

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL	
	Chapter 8: Out-of-Home Services	Effective Date: June 1, 2008
	Section 31: HIV-AIDS	Version: 1

POLICY	OLD POLICY: 404.32
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The Indiana Department of Child Services (DCS) will seek informed written consent in compliance with [IC16-41-6-2](#), from the child's parent, guardian, or custodian, and input from the Child and Family Team (CFT) prior to seeking Human Immunodeficiency Virus (HIV) testing for any child in out-of-home care. See related information regarding informed consent for additional information and see separate policy, [5.7 Child and Family Team Meetings](#).

If consent is not given, DCS may pursue a court order to allow HIV testing to proceed. A court order may be granted when the following conditions apply:

1. There is a physician-certified medical emergency or need for continued post-emergency medical care requiring knowledge of HIV status for diagnostic purposes; and
2. A parent, guardian, or custodian refuses medical treatment for a child on religious grounds, and it is believed that the child's health is dependent upon knowledge of HIV status for medical treatment.

Upon consent from the child's parent, guardian, or custodian DCS will seek medical testing and treatment for children who:

1. Had documented exposure to HIV (i.e., infants born to mothers known to be infected with HIV or be HIV carriers);
2. Ask to be tested; and/or
3. For whom a medical doctor recommends testing.

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

DCS will seek a medical evaluation by a physician for any **high-risk** children to determine, if HIV testing is recommended. High-risk children include the following:

1. A history of high risk behavior (e.g., intravenous drug use, multiple sexual partners, prostitution, etc.);
2. Present or past sexual partners who are infected with HIV; and
3. Were born in countries with a high transmission rate of HIV.

DCS in accordance with [IC 16-41-8](#), will inform the following persons, if a child in out-of-home care is determined to be HIV positive:

1. The court;
2. The parent, guardian, or custodian, unless parental rights have been terminated;
3. Child if appropriate based upon the child's age and developmental status;
4. The resource parent(s) who will provide direct care to the child; and
5. The prospective adoptive parent, if applicable.

DCS will ensure that agency confidentiality procedures are followed when sharing information about children infected by HIV. See separate policy [2.6 Sharing of Confidential Information](#).

Code References

1. [IC 16-41-6-1: HIV screening and testing](#)
2. [IC 16-41-6-2: Informed consent; court ordered examinations](#)
3. [IC 16-41-8: Confidentiality of positive HIV status](#)
4. [IC 34-18-12-2: Informed consent; rebuttal presumption](#)
5. [IC 34-18-12-3: Informed written consent; explanation of proposed treatment, outcome, and risks](#)
6. [IC 31-32-12-1: Mental or physical examination or treatment](#)
7. [IC 31-34-1-14: Exception for failure of parent, guardian, or custodian to provide medical treatment because of religious beliefs](#)

PROCEDURE

The Family Case Manager (FCM) will:

1. Ensure that any child who meets the criteria on page one of this policy is tested as soon as possible;
2. Ensure that any child who meets the criteria in Policy Statement 2 on page one of this policy is evaluated by a physician to determine if HIV testing is necessary and appropriate;
3. **[NEW]** Assure that any child who receives an initial HIV test also receives necessary follow-up tests at intervals recommended by the testing facility or the child's physician, regardless of whether the initial test result was positive or negative;
4. **[REVISED]** Coordinate the return of the confidential HIV test results to the attention of the FCM unless a court has requested direct receipt of the results;
5. Ensure that the following persons are immediately notified when a child is determined to be infected with HIV:
 - a. The parent, guardian, or custodian, unless rights have been terminated,
 - b. The child, if appropriate based upon age and developmental level,
 - c. The court, if there are any court orders in effect regarding the child,
 - d. The resource family, and
 - e. The prospective adoptive parent, if applicable.
6. **[NEW]** Obtain a signed consent for release of information from the parent, guardian, or custodian, prior to notifying the following additional parties that the child has HIV. In addition, obtain a signed confidentiality form from the individual with whom the information is being shared:
 - a. Persons who provide services directly to the child (the child's therapist, child caregiver, physician, dentist, etc.), and
 - b. School administrators.
7. **[NEW]** Partner with the resource family to assure that the child receives appropriate medical examinations, treatments, and medications;
8. **[NEW]** Connect the parent, guardian, or custodian and the resource family with community resources that offer education on caring for a child with HIV; precautionary measures to prevent transmission; and counseling/support services;
9. **[NEW]** Make any necessary revisions to the child's [Case Plan](#); and

10. Follow agency policies and procedures to assure the protection of confidential information about a child with HIV. See separate policy, [2.6 Sharing Confidential Information](#).

PRACTICE GUIDANCE

N/A

FORMS AND TOOLS

[Case Plan \(SF2956\)](#) – Available in MaGIK

RELATED INFORMATION

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 the following:
 - 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.

HIV Testing Costs

The responsibility for the cost of HIV 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 on Medicaid, Medicaid will pay for testing when there is a medical need to test. This includes testing for children who are symptomatic or for children who are asymptomatic but at high-risk for HIV. HIV testing does not require medical preauthorization.

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](#).