Technical Assistance Brief

QUESTIONS EVERY JUDGE AND LAWYER SHOULD ASK ABOUT INFANTS AND TODDLERS IN THE CHILD WELFARE SYSTEM

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INTRODUCTION[1]

Increasing numbers of infants and young children with complicated and serious physical, mental health, and developmental problems are being placed in foster care.[2] The following checklists have been developed for use by judges, attorneys, child advocates, and other child welfare professionals in meeting the wide range of health care needs of this growing population.

PHYSICAL HEALTH

Has the child received a comprehensive health assessment since entering foster care?

Because children are likely to enter foster care as a result of abuse, neglect, homelessness, poverty, parental substance abuse, or mental illness, all foster children should receive a comprehensive physical examination shortly after placement that addresses all aspects of the child's health. Under the Early and Periodic Screening, Diagnosis, and Treatment provisions of federal Medicaid law[3], foster children should receive a comprehensive assessment that can establish a baseline for a child's health status, evaluate whether the child has received necessary immunizations, and identify the need for further screening, treatment, and referral to specialists.[4] A pediatrician or family practice physician knowledgeable about the health care problems of foster children should perform the examination.[5]

Ensuring the healthy development of foster children requires that they receive quality medical care. Such care should be comprehensive, coordinated, continuous, and family-supported. One person should be identified who will oversee the child's care across the various agencies and systems, including early childhood services, early intervention services, education, and medical and mental health. Family-supportive care requires sharing the child's health information with the child's caregivers and providing caregivers with education and training programs in order to meet the needs of their foster child.

Are the child's immunizations complete and up-to-date for his or her age?

Complete, up-to-date immunizations provide the best defense against many childhood diseases that can cause devastating effects. Immunization status is an important measure of vulnerability to childhood illness and can reveal whether the child has had access to basic health care. Incomplete or delayed immunization suggests that the child is not receiving adequate medical care and is not regularly followed by a provider familiar with the child's health needs. A child should have a "well-baby" examination by two to four weeks of age. Immunizations are recommended at two, four, six, and 12 months of age. A child should have at least three visits to a pediatrician or family practice physician during the second year of life with basic immunizations completed by two years of age.[6]

Has the child received a hearing and vision screen?

Undetected hearing loss during infancy and early childhood interferes with the development of speech and language skills and can have deleterious effects on overall development, especially learning. Hearing loss during early childhood can result from childhood diseases, significant head trauma, environmental factors such as excessive noise exposure, and insufficient attention paid to health problems that may affect hearing. Studies reveal that 70 percent of children with hearing impairments are initially referred for assessment by their parents.[7] Because foster care children often lack a consistent caregiver who can observe their development and note areas of concern, they should receive ongoing evaluations of hearing, speech, and language development.

Vision screening is an essential part of preventative health care for children. Problems with vision are

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[1] Several of the questions follow the format of and contain excerpts from the "Checklists for Healthy Development of Foster Children," *Ensuring the Healthy Development of Foster Children: A Guide for Judges, Advocates, and Child Welfare Professionals*. New York State Permanent Judicial Commission on Justice for Children, 1999. Excerpted with permission.

[2] American Academy of Pediatrics, Developmental issues for young children in foster care. *Pediatrics,* Vol.106, No. 5, pp.1145-1150. November 2000. American Academy of Pediatrics, Health care of young children in foster care. *Pediatrics,* Vol.109, No.3 pp. 536-541. March 2002.

[3] 42 U.S.C. Section 1396(a)(10) and (43)(2000); 42 U.S.C. Section 1396d(a)(4)(B)(2000) and 1396(r).

[4] 42 U.S.C. Section 1396(a)(10)(2000); 42 U.S.C. Section 1396d(a)(4)(B)(2000).

[5] *Supra* note 1.

[6] American Academy of Pediatrics, Immunizations and your child. *American Academy of Pediatrics website,* June 27, 2002.

[7] NIH Consensus Statement, Early identification of hearing impairment in infants and young children. Online 1993 March 1-3 [cited October 8, 2002]; 11 (1):1-24.

the fourth most common disability among children in the United States and the leading cause of impaired conditions in childhood.[8] Early detection and treatment increase the likelihood that a child's vision will develop normally, and, if necessary, the child will receive corrective devices.

Has the child been screened for lead exposure?

