
(full name/prisoner number)

(complete mailing address)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
_____ DIVISION**

Plaintiff,

vs.

Defendant(s).

Case No. _____
(to be assigned by Court)

**PRISONER CIVIL RIGHTS
COMPLAINT:
MEDICAL CARE CLAIM**

Jury Trial Requested: ___ Yes ___ No

JURISDICTION

The United States District Court for the District of Montana has jurisdiction over my claims because they arise under the federal Constitution.

PLAINTIFF

My name is _____. I am a citizen of the State of _____,

presently residing at _____.

Medical Care Claim

DEFENDANT’S NAME and TITLE (one only) _____

DEFENDANT’S EMPLOYER and WORKPLACE _____

To state a claim for improper medical care under the Eighth Amendment’s cruel and unusual punishment clause, you must state facts showing the following two elements: (1) that objectively (meaning, it would be clear to anyone) you have a “serious medical need,” and (2) that subjectively, the defendant acted or chose to ignore your needs in a “deliberately indifferent” way, which means the defendant knew of and recklessly disregarded your serious medical need(s) that posed an excessive risk to your health. Estelle v. Gamble, 429 U.S. 97, 104 (1976).

To show deliberate indifference, you must show that the course of treatment the doctors chose was medically unacceptable under the circumstances and that the defendants chose this course in conscious disregard of an excessive risk to your health. Hamby v. Hammond, 821 F.3d 1085, 1092 (9th Cir. 2016). Deliberate indifference is a high legal standard. A showing of medical malpractice or negligence is insufficient to establish a constitutional deprivation under the Eighth Amendment. Hamby at 1092.

The rest of this complaint form contains boxes for your answers. If you need more space, please attach an additional page or pages and write the question number(s) to which you are responding. Fill out all questions to the best of your ability. If you do not know or do not have the information you need to answer the question, state that and then move on to the next question.

If you name more than one Defendant, then you will need to copy and fill out pages with questions that ask for specific information about a particular Defendant. For example, if you name three Defendants, then fill out the questions that ask about the role and/or conduct of a specific Defendant a total of three times (once per Defendant).

1. On this date _____, at this place _____,
I became aware that I had the following serious medical problem:

1. (continued):

[Empty rectangular box for text entry]

2. I asked for medical care for my serious medical problem on this date _____,
by doing this:

[Empty rectangular box for text entry]

3. A person named _____ (who does not need to be the Defendant), responded to my request with this response:

4. From this date to this date, _____ to _____, this particular Defendant either learned of my serious medical need and provided the following inadequate treatment or refused to provide medical treatment; or because this Defendant is a medical or prison supervisor, the Defendant learned that I was claiming that medical providers had not provided me with adequate medical treatment:

5. On these dates, _____ to _____, at this place, _____, I became aware that the medical treatment I had received was insufficient, or that the response of a medical or prison supervisor did not solve the problem, for the following reasons:

6. Because the treatment was not working, I again asked for medical care for my serious medical problem on this date _____, by doing this:

7. A person named _____ (who does not have to be the Defendant), responded to my request with this response:

8. From this date to this date, _____ to _____, this particular Defendant either followed up with me about my concern that the course of medical treatment previously chosen was not working, or never followed up with me again, or provided the following treatment or refused to provide treatment for the following reasons, or failed to exercise authority to resolve the problem (if a medical or prison supervisor):

9. Here are other facts about when, where, how, and why this particular Defendant acted regarding my further requests for medical care, or here is my statement that this Defendant was not involved in further medical treatment for my serious medical condition, but I was treated by someone else:

10. As background information only, here are other facts about when, where, how, and why any other medical personnel provided medical treatment to me for this same serious medical condition, and why I believe this other care did not resolve it:

11. These are the facts showing that this Defendant acted or refused to act out of malicious or purposeful intent to cause me harm or that Defendant realized the potential harm to me but acted with reckless disregard for my health:

12. This is the current condition of my injuries or medical problem, including information on whether the problem has gotten worse, gotten better, or been resolved:

13. These are the injuries I suffered from this Defendant's failure to provide proper medical treatment:

14. These are the remedies I am asking for (such as money, or an order that this Defendant act or stop acting in a certain way, or a court declaration that defendant violated my constitutional rights):

15. **If this is a claim against prison officials:** On these dates, _____, this is what I did to exhaust my administrative remedies to bring this claim to the attention of supervisors or authorities before I included this claim in a federal civil rights lawsuit, and I am attaching the grievance forms and grievance appeals to this document, or explaining why I have not used the grievance process or attached the forms:

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I am the Plaintiff in this action; that I have read this Complaint; that the information contained in this Complaint is true and correct (28 U.S.C. § 1746; 18 U.S.C. § 1621); and that this Complaint was placed in the prison mailing system or handed to the prison legal resource personnel for e-filing on _____.
(month, date, year)

(signature of Plaintiff)

Forms for related claims (available in PDF format from District Court website):

- Private Entity Performing a Government Function claim