



TEXAS

**Department of Family
and Protective Services**

Medical Consent Resource Guide

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Table of Contents

MEDICAL CONSENT	1
<i>Medical Consent Exceptions</i>	2
Immunizations	2
Inpatient Mental Health	2
Substance Abuse Treatment	3
ECI and Special Education Services	3
Abortion.....	3
DESIGNATING MEDICAL CONSENTERS.....	4
<i>Recommended Medical Consenter Designations When Court Authorizes DFPS as Medical Consenter</i>	4
<i>Designating a Live-In Caregiver as the Medical Consenter</i>	5
<i>Changing Medical Consenter and Backup Consenter</i>	6
RESPONSIBILITIES OF MEDICAL CONSENTERS AND BACKUP MEDICAL CONSENTERS.....	6
<i>Preventive Care</i>	7
<i>The Role of the Backup Medical Consenter</i>	7
<i>Knowing the Child's Medical History</i>	8
<i>Disagreements Between the Medical Consenter and Backup Medical Consenter</i>	9
Resolving Disagreements.....	9
<i>Medical Consenter Mailbox Resource</i>	9
MEDICAL CONSENT BY MINOR YOUTH.....	10
<i>Assent</i>	10
Discussions About the Use of Medication.....	10
<i>Informing Youth About Certain Rights</i>	11
Educate Youth at Multiple Venues.....	11
Informing Youth of Legal Process	11
CONSENTING TO PSYCHOTROPIC MEDICATIONS.....	11
<i>Non-Pharmacological Interventions</i>	12
Trauma Informed Care.....	12
Behavioral Strategies and Psychosocial Therapies	12
Serious or Complex Symptoms	13
COURT ORDERS FOR HEALTHCARE RELATED TREATMENT AND SERVICES.....	13
<i>Exceptions: Court-Ordered Medical Services Not Covered by Medicaid or STAR Health</i>	13
Doctor Refuses to Order Medical Tests	14
Doctor Orders Medical Tests	14
<i>Process for Court-Ordered Treatment Services (Orthodontia)</i>	15
EXTRAORDINARY MEDICAL CONDITIONS	18
<i>Organ Donation / Anatomical Gifts</i>	18
Reasons DFPS May Not Approve Donation.....	18

Resource Guides

The purpose of Resource Guides is to provide information that helps you do your job better. This information includes reference material, procedures, and guidelines that help you complete the tasks you are required to do by policy.

It's important to remember that the information in Resource Guides does not substitute for policy. We may sometimes include policy statements, but only to show you the policy to which the information is related. We will highlight any policy that actually appears in the Resource Guide and will almost always include a link to the actual policy. For example:

Per [4222.2](#) Re-Allowing Placement:

If the caseworker learns of a detailed justification for changing the status of and considering placements in a foster family that is on Disallowed Placement status, the caseworker must elevate this consideration through the regional chain of command to the regional director.

The policy in the handbook always takes precedence over what is in the Resource Guide. We try to keep policy and Resource Guides synchronized, but sometimes there is a delay. If you have questions, always follow the policy in the Policy Handbook.

Resource Guides provide important information on a range of topics, for the purpose of assisting and guiding staff to:

- make essential decisions
- develop strategies to address various issues
- perform essential procedures
- understand important processes
- identify and apply best practices

The information in the Resource Guides is not policy (except where noted), and the actions and approaches described here are not mandates. You should adapt the way you perform critical tasks to the individual needs and circumstances of the children and families with whom you work.

State office and field staff are working together to identify Resource Guide topics, define the content, and develop the appropriate guides. CPS will regularly post Resource Guides as they are developed and update them as needed. Check the Resource Guides page, in the CPS Handbook, to see new or revised Guides.

We hope these Guides provide useful information to guide and assist CPS staff in effectively performing their job tasks. These Guides, combined with clear and concise policy in the Handbook, should help staff provide a high level of service to children in Texas.

Medical Consent

See [11100](#) Medical Consent.

Texas law requires the court to specifically authorize an individual or DFPS to consent to medical care for each child in DFPS conservatorship.

In most cases, DFPS petitions the court to authorize DFPS to consent to medical care. Once the court does this, DFPS must then designate an individual as medical consentor.

