

Patient Advocacy Program

Grave Disability

The following is a list of examples for hospital representatives to consider when preparing testimony to show grave disability criteria for involuntary holds. Keep in mind that each situation and client will be different and that there is no automatic combination of symptoms/behaviors that will lead to the upholding of grave disability criteria by the hearing officers.

At the Certification Review hearing, the hospital representative maintains the burden to prove that the patient fits criteria for a hold. Additionally, no person may be presumed to be incompetent because he or she has been evaluated or treated for mental disorder, regardless of whether such evaluation or treatment was voluntarily or involuntarily received. (W&I Code 5331)

Welfare and Institutions code section 5008 (h)(1) (A) defines the term “gravely disabled” as a condition in which a person, **as a result of a mental disorder**, is unable to provide for his or her basic personal needs for food, clothing, or shelter. Note that, the existence of a mental disorder does not, in itself, justify a finding of grave disability. (W&I Code 5008(3)).

In making a presentation to show grave disability, one should consider the individual’s ability to:

- Utilize the means available to provide for his/her basic personal needs regarding food, clothing, or shelter
- Voluntarily request and receive assistance to meet his/her personal needs
- Survive safely, without involuntary detention, with the help of family members, friends, or others who are both willing and able to help provide for the person’s basic needs regarding food, clothing, or shelter (W&I Code 5350(e)).

Below are some general ideas of issues to address when trying to determine if a client meets grave disability criteria.

	Not Gravely Disabled	Gravely Disabled
Food	No evidence of malnutrition or dehydration which can be determined to be caused by symptoms or behaviors caused by mental illness. Is adequately nourished. Eating and drinking adequate amounts of food and fluid while on the unit.	Labs which show malnutrition or dehydration. Observed, documented behavior showing inability to consume adequate amounts of food or water while on the unit, due to a mental illness.
Clothing	No evidence of medical or physical harm due to lack of clothing which can be connected to or caused by symptoms and behaviors of a mental illness. Has and wears clothing adequately to protect patient from the elements of the environment.	Public nudity or inadvertent exhibitionism which has been observed and documented and is due to a mental illness. Physical evidence of exposure to environment due mental illness symptoms which prevent the patient from wearing adequate clothing.
Shelter	No evidence that symptoms of mental illness are preventing the patient from utilizing shelter. If chronically homeless, no evidence that patient has not been or is not able to utilize available shelter resources and options due to behaviors or symptoms of a mental illness. If evicted, the eviction is NOT due to specific behaviors or symptoms of a mental illness.	Observed behaviors and symptoms of a mental illness which prevent the patient from utilizing or obtaining adequate shelter. Repeated and recent history of failure to maintain adequate shelter in the community due to behaviors and symptoms of a mental illness. Failure to maintain shelter in a manner that is safe to live in, due to symptoms of mental illness.