

TITLE 8 SOCIAL SERVICES
CHAPTER 325 SPECIALTY SERVICES
PART 12 MEDICATION ASSISTED TREATMENT SERVICES IN CORRECTIONAL SETTINGS

8.325.12.1 ISSUING AGENCY: New Mexico Health Care Authority (HCA).
[8.325.12.1 NMAC - N, 9/1/2024]

8.325.12.2 SCOPE: This rule governs delivery of medication assisted treatment (MAT) for substance use disorder (SUD) (including medication for opioid use disorder or MOUD) to individuals in correctional facilities.
[8.325.12.2 NMAC - N, 9/1/2024]

8.325.12.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See Section 27-2-12 et seq., NMSA 1978.
[8.325.12.3 NMAC - N, 9/1/2024]

8.325.12.4 DURATION: Permanent.
[8.325.12.4 NMAC - N, 9/1/2024]

8.325.12.5 EFFECTIVE DATE: September 1, 2024, unless a later date is cited at the end of a section.
A. By December 31, 2025, the New Mexico corrections department (NMCD) operated correctional facilities shall provide continuation of medication-assisted treatment (MAT) services or medication for opioid use disorder (MOUD) in compliance with these regulations for individuals receiving MAT or MOUD in the community or in a county detention facility prior to booking.
B. By June 30, 2026, NMCD operated correctional facilities shall initiate MAT or MOUD treatment services in compliance with these regulations for qualified individuals diagnosed with substance use disorder.
[8.325.12.5 NMAC - N, 9/1/2024]

8.325.12.6 OBJECTIVE: The purpose of these regulations is to establish guidance and requirements for delivery of substance use disorder treatment and reentry services for persons diagnosed with substance use disorder in correctional facilities.
[8.325.12.6 NMAC - N, 9/1/2024]

8.325.12.7 DEFINITIONS:

- A. Certified peer support worker (CPSW):** Peer support workers who have successfully completed training with the behavioral health service division's office of peer recovery and engagement (OPRE) and have obtained certification from the New Mexico credentialing board of behavioral health professionals.
- B. Clinical Assessment:** A process of collecting clinical information and drawing conclusions using evidence based tools and best practices to help identify and choose pertinent interventions.
- C. Community-based provider:** An entity that provides substance use disorder (SUD) treatment services in the community in addition to a correctional facility.
- D. Correctional facility:** A state prison or county detention facility, whether operated by a government or private contractor, that is used for confinement of adult persons.
- E. County detention facilities:** Detention centers operated by local governments used for the confinement of adult persons.
- F. Discharge planning:** The process of determining a participant's continued need for treatment services and may include development of a plan to address ongoing post-treatment needs, referral into another level of care or linkage of the individual to other support services.
- G. Evidence-based:** Best practices based on current scientific evidence.
- H. Healthcare practitioner:** A person licensed by a professional licensing board or authorized to provide health care in NM and may include physicians, physician assistants, nurse practitioners or clinician pharmacists.
- I. Medication for opioid use disorder (MOUD):** An approach to clinical treatment that uses federal food and drug administration (FDA) approved medications for persons diagnosed with opioid use disorder (OUD).

J. Medication-assisted treatment (MAT): The use of FDA-approved medications for the treatment of SUD.

K. Naloxone: An opioid antagonist used for the complete or partial reversal of an opioid overdose.

L. Narcotic treatment program (NTP): The drug enforcement agency's term for opioid treatment program (OTP).

M. New Mexico corrections department (NMCD): The state agency overseeing NM prison facilities whether operated by state government or a private contractor.

N. Opioid use disorder (OUD): A pattern of opioid use leading to clinically significant impairment or distress, as manifested by symptoms identified in the most recent publication of the diagnostic and statistical manual of mental disorders of the American psychiatric association or its successor.

O. Opioid treatment program (OTP): A clinic that has been certified and DEA-approved, under both federal (42 CFR Section 8) and state (7.32.8.1 NMAC and 8.321.2.30 NMAC) regulations to provide medication for OUD treatment services with methadone.

P. Peer support workers (PSW): Individuals who have been successful in their own recovery from SUD who help other individuals in their recovery process through shared understanding, respect, and mutual empowerment, reducing the likelihood of relapse.

Q. Program participant: A person who is incarcerated and diagnosed with SUD for whom medication is clinically indicated and who elects to participate in such treatment.