In some cases, the court will, by court order, directly authorize someone other than DFPS to make medical decisions for the child or youth, including a youth who is at least 16 years of age. In these situations, DFPS must not designate a medical consentor or backup consentor other than the person authorized by the court, but DFPS must work with the authorized person to ensure the individual still complies with medical consent requirements. See [11120](#) Court Authorizes an Individual Other Than DFPS to Be the Child's Medical Consentor.

Medical care includes:

- physical;
- dental;
- behavioral; and
- allied health care.

Examples of allied health care include but are not limited to physical therapy, occupational therapy, speech therapy, and dietetic services.

Medicaid/STAR Health generally covers medical care for children in DFPS conservatorship, but in some cases a service may be recommended that is not covered by Medicaid. A court or a health care practitioner may order a service for a child that the medical consentor or caseworker is unsure is appropriate or covered by Medicaid. If the medical consentor is not the caseworker, the medical consentor should consult with the caseworker before giving consent.

If further assistance is needed, the caseworker consults with the regional Well-Being Specialist.

See [5310](#) The Requirement for Staff to Elevate Certain Court Orders

MEDICAL CONSENT EXCEPTIONS

Immunizations - 3-Day Medical Exam

A medical consenter may not consent to immunizations at a child's 3-Day Exam.

The caseworker can help the health care provider contact the parent for consent for vaccines. However, the caseworker cannot consent on behalf of the child or obtain consent from the parent for vaccines on behalf of the health care provider. In the [3 in 30 Resource Guide PDF Document](#), see *3-Day Medical Exam*.

A health care provider may not administer a vaccination as part of the exam without parental consent, except the provider can administer a tetanus vaccination if the provider determines an emergency requires it.

[Texas Family Code §264.1076](#)

Immunizations - Texas Health Steps Office Visits

Absent a court order mandating the immunization, the caseworker cannot consent to immunization of the child at any time if the caseworker has actual knowledge that the parent, or person who had legal authority to make medical decisions for a child before the child entered DFPS conservatorship, objects to the immunization.

If the caseworker has knowledge of the parent's objection, a notation must be made on Form 2085-B, *Designation of Medical Consenter*, that the Medical Consenter may not consent to immunizations.

If the caseworker feels that a medical emergency requiring immunization exists, the caseworker should staff with the supervisor and the attorney representing the agency in the case to determine whether to proceed with requesting a court hearing regarding the issue of immunization.

See [11215](#) Immunization

Inpatient Mental Health Treatment

A medical consenter who is not a CPS employee may not request the admission of a child in conservatorship to a facility operated or licensed by the Texas Health and Human Services Commission for inpatient mental health (such as state hospitals) or to a private inpatient mental health facility. Only DFPS may request the admission of a child in conservatorship to these kinds of facilities, and only if a physician states in their opinion that: (1) the child has a mental illness or demonstrates symptoms of a serious

emotional disorder, AND, (2) the child presents a risk of serious harm to self or other if not immediately restrained or hospitalized.

Admission may also be made pursuant to an application for court-ordered mental health services or emergency detention or an order for protective custody. If CPS staff or a residential childcare provider believes an order for involuntary inpatient mental health services (court commitment) is necessary for a child, they should contact the local mental health authority (LMHA) or local behavioral health authority (LBHA) for assistance and assessment.

See [Mental Health Resource Guide](#)--Inpatient Mental Health Treatment.

Texas Health and Safety Code [§§572.001\(c\)](#).

Substance Use Disorder Treatment

A medical consenter who is not a CPS employee may not request the admission of a child in conservatorship to an inpatient facility for substance use disorder or chemical dependency treatment.

Only DFPS may request the admission of a child in conservatorship to these kinds of facilities, and only with the youth's consent. For more information, please email Substanceabusespecialist@dfps.state.tx.us.

