



Department  
of Health

Office of Children  
and Family Services

# Transition of Children Placed in Foster Care and NYS Public Health Law Article 29-I Health Facility Services into Medicaid Managed Care

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# NEW YORK STATE DEPARTMENT OF HEALTH, OFFICE OF HEALTH INSURANCE PROGRAMS

## NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES

### Transition of Children Placed in Foster Care and New York State Public Health Law Article 29-I Health Facility Services into Medicaid Managed Care

#### Overview

Beginning in 2013, children/youth in direct placement foster care in counties outside of New York City were mandatorily enrolled in Medicaid Managed Care (MMC). This guidance document replaces the *Office of Health Insurance Programs Policy and Proposed Changes to Transition Children in Direct Placement Foster Care into Medicaid Managed Care* issued in 2013. For the purpose of this guidance document, direct placement foster care is defined as children/youth placed in foster homes certified by the Local Departments of Social Services<sup>1</sup> (LDSS or Local District). At that time, children/youth in direct placement foster care in New York City and children/youth in the care of Voluntary Foster Care Agencies (VFCAs) statewide remained excluded from Medicaid managed care and children/youth participating in the former 1915(c) Bridges to Health (B2H) waiver programs were exempt from mandatory enrollment into MMC.

As part of the Children's Medicaid System Transformation, effective April 1, 2019, the B2H waiver programs were consolidated under the 1915(c) Children Waiver<sup>2</sup>. Effective October 1, 2019, Children's Waiver Home and Community-Based Services (HCBS) were added to the Medicaid Managed Care Plan Benefit Package, and the exemption from mandatory enrollment in MMC for participation in the Children's Waiver was removed. More information on the Children's Medicaid System Transformation is available here:

[https://www.health.ny.gov/health\\_care/medicaid/redesign/behavioral\\_health/children/index.htm](https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/index.htm)

Effective July 1, 2021, children/youth placed in foster care, including those in direct placement foster care and placement in the care of VFCAs statewide, will be mandatorily enrolled in MMC unless the child/youth is otherwise exempt or excluded from enrollment<sup>3</sup>. Exemptions and exclusions from MMC enrollment are included in the 1115 Medicaid Redesign Team Waiver Special Terms and Conditions<sup>4</sup>.

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<sup>1</sup> In New York City, this includes the Human Resources Administration (HRA), the New York City Administration for Children (NYC ACS), and the New York City Department of Homeless Services (DHS).

<sup>2</sup> The Children's Waiver consolidated six former 1915c waivers: Office of Mental Health (OMH) Serious Emotional Disturbance (SED) waiver #NY.0296; Department of Health (DOH) Care at Home (CAH) I/II waiver #NY.4125; Office for People With Developmental Disabilities (OPWDD) Care at Home waiver #40176; and Office of Children and Families (OCFS) Bridges to Health (B2H) SED waiver #NY.0469, B2H Developmental Disability (DD) waiver #NY.0470, and B2H Medically Fragile waiver #NY.0471.

<sup>3</sup> For example, a child/youth with comprehensive third-party health insurance is excluded from Medicaid managed care and will not be enrolled. A child/youth identifying as Native American is exempt and is not required to enroll. The LDSS or 29-I Health Facility may exempt a child/youth in foster care or 8D Baby placed in the care of the 29-I Health Facility at any time, if there is a good cause reason or the change is the best interest of the child.

<sup>4</sup> [https://www.health.ny.gov/health\\_care/medicaid/redesign/medicaid\\_waiver\\_1115.htm](https://www.health.ny.gov/health_care/medicaid/redesign/medicaid_waiver_1115.htm)

In alignment with the MMC enrollment of the foster care population in the care of VFCAs, VFCAs may opt to become a licensed health care facility provider through New York State Public Health Law (PHL) Article 29-I, which provides for the provision of Core Limited Health-Related Services (CLHRS) and Other Limited Health-Related Services (OLHRS)<sup>5</sup>, and enter into agreements with Medicaid Managed Care Plans (MMCPs), including Mainstream Medicaid Managed Care and HIV Special Needs Plans, for the provision of these services to eligible enrolled children/youth. On July 1, 2021, CLHRS and OLHRS will be included in the MMCP Benefit Package.

Not all VFCAs have elected to become Article 29-I providers; VFCAs who opt out of Article 29-I licensure are not authorized to provide health services and will not be reimbursed for Article 29-I health services through Medicaid FFS or MMC. However, children/youth placed in the care of these VFCAs and eligible for Medicaid will be enrolled in a MMCP unless otherwise exempted or excluded from enrollment. Throughout this guidance, “29-I Health Facility” refers to those VFCA entities licensed under PHL Article 29-I unless otherwise noted.

Access to comprehensive, high quality health care is essential to children/youth placed in foster care. Children/youth in the foster care system have higher rates of birth defects, developmental delays, mental/behavioral health needs, and physical disabilities than children/youth from similar socio-economic backgrounds outside of the foster care system. Children/youth in foster care have a high prevalence of medical and developmental problems, and utilize inpatient and outpatient mental health services at a rate 15 – 20 times higher than the general pediatric Medicaid population. The impact of the trauma these children/youth experience is profound (Source: American Academy of Pediatrics<sup>6</sup>). For this reason, it is essential that there be immediate access to services upon a child/youth’s placement in foster care, and no interruption in the provision of ongoing services as a result of this transition.

The State has established a four-year transition period. MMCPs will comply with the [Medicaid Managed Care Organization Children’s System Transformation Requirements and Standards](#) (Children’s Standards), the *New York Medicaid Program 29-I Health Facility Billing Guidance (29-I Billing Guidance)*, and this policy for the provision of services to enrolled children/youth placed in foster care and/or placed in a 29-I Health Facility. Where the Children’s Standards and this policy conflict, this policy will take precedence. At no time will policy guidance supersede federal or state law or regulation. The inclusion of 29-I Health Facility services and associated benefit provision requirements in the MMC Benefit Package is accomplished pursuant to the Medicaid Managed Care/HIV Special Needs Plan/Health and Recovery Plan Model Contract (MMC Model Contract) Section 4.3 and will continue without regard to the transitional period, except where specifically described as a transitional requirement. At the end of the transition period, the State will reassess progress of the implementation and determine if transitional requirements should be extended.

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<sup>5</sup> Article 29-I VFCA Health Facilities License Guidelines are available here: [https://www.health.ny.gov/health\\_care/medicaid/redesign/behavioral\\_health/children/docs/final\\_draft\\_vfca\\_health\\_facilities\\_license\\_guidelines\\_5\\_01\\_18.pdf](https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/docs/final_draft_vfca_health_facilities_license_guidelines_5_01_18.pdf)

<sup>6</sup> American Academy of Pediatrics Task Force on Health Care for Children in Foster Care, *Fostering Health: Health Care for Children and Adolescents in Foster Care*. (New York: American Academy of Pediatrics, 2005).; and Mark D. Simms, Howard Dubowitz and Moira A. Szilagyi, “Health Care Needs of Children in the Foster Care System,” *Pediatrics* 2000;106(4 Suppl):909-918.; and Dutton M Fiori T, Karl A, Sobelson M. Medicaid managed care for children in foster care. In: *Fund Medicaid Institute at United Hospital*, editor: UHF; 2013.

## I. Scope of Benefits Transitioning to Medicaid Managed Care

- A. On July 1, 2021, MMCPs are responsible for providing all Benefit Package services to enrolled children/youth placed in foster care, promoting continuity of care, and ensuring health care services are delivered in a trauma-informed manner and consistent with standards of care recommended for children in foster care<sup>7</sup>. Children/youth often enter foster care without having had access to traditional preventive health care services. As a result, children/youth in foster care require an increase in the frequency of their health monitoring.
- B. On July 1, 2021, MMCPs are responsible for covering the following 29-I Health Facility services<sup>8</sup> for enrollees who are eligible to be served by a 29-I Health Facility, in accordance with the 29-I Billing Guidance:
  1. Core Limited Health-Related Services (CLHRS) on a per diem basis, inclusive of:
    - a. Nursing Services
    - b. Skill Building Licensed Behavioral Health Practitioner (LBHP)
    - c. Medicaid Treatment Planning and Discharge Planning
    - d. Clinical Consultation/Supervision Services
    - e. VFCA Managed Care Liaison/Administration
  2. Medically necessary Other Limited Health-Related Services (OLHRS) that the 29-I Health Facility is authorized by the State to provide may include:
    - a. Children and Family Treatment Supports and Services (CFTSS)
      - i. Other Licensed Practitioners (OLP)
      - ii. Community Psychiatric Supports and Treatment (CPST)
      - iii. Psychosocial Rehabilitation (PSR)
      - iv. Family Peer Supports and Services (FPSS)
      - v. Youth Peer Support and Training (YPST)
      - vi. Crisis Intervention (CI)
    - b. Children's Waiver HCBS
      - i. Caregiver Family Supports and Services
      - ii. Community Advocacy and Support
      - iii. Respite (Planned and Crisis)
      - iv. Prevocational Services
      - v. Supported Employment

