

103 CMR: DEPARTMENT OF CORRECTION

103 CMR 761.00: ACCESS TO THERAPEUTIC DIETS AND MEDICAL CARE

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761.01: Purpose

The purpose of 103 CMR 761.00 is to establish consistent guidelines and procedures for ensuring access to therapeutic diets and appropriate medical care for all inmates who require such diets.

761.02: Cancellation

103 CMR 761.00 cancels all previous Department of Correction (Department) policy statements, bulletins, directives, orders, notices, rules and regulations regarding access to therapeutic diets which are inconsistent with 103 CMR 761.00.

761.03: Applicability

103 CMR 761.00 applies to all inmates and Department employees.

761.04: Access to Regulation

103 CMR 761.00 shall be maintained in the Department's Central Policy File, in each superintendent's Central Policy File and in each inmate library. Copies of 103 CMR 761.00 shall be accessible to all Department employees and inmates. This includes Bridgewater State Hospital and it is understood that the term "inmate" as used in 103 CMR 761.00 shall be replaced with patient, where applicable.

761.05: Definitions

Assistant Deputy Commissioner of Clinical Services. The chief executive officer of the Department's Health Services Division.

Business Day. Monday through Friday, exclusive of state or federal holidays.

Commissioner. The chief executive officer of the Department of Correction.

Complaint. A written complaint by an inmate submitted to the superintendent in accordance with 103 CMR 761.00.

Contractual Medical Provider. Any provider of medical, dental, mental health treatment who is not an employee of the Department and who provides services through a contractual agreement.

Department. Department of Correction.

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Deputy Commissioner of the Administrative Services Division. The executive staff person whose duties include, but are not limited to the management of the Department's Food Services Division.

Dietician. A registered dietician employed by the Contractual Medical Provider, or if no contractual medical provider, by the Department.

Food Service. All kitchen personnel employed by the Department, equipment and area where food is stored, prepared, and/or consumed.

Food Service Manager/Supervisor. The person designated by the superintendent whose duties include, but are not limited to, the daily management of the food service operation within the institution.

Health Services Administrator. The individual designated by the Contractual Medical Provider, or if no contractual medical provider, by the Department, to oversee and manage one or more institutional Health Services Units and associated treatment areas.

Health Services Unit. The health care units located in any Department institution.

Institution. Any correctional facility operated by the Department.

Program Medical Director. Contractual Medical Provider staff member responsible for clinical supervision Contractual Medical Provider staff.

R.D.A. Recommended daily allowance regarding meal nutrition as prescribed by the National Academy of Sciences.

Superintendent. The chief administrative officer of a correctional institution.

Therapeutic Diet. A diet prescribed by a physician or dentist employed by the Contractual Medical Provider, or if no contractual medical provider, by the Department.

761.06: Therapeutic Diet Preparation

Each superintendent shall develop written procedures regarding the preparation and provision of therapeutic diets, which shall be consistent with 103 CMR 761.00.

(1) All therapeutic diets shall be consistent with national standards developed by the American Dietetic Association.

(2) Menus for the types of therapeutic diets required shall be developed by the dieticians. These menus should conform as closely as possible to the Department's cycle menu, consistent with 103 CMR 761.06(1).

(3) Food Services Departments at each institution shall follow the therapeutic menus developed by the dietician when preparing all therapeutic diet orders. Any substitutions made in the therapeutic meals shall be documented and be in accordance with the substitution guidelines approved by the dieticians for therapeutic diets. Copies of all therapeutic diet menus shall be retained by the institution for the dietician's review.

(4) Therapeutic diets menus shall be reviewed by the dieticians at least every six months or whenever there is a substantial change in the Department's cycle menus.

761.07: Access to Therapeutic Diets and Medical Care

(1) Therapeutic diets shall be available to all inmates upon the written prescription of a physician or dentist employed by the Department or by its Contractual Medical Provider.

