



Compassionate Release Report Card • October 2022

Mississippi

Overall Grade for Mississippi

Total Grade

31 /100

Letter Grade

F

Program Grades

	Total Grade	Letter Grade
Conditional Medical Release	22/100	F
Geriatric Parole	39/100	F

Find all compassionate release resources on FAMM's site →

fammm.org



Conditional Medical Release

Total Grade

22

 /100

Letter Grade

F

Eligibility Criteria

15/30

3/10 Clearly set out with understandable and measurable standards.

5/10 Generous or not unduly restrictive.

7/10 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

0/10

0/5 Documentation and assessment are straightforward, lacking multiple or redundant reviews and authorizations.

0/5 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

0/15

0/5 Clinical and other staff can identify potentially eligible individuals and initiate the process.

0/5 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

0/10

0/5 UTD 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

2/15

2/5 Agency rules exist for all stages of identification, initiation, assessment, and decision-making.

0/5 Agency rules are consistent with and/or complement the statute, are up to date, and internally consistent.

0/5 Rules provide clear guidance to reviewers and decision-makers about steps to take and standards to apply.

Data Collection and Public Reporting

5/10

0/5 Agencies are obliged to gather, compile, and report release data to legislature.

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

0/10

Right to Counsel and Appeals

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

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

0/5 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. **0**

* 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.

The Numbers

The Department of Corrections is not required to report information about individual Conditional Medical Release grants. However, the Department included some information in annual reports:

2019 Nine terminally ill individuals were transferred to Conditional Medical Release from July 1, 2018, to June 30, 2019, according to the Department's annual report for 2019.

2020 The annual report lists no transfers.

High and Low Marks

HIGH MARKS

- None

LOW MARKS

- **Overall**, scant information exists about Mississippi's Conditional Medical Release (CMR) program. While the program is authorized by statute, no rules or regulations exist to guide the Department of Corrections' implementation of CMR. Consequently, FAMM **failed** CMR in every grading category. What information we could glean, beyond that included in the statute, came from a Department website.
- Mississippi's CMR program received its best grade for **eligibility criteria**. People who are bedridden because they are terminally ill or because they have an incapacitating or totally debilitating medical condition qualify. The Department's website commendably gives examples of qualifying conditions. The statute and the website differ, however, about the eligibility criteria. The law requires an incarcerated person be bedridden to qualify, but the Department website (the only Department information FAMM could locate) does not mention that limitation. Moreover, other requirements, such as that the Department cannot grant CMR unless it determines the state will incur unreasonable expenses if the person's incarceration continues, lack any measure of what reasonable expenses are.
- The only publicly available information about **engaging the process** is one sentence on the Department's website stating that the individual's treating physician determines eligibility. The website is silent about who initiates the CMR process and how.
- No **agency policy** exists, and the program does not outline any **procedures**. The CMR program flunked in both those grading categories.
- FAMM could not locate any information or guidance about how the Department of Corrections documents and assesses potentially eligible individuals or determines a **release plan**, whether individuals have **appeal or reapplication rights**, or whether they may have the **assistance of counsel**, all contributing to the program's overall grading failure.

Geriatric Parole

Total Grade

39 /100

Letter Grade

F

Eligibility Criteria

19/30

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

7/10 Generous or not unduly restrictive.

2/10 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

5/10

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

0/5 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

10/15

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

0/5 Incarcerated people, their loved ones, and advocates can initiate the process.

5/5 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

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

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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

0/10

0/5 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.

5/10

Right to Counsel and Appeals

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

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

0/5 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. **0**



Overall Penalty

-15 Responding to FAMM's request for information about the number of Geriatric Paroles granted in 2019 and 2020, the Department said, "The Geriatric provision is of no consequence in Mississippi" and provided no data. We can only assume that the Department does not use Geriatric Parole.

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The Numbers

In response to FAMM's request for the number of people granted Geriatric Parole in 2019 and 2020, the Department of Corrections explained that "The Geriatric provision is of no consequence in Mississippi" and did not provide any data. We took that to mean no one secures Geriatric Parole.

High and Low Marks

HIGH MARKS

- **Eligibility criteria** for Geriatric Parole are straightforward and relatively generous: age plus time served.
- An individual becomes eligible for Geriatric Parole when within 30 days from reaching the age-plus-time-served threshold. A person need not do anything affirmative to **engage the process**, which begins automatically. Automatic engagement guarantees that potentially eligible people are not overlooked for consideration.
- Generic Parole Board laws and rules govern Geriatric Parole. **Agency policy** is relatively well-designed and lays out straightforward **procedures**, though without deadlines for the steps along the way.
- Board rules provide that **counsel may represent** individuals at Board hearings, and we assume that includes those for Geriatric Parole.

LOW MARKS

- Extensive **eligibility** exclusions probably limit the reach of Geriatric Parole. Geriatric Parole is not available to people sentenced as habitual offenders or for drug trafficking, sex offenses, and crimes of violence as well as for any offense that specifically limits parole.
- FAMM could not find any mention of **release planning support**, which is unfortunate because people who are aging on the outside can have difficulty navigating access to assisted living or signing up for public benefits. The challenges that the incarcerated elderly face are compounded by lack of access to ready communication or caseworkers. That makes it even more important that they receive assistance in securing a placement, medical care, and financial support.
- It is not clear whether people denied Geriatric Parole can **reapply** because the standard Board rules explain that the Board determines when a denied individual may apply again.