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<sup>7</sup> See, for example, *Bright Futures: Guidelines for Health Supervision of Infants, Children, and Adolescents*, 4th Edition <https://brightfutures.aap.org/materials-and-tools/Pages/default.aspx> and NYS OCFS *Working Together: Health Services for Children in Foster Care* at <https://ocfs.ny.gov/main/sppd/health-services/manual.php>

<sup>8</sup> Services delivered by 29-I Health Facilities are described in the *Article 29-I VFCA Health Facilities License Guidelines*

- vi. Day Habilitation
- vii. Community Habilitation
- viii. Palliative Care: Bereavement Therapy
- ix. Palliative Care: Expressive Therapy
- x. Palliative Care: Massage Therapy
- xi. Palliative Care: Pain and Symptom Management
- xii. Environmental Modifications
- xiii. Vehicle Modifications
- xiv. Adaptive and Assistive Equipment
- xv. Non-Medical Transportation

c. Medicaid State Plan services

- i. Screening, diagnosis and treatment services related to physical health, including but not limited to:
  - Ongoing treatment of chronic conditions as specified in treatment plans
  - Diagnosis and treatment related to episodic care for minor ailments, illness or injuries, including sick visits
  - Primary pediatric/adolescent care
  - Immunizations in accordance with NYS or NYC recommended childhood immunization schedule
  - Reproductive health care
- ii. Screening, diagnosis and treatment services related to developmental and behavioral health. This includes the following:
  - Psychiatric consultation, assessment, and treatment
  - Psychotropic medication treatment
  - Developmental screening, testing, and treatment
  - Psychological screening, testing and treatment
  - Smoking/tobacco cessation treatment
  - Alcohol and/or drug screening and intervention
  - Laboratory tests

OLHRS do not include the following services:

- i. surgical services
- ii. dental services
- iii. orthodontic care
- iv. general hospital services including emergency care
- v. birth center services
- vi. emergency intervention for major trauma
- vii. treatment of life-threatening or potentially disabling conditions
- viii. nursing services, skill building activities (provided by LBHPs as described in the Article 29-I VFCA Health Facilities License Guidelines and any subsequent updates), and Medicaid treatment planning and discharge

planning, including medical escorts and any clinical consultation and supervision and tasks associated with the 29-I MMCP Liaison/Administrator in 29-I Health Facilities. These services are included in the Preventive or Rehabilitative Residential supports of the mandatory CLHRS.

## II. Covered Populations

- A. Effective July 1, 2021, children/youth placed in foster care, including those in direct placement foster care and placement in the care of VFCAs statewide, will be mandatorily enrolled in MMC unless the child/youth is otherwise exempt or excluded from enrollment.
- B. Effective upon licensure by the State, 29-I Health Facilities will provide CLHRS and OLHRS to children/youth as described in the *Article 29-I VFCA Health Facilities License Guidelines* and the 29-I Billing Guidance. Child/youth populations served by 29-I Health Facilities and covered by the MMCP for CLHRS and/or OLHRS are described and defined in the 29-I Billing Guidance, including:
  - 1. Children/youth placed in foster care;
  - 2. Babies residing with their parent who are placed in a 29-I Health Facility and in foster care (8D Babies);
  - 3. Children/youth placed in a 29-I Health Facility by Committee on Special Education (CSE);
  - 4. Pre-dispositional placed youth; and
  - 5. Children/youth and adults who are discharged from a 29-I Health Facility (with limitations, see Section IX)

## III. Reimbursement

- A. 29-I Health Facilities
  - 1. For dates of service on and after July 1, 2021, 29-I Health Facilities will submit claims to MMCPs for services provided to MMCP enrollees according to the 29-I Billing Guidance and the MMCP's billing procedures.
  - 2. In accordance with the 29-I Billing Guidance, MMCPs must reimburse 29-I Health Facilities at the NYS Medicaid FFS rates (Medicaid residual per diem) for CLHRS for the four-year transition period from July 1, 2021 through June 30, 2025. During the transition period, the Medicaid residual per diem rate is not included in the MMCP premium capitation rate; the MMCP will bill the State for the Medicaid residual per diem as pass through for the four-year transition period.
  - 3. In accordance with the 29-I Billing Guidance, MMCPs must reimburse OLHRS for the four-year transition period at the Medicaid FFS fee schedule (where available), unless

alternative arrangements have been made between plans and providers and have been approved by the New York State Department of Health (DOH) and the New York State Office for Children and Family Services (OCFS) (e.g. Value-Based Payment arrangements). OLHRS are included in the MMCP premium capitation rate (at-risk).

4. MMCPs will accept paper or electronic claims from 29-I Health Facilities. MMCPs shall offer 29-I Health Facilities an electronic payment option including a web-based claim submission system.
5. MMCPs are responsible for covering medically necessary 29-I Health Facility services for their enrollees placed in the care of the 29-I Health Facility, regardless of the 29-I Health Facility's participation in the MMCP's network.
6. MMCPs are responsible for coverage of 29-I Health Facility CLHRS for the entire period the child/youth was both enrolled in the MMCP and placed with the 29-I Health Facility (excluding disallowed absences in Section III (A)(10) below), including any such period occurring prior to notification of the placement, in accordance with the 29-I Billing Guidance.
7. MMCPs are responsible for coverage of 29-I Health Facility OLHRS as defined in the 29-I Billing Guidance.
8. The MMCP will accept the following as appropriate notification of the child/youth's placement in the care of the 29-I Health Facility or as eligible for CLHRS/OLHRS (see also Section V):
  - a. A Transmittal Form from the State, LDSS or 29-I Health Facility indicating such placement;
  - b. an enrollment notification from New York Medicaid Choice (NYMC) or the State indicating such placement;
  - c. direct notification from the MMCP 29-I Health Facility/LDSS Liaison or the State; or
  - d. the enrollee appears on the State's monthly Foster Care Reconciliation Report as placed in such facility.
9. Notwithstanding Section III(A)(8) above, the most recent Transmittal Form received by the MMCP will be considered the enrollee's current placement. Liaisons must communicate with one another regarding any discrepancies between the most recent Transmittal Form and monthly Foster Care Reconciliation Report.
10. MMCPs will not be responsible for reimbursement for some or all of the 29-I Health Facility's services for enrolled children/youth who are placed in the care of the 29-I Health Facility but are residing in certain settings, or are absent from the 29-I Health Facility, as described in the 29-I Billing Guidance.
11. MMCP responsibility for coverage of 29-I Health Facility services ends when:



- a. The child/youth has been disenrolled from the MMCP;
  - b. The child/youth enters into a non-reimbursable absence or setting as described in Section III(A)(10) above and in the 29-I Billing Guidance;
  - c. For CLHRS, the child/youth has been discharged from foster care or the 29-I Health Facility; or
  - d. For OLHRS, the child/youth is no longer eligible for OLHRS as described in the 29-I Billing Guidance.
12. To facilitate a smooth transition to MMC billing, MMCPs will offer billing/claim submission training to 29-I Health Facilities in active contract negotiations or newly contracted. This will include testing claims submission and processing, and issuance of MMCP contact and support information to assist claim submission.
13. 29-I Health Facilities are expected to test the claims submission process with MMCPs for all billable services prior to July 1, 2021 and upon executing a new contract. Claims testing should begin no later than 90 days prior to the implementation date.

#### B. Essential Community Providers

1. Essential Community Providers are, as identified by the State, providers with expertise in serving children/youth placed in foster care.
2. 29-I Health Facilities will make reasonable effort to notify the State of Essential Community Providers commonly accessed by children/youth placed with the 29-I Health Facility.
3. For children/youth in their care, 29-I Health Facilities will make reasonable effort to refer to or arrange for access to Essential Community Providers that are participating with the child/youth's MMCP. If known in advance and services are not urgently needed, the 29-I Health Facilities will notify the MMCP that an enrolled child/youth is in need of services from an out-of-network Essential Community Provider.
4. MMCPs will reimburse Essential Community Providers for covered Benefit Package services in accordance with the MMC Model Contract provided to their enrollees placed in foster care or in the care of a 29-I Health Care Facility.
5. MMCPs will support and facilitate ongoing access to these Essential Community Providers by:
  - a. Offering contracts to identified Essential Community Providers, where such provider is enrolled in the Medicaid program, or otherwise facilitating access to such providers through out of network arrangements, where agreed to by the provider.
  - b. Responding promptly to the 29-I Health Facility's notification that an enrollee requires services from an Essential Community Provider to arrange any necessary authorization or agreements for the enrollee to access medically necessary covered services.

