

Compassionate Release Report Card • October 2022

New Mexico

Overall Grade for New Mexico

Total Grade

69
/100

Letter Grade

D+

Program Grades

Medical and Geriatric Parole

Total Grade

69/100

Letter Grade

D+

Find all compassionate release resources on FAMM's site →

[famm.org](https://www.famm.org)



Medical and Geriatric Parole

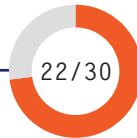
Total Grade

69 /100

Letter Grade

D+

Eligibility Criteria



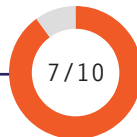
8/10 Clearly set out with understandable and measurable standards.

5/10 Generous or not unduly restrictive.

9/10 No categorical exclusions/everyone is eligible for consideration.

× **Extra credit:** Terminal illness time-left-to-live provisions are reasonable and sufficiently long to permit the completion of the review and decision-making processes. **0**

Procedures

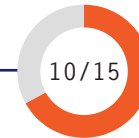


5/5 Documentation and assessment are straightforward, lacking multiple or redundant reviews and authorizations.

2/5 Time frames for completing review and/or decision-making exist and are designed to keep the process moving along.

× **Extra credit:** Expedited time frames exist for terminal cases. **0**

Engaging the Process

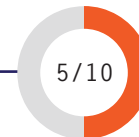


5/5 Clinical and other staff can identify potentially eligible individuals and initiate the process.

5/5 Incarcerated people, their loved ones, and advocates can initiate the process.

0/5 Corrections staff have an affirmative duty to identify incarcerated people eligible for compassionate release and take the steps necessary to begin the process.

Release Planning Support



5/5 Agencies provide comprehensive release planning.

× **Extra credit:** Release planning includes helping the incarcerated person apply for benefits prior to release, including housing, Medicaid, Medicare, and/or veterans benefits. **0**

0/5 Release planning begins early in the process.

Agency Policy Design

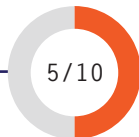


5/5 Agency rules exist for all stages of identification, initiation, assessment, and decision-making.

5/5 Agency rules are consistent with and/or complement the statute, are up to date, and internally consistent.

5/5 Rules provide clear guidance to reviewers and decision-makers about steps to take and standards to apply.

Data Collection and Public Reporting



5/5 Agencies are obliged to gather, compile, and report release data to legislature.

0/5 Reporting is made available to the public via annual reports or other means.

10/10

Right to Counsel and Appeals

0/5 UTD* Program allows counsel to represent people before decision-maker (i.e., parole board, commissioner, or court).

✘ **Extra credit:** Denials are appealable. **0**

5/5 Individuals have the right to reapply should conditions change.

+ **Extra credit:** Revocations are not used to return people to prison because their condition improves or goes into remission or because the individual outlives the prognosis. **+5**



Overall Extra Credit

+5 New Mexico's Medical and Geriatric Parole earned **extra credit** because it imposes a duty to inform incarcerated people about the existence of the program. Annually, Corrections Department Classification Officers must give every incarcerated person over age 65 a copy of the policy and a complete application form. The Department also gives those documents to people arriving at long-term care and geriatric units and provides all the materials in facility law libraries.



Overall Penalty

-10 Medical and Geriatric Parole looks better on paper than it appears to warrant. Given the thorough vetting of applicants and the narrow eligibility criteria, the New Mexico Adult Parole Board grants release to surprisingly few applicants.

The Numbers

In response to FAMM's request, the Adult Parole Board reported the following:

2019 10 people applied for Medical and Geriatric Parole; the Board granted one, denied seven, and discharged two because the individuals died.

2020 11 people applied; the Board granted one, denied nine, and discharged one because the individual died.

* UTD stands for "Unable to Determine" and is graded zero. This is when there are no rules, guidelines, regulations, or other authority that FAMM could find addressing the graded category. For example, if there are no published provisions for release planning or telling an agency how it is to evaluate an incarcerated person's eligibility, that results in a zero UTD grade.

High and Low Marks

HIGH MARKS

- New Mexico's Medical and Geriatric Parole received top grades for admirably detailed, thorough, and clear **agency policies** that guide the Department and Parole Board through processing and deciding on applications for release.
- The Board provides **release planning**, which appears to be relatively comprehensive. FAMM thinks it begins late in the process, because it is a Parole Board rather than Department responsibility, which depressed what would have been a top grade for that category.
- The Parole Board must provide a reason to denied applicants, who may **reapply** should they develop new information or their medical condition worsens.
- The program received **extra credit** because it appears that people transferred to Medical and Geriatric Parole who improve medically are not subject to revocation because they no longer meet the medical criteria.
- The Board must **report** comprehensive information about the program to the legislature.

LOW MARKS

- While the program clearly explains **eligibility criteria** (though it lacks definitions for some terms), the criteria are ungenerous. An individual cannot secure medical parole at the end of life until within six months of death. Permanent incapacitation must be total and irreversible. Only the geriatric prong (age plus chronic age-related condition) is both clear and generous.
- Given that the statute limits eligibility for people who are terminally ill to those within six months of death, the program should have fixed time frames within which individuals and offices responsible for documentation, assessment, and decision-making complete their responsibilities. While the program has a couple of deadlines, more would ensure no one dies while awaiting assessment or a decision. Not having deadlines affected the grade for **procedures**.