

# System of Payments and Fees Policy

## 14.A Introduction

- 14.A.1 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 early intervention services that are subject to ESIT's Family Cost Participation requirements.
- 14.A.2 It is incumbent upon the Early Support Program for Infants and Toddlers (ESIT) 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 ESIT 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 insurance, private insurance and fees is essential.
- 14.A.3 If necessary to prevent a delay in the timely provision of appropriate early intervention services to a child or the child's family, ESIT may use funds under Part C of IDEA to pay the provider of authorized services and functions, (including health services, as defined in 34 CFR §303.16 ,[but not medical services], functions of the child find system described in 34 CFR §§303.115 through 303.117 and §§303.301 through 303.320, and evaluations and assessments in §303.321 ), pending reimbursement from the agency or entity that has ultimate responsibility for the payment.



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DCYF PUBLICATION FS\_0033 | DEL 11-019 (01-2020)



Washington State Department of  
**CHILDREN, YOUTH & FAMILIES**

## 14.B Policy

### 14.B.1 Functions and Services Provided at Public Expense

- (a) In accordance with 34 CFR §303.521(b) (2011), the following IDEA, Part C functions and services must be provided at public expense by the Early Support for Infants and Toddlers program (ESIT) and its service providers and for which no fees may be charged to families:
- (1) Implementing the child find requirements in §§303.301 through 303.303.
  - (2) Evaluation and assessment, in accordance with §303.320, and the functions related to evaluation and assessment in §303.13(b).
  - (3) Service coordination services (Family Resources Coordination), as defined in §§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 §§303.342 through 303.345; and
    - (ii) Implementation of Subpart E, Procedural Safeguards, and the other components of the statewide system of early intervention services in Subpart D of 34 CFR §303.
- (b) **ASSURANCE:** 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.

### 14.B.2 Functions and Services Subject to Family Cost Participation (FCP)

- (a) In accordance with 34 CFR §303.521(b), the following functions and services are subject to Family Cost Participation and for which co-payments, co-insurance, deductibles, or fees may be charged to families:
- (1) Assistive Technology Device
  - (2) Assistive Technology Service
  - (3) Audiology Services
  - (4) Counseling
  - (5) Health Services
  - (6) Nursing Services
  - (7) Nutrition Services
  - (8) Occupational Therapy
  - (9) Physical Therapy
  - (10) Psychological Services
  - (11) Social Work Services
  - (12) Speech-Language Pathology Services

- (b) **ASSURANCE:** In accordance with 34 CFR §303.521 (a) (4)(iii), families will not be charged any more than the actual cost of the Part C early intervention service that is subject to Family Cost Participation (factoring in any amount received from other sources of funds designated for payment for that service).

#### **14.B.3 Funding Sources That are Incorporated Into Washington’s System of Payments and Fees for Early Intervention Services Subject to Family Cost Participation**

It is the expectation that unless inability to pay has been determined, all families who receive services that are subject to Family Cost Participation will contribute financially to their child’s services by using their public insurance benefits, private insurance benefits, or by paying a fee. As a result, the following fund sources have been incorporated into ESIT’s System of Payments and Fees Policy:

- (a) Public Health Care Coverage/Insurance (Apple Health for Kids/Medicaid)
- (b) Private Health Care Coverage/Insurance
- (c) Fees

#### **14.B.4 Family Income and Expense Information**

- (a) Prior to billing public or private insurance, families will be provided the ESIT System of Payment and Fees Policy. Families will be asked to complete, as appropriate, the Prior Written Notice, Consent to Access Public and/or Private Insurance, and Income and Expense Verification form.
- (b) The family’s Family Resources Coordinator (FRC) will assist families in reviewing and completing the Prior Written Notice, Consent to Access Public and/or Private Insurance, and Income and Expense Verification form, as appropriate.
- (c) The Prior Written Notice, Consent to Access Public and/or Private Insurance, and Income and Expense Verification form will be submitted to the FRC assigned to the family.
- (d) If the family income and expense information results in an adjusted annual income below 200% of the Federal Poverty Level (FPL) based on family size, the family will not be required to pay insurance co-pays, co-insurance, insurance deductibles, or a monthly fee. Other agency funds or Part C funds as payer of last resort may be used to cover these costs.
- (e) If the family income and expense information results in an adjusted annual income above 200% of the FPL based on family size, if applicable, the family will be required to pay insurance co-pays, co-insurance, insurance deductibles, or a monthly fee.

