

ANNOUNCEMENT: EI-13 #02

Effective Date: 3/19/2013

SUBJECT: Pennsylvania System of Payment

TO: Infant/Toddler Early Intervention Leadership

FROM: Barbara G. Minzenberg, Ph.D.
Deputy Secretary, Office of Child Development and Early Learning



PURPOSE:

The purpose of this announcement is to provide guidance on Pennsylvania's (PA) system of payment per requirements under regulations for Part C of the Individuals with Disabilities Education Act (IDEA) Amendments of 2004 and supporting federal regulations at 34 CFR 303.

BACKGROUND:

The Pennsylvania Early Intervention (EI) Program is implemented in compliance with the IDEA as amended by Public Law, 108-446; Pennsylvania Act 212-1990: The Early Intervention Service System Act; and Title 55, Chapter 4226. Early Intervention Services. IDEA establishes requirements for state policies and procedures related to system of payment for EI services.

DISCUSSION:

The Department of Public Welfare (Department) ensures:

- A. State policies are established related to PA's system of payment, EI services to eligible infants and toddlers and their families, and how services shall be paid or reimbursed under Part C of the IDEA.
- B. EI services in PA are provided at no cost to the families of infants and toddlers with disabilities per state regulations at Chapter 4226.5(ii). Fees shall not be charged to families for EI services that an infant or toddler is otherwise entitled to receive at no cost to the family under Part C of IDEA and Pennsylvania Act 212-1990: The Early Intervention Service System Act.
- C. Services subject to the state's system of payment that are provided at public expense and without fees charged to families are as follows:

- 1. Implementation of child find activities;
- 2. Evaluation and assessment activities;

3. Service coordination activities carried out to assist and enable a child and a child's family to receive the rights, procedural safeguards and services authorized under the State's EI system; and
4. Administrative and coordinative activities related to:
 - The development, review and evaluation of the Individualized Family Service Plans (IFSPs); and
 - Implementation of procedural safeguards and all components of the statewide system of EI services.
5. Services as defined under Chapter 4226.5(v) and requirements under PA Act 212-1990.

D. Funding sources for EI services, including the services provided through each funding source are as follows:

- Federal Part C, when no other funding source is available:
 - Evaluation and assessment services and
 - Services identified under Chapter 4226.5(v).
- Federal Medical Assistance – Early Periodic Screening Diagnosis and Treatment:
 - Evaluation and assessment services and
 - Services identified under Chapter 4226.5(v) with the exception of special instruction and transportation services.
- Federal Medicaid Waiver under the Infant, Toddler and Families Waiver:
 - Services identified under Chapter 4226.5(v).
- State General Fund:
 - Child find activities
 - Evaluation and assessment service
 - Services identified under Chapter 4226.5(v) and
 - Administrative and coordinative activities.
- County Matching Funds:
 - Child find activities
 - Evaluation and assessment services
 - Services identified under Chapter 4226.5(v) and
 - Administrative and coordinative activities.
- Private Insurance:
 - Services identified under Chapter 4226.5(v).

E. Income information is not collected from families, therefore, fees are not charged for failure to provide such information.

F. Federal Part C funds delineated through the Department shall always be considered the payor of last resort. Federal Part C EI funds may not be used to satisfy a financial commitment

for services that would otherwise have been paid for from another public or private source. Funds may only be used for EI services that an eligible child needs but is not currently entitled to under any other federal, state, local or private source. If necessary to prevent a delay in the timely provision of EI services to a child or the child's family, federal Part C funds may be used to pay for appropriate services pending reimbursement from the agency or entity that is responsible for the payment.

