

**Part C of the  
Individuals with Disabilities Education Act**

**Interagency Agreement  
for  
A Statewide System of Services for Children  
with Disabilities, Birth through Two Years and Their Families**

**Part C of IDEA**  
**Interagency Agreement for the South Dakota**  
**Statewide Early Intervention System**

**PURPOSE STATEMENT**

The purpose of this agreement is to ensure collaboration in the maintenance and implementation of a statewide, comprehensive, coordinated, multidisciplinary, and interagency service delivery system for children eligible under Part C of the Individuals with Disabilities Education Act (IDEA). This system is designed to ensure the availability and accessibility of early intervention services for all eligible infants and toddlers and their families.

The agencies involved in this agreement are: the Department of Education, the Department of Health, the Department of Human Services, and the Department of Social Services.

This agreement specifies the roles and responsibilities of the participating agencies related to the specific services required and provides guidance for their implementation. Implementation of Part C will be in accordance with Article 24:14. All parties to this agreement are referred to as agencies.

State departments have authority to manage the provision of services through contracts, grants, policies and procedures, or regulations. It is the intent of this agreement to ensure the following:

1. The development of an interactive, cooperative relationship at the State level to minimize duplication of services and supports and to assist local communities to develop cooperative relationships which result in effective and efficient services and supports for eligible infants, toddlers and their families.
2. Cooperative fiscal planning which will maximize utilization of available funds in providing services and supports to the eligible population of infants and toddlers with developmental delays and their families.

**INTENDED OUTCOMES**

It is agreed that the potential benefits from cooperation among the State departments include the following:

1. The availability of comprehensive services based on unique family and child needs;
2. Services that are designed to meet individualized child and family needs;
3. Family's assessment of their own concerns, priorities, and resources;
4. Services which are coordinated at the community level, through agency collaboration, to reduce duplication and gaps and maximize resources;
5. State and local agencies working collaboratively;
6. Services to families which are sensitive to cultural and ethnic diversity; and
7. Services which are not dependent on family financial resources.

## **Principles of the program:**

\***Family-centered focus:** South Dakota has a commitment to strengthening and supporting families. As the primary influence in the child's life and the most knowledgeable source of information about the needs of the child and family, family members should be included in each step of service design and delivery. A key function of service providers is to enhance and build the capacity of the family to meet their own needs. Furthermore, the program must be sensitive to the family's right to privacy and to multi-cultural differences.

\***Integration of services:** The needs of infants and toddlers and their families require the perspective of various disciplines; thus, services should be planned using a collaborative, multidisciplinary, interagency approach. Existing services and programs, both public and private, should be supported with appropriate linkages promoted.

\***Universal application:** Families of infants and toddlers with disabilities or developmental delays in all areas of the State should receive comprehensive, multidisciplinary assessments of their young children, ages birth through 36 months, and have access to all necessary early intervention services as defined on the Individual Family Service Plan (IFSP).

\***Cost effectiveness:** The system should maximize the use of third party payment and avoid duplication of effort.

\***High quality services:** Services should be provided at the highest standards of quality, with providers being required to meet appropriate licensing and credentialing guidelines.

## **AUTHORITY**

The responsibilities and objectives delineated in this agreement are derived from the following federal legislation:

- Part B and Part C of the Individuals with Disabilities Education Act (IDEA);
- The Developmental Disabilities Assistance and Bill of Rights Act;
- Title XIX, Medicaid, and Title XXI, State Children's Health Insurance Program, of the Social Security Act;
- Title V, Maternal and Child Health Block Grant, of the Social Security Act;
- Title IV, Child Welfare, of the Social Security Act;
- WIC Program-Supplemental Nutrition Program for Women, Infants and Children Program;
- The Child Care and Development Block Grant and the Child Welfare At-Risk Child Care Program
- The Head Start Act;
- The Americans with Disabilities Act;
- Child Abuse Prevention Treatment Act;

Additionally the following Administrative Rules of South Dakota (ARSD) and South Dakota Codified Law (SDCL) apply:

ARSD Article 24:05, Special Education  
ARSD Article 24:14, Early Intervention Program  
ARSD Article 46:10, 67:54 Developmental Disabilities Services  
ARSD Article 46:11, Adjustment Training Centers  
ARSD Article 46:20, Mental Health  
ARSD Article 67:16, Covered Medical Services  
ARSD Article 67:14, Child Protection Services  
ARSD Article 44:06, Children's Special Health Services  
SDCL 27A-15, Treatment of Minors

## **OBJECTIVES**

Each agency supports the attainment of the following mutual objectives as per Article 24:14:

1. To coordinate the provision of services and to ensure the availability of all necessary services to eligible children and their families.
2. To participate in the IFSP process, as needed, for children and families with whom the agencies are involved;
3. To participate in the provision of an effective Information and Referral System;
4. To supply data on Part C eligible children so that accurate and unduplicated counts can be supplied to the U.S. Department of Education;
5. To participate in the design and provision of cooperative interagency and multidisciplinary training opportunities for parents and service providers;
6. To include parents as active participants in policy development, program development and service provision for their child with disabilities;
7. To provide early intervention services in accordance with South Dakota Part C Policies and Procedures;
8. To support participation in and representation on the State Interagency Coordinating Council and committees and task forces by appropriate staff;
9. To follow procedural safeguards as included in Part C Policies and Procedures;
10. To share information in accordance with confidentiality requirements;
11. To consider the recommendations of the ICC, as appropriate;
12. To support the development and use of interagency forms and procedures as appropriate; and

13. To develop policies and procedures to ensure that traditionally underserved groups including minority, low-income, and rural families are meaningfully involved in the planning and implementation of Part C and that these families have access to culturally competent services within their geographic areas.

## **Use of Funds and Payor of Last Resort**

### **Permissive Use of Funds by the Department of Education**

Consistent with §§303.120 through 303.122 and §§303.220 through 303.226, the Department of Education may use funds under Part C of IDEA for activities or expenses that are reasonable and necessary for implementing the Birth to Three Connections including funds:

- a. For direct early intervention services for infants and toddlers with disabilities and their families under Part C of IDEA that are not otherwise funded through other public or private sources, subject to §§303.510 through 303.521;
- b. To expand and improve services for infants and toddlers with disabilities and their families under Part C of IDEA that are otherwise available;
- c. To provide FAPE as that term is defined in ARSD Article 24:05, Special Education in accordance with Part B of IDEA, to children with disabilities from their third birthday to the beginning of the following school year; and
- d. Although South Dakota does not serve at-risk infants or toddlers, 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 purpose of:
  - (i) Identifying and evaluating at-risk infants and toddlers;
  - (ii) Making referrals for the infants and toddlers identified and evaluated under paragraph (d)(1) of this section; and
  - (iii) 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 under Part C of IDEA.

### **Payor of Last Resort**

- a. Except as provided in paragraph (b) of this section, funds under Part C of IDEA 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, but for the enactment of Part C of IDEA. Therefore, funds under Part C of IDEA 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, subject to §§303.520 Policies Related to Use of Public Benefits or Insurance or Private Insurance To Pay for Part C Services and 303.521 System of Payments and Fees.

