Health and Educational Rights of Homeless and Unaccompanied Youth

Chicago Coalition for the Homeless and Illinois School-Based Health Alliance
OUR MISSION

to improve health outcomes for women, children, and their families is accomplished through advocacy, education, and community empowerment.

VISION

EverThrive Illinois envisions an Illinois that works towards equity and social justice, fosters the development of healthy families, and provides fair access to quality health care – the basic rights of all human beings.

PRIORITY AREAS

- Child and Adolescent Health
- Health Disparities
- Healthy Lifestyles
- Health Reform
- Immunizations
THE LAW PROJECT OF THE CHICAGO COALITION FOR THE HOMELESS
Agenda:

1. Who are homeless and unaccompanied youth?
2. What are their rights in school?
3. When are unaccompanied youth allowed to consent to their own health care?
4. Medicaid and SNAP
5. Identification documents
6. Streetlight: Chicago
7. Questions?
WHO ARE THE CHILDREN AND YOUTH EXPERIENCING HOMELESSNESS?

Nationally:

- 1,258,182 identified and enrolled in preK-12 grade in the 2012-13 school year.
- 18% increase from the 2010-11 total due, in part, to foreclosures and the poor economic recovery.
In Illinois:

- 53,733 homeless students enrolled during the 2015-16 school year.
- Over 100% increase from 2008-09

In Chicago:

- 18,831 homeless students enrolled during the 2015-65 school year.
- Over 150% increase between 2003 and 2015
DEFINITION OF "HOMELESS CHILDREN AND YOUTH"

Those who lack a fixed, regular and adequate nighttime residence, including:

- Living in emergency or transitional shelters
- Sharing housing of others due to loss of housing, economic hardship or similar reason
- Living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations
DEFINITION OF “HOMELESS CHILDREN AND YOUTH”

- Living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings

- In a primary nighttime residence not designed for or ordinarily used as a regular sleeping accommodation for human beings
Definition: A child or youth who is not in the physical custody of a parent or guardian

Unaccompanied youth DO NOT need an adult to enroll in school. 42 U.S.C. 11432(g)(3)(B)(iii)
EDUCATIONAL RIGHTS

- McKinney-Vento Homeless Assistance Act (1987)
  - 42 U.S.C. 11431 et seq.

- Illinois Education for Homeless Children Act (1994)
  - 105 ILCS 45/1-1 et seq.

- Illinois Equal Opportunity Regulation
  - 23 Ill Admin. Code 1.240

- Policy of the Illinois State Board of Education on the Education of Homeless Children and Youth
  - [http://www.isbe.state.il.us/homeless/pdf/policy.pdf](http://www.isbe.state.il.us/homeless/pdf/policy.pdf)
Review and revise policies that act as barriers to the enrollment, attendance and success of students experiencing homelessness.
IMPORTANT LEGAL RIGHTS

- Immediate enrollment even without
  - Immunizations or other health records
  - Other documents
- Free School Meals
- Choice of Schools
- Transportation
- Access to Services
- Dispute Resolution
- Fee Waivers
NO requirement for a court order of guardianship

NO requirement about a set number of days, weeks or months a child must live in the district

NO requirement that the student reside in the school district 24 hours a day, 7 days a week

