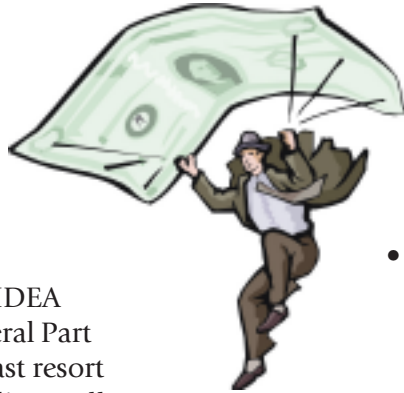


# System of Payments and Use of Insurance in Part C

## Summary of Key Points

This handout summarizes key provisions in Part C's regulations with respect to paying for the early intervention services that States make available to eligible children, including (where permissible) the use of a child or parent's public or private health insurance.<sup>1</sup>

- **Where?** | Subpart F of the Part C regulations is called "Use of Funds and Payor of Last Resort." Subpart F begins at §303.500 and continues through §303.521.



- **State Responsibilities** | IDEA requires States to use federal Part C funds as the payor of last resort and to identify and coordinate all available funding resources to pay for Part C services. States must define the financial and service responsibilities of each State-level agency that pays for or provides Part C services.
- **System of Payments** | IDEA also requires Part C services to be provided at no cost unless a State adopts a system of payments, which is its written policy for the costs that parents and children may incur in receiving early intervention services.
- **System of Payments** | A State's system of payments may include the use of public or private insurance, family copayments or deductibles, or fees charged to families on a sliding scale. A State's system of payments must be in writing and specify, among other things, the base and amount of payments or fees, the State's definition of "ability to pay" and of "inability to pay," and the procedural safeguard rights of children and parents under the system of payments.

## Use of Public Benefits or Insurance

The Part C regulations provide substantial detail regarding the use of a child or parent's public benefits or insurance to pay for Part C services. Those details include (but aren't limited to) the following key points:

- **Parental Right** | A State may *not* require parents to sign up for or enroll in a public benefits or insurance program (e.g., Medicaid) as a condition of their child's receiving Part C services. A State may also *not* enroll a parent or child in such a program without parental consent.
- **Parental Consent** | The State must obtain parental consent before it may use a child or parent's public benefits or insurance to pay for Part C services if doing so would:
  - decrease available lifetime coverage or any other insured benefit of the child or parent
  - result in the parents paying for services that would otherwise have been paid for by the public program
  - result in any increase in premiums or cancellation of the public benefits or insurance program for the child or parents
  - risk the loss of eligibility for the child or parents for home and community-based waivers based on total health-related costs

<sup>1</sup> Adapted from the Office of Special Education Programs' *Final Regulations: Nonregulatory Guidance*. (2011, November). Available online at: <http://tinyurl.com/chuk2cj>

- **Parent Right and State Responsibility** | If a parent does not provide consent for the use of the child's or parent's public benefits or insurance, the State lead agency must still make all Part C services on the IFSP available to the child and family (subject to the State's system of payments, if applicable).

- **Written Notification** | When a State uses a child's or parent's public benefits or insurance to pay for Part C services, the State must provide written notification to the parent. The notification must include specific information, including that:

—parental consent is required before a child's personally identifiable information (PII) may be disclosed (for billing purposes) to the State agency responsible for administering the public benefits or insurance program (unless the lead agency for Part C also administers the public program or chooses to require parental consent in this circumstance)

—parents have the right to withdraw their consent at any time for this disclosure of their child's PII for billing purposes

—the general categories of costs to parents for participating in the public benefits or insurance program (e.g., copays or deductibles, or the required use of private insurance as the primary insurance)



### Use of Private Insurance

The Part C regulations also provide substantial detail regarding the use of a child or parent's private insurance to pay for Part C services. Those details include (but aren't limited to) the following key points:

- **Parental Consent** | A parent must provide consent for the use of his or her private insurance (unless an exception applies).

- **Repeated Parental Consent** | Parental consent must also be obtained:

—before a parent's private insurance or benefits may be accessed to pay for the *initial* provision of an EI service listed in the IFSP

—each time there's an increase (in frequency, length, duration, or intensity) in the provision of services in the child's IFSP

- **When Parental Consent is Not Required** | Parental consent isn't required if the State has passed a statute regarding private health insurance coverage for Part C services and that statute *expressly* provides that the use of the parent's private insurance for Part C:

—cannot count toward or result in the loss of benefits due to annual or lifetime coverage caps for the child, parent, or family members covered by the insurance policy

—cannot negatively affect the availability of health insurance to the child, parent, or covered family members or result in the discontinuation of the insurance for these individuals

—cannot be the basis for increasing the premiums of the child, parent, or covered family members

- **System of Payments** | If the State requires a parent to use private insurance to pay for Part C services and doing so will result in costs to the parent (e.g., copayments or deductibles), those general types of costs must be included in the State's system of payments or the State may not charge those costs to parents.

- **Informing Parents** | The State must give parents a copy of its system of payment policies that identify the potential costs that parents may incur as a result of using their private insurance to pay for Part C services.

### Procedural Safeguards

The State must inform parents that mediation, due process, and the State complaint process are available as dispute resolution mechanisms if a parent wishes to contest a fee or the State's determination of the parent's ability to pay.