

XIII. POLICIES AND PROCEDURES RELATED TO FINANCIAL MATTERS**A. POLICIES**

NOTE: The following policies are required by federal Part C regulations found at 34 CFR Part 303.

1. 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:*
 - a. *Meet the requirements in §303.520 paragraph (b); and*
 - b. *Are reflected in the interagency agreements required in §303.523.*
2. The 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 services for children eligible under Part C and their families;*
 - b. *For direct services for eligible children and their families that are not otherwise provided from other public or private sources;*
 - c. *To expand and improve on services for eligible children and their families that are otherwise available, consistent with Sec. 303.527; (34 CFR 303.3 A-C)*
 - d. *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 or private community-based organizations, services, and personnel for the purpose of—*
 - (1) *Identifying and evaluating at-risk infants and toddlers;*
 - (2) *Making referrals of the infants and toddlers identified and evaluated;*
 - (3) *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))*
3. The Lead Agency ensures that *some early intervention functions and services are provided at no cost to all parents. (34 CFR 303.520(b)(1))*

The following required functions 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 [Individualized Family Service Plan 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 services in Subparts D and F.* (34 CFR 303.521(b))
4. The Lead Agency, in accordance with Virginia Code, § 2.2-5304, ***has established, consistent with 34 CFR §303.12(a)(3)(iv), a system of payments for early intervention services.*** On January 1, 2002 the following uniform policies and procedures are effective for all public and private participating agencies. (34 CFR 303.521(a))
 - a. All Part C services, except those which are provided at no cost to families, are charged to families in a like manner regardless of the anticipated payment source.
 - b. 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.
 - c. Consistent and uniform information related to fees are provided to families in accordance with procedures outlined in B - 3 of this section.
 - d. 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).
 - e. 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.
 - f. 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.
 - g. A fee appeal process is made available to families if the fee, whether less than or equal to the monthly cap as determined by the sliding fee scale, represents an identified hardship or barrier to service in accordance with the consistent and uniform procedures in B -3 of this section.
 - h. Private insurance may be accessed with parent permission to reimburse for services for which fees are charged. Private insurance cannot be billed for services that are at no cost to families unless private insurance policies do not exclude coverage of services that have no consumer liability.
 - i. Families are responsible for insurance co-pays and deductibles. However, if co-pays and deductibles create a financial hardship or barrier to service, families may access the sliding fee scale by providing proof of taxable income and family size.

- j. Families have the right not to make use of private insurance coverage if, in the families' determination, a financial loss such as a decrease in available lifetime coverage or discontinuation of the policy may occur.
 - k. Families have the right to choose to pay the full charge for services and deny access to proof of income.
 - l. If a family does not provide permission to use their private insurance, the family may choose to access the sliding fee scale by providing proof of taxable income and family size.
 - m. If the fee, whether less than or equal to the monthly cap as determined by the sliding fee scale, represents a hardship or barrier to service, the fee appeal process may be used. The fee appeal process determines a monthly cap based upon a family's disposable income. Disposable income is calculated by deducting expenses, including those related to the child's disability, from net income.
 - n. 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.
 - o. Re-evaluation of family financial needs occur whenever the family's financial circumstance changes and at least annually if services extend beyond one year.
 - p. 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.
 - q. Families are fully informed and are provided notice of the following:
 - (1) the charge for each service and which services are at no cost;
 - (2) 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;
 - (3) 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;
 - (4) their right to refuse to provide proof of income results in being billed the full charge for services;
 - (5) the availability of all procedures to resolve disagreements should they occur in accordance with Part C requirements;
 - (6) their right to provide or not provide consent to use private insurance to cover services;
 - (7) their right to have all financial information maintained in accordance with federal and state requirements for confidentiality.
5. 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))
6. 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))

7. The Lead Agency ensures that Virginia has *implemented a mechanism to ensure that no services that a child is entitled to receive are delayed or denied because of disputes between agencies regarding financial or other responsibilities.* (34 CFR 303.520(c))
8. The Lead Agency ensures that *resources have been identified and coordinated.*
 - a. The Lead Agency *is responsible for:*
 - (1) The identification and coordination of all available resources for early intervention 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)
9. 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)
10. 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)
11. The Lead Agency ensures that Part C funds are used as *payor of last resort.*
 - a. Except as provided in paragraph (b)(1) of this section, funds under Part C are not 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 Secretary of Defense but for the enactment of Part C of the Act. Therefore, funds under Part C are used only for early intervention services that an eligible child needs but is not currently entitled to under any other Federal, State, local, or private source.
 - b. Part C funds can be used for *interim payments pending reimbursement.*
 - (1) *If necessary to prevent a delay in the timely provision of services to an eligible child or the child's family, funds under Part C **can be** used to pay the provider of 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:*
 - (b) *Early intervention services, as described in §303.12;*
 - (c) *Eligible health services (see §303.13); and*
 - (d) *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.*

