



Fiscal 101



Module 8: System of Payments

Slide notes

This is the 8th Module in the Fiscal 101 series. The focus of this presentation will be on the System of Payments Policy that is required from States participating in Part C. Any state wishing to access public benefits, private insurance, or family fees must have a System of Payments policy on file with OSEP.

General Requirements

1. Exists in writing
2. Part C funds used only as Payor of Last Resort
3. Specifies which functions and services are subject to system of payments
4. Clearly identifies services eligible at no cost

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There are a series of general requirements for system of payment policies that apply uniformly to any state that includes public insurance or benefits, private insurance, or a schedule of family fees. These requirements include:

- 1) The system of payments policy must be in writing. The policy may be incorporated in statute, regulations, policies and interagency agreements. Because parents must be provided a written copy of the policy, the lead agency must identify the relevant materials that frame the policy.
- 2) The policy must ensure that federal Part C funds are used only as payor of last resort. However, 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.
- 3) The policy must specify which functions or services, if any, are subject to the system of payments (including any fees charged to the family because of using one or more of the family's public insurance or benefits or private insurance). and
- 4) The policy must clearly identify the services that must be provided at no cost, including child find, evaluations and assessments, service coordination services, administrative and coordinative activities related to procedural safeguards and the development, review and evaluation of IFSPs and interim IFSPs. When the parent or family meets the State's definition of inability to pay, all Part C services must also be provided at no cost.

System of Payments

1. Use of Public Benefits or Public Insurance ([§303.520\(a\)](#))
2. Use of Private Insurance ([§303.520\(b\)](#))
3. System of Payments and Fees ([§303.521](#))

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A state's policy regarding a System of Payment must include three components. Component 1 addresses the use of public benefits or insurance more commonly referred to as Medicaid; Component 2 details the requirements related to the use of a family's private insurance; and finally Component 3 is focused on requirements of the Part C program related to its implementation of family fees. The subsequent slides will address each component in detail.

Use of Public Benefits or Insurance

- May not require enrollment in public insurance programs ([§303.520\(a\)\(2\)\(i\)](#))
- Must meet no cost protections([§303.520\(a\)\(2\)\(ii\)](#)).
- Requires written notification to the family that includes:
 1. Parental consent to disclosure of personally identifiable information ([§303.414](#), if applicable)
 2. Statement of no-cost protections. If no consent, those services on IFSP must still be provided ([§303.520\(a\)\(2\)](#))
 3. Parent may withdraw consent at any time ([§303.414](#), if applicable)
 4. Identification of potential costs ([§303.520\(a\)\(3\)](#))

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The phrase “use of public benefits or insurance” most frequently refers to the use of Medicaid. For the majority of states, Medicaid is a major funder of early intervention services, and the ability to access Medicaid is critical to the financial solvency of the lead agency.

However, compliance with Part C regulations requires that the lead agency may not require a parent to sign up for or enroll in public benefits or insurance as a condition of receiving early intervention services. If the parent declines to enroll, the lead agency must still provide services authorized on the IFSP and agreed to by the parent.

In addition, the lead agency must obtain consent from the parent to use the public benefits or insurance if that use would: Decrease available lifetime coverage or any other insured benefit for that child or parent under that program; Result in the child’s parents paying for services that would otherwise be covered by the public benefits or insurance program;

Result in any increase in premiums or discontinuation of public benefits or insurance for that child or that child’s parents; or Risk loss of eligibility for the child or that child’s parents for home and community-based waivers based on aggregate health-related expenditures.

Use of Public Benefits or Insurance

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- Must meet no cost protections([§303.520\(a\)\(2\)\(ii\)](#)).
- Requires written notification to the family that includes:
 1. Parental consent to disclosure of personally identifiable information ([§303.414](#), if applicable)
 2. Statement of no-cost protections. If no consent, those services on IFSP must still be provided ([§303.520\(a\)\(2\)](#))
 3. Parent may withdraw consent at any time ([§303.414](#), if applicable)
 4. Identification of potential costs ([§303.520\(a\)\(3\)](#))

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Slide notes

Prior to accessing the public benefit or insurance, the lead agency must provide written notification to the parent.