- b. If necessary to prevent a delay in the timely provision of appropriate early intervention services to a child or the child's family, funds under Part C of IDEA may be used to pay the provider of services, for services and functions authorized under this part, including health services, but not medical services, functions of the child find system described in §§303.115 through 303.117 and §§303.301 through 303.320, and evaluations and assessments in §303.321, pending reimbursement from the agency or entity that has ultimate responsibility for the payment.
- c. Nothing in Part C of IDEA may be construed to permit South Dakota to reduce medical or other assistance available in the state or to alter eligibility under Title V of the Social Security Act, 42 U.S.C. 701, et seq. (SSA), relating 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 IDEA.
- d. Maximum use will be made of all appropriate third party funding sources. State planning efforts will continue to support and facilitate such financing arrangements. Determination of specific agency responsibility for the provision of entitled services under Part C is based upon the provisions of this agreement and individual agency's eligibility criteria. The Department of Education, as lead agency for Part C, is ultimately responsible for ensuring the availability of services to which the eligible child and family are entitled including the provision of a multidisciplinary evaluation and assessment, the development of the Individualized Family Services Plan (IFSP), the provision of service coordination, and the availability of services included in the IFSP. The attached System of Payment describes the fiscal policies related to third party funding sources.

## **PROVISION OF SERVICES UNDER PART C**

All agencies agree to collaborate in the provision of services to eligible infants and their families. Services are only provided with parental consent and are provided in a family-focused manner with emphasis on the concerns, priorities and resources of the family.

See the matrix of services with narrative explanation that follows.

The responsibilities of each agency for provision of specific services, including eligibility requirements, are spelled out in several documents, including South Dakota Codified Law, administrative rules, program policy, and federally mandated programs. This includes state plans and block grants submitted to the federal government in the areas of special education, maternal and child health, supplemental food program for women, infants, and children, mental health, and medicaid.

Services for which each agency is responsible, within eligibility parameters and resource availability, are listed below by department, including the general provisions contained in state plans and block grants.

### **Department of Education (Article 24:14 and 24:05)**

Child find; evaluation and assessment; audiology; health service; medical services only for diagnostic or evaluation purposes; occupational therapy; physical therapy; psychological services; special instruction; speech-language pathology; transportation; assistive technology; vision; and family counseling and home visits for children in need of prolonged assistance.

"Children in need of prolonged assistance", are those children under the age of three who through a multidisciplinary evaluation, score two standard deviations or more below the mean in two or more of the following areas: cognitive development, physical development including vision and hearing, communication development, social or emotional development, and adaptive development.

“Contractor”, a public or private, nonprofit agency, organization, institution, Indian tribal organization, or private individual, who has been awarded a department contract for the provision of service coordination.

### **Department of Health**

Services for children with special health care needs, available through Children's Special Health Services – Health KiCC, (Article 44:06) including:

- Medical evaluation, diagnosis and treatment; and
- Care coordination for children with special health care needs;

Maternal and child health services provided by the Office of Family and Community Health Services staff include:

- Child health conferences: nursing physical assessment, developmental screening (Ages and Stages and Ages and Stages Social Emotional), age appropriate vision/hearing screening, and parent education;
  - Age appropriate immunizations;
  - School health services as designated in contractual agreements with school districts (e.g. vision, hearing, and scoliosis screening; education on oral health; personal hygiene, etc.).
- Nutrition services, provided by Community Health Services staff, including:
- Supplemental nutrition program for Women, Infants, and Children (WIC): supplemental foods, nutrition education, and referral to health care professional.

### **Department of Human Services (Articles 46:10, 46:11, 67:54)**

Services contained in the Title XIX Home/Community-Based Services waiver, Family Support HCBS waiver, and Respite Care.

### **Department of Social Services (Articles 67:16, 67:14, and 46:20)**

Medical services - services contained in the state Medicaid Plan and Article 67:16 including physician, other health services and EPSDT. Child protection services-services contained in Article 67:14.

Child Abuse Prevention Treatment Act (CAPTA): a requirement of CAPTA is that a referral to the Birth to 3 Connections must be made for any child under age of 3 who is involved in a substantiated case of abuse and neglect. Every effort should be made to involve the parent in the referral process. If the child involved in the substantiated case is not placed in Child Protection Service (CPS) custody, a release of information form must be signed by the parent, guardian or custodian prior to the referral being made.

Services contained is the state’s comprehensive mental health service plan, including: Children’s Mental Health Services (individual or group); medication management by a psychiatrist, certified nurse practitioner, or physician’s assistant; liaison services (direct and community); and emergency services.

**CAUTION: Matrix should not be used without accompanying narrative.**

	DEPARTMENT OF EDUCATION	PART C	DEPARTMENT OF SOCIAL SERVICES	DEPARTMENT OF HEALTH	DEPARTMENT OF HUMAN SERVICES
Audiology	X	PLR	X		
Assistive Technology	X	PLR	X		X
Family T.C. and Home Visits *May also include Respite Care and Family Support	X	PLR *		X	X *
Health Services	X	PLR	X		
Medical for Evaluation	X	PLR	X	X	
Nursing		PLR	X		X
Nutrition		PLR	X	X	X
Occupational Therapy	X	PLR	X		
Physical Therapy	X	PLR	X		
Psychological	X	PLR	X		
Service Coordination		PLR		X	X
Social Work		PLR	X		X
Special Instruction	X	PLR			X
Speech and Language (Communication)	X	PLR	X		
Sign Language and Cued Language Services	X	PLR			
Transportation	X	PLR	X	X	
Vision	X	PLR	X	X	

PLR - Local contractors arrange the provision of the service according to payor of last resort requirements.

X - Service is provided in accordance with this agreement based upon eligibility and availability.



## FEES

All screening, child find, evaluation and service coordination activities are available at no cost to the family. Fees are also not charged for staff time related to the development of the Individualized Family Services Plan (IFSP) or the provisions of procedural safeguards. No fees are charged for services in accordance with the attached System of Payments.

## PROVISION OF SERVICES

In accordance with federal and state requirements for Part C, early intervention services, which are contained in an IFSP for an eligible child and family must be made available to the family. Eligible Part C children are those that meet the definition according to federal requirements and the South Dakota Part C Policies and Procedures.

Responsibility for the provision of Part C early intervention services is depicted on the matrix contained in this agreement. When either a provider or a funding source for a specific service is not readily available according to these criteria, it is the responsibility of the local contractor to arrange for the provision of the service in the community. In some cases, Part C funds may be accessed as long as these are used as the payor of last resort.

The following describes specific responsibilities for individual Part C services:

### 1. **AUDIOLOGY SERVICES**

#### **a. Federal Definition-**

(1) *"Audiology services" include:*

- (i) *Identification of children with auditory impairment, using at risk criteria and appropriate audiologic screening techniques;*
- (ii) *Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;*
- (iii) *Referral for medical and other services necessary for the habilitation or rehabilitation of an infant or toddler with a disability who has an auditory impairment;*
- (iv) *Provision of auditory training, aural rehabilitation, speech reading, and listening device orientation and training, and other services;*
- (v) *Provision of services for prevention of hearing loss; and*
- (vi) *Determination of the child's individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.*

#### **b. Specific Agency Responsibilities**

- ✓ Department of Education- Local districts are responsible for the availability of screening and evaluation audiology services for any child referred who is suspected of being a child with a disability and in need of special education. In addition, districts are responsible for the availability of audiological services for any Part C eligible child that also meets the definition

under Part B for "prolonged assistance". Medicaid reimbursement may be requested in accordance with DSS procedures when applicable.

