

COMPASSIONATE RELEASE CRITERIA FOR ELDERLY INMATES WITH MEDICAL CONDITIONS

**Federal Bureau of Prisons
Clinical Guidance**

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1. PURPOSE AND SCOPE OF THIS GUIDANCE

The Federal Bureau of Prisons (BOP) *Clinical Guidance on Compassionate Release Criteria for Elderly Inmates with Medical Conditions* provides updated guidance to BOP 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 *Clinical Guidance* 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 Reduction in Sentence (RIS) requests under this category.

To be eligible for consideration, an inmate must be age 65 or older and have served at least 50% of their sentence. The *Program Statement* additionally specifies that eligible inmates must also meet all three of the following **MEDICAL CRITERIA**:

- 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. MEDICAL CRITERIA FOR COMPASSIONATE RELEASE

Once a determination has been made that the **CRITERIA FOR AGE AND PERCENTAGE OF TIME SERVED** have been met, institution medical staff evaluate the inmate to establish that the inmate meets the three **MEDICAL CRITERIA**, as described below.

A. The inmate is suffering from chronic or serious medical condition(s) related to the aging process.

The following are examples of medical conditions that are permanent, progressive, and ordinarily related to diseases associated with aging. Such conditions include, but are not limited to:

- ▶ Atherosclerotic cardiovascular disease
- ▶ Obstructive and restrictive lung diseases
- ▶ Chronic liver failure with recurring ascites
- ▶ Dementias such as Alzheimer disease, Lewy body dementia (LBD), and frontotemporal dementia
- ▶ Complications of infectious diseases such as HIV-related dementia or progressive multifocal leukoencephalopathy
- ▶ Degenerative neurological diseases such as Amyotrophic Lateral Sclerosis (ALS), Parkinson disease, Huntington disease, certain forms of multiple sclerosis, and stroke with residual neurologic deficits.

(list continues on the next page)

- ▶ Severe chronic pain that persists despite optimal medical or surgical management
- ▶ Rheumatologic conditions that have progressed to deformity such as rheumatoid arthritis, gout, and ankylosing spondylitis
- ▶ Diabetes mellitus, either type 1 or type 2, with established retinopathy, nephropathy, or peripheral neuropathy
- ▶ Severe musculoskeletal degeneration such as end-stage osteoarthritis

B. The inmate's deteriorating physical or cognitive health substantially diminishes his or her ability to function in a correctional facility.

While an inmate may be diagnosed with a 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. *Functional capacity* is commonly described in terms of a person's ability to accomplish a variety of **activities of daily living (ADLs)**. In assessing this third criterion, however, the key question to 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 ADLs (IADLs)**.

- ▶ **Basic ADLs involve the management of bodily functions and needs such as bathing, dressing, eating, toileting, and mobility.** Although ADLs are reviewed primarily as criteria for the debilitated category of compassionate release, they also contribute important information for elderly with medical RIS requests and are recommended as part of the standard assessment of such cases.
- ▶ **The term IADLs refers to abilities or skills that are necessary for a person to be able to live independently.** They involve management of, or interaction with, activities in a person's environment and surroundings. Examples of IADLs include activities such as shopping, food preparation, housecleaning and laundry, medication and money management, telephone calls, and transportation.
- ➔ *Appendices 1 and 2 are helpful tools for assessing and documenting an inmate's IADLs and ADLs, respectively.*

Inmates are likely to have a diminished ability to function in a correctional environment when they require assistance from staff or other inmates with their IADLs such as 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.

- ➔ *Consideration of the need for human assistance from staff or another inmate is independent of the type of institution (i.e., general population or Medical Referral Center [MRC]) or whether the inmate uses assistive devices such as a wheelchair, walker, reacher, hearing aids, portable oxygen, etc.*

Another potential indicator of impaired function is the need for housing on a medical or mental health unit that provides a higher level of care or intensity of service because the inmate's needs cannot be met in general population. The following designation factors should be considered in forming an opinion as to whether an inmate's condition substantially diminishes his or her ability to function in a correctional facility:

- ▶ Designated permanently to a medical or mental health unit at an MRC for medical treatment or treatment for cognitive impairment.
- ▶ Designated temporarily to an MRC for treatment, but is expected to be redesignated to a non-MRC and will then require human assistance for the IADLs that are necessary in a correctional setting or for being reoriented to person, place, or time.

