

## **Delaware's Birth to Three Early Intervention System: Part C System of Payments Policy**

### **Family Cost Participation**

In accordance with IDEA 2004 Federal Regulations for Part C (effective October 28, 2011) §303.520 and 303.521, under Public Law 108-446, families with children who are eligible to receive early intervention services through Delaware's Birth to Three Early Intervention System/Child Development Watch share in the cost of early intervention services for their eligible child by paying insurance premiums and by allowing early intervention providers to access their insurance coverage. Also, depending on private insurance plan, out-of-pocket expenses may be incurred due to deductibles, co-pays and/or co-insurance. Service Coordinators provide and review the *Guide to Family Rights under the Individuals with Disabilities Education Improvement Act of 2004* during the initial meeting with each family, and families are advised that one of their rights is to choose whether or not to use their health insurance to pay for early intervention services. Lack of consent, when required to bill public or private insurance, may not be used to delay or deny Part C services.

Under §303.521 (a) (4), Delaware Health and Social Services (DHSS) assures that families will not be charged for the cost of those required functions specified in §303.521 (b), including:

- Evaluations and Assessments to determine initial and ongoing eligibility
- Service Coordination
- Review and evaluation of the Individualized Family Service Plan (IFSP) or Interim IFSP
- Administrative and coordinative activities related to procedural safeguards/Family Rights
- Transition Services
- Child Find

The inability to pay for services will not result in a delay or denial of Part C services. **If the family meets the State's definition of inability to pay, all Part C services must be provided at no cost to the family.** The ability of an eligible child's family to pay is defined using the part of the DHSS Sliding Fee Scale (DHSS Policy Memorandum #37) that applies to families above 290% of the poverty level.

Inability to pay is defined as a family living at or below 290% of the federal poverty level.

- Families living at or below 290% of the federal poverty level are determined to have the inability to pay, and are exempt from any cost-sharing or fees.
- For those families with the inability to pay and consent to using private insurance to pay for Part C services, Birth to Three will pay for interventions not covered by insurance and that are on the child's Individualized Family Service Plan.
- Families living above 290% of the federal poverty level, as outlined in the DHSS Policy Memorandum #37, who have denied access to private insurance, will pay 100% of

cost-sharing or fees (\$74 per thirty (30) minutes of intervention services), although exemptions may be made due to financial hardships.

- Families will not be charged an amount that exceeds the actual cost of providing a particular Part C service (factoring in any amount received from other sources for payment for that service).
- Families with public benefits or insurance, or private insurance, will not be charged disproportionately more than families who do not have public benefits or insurance or private insurance.
- Ability to pay, family fees, copayments and deductibles will be discussed during the initial IFSP meeting. When families with private insurance elect not to permit access to their coverage for early intervention services, family fees may apply, based on the Delaware rates for early intervention services (\$74 per thirty (30) minutes of intervention services). Notification of the determination of family fees will be provided once the family submits required documentation and annually thereafter.

### **Use of Part C Funds**

Delaware's Birth to Three Early Intervention System/Child Development Watch is permitted, but not required, to use Part C or other funds to pay for costs such as deductibles, co-pays, or co-insurance.

Part C funds may be used to prevent a delay in the timely provision of early intervention services, pending reimbursement from the agency or entity that has ultimate responsibility for the payment.

The following will be adhered to by DHSS in developing Part C/Early Intervention provider contracts with vendors:

1. Vendors will agree to bill Third Party Insurance including Medicaid, Delaware Healthy Children's Insurance Program and families, with parental consent, if required;
2. Client fees will be based on the DHSS Sliding Fee Scale when families are over 290% of poverty, as found in the DHSS Policy Memorandum 37, and when use of public or private insurance is denied by the family. No client fees will be charged if parents are below 290% of the poverty level.

§303.521(e)(1) provides that a parent who wishes to contest the imposition of a fee, or the State's determination of the parent's ability to pay, may do one or more of the following:

- Participate in mediation in accordance with §303.431
- Request a due process hearing under §303.441
- File a State complaint under §303.434

- Use any other procedure established by the State for the speedy resolution of financial claims, provided that such use does not delay or deny the parent’s procedural rights, including the right to pursue, in a timely manner, the options described above.

The Birth to Three Early Intervention System/Child Development Watch program must inform parents of these procedural safeguard options under §303.521(e)(2) by providing parents with a copy of the State’s System of Payments policies when obtaining consent for provision of early intervention services under §303.420(a)(3).

### **Use of Insurance to Pay for IDEA Part C Services**

Families who have both private insurance and public benefits/insurance acknowledge that payment for services will be billed in the following sequential order:

- First to be billed: Private insurance;
- Second to be billed: Public benefits or insurance;
- Third to be billed: Part C is payor of last resort.

When families have both private insurance and public insurance, the use of private insurance is a prerequisite to the use of public insurance, and the consent requirements in §303.520(b)(1) apply to the use of private insurance.

Section §303.520(b)(1) provides Delaware must obtain consent when DHSS or Early Intervention Services 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 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.

Under §303.520(b)(1)(iii), Delaware provides a copy to the parent of its System of Payment policies during the initial home visit covering Family Rights to include identifying the potential costs that the parents may incur as a result of the use of their private insurance to pay for Part C services. The System of Payment policies will be offered to families again anytime consent is needed to increase services in the child’s IFSP.