#### **IV. MMCP Selection and Enrollment for Children/Youth in Foster Care and 8D Babies**

- A. Children in direct care of the LDSS outside of New York City will continue to be enrolled in Medicaid managed care as determined by the LDSS, however the effective dates of such enrollments will change, as per Section IV(E) below.
- B. On July 1, 2021, children/youth in direct placement foster care in New York City and placed in the care of 29-I Health Facilities statewide will be mandatorily enrolled into Medicaid Managed Care (MMC) unless the child/youth is otherwise exempt or excluded from enrollment. Plan selection for this transition will occur in two phases: Pre-transition Phase MMCP Selection Process, described in Section IV(D), and an On-going Phase MMCP Selection Process, described in Section IV(E). See Attachment A for examples of MMCP enrollment effective dates for children/youth in Foster Care and 8D Babies over the course of the transition.
- C. To ensure effective communication regarding enrollments, MMCPs, 29-I Health Facilities, and the New York City Administration for Children's Services (NYC ACS) will maintain secure account information with the State's enrollment broker, New York Medicaid Choice (NYMC). MMCPs and 29-I Health Facilities will accept notification from NYMC of a child/youth's enrollment, including retrospective effective dates of enrollment. 29-I Health Facilities will be assigned an authorization code by NYMC to utilize when requesting that NYMC change a child/youth's enrollment.
- D. Pre-Transition Phase MMCP Selection Process – Statewide
  - 1. Starting in April 2021, in repeated cycles to identify new cases as time permits before the effective date of the transition, NYMC will utilize a State-developed list of children/youth in the care of a 29-I Health Facility or in direct care of NYC ACS, who are required to enroll as of July 1, 2021. NYMC will propose an MMCP for these children/youth that operates in the district of fiscal responsibility for the child/youth, and as follows:
    - a. NYMC will propose the most recently accessed MMCP, if the child/youth had an MMCP affiliation in the past year under the same Medicaid Client Identification Number (CIN) and child/youth is placed with a 29-I Health Facility located in a county served by that MMCP; or
    - b. NYMC will propose the most recently accessed MMCP, if the child/youth has a duplicate CIN (matched case), had a MMCP affiliation in the past year and child/youth is placed with a 29-I Health Facility located in a county served by that MMCP; or
    - c. If the child/youth has no previous MMCP enrollment, NYMC will propose a quality MMCP randomly from the MMCPs that serve the county in which the 29-I Health Facility is located.
    - d. Children/youth with a managed care enrollment exclusion on the Medicaid system or who have previously requested MMC exemption as a Native American will not be enrolled.

2. NYMC will send the proposed MMCP selection to the child/youth's 29-I Health Facility to confirm enrollment.
  3. Not later than 10 business days after receiving the proposed MMCP plan selection, 29-I Health Facilities will respond to NYMC with confirmation of the MMCP, request to change the MMCP, or request to exempt child from enrollment in the best interests of the child/youth. 29-I Health Facilities will coordinate with the LDSS and the child/youth's family/guardians as appropriate, regarding confirmation of plan selection and enrollment.
  4. NYMC will enroll the child/youth in the confirmed MMCP, effective July 1, 2021.
  5. NYMC will send electronic notification of the enrollment to the 29-I Health Facility and MMCP. NYMC will send individual written confirmation of the enrollment to the 29-I Health Facility. The 29-I Health Facility will share the written confirmation notice with the child/youth and family/guardian as appropriate. (see Section IV(D)(3)).
  6. Where the child/youth is in active foster care placement under the auspices of NYC ACS, yet not in the care of a 29-I Health Facility, NYMC will follow the same enrollment process as above, and send proposed enrollments and enrollment confirmations to NYC ACS.
- E. Ongoing Phase MMCP Selection Process – Rest of State; beginning the effective date of the transition
1. Children/youth who are enrolled in Medicaid Managed Care at the time of intake to foster care may remain enrolled in the same MMCP or change plans. The enrollment decision should be made by the LDSS/29-I Health Facility and the child/youth and family/guardians, where appropriate.
  2. Where mandated to enroll, children/youth who were not previously enrolled in MMC at the time of intake to foster care will be retroactively enrolled into MMC effective the first day of the month of the enrollment transaction (not to exceed more than one month retrospective of transaction date). Children of children/youth in foster care (8D Babies) will also be enrolled retrospective into MMC effective the first day of the month of the enrollment transaction (not to exceed more than one month retrospective of transaction date). Exemptions or exclusions from mandatory MMC enrollment for this population must be applied in accordance with guidance provided by the DOH and must be adequately documented by the LDSS in the foster care case record. These enrollment transactions take place for children/youth in direct care and children/youth placed with a VFCA (both 29-I Health Facility and non-29-I Health Facility).
  3. The LDSS is responsible for effectuating the MMCP enrollment and issuing required enrollment notices to the child/youth and family/guardians, where appropriate. This requirement may be carried out by the State's enrollment broker where the LDSS utilizes the enrollment broker to enroll the child/youth.

#### F. Ongoing Phase MMCP Selection Process – New York City

1. Beginning no earlier than one month prior to the effective date of the transition, every business day, NYMC will systemically identify all new foster care and 8D Baby Medicaid cases opened under the New York City SERMA (Services/Medical Assistance Interface) process and select an MMCP as described above in Section III(D)(1). Children/youth with system exclusions or Native American identification will not be enrolled.
2. NYMC will perform an automatic enrollment transaction retrospective to the first day of the month of the enrollment transaction (not to exceed more than one month retrospective of transaction date), except that no child/youth will be enrolled under this process prior to the first day of the transition. See *Attachment B– Timeframe for Initial Health Activities to be Completed Upon Placement to 29-I Health Facility* for example effective dates of enrollment.
3. NYMC will send an electronic file to 29-I Health Facility/NYC ACS and MMCP with enrollment information. NYMC will separately send individual enrollee notices of the MMCP enrollment to the 29-I Health Facility/NYC ACS to be shared with the child/youth and/or their family, as appropriate.

#### G. Enrollment Changes and Lock-in Period

1. The State, LDSS, NYC ACS, or the 29-I Health Facility may contact NYMC to change MMCP enrollment at any time. MMCP enrollment may be changed during intake, throughout the foster care placement, or during the discharge planning period. The enrollment decision should be made by the State/LDSS/NYC ACS/29-I Health Facility and the child/youth and family/guardians, where appropriate.
2. There is no lock-in for children/youth placed in foster care or 8D Babies.
3. Once enrolled, MMCP enrollment changes for children/youth placed in foster care or in the care of a 29-I Health Facility are prospective, effective the first of the month following the enrollment transaction.

### V. Discharge and Disenrollment

#### A. Discharge from Foster Care

1. Upon notice of a child/youth leaving foster care from the LDSS Foster Care Coordinator or 29-I Health Facility MMCP Liaison, the MMCP Foster Care Liaison shall coordinate with the 29-I Health Facility/LDSS Foster Care Coordinator(s) (see Section VI below) and any Health Home Care Manager throughout the discharge planning process. The MMCP shall ensure continued coordination with the Health Home Care Manager, as applicable.

2. If at the time of discharge from foster care, the child/youth is in receipt of 1915(c) home and community based services (HCBS); long-term services and supports (LTSS); or the child/youth is in an ongoing course of treatment for a behavioral health, disabling or chronic condition, the MMCP Foster Care Liaison shall coordinate with the 29-I Health Facility MMCP Liaison, LDSS Foster Care Coordinator(s), and the Health Home Care Manager or the Children and Youth Evaluation Service, if applicable, to ensure continuity of care.
3. Children who are discharged from foster care may continue receiving OLHRS services as provided in Section II, Section IX(B), and in the 29-I Billing Guidance.

#### B. Disenrollment from a MMCP

1. A 29-I Health Facility may request enrollment/disenrollment for a child/youth in their care at any time; however, all enrollments/disenrollments are effectuated by NYMC, the LDSS, or the State.
2. There is no lock-in for children/youth in foster care or for 8D Babies. The effective date of disenrollment from MMC will be in accordance with Appendix H of the MMC Model Contract.
  - a. The State, LDSS, NYC ACS, or the 29-I Health Facility may change MMCP enrollment at any time. The enrollment decision should be made by the State/LDSS/NYC ACS/29-I Health Facility and the child/youth and family/guardians, where appropriate. Parents of 8D Babies may choose a different MMCP for their child at any time during the parent's placement in foster care.
  - b. Parent/Guardians of children/youth in foster care may elect to change plans upon the child/youth's discharge from foster care. Parents of 8D Babies may choose a different MMCP for their child upon the parent's discharge from placement in foster care.
  - c. The LDSS or 29-I Health Facility may request a change of enrollment or disenrollment from MMC for a child/youth in foster care or 8D Baby placed in the care of the 29-I Health Facility at any time, if there is a good cause reason or the change is in the best interest of the child.
  - d. Standard enrollment exclusion rules will apply if there is a change in the child/youth's or the 8D Baby's Medicaid to a category that is excluded from MMC.
3. Whenever MMCP coverage changes, transitional care provisions of the MMC Model Contract shall apply.
4. At the time of disenrollment from the MMCP, where a child/youth is in receipt of 1915(c) HCBS, long-term services and supports (LTSS), or the child/youth is in an ongoing course of treatment for a behavioral health, disabling or chronic condition, the MMCP will prepare a written discharge plan to assure continuity of care. Relevant information and necessary referrals will also be provided to the Health Home (if applicable), care management resources, and the primary care provider. The

discharge plan should be provided to the enrollee or his/her legal guardian, his/her designated care provider, and the LDSS/29-I Health Facility within fifteen (15) days of the notice of a request for disenrollment from a MMCP.

