



Health Homes Serving Children Consent Document Guidance – Updated July 2018

The purpose of this guidance document is to provide an overview of the required consent forms used in the Health Home Serving Children program. In addition, this guidance document outlines appropriate practices and procedures to obtain valid consents required for participation and information sharing in the Health Home Serving Children program.

Obtaining consent is a collaborative process between the Health Home care manager, the child or youth, and their parent, guardian, or legally authorized representative. Consent forms document the appropriate party or parties provided with permission to request a referral and enrollment in the Health Homes Serving Children program as well as allowing for the gathering and sharing of information with the necessary individuals and entities that participate in providing services and supports related to the member's identified needs.

Gaining consent is an opportunity to learn who needs to be included as key members of the interdisciplinary team in order to build a representative, functional, and collaborative interdisciplinary team. Obtaining consent to collect and share historical and current information is a required initial step which assist team members to work together to meet the needs of the child or youth. This process of sharing information is fundamental for care coordination and developing a comprehensive approach to meeting the child or youth's needs and supports essential ongoing communication between team members.

Current valid consents are required to refer, share information, and enroll an individual in the Children's Health Home program and to complete the Child and Adolescent Needs and Strengths (CANS-NY) Assessment within the Uniform Assessment System (UAS-NY). Health Home care managers who are responsible for obtaining consent must be knowledgeable of the specific federal and New York State legal protections of minors related to obtaining consent. In addition, the Health Home care manager must be mindful of who is the responsible party able to provide consent, i.e., the parent, guardian, legally authorized representative, or, in some cases, the child/adolescent. Subsequently, there are instances where the parent, guardian, or legally authorized representative, as well as the child/adolescent, must both provide consent.

Overview of Individuals Who Can Provide Consent

For individuals who are between 18-21 years of age or children under 18 years of age who are parents, pregnant, and/or married:

Individuals who are 18-21 years of age can legally consent for their own enrollment and information sharing with a Children's Health Home program. Children and adolescents under the age of 18 and who are also parents, pregnant, and/or married, are legally able to consent to their own Health Home enrollment and consent to share their own protected health information.



For children and adolescents who are under 18 years of age and who are NOT parents, pregnant and/or married:

Children and adolescents who are under 18 years of age and are not parents, pregnant, and/or married are unable to legally consent for their own enrollment into the Children's Health Home. Consent for enrollment must be completed by the child's parent, guardian, or legally authorized representative. This process to obtain consent is explained in more detail below. However, for the purposes of information sharing, consent may be provided by the parents, guardian, legally authorized representative, and/or the child.

For the purpose of obtaining consent to enroll in a Children's Health Home program and/or providing consent for sharing protected health information, a legally authorized representative is defined as, "a person or agency authorized by state, tribal, military or other applicable law, court order or consent to act on behalf of a person for the release of medical information".

For persons over age 18 or under age 18 who are married, a parent, or pregnant and have been determined to be legally incompetent:

If a child/adolescent who otherwise would be considered self-consenting (by being over the age of 18, or married, pregnant, or a parent) but lacks the capacity to self-consent, the person granted legal authority to make health care decisions on behalf of this child/adolescent has the authority to sign Health Home consents. Examples of this may include a health care power of attorney or court appointed legal guardian. The individual with authority to consent on behalf of the child/adolescent would need to provide valid active documentation (i.e. court paperwork) for the member's record.

Note: In these types of situations, the appropriate consents to be signed are based upon member's age as outlined by Health Home consent forms and guidance not the individual consenting.

Differences in Legal Consent for Educational Record Sharing

It is important to be aware that the definition of parent, guardian, and legally authorized representative may differ for consent related to educational information sharing as the definitions are taken from educational law, specifically FERPA (Federal Educational Rights and Privacy Act). An individual who was authorized to provide consent for HH enrollment and other information sharing may not be authorized under the definitions used for educational record sharing. Please refer to Question 5 of *Health Home Consent Information Sharing Release of Educational Records (DOH 5203)* for further information as to these definitions.

