Interim Policy in Effect

City of New York
Administration for Children's Services

Policy and Procedure
2014/xx

Non-Medicaid Reimbursable Treatments and Services for Children in the Custody of the Administration for Children's Services

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Related Forms:
Non-Medicaid Reimbursable Treatment Referral Form (Attachment A)
Sample Memorandum (Attachment B)
Checklist for NMR Treatments or Services (Attachment C)
Checklist for NMR Equipment and Modifications (Attachment D)
NMR ACS Business Process (Attachment E)

SUMMARY:
This policy supports the health and well-being of children in the legal custody of the Administration for Children's Services (ACS), including youth in non-secure and limited secure juvenile justice placement. The policy establishes procedures and standards for approval and reimbursement of medical and mental health treatments and services that are not reimbursable by Medicaid. This policy includes the procedure for requesting gender-affirming health care associated with gender dysphoria, often referred to as "trans-related health care."

SCOPE:
This policy applies to the ACS Divisions of Child Protection (DCP), Family Court Legal Services (FCLS), Family Permanency Services (FPS), Preventive Services (DPS), and Youth and Family Justice (DYFJ), as well as to foster care and juvenile justice placement provider agencies. This policy must be followed whenever medical or mental health treatments or services that are not reimbursable by Medicaid are being sought for a child in foster care or a non-secure or limited secure juvenile justice placement setting, and the case planning agency seeks approval and reimbursement from ACS.

This policy articulates responsibilities of the case planning agency, among others. In some cases, DCP, FPS, or DYFJ maintains case planning responsibility, and as such, is the "case planning agency." As applicable, the child protective specialist (CPS), FPS case planner, placement and permanency specialist (PPS), or community support specialist (CSS) is responsible for preparing and submitting requests in accordance with this policy.

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Interim Policy in Effect

I. Introduction

A. This policy supports the health and well-being of children[1] in the custody, care and custody, or custody and guardianship of the commissioner of the Administration for Children's Services (ACS),[2] including youth in non-secure juvenile justice placement (NSP) and limited secure juvenile justice placement (LSP). The policy sets forth procedures and standards for approval and reimbursement of any non-Medicaid reimbursable ("NMR") medical or mental health treatments or services. This policy articulates a structured process for handling situations in which foster care provider agencies, NSP/LSP provider agencies, and ACS divisions with case planning responsibility (hereinafter "case planning agencies") seek ACS' approval and discretionary reimbursement for such treatments or services. This policy also includes guidance on gender-affirming health care requests associated with gender dysphoria, hereafter referred to as "trans-related health care."[3]

B. This policy articulates responsibilities for the case planning agency, among others. It is not the case planning agency's role to determine the merits of the request for NMR treatments or services. Upon receiving such a request, the case planning agency must quickly gather, assemble, and submit the information and supporting documentation within the time frames required by this policy. In some cases, the ACS Division of Child Protection (DCP), Division of Family Permanency Services (FPS), or Division of Youth and Family Justice (DYFJ) maintains case planning responsibility, and as such is the "case planning agency." As applicable, the DCP child protective specialist (CPS), FPS case planner, DYFJ placement and permanency specialist (PPS), or DYFJ community support specialist (CSS) is responsible for preparing and submitting requests in accordance with this policy.

C. As described in more detail below, case planners must submit all requests for approval and reimbursement for NMR treatments or services to the chair of the ACS Commissioner's Advisory Panel (CAP). (For further information regarding the CAP, see section V below.) The submitted packet must be complete and contain all required information and documentation. The CAP will not review the merits of any incomplete submission. Once the review process has been completed, the commissioner or commissioner's designee ("commissioner or designee") will make a determination. No retroactive approvals or reimbursements will be authorized for any treatments or services that are provided prior to ACS' explicit written approval for such treatments or services.

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[1] For the purpose of brevity, references to "children" in this policy also include older youth and young adults in the custody of ACS.

[2] This policy does not generally apply to youth in detention facilities unless they are also placed with ACS (e.g., youth who have been returned on a warrant and are in detention awaiting re-placement).

[3] Trans-related health care broadly describes various types of medical care that transgender, transsexual, and gender non-conforming individuals may seek in relation to their gender identity. The term may be used in specific instances to describe particular types of care.

D. All decisions about whether ACS approves requests for NMR treatments or services shall be made by the commissioner or designee. As part of the decision-making process, the commissioner or designee, in his or her discretion, and within the guidelines set forth in this policy, may consult with ACS staff and outside independent advisors, including qualified medical and mental health professionals. In making a determination, the commissioner or designee shall consider all relevant information or documentation including, but not limited to, who will be providing the treatments or services, where the treatments or services will be provided, and the duration of the treatments or services.

E. This policy applies to treatments and services that are not reimbursable by Medicaid for one of the following reasons:

1. Case-Specific Denial of Medicaid Coverage

   Case-specific denial of Medicaid coverage refers to treatments or services that are sometimes covered by Medicaid but have been denied at a specific time in a specific case. An example would be replacement of durable medical equipment (e.g., wheelchair) before the date scheduled by Medicaid.

