Early Support for Infants & Toddlers

Washington State Department of Early Learning

Kids' Potential, Our Purpose

14.C Family Cost Participation Guidelines

14.C.1. Introduction

(a) Part C of the Individuals with Disabilities Education Act (IDEA) was designed by Congress to be a comprehensive, coordinated, interagency system of services for infants and toddlers with disabilities. Congress recognized that there were already existing programs that were serving this population and Part C was designed to provide the infrastructure to coordinate across these programs. As a result, the funding for Part C was designed to utilize federal, state, and local fund sources, including public and private insurance. Because there is not enough public funding to cover all early intervention costs, not all early intervention services can be provided at public expense. Families are expected to contribute financially to their child's program. This expectation can be met by giving access to private health care/insurance and Apple Health for Kids/Medicaid, for those Part C early intervention services that are subject to ESIT's Family Cost Participation requirements.

(b) It is incumbent upon each state to maximize the use of all of these resources in order to serve the greatest number of infants and toddlers with disabilities and their families. It is also incumbent upon each state to ensure that these resources are used to deliver early intervention services that are sufficient to provide developmental benefit to the child. In order for ESIT to maintain its broad eligibility criteria, the use of all available fund sources, including public and private insurance and fees, is essential.

14.C.2. General Guidelines

(a) In accordance with 34 CFR §303.521(e)(2)(i) ESIT providers will give a written copy of its System of Payments and Fees Policy to parents when requesting:

(1) Consent for the provision of early intervention services is obtained at the Individualized Family Service Plan (IFSP) meeting; and,

(2) Consent for the use of public or private insurance to pay for the Part C services.

(b) Billing to public or private insurance cannot occur until the parents have been provided the ESIT System of Payments and Fees Policy and the parents' consent has been obtained.

(c) The following functions and services must be provided at public expense by ESIT providers and for which families may not incur any costs:

(1) Implementing the child find requirements in Child Find 34 CFR §§303.301 through 303.303.

(2) Evaluation and assessment, in accordance with 34 CFR §303.320, and the functions related to evaluation and assessment in 34 CFR §303.13(b).

(3) Service coordination services (Family Resources Coordination), as defined in 34 CFR §§303.13(b)(11) and 303.33.

(4) Administrative and coordinative activities related to

(i) The development, review, and evaluation of IFSPs and interim IFSPs, in accordance with 34 CFR §§303.342 through 303.345; and

(ii) Implementation of the procedural safeguards in 34 CFR §§303.400 through 303.511 and the other components of the statewide system of early intervention services in 34 CFR §§303.300 through 303.346.

(d) Prior to billing public health care coverage/insurance and/or private health care coverage/insurance families will be asked to provide income and expense information, consent to release personally identifiable information, and consent to access public and/or private insurance coverage. Income and expense information is used to determine a family's ability or inability to pay. The family's ability or inability to pay status must be reviewed and updated at least annually or sooner if the family requests.

(e) In accordance with 34 CFR §303.521(a)(4)(ii), if a family meets the definition of "inability to pay", all Part C services identified on their child's IFSP will be provided at no cost to the family. In addition, the family's inability to pay will not result in a delay or denial of Part C services.

(f) In accordance with 34 CFR §303.520(a)(2)(i)and(iii), early intervention providers may not, as a condition of receiving Part C services, require a parent to sign up for or enroll in public benefits or insurance programs and must obtain consent prior to using the public benefits or insurance of a child or parent if that child or parent is not already enrolled in such a program. If the parent does not provide consent to enroll in or access Apple Health for Kids/Medicaid, early intervention providers must still make available those Part C early intervention services on the IFSP to which the parent has provided consent. The lack of consent for use of Apple Health for Kids/Medicaid may not be used to delay or deny any services under this part to the child or family.

(g) In accordance with 34 CFR §§303.520(a)(3)(iv) and (b)(1)(ii), early intervention providers will provide a written statement of the general categories of costs that the family may incur as a result of the use of private health care coverage/insurance, such as:

(1) Co-payments, co-insurance, premiums, or deductibles, or other long-term costs, such as the loss of benefits because of annual or lifetime health care coverage/insurance caps under the insurance policy for the child, the parent, or the child's family members;

(2) The potential that the use of the family's private health care coverage/insurance may negatively affect the availability of health insurance to the child with a disability, the parent, or the child's family members covered under the policy; and health care coverage/insurance may be discontinued due to the use of the insurance policy to pay for Part C early intervention services; or

(3) The potential that health care coverage/insurance premiums may be affected by the use of private insurance to pay for early intervention services.

