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| MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE | EFFECTIVE DATE 11/08/2021 | NUMBER 03.03.115 |
| | SUBJECT SUBSTANCE USE PROGRAMMING AND TESTING | |
| SUPERSEDES PD 03.03.115 (01/01/2002) | | AUTHORITY MCL 791.203; 791.204; 791.223; 791.238 Administrative Rule 791.5501 |
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POLICY STATEMENT:

The Department shall endeavor to deter and detect unauthorized use of controlled substances and other prohibited substances by offenders. This shall include a system for determining the appropriateness for and level of institutional and community-based treatment, based on diagnostic testing and prior behavior.

POLICY:

SUBSTANCE USE OVERSIGHT AND MONITORING

- A. The Manager of the Substance Use Treatment Services Section of the Bureau of Health Care Services, is responsible for general oversight of substance use testing and treatment programming for offenders. Only the substance use testing and treatment services and tests approved by the Substance Use Treatment Services Section shall be used within the Department whenever the Department is paying for the testing or services. The Manager of the Substance Use Treatment Services Section also shall develop a system to document substance use assessment and testing results of offenders, referrals to substance use programming and participation in such programming.
- B. Each Warden and the appropriate Field Operations Administration (FOA) Assistant Deputy Director (ADD) or designee shall designate at least one staff person as the Substance Use Test Coordinator. Substance Use Test Coordinators shall be responsible for coordinating the substance use testing program in their respective areas.
- C. Each Warden also shall designate at least one staff person as the Substance Use Treatment Coordinator. The Substance Use Treatment Coordinator shall serve as the liaison to the Manager of the Substance Use Treatment Services Section. The Manager of the Substance Use Treatment Services Section shall serve as the Substance Use Treatment Coordinator for FOA.
- D. Measures in addition to substance use testing (e.g., canine searches; ion scanners) shall be used to detect the presence of prohibited substances within a facility, as determined by the Warden. All searches of offenders, employees, and visitors to detect prohibited substances, including by the canine unit, shall be conducted in accordance with PD 04.04.110 "Search and Arrest in Correctional Facilities."

SUBSTANCE USE PROGRAMMING

- E. Each newly committed prisoner received at a reception facility shall be assessed for substance use, including being administered an assessment test authorized by the Manager of the Substance Use Treatment Services Section. Prisoners returning to incarceration may be assessed in accordance with criteria established by the Manager of the Substance Use Treatment Services Section. Reception facility staff shall take into consideration the assessment results in making their recommendation on required substance use programming.
- F. The Manager of the Substance Use Treatment Services Section shall develop criteria to be followed when it appears that an original assessment may no longer be valid. This may include requiring prisoners who are found guilty of a Class I misconduct for substance abuse to be reviewed to determine if the prisoner needs to be referred to substance use programming.
- G. Whenever a prisoner recommended for substance use programming is transferred the prisoner shall be referred to recommended substance use programming based on substance use assessment results and the prisoner's earliest release date (ERD) as part of the initial program classification process at the receiving facility. The Manager of the Substance Use Treatment Services Section shall develop criteria to be followed

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when demand for substance use programming exceeds availability at a facility. The Manager of the Substance Use Treatment Services Section also shall determine which facilities and security levels programs will be offered and develop criteria to be followed when recommended programming is not available at a facility.