See also:

[1900](#) Substance Abuse Services [Substance Use Resource Guide](#)

Texas Health and Safety Code, [§§462.022\(c\)](#)

ECI and Special Education Services

Federal law governs the provision of informed consent for Early Childhood Intervention (ECI) or special education services provided by an independent school district. While services such as physical or occupational therapy would be considered medical in most situations, federal law classifies them as early intervention, educational, or related services, if an ECI program provides them, or the school district for an eligible child provides them as part of a child's ECI or special education plan. The medical consent policy in [11100](#) Medical Consent does not apply to diagnostic testing or services provided by an ECI program or a school district, even if those services would be considered medical if provided elsewhere. The person acting as the child's caregiver or "surrogate parent" has the authority to make ECI and special education decisions.

See also:

[Early Childhood Intervention](#)

[15000](#) Education for Children

Abortion

Neither CPS staff nor medical consenters designated by DFPS to consent to medical care for a child in DFPS conservatorship may consent to an abortion.

However, the parent of a child whose parental rights have not been terminated may provide written consent.

Authorization for Abortion

A youth who chooses to have an abortion must either obtain her parent's consent or seek a judicial bypass (a court order allowing the youth to have an abortion without receiving consent from or telling her parents or legal guardian). The caseworker and medical consentor must not approve or authorize an abortion or sign abortion-related medical consent forms or assist the youth in applying for a judicial bypass.

For questions concerning a youth's request for an abortion, the caseworker may consult with the regional attorney.

See also:

[6441](#) When a Youth in Substitute Care is Pregnant and [11741](#) If a Youth Is Pregnant

[5750](#) Judicial Bypass to Notifying a Parent About Abortion.

[11742](#) Informing Parents and Caregivers About Pregnancy and Abortion-Related Information.

DESIGNATING MEDICAL CONSENTERS

See:

[11111](#) Selecting the Medical Consenter and Backup Medical Consenter

[11112](#) Designating a Live-In Caregiver as the Medical Consenter

[11113](#) Designating Medical Consenters for Children in Conservatorship Living in Residential Facilities

RECOMMENDED MEDICAL CONSENTER DESIGNATIONS WHEN COURT AUTHORIZES DFPS AS A MEDICAL CONSENTER

The chart below is a quick guide to designating appropriate persons to perform as primary and backup consenters.

Child's Placement	Recommended Designee First and Second Primary	Recommended Backup First and Second Backup
GRO offering emergency services (emergency shelter)	Two Professional employee(s) of the GRO	<ul style="list-style-type: none"> • 3rd professional employee of the GRO; or • CPS caseworker; or • Supervisor of primary/assigned caseworker.
<ul style="list-style-type: none"> • CPA foster family home 	<ul style="list-style-type: none"> • Foster parents; or 	Professional employee(s) of the CPA,

<ul style="list-style-type: none"> • CPA foster group home with foster parents (without shift staff) • CPA pre-consummated adoptive home 	<ul style="list-style-type: none"> • Pre-consummated adoptive parents 	such as a case manager
GRO offering child care services only (children’s home with cottage model)	Cottage parents	<ul style="list-style-type: none"> • Alternate cottage parents; • Professional employee of the GRO, such as a case manager; or CPS caseworker.
Home- and community-based services (HCS) family home	HCS-based support family caregivers	<ul style="list-style-type: none"> • CPS caseworker, or • Caseworker’s Supervisor
<ul style="list-style-type: none"> • HCS-based group home (with shift staff) • Nursing home <p>Intermediate care facilities for Individuals with Intellectual Disabilities (ICF-IID)</p>	<ol style="list-style-type: none"> 1. CPS Caseworker 2nd CPS Caseworker or CPS Supervisor 	<ol style="list-style-type: none"> 3. 3rd CPS Caseworker or CPS Supervisor • CPS Supervisor
<ul style="list-style-type: none"> • GRO offering treatment services for individuals with intellectual disabilities • State Supported Living Centers (SSLC) 	<ol style="list-style-type: none"> 1. Developmental disability (DD) specialist assigned as secondary worker 2. Primary CPS Caseworker or Caseworker’s Supervisor 	<ol style="list-style-type: none"> 3. 2nd Developmental disability (DD) specialist 4. 3rd Developmental disability (DD) specialist or Primary CPS Caseworker
Placement with Relative or Kinship Caregiver	Primary live-in caregiver(s) for the child	Another person, relative or kinship individual that knows the child and has knowledge of his/her medical condition and needs