Children who are young, low-income, and have poor access to health care are vulnerable to the harmful effects of lead.[9] Ingested or inhaled lead can damage a child's brain, kidneys, and blood-forming organs. Children who are lead-poisoned may have behavioral and developmental problems. According to the Centers for Disease Control and Prevention (CDC), however, lead poisoning is one of the most preventable pediatric health problems today. Screening is important to ensure that poisoned children are identified and treated and their environments remediated.

The CDC recommends lead-poisoning screening beginning at nine months of age for children living in communities with high-risk lead levels. The CDC also recommends targeted screening based on risk assessment during pediatric visits for all other children.

Has the child received regular dental services?

Preventative dentistry means more than a beautiful smile for a child. Children with healthy mouths derive more nutrition from the food they eat, learn to speak more easily, and have a better chance of achieving good health. Every year, thousands of children between one to four years old suffer from extensive tooth decay caused by sugary liquids – especially bottles given during the night. Children living below the poverty level have twice the rate of tooth decay as children from higher income levels.[10] Furthermore, poorer children's disease is less likely to be treated.

Early dental care also prevents decay in primary ("baby") teeth which is currently at epidemic proportions in some U.S. populations and is prevalent among foster children.[11] The American Academy of Pediatric Dentistry recommends that before the age of one year, a child's basic dental care be addressed during routine "well-baby" visits with a primary care provider, with referral to a dentist if necessary. For children older than one year, the Academy recommends a check-up at least twice a year with a dental professional.

Has the child been screened for communicable diseases?

The circumstances associated with the necessity for placement in foster care – such as prenatal drug exposure, poverty, parental substance abuse, poor housing conditions, and inadequate access to health care – can increase a child's risk of exposure to communicable diseases such as HIV/AIDS, congenital syphilis, hepatitis, and tuberculosis.

A General Accounting Study found that 78 percent of foster children were at high-risk for HIV, but only nine percent had been tested for the virus.[12] Early identification of HIV is critical to support the lives of infected children and to ensure that they receive modified immunizations. Modified immunizations are necessary to prevent adverse reactions to the vaccines while still providing protection against infectious diseases such as measles and chicken pox. The American Academy of Pediatrics recommends that all prenatally HIV-exposed infants be tested for HIV at birth, at one to two months of age, and again at four months. If the tests are negative, the child should be re-tested at 12 months of age or older to document the disappearance of the HIV antibody.

Does the child have a "medical home" where he or she can receive coordinated, comprehensive, continuous health care?

All children in foster care should have a "medical home," a single-point-of-contact practitioner knowledgeable about children in foster care who oversees their primary care and periodic

[8] American Academy of Pediatrics, Developmental surveillance and screening of infants and young children. *Pediatrics* Vol. 108, No. 1, pp.192-196. July 2001.
[9] American Academy of Pediatrics, Screening for elevated blood lead levels (RE9815). *Pediatrics* Vol. 101, No. 6, pp. 1072-1078. June 1998.
[10] Testimony of Ed Martinez, Chief Executive Officer San Ysidro Health Center, San Diego, CA to the Senate Subcommittee on Public Health, in support of Senate Bill 1626. June 25, 2002.
[11] American Academy of Pediatrics, Early childhood caries reaches epidemic proportions (Press Release). February 1997.
[12] General Accounting Office, "Foster Care: Health Needs of Young Children Are Unknown and Unmet." GAO/Health, Education and Human Services Division, pp. 95-114. May 1995.

reassessments of physical, developmental, and emotional health, and who can make this information available as needed.

DEVELOPMENTAL HEALTH

Has the child received a developmental evaluation by a provider with experience in child development?

Young foster children often exhibit substantial delays in cognition, language, and behavior. In fact, one half of the children in foster care show developmental delay that is approximately four to five times the rate of delay found in children in the general population.[13] Early evaluation can identify developmental problems and can help caregivers better understand and address the child's needs.

Developmental evaluations provide young children who have identified delays with access to two federal entitlement programs:

- The Early Intervention Program for children under the age of three years, also known as Part C of the IDEA [20 U.S.C. Section 1431 (2000)],

and

- The Preschool Special Education Grants Program for children with disabilities between the ages of three to five [20 U.S.C. Section 1419 (a) (2000)].[14]

Are the child and his or her family receiving the necessary early intervention services, e.g., speech therapy, occupational therapy, educational interventions, family support?

