ORANGE COUNTY SOCIAL SERVICES AGENCY
CFS OPERATIONS MANUAL

Effective Date: December 1, 1995 **Number: D-0602**
Revised: October 14, 2009

HIV/AIDS Case Management

Purpose

To provide guidelines for facilitating case management services for clients diagnosed with HIV/AIDS or at risk of contracting HIV/AIDS.

Approved

This policy was approved by Mike Ryan, Director of CFS, on October 14, 2009. *Signature on file*.

Background

Orange County Children and Family Services (CFS) provides intervention for children of all backgrounds, including those diagnosed with HIV/AIDS and those at high risk of contracting HIV/AIDS. CFS staff has the responsibility to identify such children when they are the subject of CFS intervention so they receive the medical treatment, education, and resources necessary to ensure the child's quality of life, promote a longer life expectancy, provide for the child's physical and emotional stability, and establish permanent placement.

There are legal mandates, which define requirements for obtaining consent for HIV/AIDS testing and maintaining the confidentiality of those tested for HIV/AIDS and/or diagnosed with HIV/AIDS. CFS staff is responsible for adhering to these regulations when providing case management services to protect the rights of children, parents, and legal guardians diagnosed with HIV/AIDS or at risk of contracting HIV/AIDS. Unlawful disclosure of HIV/AIDS test results is a misdemeanor and can result in criminal and/or civil liability.

Legal Mandates

Health and Safety Code Section 119301 provides the legal mandate for the establishment of sterilization, sanitation, and safety standards for tattooing and body piercing.

Health and Safety Code Section 119303 provides the legal mandate that every person engaged in the business of tattooing or body piercing is required to be registered with the County health department.

Health and Safety Code Section 120990(c) provides the legal mandate that an HIV test can only be administered with a signed informed consent from "the person being tested or his or her parent, guardian, conservator, or other person specified in H&S 121020…."

Health and Safety Code Section 121010 provides the legal mandate that the results of an HIV test may be disclosed to the subject of the test, the subject's legal representative, conservator, or any person authorized to consent to the test pursuant to Health and Safety Code Section 120990 *without* written consent of the subject.

Health and Safety Code Section 121020(a)(1) provides the legal mandate that, “When the subject of an HIV test is not competent to consent for the test to be performed, written consent for the test may be obtained from the subject’s parents, guardians, conservators, or other person lawfully authorized to make health care decisions for the subject.” Further, “a minor shall be deemed not competent to give consent if he or she is under 12 years of age.”

Health and Safety Code Section 121020(a)(2) provides the legal mandate that the Juvenile Court may provide written consent for an HIV test to be performed for a dependent child.

Health and Safety Code Section 120980(a–g) provide the legal mandate that written authorization must be obtained for each separate disclosure of the results of an HIV test and that each authorization must specify to whom the disclosure will be made. Further, these H&S Code sections define the civil and criminal penalties for providing unauthorized disclosure of the results of an HIV test.

Welfare and Institutions Code Section 369 provides the legal mandate for the Juvenile Court to order medical, surgical, dental, or other remedial care or treatment for a dependent child or child placed in temporary custody when the parent or legal guardian is unavailable or unwilling to provide consent for the required care.

Miscellaneous Order 701.5 of the Juvenile Court of California, Orange County, provides the legal basis for the assigned Senior Social Worker (SSW) to sign a consent for an HIV test on behalf of an infant for whom a Hospital Hold has been placed when the infant’s parent refuses to consent, if specific criteria are met.

Definitions

Acquired Immune Deficiency Syndrome or Acquired Immunodeficiency Syndrome (AIDS): A disease of the human immune system caused by the human immunodeficiency virus (HIV).

This condition progressively reduces the effectiveness of the immune system and leaves individuals susceptible to opportunistic infections and tumors.

Human Immunodeficiency Virus (HIV): The virus that causes AIDS. HIV is transmitted through direct contact of a mucous membrane or the bloodstream with a bodily fluid containing HIV, such as blood, semen, vaginal fluid, preseminal fluid, and breast milk. This transmission can involve anal, vaginal or oral sex, blood transfusion, contaminated hypodermic needles, exchange between mother and baby during pregnancy, childbirth, breastfeeding, or other exposure to one of the above bodily fluids.

