

Systems of payment

Use of Funds

Permissive use of funds by the lead agency. (§303.501)

MSDH Early Intervention Program may use funds for activities or expenses that are reasonable and necessary for implementing the State's early intervention program for infants and toddlers with disabilities including funds

For direct early intervention services for infants and toddlers with disabilities and their families that are not otherwise funded through other public or private sources(subject to §§303.510 through 303.521)

For children who are not served under §303.204 for at-risk infants and toddlers, as defined in§303.5, to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public and private community-based organizations, services and, personnel for the purposes of

- a. Identifying and evaluation at-risk infants and toddlers;
- b. Making referrals for the infants and toddlers identified and evaluated;
- c. Conducting periodic follow-up on each referral, to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services.

To provide FAPE (Free Appropriate Public Education) as that term is defined in §303.15, in accordance with Part B of the Act, to children with disabilities from their third birthday to the beginning of the following school year.

Payor of Last Resort

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, including any medical program administered by the Department of Defense.

Funds may be used only for early intervention services that an infant or toddler with a disability needs but is not currently entitled to receive or have payment made from any other Federal, State, local or private source (§§303.520 and 303.521)

Interim payments

POLR may be used if necessary to prevent a delay in the timely services to a child or the child's, family, provider of services (for services and functions authorized including health services as defined in §303.16 (but not medical services), functions of the child find system described in §§303.115 through 303.117 and §§303.301 through 303.20, and evaluations and assessments in §303.321) pending reimbursement from the agency or entity that has ultimate responsibility for the payment.

MSDH EIP will not reduce medical or other assistance available in the State or alter eligibility under Title V of the Social Security Act (SSA), 42 U.S.C. 701, et seq. (SSA) (related to maternal and child health) or Title XIX of the SSA, 42 U.S.C. 1396 (relating to Medicaid), including section 1903(a) of the SSA regarding medical assistance for services furnished to an infant or toddler with a disability when those services are included in the child's IFSP adopted pursuant to Part C of the Act.

Financial responsibility for Part C services

MSDH EIP must establish methods for State interagency coordination. An interagency agreement or other method for interagency coordination must be in effect to ensure:

Financial responsibility for early intervention services.

Consistent services during the pendency of any dispute between State agencies.

Methods for achieving a timely resolution of intra-agency and interagency disputes about payments for a given service, or disputes about other matters related to the State's early intervention service program.

Payor of Last Resort & System of Payments Provision-Use of Insurance, Benefits, Systems of payments, and Fees (303.173 & 520-521)

MSDH EIP must identify and coordinate all available resources to pay for early intervention services, including Federal, State, local and private sources. (303.120(b))

MSDH EIP must provide certification that its methods and contracts with EIS providers are current as of the date of submission of the application and reflect the applicable requirements in Subpart F of the Part C regulations

MSDH EIP must have methods in place that define the financial and service responsibility of each State-level agency that provides or pays for Part C services.

MSDH EIP has permissive uses of Federal IDEA funds to be used as a payor of last resort as specified in Section 303.510 and 303.511.

Policies related to use of public benefits or insurance or private insurance to pay for Part C services.

1. Use of public benefits or public insurance to pay for Part C services

MSDH EIP

- a. May not use the public benefits or insurance of a child or parent to pay for Part C services unless MSDH provides written notification consistent with §303.520(a) (3), to the child's parents, and MSDH meets the no-cost protections identified in this section.
- b. May not require a parent to sign up for or enroll in public benefits or insurance programs as a condition of receiving Part C services 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.
- c. Must obtain consent, consistent with §§303.7 and 303.420(a)(4), to use a child's or parent's public benefits or insurance to pay for Part C services if that would:

Decrease available lifetime coverage or any other insured benefit or that child or parent under that program

Result in the child's parents paying for services that would otherwise be covered by the public benefits or insurance program

Result in any increase in premiums or discontinuation of public benefits for that child or that child's parents; or

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

- d. Must still make available those Part C services on the IFSP to which the parent has provided consent.
- e. MSDH EIP must provide a notification to the parent, which must include;

A statement that parental consent is required before billing purposes, a child's personally identifiable information to MSDH EIP for administering public benefits or insurance program.

A statement that parents have the right to withdraw their consent to disclosures of personally identifiable information to MSDH EIP at any time. (§303.520(a)(3)(iii)).

A statement of the general categories of costs to parents for participating in the public benefits or insurance program (such as co-payments or deductibles or the required use of private insurance as the primary insurance) (§303.520(a)(3)(iv)). If the general costs are not identified in the notification, MSDH EIP cannot charge those costs to the parent (§303.520(a)(4)).

