



Andrew M. Cuomo
Governor

NEW YORK STATE
OFFICE OF CHILDREN & FAMILY SERVICES
52 WASHINGTON STREET
RENSSELAER, NY 12144

Gladys Carrión, Esq.
Commissioner

Administrative Directive

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Contact Person(s):	Any questions concerning this release should be directed to the appropriate Regional Office, Division of Child Welfare and Community Services: BRO- Dana Whitcomb (716) 847-3145 Dana.Whitcomb@ocfs.state.ny.us RRO- Karen Buck (585) 238-8549 Karen.Buck@ocfs.state.ny.us SRO- Jack Klump (315) 423-1200 Jack.Klump@ocfs.state.ny.us ARO- Kerri Barber (518) 486-7078 Kerri.Barber@ocfs.state.ny.us SVRO- Yolanda Désarmé (845) 708-2498 Yolanda.Desarme@ocfs.state.ny.us NYCRO- Patricia Beresford (212) 383-1788, ext. 4708 Patricia.Beresford@ocfs.state.ny.us Native American Services – Kim Thomas (716) 847-3123 Kim.Thomas@ocfs.state.ny.us
Attachments:	<i>“A Medical Guide for Youth in Foster Care”</i>
Attachment Available Online:	<i>“A Medical Guide for Youth in Foster Care”</i> is available on line in both single page and booklet format. The guide in single page format can be viewed at: http://www.ocfs.state.ny.us/main/publications/Pub5116SINGLE.pdf The guide in booklet format can be viewed at: http://www.ocfs.state.ny.us/main/publications/Pub5116BOOKLET.pdf

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
90 ADM-21 97 OCFS-ADM-15		10 NYCRR 85.40 18 NYCRR 421.2; 431.7; 441.22 (b); 463.1; 463.2; 507.1	Public Health Law §§ 17; 18; 2280; 2305; 2306; 2504; 2520; 2780; 2782; 2805; and 4164; Social Services Law 373-a.	Working Together Health Services for Children in Foster Care	<u>City of Akron vs. Akron Center for Reproductive Health</u> , 103 S Ct. 2481 (1983); <u>H.L. vs. Matheson</u> , 101 SCt. 1164 (1981); <u>Belotti vs. Baird</u> , 99 SCt. 3033 (1979)

I. Purpose

The purpose of this Administrative Directive (ADM) is to advise local departments of social services (LDSS) and voluntary authorized agencies of the requirements pertaining to reproductive health services for youth in foster care. This ADM also provides guidance and resources to assist LDSS and agencies to become more knowledgeable and competent in the provision of such services. Attached to this ADM is the booklet, *A Medical Guide for Youth in Foster Care*. This booklet is a resource for youth in foster care.

II. Background

Youth in foster care ages 12 and older, and younger children who are known to be sexually active, need age-appropriate education and counseling on their reproductive rights and on reproductive health services, including counseling on sexuality, pregnancy prevention, family planning and sexually transmitted diseases (STD). There are several regulations that support the right of youth over the age of 12 and sexually active younger children to receive reproductive health counseling, education and reproductive health services.

18 NYCRR Section 463.1

Requires social services districts to offer and provide either directly or through a purchase of service agreement social, educational and medical family-planning services to persons of child-bearing age, including minors who can be considered sexually active, who are applicants for or recipients of public assistance, recipients of medical assistance only, or recipients of supplemental security income. This includes providing family planning services upon request to youth in foster care who are over the age of 12 or sexually active.

18 NYCRR Section 441.22 (l) (1)

Requires that each foster parent providing care for an adolescent who is 12 years of age or older be informed in writing within 30 days of placement of the child in the home, and annually thereafter, of the availability of social, educational and medical family planning services for the adolescent in foster care.

18 NYCRR Section 463(b) (2) and 18 NYCRR Section 507.1(c) (9)

Requires the social services district to provide or arrange for family planning services to foster care youth within 30 days of the youth's request for them.

III. Program Implications

LDSS and agencies must offer and provide or arrange to provide reproductive health services to youth in foster care 12 years of age and older upon request. Younger children who are known to be sexually active should also receive age-appropriate reproductive health services. The Office of Children and Family Services (OCFS) is committed to supporting LDSS and agencies in the provision of adequate, timely reproductive health services for youth in foster care. To assist LDSS and agencies in meeting the reproductive health needs of youth in foster care, this ADM provides information on relevant definitions, reproductive health services, required actions, and training and resources.

A. Consent and Confidentiality**1. Consent to Health Services**

As a general rule, parents must consent to their children's health care. This rule is based on the premise that youth typically lack the intellectual maturity to make informed health care decisions. There are laws that create exceptions to this rule so that, in certain situations, minors (defined as youth under the age of 18) have the right to consent to their own health care in New York State.

2. Minor's Capacity to Consent

In situations where minors are authorized by law to consent to receive specific health care services, the health care practitioner providing treatment will determine whether the minor has the "capacity to consent." Capacity to consent means an individual's ability to understand and appreciate the nature and consequences of a proposed health care service, treatment, or procedure and to make an informed decision about the service, treatment, procedure, or disclosure of health information.

3. Minor's Ability to Consent to Reproductive Health Services

In New York State, a minor may consent to his or her own health care in the area of reproductive health if the treating physician determines that the minor has the capacity to consent. This includes health care for family planning services, gynecological exams, PAP tests, contraceptives including emergency

contraceptives, pregnancy testing, pregnancy options counseling, counseling on sexual decision-making, abortion, and treatment for STD and [Human Immunodeficiency Virus](#) (HIV).

4. Pregnant and Parenting Minors

Any minor who is the parent of a child may give consent for medical, dental, health, and hospital services for herself or himself. The consent of no other person is necessary. If a minor parent is in foster care and has custody of his or her child who is not in foster care, the minor parent may give consent for health care for himself or herself and for the child. If the minor parent and child are both in foster care, but the child lives elsewhere because of an Article 10 removal, the LDSS can give consent for the child's health care if the minor parent refuses.

5. Married Minors

A minor who is married can consent to all of his or her own health care, including medical, dental and hospital services.

6. Confidentiality of Minor's Health Care Information

Unless otherwise specified by law, a medical provider may not reveal confidential health information about a patient without the permission of the person who consented to the health care. Violating this rule constitutes professional misconduct and may be punished by fine, reprimand or revocation of a license.

When a child is in foster care, the LDSS or authorized agency is required to maintain a medical record for the child and is permitted by law to share the child's medical history with the child's foster parent, the child's adoptive parents upon request, the prospective adoptive parents, the foster care agency, the child upon discharge to his or her own care, the child who has been subsequently adopted upon request, the child's parents if the child is returned to the parent's care, and the child's attorney.

When a minor consents to his or her reproductive health care, that health information is confidential and must not be disclosed, even to the minor's parents, unless an appropriate written consent has been obtained from the youth. If a youth provides the agency with reproductive health information, it should be maintained in the health narrative tab in CONNECTIONS and should not be disclosed to any other persons without the youth's written consent unless specifically authorized by law.

B. Reproductive Health Services

1. Notice of Family Planning Services

When a youth age 12 or older is placed in foster care, his or her foster parent must be informed or notified in writing within 30 days of placement, and

annually thereafter, of the availability of social, educational, and medical family planning services for the youth. LDSS and agencies are required to give this notice. This notice may be made orally as long as it is also made in writing. A copy of the family planning notice and the date it was given must be placed in the youth's medical and case records.

