

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY</b>	
	<b>Chapter 8:</b> Out-of-Home Services	<b>Effective Date:</b> July 1, 2021
	<b>Section 31:</b> Testing and Treatment for HIV, STDs, and Other Communicable Diseases	<b>Version:</b> 4

<b>POLICY OVERVIEW</b>
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Pursuant to IC 16-41-6, the medical necessity for communicable disease testing and/or treatment shall be determined by a physician or the physician’s authorized representative.

<b>PROCEDURE</b>
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In order to obtain a determination of the medical necessity of Human Immunodeficiency Virus (HIV), sexually transmitted disease (STD), and/or other communicable disease testing and/or treatment for any **high-risk** child in out-of-home care, the Indiana Department of Child Services (DCS) will ensure an appointment is scheduled with an appropriate physician or the physician’s authorized representative.

The Family Case Manager (FCM) will:

1. Utilize Universal Precautions at all times when working with children and families;
2. Ensure a physician evaluates any child in out-of-home care who meets the following **high-risk** criteria to determine the medical necessity of communicable disease testing:
  - a. Has documented exposure to a communicable disease (e.g., infants born to mothers known to be infected with HIV, an STD, or another communicable disease) or a **high-risk** environment (e.g., needles, blood borne pathogens, or human trafficking),
  - b. Has resided with an individual who is positive for a communicable disease,
  - c. Has a history of **high-risk** behavior (e.g., intravenous drug use, multiple sexual partners, and/or has been a victim of human trafficking),
  - d. Has present or past sexual partners who are infected with a communicable disease,
  - e. Has resided in a **high-risk** county or region in the state, in which the Centers for Disease Control and Prevention (CDC) or the Health Department has recommended testing for the general public,

**Note:** Consideration should be given to an individual who has participated in documented activities in a **high-risk** county or region in the state.

- f. Was born or has resided in a country with a high transmission rate of the communicable disease, and/or
  - g. Asks to be tested, if age and developmentally appropriate.
3. Recommend appropriate testing for a mother providing breastmilk for their child when the child meets the **high-risk** criteria;

**Note:** For recommendations regarding breastfeeding by a mother for whom certain conditions exist, consult CDC.

4. Request written informed consent from the parent, guardian, or custodian of a child in out-of-home care prior to seeking HIV, STD, and/or other communicable disease testing and/or treatment if testing and/or treatment is determined to be medically necessary unless Termination of Parental Rights (TPR) has been finalized;

**Note:** Pursuant to IC 16-36-1-3(d), a minor child may elect to exercise the right to consent to the minor child's own care or treatment for an STD or HIV when the minor child has or is suspected to have been exposed to a venereal disease.

5. Consult with the FCM Supervisor regarding any denial of written informed consent by the parent, guardian, or custodian; and

**Note:** If the parent, guardian, or custodian's written informed consent cannot be obtained, DCS may pursue court authorization for communicable disease testing and/or treatment if recommended by a physician or physician's authorized representative.

6. Obtain the parent, guardian, or custodian's written release of information prior to convening a Child and Family Team (CFT) Meeting to plan for the child's testing related needs (see policy 5.07 Child and Family Team Meetings).

**Note:** A child who consents to testing must provide written consent prior to discussion of the testing, results, or treatment with **any** person.

Upon written informed consent from the parent, guardian, or custodian, the FCM will:

1. Ensure any child who meets the criteria for **high-risk**, and for whom communicable disease testing has been determined to be medically necessary, receives testing as soon as possible;
2. Ensure any child who receives an initial communicable disease test also receives necessary follow-up tests at frequencies as recommended by the testing facility or the child's physician, regardless of whether the initial test result was positive or negative; and
3. Coordinate the return of the confidential communicable disease test results to the attention of the FCM unless a court has requested direct receipt of the results.

If a child is determined to be infected with a communicable disease, the FCM will:

1. Ensure the following individuals are immediately notified:
  - a. The child, if age and developmentally appropriate,

**Note:** If it is questionable whether the child is age and/or developmentally appropriate to receive this information, DCS should seek parental consent (or a court order if required) prior to informing the child.

- b. The parent, guardian, or custodian, unless TPR has been finalized, and

**Note:** When a minor child involved with DCS elects to exercise the right to consent to care or treatment for an STD or HIV in accordance with IC 16-36-1-3[d], the minor child's written consent is required to release any related information, including test results, to **any** person (including the court).

- c. The court.

**Note:** All documents filed with the court must be clearly identified as confidential for purposes of the court's in-camera inspection. See Legal Procedure for further guidance.