G. Part C funds are permitted to be used to pay for costs such as premiums, deductibles or co-payments if necessary.

Private Insurance

Although private insurance is considered a potential funding source for EI services under Chapter 4226.13, PA insurance companies do not consider EI services as a covered service under their health insurance policies. However, if private insurance was utilized, the local Infant/Toddler EI program shall follow the requirements outlined in state regulations at §4226.13(b)(1-3) that states:

Private insurance may be used to pay for EI services only with the consent of the family, as long as such use will not result in a cost to the family, including but not limited to the following:

1. A decrease in available lifetime coverage or any other benefit under an insurance policy;
2. An increase in premiums or the discontinuation of the policy;
3. An out-of-pocket expense such as the payment of a deductible amount incurred in filing a claim.

If collecting payments under private insurance, the Infant/Toddler EI programs shall ensure that parental consent is obtained for the disclosure of personally identifiable information prior to billing private insurers for the initial provision of services and any subsequent increases in service due to changes in frequency, length, duration or intensity of a service. If a family does not give consent to use their private insurance, the lack of consent shall not delay or deny EI services to the child or family.

During the initial contact meeting with families, the Infant/Toddler EI programs shall provide families with the following:

- Information on the no-cost provision of EI services in PA;
- The state's system of payment policy; and
- The family's rights related to filing a complaint, mediation, or due process hearing should they disagree with the financing of their EI services.

Funding options shall be explained to families during the initial contact or during meetings with the service coordinator prior to the IFSP development. It is through the IFSP development process where funding decisions are determined and what funding sources will be utilized.

Infant, Toddler and Families Medicaid Waiver

Supplemental grant funds shall be expended for the provision of EI services to infants and toddlers with disabilities and their families under the home and community waiver known as the Infant, Toddlers and Families Medicaid Waiver to the extent that eligible services and eligible infants and toddlers can be identified and the infants' and toddlers' parent consent to participate in the waiver per Chapter 4226.12.

Public Benefits or Insurance – Medical Assistance (MA)

The access and use of PA Medical Assistance (MA) funds results in no cost or potential negative impact on children or families. Families shall not be required to apply for MA for infants or toddlers to receive EI services. The Infant/Toddler EI Program must obtain consent prior to using the MA of a child or parent if that child or parent is not already enrolled in the MA program. However, Infant/Toddler EI programs shall inform families of and encourage families to use all financial resources available to them to support their EI services.

Infant/Toddler EI programs shall ensure that parental consent is obtained prior to using the MA of a child or family who is currently enrolled or newly enrolled in MA if such use would:

- Decrease available coverage or any other insured benefit for the child or family;
- Result in the child's family paying for services that would otherwise have been paid for by MA;
- Result in any increases in premiums or discontinuation of MA for the child or family; or
- Risk the loss of eligibility for the child or the child's parents for home and community based waivers based on total health related costs.

If a family does not provide consent for the use of the child's or family's MA, all services on the IFSP shall be available to the child and family.

Infant/Toddler EI programs shall provide written notification to the family prior to using a child's or family's MA benefits. The notification shall include the following:

- A statement that parental consent must be obtained before disclosing a child's personally identifiable information to the MA program;
- A statement of the no cost protections consistent with parental consent listed above and that if the parent does not provide consent to use their MA benefits, all EI services on the child's IFSP shall be available for which the parent has provided consent;
- A statement that a family has a right to withdraw consent for the disclosure of personally identifiable information at any time; and
- A statement that services are at no cost to families.

MA does require the use of a family's private insurance prior to billing MA for eligible EI services. However, EI services are not a covered service by PA private insurance companies. Local Infant/Toddler programs shall ensure a denial of service is obtained from the private insurance company before billing MA for eligible EI services. If this denial is obtained, parental consent for use of private insurance shall not be necessary for the payment of service through MA.

NEXT STEPS:

1. Infant/Toddler EI programs shall review existing policies and procedures to ensure that they are consistent with this announcement and shall take steps to assure that they are in compliance.
2. Infant/Toddler Programs shall ensure that all staff review the information included in this announcement and any new or revised local procedures.

Comment and questions should be directed to the Office of Child Development and Early Learning, Bureau of Early Intervention Services at 717-346-9320 or ra-ocdintervention@pa.gov.