- ✓ Department of Health- Community Health Nurses participate in some preschool screening activities, and may provide hearing screening as part of the school health services as directed in contractual agreements between the school district and the Department of Health. Community Health Nurses refer children identified as having potential hearing impairments to the appropriate resources.
- ✓ Department of Social Services- Audiology may be paid for by the Department of Social Services for children eligible for Medical Assistance when such service is within the parameters specified in Article 67:16; the service is considered medically necessary in accordance with Article 67:16; and the service is provided by providers meeting the Medical Assistance qualifications in Article 67:16.

c. **Provision of Audiology Services**

Screening and evaluation audiological services may be provided by local school districts or the Health Department according to the above criteria. Whenever possible, reimbursement is to be obtained through the Medical Assistance Program. Audiological services for Part C eligible children that also meet the definition for prolonged assistance are the responsibility of local districts. Medical Assistance reimbursement is to be obtained in accordance with federal and state laws, rules, regulations, and policies .

For Part C children that do not fit the definition of prolonged assistance for whom audiology is listed in the IFSP, the local contractor must arrange for the provision of the service within the community. Community resources, both public and private, are to be accessed in order to pay for audiological services. Services may be provided by public or private providers. In those instances where funding is not available through any local resource, the local contractor may request Part C funds using Part C procedures established by DOE. Part C funds may only be used as the payor of last resort.

## 2. **ASSISTIVE TECHNOLOGY**

a. **Federal Definition**

(2) *"Assistive technology devices and services" are defined as follows:*

- (i) *Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an infant or toddler with a disability.. The term does not include a medical device that is surgically implanted, including a cochlear implant, or the optimization (e.g., mapping), maintenance, or replacement of that device.*
- (ii) *Assistive technology service means any service that directly assists an infant or toddler with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:*

- (a) *The evaluation of the needs of an infant or toddler with a disability, including a functional evaluation of the infant or toddler with a disability in the child's customary environment;*
- (b) *Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by infants or toddlers with disabilities;*
- (c) *Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;*
- (d) *Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;*
- (e) *Training or technical assistance for an infant or toddler with a disability, or if appropriate, that child's family; and*
- (f) *Training or technical assistance for professionals (including individuals providing education or rehabilitation), or other individuals who provide services to or are otherwise substantially involved in the major life functions of, infants and toddlers with disabilities.*

**b. Specific Agency Responsibilities**

- ✓ Department of Education- School districts are responsible for the availability of assistive technology devices and services for any Part C eligible child that is also eligible under prolonged assistance.
- ✓ Department of Social Services- Assistive technology may be paid for by the Department of Social Services for children eligible for Medical Assistance when such service is within the parameters specified in Article 67:16; the service is considered medically necessary in accordance with Article 67:16; and the service is provided by providers meeting the Medical Assistance Program qualifications in Article 67:16.
- ✓ Department of Human Services- Assistive technology may be provided via the Division of Developmental Disabilities' Title XIX Home/Community-Based Services waiver and Family Support HCBS waiver. These services must be provided within the following parameters:
  1. They must be provided by a Department of Human Services, Division of Developmental Disabilities certified provider (Community Support Providers, family support providers);
  2. The services must not be reimbursable under other sources such as the Medicaid state plan, EPSDT, education, etc.; and
  3. The child must meet the eligibility criteria established in ARSD, Chapter 67:54:04:03 (they are receiving AFDC, SSI or their income is less than 300 percent of the SSI standard benefit and have not been denied SSI based on disability, they have a developmental disability, and they are in need of and eligible for placement in an intermediate care facility for the mentally retarded).

The waivers are not entitlement programs and there is an established limit to the number of individuals that can be served by each waiver. For the waiver services provided by Community Support Providers, the tuition (if applicable) and matching funds are paid by the child's local school district or the Office of Auxiliary Placement.

- ✓ Department of Human Services-Cochlear implants for children less than 21 years old with profound hearing loss may be funded by the Division of Rehabilitation Services, in the Department of Human Services. A cochlear implant is a surgically implanted device that assists an individual with severe or profound hearing loss to hear sounds. This program is designed to provide financial assistance to an eligible individual who is uninsured or to help offset the deductible or coinsurance for an individual with an insurance plan that covers cochlear implants.

**c. Provision of Assistive Technology**

Assistive technology devices and services may be made available by local districts or the Division of Developmental Disabilities' Title XIX Home/Community-Based waivers according to criteria listed above. Medical Assistance reimbursement is to be obtained in accordance with federal and state laws, rules, regulations, and policies. Assistive technology services and devices for Part C eligible children that also meet the definition for prolonged assistance are the responsibility of local school districts.

For Part C children that do not fit the definition of prolonged assistance or who are not included in the waiver, for whom assistive technology is listed in the IFSP, the local contractor must arrange for the provision of the service in the community. Community resources, both public and private, are to be accessed in order to pay for technology services and devices. Services may be provided by public or private providers. In those instances where funding is not available through any local resources, the local contractor may request Part C funds using Part C procedures established by DOE. Part C funds may only be used as the payor of last resort.

**3. FAMILY TRAINING, COUNSELING AND HOME VISITS**

**a. Federal Definition**

- (3) *"Family training, counseling, and home visits" means services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of an infant or toddler with a disability in understanding the special needs of the child and enhancing the child's development.*

**Additional State Definitions**

*"Family Support is a wide array of services and supports provided to families of children with a developmental disability living in the family home."*

*"Respite Care is temporary relief care designed for families of children or adult family members with special needs. Respite care can range from a few hours of care provided on a one-time basis to overnight or extended care sessions. Respite care can be utilized on a regular or irregular basis and can be provided by family members, friends, skilled care providers or professionals."*

**b. Specific Agency Responsibilities**

- ✓ Department of Education- Local school districts are responsible for the availability of such services if contained in the IFSP for Part C eligible children that are also eligible under prolonged assistance. Such services include psychological counseling but generally would include only those family information and support services provided by district preschool staff or psychologists in accordance with Part C.
- ✓ Department of Health- Care coordination is available for children with special health care needs that are served through Children’s Special Health Services – Health KiCC to assist with planning and referral and are Part C eligible. In the provision of child health assessment by Community Health Nurse, anticipatory guidance is given to parents and care givers.
- ✓ Department of Social Services- Services may be provided by the Division of Community Behavioral Health through one of the State’s 11 community mental health centers. Available services include case management; individual therapy; family education/support/therapy; crisis intervention; collateral contacts; group therapy for children; parent/guardian group therapy; assessment and evaluation, and liaison services. Program and financial eligibility must be met in order to qualify for services funded by the Division of Community Behavioral Health. Community mental health centers must receive prior approval from the Division of Community Behavioral Health before providing services to children under the age of two.
- ✓ Department of Human Services provides respite care services in accordance with the following statement. Respite care services funding is provided to any family residing in South Dakota, having a child with a developmental disability, a developmental delay, a serious emotional disturbance, a severe and persistent mental illness, a chronic medical condition, a traumatic brain injury; or a child they have adopted. The child must be living in the parent or foster parent’s home. The family selects the provider based on the needs of their child. The provider receives reimbursement from the Department of Human Services Respite Care Program.

Children who meet the guidelines for “prolonged assistance” are eligible for family support services. Requests are funded based on available funds. Funds may be accessed through a Local Family Support Program administered by family support providers or through the Statewide Family Support Program administered by the Department of Human Services, Division of Developmental Disabilities.