(h) In accordance with 34 CFR §303.520(a)(2)(ii), early intervention providers will obtain family consent if access to Apple Health for Kids/Medicaid and/or private health coverage/ insurance would result in any of the following:

(1) A decrease in the available lifetime coverage or any other insured benefit for the child or parent under that program;

(2) Result in the child's parents paying for services that would otherwise have been paid for by the public benefits or insurance program;

(3) Result in any increase in premiums or discontinuation of public benefits or insurance for the child or parents; or

(4) Risk the loss of eligibility for the child or the child's parents for home and community-based waivers based on aggregate health-related expenditures.

(i) In accordance with 34 CFR §303.521(e), ESIT providers will give prior written notice to parents of their procedural safeguards related to the use of Apple Health for Kids/Medicaid or private health care coverage/insurance, the imposition of fees or the state's determination of the parent's inability to pay.

(j) Parents have the right to:

(1) Participate in mediation in accordance with 34 CFR §303.431;

(2) Request a due process hearing under 34 CFR §§303.436 or 303.441, whichever is applicable;

(3) File a state complaint under 34 CFR §303.434; and/or,

(4) Any other procedure established by the state to speed resolution of financial claims.

(k) Families are informed of these rights when the System of Payments and Fees Policy is provided to them whenever consent for early intervention services is obtained.

14.C.3. Guidelines For Use Of Apple Health For Kids/Medicaid Or Private Health Care Coverage/Insurance

(a) Families whose children are enrolled in Apple Health for Kids/Medicaid will be notified that their child's Part C early intervention services subject to Family Cost Participation will be billed to Apple Health for Kids/Medicaid. The family will be asked for their written consent to release their child's identifiable information for the purpose of billing. A copy of the signed Prior Written Notice, Consent to Access Public and/or Private Insurance, and Income and Expense Verification form must be given to the family.

(b) Families who have private health care coverage/insurance will be asked to provide written consent for billing of the Part C early intervention services on the initial IFSP that are subject to Family Cost Participation.

(c) The Consent to Access Public and/or Private Insurance, embedded within the Prior Written Notice and Income and Expense Verification form must contain a written statement of the general categories of costs that the family may incur as a result of allowing access to the families' private health care coverage/insurance.

(d) A copy of the signed Prior Written Notice, Consent to Access Public and/or Private Insurance, and Income and Expense Verification form must be given to the family.

(e) Written consent will also be obtained whenever there is an increase (frequency, intensity, length, or duration) of IFSP services.

(f) Families are provided the System of Payments and Fees Policy whenever consent for billing public or private insurance for early intervention services is obtained.

(g) In accordance with 34 CFR §303.521(a)(4)(iv), families with public insurance or benefits will not be charged disproportionately more than families who do not have public insurance or benefits or private insurance.

(h) In accordance with 34 CFR §303.520(b)(1), when families have both Apple Health for Kids/Medicaid and private insurance, early intervention providers will obtain parental consent for:

  (1) The use of the family's private health care coverage/insurance to pay for the initial provision of early intervention services contained on the IFSP;

  (2) The use of private health care coverage/insurance to pay for any increase in frequency, length, duration, or intensity of services in the child's IFSP.

(i) The ESIT provider is responsible for billing Apple Health for Kids/Medicaid and private health care coverage/insurance, including co-payments, co-insurance, and deductibles, billed for Part C early intervention services subject to Family Cost Participation.

(j) If a Part C early intervention service, subject to Family Cost Participation, is billed to private health care coverage/insurance and then denied, every effort should be made to obtain approval. When an appeal is initiated, upon the family's request, the FRC or other appropriate staff may provide assistance.

(k) The family is responsible for health care coverage/insurance premiums, co-payments, co-insurance, and deductibles for the Part C early intervention services subject to Family Cost Participation included in their child's Individualized Family Service Plan (IFSP), unless the family has been determined to meet the definition of inability to pay.

(l) If a parent or family of a Part C eligible infant or toddler does not provide consent to access their Apple Health for Kids/Medicaid or private health care coverage/insurance, the lack of consent may not be used to delay or deny any Part C early intervention service subject to Family Cost Participation to that child or family. However, the lack of consent will result in placement on the Monthly Fee Schedule (See System of Payments and Fees Policy 28.B.9 Fees).

(m) The Washington Office of the Insurance Commission is available to assist parents with questions about their health care coverage/insurance. The toll free hotline is 1-800-562-6900.

14.C.4. General Guidelines for Family Cost Participation

(a) After initial eligibility for ESIT has been confirmed, all families will be asked to provide income and expense information, consent to release personally identifiable information, and provide consent to access your public and/or private insurance coverage. Income and expense information is needed to address and document the following circumstances:

(1) When a family declines access to Apple Health for Kids/Medicaid for services subject to Family Cost Participation;

(2) When a family declines to apply for Apple Health for Kids/Medicaid;

(3) When a family declines access to private health care coverage/insurance for services subject to Family Cost Participation;

(4) Determining ability or inability to pay private insurance co-payments, co-insurance, and deductibles; and,

(5) When a family has no public or private insurance and if a fee will be assessed.

