

GENERAL DISTRIBUTION

**WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION**

NUMBER: 410.11

EFFECTIVE DATE: 25 October 2022

SUBJECT: HUNGER STRIKES

POLICY DIRECTIVE

PURPOSE:

To establish and maintain procedures for the medical and administrative management of adult inmates or juvenile residents who engage in hunger strikes.

REFERENCE:

WV Code §49-2-906; and *State ex rel. White v. Narick*, 170 W.Va. 195, 292 S.E.2d 54 (1982).

RESPONSIBILITY:

No additional written instructions on this subject are required.

CANCELLATION:

Any previous written instruction on the subject including DOC Policy Directive 410.11, dated 01 February 2007; and DJS Policy 415.00, dated 01 April 2009.

APPLICABILITY:

All facilities and work units within the Division of Corrections and Rehabilitation (DCR). This Policy is available for general distribution.

DEFINITIONS:

None.

POLICY:

- I. It is the responsibility of the Division of Corrections and Rehabilitation (DCR) to monitor the health and welfare of individual inmates and residents and to ensure that procedures are pursued to preserve life. The expected results of this program are:

- A. The health and welfare of any inmate or resident on a hunger strike will be monitored;
 - B. Food and beverage will be offered regularly;
 - C. When an inmate's or resident's life or health is threatened, involuntary medical treatment will be administered; and
 - D. Every incident of an inmate or resident on a hunger strike will be properly reviewed, documented, and reported.
- II. For the purpose of this Policy, an inmate or resident is on a hunger strike when:
- A. He/she communicates that fact to staff and is observed by staff to be refraining from eating for a period of time, ordinarily in excess of seventy-two (72) hours.
 - B. Staff observes the inmate/resident to be refraining from eating for a period in excess of seventy-two (72) hours.
 - C. A hunger strike may be announced by the inmate/resident, observed by staff, even though the inmate/resident may be taking liquids. (Please note that at times, an inmate/resident may not actually engaging in a hunger strike but may merely make a bid to gain attention.)
- III. Staff shall refer an inmate or resident who is observed to be on a hunger strike to healthcare staff for evaluation and, when appropriate, for treatment. When staff consider it prudent to do so, a referral may be made without waiting seventy-two (72) hours.
- A. Healthcare staff, in coordination with facility leadership, may place the inmate/resident in a medically appropriate secure room for close monitoring. This room should be a single-occupancy cell/room (dry cell with water shut-off capabilities), where no other inmate/resident contact is possible (e.g., others are unable to pass food or liquid items to the inmate/resident in a hunger strike status).
 - D. An inmate or resident in special or restrictive housing (e.g., segregation, special management, etc.) may be retained in this status and remain in his/her cell unless the physician determines movement to other quarters is medically necessary.
 - E. The physician in consultation with the Superintendent is to determine the type of observation (e.g., continuous, fifteen (15) minute checks, routine). Under no circumstances will another inmate or resident be used to monitor a hunger strike inmate/resident.
 - F. Healthcare staff shall ordinarily perform the following procedures upon initial referral of an inmate/resident on a hunger strike:
 - 1. Measure and record height and weight;

2. Take and record vital signs;
 3. Urinalysis;
 4. Psychological and/or psychiatric evaluation;
 5. General medical evaluation;
 6. Radiographs as clinically indicated; and
 7. Laboratory studies as clinically indicated.
- G. If an inmate/resident refuses the initial medical evaluation, a signed refusal form must be obtained and also documented in the medical record.
- H. Healthcare staff shall take and record weight and vital signs at least once every twenty-four (24) hours while the inmate/resident is on a hunger strike. Other procedures shall be repeated as medically indicated. When valid medical reasons exist, the physician may modify, discontinue, or expand any of the medical procedures described in this Policy Directive.
- I. When healthcare staff consider it medically mandatory, an inmate or resident on a hunger strike will be transferred to another facility considered medically appropriate, or to a community hospital. The decision to transfer an inmate/resident on a hunger strike for medical reasons should only be made after consultation with a physician.
- J. The inmate/resident should be admitted to a community hospital if his/her medical condition warrants continuous enteral (oral) or intravenous support which cannot be provided within a facility's medical unit.
- K. Mentally ill inmates/residents, not housed on a mental health unit, who do not eat or drink for more than three (3) days, regardless of the apparent reason, should be referred to the facility mental health provider for proper assessment and treatment of the underlying mental illness.
- IV. Staff shall prepare and deliver to the inmate/resident three (3) meals per day or as otherwise authorized by the physician. A verbal offer of a meal will not suffice. Food from the food tray may be left in the inmate's/resident's cell/room. Ordinarily, when the food tray is left in the cell/room, perishable food items will not be left for more than two (2) hours.
- A. Staff shall provide the inmate/resident an adequate supply of drinking water.
 - B. Staff shall remove any commissary food items and private food supplies of the inmate/resident while he or she is on a hunger strike. An inmate/resident may not make commissary food purchases while under hunger strike management. An inmate/resident under hunger strike management may still purchase non-food items

from the commissary. The inmate/resident shall be allowed to have toothpaste in the dry cell.