Records from Early Intervention Program or an Early Intervention official are also covered *under Health Home Consent Information Sharing Release of Educational Records (DOH 5203)*.



Types of Required Consent

A. Consent to Refer

Prior to referring a child or adolescent to the Children's Health Home program, the referrer must obtain, at minimum, a verbal consent from the parent, guardian, legally authorized representative, and/or the child/adolescent, if appropriate. (Providers may follow their own internal procedures or HH requirements for making a referral for health services providing, at minimum, a verbal consent for referral is obtained).

The Medicaid Analytics Performance Portal Health Home Tracking System (MAPP HHTS) Children's Referral Portal provides the referring entity with a place to document that a consent to refer was obtained and who provided the verbal consent. Verbal consent is needed to ensure that the consenter is aware a referral has been made for the Health Home program and is prepared to engage when they are contacted by the assigned Health Home care manager.

Once a referral is completed, the assigned care manager(s) is responsible for educating the child and/or their parent, guardian, or legal authorized representative about the Children's Health Home program and the plan of care process.

B. Health Home Consent Frequently Asked Questions (FAQ) For Use with Children Under 18 Years of Age

A child/adolescent under age 18, and their parent, guardian, or legally authorized representative, must be provided a copy of *Health Home Consent Frequently Asked Questions (FAQ) For Use with Children Under 18 Years of Age*, which explains the Health Home program, services, and consents required for information sharing and Health Home enrollment. The *Health Home Consent FAQ For Use with Children Under 18 Years of Age* must be reviewed with the child/adolescent and the parent, guardian, or legally authorized representative prior to completing and signing the *Health Home Consent Enrollment For Use with Children and Adolescents Under 18 Years of Age (DOH 5200)*, which contains statements confirming that the *Health Home Consent FAQ For Use with Children Under 18 Years of Age* document was reviewed and understood by the child and their parents, guardian, or legally authorized representatives.

Children 18 years of age or older or under 18 years of age and are parents, pregnant, and/or married can self-consent and the *Health Home Patient Information Sharing Consent (DOH 5055)* should be used to gain their consent to enroll and share information as outlined below. There is a specific FAQ section contained within *Health Home Patient Information Sharing Consent (DOH 5055)*, therefore the *Health Home Consent Frequently Asked Questions (FAQ) For Use with Children Under 18 Years of Age* is not needed or appropriate.



C. Health Home Consent Enrollment For Use with Children and Adolescents Under 18 Years of Age (DOH 5200)

This consent must be completed and signed only by a parent, guardian, or legally authorized representative of a child or adolescent under the age of 18 for enrollment into the Health Home Serving Children's program. It is important for the consenter to understand that the child or adolescent will be enrolled in Health Home, a program that provides care management services, as well as understand the requirements for services to be delivered (i.e., the completion of the CANS-NY, comprehensive assessment and plan of care) and, potentially, a monthly face-to-face meeting. Additionally, enrollment in Health Home services will continue until such time as the parent, guardian, or legally authorized representative withdraws enrollment or the interdisciplinary team, along with the parent, guardian, or legally authorized representative, believes that Health Home services are no longer needed and the child/adolescent is dis-enrolled.

Consent is required to enroll an individual in the Children's Health Home Program. An individual with the right to provide consent, has the right to decline to enroll or opt out of Health Home prior to enrollment. An individual who has consented to enroll in the Children's Health Home Program has the right to withdraw that consent at any time. If an individual opts out or withdraws from enrollment, it is the responsibility of the Care Manager to document the opt out with *Health Homes Opt-Out Form (DOH 5059)* or withdrawal with *Health Home Withdrawal of Health Home Enrollment and Information Sharing Consent Form For Use with Children and Adolescents Under 18 Years of Age (DOH 5202)* of the member as well as provide the parent, guardian, legally authorized representative, or child/adolescent with information on how to refer for enrollment in the future if desired.

D. Health Home Consent Information Sharing For Use with Children and Adolescents Under 18 Years of Age (DOH 5201)

Consent to share information for Children's Health Home members concerns a wide range of information sharing including Protected Health Information (PHI). It is important that a Health Home care manager is aware of the consents differences involved to protect the rights of minors and to determine whether PHI is shared and with whom. There are established procedures outlined that a care manager must follow to assure that minors freely agree to consent or deny consent to information sharing of their protected health information.

