Minnesota Department of Corrections

Division Directive:	**205.150**	**Title: Conditional Release of Nonviolent Controlled Substance Offenders**
Issue Date:	**7/26/16**	
Effective Date:	**8/1/16**	

AUTHORITY: Minn. Stat. § 244.0513 and clarifying Minnesota case law

PURPOSE: To outline the screening, review, and release procedures for conditional release of certain nonviolent controlled substance abuse offenders.

APPLICABILITY: Minnesota Department of Corrections (DOC); all offenders in adult correctional facilities that have a qualifying sentence.

DIRECTIVE: The department may conditionally release offenders as part of the conditional release program (CRP) who meet eligibility criteria outlined in Minn. Stat. § 244.0513 and complete a chemical dependency treatment program. The department offers all offenders meeting the eligibility criteria the opportunity to begin the chemical dependency treatment program no later than ten months prior to their CRP release eligibility date.

DEFINITIONS:
Conditional release program (CRP) review team – team consisting of the facility case management supervisor, one other supervisory staff or one career case manager, and the assigned case manager. The team is responsible for determining if the offender meets the statutory and departmental criteria for CRP, and if so, reviews the supporting documentation for completeness and forwards the materials to the commissioner's review team.

PROCEDURES:

A. Offender screening procedures

1. Offenders are preliminarily screened for program participation by the case manager assigned upon offender intake. Offenders may also send a kite to his/her case manager and request to be screened for the program if the individual believes he/she qualifies.

2. The case manager determines if the offender was sentenced under a qualifying statute. If so, the case manager must continue the screening for eligibility using the Conditional Release for Nonviolent Controlled Substance Offenders Screening form found on the Case Manager Information (CMI) iShare site.

3. On the Conditional Release for Nonviolent Controlled Substance Offenders Screening form, steps numbered one and two must be completed for all offenders with a qualifying offense.
   a) If the offender does not meet the requirements of step one and step two, the form (and any supporting documentation) is forwarded to the facility CRP review team. If the CRP team concludes that the offender is ineligible for the program, the offender is sent notice of ineligibility. The facility CRP review team must document its actions in step three and step six on the screening form. The offender may appeal the denial of entrance; see Procedure B "appeals" for more information.

b) If the offender meets the criteria in step one and step two, the case manager meets with the offender, explains the program, and determines whether the offender wants to be considered for the program.

c) If the offender declines to be considered for the CRP, the case manager must complete step one and step two of the Conditional Release for Nonviolent Controlled Substance Offenders Screening form, indicating the refusal on the first question of the screening form. The case manager then forwards a copy of the screening form to the facility CRP review team. The case manager must also enter a case note in correctional operations management system (COMS) indicating that the offender has declined and the reason(s) given. If the CRP review team finds that the offender's decision to decline was based on appropriate information, the offender is sent notice of ineligibility and step six on the screening form is completed.

d) If the offender wants to be considered for the CRP and meets the criteria in step one and step two, the case manager must complete step three. The case manager reviews the offender's case file to determine whether he/she has any discretionary consideration issues and documents them.

(1) The case manager sends a request to the facility behavioral health director/designee indicating the need for an assessment to determine if the offender is suitable for participation in the CRP.

(2) The case manager sends a letter (template attached) to the prosecuting authority and sentencing court responsible for the offender's conviction for comment on the offender's potential conditional release. The prosecuting authority and sentencing court have 30 days from the date sent to submit a response.

(3) The case manager reviews the Conditional Release Program Agreement with the offender and obtains the offender's signature on it. The signed agreement is retained in the electronic document system (EDS).

