THE RIGHTS OF CHILDREN IN THE CUSTODY OF THE MASSACHUSETTS DEPARTMENT OF CHILDREN AND FAMILIES REGARDING MEDICAL TREATMENT

Prepared by the Mental Health Legal Advisors Committee
May 2026

Part 1: Entering DCF custody

Often, children with mental health or behavioral issues are treated with antipsychotic and/or other powerful medications. This approach is true for all children, but particularly for children in the custody of the Massachusetts Department of Children and Families (DCF).

This guide explains the rights of children and youth (and their parents) in such situations.[1] This guide is specifically about the rights of children and youth in DCF custody.

Before we discuss the rights of children in DCF *custody*, we offer a few words about children in DCF *care* (and not custody).

How does a child entering DCF care affect the parents' right to make medical treatment decisions?

In general, when a child is in DCF care,[2] the child's parents retain the right to make decisions regarding medical treatment.

How does a child entering DCF custody affect the parents' rights to make medical treatment decisions?

In general, when a child is in DCF custody, the child's parents lose the right to make medical treatment decisions. This topic is discussed in more detail below.

How may a child come into DCF custody?

---

[1] This guide uses the term "child" for individuals under age 18 and the term "youth" for individuals age 18 or older.

[2] A youth may come to be in DCF care pursuant to:

- A Voluntary Placement Agreement (VPA) between DCF and the parent whereby DCF agrees to provide services to the youth. A VPA is the typical way for a youth to come into DCF care.
- A G.L. c. 119, § 23(a)(1) petition filed by DCF in Probate and Family Court with parental consent. The petition may only be filed if there is a VPA allowing for placement for reasons related to the youth's disability and there are no protective concerns. A petition under this section is a rare occurrence.

In general, there are three ways that a child may come into DCF custody.

- Parents, guardians, or school officials may ask the court to help supervise a child by filing a **Child Requiring Assistance (CRA)** application. A court then may decide to place the child in DCF's custody.

- DCF may bring a **Care and Protection (C&P) action** in the Juvenile Court seeking temporary custody to ensure a child's well-being. A C&P is a court proceeding in which someone, usually DCF, files a petition stating that a child is at risk of serious abuse or neglect by a caretaker, usually a parent or guardian. The court may decide to transfer *temporary* or *permanent* custody to DCF or another party.[3]

  - In some cases, **a C&P action** may follow **after parents and DCF enter into an arrangement known as a Voluntary Placement Agreement (VPA)** whereby DCF agrees to provide services to a child.[4]

- During a **pending case in the Probate and Family Court** (such as a custody dispute between parents or a guardianship proceeding for a child), the court may place the child in DCF's custody.[5]

---

[3] DCF may be granted temporary custody of a child following a temporary custody hearing pursuant to G. L. c. 119, § 24, fourth par. The statute never uses the term "permanent." However, a decree following a care and protection trial that grants DCF custody until the child turns 18 is referred to as a permanent custody order. Custody may continue until that child turns age 18 or until DCF decides to return the child to their parents. G.L. c. 119, § 26.

[4] Once a VPA is established, if the parent wants to terminate the VPA, DCF may pursue a C&P if it has protective concerns. See 110 CMR 4.06(4)(b).

[5] Pursuant to G.L. c. 119, § 23(a)(3), DCF may pursue custody through a petition in the Probate and Family Court.

THE RIGHTS OF CHILDREN IN THE CUSTODY OF THE MASSACHUSETTS DEPARTMENT OF CHILDREN AND FAMILIES REGARDING MEDICAL TREATMENT

Prepared by the Mental Health Legal Advisors Committee
May 2026

Part 2: Rights of Children in DCF Custody Regarding Medical Treatment

Who consents to routine medical treatment for children in DCF custody?

When a child is in DCF custody, DCF assumes from parents the powers to "determine a child's place of abode, medical care and education."[6] However, DCF does not gain the authority to make *all types* of medical decisions, but only decisions about routine medical treatment.[7]

Who consents to extraordinary medical treatment for youth in DCF custody?