2. Universal or Blanket Denial of Medicaid Coverage

   a. Universal or blanket denial of Medicaid coverage refers to treatments or services that are never covered by Medicaid. Examples include, but are not limited to:
      i. Cosmetic surgery to correct injuries caused by physical abuse; and
      ii. Trans-related health care.[4]

3. Adaptive or Assistive Equipment or Accessibility Modifications

   a. Examples of adaptive or assistive equipment or accessibility modifications to a home or vehicle[5] include, but are not limited to:
      i. Ramps, shower seats, or grab bars;
      ii. Ceiling track lift systems; and
      iii. Hand rails or widening of doorways and halls.

II. Preparing Requests for Non-Medicaid Reimbursable Treatments or Services

A. The child or his or her parent, guardian, foster parent, or attorney may request medical or mental health treatments or services through the case planner. The case planner must immediately notify the FCLS attorney of any request from a child's attorney.

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[4] See 18 NYCRR § 502.2: "Gender reassignment. Payment is not available for care, services, drugs, or supplies rendered for the purpose of gender reassignment (also known as transsexual surgery) or any care, services, drugs, or supplies intended to promote such treatment."

[5] Modifications may be for the homes or vehicles of a child's foster parent(s) or of a child's parent(s) when the child is on trial discharge.

B. Upon receiving such a request, the case planner must expeditiously prepare the request for submission, in keeping with required time frames set forth in section III(A)(3) below.

C. The case planner must collaborate with the child's health care provider to determine whether medical or mental health treatments or services for a child are covered by either Medicaid or private insurance.

D. If the case planner has questions about a requested course of such treatments or services, or has received conflicting medical or mental health assessments, the case planner must consult with the ACS medical director.

E. If the request pertains to trans-related health care, the case planner must inform and seek guidance from his or her agency's designated LGBTQ point person ("LGBTQ point person"). If additional support is required, the LGBTQ point person must then consult with the ACS Office of LGBTQ Policy and Practice by emailing LGBTQ@acs.nyc.gov. The Office of LGBTQ Policy and Practice will supply information regarding trans-related health care best practices, resources, and affirming health care provider referrals.

F. If Medicaid has denied treatments or services on a case-specific basis, the case planner must initiate the appeals process. *Note that a response to the appeal is not a prerequisite to submitting a request to ACS.*

G. If a child is seeking adaptive or assistive equipment or accessibility modifications to a home or vehicle, and he or she is a candidate for, or enrolled in the Bridges to Health Home and Community-Based Medicaid Waiver Program for Children in Foster Care (B2H), the case planner must use the resources provided through B2H to meet the need for adaptive/assistive equipment or accessibility modifications, as applicable.

H. If a child is neither a candidate for, nor enrolled in, B2H and is seeking assistive equipment or accessibility modifications to a home or vehicle, the case planning agency must submit a justification signed by the executive director (or the DCP borough commissioner, the FPS executive director of the Office of Shared Response, the DYFJ executive director of residential placement, or the DYFJ executive director of intake and aftercare, as applicable) based on the recommendation of a qualified medical professional.

I. The case planning agency must obtain ACS' approval **before** arranging NMR treatments or services for which it seeks or will seek approval and reimbursement from ACS. If the case planning agency proceeds without ACS's prior approval, such agency will be solely responsible for funding those treatments or services.

J. This policy does not impact the Division of Child Protection's ability to use of sub-imprest funds (SIF) for items under $250.

K. Medical Consents

1. In general, the case planner must discuss the proposed treatments or services with the child's parents or legal guardians, unless the child is 18 years of age or older; is married; or is pregnant or parenting; there has been a termination or surrender of parental rights, and the child has not been adopted; or the child is destitute.

2. If a child's parent(s) affirmatively object to recommended medical treatment, the case planner must consult with the ACS Medical Consent Unit to request an override (see Policy and Procedure 2014/08, section II(Q), "Parental Objection to Specific Treatments").

III. Submitting Requests for Non-Medicaid Reimbursable Treatments or Services

A. Submissions by Case Planning Agencies

1. After gathering the information and supporting documentation required by this policy, the case planner must submit the request for approval and reimbursement to the CAP chair. The referral form may be prepared by either the case or child planner, but the information must be reviewed for accuracy and completeness by the case planner, the case planner's supervisor, and the executive director of the case planning agency. As stated above in section I, it is not the case planning agency's role to determine the merits of the request for NMR treatments or services. [See section III(B) below for more details regarding ACS-submitted requests.]

2. If a child or his or her parent, guardian, or foster parent has concerns that a case planner has not submitted a request on the child's behalf, he or she may contact the ACS Office of Advocacy at (212) 676-9017, the ACS Office of Child and Family Health at (212) 676-6481, or the ACS Office of LGBTQ Policy and Practice at LGBTQ@acs.nyc.gov. If there is an active court case, attorneys should be directed to contact the supervising attorney of Family Court Legal Services (FCLS) in the applicable borough for guidance and assistance.

