

## DEPARTMENT OF SOCIAL SERVICES

## CHILDREN'S DIVISION

P. O. BOX 88

JEFFERSON CITY, MISSOURI

September 30, 2010

## M E M O R A N D U M

**What's Inside:**

New independent living education and transition planning requirements for Older Youth

TO: REGIONAL EXECUTIVE STAFF, CIRCUIT MANAGERS, AND CHILDREN'S DIVISION STAFF

FROM: CANDACE A. SHIVELY, DIRECTOR

SUBJECT: THE PATIENT PROTECTION AND AFFORDABLE CARE ACT

## DISCUSSION:

The purpose of this memo is to introduce new requirements and changes that have been made to implement the Patient Protection and Affordable Care Act (HR 3590). The Act requires the Children's Division to provide specific healthcare education to youth on the option of designating another individual to make healthcare treatment decisions on their behalf if the youth becomes unable to participate in such decisions as part of transition planning. The transition plan in relation to the Patient Protection and Affordable Care Act must be developed during the 90-day period before the youth turns age 18, or 90 days prior to emancipation if leaving care after age 18.

Effective immediately, all youth transitioning from care need to be provided education about the option of designating another individual to make healthcare treatment decisions on their behalf if they become unable to participate in such decisions, ninety days prior to the youth turning 18 or 90 days prior to emancipation if leaving care after age 18. When the youth reaches age 18, if the youth does not have, or does not want, a relative who would otherwise be authorized under law to make health care treatment decisions for them, a healthcare power of attorney, healthcare proxy, or other similar documents recognized by state law can be utilized if the youth wants to do so. The [Healthcare Treatment Decisions Information Sheet](#) has been developed to provide to the youth. Youth, at age 18, should also be provided the information on how to execute such a document if they should choose to do so.

**The Patient Protection and Affordable Care Act specifies only that education regarding healthcare treatment decisions be provided to youth and documentation of education be made. It does not require that youth designate an individual to make healthcare treatment decisions for them. Rather it provides the option and information to execute a document for youth exiting to care to independence.**

The Case Manager or Children's Service Worker should be careful not to interject their personal opinions and preferences into the discussion but to emphasize that the decision on whether to execute such a document is solely up to the youth and should be done based on the youth's personal beliefs and preferences.

It is important for the worker who is working with the youth to understand that the Health Care Directive cannot be executed before the youth's 18<sup>th</sup> birthday. While information regarding health care directives should be provided during the 90 days preceding the youth's birthday, the actual document cannot be signed until on or after the youth's birthday. If a youth chooses to sign a healthcare directive, Children's Division staff cannot be listed as the designee on the form, or serve as a witness to the execution of the form.

Children's Service Workers need to be aware that the decision whether to execute a power of attorney or healthcare directive frequently has legal implications and should not be providing legal advice about whether or not the youth should sign such a document. If the youth has questions which may require the assistance of an attorney then the Children's Service Worker should refer the youth to his or her guardian ad litem or attorney for legal advice.

To assist with the process, should a youth age 18 years or older decide to execute such a document, the Missouri Bar has available as a public service a ["Durable Power of Attorney for Health Care and Health Care Directive" guide](#) and an accompanying [Health Insurance Portability and Accountability Act \(HIPAA\) form](#). The directive is also available in [Spanish](#). This guide and HIPAA form meet the requirements of implementing HR 3590.

Discussions with the youth regarding healthcare treatment decisions should be documented in the case narrative and on the CD-94, Adolescent FST Guide and Individualized Action Plan. The CD-94 has been revised to incorporate this information under the Self Care/Health Section. If youth are unable to understand full implications of designating another individual to make healthcare treatment decisions on their behalf, the document should not be discussed and the reason documented in this section. The youth's level of comprehension and participation should be discussed with the Family Support Team prior to this determination being made.