Decisions about extraordinary medical treatment might be made by parents or might require court approval, depending on how the child came into DCF custody.[8] Here are the possibilities:

- **Children in DCF custody pursuant to a CRA →** Parents make decisions about extraordinary medical care.[9]

- **Children in DCF custody pursuant to a C&P →** DCF must seek judicial authorization to authorize extraordinary medical care.[10]

- **Children in DCF custody pursuant to a pending case in the Probate and Family Court →** DCF must seek judicial authorization to authorize extraordinary medical care.[11]

- **Youth over age 18 in DCF custody** may consent to treatment if DCF believes the youth is competent.[12]

---

[6] G. L. c. 119, § 21. If the youth is under guardianship, the guardian consents to routine treatment (and DCF must seek judicial authorization to administer extraordinary treatment).
[7] See 110 CMR 11.01; 110 CMR 11.04(2).
[8] See 110 CMR 11.01; 110 CMR 11.17(2)
[9] See 110 CMR 11.01; 110 CMR 11.02. (The designation of a CRA youth as being in the "care"—as opposed to the "custody"—of DCF is limited to the extraordinary medical treatment regulations in 110 CMR 11.)
[10] See 110 CMR 11.01, 110 CMR 11.02.
[11] See 110 CMR 11.01, 110 CMR 11.02.
[12] Once a youth turns 18, they can, if they wish, sign themselves into DCF's care and custody through a Voluntary Placement Agreement. The Massachusetts Court Improvement Program, The Answer Book: Turning 18, https://www.mass.gov/info-details/the-answer-book-turning-18 An individual over age 18 in DCF custody, whom DCF deems competent to make their own

What medical treatment is considered routine and what treatment is considered extraordinary?

Under Massachusetts law, some kinds of treatment are considered "routine" treatment, while other kinds are considered "extraordinary."

DCF defines "**routine** medical care" as any treatment that is "commonly prescribed for a specific physical illness, which treatment does not pose risks of permanent serious side effects or risk of death."[13] DCF regulations list examples of routine medical treatment.[14]

In general, **extraordinary** treatments are those that are considered particularly intrusive, risky, or restrictive of the person's liberty.[15] In some cases, there is clear legal authority stating that a treatment should be considered extraordinary. For example, DCF considers antipsychotic medication to be extraordinary treatment.[16]

However, even when the law does not clearly dictate that a treatment is extraordinary, the treatment might still be considered extraordinary. When presented with such a question, the court must decide if a treatment is routine or extraordinary using certain established factors.[17] However, because the analysis is individualized, a type of treatment might be considered routine in one case and extraordinary in another.

---

medical decisions, is the only one able to consent to their treatment. When the individual turns 18, any current Rogers hearing decision would become void and the individual can decide whether or not to continue treatment. If DCF believes the youth is not competent, and without intervention proving otherwise, DCF will file a proceeding to determine competency under G.L. c. 201. If the individual is found incompetent, a judge will apply a substituted judgment standard to determine whether antipsychotic drugs ought to be administered. CMR 110 § 11.14 (5). The mature minor rule may also allow minors who are deemed capable of giving informed consent the right to consent to or refuse treatment. The rule calls for the physician recommending treatment to analyze the nature of the treatment, its likely benefit, and the minor's capacity to fully understand the medical procedure. Court approval is unnecessary if a mature minor consents. See Baird v. Att'y Gen., 371 Mass. 741, 752–754 (1977).

[13] 110 CMR 2.00; 110 CMR 11.04. Routine medical care includes allergy shots, physical examinations, dental care, and outpatient "psychiatric assessment, evaluation, or treatment," 110 CMR 11.04(1)(r), but see the discussion in this guide regarding antipsychotic medications. Routine medical care also includes any treatment that "is determined not to be extraordinary medical treatment" as defined by DCF regulations and case law. See 110 CMR 11.04.

[14] 110 CMR 2.00; 110 CMR 11.04.

[15] See Rogers v. Commissioner of Department of Mental Health, 390 Mass. 489 (1983); Guardianship of Richard Roe, 383 Mass. 415 (1981).

[16] 110 CMR 2.00, 110 CMR 11.14.

[17] In re Spring, 380 Mass. 629 (1980).

THE RIGHTS OF CHILDREN IN THE CUSTODY OF THE MASSACHUSETTS DEPARTMENT OF CHILDREN AND FAMILIES REGARDING MEDICAL TREATMENT

Prepared by the Mental Health Legal Advisors Committee
May 2026

Part 3: Rights of Children in DCF Custody Regarding Treatment with Antipsychotic Medication

What are antipsychotic medications?