5. Upon disenrollment from a MMCP, the MMCP Foster Care Liaison shall coordinate with the LDSS/29-I Health Facility and any Health Home Care Manager (if applicable) to ensure that the LDSS/29-I Health Facility and the new MMCP (if applicable) are aware of the transition so the current treatment plan including any Plans of Care (if applicable) can be coordinated.
6. Disenrollments from a MMCP will be effective within the timeframes described in the MMC Model Contract Appendix H.

## **VI. Notification Processes**

### **A. Transmittal Form**

1. The statewide Transmittal Form, issued by the State as provided in *Attachment D - Transmittal Form and Instructions* will be utilized by the LDSS/29-I Health Facility to notify the MMCP, either electronically or in writing, that:
  - a. an enrollee is entering foster care;
  - b. an enrollee is placed in the care of a 29-I Health Facility;
  - c. an enrollee is discharged from foster care; or
  - d. an enrollee is discharged from a 29-I Health Facility.
2. The Transmittal Form is a statewide form and may not be modified.
3. A system for this notification must be agreed upon between the MMCP Foster Care Liaison, the LDSS Foster Care Coordinator, and the 29-I Health Facility MMCP Liaison to meet the needs of the parties. The LDSS/ 29-I Health Facility and MMCP may mutually agree to the sharing of additional information with the Transmittal Form to improve communications between the parties and access to care for the child/youth.
4. When the Transmittal Form is required, it must be completed and submitted to the MMCP within 5 business days of the change.
5. Responsibility for Completing the Transmittal Form Notification:
  - a. The LDSS is responsible for completing and submitting the form to the MMCP when the child/youth is initially placed in foster care, if the child/youth is not placed in a 29-I Health Facility.
  - b. The 29-I Health Facility is responsible for completing and submitting the form to the MMCP when a child/youth is placed in their care.
  - c. If a child/youth transitions to an alternative placement, the agency that the child/youth is transitioning to must complete this form and submit to the MMCP.

- d. If a child/youth is discharged from foster care, the 29-I Health Facility making the discharge must complete this form and submit to the MMCP.
  - e. If a child/youth is discharged from foster care but was not placed in a 29-I Health Facility at the time of discharge (i.e. direct care, kinship care, or non-29-I Voluntary Foster Care Agency), the LDSS must complete this form and submit to the MMCP.
6. Transmittal Form notification is required in addition to established processes in place for MMCP enrollments and the foster care MMCP selection process described in Section IV above.
  7. The MMCP will accept a completed Transmittal Form from either the LDSS or 29-I Health Facility MMC Liaison as all information necessary to immediately carry out the requirements and standards for coverage of enrollees placed in foster care.
  8. The MMCP will not delay acting on receipt of the Transmittal Form pending a confirmation from any other source that the child/youth has been placed in foster care or is otherwise eligible for CLHRS or OLHRS.
  9. If the child/youth was not enrolled prior to receipt of the Transmittal Form from a 29-I Health Facility, the MMCP may expeditiously verify the new enrollment with the LDSS, NYMC, or the State.

#### B. MMCP Initial Enrollments from NYMC

1. The MMCP will have a routine process to identify new enrollments received through the NYMC foster care plan selection process for children/youth newly placed in foster care and/or in the care of a 29-I Health Facility.
2. The MMCP will accept an effective date of enrollment that is retrospective to the first of the month of the enrollment transaction. The MMCP is at risk for covered services provided to the enrollee during the retrospective period and will receive a full capitation payment for the month in which the child/youth is retrospectively enrolled; the State may reconcile any FFS payments made for Benefit Package services during the month of the retrospective enrollment in the MMCP.
3. The MMCP will accept such notification of enrollment as notice that the enrollee is placed in foster care and/or a 29-I Health Facility, and as all information necessary to immediately carry out the requirements and standards for coverage of enrollees placed in foster care.
4. The MMCP will not delay acting on receipt of an enrollment notification from NYMC that indicates the enrollee has been placed in foster care and/or in the care of a 29-I Health Facility, pending receipt of a Transmittal Form.

#### C. MMCP Monthly Reconciliation

1. The MMCP will have a routine process to accept the State's monthly Foster Care Reconciliation report and confirm that the requirements and standards for enrollees placed in foster care are met for children in direct care of the LDSS or placed in 29-I Health Facilities, as indicated on the report, unless the MMCP is in receipt of more timely placement information via a transmittal from the LDSS or 29-I Health Facility.
2. The MMCP shall have a routine process for identifying and reconciling discrepancies between the monthly Foster Care Reconciliation report and most recently received Transmittal Forms.

#### D. Required Notices for Children/Youth in Foster Care and 8D Babies

##### 1. Transition Notice

- a. 29-I Health Facilities will be responsible for sharing the State's Program Announcement notification with each child/youth and their families/guardians, where appropriate, impacted by this transition at least 30 days prior to the effective date of the transition.
- b. Through a DOH-approved notice, the MMCP will notify its enrollees of the foster care transition population and benefit change at least 30 days prior to the effective date of the transition.

##### 2. MMCP Identification Cards

- a. The MMCPs must send the Welcome Letter to the LDSS/29-I Health Facility within the timeframes required in the MMC Model Contract. However, MMCPs must provide a form of temporary identification displaying the effective date of enrollment for new enrollees in foster care or who are 8D Babies, and transmit it to the LDSS/29-I Health Facility by the next business day following a request for such identification or as needed to allow immediate access to services.
- b. MMCPs will issue replacement identification cards or other temporary identification, upon request by the LDSS/29-I Health Facility, by the following business day and send directly to the 29-I Health Facility.
- c. MMCPs will not issue the temporary or replacement identification cards to foster parents since the child/youth is in the legal custody of the county.
- d. MMCPs will not require a court order or other documentation as a condition of issuing temporary or replacement identification cards to the LDSS/29-I Health Facility. A request submitted by the LDSS Foster Care Coordinator or 29-I Health Facility MMC Liaison is sufficient documentation for temporary or replacement identification cards.

##### 3. MMCP Enrollee Notices

- a. The MMCP will direct all required enrollee notices to the care of the LDSS or the 29-I Health Facility, within the timeframes required in the MMC Model Contract.
- b. The LDSS/29-I Health Facility will ensure MMCP enrollee notices are provided to the child/youth and their family/guardians as appropriate.



- c. The LDSS, 29-I Health Facility and MMCP may mutually agree on a transmittal process and mailing address for receipt of electronic and written enrollee notices.
- d. MMC Plans will not release confidential information to a parent of a child/youth placed in foster care before confirming with LDSS/29-I Health Facility. All communication containing protected health information will be transmitted in such a manner as to assure compliance with HIPAA and HITECH requirements and maintain confidentiality of patient information. See also *Attachment C - Consent for Routine Medical Services for Children/Youth in Foster Care*.

## VII. Liaison Roles

### A. LDSS Foster Care Coordinator

1. The LDSS will designate a Foster Care Coordinator to be the 29-I Health Facility and MMCP contact for general issues and specific foster care cases.
2. The LDSS will notify the MMCP Foster Care Liaison within 5 business days, either electronically or in writing using the Transmittal Form, as required in Section VI (A), of enrollees entering or discharging foster care.
3. The LDSS will ensure that court ordered services, including medical evaluations and health care services, are communicated to the 29-I Health Facility and MMCP Foster Care Liaison.
4. The LDSS will report to the MMCP Foster Care Liaison any changes in status that affect care and services for the enrollee, including, but not limited to the need for additional assessment(s); change in status resulting from diagnostic assessments; need for a change in primary care provider or care management agency; enrollee's placement with a 29-I Health Facility; and new foster care placement address.
5. Upon notification by the MMCP of any changes in an enrollee's status, the LDSS must take appropriate action, including necessary follow-up for the enrollee's care and updating case information in the system.
6. The LDSS may delegate the responsibilities in Section VII(A)(1 - 4) to the 29-I Health Facility with which the child/youth is placed. The LDSS will inform the MMCP what responsibilities are delegated to the 29-I Health Facility.

### B. 29-I Health Facility Medicaid Managed Care Liaison

1. In accordance with the *Article 29-I Health Facilities License Guidelines* (available at [https://www.health.ny.gov/health\\_care/medicaid/redesign/behavioral\\_health/children/docs/final\\_draft\\_vfca\\_health\\_facilities\\_license\\_guidelines\\_5\\_01\\_18.pdf](https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/docs/final_draft_vfca_health_facilities_license_guidelines_5_01_18.pdf)), the 29-I Health Facility will designate a Medicaid Managed Care Liaison (29-I Health Facility MMC Liaison) that will coordinate with the MMCP's Foster Care Liaison and the LDSS. When an enrollee is placed in the care of a 29-I Health Facility, the 29-I Health Facility MMC Liaison will:

- a. Carry out responsibilities, including those in Section VII(A) above, delegated to the 29-I Health Facility by the LDSS.
- b. Be the primary contact person for the MMCP to assist with ensuring coverage and access to care for the child/youth in the care of the 29-I Health Facility, including but not limited to:
  - i. Informing the MMCP of and coordinating access to immediately needed services;
  - ii. Referring children/youth for needed services and assisting in provider selection;
  - iii. Coordinating with health care providers, including school and community-based services;
  - iv. Sharing of plans of care and communicating significant changes in the child/youth's health or functioning, need for additional required/recommended assessments;
  - v. Assisting with court ordered services and fair hearings;
  - vi. Facilitating single case agreements if needed when a child/youth is placed outside of the MMCP's service area;
  - vii. Discharge planning;
  - viii. Notifying the MMCP of changes in residential status or foster care placement, absence from the 29-I Health Facility, or other insurance coverage;
  - ix. Maintaining eligibility for public or private health insurance and coordinating benefits;
  - x. Assisting with consent and/or confidentiality issues.
- c. The 29-I Health Facility MMC Liaison will oversee all business functions and interact with clinical and billing staff.
- d. The 29-I Health Facility will establish appropriate mechanisms for exchanging information with the MMCP, including but not limited to receipt of enrollee notices, welcome letters/ temporary identification, and MMCP identification cards.