Finding help for young children may prevent further developmental delays and may also improve the quality of family life. Substantial evidence indicates that early intervention is most effective during the first three years of life, when the brain is establishing the foundations for all developmental, social, and cognitive domains. "The course of development can be altered in early childhood by effective interventions that change the balance between risk and protection, thereby shifting the odds in favor of more adaptive outcomes."[15] Children with developmental delays frequently perform more poorly in school, have difficulty understanding and expressing language, misunderstand social cues, and show poor judgment.

Early intervention provides an array of services including hearing and vision screening, occupational, speech and physical therapy, and special instruction for the child, as well as family support services to enable parents to enhance their child's development. Such services can help children benefit from a more successful and satisfying educational experience, including improved peer relationships.[16] Foster children can be referred for early intervention and special education services by parents, health care workers, or social service workers. Early intervention services are an entitlement for all children from birth to three years and their families as part of Part C, IDEA. Both biological and foster families can receive Early Intervention Family Support Services to enhance a child's development.

MENTAL HEALTH

Has the child received a mental health screening, assessment, or evaluation?

Children enter foster care with adverse life experiences: family violence, neglect, exposure to parental substance abuse or serious mental illness, homelessness, or chronic poverty. Once children are placed in foster care, they must cope with the separation and loss of their family members and the uncertainty of out-of-home care. The cumulative effects of these experiences can create emotional issues that warrant an initial screening, and, sometimes, an assessment or evaluation by a mental health professional. Compared with children from the same socioeconomic background, children in the child welfare system have much higher rates of serious emotional and behavioral problems.[17] It is important to both evaluate them and offer counseling and treatment services when needed so that early difficulties are addressed and later problems are prevented.

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[13] Dicker, S. and Gordon, E., Connecting healthy development and permanency: A pivotal role for child welfare professionals. *Permanency Planning Today*, Vol. 1, No. 1, pp. 12-15. 2000.
[14] Website: http://www.nectac.org/default.asp.
[15] Shonkoff, J. P. and Phillips, D. A., From Neurons to Neighborhoods: Committee on Integrating the Science of Early Childhood Development. National Academy Press, Washington, D.C. 2000.
[16] American Speech-Language-Hearing Association, Frequently asked questions: Helping children with communication disorders in the schools – speaking, listening, reading, and writing. *American Speech-Language-Hearing Association website,* July 1, 2002.
[17] Halfon, N., Berkowitz, G., and Klee,L., Development of an integrated case management program for vulnerable children. *Child Welfare,* Vol. 72, No. 4, pp. 379-396. 1993.

Children exhibiting certain behaviors may also signal a need for a mental health assessment and neurological and educational evaluations. Many of the symptoms associated with juvenile emotional and behavioral health problems can be alleviated if addressed early. The American Academy of Child and Adolescent Psychiatry recommends assessments for infants who exhibit fussiness, feeding and sleeping problems, and failure to thrive.[18] For toddlers, the Academy recommends assessments for children exhibiting aggressive, defiant, impulsive, and hyperactive behaviors, withdrawal, extreme sadness, and sleep and eating disorders.[19]

Is the child receiving necessary infant mental health services?

The incidence of emotional, behavioral, and developmental problems among children in foster care is three to six times greater than children in the general population.[20] Children with emotional and behavioral problems have a reduced likelihood of reunification or adoption.[21] Children with externalizing disorders, e.g., aggression and acting out, have the lowest probability of exiting foster care.[22] During infancy and early childhood, the foundations are laid for the development of trusting relationships, self-esteem, conscience, empathy, problem solving, focused learning, and impulse control.[23]

To promote and facilitate permanency, children identified with mental health problems should receive care from a mental health professional who can develop a treatment plan to strengthen the child's emotional and behavioral well-being with caregivers. Services may include clinical intervention, home visiting, early care and education, early intervention services, and caregiver support for young children.

EDUCATIONAL/CHILDCARE SETTING

Is the child enrolled in a high-quality early childhood program?

Children cannot learn unless they are healthy and safe. Children learn best in high-quality settings when they have stable relationships with highly skilled teachers.[24] Such programs nurture children, protect their health and safety, and help ensure that they are ready for school. Early childhood programs also provide much-needed support for caregivers. Considerable research has indicated that early education has a positive impact on school and life achievement. Children who participate in early childhood programs have higher rates of high school completion, lower rates of juvenile arrest, fewer violent arrests, and lower rates of dropping out of school.[25] Many foster children are eligible for early childhood programs such as Head Start, Early Head Start, and publicly funded pre-kindergarten programs for four-year-olds.