Antipsychotic medications are drugs prescribed in response to symptoms -- delusions, hallucinations, and disorganized thinking – that doctors associate with psychosis. Individuals receiving antipsychotic medications might be diagnosed with schizophrenia, bipolar disorder, or other psychotic disorders. Antipsychotics are also prescribed "off-label," meaning for uses that are not explicitly approved by the federal Food and Drug Administration (FDA). For example, individuals receiving antipsychotics off-label may be diagnosed with major depressive disorder or attention deficit hyperactivity disorder (ADHD).

DCF has a list of medications that it considers to be antipsychotics: Abilify, Vraylar, Clozaril, Thorazine, Latuda, Zyprexa, Invega, Seroquel, Risperdal, and Geodon.[18]

Antipsychotic medications are considered powerful because they can alter brain functioning and can have serious and debilitating side effects. Common side effects include sedation, headaches, weight gain, and dizziness. More serious side effects are also possible.[19]

What should one do if a medication, other than an antipsychotic, is being prescribed to a child in DCF custody to treat a mental health or behavioral health condition?

In addition to antipsychotic medications, there are other medications (such as stimulants or antidepressants) used to treat mental health or behavioral health conditions. Treatment with these medications often is not scrutinized to the same degree as is treatment with antipsychotic medications, although these medications are also powerful and also have potentially serious side effects.

Whether such medications should be considered "routine" or "extraordinary" treatment is an important question. DCF, medical professionals, and the courts may designate one of these medications as "routine" and therefore not requiring judicial consent. However, children,

---

[18] DCF published this list in materials for its Antipsychotic Medication Monitoring Program (AMP), discussed below. DCF Antipsychotic Medication Monitoring Program PowerPoint (Winter 2024) (on file with MHLAC) (hereinafter AMP PowerPoint) at 8. In its regulations, DCF has an older list of antipsychotic medications. 110 CMR 11.14.

[19] These side effects include metabolic syndrome, seizures, low white blood cell count, and heart rhythm abnormalities. AMP PowerPoint at 6.

parents, and foster parents should learn about a proposed medication before accepting the designation that it is “routine treatment.”

In addition, even for treatments that are considered routine, if the parents or the child opposes the designation, their attorneys can help them challenge the DCF decision to consent to the treatment by talking to DCF and/or going to court.

THE RIGHTS OF CHILDREN IN THE CUSTODY OF THE MASSACHUSETTS DEPARTMENT OF CHILDREN AND FAMILIES REGARDING MEDICAL TREATMENT

Prepared by the Mental Health Legal Advisors Committee
May 2026

Part 4: DCF Antipsychotic Medication Monitoring Program (AMP)

What is the DCF Antipsychotic Medication Monitoring Program (AMP)?

DCF's Antipsychotic Medication Monitoring Program (AMP) is a group of clinical staff who review requests for the prescribing of antipsychotic medications for children in DCF custody.[20] The AMP team includes the Consultant DCF Child and Adolescent Psychiatrist (CAP), the Psychiatric Social Worker, and the Consultant Psychiatric Nurse Practitioner.[21]

AMP review occurs when there is a request to the court to authorize treatment of a child in DCF custody with a newly prescribed antipsychotic medication.[22] AMP review also occurs for a child who enters DCF custody already on an antipsychotic but now needs court authorization to continue to receive the medication.[23] The purpose of an AMP review is to support the appropriate use of antipsychotic medications in children.

What happens when a prescriber proposes to treat a child in DCF custody with antipsychotics?

The following steps occur:

---

[20] AMP reviews C & P custody or Probate and Family Court custody, but not CRA or VPA cases. DCF Antipsychotic Medication Monitoring Program PowerPoint (Winter 2024) (on file with MHLAC) (hereinafter AMP PowerPoint) at 14. In addition to the AMP review process, DCF clinical staff also flag certain cases of youth in DCF custody for a separate Internal DCF Psychotropic Consultation. For these consultations, clinical staff conduct a medical review of the child welfare record system, review Medicaid claims data for the youth, make written recommendations to the child's ongoing DCF team, conduct outreach to the treatment provider, and coordinate with the medical Guardian Ad Litem and court. DCF conducts such consultations in 70 to 80 cases annually. Consultations are internal but recommendations may be forwarded to court for a child in DCF custody. Presentation of Dr. Wynn Morgan to Committee for Public Counsel Services Children and Family Law Division Training (Nov. 12, 2025) (hereinafter Presentation of Dr. Morgan), available at https://vimeo.com/1136723734/645b51ee37?share=copy&fl=sv&fe=ci, at 37:37 and 37:57.

