

CHAPTER 7: HEALTH INSURANCE, ACCESS TO TREATMENT AND CARE, AND CONSENT TO TREATMENT

Introduction: Staying healthy is crucial to making a successful transition to adulthood. If you are not able to deal with health care issues and stay healthy, it is hard to tackle all the things you have to do each day, much less work towards future goals. This chapter gives you information that will help you meet your health and behavioral health needs. This includes getting health insurance, getting particular health and behavioral health care services whether you have insurance or not, and information on when and under what circumstances you get to make your own health care decisions.

I. Health Insurance

What health insurance do I have while I am in care?

- Most youth in care are eligible for Medicaid; sometimes this is called Medical Assistance (or “MA”). This is comprehensive health insurance that covers all your physical health and behavioral health care needs. Behavioral health includes things like mental health, drug and alcohol treatment, and issues related to learning and thinking.
- Depending on what part of the state you live in, you will be covered by a Managed Care Organization (MCO). MCOs contract with doctors in the state who take Medicaid. There are several MCOs that cover different regions of Pennsylvania.
- The MCO provides you with a Health Plan and will help you find doctors and service providers who are covered under your plan. Your insurance card will have the name of your MCO.

Should planning for health insurance and meeting my health care needs be part of my transition plan?

- Yes! Before leaving care, you must have a good transition/discharge plan that is developed by you and your team and it must be approved by the court before you can be discharged from care.¹
- This transition/discharge plan must include information about your health insurance and how your health care needs will be met.² Before you leave care, you should be provided information about your insurance and your insurance cards.³
- For more information about transition/discharge planning see Chapter 9.

TIP: Let your judge and lawyer know if you are getting ready to transition from care and you do not know if you have health insurance. You should be given help to make sure you have insurance before you leave care, and your case should not be closed until you do.

What is Medicaid for Former Foster Youth and who is eligible for it?

- The Affordable Care Act established Medicaid coverage for former foster youth until age 26.⁴
- If you were in foster care at age 18 or older, you are eligible for Medicaid as a former foster youth. You are eligible for this coverage until age 26, regardless of your income (how much money you make). See this video⁵ and FAQ⁶ for more information.
- If you are aging out and are eligible for Medicaid, ask your caseworker if she or he has taken steps with the Medicaid agency to make sure you are covered as a former foster youth.
- If you left care at age 18 or older, lost your Medicaid coverage, and are still under age 26, you should apply for Medicaid coverage as a former foster youth.
- **Apply for Medicaid as a former foster youth** by going to your local county assistance office⁷ or apply online.⁸

What if I am not eligible for Medicaid as a former foster youth, should I still apply for Medicaid?

- Yes! If you are not eligible for Medicaid as a former foster youth, you may still be eligible for Medicaid. Pennsylvania has expanded access to Medicaid for adults so you may be eligible. This is good health insurance.
- Apply for Medicaid by going to your local county assistance office⁹ or apply online.¹⁰

What happens to my Medicaid coverage if I move to another state after leaving care?

- If you move to another state and that becomes your permanent residence, you will need to apply for Medicaid in that state and see if you are eligible. States are only required to provide Medicaid coverage for former foster youth who were in care in that state.
- **Some states already cover former foster youth from any other state:** These include California, Delaware, Kentucky, Massachusetts, New Mexico, South Dakota, Utah, Virginia, and Wisconsin. If you move to one of these states, were in foster care at age 18 or older, and were enrolled in Medicaid at that time, you can apply for Medicaid and will be eligible as a former foster youth.
- **If you move to a state NOT listed above** or are not eligible for Medicaid as a former foster youth, you will need to apply for Medicaid in the state you are moving to and see if you are eligible as an adult.
- For more information check out the HealthCareFFY campaign.¹¹

I'm moving from my home county to another county in PA for college or a training program, what should I do to keep my health insurance?