105 ILCS 5/10-20.12b(a)(2)
UNACCOMPANIED YOUTH ACCESS TO HEALTH CARE

- Consent by Minors to Medical Procedures Act (410 ILCS 210)
- Mental Health and Disability Code – Admission of Minors (405 ILCS 5-3/500)
- Birth Control Services to Minors Act (325 ILCS 10)
- Parental Notice of Abortion Act (750 ILCS 70/1)
- HIPAA 45 CFR 164.502(g)
- Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110)
- HFS/DHS Policy Memo – Unaccompanied minors
<table>
<thead>
<tr>
<th>Category of Minor</th>
<th>Services That Do Not Require Parental Consent</th>
<th>Limitations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emancipated “Mature Minors”</td>
<td>All Services</td>
<td>Must go through emancipation proceeding in Circuit Court</td>
</tr>
<tr>
<td>Emancipated “Homeless Minor”</td>
<td>Services provided by (1) a DCFS Licensed agency or (2) an agency the minor was referred to by a DCFS licensed agency</td>
<td>Must go through emancipation proceeding in Circuit Court</td>
</tr>
<tr>
<td>Pregnant, Parenting, or Married Minors</td>
<td>All Services (including abortion)</td>
<td>Parents must be notified of abortions</td>
</tr>
<tr>
<td>All Minors</td>
<td>Abortion</td>
<td>Parents must be notified of abortions</td>
</tr>
<tr>
<td></td>
<td>Emergency</td>
<td></td>
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<tr>
<td></td>
<td>First Aid</td>
<td></td>
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<tr>
<td></td>
<td>Emergency Dental</td>
<td>Obtaining consent must not be feasible without harming the minor’s health</td>
</tr>
<tr>
<td></td>
<td>Treatment related to sexual abuse and resulting injuries</td>
<td>None</td>
</tr>
<tr>
<td></td>
<td>Birth Control</td>
<td>Minor must be referred by physician, clergyman, or a planned parenthood agency, or when the services are necessary to prevent a serious health hazard.</td>
</tr>
<tr>
<td></td>
<td>Emergency involuntary In-patient mental health</td>
<td>Only if parents are not immediately available to consent..</td>
</tr>
<tr>
<td>Category of Minor</td>
<td>Services That Do Not Require Parental Consent</td>
<td>Limitations</td>
</tr>
<tr>
<td>-------------------</td>
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</tr>
<tr>
<td><strong>Over Age 12</strong></td>
<td>Medical care or counseling related to minor’s alcohol substance abuse.</td>
<td>Health care providers are permitted, but not required, to inform parents of a minor’s treatment for an STI.</td>
</tr>
<tr>
<td></td>
<td>Medical care or counseling related to sexually transmitted diseases (STI), including HIV.</td>
<td>Anyone involved in treating or counseling the minor for an STI, alcohol, or substance abuse related issues shall, with the minor’s consent, make reasonable efforts to involve the family if the person providing treatment believes doing so would not harm the minor.</td>
</tr>
<tr>
<td></td>
<td>Medical care or counseling related to a minor’s family member’s alcohol or substance abuse.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Outpatient mental health counseling</td>
<td>Facility director may inform parents if necessary. Limited to 5 sessions for minors under 17 without parent or guardian’s consent.</td>
</tr>
<tr>
<td><strong>Over Age 16</strong></td>
<td>Voluntary in-patient mental health</td>
<td>Parents must be informed of admission</td>
</tr>
</tbody>
</table>
What New Services May Unaccompanied Minor Access?

- Screening,
- Counseling,
- Immunizations,
- Medication

Treatment of illness and conditions customarily provided by licensed health care professionals in an out-patient setting.

- Invasive care is NOT allowed beyond standard injections, Laceration care, and Non-surgical fracture care
Who Does This Law Apply to?

- A minor must meet the following requirements to seek care without parental permission:
  - Age 14 to 18.
  - Not live with a parent or legal guardian, regardless of duration or the parent’s wishes.
  - The minor must not still be dependent on a parent or legal guardian for material support.
  - NOT under protective custody, temporary custody, or guardianship of the Department of Children and Family Services.
The minor must be identified in writing by one of the following social service providers or other authorized persons:

- a public school homeless liaison or school social worker
- an adult relative;
- a representative of a homeless service agency
- a social service agency providing services to at risk, homeless, or runaway youth
- an Illinois attorney
- a representative of a religious organization.
UNACCOMPANIED MINORS’ ACCESS TO HEALTH CARE

Illinois State Board of Education – Minor Consent form:

Does HIPAA require providers to disclose health information to unaccompanied minors they treat?
NO

(maybe)
Health Insurance Portability and Accountability Act:

- **Doctors ARE NOT required to disclose information to parents or guardians when minors have the right under state law to consent to their own care.** 45 CFR 164.502(g)(3)(i)(A)

- **HOWEVER, existing state laws requiring or forbidding disclosures to parents or guardians still apply.** 45 CFR 164.502(g)(3)(ii)
Health Insurance Portability and Accountability Act:

