Washington provides compassionate release to eligible prisoners with serious medical conditions or terminal illnesses, or who are elderly, under its Extraordinary Medical Placement program. In addition, the Governor has the authority to grant Extraordinary Release to prisoners with serious health problems.

EXTRAORDINARY MEDICAL PLACEMENT

I. ELIGIBILITY

Medical Condition/Age - To be eligible for Extraordinary Medical Placement a prisoner must:

- Have a medical condition that is “serious” and expected to require costly care or treatment;
- Pose a low risk to the community because of physical incapacitation due to his or her medical condition or age.

In addition, it must be expected that granting the Extraordinary Medical Placement will result in a cost savings to the state.

Exclusions - Prisoners are not eligible for Extraordinary Medical Placement if they (1) are sentenced to death; (2) are serving a sentence of life imprisonment without the possibility of release or parole; or (3) meet the statutory definition of “persistent offender.”

- The Secretary of the Department of Corrections (Department) has discretion to grant an Extraordinary Medical Placement for prisoners serving mandatory sentences and those designated as Indeterminate Sentence Review Board (ISRB) cases.

Other Eligibility Criteria - Note that Department policy states that a prisoner will not be considered for Extraordinary Medical Placement if there are no community resources “to provide necessary care for the offender, including funding, a receiving facility/site, or family support.”

II. APPLICATION/REFERRAL

Referral - Referrals can be made to the Extraordinary Medical Placement (EMP) coordinators, generally designated staff with Health Services or Offender Programs and Classification, by the (1) prisoner; (2) prisoner’s family member; (3) attorney; (4) facility correctional staff; or (5) health care staff.
III. DOCUMENTATION AND ASSESSMENT

Screening/Health Services - The Health Services EMP Coordinator ensures the prisoner meets all of the following criteria:13

- Is seriously ill with an illness, disease, or other medical condition that is debilitating and/or incapacitating;

- Poses low risk to the community because of physical or mental incapacitation due to the medical condition, meaning he or she is unable or unlikely to engage in activities of daily living without assistance, perform gainful employment, and participate in criminal behavior;

- Requires costly care or treatment; and

- Has adequate community support to meet his or her needs, including a funding source.

If the prisoner does not meet the criteria, the Coordinator informs him or her, or the person who made the referral, by letter.14 If the individual does meet the medical criteria, the Coordinator obtains any necessary additional medical and mental health information, completes the appropriate Department forms, and contacts community support and a potential sponsor. The referral and documentation is then sent to the prisoner’s assigned Classification Counselor, the Classification EMP Coordinator, the Law Enforcement Notification Program Manager, and the Victim Services Program. 15

Screening/Classification - Once the Health Services EMP Coordinator’s documentation is received, the Classification EMP Coordinator requests the following:16

- The assignment of a Community Corrections Officer (CCO);

- An Offender Release Plan from the assigned correctional counselor;

- A mental health evaluation prepared by a psychologist or psychiatrist (if the prisoner is designated as seriously mentally ill or is an “Offender Re-entry Community Safety Program” participant); and

- A complete Custody Facility Plan, which includes the prisoner’s criminal conviction record, risk and needs assessments, and an overview of his or her current adjustment, infraction, behavior, community resources, county of origin, and any other relevant factors. If a proposed placement sponsor and/or address are available, these are also noted in the Custody Facility Plan.

Final Documentation and Planning/Health Services - The Health Services EMP Coordinator then works with the assigned Counselor to complete the community plan, which includes an evaluation of proposed living arrangements/housing and assistance with finding funding for health care and living needs.17 In addition, the Coordinator contacts the proposed sponsor
regarding the proposed placement and reviews sponsor responsibilities.\textsuperscript{18}

**Review and Recommendation/Health Community Screening Committee (Committee)** - Once the initial screening is completed and approved by both of the EMP Coordinators, the Health Services EMP Coordinator submits the case “packet” for consideration by the Committee.\textsuperscript{19} The packet includes any response or input resulting from Victim Services and law enforcement notification.\textsuperscript{20} The Committee reviews all the documentation and makes a decision/recommendation:\textsuperscript{21}

- If the Committee denies the request, facility staff notifies the prisoner, and the Headquarters Classification Unit sends a written notice to the prisoner or the individual who made the original referral.\textsuperscript{22}

- If the Committee recommends “conditional approval,” the prisoner will not be placed in the community until he or she meets the medical criteria. The Health Care Manager provides medical updates to the Health Services EMP Coordinator and, once the prisoner’s condition has deteriorated to the point she or he meets the criteria, the case is resubmitted to the Committee for review.\textsuperscript{23}