- If you are attending college in another part of the state but will return to your current home county to receive health care, you can keep your current MCO and health care providers.
- If you are attending college in a different part of the state, will primarily live in that area, and need to receive health care locally, you may need to change your MCO so you can see local doctors. See the next question for information on how to change your MCO.

I'm moving out of my home county to another county in PA for college. How do I change my MCO?

- **Call or go to your local county assistance office and ask them to help you change your MCO.** Tell them you are moving and want to make sure you have an MCO that covers the area where your college or program is located.
- The county assistance office will let you know if your current MCO covers the area. If it doesn't, they will ask you to select a new MCO and new doctors or treatment providers that work with your new MCO.

II. Getting Health and Behavioral Health Care Services

What services and treatment does Medicaid cover?

- If you are under age 21, Medicaid covers all services that a doctor says are "medically necessary." This is called the Early and Periodic Screening Diagnosis and Treatment (EPSDT) requirement¹² and includes physical and behavioral health treatment.
- If you are 21 or older, Medicaid covers basic physical health (preventive care and specialists) and mental health treatment services (counseling, medication, etc.). It also provides prescription drugs, contraception and birth control, vision, dental, physical therapy, substance abuse treatment, and preventive services like flu shots.

Does Medicaid cover health care and treatment related to gender transition?

- **Check with your Managed Care Organization (MCO).** If these services and treatments are covered by your plan and a doctor prescribes them, Medicaid should cover them.¹³
- **If you have questions, call the Mazzoni Center at 215-563-0652 or visit their drop-in clinic in Philadelphia for youth ages 14 to 24.** If you do not live in Philadelphia, you can still call if you have questions about receiving care and finding providers in your area.
- Federal regulation requires healthcare providers to respect and treat you in a manner that reflects your gender identity, gender expression, and sexual orientation.¹⁴

Is birth control covered by Medicaid in Pennsylvania?

- Yes, Medicaid covers birth control.

Are abortions covered by Medicaid in Pennsylvania?

- Medicaid in Pennsylvania does not cover the cost of an abortion unless the mother's life is in danger or in cases of rape or incest.
- Call the Women's Medical Fund helpline at 215-564-6622 if you need help paying for costs related to an abortion.

Where do I go to get information on safe sex, birth control, and family planning?

- Ask your primary care physician or gynecologist.
- Visit safeteens.org¹⁵ to find clinics and health care centers in your area.
- Refer to the electronic resource¹⁶ for a link to local Planned Parenthood offices or call them at 1-800-230-PLAN.
- Call the CHOICE hotline at 1-800-84-TEENS.

How can I find help for a substance abuse problem?

- Medicaid will cover substance abuse treatment. Refer to the electronic resource for a link¹⁷ to find resources in your county (search by county or zip code) or call 1-800-662 HELP.
- You can also call your Managed Care Organization and ask for information about treatment providers in your area that are covered by your MCO.¹⁸

What is behavioral health treatment?

- Behavioral health treatment is a very broad term that includes lots of different types of treatments that help us overcome internal challenges. Some examples include treatment for stress, depression, anxiety, relationship problems, grief, addiction, ADHD, mood disorders, or other psychological concerns. It also includes treatment for substance abuse problems and issues related to learning or thinking.
- There are lots of different types of treatments, including counseling, outpatient treatment, and inpatient treatment (services while you are placed in a facility).
- Counselors can use different techniques, and counseling can also be provided in different ways, such as individual and group therapy. Outpatient treatment is provided in the community, while inpatient treatment is provided in a residential facility where you live while you get the treatment.

How can I get help finding behavioral health treatment?

- Ask your caseworker to help you or call your MCO to get help finding a treatment provider.

- You can also contact the Mental Health Association of Pennsylvania to get help finding treatment or answers to your questions. Refer to the electronic resource for a link¹⁹ to contact MHAPA's Behavioral Health Navigators.

What can I do if a service or treatment I think I need is not provided or Medicaid will not pay for it?

