outpatient program starting up at CSA won't be for every defendant found incompetent to stand trial. Only detainees charged with nonviolent offenses who are otherwise eligible for pretrial release will fall within its purview, although it's up to the judge overseeing each case to decide where a defendant will be sent for treatment.

While that's only a subset of the defendants found incompetent each year, each person who receives outpatient treatment is one fewer to fill the waiting lists for the existing inpatient programs, and one fewer stuck waiting in jail for a treatment opening.

**Previously:** Frustration mounts as Iowa man accused in uncle's death awaits psychiatric treatment

Melissa DuVall, the new team lead for the outpatient competency program, said the candidates most likely to succeed in the program are defendants who are willing to take medications as prescribed and engage in the treatment process and who have stable housing and people who are able to support them.

"We won't be with them 24 hours a day, but we will be meeting with them upwards of four times a week, so we're definitely there to help support in many aspects. But if they have a support person, it will help," DuVall said.

## **How does the outpatient competency treatment program work?**

CSA's outpatient competency program has several components, not only to enable defendants to understand their court proceedings, but to prevent further mental health relapses and criminal offenses.

Part of the treatment is mental health care, including psychiatric medication and therapy as appropriate. Participants will initially be seen by CSA's therapist and medication manager, but then ideally receive ongoing support from their existing mental health care providers or

be connected with new providers in their community. Telehealth appointments can also be arranged if needed.

In addition to a part-time forensic psychiatrist, the program has hired a "didactic educator" who can help defendants understand not only their specific criminal charges, but the workings of the court system and the roles played by judge, jury and other court personnel. DuVall envisions several sessions a week, in person for those in and around the Des Moines metro and remotely through a regional service coordinator for those elsewhere in the state.

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Some participants may be able to go through the program in two months or less, she said, while others could take up to 18 months to be restored to competency.

## **Are there services available after a defendant is found competent?**

Smith said that in other states that have tried similar programs, a common failure point is what comes after that. A defendant might be restored to competency temporarily, but then go off their medication or otherwise backslide and need to go through the process again. To combat that, CSA's program includes a "wraparound" approach, helping to connect participants to other social services above and beyond what they need to understand their court proceedings.

"I don't know that there's any other programs, or very many that we found, that are doing that kind of both services and the (outpatient competency restoration)," Smith said. "So our hope is that the outcomes will improve, so we're trying to not only get them restored to competency but also decrease recidivism."

Eventually, DuVall said, the goal is to have 15 people at a time rotating through the program, and she believes it's possible in time that the program may be able to expand further.

## **How many people has the program served so far?**

CSA received its first referral in the spring, and as of early July had one person receiving services under a court order and two others in process, Smith said. It hasn't always been an easy launch — the first participant was unable to complete the program, DuVall said, after

being unable to identify where they'd be living and struggling to comply with a medication regimen.

CSA and local judges both are going slowly and being careful in who they recommend to enter the program, Smith said.

"They don't want something to go wrong, and I'm OK with that," she said. "Let's just make sure that everything's in order because that's happened in other states. The first couple (cases), something bad happens, and then the community's like, no, this program shouldn't happen."

**More:** Iowa worst in the nation for state psychiatric beds, report says. How a new plan may help

Dr. Tracy Thomas, a forensic psychologist from Ames who regularly conducts competency evaluations in Iowa cases, is helping train CSA's providers and working with them on the first few pilot cases.

"We want to right now take one, two, three people, so we can keep doing the training and working on (the program)," she said. "We want to take people who are appropriate so they can be successful, and then build up to that 15 number."

The program is starting out focused on adult defendants in Polk County. Once it's up and running, Smith said, the plan is to expand the program statewide, and then to include juvenile participants.

## **What happens if a competency treatment participant isn't cooperating?**

Thomas said the program will provide regular updates to the court on participants' progress, including whether they've been restored to competency or are likely not restorable, or if they likely need a higher level of care in an inpatient setting. Case managers will quickly inform the court if there are signs a person is unable or unwilling to fully participate in their services.

"If the person no-shows for an appointment, if CSA can't contact them, if there's some significant change in their mental state that makes them not appropriate (for the program), that's going to be an immediate notification where the court can then transfer custody away from CSA," she said.

## Are judges and prosecuting attorneys on board with trying the program?

Since it's up to judges where to refer defendants for treatment, part of the outpatient program's success rests on getting judges and prosecutors on board, Thomas said.

"There are some people who have some knowledge of the program and are really excited about it because they see the backlog and they see the problems," she said. "And there are other people who don't really know what the program is, and they're saying, 'Hold up. I want to understand what this even is. I'm not going to order somebody in this program.'"

Many in the justice system are cautiously open to outpatient competency treatment. Polk County Attorney Kimberly Graham said her office "absolutely" would support placing defendants in the program "if we think it's appropriate and that it's doing good for the community."

Attorney Karen Hart Lundy, with the Des Moines public defender's office, said she would hope many of her clients, especially those charged with nonviolent drug offenses, might be eligible for the new outpatient program rather than waiting in jail for an inpatient bed to open.

"A lot of drug use goes hand in hand with mental health issues, so those would be people who might not be labeled violent," she said.

Smith said she wants judges and other partners to understand that CSA is drawing on what has and hasn't worked in other states and is ready to adapt as needed to ensure the program is a success.

"We like to try things and look at best practice and adjust. We're really flexible," she said. "... I think that's why we're a good fit for this program. We have a really good team put together, and we're used to doing wraparound, we're used to doing outcomes-based approaches, and we're used to tackling really tough problems and adjusting as things go."

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