R. Reentry services: Resources offered that help individuals prepare for return to their communities after incarceration. Reentry services aim to reduce recidivism and improve public safety by supporting individuals toward independent living skills. Services may include psychological and financial counseling, education, skill development, employment, housing, transportation and various types of supportive services.

S. Screening: The use of an evidence-based tool and process to identify an individual's characteristics of substance use or dependency through established criteria.

T. Substance use disorder (SUD): A pattern of use of substances leading to clinical or functional impairment, in accordance with the definition in the diagnostic and statistical manual of mental disorders (DSM-5) of the American psychiatric association, or any subsequent editions.

U. Substance use disorder treatment: Treatment services provided by specifically trained, certified or licensed professionals. SUD treatment programs can include inpatient treatment, residential programs, partial hospitalization or day treatment, outpatient and intensive outpatient programs, opioid treatment programs, and primary care-based SUD treatment services.

V. Tapering guidelines: Guidance for the clinical process by which medications are safely reduced or discontinued.

W. Telemedicine: The delivery of health care services through interactive audio, video, or other electronic media used for diagnosis, consultation, or treatment.

X. Transitional services: Resources offered to provide a continuum of support to help ensure individuals engaged in SUD treatment services have seamless access to medication, treatment and other services as needed. For this rule, transitional services also applies to program participants moving between treatment programs within facilities.

Y. Withdrawal management: The medical and psychological care of patients who are experiencing withdrawal symptoms as a result of ceasing or reducing use of a substance.

[8.325.12.7 NMAC - N, 9/1/2024]

8.325.12.8 MISSION STATEMENT: We ensure New Mexicans attain their highest level of health by providing whole-person, cost-effective, accessible, and high-quality health care and safety-net services.

[8.325.12.8 NMAC - N, 9/1/2024]

8.325.12.9 PROGRAM REQUIRED ELEMENTS:

A. Identification of the type of treatment service delivery model(s) to be used by the correctional facility's treatment programs:

(1) Facility becomes an accredited/certified and DEA-registered opioid treatment program/narcotic treatment program (OTP/NTP).

(2) Facility contracts with medical service provider (to include onsite or telemedicine resources).

(3) Facility transport to OTP/NTP.

(4) Facility arranges for MOUD provider to come to the facility to provide services.

B. Screening and referral to assessment:

(1) A preliminary SUD screening shall be administered during the correctional facility's intake process. The screening instrument shall:

(a) follow evidence-based practices consistent with current scientifically-based and validated tools, protocols, or guidance for SUD treatment and services to identify all individuals who may have a SUD as well as individuals in need of withdrawal management services; and

(b) assure identification of individuals who are receiving continuation of SUD treatment (to include MAT and MOUD) in the community or in a county detention facility prior to placement to inform continuation of those services during the individual's incarceration.

(2) Individuals screened and referred for assessment, shall receive a comprehensive assessment and diagnostic evaluation for SUD. The clinical assessment and diagnostic evaluation shall:

(a) follow best practice and accepted general SUD guidelines; and

(b) serve as basis for provision of treatment services for those individuals diagnosed with a SUD for which there are federal food and drug administration (FDA) approved medications. For persons specifically identified with OUD, FDA-approved MAT/MOUD shall be offered.

(3) Beginning on July 1, 2026, current inmates and detainees may request SUD screening at any time during their incarceration, including prior to release, and this shall result in a referral for screening and assessment, if indicated.

C. MAT/MOUD Medications:

(1) The program shall include provision of all medications approved by the FDA for the treatment of SUD and withdrawal management to ensure that each program participant receives the medication identified to be the most effective at treating and meeting individual needs.

(2) The program shall provide existing or prospective program participants education regarding the FDA-approved medications for the treatment of SUD, including the benefits and risks.

(3) The decision as to which FDA-approved medication is prescribed, dispensed and administered shall be made by the healthcare practitioner in consultation with the program participant, taking into consideration security, health and safety level, and community resource availability. Transferring from one OUD medication to another to another may commence, if:

(a) the new medication is deemed medically necessary by a healthcare practitioner authorized to prescribe that new medication and the program participant consents to the change; or

(b) the program participant elects to commence the new medication, the new medication is FDA-approved to treat the program participant's SUD, and a qualified healthcare practitioner does not identify any absolute contraindication to the change.

