

Policy Title: Homeless Youth to Self-Consent for Health Homes Serving Children and Children's Waiver of Homes and Community Based Services

Policy Number: HH0019

Effective Date: Effective February 1, 2025

Last Revised:

Applicable to: Health Homes Serving Children (HHSC) and Care Management Agencies (CMAs).

Purpose: The New York State Department of Health's Medicaid program is providing this policy to Health Homes Serving Children (HHSC) and Care Management Agencies (CMAs) to advise of amendments to Public Health Law §2504, made by Chapter 107 of the Laws of 2023, that change the criteria of youth under the age of 18 who can self-consent for Health Homes Serving Children and Home and Community Based Services (HCBS) eligibility and services to include homeless youth and youth receiving services at approved runaway and homeless youth crisis services programs or transitional independent living support programs.

Background: New York State law generally requires that a parent, legal guardian, or legally authorized representative provide consent for medical, dental, and other health related services provided to a youth until they reach 18 years of age, unless an emergency exists, and the youth is in immediate need of medical attention. Youth experiencing homelessness and youth receiving services from approved runaway and homeless youth crisis services program or a transitional independent living support program do not always have a parent, legal guardian, or legally authorized representative available to provide consent, creating a barrier to health care access.

New York Public Health Law § 2504 allows youth under the age of 18 who are married, a parent, or pregnant to self-consent to medical, dental, health, and hospital service, including Health Home care management and Home and Community Based Services. This policy is being updated to align with current New York State Public Health law to include youth under the age of 18 who meet the definition of homeless youth, and youth who are receiving services at an approved runaway and homeless youth crisis services program or a transitional independent living support program as defined in Executive Law § 532-a.

Definitions:

Runaway youth a person under the age of eighteen (18) years who is absent from his or her legal residence without the consent of his or her parent, legal guardian, or custodian. Runaway youth may self-consent to medical, dental, health, and hospital service, including Health Home care management and HCBS, only if they are enrolled in an approved **Runaway and Homeless Youth (RHY) Crisis Services Program** or **Transitional Independent Living Support Programs (TILP)**.

Homeless youth: a person under the age of eighteen (18) who needs services and is without a place of shelter where supervision and care are available¹

Child/Children: throughout this document, the term “child” or “children” refers to a youth under 18 years of age. Child/Children and youth are used interchangeably in this policy.

Health Home: a New York State designated Health Home Serving Children

Parent or guardian: individuals who have legal custody/guardianship of a child.

Legally authorized representative: a person or agency authorized by state, tribal, military or other applicable law, court order or consent to act on behalf of a person for the release of medical information.

Runaway and Homeless Youth (RHY) Crisis Services Program: any non-residential program approved by the Office of Children and Family Services (OCFS), that provides services to runaway youth and homeless youth in accordance with OCFS regulations or any residential program which is operated by an authorized agency as defined by Social Services Law §371(10), and certified by OCFS to provide short-term residential services to runaway youth and homeless youth in accordance with the applicable regulations of the Office of Temporary and Disability Assistance (OTDA) and OCFS.

Transitional Independent Living Support Programs (TILP): residential programs that provide longer-term housing to homeless youth between the ages of 16-21, or up to 25 in some municipalities. These programs are designed to support homeless youth progress from crisis to independent living. There are two types of TILPs:

Supported Residence

Supported residences provide an environment that resembles independent living (generally an apartment) for a maximum of five homeless youth who are between 16 and 21 years of age, up to 25 in some municipalities, and of the same gender.

Group Residence

Group residences provide an environment that encourages the development and practice of independent living skills for a maximum of 20 homeless youth who are between the ages of 16 and 21 years, or up to 25 in some municipalities.