[21] AMP PowerPoint at 29.

[22] AMP PowerPoint at 13.

[23] AMP PowerPoint at 13.

1. The prescriber provides the DCF team with the treatment plan, an affidavit, and answers to a standard set of questions prepared by DCF about the child.[24]
2. The DCF team notifies AMP staff.[25]
3. AMP staff review the submission and make a recommendation to the DCF team regarding the appropriateness of the proposed antipsychotic medication. AMP staff may recommend moving forward with the court process, modifying the proposed treatment plan and moving forward, or not moving forward with the process.[26]
4. If AMP staff recommend moving forward, the DCF attorney files a motion in a juvenile or probate court asking the court to approve the proposed treatment plan.[27]
5. If AMP staff do not recommend moving forward, AMP staff will reach out to the prescriber to discuss alternatives to the proposed medication.[28]

Are AMP reviews available to the court?

AMP reviews are available to the court. The reviews should be noted by the parties, including for their recommendations regarding specific psychosocial supports, specialty clinics, ways to deprescribe, potential drug interactions, and monitoring that should occur in a particular case.[29]

Do the AMP staff conduct ongoing reviews for each child the staff reviews at the time of an initial proposed medication order?

Every initial request for antipsychotic medication will go through an initial AMP review. While the AMP staff do not have the capacity to conduct reviews when Rogers orders are renewed, they can conduct consults if needed for renewals of orders. AMP staff may also receive requests for a review from a GAL monitoring the treatment plan if concerns arise after an order is put in place.

Do AMP staff coordinate with MassHealth staff?

AMP staff work with MassHealth in that agency's review of high-risk prescribing of children.[30] See the discussion in the section on PBHMI below.

---

[24] AMP PowerPoint at 12-13.
[25] AMP PowerPoint at 12.
[26] Presentation of Dr. Morgan at 40:51. In 70% of cases, AMP recommends that DCF move forward with the proposed antipsychotic as written, in 25% of cases AMP recommends that DCF move forward with modifications (usually related to the proposed dose), and in 5% of cases AMP recommends that DCF not move forward with antipsychotic medication at this time. In addition, AMP staff outreach to the psychiatric prescriber in 54% of cases to ensure appropriate monitoring of prescribed medication. Id. at 41:48.
[27] AMP PowerPoint at 12.
[28] As discussed above, this typically occurs in 5% of cases.
[29] See AMP PowerPoint at 18; Presentation of Dr. Morgan at 42:00.
[30] AMP staff also keep a data base of youth started on antipsychotic medication. AMP PowerPoint at 9. AMP staff review cases for quality assurance purposes and do some monitoring annually to make sure required laboratory tests are being conducted. Presentation of Dr. Morgan at 40:40.

THE RIGHTS OF CHILDREN IN THE CUSTODY OF THE MASSACHUSETTS DEPARTMENT OF CHILDREN AND FAMILIES REGARDING MEDICAL TREATMENT

Prepared by the Mental Health Legal Advisors Committee
May 2026

Part 5: Rights of Children in DCF Custody Regarding the *Rogers* Hearing Process to Consider Authorizing Extraordinary Treatment

What courts hear cases to authorize extraordinary treatment for children in DCF custody?

These hearings may be held in juvenile or probate court.

What happens when a court receives a motion asking the court to authorize extraordinary treatment with antipsychotics?

- A court appoints a Guardian ad Litem (GAL) to review the proposed treatment plan and make recommendations regarding the authorization of extraordinary treatment.[31] A GAL is a neutral person who reports back to the court.
- The court holds a hearing to consider the proposed treatment plan, known as a *Rogers* hearing, as soon as is practicable.[32]

How does a judge in a *Rogers* hearing determine if a treatment plan should be approved?

