

XIII. Policies and Procedures Related to Financial Matters

A. POLICIES

- 1. The State Lead Agency ensures that funds under Part C are used for the following activities:
  - a. To maintain and implement a statewide system of early intervention **supports and services** for children eligible under Part C and their families;
  - b. For direct **supports and services** for eligible children and their families that are not otherwise provided from or funded by other public or private sources; and
  - c. To expand and improve on **supports and services** for eligible children and their families that are otherwise available, consistent with Sec. 303.527. (34 CFR 303.3 A-C)

- 2. The State Lead Agency ensures that some early intervention functions and **supports and services** are provided at no cost to all parents. (34 CFR 303.520(b)(1))

*The following are required functions that are carried out at public expense in Virginia, and for which no fees are charged to parents:*

- a. *Implementing the child find requirements in §303.321;*
- b. *Evaluation and assessment, as included in §303.322, and including the functions related to evaluation and assessment in §303.12;*
- c. *Service coordination, as included in §303.22 and §303.344(g); and*
- d. *Administrative and coordinative activities related to:*
  - (1) *The development, review, and evaluation of IFSPs in §303.340 and §303.346; and*
  - (2) *Implementation of the procedural safeguards in Subpart E, and the other components of the statewide system of early intervention **supports and services** in Subparts D and F. (34 CFR 303.521(b))*

- 3. The State Lead Agency, in accordance with Virginia Code § 2.2-5304, has established, consistent with §303.12(a)(3)(iv), a system of payments for early intervention **supports and services** that includes Family Cost Participation policies and procedures. (34 CFR 303.521(a))

- a. The charges for Part C **supports and services** are consistent regardless of the anticipated payment source. No fees are charged to families for those services, as listed in A.2 that must be provided at no cost to families.
- b. The inability of the parents of an eligible child to pay for **supports and services** does not result in the denial of **supports and services** to the child or the child's family. The system of payments and the Family Cost Participation policies and procedures establish each family's cost participation based upon their resources, including public and private insurance. (34 CFR 303.520(b)(3)(ii))

- c. If the fee as determined by the Family Cost Participation scale represents an identified hardship or barrier to service and the issue cannot be resolved at the local level, then the family may access the Part C administrative complaint process, mediation, or due process to appeal the cost assignment determined through the Family Cost Participation process. **Supports and services** listed on the IFSP must be provided while this issue is being resolved.  
(See Component X – Procedural Safeguards and Component XII – State Lead Agency Procedures for Resolving Complaints for specific policies and procedures related to resolution of disagreements and complaints)

**Deleted:** NOTE: The following policies are required by federal Part C regulations found at 34 CFR Part 303.¶  
¶  
<#>The Lead Agency (DMHMRSAS) has established policies related to how services to children eligible under Part C and their families will be paid for under Virginia's early intervention program. The policies:¶  
<#>Meet the requirements in §303.520 paragraph (b); and¶  
<#>Are reflected in the interagency agreements required in §303.523.¶  
¶

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<#>Identifying and evaluating at-risk infants and toddlers;¶  
<#>Making referrals of the infants and toddlers identified and evaluated;¶  
<#>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. (34 CFR 303.3(e))¶

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<#>Consistent and uniform information related to fees are provided to families in accordance with procedures outlined in B-3 of this section.¶  
<#>Families are informed that they are charged the cost of care and that ... [1]

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- d. Private insurance may be accessed with parent permission to reimburse for supports and services for which fees are charged. Private insurance cannot be billed for supports and services that are at no cost to families if private insurance policies exclude coverage of services that have no consumer liability.
    - (1) Families have the right to decline access to their private insurance if, in the families' determination, a financial loss such as a decrease in available lifetime coverage or discontinuation of the policy may occur.
    - (2) If a family does not provide consent to use their private insurance, the family may choose to access the Family Cost Participation scale.
    - (3) Families are responsible for insurance co-pays and deductibles. Co-pays and deductibles that create a financial hardship or barrier to service for families are identified through the Family Cost Participation procedures.
  - e. Families have the right to choose to pay the full charge for supports and services and decline to participate in the Part C Family Cost Participation policies and procedures.
  - f. Re-evaluation of the family's cost participation must occur whenever the family's financial circumstance changes and at least annually if services extend beyond one year.
4. The State Lead Agency ensures that Virginia has implemented a mechanism to ensure that no supports and services that a child and family are entitled to receive are delayed or denied because of disputes between agencies regarding financial or other responsibilities.(34 CFR 303.520)
  5. The State Lead Agency ensures that all resources have been identified and coordinated.
    - a. The State Lead Agency is responsible for:
      - (1) The identification and coordination of all available resources for early intervention supports and services within Virginia, including those from Federal, State, local, and private sources; and
      - (2) Updating the information on the funding sources in paragraph a(1) of this section, if a legislative or policy change is made under any of those sources.
    - b. The Federal funding sources in paragraph a(1) of this section include–
      - (1) Title V of the Social Security Act (relating to Maternal and Child Health);
      - (2) Title XIX of the Social Security Act (relating to the general Medicaid program and EPSDT);
      - (3) The Head Start Act;
      - (4) Parts B and C of the Individuals with Disabilities Education Act;
      - (5) The Developmentally Disabled Assistance and Bill of Rights Act (P L 94-103); and
      - (6) Other Federal programs. (34 CFR 303.522)
  6. The State Lead Agency ensures that state and/or federal Part C funds are used as payor of last resort.
    - a. Except as provided in paragraph (b)(1) of this section, state and federal funds under Part C are not used to satisfy a financial commitment for supports and services that would otherwise have been paid for from another public or private source including any medical program administered by the Secretary of Defense but for the enactment of Part C of the Act. Therefore, state and federal funds under Part C are used only for early intervention supports and services that an eligible child needs but is not currently entitled to under any other Federal, State, local, or private source. (34 CFR 303.527(a))
    - b. Part C funds are used for interim payments pending reimbursement.
      - (1) If necessary to prevent a delay in the timely provision of supports and services to an eligible child or the child's family, state and/or federal funds under Part C are used to