If the local department's policy is to offer family planning services directly to all youth within the district, the notice of family planning services also must be made directly to the youth in foster care. As with the notice to foster parents, the LDSS or agency may discuss the availability of services orally, but also must provide written notice and file a copy of the notice in the youth's case record.

2. Reproductive Health Education

Youth ages 12 and older, as well as younger children who are known to be sexually active, must be provided with age-appropriate reproductive health education and counseling. The information provided should consist of age-appropriate education and counseling on sexuality, pregnancy prevention, family planning, and sexually transmitted diseases. Reproductive health information and the discussion of these subjects, along with provision of the family planning notice, should begin at the first conference with the foster parents and the youth, if appropriate.

3. Gynecological Care

Female youth ages 12 and older or at the onset of puberty should be referred for gynecological care as an annual event. This includes all female youth who are thinking about becoming sexually active or who are already sexually active, or when there are medical concerns such as menstrual problems. This care may include counseling, consultation, and determination of when a pelvic examination is appropriate.

A vaccine to protect against human papillomavirus (HPV) should be administered as a routine immunization to girls ages 9 or older, regardless of whether they are sexually active or already infected with HPV. Females entering and already in foster care should receive the HPV series of vaccinations if they have not yet been administered.

4. Contraception Services

State and federal laws mandate that family planning services be provided to youth in foster care who request such services. Youth should be encouraged to make an independent and informed choice regarding the measures they will take to avoid unintended pregnancies and STD. Contraception services may either be provided by the youth's physician or by referral to a community health care provider who will make the determination regarding the youth's capacity to consent to a particular service or treatment. In any case, such services must be readily available and provided by professionals trained and experienced in gynecological care and contraception for youth. Referrals

should be made within 30 days of the request. Youth who have had sexual intercourse during the immediately preceding 72 hours, without benefit of any form of contraception, must be offered emergency contraception. Those who do not want to become pregnant and request emergency contraception must be provided with the treatment immediately with an appropriate prescription. Sterilization is not a contraception option for minors. For information on family planning programs in your community, contact the NYS Department of Health at 518-474-3368.

5. Sexually Transmitted Diseases (STD)

a. Testing and Treatment

STD testing should be a routine part of primary care for sexually active youth. Testing should also be considered when a child returns from an absence without consent, if there are concerns that sexual activity occurred. Health care practices should follow the current STD treatment guidelines, which are available from the Centers for Disease Control and Prevention (CDC) at <http://www.cdc.gov/std/treatment/2006/toc.htm>.

b. Human Papillomavirus (HPV)

HPV is a virus that causes genital warts and cervical cancer. A vaccine to protect against HPV is available and should be administered to females as a routine immunization. To be most effective, the vaccine should be given before the girl is sexually active. However, it is appropriate for all women and girls ages 9 to 26, regardless of whether they are sexually active or already infected with HPV. Females entering and already in foster care should receive the HPV series of vaccinations if they have not yet been administered.

The HPV vaccine has also been shown to be effective for males as many penile, and head and neck cancers are caused by HPV. The HPV vaccination of males is being considered by public health authorities. Health care providers should be alert for new recommendations and be prepared to implement such recommendations when they are made.

The parent/guardian's signed consent for routine medical treatment is sufficient for the HPV vaccination; no additional consent is required.

6. Pregnancy

a. Testing for Pregnancy

Female youth must be tested for pregnancy at any time that a pregnancy is reasonably suspected due to late or missed menses or for some other reason. The youth's case manager must be notified within 24 hours of it coming to the attention of a foster parent or other agency staff that a youth is pregnant.

b. Counseling regarding Pregnancy and Management Options

Counseling regarding all available options must be provided to each pregnant youth as soon as possible but no more than one week after pregnancy diagnosis. Within two weeks after the pregnancy diagnosis and prior to any termination occurring, the case manager or his or her designee will interview the pregnant youth to confirm that she has received all the information she feels she needs to make an informed decision about her pregnancy, and has not been coerced, persuaded, or improperly influenced to maintain or terminate her pregnancy. Any pregnant youth must be offered the opportunity to meet with a health care provider, counselor and/or her attorney if she wishes additional assistance in the decision-making process.

c. Abortion Services

If a youth decides to terminate the pregnancy, appropriate termination services must be made available as quickly as possible to prevent undue emotional trauma and medical complications. The treating physician will make a determination whether the youth has the capacity to consent to an abortion.

d. Notification of Parent/Guardian

A pregnant youth must be asked whether she wishes to inform her parent or guardian about the pregnancy. Any notification of pregnancy termination, pregnancy status, or prenatal care to a youth's parent or guardian may only occur if the pregnant youth consents in writing to the disclosure of information.

e. Prenatal Health Care

If a youth decides to continue her pregnancy, she must be provided with prenatal and postpartum care. Such care should be consistent with the New York State Department of Health Prenatal Care Assistance Program (PCAP) regulations as set forth in 10 NYCRR Section 85.40. Care must include referral to a community prenatal care provider who will be responsible for the obstetrical medical care. The first prenatal care appointment should occur as soon as possible after the youth has decided to continue her pregnancy, preferably within one week.

Prenatal/postpartum care should be consistent with current professional standards of care. The American College of Obstetricians and Gynecologists (ACOG) Standards for reproductive health and the birth process should be employed.

Pregnant youth should continue attending school unless recommended not to by their health care provider. The caseworker should monitor the ongoing medical care during and following pregnancy, verifying that the youth keeps her medical appointments. Keep in mind that pregnant and parenting teens may consent to their health care. It is not necessary to

obtain consent from the parent or guardian for services related to prenatal care. Also, remember that no medical information may be disclosed to the pregnant or parenting youth's foster parents or biological parents without a written consent from the youth to release information. Additional support and information are available through the New York State Department of Health's Growing Up Healthy Hotline, the Prenatal Care Assistance Program (PCAP), the Medicaid Obstetrical and Maternal Services (MOMS) Program, the Comprehensive Prenatal Perinatal Services Network, and the Community Health Worker Program (CHWP).

7. Human Immunodeficiency Virus (HIV)

Youth who engage in unprotected sexual activity have high rates of sexually transmitted diseases and are at risk of HIV infection. Regulatory requirements exist for assessment of HIV risk for each child placed in foster care, regardless of age. Additional information about HIV assessment, counseling and testing can be found in 97-ADM-15.

HIV testing and counseling services should be readily available to all children and youth. These services should be offered by a counselor certified by a DOH-sponsored counselor training course or by an organization such as a community health care agency. Counseling about HIV should be used as an opportunity to provide individual prevention education, including advice on changing behavior. HIV testing is done only with appropriate consent.

When a foster child has the capacity to consent, and HIV risk has been identified, the child or youth has the right to make all decisions about an HIV test and the type of test to have, and a limited right to make certain decisions about disclosure of information related to an HIV test. Part of the counseling of children with capacity to consent is informing them about these rights.

After being counseled about testing, the child or youth with the capacity to consent may decide whether to have agency-supervised confidential HIV-related testing or the alternative of anonymous testing. The confidential test results will be included in the child's health record. Results of the confidential HIV testing that are maintained in the youth's medical record will be made available only to persons authorized to receive such information under law and regulation, such as the foster or adoptive parents, or with the youth's written consent. If a youth chooses to have an anonymous test, only the youth will be provided with the test result and it must not be maintained in the youth's medical record.