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(2) Health Services Unit staff promptly shall transmit a Diet Order Form to the Food Services manager/supervisor, providing notification of the inmate's therapeutic dietary needs, the type of diet, the duration and, if applicable, any special dietary or preparation instructions. Health Services Unit staff shall also enter the information into the Inmate Management System (IMS) Medical Orders screen, thus generating an electronic notification to food services staff. The food services manager/supervisor shall view the IMS Notifications screen on a daily basis in order to identify new and changed diet orders. The IMS Medical Issues report may also be utilized to identify inmates with therapeutic diet orders.

(3) The on-site Food Service manager/supervisor shall ensure that the appropriate therapeutic diet is provided to the inmate and that the meal is of comparable palatability to regular meals. The Department's Food Services staff shall weigh or measure meal portions if required by the type of therapeutic diet.

(4) Upon presentation of his or her identification card, an inmate in general population shall be given the appropriate therapeutic diet. The inmate shall sign a diet roster upon receipt of the diet meal.

(5) Therapeutic diet orders shall be reviewed at least every 120 days by a physician or dentist employed by the Department or its contractual medical provider and shall not be altered or discontinued unless by order of these medical providers. Any changes to the order shall be entered in the IMS Medical Orders screen.

(6) Reasonable variances from institutional rules shall be authorized, in accordance with institutional procedures, when necessary to ensure that prisoners on therapeutic diets have access to these diets and to health care for their dietary and/or medical needs. Such variances shall include, but shall not be limited to, accommodations necessary to ensure that inmates with diabetes are permitted sufficient time in which to monitor their blood sugar levels, to receive insulin, and to receive appropriate meals on a timely basis.

(7) Requests for medical attention shall be assessed and processed in accordance with guidelines established by the National Commission on Correctional Health Care and according to American Correctional Association standards and Department guidelines.

(8) Physician orders for consultations with specialized care providers shall be reviewed for authorization by the Program Medical Director of the Contractual Medical Provider within seven days of the order, and, if not denied, arrangements for the consultation shall be made within seven days of the Medical Director's review and the consultation shall occur within a reasonable time.

(9) Prescribed specialized equipment shall be reviewed for authorization by the Medical Director of the Contract Medical Provider within seven days of the medical order. If the order is not denied and further testing is not required, the equipment shall be ordered within seven days of the Medical Director's review. The equipment shall be provided to the inmate within a reasonable time.

(10) Correction officers and other staff shall not interfere with medical orders.

761.08: Procedures Upon Transfers

(1) Therapeutic diets shall be automatically continued when an inmate is transferred to a different facility, unless the receiving facility's physician determines otherwise.

(2) An Intrasystem Transfer Form which specifies the type of therapeutic diet and medications required, shall be forwarded to the receiving Health Services Unit upon an inmate's transfer. The Health Services administrator shall promptly notify the Food Service manager/supervisor of the transferred inmate's dietary requirements by transmitting a Diet Order Form to the Food Service manager/supervisor. Health Services Unit staff shall also enter the information into the IMS Medical Orders screen, thus generating an electronic notification to food services staff. The food services manager/supervisor shall view the IMS Notifications screen on a daily basis in order to identify new and changed diet orders.

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(3) Each superintendent shall develop written procedures to ensure that therapeutic diets and prescribed medications are continued if an inmate is placed in segregation, on awaiting action status, on alternate feeding status, or during institutional lockdowns, except when access to the inmate for the provision of diet and medications is precluded due to emergency circumstances. In situations where an emergency has been declared every effort shall be made to address the critical needs of an inmate as related to the provision of therapeutic diets and prescribed medications.

761.09: Complaint Procedure for Access to Therapeutic Diets(1) Informal Processing of Inmate Complaints.

(a) Each institution shall develop informal measures for resolving inmate complaints whereby inmates are encouraged to communicate their problem to the staff person responsible in the particular area of the problem, their counselor or case manager, the appropriate Department head or other institutional and medical provider staff. Staff awareness as to the need for prompt attention and response to these complaints will minimize the use of formal complaint procedures.