(b) If the income and expense information provided results in an adjusted annual income at or above 200% of the Federal Poverty Level (FPL), the family will be billed co-payments, co-insurance, or deductibles associated with the use of their private health care coverage/insurance, and if applicable, Apple Health for Kids/Medicaid coverage.

(c) If the income and expense information provided results in an adjusted annual income below 200% of the FPL, based on family size, the family will not be required to pay any co-payments, co-insurance, or deductibles associated with the use of their private health care coverage/insurance, and if applicable, Apple Health for Kids/Medicaid coverage.

(d) For all families who have been billed co-payments, co-insurance, or deductibles, other agency funds, including Part C payer of last resort funds, may be used to cover these costs.

14.C.5. Inability to Pay

(a) Families can request an "inability to pay" co-pays, co-insurance or deductibles from their Family Resources Coordinator (FRC) or other appropriate staff at any time. After receiving the request, the FRC will assist the family in completing the Income and Expense Verification form.

(b) "Inability to pay" is determined based upon the Income and Expense Verification form results that identify the family as having non-reimbursed annual allowable expenses that exceed 10% of the family's total adjusted annual income.

(1) If an "inability to pay" determination is made, Part C funds as payer of last resort or other agency funds may be used, to pay for the co-pays, co-insurance, or deductibles.

(2) If the service can be provided in a more cost effective manner, Part C is not obligated to use the same provider or pay the same cost as private health care coverage/insurance.

(c) The family's "inability to pay" status must be reviewed and updated at least annually or sooner if the family requests.

(d) Anytime during the implementation of the IFSP, should the family's "inability to pay" status change, they must inform the FRC as soon as possible and may request a new inability to pay determination. Anytime there are changes in health care coverage/insurance, the family must share those changes with their FRC.

(e) In accordance with 34 CFR §303.521(a)(4)(ii), if a family meets the definition of "inability to pay, all Part C services identified on their child's IFSP will be provided at no cost to the family. In addition, the family's inability to pay will not result in a delay or denial of Part C services.

(f) If the family's inability to pay is not established, the family is responsible to pay their private health care coverage/insurance co-pays, co-insurance, and deductibles.

14.C.6. Fees

(a) Families that provide consent (initially and when services are increased) to access their Apple Health for Kids/Medicaid or private health care coverage/insurance, for services subject to Family Cost Participation, will be exempt from paying fees.

(b) Families who have Apple Health for Kids/Medicaid coverage, meet the definition of inability to pay, and decline access to their Apple Health for Kids/Medicaid coverage for Part C early intervention services subject to Family Cost Participation, will be exempt from paying fees.

(c) Family income and expense information will be used to determine placement on the Monthly Fee Schedule when either of the following occurs:

(1) Families who do not have Apple Health for Kids/Medicaid and who do not have private health care coverage/insurance will be placed on the Monthly Fee Schedule based upon family size and adjusted annual income.

(2) Families who declined access to their private health care coverage/insurance for Part C early intervention services subject to Family Cost Participation and have provided income and expense information will be placed on the Monthly Fee Schedule based on family size and adjusted annual income.

(d) Families who decline to provide income and expense information will be placed on the Monthly Fee Schedule at the highest level based on family size.

14.C.7. Delinquent Payments

(a) Based upon the Income and Expense Verification form information, if it has been determined that a family has the ability to pay their co-pays, co-insurance, deductibles or fee for services subject to Family Cost Participation and does not, these services may be denied. This may occur after unpaid balances equaling 90 days of invoices due have accrued.

(b) The family, service providers, and the FRC will receive prior written notice that no services, other than FRC services, evaluation, IFSP development and review, and procedural safeguards can continue until a payment plan has been developed between the family and serving agency.

(c) Once a payment plan had been developed and agreed to by the family and serving agency, the family, the FRC, and service providers will be notified that the services subject to Family Cost Participation can resume.

14.C.8. Definitions

For the purposes of these guidelines, the following definitions apply:

(a) "Allowable expenses" means:

(1) Child support/alimony paid by the family to a third party;

(2) Child care costs while the parent works or goes to school paid by the family; and

(3) Non-reimbursed medical, prescription medications, and dental expenses, including premiums, co-pays, and deductibles paid by the family.

(b) "Co-insurance" means: the cost sharing by the parent(s) for health care coverage. For example, the health care coverage pays 80% and the parent(s) pays 20% of the cost of the service.