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<#>In cases where disagreement arises and resolution at the local level does not occur, the family has the right to access the Part C administrative complaint process, mediation, and/or an impartial hearing at any point in the process of providing Part C services, including determining fees.¶

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Families are fully informed and are provided notice of the following:¶  
The charge for each service and which services are provided at no cost;¶ (... [2])

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pay the provider of supports and services, pending reimbursement from the agency or entity that has ultimate responsibility for the payment.

- (2) Payments under paragraph b(1) of this section may be made for:
  - (a) Early intervention supports and services, as described in §303.12;
  - (b) Eligible health services (see §303.13); and
  - (c) Other functions and services authorized under Part C, including child find, and evaluation and assessment. (34 CFR 303.527(b))
- (3) The provisions of paragraph b(1) of this section do not apply to medical services or "well-baby" health care as described under Health Services in the regulations.
- (4) The system of payments includes a procedure for securing the timely reimbursement of funds used under this part, in accordance with §303.527(b).

(34 CFR 303.528)

7. Nothing in this part has been construed to permit Virginia to reduce medical or other assistance available or to alter eligibility under Title V of the Social Security Act (SSA) (relating to maternal and child health) or Title XIX of the SSA (relating to Medicaid for infants or toddlers with disabilities) within Virginia. (34 CFR 303.527(c))

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B. PROCEDURES

1. The State Lead Agency coordinates efforts on an ongoing basis with the other participating State agencies involved in early intervention supports and services and with the Secretary of Health and Human Resources and the Secretary of Education to determine ways of maximizing resources, integrating and realigning resources to support early intervention supports and services, coordinating eligibility of various agency programs and initiatives, and gathering new and cost-effective strategies for systems financing. The State interagency agreement identifies responsibilities of participating State agencies for the coordination of resources.

2. Local Lead agencies make every effort during planning and implementation of the interagency system of early intervention supports and services to consider and access all available sources of funds prior to use of state and/or federal Part C funds. This means that every effort must be made to access private insurance (including private HMOs) and public insurance through the Department of Medical Assistance Services for all Part C supports and services covered by these payors.

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a. Local lead agencies annually review and revise, as needed, the list of all potential community resources (financial and other service supports) available to assist in the provision of early intervention supports and services. This includes, but is not limited to, the following potential resources:

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(1) Medicaid and other public insurance through the Department of Medicaid Assistance Services, military insurance, the Virginia State Employees Health Benefits Plan, and private insurer/HMO providers;

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(2) Private foundations, civic organizations (i.e., Kiwanis, Lyons Club, etc.), and faith organizations that have potential supports/resources for children and families in early intervention;

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(3) Publicly and privately funded initiatives (i.e., Healthy Families, Comprehensive Health Investment Project of Virginia, Early Head Start, etc.) that may have overlapping services and supports for families;

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(4) Public and private agencies/organizations including health/medical, social services, education and mental health agencies; and

(5) Parent organizations.

