

(A) ANY INDIVIDUAL PROPOSED FOR INVOLUNTARY ADMISSION UNDER ~~THIS-TITLE~~ PART III OF THIS SUBTITLE SHALL BE AFFORDED A HEARING TO DETERMINE WHETHER THE INDIVIDUAL IS TO BE ADMITTED TO A FACILITY AS AN INVOLUNTARY PATIENT OR RELEASED WITHOUT BEING ADMITTED.

(B) THE HEARING SHALL BE CONDUCTED WITHIN 5 WORKING DAYS OF THE DATE OF THE INITIAL CONFINEMENT OF THE INDIVIDUAL.

(C) THE HEARING MAY BE POSTPONED FOR GOOD CAUSE, BUT IN ANY EVENT, THE HEARING SHALL BE CONDUCTED AND A DECISION MADE WITHIN 10 DAYS AFTER THE DATE OF THE INDIVIDUAL'S INITIAL CONFINEMENT.

(D) THE SECRETARY SHALL:

(1) ADOPT RULES AND REGULATIONS ON HEARING PROCEDURES; AND

(2) DESIGNATE AN IMPARTIAL HEARING OFFICER TO CONDUCT THE HEARINGS.

(E) THE HEARING OFFICER SHALL:

(1) CONSIDER ALL THE EVIDENCE AND TESTIMONY OF RECORD; AND

(2) ORDER THE RELEASE OF THE INDIVIDUAL FROM THE FACILITY UNLESS THE RECORD DEMONSTRATES BY CLEAR AND CONVINCING EVIDENCE THAT AT THE TIME OF THE HEARING EACH OF THE FOLLOWING ELEMENTS EXIST AS TO THE INDIVIDUAL WHOSE INVOLUNTARY ADMISSION IS SOUGHT:

(I) THE INDIVIDUAL HAS A MENTAL DISORDER;

(II) THE INDIVIDUAL NEEDS IN-PATIENT CARE OR TREATMENT;

(III) THE INDIVIDUAL PRESENTS A DANGER TO THE LIFE OR SAFETY OF THE INDIVIDUAL OR OF OTHERS;

(IV) THE INDIVIDUAL IS UNABLE OR UNWILLING TO BE VOLUNTARILY ADMITTED TO THE FACILITY;

(V) THERE IS NO AVAILABLE LESS RESTRICTIVE FORM OF INTERVENTION THAT IS CONSISTENT WITH THE WELFARE AND SAFETY OF THE INDIVIDUAL; AND

(VI) IF THE INDIVIDUAL IS 65 YEARS OLD OR OLDER, THE INDIVIDUAL HAS BEEN EVALUATED BY A GERIATRIC EVALUATION TEAM AND NO LESS RESTRICTIVE FORM OF CARE OR TREATMENT WAS DETERMINED BY THE TEAM TO BE APPROPRIATE.