Any available private & public health insurance, including any medical program administered by the Secretary of Defense (such as Tricare), will be utilized to pay for Part C services. Deductibles, co-pays, and co-insurance fees are the financial responsibility of the family, unless the family is determined unable to pay. This is explained to each family during the initial home visit conducted by the CDW Service Coordinator as a part of the Family Rights. In cases where these out-of-pocket expenses are high and families can’t pay the full cost without causing financial hardship, families may request to complete the Delaware Part C Financial Assistance Form (attached) for consideration of financial assistance towards co-pays and co-insurance. Delaware Part C may determine a reduction or waiver of these costs based on the family’s ability to pay. No other costs may be billed to families after out-of-pocket expenses for early intervention services.

## **Financial Hardship**

Financial hardship is when families are willing but unable to meet their financial obligations because of unexpected events or unforeseen changes that impact cash flow. For example:

- A change in income or expenditures
- Any significant and/or ongoing medical expense(s)
- A change in employment status (i.e. loss of job or reduced hours)
- A significant life event (i.e. divorce, relationship breakdown, injury, illness or death in the family)
- An emergency or natural disaster

Children covered under Medicaid are exempt from any cost-sharing or fees. Children covered under Children Health Insurance Program (CHIPS / Delaware Healthy Children's Program are exempt from any further cost responsibilities after paying the monthly premium. Part C is the payer of last resort after all private and public sources.

## **Use of Public Benefits or Insurance to Pay for IDEA Part C Services**

Under §303.520(a)(2)(i), the State may not require parents to sign up for or enroll in a public benefits or insurance program as a condition for their child to receive Part C services if that child or parent is not already enrolled in a public benefits or insurance program. The State must provide notification to families prior to using Medicaid and CHIPS/Delaware Healthy Children's Program (public insurance). The State must also obtain consent prior to using public insurance of a child or parent if that child or parent is enrolled in such a program after being determined eligible for Part C.

The use of Medicaid and CHIPS/Delaware Healthy Children's Program will not:

- Decrease available lifetime coverage or any other insured benefit for the child or parent.
- Result in the child's parents paying for services that would otherwise have been paid for by the public benefits or insurance program.
- Result in any increase in premiums or cancellation of public benefits or insurance for the child or parents.
- 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.

DHSS is the same agency which administers Part C, Medicaid, and CHIPS/Delaware Healthy Children's Program and parental consent for disclosure of personally identifiable information for billing purposes is not required from parents enrolled in Medicaid and CHIPS/Delaware Healthy Children's Program. Delaware will provide parents with the System of Payment policy, and Notification of Medicaid Access related to Medicaid, at the initial home visit. Section 303.520(a)(2)(iii) also provides that if the parent does not provide consent for the use of the child's or parent's public insurance when such consent is required, DHSS (State lead agency) must still make available those Part C services on the IFSP to which the parent has provided consent.

## **Families Without Insurance**

The Delaware DHSS Sliding Fee Scale (Policy Memorandum #37) will be applied as described above when families are uninsured and do not qualify for Medicaid or CHIPS. Under these policies, there are considerations for financial hardship. **Children and families will not be denied or delayed services because they are unable to pay for them.**

Attachments:

CDW/Part C Consent to Access Family's Health Insurance  
CDW Notification of Medicaid Access  
CDW/Part C Financial Assistance Form

## Addendum to Birth to Three System of Payment

If a family does not authorize the use of their insurance, or expresses financial hardship with co-pays, FSC instructs family to complete the *Part C Financial Assistance Form* ensuring the correct box is checked. Please refer to "System of Payment Process" document for further guidance.

### **If you have a flexible spending/health savings account through your employer:**

**What do you do?** *If your employer has an automatic payment withdrawal option, it is recommended that it not be activated while your child is enrolled in Birth to Three, as your insurance will automatically charge you some fees that might be covered by Birth to Three. If you have questions please contact your benefits administrator. For more information on your protections with automated account payments: [www.consumerfinance.gov](http://www.consumerfinance.gov)*

### **If you receive an insurance reimbursement check for early intervention services:**

**What do you do?** *Some insurance plans will only issue checks directly to families. When this happens you must return the payment to the early intervention provider serving your child. Your insurance company will notify Birth to Three when they have sent you the check. If this payment is not given to your child's early intervention provider, you may be charged for this amount.*

### **If you receive one or more Explanation of Benefits forms from your insurer indicating a balance owed for early intervention services:**

**What do you do?** *If you have general questions or concerns with the Explanation of Benefits, first call the number on your insurance card. If you still have questions about your child's early intervention services, contact your early intervention provide, or service coordinator.*

If you have any questions regarding the Delaware Part C System of Payments Policy, please contact your service coordinator or the Child Development Watch Program Clinic Manager. You can also access the policy online (website below).

#### **Child Development Watch**

##### **New Castle County**

302-283-7240

800-671-0050

#### **Child Development Watch**

##### **Kent/Sussex County**

302-424-7300

800-752-9393

<http://www.dhss.delaware.gov/dhss/dms/epqc/birth3/files/systemofpayments.pdf>