#### C. MMCP Foster Care Liaison

1. MMCPs will designate a Foster Care Liaison to be readily available to the LDSS and 29-I Health Facility during regular business hours to address any issues for managed care enrollees in foster care. The MMCP shall identify a backup contact when the MMC Foster Care Liaison is not available.
2. MMCPs are responsible for ensuring there is a high-touch coordination approach with OCFS, LDSS, and the 29-I Health Facility for all enrolled children/youth in foster care and/or placed with a 29-I Health Facility. The MMCP Foster Care Liaison must have experience, expertise, and knowledge of the child welfare system, foster care healthcare requirements, and the unique complex needs (including needs resultant of trauma) of this population. This position may not be delegated. The MMCP Foster Care Liaison shall be the direct MMCP contact for care coordinators and service providers, including in the event the service need/coordination issue involves a MMCP management contractor (i.e., delegated benefit manager or service vendor).

3. The MMCP Foster Care Liaison is responsible for monitoring access to care for enrolled children/youth in foster care and/or placed with a 29-I Health Facility. The MMCP Foster Care Liaison will have the authority to and will assist with enrollment, disenrollment, and access to care issues (including facilitation of single case agreements when a child/youth is placed outside of the MMCP's service area).
4. The MMCP Foster Care Liaison is responsible for ensuring immediate issuance of a Welcome Letter, other temporary identification showing the effective date of enrollment, and/or a replacement insurance identification card/temporary identification as necessary to ensure the enrollee's access to needed care.
5. MMCPs shall develop and implement a system of communication and notification with the LDSS/29-I Health Facility that includes:
  - a. A mechanism (e.g., fax, secure email or IT solution as agreed upon by the OCFS/LDSS/29-I Health Facility) implemented through the MMCP Foster Care Liaison for receiving information including, but not limited to:
    - Changes in placement or address for children/youth in foster care; and/or
    - Changes in health status or provider for children/youth in foster care.
  - b. A mechanism for the MMCP Foster Care Liaison to notify the LDSS/29-I Health Facility of any health or other concerns related to children/youth in foster care.
  - c. Use of the State's Transmittal Form for communicating between the LDSS/29-I Health Facility Foster Care Coordinator and the MMCP Foster Care Liaison.
  - d. Notification of gaps or barriers to timely access related to mandated and appropriate services such as physical health, dental health, mental health, developmental, and substance abuse treatment and services for children/youth in foster care.

## **VIII. Required Assessments**

### **A. LDSS Role**

1. The LDSS is responsible for coordinating and confirming the completion of comprehensive health assessments and services for children/youth while in their care in accordance with *Attachment B – Timeframe for Initial Health Activities to be Completed Upon Placement to 29-I Health Facility*.
2. The LDSS will communicate with the 29-I Health Facility, as applicable, regarding any assessments that are required by the LDSS or court system for particular foster care cases.

### **B. 29-I Health Facility Role**

1. The 29-I Health Facility is responsible for coordinating and confirming the completion of comprehensive health assessments and services for children/youth while in their care in accordance with *Attachment B – Timeframe for Initial Health Activities to be Completed Upon Placement to 29-I Health Facility*.

2. Using the results and recommendations of required assessments, the Comprehensive Individualized Person-Centered Treatment Plan is developed by the 29-I Health Facility within 30 days, and must:
  - a. include a person-centered, individual directed approach to the development and implementation;
  - b. include active participation of the child/youth, family (as appropriate), and service providers;
  - c. contain the treatment plan goals from the individual health assessments including:
    - i. type of services needed to achieve identified treatment goals
    - ii. service intensity
    - iii. progress indicators
    - iv. clear action steps and target dates
    - v. measurable discharge goals;
  - d. utilize the CLHRS and the required Clinical Consultation/Supervision and any administrative functions to provide activities that are intended to achieve goals or objectives;
  - e. be based on the child/youth's conditions and include Specific problems, Needs, Preferences & Strengths;
  - f. be re-evaluated annually or more frequently as needed to determine whether services have contributed to meeting goals; and
  - g. include emergency protocols specific to the child/youth, as appropriate.

#### C. MMCP Role

1. MMCP must cover all required foster care intake assessments necessary at the time of a child/youth's entry into foster care, including initial screens, comprehensive diagnostic assessments and any additional mandated assessments identified by OCFS and/or the LDSS/29-I Health Facility within the time frame specified by state laws and regulations.
2. MMCP must cover additional required and mandated assessments that occur throughout the course of the foster care placement. These are often time sensitive and impact the child's health and safety. Examples include: assessment following an absence without consent, assessments for purposes of determining eligibility for additional services and placements, updated/repeated assessments as children/youth experience changes in functionality and/or clinical presentation that impact service intensity.
3. The LDSS/29-I Health Facility is responsible for identifying a provider who is available and able to perform required and mandated assessments. The assessments may be provided by the 29-I Health Facility with which the child is placed, in accordance with the PHL Article 29-I license; through a contracted health care provider where available; or an out-of-network health care provider, where such provider is willing to work with and receive reimbursement from the MMCP.

4. MMCPs are not permitted to require prior authorization of required or mandated assessments.
5. Following these assessments, the MMCP will facilitate access to providers and coordinate care for recommended treatment.
6. The MMCP will establish protocols to monitor that the comprehensive care needs identified through the assessment process, including physical health, dental health, mental health, developmental, and substance abuse needs, are adequately met and treatment recommendations are implemented.
7. The MMCP will make medical case management services available for children/youth in foster care as determined and requested by the LDSS/29-I Health Facility Foster Care Coordinator/29-I Health Facility MMC Liaison, following an assessment or upon recommendation by a provider.

## **IX. Access to Care**

### **A. Transitional Care**

1. The LDSS/29-I Health Facility and MMCP will communicate and coordinate service information as necessary to ensure children/youth in foster care to be newly enrolled at the time of the transition are afforded continuity of care as required under the MMC Model Contract.
2. Beginning on or around May 1, 2021, for children/youth placed in a 29-I Health Facility prior to July 1, 2021 and transitioning to MMCP enrollment on or after July 1, 2021, VFCAs licensed or approved to be licensed as a 29-I Health Facility, will make reasonable efforts to identify children/youth in their care in receipt of long term services and supports, HCBS, DME, an Episode of Care, a course of specialist treatment from an Essential Community Provider, or who are scheduled for an outpatient or inpatient procedure on or after July 1, 2021.
3. MMCPs will accept communication from the LDSS or 29-I Health Facility MMC Liaison regarding placed children/youth to be enrolled in the MMCP as of July 1, 2021, to facilitate or arrange for continued access to requested services without interruption and without conducting utilization review for LTSS, HCBS, or OLHRS at least 180 days from the effective date of enrollment, consistent with the transitional care requirements of the MMC Model Contract, inclusive of any continuity of care requirements for transitioning benefits (e.g., Children's Waiver HCBS).

### **B. Access to Services Post Discharge from the 29-I Health Facility**

1. Children/youth who are discharged from a 29-I Health Facility may continue to receive OLHRS from any 29-I Health Facility up to one-year post discharge. These services may continue beyond the one-year post discharge date, if any of the following apply:

- a. child/youth is under 21 years old and in receipt of services through the 29-I Health Facility for an Episode of Care and has not yet safely transitioned to an appropriate provider for continued necessary services; or
  - b. the child/youth is under 21 years old and has been in receipt of CFTSS or Children's HCBS through the 29-I Health Facility and has not yet safely transitioned to another designated provider for continued necessary CFTSS or HCBS in accordance with their plan of care; or
  - c. If the Enrollee is 21 years or older, 29-I Health Facilities may continue to provide OLHRS when the following applies:
    - i. the Enrollee has been placed in the care of the 29-I Health Facility and has been in receipt of OLHRS prior to their 21<sup>st</sup> birthday, and the Enrollee has not yet safely transferred to another placement or living arrangement; and
    - ii. the Enrollee and/or their authorized representative is compliant with a safe discharge plan; and
    - iii. the 29-I Health Facility continues to work collaboratively with the MMCP to explore options for the Enrollee's safe discharge, including compliance with court ordered services, if applicable.
2. Notwithstanding Section IX(B)(1)(c) above, the Medicaid residual per diem for CLHRS is not reimbursable after the individual's 21<sup>st</sup> birthday. Adults over the age of 21 are not eligible for CFTSS or Children's HCBS.
  3. For the purposes of this document, Episode of Care is defined as a course of treatment that began prior to discharge by the same facility to the child/youth for the treatment of the same or related health and/or behavioral health condition and may continue within one year after the date of the child/youth's discharge from the 29-I Health Facility.
  4. In the circumstances where OLHRS are continued as described in Section IX(B)(1) above, MMCPs and 29-I Health Facilities will work collaboratively to safely transition enrollees to appropriate providers and/or settings.