#### **14.B.5 Use of Public Health Care Coverage/Insurance (Apple Health for Kids/Medicaid)**

- (a) In accordance with 34 CFR§303.520(a)(2)(i), families enrolled in an ESIT early intervention program will not be required to sign up for or enroll in Apple Health for Kids/Medicaid, as a condition for their child to receive Part C early intervention services.
- (b) In accordance with 34 CFR§303.520(a)(3), families will be provided the ESIT System of Payments and Fees Policy prior to using a child or parent’s public benefits or insurance to pay for Part C services.
- (c) 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 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.
- (d) In accordance with 34 CFR §303.520(b)(1), when families have both Apple Health for Kids/Medicaid and private insurance, early intervention providers must 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.
- (e) **ASSURANCE:** 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.
- (f) Early intervention providers will:
- (1) In accordance with 34 CFR §§303.414 and 303.520(a)(3)(i), give written notification to families enrolled in Apple Health for Kids/Medicaid informing them that personally identifiable information will be disclosed to Apple Health for Kids/Medicaid for the purpose of billing early intervention services provided to their child.
  - (2) In accordance with 34 CFR §303.520(a)(3)(iii), inform families that they have the right to withdraw their consent to the disclosure of personally identifiable information for billing purposes at any time.
  - (3) In accordance with 34 CFR §303.520(a)(3)(iv), provide a written statement of the general categories of costs that the family may incur, as a result of the use of Apple Health for Kids/Medicaid.
- (g) Early intervention providers will not pay the cost of premiums for Apple Health for Kids/Medicaid.
- (h) In accordance with 34 CFR §303.520(a)(2)(iii), 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.
- (i) When eligibility for Apple Health for Kids/Medicaid cannot be confirmed or the family has declined to provide income and expense information, the family will be required to follow Washington's System Payment and Fees Policy.

#### 14.B.6 Use of Private Health Care Coverage/Insurance

- (a) In accordance with 34 CFR §303.520(b)(1)(iii), families will be provided the ESIT System of Payment and Fees Policy, prior to using a child or parent's private health care coverage/ insurance to pay for Part C services.
- (b) In accordance with 34 CFR §303.520(b)(1)(i), early intervention providers must 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.
- (c) **ASSURANCE:** In accordance with 34 CFR §303.521(a)(4)(iv), families with private insurance will not be charged disproportionately more than families who do not have public insurance or benefits or private insurance.
- (d) In accordance with 34 CFR §303.520(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.
- (e) Early intervention providers will not pay the cost of premiums for health care coverage/insurance.
- (f) In accordance with 34 CFR §303.520(a)(2)(iii), if the parent does not provide consent to access private health care coverage/insurance, 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 may not be used to delay or deny any services to the child or family. When the parent or family does not give consent to access their private health care coverage/insurance, the family will be required to follow Washington's System of Payment and Fees Policy.
- (g) 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.
- (h) Families who are 90 days delinquent in paying their co-payments, co-insurance, or deductibles will have the services subject to Family Cost Participation suspended until a payment plan is developed. This will occur after written notification has been given to the family, Family Resources Coordinator, and service provider(s) have been notified.

#### 14.B.7 Definition of Parent Ability to Pay

ESIT has defined **Ability to Pay** as the total adjusted annual income of the family that falls at or above 200% of the Federal Poverty Level (FPL), adjusted for allowable non-reimbursed expenses that exceed 10%.