In a *Rogers* hearing, judges do not authorize treatment plans based on what is in the "best interest of the child" or the potential efficacy of the proposed medication.[33] Rather, a judge will consider what the child would decide if they were competent to make the decision.[34] This is known as substituted judgment.[35] To make a substituted judgment determination for a child, judges consider the following factors:

- the child's express preferences;
- the child's religious convictions;
- the impact on the child's family;

---

[31] See Mass. Juvenile Court Standing Order 1-24: Procedure Regarding the Appointment of Court Investigators and Guardians ad litem (Oct. 14, 2024), at 4.a; In re Mary Moe, 385 Mass. 555 (1982).
[32] G.L. c. 190B, § 5-306A.
[33] In re Beth, 412 Mass. 188, 195 & n.11 (1992).
[34] Id.
[35] Id.

- the intrusiveness of the treatment and the probability, if any, of adverse side effects;
- the prognosis with or without treatment;
- the likelihood of side effects from the treatment; and
- the present and future incompetence of the child.[36]

A substituted judgment decision may be based on testimony and affidavits from a licensed physician or clinical specialist, parents, the child's attorney, the child themselves (when they have the capacity to answer questions), and other relevant information.[37]

What is the role of an attorney at a *Rogers* Hearing?

When a child is in DCF custody, both the parents and the child have counsel appointed. The *Rogers* hearing is not a separate court action but a hearing that is part of their underlying custody case.

The attorney must advise the child in a developmentally appropriate manner and, if possible, ascertain their treatment preferences.[38] If the child can adequately communicate a treatment preference, the child's attorney must advocate that preference, even if the attorney does not believe the decision is in the best interest of the child[39] If the child does not want the proposed treatment, the attorney must oppose the treatment and present all reasonable alternatives.[40] An attorney may use substituted judgment if the child is unable to communicate a preference.[41]

If an attorney believes a child's treatment preference puts the child at risk of substantial harm, and the youth will not reconsider their position, the attorney may present the child's preference and request that a guardian ad litem make an independent recommendation.[42] An attorney may also advocate for the child's preference and present a substituted judgment.[43]

Parents have a right to participate and be heard unless their rights have been terminated.

Is the child required to attend the hearing?

Absent extraordinary circumstances, a child 14 years old or older is required to attend any hearing regarding the consent of treatment by substituted judgment.[44]

---

[36] Guardianship of Richard Roe, 383 Mass. 415, 435-436 (1981).
[37] See In re Rena, 46 Mass. App. Ct. 335, 337 (1999); G.L. c. 190B, § 5-306A.
[38] CPCS, Assigned Counsel Manual: Policies and Procedures, Performance Standards Governing the Representation of Children and Parents in Child Requiring Assistance Cases, at §1.6 (Dec. 12, 2025), https://www.publiccounsel.net/wp-content/uploads/2025/12/ACM-Version-1.17-December-12-2025-1.pdf.
[39] Id.
[40] Id.
[41] Id.
[42] Id.
[43] Id.
[44] G.L. c. 190B, § 5-306A.

If a child client under age 14 expresses a desire to attend a hearing, and such attendance is appropriate given the child's age and abilities and the nature of the proceedings, counsel shall take steps to assure the child's attendance.[45]

What happens after a judge authorizes a treatment plan?

If treatment is authorized, the court may appoint a GAL to monitor the treatment plan.

The court will review the treatment plan at least annually to determine if the administration of the medication is still appropriate based on changes in the child's condition and circumstances.[46]

What if the child were previously prescribed antipsychotic medication before entering DCF custody?

If a child was prescribed antipsychotic medication without judicial authorization before entering DCF custody, the Department must start the *Rogers* process and obtain a substituted judgment for the treatment. The administration of the drugs may continue during this process.[47]

What if a child or their parent has concerns about medication on the treatment plan after it is authorized by the court.

Sometimes a medication included on a court-approved treatment plan may cause unwanted side effects or may not seem to be working. If this is the case, or if other concerns arise about medication, a child or their parent can take one or more of the following steps:

- Talk to the person administering the medication.
- Talk to the person who prescribes the medication.
- Talk to the GAL.

After a child is reunited with their family, a *Rogers* decision is void and the parent can decide whether to end or continue the treatment.

---

[45] CPCS, Assigned Counsel Manual: Policies and Procedures, Performance Standards Governing the Representation of Children and Parents in Child Requiring Assistance Cases, at §1.6, *supra* note 38.

