

Minnesota provides compassionate release for eligible individuals through **Conditional Medical Release**.¹

- In 2020 and 2021, due to the COVID-19 pandemic, the Department of Corrections (Department) also accepted applications for “COVID-19 Conditional Medical Release” for incarcerated individuals who were at a higher risk for “bad outcomes” if they were to contract COVID-19.² This program ended as of May 12, 2021.³

CONDITIONAL MEDICAL RELEASE

I. ELIGIBILITY

Medical Condition – To be eligible for Conditional Medical Release, an incarcerated individual must have:

- A grave illness or medical condition, and/or require extended medical management, with health care needs that would be better met by “specialized” community services;⁴ or
- A terminal condition, as determined by a physician and the Department of Corrections (Department) Medical Director, with death expected within 12 months.⁵

Additional Eligibility Requirements – In addition, release of an incarcerated individual on Conditional Medical Release must not pose a threat to the public.⁶

Exclusions – There are no specified individuals excluded from consideration.

II. APPLICATION/REFERRAL

There is no direct application process for incarcerated individuals. Instead, Department staff are responsible for identifying people who may be eligible.

- Each facility’s Health Services Administrator must evaluate the current population of incarcerated individuals on a monthly basis for Conditional Medical Release candidates.⁷
- Department rules also direct medical staff to notify the facility’s Health Services Administrator if they believe there is an individual who would be eligible for Conditional Medical Release.⁸

III. DOCUMENTATION AND ASSESSMENT

Verification: Medical Personnel – The Health Services Administrator collects data on each identified individual from the facility’s doctors and medical consultants, verifying the medical condition. The Administrator then sends that information to the Department’s Health Services Director.⁹

Processing: Health Services Director – The Health Services Director forwards the information to the Deputy Commissioner of Facility Services and notifies the Executive Officer of the Hearings and Release Unit regarding each individual who is potentially eligible for Conditional Medical Release.¹⁰

Preliminary Review/Approval: Deputy Commissioner – The Deputy Commissioner of Facility Services reviews the information and decides whether to proceed with each Conditional Medical Release request.¹¹ If approved, each request goes to a “multidisciplinary team.”¹²

Discussion/Recommendations: Multidisciplinary Team – A multidisciplinary team meets before the determination process begins to discuss each member’s roles and responsibilities.¹³ This team is also tasked with discussing and making recommendations regarding the public safety aspects of releasing an individual on Conditional Medical Release.¹⁴ Department rules state that the team must include the Health Services Administrator, Caseworker, Conditional Medical Release Monitor, Medical Release Planner, Victim Assistance Director, Victim Assistance Manager (or designee), Supervising Agent, and the Associate Warden of Operations.¹⁵

Victim Notification: Victim Assistance and Restorative Justice Program (VARJP) – VARJP Unit Staff provide notice to the victim, if appropriate. Staff may request a release of information from the incarcerated individual for victim notification purposes.¹⁶

Pre-Release Planning: Caseworker and Medical Release Manager – Once notified by the team to begin, the Caseworker has 20 working days to complete all necessary Conditional Medical Release paperwork,¹⁷ which includes the following:

- If the individual is being placed in a nursing home, the Caseworker arranges for an assessment by the social services office in the county where the person is currently incarcerated.¹⁸
- In consultation with the Medical Release Planner, as necessary, the Caseworker identifies an appropriate community placement. Either the Caseworker or Medical Release Planner can apply on the individual’s behalf once a potential placement has been identified.¹⁹

- The Department defines an “appropriate community placement” as a hospital, long-term care facility, or private home that meets the individual’s medical needs and provides an appropriate level of security.²⁰ If the individual’s care needs change, the Department may change the placement to a more appropriate community setting.²¹
- The Caseworker and Medical Release Planner complete the paperwork for health care funding (e.g., Medicaid) with or without the incarcerated individual’s assistance, and the Medical Release Planner submits it to the appropriate agencies.²²
- The Caseworker submits a request for the assignment of a Community Supervision Agent in the county of the individual’s potential community placement.²³