(4) Program participants who are receiving MOUD during incarceration and who elect to discontinue MOUD shall receive education on the risks of MOUD discontinuation and supervised clinical taper from MOUD to avoid abrupt discontinuation of the medication.

(5) Program healthcare practitioners will assess program participants on an annual basis at a minimum but can choose to assess a program participant more frequently in order to determine their response to a given medication. Following the assessment (whether annual or interim), the healthcare practitioner may, in consultation with the program participant, recommend that the medication be continued, titrated or tapered. Education must be provided to the program participant regarding the benefits and risks of the clinical options and decision making.

D. Therapeutic services:

(1) An individualized treatment plan shall be created for each program participant.

(2) Group or individual counseling services with clinical support and supervision shall be provided where available. Treatment services, to include medication, shall not be withheld in the event of the lack of availability of counseling services.

(3) Service delivery shall offer engagement with qualified peer support workers or certified peer support workers.

E. Reentry services:

(1) Reentry planning for the program participant shall begin upon entry to the treatment program.

(2) Qualified peer support workers or certified peer support workers shall be engaged with the reentry process from the onset of the program participant's enrollment in the treatment program.

(3) Facilities shall ensure referral to a community-based provider if MAT/MOUD is indicated for a program participant and, despite best efforts, treatment initiation is not possible prior to release.

(4) Reentry planning shall occur to assure continuity of care in the community for program participants who received MAT/MOUD services for their SUD during incarceration and are exiting facilities.

(5) Reentry services for program participants receiving MAT/MOUD during incarceration, in order to promote success and safeguard from poor outcomes, shall include, but not be limited to:

(a) providing information and referral to available SUD treatment facilities and primary care clinical facilities in the program participant's area of release;

(b) referring program participants who are receiving treatment with methadone, to OTPs under medical order and in compliance with current federal and state requirements and regulations regarding services' transfer;

(c) assisting program participants with information and resources for housing and regional resources that include job employment assistance, healthcare, transportation, and other safety-net services in community of release, including tribal programs and services;

(d) assisting program participants with information on and reactivation of medicaid/medicare enrollment and affiliation with a managed care organization (MCO) or fee for service for eligible participants; and

(e) assuring program participant access to naloxone rescue kits, or a prescription for a naloxone rescue kit as indicated in 33-2-51 NMSA 1978.

F. Transitional services (to include discharge):

(1) Transitional services shall include a warm handoff with a transition of care plan from sending entity (correctional facility medical provider) to receiving entity. This includes transition from county detention facility to state correctional facility and vice versa.

(2) Discharge planning shall include:

(a) linking to MAT/MOUD and other SUD services in the program participant's geographic area of residence;

(b) providing behavioral and medical health referrals;

(c) ensuring discharge prescription for naltrexone or buprenorphine products; and

(d) referring program participants who are receiving treatment with methadone, to OTPs under medical order and in compliance with current federal and state requirements and regulations to ensure continuity of care and access to MAT/MOUD.

(3) Program participants who are receiving MOUD during incarceration and who elect to discontinue MOUD upon their release shall receive education on the risks of MOUD discontinuation and supervised clinical taper from MOUD to avoid abrupt discontinuation of the medication.

(4) Program participants who are transitioning to a community or region that does not have resources available to continue treatment may receive supervised clinical taper from MOUD to avoid abrupt discontinuation of the medication.

G. Program participant safeguards: Correctional facilities shall assure that:

(1) treatment services, once initiated, are available for the duration of a program participant's period of incarceration;

(2) placement in the medication-assisted treatment program shall be offered to all qualified individuals, but participation shall not be mandatory;

(3) the program participant provides written consent to receive treatment services or to discontinue treatment services;

(4) no program participant shall be charged fees for SUD treatment services;

(5) MAT/MOUD services shall not be denied to any eligible program participant as a form of disciplinary action unless that action is related to the diversion, abuse or misuse of the program's prescribed medication; and

(6) program participants are provided the option to discontinue treatment services, should they choose to do so. (In such cases, discontinuation shall adhere to medically appropriate tapering guidelines and educational practices.)

[8.325.12.9 NMAC - N, 9/1/2024]

8.325.12.10 POLICIES AND PROCEDURES:

A. Every program shall establish written general policies, procedures and guidelines reflecting language in this rule in its entirety.