For more information on HIV counseling and testing, contact:

- a. New York State Department of Health: HIV/AIDS Counseling/Testing Hotline (800-962-5065);
- b. go to: www.health.state.ny.us and click on HIV/AIDS, <http://www.health.state.ny.us/diseases/aids/testing/>
- c. your county health department; or

- d. in New York City, the Pediatric AIDS Unit (PAU) (212-341-8943) of the New York City Administration for Children's Services (ACS).

IV. Required Action

A. Role of LDSS and Case Planning Agencies

New York State regulations require that family planning services be offered and such services must be provided to youth in foster care ages 12 and older, upon request. Referrals should be made within 30 days of the request for services and can be provided directly by LDSS, purchase of service agencies, or by community health care providers.

The LDSS must provide the following:

1. Notice of Family Planning Services

When a youth age 12 or older is placed in foster care, his or her foster parent must be informed, in writing, within 30 days of placement and annually thereafter of the availability of education and medical family planning services for the youth. This notice or offer may be made orally as long as it is also made in writing. The LDSS or case planning agency must place a copy of the family planning notice and the date it was given in the youth's medical and case record.

2. Family Planning, Sexuality Education, and Reproductive Health Services

Youth in foster care ages 12 and older and younger children who are known to be sexually active should be educated on and have available to them contraceptive information and services. The information provided should consist of age-appropriate education and counseling on sexuality, pregnancy prevention, family planning and sexually transmitted diseases. These services may be provided directly by the LDSS or through contract agencies or agreements with healthcare providers. In any case, such services must be readily available and provided by professionals trained and experienced in family planning education, gynecological care and contraception for youth.

3. Planning for Youth Who Are Transitioning from Care

Discharge planning must include addressing any known medical conditions and needs. This includes setting up future appointments for medical and gynecological exams and planning for the youth to obtain any necessary medications after discharge.

4. Documentation

In addition to the notification to youth and foster parents regarding reproductive services available, the LDSS and case planning agency must document information provided to the youth and services available. The following notices must be included in the health history section of the case record:

- a. Family planning notices to foster parents - a copy must be kept in the child's health history file to indicate that the required notice of family planning

services has been sent within 30 days of placement to all foster parents caring for children 12 years of age or older. This notice, which must also be sent annually to such foster parents, informs them of the availability of social, educational and medical family planning services for youth as is required by Section 463.2 of OCFS regulations.

- b. Notice of family planning services directly to youth - the case record should contain documentation of the information provided to the child. The availability of such services may be discussed orally with the young person but must also be offered in writing.

V. Training and Resources

Additional detail regarding this topic is found in Chapters 3 and 6 of the *Working Together Health Services for Children in Foster Care Manual* which is available on the OCFS Internet site at

http://www.ocfs.state.ny.us/main/sppd/health_services/manual.asp.

Training is also available for both LDSS and residential care providers. For information regarding specific offerings, and registration information, please refer to the OCFS Bureau of Training Website, or contact the Regional Office Project Associate in the appropriate OCFS Regional Office. They are able to assist you in locating or securing appropriate training resources.

The attached booklet, *A Medical Guide for Youth in Foster Care*, is a resource for youth in foster care. A copy of this booklet should be given to all appropriate youth in foster care. It is available through the OCFS Internet site on the “Publications” page under “Adolescents in Care” and also on the “Adolescent Services and Outcomes” page under “Online Resource Materials”. The guide is available in single page format and booklet format. The guide in single page format can be viewed at:

<http://www.ocfs.state.ny.us/main/publications/Pub5116SINGLE.pdf>

The guide in booklet format can be viewed at:

<http://www.ocfs.state.ny.us/main/publications/Pub5116BOOKLET.pdf>.

VI. System Support

There are no new system requirements. System support may be found in CONNECTIONS, where the health module provides a secure location for the recording of health-related information, clinical appointments, medical assessments, diagnoses and HIV risk assessment information. The health notes section of the health module is to be used to record any information related to reproductive health services. For children currently in care or children coming into care, required health information must be entered contemporaneously with receipt of documentation of the service.

Reproductive health information should not be included in the Permanency Hearing Report.

VII. Effective Date

This release is effective immediately.

/s/ Nancy W. Martinez

Issued By:

Name: Nancy W. Martinez

Title: Director

Division/Office: Strategic Planning and Policy Development

A Medical Guide for Youth in Foster Care



Got questions?

enter here →

New York State Office of Children & Family Services

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Introduction

Dealing with the healthcare system can be a challenge for anyone.

It can be really challenging when you're in foster care, because there are laws and regulations that apply specifically to you. They affect who can give permission for your health care, the services and treatments you receive, and who pays for them.

This guide is intended to answer questions you may have about your medical rights. If you have any questions that this guide doesn't answer, talk to your caseworker or your attorney.



What is medical consent?

Usually, parents give consent for their children to be treated. When you are in foster care, other people (including yourself) can sometimes give consent for your medical treatment.

Consent
means giving
permission
for a doctor
or other
healthcare
professional to
provide medical
treatment.

Routine consent

When you come into foster care, your parent or guardian is asked to sign a form that permits the county or the foster care agency to obtain routine health care for you.

Routine care includes services such as:

- * Regular checkups by your doctor
- * Visits to the doctor when you're sick
- * Immunizations (shots)
- * Dental treatment
- * Talking with a counselor

Copies of the form signed by your parent or guardian are given to healthcare providers so they know it's okay to treat you. The same form can be used for multiple appointments and different doctors.

If your parent or guardian can't be located or doesn't sign the consent form, the county social services commissioner, the director of the foster care agency, or the family court judge will give consent for your medical care.



ok

Informed consent

For some kinds of medical treatment, such as surgery or certain medications, “informed consent” is needed. Informed consent is different from routine consent because it is for a specific treatment or procedure. The person signing the consent form is making a careful decision based on information from a healthcare provider.

Before signing the consent form, the person must:

- * Understand what the treatment is and why it is recommended
- * Know the benefits and the dangers of the treatment
- * Be told about any other treatments that could be used instead
- * Have an opportunity to ask questions

The doctor or healthcare provider also should clearly explain the treatment or procedure to you in a way that you can understand and answer all of your questions. Tell the doctor and talk to your caseworker, foster parent, or attorney if you don't think the treatment is right for you.

If your parent or guardian can't be located or refuses to sign the informed consent form, it may be necessary for a judge to decide whether or not you will receive the treatment.

Emergency
care

Consent for
treatment is
not necessary
when:

- * there is a true medical emergency and
- * waiting to get consent would increase the risk to your life or health.



Capacity to consent means that you:

- * have the ability to understand a proposed healthcare service, treatment, or procedure;
- * can appreciate the nature and consequence of the service, treatment, or procedure; and
- * can make an informed decision about whether to receive it.

Capacity to consent

In some situations, the law allows you to consent to specific health care services even if you are under age 18. In those situations, your healthcare provider will determine whether you have the “capacity to consent.”

For example, you can give consent to receive reproductive health care services when you are under 18, as long as your healthcare provider determines that you have the ability (or capacity) to make an informed decision. You don’t have to ask your parents, foster parents, or caseworker for their consent when you need these services. You have the right to these services, even if your foster care agency has a religious affiliation.

If you consent to receive reproductive health services on your own, your healthcare provider cannot give your health information to anyone without your permission. See page 12 for more information about these services.

When you turn 18

At 18 years of age, you can consent to all of your own health services, whether or not you are in foster care.