**c. Provision of Family Training, Counseling, and Home Visits**

Family training, counseling, and home visits may be made available by local school districts, Community Mental Health Centers, and the Health Department as described above. Medical Assistance reimbursement is to be obtained in accordance with federal and state laws, rules, regulations, and policies.

Respite care and family supports services may be made available as described above. For Part C children for whom family training, counseling or home visits are included in the IFSP, but for whom no agency is responsible as described above, the local contractor must arrange for the provision of the service in the community. Community resources, both public and private, are to be assessed in order to pay for these services. Services may be provided by public or private providers. In those instances where funding is not available through any local resource, the local contractor may request

Part C funds using Part C procedures established by DOE. Part C funds may only be used as the payor of last resort.

#### 4. **HEALTH SERVICES**

##### a. **Federal Definition**

Sec. 303.16 Health Services

- (a) *"Health services" means services necessary to enable an otherwise eligible child to benefit from the other early intervention services under this part during the time that the child is receiving the other early intervention services.*
- (b) *The term includes:*
- (1) *Such services as clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and*
  - (2) *Consultation by physicians with other service providers concerning the special health care needs of infants and toddlers with disabilities that will need to be addressed in the course of providing other early intervention services.*
- (c) *The term does not include:*
- (1) *Services that are:*
    - (i) *Surgical in nature (such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus);*
    - (ii) *Purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose); or*
    - (iii) *Related to the implementation, optimization (e.g., mapping), maintenance, or replacement of a medical device that is surgically implanted, including a cochlear implant.*
      - (A) *Nothing in this part limits the right of an infant or toddler with a disability with a surgically implanted device (e.g., cochlear implant) to receive the early intervention services that are identified in the child's IFSP as being needed to meet the child's developmental outcomes.*
      - (B) *Nothing in this part prevents the EIS provider from routinely checking that either the hearing aid or the external components of a surgically implanted device (e.g., cochlear implant) of an infant or toddler with a disability are functioning properly;*
  - (2) *Devices (such as heart monitors, respirators and oxygen, and gastrointestinal feeding tubes and pumps) necessary to control or treat a medical condition; and*
  - (3) *Medical-health services (such as immunizations and regular "well-baby" care) that are routinely recommended for all children.*

**b. Specific Agency Responsibilities**

- ✓ Department of Education- For Part C eligible children that are also eligible under prolonged assistance, school districts are responsible for the availability of health services specified in the IFSP.
- ✓ Department of Social Services- Health services may be paid for by the Department of Social Services for children eligible for Medical Assistance when such service is within the parameters specified in Article 67:16; the service is considered medically necessary in accordance with Article 67:16; and the service is provided by providers meeting the Medical Assistance qualifications in Article 67:16.

**c. Provision of Health Services**

Health services may be made available by local school districts as described above. Medical Assistance reimbursement is to be obtained in accordance with federal and state laws, rules, regulations, and policies.

For Part C children for whom health services are included in the IFSP, but for whom no agency is responsible as described above, the local contractor must arrange for the provision of the service in the community. Community resources, both public and private, are to be accessed in order to pay for these services. Services may be provided by public or private providers. In those instances where funding is not available through any local resource, the local contractor may request Part C funds using Part C procedures established by DOE. Part C funds may only be used as the payor of last resort.

**5. MEDICAL SERVICES**

**a. Federal Definition**

- (5) *“Medical services” means services provided by a licensed physician for diagnostic or evaluation purposes to determine a child's developmental status and need for early intervention services.*

**b. Specific Agency Responsibilities**

- ✓ Department of Education- Medical services for diagnostic purposes related to the developmental needs of the child only are the responsibility of local school districts for Part C eligible children that are also eligible under prolonged assistance.
- ✓ Department of Health- Diagnostic consultation and evaluation for coverable conditions is provided at no cost if the child and family meet the eligibility criteria of the Children’s Special Health Services – Health KiCC program
- ✓ Department of Social Services- Medical services for evaluation purposes may be paid for by the Department of Social Services for Medical Assistance eligible children when such service is within the parameters specified in Article 67:16; the service is considered medically necessary in accordance with Article 67:16; and the service is provided by providers meeting the Medical Assistance qualifications in Article 67:16.

c. **Provision of Medical Services for Evaluation Only**

Medical evaluations may be provided in accordance with the above criteria by local school districts or the Health Department. Medical Assistance reimbursement is to be obtained in accordance with federal and state laws, rules, regulations, and policies.

For Part C eligible children for whom medical evaluations are necessary for developmental purposes in accordance with Part C regulations, but for whom no agency is responsible as described above, the local contractor must arrange for the provision of the service within the community. Community resources, both public and private, are to be accessed in order to pay for the evaluation. Services may be provided by public or private providers. In those instances where funding is not available through any local resource, the local contractor may request Part C funds using Part C procedures established by DOE. Part C funds may only be used as the payor of last resort.

6. **NURSING SERVICES**

a. **Federal Definition**

(6) *"Nursing services" includes:*

- (i) *The assessment of health status for the purposes of providing nursing care, including the identification of patterns of human response to actual or potential health problems;*
- (ii) *The provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and*
- (iii) *The administration of medications, treatments, and regimens prescribed by a licensed physician.*

b. **Specific Agency Responsibilities**

- ✓ Department of Social Services- Nursing may be paid for by the Department of Social Services for Medical Assistance eligible children when such service is within the parameters specified in Article 67:16; the service is considered medically necessary in accordance with Article 67:16; and the service is provided by providers meeting the qualifications in Article 67:16.
- ✓ Department of Human Services- Nursing may be provided via the Division of Developmental Disabilities' Title XIX Home/Community-Based Services waiver. These services must be provided within the following parameters:
  - 1. They must be provided by a Department of Human Services, Division of Developmental Disabilities certified provider (Community Support Providers);
  - 2. The services must not be reimbursable under other sources such as the Medicaid state plan, EPSDT, education, etc.; and



3. The child must meet the eligibility criteria established in ARSD, Chapter 67:54:04:03 (they are receiving AFDC, SSI or their income is less than 300 percent of the SSI standard benefit and have not been denied SSI based on disability, they have a developmental disability, and they are in need of and eligible for placement in an intermediate care facility for the mentally retarded or the developmentally disabled).

This waiver is not an entitlement program and there is an established limit to the number of individuals that can be served by this waiver. For children, the tuition (if applicable) and matching funds are paid by the child's local school district or the Office of Auxiliary Placement.

Nursing is not an available service under the division's family support waiver.

c. **Provision of Nursing**

For Part C children for whom this services is necessary for developmental purposes that are not eligible to receive it according to the above arrangements, the local contractor must arrange for the provision of the service within the community. Medical Assistance reimbursement is to be obtained in accordance with federal and state laws, rules, regulations, and policies. Community resources, both public and private, are to be accessed in order to pay for nursing services. Services may be provided by public or private providers. In those instances where funding is not available through any local resource, the local contractor may request Part C funds using Part C procedures established by DOE. Part C funds may only be used as the payor of last resort.