- **If a request for a service or treatment is denied, you can appeal the denial.** Appealing something means you are saying you disagree with the decision.
- **If you are still in care, let your lawyer, caseworker, and judge know you need a service that is not being provided so that they can help.** They may be able to help with an appeal. The court may be able to order the treatment of service.
- For help with filing an appeal, a grievance, or complaint, contact the Pennsylvania Health Law Project at 1-800-274-3258.

If I do not have any health insurance, how can I get free or low-cost health or behavioral health care?

You can find a list of the Community Health Centers in PA here.²⁰ You can search for centers that provide different types of care, including: physical health, behavioral health, and dental care. These centers provide free or low-cost care.

III. Consent to health and behavioral health treatment

Who gets to consent to the health care and behavioral health treatment I receive?

- In most cases, when you are a **under age 18** your parent or legal guardian consents, or gives permission, for most of your physical and behavioral health care treatment.
- You still get a say and should provide your input, but your parent or guardian is who decides if and how you will receive treatment.
- If you are under 18 and have graduated from high school, have been married or pregnant, then you can consent to your own health care.
- **Once you reach age 18**, you make all decisions about your health care and behavioral health treatment.

If I am in foster care and my parents' rights *have not* been terminated, who can consent to my health care?

- If you are under 18, in foster care, and your parents' rights *have not* been terminated, the child welfare agency can consent to routine examination and treatment *without* the consent of the parent/guardian.²¹

- Examples of routine treatment include: dental, vision, hearing, immunizations, and treatment for injuries and illnesses.
- When a youth is placed in a foster home, the foster care agency usually has the child's parent/guardian sign a general release authorizing the agency to obtain routine medical examination and treatment. The agency will then let the foster parent take a youth for routine examinations and immunizations.
- Non-routine treatment like surgery needs the consent of a parent or guardian or needs to be ordered by the court.²²

If I am in foster care and my parents' rights have been terminated, who can consent to my medical care?

- If you are under 18 and your parents' rights have been terminated, the child welfare agency can consent to all routine and non-routine treatment.

I'm under age 18, are there any health care treatments I can consent to on my own?

- Yes. You can consent to any of the following *without* the permission of a parent/guardian, the court or the child welfare agency:
 - treatment for substance abuse
 - testing and treatment for sexually transmitted infections (STIs, including HIV, AIDS, chlamydia, gonorrhea, and syphilis)
 - birth control
 - testing and treatment for pregnancy
 - behavioral health treatment, if you are age 14 and older
 - treatment following a sexual assault.²³

Can anyone see the records of treatment that I got based on my own consent?

- In most cases, when you consent to treatment, you control who finds out about it. Someone would need your permission to see your records. **There are a few exceptions:**
 1. **Drug/Alcohol Treatment:** If you receive treatment for drug and alcohol addiction, the facility providing treatment can—but does not have to—notify your parent or guardian. Ask about their policy so you can be prepared. If they do notify your parent or guardian, then they should let you know.
 2. **Mandatory Reporters of Child Abuse:** Healthcare providers are mandatory reporters of child abuse. If the provider suspects you are a victim of physical or sexual abuse, they are mandated to report it to authorities. *This is an exception to the confidentiality you have with a doctor or treatment provider.*
 3. **Injuries from a Crime:** A physician, intern, resident, or anyone conducting, managing, or in charge of a hospital or pharmacy who treats a patient for injuries resulting from a crime, including a sex crime, must report the patient's injuries to the police.

4. **Insurance and Medical Bills:** Records of treatment may show up on insurance and/or medical bills. Keep this in mind if you are still on your parent's insurance or a caregiver will see health care bills.

Can I get birth control on my own if I am under age 18?

- Yes.²⁴ This includes all forms of contraception, including birth control pills, and other kinds of contraception requiring medical prescriptions, including Depo-Provera, which is administered as a shot.²⁵

Can I get an abortion on my own if I am under age 18?

