

THE LEGAL RIGHTS OF PATIENTS AT INPATIENT PSYCHIATRIC FACILITIES AND INSTITUTIONS: The Special Case of Conditional Extension Pending Placement (CEPP) Status

What is CEPP?

Conditional Extension Pending Placement (CEPP) is a legal status for patients in psychiatric hospitals. A person is placed on CEPP status when they no longer meet the legal standard for involuntary commitment, but there are no appropriate available housing placements for the individual in the community. The person assigned CEPP status remains at the psychiatric hospital until an “appropriate placement” is found.

The legal status was created in 1983 by the New Jersey Supreme Court in the case *In Re S.L.* (94 N.J. 128 (1983)) and has since been codified in New Jersey court rules.

How is a patient assigned CEPP status?

CEPP status can only be issued by a court at a commitment review hearing or periodic review hearing. The treatment team does not get to decide on their own that the person should be on CEPP status.

What happens at a commitment review or periodic review hearing?

1. At the hearing, the court first hears evidence as to whether the person still meets the commitment standard. If the person does not meet the commitment standard, the court hears evidence as to whether an appropriate placement is available for discharge.
2. The judge hears evidence from both the hospital and the patient regarding the availability of a placement.
 - If the hospital believes an appropriate placement is not available, the primary employee of the hospital responsible for the patient’s placement must present a written report at least one day before the hearing to the court and all parties.

3. If the judge determines that an appropriate placement is available, the court orders that the person be discharged to that placement. The person must be discharged no later than 48 hours or the end of the next working day, whichever is later.
4. If, however, the judge determines that an appropriate placement is not available, the court enters an order conditionally extending the patient's hospitalization until an appropriate placement is found. The judge also schedules a placement review hearing no later than 60 days from the date of the order.

What are my rights in a commitment review or placement review hearing?

- **The right to an attorney:** Patients have the right to counsel in placement review hearings. The Division of Mental Health Advocacy of the Office of the Public Defender provides representation in periodic review hearings and can be reached at 1-877-285-2844.
- **Due process rights:** Patients have constitutional rights to fairness in all commitment hearings, including placement review hearings. At a commitment review or placement review hearing:
 - The judge must use the same standard and procedures they used at the initial involuntary commitment hearing. Talk to your attorney if you think the judge used different rules in your commitment review hearing than in your initial commitment hearing.
 - The judge must state findings of fact and conclusions of law on the record; they can't just order a status without citing evidence. Essentially, the judge must "show their work" so that the patient can challenge the order if they disagree with it. If the judge did not state the reasons for their decision during the hearing, talk to your attorney.

What is an appropriate placement?

According to New Jersey courts, a placement is appropriate for a psych hospital patient who is ready for discharge if the patient will have the "capacity to survive" in the placement.

- This is a very low standard. It means that almost any available placement can be considered an appropriate placement.
- Courts have provided additional guidance on what an appropriate placement is:

- If the hospital fails to arrange community-based services for a patient who has an appropriate placement, the person should be discharged to the placement and not placed on CEPP status.
- A placement does not have to be “ideal” to be an appropriate placement.
- A temporary living arrangement with family is an appropriate placement.
- Occasional refusal to take meds, or if diabetic, to do blood sugar testing, does not mean that a patient lacks the “capacity to survive.” Therefore, if an appropriate placement is available, the patient should be discharged.
- If a patient
 - no longer meets the commitment standard,
 - an appropriate placement is available, and
 - the person is not on Sexually Violent Person status, the hospital cannot put in place extra requirements that the person must meet before they can be discharged. If you are on CEPP status and the hospital wants you to meet extra requirements before discharge, speak to the attorney handling your discharge and commitment review hearing.

What are the rights of a patient on CEPP status in a psychiatric hospital?

- Patients on CEPP status have due process rights regarding transfer to a more restrictive environment. If the state wants to transfer a patient to a more restrictive placement, they must give the patient notice of this decision and an opportunity to challenge it. This applies even if the patient is on Sexually Violent Predator status.
 - If you are on CEPP status and the hospital tells you they want to transfer you to a more restrictive location, you can assert your right to notice and an opportunity to challenge the decision. Ask an advocate for help if you need it.
- Patients on CEPP status are subject to the level system, but should be on “the highest level that provides the necessary supervision.” This means that if you are on CEPP status, you should be on the least restrictive level possible that still gives you the support and supervision you need.
- The treatment team must document the reasons for a level change in writing in a patient’s record. This means that the treatment team cannot change a patient’s level without writing down the reasons why.
 - If you are told your level has changed, ask for your record or have an advocate help you ask for your record.
- All patients, including patients on CEPP status, have a right to discharge planning.

- Discharge planning is supposed to begin long before a patient is on CEPP status. In fact, if you no longer meet the commitment standard, the hospital can “administratively discharge” you without a court hearing.
 - If discharge planning has not started before you are ordered on CEPP status, it must begin immediately once you are on CEPP status.
- The hospital must actively work to prepare patients for discharge. This means that they must provide you supports and services that will help prepare you to live outside the hospital.
- The Division of Mental Health Advocacy of the Office of the Public Defender provides representation related to discharge planning for patients and can be reached at 1-877-285-2844. However, you can also contact Disability Rights New Jersey at 609-292-9742 if you have questions.