- b. Local lead agencies develop interagency agreements, contracts or memoranda of agreement with as many potential community agencies/organizations as possible to meet the needs of children with disabilities and their families. These agreements or contracts must specify responsibilities of each party including the requirement to comply with Part C of the Individuals with Disabilities Education Act (IDEA) as well as the supports and services that will be provided and how these supports and services will be financed.
  - c. Local lead agencies implement procedures and/or mechanisms that ensure and document the use of state and/or federal Part C funds as payor of last resort.
3. Local lead agencies and local participating agencies/providers implement the system of payments and Family Cost Participation policies and procedures as specified in A.3 of this section. The following procedures ensure that families are not denied supports and services because of the family's inability to pay.
- a. During initial contacts, the service coordinator is responsible for ensuring that the family is informed of the system of payments and receives a copy and explanation of the Family Cost Participation process.
  - b. The service coordinator and, if needed, an appropriate individual at the local lead agency completes the following steps for determining the family's cost participation:
    - (1) Informs the family that the Family Cost Participation process is available if the charges for IFSP supports and services create a financial hardship or barrier to receiving those supports and services.
    - (2) Determines the fee that the family is responsible for paying for all IFSP supports and services provided.
    - (3) Determines with the family if they choose to use their private insurance to cover the cost of covered IFSP supports and services.
    - (4) Completes the standardized financial agreement form (available at [www.infantva.org](http://www.infantva.org)).
    - (5) Informs the families that re-evaluation of their Family Cost Participation occurs at least annually and whenever their financial circumstances change and that they are required to inform their service coordinator of any changes in their financial status throughout enrollment in services unless they have chosen to pay the full cost of supports and services.
  - c. If disagreements regarding fees cannot be resolved, the local lead agency assists the family in accessing the Part C administrative complaint process, mediation and/or an impartial hearing.
4. Local lead agencies and participating local agencies/providers implement procedures for the use of Part C funds to cover the cost of supports and services pending reimbursement from the agency or entity that has ultimate responsibility for the payment or pending designation of the responsible agency or entity in order to prevent a delay in the timely provision of supports and services.
- a. During a dispute between/among local counterparts of participating State agencies regarding financial or other responsibilities, local lead agencies are required to notify the State Lead Agency of the dispute and to use Part C funds until the dispute is resolved to ensure that no supports and services that a child is entitled to receive are delayed or denied. Upon resolution of the dispute, the agency determined responsible reimburses Part C as follows:
    - (1) If reimbursements are not made by a State participating agency (or its local counterpart) within 45 days of resolution of the dispute, the State Lead Agency contacts the staff involved at the State participating agency of the given program.
    - (2) If not resolved by the respective State agency within 14 days, the matter is referred to

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- the Secretary of Health and Human Resources and/or the Secretary of Education.
- b. During a dispute ~~that cannot be resolved at the local level,~~ the procedures in Component XIV - Interagency Agreements and Resolution of Disputes will be followed.

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The charge for each Part C service is determined by each public and private participating agency/provider based upon their cost of providing the service. Consistent and uniform information related to fees are provided to families in accordance with procedures outlined in B-3 of this section.

Families are informed that they are charged the cost of care and that procedures are available to determine a reduced fee based upon the family's taxable income (or disposable income if the fee appeal process is used).

The sliding fee scale establishes a uniform monthly cap based on taxable family income regardless of the frequency and intensity of services. A family with income below the level that requires completion of federal income tax returns or whose income level enables their child to be eligible for Medicaid/FAMIS are not required to pay for services. If taxable income is not readily available to determine family liability, estimated taxable income is permissible or the procedures in the fee appeal process can be used.

Monthly caps are consistently determined for families by all providers in accordance with the uniform procedures identified in B-3 of this section and the statewide sliding fee scale in Appendix B.

A fee appeal process is made available to families i

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Families are required to inform their service coordinator of any changes in their financial status throughout enrollment in services unless they have chosen to pay full fee for all services.

Families are fully informed and are provided notice of the following:

- The charge for each service and which services are provided at no cost;
- The availability of a sliding fee scale and fee appeal process to establish a monthly cap if the charges create a barrier to services or financial hardship;
- Proof of taxable family income is required to access the sliding fee scale and proof of net income and expenses is required to access the fee appeal process;
- Their right to refuse to provide proof of income results in being billed the full charge for services;
- The availability of all procedures to resolve disagreements should they occur in accordance with Part C requirements;
- Their right to provide or not provide consent to use private insurance to cover services;
- and
- Their right to have all financial information maintained in accordance with federal and state requirements for confidentiality.

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The Lead Agency ensures that *fees are not charged for the services that a child is otherwise entitled to receive at no cost to parents.* (34 CFR 303.520(b)(3)(i))

The Lead Agency ensures that *the inability of the parents of an eligible child to pay for services does not result in the denial of services to the child or the child's family.* (34 CFR 303.520(b)(3)(ii))

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The Lead Agency ensures that *services are provided to eligible children and their families in a timely manner, pending the resolution of disputes among public*

agencies or service providers.

(34 CFR 303.525)

The Lead Agency ensures that the *reimbursement procedure includes a procedure for securing the timely reimbursement of funds used under this part, in accordance with §303.527(b).*

(34 CFR 303.528)

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Determines the family's understanding of the fee and ability to pay system and their rights and provides clarification as necessary.

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of the charges for the services and that a sliding fee scale is available to establish a maximum monthly cap		
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based upon taxable income and family size according to the standardized sliding fee scale in Appendix B		
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Shares all factors with the families that are considered in the fee appeal process Informs the families about the availability of a fee appeal process to potentially further reduce the fee if the family identifies a financial hardship based upon the reduced rate determined by the sliding fee scale.		
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Requests that the family provide proof of net income if the fee appeal process is needed and identifies extraordinary debt, including co-insurance and deductibles, and costs related to their child's special needs, in accordance with the fee appeal form in Appendix D.		
Completes the standardized financial agreement form in Appendix C following use of the fee appeal worksheet in Appendix D.		
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fee		
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Presents all ability to pay activities in a dignified, confidential and professional manner and affirms that each family's particular financial obligations are not subject to scrutiny.		
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families in initiating the next steps in the fee appeal process as specified in A (4)(m) of this section and, if necessary, assists		



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