Youth exiting care should receive information regarding healthcare needs in the exit packet. Transition/exit planning should occur during the 90-day period before the youth turns age 18, or 90 days prior to emancipation if leaving care after age 18 and should be documented in the case narrative and the CD-94 should be updated to reflect current information. The [MO Healthnet coverage brochure](#) which is included in the exit packet, has been updated and is part of the new federal requirements. The ["Healthcare Treatment Decisions Information Sheet"](#) should be incorporated into the exit packet. The information sheet includes options for a healthcare power of attorney and how to execute such a document. Begin using the new information sheet along with the other required exit documents when providing youth with exit packet information at emancipation from care. The [PowerPoint regarding exit planning](#) introduced in memo [CD09-109](#) has also been revised. The Child Welfare Manual and older youth forms [CD-93](#), Older Youth Program Referral Form, and [CD-94](#), Adolescent FST Guide and Individualized Action Plan have been revised. Forms Instructions for [CD-93](#), [CD-94](#), and [CD-97](#), Life Skills Strengths/Needs Assessment Reporting Form, have been developed.

If the youth decides to execute a document indicating healthcare treatment decisions when of legal age at age 18, copies of the form should be provided by the youth to family, close friends, their doctor, lawyer, spiritual advisor or anyone that they may ask to make decisions concerning their health care for them, if they are unable to do so. The form should **not** be kept in the youth's file.

Discussion of healthcare treatment options is required to be completed 90 days prior to the youth turning age 18 if emancipating and documented on the CD-94, Adolescent FST Guide and Individualized Action Plan, as part of transition planning.

<p><b>NECESSARY ACTION</b></p> <ol style="list-style-type: none"> <li>1. Review this memorandum with all Children's Division staff.</li> <li>2. Review revised Child Welfare Manual chapters as indicated below.</li> <li>3. All questions should be cleared through normal supervisory channels and directed to:</li> </ol>	
<p><b>PDS CONTACT</b>  Sally A. Gaines  573-522-6279  <a href="mailto:Sally.A.Gaines@dss.mo.gov">Sally.A.Gaines@dss.mo.gov</a></p>	<p><b>PROGRAM MANAGER</b>  Dena D. Driver  573-751-3171  <a href="mailto:Dena.Driver@dss.mo.gov">Dena.Driver@dss.mo.gov</a></p>
<p><b>CHILD WELFARE MANUAL REVISIONS</b>  <a href="#">Section 4 Chapter 21.4.1 Referral and Assessment</a>  <a href="#">Section 4 Chapter 21.7 Exit Plan</a></p>	
<p><b>FORMS AND INSTRUCTIONS</b>  <a href="#">CD-93, Older Youth Program Referral and Instructions</a>  <a href="#">CD-94, Adolescent FST Guide and Individualized Action Plan and Instructions</a>  <a href="#">CD-97, Life Skills Strengths/Needs Assessment Reporting Form Instructions</a></p>	
<p><b>REFERENCE DOCUMENTS AND RESOURCES</b>  <a href="#">"Durable Power of Attorney for Health Care and Health Care Directive" guide</a> and <a href="#">HIPAA form</a> – The Missouri Bar  <a href="#">Exit Planning for Older Youth PowerPoint Presentation</a>  <a href="#">Healthcare Treatment Decisions Information Sheet</a>  <a href="#">MO Healthnet Coverage Brochure</a>  <a href="#">Find a Lawyer – The Missouri Bar</a></p>	
<p><b>RELATED STATUTE</b>  Patient Protection and Affordable Care Acts (2010)  P.L. 111-148; The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351); Title IV-B, subpart 1, section 422; and Title IV-E, sections 475 and 477 of the Act.</p>	
<p><b>ADMINISTRATIVE RULE</b>  N/A</p>	

**COUNCIL ON ACCREDITATION (COA) STANDARDS**

[PA-FC 13](#)

[PA-KC 14](#)

**CHILD AND FAMILY SERVICES REVIEW (CFSR)**

CFSR Instrument, [Item 10](#), Other Planned Permanent Living Arrangement

**PROTECTIVE FACTORS**

Parental Resilience: N/A

Social Connections: <http://www.dss.mo.gov/cd/info/cwmanual/philbase.pdf>

Knowledge of Parenting and Child Development:

<http://www.dss.mo.gov/cd/info/cwmanual/philbase.pdf>

Concrete Support in Times of Need: <http://www.dss.mo.gov/cd/info/cwmanual/philbase.pdf>

Social and Emotional Competence of Children:

<http://www.dss.mo.gov/cd/info/cwmanual/philbase.pdf>

**FACES REQUIREMENTS**

N/A