3. In addition to documenting and updating all case activities in CONNECTIONS (CNNX), the case planner must submit the following documentation to support the approval and reimbursement request. The documentation required and timeline for submission to the CAP vary depending on the nature of the request (see Attachment C - *Checklist for NMR Treatments or Services* and Attachment D - *Checklist for NMR Equipment and Modifications*). For treatments or services, all documentation must be submitted **within 60 days** of a child's or attorney's request unless scheduling an evaluation is the cause for delay. In such instances, the case planning agency must consult with the ACS medical director who may be able to identify another independent expert who can conduct the evaluation. For equipment and modification requests, all documentation must be submitted **within 30 days** of the request:

a. ACS *Non-Medicaid Reimbursable Treatment Referral Form* DPS 016 (Attachment A);[6]

b. A completed *Checklist for NMR Treatments or Services* (Attachment C) or a completed *Checklist for NMR Equipment and Modifications* (Attachment D);

c. A memorandum signed by the executive director and the medical director of the case planning agency that documents the request for treatments or services (see Attachment B) and includes:
   i. A summary of the NMR treatments or services for which approval and reimbursement are being requested;
   ii. A statement of whether there is any appropriate alternative treatment covered by Medicaid (Note: As Medicaid categorically excludes trans-related health care, such documentation is not required.[7]);
   iii. A statement of how and from whom consent for treatment will be provided;
   iv. A statement of whether there are any related concerns, including discussions the case planner has had with the parents or guardians about the treatments or services, any concerns the parents or guardians may have raised, and how the agency has addressed those concerns unless the child is 18 years or older, there has been a termination or surrender of parental rights and the child has not been adopted, the child is destitute, or the child is married, pregnant, or parenting;
   v. ***(In all cases other than requests regarding equipment or modifications)*** A statement of whether the child has the capacity to understand the risks and benefits associated with the treatments or services requested;
   vi. A statement that the child, if under the age of 18, assents to the requested treatments or services or, if aged 18 years or older, consents to such treatments or services;
   vii. Information on who will perform the treatments or services, where the treatments or services will be performed, when the treatments or services will be performed, and their duration; and
   viii. A follow-up plan for the treatments or services requested, as applicable (e.g., lab work, follow-up visits, post-surgical care).

   Note: Medical documentation is not necessary if the request is for the replacement of durable medical equipment valued under $500.

d. ***(In all cases other than requests regarding equipment and modifications)*** A letter from the provider agency's medical director discussing the child's overall medical or mental health treatment. The letter must include information about adherence to treatment. The letter must also set forth the possible risk to the

[6] Form DPS 016 is also available on the ACS Intranet at http://10.239.3.195:8080/docushare/dsweb/Get/Document-351613/DPS-016.pdf.
[7] See 18 NYCRR § 502.2.

child if treatments or services are not provided based on discussions with, or documentation provided by, a qualified medical or mental health professional;

e. ***(In all cases other than requests regarding equipment or modifications)*** A psychosocial assessment of the child;

f. ***(In all cases other than requests regarding equipment or modifications)*** A case summary, incorporating any other information or documentation which might inform ACS's determination. This material may include, but is not limited to, a review of the CNNX record or other relevant information maintained as part of the case record;

g. A price quote or invoice for the requested treatments or services;

h. ***(In cases, other than requests regarding equipment or modifications, where there are <u>underlying mental health issues</u>)*** Relevant medical assessments or documentation and/or a psychiatric evaluation conducted within the past 12 months and/or a psychological evaluation conducted within the past 24 months from qualified medical and/or mental health providers including:
   i. A statement of the risks associated with such treatments or services and a statement of how the benefits outweigh these risks;
   ii. A statement that the proposed treatments or services are supported by qualified medical or mental health professionals, including documentation of how such treatments or services are expected to relieve substantial psychological or physical distress and any other benefits that can be expected; and
   iii. A statement that the proposed treatments or services have been demonstrated to be effective based on current medical and mental health standards.

i. Court orders confirming the legal status of the child as being placed in the custody, care and custody, or custody and guardianship of the commissioner. The case planner must update documentation of current legal status upon any change in status;

j. A court order for treatments or services, if applicable. The order must be attached and any deadlines for compliance must be specifically noted; and

k. Requests for approval and reimbursement of trans-related health care must contain all documentation requested above, specifically including relevant medical and mental health assessments or documentation from qualified medical and mental health professionals.

   <u>Note</u>: The medical assessments and documentation submitted in support of requests for approval and reimbursement of trans-related health care should be

informed by the World Professional Association for Transgender Health's (WPATH) *Standards of Care*.[8]

4. The case planning agency must submit all requests for approval and reimbursement by mail or in person to:

   Administration for Children's Services
   Chair of the Commissioner's Advisory Panel
   150 William Street, 18th Floor
   New York, NY 10038

5. If a case planning agency has submitted a request for approval and reimbursement for treatments or services, and ACS' determination is pending, the case planning agency must submit to the CAP chair any new or supplemental materials that become available as soon as possible, and as long as the original documentation remains current. The case planning agency must also attach a new *Checklist for NMR Treatments or Services* (Attachment C) or *Checklist for NMR Equipment and Modifications* (Attachment D) identifying the new/supplemental materials. (See also section VII, *Requesting Reconsideration*, below.)

6. If the case planning agency decides to withdraw a request for any reason, the case planner must notify the CAP chair as soon as possible.

B. <u>Submissions by ACS Staff</u>

1. When referring a case for consideration of approval and payment of NMR treatments or services, the CPS, FPS case planner, PPS, or CSS must submit all of the documentation required above in section III(A)(3). The memorandum required in section III(A)(3)(c) must be signed within five (5) business days by the DCP borough commissioner if the CPS submits the request, the FPS executive director of the Office of Shared Response if the FPS case planner submits the request, the DYFJ executive director of residential placement if the PPS submits the request, or the executive director of intake and aftercare if the CSS submits the request.

