

MAT for Incarcerated Individuals: Case Law Update

Medication-assisted treatment (MAT) is an evidence-based method of treatment for opioid use disorder (OUD), alcohol use disorder, or nicotine use disorder that combines behavioral therapies and medications approved by the Food and Drug Administration (FDA). There are currently three FDA-approved drugs to treat OUD: methadone, naltrexone, and buprenorphine.

Many correctional facilities do not provide access to MAT for OUD for their inmates. Yet, offering MAT in jail or prison can help save lives. Upon release, people with OUD who were not provided MAT often return to using opioids sooner than if treated while in custody. Additionally, people who do not receive OUD treatment generally have reduced tolerance levels, increasing the chance of an overdose. Recently, case law emanating from federal courts has established that policies that categorically prohibit the use of MAT in correctional facilities violate the 8th Amendment, the Americans with Disabilities Act (ADA), and the Rehabilitation Act.

2021

Finnigan v. Mendrick (2021) | United States District Court for the Northern District of Illinois

Christine Finnigan, who had been successful on various MAT regimens but previously reentered active addiction after stopping treatment, sought to continue MAT during a short incarceration at the DuPage County Jail.

The DuPage County Jail has previously relied on treating addiction through detoxification rather than medication and has only prescribed methadone to one non-pregnant inmate in the past five years. However, the jail insisted that it was open to prescribing methadone to Finnigan if the jail deemed it medically necessary after an examination. The jail claimed it could evaluate Finnigan within 24 hours of her arrival at the jail.

On February 24, 2021, the day before Finnigan was scheduled to arrive at the jail, the court declined to order the jail to provide MAT. The court reasoned that it did not have the authority to require treatment before Finnigan's incarceration unless Finnigan was denied treatment after the jail's evaluation or by a jail policy. After a decision had been made, the court could determine if the selected treatment, if any, was proper given the circumstances.

The court distinguished other cases (Smith v. Aroostook Cty. and Pesce v. Coppinger) that ordered MAT prior to incarceration as those cases involved a categorical ban in the jail's policy, while the DuPage County Jail remained open to the possibility of continuing MAT in some form.

2020

Chamberlain v. Va. Dep't. of Corr. (2020) | United States District Court for the Western District of Virginia

Jeremiah Chamberlain, an inmate in Virginia, sued the Virginia Department of Corrections alleging that the Department discriminated against him by denying access to MAT. Chamberlain sought immediate treatment through a preliminary injunction.

The Department did not offer methadone or buprenorphine in any of its facilities due to federal requirements, and only ran a pilot program involving injectable naltrexone as part of an intensive drug treatment program at one facility. However, both the facility and pilot program were limited to low-security level offenders and the program was only offered in the months preceding the offender's release.

The Department did offer oral naltrexone to treat Chamberlain's OUD, but Chamberlain stopped taking the medication within a week. The Department's doctor also found that Chamberlain's requested form of MAT was not necessary to treat his OUD.

The court found that Chamberlain could not prove the requested MAT was necessary to prevent irreparable harm and withheld preliminary relief. The court relied on Chamberlain's long-term incarceration without MAT and the lack of medical testimony supporting his need for a specific form of MAT.

This case is ongoing as of April 2021.

Quintana v. Santa Fe Cty. Bd. of Comm'rs (2020) | United States Court of Appeals for the Tenth Circuit

On January 4, 2016, Ricardo Jose Ortiz was arrested and booked at the Santa Fe Adult Detention Facility. During his intake exam, a nurse determined that Ortiz was dependent on heroin and would likely experience withdrawal during his time in the facility. Ortiz experienced withdrawal symptoms for a few days before ultimately dying from a heroin withdrawal-related gastrointestinal hemorrhage on January 7, 2016.

Ortiz's next of kin, Rose Quintana, sued individuals who interacted with Ortiz during his time in withdrawal, including the intake nurse and several guards, alleging that the jail staff deprived Ortiz of his right to medical care while incarcerated. Quintana alleged that the "kick kit," which treated symptoms of withdrawal, was inappropriate, and the only proper treatment was the use of MAT. Furthermore, Quintana alleged that guards ignored serious signs of withdrawal that could have prevented Ortiz's death.

The district court dismissed the allegations, as failure to prescribe a particular medication is not deliberate interference.¹ Furthermore, the court found that the guards were not aware of any potential for harm beyond the typical discomfort associated with withdrawal.

On appeal, the Tenth Circuit affirmed the dismissal against all defendants except one guard, who was alleged to have seen blood in Ortiz's vomit, indicating a more serious medical issue. The court also gave the plaintiff leave to amend their complaint, allowing the case to continue.

