



Policy and Procedures

<u>Department Name</u> Quality Management		
<u>CHAPTER:</u>	<u>SUBJECT:</u> HIV Testing, Disclosure and Documentation Requirements For Children In Foster Care	<u>POLICY NUMBER:</u> QM-036
<u>APPROVAL:</u>	<u>EFFECTIVE DATE:</u> 2/27/07	<u>REPLACES (policy # and date):</u> New Policy

- I. **PURPOSE:** This operating procedure establishes consent requirements for HIV testing of children in foster care, who has the right to know child’s HIV status and documentation requirements for case records of such information.

- II. **REVIEW HISTORY:** New policy.

- III. **CONTACT:** Quality Management Department.

- IV. **PERSONS AFFECTED:** Children’s Network Staff and contracted providers.

- V. **POLICY:** Consent requirements for HIV testing of children in foster care, who the information can be disclosed to and documentation requirements of HIV information in case records.

- VI. **RATIONALE:** Consent by a minor in foster care for HIV testing who may have been exposed to infectious bodily fluids of a person known to be infected with HIV, who has a need to know of the child’s HIV status and appropriate documentation of HIV status and HIV records in the child’s case file.

- VII. **CROSS REFERENCES:** Section 381.0041, 384.29 (1)(a-e), Florida Statutes 65C-13.017 Florida Administrative Code.

- VIII. **DEFINITIONS:**
 - A. Child means any unmarried person under the age of 18.
 - B. HIV means Human Immunodeficiency Virus or HTLV-III/LAV identified as the causative agent of Acquired Immunodeficiency Syndrome.
 - C. Informed consent means consent evidenced by the valid signature of the minor, parent or legal guardian who is mentally capable to give consent for HIV testing. The benefits and risks of the procedure must be presented. The person signing must have an opportunity to ask questions, have them answered, and remain in agreement that the procedure may be performed. This consent may be withdrawn at any time either in writing or verbally.

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IX. PROCEDURES:

A. Any child who may have been exposed to infectious bodily fluids of a person known to be infected with HIV in such a way that the virus may have been transmitted have the right to request be tested for the virus through saliva testing. Any blood testing for HIV needs to be authorized by the court as this is considered an intrusive procedure.

B. HIV antibody testing shall be provided under the following conditions:

1. Informed consent of the child or the child's parent is obtained and documented in the case record.

2. A minor may obtain consultation, examination and treatment from an appropriate licensed health care professional. **The provider must make a judgment about whether the minor has the capacity to understand the risks and benefits of the test or treatment.** The consent of a parent or guardian is not a prerequisite for examination or treatment of a sexually transmitted disease.

3. The facts of a consultation, examination and treatment of a minor for a sexually transmitted disease are confidential and can not be divulged in any direct or indirect manner such as sending a bill for services to the parent, except under the following conditions:

- a.** When made with the consent of all persons to which the information applies;
- b.** When made for statistical purposes, and medical information is summarized so that no person can be identified and no names revealed;
- c.** When made to medical personnel, appropriate state agencies, public health agencies, or courts of appropriate jurisdiction.
- d.** When made in a medical emergency, but only to the extent necessary to protect the health of the person.

4. Prior to testing, the child or, where applicable, the parent shall be informed of the following:

- a.** The purpose of the test;
- b.** The meaning of the test results;
- c.** Methods of transmission and exposure;
- d.** The voluntary nature of the test.

5. If the child refuses or is unable to grant informed consent and shows clinical symptoms of HIV infection or if there is competent evidence to support a reasonable belief that the child is considered at high risk, procedures should be initiated to obtain authority from the parents or the court to conduct the antibody tests.

6. Once the tests are completed, the child must be provided age appropriate follow-up support and educational materials. The child's parent or guardian should receive similar follow-up support. Culturally sensitive and language appropriate counseling should be provided.

C. The identity of any foster child upon whom an HIV test has been performed and the results of the HIV test shall be disclosed only to an employee who is directly involved in the placement, care or custody of such child and who has a need to know such

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information. An employee and/or provider need to know the identity of a foster child and his or her HIV test results if:

1. The employee is involved in case specific services such as assessing needs, determining eligibility, arranging care, monitoring care, planning permanency and meeting the legal requirements for the child in foster care;
2. The employee is involved in case specific supervision or monitoring of cases for compliance or quality of casework;
3. The employee is involved in providing case specific clerical support necessary for case management activities;
4. A licensed foster parent or facility who is directly involved in the care of such child and in addition has a need to know such information.;
5. The child's Guardian Ad Litem, if one has been appointed;
6. The child's medical practitioner, including dentist, must be told of the child's HIV status.
7. If a court order is necessary then the court order must specify whether the parent may be told of the child's HIV status.

D. Case records shall be treated as follows for confidentiality purposes:

1. Case narrative shall not contain references to the child's HIV/AIDS status. The term "suppressed immune system" shall be used instead;
2. Case material which discloses that the child has HIV infection or AIDS shall be kept in a "Privileged/Confidential Information" envelope used to safeguard sensitive case information;
3. Case records shall not be flagged or segregated in any way which would permit their identification as case records of HIV infected children.