Your parents or the foster care agency cannot legally consent to your health services on your behalf after you turn 18, unless a judge finds that you are not able to make decisions for yourself.

Will my medical records be kept private?

All medical information is considered to be confidential (private).

When you are in foster care, your foster parents or caseworker must make sure that you get the health care you need. Because the foster care agency is responsible for your health, it will maintain records of your medical care and share them with others as required by law. The agency must, however, keep your health records in a way that protects your confidentiality. In general, the agency may share your health information only with:

- * You, if you are discharged from foster care into your own care
- * You, if you leave foster care for adoption, upon your request
- * Your foster parents
- * Your adoptive parents, upon their request
- * A prospective adoptive parent (someone who is planning to adopt you)
- * A new foster care agency, if you are transferred

- * Your attorney
- * Your parents or another caregiver you live with when you leave foster care

Information about reproductive health services for which you have consented (see list on page 12) cannot be given to anyone without your permission.

Your parents' health histories

You have the right to receive your birth parents' health histories from the agency if:

- * You are discharged from foster care into your own care, or
- * You were in foster care and are now adopted, upon your request.

A health history includes both physical and mental health records. If you have been adopted, the agency will remove your birth parents' names from the records they send to you.

It is important to know about your parents' health because some health problems are hereditary (passed down from parent to child).

Why do I need to take medications?

We take medications for many reasons – to stay healthy, to feel better, or to get well when we're sick.

Some medications can be very helpful for problems such as anxiety, sadness, or difficulty concentrating. Medicines that can change your mood, behavior, thinking, and awareness are called **psychotropic** or **psychiatric** medications.

Your parent or guardian must give “informed consent” (see page 3) before you start taking one of these medications. The doctor prescribing it must:

- * Explain to you exactly what it is for
- * Describe how it will affect you
- * Answer all of your questions

Psychotropic medications can sometimes cause problems (side effects). You will see a doctor on a regular basis while you are taking a psychotropic medication. Let the doctor know about any side effects you are experiencing. If you don't like the way the medicine makes you feel, ask if you can take more or less of it, try a different medication, or try another type of treatment.

In general, you cannot be forced to take any medication, but be sure you know what will happen if you don't take it. Be sure to talk to your doctor before you stop taking any prescribed medicine so you know about any risks or side effects.



The law says you may be given medication against your will in an emergency when your behavior is an immediate threat to your safety or someone else's.

Taking your medication

Your foster parents or child care staff will store your medicine and will either give it to you or watch as you take it. They will also keep track of when the medicine is taken.

You may want to keep track of and take your own medication, such as an asthma inhaler or birth control pills. Talk to your caseworker about whether this makes sense in your situation. You may also want to discuss this with your attorney.



Remember

Talk to your doctor before you stop taking any prescribed medicine so you know about any risks or side effects.



What other services are available?

It's not unusual to need some extra help when you go into foster care.

You may be coming out of a tough family situation or be struggling with other personal problems. If so, you're entitled to services that promote your mental and physical health.

You will receive a mental health assessment when you enter foster care. You may also get a screening for abuse of substances such as tobacco, alcohol, or drugs.

Mental health and substance abuse services

You are entitled to certain services if the mental health and substance abuse assessments show that you need them. These may include educational programs, group therapy, or individual counseling.

Sometimes a hospital is the best place to get mental health or substance abuse treatment. If your parents or guardian object to your being hospitalized, but

you think it will help, the hospital can work with you and your caseworker to admit you.

Privacy is important

You may tell a counselor very important things that you have not talked about before and that you may not want others to know. Your counselor must respect your privacy, but also is required by law to report certain things, such as:

- * Abuse that has happened to you
- * A serious threat you make to harm yourself
- * A serious threat you make to harm someone else

A counselor will also give the foster care agency or Social Services some general information about your treatment. Counselors do not, however, need to provide details about everything that is said to them.

Be sure to spend some time talking with your counselor about how he or she will protect your safety and confidentiality. You need to trust that your counselor respects your privacy so you can talk freely.

Why should I be tested for HIV/AIDS?

HIV (Human Immuno-deficiency Virus) is a serious health problem and one of the biggest threats to today's youth.

HIV attacks the body's immune system, making it less able to fight off germs. If you are infected with HIV, you have the virus in your body and can pass it to other people.

Without treatment, people with HIV get life-threatening infections and cancers and are likely to develop AIDS (Acquired Immune Deficiency Syndrome), a debilitating and often fatal disease. Treatment can slow this process so people with HIV can live longer, healthier lives.

If you're HIV-infected, you may have no symptoms for ten years or more. You may not even know you're infected. An HIV test is the **only** way to find out if you have HIV. There are certain rights and requirements related to HIV/AIDS testing that apply to you when you're in foster care.

HIV risk assessment

Within 30 days of your entry into foster care, the foster care agency is required to do an "HIV risk assessment" to find out if you are at risk for HIV infection.

A caseworker or nurse will ask you questions about your sexual activity, drug use, and other risk factors. The assessment does **not** determine whether you have the virus. It will help find out if you should be tested for the virus.





**If the results
of your
anonymous HIV
test show you
have the virus,
think seriously
about telling
someone.**

Consent for HIV testing

If HIV testing is recommended for you, informed consent is required (see page 3).

You cannot be given an HIV test without your consent, unless you do not have the capacity to consent. If you don't have the capacity to consent, an HIV test may be authorized by your parent, the local DSS commissioner, or a judge.

If you do have the capacity to consent, it is up to you to decide if you want to be tested. A caseworker or nurse will help to answer your questions about HIV/AIDS and the testing. You may choose to take a confidential test, an anonymous test, or not to be tested.

Confidential testing

When you agree to a confidential HIV test,

- ★ Results will be shared with your foster care agency.
- ★ Results will be included in your confidential health record.

Anonymous testing

If you don't want anyone to know you are taking an HIV test, you can call 1-800-542-AIDS to ask how to get an anonymous test. Your caseworker will help you with arrangements for the test and transportation to the test site.

You will be given the test results but, because no personal information appears with the test results, there will be no record kept after you are told the results.

These results will not be included in your confidential health record, and they cannot be disclosed to anyone else unless you choose to do so.

If the results of your anonymous HIV test show you have the virus, think seriously about telling someone. There is no cure for HIV or AIDS, but the treatments available now will help you to feel better and be healthier in the future.

If you choose not to be tested, your caseworker or nurse will continue to talk to you about HIV. You can change your mind and get a test at any time.

Disclosure of HIV/AIDS information

If your foster care agency receives HIV/AIDS information regarding you, such as the results of a confidential test, the agency **must** disclose it, with or without your consent, to:

- * Your foster parents
- * Prospective adoptive parents
- * Another foster care agency, if you are transferred
- * Your attorney, for the purposes of representing you

If you did not have the capacity to consent to the test, you must be told of your HIV status if:

- * You are discharged into your own care, or
- * You are a former foster child who has since been adopted and you have requested this information.

If you have the capacity to consent, the foster care agency **cannot** give your parents your HIV/AIDS information without your permission.

Can I get services related to sex and birth control?

The decision whether or not to have sex is a personal choice. Whichever way you decide, it is important to know what services are available to you and how to keep yourself safe.

