

## LME/MCOs and MDEs

### What is an LME/MCO?

It often feels like the mental health, developmental disabilities, and substance abuse (MH/DD/SA) fields and acronyms go hand in hand. These acronyms can be confusing and intimidating to people who are not intimately familiar with this area of the law and practice. This confusion is exacerbated by the fact that over the last few decades, there have been a number of changes to the delivery of public MH/DD/SA services in North Carolina. One of the major changes was the creation of local management entities/managed care organizations (LME/MCOs).

The purpose of the LME/MCO is to deliver MH/DD/SA services by using primarily state and federal resources appropriated to them by state government **to authorize, pay for, manage, and monitor services provided by their network of private providers**. See Mark F. Botts, *Mental Health Services, in County and Municipal Government in North Carolina* Ch. 40, at 683 (Frayda S. Bluestein ed., 2014). As of today, there are **eight** LME/MCOs under contract with the NC Department of Health and Human Services (DHHS) to provide public MH/DD/SA services in North Carolina.

### What is an MDE?

LME/MCOs overlap with the world of incompetency and adult guardianship proceedings filed before the clerk of superior court when it comes to the preparation and assembly of multidisciplinary evaluations (MDEs). An MDE is an important tool in an incompetency proceeding under G.S. Chapter 35A that is used to **assist the court** in determining:

- The nature and extent of a respondent's capacity, and
- What type of guardianship plan and program is appropriate.

[G.S. 35A-1111\(a\)](#). A well-prepared MDE can be critical to carrying out the [purposes of G.S. Chapter 35A](#) particularly in those cases involving complicated mental health disorders, developmental disabilities, and substance abuse. Much of Chapter 35A is designed around the premise that a clerk has access to an MDE when other evidence is conflicting or otherwise deficient regarding a person's capacity and guardianship needs.

The statutory definition of an MDE contemplates a dynamic and multi-faceted evaluation that covers various areas of a person's cognitive and functional capacity. Specifically, the statute defines an MDE as an evaluation that contains current medical, psychological, and social work evaluations **as directed by the clerk** and that may include current evaluations by professionals in other disciplines, including without limitation education, vocational rehabilitation, occupational therapy, vocational therapy, psychiatry, speech-and-hearing, and communications disorders. [G.S. 35A-1101\(14\)](#).

## **The Overlap: Who prepares/assembles an MDE?**

If the clerk orders an MDE, [G.S. 35A-1111\(b\)](#) provides that the clerk **shall** order a **designated agency** to prepare, cause to be prepared, or assemble an MDE. A designated agency is defined in the statute as **the State or local human services agency** designated by the clerk in the clerk's order to prepare, cause to be prepared, or assemble a multidisciplinary evaluation and to perform other functions as the clerk may order. [G.S. 35A-1101\(4\)](#). Designated agency includes, without limitation, *State, local, regional, or area* mental health, mental retardation, vocational rehabilitation, public health, social service, and developmental disabilities agencies, and diagnostic evaluation centers. *Id.*

While a number of entities are listed as possible designated agencies, in practice, county departments of social services and LME/MCOs tend to be used to fulfill this role. LME/MCOs tend to be called on when complicated questions arise related to the respondent's mental health, developmental disabilities, or substance abuse. Private providers, including private psychologists, psychiatrists, and other private clinicians, do not clearly fall within the definition of "designated agency."

## **How does the clerk order an MDE?**

To order the MDE, the clerk may use [AOC form SP-901M](#), the Request and Order for Multidisciplinary Evaluation. In the order, the clerk **must order a designated agency** to prepare, cause to be prepared, or assemble an MDE. If the clerk identifies an LME/MCO as the designated agency in the order, the clerk should specifically name the LME/MCO that provides services to the clerk's particular county. Each of the eight LME/MCOs serves a defined group of counties. The most up to date coverage areas by county and contact information for each LME/MCO can be found on the DHHS website [here](#). Certain state level staff members at DHHS are also assigned as liaisons to the LME/MCOs and can provide additional assistance to clerks if there is a need to develop communication channels with an LME/MCO. A list of those DHHS staff members and their contact information is found at the bottom of the map available [here](#).

## **Who pays for an MDE?**

Once an MDE is completed, the clerk has the authority to enter an order regarding who is required to pay the costs of an MDE. [GS 35A-1116\(b\)](#). The clerk must assess the costs as follows:

1. To the respondent if the respondent is adjudicated incompetent and is not indigent,
2. To the DHHS if the respondent is adjudicated incompetent and is indigent, and
3. To either party, apportioned among the parties, or to DHHS, in the clerk's discretion, if the respondent is not adjudicated incompetent.

*Id.*

If the clerk orders a person or entity other than a designated agency to prepare an MDE, it creates a tenuous position when it comes to paying for the costs of an MDE. The person ordered to pay for an MDE risks not being in compliance with an order of the court if they do not pay the cost; the clerk risks having the order assessing the costs of an MDE challenged and determined to be outside the court's authority because the clerk did not order the designated agency to prepare an MDE as is required by statute. It is not clear how an appellate court would come out on this issue if it was challenged. Therefore, to be safe, it is advisable for the clerk to name only a designated agency to prepare an MDE in order to comply with the statutory requirements. One possible option for the clerk is the LME/MCO serving the clerk's county.