Reviews and Recommendations

- A Program Review Team reviews all the information in the Conditional Medical Review “packet” to make sure everything is complete and then forwards it, with a recommendation, to the Warden.²⁴
- The Warden reviews and signs the Conditional Medical Review packet and forwards it, along with a recommendation, to the Director of Health Services.²⁵
- The Director of Health Services reviews and signs the packet to ensure that (1) the individual meets the medical criteria and (2) the community placement is medically appropriate and then forwards the packet and a recommendation to the Deputy Commissioner of Facility Services.²⁶
- The Deputy Commissioner of Facility Services reviews and signs the packet and forwards it with a recommendation to the Executive Director of the Department’s Hearings and Release Unit.²⁷
- The Executive Director reviews and signs the packet to ensure an appropriate release plan has been developed and forwards the packet and a recommendation to the Deputy Commissioner of Community Services.²⁸
- The Deputy Commissioner reviews and signs the Conditional Medical Release packet, ensuring that an appropriate release plan has been developed, and forwards it with a recommendation to the Commissioner.²⁹

The recommendation process must be completed no later than five working days prior to the individual’s placement.³⁰

IV. DECISION-MAKING PROCESS

Decision-Maker – The Commissioner of the Minnesota Department of Corrections is the ultimate authority in deciding whether an individual is eligible for Conditional Medical Release.³¹

Decisions – Based on the documentation and recommendations, the Commissioner approves or denies the Conditional Medical Release.³² In making the decision, the Commissioner must consider the person’s age, medical condition and health care needs, custody classification, risk of violence, level of community supervision needed, and available community placements.³³

- An individual may not be placed on Conditional Medical Release unless the Commissioner determines that the person can pay for health care or that the health costs are likely to be covered by Medicaid, veterans’ benefits, or some other federal or state medical assistance programs.³⁴

Prerelease Planning

- Once the Commissioner makes a decision, the packet is forwarded to the Medical Release Planner, who distributes it to the Warden and Health Services Administrator at the facility housing the individual, the Executive Director of the Hearings and Release Unit, the Victim Assistance Director and Manager, the Caseworker, the Supervising Agent, and the Conditional Medical Release Monitor.³⁵
- The Caseworker completes the “reentry review” and notifies the Executive Director of the Hearings and Release Unit for final approval.³⁶

V. POST-DECISION

Denials and Appeal Rights – There is no information in state law or Department policy on appealing a Commissioner’s denial of Conditional Medical Release.

Supervision

- **Supervising Agents** – For individuals who are released to private homes, there must be “appropriate opportunities for agent surveillance and supervision.”³⁷ Supervising agents must meet with community placement contacts to inform them of an individual’s “offense characteristics” prior to the Conditional Medical Release being activated.³⁸ After that, a supervising agent is responsible for reporting any violations of release to the Department’s Hearings and Release Unit and notifying the individual’s Case Manager if the community placement changes or a different community placement is being considered.³⁹

- Medical Follow-Up – The Department’s Director of Nursing establishes a contact person in the community placement who receives the Conditional Medical Release policy and the individual’s release packet. The Director of Nursing and the contact person mutually agree to a written reporting system to ensure that the Department has current information on the individual’s health status. If the individual’s medical condition improves, the Director of Nursing must notify the Department’s Health Services Director.⁴⁰

Revocation/Termination – The Commissioner may rescind Conditional Medical Release without a hearing if an individual’s medical condition improves to the extent that (1) continuation of the Conditional Medical Release presents a risk to the public⁴¹ or (2) “medical management” is no longer needed.⁴²

- If the Director of Nursing notifies the Department’s Health Services Director that the individual’s medical condition has improved, the Health Services Director is supposed to consult with the Hearings and Release Unit Director to arrange transportation for return to a correctional facility.⁴³

The Commissioner may also revoke the individual’s Conditional Medical Release if the person violates any conditions that were set.⁴⁴

VI. REPORTING/STATISTICS

Minnesota law does not require the Department to report on how many people were granted or denied Conditional Medical Release. However, the Department has reported some data.

- In 2019, the Department reported that it was supervising nine formerly incarcerated individuals on Conditional Medical Release.⁴⁵
- In 2020, the Department released 157 individuals under the COVID-19 Conditional Medical Release rules.⁴⁶ The Department did not respond to FAMM’s request for information on the number of “regular” Conditional Medical Release requests granted in 2020.