B. These established policies, procedures and guidelines shall further detail each of the following categories:

- (1) Medication diversion:
 - (a) addressing prevention of diversion and misuse of MOUD;
 - (b) assuring diversion policies are visible in the facility;
 - (c) addressing consequential strategies for diversion, to include non-punitive approaches for remediation instead of immediately terminating from the program; and
 - (d) addressing critical incident reporting.
- (2) Screening and treatment of pregnant individuals in compliance with 31.3.11 NMSA 1978.
- (3) Withdrawal management:
 - (a) screening (clinical opiate withdrawal scale (COWS) or its equivalent) and assessment to discern level of withdrawal intensity, e.g. mild, moderate or severe;
 - (b) monitoring the individual;
 - (c) describing roles and responsibilities for staff;
 - (d) identifying treatment and supportive care to include assurances of the following:
 - (i) withdrawal treatment is planned and supervised by the program medical director;
 - (ii) dose reduction occurs at a rate deemed medically appropriate; and
 - (iii) program participant is informed of the risks of withdrawal treatment.
- (4) Transition of care, to include:
 - (a) engaging and educating the program participant;
 - (b) assuring MCOs initiate transition of care planning prior to release to facilitate continuity of care, and inclusion of tribal 638 or Indian health service program staff for transition in tribal communities for fee for service participants; and
 - (c) describing roles and responsibilities for staff.
- (5) Medication tapering guidelines: Each of the following shall have its own guidelines:
 - (a) transferring patients to higher level of care based on medical necessity;
 - (b) assuring pregnancy and postpartum patient care; and
 - (c) providing reentry support.

[8.325.12.10 NMAC - N, 9/1/2024]

8.325.12.11 STAFFING, ADMINISTRATION AND EDUCATION: Correctional facilities shall:

- A. Develop adequate staffing patterns including healthcare practitioners authorized by law to prescribe, administer, and monitor medication-assisted treatment (to include telehealth-supported clinical review or services if necessary).
- B. Facilitate timely access to medication-assisted treatment, based upon the clinical need of the program participant.
- C. Provide trainings and technical assistance on SUD (disease course and evidence-based treatment modalities), including OUD and MOUD on an ongoing basis for new and existing healthcare and custodial staff, ensuring that staff are educated on these topics from the beginning of their career.
- D. Provide education and training that addresses and provides tools to combat the broader stigma associated with these topics and emphasizes medication treatment as the standard of care for OUD. The trainings shall meet national standards and be responsive to shifting needs in the facility.

[8.325.12.11 NMAC - N, 9/1/2024]

8.325.12.12 PROGRAM REPORTING AND EVALUATION

- A. Beginning October 1, 2023, and annually thereafter, the HCA shall report to the interim legislative health and human services committee and the legislative finance committee on the establishment, operation and effectiveness of the program(s) established pursuant to Section 24-1-5.11 NMSA 1978.
- B. NMCD shall submit program reports to HCA for review beginning August 31, 2024, and each year thereafter, as basis for HCA’s compilation of report to interim legislative health and human services committee and the legislative finance committee.
- C. County detention facilities, upon statutory mandate, shall submit annual program reports based on mutually agreed upon data elements (e.g., numbers screened, numbers referred to assessment, numbers qualified for program enrollment and enrollment in program).

D. The reports shall also include an evaluation section that demonstrated the impact on institutional safety and program performance and any recommendations for additional legislative enactments that may be needed or required to improve or enhance the programs as determined to be appropriate by the health care authority.
[8.325.12.12 NMAC - N, 9/1/2024]

8.325.12.13 RECORDKEEPING:

A. Records shall be maintained in writing or electronically reflecting each program participant's screening, placement and participation, including, but not limited to, the offer of placement, individualized treatment plan, medication regimen, establishment of reentry plan, and discharge medications or orders for released individuals.

B. Contemporary medication administration records shall be maintained in writing or electronically for every program participant receiving MAT/MOUD pursuant to a facility's SUD treatment and transition services program.

C. Designated healthcare practitioners and other facility healthcare staff shall retain all records required by this section in the facility or shall otherwise have the ability to immediately access such records when necessary.

[8.325.12.13 NMAC - N, 9/1/2024]

HISTORY OF 8.325.12 NMAC: [RESERVED]