



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

MAR 4, 1998

Maureen Greer
Assistant Deputy Director
Bureau of Child Development
Family and Social Services Administration
402 West Washington Street
Indianapolis, Indiana 46204-2739

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Dear Ms. Greer:

This is in further response to your request for policy clarification made to the Office of Special Education Programs (OSEP) by letter of June 4, 1997. By letter of October 7, 1997, OSEP advised you that, in light of the numerous legal and policy considerations raised by your inquiry, additional time was needed to develop our response and that a more complete response would be issued as soon as we were able to do so. OSEP proceeded to issue Indiana's Part H grant award for Fiscal Year 1997 based, in part, on our understanding that the Indiana Family and Social Services Administration does not withhold early intervention services from a child in the event that the family does not enroll in Medicaid and Children's Special Health Care Services (See letter to Honorable James Hmurovich dated October 8, 1997). In subsequent conversations, you have continued to ask when you could expect to receive OSEP's response to your 1997 letter.

On October 22, 1997, the Department published in the Federal Register a Notice of Proposed Rulemaking (NPRM) implementing the Individuals with Disabilities Education Act Amendments of 1997 (IDEA '97). The Department accepted public comment on this NPRM through January 20, 1998, and particularly invited public comment on some of the issues pertinent to your inquiry. See 62 Fed. Reg. at 55054. We note that you filed a written comment during this public comment period.

In the NPWN, the Department proposed a new regulation at 34 CFR 303.520 that would answer several of your questions, particularly questions numbers 5-10 and 11. See 62 FR 55123. For example, you asked whether a State could require families to access private insurance if the State determines there is no cost or loss to the family. Under the proposed regulation, the State could do so, using the proposed definition of "financial costs."

Many of the other issues raised in your letter, including issues concerning Medicaid use, were also raised in public comments received in response to this proposed regulation. The Department

Page 2 - Maureen Greer

will address those requests for further guidance in the context of its final rulemaking document. Because the issues raised in your letter are the subject of a current rulemaking procedure, the Department is not able to respond in a more helpful way until that process is completed. After that time, we will be able to provide a more thorough response to your inquiry.

We hope that you find this explanation helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas Hehir".

Thomas Hehir
Director
Office of Special Education
Programs