2. Use of Private insurance to pay for Part C services
 - a. The state may not use the private insurance of a parent of an infant or toddler with a disability to pay for Part C services unless the parent provides parental consent, consistent with §§303.7 and 303.4(a)(4), to use private insurance to pay for Part C services for his or her child or MSDH EIP meets one of the exceptions covered in (b)(2) of §303.520. This includes the use of private insurance when such use is a prerequisite for the use of public benefits or insurance.
 - b. Parental consent must be obtained
 - i. When MSDH EIP or EIP service provider seeks to use the parent's private insurance or benefits to pay for the initial provision of an early intervention service in the IFSP;
 - ii. Each time consent for services is required under §303.420(a)(3) due to an increase (in frequency, length, duration, or intensity) in the provision of services in the child's IFSP;
 - iii. When obtaining parental consent required or initially using benefits under a child or parent's private insurance policy to pay for an early intervention service, MSDH EIP must provide to the parent a copy of the State's system of payments policies that identify the potential costs that the parent may incur when their private insurance is used to pay for early intervention services under this part (such as co-payments, premiums, or deductibles or other long-term costs such as the loss of benefits because of annual or lifetime health insurance coverage caps under the insurance policy).

Procedural Safeguards

MSDH, in its role as lead agency for early intervention services is responsible for

- a. Establishing/adopting procedural safeguards that meet the requirements of IDEA, including the provisions on confidentiality in 303.401 through 303.417, parental consent and notice in 303.420 and 303.421, surrogate parents in 303.422, and dispute resolution procedures in 303.430.
- b. Ensuring effective implementation of the safeguards by each public agency in the State (including the lead agency and EIP providers) that is involved in the provision of early intervention services under Part C.
- c. Make available to parents an initial copy of the child's early intervention record, at no cost to the parents.
- d. In the event of due process proceedings, unless the parent and lead agency agree otherwise §303.430(e)(1) provides that the child must continue to receive the appropriate early intervention services in the setting identified in the IFSP that are consented to by the parents.

Mississippi Family Rights and Procedural Safeguard packet defines the process by which infants and toddlers with disabilities and their families will be assured of their rights.

Methods to ensure the provision and financial responsibility for, Part C services.

(a)General

MSDH must ensure that it has in place methods for interagency coordination.

The Chief Executive Officer or designee must ensure that the interagency agreement or other method for interagency coordination is in effect between each State public agency and the designated lead agency in order to ensure:

- 1. The provision of, and establishing financial responsibility for, early intervention services provided under this part; and**
- 2. Such services are consistent with the requirement in section 635 of the Act and the State's application under section 637 of the Act, including the provision of such services during the pendency of any dispute between State agencies.**

(b) The methods in paragraph (a) of this section must meet all requirements in this section and be set forth in one of the following:

(1) State law or regulation

(2) Signed interagency and intra-agency agreements between respective agency officials that clearly identify the financial and service provision responsibilities of each agency (or entity within the agency); or

(3) Other appropriate written methods determined by the Governor of the Mississippi, or the Governor's designee, and approved by the Secretary through the review and approval of the State's application.

(c) Procedures for resolving disputes

(1) Each method must include procedures for achieving a timely resolution of intra-agency and interagency disputes about payments of a given service, or disputes about other matters related to the State's early intervention service program. Those procedures must include a mechanism for resolution of disputes within agencies and for the Governor, Governor's designee, or the lead agency to make a final determination on the interagency disputes, which determination must be binding upon the agencies involved.

(2) the method must:

- (i) Permit the agency to resolve its own internal disputes (based on the agency's procedures that are included in the agreement), so long as the agency acts in a timely manner; and**
- (ii) Include the process that the lead agency will follow in achieving resolution of intra-agency disputes, if a given agency is unable to resolve its own internal disputes in a timely manner.**

(3) If, during the lead agency's resolution of the dispute, the Governor, Governor's designee, or lead agency determines that the assignment of financial responsibility under this section was inappropriately made:

- (i) The Governor, Governor's designee, or lead agency must reassign the financial responsibility to the appropriate agency; and**
- (ii) The lead agency must make arrangements for reimbursement of any expenditures incurred by the agency originally assigned financial responsibility.**

(d) Delivery of services in a timely manner.

The methods adopted by Mississippi under this section must:

- (1) Include a mechanism to ensure that no services that a child is entitled to receive under this part are delayed or denied because of disputes between agencies regarding financial or other responsibilities; and**
- (2) Be consistent with the written funding policies adopted by the State under this subpart and include any provisions the State has adopted under §303.520 regarding the use of insurance to pay for Part C services.**

(e) MSDH EIP will include any additional components necessary to ensure effective cooperation and coordination among, and the lead agency's general supervision(including monitoring) of, EIS providers (including all public agencies) involved in the State's early intervention service program.

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