

Overview of Medication Formularies in Correctional Settings

What is a medication formulary?

The National Commission on Correctional HealthCare (NCCHC) defines a formulary as “a written list of prescription and nonprescription medications that are ordinarily available to authorized prescribers, including consultants, working for the facility.” In other words, a medication formulary is a list of generic and brand name prescription drugs that are available at your facility.

Why are formularies used?

Formularies are used for safety, quality, and cost-effectiveness of medication. Cost is a main factor used for facilities when deciding which brands and types of medications are offered. Logistical factors, including availability of staffing, medical equipment, and lab monitoring, may also affect facilities’ abilities to offer some medications.

Do all facilities have the same formulary?

No. Some facilities use the formulary provided by the state. Others use the formulary provided by their medical provider, so each formulary may differ. Formularies are routinely reviewed and modified as needed. Unfortunately, formularies are not very consistent, and this can cause problems if a person is moving between facilities.

What happens if the medication I want is not on my facility’s formulary?

Medications that are not listed on a facility’s formulary are considered nonformulary. If the medication you want is not entirely unavailable or prohibited, you can request nonformulary medications through a grievance or formal request at your facility. In some circumstances, you can also request a second opinion from an outside medical provider. You can also ask in a grievance to get an appointment with an outside medical provider. If you are entering the facility with a prescription, it is important to provide the facility with these prescriptions. If your term of stay is short, they should be able to keep you on the prescription that you received prior to incarceration.

Do I have a right to the medication of my choice?

No, not necessarily. Patients who are incarcerated have less autonomy and fewer potential remedies when denied use of specific medications. Medications you receive in custody will not necessarily match the medications that you received before incarceration. Even if you can get the same medications as before, a variety of manufacturers will provide the same generic drug in different colors, sizes, and shapes than you may have been used to.

Why are some medications restricted in correctional settings?

If a medication is completely restricted at your facility, one reason is because of the potential for abuse. Medications that have a high potential of being misused, will likely not be available even if they are requested. Additionally, if a formulary medication is available that has similar effects to your desired medication, the facility will likely only give you access to the medication listed on the formulary. Cost-effectiveness and widespread availability of certain medications also play a part in the restriction of some medications at various facilities.

When is denial of medications a violation of my rights?

While the use of a formulary seems to be generally acceptable under the law, the denial of a certain medication, under some circumstances, or delays related to the process could result in a potential violation of rights. This is typically only the case if there no medication alternatives or treatment are being offered. Depending on your level of incarceration, your rights at a minimum include “adequate medical care.” The law also says that medical care is inadequate if the facility demonstrates “deliberate indifference” toward your medical care. However, the standard to show deliberate indifference is extremely high and the harm you experience as a result of this alleged indifference must be substantial.

What can I do if I think my rights to medication have been violated?

- File a grievance to request proper medication or a nonformulary medication.
- Ask for a second opinion from an outside medical provider.
- File a [**complaint with the Colorado Department of Regulatory Agencies \(DORA\)**](#) about a doctor, medical provider, or medical staff at your facility.
- File a [**complaint with the Colorado Department of Public Health and Environment \(CDPHE\)**](#) about the health facility or healthcare services at your facility.
- File a [**complaint with the Department of Justice**](#) if you feel you have been discriminated against on the basis of disability or other factors.
- Pursue a lawsuit if you think you are entitled to financial compensation.

Where can I go for more information?

- [**Drug Formularies in Correctional Settings**](#)
- [**CDHS’s Medication Consistency Pilot**](#)
- [**CDHS’s Medication Formulary**](#)
- [**Pharmaceuticals in State Prisons**](#)