- If there are no state laws that address disclosing information to parents, health care professionals must use their professional judgment. 45 CFR 164.502(g)(3)(ii)(C)

- See above table for overview existing state laws
“Sec. 4. (a) The following persons shall be entitled, upon request, to inspect and copy a recipient's record or any part thereof:

- the parent or guardian of a recipient who is under 12 years of age;
- the recipient if he is 12 years of age or older;
- the parent or guardian of a recipient who is at least 12 but under 18 years, if the recipient is informed and does not object or if the therapist does not find that there are compelling reasons for denying the access. The parent or guardian who is denied access by either the recipient or the therapist may petition a court for access to the record. Nothing in this paragraph is intended to prohibit the parent or guardian of a recipient who is at least 12 but under 18 years from requesting and receiving the following information: current physical and mental condition, diagnosis, treatment needs, services provided, and services needed, including medication, if any.
The Family’s income must be below 138% of the Federal Poverty Level for both programs.

<table>
<thead>
<tr>
<th>Family Size</th>
<th>100%</th>
<th>133%</th>
<th>138%</th>
<th>250%</th>
<th>400%</th>
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<td>$43,318</td>
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<td>$40,890</td>
<td>$54,383</td>
<td>$56,428</td>
<td>$102,225</td>
<td>$160,360</td>
</tr>
</tbody>
</table>
Unaccompanied minors have a right to apply Medicaid and SNAP if they DO NOT live with a parent or guardian.

Unaccompanied Minors do not need parental permission to be removed from a parent’s case.

**DHS Policy on Unaccompanied Minors:**
http://www.dhs.state.il.us/page.aspx?item=81057
Medicaid for youth under 19 versus over 19.

- Youth who are under 19 and living with a blood-related “caretaker relative” must be on that person’s medical card. They cannot apply on their own. DHS Policy Manual (PM): PM 03-05-00

- Youth of all ages who are living alone may apply for their own medical card. PM 03-05-06

- Three months rule: A youth is considered to be not living with a parent or caretaker relative if they have been gone from the home for 3 months or more. PM 03-05-03
Snap Unit: “a group of people who live together and who usually buy and prepare food together” PM 04-05-02

There are extra rules for youth under age 22:

- **Youth living with parents:** Youth under age 22 who live with a parent must be on their parent’s SNAP regardless of whether the youth eats with their parent.

- **Youth living with other adult:** Youth under age 18 who are living under the “parental control” of another adult are required to be on that adult’s SNAP case.

- **Youth living alone:** Any youth who does not live with a parent or responsible adult is eligible for their own SNAP benefits. This is true for youth under age 18.

**DHS Policy Manual (PM): 04-05-03**
Birth Certificates

1. **Required information**: (1) Name (2) Date of Birth (3) Mother’s Maiden Name.

2. **Proof of ID**: (not required if requested through a lawyer!)

   **Minors**: The parent must request the birth certificate unless the minor is represented by an attorney.

   *Free for homeless individuals in Cook County

**Social Security Card**

- **Proof of citizenship** (birth certificate)
- **Proof of Identity** (School or State ID, School Record, Health Record)
Identification

State ID Card

1. Written Signature (Social Security Card)
2. Date of Birth (birth certificate)
3. Social Security Number (Social Security Card)
4. Proof of Residency:
   Homeless Certification Form, OR
   Two of the following:
   - Letter on School letterhead,
   - High school transcript
   - Report card
   - Official mail
Introducing a New Mobile App for Young People

Streetlight Chicago

Featuring up-to-date information on shelters, health clinics, emergency resources, mental health services and more.

Download from the App Store today.

From the Chicago LGBT Health Program
Sponsored by the VNA+ Foundation
Drop-In Shelters & Beds
Services, Hours, Location, Directions
Emergency Numbers

- National Runaway Safeline
- Suicide Prevention Hotline
- Rape Crisis Hotline
- Illinois Domestic Violence Helpline
- Chicago Domestic Violence Helpline
- LGBTQ Crisis Hotline
QUESTIONS?

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