Youth Medical Consenter

Youth’s Placement	Recommended Designee First and Second Primary	Recommended Backup First and Second Backup
Youth Medical Consenter – ALL	Youth named in the court order	None

DESIGNATING A LIVE-IN CAREGIVER AS THE MEDICAL CONSENTER

DFPS may designate the following live-in caregivers as medical consenters:

- birth parents, when a child is placed in the birth parent’s home who can manage the child’s medical care;
- kinship caregivers in a kinship care placement;
- foster parents in foster family and foster group homes (excluding foster group homes with shift staff);
- pre-consummated adoptive parents;
- cottage parents at GROs offering child care services only (children’s homes); or
- family caregivers provided through home and community-based services (HCS), excluding HCS group homes with shift staff.

The caseworker designates both parents as primary medical consenters, with one partner designated as first primary consentor and the other as second primary consentor.

The caseworker may designate as backup medical consentors:

- another couple, or
- two individuals.

For example: a caseworker is placing a child with his or her grandparents. The grandparents are willing to serve as medical consentors, and the aunt and uncle are willing to serve as backup medical consentors. The caseworker designates:

- one grandparent as first primary medical consentor;
- the other grandparent as second primary medical consentor; and
- the aunt and the uncle as either first or second backup medical consentor.

CHANGING MEDICAL CONSENTER AND BACKUP CONSENTER

Situations may arise that cause DFPS to change a medical consentor or backup medical consentor.

Justifying a Change in Consentors

DFPS may need to change a medical consentor when the child changes placements or the primary or backup medical consentor:

- is no longer associated with the child;
- fails to act in the best interests of the child;
- fails to appropriately involve DFPS in medical decisions as outlined in Form 2085-B Designation of Medical Consentor;
- fails to appropriately inform DFPS of the child's medical condition and medical care;
- is no longer affiliated with DFPS or a residential provider (including a foster parent);
- fails to provide consent in a timely manner without a reasonable explanation;
- fails to participate in the child's healthcare appointments without a reasonable explanation; or
- fails to attend psychotropic medication appointments with the child without a reasonable explanation.
-

To change a medical consentor, follow policy in [11117](#) Changing Medical Consentor and Backup Consentor.

RESPONSIBILITIES OF MEDICAL CONSENTERS AND BACKUP MEDICAL CONSENTERS

See [11130](#) Responsibilities of Medical Consentors and Backup Medical Consentors.

Per [11131](#) Participating in Each Medical Appointment:

A person consenting to medical care for a child must participate in each appointment set for the child with the healthcare provider.

Texas Family Code [§266.004\(i\)](#) Medical consenters must attend all appointments when a child may be prescribed psychotropic medications.

PREVENTIVE CARE

See [11131.1](#) Preventive Care.

A medical consenter is required to participate in the child's appointments with healthcare providers. This includes appointments for preventive care.

Preventive care is defined in the Medicaid Procedure Manual as the American Academy of Pediatrics Periodicity Schedule or Texas Health Steps medical checkups.

The periodicity table includes:

- well-child medical checkups;
- sensory screening (such as vision and hearing);
- developmental and behavioral assessment;
- immunizations;
- laboratory testing for screening purposes (such as blood work, urinalysis, TB testing, STD screening, and pelvic exams);
- anticipatory guidance (health education); and
- dental checkups

THE ROLE OF THE BACKUP MEDICAL CONSENTER

Backup medical consenters may consent to medical care when a primary medical consenter is not available.

Examples of situations in which a backup can be used include when:

- the primary medical consenter is:
 - in court;
 - performing other priority duties;
 - hospitalized;
 - on vacation;
 - on sick leave;
- unable to be reached within a reasonable time frame; or
- unable to attend an appointment in which psychotropic medication is prescribed or monitored.
(See [11131.4](#) Psychotropic Medication Appointments.);

- a Local Permanency Specialist or supervisor medical consentor may be the backup medical consentor if a child is placed in a GRO where psychotropic medication appointments are provided by a team of healthcare providers, which require the medical consentor's attendance to provide medical consent for a child if the primary consentor is in an appointment with another child.