2. *Division of Child Protection*
   Requests on behalf of children for whom case planning and/or management remain with DCP shall be submitted by the CPS to his or her assigned child protective specialist supervisor II (CPSS II) and must be approved by the CPSS II and borough commissioner. Before submitting a request, the CPS must consult with his or her supervisor to verify that the referral falls within the purview of DCP. After borough commissioner approval, the CPS must submit requests by mail or in person to the CAP

[8] See the WPATH *Standards of Care (SOC), Version 7,* available for download at the WPATH website (www.wpath.org).

chair at the address listed above in section III(A)(4). It is not the role of DCP staff to determine the merits of the request for NMR treatments or services.

3. *Division of Family Permanency Services*
   Requests on behalf of children for whom case planning remains with FPS shall be submitted by the FPS case planner to his or her assigned supervisor for review and must be approved by the supervisor and executive director of the Office of Shared Response. After executive director approval, the FPS case planner must submit requests by mail or in person to the CAP chair at the address listed above in section III(A)(4). It is not the role of FPS staff to determine the merits of the request for NMR treatments or services.

4. *Division of Youth and Family Justice*
   Requests on behalf of youth for whom case planning and/or management remains with DYFJ must be submitted by the PPS or CSS to his or her assigned director for review and must be approved by the director and executive director. After executive director approval, the PPS or CSS must submit all requests by mail or in person to the CAP chair at the address listed above in section III(A)(4). It is not the role of DYFJ staff to determine the merits of the request for NMR treatments or services.

IV. Administration for Children's Services' Review of Requests for Non-Medicaid Reimbursable Treatments or Services

A. The CAP chair or his or her designee shall review each submitted packet for completeness.

B. A designee of the CAP chair shall notify the appropriate borough supervising attorney for FCLS of each submitted request. The assigned FCLS attorney must notify the child's attorney of the submission.

C. After receiving the request, the CAP chair or his or her designee shall, within 14 days, notify the case planning agency as to whether the submitted packet is considered complete.

D. Certain categories of treatment require a substantive review by the full CAP. These include new **medical equipment valued above $2,500**; **home modifications valued above $2,500**; **medications prescribed "off-label"**; **medical procedures**; and **surgical procedures**.

   1. For categories of treatment that do not require a substantive review by the full CAP, the CAP chair must review all completed submissions and shall make a determination expeditiously after informing the case planning agency that the submission is complete. The CAP chair may consult with specialist(s) from the field(s) in which a particular type of treatment or service is being requested to clarify the type of

treatments or services for which approval and reimbursement are sought and/or determine whether referral to the full CAP is warranted.

E. CAP members must collaborate in formulating specific "points to consider" to assist the commissioner or designee in making a decision. The CAP chair shall draft a report containing these items and submit it to the commissioner or designee. CAP members will have the opportunity to review the report, including any suggestion for such independent examination as discussed below, prior to its submission to the commissioner or designee.

F. The commissioner or designee will make decisions about approval and reimbursement of NMR treatments or services.

G. Once the commissioner or designee has made a decision regarding a request for approval and reimbursement of treatments or services, the commissioner or designee shall notify the CAP chair. Staff designated by the CAP chair shall provide written notification of the decision to the case planner and the deputy commissioner of FCLS.

H. A designee of the CAP chair shall notify the appropriate borough supervising attorney for FCLS of each decision. The assigned FCLS attorney must notify the child's attorney of the decision.

V. The Commissioner's Advisory Panel

A. As referenced above, to support the commissioner in making decisions regarding requests for approval and reimbursement of NMR treatments or services, ACS has established a Commissioner's Advisory Panel (CAP).

B. Membership

The CAP shall be composed of representatives from ACS and, as appropriate, outside independent consultants with expertise in the specialty related to the treatments or services being requested.[9] The commissioner or designee shall appoint ACS staff with medical and/or mental health expertise to help inform the review of NMR requests. The CAP chair shall be the medical director for ACS.[10] The CAP may not include as a consultant any outside practitioner who has treated the child in question within the past 12 months, or who is affiliated with the professionals who evaluated the child in connection with the request for approval and reimbursement.

C. Duties of the CAP Chair

[9] The composition of the CAP will vary depending on the case and may include representatives from FCLS and the Office of the General Counsel for purposes of legal discussion. Any outside independent consultants appointed to the CAP for the purpose of reviewing trans-related health care requests must have particular expertise in the diagnosis and/or treatment of gender dysphoria and must adhere to the WPATH *Standards of Care*.

[10] If the ACS medical director is unavailable, the commissioner shall designate a chair.

1. The CAP chair is responsible for the following tasks:

    a. Coordinating all CAP meetings and agendas;
    b. Selecting CAP members for the request submitted;
    c. Determining the availability of CAP members;
    d. Providing CAP members with copies of submitted requests and other relevant case documentation;
    e. Conducting meetings with the CAP on completed requests;
    f. Maintaining a roster of independent medical and mental health experts;
    g. Following the CAP's review, determining whether a referral for an independent medical or mental health evaluation (second opinion) by a qualified medical or mental health professional is warranted;
    h. Arranging for independent medical or mental health evaluations as applicable;
    i. Drafting and signing the CAP's report to the commissioner or designee;
    j. Sending the CAP's report to the commissioner or designee and the CAP's ACS members;
    k. Obtaining the commissioner's decision about the request for approval and reimbursement;
    l. Notifying the FCLS deputy commissioner of the commissioner's decision; and
    m. Providing written notification of the commissioner's decision regarding the request for approval and reimbursement to the CAP's ACS members, the relevant ACS deputy commissioner, and the executive director of the provider agency.

