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# Eliminating Hepatitis C Means Treating Prisoners

But prisons can't afford the \$84,000 cost.

By ANNA MARIA BARRY-JESTER

Barry Michaelson is one of [several people](#) with hepatitis C who have sued this year to get access to new and very expensive treatments for the virus. But Michaelson's lawsuit, unlike most of the others, isn't against his insurance company. He's suing the Minnesota Department of Corrections.

In May, Michaelson and another inmate filed a [class-action lawsuit](#) on behalf of Minnesota prisoners to gain access to new, highly effective drugs for hepatitis C, a virus that's now essentially curable but can cause cirrhosis, liver failure and cancer if left untreated. In the weeks since, similar lawsuits have been filed by inmates in [Pennsylvania](#) and [Massachusetts](#).

It wasn't until 1992 that we could even test for the hepatitis C virus (HCV). Now we effectively have a cure, but at about \$84,000 a person, it's one of the most expensive drugs to ever hit the market. Insurers, including Medicaid and Medicare, are paying for treatment only for people with advanced liver disease in most cases, causing experts to [push the White House](#) to expand treatment. But prisoners, though they are the only group in the U.S. with a constitutional right to health care, are even more limited in access to treatment.

Lawsuits like Michaelson's are putting pressure on correctional facilities to provide treatment for HCV. But with the \$84,000-per-person cost, it would take an estimated **\$33 billion** to treat all the incarcerated people with HCV, more than **four times total health spending** by state prison systems. Experts say the return on investment for HCV treatment is big — we can cure the disease in 95 percent of cases — and treating prisoners is one of the best ways to curb the spread of the virus.<sup>1</sup> But no one knows who will pay for it.

Nationally, 3.2 million people have HCV, according to the Centers for Disease Control and Prevention, and the virus causes nearly 20,000 deaths a year, more than HIV. The American Association for the Study of Liver Diseases (AASLD) sets guidelines for HCV treatment, and it recommends the new medicines for almost anyone with the virus.<sup>2</sup> The organization also outlines how to triage care in light of high prices, and the **Federal Bureau of Prisons**, which provides guidelines on infectious diseases for all correctional facilities, has said it will prioritize treatment for inmates with the most severe liver damage.

Michael Ninburg, the executive director of the Hepatitis Education Project in Seattle, said many people in the general population aren't getting these drugs, leaving some to wonder why prisoners should. He argues that targeting the prison population is essential to stopping the spread of disease and improving public health. Advocates often cite the statistic that more than 95 percent of all prisoners will eventually be released. Taxpayers would still pay the cost of health care for many of them, Ninburg says, either through Medicaid or charity care at a hospital. But in the interim, those with HCV will likely pass on the virus to others.

“We have a group of men and women living with hepatitis C, and we know exactly where they are,” he said. “We have data from HIV that treatment as prevention does work. But unlike HIV, with HCV you treat someone and cure them, you're done. They're not on [antiretrovirals] for the rest of their life.”

The concentration of patients and controlled nature of the prison setting make it a perfect place to treat people, in theory. You can make sure they take their meds, and monitor for side effects. But in practice, inmates are moved frequently and with little notice, making it difficult to keep track of treatment.

Prisoners have fought for, and won, the right to HCV treatment before, but only a

fraction ever received the drugs. In the early 2000s, courts in multiple states ruled that cost and incarceration weren't reasons to deny care. That earlier generation of drugs was less expensive — though at \$20,000 per person, it was blamed as a leading cause for the [growth of prison health care spending](#).

The first of several lawsuits came from Michael Paulley, a veteran serving time in a Kentucky state prison who'd been denied treatment. After the judge ruled in his favor, saying that the medicines were only being denied because of cost, he was given the drugs. But by then, the disease was so advanced that he died from liver failure just before he was due to be released on parole.

For the old drugs, factors such as debilitating side effects (including depression, which prisons have cited as a danger to inmates and staff), a 48-week treatment window, and low cure rates have all been given as reasons prisoners received limited treatment. These concerns largely don't exist with the newer drugs, meaning more inmates should be allowed by law to take them.

Today, Kentucky is at the center of an [injection drug use epidemic](#) that has brought with it the highest HCV infection rate in the country. Although spread of the virus nationally declined until 2006, rates have more than tripled in Kentucky and several surrounding states over the last 10 years. Nationally, most people living with HCV are baby boomers who got the virus before we could test for it. But most new cases are among injection drug users in Appalachia. Meanwhile, drug offenders are increasingly crowding the state's prisons — they made up 38 percent of the prison population in 2009, [up from 30 percent in 2000](#). That share will likely rise; arrests for narcotics went up 9 percent from 2011 to 2012, making up [18 percent of total arrests](#).

It's a troubling combination that will likely place a lot of people with HCV in a prison system that can't pay for treatment. At present only a [few dozen inmates](#) get treatment for the virus in Kentucky each year.

One problem aside from cost is that we don't know how many people in prison have HCV, or how advanced their hepatitis is. The most often cited statistic is 17.4 percent of prisoners, from a 2006 study by Anne Spaulding, a professor at Emory University. A 2011-12 survey of inmates by the Bureau of Justice Statistics found that 9.8 percent of state and federal prisoners and 5.6 percent of people in jail have

been told that they have the virus. Researchers say the discrepancy exists because the majority of people with HCV don't know they have it, and only a dozen state prison systems systematically screen for the virus; Spaulding's research says better screening could result in as many as half a million new diagnoses.

Better testing would mean knowing more prisoners have HCV, potentially leaving corrections systems on the hook for billions of dollars in treatment. Prison administrators and activists alike wonder where that money will come from. "Corrections systems are in no position to treat everyone," Ninburg said. "Whether the drug is a good value or not, they are not affordable. Something will have to change at a systemic level."

This year, more drugs have entered the market, bringing prices down, though not necessarily for prisoners. The more people that get access to the drugs as prices drop, the more pressure prisons will face to provide coverage, even if they aren't getting the same discounts. Medicaid and other federal agencies can negotiate discounts, which the law allows to be passed on to federal prisons. But, as the [AASLD notes](#), state prisons and jails are generally excluded from those discounts, and often pay the highest prices for drugs.

Cost, however, doesn't excuse prisons from providing treatment, said Gabriel Eber, a lawyer with the ACLU National Prison Project. Prisons have a legal obligation to provide care, and, he says, providing that care meets the public obligation to stop the spread of the virus. "With these new drugs we can talk about cures and cure rates. A lot of other conditions don't have that, which is why this is such a public health chance to tackle an epidemic," Eber said. Ridding prisons of HCV wouldn't be sufficient to eliminate the virus from the U.S., but with about a [third](#) of people with the virus spending time behind bars at some point, it would be necessary.

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## Footnotes

1. It is possible for a person who has been cured of HCV to be reinfected. However, it has been documented only rarely, and researchers suspect that [an initial infection confers immunity](#) for people without compromised immune systems. <sup>^</sup>
2. The exception is anyone with a life expectancy of less than a year due to a different disease. <sup>^</sup>

*Anna Maria Barry-Jester reports on public health, food and culture for FiveThirtyEight.*



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