KNOWING THE CHILD'S MEDICAL HISTORY

Medical consentors need to be knowledgeable about the child's medical condition. Medical consentors and backup medical consentors may obtain from the caseworker:

- the child's known medical history, including known family medical history;
- copies of medical records in the caseworker's possession;
- information about known healthcare providers who have previously treated the child; and
- information about how to access health information through the Health Passport.

[Form 2085-B](#) Designation of Medical Consentor contains a clause allowing the medical consentor and backup medical consentor who are not CPS employees to obtain copies of medical records.

DISAGREEMENTS BETWEEN THE MEDICAL CONSENTER AND BACKUP MEDICAL CONSENTER

The medical consentor and backup medical consentor are expected to keep each other informed about the child's ongoing medical condition and treatment.

Resolving Disagreements

If the medical consentor and backup medical consentor disagree about a medical decision made by either of them, they should discuss the issue with each other and obtain additional information from the healthcare provider as needed. If they are unable to resolve their disagreement, they refer the issue up through supervisory channels.

If the medical consentor and backup medical consentor represent different agencies (such as DFPS and a residential child care provider) supervisory personnel from both agencies work together to resolve the issue.

MEDICAL CONSENTER MAILBOX RESOURCE

For questions about medical consent, caseworkers or other parties may email the Medical Consentor Mailbox at: medical.consentor@dfps.state.tx.us. A person may also enter DFPSMedicalConsentor in the "to" section of the email.

The mailbox is monitored Monday-Friday 8-5. For questions requiring an answer the same day, contact the regional [Well-Being Specialist](#).

MEDICAL CONSENT BY MINOR YOUTH

ASSENT

Medical consenters are expected to allow children and youth to participate as much as possible in making decisions about their medical care. This process is called *assent*.

Assent involves the following elements (adapted from “Informed Consent, Parental Permission, and Assent in Pediatric Practice,” *Pediatrics*, Volume 95, Number 2, Pages 314 – 317, February 1995.):

- helping the child or youth achieve developmentally appropriate awareness of the nature of his or her condition;
- telling the child or youth what he or she can expect with tests and treatment;
- helping to prepare the child for adulthood;
- assessing the child’s or youth’s understanding of the situation; and
- soliciting the child’s willingness to accept the proposed care.

As children develop, they should assume more responsibility for their health care decisions. The medical consenter considers the wishes of the child in making the decision, although the medical consenters for the child makes the final decision.

Talking with children and youth about their health care and encouraging children to participate in the decision-making process of informed consent helps prepare children for the time when they will begin to make health care decisions on their own. If a youth is authorized to make some but not all his or her health care decisions, the medical consenters should continue to prepare the youth to take on the remaining health decisions when he or she either reaches age 18 or the court authorizes the youth to consent to all health care.

Caseworkers should:

- ask the child’s opinion on the medical care provided and discuss safe use of medication, including youth aged 16-18 who consent to their own medical care;
- document the information in the case file; and
- include the documentation in the court reports.

See [11161](#) Including Medical and Behavioral Health Information in Court Reports.

Discussions About the Use of Medication

Caseworkers should discuss such issues as:

- how to talk to the healthcare provider and get the answers to any questions the child has about the medication, condition, or potential side effects;

- why it is important to follow the directions on the label;
- why prescription medications should not be shared;
- how to prevent running out of medication; and
- why it is important not to stop medications abruptly but instead consult with the healthcare provider about how to discontinue a medication safely.

INFORMING YOUTH ABOUT CERTAIN RIGHTS

[11141](#) Educating Children and Youth About Their Medical Care

DFPS provides the youth with training on informed consent and the provision of medical care during the health section of the Life Skills training. This is offered through the Preparation for Adult Living (PAL) program after a youth turns age 16.

Educate Youth at Multiple Venues

To help ensure that youth are aware of their right to medical consent, CPS staff reviews and addresses medical consent at multiple venues where youth plan for their futures, including Circle of Support meetings and Discharge Planning and Transition Planning meetings.

Caseworkers provide information on medical consent to youths before they turn 16 years old, and on an ongoing basis.

Informing Youth of Legal Process

If a youth expresses the desire to consent to his or her medical care, the caseworker does one or both of the following:

- informs the youth that he or she should discuss this matter with his or her attorney ad litem;
- arranges for the youth to be present at his or her next court hearing to make the request to the court.