- If the Committee recommends approval, an approval letter is sent with the EMP packet to the Department’s Offender Programs and Classification Administrator for review and comment.\textsuperscript{24}

**Review/Offender Programs and Classification** - The Offender Programs and Classification office reviews the EMP packet and forwards it with the recommendation for approval to the Assistant Secretary for Prisons.\textsuperscript{25}

**Review/Assistant Secretary for Prisons** - The Assistant Secretary can deny the Extraordinary Medical Placement or forward it to the Secretary for approval. If the request is denied, the facility Health Care Manager and the prisoner’s Counselor are given the reasons for denial in writing and advised as to whether the prisoner is eligible to reapply.\textsuperscript{26} If the Assistant Secretary approves the request, it is forwarded to the Secretary.\textsuperscript{27}

**IV. DECISION-MAKING PROCESS**

**Decision Maker** - Only the Secretary of Corrections can issue final approval of an Extraordinary Medical Placement.\textsuperscript{28}

**Process** -

- If approved, the prisoner is placed according to the approved Extraordinary Medical Placement plan.\textsuperscript{29} Facility staff will notify the prisoner of the decision, followed by a written notice to the prisoner and, if appropriate, the person making the referral.\textsuperscript{30}

- Note that the approval letter authorizing the prisoner’s placement, signed by the Secretary (or a designee), is required prior to the placement at the approved residence.\textsuperscript{31}
Conditions and Pre-Release Planning

- Electronic monitoring is required for all prisoners released under the Extraordinary Medical Placement provisions unless the monitoring equipment interferes with necessary medical equipment “or results in the loss of funding for the offender’s medical care,” in which case an alternative type of monitoring will be used.\(^{32}\)

V. POST-DECISION

Supervision - The supervising Community Corrections Officer (CCO) develops an “Offender Supervision Plan” that includes recommendations for frequency and types of contacts with the former prisoner.\(^{33}\)

- The Health Services EMP Coordinator continues to monitor the medical condition of the former prisoner after placement,\(^{34}\) and the CCO can ask for a medical evaluation from the Health Services EMP Coordinator at any time.\(^{35}\)

Revocation/Termination -

- The Department can revoke an Extraordinary Medical Placement at any time\(^{36}\) because the former prisoner’s health condition has improved\(^{37}\) or because he or she violated the terms of the placement. If any violations are alleged, a revocation hearing will be conducted.\(^{38}\)

- If the former prisoner’s CCO recommends revocation, that recommendation must be made to the Secretary of Corrections.\(^{39}\)

- Once the former prisoner has reached his or her “Earned Release Date,” the supervising CCO verifies the release plan and notifies the appropriate offices and individuals regarding the new status.\(^{40}\)

VI. REPORTING/STATISTICS

The Department Secretary is directed to report annually to the state legislature on Extraordinary Medical Placements,\(^ {41}\) providing the following information:

- Number of prisoners considered for, granted, and denied an Extraordinary Medical Placement;

- The length of time between initial consideration and the placement decision for each prisoner who was granted an Extraordinary Medical Placement;

- Number of prisoners granted an Extraordinary Medical Placement who were later returned to total confinement; and

- The cost savings realized by the state.
From 2012 to 2015, the available data from the Department’s published reports indicate that 159 prisoners were considered for Extraordinary Medical Placement and 37 were approved - roughly 24 percent of those referred.  

**EXTRAORDINARY RELEASE**

Upon a recommendation from the Washington Clemency and Pardons Board (Board), the Governor may grant an “extraordinary release from incarceration” to a prisoner who has serious health problems, senility, advanced age, or other extraordinary circumstances.

**I. ELIGIBILITY**

The Board rules and the Governor’s office do not define the medical conditions that will qualify for Extraordinary Release. The only information about potentially qualifying conditions is the language of the statute: “serious health problems, senility, advanced age, or other extraordinary circumstances.”

**II. APPLICATION/REFERRAL**

A petition must be filed with the Board to start the process. The Board’s guidelines state that it receives petitions from individuals, the Department of Corrections (Department), and organizations.

**III. DOCUMENTATION AND ASSESSMENT**

**Medical Information** - The Board states that a prisoner/petitioner should provide as much detail as possible on the petition form. In addition, if the prisoner wants his or her medical records reviewed by the Board, a medical records release must be submitted with the petition.