7. **NUTRITION SERVICES**

a. **Federal Definition**

(7) *"Nutrition services" includes:*

(i) *Conducting individual assessments in:*

- (a) *Nutritional history and dietary intake;*
- (b) *Anthropometric, biochemical, and clinical variables;*
- (c) *Feeding skills and feeding problems; and*
- (d) *Food habits and food preferences;*

(ii) *Developing and monitoring appropriate plans to address the nutritional needs of children eligible under this part based on the findings in (a) through (d) above ; and*

(iii) *Making referrals to appropriate community resources to carry out nutrition goals.*

b. **Specific Agency Responsibilities**

- ✓ Department of Health- Nutrition assessment and intervention are available through Children's Special Health –Health KiCC program. These services are limited to children who have conditions coverable through Children's Special Health Services-Health KiCC. Nutrition education and counseling are available through the WIC program for

children under age five who are eligible for this special supplemental nutrition program. Eligible children are prescribed food packages specific to their individual needs and receive nutrition education counseling.

- ✓ Department of Social Services – Enteral nutritional therapy, oral nutritional supplements, and electrolyte replacement may be paid for by the Department of Social Services for children eligible for Medical Assistance when such service is within the parameters specified in Article 67:16; the service is considered medically necessary in accordance with Article 67:16; and the service is provided by providers meeting the qualifications in Article 67:16.
- ✓ Department of Human Services – Nutritional supplements may be provided via the Division of Developmental Disabilities’ Title XIX Home/Community-Based Services waiver and family support waiver. The services must be provided within the following parameters:
  1. They must be provided through a Department of Human Services, Division of Developmental Disabilities’ certified provider (Community Support Providers, family support providers);
  2. The services must not be reimbursable under other sources such as the Medicaid state plan, EPSDT, education, etc.; and
  3. The child must meet the eligibility criteria established in ARSD, Chapter 67:54:04:03 (they are receiving AFDC, SSI or their income is less than 300 percent of the SSI standard benefit and have not been denied SSI based on disability; they have a developmental disability; and they are in need of and eligible for placement in an intermediate care facility for the mentally retarded).

These waivers are not entitlement programs and there is an established limit to the number of individuals that can be served by these waivers.

**c. Provision of Nutrition**

Nutrition may be made available by the Health Department in accordance with the above criteria. Medical Assistance reimbursement is to be obtained in accordance with federal and state laws, rules, regulations, and policies.

For Part C children for whom this services is necessary for developmental purposes that are not eligible to receive it according to the above criteria, the local contractor must arrange for the provision of the service within the community. Community resources, both public and private, are to be accessed in order to pay for nutrition services. Services may be provided by public or private providers. In those instances where funding is not available through any local resource, the local contractor may request Part C funds using Part C procedures established by DOE. Part C funds may only be used as the payor of last resort.

**8. OCCUPATIONAL THERAPY**

**a. Federal Definition**

- (8) *"Occupational therapy" includes services to address the functional needs of an infant or toddler with a disability related to adaptive development, adaptive behavior and play, and sensory, motor, and*

*postural development. These services are designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include:*

- (i) *Identification, assessment, and intervention;*
- (ii) *Adaptation of the environment, and selection, design and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and*
- (iii) *Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.*

**b. Specific Agency Responsibilities**

- ✓ Department of Education- Local school districts are responsible for the availability of occupational therapy, as identified in an IFSP, for those Part C children that are also eligible under prolonged assistance. Medicaid reimbursement may be requested for eligible children in accordance with DSS procedures.
- ✓ Department of Social Services- Occupational therapy may be paid for by the Department of Social Services for Medical Assistance eligible children when such service is within the parameters specified in Article 67:16; the service is considered medically necessary in accordance with Article 67:16; and the service is provided by providers meeting the Medical Assistance qualifications in Article 67:16.

**c. Provision of Occupational Therapy**

If included in the IFSP, occupational therapy must be made available by school districts for Part C eligible children that are also eligible under prolonged assistance. Medical Assistance reimbursement is to be obtained in accordance with federal and state laws, rules, regulations, and policies.

For Part C eligible children who do not meet the definition of prolonged assistance and have occupational therapy in their IFSP, the local contractor must arrange for the provision of the service within the community. Community resources, both public and private, are to be accessed in order to pay for the service. Services may be provided by public or private providers. In those instances where funding is not available through any local resource, the local contractor may request Part C funds using Part C procedures established by DOE. Part C funds may only be used as the payor of last resort.

**9. PHYSICAL THERAPY**

**a. Federal Definition**

(9) *"Physical therapy" includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include:*

- (i) *Screening, evaluation, and assessment of children to identify movement dysfunction;*

- (ii) *Obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and*
- (iii) *Providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems.*

**b. Specific Agency Responsibilities**

- ✓ Department of Education- Local school districts are responsible for the availability of physical therapy, as identified in an IFSP, for those Part C children that are also eligible under prolonged assistance. Medicaid may be billed for eligible children in accordance with DSS procedures.
- ✓ Department of Social Services- Physical therapy may be paid for by the Department of Social Services for children eligible for Medical Assistance when such service is within the parameters specified in Article 67:16; the service is considered medically necessary in accordance with Article 67:16; and the service is provided by providers meeting the Medical Assistance qualifications in Article 67:16.

**c. Provision of Physical Therapy**

If contained in the IFSP, physical therapy must be made available by school districts for Part C eligible children that are also eligible under prolonged assistance. Medical Assistance reimbursement is to be obtained in accordance with federal and state laws, rules, regulations, and policies.

For Part C eligible children who do not meet the definition of prolonged assistance and have physical therapy in their IFSP, the local contractor must arrange for the provision of the service within the community. Community resources, both public and private, are to be accessed in order to pay for the service. Services may be provided by public or private providers. In those instances where funding is not available through any local resource, the local contractor may request Part C funds using Part C procedures established by DOE. Part C funds may only be used as the payor of last resort.

**10. PSYCHOLOGICAL SERVICES**

**a. Federal Definition**

(10) "Psychological services" includes:

- (i) *Administering psychological and developmental tests and other assessment procedures;*
- (ii) *Interpreting assessment results;*
- (iii) *Obtaining, integrating, and interpreting information about child behavior, and child and family conditions related to learning, mental health, and development; and*

- (iv) *Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.*

**b. Specific Agency Responsibilities**

- ✓ Department of Education- Local school districts are responsible for the availability of psychological services, as identified in an IFSP, for those Part C children that are also eligible under prolonged assistance. Medicaid may be billed for eligible children in accordance with DSS procedures.
- ✓ Department of Social Services- Psychological services may be paid for by the Department of Social Services for children eligible for Medical Assistance when such service is within the parameters specified in Article 67:16; the service is considered medically necessary in accordance with Article 67:16; and the service is provided by providers meeting the Medical Assistance qualifications in Article 67:16.
- ✓ Department of Social Services psychological services may be provided by the Division of Community Behavioral Health through one of the State's 11 community mental health centers. Available services include case management; individual therapy; family education/support/therapy; crisis intervention; collateral contacts; group therapy for children; parent/guardian group therapy; assessment and evaluation, and liaison services. Program and financial eligibility must be met in order to qualify for services funded by the Division of Community Behavioral Health. Community mental health centers must receive prior approval from the Division of Community Behavioral Health before providing services to children under the age of two.

**c. Provision of Psychological Services**

If contained in the IFSP, psychological services must be made available by school districts for Part C eligible children that are also eligible under prolonged assistance. Medical Assistance reimbursement is to be obtained in accordance with federal and state laws, rules, regulations, and policies.

**11. SERVICE COORDINATION**

**a. Federal Definition**

(11) Service coordination services (case management).