Reproductive health services

Reproductive health services, sometimes called family planning services, help you to manage your sexual health and safety. These services include:

- * Contraceptives to prevent pregnancy, such as birth control pills and condoms
- * Counseling on safe sex and sexual decisions
- * Treatment for vaginal infections
- * Testing and treatment for HIV and sexually transmitted diseases (STDs)
- * Pregnancy testing
- * Emergency contraception (morning-after pill)

- * Pregnancy termination (abortion)
- * Special examinations and tests for sexually active girls (pelvic exams and Pap tests)

If you are 12 years old or older, your caseworker sends your caregiver a “family planning notice” each year you are in foster care. This letter says you have the right to information and counseling about sexuality, as well as medical services if you ask for them. Some agencies will also send a letter directly to you.

Ask your caseworker about the family planning notice letter if you have not received one. Even if you are not sexually active, these services can help you to understand your body, answer your questions, and plan for the time when you choose to have sex.

Staying safe

Talk with your doctor or a family planning center, such as Planned Parenthood, about the risks involved in sexual activity. It's sometimes easier to talk to other youth about sex, but they may not have all the correct information.

There are many different kinds of physical intimacy, with different kinds of risk. Even if you are not having sexual intercourse with someone of the opposite sex, you or your partner may still be at risk of pregnancy or getting a sexually transmitted disease like HIV or herpes. Talk to a healthcare professional and get the facts.

Giving consent

You can give consent to receive reproductive health care services when you are under 18, as long as your healthcare provider determines that you have the ability (or capacity) to make an informed decision. You have the right to these services, even if your foster care agency has a religious affiliation.

If you consent to receive reproductive health services on your own, your healthcare provider cannot give your health information to anyone without your permission.

Ending a pregnancy

Any female in New York State can decide to end her pregnancy (have an abortion) without notifying anyone or getting her parents' or the agency's consent as long as her physician determines that she has the capacity to consent (see page 4).

- * If you are considering having an abortion, it may be helpful to discuss this decision with a trusted adult.
- * If you decide to get an abortion, be sure to follow the doctor's orders exactly.
- * If your doctor determined that you had the capacity to consent to have an abortion, your medical records regarding the abortion cannot be released without your written consent.

For more information about your rights, visit the New York Civil Liberties Union website at **www.nyclu.org** and search for "Rights of Pregnant and Parenting Teens."

What if I become pregnant?

When you're in foster care, you have certain rights and privileges that relate to you, your pregnancy, and your baby.

Having a baby is a life-changing experience.

You must plan for the future for both yourself and your child.

During your pregnancy

- * You can give consent for any medical, dental, and hospital services related to prenatal (pregnancy) care.
- * You should participate in a Service Plan Review (SPR) to plan where you and the baby will live if you are still in foster care after the baby is born. Your caseworker will review the current plan with you and tell you when the next SPR is scheduled.
- * You can decide to end your pregnancy (see Reproductive Health Services, page 12) even if your foster care agency has a religious affiliation or you are in a setting for pregnant youth.

After your baby is born

Your baby is not automatically in foster care – you have legal custody of your child. You will not lose custody unless you pose a danger or threat to your baby's well-being, or you request that the baby go into foster care.

- * You are entitled to a placement where you and your baby are together.



- * You are responsible for taking care of your baby's daily needs while he or she is in your custody.
- * You may give consent for your own and your child's medical care, regardless of your foster care status.

Voluntary placement agreements

Your foster care agency should make every effort to locate a place for you and your baby to be together. Sometimes it is difficult to find a foster care setting for both of you at the time the baby is born. If this happens, you may be asked to sign a voluntary placement agreement so your child can be placed in a different foster home. Signing the voluntary foster care agreement transfers custody of the baby from you to the commissioner of the local social services district.

Fathers in foster care

Fathers in foster care also have rights and responsibilities regarding their children. If you think you may be the father of a child:

- * Your attorney can ask the family court to establish paternity (prove you are the father).

Important facts to remember!



- * Make a plan with your caseworker **before the baby is born** to help prevent you from being separated from your child.
- * If the agency can't find a mother/child placement, try to find someone, such as a trusted relative, who can care for your child.
- * You do not have to sign a voluntary placement agreement putting your baby into foster care if you don't want to.
- * No legal action (such as a child abuse report) can be taken against you if you refuse to sign a voluntary placement agreement, as long as you have a safe alternative plan for the care of your baby.
- * Contact your attorney for advice and support if you're uncertain about your rights.

- * Paternity is established through a lab test of you and the baby. The test can also prove that you are **not** the father.

If you are the father of the baby:

- * You can ask the family court judge to give you visitation rights.
- * You can ask the baby's mother or the family court judge to give you joint or sole custody of your child.
- * You may be required to pay child support.
- * You may give consent for your own medical care.

If you face obstacles or resistance to being a part of your child's life, talk to your attorney and caseworker.

For more information about your rights, visit the New York Civil Liberties Union website at **www.nyclu.org** and search for "Rights of Pregnant and Parenting Teens."

Who will pay for my medical care?

Finding out about health insurance can be challenging and frustrating at times. This information should help you get the services you need.

When you're in foster care

You must be provided with health services while you are in foster care. If you are a citizen or have satisfactory immigration status, you are automatically eligible for Medicaid.

If you consent to your own health care, such as reproductive health services, be sure to get your Medicaid information from your foster care agency before going for your appointment. Bring the information with you to give to the doctor or the clinic for billing purposes.

Child Health Plus will provide coverage regardless of your immigration status as long as you are under 19 years old.

When you leave foster care

If you were receiving Medicaid while you were in foster care, you are eligible to continue receiving Medicaid for up to 12 months after you leave care. Your county caseworker will make a referral to Medicaid when you leave foster care. Talk to your caseworker about this.

When you begin receiving Medicaid on your own, be sure the Medicaid office has your correct address. The office sends out notices, such as renewal applications, to people on Medicaid.

When you're on your own

If you are living on your own and don't have any health insurance, there are many medical assistance programs you may be eligible for, such as:

- * Medicaid
- * Family Health Plus
- * Child Health Plus
- * Family Planning Benefit Program
- * Prenatal Care Assistance Program

You may be eligible for these medical assistance programs if you meet certain income, resource, age, disability, or other requirements. You may need to bring documents (such as your birth certificate, proof of immigration status, and paycheck stubs) when you apply for medical assistance.

Programs

Medicaid is for New Yorkers who can't afford to pay for medical care. It provides complete health care coverage, including:

- * Doctor visits for regular check-ups and when you're sick
- * Hospitalization
- * Prescription medications
- * Other health services

To apply for Medicaid, call or go to your county department of social services office. In New York City, contact the Human Resources Administration at 718-557-1399 or 1-877-472-8411.

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- * Provides complete healthcare coverage.
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- * Provides health care through participating managed care plans in your area.

To apply for Family Health Plus, call 1-877-9FH-PLUS (1-877-934-7587).

Child Health Plus is similar to Family Health Plus, except it is for children. If your child has no health insurance, apply for Medicaid or Child Health Plus for your child.

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To contact the Family Planning Benefit Program, call 1-800-541-2831.

The **Prenatal Care Assistance Program (PCAP)** helps pregnant women get the care they need.

You can apply for PCAP at many clinics and hospitals. Call your local department of social services to find out where you can get PCAP services.

You can also visit the New York State Department of Health website at **www.health.state.ny.us** and click on "Medicaid," "Child Health Plus," or "Family Health Plus."

When to
go to the
emergency
room

If you are very
sick and have
no money or
insurance,
go to the
emergency
room.

Don't take
chances with
your health!



Important Laws and Regulations

Laws and regulations affect your medical rights. If you have any questions about your specific situation, talk to your attorney. Knowing your rights can help you get the health services you need.