Crews v. Sawyer (2020) | United States District Court for the District of Kansas

After entering federal custody in September 2019, Leaman Crews sued the Bureau of Prisons Director to ensure he continued to receive MAT for his opioid use disorder. Within five days of his arrival, the Bureau had arranged for MAT therapy and the Bureau's Medical Director stated that Crews would continue to receive MAT therapy "so long as it remains necessary and appropriate."

¹ Quintana v. Santa Fe Cty. Bd. Of Comm'rs, 2019 U.S. Dist. LEXIS 18009 (D.N.M. 2019).

In February 2020, Crews' provider recommended weaning him from MAT, finding his behavior was "inconsistent with the desire to fully comply with the program for treatment of opiate dependence." As of March 2020, Crews was continuing to receive MAT, but at a lower dosage.

Crews sought a guarantee that officials would provide access to his MAT treatment, and alleged that he received threats that he would be denied medication or moved to a facility where MAT is not available. However, the court dismissed his claims, finding that the mere possibility of the Bureau withdrawing MAT was not enough to justify continuing the lawsuit.

2019

Sclafani v. Mici (2019) | United States District Court for the District of Massachusetts

Before their incarceration in Massachusetts Correctional Institution – Cedar Junction (MCI-Cedar Junction), Joseph Sclafani, Michael Feinstein, and Bret Cappola had each been diagnosed with OUD and prescribed buprenorphine based on their individual medical needs.

MCI-Cedar Junction, a Massachusetts Department of Corrections (DOC) facility, is the only Massachusetts DOC facility that provides MAT for OUD to individuals while they are incarcerated. It is not DOC policy that its correctional facilities must provide MAT. MCI-Cedar Junction policy provides that an incarcerated individual's buprenorphine dose can be no more than 8 mg per day for no more than 90 days.

Consequently, Sclafani, Feinstein, and Cappola's doses were all involuntarily reduced to 8 mg per day when they entered MCI-Cedar Junction. Each individual was also informed that after 90 days, the facility would no longer allow him to access his buprenorphine prescription.

Sclafani, Feinstein, and Cappola filed suit on December 19, 2019, claiming that MCI-Cedar Junction's treatment policy violated the 8th Amendment and the ADA.

On December 23, 2019, the DOC agreed to allow Feinstein and Cappola to continue taking the buprenorphine as prescribed. Because Sclafani had been transferred to another MCI facility that did not provide buprenorphine for the treatment of OUD, the DOC did not agree to permit him to continue his OUD treatment as prescribed. Rather, he would have to be evaluated for transfer back to MCI-Cedar Junction to access his treatment.

On February 27, 2020, the DOC officially settled with the plaintiffs. The settlement provided for proper MAT treatment for each plaintiff for the duration of their incarceration and notice regarding any proposed decrease in dosage.

Smith v. Fitzpatrick (2019) | United States District Court for the District of Maine

Zachary Smith had been prescribed MAT with buprenorphine for the treatment of OUD. Smith had pled guilty to criminal charges and was expected to be required to report to prison after his upcoming sentencing.

Smith filed a motion for a preliminary injunction against the Commissioner of the Maine Department of Corrections and the Aroostook County Sheriff. He claimed that the state and county jails' refusal to provide MAT violated the 8th Amendment and the ADA.

The case settled out of court and the Maine Department of Correction's Commissioner Fitzpatrick agreed to provide MAT to Smith.

DiPierro v. Hurwitz (2019) | United States District Court for the District of Massachusetts

Stephanie DiPierro filed suit against the acting director of the Federal Bureau of Prisons. Before being sentenced to prison for benefits fraud, DiPierro had been diagnosed with OUD and had been receiving MAT with methadone for many years. She alleged that the Bureau's policy of refusing to provide MAT to non-pregnant inmates violated the 8th Amendment and the ADA.

The case settled out of court and the Federal Bureau of Prisons agreed to administer MAT to DiPierro.

Kortlever et. al. v. Whatcom County Jail (2019) | United States District Court for the Western District of Washington at Seattle

A “class of nonpregnant people who have an OUD and who are incarcerated, or who will be incarcerated in the future, at the Whatcom County Jail in Bellingham, Washington” filed suit against Whatcom County Jail seeking declaratory and injunctive relief. They claimed that the jail’s refusal to provide MAT violated the ADA.

The case settled out of court and the Whatcom County Jail agreed to institute policies allowing inmates to undergo MAT, regardless of whether they were undergoing MAT before incarceration.

Smith v. Aroostook County (2019) | United States Court of Appeals for the First Circuit

Brenda Smith had struggled with opioid use since she was eighteen, resulting in loss of employment, stable housing, and custody of her children.² She began taking buprenorphine ten years ago after she was diagnosed with OUD and has since regained employment, housing, and custody of her children. Her doctors previously have attempted to taper her treatment without success.

