



DCP All Staff Bulletin

April 19, 2019 | From Deputy Commissioner William Fletcher
Division of Child Protection

Policy and Practice on Cases Involving Marijuana Use By Parents

In all of our cases, including those with substance misuse allegations, we assess child safety on a case-by-case basis, looking at actual or potential harm to a child and the parent's capacity to care for the child. State and city policy is that a parent's use of marijuana is not in and of itself a basis for indicating a report or filing a neglect case. This means that a case should not be indicated solely because a parent is using marijuana, but instead CPS should assess whether the parent's marijuana use is impacting the safety and wellbeing of the child.

In some cases, marijuana misuse is alleged in an SCR report; in other cases, it is not part of the initial report but becomes apparent during the course of an investigation. Regardless, CPS must assess the impact of marijuana use on parental capacity to care, protect and supervise the child; the level of the safety threat to the child; and the child's vulnerability.

The CPS investigation must assess whether the child's physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the marijuana use.

- As part of this investigation, CPS must assess the ability of the parent to safely care for the child (including by examining the parent's ability to recognize when the child is in danger), plan for the care of the child and his/her ability to follow through with those plans.
- CPS must assess the vulnerability of the child: What is the ability of the child to self-protect? Does the child have any disabilities that necessitate specialized care or heightened supervision? What is the threat of harm to child? Is there a specific situation or parent/caretaker behavior that is out of control and likely to have severe effects on a vulnerable child?
- CPS must determine the impact to the child due to the marijuana use.

The CPS must consult with a CASAC as soon as marijuana or other substance misuse becomes apparent, and the CASAC will conduct an assessment to determine whether treatment is necessary. The CPS must offer and/or refer to appropriate safety interventions and services, such as substance use disorder treatment services, home visiting programs, and early intervention screening and services.

The CPS must intervene immediately if the caretaker or parent is misusing a drug or drugs or misusing alcohol to the extent that the person loses self-control of his or her actions, and as a result the child is at imminent risk of harm.

Positive marijuana toxicology of an infant or the mother at the time of birth is not sufficient, in and of itself, to support a determination that the child is maltreated, nor is such evidence alone sufficient for ACS to take protective custody of (remove) a child or file a case in Family Court. To establish if maltreatment has occurred, the CPS must establish a connection between marijuana use and any impairment or risk of impairment to the child.

You should consult with your supervisor if you have questions about case-by-case assessments of the impact of substance misuse on children.

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