- You must have consent from your parent, guardian, or legal custodian to get an abortion.²⁶
- If your parents' rights were terminated, you must have the consent of the child welfare agency to get an abortion.²⁷
- If you do not want to ask your parent or legal guardian for permission or are afraid to ask them, you can ask for the court's permission, petitioning the court – also called a judicial bypass.²⁸

What is a judicial bypass?

- A judicial bypass is a process that a young person would go through to ask the court to give them permission to get an abortion if they are under age 18. In this case, you are asking the court to give permission instead of a parent or guardian.
- To find out about this process see this fact sheet²⁹ from the Women's Law Project or call them at 412-281-2892.

Can I be forced to get drug treatment if I don't want it?

- Maybe.
- Your parent and guardian can give consent for outpatient drug treatment, even against your wishes.³⁰
- **You can only be forced into inpatient drug treatment against your wishes, if the court orders it after a petition or request is filed with the court.**³¹ Your parent, guardian, or the child welfare agency would need to file a petition if they want the court to order you into drug or alcohol treatment. If they file a petition for treatment, you have certain rights:
 - The court will order a substance abuse assessment that must include a specific recommendation about what treatment is necessary and for how long.
 - After the assessment, the court will hold a hearing to determine whether the law's standards are met.

- You have the right to have your attorney representing you at this hearing.
- To order you into in-patient substance abuse treatment against your wishes:
 - the court must find that you have a substance abuse problem and
 - would benefit from involuntary treatment services.
 - You can only be ordered into involuntary inpatient drug treatment for up to 45 days, after that, the court must hold another hearing.

I am under 18, who can provide consent for my behavioral health treatment?

- **Until you turn 14, your parent/guardian has the final say and gives consent for your treatment.** Your parent/guardian should help you make decisions about behavioral health treatment, no matter your age.
- **If you are 14 or older, you get to decide whether you will get behavioral health treatment.** However, there are some exceptions that allow your parent or the court to decide that you need treatment.³²

Can I get outpatient mental health treatment without a parent/guardian's consent?

Yes. If you are 14 or older, you can decide if you want to get outpatient mental health treatment.³³

I'm 14 or older. Can I be forced to get outpatient treatment even if I don't want it?

- Yes. Your parent or legal guardian can provide consent for outpatient treatment for you, and your agreement to treatment is not required.³⁴
- There is no process for you to object to getting outpatient treatment if a parent or guardian consents to it.

I'm 14 or older. Can I be forced to do inpatient treatment even if I don't want it?

- Yes, but only if your parent or legal guardian consents and a physician recommends this type of treatment. If this happens and you disagree, you can file a petition to object and a hearing will be held within 72 hours. You will be provided an attorney to represent you.³⁵
- In order for the court to order you to continue inpatient mental health treatment against your wishes, it must be convinced that:
 - (1) you have a mental health issue,
 - (2) the issue is treatable,
 - (3) the facility where you are can treat the issue,
 - (4) and that less restrictive treatment options, such as outpatient treatment, would not work.³⁶

- The court can initially order you to stay in inpatient mental health treatment for up to 20 days.³⁷
- The court can hold another hearing after the initial 20 days and order up to 60 more days of inpatient treatment. After those 60 days, the court can continue to hold hearings and order continued treatment for up to 60 days at a time.³⁸
- You must be discharged from the inpatient facility if the court no longer finds you need treatment, your doctor thinks you no longer need treatment, or if your parent or guardian changes their mind.³⁹

What are psychotropic medications and who decides if I take them?