Federal Law

431 U.S. 678: The U.S. Supreme Court in *Carey vs. Population Services International* established the right of a minor to consent to reproductive health services and family planning services.

HIPAA (Health Insurance Portability and Accountability Act) – gives people certain rights regarding their Protected Health Information (PHI), including the right to keep their PHI confidential. HIPAA gives youth the authority to have control over certain categories of their own PHI.

You can find more information at:

<http://www.nyhealth.gov/nysdoh/hipaa/hipaa.htm>

More information about HIPAA and the rights of minors (under 18 years of age): **<http://www.cumc.columbia.edu/hipaa/policies/minors.html>**

New York State Law

Public Health Law (PHL) § 2504(1) – A person who is 18 years of age or older, or is the parent of a child, or has married, can give consent for medical care.

PHL § 2504(2) – Any person who has borne a child may give consent for that child's medical care.

PHL § 2504(3) – Any person who is pregnant may give consent for their own medical, dental, and hospital services relating to prenatal care.

PHL § 2504(4) – Emergency medical services can be provided to any person without consent.

PHL § 2305 – A health care provider may treat or prescribe for a person under the age of 18 for a sexually transmitted disease without the consent or knowledge of the parent or guardian.

PHL § 17 – Records concerning the treatment of a minor for a sexually transmitted disease or the performance of an abortion upon the minor shall not be released or made available to the parent or guardian of the minor without the minor’s consent.

PHL § 2789(5) – Defines capacity to consent in regard to HIV testing.

PHL § 2782 – Lists who has the right to see confidential HIV-related information.

Mental Hygiene Law (MHL) § 22.11 – A minor may receive inpatient, residential, or outpatient substance abuse treatment without the consent of a parent or guardian in some cases.

MHL § 33.21 – A minor may receive mental health treatment without the consent of a parent or guardian in some cases.

Social Services Law (SSL) § 384-a(2)(c)(ii) – A parent cannot be pressured or forced to sign a voluntary placement agreement, nor can the parent be charged with neglect for refusing to sign a voluntary placement agreement as long as the parent has a safe and appropriate plan for the child.

SSL § 373-a – The medical histories of a child in foster care and the child’s parents must be provided to the foster parents, prospective adoptive parents, adoptive parents, and the former foster child upon request.

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NYCRR is the official compilation of Codes, Rules, and Regulations of the State of New York

18 NYCRR § 441.22(a); 507.1(a) – Every child in foster care is entitled to comprehensive medical and health services.

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18 NYCRR § 441.22(b)(4)(i)(e) – A youth in foster care who has the capacity to consent to an HIV test cannot have an agency-supervised, confidential HIV test without the youth's written permission.

18 NYCRR § 423.4(g)(2) – A foster care agency must provide services to keep an infant child and minor parent in foster care together, except when this arrangement would create an imminent risk of abuse or maltreatment.

18 NYCRR § 463.1 – Each social services district must provide reproductive health education and family planning services upon request to sexually active youth and youth of child-bearing age who are in foster care.

18 NYCRR § 507.1(c)(9) – The social services district must provide or arrange for family planning services within 30 days of the request.

A link to New York Codes, Rules, and Regulations can be found on the New York Department of State website at **www.dos.ny.gov/info/nycrr.html**.



**New York State
Office of
Children & Family
Services**

Capital View Office Park
52 Washington Street
Rensselaer, NY 12144

Visit our website at:
www.ocfs.state.ny.us

For child care, foster care, and adoption
information, call:

1-800-345-KIDS

To report child abuse and neglect, call:

1-800-342-3720

1-800-638-5163 TDD

For information on the Abandoned Infant
Protection Act, call:

1-866-505-SAFE

For information about services for the blind, call:

1-866-871-3000

1-866-871-6000 TDD

State of New York



Office of Children & Family Services

Pursuant to the Americans with Disabilities Act, the
New York State Office of Children and Family Services will make this
material available in large print or on audiotape upon request.

Pub. 5116 (08/11)



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Got questions?

enter here →

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Diana Fenton

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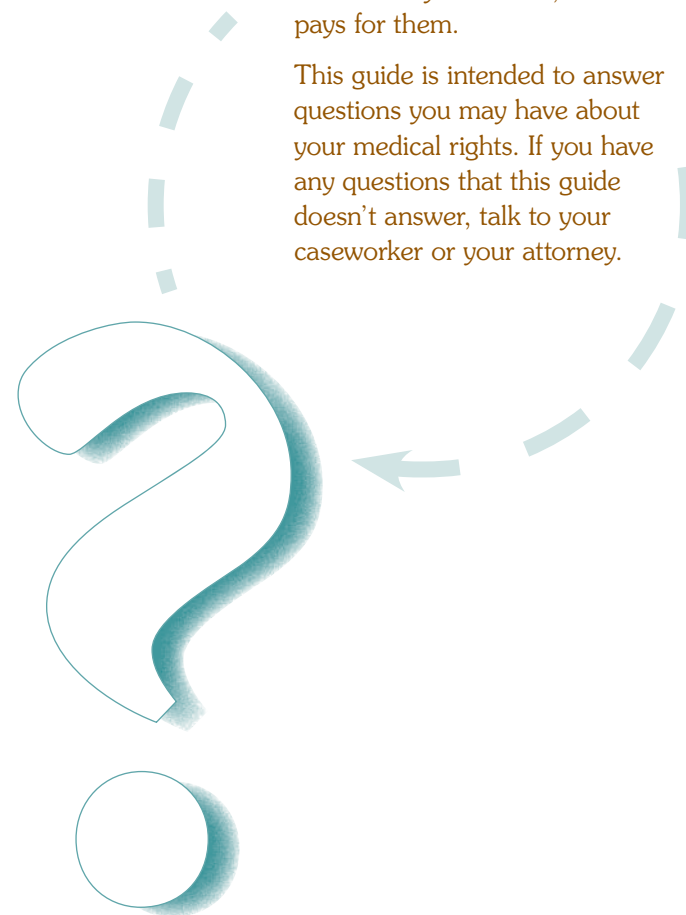
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Introduction

Dealing with the healthcare system can be a challenge for anyone.

It can be really challenging when you're in foster care, because there are laws and regulations that apply specifically to you. They affect who can give permission for your health care, the services and treatments you receive, and who pays for them.

This guide is intended to answer questions you may have about your medical rights. If you have any questions that this guide doesn't answer, talk to your caseworker or your attorney.



What is medical consent?

Usually, parents give consent for their children to be treated. When you are in foster care, other people (including yourself) can sometimes give consent for your medical treatment.

Consent means giving permission for a doctor or other healthcare professional to provide medical treatment.

Routine consent

When you come into foster care, your parent or guardian is asked to sign a form that permits the county or the foster care agency to obtain routine health care for you.

Routine care includes services such as:

- * Regular checkups by your doctor
- * Visits to the doctor when you're sick
- * Immunizations (shots)
- * Dental treatment
- * Talking with a counselor

Copies of the form signed by your parent or guardian are given to healthcare providers so they know it's okay to treat you. The same form can be used for multiple appointments and different doctors.

If your parent or guardian can't be located or doesn't sign the consent form, the county social services commissioner, the director of the foster care agency, or the family court judge will give consent for your medical care.

ok

The **Family Planning Benefit Program (FPBP)** provides family planning services to prevent or reduce unwanted pregnancies. You may be eligible for FPBP even if you're not eligible for Medicaid or Family Health Plus. You can also apply just for the Family Planning Benefit Program.