The court makes a determination as to whether the youth may consent to his or her own medical care at a permanency or placement review hearing, on its own motion or a motion filed by the child's attorney ad litem. The court may issue an order authorizing the youth to consent to some or all medical care. If the court determines the youth lacks the capacity to consent, the medical consenter previously authorized to consent continues to make medical decisions for the youth. In such cases, the court considers the child's capacity to consent at subsequent review hearings.

CONSENTING TO PSYCHOTROPIC MEDICATIONS

See:

[11320](#) Psychotropic Medications

HHSC Rules, Texas Administrative Code, Title 1, [Chapter 354](#)

Texas Medical Board Rules, Texas Administrative Code, Title 22, Subchapter B, [Chapter 174](#)

NON-PHARMACOLOGICAL INTERVENTIONS

Before, or along with, using psychotropic medications, medical consenters and other caregivers should consider psychosocial therapies, behavior strategies and other non-pharmacological (that is, strategies that don't involve medications) interventions for children in DFPS conservatorship.

The medical consentor or caregiver should seek assistance from the child's healthcare provider, child placing agency, CPS caseworker, and therapist to develop strategies to help the child to manage behaviors.

Trauma Informed Care

Children bring varied experiences of abuse, neglect, and separation from familiar parental figures to foster care, many of which have been traumatic for the child.

Children who are traumatized by abuse, neglect or separation may show negative behaviors that are a normal reaction to what they have experienced. Normal reactions to the child's trauma may include negative behaviors, lack of trust, or signs of emotional distress such as anxiety or depressed mood.

Support from caregivers knowledgeable about trauma-informed care can help a child heal and learn to regulate his or her feelings and behaviors. Caregivers should seek to establish a safe, structured, positive, consistent, and nurturing environment where the child can address his or her trauma and grow physically and emotionally.

While many children will respond positively to this type of environment, others may require behavior management to address the trauma they have experienced.

Behavioral Strategies and Psychosocial Therapies

Behavior management methods may range from establishing a specific routine to help the child feel safe to clinical interventions such as therapy.

The most effective behavior management methods are those tailored specifically for the child's personality, life experiences, and emotional needs. Some behavior management methods may include natural and logical consequences, but they should not be harsh, punitive or harmful to the child.

Behavioral management methods or psychosocial therapies may include providing:

- structure in the living environment;
- structured learning activities or situations;
- emotional outlets through exercise or activities;
- relaxation techniques; and
- individual, family therapy or group therapy.

Serious or Complex Symptoms

The caregiver or medical consentor should contact the child's primary care provider if the child:

- has serious symptoms or is not getting better with non-pharmacological interventions;
- is a danger to himself or herself or to others; and
- exhibits complex problems. Ask the child's primary care provider if the child may need to see a psychiatrist.

For more information about Trauma Informed Care see the [National Child Traumatic Stress Network](#).

For information on the following, see the [Mental Health Resource Guide](#):

Involuntary Commitment Order for Mental Health Services Emergency Detention Order and Order for Protective Custody

Admission and Consent for Medical and Psychiatric Treatment Process

COURT ORDERS FOR HEALTHCARE RELATED TREATMENT AND SERVICES

When a court orders a healthcare service, treatment or testing for a child in DFPS conservatorship, or enters an order that declines to follow the recommendation of a health care professional who has been consulted regarding a health care service, procedure, or treatment for a child in the conservatorship of the Department, take the following steps immediately:

1. Notify the CPS supervisor about the order. The worker and supervisor should notify the attorney representing DFPS if there is a concern that the order needs to be appealed in any way.
2. Notify the regional [Well-Being Specialist](#) and provide a copy of the written order when it is received.

Completed court orders will be escalated by the Well-Being Specialist to STAR Health. They will be tracked with communication going back and forth between a STAR Health Liaison and the Well-Being Specialist.

Note, verbal court orders will not be accepted by STAR Health and court orders must be signed to be considered complete.