2. The CAP chair may designate staff to assist with his or her specified duties.

D. <u>Duties of the CAP Members</u>

1. CAP members are responsible for the following tasks:

    a. Reviewing copies of submitted requests and relevant documentation provided by the CAP chair;
    b. Attending meetings scheduled by the CAP chair;
    c. Collaborating to formulate specific "points to consider" for the commissioner or designee;
    d. Suggesting referral for an independent medical or mental health evaluation (second opinion) by a qualified medical or mental health professional, if warranted, following the CAP's review; and
    e. Reviewing the report drafted by the CAP chair prior to its submission to the commissioner or designee.

E. <u>Selection of Qualified Medical and Mental Health Professionals</u>

1. When suggested by a majority of the members of the CAP, including the CAP chair, an independent medical or mental health evaluation of the child shall be sought by a

qualified medical or mental health professional. Qualified medical or mental health professionals shall:

a. Be certified or licensed to practice in a given jurisdiction according to that country's or state's professional regulations;
b. Adhere to their ethical codes of the professional licensing or certifying organization in all of their work with their clients;
c. Meet the competency requirements for medical or mental health professionals working with children and adolescents;
d. Be trained in childhood and adolescent developmental psychopathology;
e. Be competent in diagnosing and treating the ordinary problems of children and adolescents; and
f. Have particular expertise in the diagnosis and/or treatment of the condition for which treatments or services are requested.

F. <u>Duties of Qualified Medical and Mental Health Professionals</u>

1. After the CAP's review, and by the suggestion of a majority of the CAP members, including the CAP chair, the CAP chair must arrange for a qualified medical or mental health professional to:

   a. Review the request package and all related documentation to inform the evaluation.

   b. Meet with the child for whom a request has been submitted to further inform the evaluation unless there is a clear medical reason or other extenuating circumstances as to why an in-person evaluation cannot take place.

   c. For trans-related health care requests, the qualified medical or mental health expert shall:
      i. Assess and confirm gender dysphoria as outlined in the WPATH *Standards of Care, Version 7.*
      ii. Assess and confirm any co-existing medical or mental health concerns regarding the child. Such concerns should be addressed as part of the overall treatment plan.
      iii. Assess the recommended treatments or services to alleviate gender dysphoria as stated in the request package and provide an evaluation to inform ACS' decision-making process. The analysis should include the child's eligibility for medical transition-related care (e.g., pubertal suppression, hormone therapy treatment, and other medical procedures) in accordance with the WPATH *Standards of Care*.

   d. Upon review of all materials and after meeting with the child, as applicable, provide a written evaluation to the CAP chair.

2. The CAP chair must identify more than one qualified medical or mental health expert external to ACS. Thus, if one expert is ineligible to participate due to a conflict of interest in a particular case, an alternate consultant will be available.

G. Requests for Information

The CAP may request additional information from the case planning agency, including appearance and participation at the CAP meeting.

H. Time Frames

1. The CAP chair shall designate staff to review all submitted approval and reimbursement requests. The designated staff shall, within 14 days, notify the case planning agency whether the submitted packet is considered complete; if the submitted package is not considered complete as submitted, additional documentation shall be requested from the case planning agency.

2. Upon receipt of a completed request which requires full CAP review, the CAP chair shall, within 14 days of deeming the application complete, determine the composition of the CAP for the submitted request, provide copies of all submitted documentation to selected CAP members, and schedule a meeting.

3. The CAP must meet regularly whenever there are any pending approval and reimbursement requests for NMR treatments or services.

4. The CAP chair must, within 30 days of providing documentation to the CAP members, prepare and distribute a written report of each request to the CAP upon completion of its review; the chair shall then submit the completed report to the commissioner or designee.

VI. Commissioner's Review of Requests for Non-Medicaid Reimbursable Treatments or Services

A. The commissioner or designee shall review the following factors in reaching a determination on each request for approval and reimbursement of NMR treatments or services, giving primary consideration to medical evidence and medical expertise:

1. The treatments or services must be supported by a statement from a qualified medical or mental health professional, except when the request is for durable equipment valued under $500.

2. The treatments or services are expected to relieve substantial psychological and/or physical distress.

3. The proposed treatments or services are demonstrated to be effective based on current medical standards.

4. There is a significant treatment benefit to the child. Except in requests for a replacement of a medical device for which the child already has a prescription, there must be documentation from the qualified medical or mental health professional stating the benefits that could be expected as a result of the medical or mental health treatments or services. Documentation is needed from the qualified medical or mental health professional regarding the risks associated with the treatments or services, and a statement about how the benefits outweigh these risks must be included.

5. There is documentation that no appropriate alternative treatment is covered by Medicaid.

6. As part of this review process, the commissioner or designee may, in his or her discretion, consult with ACS staff or independent advisors, including qualified medical or mental health professionals. The commissioner or designee may consider other information or documentation including, but not limited to, a review of the CNNX record or other relevant information maintained as part of the case record, as well as the individual plan proposed for the requested treatments or services.

   Note: Current or future financial ability or earning potential of the foster child to pay for the requested treatments or services shall not be a factor to be considered.

7. The CAP's written report.

8. The funding availability for a given request.

B. Having considered the above factors, the commissioner or designee shall review requests for approval and reimbursement of treatments or services and determine whether to approve or deny the request in whole or in part. The commissioner or designee shall make a determination within 14 days of receiving the CAP's written report.