To contact the Family Planning Benefit Program, call 1-800-541-2831.

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You can apply for PCAP at many clinics and hospitals. Call your local department of social services to find out where you can get PCAP services.

You can also visit the New York State Department of Health website at www.health.state.ny.us and click on "Medicaid," "Child Health Plus," or "Family Health Plus."

When to go to the emergency room

If you are very sick and have no money or insurance, go to the emergency room.

Don't take chances with your health!



You may be eligible for these medical assistance programs if you meet certain income, resource, age, disability, or other requirements. You may need to bring documents (such as your birth certificate, proof of immigration status, and paycheck stubs) when you apply for medical assistance.

Programs

Medicaid is for New Yorkers who can't afford to pay for medical care. It provides complete health care coverage, including:

- * Doctor visits for regular check-ups and when you're sick
- * Hospitalization
- * Prescription medications
- * Other health services

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Informed consent

For some kinds of medical treatment, such as surgery or certain medications, “informed consent” is needed. Informed consent is different from routine consent because it is for a specific treatment or procedure. The person signing the consent form is making a careful decision based on information from a healthcare provider.

Before signing the consent form, the person must:

- * Understand what the treatment is and why it is recommended
- * Know the benefits and the dangers of the treatment
- * Be told about any other treatments that could be used instead
- * Have an opportunity to ask questions

The doctor or healthcare provider also should clearly explain the treatment or procedure to you in a way that you can understand and answer all of your questions. Tell the doctor and talk to your caseworker, foster parent, or attorney if you don't think the treatment is right for you.

If your parent or guardian can't be located or refuses to sign the informed consent form, it may be necessary for a judge to decide whether or not you will receive the treatment.

Emergency care

Consent for treatment is not necessary when:

- * there is a true medical emergency and
- * waiting to get consent would increase the risk to your life or health.



Capacity to consent means that you:

- * have the ability to understand a proposed healthcare service, treatment, or procedure;
- * can appreciate the nature and consequence of the service, treatment, or procedure; and
- * can make an informed decision about whether to receive it.

Capacity to consent

In some situations, the law allows you to consent to specific health care services even if you are under age 18. In those situations, your healthcare provider will determine whether you have the “capacity to consent.”

For example, you can give consent to receive reproductive health care services when you are under 18, as long as your healthcare provider determines that you have the ability (or capacity) to make an informed decision. You don’t have to ask your parents, foster parents, or caseworker for their consent when you need these services. You have the right to these services, even if your foster care agency has a religious affiliation.

If you consent to receive reproductive health services on your own, your healthcare provider cannot give your health information to anyone without your permission. See page 12 for more information about these services.

When you turn 18

At 18 years of age, you can consent to all of your own health services, whether or not you are in foster care.

Your parents or the foster care agency cannot legally consent to your health services on your behalf after you turn 18, unless a judge finds that you are not able to make decisions for yourself.

Who will pay for my medical care?

Finding out about health insurance can be challenging and frustrating at times. This information should help you get the services you need.

When you’re in foster care

You must be provided with health services while you are in foster care. If you are a citizen or have satisfactory immigration status, you are automatically eligible for Medicaid.

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For more information about your rights, visit the New York Civil Liberties Union website at www.nyclu.org and search for "Rights of Pregnant and Parenting Teens."

Will my medical records be kept private?

All medical information is considered to be confidential (private).

When you are in foster care, your foster parents or caseworker must make sure that you get the health care you need. Because the foster care agency is responsible for your health, it will maintain records of your medical care and share them with others as required by law. The agency must, however, keep your health records in a way that protects your confidentiality. In general, the agency may share your health information only with:

- * You, if you are discharged from foster care into your own care
- * You, if you leave foster care for adoption, upon your request
- * Your foster parents
- * Your adoptive parents, upon their request
- * A prospective adoptive parent (someone who is planning to adopt you)
- * A new foster care agency, if you are transferred

- * Your attorney
- * Your parents or another caregiver you live with when you leave foster care

Information about reproductive health services for which you have consented (see list on page 12) cannot be given to anyone without your permission.

Your parents' health histories

You have the right to receive your birth parents' health histories from the agency if:

- * You are discharged from foster care into your own care, or
- * You were in foster care and are now adopted, upon your request.

A health history includes both physical and mental health records. If you have been adopted, the agency will remove your birth parents' names from the records they send to you.

It is important to know about your parents' health because some health problems are hereditary (passed down from parent to child).

Why do I need to take medications?

We take medications for many reasons – to stay healthy, to feel better, or to get well when we're sick.



Some medications can be very helpful for problems such as anxiety, sadness, or difficulty concentrating. Medicines that can change your mood, behavior, thinking, and awareness are called **psychotropic** or **psychiatric** medications.

Your parent or guardian must give “informed consent” (see page 3) before you start taking one of these medications. The doctor prescribing it must:

- * Explain to you exactly what it is for
- * Describe how it will affect you
- * Answer all of your questions

Psychotropic medications can sometimes cause problems (side effects). You will see a doctor on a regular basis while you are taking a psychotropic medication. Let the doctor know about any side effects you are experiencing. If you don't like the way the medicine makes you feel, ask if you can take more or less of it, try a different medication, or try another type of treatment.

In general, you cannot be forced to take any medication, but be sure you know what will happen if you don't take it. Be sure to talk to your doctor before you stop taking any prescribed medicine so you know about any risks or side effects.

- * You are responsible for taking care of your baby's daily needs while he or she is in your custody.
- * You may give consent for your own and your child's medical care, regardless of your foster care status.

Voluntary placement agreements

Your foster care agency should make every effort to locate a place for you and your baby to be together. Sometimes it is difficult to find a foster care setting for both of you at the time the baby is born. If this happens, you may be asked to sign a voluntary placement agreement so your child can be placed in a different foster home. Signing the voluntary foster care agreement transfers custody of the baby from you to the commissioner of the local social services district.

Fathers in foster care

Fathers in foster care also have rights and responsibilities regarding their children. If you think you may be the father of a child:

- * Your attorney can ask the family court to establish paternity (prove you are the father).

Important facts to remember!



- * Make a plan with your caseworker **before the baby is born** to help prevent you from being separated from your child.
- * If the agency can't find a mother/child placement, try to find someone, such as a trusted relative, who can care for your child.
- * You do not have to sign a voluntary placement agreement putting your baby into foster care if you don't want to.
- * No legal action (such as a child abuse report) can be taken against you if you refuse to sign a voluntary placement agreement, as long as you have a safe alternative plan for the care of your baby.
- * Contact your attorney for advice and support if you're uncertain about your rights.

What if I become pregnant?

When you're in foster care, you have certain rights and privileges that relate to you, your pregnancy, and your baby.

Having a baby is a life-changing experience. You must plan for the future for both yourself and your child.

During your pregnancy

- * You can give consent for any medical, dental, and hospital services related to prenatal (pregnancy) care.
- * You should participate in a Service Plan Review (SPR) to plan where you and the baby will live if you are still in foster care after the baby is born. Your caseworker will review the current plan with you and tell you when the next SPR is scheduled.
- * You can decide to end your pregnancy (see Reproductive Health Services, page 12) even if your foster care agency has a religious affiliation or you are in a setting for pregnant youth.

