

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
ENFORCEMENT AND REMOVAL OPERATIONS
ICE HEALTH SERVICE CORPS**

AVAILABILITY OF HEALTH CARE PRIOR TO REPATRIATION

**IHSC Directive: 03-31
ERO Directive Number: 11852.2
Federal Enterprise Architecture Number: 306-112-002b
Effective Date: November 15, 2023**

By Order of the Assistant Director

(b)(6),(b)(7)(C) DHSc, FACHE

11/14/2023

(b)(6),(b)(7)(C)

1. **PURPOSE.** The purpose of this directive is to set forth the policies and procedures for determining the availability of health care (AHC) in other countries, for patients who ICE repatriates to aforementioned countries.

2. **APPLICABILITY.** This directive applies to all IHSC personnel, including but not limited to, U.S. Public Health Service (PHS) officers and contract personnel. It applies to IHSC personnel who support health care operations in ICE-owned and contracted detention facilities and to IHSC headquarters staff. This directive applies to contract personnel who support IHSC in detention facilities and headquarters (HQ). Federal contractors are responsible for the management and discipline of their employees supporting IHSC.

3. **AUTHORITIES AND REFERENCES:**
 - 3-1. Title 8, Code of Federal Regulations, Section 235.3 (8 CFR § 235.3), Inadmissible Aliens and Expedited Removal.
 - 3-2. Section 232 of the Immigration and Nationality Act, as amended, Title 8, U.S. Code, Section 1222 (8 U.S.C. § 1222), Detention of Aliens for Physical and Mental Examination.
 - 3-3. ICE ERO Directive No. 11014.1, *Continuity of Care Requirements for Adult Detainees Diagnosed with Active Tuberculosis*, May 14, 2004.
 - 3-4. ICE ERO Directive No. 11063.2: *Identification, Communication, Recordkeeping, and Safe Release Planning for Detained Individuals with Serious Mental Disorders or Conditions and/or Who Are Determined To Be Incompetent By An Immigration Judge*, (April 5, 2022).

4. **POLICY:** Prior to repatriation, IHSC identifies medical or behavioral health (BH) services in other countries for patients, to ensure continuity of care and safe release.

5. **RESPONSIBILITIES:**

5-1. **Health Care Compliance Consultant (HCC).**

5-1.1 Reviews cases and makes final AHC determination.

5-1.2 Completes and signs the determination letter.

5-2. **Field Medical Coordinator (FMC).**

5-2.1 Receives AHC requests from Enforcement and Removal Operations (ERO) personnel for IHSC-staffed and non-IHSC-staffed facilities.

5-2.2 Completes all fields in the AHC Intake Request Resource form.

5-2.3 Emails the form to the MCC mailbox for medical requests or the BHU HQ mailbox for mental health requests.

5-3. **Managed Care Coordinator (MCC) or Behavioral Health Clinical Consultant (BHCC).**

5-3.1 Determines if a country's health care system provides the appropriate medical or BH care, or an alternative.

5-3.2 Ensures all pertinent medical or BH information and resources are on the AHC Intake Request Resource Form.

6. **PROCEDURES:**

6-1. **Request Evaluation Process.**

6-1.1 IHSC receives AHC requests from ICE stakeholders and consulates who request continuity of care resources.

6-1.2 FMCs receive ERO requests for their area of responsibility and complete the patient's health and demographic information on the AHC Intake Request Resource Form.

6-1.3 FMCs complete and email the form to the MCC mailbox for medical cases and the BHU mailbox for behavioral health cases.

6-1.4 The MCC searches for patient-specific health care, provides medical information from their AHC research, and documents the resources on the AHC Intake Request Resource Form. The form should address, but not limited to, the following:

6-1.4.a Tuberculosis and infectious disease status. See IHSC Directive 05-06, *Infectious Disease Public Health Actions* and IHSC Guide 05-11 G-02, *Public Health Actions for Tuberculosis Care*.

6-1.4.b Medications.

6-1.4.c Medical and mental health specialists and resources, identified by the MCC and BCC.

6-1.4.d Durable medical equipment or supplies. See IHSC Guide 01-49 G-01, *ISOU Med Air Op Guide*, for travel requirement information.

6-1.5 The BHCC searches for patient-specific mental health care, provides medical and medication information from their AHC research, and documents the resources on the AHC Intake Request Resource Form.

6-1.6 The MCC and BHCC submit the completed form with the information to the HCC.

6-2. Health Care Determination Letters. The HCC completes and signs a medical determination letter, uploads it into SharePoint under the AHC Tracker, and notifies the MCC, BHCC, and/or FMC as appropriate.