POLICY

OCSA

HIV Risk Factors and Testing Criteria

A child is at risk for contracting HIV/AIDS when:

- Born to a parent who:
  - Has multiple sexual partners
  - Has engaged in intravenous (IV) drug use at any time
  - Received a blood transfusion prior to 1985
  - Received unscreened blood products prior to June 1985
  - Engaged in unprotected sexual relations with a person who might have participated in any of the behaviors listed above

- Breast fed by a mother who is infected with HIV/AIDS
- Sexually active
- Engaged in IV drug use at any time
- Tattooed and/or body pierced (including ear pierced) under conditions not in accordance with sterilization, sanitation, and safety standards pursuant to Health and Safety Code Sections 119301 and 119303
- Sexually abused by a person who has engaged in any of the activities listed above or for whom no information is available regarding these risk factors
- A physician has identified concerns and recommended testing

When any of these risk factors are identified or a child is known to be diagnosed with HIV/AIDS/has had a confirmed exposure to HIV/AIDS, the assigned SSW will immediately provide this information to the Special Medical Intake Coordinator pursuant to the procedure outlined in CFS P&P Special Medical Placements (K-0801). The cases of all children diagnosed with HIV/AIDS will be assigned to Specialized Family Services (SFS).

Consent for HIV Testing

Testing for HIV/AIDS may only be conducted with consent provided by:

- A child's parent or legal guardian
- A Juvenile Court order
- The child to be tested if 12 years of age or older and deemed competent
- SSA under the provisions of Miscellaneous Order 701.5

Note: Foster care providers may not consent for HIV/AIDS testing.

The assigned SSW will attempt to obtain parental consent for an HIV/AIDS test for a child under 12 years of age before signing consent for a test pursuant to Miscellaneous Order 701.5 or submitting an *Application for Ex Parte Order Authorizing Testing of a Child for Presence of Immunodeficiency Virus or its Antibodies (F063-28-147).* Upon receiving notification from a medical provider that a child requires HIV/AIDS testing, the assigned SSW will:

- Immediately telephone the child's parent or legal guardian to request consent for HIV/AIDS test
- Provide the parent or legal guardian 24 working hours to respond to the call

If the parent/legal guardian does not respond within 24 working hours or refuses to provide consent, the assigned SSW will:

- Sign the consent for HIV/AIDS testing for children covered under the provisions of Miscellaneous Order 701.5
- Submit an *Application for Ex Parte Order Authorizing Testing of a Child for Presence of Immunodeficiency Virus or its Antibodies (F063-28-147)* to the Juvenile Court if the child is not covered under the provisions of Miscellaneous Order 701.5

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The assigned SSW will contact the SFS Public Health Nurse (PHN) ([714] 704-8530) to facilitate HIV/AIDS testing.

Note: Prior to pursuing HIV testing for a newborn child deemed at risk of contracting HIV/AIDS due to perinatal exposure, the assigned SSW will:

- Attempt to contact the child's birth mother to request that she submit for an HIV/AIDS test
- Consult with the child's physician to determine whether it is necessary for the child to have an HIV/AIDS test when the mother has tested and her test results are available
- Sign consent for the child to test pursuant to the provisions of Miscellaneous Order 701.5 if the mother refuses to submit for an HIV/AIDS test or her test results are unavailable

Authorization for surgery, sedation, anesthesia, or treatment for a child diagnosed with HIV/AIDS or pending the results of testing to determine HIV/AIDS status will be obtained pursuant to the guidelines outlined in CFS P&P Medical Care Authorization (I-0206).

Note: The assigned SSW will obtain consent from a parent, legal guardian, or the Juvenile Court prior to authorizing participation or enrollment in research or experimental drug protocols related to the HIV/AIDS status of a child under the supervision of the Juvenile Court.