- (a) Income and expense information is needed to determine a family's ability to pay monthly fees.
- (b) Allowable non-reimbursed expenses include: Medical and dental expenses including premiums, deductibles, co-pays, and co-insurance
  - (1) Medical and dental expenses including premiums, deductibles, co-pays, and co-insurance
  - (2) Mental health treatment not covered by insurance
  - (3) Home health care provided by licensed home health agency
  - (4) Child support/alimony payments
  - (5) Child care costs incurred while parent(s) work or go to school.
- (c) Prior to billing public health care coverage/insurance or private health care coverage/insurance, families will be asked to review and complete the Prior Written Notice, Consent to Access Public and/or Private Insurance, and Income and Expense Verification form that will include the following:
  - (1) Income and expense information;
  - (2) Consent to release personally identifiable information; and,
  - (3) Consent to access public and/or private insurance coverage.
- (d) The family's ability to pay status must be reviewed and updated at least annually or sooner if the family requests.

#### 14.B.8 Definition of Parent Inability to Pay

ESIT has defined **Inability to Pay** as the total adjusted annual income of the family that falls below 200% of the Federal Poverty Level (FPL), adjusted for allowable non-reimbursed expenses that exceed 10%.

- (a) Income and expense information is needed to determine a family's inability to pay.
- (b) Allowable non-reimbursed expenses include:
  - (1) Medical and dental expenses including premiums, deductibles, co-pays, and co-insurance
  - (2) Mental health treatment not covered by insurance
  - (3) Home health care provided by licensed home health agency
  - (4) Child support/alimony payments
  - (5) Child care costs incurred while parent(s) work or go to school.
- (c) Prior to billing public health care coverage/insurance or private health care coverage/insurance, families will be asked to review and complete the Prior Written Notice, Consent to Access Public and/or Private Insurance, and Income and Expense Verification form that will include the following:
  - (1) Income and expense information;
  - (2) Consent to release personally identifiable information; and,
  - (3) Consent to access public and/or private insurance coverage.



- (d) The family's ability to pay status must be reviewed and updated at least annually or sooner if the family requests.

#### **14.B.9 Fees**

- (a) In accordance with 34 CFR §303.521, for families who have been determined to have the "ability to pay" ESIT has established a monthly fee for early intervention services subject to Family Cost Participation when any of the following occur:
  - (1) The family declines use of their private health care coverage/ insurance;
  - (2) The family declines use of their Apple Health for Kids/Medicaid public health care coverage/ insurance and has an adjusted annual income at or above 200% FPL; or
  - (3) The family does not have either Apple Health for Kids/Medicaid or private health care coverage/ insurance.
- (b) Families who decline to provide income and expense information will be charged a monthly fee at the highest level based upon family size, factoring in any amount received from other public sources of funding received in payment for those services.
- (c) The Monthly Fee Schedule has been established based on the Federal Poverty Level (FPL) Guidelines and will be updated on an annual basis.
- (d) If families give consent to access their public and/or private insurance for the provision of early intervention services that are subject to Family Cost Participation, they will not pay a monthly fee.
- (e) For families who are enrolled in Apple Health for Kids/Medicaid, meet the definition of "inability to pay", and decline access to this funding source as payment for the Part C early intervention services, all Part C services identified on their child's IFSP will be provided at no cost. In addition, the family's inability to pay will not result in a delay or denial of Part C services.
- (f) For families who are not enrolled in Apple Health for Kids/Medicaid and have declined to provide income and expense information, will be charged a monthly fee at the highest level based upon family size, factoring in any amount received from other public sources of funding received in payment for those services.
- (g) Families who decline access to their private health care coverage/insurance and who have provided income and expense information will be charged a monthly fee based on family size and adjusted annual income.
- (h) Families may ask to have a re-determination of their monthly fee any time there is a change in family size, income and/or expenses. Any adjustment made to the monthly fee will occur after re-determination has been made.
- (i) Families, who are 90 days delinquent in paying their monthly fee, will have the services for their child subject to Family Cost Participation suspended until an acceptable payment plan is developed. This will occur after written notification has been given to the family, Family Resources Coordinator, and service provider(s).

#### 14.B.10 Procedural Safeguards Requirements

- (a) In accordance with 34 CFR §303.521(e), families will be provided a copy of the System of Payment and Fees Policy that details their procedural safeguards related to:
  - (1) The imposition of fees;
  - (2) The state's determination of the parent's ability or inability to pay; and
  - (3) The billing of public or private insurance.
- (b) 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
- (c) 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 private insurance to pay for Part C services.