HHs must assure that *Health Home Consent Information Sharing For Use with Children and Adolescents Under 18 Years of Age (DOH 5201)* includes information required for enrollment and must state, at a minimum:

- the name of the CMA, AND
- the member's Medicaid Managed Care Plan (MMCP), AND
- the primary care physician (PCP) and/or healthcare provider from whom the member receives most of care (e.g. mental health, substance use, etc.) AND
- providers of services and supports for the chronic condition(s) for which the member is enrolled in the Health Home program, if they differ from the PCP



The *Health Home Consent Information Sharing For Use with Children and Adolescents Under 18 Years of Age (DOH 5201)* has two sections: Section 1 for the parent, guardian, or legally authorized representative to complete because they are the authority that can release the child/adolescent's PHI information, they are consenting adult for child.

Section 2 is for the child/adolescent to complete on their own with the Health Home care manager alone without the parent because these are items that the child can self-consent for other services without the parent's knowledge. Section 2 can be reviewed with the parent/guardian/legally authorized representative ahead of time so that they are aware of what is discussed with child. However, after the form is completed, the Health Home care manager cannot share Section 2 of the consent form with the parent/guardian/legally authorized representative unless the child has agreed to share all the information and providers listed under Section 2 with the parent/guardian/legally authorized representative.

Section 1:

To be completed only by the parent, guardian, or legally authorized representative of the child or adolescent under the age of 18. The parents, guardian, or legally authorized representative should be informed that:

- Health providers may share information before or after the signature date on the consent form.
- Consent to share information can be recorded, modified, or withdrawn at any time.
- The child can keep private any information about services that the child/adolescent has the right to self-consent to receive (see Section 2).

Section 2:

This section is to be completed only by the child or adolescent on their own with the Health Home care manager and outside the presence of the parents, guardian, or legally authorized representative of the child or adolescent.

- The child/adolescent may choose to keep private any or all their information regarding: family planning, emergency contraception, abortion, sexually transmitted infection testing and treatment, HIV testing, HIV treatment and prevention, prenatal care, labor and delivery services, drug and alcohol treatment, or sexual assault services. Children age 10 or older can consent to share or withhold information regarding these types of protected services listed in Section 2 of the *Health Home Consent Information Sharing For Use with Children and Adolescents Under 18 Years of Age (DOH 5201)*.
- In addition, if the child or adolescent is specifically receiving services for mental health or developmental disabilities and is over the age of 12, the mental health and/or developmental disabilities provider may ask the child or adolescent if they want their information disclosed. If the parent, guardian, or legally authorized representative consented for these services on behalf of the child/adolescent, then the parent, guardian, or legally authorized representative may have the authority to consent for the release of information for these services. However, the child/adolescent must also consent to the release of this information.



- If the child or adolescent is unable or unwilling to complete Section 2 of *Health Home Consent Information Sharing For Use with Children and Adolescents Under 18 Years of Age (DOH 5201)*, it should be left blank, however there must be a documented reason as to why it was not completed in the member's case record.

IMPORTANT FACTORS:

1. If the parent, guardian or legally authorized representative does not want the Health Home care manager (HHCM) to meet alone with the child, or the child is unable/unwilling to complete Section 2 of *Health Home Consent Information Sharing For Use with Children and Adolescents Under 18 Years of Age (DOH 5201)*, then the HHCM must document this in the member's case record.
2. Absence of Section 2 completion shall in no way prohibit the child's enrollment.
3. The HHCM must be aware of restrictions posed when Section 2 is not completed and act accordingly. If the child, parent, guardian, or legally authorized representative does not allow for the completion of Section 2 of this form, then all providers listed on Section 2 of *Health Home Consent Information Sharing For Use with Children and Adolescents Under 18 Years of Age (DOH 5201)* will not be able to share information relating to these health services.
4. The HHCM should re-approach the parent, guardian, legally authorized representative, and/or the child again whenever Section 2 is not completed, to attempt to obtain the necessary information to complete Section 2. Failure to complete Section 2 can severely hamper care management by restricting information sharing with team members.