The written notification must include 4 things: A statement that parental consent must be obtained under § 303.414, if that provision applies, before the State lead agency or EIS provider discloses, for billing purposes, a child’s personally identifiable information to the State public agency responsible for the administration of the State’s public benefits or insurance program (e.g., Medicaid);

A statement of the no-cost protection provisions in § 303.520(a)(2) and that if the parent does not provide the consent under that section, the State lead agency must still make available those Part C services on the IFSP for which the parent has provided consent;

A statement that the parents have the right under § 303.414, if that provision applies, to withdraw their consent to disclose personally identifiable information to the State public agency responsible for the administration of the State’s public benefits or insurance program (e.g., Medicaid) at any time; and

A statement of the general categories of costs that the parent would incur as a result of participating in a public benefits or insurance program (such as co-payments or deductibles, or the required use of private insurance as the primary insurance).

Finally, if a State requires a parent to pay any costs resulting from the State's using a child's or parent's public benefits or insurance to pay for part C services (such as copayments or deductibles, or the required use of private insurance as the primary insurance), those costs must be identified in the State's system of payments policies and included in the written notification provided to the parent.

Otherwise, the State cannot charge those costs to the parent. It is also important to note that the parent may withdraw his/her consent at any time.

Use of Private Insurance (§303.520(b))

- Requires parental consent to access:
 - Initial provision of IFSP services; and
 - Any increase in IFSP services.
- Any costs that may be passed on to the parent must be addressed in the State's System of Payment Policy
- Parent consent is not required when there is state statute that addresses:
 - Loss of benefits as a result of annual or lifetime caps;
 - Availability of ongoing insurance coverage;
 - Potential of increasing premiums
- Lead agency allowed but not required to use Part C funds to pay for costs (premiums, co-pays, deductibles)

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States that incorporate private insurance into the funding mix to support early intervention services must also comply with the system of payment policy requirements.

Parental consent must be obtained in the following instances: When the lead agency seeks to use the parent's private insurance or benefits to pay for the initial provision of an early intervention service in the IFSP;

Each time consent for services is required due to an increase (in frequency, length, duration, or intensity) in the provision of services in the child's IFSP; and When the use of private insurance is a prerequisite for the use of public benefits or insurance.

Costs related to the use of private insurance such as co-pays, deductibles, annual or lifetime caps or premiums must be identified in the system of payment policy. The state may opt to require the parent to pay those costs but that must be explicitly stated in the policy, otherwise the state may not charge those costs to the parent.

Like the requirements for public benefits or insurance, parents who give consent to the use of private insurance must be provided with a copy of the system of payment policy that includes the costs that the family might incur.

Use of Private Insurance (§303.520(b))

- Requires parental consent to access:
 - Initial provision of IFSP services; and
 - Any increase in IFSP services.
- Any costs that may be passed on to the parent must be addressed in the State's System of Payment Policy
- Parent consent is not required when there is state statute that addresses:
 - Loss of benefits as a result of annual or lifetime caps;
 - Availability of ongoing insurance coverage;
 - Potential of increasing premiums
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There is an exception in the regulations for parent consent to the use of private insurance. Parental consent for use of private insurance is not required if there is a State statute regarding private health insurance coverage for early intervention services under Part C that includes the following specific protections:

The use of private health insurance to pay for Part C services cannot count towards or result in a loss of benefits due to the annual or lifetime health insurance coverage caps for the infant or toddler with a disability, the parent, or the child's family members who are covered under that health insurance policy;

The use of private health insurance to pay for Part C services cannot negatively affect the availability of health insurance to the infant or toddler with a disability, the parent, or the child's family members who are covered under that health insurance policy, and health insurance coverage may not be discontinued for these individuals due to the use of the health insurance to pay for services under Part C of the Act; and

The use of private health insurance to pay for Part C services cannot be the basis for increasing the health insurance premiums of the infant or toddler with a disability, the parent, or the child's family members covered under that health insurance policy.

However, there may be private insurance policies that are not covered by the statute. The use of those policies would fall under the requirement to have parent permission prior to its use.

Accessing private insurance funding to support program growth is not considered program income for meeting this requirement. Despite bringing additional and often substantial new funding into a state/jurisdiction, a lead agency needs to exercise caution and due diligence in pursuing private insurance funding as a state might inadvertently be seen as supplanting its own ongoing liability by this cost shifting. States should discuss this matter internally and ask your OSEP State Lead for an INFORMAL conversation as to its projected impact on MOE requirements.