#### C. Primary Care Provider (PCP)

1. MMCPs are required to ensure that all enrollees have a PCP; children/youth will be assigned to a community PCP if a PCP is not selected at the time of enrollment. The PCP selection for children/youth placed in foster care or placed with a 29-I Health Facility may be changed at any time without cause.
2. The PCP selection should be made by the LDSS/29-I Health Facility and the child/youth and family/guardians, where appropriate. The LDSS/29-I Health Facility may identify a PCP for enrolled children/youth to coordinate their medical services. Where the LDSS/29-I Health Facility has information of a child/youth's existing relationship with a PCP, the LDSS/29-I Health Facility will make reasonable effort to continue such relationship if in the best interest of the child/youth.

3. 29-I Health Facilities licensed under PHL Article 29-I to provide primary care may elect to credential as a PCP with the MMCP. The 29-I Health Facility PCP must meet the credentialing standards and PCP requirements of the MMCP. (Credentialing as a 29-I Health Care Facility is not sufficient to be credentialed as a PCP.) Upon request, and in accordance with the MMC Model Contract, DOH may waive certain PCP requirements.
  - a. The MMCP will not deny medically necessary primary care provided by a 29-I Health Facility solely because the 29-I Health Facility is not the enrollee's PCP.
4. If a child/youth in foster care is placed in another county, and the MMCP in which the child/youth is enrolled operates in the new county, the MMCP must be flexible in allowing the child/youth to transition to a new PCP without disrupting the care plan in place. Conversely, MMCPs should allow for children/youth to maintain the same PCP if in the best interest of the child if the PCP is located at a reasonably close distance to the new placement (e.g. 30 minutes/30 miles).

#### D. Access to Needed Services

1. LDSS are responsible for ensuring children/youth in direct care receive all necessary services.
2. 29-I Health Facilities are responsible for ensuring children/youth placed with the facility receive all the necessary services as outlined in the individualized treatment plan (for children enrolled in HCBS). If the 29-I Health Facility does not directly provide needed services for the enrollee, the 29-I Health Facility MMC Liaison will coordinate with the MMCP to make arrangements for the child/youth to access community providers.
3. MMCPs are responsible for oversight of service planning and service delivery for MMC enrollees placed in foster care or with a 29-I Health Facility, including transitional care and meeting continuity of care requirements. MMCPs will establish processes to promote access to care for children/youth in foster care or entering foster care that address the following:
  - a. MMCP Foster Care Liaison coordination with LDSS and 29-I Health Facilities to streamline access to care
  - b. MMCP Foster Care Liaison coordination with LDSS Foster Care Coordinator and/or the 29-I Health Facility MMC Liaison, and Health Home care manager, if the child/youth is enrolled in Health Home, to monitor appropriate care and treatment.
4. In the event an enrollee is placed in a 29-I Health Facility outside of the MMCP's service area, or if the MMCP's network does not include sufficient capacity of providers with expertise in serving children in foster care, and the enrollee requires health care services the 29-I Health Facility is not authorized to provide, the MMCP must permit such enrollee to access medically necessary services from non-participating providers with expertise treating children involved in foster care located within 30 minutes/30

miles of the enrollee's placement (or next closest provider if no providers of the service are located within 30 minutes/30 miles).

5. In the event of a hospitalization or inpatient stay, the MMCP together with the LDSS/29-I Health Facility, hospital, and/or Health Home, will coordinate an appropriate discharge plan including, if needed, identification of an appropriate residential setting and timely access to medically necessary follow-up treatment services.

#### E. Immediately Needed Services

1. At the time the enrollee enters foster care, MMCPs shall immediately authorize any necessary replacement of items that are part of the managed care benefit package, including, but not limited to, eye glasses, contact lenses, hearing aids, and equipment listed in Sections 4.4, 4.5, 4.6 and 4.7 of the [Durable Medical Equipment, Prosthetics, Orthotics, Supplies and Procedure Codes and Coverage Guidelines](#) such as hospital grade breast pump rentals, specialized beds, wheelchairs and accessories, infusion pumps, assistive technology, orthotics, home standing equipment, prosthetics and other medically necessary equipment.
2. The MMCP shall provide authorization necessary for reimbursement of medically necessary covered services immediately needed by the child/youth (i.e. urgent services) in coordination with LDSS/29-I Health Facility.
3. MMCPs may coordinate with the LDSS/29-I Health Facility to reduce unnecessary duplication, but may not delay an enrollee's access to medically necessary equipment or supplies.

#### F. Care Management

1. The MMCP will provide care management for an enrollee in foster care as the MMCP determines necessary to ensure the enrollee's access to services, or as requested by the LDSS/29-I Health Facility following assessment, or upon recommendation by a provider.
2. Enrollees in foster care may be eligible for Health Home care management. The Health Home develops and maintains a Plan of Care (POC) for children enrolled in HCBS that integrates physical and behavioral health services and includes LTSS and HCBS, as appropriate to the enrollee's needs.
  - a. In these instances, it is expected that the MMCP/LDSS/29-I Health Facility will coordinate with the Health Home care manager to ensure that a comprehensive POC is completed and authorization of services is not delayed due to administrative barriers. The MMCP is responsible for monitoring, on a regular basis, whether the services in the POC are being delivered as authorized in the POC and whether those delivered services meet the needs of the enrollee.
  - b. The Health Home will work with the MMCP/LDSS/29-I Health Facility to refer enrollee to services as need dictates in accordance with POC.



## G. Pharmaceuticals and Durable Medical Equipment (DME)/Supplies

1. 29-I Health Facilities will continue to cover the cost of prescription drugs (except those that are covered under the Foster Care Drug Carve-Out list) and durable medical equipment under the Medicaid residual per diem until children/youth are transitioned into Medicaid Managed Care on July 1, 2021.
2. On July 1, 2021, the Foster Care Drug Carve Out list will no longer apply and covered pharmaceuticals, equipment, and supplies that are carved out of the managed care benefit package will be billable by pharmacies directly to Medicaid FFS.
  - a. The list of covered drugs available at [https://www.emedny.org/ProviderManuals/Pharmacy/PDFS/Pharmacy\\_Procedure\\_Codes.pdf](https://www.emedny.org/ProviderManuals/Pharmacy/PDFS/Pharmacy_Procedure_Codes.pdf) identifies the medications and supplies that require prior authorization.
  - b. Certain prescription drugs, over-the-counter medications, and medical supplies require prior authorization.
  - c. For drugs that are covered by the VFCA out of the residual per diem, the VFCA should work with prescribers to ensure that prior authorization is obtained prior to July 1, 2021, for any medication/supply that requires it. Prescribers may either switch members to a preferred product or may obtain a PA for a non-preferred product.
  - d. Additional information regarding NYS Medicaid Pharmacy Programs, including instructions for requesting prior authorization is available at [https://newyork.fhsc.com/providers/PDP\\_about.asp](https://newyork.fhsc.com/providers/PDP_about.asp).
3. Certain physician administered drugs and Durable Medical Equipment, Prosthetics, Orthotics, and Supplies, as listed in the [Durable Medical Equipment, Prosthetics, Orthotics, and Supplies](#) Procedure Codes and Coverage Guidelines and categorized within Appendix A of that manual are covered by the member's MMCP when billed as a medical or institutional claim.
4. Additional Information regarding the coverage of benefits under managed care or Medicaid FFS is available at [https://www.health.ny.gov/health\\_care/medicaid/redesign/mrt2/pharmacy\\_carve\\_out/rx\\_carve\\_out\\_scope.htm](https://www.health.ny.gov/health_care/medicaid/redesign/mrt2/pharmacy_carve_out/rx_carve_out_scope.htm).

## X. Authorization of Services

- A. MMCPs may establish prior authorization and utilization management of Benefit Package services in accordance with federal and state law, regulation, and the MMC Model Contract. 29-I Health Facilities will follow MMCP policies and procedures for authorization of services, as applicable.
- B. For enrollees in foster care, the MMCP may require notification, but may not require prior authorization or perform utilization management on:

1. CLHRS provided by a 29-I Health Facility with which an enrollee is placed; or
  2. On any required assessment for a child/youth in foster care; mandated by OCFS or the LDSS; or ordered by a court.
- C. The MMCP will authorize covered services for enrollees in foster care mandated by OCFS or the LDSS, in the same manner as established for court-ordered services in the Model Contract.