(a) General.

(1) *As used in this part, service coordination services mean services provided by a service coordinator to assist and enable an infant or toddler with a disability and the child's family to receive the services and rights, including procedural safeguards, required under this part.*

(2) *Each infant or toddler with a disability and the child's family must be provided with one service coordinator who is responsible for:*

(i) *Coordinating all services required under this part across agency lines; and*

(ii) *Serving as the single point of contact for carrying out the activities described in paragraphs (a)(3) and (b) of this section.*

(3) *Service coordination is an active, ongoing process that involves:*

(i) *Assisting parents of infants and toddlers with disabilities in gaining access to, and coordinating the provision of, the early intervention services required under this part; and*

(ii) *Coordinating the other services identified in the IFSP under §303.344(e) that are needed by, or are being provided to, the infant or toddler with a disability and that child's family.*

(b) *Specific service coordination services.* *Service coordination services include:*

(1) *Assisting parents of infants and toddlers with disabilities in obtaining access to needed early intervention services and other services identified in the IFSP, including making referrals to providers for needed services and scheduling appointments for infants and toddlers with disabilities and their families;*

(2) *Coordinating the provision of early intervention services and other services (such as educational, social, and medical services that are not provided for diagnostic or evaluative purposes) that the child needs or is being provided;*

(3) *Coordinating evaluations and assessments;*

(4) *Facilitating and participating in the development, review, and evaluation of IFSPs;*

(5) *Conducting referral and other activities to assist families in identifying available EIS providers;*

(6) *Coordinating, facilitating, and monitoring the delivery of services required under this part to ensure that the services are provided in a timely manner;*

(7) *Conducting follow-up activities to determine that appropriate Part C services are being provided;*

(8) *Informing families of their rights and procedural safeguards, as set forth in subpart E of this part and related resources;*

(9) *Coordinating the funding sources for services required under this part; and*

(10) *Facilitating the development of a transition plan to preschool, school, or, if appropriate, to other services.*

(c) *Use of the term service coordination or service coordination services.* *The lead agency's or an EIS provider's use of the term service coordination or service coordination services does not preclude characterization of the services as case management or any other service that is covered by another*

*payor of last resort (including Title XIX of the Social Security Act--Medicaid), for purposes of claims in compliance with the requirements of §§303.501 through 303.521 (Payor of last resort provisions).*

**b. Specific Agency Responsibilities**

Initial service coordination is the responsibility of the local contractor in accordance with South Dakota Part C Policies and Procedures. This is from the initial contact with the family up to the first IFSP meeting. At that IFSP meeting, determination is made regarding the appropriate ongoing service coordinator in accordance with Policies and Procedures. Specific agencies may serve as service coordinators as follows:

- ✓ Department of Health- Care coordination is available for children with special health care needs that are served through Children’s Special Health Services –Health KiCC to assist with planning and referral. In the provision of child health assessment by Community Health Nurse, anticipatory guidance is given to parents and care givers.
- ✓ Department of Human Services- Service Coordination may be provided via the Division of Developmental Disabilities' Title XIX Home/Community-Based Services waiver and Family Support HCBS waiver. These services must be provided within the following parameters:
  1. They must be provided by a Department of Human Services, Division of Developmental Disabilities certified provider (Community Support Providers or family support providers);
  2. The services must not be reimbursable under other sources such as the Medicaid state plan, EPSDT, education, etc.; and
  3. The child must meet the eligibility criteria established in ARSD, Chapter 67:54:04:03 (they are receiving AFDC, SSI or their income is less than 300 percent of the SSI standard benefit and have not been denied SSI based on disability, they have a developmental disability, and they are in need of and eligible for placement in an intermediate care facility for the mentally retarded or the developmentally disabled).

The waivers are not entitlement programs and there is an established limit to the number of individuals that can be served by each waiver. For the waiver services provided by Community Support Providers, the tuition (if applicable) and matching funds are paid by the child's local school district or the Office of Auxiliary Placement.

- ✓ Department of Social Services--Case management services for children who have a serious emotional disturbance may be provided by the Division of Community Behavioral Health through one of the State’s 11 community mental health centers. Program and financial eligibility must be met in order to qualify for services funded by the Division of Community Behavioral Health. Community mental health centers must receive prior approval from the Division of Community Behavioral Health before providing services to children under the age of two.

c. **Provision of Service Coordination**

Initial service coordination is the responsibility of the local contractor. For some children, ongoing service coordination will be provided by specific agencies as described above if possible under the ongoing role of that provider. For other Part C eligible children and families, service coordination would be made available through the local contractor.

12. **SIGN LANGUAGE AND CUED LANGUAGE SERVICES**

a. **Federal Definition**

(12) “*Sign language and cued language services*” include teaching sign language, cued language, and auditory/oral language, providing oral transliteration services (such as amplification), and providing sign and cued language interpretation.

b. **Specific Agency Responsibilities**

- ✓ Department of Education- Local districts are responsible for the availability of sign language and cued language services for any child referred who is suspected of being a child with a disability and in need of special education. In addition, districts are responsible for the availability of sign language and cued language services for any Part C eligible child that also meets the definition under Part B for "prolonged assistance".

c. **Provision of Sign Language and Cued Language Services**

Sign language and cued language services screening and evaluation may be provided by local school districts according to the above criteria. Sign language and cued language services for Part C eligible children that also meet the definition for prolonged assistance are the responsibility of local districts.

For Part C children that do not fit the definition of prolonged assistance for whom sign language and cued language services are listed in the IFSP, the local contractor must arrange for the provision of the service within the community. Community resources, both public and private, are to be accessed in order to pay for sign language and cued language services. Services may be provided by public or private providers. In those instances where funding is not available through any local resource, the local contractor may request Part C funds using Part C procedures established by DOE. Part C funds may only be used as the payor of last resort.

13. **SOCIAL WORK**

a. **Federal Definition**

(13) "Social work services" include:

- (i) Making home visits to evaluate a child's living conditions and patterns of parent-child interaction;



- (ii) *Preparing a social or emotional developmental assessment of the infant or toddler within the family context;*
- (iii) *Providing individual and family-group counseling with parents and other family members; and appropriate social skill-building activities with the infant or toddler and parents;*
- (iv) *Working with those problems in the living situation (home, community, and any center where early intervention services are provided) of an infant or toddler with a disability and the family of that child that affect the child's maximum utilization of early intervention services; and*
- (v) *Identifying, mobilizing, and coordinating community resources and services to enable the infant or toddler with a disability and the family to receive maximum benefit from early intervention services.*

**b. Specific Agency Responsibilities**

- ✓ Department of Social Services- Social work services may be provided by the Department of Social Services' Family Services Specialists in situations of substantiated child abuse and neglect or in situations where a child is assessed to be at risk of abuse or neglect.
- ✓ Department of Social Services- Services may be provided by the Division of Community Behavioral Health through one of the State's 11 community mental health centers. Available services include case management, individual therapy, family education/support/therapy, crisis intervention, collateral contacts, group therapy for children, parent/guardian group therapy, assessment and evaluation and liaison services. Program and financial eligibility must be met in order to qualify for services funded by the Division of Community Behavioral Health. Community mental health centers must receive prior approval from the Division of Community Behavioral Health before providing services to children under the age of two.
- ✓ Social work services may be provided via the Division of Developmental Disabilities' Title XIX Home/Community-Based Services waiver and family support waiver. These services must be provided within the following parameters:
  1. They must be provided by a Department of Human Services, Division of Developmental Disabilities certified provider (Community Support Providers);
  2. The services must not be reimbursable under other sources such as the Medicaid state plan, EPSDT, education, etc.; and
  3. The child must meet the eligibility criteria established in ARSD, Chapter 67:54:04:03 (they are receiving AFDC, SSI or their income is less than 300 percent of the SSI standard benefit and have not been denied SSI based on disability, they have a developmental disability, and they are in need of and eligible for placement in an intermediate care facility for the mentally retarded or the developmentally disabled).