MINNESOTA COMPASSIONATE RELEASE

PRIMARY LEGAL SOURCES

CONDITIONAL MEDICAL RELEASE

Statute

Minnesota Statutes, § 244.05, Subdivision 8 (2020), available through the Minnesota Legislature's Office of the Revisor of Statutes, <https://www.revisor.mn.gov/statutes/cite/244.05>.

Agency Policy

Minnesota Department of Corrections, Policy 203.200, Conditional Medical Release (Dec. 15, 2020), http://www.doc.state.mn.us/DocPolicy2/html/DPW_Display_TOC.asp?Opt=203.200.htm.

NOTES

* *Id.* means see prior note.

¹ Minn. Stat. § 244.05, Subd. 8; Minnesota Department of Corrections Policy (DOC Policy) 203.200.

² DOC Policy 203.200 (N).

³ Minnesota Department of Corrections, Internal Memo re: COVID Conditional Medical Release (May 12, 2021), https://mn.gov/doc/assets/COVID%20CMR%20English_tcm1089-482035.pdf. Commissioner of Corrections Paul Schnell made all final decisions regarding COVID-19 Conditional Medical Releases. According to the Department's website, 156 individuals were granted COVID-19 Conditional Medical Release in 2020.

⁴ Minn. Stat. § 244.05, Subd. 8; DOC Policy 203.200 (A) (1).

⁵ DOC Policy 203.200, Definitions and (A) (1).

⁶ Minn. Stat. § 244.05, Subd. 8; DOC Policy 203.200 (A) (3).

⁷ DOC Policy 203.200 (C) (1).

⁸ *Id.* at (C) (3).

⁹ *Id.* at (C) (2) and (C) (4).

¹⁰ *Id.* at (C) (4) through (C) (6).

¹¹ *Id.* at (C) (5).

¹² *Id.* at (D).

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id. at (E). Note that the rules do not state whether this includes providing personal medical information to the victim.

¹⁷ Id. at (F) (6).

¹⁸ Id. at (F) (1). The assessment tool is called Minnesota Choices, which is a web-based application integrating assessment and long-term services and supports planning for any Minnesotan who needs long-term care. For more information, see Minnesota Department of Human Services, MnCHOICES Assessment and Support Plan, <https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/long-term-services-and-supports/mnchoices/>.

¹⁹ Id. at (F) (2). When possible, the Case Manager identifies all possible community placements within the initial paperwork.

²⁰ DOC Policy 203.200, Definitions, “Community Placement.”

²¹ Id.

²² Id. at (F) (3).

²³ Id. at (F) (4). Note that if the incarcerated individual is eligible for community notification as a “predatory offender,” the Caseworker must schedule the case for review by the End-of-Confinement Review Committee (ECRC). Id. at (F) (5).

²⁴ Id. at (G) (1).

²⁵ Id. at (G) (2).

²⁶ Id. at (G) (3).

²⁷ Id. at (G) (4).

²⁸ Id. at (G) (5).

²⁹ Id. at (G) (6).

³⁰ Id. at (G) (7).

³¹ Minn. Stat. § 244.05, Subd. 8; DOC Policy 203.200 (G) (8).

³² DOC Policy 203.200 (G) (8).

³³ Minn. Stat. § 244.05, Subd. 8.

³⁴ Id.

³⁵ DOC Policy 203.200 (G) (8).

³⁶ Id. at (G) (9) and (G) (10).

³⁷ DOC Policy 203.200, Definitions, “Community Placement.”

³⁸ Id. at (I) (1).

³⁹ Id.

⁴⁰ Id. at (J).

⁴¹ Minn. Stat. § 244.05, Subd. 8; DOC Policy 203.200 (B).

⁴² DOC Policy 203.200 (B).

⁴³ Id. at (L).

⁴⁴ Id. at (B).

⁴⁵ Minnesota Department of Corrections, 2019 Probation Survey (April 2020), 38, https://mn.gov/doc/assets/2019%20Probation%20Survey_tcm1089-431632.pdf.

⁴⁶ Minnesota Department of Corrections, COVID-19 Updates, C19 Conditional Medical Release (C19CMR), <https://mn.gov/doc/about/covid-19-updates/>.