Procedure

Step 1:

Prior to determining eligibility for enrollment into HHSC’s program or the Children’s Waiver, the Health Home or Care Manager must determine if a youth referred for services under the age of 18 years old who does not have a parent, guardian, or legal representative or is not pregnant, married, or a parent, is eligible for self-consent by meeting the definition of homeless youth or whether the child is receiving services at an approved runaway and homeless youth crisis

¹ Homeless youth also include persons who are between ages 18 and 21 in need of support and without a place of shelter. This category of homeless youth can self-consent, without regard to the statutory amendment or this policy, as they are over 18 years of age.

services program or a transitional independent living support program.² A youth will meet this definition if they fall into any of the following categories in Public Health Law §2504, as amended by chapter 107 of the Laws of 2023 as further defined in Executive Law § 532-a:

- A) Homeless youth: a person under the age of eighteen (18) who needs services and is without a place of shelter where supervision and care are available.
- B) Runaway Youth: a person under the age of eighteen (18) who is receiving services at an approved Runaway and Homeless Youth Crisis Services Program or a Transitional Independent Living Support Program.

Step 2:

The Health Home or Care Manager will obtain a completed attestation to advise that the youth has been determined to be a Homeless youth able to self-consent. [Homeless Youth Attestation](#).

Step 3:

The Health Home or Care Manager will obtain HHSC or Children’s Waiver consent from self-consenting youth.

Documents requiring consent may include but are not limited to:

For Health Home Serving Children – Care Manager:

- Health Home Patient Information Consent (DOH 5055)
- HCBS- Freedom of Choice form
- Signature of a Plan of Care

For Home and Community Based Services – HCBS Provider:

- HCBS provider consent form
- Service Plan

The Health Home or Care Manager obtaining signature on the documents requiring consent is required to document in the patient’s file that they verified that the youth meets the legal requirements for being able to consent to their own medical, dental, health and hospital services (i.e., meets the definition of “homeless youth” or receives services at an approved “Runaway and Homeless Youth Crisis Services Program” or a “Transitional Independent Living Support Program”). Even if the youth is legally authorized to self-consent, they are not **required** to self-consent if they don’t feel comfortable doing so. When the youth is not comfortable self-consenting, or if the care manager considers the child or youth to be unable to make informed consent decisions, he care manager would then be required to try and connect the child with their family or other supportive resources,(4) unless an emergency exists and the child is in need of immediate medical attention, in which case, consent to treat a child is not required.

Step 4:

Obtain updates to consent as needed. There are instances in which a new consent would need to be obtained. Examples include:

1. The child was enrolled in the program with parental consent and now has been defined a homeless youth or youth receiving services at an approved runaway and homeless youth crisis services program or a transitional independent living support program.
2. The child was enrolled in the program as a homeless youth or youth receiving services at an approved runaway and homeless youth crisis services program or a transitional

² Runaway youth are eligible to self-consent if they are receiving services from an approved runaway and homeless youth crisis services program or a transitional independent living support program.

independent living support program and is no longer defined as such and would require parental/guardian/legally authorized representative consent.

On an annual basis with the review of the child/youth's plan of care a new attestation should be obtained as well as if there is a change in the status of the child/youth.

It is important to note that Homeless Youth Attestation does not replace the Health Home Patient Information Consent (DOH 5055). This would be used in addition to DOH 5055 form and both would be required for a homeless youth.

Relevant Statutes:

1. Public Health Law §2504 (1), as amended by Chapter 107 of the Laws of 2023 authorizes homeless youth and persons receiving services at an approved runaway and homeless youth crisis services program or transitional independent living support program (as those terms are defined in Executive Law §532-a), to consent to their own medical, dental, health and hospital services, without needing anyone else's consent.
2. Executive Law §532-a (2), (4), and (6), for definitions of the terms "homeless youth", youth "receiving services at an approved runaway and homeless youth crisis services program or transitional independent living support program."
3. Social Services Law §371(10), for definition of "authorized agency" referenced in Executive Law §532-a(4)(b)
4. Social Services Law §491 defines responsibilities of a mandated reporter and defines reportable incidents.