12. *Nothing in this part is to be 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 children eligible under this part within Virginia. (34 CFR 303.527(c))*

B. PROCEDURES

1. The Lead Agency coordinates efforts on an ongoing basis with the other participating State agencies involved in early intervention 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 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 interagency coordinating councils (LICCs) make every effort during planning and implementation of the interagency system of early intervention services to consider and access all available sources of funds prior to use of Part C funds. This means that every effort must be made to access private insurance (including private HMOs) with parental consent, CHAMPUS, with parental consent and Medicaid for all Part C services covered by these payors. These efforts to access all available sources may necessitate expansion of the agencies/providers network.
 - a. LICCs identify on an annual basis all potential community resources (financial and other service supports) available to assist in the provision of early intervention services. This includes, but is not limited to the following potential resources:
 - (1) Medicaid, CHAMPUS, the Virginia State Employees Health Benefits Plan, and private insurer/HMO providers;
 - (2) Private foundations, civic organizations (i.e., Kiwanis, Lions Club, etc.), and faith organizations that have potential supports/resources for children and families in early intervention;
 - (3) Publicly and privately funded initiatives (i.e., Healthy Families, CHIP of Virginia, Early Head Start, etc.) that may have overlapping services and supports for families;
 - (4) Public and private agencies/organizations including health/medical, social services, education and mental health agencies; and
 - (5) Parent organizations.
 - b. LICCs 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) the Individuals with Disabilities Education Act (IDEA) as well as the services that will be provided and how these services will be financed.

- c. LICCs implement procedures and/or mechanisms that ensure the use of Part C funds as payor of last resort.
3. LICCs and their local participating agencies/providers implement fee and ability to pay policies as specified in A (4) of this section and the following procedures to ensure that families are not denied services due to an inability to pay:
 - a. Upon intake, the temporary service coordinator is responsible for informing the family of the system of payments and the ability to pay process. This includes providing the family with the standardized family fee information in Appendix A and notice of their rights in Appendix E.
 - b. Upon intake, the service coordinator links the family with the appropriate individual responsible for determining the family's ability to pay. This individual completes the following steps:
 - (1) Determines the family's understanding of the fee and ability to pay system and their rights and provides clarification as necessary.
 - (2) Informs the family of the charges for the services and that a sliding fee scale is available to establish a maximum monthly cap if the charges create a barrier to services or financial hardship.
 - (3) Requests that the family provide proof of taxable income by presenting tax returns or providing estimated taxable income using the Federal 1040 format and the number of people in the family, if the family requests access to the sliding fee scale.
 - (4) Determines the monthly cap the family is responsible for paying for all services provided based upon taxable income and family size according to the standardized sliding fee scale in Appendix B.
 - (5) Determines if the family chooses to use their insurance to cover the cost of covered services and, if used, obtains family consent to release information and assignment of benefits in order to process claims to third party payors.
 - (6) Completes the standardized financial agreement form in Appendix C.
 - (7) 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.
 - (8) Shares all factors with the families that are considered in the fee appeal process.
 - (9) 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.
 - (10) Completes the standardized financial agreement form in Appendix C following use of the fee appeal worksheet in Appendix D.
 - (11) Informs the families that re-evaluation of their financial needs occurs whenever their financial circumstances change but at least annually and 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 full fee.
 - (12) 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.

- b. If disagreements regarding fees cannot be resolved, the service coordinator assists families in initiating the next steps in the fee appeal process as specified in A (4)(m) of this section and, if necessary, assists the family in requesting a Part C administrative complaint, mediation and/or an impartial hearing.
4. LICCs and their participating local agencies/providers implement procedures for the use of Part C funds to cover the cost of 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 services. Local procedures must address the steps that a local participating agency/provider would take in obtaining reimbursement and the steps taken if reimbursement is not obtained within a timely manner. Local procedures must also refer to the Resolution of Interagency Financial Disputes procedures in Component XIV - Interagency Agreements and Resolution of Disputes if the reimbursement issue is related to financial responsibilities of a state participating agency.
 - a. During a dispute between/among local units of participating state agencies or local counterparts of participating state agencies regarding financial or other responsibilities, the local agencies are required to notify the Lead Agency of the dispute and to use Part C funds until the dispute is resolved to ensure that no 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 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 the Secretary of Health and Human Resources and/or the Secretary of Education.
 - b. During a dispute at the state level between/among participating state agencies, the procedures in Component XIV - Interagency Agreements and Resolution of Disputes will be followed.