

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY	
	Chapter 8: Out-of-Home Services Section 31: Testing and Treatment for HIV, STIs, and Other Communicable Diseases	
	Effective Date: January 1, 2025	Version: 5

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POLICY OVERVIEW

Due to the confidential nature of the information discussed in this policy, the DCS Staff Attorney should be consulted prior to releasing or requesting information regarding Human Immunodeficiency Virus (HIV), sexually transmitted infections (STIs), and other communicable diseases.

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. The Indiana Department of Child Services (DCS) will ensure any child in out-of-home care, who meets **high risk** criteria, is scheduled for an appointment with an appropriate physician or the physician's authorized representative to determine the medical necessity of Human Immunodeficiency Virus (HIV), sexually transmitted infection (STI) (formerly known as sexually transmitted diseases [STDs]), and/or other communicable disease testing and/or treatment.

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PROCEDURE

DCS employees will use Universal Precautions (see Definitions) at all times when working with children and families.

Pursuant to IC 16-36-1-3(d), children who have been diagnosed with, suspects they have, or have been exposed to an STI or HIV, may consent to their own care or treatment, and must provide written consent prior to discussion of the testing, results, or treatment with **any** person.

The Family Case Manager (FCM) will:

1. Identify children in out-of-home care who meet 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 STI, 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 tests 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 Indiana Department of Health (IDOH) has recommended testing for the general public (see the CDCs Atlas Plus: Interactive Atlas of HIV and other STDs),

- f. Was born or has resided in a country with a high transmission rate of the communicable disease (see the CDC Global HIV and TB webpage, CDC Travel Health Notices webpage, CDC Travelers' Health- Global Measles webpage, and the World Health Organization's [WHO] Global Tuberculosis Programme webpage), and/or
 - g. Asks to be tested, if age and developmentally appropriate.
2. Obtain a written release of information from the parent, guardian, or custodian (and child, if age and developmentally appropriate) prior to convening a Child and Family Team (CFT) Meeting to discuss the plan for the child's testing related needs (see policy 5.07 Child and Family Team [CFT] Meetings);

Note: If the parent, guardian, or custodian and/or child are not comfortable discussing the issue with 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.

3. Work with the child's out-of-home placement to ensure an appointment is scheduled with a physician or the physician's authorized representative to evaluate any child who meets the high-risk criteria as outlined above;
4. Recommend appropriate testing for a mother for whom certain conditions exist and are providing breastmilk for their child when the child meets the **high-risk** criteria; and

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

5. Facilitate the signing of the written informed consent and consult the FCM Supervisor and the DCS Staff Attorney regarding any denial of the provider's written informed consent by the parent, guardian, or custodian or denial of testing.

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.

After Written Informed Consent is Obtained

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

1. Work with the child's out-of-home placement to 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. Work with the child's out-of-home placement to 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. Communicate with the physician's office to coordinate **confidential** communicable disease test results to be sent to the attention of the FCM unless a court has requested direct receipt of the results.

When a Child Has a Communicable Disease

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

1. Staff with the DCS Staff Attorney and FCM Supervisor to identify those who may be notified (e.g., parent, guardian, or custodian; court), and discuss whether to notify the child, as age and developmentally appropriate;

Note: When a minor child involved with DCS elects to exercise the right to consent to care or treatment for an STI 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 and the child's parent, guardian, or custodian). If the court is notified, 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, a signed consent from the parent, guardian, or custodian, and/or a signed consent from the child 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; the residential provider; and/or the child 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 IDOH: Division of HIV/STI/Viral Hepatitis and see the 4.G Tool: Community Resources and Prevention Services for additional information;
5. Partner with the child's out-of-home placement to ensure the child receives appropriate medical examinations, treatments, and medications. If the appropriate consent has not been obtained from the child and/or the court to release the information to the resource parent or residential treatment facility, partner with the child to ensure the child receives the appropriate medical examinations, treatments, and medications;

Note: If appropriate consents are unable to be obtained, the Indiana Department of Health may be a resource in discussing any available next steps.

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 (see the Communicable Disease Reference Guide for Schools: 2023 Edition),
 - d. Testing costs, and
 - e. Consent for testing (see policy 5.07 Child and Family Team Meetings),
7. Follow Legal Procedure, as outlined below, 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 be 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 parent or child 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.

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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) or Sexually Transmitted Infection (STI)

Per 410 IAC 1-2.5-66, an STD, also referred to as an STI, 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

- [4.G Tool: Community Resources and Prevention Services](#)
- Case Plan/Prevention Plan (SF2956) - Available in the case management system
- [Centers for Disease Control and Prevention \(CDC\) Atlas Plus: Interactive Atlas of HIV and other STDs](#)
- [Centers for Disease Control and Prevention \(CDC\): Breastfeeding](#)
- [Centers for Disease Control and Prevention \(CDC\): Global HIV and TB](#)
- [Centers for Disease Control and Prevention \(CDC\): Travelers' Health- Global Measles](#)
- [Centers for Disease Control and Prevention \(CDC\): Travel Health Notices](#)
- [Communicable Disease Reference Guide for Schools: 2023 Edition](#)
- [Confidentiality Agreement \(SF52736\)](#)
- [Indiana Department of Health \(IDOH\)](#)
- [Indiana Department of Health \(IDOH\): HIV/STI/Viral Hepatitis](#)
- [Universal Precautions](#)
- [World Health Organization's \[WHO\] Global Tuberculosis Programme](#)

Related Policies

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

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LEGAL REFERENCES

- [IC 16-36-1-3: Consent for own health care; minor's blood donation](#)
- [IC 16-36-1-4: Incapacity to consent; invalid consent](#)
- [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 16-41-8-1\(b\): "Potentially disease transmitting offense"](#)
- [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 \(g\)](#)

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PRACTICE GUIDANCE- DCS POLICY 8.31

Practice Guidance is designed to assist DCS staff with thoughtful and practical direction on how to effectively integrate tools and social work practice into daily case management in an effort to achieve positive family and child outcomes. Practice Guidance is separate from Policy.

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 parents 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, see the Indiana Department of Health (IDOH) - Division of HIV/STI/VIRAL HEPATITIS.

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.

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