C. The commissioner or designee shall notify the CAP chair in writing as to whether the request is approved or denied.

VII. Requesting Reconsideration

A. If ACS has denied a request for approval and reimbursement for treatments or services, and the case planning agency has new or additional documentation supporting the previously requested treatments or services, the case planning agency must submit this supplemental material to the CAP chair as long as the original documentation remains current. The CAP chair must forward the new or additional documentation to the CAP and the commissioner or designee for review. The CAP chair must inform the case

planning agency in writing as to whether the decision is maintained or reversed. The commissioner or designee has the discretion to refer the new or additional documentation back to the CAP for further review or to make a decision based on the documentation as submitted.

Note: Reconsideration of a previously decided request for approval and reimbursement is limited to those treatments or services explicitly included in the original submission. As indicated below, a new request is required for additional treatments or services sought.

B. If any of the original documentation has expired, or the nature of the request has changed, the case planning agency must submit any new request to the CAP chair. The case planner must submit any requests for approval and reimbursement of treatments or services not explicitly included in the original submission as a new request, with all required supportive documentation as set forth in this policy.

VIII. Family Court Payment Orders

A. In certain cases, the Family Court may order ACS to pay for NMR treatments or services. Case planning agencies, child planning agencies, and ACS must neither seek nor consent to such court orders.

B. The assigned FCLS attorney must object to any court orders concerning NMR treatments or services and immediately notify his or her supervising attorney upon the issuance of any such orders.

C. The supervising attorney must immediately contact the deputy commissioners of FCLS and of the appropriate program area, as well as the CAP chair. The two deputy commissioners and the CAP chair shall consult and determine whether ACS should seek to modify, vacate, or stay the order, and whether to file an appeal.

D. As in the case of any court order, ACS and foster care agency staff must promptly comply with a court order for payment for medical treatments or services unless the order is modified, vacated, or appealed and stayed. CPS staff and case planners must communicate regularly with the FCLS attorney, and vice versa, regarding compliance with the order.

DPS 016
REV. 8/14

Administration for Children's Services

Non-Medicaid Reimbursable Treatment Referral Form

Date Request Submitted: _____

Submit Requests to: NYC Administration for Children's Services
Chair of the Commissioner's Advisory Panel
150 William Street, Room _____
New York, NY 10038

Child's Legal Name - ***This information is required.***

Last: _____ First: _____ M.I.: _____

Also Known As (Preferred Name): _____

Date of Birth (MM/DD/YYYY): _____ Child's CIN: _____

ACS Case Name: _____ ACS Case Number: _____

Child's Current Placement Address: _____

Child's Phone Number: _____

Category of Treatment: ☐ A - Denial ☐ B - Blanket Denial ☐ C - Home Modification

For categories A & C, has claim been submitted to Medicaid? ☐ Yes ☐ No
Has denial been received from Medicaid? ☐ Yes ☐ No
Has an appeal of denial been made? ☐ Yes ☐ No
Has parent's ability to pay and insurance been explored as funding sources? ☐ Yes ☐ No

Describe the child's medical condition requiring treatment/services and justification for the requested course of treatment/services. Use additional space as needed.

Administration for Children's Services

	Treating Physician	Specialty	License Number	Phone Number	Duration
1					
2					

	Treating Mental Health Specialist	License Number	Phone Number	Duration
1				
2				

Person Providing Medical Consent: _____

Relationship to Child: _____ Phone Number: _____

Has medical consent been given for treatment? ☐ Yes ☐ No ☐ Not Available ☐ Refused

If No or Not Available – Have reasonable efforts been made to secure consent?
☐ Letter to Consenter ☐ In Person Visit to Consenter ☐ Telephone Call to Consenter

If No – Refused – Which has been received? ☐ Override ☐ Court Order

---

Parent (unless child is over 18 or freed): _____ Phone: _____

Foster Parent or Residential Care Program: _____ Phone: _____

Case Planning Agency: _____ Case Planner: _____

Case Planner's Email: _____ Phone: _____

Case Planner's Supervisor *(Name and Title)*: _____

Supervisor's Email: _____ Phone: _____

☐ Confirm that all necessary documents are included and attach the completed checklist (Attachment C or D).

FOR ACS USE ONLY

Date Received by ACS: _____

Date Initial Screening Completed by Chair of CAP (or Designee): _____

Result of Screening:

☐ Complete

Full Commissioner Advisory Panel (CAP) Required: ☐ Yes If Yes, Date Referred: _____ ☐ No

☐ Incomplete

Date Requester Notified: _____ Date Additional Material Received: _____

☐ Complete ☐ Incomplete

Full Commissioner Advisory Panel (CAP) Required: ☐ Yes If Yes, Date Referred: _____ ☐ No

Date CAP Report Completed: _____ Date Received by Commissioner: _____

Date of Commissioner's Determination: _____ ☐ Approved ☐ Disapproved

Date Commissioner's Determination Returned to CAP Chair: _____

Date CAP Chair Notified CAP's ACS Members, Relevant ACS DC, Requester, and FCLS: _____

Attachment B

Sample Memorandum signed by the Executive Director and the Medical Director
[Placed on Agency Letterhead]

[Date]

RE: Non-Medicaid Reimbursable Memorandum
Preferred Name of Youth:
Legal Name of Youth:
Date of Birth:
Case Number:

Dear Commissioner's Advisory Panel Chair:

On behalf of [Agency], I approve and submit all requested documentation in support of [Preferred Name of Youth] to access [medical transition- related] health care for the treatment of [gender dysphoria.]