[46] G.L. c. 190B, § 5-306A.

[47] 110 CMR 11.14(b).

Part 6: MassHealth's Pediatric Behavioral Health Medication Initiative (PBHMI) [48]

What is MassHealth's review program for prescribing medication to children?

MassHealth (Medicaid) has its own program, called the Pediatric Behavioral Health Medication Initiative (PBHMI), to review high-risk medications prescribed to MassHealth-insured children under age 18.

Since all children in DCF care or custody receive MassHealth through DCF,[49] PBHMI prior authorization (PA) requirements are applicable to all DCF-involved children (until age 18).

When will PBHMI apply to a case?

PBHMI may apply to a case in multiple ways. The initial PBHMI intervention is the requirement of PA for the prescribed medication if certain situations are met, which are detailed below. In addition to the PBHMI PA requirements, certain high-risk cases may also be reviewed in further detail by the PBHMI Therapeutic Class Management (TCM) workgroup.

In general, a PA will be required for medications included in the PBHMI if:

- certain classes of behavioral health medication are prescribed;
- specific medication combinations are prescribed (known as "polypharmacy");[50]

---

[48] Information in this section draws from https://www.mass.gov/info-details/masshealth-pediatric-behavioral-health-medication-initiative-questions-and-answers. See also form at https://mhdl.pharmacy.services.conduent.com/MHDL/pubdownloadpa.do?id=9594. To ensure you have the most updated information regarding medications, please confirm using the MassHealth Drug List (MHDL) website at https://mhdl.pharmacy.services.conduent.com/MHDL/welcome.do.

[49] After a youth in DCF care or custody turns age 18, they can continue to receive MassHealth until age 21 if they sign a VPA with DCF, or if they leave DCF care/custody between ages 18 and 21 and remain in Massachusetts.

[50] For the Initiative, polypharmacy is defined as the use of:

- More than one agent within the same medication class (e.g., two or more antidepressants, two or more antipsychotics, three or more mood stabilizers, etc.), as well as
- Four or more behavioral health medications in a regimen, whether within the same medication class or across different behavioral health medication classes, when certain

- evidence is limited that a prescribed medication is safe and effective for children.

The kinds of behavioral health medication that PBHMI reviews include:

> alpha$_2$ agonists, antidepressants, antipsychotics, armodafinil, atomoxetine, benzodiazepines, buspirone, cerebral stimulants, donepezil, hypnotic agents, memantine, meprobamate, modafinil, mood stabilizers (agents considered to be used only for seizure diagnoses are not included), naltrexone, prazosin, viloxazine, and xanomeline/trospium.

A PA is not required every time a behavioral health medication is prescribed, but may occur when:

- A child under age 18 is prescribed multiple, or certain combinations of behavioral health medications from the same class or from different classes.
- A child under age 3 is prescribed alpha$_2$ agonists or cerebral stimulants.
- A child under age 6 is prescribed an antidepressant, armodafinil, atomoxetine, benzodiazepine, buspirone, donepezil, hypnotic, memantine, meprobamate, modafinil, mood stabilizer[51] (agents considered to be used only for seizure diagnoses are not included), naltrexone, prazosin, viloxazine or xanomeline/trospium.
- A child under age 10 is prescribed an antipsychotic without a diagnosis of Autism Spectrum Disorder (ASD) (Risperidone is FDA-approved to treat ASD down to age 5 Abilify is FDA-approved to treat ASD down to age 6).

A complete list of medications and applicable criteria is available at www.mass.gov/druglist. These PA requirements apply to all MassHealth members covered by the Fee-For-Service (FFS), Primary Care Clinician (PCC), Primary Care Accountable Care Organizations (PCACO), Accountable Care Partnership Plans (ACPP), or Managed Care Organizations (MCO).

In addition to the PBHMI PA requirements, certain cases may also be reviewed in further detail by the PBHMI TCM workgroup, which includes clinical pharmacists, child adolescent psychiatrists, social workers, and a nurse.

As a result of PBHMI TCM workgroup review, prescriber outreach by a child adolescent psychiatrist may be conducted to collaboratively discuss the case in further detail. Of note, the PBHMI TCM workgroup review process only applies to members in the FFS/PCC/PCACO plans.

