

U.S. Department of Justice

Federal Bureau of Prisons

OPERATIONS MEMORANDUM

OPI: HSD/HPB

NUMBER: 002-2015

DATE: March 25, 2015

EXPIRATION DATE: March 25, 2016

Reduction in Sentence (RIS) Criteria for Elderly Inmates with Medical Conditions

/s/

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1. PURPOSE AND SCOPE

This OM provides guidance to staff for review of inmate requests under the Program Statement **Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§ 3582(c)(1)(A) and 4205(g)**, Section (4)(b), Elderly Inmates with Medical Conditions. Specifically, this guidance addresses the medical evaluation portion of the assessment.

Following a determination that the requirements of age, percentage of sentence served, and medical criteria are met, other assessment factors related to elderly offenders with medical conditions, including the evaluation of risk that the inmate may reoffend, a current conviction for a crime listed in the Program Statement **Categorization of Offenses**, and factors outlined in Section 7 of the Program Statement **Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§ 3582(c)(1)(A) and 4205(g)**, must be addressed before the inmate can be recommended for a reduction in sentence (RIS).

The Health Services Division (HSD), with input from the Office of General Counsel, has developed the following guidance for staff to use as a tool when considering whether an inmate is appropriate for a RIS under the criteria for Elderly Inmates with Medical Conditions. O.M. 002-2015 3/25/2015 2

These criteria, as defined in the Program Statement **Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§ 3582(c)(1)(A) and 4205(g)**, Section (4)(b), require that eligible elderly inmates must be age 65 or older and have served at least 50% of their sentence. The Program Statement also specifies that eligible inmates must also:

- Suffer from chronic or serious medical conditions related to the aging process.
- Be experiencing deteriorating mental or physical health that substantially diminishes their ability to function in a correctional facility.
- Have medical conditions for which conventional treatment promises no substantial improvement to their mental or physical condition.

2. PROGRAM OBJECTIVES

This OM will assist institution medical staff in making appropriate referrals for elderly inmates with medical conditions and give a clearer understanding of how HSD reviewers will evaluate RIS requests under this criterion.

3. RESPONSIBILITIES

The first step in the review process is to establish that an inmate meets the requirement of age 65 years or older and service of 50% of his/her sentence.

After this determination is made, institution medical staff evaluate the inmate to establish that the inmate is suffering from chronic or serious medical condition(s) related to the aging process for which conventional treatment promises no substantial improvement to his/her mental or physical condition, and that the deteriorating physical or cognitive limitations substantially diminishes his/her ability to function in a correctional facility.

The following examples are medical conditions that are permanent, progressive, and ordinarily related to diseases associated with aging that substantially diminish the ability to function in a correctional facility. These conditions include but are not limited to:

- Atherosclerotic cardiovascular disease.
- Obstructive and restrictive lung diseases.
- Dementias such as Alzheimer, Lewy body dementia (LBD), and frontotemporal dementia.
- Complications of infectious diseases such as HIV dementia or progressive multifocal leukoencephalopathy.
- Degenerative neurological diseases such as ALS, Parkinson, and Huntington disease, and certain forms of multiple sclerosis.
- Severe chronic pain that persists despite optimal medical management. O.M. 002-2015 3/25/2015 3
- Chronic liver failure with recurring ascites or encephalopathy (with no possibility of transplantation).
- Chronic renal failure stage 4 or 5 (with no possibility of transplantation).
- Rheumatologic conditions that have progressed to deformity, such as rheumatoid arthritis, gout, and ankylosing spondylitis.
- Diabetes mellitus, either Type 1 diabetes or Type 2, with established retinopathy, nephropathy, or peripheral neuropathy.
- Severe musculoskeletal degeneration, such as end-stage osteoarthritis.

While an inmate may be diagnosed with one of these conditions (or another condition) that is permanent, progressive, and deteriorating, medical staff must also determine that the condition has substantially diminished the inmate's ability to function in a correctional facility.

In reviewing the functional and /or cognitive limitations that substantially diminish the inmate's ability to function in a correctional facility, the key question that should be considered and carefully documented in the RIS summary is whether there are functional or cognitive limitations evidenced by the inmate's inability to perform instrumental activities of daily living (IADL).

IADLs refer to abilities/skills that are necessary for a person to be able to live independently. IADLs involve management of, or interaction with activities in a person's environment and surroundings.

Examples of IADLs include such activities as shopping, food preparation, housecleaning and laundry, medication and money management, telephone calls, and transportation. In contrast to IADLs, activities of daily living (ADLs) involve the management of basic bodily functions and needs, such as ambulating [mobility], bathing, dressing, eating, and toileting, which are reviewed as criteria for medical debilitated inmates.

Inmates are likely to have a diminished ability to function in a correctional environment when they require assistance with IADLs from staff or other inmates with medication management, personal hygiene, doing laundry, standing count, going to pill line, callout, commissary, meals, etc. In addition, inmates with cognitive limitations who require human assistance to be reoriented to person, place, or time are likely to have diminished ability to function in a correctional environment.

A final consideration for determining whether an inmate's condition substantially diminishes his/her ability to function in a correctional facility involves the specific institution designation and degree of human assistance required for the inmate to accomplish his/her IADLs. The following factors should be considered in forming an opinion whether an inmate's condition substantially diminishes his/her ability to function in a correctional facility:

- Designated permanently to a Medical Referral Center (MRC) for medical treatment or treatment for cognitive impairment; OR O.M. 002-2015 3/25/2015 4
- Designated to a non-MRC, but due to age-related medical conditions, requires human assistance (staff or inmate) on a daily basis to accomplish IADLs such as getting to meals, pill lines, and/or callouts. This assistance should be observed and documented in the electronic health record (EHR) by health care staff. (The need for "human assistance" is independent of whether the inmate uses other assistive devices such as wheelchair, walker, reacher, hearing aids, portable oxygen, etc.); OR
- Designated to a non-MRC, but due to cognitive impairments requires human assistance (more than once a week by staff or inmate) to be reoriented to person, place, or time as observed and documented in the EHR by health care staff; OR
- Designated temporarily to an MRC for treatment, but expected to be redesignated to a non-MRC and will require human assistance for necessary IADLs in a correctional setting or being reoriented to person, place, or time.