This waiver is not an entitlement program and there is an established limit to the number of individuals that can be served by this waiver. For children, the tuition (if applicable) and matching funds are paid by the child's local school district or the Office of Auxiliary Placement.

c. **Provision of Social Work Services**

If contained in the IFSP, social work services must be made available. If such services are needed but are not readily available through one of the options above, the local contractor must arrange for the provision of the service within the community. Community resources, both public and private, are to be accessed in order to pay for the service. Services may be provided by public or private providers. In those instances where funding is not available through any local resource, the local contractor may request Part C funds using Part C procedures established by DOE. Part C funds may only be used as the payor of last resort.

14. **SPECIAL INSTRUCTION**

a. **Federal Definition**

(14) *"Special instruction" includes:*

- (i) *The design of learning environments and activities that promote the infant's or toddler's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;*
- (ii) *Curriculum planning, including the planned interaction of personnel, materials, and time and space, that lends to achieving the outcomes in the child's individualized family service plan for the infant or toddler with a disability;*
- (iii) *Providing families with information, skills, and support related to enhancing the skill development of the child; and*
- (iv) *Working with the infant or toddler with a disability to enhance the child's development.*

b. **Specific Agency Responsibilities**

- ✓ Department of Education- Local school districts are responsible for the availability of special instruction, as identified in an IFSP, for those Part C children that are also eligible under prolonged assistance.
- ✓ Department of Human Services or DHS- Special Instruction may be provided via the Division of Developmental Disabilities' Title XIX Home/Community-Based Services waiver and family support waiver. These services must be provided within the following parameters:
  - 1. They must be provided by a Department of Human Services, Division of Developmental Disabilities certified provider (Community Support Providers);
  - 2. The services must not be reimbursable under other sources such as the Medicaid state plan, EPSDT, education, etc.; and
  - 3. The child must meet the eligibility criteria established in ARSD, Chapter 67:54:04:03 (they are receiving AFDC, SSI or their income is less than 300 percent of the SSI standard benefit and have not been denied SSI based on disability, they have a

developmental disability, and they are in need of and eligible for placement in an intermediate care facility for the mentally retarded or the developmentally disabled).

This waiver is not an entitlement program and there is an established limit to the number of individuals that can be served by this waiver. For children, the tuition (if applicable) and matching funds are paid by the child's local school district or the Office of Auxiliary Placement.

c. **Provision of Special Instruction**

Local school districts are responsible for the availability of special instruction, as identified in an IFSP, for those Part C children that are also eligible under prolonged assistance.

For Part C eligible children who do not meet the definition of prolonged assistance and have special instruction in their IFSP, special instruction services must be made available. If such services are needed but are not readily available through one of the options above, the local contractor must arrange for the provision of the service within the community. Community resources, both public and private, are to be accessed in order to pay for the service. Services may be provided by public or private providers. In those instances where funding is not available through any local resource, the local contractor may request Part C funds using Part C procedures established by DOE. Part C funds may only be used as the payor of last resort.

15. **SPEECH-LANGUAGE PATHOLOGY SERVICES**

a. **Federal Definition**

(15) *"Speech-language pathology services" include:*

- (i) *Identification of children with communication or language disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills:*
- (ii) *Referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communication or language disorders and delays in development of communication skills; and*
- (iii) *Provision of services for the habilitation, rehabilitation or prevention of communication or language disorders and delays in development of communication skills.*

b. **Specific Agency Responsibilities**

- ✓ Department of Education- Local school districts are responsible for the availability of speech and language services, as identified in an IFSP, for those Part C children that are also eligible under prolonged assistance. Medicaid may be billed for eligible children in accordance with DSS procedures.
- ✓ Department of Social Services- Speech and language therapy may be paid for by the Department of Social Services for children eligible for Medical Assistance when such service is within the parameters specified in Article 67:16; the service is considered medically

necessary in accordance with Article 67:16; and the service is provided by providers meeting the Medical Assistance qualifications in Article 67:16.

**c. Provision of Speech-Language Pathology**

If contained in the IFSP, speech and language services must be made available by school districts for Part C eligible children that are also eligible under prolonged assistance. Medical Assistance reimbursement is to be obtained in accordance with federal and state laws, rules, regulations, and policies.

For Part C eligible children who do not meet the definition of prolonged assistance and have speech and language therapy in their IFSP, the local contractor must arrange for the provision of the service within the community. Community resources, both public and private, are to be assessed in order to pay for the service. Services may be provided by public or private providers. In those instances where funding is not available through any local resource, the local contractor may request Part C funds using Part C procedures established by DOE. Part C funds may only be used as the payor of last resort.

**16. TRANSPORTATION AND RELATED COSTS**

**a. Federal Definition**

*(16) "Transportation and related costs" includes the cost of travel and other costs that are necessary to enable an infant or toddler with a disability and the child's family to receive early intervention services.*

**b. Specific Agency Responsibilities**

- ✓ Department of Education- Local school districts are responsible for the availability of transportation services, as identified in an IFSP, for those Part C children that are also eligible under prolonged assistance.
- ✓ Department of Social Services- Transportation may be paid for by the Department of Social Services for children eligible for Medical Assistance when such service is within the parameters specified in Article 67:16; the service is considered medically necessary in accordance with Article 67:16; and the service is provided by providers meeting the Medical Assistance qualifications in Article 67:16.

Department of Health - Children's Special Health Services – Health KiCC provides mileage reimbursement for those children with special health care needs and their families based on administrative rules. These services are limited to those children who have chronic, health conditions coverable under the Health KiCC program.

**c. Provision of Transportation and Related Costs**

If contained in the IFSP, transportation must be made available by school districts for Part C eligible children that are also eligible under prolonged assistance. Medical Assistance reimbursement is to be obtained in accordance with federal and state laws, rules, regulations, and policies.

For Part C eligible children who do not meet the definition of prolonged assistance and have transportation in their IFSP, the local contractor must arrange for the provision of the service within the community. Community resources, both public and private, are to be accessed in order to pay for the service. Services may be provided by public or private providers. In those instances where funding is not available through any local resource, the local contractor may request Part C funds using Part C procedures established by DOE. Part C funds may only be used as the payor of last resort.

## 17. **VISION SERVICES**

### a. **Federal Definition**

(17) *"Vision services" mean:*

- (i) *Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities that affect early childhood development;*
- (ii) *Referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and*
- (iii) *Communication skills training, orientation and mobility training for all environments, visual training, and additional training necessary to activate visual motor abilities.*

### b. **Specific Agency Responsibilities**

- ✓ Department of Education- Local school districts are responsible for the availability of vision services, as identified in an IFSP, for those Part C children that are also eligible under prolonged assistance.
- ✓ Department of Health- Diagnostic consultation is available through Children's Special Health –Health KiCC program. These services are limited to children who have conditions coverable through Children's Special Health Services-Health KiCC .

