

Coordination of All Available Resources

System of Payment (34 CFR §§ 303.203(b)(1), 303.510, 303.520 and 303.521)

Alabama will not utilize a sliding fee schedule. AEIS has developed procedures for the use of Private Insurance as well as a Consent for Use of Private Insurance form. Also, EI programs will use the Consent for the Use of Public Benefits and the Consent for Use of Public Insurance. The notice regarding our system of payment is included within the EI Child & Parent Rights form. Alabama does not charge any fees to families for early intervention.

Permissive use of funds by the lead agency (§303.501)

Consistent with §§ 303.120 through 303.122 and §§ 303.220 through 303.226, ADRS will use funds under this part for activities or expenses that are reasonable and necessary for implementing Alabama's early intervention program for infants and toddlers with disabilities including funds—

(a) For direct early intervention services for infants and toddlers with disabilities and their families under this part that are not otherwise funded through other public or private sources (subject to §§ 303.510 through 303.521);

(b) To expand and improve services for infants and toddlers with disabilities and their families under this part that are otherwise available;

Payor of last resort (§303.510)

(a) *Nonsubstitution of funds.* Except as provided in paragraph (b) of this section, funds under this part may not be 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 Department of Defense, but for the enactment of part C of the Act. Therefore, funds under this part may be used only for early intervention services that an infant or toddler with a disability needs but is not currently entitled to receive or have payment made from any other Federal, State, local, or private source (subject to §§ 303.520 and 303.521).

(b) *Interim payments—reimbursement.* If necessary to prevent a delay in the timely provision of appropriate early intervention services to a child or the child's family, funds under this part may be used to pay the provider of services (for services and functions authorized under this part, including health services, as defined in § 303.16 (but not medical services), functions of the child find system described in §§ 303.115 through 303.117 and §§ 303.301 through 303.320, and evaluations and assessments in § 303.321), pending reimbursement from the agency or entity that has ultimate responsibility for the payment.

(c) *Non-reduction of benefits.* Nothing in this part may be construed to permit a State to reduce medical or other assistance available in the State or to alter eligibility under Title V of the Social Security Act, 42 U.S.C. 701, *et seq.* (SSA) (relating to maternal and child health) or Title XIX of the SSA, 42 U.S.C. 1396 (relating to Medicaid), including section 1903(a) of the SSA regarding medical

assistance for services furnished to an infant or toddler with a disability when those services are included in the child's IFSP adopted pursuant to part C of the Act.

Methods to ensure the provision of, and financial responsibility for, Part C services (§303.511)

(a) General. Alabama ensures that it has in place methods for State interagency coordination, as previously included in Part III, Section M, page 74 of the application of 1997-1999, and which this document supersedes. Under these methods, Alabama's Commissioner of Rehabilitation Services ensures that the interagency agreement or other method for interagency coordination is in effect between each of Alabama's public agencies and ADRS in order to ensure—

(1) The provision of, and establishing financial responsibility for, early intervention services provided under this part; and

(2) Such services are consistent with the requirement in section 635 of the Act and Alabama's application under section 637 of the Act, including the provision of such services during the pendency of any dispute between ADRS and any other State agencies.

(b) The methods in paragraph (a) of this section meets all requirements in this section and is set forth in Alabama Administrative Code and in signed interagency agreements between respective agency officials that clearly identify the financial and service provision responsibilities of each agency (or entity within the agency); or when necessary other appropriate written methods may be determined by the Governor of Alabama, or the Governor's designee, and approved by the Secretary through the review and approval of the State's application.

§303.511(c) The resolution of inter and intra-agency disputes is found in the Alabama Administrative Code, 795-3-1.

§303.510 formerly, §303.527 (Payor of Last Resort), is referenced in all existing Memorandums of Agreements established by the Lead Agency.

Policies related to use of public benefits or insurance or private insurance to pay for Part C services (§303.520)

(a) Use of public benefits or public insurance to pay for Part C services.

(1) Alabama may not use the public benefits or insurance of a child or parent to pay for part C services unless Alabama provides written notification, consistent with § 303.520(a)(3), to the child's parents, and Alabama meets the no-cost protections identified in paragraph (a)(2) of this section.