Family Fees

Policy must be in writing:

- Specify which services/functions are included
- Include basis for and schedule of fees
- Definition of ability to pay
- Assurances:
 - No fees charged for services required to be provided at no cost
 - Inability to pay will not result in delay or denial of services
 - Charge may not exceed actual cost
 - No disproportionate charge
- Provision regarding failure to provide income information

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If a lead agency has incorporated family fees into the array of funds that support early intervention services, all requirements related to family fees must be incorporated into the state system of payment policy. The family fee policies must be in writing and include:

The payment system and schedule of sliding or cost participation fees that may be charged to the parent for early intervention services under this part. The basis and amount of payments or fees. The State's definition of ability to pay (including its definition of income and family expenses, such as extraordinary medical expenses), its definition of inability to pay, and when and how the State makes its determination of the ability or inability to pay.

Family Fees

Policy must be in writing:

- Specify which services/functions are included
- Include basis for and schedule of fees
- Definition of ability to pay
- **Assurances:**
 - **No fees charged for services required to be provided at no cost**
 - **Inability to pay will not result in delay or denial of services**
 - **Charge may not exceed actual cost**
 - **No disproportionate charge**
- Provision regarding failure to provide income information

Slide notes

The family fee policies must also include the following assurances:

That fees will not be charged to parents for the services that a child is otherwise entitled to receive at no cost (including child find, evaluations and assessments, service coordination services, administrative and coordinative activities related to procedural safeguards and the development, review and evaluation of IFSPs and interim IFSPs, and all Part C services when the parent or family meets the State's definition of inability to pay).

That the inability of the parents of an infant or toddler with a disability to pay for services will not result in a delay or denial of services under this part to the child or the child's family such that, if the parent or family meets the State's definition of inability to pay, the infant or toddler with a disability must be provided all Part C services at no cost.

That families will not be charged any more than the actual cost of the Part C service (factoring in any amount received from other sources for payment for that service);

Family Fees

Policy must be in writing:

- Specify which services/functions are included
- Include basis for and schedule of fees
- Definition of ability to pay
- Assurances:
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 - Inability to pay will not result in delay or denial of services
 - Charge may not exceed actual cost
 - No disproportionate charge
- **Provision regarding failure to provide income information**

Slide notes

Finally, family fee policies must include provisions stating that the failure to provide the requisite income information and documentation may result in a charge of a fee on the fee schedule and specify the fee to be charged.

Contesting the Imposition of Family Fees

Policy must be in writing:

- Participate in mediation
- Request a due process hearing
- File a State complaint
- Use any other procedure established by the State for speedy resolution of financial claims

Slide notes

Each State system of payments must include written policies to inform parents 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 of the following: Participate in mediation; Request a due process hearing;

File a State complaint; or Use any other procedure established by the State for speedy resolution of financial claims, provided that such use does not delay or deny the parent's procedural rights under this part, including the right to pursue, in a timely manner, the redress options listed above.

During this module, we have provided a general overview of the payor sources that are regulated through the IDEA Part C system of payments requirements. Lead agencies are not required to use any specific one of these sources, but the majority of States do utilize one or a combination of them in order to provide early intervention services.

Differences in State laws (insurance legislation, for example), Medicaid state plans, relationships with partner agencies and offices at the State level, and the infrastructure of the lead agency will have an impact on how large a contributor each of these payor sources is likely to be within a given State.

It is also important to acknowledge that funds collected through the State's System of Payment typically represent only a fraction of the total funding needed to support the Part C program. When making decisions about how to allocate funds and operate the Part C program across your state, you will likely be considering the funding generated through these resources, in addition to other funding sources, including State general funds, locally generated public funds, and/or contributions from partner agencies.

Resources

- Click [here](#) to View the OSEP Checklist for Reviewing System of Payment Policies
- Click [here](#) to View the Part C System of Payment Monitoring Protocol

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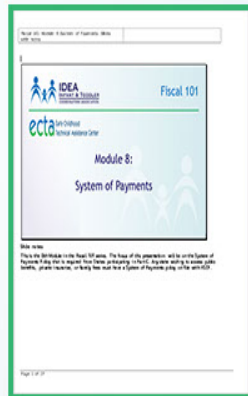
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There are several resources that will be helpful to you in addressing this issue. The OSEP checklist identifies all of the requirements that the System of Payment policy must incorporate. The Part C System of Payment Monitoring Protocol is a tool that can be used as a self-assessment of your policy and how you approach monitoring local implementation of the policy.

As always, if you have questions about this topic, call or write your OSEP State Lead for further insight and information.

Downloadable Resources

Click on the images to download a presentation handout for this module and a list of all cited Regulations



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