C. Conventional treatment promises no substantial improvement to the inmate's mental or physical condition.

Although chronic conditions may affect an inmate's functional capabilities, appropriate treatment of these conditions may result in improved function or even a return to normal function. Assessment of this criterion is based on functional limitations that remain after maximum medical improvement has been achieved to the extent possible through treatments that are optimized in accordance with established clinical guidelines and standards of care. Treatments may include—but are not limited to—medications, surgery, occupational and physical therapy, and durable medical equipment.

APPENDIX 1. INSTRUMENTAL ACTIVITIES OF DAILY LIVING (IADLS)

This tool is useful for indicating specifically how a person is performing IADL tasks at the present time. For each task area (A–I), circle the score (1 or 0) for the statement that most closely corresponds to the inmate's current functional ability. Then, add together the task scores to arrive at the total. The scoring should be based on information gathered about the inmate from the inmate him/herself, cellmates, inmate care companions/nursing assistants, staff, and recent records.

Inmate Name:		Reg. No.:	
A. Telephone Use		F. Laundry	
	Score		Score
1. Operates telephone on own initiative; looks up and dials numbers, etc.	1	1. Does personal laundry completely.	1
2. Dials a few well-known numbers.	1	2. Launders small items; rinses socks, etc.	1
3. Unable to use telephone without human assistance.	0	3. All laundry must be done by others.	0
SCORE FOR TASK A (1 OR 0):		SCORE FOR TASK F (1 OR 0):	
B. Computer Use		G. Mode of Transportation If Released	
	Score		Score
1. Uses the computer to communicate with staff and family via email.	1	1. Able to travel independently on public transportation or drive own car.	1
2. Needs assistance to use the computer.	1	2. Able to arrange own travel via taxi, but would not otherwise be able to use public transportation.	1
3. Unable to use the computer at all.	0	3. Able to travel on public transportation when assisted or accompanied by another.	0
SCORE FOR TASK B (1 OR 0):		4. Travel would be limited to taxi or automobile with assistance of another.	
C. Shopping		5. Would not travel at all.	
	Score	SCORE FOR TASK G (1 OR 0):	
1. Able to complete commissary list and manage commissary independently.	1	H. Responsibility for Own Medications	
2. Needs assistance to complete commissary list and managing commissary.	0		Score
3. Needs to be accompanied to commissary for full assistance.	0	1. Is responsible for taking medication in correct dosages at correct times.	1
4. Completely unable to shop.	0	2. Takes responsibility if medication is prepared in advance in separate dosages.	0
SCORE FOR TASK C (1 OR 0):		3. Is not capable of managing own medication.	
D. Food Preparation/Nutrition		SCORE FOR TASK H (1 OR 0):	
	Score	I. Ability to Handle Finances	
1. Able to independently plan and prepare snacks/meals outside of food services.	1		Score
2. Needs assistance to plan and prepare snacks/meals outside of food services.	0	1. Manages TRULINCS account independently.	1
3. Does not maintain adequate diet by eating snacks or going to food service.	0	2. Needs help managing account.	1
4. Needs complete assistance in obtaining meals.	0	3. Incapable of managing account.	0
SCORE FOR TASK D (1 OR 0):		SCORE FOR TASK I (1 OR 0):	
E. Housekeeping		SCORING: The inmate receives a score of 1 for each task section (A–I) if his or her ability is rated at some minimal level or higher. Add the points circled for tasks A–I. The total score may range from 0–9. The lower the total score, the higher the level of dependence.	
	Score	TOTAL SCORE FOR SECTIONS A–I:	
1. Maintains cell independently according to BOP Policy.	1		
2. Performs light daily tasks such as dishwashing and bed making.	1		
3. Performs light daily tasks, but cannot maintain acceptable level of cleanliness.	0		
4. Needs help with all housekeeping tasks.	0		
5. Does not participate in any housekeeping tasks.	0		
SCORE FOR TASK E (1 OR 0):		Completed By _____ Date _____	
Adapted for use in the correctional environment from: Lawton MP, Brody EM, <i>Assessment of Older People: Self-Maintaining and Instrumental Activities of Daily Living</i> . <i>Gerontologist</i> 9 (1969):179-186.			