## **XI. Network and Contracting Requirements**

- A. MMCPs are required to offer contracts to all 29-I Health Facilities located in their service area. Due to the highly transitional nature of the foster care population, MMCPs are strongly encouraged to contract with 29-I Health Facilities outside of their service area, particularly 29-I Health Facilities where there is a high placement rate for children/youth from their service areas.
- B. To facilitate immediate authorization of 29-I Health Facility services, MMCPs will maintain the billing and identifier information for all licensed 29-I Health Facilities within its claim systems, regardless of network participation status. In the event a child/youth enrolled in MMC is initially placed in or transitioned to a 29-I Health Facility outside the MMCP's service area, the MMCP must execute a single case agreement with that 29-I Health Facility to immediately authorize services and allow for billing until either a contract is executed or the child/youth enrolls in a different MMCP.
1. MMCPs will offer contracts to all licensed 29-I Health Facilities outside of its service area for which a high-volume of single case agreements are executed.
  2. When credentialing a licensed 29-I Health Facility, the MMCP shall accept DOH designation, licensure, or operating certificates in place of, and not in addition to, any MMCP credentialing process for individual employees, subcontractors or agents of such providers. The MMCP shall still collect and accept program integrity related information from these providers, as required in the MMC Model Contract, and shall require that such providers not employ or contract with any employee, subcontractor or agent who has been debarred or suspended by the federal or state government, or otherwise excluded from participation in the Medicare or Medicaid program.
- C. To promote continuity of care and to ensure comprehensive health care services are delivered in a trauma-informed manner, the MMCP must, where necessary, augment its provider network to include sufficient numbers of Essential Community Providers to meet the needs of its enrollees in foster care.
1. These providers must be enrolled in Medicaid and bill the MMCP directly for services provided to children/youth in foster care. 29-I Health Facilities are not permitted to pay these providers and then request reimbursement.

2. Notwithstanding Section XI(B) above, 29-I Health Facilities may enter into allowable contract arrangements (as per DOH regulations and Medicaid billing rules) with appropriately credentialed providers to offer CLHRS and/or OLHRS in accordance with the 29-I Health Facility's Article 29-I license.
- D. The Plan shall ensure there is sufficient network capacity to meet the timeframes for completion of required diagnostic assessments upon intake into foster care and any additional assessments mandated by OCFS/LDSS/29-I Health Facility and outlined in *Attachment B – Timeframe for Initial Health Activities to be Completed Upon Placement to 29-I Health Facility*.
  - E. Some Essential Community Providers have practices that provide health care services exclusively to children/youth in foster care. MMCPs should consider contracting with Essential Community Providers in this limited capacity or provide enhanced arrangements that recognize unique service needs of the foster care population.

## **XII. Complaints and Appeals**

- A. The LDSS/29-I Health Facility may file a complaint with the MMCP or with the DOH on behalf of the child/youth in foster care.
- B. In the event that requested services are not authorized or continued by the MMCP, the LDSS/29-I Health Facility may file a Plan Appeal on behalf of a child/youth in foster care. Additionally, the LDSS/29-I Health Facility may request Aid to Continue and a Fair Hearing on behalf of the child/youth, and/or may request an external appeal, pursuant to PHL Article 49.

## **XIII. Consent for Routine Medical Services for Children/youth in Foster Care**

- A. Consent for routine medical services is dependent upon many factors including the legal authority of the placement. *Attachment C – Consent for Routine Medical Services for Children/Youth in Foster Care* describes the placement authority and the LDSS/29-I Health Facility allowable actions to consent for care.

**Attachment A – Example Effective Dates of MMCP Enrollment for Children/Youth in Foster Care and 8D Babies Who Are Eligible for MMCP Enrollment**

<b>Scenario</b>	<b>District of Fiscal Responsibility</b>	<b>Placement/Medicaid Case Open on eMedNY Date</b>	<b>MMCP Effective Date of Enrollment</b>
<b>2013 Enrollment Process – Continues until June 19, 2021</b>			
1. Child/youth is currently placed in foster care in direct care of the LDSS	Rest of State	Medicaid case opened prior to June 19, 2021 <sup>9</sup>	May continue previous enrollment if enrolled at time of placement. If newly enrolled before the monthly pulldown schedule date, enrollment is effective the first of the following month; newly enrolled after the monthly pulldown schedule date, enrollment is effective the first of the month after the following month.
<b>Pre-Transition Plan Selection Process – April through May 2021</b>			
1. Child/youth is currently placed with 29-I Health Facility	Statewide	Medicaid case opened prior to May 15, 2021 <sup>10</sup>	July 1, 2021 (MMCP enrollment is assigned by NYMC and confirmed by 29-I Health Facility)
2. Child/youth is currently in the care of NYC ACS but not yet placed with 29-I Health Facility	New York City	Medicaid case opened prior to May 15, 2021	July 1, 2021 (MMCP enrollment is assigned by NYMC and confirmed by NYC ACS)
<b>Plan Selection Process – May through June 2021</b>			
1. Child/youth is currently placed in foster care in direct care of the LDSS	Rest of State	Medicaid case opened on or after June 19, 2021 and before July 1, 2021	May continue previous enrollment if enrolled at time of placement. If newly enrolled, effective July 1, 2021 (LDSS enrollment process)

<sup>9</sup> Medicaid monthly pull-down schedule date for June 2021.

<sup>10</sup> Approximate date of last data capture for pre-transition plan selection cycle for currently placed children/youth.

<b>Scenario</b>	<b>District of Fiscal Responsibility</b>	<b>Placement/Medicaid Case Open on eMedNY Date</b>	<b>MMCP Effective Date of Enrollment</b>
2. Child/youth is newly placed with a 29-I Health Facility	Rest of State	Medicaid case newly opened on or after May 15, 2021 and prior to July 1, 2021	July 1, 2021 (LDSS enrollment process)
3. Child/youth is newly placed with a 29-I Health Facility	New York City	Medicaid case newly opened on or after May 15, 2021 and prior to July 1, 2021	July 1, 2021 (MMCP enrollment is assigned by NYMC)
4. Child/youth is newly in the care of NYC ACS but not placed with 29-I Health Facility	New York City	Medicaid case newly opened on or after May 15, 2021 and prior to July 1, 2021	July 1, 2021 (MMCP enrollment is assigned by NYMC)
<b>Ongoing Plan Selection Process – July 1, 2021 and forward</b>			
1. Child/youth is currently placed in foster care in direct care of the LDSS	Rest of State	Medicaid case newly opened on or after July 1, 2021	Retrospective to the first of the month of the Medicaid transaction date but not more than one month. (LDSS enrollment process)
2. Child/youth is newly placed with a 29-I Health Facility	Rest of State	Medicaid case newly opened on or after July 1, 2021	Retrospective to the first of the month of the Medicaid transaction date but not more than one month. (LDSS enrollment process)
4. Child/youth is newly placed with a 29-I Health Facility	New York City	Medicaid Case newly opened on or after July 1, 2021	Retrospective to the first of the month of the Medicaid transaction date but not more than one month. (MMCP enrollment is assigned by NYMC)
4. Child/youth is newly in the care of NYC ACS but not placed with 29-I Health Facility	New York City	Medicaid Case newly opened on or after July 1, 2021	Retrospective to the first of the month of the Medicaid transaction date but not more than one month. (MMCP enrollment is assigned by NYMC)

Scenario	District of Fiscal Responsibility	Placement/Medicaid Case Open on eMedNY Date	MMCP Effective Date of Enrollment
Examples of Retrospective Enrollment Effective Dates			
Example A: Placement and Medicaid Case opens in same month	Statewide	Placement date July 24, 2021 and Medicaid case opened July 26, 2021	July 1, 2021
Example B: Placement and Medicaid Case opens in different months	Statewide	Placement date July 30, 2021, Medicaid case opened August 2, 2021 with a Medicaid effective date of July 1, 2021	August 1, 2021 (FFS coverage is effective July 1, 2021 – July 31, 2021)

## Attachment B – Timeframe for Initial Health Activities to be Completed Upon Placement to 29-I Health Facility

The table below outlines the timeframes for initial health activities to be completed within 60 days of foster care placement. An “X” in the Mandated Activity and/or Mandated Timeframe column indicates that the activity is required within the indicated time frame. An “R” in the Mandated Activity and/or Mandated Timeframe column indicates that the activity is required by OCFS.

### Foster Care Initial Health Services and On-going Assessment and Treatment

Time Frame	Activity	Mandated Activity	Mandated Time Frame	Who Performs
24 Hours	Initial screening/ screening for abuse/ neglect	X	X	Health practitioner (preferred) or child welfare caseworker
5 Days	For children under the age of 13, conduct HIV risk assessment *	X	X	Child Welfare Caseworker or designated staff
10 Days	Request consent for release of medical records & treatment	X	X	Child Welfare Caseworker or health staff
30 Days	Initial medical assessment	X	X	Health practitioner
30 Days	Initial dental assessment	X	X	Health practitioner
30 Days	Initial mental health assessment	X	R	Mental health practitioner
30 Days	Family Planning Education and Counseling and follow-up health care for youth age 12 and older (or younger as appropriate)	X	X	Health practitioner
45 Days	Initial developmental assessment	X	R	Health practitioner
45 Days	Initial substance abuse assessment	R	R	Health practitioner
60 Days	Follow-up health evaluation	R	R	Health practitioner

\* OCFS Regulations regarding HIV Counseling and Testing of children and youth in foster care have been revised to reflect the May 2017 updates to Public Health Law. VFCA/LDSS are required to conduct an HIV risk assessment on children under the age of 13 within 5 days of entering foster care placement and annually thereafter. All patients age 13 or older receiving primary care services must be offered HIV testing at least once as a routine part of health care.

