

Revocation Chapter

.09 COMPETENCY CONCERNS

If there are reasons to doubt the competency of the client to participate in the revocation process prior to the final hearing, the agent should contact the Office of Hearings and Appeals to request an expedited status conference. The agent and the client's attorney may present information specific to the client's ability to understand the nature of the proceeding or to assist in defense. The Administrative Law Judge will make a determination whether to hold an informational hearing to address those concerns or, more likely, will send a Vanderbeke letter (State ex rel. Vanderbeke v Endicott, 210 Wis.2d 503) without convening a hearing to the circuit court requesting a competency evaluation.

If the client is found not competent but is likely to regain competency by the circuit court judge, the revocation, which was stayed by the ALJ, should remain stayed while the client receives treatment. The client **will receive treatment until the individual** regains competency or for a period not to exceed 12 months **from the date being found not competent**, or the maximum sentence specified for the most serious offense with which the defendant is charged, whichever is less. The client shall receive custody credit while detained or receiving treatment. Once the client regains competency, the agent should notify the ALJ and the client's attorney to resume the revocation.

If the client is found not competent or not likely to regain competency by the circuit court judge, the revocation must be withdrawn and supervision must resume. The agent should work closely with community mental health providers during the duration of supervision. Custodies due to violations may continue to occur. It is critical that the agent continue to be in close communication with mental health providers regarding disposition to the violation and subsequent case planning.