- Psychotropic medications are designed to affect the mind, emotions, or behavior. They can be prescribed for things like post-traumatic stress disorder, eating disorders, anxiety, depression, attention deficit disorder, oppositional defiance disorder, and other types of conditions that affect the mind, emotions, or behavior.
- **If you are under 14, your parent/guardian gets to decide and give consent**, but they should make these decisions with you and make sure you understand why you are taking medication.
- **At age 14, you get to decide what psychotropic medications you take.**
- **If you are 14 or older and do not want to take a prescribed psychotropic medication, you generally don't have to.** The only exception is if the court orders you to take psychotropic medication. If this is the case, make sure you talk to your lawyer so that the judge hears your perspective on medications. (See Chapter 17: Getting Your Voice Heard)
- **If you do take any medication, including psychotropic medication, make sure to ask what it does, how it will help you, and if it has any side effects.**

What are some questions I should ask if I am prescribed with psychotropic medication?

1. Why am I being prescribed this medication?
2. What is this medication supposed to do?
3. How will this medication make me feel?
4. How long will I be taking this medication?
5. What are the side effects?
6. How and when do I take this medication?
7. Are there other treatments besides medication, like therapy, nutrition changes, athletic or artistic activities that could help me instead of medication?

What is a health care proxy and why do I need to know about it?

- A health care proxy or power of attorney to make medical decisions is someone who is responsible for making physical and behavioral health care decisions for you if there comes a time when you are not able to make decisions on your own because of illness.

- When you are young, it is hard to think that there would be a time that you would need this, but identifying someone who can make health care decisions for you if you cannot is part of planning for adulthood and is a requirement of the transition/discharge plan.⁴⁰
- Ask your caseworker and lawyer to talk with you about health care decision making for your future, to explain how a health care proxy works, and who you may want to ask to take on that role. It is a complicated issue so do not be afraid to ask.

At what age will I be fully in charge of my health care and treatment decisions?

- At age 18 you are a legal adult who can consent to treatment and care without the permission of a parent, guardian, or other adult.
- Remaining in foster care past age 18 in no way interferes with your right to consent to your own treatment.
- Regardless of your age, you can always ask questions and have input in the care or treatment you are receiving. Learning about your health care needs and how to manage them should be part of your transition to adulthood services.

¹ Juv. Ct. Pa. Stat. and Cons. Stat. Ann. § 1631(E) (West 2013) (the court cannot close the case unless it approves a transition plan that meets the requirements of the law).

² 42 U.S.C.A. 675(5)(H) (West 2018) (the transition plan must include “specific options on... health insurance... and continuing support services); Juv. Ct. Pa. Stat. and Cons. Stat. Ann. § 1631(E) (West 2013) (the court shall not terminate jurisdiction of the case of youth who is age 18 or older unless it approves the transition plan, which must include “a description of the health insurance plan that the child is expected to obtain and any continued health or behavioral health needs of the child.”).

³ 42 U.S.C.A. 675(5)(I) (West 2018) (a child cannot be discharged from care at age 18 or older without being provided their vital documents, including health insurance information and a copy of the child’s medical records).

⁴ 42 U.S.C.A. § 1396a(10)(A)(i)(IX).

⁵ *Free Health Insurance for Former Foster Youth!*, JUVENILE LAW CTR., <https://jlc.org/resources/free-health-insurance-former-foster-youth> (last visited June 4, 2020).

⁶ *Free Health Insurance for Former Foster Youth!*, *supra* note v.

⁷ *County Assistance Office Contact Information*, PA. DEP’T OF HUMAN SERVS., <https://www.dhs.pa.gov/Services/Assistance/Pages/CAO-Contact.aspx> (last visited June 4, 2020).

⁸ *COMPASS*, PA. DEP’T OF HUMAN SERVS. <https://www.compass.state.pa.us/compass.web/Public/CMPHome> (last visited June 4, 2020).

⁹ *County Assistance Office Contact Information*, *supra* note vii.

¹⁰ *COMPASS*, *supra* note vii.

¹¹ *Did you know former foster youth can keep health care coverage until age 26?*, HEALTH CARE FOR FORMER FOSTER YOUTH, <https://www.fosterclub.com/healthcareffy> (last visited June 4, 2020)

¹² 42 U.S.C.A. 1396d(r) (West 2019).