(2) With regard to using the public benefits or insurance of a child or parent to pay for part C services, Alabama—

(i) Alabama does not require a parent to sign up for or enroll in public benefits or insurance programs as a condition of receiving part C services and must obtain consent prior to using the public benefits or insurance of a child or parent if that child or parent is not already enrolled in such a program;

(ii) Alabama does obtain written consent, consistent with §§ 303.7 and 303.420(a)(4), to use a child's or parent's public benefits or insurance to pay for part C services if that use would—

(A) Decrease available lifetime coverage or any other insured benefit for that child or parent under that program;

(B) Result in the child's parents paying for services that would otherwise be covered by the public benefits or insurance program;

(C) Result in any increase in premiums or discontinuation of public benefits or insurance for that child or that child's parents; or

(D) Risk loss of eligibility for the child or that child's parents for home and community-based waivers based on aggregate health-related expenditures.

(iii) If the parent does not provide consent under paragraphs (a)(2)(i) or (a)(2)(ii) of this section, Alabama makes available those part C services on the IFSP to which the parent has provided consent.

(3) Prior to using a child's or parent's public benefits or insurance to pay for part C services, Alabama must provide written notification to the child's parents. The notification includes (as described in the Child & Parent Rights document)—

(i) A statement that parental consent must be obtained under § 303.414, if that provision applies, before ADRS 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);

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

(iii) A statement that the parents have the right under § 303.414, if that provision applies, to withdraw their consent to disclosure of 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

(iv) 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 the required use of private insurance as the primary insurance).

(4) Alabama does not require a parent to pay any direct costs that the parent would incur as a result of Alabama using a child's or parent's public benefits or insurance to pay for part C services (such as co-payments or deductibles, but families accessing Medicaid are ~~or the~~ required to use ~~of~~ private insurance as the primary insurance). These costs must be identified in Alabama's system of payments policies under § 303.521 and are included in the notification provided to the parent under paragraph (a)(3) of this section; otherwise, Alabama could ~~does~~ not charge those costs to the parent.

(b) Use of private insurance to pay for Part C services.

(1)(i) Alabama does not use the private insurance of a parent of an infant or toddler with a disability to pay for part C services unless the parent provides parental consent, consistent with §§ 303.7 and 303.420(a)(4), to use private insurance to pay for part C services for his or her child or Alabama meets one of the exceptions in paragraph (b)(2) of this section. This includes the use of private insurance when such use is a prerequisite for the use of public benefits or insurance. Parental consent must be obtained—

(A) When ADRS or EIS provider seeks to use the parent's private insurance or benefits to pay for the initial provision of an early intervention service in the IFSP; and

(B) Each time consent for services is required under § 303.420(a)(3) due to an increase (in frequency, length, duration, or intensity) in the provision of services in the child's IFSP.

(ii) Alabama does not require a parent to pay any costs that the parent would incur as a result of Alabama's use of private insurance to pay for early intervention services (such as co-payments, or deductibles), but parents are still responsible for paying premiums for their insurance.

(iii) When obtaining parental consent required under paragraph (b)(1)(i) of this section or initially using benefits under a child or parent's private insurance policy to pay for an early intervention service under paragraph (b)(2) of this section, Alabama provides to the parent a copy of Alabama's system of payments policies as identified in the Child & Parent Rights and Consent for Use of Public & Private Insurance forms which explains the potential costs. This document outlines the potential costs that the parent may incur when their private insurance is used to pay for early intervention services under this part (such as premiums, or long-term costs such as the loss of benefits because of annual or lifetime health insurance coverage caps under the insurance policy).

(2) The parental consent requirements in paragraph (b)(1) of this section do apply because Alabama has not enacted a State statute regarding private health insurance coverage for early intervention services under part C of the Act, that expressly provides that—

(i) 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;

(ii) 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

(iii) 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.

(3) Alabama has not enacted a State statute that meets the requirements in paragraph (b)(2) of this section, regarding the use of private health insurance coverage to pay for early intervention services under part C of the Act, therefore, Alabama will not reestablish a new baseline of State and local expenditures under § 303.225(b) in the next Federal fiscal year following the effective date of the statute.

(c) Alabama does not charge any fees for families for early intervention; therefore, Alabama does not have a definition of inability to pay. The lack of consent may not be used to delay or deny any services under this part to that child or family.

(d) Proceeds or funds from public insurance or benefits or from private insurance. (1) Proceeds or funds from public insurance or benefits or from private insurance are not treated as program income for purposes of [34 CFR 80.25](#).

(2) If Alabama receives reimbursements from Federal funds (e.g., Medicaid reimbursements attributable directly to Federal funds) for services under part C of the Act, those funds are considered neither State nor local funds under § 303.225(b).

(3) If Alabama spends funds from private insurance for services under this part, those funds are considered neither State nor local funds under § 303.225.

(e) Alabama does not receive funds from parents or family members as stated under Alabama's System of Payment.