In addition to the above, there are assessments/evaluations that are required to be completed during the course of the foster care placement. These assessments are time sensitive and impact child’s health, safety, and well-being. MMCPs are not permitted to require Prior Authorization for these assessments. Examples of on-going assessments include:

- Following absent without consent (AWOC)
- For purposes of determining eligibility for residential placements (OPWDD, OMH, OASAS and OCFS placement)
- Updated/repeated assessments/evaluations are routine and standard. Children/youth in foster care often require multiple assessments/evaluations as they may experience changes in functionality and/or clinical presentation that impact service intensity.

**Attachment C – Consent for Routine Medical Services for Children/Youth in Foster Care**

Placement Authority	Citation	District/Agency Actions	Parental Consent Unavailable
FCA Article 10 (Child Protective)	18 NYCRR 441.22(d) SSL 383-b	Request authorization in writing from the child/youth's parent/guardian within 10 days of entry into foster care.	If child/youth has been removed or court-ordered into LDSS custody pursuant to Article 10, Commissioner or designee may provide consent.
FCA Article 7 (Persons In Need of Supervision)	18 NYCRR 441.22(d)	Request authorization in writing from the child/youth's parent/guardian within 10 days of entry into foster care.	Seek a court order.
FCA Article 3 (Juvenile Delinquents)	18 NYCRR 441.22(d) FCA 355.4	Request authorization in writing from the child/youth's parent/guardian within 10 days of entry into foster care.	If the youth is in the custody of the OCFS Commissioner, for DJJOY, the court order constitutes consent unless there is an order to the contrary. If parental consent cannot be obtained, seek a court order. Obtain from LDSS if placement is Article 10.
Juvenile Offenders (OCFS facility)	NY Penal Law 70.20 (4)(b) & (c)	Court asks whether parent/guardian consents for OCFS to provide routine care.	If no consent has been obtained, the commitment order shall be deemed to grant consent.
Voluntary Placement	SSL 384-a	Include consent to medical services in the placement agreement signed by the parent/guardian and LDSS.	The authorized agency has no authority to consent to medical services. Seek a court order or initiate Article 10 action.
Surrender (both parents)	SSL 383-c SSL 384	LDSS Commissioner or authorized agency to whom the child/youth was surrendered provides written authorization for medical services.	Consents signed by the parent/guardian are no longer valid.
Termination of Parental Rights (both parents)	SSL 384-b	LDSS Commissioner provides written authorization for medical services.	Consents signed by the parent/guardian are no longer valid.

Consent for Person Who is 18 Years of Age or Older

Section 2504 of the New York State Public Health Law (PHL) sets forth the general rule that a person who is 18 years of age or older may give consent for medical, dental, health and hospital services for himself or herself. A minor under the age of 18 years thus generally is incapable of giving effective legal consent for medical care.



PHL section 2504 contains some additions that could permit a minor under age 18 to consent to medical care:

- Any person who is the parent of a child/youth or has married, may give effective consent for medical, dental, health and hospital services for himself or herself, and the consent of no other person shall be necessary.
- Any person who has been married or who has borne a child/youth may give effective consent for medical, dental, health and hospital services for his or her child/youth.
- Any person who is pregnant may give effective consent for medical, dental, health and hospital services relating to prenatal care.
- Medical, dental, health and hospital services may be rendered to persons of any age without the consent of a parent or legal guardian when, in the physician's judgment an emergency exists and the person is in immediate need of medical attention and an attempt to secure consent would result in delay of treatment which would increase the risk to the person's life or health.
- There are other specific instances when either the consent to medical treatment may be provided by a person under age 18 or medical treatment may be provided without parental consent. These instances include HIV-testing, outpatient mental health services, psychotropic medication administered in a psychiatric hospital or unit, alcohol and substance abuse services, and reproductive health and abortion services.

#### Consent for Juvenile Delinquent Under Age 18

When a child/youth is placed in foster care through Articles 3 (Juvenile Delinquent) of the Family Court Act, a social services district is not authorized to consent to medical, dental, health and hospital services for the child/youth unless written authorization from the child/youth's parent or guardian or a court order is obtained. Without such a written authorization or court order, the parent/guardian or child/youth must be the medical consenter for medical, dental, health or hospital services unless there has been a completed termination of parental rights proceeding or surrender. For a youth placed as a Juvenile Delinquent in the custody of OCFS, the Family Court Act authorizes the Commissioner of OCFS to consent to medical, dental and mental health services and treatment for the youth.

## Attachment D – Transmittal Form and Instructions

### **Instructions for Completing the Medicaid Managed Care Foster Care and 29-I Transmittal Form**

The purpose of this form is to notify Medicaid Managed Care Plans (MMCPs) of children/youth's initial foster care and/or 29-I Health Facility placement status. The instructions below provide guidance on the various sections in the Transmittal Form.

**Section I:** Enter the name of the 29-I Health Facility or the local department of social services (LDSS) (i.e. county) that is completing this form. Guidance regarding scenarios when these parties are responsible for completing and sending the form is located in the description for Section VI.

**Section II:** Complete all known demographic fields for the child/youth. List any alternative Medicaid Client Identification Numbers (CINs) that are known.

**Section III:** List the primary contact information for the 29-I Health Facility and LDSS MMCP Liaison. Provide secondary contact information for additional individuals authorized to communicate with the plan.

**Section IV:** List contact information for the child/youth's Primary Care Physician (PCP), if known.

**Section V:** List any important information the MMCP should know about the child/youth's health care needs.

**Section VI:** Indicate what 29-I Health Facility services the child/youth is eligible to receive, consistent with billing guidelines for 'Populations Served by 29-I Health Facilities' in the [New York Medicaid Program 29-I Health Facility Billing Guidance](#).

**Section VI:** Complete this section if a child/youth's foster care and/or placement status has changed. The entity responsible for completing the transmittal form differs depending on the type of situation, as indicated below:

- The LDSS is responsible for completing and submitting to form to the MMCP within 5 business days when the child/youth is initially placed in foster care, if the child/youth is not placed in the care of a 29-I Health Facility.
- The 29-I Health Facility is responsible for completing and submitting the form to the MMCP within 5 business days of child/youth being placed.
- If a child/youth transitions to an alternative placement, the agency that the child/youth is transitioning to must complete this form and submit to the MMCP within 5 business days of the change.
- If a child/youth is discharged from foster care, the 29-I Health Facility making the discharge must complete this form and submit to the MMCP within 5 business days of discharge.
- If a child/youth is discharged from foster care but was not placed in a 29-I Health Facility at the time of discharge (i.e. direct care, kinship care, or non-29-I Voluntary Foster Care Agency), the LDSS must complete this form and submit to the MMCP within 5 business days of the change.

# MEDICAID MANAGED CARE FOSTER CARE AND 29-I TRANSMITTAL FORM

**Section I:** Communication from 29-I Health Facility or Local Department of Social Services (LDSS) to Medicaid Managed Care Plan (MMCP)

1. Name of individual completing the form:  29-I Health Facility   LDSS

(note: LDSS is the district of fiscal responsibility)

**Section II:** Child/Youth Demographics

1. Child/Youth Name (First Name/Last Name):

First Name

Middle Initial

Last Name

2. Date of Birth (DOB):

3. Medicaid Client Identification Number (CIN):

Please list any additional Medicaid CINs (if known):

4. Child/Youth's Insurance Plan ID (if known and enrolled)

**SECTION III:** Contact Information

**MMCP Liaison (Primary Contact):**

1. First/Last Name:

2. Title:

3. Email:

4. Phone#:

5. Alternate Phone #:

6. Street Address/City/Zip:

**Secondary Contact:**

7. First/Last Name:

8. Title:

9. Email:

10. Phone#:

11. Alternate Phone #:

12. Street Address/City/Zip:

**SECTION IV:** Primary Care Physician (if known)

1. Physician Name:

2. Practice Name (if applicable):

3. Phone#:

4. Street Address/City/Zip:

**SECTION V:** Additional Important Information (complete as applicable for either new placements or changed placements), list any immediate medical needs for the child/youth (if known). Attach documents as necessary.

List any other actions that need to be taken (if applicable):

**SECTION VI:** Child/Youth is Eligible to Receive:

1.  Core Limited Health-Related Services (residual Medicaid per diem)  
2.  Other Limited Health-Related Services  
3.  Both Core and Other Limited Health-Related Services

**SECTION VII:** Change of Placement (choose all that apply)

Child/youth has been placed in foster care

1. Date of foster care placement

Child/youth has been placed in a new 29-I Health Facility

1. NEW 29-I Health Facility Name:

Child/youth has been discharged from foster care

1. Date of discharge

2. NEW Phone#:

3. NEW Street Address/City/Zip:

Child/youth has been discharged from the 29-I Health Facility (separate from discharge from being placed in foster care)

1. Date of discharge:

2. NEW Phone#:

3. NEW Street Address/City/Zip:

OTHER (only complete if all other changes above DO NOT apply)

Describe what has changed: