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Administrative Directive

Transmittal:	11-OCFS-ADM-09
To:	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
Issuing Division/Office:	Strategic Planning and Policy Development
Date:	September 1, 2011
Subject:	Reproductive Health and Services for Youth in Foster Care
Suggested Distribution:	Directors of Social Services Child Protective Services Supervisors Child Welfare Supervisors Staff Development Coordinators
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Attachments:	“A Medical Guide for Youth in Foster Care”
Attachment Available Online:	“A Medical Guide for Youth in Foster Care” 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:

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Title: Director

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