After your baby is born

Your baby is not automatically in foster care – you have legal custody of your child. You will not lose custody unless you pose a danger or threat to your baby's well-being, or you request that the baby go into foster care.

- * You are entitled to a placement where you and your baby are together.

The law says you may be given medication against your will in an emergency when your behavior is an immediate threat to your safety or someone else's.

Taking your medication

Your foster parents or child care staff will store your medicine and will either give it to you or watch as you take it. They will also keep track of when the medicine is taken.

You may want to keep track of and take your own medication, such as an asthma inhaler or birth control pills. Talk to your caseworker about whether this makes sense in your situation. You may also want to discuss this with your attorney.


Remember

Talk to your doctor before you stop taking any prescribed medicine so you know about any risks or side effects.



What other services are available?

It's not unusual to need some extra help when you go into foster care.

You may be coming out of a tough family situation or be struggling with other personal problems. If so, you're entitled to services that promote your mental and physical health.

You will receive a mental health assessment when you enter foster care. You may also get a screening for abuse of substances such as tobacco, alcohol, or drugs.

Mental health and substance abuse services

You are entitled to certain services if the mental health and substance abuse assessments show that you need them. These may include educational programs, group therapy, or individual counseling.

Sometimes a hospital is the best place to get mental health or substance abuse treatment. If your parents or guardian object to your being hospitalized, but

you think it will help, the hospital can work with you and your caseworker to admit you.

Privacy is important

You may tell a counselor very important things that you have not talked about before and that you may not want others to know. Your counselor must respect your privacy, but also is required by law to report certain things, such as:

- * Abuse that has happened to you
- * A serious threat you make to harm yourself
- * A serious threat you make to harm someone else

A counselor will also give the foster care agency or Social Services some general information about your treatment. Counselors do not, however, need to provide details about everything that is said to them.

Be sure to spend some time talking with your counselor about how he or she will protect your safety and confidentiality. You need to trust that your counselor respects your privacy so you can talk freely.

Staying safe

Talk with your doctor or a family planning center, such as Planned Parenthood, about the risks involved in sexual activity. It's sometimes easier to talk to other youth about sex, but they may not have all the correct information.

There are many different kinds of physical intimacy, with different kinds of risk. Even if you are not having sexual intercourse with someone of the opposite sex, you or your partner may still be at risk of pregnancy or getting a sexually transmitted disease like HIV or herpes. Talk to a healthcare professional and get the facts.

Giving consent

You can give consent to receive reproductive health care services when you are under 18, as long as your healthcare provider determines that you have the ability (or capacity) to make an informed decision. You have the right to these services, even if your foster care agency has a religious affiliation.

If you consent to receive reproductive health services on your own, your healthcare provider cannot give your health information to anyone without your permission.

Ending a pregnancy

Any female in New York State can decide to end her pregnancy (have an abortion) without notifying anyone or getting her parents' or the agency's consent as long as her physician determines that she has the capacity to consent (see page 4).

- * If you are considering having an abortion, it may be helpful to discuss this decision with a trusted adult.
- * If you decide to get an abortion, be sure to follow the doctor's orders exactly.
- * If your doctor determined that you had the capacity to consent to have an abortion, your medical records regarding the abortion cannot be released without your written consent.

For more information about your rights, visit the New York Civil Liberties Union website at www.nyclu.org and search for "Rights of Pregnant and Parenting Teens."

Can I get services related to sex and birth control?

The decision whether or not to have sex is a personal choice. Whichever way you decide, it is important to know what services are available to you and how to keep yourself safe.

Reproductive health services

Reproductive health services, sometimes called family planning services, help you to manage your sexual health and safety. These services include:

- * Contraceptives to prevent pregnancy, such as birth control pills and condoms
- * Counseling on safe sex and sexual decisions
- * Treatment for vaginal infections
- * Testing and treatment for HIV and sexually transmitted diseases (STDs)
- * Pregnancy testing
- * Emergency contraception (morning-after pill)

- * Pregnancy termination (abortion)
- * Special examinations and tests for sexually active girls (pelvic exams and Pap tests)

If you are 12 years old or older, your caseworker sends your caregiver a “family planning notice” each year you are in foster care. This letter says you have the right to information and counseling about sexuality, as well as medical services if you ask for them. Some agencies will also send a letter directly to you.

Ask your caseworker about the family planning notice letter if you have not received one. Even if you are not sexually active, these services can help you to understand your body, answer your questions, and plan for the time when you choose to have sex.

Why should I be tested for HIV/AIDS?

HIV (Human Immuno-deficiency Virus) is a serious health problem and one of the biggest threats to today's youth.

HIV attacks the body's immune system, making it less able to fight off germs. If you are infected with HIV, you have the virus in your body and can pass it to other people.

Without treatment, people with HIV get life-threatening infections and cancers and are likely to develop AIDS (Acquired Immune Deficiency Syndrome), a debilitating and often fatal disease. Treatment can slow this process so people with HIV can live longer, healthier lives.

If you're HIV-infected, you may have no symptoms for ten years or more. You may not even know you're infected. An HIV test is the **only** way to find out if you have HIV. There are certain rights and requirements related to HIV/AIDS testing that apply to you when you're in foster care.

HIV risk assessment

Within 30 days of your entry into foster care, the foster care agency is required to do an “HIV risk assessment” to find out if you are at risk for HIV infection. A caseworker or nurse will ask you questions about your sexual activity, drug use, and other risk factors. The assessment does **not** determine whether you have the virus. It will help find out if you should be tested for the virus.





If the results of your anonymous HIV test show you have the virus, think seriously about telling someone.

Consent for HIV testing

If HIV testing is recommended for you, informed consent is required (see page 3).

You cannot be given an HIV test without your consent, unless you do not have the capacity to consent. If you don't have the capacity to consent, an HIV test may be authorized by your parent, the local DSS commissioner, or a judge.

If you do have the capacity to consent, it is up to you to decide if you want to be tested. A caseworker or nurse will help to answer your questions about HIV/AIDS and the testing. You may choose to take a confidential test, an anonymous test, or not to be tested.

Confidential testing

When you agree to a confidential HIV test,

- ★ Results will be shared with your foster care agency.
- ★ Results will be included in your confidential health record.

Anonymous testing

If you don't want anyone to know you are taking an HIV test, you can call 1-800-542-AIDS to ask how to get an anonymous test. Your caseworker will help you with arrangements for the test and transportation to the test site.

You will be given the test results but, because no personal information appears with the test results, there will be no record kept after you are told the results.

These results will not be included in your confidential health record, and they cannot be disclosed to anyone else unless you choose to do so.

If the results of your anonymous HIV test show you have the virus, think seriously about telling someone. There is no cure for HIV or AIDS, but the treatments available now will help you to feel better and be healthier in the future.

If you choose not to be tested, your caseworker or nurse will continue to talk to you about HIV. You can change your mind and get a test at any time.

Disclosure of HIV/AIDS information

If your foster care agency receives HIV/AIDS information regarding you, such as the results of a confidential test, the agency **must** disclose it, with or without your consent, to:

- ★ Your foster parents
- ★ Prospective adoptive parents
- ★ Another foster care agency, if you are transferred
- ★ Your attorney, for the purposes of representing you

If you did not have the capacity to consent to the test, you must be told of your HIV status if:

- ★ You are discharged into your own care, or
- ★ You are a former foster child who has since been adopted and you have requested this information.

If you have the capacity to consent, the foster care agency **cannot** give your parents your HIV/AIDS information without your permission.