**Review** - Each petition is reviewed by a two-person Board “preliminary review committee,” which considers whether the petition demonstrates the existence of “extraordinary circumstances” and warrants a hearing. On the vote of one member of the committee, the petition is scheduled for a hearing before the full Board.

**Notice** - The Board must provide notice to the following entities:

- Indeterminate Sentencing Review Board (ISRB) - If the ISRB determines that the prisoner/petitioner is within its jurisdiction, it provides a case analysis to the Board.

- Department of Corrections - The Department provides the Board with the prisoner’s criminal history, a “Legal Face Sheet,” and, if the case is not under ISRB jurisdiction, a case analysis.

- Prosecuting Attorney - The prosecuting attorney’s office notifies victims so they may participate in the hearing.
• The U.S. Attorney’s Office and U.S. Immigration and Customs Enforcement - If appropriate to the prisoner filing the petition, these offices will also receive notice of cases set for a hearing.  

**Hearing** - The Board considers the Petitions at regularly scheduled quarterly hearings, which are open to the public and transcribed. In addition to the petitions selected by the Board’s preliminary review committee, the Governor, Board Chair, or a majority of the Board may call a Special Hearing on a petition. At the hearing, the Board hears oral statements, deliberates, and makes a final decision concerning whether to recommend to the Governor that a petition be granted.

**IV. DECISION-MAKING PROCESS**

**Decision Maker** - The Governor makes the final decision in all Extraordinary Release cases heard by the Board.

**V. POST-DECISION**

Other than the general information on what happens after the Governor issues a pardon, available on the Board’s *Frequently Asked Questions* web page, there is no specific information available on post-decision issues for prisoners granted an Extraordinary Release by the Governor due to medical reasons.

**VI. REPORTING/STATISTICS**

There is no information available on how many prisoners have been granted an Extraordinary Release by the Governor due to medical reasons.

**NOTES**

3 Id. at (1) (c) (i) (A); see also DOC Policy 350.270, § II.C.1.
4 Wash. Rev. Code § 9.94A.728 (1) (c) (i) (B); DOC Policy 350.270, §§ I.A.3 and II.C.3-5.
5 Wash. Rev. Code § 9.94A.728 (c) (i) (C); DOC Policy 350.270, § II.C.2.
8 Wash. Rev. Code § 9.94A.728 (c) (v). See Wash. Rev. Code § 9.94A.03 for definition of “persistent offender,” generally referring to a prisoner who has been convicted of any serious felony on at least two previous occasions.
9 DOC Policy 350.270.
10 Id. at § I.A.2.
11 Id. at § II.A.
12 Id. at § II.B.
13 Id. at §§ III.A.1 - 4.
14 Id. at § III.B.

Id. at § III.E.

Id., referencing DOC Form 14-025, Responsibilities of Extraordinary Medical Placement Sponsors.

DOC Policy 350.270, § IV.A.

Id.

Id. at § IV.B.

Id. at § IV.B.1.

Id. at § IV.B.2.

Id. at § IV.B.3.

Id. at § V.A.

Id. at § V.A.1.

Id.

Id. at § V.A.

Id. at § V.A.2.

Id. at § V.B.

Id. at § VI.A.

DOC Policy 350.270, § VI.B.2.


Id. at § VI.G.

Id. at § VI.F.


DOC Policy 350.270, § VII.A. See also DOC Policy 460.130.

DOC Policy 350.270, § VII.B.

Id. at § VII.A.

Id. at § VII.A.

Wash. Rev. Code § 9.94A.728 (c) (ii). “Loss of funding” is not explained and no cross reference is given. However, in some states Medicaid has denied eligibility to individuals who are still considered to be in custody; thus, it seems that someone being electronically monitored could still be considered in custody. See also DOC Policy 350.270, § VI.B.2.


Id. at § VI.F.

Wash. Rev. Code § 9.94A.728 (c) (iv); DOC Policy 350.270 § VII.C.

Id. at § VII.A.

Id. at § VII.A.


Board Manual, § II.A.

Id.

Id. at § III.A.

Id. at § III.B.
Id., referencing Wash. Rev. Code § 9.94A.885 (3). The law requires that the prosecuting attorney of the county where the prisoner’s conviction was obtained be notified that a petition has been filed at least 30 days before a scheduled hearing. The Board may waive the 30-day requirement if needed to permit “timely action” on the petition. Id.

Board Manual, § III.B.

Id. at § III.C.

Id.

Id.

Id. at § I.