- H. Prisoner recommendations, mid-term treatment summaries, and discharge summaries shall be recorded into the Department's computerized database in accordance with PD 05.01.100 "Prisoner Program Classification."
- I. Prisoners in substance use programming are required to actively participate in the programming. Failure to actively participate may result in the prisoner being discharged unsuccessfully from programming.
- J. Whenever a Parole Eligibility/Lifer Review Report (CSJ-123) is prepared for a prisoner referred for substance use programming, the prisoner's current status toward completion of that programming shall be included in the report as set forth in PD 06.05.103 "Parole Eligibility/Lifer Review Reports." If parole is ordered, the Parole Board shall consider this information, as well as other information contained in the report regarding the prisoner's history of substance use, in determining whether a special condition of parole should be issued requiring the prisoner to be referred for a substance use assessment and to successfully complete recommended treatment programs.
- K. Agents shall recommend to the sentencing court that a special condition of probation be issued requiring substance use testing of a probationer whose background, including criminal history, and/or current behavior identifies the probationer as at risk for substance use. The probationer's history of substance use also shall be considered in determining whether to recommend a special condition of probation be issued requiring the probationer to be referred for a substance use assessment and to successfully complete recommended treatment programs.
- L. Parolees and probationers with a special condition of parole or probation requiring substance use testing shall be tested in accordance with the parole or probation order. If the parolee or probationer tests positive for substance use, and revocation of parole or probation is not being recommended, a recommendation shall be submitted to the Parole Board or court, as appropriate, to add a special condition that the offender be referred for a substance use assessment and be required to successfully complete recommended treatment programs.
- M. Whenever an offender has a special condition of parole or probation leaving it to the Agent's discretion to refer the parolee or probationer for an assessment to substance use treatment, the Agent shall consider whether the offender's substance use history was or is a factor that led to their criminal behavior, recent drug use, and any needs assessment tools that indicate a need for substance use programming. The Agent shall make a determination if a substance use assessment is needed and make the appropriate referral within 30 calendar days of the offender's placement on parole or probation. The Agent shall clearly document their rationale in case notes.

SUBSTANCE USE TESTING REQUIREMENTS

- N. Offenders shall not be permitted to have any involvement in the collection of other offenders' test samples, in the labeling, boxing, packing, storing, or transporting of samples to the laboratory, or in the documentation and results of tests.
- O. The identity of offenders providing samples shall be verified at the time the sample is provided or when the test is administered, as appropriate.
- P. All samples and their results shall be processed in a manner to ensure that the proper chain of evidence is maintained. Samples to be sent to a testing laboratory for analyses shall be promptly mailed or sent by courier to the laboratory. All hard copy test results are to be recorded and maintained in a secured area.
- Q. Test results shall be reported as directed by the CFA Assistant Deputy Director (ADD) of Operations or designee who shall ensure that a computerized system is developed for maintaining such information.

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Urine Testing

- R. Urine samples shall be collected from offenders in a location conducive to the security and integrity of the samples. Except as set forth in Paragraph U samples shall be provided under direct observation of the person taking the sample to ensure that the sample is from the identified offender and has not been altered or substituted. The person taking the sample shall be of the same sex as the offender providing the sample, unless an emergency condition requires otherwise. In such cases, written notification shall be provided to the Warden as appropriate, no later than 24 hours after the sample is taken. If urine testing will be conducted on third shift, it shall be done early enough to avoid disrupting the sleep of offenders whenever possible.

Note: Oral swabs shall be used for substance use testing in place of urine testing for dialysis prisoners at the Woodland Center Correctional Facility (WCC).

- S. An offender who claims they cannot provide a sample at the time of the request shall be given continuous access to water for one hour and instructed to drink a sufficient amount to enable them to produce the sample. According to medical authorities, an individual given access to fluids will be able to produce the required sample within one hour unless they have a physical condition that interferes with urination.

Testing of CFA Prisoners

- T. All substance use testing of offenders shall be for cause and unannounced unless the testing is approved by the Manager of the Substance Use Treatment Services Section.
- U. Prior to a prisoner taking a urine test, the shift supervisor shall direct the prisoner to provide a sample in a room or cell that does not have access to water, other liquids, or possible adulterants. If the prisoner claims at the time of the request that they cannot provide a sample because they just urinated, they shall be given access to water as set forth in Paragraph S. Prior to placement in the room or cell, the prisoner shall submit to necessary searches, including a body cavity search if appropriate, to ensure that a proper sample is provided. Searches shall be conducted as set forth in PD 04.04.110 "Search and Arrest in Correctional Facilities," except that reasonable suspicion is not required for a body cavity search. Except in any form of segregation, a Class I misconduct for substance abuse for failing to provide the sample shall not be issued unless a room or cell that does not have access to water, other liquids or possible adulterants is provided.

