



Filing a Medical Care Lawsuit from Prison (updated February 2026)

Note: This is meant as general information and not legal advice. We recommend that you do your own research.

The state of Illinois has a **duty to address your serious medical needs** when you are in prison. You may be able to sue the prison officials responsible for your lack of medical or dental care in federal court.

Before you file a lawsuit, you must **complete the entire grievance process**, including appealing to the ARB. If you do not, the court will dismiss your case. Be careful not to miss IDOC's deadlines for filing grievances. You should also know the time limit (called the statute of limitations) that applies to your case. Most federal lawsuits must be filed within 2 years of your issue.

In many medical cases, you will need an **expert witness** (usually a doctor) to testify about your issue. You will likely need a lawyer to help with this. After you file a case, you can ask the court to appoint a lawyer to represent you. The form to ask for a lawyer is called a "motion for appointment of counsel." You will need to include proof that you asked three or more lawyers for help.

Eighth Amendment Right to Medical Care

The Eighth Amendment of the United States Constitution prohibits "cruel and unusual punishments." This applies to the medical and dental health care you receive in prison. Poor or very delayed care might violate the Constitution.

To win an Eighth Amendment lawsuit about medical care, you will have to prove two things. First, you have to prove that you had a **serious medical need**. This could be a condition diagnosed by a doctor. This could also be a medical issue that obviously requires a doctor's attention. It does not have to be life threatening. Proving that you faced "needless pain and suffering" is often enough. Read *Gutierrez v. Peters*, 111 F.3d 1367 (7th Cir. 1997) for more information.

Second, you have to prove "**deliberate indifference**" by the person you are suing (the defendant). You need to prove that every defendant both:

- (1) *knew* of the risk of serious harm to you, AND
- (2) *intentionally* failed to take reasonable steps to fix the problem.

To win money damages, you must also show that you had a physical injury, not just a mental or emotional one. For more information on deliberate indifference, read *Estelle v. Gamble*, 429 U.S. 97 (1976), *Farmer v. Brennan*, 511 U.S. 825 (1994), and *Petties v. Carter*, 836 F.3d 722 (7th Cir. 2016).

Keeping a Good Record of the Problem

Take notes to track your medical condition. Track all communications with medical or correctional staff. Here are examples of what to keep track of:

- symptoms you experienced, including dates
- all requests you made for medical attention (include what you said, who you spoke with, and what they said in response)
- date and time of medical appointments
- names of people that you spoke with or met with about your condition (e.g. doctors, nurses, specialists, correctional officers)
- medications the doctor prescribed and what you actually received

When you write grievances and court filings, describe the issues you are facing in detail. It helps to create a **timeline**. Include the what, where, when, and who of each event. Write down how long the problem has been happening, how it is affecting you, and how you have tried to solve it. Include who you spoke with, especially IDOC staff, and write down what they said.

Make sure you **keep copies** of all documents related to the problem. It is especially important to keep a copy of any grievances you file and any responses you get from IDOC. You can handwrite two copies of the grievance form—one to hand in, and one to keep. If possible, send an extra copy of the documents to someone you trust outside of IDOC.

You have the right to request medical records from IDOC. Be specific about which dates you want to look at in any request you make. They will provide 50 pages for free and may charge you for copies of additional pages.

We wish you the best of luck in advocating for your health care!