



15 Ways Counsel for Kids Advance Children's Health Rights



Health is an integral part of a child's overall well-being. Children entering foster care have higher rates of unmet physical health needs than children in the general population. Often coming from economically disadvantaged communities with inequitable social determinants of health, these children may experience higher rates of chronic diseases and preventable conditions than those from higher income homes. Across multiple studies, children experiencing foster care also have significantly higher rates of behavioral health disorders compared to children in the general population.

Child protection agencies have a legal duty to meet the health needs of children in foster care. Yet, the most recent federal audit of state child welfare agencies shows that no state does well ensuring children receive adequate services to meet their physical and behavioral health needs.

Counsel for kids are essential to hold states accountable for their responsibilities to children in their custody. Counsel help consult with youth about their health issues and service options. Counsel promote the totality of health rights for youth, including timely diagnosis and treatment, access to culturally responsive and equitable healthcare services, and continuity of care throughout their involvement in the foster care system.

COUNSEL FOR KIDS PROMOTE:

- ① **Prompt Identification and Treatment of Health Conditions:** by advocating for government agency compliance with Medicaid's Early, Periodic Screening, Diagnostic, and Treatment benefit that requires states to ascertain physical, dental, and behavioral health disorders in children under the age of 21, and provide necessary treatment.
- ② **Health Equity:** by challenging situations, social conditions, and policies that drive health disparities, which are the preventable differences that populations experience related to disease, injury, violence, or opportunities, especially for youth with disabilities, of racial or ethnic minority groups, and/or those identifying as part of the LGBTQ+ community.
- ③ **Transparency and Information Sharing for Timely and Uninterrupted Medical Care:** by advocating for healthcare that is coordinated across medical systems and providers (i.e. the medical home). This includes maintaining a health record that is accessible to the child, caregivers, and providers, and facilitating the multidirectional sharing of child medical history between families and providers,

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(especially birth, dental, specialty care, and behavioral health records), as appropriate, with respect for the child's privacy rights.

- ④ **Early Intervention and Prevention:** by ensuring the government agency screens children under age three for developmental delays and chronic health conditions, including the adverse effects of prenatal substance exposure and maltreatment, and coordinates services that will help the child achieve their maximum potential.
- ⑤ **Permanency for Children with Chronic or Complex Medical Needs:** by advocating for the integration of the child's healthcare plan with their permanency plan to prevent delays or barriers to permanency while ensuring family/caregivers receive the services and training to support the child's condition and needs.
- ⑥ **Youth Empowerment Through Self-Advocacy:** by empowering young people through educating them about their health care rights, including confidentiality and consent to treatment, as appropriate, and supporting their active involvement in making decisions about their medical treatment.
- ⑦ **Quality Behavioral Health Treatment Planning and Service Delivery:** by ensuring that children have a comprehensive behavioral health evaluation and high-quality services upon entry into foster care that recognize aspects of complex or ongoing trauma, youth identity, culture, language, ability, and lived experience to meet their needs. Counsel can help ensure that behaviors related to trauma are not the basis for misdiagnosis and restrictive placement settings.
- ⑧ **Oversight of Necessity and Impact of Psychotropic Medication:** by judiciously assessing if and when psychotropic medication is warranted or if alternative treatment is more suitable; scrutinizing the prescription of multiple psychotropic medications; consistently monitoring the child's response to psychotropic medication; consulting with the child, caregiver, case worker, and prescribing physician regarding changes in mood or side effects; ensuring the child is regularly evaluated by a physician to review medication effectiveness, dosage and ongoing necessity; and advocating for lowering or stopping medication, when appropriate.
- ⑨ **Non-Restrictive Family-Like Foster Homes:** by opposing improper use of psychiatric residential treatment facilities for non-clinical reasons, ensuring compliance with federal policy that allows such placements only when clinically necessary, time-limited, trauma-informed, and subject to judicial oversight, and holding agencies accountable for identifying and securing the least restrictive, family-like placement settings for youth.

ADDITIONAL RESOURCES

American Academy of Pediatrics' October 2025: *Fostering Health: Health Care for Children and Adolescents in Foster Care, 3rd Edition* [Paperback]



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- ⑩ **Reproductive and Sexual Health Care:** by advocating for youth access to confidential sexual and reproductive healthcare and comprehensive sex education including information on healthy relationships, dating violence, sexually transmitted infections, and on preventing, terminating, or supporting a healthy pregnancy.
- ⑪ **Gender-Affirming Care:** by advocating for safe and affirming healthcare environments and services for transgender, nonbinary, and other gender expansive children and youth to ensure their healthy development.
- ⑫ **Youth Health Care in Transition Planning:** by advocating for youth-centered transition plans that incorporate information on navigating the health care system, holding states accountable to their mandate to provide insurance to youth until age 26, and giving youth details on how they can maintain or obtain health insurance coverage to receive essential medical and behavioral health services after leaving foster care.
- ⑬ **Positive Health Outcomes:** by maintaining regular contact with the child to ensure completion of routine medical, dental, and behavioral health appointments and follow through with treatment recommendations. Counsel can challenge any delays or highlight concerns with existing service providers (i.e. inequitable experiences, accessibility issues, or delays in service provision).
- ⑭ **Timely Medical Decision-Making:** by clarifying who has authority to consent to a child's medical treatment and facilitating collaboration between child welfare professionals, parents, and caregivers to help them make informed decisions about the child's treatment. Children in foster care often face delays in medical care because it can be unclear who has the legal right to consent to their treatment.
- ⑮ **Appropriate School-Based Services:** by ensuring students with a disability or suspected disability, including chronic health conditions, receive a timely evaluation for services and by ensuring schools provide them appropriate accommodations, modifications, and health-related supports.



Children in court need lawyers of their own. *We're working to make sure they have them.*

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