- C. All food and water intake and output will be monitored and recorded as needed or to the extent possible. The Superintendent shall make this determination after consultation with the physician. This procedure is to continue until ended by a physician.
 - D. Healthcare and food service staff may offer alternative beverages, including liquid nutritional supplements, if authorized by a physician. Any beverages other than drinking water must be documented and that information relayed to healthcare staff. Acceptance of liquids alone shall not be documented as accepting a meal.
- V. When, as a result of inadequate intake or abnormal output, a physician determines that the inmate's/resident's life or health will be threatened if treatment is not initiated immediately, the physician shall give consideration to involuntary medical treatment. The decision to force treatment is a medical decision, preferably by a written physician's order, with potential legal implications.
- A. When it appears to healthcare staff that the inmate's/resident's condition is deteriorating to the extent that intervention may soon be required, the applicable Assistant Commissioner must be notified so any legal issues may be addressed. Healthcare staff should not suspend or delay involuntary treatment if the physician is convinced to a reasonable medical certainty that there is an immediate threat to his/her life or permanent damage to his/her health.
 - B. Prior to medical treatment being administered against the inmate's/resident's will, staff shall make reasonable efforts to convince the inmate/resident to voluntarily accept treatment. Medical risks if treatment is not accepted shall also be explained and staff shall document their efforts in the medical record.
 - C. When, after reasonable efforts, or in an emergency preventing such efforts, a medical necessity for immediate treatment of a life or health threatening situation exists, the physician may order that treatment be administered without the consent of the inmate/resident. Staff shall document their treatment efforts in the medical record.
 - D. Written reports of such treatment shall be submitted to the applicable Assistant Commissioner and the Director of Correctional Healthcare.
 - E. When a physician orders involuntary medical treatment, to include placing a nasogastric tube for feeding, these events should be videotaped. All staff involved shall wear appropriate protective clothing.
 - F. Only the physician may order involuntary medical treatment. Normally, this is to consist of a nasogastric tube for feeding. If unsuccessful or medically inappropriate, then intravenous fluids and hyper alimentations intravenously may be necessary. As a last resort, gastrostomy and tube feeding though the stomach may be required;

however, review by the appropriate court or designation of a health care surrogate should first be sought before attempting these two (2) latter forms of treatment, unless necessary to preserve life.

- G. Normally, treatment must continue until adequate oral intake of food and liquid is achieved. Medical monitoring for severe or life-threatening complications of malnutrition may continue, at the physician's discretion, beyond the point at which the inmate/resident resumes adequate oral intake. Staff shall continue medical, psychiatric and/or psychological follow-up as long as necessary.
 - H. Only the physician may order release from hunger strike evaluation and treatment. This order shall be documented in the medical record of the inmate/resident.
 - I. None of the procedures or guidelines in this Policy Directive are meant to limit or override the exercise of sound medical judgment by the physician responsible for healthcare. Each case must be evaluated on its own merits and individual circumstances. Treatment is to be given and documented in accordance with accepted medical practice.
- VI. Other types of inmates/residents who should be monitored according to this Policy include:
- A. Inmates/residents who are unable to eat or drink by virtue of mental illness or acute medical conditions. It is not uncommon for terminally ill individuals to make the decision to refuse food and fluid. Although not intentionally on a hunger strike, these inmates/residents are either unwilling or unable to eat or drink sufficiently to prevent complications.
 - B. Inmates/residents with metabolic disorders or certain other illnesses, who deviate from normal eating habits or intake of fluid, could experience an immediate, significant hazard to his/her health and well-being.
 - C. In any case, it is also recognized that after long-term deprivation of food and shorter-term deprivation of fluid, serious irreversible changes can take place and sudden death can occur.
- VII. Any young adult offender committed to the Anthony Correctional Center or presentence diagnostic inmate or resident engaging in a hunger strike should be returned to his/her sentencing court as unfit.

ATTACHMENT(S):

None.

APPROVED SIGNATURE:



Brad Douglas, Acting Commissioner

10/12/22

Date