



**System of Payments Policy and Procedures  
for  
Part C Services**

**(As required by 34 CFR 303)**

**The Nebraska Early Development Network Co-Lead Agencies  
(IDEA Part C)  
Nebraska Department of Education (NDE)  
Nebraska Department of Health and Human Services (NDHHS)**

**I. Statutory Responsibility for Early Intervention Services and Coordination of Resources**

- A. The Nebraska IDEA Part C System of Payment policy is based on a number of state documents, including the Nebraska Early Intervention Act (NRS Section 43-2501 to 43-2510), Nebraska Special Education Act (NRS Section 79-1101 to 1167), Nebraska Departments of Education (NDE) and Health and Human Services (DHHS) Administrative Codes, DHHS policies and procedures for Medicaid in Public Schools (MIPS), and Part C Parental Rights. Based on the Early Intervention Act, the Nebraska Department of Health and Human Services (DHHS) Division of Medicaid and Long-Term Care and the Nebraska Department of Education (NDE) Office of Special Education both serve as Co-Lead agencies for IDEA Part C services in Nebraska. The Co-Lead agencies identify and coordinate all available resources to pay for early intervention (EI) services, including federal, state, local, and private sources. Certification that Nebraska's methods and system of payment requirements are current is provided annually with the submission of the IDEA Part C Application.

**II. IDEA Part C Funds as the Payor of Last Resort and additional funding methods**

- A. As required in 34 CFR §303.510, IDEA Part C funds are used as the payor of last resort for early intervention services. As residents of a Birth Mandate state, Nebraska infants and toddlers and their parents receive FAPE (Free Appropriate Public Education) early intervention services at no cost to the family.
- B. Nebraska uses funds under IDEA Part B to provide FAPE early intervention services per Neb. Rev. Stat. 79-1126 for infants and toddlers with a disability under the age of three and their parents. The Nebraska System of Payments does not require parents or their insurance to fund FAPE early intervention services. FAPE Early intervention services for infants and toddlers with disabilities, with the exceptions of services coordination, occupational therapy, speech therapy, and physical therapy, are funded using IDEA Part B allocations to the school district of residence.
- C. Pursuant to Neb. Rev. Stat. 43-2501 infants and toddlers with a disability under the age of three the school district or approved cooperative may not charge the parents of the infant or toddler with a disability for any services that are part of FAPE for that infant or toddler and the child's

family and those FAPE early intervention services must meet the requirements of both Parts B and C of the Individuals with Disabilities Education Act (IDEA).

- D. For children birth through age 21 who are eligible for Medicaid, Medicaid in the Public Schools, (MIPS) provides reimbursement for physical therapy, occupational therapy, and speech therapy per the Medicare Catastrophic Coverage Act of 1988 which allows Medicaid to reimburse school districts for these services in a child's Individual Family Service Plan (IFSP) and for which the family has provided consent.
- E. Nebraska applies a formula, based on a requirement in Neb. Rev Stat. 43-2515 of the Early Intervention Act that the Department of Education and the Department of Health and Human Services will jointly certify the amount of federal Medicaid funds that were paid during the previous state fiscal year to school districts that participated in the MIPS program. Reimbursement to DHHS is calculated based upon those school-age special education services provided to children age five and older that would have been paid from the NDE State General Fund appropriation.
- F. The total percentage amount of federal Medicaid funds spent on children age five and older is then used in the formula taking the total federal Medicaid cost times 88.46%. The two Co-Lead agencies certify the amount to the Nebraska Department of Administrative Services (DAS). Through DAS, the Department of Education General Fund appropriation for state special education aid is then decreased by that amount, and that amount is transferred to DHHS to assist with funding of IDEA Early Intervention Services Coordination. In addition, DHHS Medicaid general funds are utilized for funding of early intervention services coordination.

### **III. Use of Private Insurance and Parent Ability to Pay**

- A. Private insurance of a parent or an infant or toddler with a disability may not be used to pay for FAPE services unless the parent provides parental consent, consistent with 92 NAC 52-011.04 and 34 CFR §303.520, to use private insurance to pay for FAPE early intervention services for his or her child is obtained.
- B. Should parents give consent for the use of private insurance to pay for FAPE early intervention services, a copy of this SOP and the Part C procedural safeguards must be provided to the parents.
- C. Parents are not charged family fees, co-payments, deductibles or premiums to receive early intervention services. No determination of parents' ability to pay is made in order for a child to receive Part C Early Intervention Services.
- D. No determination of parents' ability to pay is made in order for a child to receive Early Intervention Services.
- E. Parental consent must be obtained when the school district or approved cooperative or EIS 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; and each time consent for services is required due to an increase (in frequency, length, duration, or intensity) in the provision of services in the child's IFSP.