[Executive Director Memorandum must include the following items:

- A **summary** of the non-Medicaid reimbursable treatments or services for which approval and reimbursement are being requested;
- An **explanation of possible risk** to the child if the requested treatments or services are not provided based on discussions with, or documentation provided by, a qualified medical or mental health professional;
- Whether there is any **appropriate, alternative treatment option covered by Medicaid** (not needed for trans-related health care requests);
- How and from whom **consent** for treatment has been provided;
- Whether there are any **related concerns**, including **discussions the case planner has had with the parents or guardians** about the treatments or services, any concerns the parent or guardian raised, and how the agency addressed those concerns;
- A clear statement about whether the **child has the capacity to understand the risks and benefits** associated with the treatments and/or services requested;
- A clear statement that the child, if **under the age of 18, assents** to the requested treatments or services or, if **aged 18 years or older, consents** to such treatments or services;
- Information on **who** will perform the treatments or services, **where** the treatments or services will be performed, **when** the treatments or services will be performed, and the **duration** of the treatments or services; and

Information about a **follow-up plan** for the treatments or services requested (if applicable).]
I can be reached at the number listed below if you should have any questions or require additional information.

Sincerely,

_____	_____
Executive Director	Medical Director
Phone number:	Phone number:

Attachment C

CHECKLIST FOR NMR TREATMENTS OR SERVICES

This two-page checklist must be completed and attached to any submission for NMR treatments or services. For equipment or modification requests, use Attachment D instead. Documents must be included in the following order.

- ☐ **Memorandum** signed by the **executive director** and the **medical director** that includes:
  - ☐ A **summary** of the non-Medicaid reimbursable treatments or services for which approval and reimbursement are being requested;
  - ☐ A statement of whether there is any **appropriate, alternative treatment option covered by Medicaid** (not needed for trans-related health care requests);
  - ☐ A statement of how and from whom **consent** for treatment will be provided;
  - ☐ A statement of whether there are any **related concerns**, including **discussions the case planner has had with the parent or guardian** (if appropriate) about the treatments or services, any concerns the parent or guardian raised, and how the agency addressed those concerns;
  - ☐ A clear statement about whether the **child has the capacity to understand the risks and benefits** associated with the treatments or services requested;
  - ☐ A clear statement that the child, if **under the age of 18, assents** to the requested treatments and/or services or, if **aged 18 years or older, consents** to such treatments or services;
  - ☐ Information on **who** will perform the treatments or services, **where** the treatments or services will be performed, **when** the treatments and/or services will be performed, and the **duration** of the treatments or services; and
  - ☐ Information about a **follow-up plan** for the treatments or services requested (if applicable).
- ☐ **Letter from the medical director (or for ACS submissions, a letter from the applicable medical professional treating the child)** discussing the child's overall medical and mental health treatment, including information about adherence to treatment and an explanation of possible risk to the child if treatments or services are not provided based on discussions with, or documentation provided by, a qualified medical or mental health professional;
- ☐ **Psychosocial assessment** of the child;
- ☐ **Case summary**, incorporating any other information or documentation which might inform ACS's determination including, but not limited to, a review of the CNNX record and/or other relevant information maintained as part of the case record;

- ☐ **Price quote/invoice** for the requested treatments or services;

- ☐ **(IF THERE ARE UNDERLYING MENTAL HEALTH ISSUES) Relevant medical assessments/ documentation** and/or a **psychiatric evaluation** conducted within the past 12 months and/or a **psychological evaluation** conducted within the past 24 months from qualified medical and/or mental health providers including:

    - ☐ A statement of the **risks** associated with such treatments or services and a statement about **how the benefits outweigh these risks**;

    - ☐ A statement that the proposed treatments or services are **supported by qualified medical and/or mental health professionals, including documentation** of how such treatments and/or services are expected to relieve substantial psychological and/or physical distress;

    - ☐ A statement that the proposed treatments or services **have been demonstrated to be effective** based on **current medical and mental health standards**.

- ☐ **Court orders** confirming the legal status of the child as being placed in the custody, care and custody, or custody and guardianship of the commissioner.

- ☐ **Court order for treatments or services**, if applicable. The order must be attached and any deadlines for compliance must be specifically noted. The FCLS borough supervising attorney shall be immediately notified of any such order; and

- ☐ **(For trans-related health care requests only) A statement** that the medical assessments and documentation submitted in support of requests for trans-related health care are informed by the **World Professional Association for Transgender Health's (WPATH)** ***Standards of Care***.

Attachment D

CHECKLIST FOR NMR EQUIPMENT AND MODIFICATIONS

This checklist must be completed and attached to any submission for equipment or modifications. Documents must be included in the following order.

*****Please note that medical documentation is not required if the request is for the replacement of durable medical equipment valued under $500.***

- ☐ **Memorandum** signed by the **executive director** and the **medical director** that includes:
  - ☐ A **summary** of the non-Medicaid reimbursable treatments or services for which approval and reimbursement are being requested;
  - ☐ A statement of whether there is any **appropriate, alternative treatment option covered by Medicaid**;
  - ☐ A statement of how and from whom **consent** for treatment will be provided;
  - ☐ A statement of whether there are any **related concerns**, including **discussions the case planner has had with the parent or guardian** (if appropriate) about the treatments or services, any concerns the parent or guardian raised, and how the agency addressed those concerns;
  - ☐ A clear statement that the child, if **under the age of 18, assents** to the requested treatments or services or, if **aged 18 years or older, consents** to such treatments or services;
  - ☐ Information on **who** will perform the treatments or services, **where** the treatments or services will be performed, **when** the treatments or services will be performed, and the **duration** of the treatments or services; and
  - ☐ Information about a **follow-up plan** for the treatments or services requested (if applicable).