APPENDIX 2. PHYSICAL SELF-MAINTENANCE SCALE (PSMS)

This tool is useful for indicating specifically how a person is performing at the present time. For each activity (A–F), circle the score (1 or 0) for the statement that most closely corresponds to the inmate's current functional ability. Then, add together the task scores to arrive at the total. The scoring should be based on information gathered about the inmate from the inmate him/herself, cellmates, inmate care companions/nursing assistants, staff, and recent records.

Inmate Name:		Reg. No.:	
A. Toilet		Score	E. Physical Ambulation
1. Care for self at toilet completely; no incontinence.		1	1. Moves about the unit and institution independently.
2. Needs to be reminded, or needs help in cleaning self, or has rare (weekly at most) accidents.		0	2. Ambulates only short distances
3. Soiling or wetting while asleep, more than once a week.		0	3. Ambulates w/ assistance of (✓ all that apply):
4. Soiling or wetting while awake, more than once a week.		0	<input type="checkbox"/> Another person <input type="checkbox"/> Railing <input type="checkbox"/> Cane <input type="checkbox"/> Walker <input type="checkbox"/> Wheelchair, transfers without help <input type="checkbox"/> Wheelchair, needs help to transfer
5. No control of bowels or bladder.		0	4. Sits unsupported in chair or wheelchair, but cannot propel self without help.
SCORE FOR TASK A (1 OR 0):			5. Bedridden more than half the time.
B. Feeding		Score	0
1. Eats without assistance.		1	SCORE FOR TASK E (1 OR 0):
2. Eats with minor assistance at meal times and/or with special preparation of food, or needs help in cleaning up after meals.		0	F. Bathing
3. Feeds self with moderate assistance and is untidy.		0	Score
4. Requires extensive assistance at all meals.		0	1. Bathes self (tub, shower, sponge bath) without human assistance.
5. Does not feed self at all and resists efforts of others to feed him or her.		0	2. Bathes self with help getting in and out of tub or shower.
SCORE FOR TASK B (1 OR 0):			3. Washes face and hands only, but cannot bathe rest of body.
C. Dressing		Score	4. Does not wash self, but is cooperative with those who bathe him or her.
1. Dresses, undresses, and wears uniform according to BOP Policy.		1	5. Does not try to wash self and resists efforts to keep him or her clean.
2. Dresses and undresses self, with adaptive equipment.		1	0
3. Needs moderate assistance in dressing.		0	SCORE FOR TASK F (1 OR 0):
4. Needs major assistance in dressing, but cooperates with efforts of others to help.		0	SCORING: The inmate receives a score of 1 for each task section (A–F) if his or her ability is rated at some minimal level or higher. Add the points circled for tasks A–F. The total score may range from 0–6. The lower the total score, the higher the level of dependence.
5. Completely unable to dress self and resists efforts of others to help.		0	TOTAL SCORE FOR SECTIONS A–F:
SCORE FOR TASK C (1 OR 0):			
D. Grooming		Score	
1. Always neatly dressed, well-groomed, without assistance.		1	Completed By _____ Date _____
2. Needs moderate and regular assistance or supervision with grooming.		0	
3. Needs total grooming care, but can remain well-groomed after help from others.		0	Adapted for use in the correctional environment from: Lawton MP, Brody EM, <i>Assessment of Older People: Self-Maintaining and Instrumental Activities of Daily Living. Gerontologist 9 (1969):179-186.</i>
SCORE FOR TASK D (1 OR 0):			