



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUN -5 1998

James T. Howell, M.D., M.P.H.
Secretary
Florida Department of Health
1317 Winewood Boulevard
Tallahassee, Florida 32399-0700

Dear Dr. Howell:

This is in response to the letters from your office, dated April 21, 1997 and July 7, 1997, to the Office of Special Education Programs (OSEP) which requested written comments on Florida's Department of Health (DOH) proposal to implement a sliding fee scale in the implementation of Part H of the Individuals with Disabilities Education Act (IDEA). Such a proposal would require parents of children, birth to three, receiving services via an Individualized Family Service Plan (IFSP) to pay for certain early intervention services based upon the parents' financial status.

In addition, in a telephone conversation on Tuesday, December 30, 1997; between Alma McPherson, Project Officer for the State of Florida and other Department staff members with Fran Wilber, Director of Early Intervention Services, and other State early intervention staff; Ms. Wilber requested written clarification of the Federal requirements under Part H, regarding the implementation of a sliding fee scale for services being provided to children aged birth to three, if Part B funds are utilized to support the program.

Regarding the first issue, Florida may establish a system of payments for early intervention services, including a schedule of sliding fees consistent with the provisions of 34 CFR §303.521. However, under Part H, fees may not be charged for services that a child is otherwise entitled to receive at no cost to parents as specified in 34 CFR §303.521. Subject to that limitation, the draft system of payments outlined in the proposal sent to our office meets the requirements of Part H.

The second issue concerns the feasibility of implementing a sliding fee scale to pay for all or part of early intervention services, if Part B funds are used to support payment of some early intervention services. If funds under section 619 of Part B of the Act are being used to provide a Free Appropriate Public Education (FAPE) for two-year old children who will turn three during the school year, then Part H does not apply to such children, all services must be at no cost, and no fees may be charged (sec.619(h)).

Further, for children under age three who receive FAPE with Part B section 611 funds, requirements for both Part B and Part H must be met, as explained in our 1994 letter to Dr. Tom Gillung, attached for your convenience. Therefore, it would be possible for the State to impose fees only for those early intervention services that are not provided as FAPE, nor required to be provided a no cost to parents under Part H. However, OSEP staff, in a telephone conversation with Ms. Wilber and staff of the Department of Health on December 30, 1997, were informed that Florida does not provide services that meet these criteria, because all early intervention services are covered as FAPE under Florida law. Therefore, the Department of Health's proposed system of payments utilizing a sliding fee scale does not apply to children whose services are funded by either section 619 or 611 of Part B of IDEA.

I hope that this information is helpful in your efforts to establish a system of payment for early intervention services you intended. If we can be of further assistance, please feel free to contact Alma McPherson at (202) 205-8947.

Sincerely,



Thomas Hehir
Director
Office of Special Education
Programs

cc: Eric O. Handler
Deputy Secretary

Fran Wilber
Part H Coordinator

Attachment