6-3. Routing. The MCC, BHCC, and/or FMC distributes the determination letter as appropriate to the respective detention and deportation officers.

7. HISTORICAL NOTES:

7-1. This directive replaces the IHSC Directive 03-31, *Availability of Health Care*, dated March 18, 2016, and IHSC Guide 03-31 G-01, *Availability of Health Care Case Completion Guide*.

7-2. Summary of Changes:

7-2.1 Removed the ICE ENFORCE Alien Removal Module (EARM) program.

7-2.2 Updated title to reflect repatriation.

7-2.3 Removed inapplicable authorities and references.

7-2.4 Added ERO Directive 11014.1, *Continuity of Care Requirements for Adult Detainees Diagnosed with Active Tuberculosis*, May 14, 2004.

- 7-2.5 Added ICE ERO Directive No. 11063.2: *Identification, Communication, Recordkeeping, and Safe Release Planning for Detained Individuals with Serious Mental Disorders or Conditions and/or Who Are Determined To Be Incompetent By An Immigration Judge*. (April 5, 2022).
 - 7-2.6 Responsibilities section added to indicate responsibilities in one place.
 - 7-2.7 Medical clearing official changed from the IHSC medical director to the HCC.
 - 7-2.8 Archived IHSC Guide 03-31 G-01, *Availability of Health Care Case Completion* Guide, and incorporated pertinent information and processes into procedures section.
 - 7-2.9 Updated applicable standards.
- 8. DEFINITIONS.** See definitions for this policy in the IHSC Glossary located on in the IHSC Policy Library.
- 8-1. Availability of Health Care Request.** An ERO-generated request for health care availability in another country.
 - 8-2. Repatriation.** The act or process of returning an alien to one's country of origin or citizenship.
- 9. APPLICABLE STANDARDS:**
- 9-1. Performance-Based National Detention Standards (PBNDS) 2011, rev. 2016.**
 - 9-1.1 Part 2: Security, 2.1 Admission and Release, V. Expected Practices, I. Releases or Removals.
 - 9-1.2 Part 4: Care, 4.3 Medical Care, V. Expected Practices, Z. Continuity of Care.
 - 9-2. National Detention Standards (NDS) 2019.**
 - 9-2.1 4.3 Medical Care, Q. Transfer and Release of Detainees.
 - 9-3. ICE 2020 Family Residential Standards (FRS).**
 - 9-3.1 **Part 2: Security; 2.1 Admission and Release.**
 - 9-3.2 Part 4: Care; 4.3 Health Care; Expected Practices; Z. Continuity of Care.
 - 9-4. American Correctional Association (ACA): Performance-Based Standard for Adult Local Detention Facilities, 4th edition.**

9-4.1 4-ALDF-4C-04, Continuity of Care.

9-5. National Commission on Correctional Health Care (NCCHC) 2018.

9-5.1 J-E-10 Discharge Planning.

- 10. PRIVACY AND RECORDKEEPING.** ICE uses patient health records and information maintained in accordance with the DHS/ICE-013, *Alien Health Records System of Records*, to provide for the care and safety of patients. IHSC limits access to patient health records and information to those individuals who need to know the information for the performance of their official duties, and who have appropriate clearances or permissions. IHSC secures paper records in a locked cabinet or room when not under the direct control of an officer or employee with a need for the paper record to perform their duties.
- 10-1.** IHSC staff complete annual training on the protection of patient health information and Sensitive Personally identifiable information.
- 10-2.** IHSC staff reference the Department of Homeland Security Handbook for Safeguarding Sensitive PII (Handbook) at DHS Handbook for Safeguarding Sensitive PII for additional information concerning safeguarding sensitive PII.
- 10-3.** All relevant documents produced or provided in accordance with this Directive must be maintained in accordance with an applicable National Archives and Records Administration (NARA) General Records Schedule (GRS) or a NARA-approved agency-specific records control schedule. If the records are not subject to a records schedule, they must be maintained indefinitely by the agency. In the event the records are subject to a litigation hold, they may not be disposed of under a records schedule until further notification. Prior to the disposition of any records referenced in this directive, ICE Records Officer must provide an approval.
- 11. NO PRIVATE RIGHT STATEMENT.** This directive is an internal statement of IHSC. It is not intended to, and does not create any rights, privileges, or benefits, substantive or procedural, enforceable against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.
- 12. POINT OF CONTACT.** Senior Health Care Compliance Consultant.