Confidentiality

A. **Sensitive Referral/Case Status:**
All referrals and cases regarding a child, parent, or legal guardian diagnosed with HIV/AIDS or pending the results of testing to determine HIV/AIDS status will be processed and handled as "sensitive" pursuant to the guidelines outlined in CFS P&P Sensitive/Highly Sensitive Referrals and Cases (F-0107).

B. **Disclosure of HIV/AIDS Status:**
All CFS staff will ensure the confidentiality of those tested for HIV/AIDS or diagnosed with HIV/AIDS.

Pursuant to CFS P&P Confidentiality—CFS Client Records (F-0105), the assigned SSW will only release information regarding results of a child's HIV/AIDS test or HIV/AIDS status to:

- A child's parent or legal guardian (unless there is a Juvenile Court order to the contrary or competent child 12 years or older does not give written consent)
- County Counsel when required for legal representation in a Juvenile Court case
- Medical practitioners, including Orangewood Children's Home (OCH) medical professionals, Foster Care Public Health Nurses, and dentists if pertinent to maintaining health and safety of the child
- A licensed or certified foster parent, respite provider, relative caregiver, non-relative extended family member (NREFM), or potential adoptive parents pursuant to the guidelines outlined below in the "Out-of-Home Placement" section of this P&P

OCSA

The assigned SSW will only release information regarding results of a child's HIV/AIDS test or HIV/AIDS status to any party not listed above with written authorization from one of the following:

- The child's parent or legal guardian, pursuant to a signed *Authorization to Use and Disclose Protected Health Information (PHI) (F063-28-343)*
- The child is age 12 or older, pursuant to a signed *Authorization to Use and Disclose Protected Health Information (PHI) (F063-28-343)*
- The Juvenile Court

Note: A separate written authorization specifying to whom the disclosure may be made is required for each disclosure.

C. **CWS/CMS Documentation:**
CFS staff will ensure that all referral and case related documentation regarding a client, reporting party, or any other person involved with the referral or case diagnosed with HIV/AIDS or at risk of contracting HIV/AIDS, refers only to a "life threatening illness." Further, CFS staff will use discretion when entering documentation related to the type of treatment or support services provided.

The assigned Public Health Nurse (PHN) will check the box marked "Sensitive Health and Medical Information is on File for this Person" on the Summary page of the CWS/CMS Health Notebook for any child, parent, legal guardian diagnosed with HIV/AIDS or pending results of an HIV test.

D. **Storage of HIV/AIDS Related Documentation:**
Referral and case related documentation that contains information regarding one's HIV/AIDS status must be placed in a separate envelope contained in the relabeled "Privileged/Confidential Information—For Assigned Social Worker Only." The envelope will be filed in the Service Folder.

E. **Court Reports:**
The assigned SSW will document the HIV/AIDS status of the child, the child's parent(s), legal guardian(s), or the child's sibling(s) in all Court reports and Petitions submitted to the Juvenile Court by referring only to a "life threatening illness."

Any circumstance that requires a court report to include specific reference to the HIV/AIDS status of the child, the child's parent(s), legal guardian(s), or the child's sibling(s) (e.g., an *Application for Ex Parte Order Authorizing Testing of a Child for Presence of HIV or its Antibodies [F063-28-147]* or Application for Ex Parte Order to request approval for disclosure of the results of an HIV/AIDS test), will be hand delivered to the assigned Court Officer's Senior Social Services Supervisor (SSSS) in a sealed envelope labeled only:

Attention: Court Officer SSSS
FOR THE JUDGE ONLY
Confidential Medical Information Enclosed

The envelope will not include any identifying information regarding the child or the child's case.

CDSS

The assigned SSW will pick up the signed Juvenile Court order from the Court Officers SSSS.