In 2014, Smith was incarcerated for one week during which the jail did not provide access to MAT. She underwent forced opioid withdrawals, which include symptoms such as nausea, vomiting, pain, anxiety, muscle aches, fever, and sweating. She described this as the worst pain of her life.

While she immediately began MAT upon release, her cellmate did not and suffered a fatal overdose. In 2018, Smith was sentenced to forty days in Aroostook County Jail for taking \$40 dollars from the Walmart self-checkout when she noticed another patron had failed to collect their money.

Smith filed a motion for a preliminary injunction against the Aroostook County Jail in the U.S. District Court for the District of Maine to require the jail to administer MAT. She claimed that the jail’s refusal to provide MAT violated the 8th Amendment and the ADA.

² Smith v. Aroostook County, 376 F.Supp.3d 146, (D. Maine 2019)

The court granted Smith’s motion on March 27, 2019, finding that she would likely suffer irreparable harm if forced to undergo withdrawal and would likely prevail on both claims. It stated:

“[b]ased on the evidence offered by the Plaintiff's experts, the available scientific evidence, and Ms. Smith’s medical history, I find that forcing Ms. Smith to withdraw from her buprenorphine would cause her to suffer painful physical consequences and would increase her risk of relapse, overdose, and death.”

The court also noted that, because the jail provided MAT for pregnant inmates, it had demonstrated that it could safely administer buprenorphine without high risk of diversion.

Aroostook County Jail appealed to the First Circuit to overturn the preliminary injunction alleging the district court had erred in applying the facts, laws, and otherwise abused its discretion because it did not grant proper discretion to the prison to execute policies to ensure safety, did not consider the impact of MAT on other inmates, and did not consider the economic burden MAT would create.

The First Circuit upheld the district court ruling on April 30, 2019.

2018

Pitkin v. Corizon Health, Inc. (2018) | United States District Court for the District of Oregon, Portland Division

Madaline Pitkin was incarcerated in the Washington County Jail in Oregon. During her medical evaluation, she told doctors she had ingested one gram of heroin before her arrest and was experiencing withdrawal symptoms. She had not been previously diagnosed with OUD and had not previously received MAT.

Pitkin was placed on a Partial Opiate Withdrawal Protocol consisting of oral doses of hydroxyzine, acetaminophen, and promethazine to manage withdrawal symptoms. Over the following seven days, Pitkin’s medical condition deteriorated, and she was moved to the Medical Observation Unit. Pitkin was found dead in her cell the next morning.

Pitkin’s husband sued the jail’s medical services provider, Washington County, and several practitioners who worked at the Washington County Jail where Pitkin was incarcerated. He alleged that the jail’s medical policies did not provide adequate medical staff, screenings, or treatment access for its patients and that Ms. Pitkin died as a direct result of those policies.

The case settled out of court and the jail's medical service provider agreed to pay \$10 million.

Pesce v. Coppinger (2018) | United States District Court for the District of Massachusetts

Before receiving methadone treatment, Geoffrey Pesce had an active heroin and oxycodone addiction for many years, which ultimately resulted in his loss of employment, custody of his son, and his driver's license. Pesce began receiving a daily dose of methadone, which, for two years, helped him achieve recovery and get his life back on track.

Given that methadone may only be dispensed in highly controlled environments, his parents drove him daily to the clinic – until one day Pesce's mother was unexpectedly unable to drive him to his treatment. Fearing he would resume using drugs after even one missed dose, Pesce drove himself without a license, was pulled over for going six miles above the speed limit, charged with driving with a suspended license, and sentenced to the mandatory minimum of 60 days in jail in Essex County, Massachusetts.

Pesce filed a motion for a preliminary injunction against the Essex County Jail in the U.S. District Court for the District of Massachusetts. He claimed that the jail's refusal to provide MAT violated the 8th Amendment and the ADA.

The Essex County Jail prohibited MAT, claiming that it was dangerous and posed a high diversion risk. It instead required managed withdrawal.

The court granted Pesce's motion on November 26, 2018, stating that forced withdrawal from MAT would likely cause him irreparable harm and that he would likely prevail on both the 8th Amendment and ADA claims. The court found that:

- The Essex County Jail likely violated the 8th Amendment's prohibition on deliberate disregard for delayed or inadequate medical treatment by denying Pesce access to MAT even though it had actual knowledge that Pesce had OUD and that there was no viable treatment alternative to methadone for him because previous treatments had not worked for him.
- The court also found that Pesce would likely prevail on his ADA claim because OUD qualified as a disability under the ADA and the jail withheld MAT from all inmates with OUD based on generalized safety concerns, rather than a specific evaluation of the patient.