---

medications are included in the regimen (e.g., an antipsychotic, a benzodiazepine, divalproex/valproate, lithium, or a tricyclic antidepressant), or

- Five or more behavioral health medications in a regimen, regardless of the medications included.

[51] Mood stabilizers include anticonvulsants that may be used for behavioral health indications (agents considered to be used only for seizure diagnoses are not included). Lithium is also classified as a mood stabilizer under this Initiative.

Thus, MassHealth will often, but not always, review medications prescribed to children in DCF custody for mental health or behavioral conditions.

What agencies are involved in the PBHMI reviews?

MassHealth conducts the PBHMI through its MassHealth Pharmacy Program. The program is administered for MassHealth through contract with ForHealth Consulting at UMass Chan Medical School. Also involved in the PBHMI reviews are DCF (for children in DCF custody), the Department of Mental Health (DMH) and the Massachusetts Behavioral Health Partnership (MBHP). All substantial programmatic changes to the PBHMI are reviewed with DMH and the Office of Behavioral Health (OBH).

How does the PBHMI review process relate to DCF's Antipsychotic Medication Monitoring Program (AMP) process to review proposed medications for children in DCF custody?

The PBHMI review process is separate from the AMP review process. Some, but not all DCF custodial children subject to an AMP review would also have a PBHMI review. In other words, the PBHMI process only serves a subset of DCF custodial children subject to an AMP review.

The DCF AMP program does track children involved with both the AMP and PBHMI processes. Such children may have an initial AMP review and, potentially, multiple PBHMI reviews.

How does the PBHMI review process relate to the *Rogers* hearing process to authorize extraordinary treatment for children in DCF custody?

The PBHMI review process is separate from the hearing process to authorize extraordinary treatment. Some, but not all DCF custodial children subject to a *Rogers* hearing would have a PBMHI review. In other words, the PBHMI process only serves a subset of DCF custodial children subject to a *Rogers* hearing.

What is the timing of the PBHMI process when there is also an AMP review and a Rogers hearing process occurring?

While the PBHMI review process is distinct from the AMP review, these processes may proceed concurrently. The PBHMI should not hold up the AMP review or the *Rogers* hearing process.

Should others also review medications prescribed to children in DCF custody?

Yes. While DCF and MassHealth have responsibilities, as described above, to review proposed prescribing, others, including children, parents, and foster parents, also should carefully examine proposals to medicate. Involved persons can ask questions of the provider and monitor the effects (and side effects) of medications.

When the court is involved, the attorney for the child will, of course, investigate these issues. Additionally, the judge has the responsibility to consider the benefits and risks of medication as part of the *Rogers* hearing process. And, if the court is considering a proposal to treat with extraordinary medication, the court-appointed Guardian Ad Litem is supposed to investigate, make a recommendation regarding the proposed treatment plan, and monitor any approved plan.

THE RIGHTS OF CHILDREN IN THE CUSTODY OF THE MASSACHUSETTS DEPARTMENT OF CHILDREN AND FAMILIES REGARDING MEDICAL TREATMENT

Prepared by the Mental Health Legal Advisors Committee
May 2026

Part 7: ADVOCATING FOR CHILDREN IN DCF CUSTODY ON MEDICATION ISSUES

Who can answer questions about the rights of children, parents, and foster parents when a child is prescribed medications for psychiatric and/or behavioral issues?

If you are a child or **youth** in DCF custody -- > contact the court appointed attorney representing you on DCF matters and/or any petition for a court order for a proposed extraordinary treatment plan.

If you are a **parent** of a child in DCF custody -- > contact your court appointed attorney for DCF matters.

If you are a **foster parent** of a child in DCF custody, you might also reach out to the child's attorney or the DCF case worker with questions about medications. You could ask questions about

- the proposed medication,
- the possibility that there were reviews by MassHealth and/or DCF, and
- the *Rogers* hearing process to consider a proposed treatment plan for the administration of extraordinary medical treatment.

The **child/youth, parent, or foster parent** also can ask

- MassHealth whether they have reviewed the proposed plan to treat with medication through their Pediatric Behavioral Health Medication Initiative; and/or
- DCF if they have reviewed the proposed plan to treat the child or youth with medication through their Antipsychotic Medication Monitoring Program.

Note that parents of children in DCF custody may have difficulty receiving information from MassHealth (or from DCF) if the parent does not have legal custody of their child.