(c) "Co-pay" means: the amount determined by the health care insurance policy that a parent(s) pays to their health care provider for a specific service, equipment, or supplies. Payment is made directly to the provider of the service or supply.

(d) "Deductible" means a portion of the cost of covered medical/dental expenses the parent(s) has incurred and is responsible to pay before benefits are available. Co-pays and/or co-insurances do not apply to the deductible.

(e) "Early intervention services subject to Family Cost Participation" means assistive technology devices, assistive technology, audiology, counseling, health services, nursing services, nutrition services, occupational therapy, physical therapy, psychological services, social work services, and speech-language pathology services, that are designed to meet the developmental needs of each child eligible under the early intervention section of IDEA and the needs of the family related to enhancing the child's development. These services are selected in collaboration with parents. They are provided under public supervision by qualified personnel, as defined under Washington State's definition of "qualified", and are in conformity with an Individualized Family Service Plan (IFSP).

(f) "Early intervention services contractor (Local Lead Agency)" means the locally designated agency or organization holding the Early Intervention Services contract, with the Department of Early Learning (DEL), Early Support for Infants and Toddlers (ESIT) assuring the services are in accordance with the approved Washington State Grant application.

(g) "Early intervention services provider" means a local public or private service provider or agency that is providing IDEA, Part C, early intervention services.

(h) "Family Cost Participation" means the financial contribution families make to their child's services, by giving access to either (1) the family's private health care/insurance, and/or (2) Apple Health for Kids/Medicaid, or (3) fees, for those IDEA, Part C early intervention services that are subject to Family Cost Participation.

(i) "Family Resources Coordinator (FRC)" means an individual who assists an eligible child and his/her family in gaining access to the early intervention services and other resources, as identified in the Individualized Family Service Plan (IFSP), and receiving the rights and procedural safeguards of the early intervention program.

(j) "High deductible/catastrophic care major medical coverage" means insurance with an annual deductible of $5,000 or more and therefore is considered non-credible insurance for early intervention billing purposes.

(k) "Individualized Family Service Plan, (IFSP)" means a written plan for providing early intervention services to a child eligible under the early intervention section of IDEA and the child's family. The plan must:

(1) Be developed jointly by the family and appropriate qualified personnel involved in the provision of early intervention services;

(2) Be based on the multidisciplinary evaluation and assessment of the child;

(3) Include, with parental permission, a statement of the family's resources, priorities, and concerns related to enhancing the development of the child; and

(4) Include a statement of the specific early intervention services necessary to enhance the family's capacity to meet the unique needs of their child.

(l) "IFSP early intervention services" means the early intervention services described in an infant or toddler's IFSP.

(m) "Parent" means:

(1) A biological or adoptive parent of a child;

(2) A foster parent, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent;

(3) A guardian generally authorized to act as the child's parent, or authorized to make early intervention, educational, health, or developmental decisions for the child (but not the state if the child is a ward of the state);

(4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(5) A surrogate parent who has been appointed in accordance with 34 CFR §303.422 or section 639(a)(5) of the Act.

(n) "Public or Private Health care coverage/insurance" means:

(1) "PRIVATE INSURANCE" – third party coverage of the cost of health care services for a child and/or family. This includes employment related and privately purchased insurance, medical savings accounts, and health savings accounts.

(2) "TRICARE/TRIWEST" – health benefit program for military personnel and their families.

(3) "PUBLIC INSURANCE" – a publicly funded program (state and/or federal) for the child that pays for health care services. This includes all Apple Health programs including Basic Health Plus, Medicaid, Medicaid Healthy Options, and the Children's Health Insurance Program.

(o) "State Lead Agency (SLA)" means the Department of Early Learning.

(p) "Total annual income" means:

(1) Annual income from employment and/or any other sources, including but not limited to: Public Assistance Grant, unemployment compensation, disability income, child support/alimony received, other income as identified by one of the following:

(i) The most recent Federal Income Tax return *(Form 1040=line 22; 1040A=line 15; 1040EZ=line4)*;

(ii) Most Recent W2(s) and/or 1099(s) *(Form W2=line 1; 1099=total of lines 1, 2 & 3)*;

(iii) Last two (2) consecutive pay stubs; or

(iv) Written Statement of Salary or Wages (must include company/employer name, address, phone number, and supervisor/human resource staff signature)

(2) For members of the uniformed services include the total shown on the Leave and Earnings Statement of :

(i) Base pay (earned income); and

(ii) Allowances (unearned income)

(iii) Do not include hostile fire pay, imminent danger pay, or free or base housing allowance if allowance is paid and deducted in the same pay period.