4. When the case manager has collected all of the information for step three, he/she compiles a packet including a copy of the screening form, any supporting documentation (as noted on the screening form), the mental health assessment, Minnesota screening tool assessing recidivism risk (MnSTARR) and level of service/case management inventory (LSCMI) assessments (if available), the signed Conditional Release Agreement form, and the responses from the prosecutor and sentencing court (if received). The case manager submits the packet to the facility CRP review team. The CRP review team reviews the Conditional Release for Nonviolent Controlled Substance Offenders Screening form and supporting documentation for completeness and notes any significant information in "comments" for step four. The CPR review team date is also documented in step four of the screening form and in the COMS PRT tab. When the review is completed, the form and supporting documentation, including the PRT Action Report, are submitted via email to the deputy commissioner's support staff. If the form and supporting documentation are not sufficient, the packet is returned to the case manager for further information gathering.

5. The commissioner's review team reviews the screening form and supporting documentation, and approves or denies the offender's admission. Once a decision is made, notice must be sent to the appropriate facility CRP review team and case manager. The commissioner's review is documented in step five of the screening form on the iShare site.

The case manager informs the offender of the commissioner review team decision in writing. If approved, the offender is referred to the appropriate chemical dependency treatment program. If the offender is denied entrance, the offender may appeal the denial of entrance; see Procedure B "appeals" for more information. The screening packet is retained in the electronic document system. The completed screening form must be retained on the CMI iShare site and in the EDS,

6. The offender must be offered treatment no later than ten months prior to the CRP release eligibility date. The case manager is responsible for notifying the chemical dependency program staff of the offender's approval for CRP and the release eligibility date. This must be accomplished no later than 12 months prior to the offender's conditional release eligibility date. For offenders serving shorter sentences, these must be accomplished as soon as possible to ensure the appropriate amount of time for treatment completion.

B. Appeals - if the offender was denied entrance into the CRP, the offender may appeal the decision to the assistant commissioner- facility services (who was not a member of the commissioner's review team).

C. The chemical dependency treatment program must adhere to the requirements found in Minn. Stat. § 244.0513.

D. An offender expelled from chemical dependency treatment may appeal the termination per Division Directive 500.308, "Chemical Dependency Assessment and Programming."

E. Release procedures – see Minn. Stat. § 244.0513, subd. 7.
   1. All DOC policies and procedures relating to release apply to this Division Directive. Additionally, the offender's release plan must include a detailed and specific plan that addresses, at a minimum:
      a) Plans for an aftercare community-based chemical dependency treatment;
      b) Gaining employment; and
      c) Securing housing.

   2. The hearings and release unit (HRU) must approve the offender's release plan; see Policy 106.112, "Release Reviews."

   3. Release supervision procedures are contained in Division Directive 205.152, "Conditional Release of Nonviolent Controlled Substance - Community Supervision."

F. Revocation procedures
   1. Conditional release under Minn. Stat. § 244.0513 is governed by the provisions relating to supervised release contained in Minn. Stat. Ch. 244. An offender who has his/her conditional release rescinded after a hearing by the HRU is subject to re-incarceration as a release violator and may be required to serve all or a portion of his/her remaining sentence.

   2. Revocation and return to a Minnesota correctional facility is determined at an administrative hearing conducted by the HRU; see Policy 106.140, "Evidentiary Hearings."

INTERNAL CONTROLS:

A. The completed CRP screening form is retained in the case management information iShare site and a copy is retained in the electronic document system.

B. All supporting documents (included in the packet) are retained in the electronic document system.

C. The signed CRP Agreement is retained in the electronic document system.

REVIEW: Annually

REFERENCES: Division Directive 205.152, "Conditional Release of Nonviolent Controlled Substance Offenders – Community Supervision"
Division Directive 500.308, "Chemical Dependency Assessment and Programming"
Policy 106.140, "Evidentiary Hearings"
Policy 106.112, "Release Reviews"
Minn. Stat. Ch. 244

SUPERSESSION: Division Directive 205.150, "Conditional Release of Nonviolent Controlled Substance Offenders,"3/1/16.

All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS: Conditional Release Program Agreement (205.150B)
Template letter to prosecuting authority and sentencing court (205.150C)
Conditional Release Program – Frequently Asked Questions (205.150D)

/s/
Assistant Commissioner, Facility Services