

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL</b>	
	<b>Chapter 8:</b> Out-of-Home Services	<b>Effective Date:</b> September 1, 2017
	<b>Section 31:</b> HIV, STDs, and Other Communicable Diseases	<b>Version:</b> 2

**POLICY [REVISED]**

The Indiana Department of Child Services (DCS) will schedule an appointment with the appropriate physician, or the physician’s authorized representative, 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.

**Note:** The medical necessity for [communicable disease](#) testing and/or treatment shall be determined by a physician or the physician’s authorized representative pursuant to [IC 16-41-6](#).

A child will be considered high-risk if he or she:

1. Has documented exposure to a [communicable disease](#) (e.g., infants born to mothers known to be infected with HIV [or be HIV carriers], an [STD](#), or another [communicable disease](#)) or a high-risk environment (e.g., needles, bloodborne pathogens, or human trafficking);
2. Has resided with an individual who is positive for a [communicable disease](#);
3. Has a history of high-risk behavior (e.g., intravenous drug use, multiple sexual partners, and/or has been a victim of human trafficking);
4. Has present or past sexual partners who are infected with a [communicable disease](#);
5. Has resided in a high-risk county or region in the state, for 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.

6. Was born or has resided in a country with a high transmission rate of the [communicable disease](#); and/or
7. Asks to be tested, if age and developmentally appropriate.

**Note:** Under certain circumstances the CDC does not recommend breastfeeding. DCS will recommend that any mother providing breastmilk for her child who is considered high-risk (based on the same criteria as a child above) receives appropriate testing (see [Related Information](#)).

Upon determination that [communicable disease](#) testing and/or treatment is medically necessary, DCS will seek written [informed consent](#) from the child’s parent, guardian, or custodian prior to seeking HIV, [STD](#), and/or other [communicable disease](#) testing and/or treatment for any child in out-of-home care 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 his or her own care or treatment for an [STD](#) or HIV when the minor child has, suspects that he or she has, or has been exposed to a venereal disease.

DCS will seek tests and follow-up tests at frequencies recommended by the testing facility or the child's physician.

**Note:** The DCS Nurse Consultants may be contacted for recommendations regarding testing due to documented concerns of household or environmental risks. See [Practice Guidance](#) for further guidance.

If the parent, guardian, or custodian's consent cannot be obtained or if TPR has been finalized, DCS may pursue court authorization for [communicable disease](#) testing and/or treatment if recommended by a physician or physician's authorized representative.

Any documents filed with the court in conjunction with a request related to [communicable disease](#) testing and treatment will be clearly identified as confidential for purposes of the court's in camera inspection. See [Legal Procedure](#) for further guidance.

In accordance with [IC 16-41-8](#), if the parent, guardian, or custodian consents or a court order is received to have a child in out-of-home care tested for a communicable disease, and the child is determined to be positive for a [communicable disease](#), DCS will inform:

1. The child, if age and developmentally appropriate;
2. The parent, guardian, or custodian, unless parental rights have been terminated; and
3. The court.

**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). If the child refuses to consent to the release of information, DCS may file a Motion with the court and request a hearing to allow all parties (including the child) to be heard on this matter.

Additional release of medical information related to [communicable disease](#) testing and/or treatment concerning a child in out-of-home care shall be made **only** to the person or persons authorized through written consent of the parents or specifically authorized by court order (see [Legal Procedure](#)).

DCS will ensure that agency confidentiality procedures are followed when sharing information about children infected with a [communicable disease](#). For further guidance, see separate policy, [2.6 Sharing Confidential Information](#).

#### Code References

1. [IC 16-36-1-5 Persons authorized to consent for incapable parties; minors](#)
2. [IC 16-36-1-6 Delegated authority to consent on behalf of incapable party](#)
3. [IC 16-31-1-9 Disqualification of person to consent for patient or health care recipient](#)
4. [IC 16-41-6-1: HIV screening and testing](#)
5. [IC 16-41-6-2: Informed consent; court ordered examinations](#)
6. [IC 16-41-8: Confidentiality of positive HIV status](#)
7. [IC 31-32-12-1: Mental or physical examination or treatment](#)

8. [IC 31-34-1-14: Exception for failure of parent, guardian, or custodian to provide medical treatment because of religious beliefs](#)
9. [IC 34-18-12-2: Informed consent; rebuttal presumption](#)
10. [IC 34-18-12-3: Informed written consent; explanation of proposed treatment, outcome, and risks](#)
11. [IC 16-36-1-3\(d\): Consent for own health care](#)
12. [410 IAC 1-2.5-14 "Communicable disease" defined](#)
13. [410 IAC 1-2.5-66 "Sexually transmitted disease" defined](#)
14. [410 IAC 1-2.5-75\(d\) and \(g\)](#)

<b>PROCEDURE [REVISED]</b>
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The Family Case Manager (FCM) will:

1. Ensure any child who meets the criteria on page one (1) of this policy is evaluated by a physician to determine the medical necessity of [communicable disease](#) testing;
2. Request written [informed consent](#) from the parent, guardian, or custodian prior to testing and/or treatment if testing and/or treatment is determined to be medically necessary;

**Note:** A minor child may elect to exercise the right to consent to his or her own care or treatment for an [STD](#) or HIV when the minor child has or suspects that he or she has been exposed to a venereal disease.

