Regulations Task Force
3/3/12, 1:00 – 2:30

Minutes

Participants: Kendall Lee, Carol Burke, Bev Crouse, Catherine Hancock, Kyla Patterson, Mary Lou Hutton, Mary Anne White, Rosalind Cutchins

Expected Outcome: Review the new federal regulations related to evaluation and assessment and determine what, if any, changes are needed in Virginia's eligibility determination and assessment for service planning practices.

Follow-Up on System of Payments

- Private Insurance Consent box on Page 9 of the IFSP – The group reviewed the proposed wording and agreed to minor wording changes. Kyla clarified that only those families who had previously agreed to have their private insurance billed would need to complete this box. The new regulations do not require us to check with all families to see if they've changed their mind about billing private insurance, only that we check with those currently using their private insurance to be sure they still agree to do so even when there is an increase in services. There was discussion about whether or not a new Family Cost Share Agreement form would be needed if the family checked the box indicating that their private insurance should no longer be billed or whether this check box and signature on page 9 of the IFSP could suffice as a revised agreement. The group also discussed whether a third checkbox option was needed; not only yes and no, but also an option to keep billing for the current level of services but not for additional services. Group members felt that the third option would be impractical to implement given the way that billing works in local systems (e.g., how would you keep track that three of the sessions of PT each month should be billed to private insurance but not the fourth?). In the course of discussing this consent box, the group identified a number of training and practice issues.
    - **Task Force Recommendation**: If the family checks the box on page 9 indicating that they no longer consent to use of their private insurance to pay for Part C services, then a new Family Cost Share Agreement form must be completed and signed by the family. If a new agreement form cannot be completed during the IFSP review, then the checkbox and signature on page 9 of the IFSP can be used for up to 30 days to allow the local system to update their billing information for this family and to stop billing private insurance.
    - **Training and Practice Issues**: Service coordinators will need to be aware of the family's current cost share agreement terms going into the IFSP Review to know whether the new box on page 9 will apply to this family and to be able to answer questions for those families who must complete the new box. Service coordinators will need to bring a blank Family Cost Share Agreement form to IFSP Reviews in case the family checks the second box and a new agreement form must be completed.
    - **Follow-Up**: Kyla will make the agreed upon revisions and send the new consent box to the group for a final review.

- Moving information from page 3 of the *Family Cost Share Agreement* form onto page 1 - Feedback from local system managers in all regions supports making this change.
    - **Task force recommendation** - Move all information from page 3 (release of info and assignment of benefits) onto page 1.
    - **Follow-Up**: Kyla will send the requested revisions to the Forms Committee.
- Suggestion from Tidewater to combine *Facts About Family Cost Share* with *Notice of Rights and Safeguards* – The group discussed this suggestion. The obvious benefit of combining them into one document is that there is only one document for service coordinators to remember since the Rights and Facts documents will now mostly have to be given at the same time anyway. The downside to combining includes a concern that the family cost share information could get lost in the bigger document; may not get discussed as well as when it's separate. This concern could be addressed through training. There is also recognition that the Rights document has to be written in very "official" regulatory language while the Facts document is written to be more family-friendly. For this reason, combining the two into one document would not necessarily mean integrating them.
    - **Follow-Up**: Group members asked to take this issue back to their regions for more feedback. We will re-visit this at the next task force meeting.

<u>Evaluation and Assessment - General</u>

- As the group began looking at the evaluation and assessment section of the federal regulations, Kyla gave an overview comparing how these issues are addressed in the new regulations compared to the old regulations. The old federal regulations talked about the procedures and requirements for evaluation and assessment together. The new regulations talk about the procedures for evaluation and assessment separately from one another (see 303.321(b) and (c) of the 2011 Part C Regulations).

<u>Eligibility Determination</u>

- Purpose and definition of evaluation remain the same – to determine the child's initial and continuing eligibility
- We call the evaluation step "Eligibility Determination" in Virginia
- Regulatory requirement - A child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child) if those records indicate the child's level of functioning in one or more of the developmental areas constitutes a developmental delay or that the child otherwise meets the criteria for an infant or toddler with a disability. (303.321(a)(3)(i))
    - This means that the eligibility determination step can be skipped if these criteria are met, and the child and family can move straight to assessment for service planning.
    - Since this offers us the opportunity to streamline process of entry into the system for families and for service coordinators and other EI providers, we want to be sure that we implement this in a way that really does streamline the process. The group discussed who would be able to determine that the records establish eligibility, what paperwork would be required to document this, and how this new wording might impact the annual determination of eligibility.
    - **Task Force recommendations for implementation in Virginia -**

        - If the records document a diagnosed condition, then the service coordinator can review the record and complete and sign the Eligibility Determination form. If the records potentially document a developmental delay or atypical development, then one individual certified as an Early Intervention Professional must review the record and determine whether it establishes eligibility.
        - A check box will be added to the top of the Eligibility Determination form that can be marked when eligibility is established by records. The form would then be signed by the individual who reviewed the records. When making this revision to the Eligibility Determination form, we will also make the Date of Eligibility easier to find on the form since record reviews for QMR have shown that this field is often missed when the form is completed.
        - We will apply the same principles allowed for initial eligibility to the annual determination of eligibility. It will no longer be necessary to have a multidisciplinary team determine eligibility annually if the child has a diagnosed condition. Similarly, if contact notes establish continued eligibility (through ongoing assessment information) then there is no need for a team to determine eligibility. In either of these cases, the new box on the Eligibility Determination form can be marked.
    - **Follow-Up**: Kyla will send requested revisions on the Eligibility Determination form to the Forms Committee.
- Evaluation procedures
    - Regulatory requirements - Evaluation procedures must include administering an evaluation instrument; taking the child's history (including interviewing the parent); identifying the child's level of functioning in each of the developmental areas; gathering information from other sources, such as family members, other care-givers, medical providers, social workers, and educators, if necessary, to understand the full scope of the child's unique strengths and needs; and reviewing medical, educational, or other records. (303.321(b))
    - In Virginia, we use an instrument (a screening tool, and, if more information is necessary to determine eligibility, an assessment tool); take the child's history; interview the parent; gather information from other sources and from medical and other records.
    - Our current practices do not require eligibility determination teams to identify the child's level of functioning in <u>all</u> developmental areas during eligibility determination. Current practices allow the provider to stop the use of the screening tool once they have enough information to determine the child is eligible.
    - The group felt that our current practices allow us to accurately determine eligibility and complete all of the regulatory requirements for evaluation and assessment through the <u>combination</u> of our eligibility determination and assessment for service planning processes. We would prefer not to make changes to our current practice unless we have to.

- **Task Force recommendation** – Submit our current practices to OSEP for their review.
- **Follow-Up**: Kyla will update our eligibility determination and assessment for service planning practices to reflect the new regulations (other than the evaluation procedures in question) and coordinate with Catherine about submission to OSEP for review.

Next Meeting

- March 28, 1:00 – 2:30.
- Report on follow-up items from this meeting
- Review remaining regulations related to evaluation and assessment