Is the early childhood program knowledgeable about the needs of children in the child welfare system?

Most children are placed in foster care because of abuse or neglect occurring within the context of parental substance abuse, extreme poverty, mental illness, homelessness, or physical disease, e.g., AIDS. As a result, a disproportionate number of children placed in foster care come from the segment of the population with the fewest psychosocial and financial resources and from families that have few personal and extended sources of support.[26] For all of these reasons, it is very important that these children's child care staff and teachers be well trained and qualified.

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[18] American Academy of Child and Adolescent Psychiatry, Practice parameters for the psychiatric assessment of infants and toddlers. *Journal of the American Academy of Child and Adolescent Psychiatry,* Vol. 36, (10 suppl.). 1997.
[19] *Ibid.*
[20] Marsenich, L., Evidence-based practices in mental health services for foster youth. California Institute for Mental Health. March 2002.
[21] *Ibid.*
[22] *Ibid.*
[23] Greenough, W., Gunnar, M., Emde, N., Massinga, R., and Shonkoff, J., The impact of the caregiving environment on young children's development: Different ways of knowing. *Zero to Three,* Vol. 21, pp. 16-23. 2001.
[24] National Association for the Education of Young Children. Week of the young child: April 18-24. *Early Years Are Learning Years*, Vol. 99, No. 6. 1999.
[25] Reynolds, A., Temple, J., Robertson, D., and Mann, E., Long-term effects of an early childhood intervention on educational achievement and juvenile arrest: A 15-year follow-up of low-income children in public schools. *Journal of the American Medical Association,* Vol. 285, No. 18, pp. 2339-2346. 2002.
[26] National Commission on Family Foster Care, A Blueprint for Fostering Infants, Children, and Youths in the 1990s. Child Welfare League of America, Washington, D.C. 1991.

PLACEMENT

Is the child placed with caregivers knowledgeable about the social and emotional needs of infants and toddlers in out-of-home placements, especially young children who have been abused, exposed to violence, or neglected?

Do the caregivers have access to information and support related to the child's unique needs?

Are the foster parents able to identify problem behaviors in the child and seek appropriate services?

Childhood abuse increases the odds of future delinquency and adult criminality by 40 percent.[27] Maltreated infants and toddlers are at risk for insecure attachment, poor self-development, and psychopathology.[28] Children in out-of-home placements often exhibit a variety of problems which may be beyond the skills of persons without special knowledge or training. Therefore, foster parents need and should receive information about the child's history and needs as well as appropriate training.[29] Early interventions are key to minimizing the long-term and permanent effects of traumatic events on the developing brain and on behavioral and emotional development. It is imperative that caregivers seek treatment for their foster children and themselves as soon as possible.[30]

Are all efforts being made to keep the child in one consistent placement?

An adverse prenatal environment, parental depression or stress, drug exposure, malnutrition, neglect, abuse, or physical or emotional trauma can negatively impact a child's subsequent development. Therefore, it is essential that all children, especially young children, are able to live in a nurturing, supportive, and stimulating environment.[31] It is crucial to try to keep children in one, consistent, supportive placement so that they can develop positive, secure attachment relationships.

To develop into a psychologically healthy human being, a child must have a relationship with an adult who is nurturing, protective, and fosters trust and security...Attachment to a primary caregiver is essential to the development of emotional security and social conscience.[32]

What happens during the first months and years of life matters a lot, not because this period of development provides an indelible blueprint for adult well-being, but because it sets either a sturdy or fragile stage for what follows.[33]

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[27] Widom, C.S., The role of placement experiences in mediating the criminal consequences of early childhood victimization. *American Journal of Orthopsychiatry,* 61 (2), pp. 195-209. 1991.
[28] Widom, C.S., Motivations and mechanisms in the "cycle of violence." In D. Hansen (Ed.), *Motivation and child maltreatment: Nebraska Symposium on Motivation,* Vol. 46, pp.1-37. 2000.
[29] National Foster Parent Association, *Board manual: Goals, objectives, position statements, and by-laws.* Gig Harbor, Washington. 1999.
[30] Carnegie Task Force on Meeting the Needs of Young Children, *Starting Points: Meeting the Needs of our Youngest Children.* New York, NY, Carnegie Corporation. 1994.
[31] *Supra note 2.*
[32] *Ibid.*
[33] *Supra note 15.*

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