3. Consult with the FCM Supervisor regarding any denial of written [informed consent](#) by the parent, guardian, or custodian;

**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.

4. Make a referral to the DCS Nurse Consultant in your region, as needed, for assistance; and
5. 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 [Related Information](#) and separate policy, [5.7 Child and Family Team Meetings](#)).

**Note:** A child who consents to his or her own 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 on page one (1) of this policy, 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, 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 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 parental rights have been terminated, 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(s) or designated residential personnel,
  - c. The prospective adoptive parent(s), if applicable,
  - d. Persons who provide services directly to the child (e.g., the child's therapist, child caregiver, physician, and dentist),
  - e. Sexual Partners (or legal guardians of minor partners), if applicable, in conjunction with the [Indiana State Department of Health](#) (ISDH),
  - f. Members of the CFT,
  - g. School administrators, and
  - h. School nurse.

**Note:** Obtain a signed [Confidentiality Agreement \(SF2956\)](#) from individuals with whom information is shared.

3. Connect the parent, guardian, or custodian; the resource parent(s); 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;

**Note:** The FCM may partner with the DCS Nurse Consultant to provide information to the parent, guardian, or custodian; resource parent(s); and/or residential provider (see [Practice Guidance](#)).

4. Partner with the resource parent(s) or residential provider to ensure the child receives appropriate medical examinations, treatments, and medications (see [Related Information](#));
5. Convene a CFT Meeting to plan for needs related to the child's treatment (see [Related Information](#) and separate policy, [5.7 Child and Family Team Meetings](#));

6. Make necessary revisions to the child's [Case Plan \(SF2956\)](#); and

**Note:** Confidentiality must be maintained when developing the case plan.

7. Follow [Legal Procedure](#) and agency policies to ensure the protection of confidential information about a child with a [communicable disease](#) (see separate policy, [2.6 Sharing Confidential Information](#)).

### **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;
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.

## **PRACTICE GUIDANCE [NEW]**

### **Universal Precautions**

FCMs must utilize [Universal Precautions](#) at all times when working with children and families.

### **Making a Referral to the DCS Nurse Consultants**

The DCS Nurse Consultants are able to provide educational resources for the child; parent, guardian, or custodian; resource parent(s); residential provider; FCM; and other involved DCS employees. Guidance toward additional resources may also be provided to the FCM. For further information, see the [DCS Nurse Services Administrative Letter](#).

## **FORMS AND TOOLS [REVISED]**

1. [Case Plan \(SF2956\)](#) – Available in MaGIK
2. [Universal Precautions](#)
3. [Confidentiality Agreement \(SF52736\)](#)

## **RELATED INFORMATION [REVISED]**

### **Sexually Transmitted Disease**

[410 IAC 1-2.5-66](#) defines an STD as 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.

### **Communicable Disease**

[410 IAC 1-2.5-14](#) defines a communicable disease as 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 Indiana Code [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.

### **Testing Costs**

The responsibility for the cost of communicable disease testing falls first to the child’s parent, guardian, or custodian. If the parent, guardian, or custodian is unable to pay, the cost falls ultimately to DCS. If the child is eligible for and receiving Medicaid, Medicaid will pay for testing when there is a medical need to test. This includes testing for children who are symptomatic and for children who are asymptomatic but at high-risk for a communicable disease. Communicable disease testing does not require medical preauthorization.

### **Informing and Educating Resource Parents**

Clear and accurate information about communicable diseases and appropriate control measures must be given to resource parents to enable them to make informed decisions regarding their ability and willingness to provide care to infected children. If resource parent(s) make informed decisions, the possibility of needing to move the child from the placement is decreased. For more information on available educational materials and trainings, contact the Indiana State Department of Health at 317-233-7051.

### **Discussing a Child’s Communicable Disease Testing and/or Treatment at a CFT Meeting**

Discussion of a child’s communicable disease testing and/or treatment at a CFT Meeting should be handled on a case-by-case basis. If the FCM believes such discussion is relevant to the topic(s) on the agenda, he or she should contact the parent, guardian, or custodian (and child, if age and developmentally appropriate) in advance of the meeting to obtain signed consents and determine comfort level. If the parent, guardian, or custodian and/or child are not comfortable discussing the issue in front of the entire team, a solution may be to hold a smaller CFT Meeting to handle the issues relating to the communicable disease testing and/or treatment.

**School Attendance or Child Care for HIV-Positive Children**

The Indiana State Department of Health has guidelines for school attendance of children with HIV infection. Caregivers who want more information can contact the [Division of HIV/STD](#) at the Indiana State Department of Health.

**[NEW] Breastfeeding Recommendations**

For recommendations regarding breastfeeding by a mother for whom certain conditions exist, consult the Centers for Disease Control and Prevention (CDC) website at:

<http://www.cdc.gov/breastfeeding/disease/>

Archived 9/3/2017 Remove DCS Nurses