- ☐ **Price quote/invoice** for the requested treatments and/or services;

- ☐ **Court orders** confirming the legal status of the child as being placed in the custody, care and custody, or custody and guardianship of the commissioner.

- ☐ **Court order for treatments or services**, if applicable. The order must be attached and any deadlines for compliance must be specifically noted. The FCLS borough supervising attorney shall be immediately notified of any such order.

Attachment E

CHECKLIST FOR ACS NMR BUSINESS PROCESS

(Use this checklist and follow all necessary steps in chronological order to process each NMR request.)

- ☐ For ACS internal requests: Within 30 days for equipment and modification requests, or within 60 days for treatment and services requests, the CPS, FPS case planner, PPS, or CSS must submit all documentation required to the DCP borough commissioner (if CPS submits), FPS executive director of the Office of Shared Response (if FPS submits), DYFJ executive director of residential placement (if PPS submits), or executive director of intake and aftercare (if CSS submits). The memorandum (see Attachment B for sample) must be signed and submitted, with the request package, to the CAP chair within 5 business days of receipt.

- ☐ Completed NMR package is submitted to CAP chair. The CAP chair or his or her designee shall:

  - ☐ Within 14 days, assess that the NMR package is complete and advise the case planner as to whether it is complete or if more information is required. Review will not be undertaken until the case planning agency has submitted a fully completed packet with all items listed in section III(A)(3) of the ACS NMR policy.

  - ☐ Assess if the NMR package requires a substantive review by the full CAP. Full CAP review is required for the following:
    - ☐ new medical equipment valued above $2,500;
    - ☐ home modifications valued above $2,500;
    - ☐ medications prescribed "off-label";
    - ☐ medical procedures; and
    - ☐ surgical procedures.

  - ☐ For categories of treatment that do not require a substantive review by the full CAP, the CAP chair or designee must expeditiously review all completed submissions and determine if reimbursement for treatment/services will be approved or denied.

- ☐ When the CAP chair or designee refers to the full CAP, the following actions shall take place within 30 days:

  - ☐ The CAP chair must select members and schedule a meeting;

  - ☐ CAP members will collaborate in formulating specific "points to consider" for the commissioner or designee. A majority of the CAP members, including the CAP chair, may suggest referral for an independent medical and/or mental health evaluation (second opinion) by a qualified medical and/or mental health professional.

  - ☐ After the full CAP meeting, the CAP chair, or designee will draft a written report including the "points to consider" raised by the full CAP.

  - ☐ The CAP chair will circulate the report to the CAP members who will then review the report, including any suggestions for such independent evaluation as discussed above, prior to its submission to the commissioner, or the commissioner's designee.

- ☐ The CAP chair shall submit the report to the commissioner.

☐ When an independent evaluation is suggested by a majority of the CAP members, including the CAP chair, a qualified medical and/or mental health professional shall be identified and shall take the following actions:

- ☐ Review the NMR package and all related documentation to inform the evaluation.
- ☐ Meet with the young person who submitted the NMR package.
- ☐ Assess the recommended treatment/services outlined in the NMR package and provide a written evaluation to the CAP chair.

☐ The CAP chair will share the independent evaluation (when applicable) with the CAP members, and the points to consider for any final feedback before sharing with the commissioner or designee.

☐ The CAP chair will expeditiously incorporate all CAP points to consider, the independent evaluation (when applicable), along with the complete NMR package to the commissioner or designee.

☐ The commissioner or designee will **determine if reimbursement for treatments/services will be approved or denied** within 14 days of receiving the CAP's written report.

☐ Once the commissioner or designee **determines if reimbursement for treatment/services will be approved or denied**, the commissioner will notify the CAP chair in writing. The CAP chair or designee shall provide written notification of the decision to the case planning agency (or ACS staff where appropriate).

☐ The CAP chair or designee will notify all CAP members of the decision. He or she will also notify the appropriate borough supervising attorney for FCLS of each submitted request and final decision. The assigned FCLS attorney must notify the child's attorney of the submitted request and the determination of the commissioner, or the commissioner's designee.

Requesting Reconsideration

☐ If a completed NMR package is denied for reimbursement of treatment/services, and the case planning agency has new or additional documentation supporting the previously requested treatment and/or services, the case planning agency may submit this supplemental material to the CAP chair's designee as long as the original documentation remains current.

☐ The CAP chair or designee shall forward the new or additional documentation to **all CAP members and the commissioner** or designee for review, and the case planning agency shall be informed in writing as to whether the decision is maintained or reversed.

☐ The commissioner or designee has the discretion to refer the new or additional documentation back to the CAP for further review or to **determine if reimbursement for treatment/services will be approved/denied** based on the documentation as submitted.

Note: Reconsideration of a previously decided request for approval and reimbursement is limited to those treatments and/or services ***explicitly included in the original submission****; a new request shall be required for additional treatments and/or services sought.*