E. *Health Home Patient Information Sharing Consent (DOH 5055)*

This form provides for consent for enrollment in a Health Home and for the purpose of sharing health information for individuals who are 18 years of age or older or are under the age of 18 AND a parent, pregnant, or married. These members are legally able to consent for their own enrollment into a Health Home and consent to share their information.

If *Health Home Patient Information Sharing Consent (DOH 5055)* is completed, then the HH care manager would not complete *Health Home Consent Enrollment For Use with Children and Adolescents Under 18 Years of Age (DOH 5200)* and *Health Home Consent Information Sharing For Use with Children and Adolescents Under 18 Years of Age (DOH 5201)*. Also, the *Health Home Consent FAQ For Use with Children Under 18 Years of Age* does not need to be provided when *Health Home Patient Information Sharing Consent (DOH 5055)* is completed as this form has an imbedded FAQ within it.

F. *Health Home Functional Assessment Consent (DOH 5230)*

This consent form is used with all enrolled Health Home Serving Children members up to the age of 21 years old. Upon enrollment into a Children's Health Home, the care manager must obtain this consent to conduct the Child and Adolescent Needs and Strengths-New York (CANS-NY) assessment tool. This consent must be signed by a parent, guardian, or legally authorized representative if the child/adolescent is under the age of 18, or by the child/adolescent, if the child/adolescent is under the age of 18 and a parent, pregnant,



and/or married. Individuals who are between 18 and 21 years of age can provide consent on their own behalf.

The *Health Home Functional Assessment Consent Form (DOH 5230)* is needed to enter the members identifying information into the Uniform Assessment System-New

York (UAS-NY) database. Without obtaining this consent, the Health Home care manager will not be able to complete a Child and Adolescent Needs and Strengths-New York (CANS-NY) assessment in the Uniform Assessment System-New York (UAS-NY) system.

G. *Health Home Consent Information Sharing Release of Educational Records (DOH 5203)*

The *Health Home Consent Information Sharing Release of Educational Records (DOH 5203)* is used to gain consent to release educational records to a Health Home for children and adolescents who have been enrolled in a Health Home. It includes information on what educational records can be shared and with whom. Consent for release of educational records for children and adolescents under age 18 must be provided by the parent as defined in Question 5 of the *Health Home Consent Information Sharing Release of Educational Records (DOH 5203)*. Consent for release of educational records for those aged 18 and over must be provided by the individual.

New York State Education Department (NYSED) requires a different consent to release educational records because they are covered by Family Educational Rights and Privacy Act (FERPA) and not the Health Insurance Portability and Accountability Act (HIPAA). The definition of parent in *Health Home Consent Information Sharing Release of Educational Records (DOH 5203)* is also different from other Health Home consent forms. Please refer to *Health Home Consent Information Sharing Release of Educational Records (DOH 5203)* for the complete definition of parent, guardian, or legally authorized representative.

Note: *Health Home Consent Information Sharing Release of Educational Records (DOH 5203)* also includes education records that are directly related to an infant or toddler in the Early Intervention Program (EIP) or records from a local early intervention official.

Obtaining the *Health Home Consent Information Sharing Release of Educational Records (DOH 5203)* does not impact the enrollment process. However, HHCMS must discuss completion of this form with the individual or parent, guardian, or legally authorized representative and document any instances where this consent is not signed and the reason for failure to sign consent for members enrolled in school/educational programs.

H. *Health Home Consent Withdrawal of Release of Educational Records (DOH 5204)*

To be completed by the parent of a child/adolescent under the age of 18 (see definition of parent on the consent form) or the adolescent, if 18 years of age or older, to withdraw consent to share educational records. Education records need a separate form as they are covered under Family Educational Rights and Privacy Act (FERPA) and not the Health Insurance Portability and Accountability Act (HIPAA).