Out-of-Home Placement

Placement of a child diagnosed with HIV/AIDS is to be conducted pursuant to the requirements outlined in CFS P&Ps Out-of-Home Placement (K-0208) and Special Medical Placements (K-0801) within the following guidelines:

The Special Medical Placement Coordinator will:

- Inform the prospective out-of-home caregiver *prior* to placing the child and without disclosing *any* child specific information that the child requiring placement:
  - Is diagnosed with HIV/AIDS
  - Has tests pending to determine HIV/AIDS status
  - Has been exposed to HIV/AIDS

- Together with the SFS PHN, meet with the prospective out-of-home caregiver to provide the child's medical history and explain the care requirements for a child diagnosed with HIV/AIDS or pending the results of HIV/AIDS testing
- Provide identifying information, including the child's name, *only* upon the prospective out-of-home caregiver agreeing to placement of the child
- Obtain the completed *Specialized Medical Training Documentation form (F063-25-455)* completed by the PHN and file in the child's Medical Acco
- Enter a contact into CWS/CMS documenting that all medical information was disclosed to the out-of-home caregiver (documentation will only refer to a "life threatening illness")

If placing in a Foster Family Agency (FFA) or group home, the Special Medical SSW or Placement Coordinator will evaluate the home to address:

- The child's special needs and follow up
- The FFA/group home policy for protecting confidentiality and training of staff on Standard Precautions
- The FFA/group home policy and procedure for addressing the child's HIV status with other clients who become aware of the child's diagnosis

Upon placing the child, the Special Medical Placement Coordinator will complete placement paperwork pursuant to the guidelines outlined in CFS P&P Out-of-Home Placement (K-0208).

Note: The assigned SSW will obtain written authorization from the child's parent pursuant to a signed *Authorization to Use and Disclose Protected Health Information (PHI) (F063-28-343)* **prior** to disclosure of a child's HIV/AIDS status to a prospective relative/NREFM placement. The child will *not* be placed with the prospective relative/NREFM caregiver if the parent refuses to provide authorization to disclose the diagnosis.

Payments for out-of-home care for children diagnosed with HIV/AIDS will be determined pursuant to the guidelines outlined in CFS P&P Foster Care Rates (H-0112).

Death of Child

The death of a child due to HIV/AIDS will be reported pursuant to the provisions of SSA Administrative P&P Client Death/Serious Incident Notification Dependent Children and Voluntary Supervision Cases (D 9), CFS P&P Traumatic Event Response Protocol (B-0214), and CFS P&P Child Fatalities and Near Fatalities (A-0204).

DCFS

REFERENCES

Attachments and CWS/CMS Data Entry Standards

Hyperlinks are provided below to access attachments to this P&P and any CWS/CMS Data Entry Standards that are referenced.

None.

Hyperlinks

Users accessing this document by computer may create a direct connection to the following references by clicking on them.

- CFS P&P Child Fatalities and Near Fatalities (A-0204)
- CFS P&P Traumatic Event Response Protocol (B-0214)
- CFS P&P Confidentiality—CFS Client Records (F-0105)
- CFS P&P Sensitive/Highly Sensitive Referrals and Cases (F-0107)
- CFS P&P Foster Care Rates (H-0112)
- CFS P&P Medical Care Authorization (I-0206)
- CFS P&P Out-of-Home Placement (K-0208)
- CFS P&P Special Medical Placements (K-0801)
- SSA P&P Client Death/Serious Incident Notification Dependent Children and Voluntary Supervision Cases (D 9)

Other Sources

Other printed references include the following:

- Miscellaneous Order 701.5 of the Juvenile Court of California, Orange County

REQUIRED FORMS

Online Forms

Required forms listed below may be printed out and completed, or completed online, and may be accessed by clicking on the link provided.

Form Name	Form Number
Specialized Medical Training Documentation	F063-25-455
Application for Ex Parte Order Authorizing Testing of a Child for Presence of Immunodeficiency Virus or its Antibodies	F063-28-147

Hard Copy Forms

Forms listed below must be completed in hard copy (including multi-copy NCR forms). ***For reference purposes only,*** links are provided to view these hard copy forms, where available.

Form Name	Form Number
Authorization to Use and Disclose Protected Health Information (PHI)	F063-28-343

OCSSA

CWS/CMS Forms

The following required forms may **only** be obtained in CWS/CMS. ***For reference purposes only,*** links are provided to view these CWS/CMS forms, where available.

Form Name	Form Number
None.	

Brochures

Brochures to distribute in conjunction with this procedure include:

Brochure Name	Brochure Number
None.	

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