¹³ *Federal Final Rule, “Non-Discrimination in Health Programs and Activities” and Implication for Coverage of Services Related to Gender Transition*, Medical Assistance Bulletin, 99-16-11 (July 18, 2016).

¹⁴ 45 C.F.R. 92.207 (2016).

¹⁵ *What if the condom breaks?*, SAFETEENS.ORG, <https://safeteens.org/> (last visited June 4, 2020).

¹⁶ *Health Centers in Pennsylvania*, PLANNED PARENTHOOD, <https://www.plannedparenthood.org/health-center/pa> (last visited June 4, 2020).

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- ¹⁷ *Locate County Resources*, PA. DEP'T OF DRUG AND ALCOHOL PROGRAMS, <https://apps.ddap.pa.gov/gethelpnow/CountyServices.aspx> (last visited June 4, 2020)
- ¹⁸ *Statewide Managed Care Map*, PA. DEP'T OF HUMAN SERVS, <https://www.dhs.pa.gov/providers/Providers/Pages/Statewide-Managed-Care-Map.aspx> (last visited June 4, 2020)
- ¹⁹ *Behavioral Health Navigators*, MENTAL HEALTH ASS'N IN PA., <https://www.mhapa.org/programs/behavioral-health-navigators/> (last visited June 4, 2020).
- ²⁰ *Find a Health Center*, PA. ASS'N OF CMTY. HEALTH CTRS., <https://www.pachc.org/PA-Health-Centers/Find-a-Health-Center> (last visited June 4, 2020).
- ²¹ 55 Pa. Code § 3130.91(2)(i) (2019).
- ²² 55 Pa. Code § 3130.91(2)(ii) & (iii) (2019).
- ²³ 55 Pa. Code § 3130.91(4) & (5) (2019).
- ²⁴ *Parents United for a Better Sch. V. Sch. Dist. Of Philadelphia*, 978 F. Supp. 197, 208 (E.D. Pa. 1997), *aff'd on other grounds*, 148 F. 3d 260 (3d Cir. 1998).
- ²⁵ ACLU of Pennsylvania, “Do You Have to Tell My Mom?” *Minors, Health Care and the Law*, <https://www.aclupa.org/en/do-you-have-tell-my-mom-minors-health-care-law>.
- ²⁶ 18 Pa. Stat. and Cons. Stat. Ann. § 3206 (West 1992).
- ²⁷ 23 Pa.C.S.A. § 2521 (c)(authority of an agency or person receiving custody following a termination of parental right decree).
- ²⁸ *See Id.*
- ²⁹ Women’s Law Project, *A Guide for Young People Seeking Abortion Without Parental Involvement in Pennsylvania*, <https://www.womenslawproject.org/wp-content/uploads/2018/12/Judicial-Bypass-Fact-sheet-2018.pdf>
- ³⁰ 71 Pa. Stat. and Cons. Stat. Ann. § 1690.112 (West 2018).
- ³¹ *Id.* § 1690.112a(a); *Id.* § 1690.112a(b)(2); *Id.* § 1690.112a(c).
- ³² 55 Pa. Code § 3680.52(6) (1987). 50 Pa. Stat. and Cons. Stat. Ann. § 7201 (West 1978).
- ³³ 35 Pa. Stat. and Cons. Stat. Ann. § 10101.1(a)(1) (West 2005).
- ³⁴ *Id.* § 10101.1(a)(2) & (a)(3).
- ³⁵ *Id.* § 10101.1(b)(8).
- ³⁶ *Id.* § 10101.1(b)(8)(i-iv).
- ³⁷ *Id.* § 10101.1(b)(9).
- ³⁸ *Id.* § 10101.1(b)(9)(ii).
- ³⁹ *Id.* § 10101.1(b).
- ⁴⁰ 42 U.S.C.A. 675(5)(H).