EXCEPTIONS: COURT-ORDERED MEDICAL SERVICES NOT COVERED BY MEDICAID OR STAR HEALTH

If the judge orders a child to undergo a specific kind of medical service, treatment, or testing that may not be covered by Medicaid children in DFPS conservatorship receive, take the following steps:

1. Immediately inform the attorney representing DFPS (within 3 days of the court's rendering of the order) that DFPS cannot guarantee a doctor will agree to order the specific service, treatment, or

test. This allows the attorney to take immediate action in court to inform the judge or pursue legal remedies, such as asking the judge to reconsider the order.

2. When the court order is issued, inform the child's Medical Consenter (if it is someone other than the caseworker) about the order, and direct him or her to ask the doctor to order the service, treatment, or test at the child's next visit with a STAR Health general practitioner. Make sure the doctor knows that DFPS has been told that Medicaid does not generally cover the service, treatment, or test. Encourage the doctor to request prior authorization and confirm medically necessary coverage before ordering the service, treatment, or test.

Doctor Refuses to Order Medical Services, Treatments, or Tests

If the doctor refuses to order the service, treatment, or test, immediately get the doctor to provide written documentation of the doctor's refusal.

Provide the doctor's documentation to the attorney representing DFPS. Ensure that the documents are filed with the court and provided to the parties in the case.

Keep the documentation in the case record.

Doctor Orders Medical Services, Treatments, or Tests

If the doctor orders the service, treatment, or test, notify the supervisor and inform the attorney. At the next court hearing where medical care is discussed, report back to the judge the results and any subsequent medical care the doctor prescribes.

When Medicaid Does Not Pay

When Medicaid will not pay for the service, treatment, or test, DFPS will have to pay the provider. Submit the following items as soon as possible by using a Web-based Purchase Request (WPR) which is submitted through the Administrative Procurement Portal (APP). If you have any questions, send them to DFPSPurchaseSupport@dfps.state.tx.us. General information about invoicing can be found on the [CPS Invoicing](#) web page. You will need the following:

- Signed copy of court order directing that the child has the specific medical service, treatment, or test
- Proof that Medicaid denied paying the claim (an email from the provider can suffice)

PROCESS FOR COURT-ORDERED TREATMENT SERVICES (ORTHODONTIA)

Because Medicaid only covers orthodontia that is determined medically necessary, not orthodontia for cosmetic reasons, the state will have to pay the provider for court-ordered orthodontia if it is determined to be only cosmetic. If a court orders such treatment, submit the items required for payment (as listed below) as soon as possible by using a Web-based Purchase Request (WPR), which is submitted through the Administrative Procurement Portal (APP). If you have any questions, send them to:

DFPSPurchaseSupport@dfps.state.tx.us

- Signed copy of court order directing that the child receives orthodontic treatment (braces)
- Proof that Medicaid denied paying the claim (an email from the provider, STAR Health or HHSC, can suffice)
- Copy of the invoice or bill from the orthodontist

If Medicaid does not pay for the child's procedure, you should also contact your Regional Well-Being Specialist for assistance.

See:

[5310](#) The Requirement for Staff to Elevate Certain Court Orders

[11120](#) Court Authorizes an Individual Other Than DFPS to Be the Child's Medical Consenter [11143](#) Offering Ongoing Support to Youth

[11200](#) Medical and Dental Services, under Obtaining Services

REQUESTS FOR ORTHODONTIA

All children and youth in DFPS conservatorship receive medical and dental care through Texas Medicaid. STAR Health, the comprehensive statewide healthcare system for children and youth in foster care, provides Medicaid services for most children and youth in DFPS conservatorship. Medical consenters must use STAR Health and its network of providers for medical and dental services. STAR Health contracts with DentaQuest to provide Texas Health Steps dental checkups for children and youth enrolled in STAR Health.

Medicaid/STAR Health generally covers medical and dental care for children in DFPS conservatorship, but in some cases a service may be recommended that is not covered by Medicaid. Cosmetic dental procedures, including many circumstances where braces are used, are not considered medically necessary and will not be covered by Medicaid.

If a child enters conservatorship with braces, immediately contact your [regional Well-Being Specialist](#).

WHAT ARE THE STEPS TO TAKE IF YOU THINK A CHILD MIGHT NEED BRACES?

Step 1: Make an appointment for the child with a DentaQuest dentist. A dentist can be located by contacting Member Services at 1-866-912-6283.

