Federal Rule Changes Create Significant New Opportunities to Expand Methadone Access in Prisons & Jails

The Issue

Since October 2022, all New York State prisons and jails are mandated to provide access to all three FDA approved forms of medication to treat opioid use disorder (MOUD) — methadone, buprenorphine, and naltrexone. Methadone, long considered the gold-standard MOUD, can only be obtained through Opioid Treatment Programs (OTPs) making its implementation somewhat more challenging.

New York's Guidelines for implementing an MOUD program in correctional facilities identifies four options for accessing methadone: 1) becoming certified as an OTP; 2) transporting patients daily to an OTP to obtain their dosage; 3) sending facility staff to an OTP to obtain dosages; or 4) utilizing a mobile methadone unit (MMU) that can park onsite. Becoming certified as an OTP is a lengthy and costly process. Additionally, only 34 of New York's 62 counties have an OTP, so staff at many correctional facilities in the state must travel long distances to obtain methadone doses for those who need it.

There is another important option not mentioned in New York's Guidelines. In early 2024, SAMHSA released the updated final rules amending 42 CFR Part 8 governing OTPs. The amended regulations present several opportunities for New York jails and prisons to expand access to methadone.

OPTION 1: Provide Methadone Directly Under Certain Conditions



The revised OTP rules clarify that a correctional facility that is not an OTP can provide methadone for the initiation or continuation of treatment for opioid use disorder (OUD) or withdrawal management to a patient if the following conditions are met:

- The correctional facility must be registered as a hospital/clinic with the Drug Enforcement Administration (DEA); and
- The patient must also be receiving treatment for a medical condition other than OUD. 42 § 8.11(h)(3)

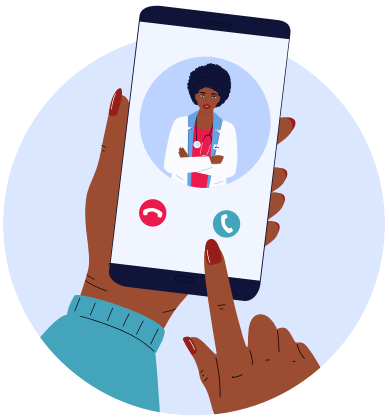
The ability to directly administer methadone for patients being treated for an additional medical condition without having to be certified as an OTP presents an opportunity for correctional facilities struggling to bring patients to OTPs daily or pick up weekly doses from OTPs. Though this option is only for patients with an additional diagnosis besides OUD, most individuals with OUD have another diagnosis, and therefore will be eligible. The minority who do not may still need to obtain methadone in other ways. It will also be important to understand any obligations on pharmacists inside or contracted with a correctional facility to ensure they can dispense the medication. And as with all patients receiving MOUD in correctional facilities, it will be imperative that correctional facilities work closely with outside OTPs to ensure continuity of care as patients transition back into the community.

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OPTION 2: Become a Jail- or Prison-Based Medication Unit of an OTP

A Medication Unit of an OTP is a geographically separate unit of the OTP that can be either mobile or brick-and-mortar. The revised final rule for Part 8 incorporates previously issued SAMHSA guidance about mobile and non-mobile medication units and clarifies that any service provided by an OTP may be provided at the Medication Unit. Required OTP services such as counseling or other services not provided at the Medication Unit must be provided at the OTP.

This final rule provides clarity that such arrangements are permissible; any prison or jail in New York can partner with a community-based OTP to establish a Medication Unit of that OTP on site, rather than applying to become its own certified OTP. As more mobile medication units (MMUs) come online, they can also continue to be an option for providing methadone at some facilities in the state.



OPTION 3: Leverage Telehealth Flexibilities

The revised OTP rules now permit methadone initiation via audio-visual telehealth, or where audio-visual telehealth is not available, via audio-only telehealth with the OTP provider if the individual is in the presence of a practitioner registered to prescribe controlled substances. This new regulation could be helpful to correctional facilities that rely on an offsite OTP for methadone induction. It permits the correctional facility to induct the patient on methadone using audio-visual telehealth services between the facility and OTP provider.

Recommendations

Correctional facilities have been working to comply with New York's mandate to provide MOUD in all prisons and jails across the state, but providing methadone to all those who need it remains a challenge. As an initial step, New York state officials must engage in a process to explore the opportunities presented by the revised final rules of 42 CFR Part 8. They can do so by:

- Exploring the feasibility of New York prisons and jails registering as a hospital/clinic to directly dispense methadone to patients, including by reviewing DEA requirements for becoming a hospital and gaining and determining the rates of incarcerated individuals with co-occurring conditions besides OUD.
- Reviewing the potential of each facility to establish an on-site Medication Unit of an OTP.
- Ensuring that each jail and prison has the audio-visual technology necessary to conduct induction in cooperation with an OTP, when an incarcerated person wants to begin methadone treatment.

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