(b) No disciplinary action shall be taken against an inmate as a result of communication of a complaint, unless the complaint is knowingly false or misleading or the inmate's conduct otherwise gives rise to a disciplinary infraction.

(2) Formal Processing of Inmate Complaints.

(a) After all efforts to resolve a complaint through informal resolution have been exhausted, and the inmate is dissatisfied with the informal resolution of the issue, the inmate may file a formal complaint directed to the superintendent's office.

(b) The superintendent or his designee shall respond to the complaint within five business days.

(c) An inmate dissatisfied with the superintendent's decision may appeal, within ten days of receipt of such decision, to the Deputy Commissioner of the Administrative Services Division, or his/her designee, who may take such action as deemed appropriate, including a referral of the matter to an outside consultant with specialized knowledge of the issues involved in providing access to therapeutic diets.

(d) If the issue involves a medical complaint, the inmate may file a medical grievance with the medical provider.

761.10: Compliance Procedures

(1) The Food Service Division shall maintain daily records of inmate compliance with a diet. A copy of all compliance records shall be given to the dietitians on a monthly basis.

(2) When an inmate fails to take a diet meal for seven out of 21 meals, the Food Service director may notify the Health Services administrator who shall arrange for the inmate to be seen by a member of the medical staff, within a reasonable time, for consultation and counseling.

(3) Should an inmate continue to refuse to take the diet meal, the Food Service director may notify the Health Services administrator who shall make arrangements for the inmate to be seen by a dietitian, within a reasonable time, for consultation and counseling.

(4) If an inmate continues to refuse diet meals which comply with 103 CMR 761.06(1) after the above steps are taken or attempted, the Food Service director shall notify the Health Services administrator, who shall make arrangements for the inmate to sign a Refusal of Treatment Form. In the event that the inmate refuses to sign this form, two Department or Contractual Medical Provider staff members, at least one of whom shall be a medical professional, shall sign the form as witnesses to the inmate's refusal.

(5) An inmate shall resume a therapeutic diet upon request, if still medically required by contacting the Health Services administrator who shall follow the procedures for access to special diets.

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(6) Inmates shall not be subject to disciplinary proceedings solely for non-compliance with therapeutic meals. However, inmates on therapeutic diets shall be subject to disciplinary proceedings, similar to all other inmates, for giving away any portion of their meals to other inmates. Any staff member that observes an inmate giving a diet meal to another inmate shall document this incident via an incident report. This incident report shall be forwarded to the institution Food Service director who shall forward the incident report to the medical provider's dietician for the institution.

761.11: Training and Staff Development

(1) In-service training of Food Service staff and correctional staff shall promote awareness of the importance of compliance with prescribed dietary and medical regimens.

(2) Basic training shall focus on developing staff sensitivity to the importance of therapeutic diets and unimpeded access to medical care.

(3) In-service training shall include a specialized program for food service staff designed to promote awareness of the importance of compliance with prescribed dietary and medical regimens.

761.12: Responsible Staff

(1) The Deputy Commissioner of the Administrative Services Division or his/her designee shall implement 103 CMR 761.00 as it relates to food services.

(2) The Assistant Deputy Commissioner of Clinical Services or his/her designee shall implement 103 CMR 761.00 as it relates to health services.

(3) Each superintendent shall implement this policy and develop any and all necessary institutional procedures and policies.

761.13: Annual Review

103 CMR 761.00 shall be reviewed annually by the Commissioner or a designee.

761.14 Severability

If an article, section, subsection, sentence, clause or phrase of 103 CMR 761.00 is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Commissioner, or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, clause or phrase of 103 CMR 761.00.

REGULATORY AUTHORITY

103 CMR 761.00: M.G.L. c. 124, § 1(c), (i) and (q).

NON-TEXT PAGE