

Medication-assisted Treatment

Frequently Asked Questions

The Bureau of Justice Assistance (BJA) requires that applicants have, or develop the capacity to access, medication-assisted treatment (MAT) for all drug court participants for whom this treatment is indicated in the award package. To provide more clarity on this award condition, following is additional guidance.

How must medication-assisted treatment be provided?

Medication-assisted treatment is an evidence-based substance abuse treatment protocol, and BJA supports the availability of appropriate MAT for individuals to have access to it under the care and prescription of a physician. BJA recognizes that not all communities may have access to MAT due to a lack of physicians who are able to prescribe and oversee clients using anti-alcohol and anti-opioid medications. This will not preclude an applicant from applying, but where and when available, BJA supports a client's right to access MAT. This right extends to participation as a client in a BJA-funded drug court, and all grantees will be expected to be able to provide MAT to any participant with an opioid addiction to the extent MAT is clinically indicated.

More specifically, an applicant must demonstrate that the drug court(s) for which funds are sought will not deny any eligible client access to the drug court program because of their use of FDA-approved medications for the treatment of substance abuse (e.g., methadone; buprenorphine products, including buprenorphine/naloxone combination formulations and buprenorphine mono-product formulations; naltrexone products, including extended-release and oral formulations; disulfiram; and acamprosate calcium). Further, methadone treatment rendered in accordance with current federal and state methadone dispensing regulations in an opioid treatment program that is ordered by a physician who has evaluated the client and determined that methadone is an appropriate MAT for the individual's opioid abuse must be permitted. Similarly, FDA-approved medications available by prescription must be permitted unless the judge determines the following conditions have not been met:

- The client is receiving those medications as part of treatment for diagnosed substance abuse.
- A licensed clinician, acting within their scope of practice, has examined the client and determined that the medication is an appropriate treatment for their substance abuse.
- The medication was appropriately authorized through prescription by a licensed prescriber.

In all cases, MAT must be permitted to be continued for as long as the prescriber determines that the FDA-approved medication is clinically beneficial. Grantees must assure BJA that a drug court client will not be compelled to no longer use MAT as part of the conditions of the drug court if such a mandate is inconsistent with a licensed prescriber's recommendation or valid prescription for FDA-approved medication.

Under no circumstances may a drug court judge, other judicial official, correctional supervision officer, or any other staff connected to the identified BJA-funded drug court deny the use of such FDA-approved medications when made available to a client under the care of a properly authorized physician and pursuant to regulations within an opioid treatment program or through a valid prescription and under the conditions described above. A judge, however, retains judicial discretion to mitigate/reduce the risk of abuse, misuse, or diversion of these medications.

Would an applicant be eligible to receive BJA drug court funds if it has an active policy that prohibits a participant's access to all available MATs as prescribed by their physician?

No. An applicant operating a drug court that has an active policy that prohibits a participant's access to all available MATs prescribed by their physician would be inconsistent with BJA's program requirements, and, as a result, the applicant would not be eligible to receive an award under BJA's drug court program.

BJA requires an approach that allows participants to use the appropriate MATs prescribed by their physicians, and the final decision should be with the evaluating physicians. This is consistent with the National Association of Drug Court Professionals' *Best Practice Standards* (2013, 2015) and the resolution of its board of directors on MAT (2011) requiring drug courts to evaluate requests for MAT on a case-by-case basis (Nordstrom & Marlowe, 2016).¹

¹ See also Judge William Meyer, *Law, Ethics and Medication Assisted Treatment*, <https://nadcpconference.org/wp-content/uploads/2017/07/C-15.pdf>, which outlines several legal arguments for why a blanket denial of MAT is a due process violation.