Community Health Nurses and Public Health Alliance nursing staff participate in preschool screening activities and provide vision screening as part of the school health services as directed in contractual agreements between the school district and the Department of Health. Children identified as having potential vision impairments are referred to the appropriate resources.

- ✓ Department of Social Services- Vision services may be paid for by the Department of Social Services for children eligible for Medical Assistance when such service is within the parameters specified in Article 67:16; the service is considered medically necessary in accordance with Article 67:16; and the service is provided by providers meeting the Medical Assistance qualifications in Article 67:16.

### c. **Provision of Vision Services**

Local school districts are responsible for the availability of vision services, as identified in an IFSP, for those Part C children that are also eligible under prolonged assistance. Some children can receive vision services through Health as defined above. Medical Assistance reimbursement is to be obtained in accordance with federal and state laws, rules, regulations, and policies.

For Part C eligible children who do not meet the definition of prolonged assistance or who do not meet the criteria for health services as above, and have vision services in their IFSP, the local contractor must arrange for the provision of the service within the community. Community resources, both public and private, are to be accessed in order to pay for the service. Services may be provided by public or private providers. In those instances where funding is not available through any local resource, the local contractor may request Part C funds using Part C procedures established by DOE. Part C funds may only be used as the payor of last resort.

## **OTHER SERVICES**

The services and personnel identified and defined in this agreement do not comprise exhaustive lists of the types of services that may constitute early intervention services or the types of qualified personnel that may provide early intervention services. Nothing in this agreement prohibits the identification in the IFSP of another type of service as an early intervention service provided that the service meets the criteria identified in this agreement or of another type of personnel that may provide early intervention services in accordance with Part C of IDEA, provided such personnel meet the requirements under qualified personnel at §303.31.

## **PUBLIC AWARENESS, SCREENING, REFERRAL (Child Find)**

The Department of Education (DOE) as lead agency is responsible for ensuring that requirements under Part C of IDEA are met. The Department of Health, Social Services, and Human Services are to continue their responsibility associated with implementing child identification under their individual state and federal mandates in order to collaborate efforts. As lead agency, DOE is responsible for coordinating the system on a statewide basis with the advice and assistance of the state Interagency Coordinating Council.

## **Evaluation and Assessment**

Definitions of evaluation and assessment. As used in this part:

Evaluation means the procedures used by qualified personnel to determine a child's initial and continuing eligibility under this part, consistent with the definition of infant or toddler with a disability in §303.21.

An initial evaluation refers to the child's evaluation to determine his or her initial eligibility under this part.

Assessment means the ongoing procedures used by qualified personnel to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs throughout the period of the child's eligibility under this part and includes the assessment of the child, consistent with paragraph (c)(1) of this section and the assessment of the child's family, consistent with paragraph (c)(2) of this section.

Initial assessment refers to the assessment of the child and the family assessment conducted prior to the child's first IFSP meeting.

DOE, as lead agency, shall ensure that a child's initial and continuing eligibility under Part C is determined through a multidisciplinary team led by the local contractor. DOE, through local school districts, and the departments of Health and Human Services will provide evaluations as per each agency's eligibility and fiscal

requirements. The Department of Social Services will provide Medical Assistance reimbursement for evaluation for children eligible for Medical Assistance according to federal and state laws, rules, regulations, and policies.

The departments of Education, Health, and Human Services are responsible for referring potential children to DSS for determination of Medicaid eligibility.

The primary service provider, in coordination with the IFSP team at the community level, shall be responsible for the ongoing assessment of the child and the review of the IFSP.

## **IFSP AND PROCEDURAL SAFEGUARDS**

Agencies providing direct services relevant to the child's needs will cooperate in the development, review, and evaluation of IFSPs and implementation of the procedural safeguards (e.g., prior notice, confidentiality, consent) under Part C of IDEA.

## **GENERAL SUPERVISION AND MONITORING**

Agencies that are signatories to this agreement will adhere to the requirements of Part C of IDEA and ARSD Article 24:14 including those related to the general supervision and monitoring responsibilities of the lead agency for the provision of early intervention services by any agency through the state's early intervention system.

## **PROCEDURES TO RESOLVE DISPUTES REGARDING PROGRAM AND FISCAL ISSUES.**

The Department of Education, designated lead agency by the Governor of South Dakota, assumes responsibility for ensuring that individual disputes are resolved in accordance with the procedures in this section.

This agreement includes procedures 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 Birth to Three Connections. These procedures include the following:

- a. Interagency disputes shall be reviewed and resolved by the appropriate department secretaries.
- b. If the secretaries cannot agree on resolution of a dispute, the Department of Education, as the Governor's designee, makes a final determination for interagency disputes, which determination is binding upon the agencies involved.
- c. Each agency resolves its own internal disputes, based on the agency's procedures that are included in this agreement, so long as the agency acts in a timely manner. Department policies regarding resolution of internal disputes are submitted to department secretaries for approval.
- d. Intra-agency dispute resolution includes a procedure whereby the Secretary of each department:
  - a. Reviews recommendations for resolving the dispute as submitted by appropriate representatives of the agency; and
  - b. Makes a final decision regarding resolution of the dispute.
- e. Includes the process that the Department of Education 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.

If, during the Department of Education’s resolution of the dispute, the Department of Education as the Governor’s designee determines that the assignment of financial responsibility under this agreement was inappropriately made:

- a. The Department of Education as the Governor’s designee reassigns the financial responsibility to the appropriate agency; and
- b. The Department of Education must make arrangements for reimbursement of any expenditures incurred by the agency originally assigned financial responsibility.

The methods adopted by South Dakota under this agreement:

- a. Includes ensuring that no services that a child is entitled to receive under Part C of IDEA are delayed or denied because of disputes between agencies regarding financial or other responsibilities by providing for the service coordinator to arrange the provision of the service (paid for by Part C funds pending resolution and assignment of the financial responsibility); and
- b. Be consistent with the written funding policies adopted by South Dakota under this agreement and include any provisions the state has adopted under §303.520 regarding the use of insurance to pay for Part C services.

ARSD 24:14:04:08. Agency resolution of disputes. “The department shall ensure resolution of individual disputes in accordance with the procedures in this chapter. This includes intra- and interagency disputes about payments for a given service or disputes about other matters related to the state’s system of coordinated interagency services.”

ARSD 24:14:04:09. Interagency dispute resolution procedures. Interagency disputes shall be reviewed and resolved by the department secretaries. If, in resolving the dispute, the department secretaries determine that the assignment of financial responsibility under this chapter was inappropriately made, the department secretaries shall arrange for reimbursement of any expenditures incurred by the agency originally assigned responsibility.

ARSD 24:1404:11. Service provision during pendency of dispute. “During the pendency of a dispute, if necessary to prevent delay in the timely provision of services to an eligible child or the child’s family, the department may use funds from this program to pay the provider of services, pending reimbursement from the agency or entity that has ultimate responsibility for the payment.”



The Interagency Agreement shall be effective immediately upon the written signatures of the parties below. At anytime during the next three years, a department may request a meeting to address language or program changes or concerns.

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Secretary, Department of Education

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Date

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Secretary, Department of Health

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Date

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Secretary, Department of Social Services

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Date

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Secretary, Department of Human Services

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Date