Step 2: The DentaQuest dentist will assess and make a referral to an Orthodontic Specialist if they determine orthodontia, including braces, may be needed.

Step 3: The youth will be evaluated by the Orthodontist.

- A. If the evaluation by the Orthodontist meets criteria for medical necessity, the Orthodontist will submit an authorization through DentaQuest. DentaQuest makes the determination whether braces or other orthodontia and treatment are medically necessary based on the authorization submitted. If braces are deemed medically necessary, they are a Medicaid covered benefit. A treatment plan will be created by the orthodontist.
- B. If the orthodontist does not think braces are medically necessary and the Medical Consenter or caseworker disagrees, a second opinion from another orthodontist should be obtained. Typically, an Orthodontist will not submit an authorization if the evaluation does not support Medical Necessity.
- C. If braces are determined NOT to be medically necessary based on the authorization submitted by the Orthodontist, then the decision should be appealed by the orthodontist through DentaQuest. The STAR Health Member Advocate can assist a Medical Consenter with filing an appeal.

Step 4: When an Orthodontist and Second Opinion Orthodontist will not submit an authorization because the evaluation does not meet Medical Necessity or when the authorization for braces are denied by DentaQuest, the use of a Pro Bono Orthodontic Specialist or other funding may be explored. Pro Bono orthodontic providers may **only** provide dental braces to children and youth in DFPS conservatorship after evaluations/consultations have deemed the treatment cosmetic or authorizations have been reviewed and denied by DentaQuest.

WHAT ARE THE STEPS TO TAKE IF YOU THINK A CHILD MIGHT NEED ORTHODONTIC SERVICES PROVIDED BY A PRO BONO ORTHODONTIC SPECIALIST?

Step 1: Ensure Steps 1 – (3) above have been completed.

Step 2: Determine if the child has medical needs that could affect their ability to receive braces. The caseworker should contact the child/youth's primary care physician or medical specialist for any health issues to confirm that braces and related procedures will not adversely affect the child's health.

Step 3: Ensure the Pro Bono orthodontic provider is a qualified licensed provider in good standing with their licensing board and has no professional complaints compromising their ability to provide dental

services. To do this, the caseworker can contact Member Services at 1-866-912-6283 and ask to speak to a Member Advocate for assistance in obtaining professional status of the potential orthodontic provider. If a Member Advocate is not immediately available, the caseworker can leave a request to be contacted by the Member Advocate with the reason for the call as "need orthodontia provider". When the Member Advocate contacts the caller, the caseworker can give the name and address of the provider. The Member Advocate will work with DentaQuest to research the status of the provider and will contact the caseworker with the status of the provider.

Step 4: If the Pro Bono provider is fully vetted by Superior Health Plan, the child should be evaluated by the orthodontic provider and an orthodontia treatment plan obtained. The treatment plan should include a commitment by the orthodontic provider to provide all ongoing and follow up treatment for the entire time that the child has the braces. The caseworker should obtain a copy of the treatment plan, including follow up treatments up to the removal of the braces, for the case file.

Step 5: The caseworker should ensure the medical consentor, attorney ad litem, CASA or any other case stakeholder that would typically approve significant decisions is in agreement with obtaining orthodontic treatment by the Pro Bono orthodontic provider for the child. Before initiating services, the caseworker and stakeholders should make the decision with consideration of the youth's placement stability and permanency plan in light of the long-term nature of braces. Contact your regional Well-Being Specialist for additional support.

EXTRAORDINARY MEDICAL CONDITIONS

When parental rights have been terminated, or the parents are deceased, CPS staff may make the decision to donate an organ of a child when DFPS is managing conservator.

See [11730](#) Organ Donation / Anatomical Gifts

ORGAN DONATION / ANATOMICAL GIFTS

Reasons DFPS May Not Approve Donation

Organ donation remains controversial for many people and it does not benefit the deceased child. For this reason, DFPS may decide not to approve organ donation.

Factors to Consider Before Approval of Donation

When a request for organ donation is received, the child's caseworker, supervisor, program director, and DFPS legal staff consider whether it is appropriate to give consent. Factors that must be considered in each individual circumstance include the:

- possible need for an autopsy of the child;
- concerns of any involved extended family; and
- donor statement on the child's driver's license, if any