I. *Health Home Withdrawal of Health Home Enrollment and Information Sharing Consent Form For Use with Children and Adolescents Under 18 Years of Age (DOH 5202)*

Health Home members and/or parents, guardians, or legally authorized representatives have a right to withdraw consent at any time. Additionally, parents, guardians, or legally authorized representatives have the right to withdraw the sharing of protected health information, specific services and or providers and other information, in whole or in part.

The *Health Home Withdrawal of Health Home Enrollment and Information Sharing Consent Form For Use with Children and Adolescents Under 18 Years of Age (DOH 5202)* is to be completed by parents, guardian, or legally authorized representative of children or adolescents under the age of 18 to dis-enroll children or adolescents from the Health Home Program and to rescind consent to release health information for children or adolescents who have been enrolled in a Health Home and where the *Health Home Consent Enrollment For Use with Children and Adolescents Under 18 Years of Age (DOH 5200)* and *Health Home Consent Information Sharing For Use with Children and Adolescents Under 18 Years of Age (DOH 5201)* were signed.

J. *Health Home Patient Information Sharing Withdrawal of Consent (DOH 5058)*

The *Health Home Patient Information Sharing Withdrawal of Consent (DOH 5058)* rescinds the consent to enroll and the consent to release health information for children and adolescents that are over the age of 18 and children/adolescents under the age of 18 and who are parents, pregnant, or married. The *Health Home Patient Information Sharing Withdrawal of Consent (DOH 5058)* should be used for members who signed the *Health Home Patient Information Sharing Consent (DOH 5055)*. These individuals can withdraw from the Health Home program at any time by using this form.

K. *Health Homes Opt-Out Form (DOH 5059)*

This form is used by the Health Home care manager during outreach activities to document that the consenter (the child and/or their parent, guardian, or legally authorized representative) has been approached about enrolling in Health Home care management services, but declined to enroll in the Health Home program.

It is a Health Home Serving Children standard that when the consenter declines to enroll in the Health Home program, the care manager must contact the referral source to notify them that the consenter has declined to enroll in the Health Home program within 48 hours.

The *Health Homes Opt-Out Form (DOH 5059)* is not used to withdraw consent. If the individual has signed a consent for Health Home enrollment (DOH-5055 or DOH-5200), then the appropriate form to withdraw consent (DOH-5202 or DOH-5058) must be used. The *Health Homes Opt-Out Form (DOH 5059)* is used only for individuals who choose not to enroll in the Health Home program and therefore would not have signed consent.

The *Health Homes Opt-Out Form (DOH 5059)* is completed by the consenter (the child and/or their parent, guardian, or legally authorized representative), or by the Health Home care manager, as indicated, and must include the reason for opting out. The child and/or



their parent, guardian, or legally authorized representative must be informed of his/her right to reconsider enrollment in the Health Home program and be provided with instructions on how to request enrollment.

Circumstances which Warrant Obtaining a New Consent(s)

There are circumstances where consent must be re-obtained after the initial enrollment and information sharing consents are signed. Significant events or changes in the life of the child or changes of the Health Home that would warrant the completion of a new consent for a member include, but are not limited to:

- if a Health Home changes its name (e.g., upon submission of the *Health Home Notification Letter* to the NYS Department of Health)
- if the child/adolescent turns 18 years old, only if he/she did not previously consent for him/herself
- if the child/adolescent changes from foster care to non-foster care or from non-foster care to foster care
- if the child/adolescent under age 18 gets married, becomes pregnant, or becomes a parent
- the consentor for a child still under 18 years of age changes
- the child changes schools and/or school districts (refers to use of DOH 5203 for HHSC)
- if the member re-enrolls in the Health Home program following disenrollment, or
- when a member changes Health Homes.

When a New Consent Is Obtained

When a new consent form is needed due to any of the circumstances listed above, the new consent form to enroll and consent to share information **MUST** occur within the month of the event and/or birthday month of the member to ensure continuity of care management services and the ability to bill for such services.

NOTE: When the member changes Health Homes, record sharing is not an automatic process. Member consent must be obtained by the current CMA/HH to allow for the transfer of member records from the current HH to receiving HH to assure PHI is protected in the process.