#### IV. Use of Public Benefits/Insurance

- A. As required by 34 CFR §303.520-521, parents are not required to sign up for or enroll in a public benefits or insurance program as a condition for their child to receive Early Intervention services, however parental consent is required prior to using public benefits or insurance of a child who is not already enrolled in such a program. Parents are not charged family fees, co-payments, deductibles or premiums to receive early intervention services. No determination of parents' ability to pay is made in order for a child to receive Early Intervention services.
- B. Parental consent for disclosure of personally identifiable information to bill, or for the use of, public benefits is not required as DHHS, an Early Intervention Co-Lead, is the agency that administers Medicaid in the State. Early Intervention referral/intake is completed through the central point of entry which is the services coordination agencies administered through DHHS. Therefore, for children already enrolled in Medicaid upon early intervention referral/intake, consent is not required.
- C. Use of public benefits or insurance to pay for Early Intervention services will not decrease available lifetime coverage for the child or parent, result in the child's parents paying for services that would otherwise be covered by the public benefits or insurance, result in discontinuation of public benefits or insurance, 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. Additionally, the use of public benefits or insurance will not result in parents paying for services that would otherwise be covered by the public benefit or insurance and will not result in increase/higher premiums.
- D. Parents are not required to use private insurance as a primary insurance before using public benefits or insurance.
- E. Prior to using a child's or parent's public benefits or insurance to pay for Early Intervention Services, written notification must be provided to the child's parents that includes:
  - a. A statement that parental consent must be obtained before a child's personally identifiable information is disclosed for billing purposes to a public agency responsible for administration of public benefits or insurance program (e.g. Medicaid);
  - b. A statement of the no-cost protection provisions in 92 NAC 52-011.03C2 and that if the parent does not provide consent, those EIS on the IFSP for which the parent has provided consent must still be made available;
  - c. A statement that the parents have the right to withdraw their consent to disclosure of personally identifiable information to the public agency responsible for the administration of public benefits or insurance program (e.g. Medicaid) at any time; and
  - d. A statement of the general categories of costs that the parent would incur as a result of participating in a public benefits or insurance program (such as co-payments or deductibles, or the required use of private insurance as the primary insurance).
- F. If the parent does not provide consent for the use of public benefits, those FAPE early intervention services on the IFSP to which the parent has provided consent must be provided.
- G. The procedural safeguards provided to parents upon referral to the Early Development Network and upon consent for provision of IFSP services contain the SOP and written notification regarding the use of public benefits or insurance to pay for early intervention services.

## **V. Charges for Entitlements**

- A. No fees will be charged to parents of infants and toddlers with disabilities for services that the child is otherwise entitled to receive at no cost. These services include ChildFind, evaluations and assessments, services coordination, administrative and coordinative activities related to procedural safeguards and the development, review and evaluation of IFSPs and interim IFSPs. As a birth-mandate state, these services also include special education and related services under IDEA Part B.
- B. Providers may not charge parents for co-payments, deductibles, or other insurance-related costs.
- C. Parents must be provided with notice of the ability to contest any fees listed above (Section V-B) should they be erroneously charged. The procedures available to dispute such fees are described in Section VII-B.

## **VI. Disputes Regarding System of Payments**

- A. In Nebraska state interagency coordination is established through the Neb. Rev. Stat. 79-2501 of the Early Intervention Act. If an interagency or intra-agency dispute should arise regarding the provision of Early Intervention Services, the Co-Leads will make a decision which is binding on the agencies involved. If disputes between agencies occur the financial responsibilities will be assigned by the Co-Leads to appropriate agencies and arrangements made for reimbursement of any expenditure incurred by an agency that is determined not to be responsible.
- B. This process will not result in a delay of the delivery of service in a timely manner or the denial of service to any child who is entitled to receive these services which will continue to be provided through funding methods described in this document.

## **VII. Information for Parents Regarding Their Rights Consistent with IDEA Part C**

- A. Parents will be provided a copy of the Nebraska Early Intervention Procedural Safeguards regarding their rights and the System of Payment policy prior to using the child's public benefits, prior to using the parents' private insurance, and upon obtaining consent for the provision of Early Intervention services.
- B. A parent who wishes to contest the imposition of a fee for an Early Intervention Service, may do one of the following:
  - a. Participate in mediation in accordance with 92 NAC 52-009.05;
  - b. Request a due process hearing under 92 NAC 55;
  - c. File a complaint in accordance with 92 NAC 52-009.06;
  - d. Use any other procedure established by the State of Nebraska for speedy resolution of financial claims, provided that such use does not delay or deny the parent's procedural rights under 92 NAC 52, including the right to pursue, in a timely manner, the redress options described above.