Additional Testing Requirements

- V. Prisoners whose background and/or current behavior identifies them as being at risk for substance use shall be tested until the results are negative.
- W. Prisoners suspected of using an unauthorized controlled substance or alcohol also shall be tested. Prisoners who test positive or refuse to be tested shall continue to be tested until their results are negative.
- X. Prisoners shall be tested for substance use prior to placement on a Michigan State Industries (MSI) assignment. Prisoners also shall be tested while on MSI assignments as determined by the CFA Deputy Director. Prisoners who are found guilty of a Class I misconduct for substance abuse for refusing to be tested or for testing positive are not eligible for placement on an MSI assignment until they test negative. Prisoners already on MSI assignments shall be reclassified as set forth in PD 05.01.100 "Prisoner Program Classification."
- Y. Prisoners shall be tested for substance use prior to placement on a gate pass or public works assignment, and while on such assignments, as determined by the CFA Deputy Director. Prisoners who are found guilty of a Class I misconduct for substance abuse for refusing to be tested or for testing positive are not eligible for placement on a gate pass or public works assignment until they test negative. Prisoners already on such assignments shall be reclassified in accordance with PD 05.01.100 "Prisoner Program Classification."
- Z. Prisoners may be tested for substance use prior to placement in a core or educational program, and while in such programs, as determined by the CFA Deputy Director. Prisoners who are found guilty of a class I misconduct for substance abuse for refusing to be tested or for testing positive may be removed from the program.

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Additional FOA Testing Requirements

- AA. The FOA Deputy Director shall establish the minimum frequency of substance use testing of parolees and probationers who have a condition of parole or probation requiring testing and/or participation in substance use treatment. The FOA Deputy Director or designee shall conduct an annual review of available resources and adjust the minimum frequency as necessary.

ADDITIONAL SANCTIONS FOR SUBSTANCE USE

- BB. Prisoners who refuse to submit to substance use testing shall be charged with a Class I misconduct for substance abuse pursuant to PD 03.03.105 "Prisoner Discipline."
- CC. Prisoners who test positive for an unauthorized controlled substance or alcohol shall be charged with a Class I misconduct for substance abuse only if confirmed positive using a scientifically accepted test methodology. However, a prisoner may be charged with Class I misconduct for an unconfirmed test for alcohol (e.g., PBT) if there is other evidence indicating alcohol use (e.g., slurred speech; bloodshot eyes).
- DD. Prisoners who are found guilty of a Class I misconduct for substance abuse may be reclassified from their work or school assignment as set forth in PD 05.01.100 "Prisoner Program Classification" and shall be limited to non-contact visits as set forth in PD 05.03.140 "Prisoner Visiting." Prisoners found guilty of a Class I misconduct for substance abuse while on a public works or gate pass assignment shall be reclassified from the assignment. If found guilty of two or more Class I misconducts for substance abuse, a prisoner may have their visiting privileges permanently restricted by the Director as provided for in PD 05.03.140. A prisoner whose visiting privileges are permanently restricted shall be housed in non-secure Level I only as set forth PD 05.01.140 "Prisoner Placement and Transfer."
- EE. Prisoners and parolees found guilty of a misconduct for substance abuse, and SAI prisoners disciplined for substance abuse in accordance with PD 05.01.142 "Special Alternative Incarceration Program" for refusing to be tested or testing positive, are prohibited from participating in public works and gate pass assignments until they test negative, in accordance with Paragraph Y of this policy and PD 03.02.121 "Public Works/Gate Pass Assignments."
- FF. SAI prisoners found guilty of a Class I misconduct for substance abuse may be removed from SAI in accordance with PD 05.01.142 "Special Alternative Incarceration Program."
- GG. Parolees and probationers with a condition of parole or probation requiring substance use testing and/or treatment may be charged with parole or probation violation, as appropriate, for a positive test result, refusing to submit to required testing, or for refusing to actively participate in, or for being unsuccessfully discharged from, required substance use treatment programs. Parole violation charges shall be processed in accordance with PD 06.06.100 "Parole Violation Process." Probation violation charges shall be processed in accordance with PD 06.06.120 "Probation Violation Process."

OPERATING PROCEDURES

- HH. If necessary, to implement the requirements of this policy directive, Wardens, the FOA Deputy Director, and the BHCS Administrator shall ensure procedures are developed or updated.

AUDIT ELEMENTS

- II. A Primary Audit Elements List has been developed and is available on the Department's Document Access System (DAS) to assist with self-audit of this policy pursuant to PD 01.05.100 "Self-Audits and Performance Audits."

APPROVED: HEW 09/30/2021