2. Obtain a court order and/or a signed consent from the parent, guardian, or custodian for release of information **prior** to notifying the following additional parties that the child has a communicable disease:
  - a. The child, if age and/or development does not allow for notification without consent,
  - b. The resource parent or designated residential personnel,
  - c. The prospective adoptive parent, if applicable,
  - d. Persons who provide services directly to the child (e.g., the child's service providers, childcare provider, physician, and dentist),
  - e. Sexual partners (or legal guardians of minor partners), if applicable, in conjunction with the Indiana Department of Health (IDOH),
  - f. Members of the CFT,
  - g. School administrators, and
  - h. School nurse.
3. Obtain a signed Confidentiality Agreement from individuals with whom information is shared;
4. Connect the parent, guardian, or custodian; the resource parent; and/or the residential provider with community resources that offer education on caring for a child with the communicable disease, precautionary measures to prevent transmission, and counseling/support services (contact IDOH and/or Division of HIV/STD/Viral Hepatitis for additional information);
5. Partner with the resource parent or residential provider to ensure the child receives appropriate medical examinations, treatments, and medications;
6. Convene a CFT Meeting to plan for needs related to the child's treatment including but not limited to:
  - a. Diagnosis,
  - b. Maintaining Universal Precautions,
  - c. School Attendance,
  - d. Testing Costs, and
  - e. Consent for testing (see policy 5.07 Child and Family Team Meetings),
7. Make necessary revisions to the child's Case Plan/Prevention Plan; and

**Note:** Confidentiality must be maintained when developing the Case Plan/Prevention Plan.

8. Follow Legal Procedure and agency policies to ensure the protection of confidential information about a child with a communicable disease (see policy 2.06 Sharing Confidential Information).

The FCM Supervisor will:

1. Staff with the FCM regarding all health concerns for the child and/or concerns of the parent, guardian, custodian and/or CFT, to include but not limited to the child's medical providers; and
2. Ensure all referrals, recommendations and consents for testing have been approved, completed and/or signed.

## Legal Procedure

When necessary, DCS will request a hearing and court order for the release and disclosure of medical information related to a communicable disease. DCS will request that the court examine confidential medical information related to communicable disease testing and results in-camera. In addition, DCS will recommend that any court order authorizing disclosure of medical information related to communicable disease testing and results include:

1. Permitted disclosure of only the parts of the medical information that are essential to fulfill the objective of the order;
2. Access to the medical information is restricted to persons whose need for the information is the basis of the order or **only** to the person or persons authorized through written consent of the parents or specifically authorized by court order;
3. Appropriate measures to limit the disclosure of the medical information to protect the right of privacy of the information; and
4. Transcripts, orders, and documents filed in connection with the hearing remain confidential.

## **LEGAL REFERENCES**

- [IC 16-36-1-5: Persons authorized to consent for incapable parties; minors](#)
- [IC 16-36-1-6: Delegated authority to consent on behalf of incapable party](#)
- [IC 16-36-1-9: Disqualification of person to consent for patient or health care recipient](#)
- [IC 16-41-6-1: HIV screening and testing](#)
- [IC 16-41-6-2: Informed consent; court ordered examinations](#)
- [IC 16-41-8: Communicable Disease: Confidentiality Requirements](#)
- [IC 31-32-12-1: Mental or physical examination or treatment](#)
- [IC 31-34-1-14: Exception for failure of parent, guardian, or custodian to provide medical treatment because of religious beliefs; rebuttable presumption; effect of presumption](#)
- [IC 34-18-12-2: Informed consent; rebuttal presumption](#)
- [IC 34-18-12-3: Informed written consent; explanation of proposed treatment, outcome, and risks](#)
- [IC 16-36-1-3\(d\): Consent for own health care](#)
- [410 IAC 1-2.5-14 "Communicable disease" defined](#)
- [410 IAC 1-2.5-66 "Sexually transmitted disease" defined](#)
- [410 IAC 1-2.5-75\(d\) and \(g\)](#)

## **RELEVANT INFORMATION**

### **Definitions**

#### Communicable Disease

Per 410 IAC 1-2.5-14, a communicable disease is an illness due to a specific infectious agent or its toxic products that arises through transmissions of the agent or its toxic products from an infected person, animal, vector, plant, or inanimate environment to a susceptible host, either directly or indirectly. For a list of Reportable Communicable Diseases see 410 IAC 1-2.5-75(d).

#### Informed Consent

"Informed Consent", as defined in IC 16-41-6-2, means authorization for a physical examination made without undue inducement or any form of force, fraud, constraint, deceit, duress, or coercion after the following:

1. A fair explanation of the examination, including the purpose, potential uses, limitations, and the fair meaning of the examination results; and
2. A fair explanation of the procedures to be followed, including:
  - a. The voluntary nature of the examination,
  - b. The right to withdraw consent to the examination process at any time, and
  - c. The right to anonymity to the extent provided by law with respect to participation in the examination and disclosure of examination results.

#### Sexually Transmitted Disease (STD)

Per 410 IAC 1-2.5-66, an STD is a local or systemic communicable disease due to infectious agents, generally transmitted person-to-person by sexual intercourse or genital mucosal contact, including, but not limited to, the following:

1. HIV;
2. Hepatitis B Virus (HBV);
3. Hepatitis C Virus (HCV);
4. Gonorrhea;
5. Chlamydia;
6. Syphilis;
7. Chancroid; and
8. Granuloma inguinale.

#### Universal Precautions

Universal Precautions are infection control guidelines designed to protect the body from exposure to disease spread by blood and certain body fluids.

#### **Forms and Tools**

- Case Plan/Prevention Plan (SF2956)- Available in the case management system
- [Centers for Disease Control and Prevention \(CDC\)](#)
- [Confidentiality Agreement \(SF52736\)](#)
- [Indiana Department of Health \(IDOH\)](#)
- [Indiana Department of Health \(IDOH\)- Division of HIV/STD/VIRAL HEPATITIS](#)
- [Universal Precautions](#)

#### **Related Policies**

- [2.06 Sharing Confidential Information](#)
- [5.07 Child and Family Team Meetings](#)