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testing, appropriate treatment, prevention, education, and infection control measures.

§ 549.11 Program responsibility.

Each institution's Health Services Administrator (HSA) and Clinical Director (CD) are responsible for the operation of the institution's infectious disease program in accordance with applicable laws and regulations.

§ 549.12 Testing.

(a) *Human Immunodeficiency Virus (HIV)*—(1) *Clinically indicated.* The Bureau tests inmates who have sentences of six months or more if health services staff determine, taking into consideration the risk as defined by the Centers for Disease Control guidelines, that the inmate is at risk for HIV infection. If the inmate refuses testing, staff may initiate an incident report for refusing to obey an order.

(2) *Exposure incidents.* The Bureau tests an inmate, regardless of the length of sentence or pretrial status, when there is a well-founded reason to believe that the inmate may have transmitted the HIV infection, whether intentionally or unintentionally, to Bureau employees or other non-inmates who are lawfully present in a Bureau institution. Exposure incident testing does not require the inmate's consent.

(3) *Surveillance Testing.* The Bureau conducts HIV testing for surveillance purposes as needed. If the inmate refuses testing, staff may initiate an incident report for refusing to obey an order.

(4) *Inmate request.* An inmate may request to be tested. The Bureau limits such testing to no more than one per 12-month period unless the Bureau determines that additional testing is warranted.

(5) *Counseling.* Inmates being tested for HIV will receive pre- and post-test counseling, regardless of the test results.

(b) *Tuberculosis (TB).* (1) The Bureau screens each inmate for TB within two calendar days of initial incarceration.

(2) The Bureau conducts screening for each inmate annually as medically indicated.

(3) The Bureau will screen an inmate for TB when health services staff determine that the inmate may be at risk for infection.

(4) An inmate who refuses TB screening may be subject to an incident report for refusing to obey an order. If an inmate refuses skin testing, and there is no contraindication to tuberculin skin testing, then, institution medical staff will test the inmate involuntarily.

(5) The Bureau conducts TB contact investigations following any incident in which inmates or staff may have been exposed to tuberculosis. Inmates will be tested according to paragraph (b)(4) of this section.

(c) *Diagnostics.* The Bureau tests an inmate for an infectious or communicable disease when the test is necessary to verify transmission following exposure to bloodborne pathogens or to infectious body fluid. An inmate who refuses diagnostic testing is subject to an incident report for refusing to obey an order.

§ 549.13 Programming, duty, and housing restrictions.

(a) The CD will assess any inmate with an infectious disease for appropriateness for programming, duty, and housing. Inmates with infectious diseases that are transmitted through casual contact will be prohibited from work assignments in any area, until fully evaluated by a health care provider.

(b) Inmates may be limited in programming, duty, and housing when their infectious disease is transmitted through casual contact. The Warden, in consultation with the CD, may exclude inmates, on a case-by-case basis, from work assignments based upon the security and good order of the institution.

(c) If an inmate tests positive for an infectious disease, that test alone does not constitute sole grounds for disciplinary action. Disciplinary action may be considered when coupled with a secondary action that could lead to transmission of an infectious agent. Inmates testing positive for infectious disease are subject to the same disciplinary policy that applies to all inmates (*see* 28 CFR part 541, subpart B). Except as provided for in our disciplinary policy,

no special or separate housing units may be established for HIV-positive inmates.

§ 549.14 Confidentiality of information.

Any disclosure of test results or medical information is made in accordance with:

(a) The Privacy Act of 1974, under which the Bureau publishes routine uses of such information in the Department of Justice Privacy Act System of Records Notice entitled ''Inmate Physical and Mental Health Record System, JUSTICE/BOP–007''; and

(b) The Correction Officers Health and Safety Act of 1998 (codified at 18 U.S.C. 4014), which provides that test results must be communicated to a person requesting the test, the person tested, and, if the results of the test indicate the presence of HIV, to correctional facility personnel consistent with Bureau policy.

§ 549.15 Infectious disease training and preventive measures.

(a) The HSA will ensure that a qualified health care professional provides training, incorporating a question-and-answer session, about infectious diseases to all newly committed inmates, during Admission and Orientation.

(b) Inmates in work assignments which staff determine to present the potential for occupational exposure to blood or infectious body fluids will receive annual training on prevention of work-related exposures and will be offered vaccination for Hepatitis B.

Subpart B—Over-The-Counter (OTC) Medications

SOURCE: 68 FR 47849, Aug. 12, 2003, unless otherwise noted.

§ 549.30 Purpose and scope.

This subpart establishes procedures governing inmate access to Over-The-Counter (OTC) medications for all inmates except those in inpatient status at Federal Medical Centers. Inmates may buy OTC medications which are available at the commissary. Inmates may also obtain OTC medications at sick call if the inmate does not already have the OTC medication and:

(a) Health services staff determine that the inmate has an immediate medical need which must be addressed before his or her regularly scheduled commissary visit; or

(b) The inmate is without funds.

§ 549.31 Inmates without funds.

(a) The Warden must establish procedures to provide up to two OTC medications per week for an inmate without funds. An inmate without funds is an inmate who has not had a trust fund account balance of $6.00 for the past 30 days.

(b) An inmate without funds may obtain additional OTC medications at sick call if health services staff determine that he/she has an immediate medical need which must be addressed before the inmate may again apply for OTC medications under this section.

(c) To prevent abuses of this section (*e.g.*, inmate shows a pattern of depleting his or her commissary funds before requesting OTC medications), the Warden may impose restrictions on the provisions of this section.

[68 FR 47849, Aug. 12, 2003, as amended at 69 FR 53805, Sept. 3, 2004]

Subpart C—Administrative Safeguards for Psychiatric Treatment and Medication

SOURCE: 57 FR 53820, Nov. 12, 1992, unless otherwise noted.

§ 549.40 Use of psychotropic medications.

Psychotropic medication is to be used only for a diagnosable psychiatric disorder or symptomatic behavior for which such medication is accepted treatment.

§ 549.41 Voluntary admission and psychotropic medication.

(a) A sentenced inmate may be voluntarily admitted for psychiatric treatment and medication when, in the professional judgment of qualified health personnel, such inmate would benefit from such treatment and demonstrates the ability to give informed consent to such admission. The assessment of the