System of payments and fees (§303.521)

(a) General. Alabama has adopted a system of payments under § 303.500(b), and the system of payments policies are in writing here (within this document), which specifies the functions and services, that, are subject to the system of payments, and include—

(1) Alabama does not charge any fees for early intervention.

(2) Alabama does not charge any fees for services—therefore, there is no sliding or cost participation fees charged to families.

(3) Alabama's does not charge any fees for early intervention services; therefore, Alabama does not need further definition of the 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 Alabama makes its determination of the ability or inability to pay—all due to the fact that Alabama does not charge families for early intervention;

(4) Alabama ensures that—

(i) Fees will not be charged to parents for the services that a child is otherwise entitled to receive at no cost (including those services identified under paragraphs (a)(4)(ii), (b), and (c) of this section);

(ii) The inability of the parents of an infant or toddler with a disability to pay for services does not result in a delay or denial of services under this part to the child or the child's family because Alabama does not charge any fees for early intervention.

(iii) Does not apply - 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); and

(iv) Does not apply - Families with public insurance or benefits or private insurance will not be charged disproportionately more than families who do not have public insurance or benefits or private insurance;

(5) Does not apply - 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; and

(6) Provisions that permit, but do not require, ADRS to use part C or other funds to pay for costs such as deductibles, or co-payments. Alabama requires providers to pay for deductibles or co-payments using part C or other funds, pursuant to payor of last resort requirements.

(b) Functions not subject to fees. The following are required functions that must be carried out at public expense, and for which no fees may be charged to parents:

(1) Implementing the child find requirements in §§ 303.301 through 303.303. Show citation box

(2) Evaluation and assessment, in accordance with § 303.320, and the functions related to evaluation and assessment in § 303.13(b).

(3) Service coordination services, as defined in §§ 303.13(b)(11) and 303.33.

(4) Administrative and coordinative activities related to—

(i) The development, review, and evaluation of IFSPs and interim IFSPs in accordance with §§ 303.342 through 303.345; and

(ii) Implementation of the procedural safeguards in subpart E of this part and the other components of the statewide system of early intervention services in subpart D of this part and this subpart.

(c) States with FAPE mandates, or that use funds under Part B of the Act to serve children under age three. If a State has in effect a State law requiring the provision of FAPE for, or uses part B funds to serve, an infant or toddler with a disability under the age of three (or any subset of infants and toddlers with disabilities under the age of three), the State may not charge the parents of the infant or toddler with a disability for any services (e.g., physical or occupational therapy) under this part that are part of FAPE for that infant or toddler and the child's family, and those FAPE services must meet the requirements of both parts B and C of the Act. Alabama does not have a FAPE mandate.

(d) Family fees. (1) Alabama does not charge parents fees for services.

(2) Alabama does not collect family fees as outlined in our System of Payment.

(e) Procedural Safeguards. (1) Although Alabama does not collect family fees; Alabama's system of payments does include written policies to inform parents that a parent who wishes to contest the imposition of any fee, may do one of the following:

(i) Participate in mediation in accordance with § 303.431.

(ii) Request a due process hearing under § 303.436 or 303.441, whichever is applicable.

(iii) File a State complaint under § 303.434.

(iv) 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 described in paragraphs (e)(2)(i) through (e)(2)(iii) of this section.

(2) Alabama informs parents of these procedural safeguard options as outlined in its Child & Parent Rights document and the Consent for Use of Public & Private Insurance forms, by either—

(i) Providing parents with a copy of Alabama's system of payments policies when obtaining consent for provision of early intervention services under § 303.420(a)(3); or

(ii) Including this information with the notice provided to parents under § 303.421.

Alabama has developed the following policy:

The use of a family's private insurance to pay for early intervention services must be voluntary on the part of the parents and parents must give written consent for its use. After the initial consent, a new consent for the use of the family's insurance is required when there is an increase in frequency, length, duration or intensity in the provision of services in the child's IFSP. (Please see Consent for the Use of Private Insurance form.)

A parent's refusal to consent to the use of their insurance does not relieve the provider from its obligation to provide appropriate early intervention services.

The provider understands that the family's private insurance may not be utilized for any evaluation, whether for initial eligibility or other evaluation or assessment purposes under early intervention.

If there is any cost associated with the use of the parent's private insurance then the early intervention provider agrees to cover the cost, e.g. co-payment, deductible, etc.

The following functions are required to be at public expense and for which no fee may be charged to the parents:

- 1) Implementing Child Find
- 2) Evaluation and assessment
- 3) Service coordination
- 4) Administrative and coordinative activities related to
 - a. The development, review and evaluation of the IFSPs and interim IFSPs
 - b. Implementation of the procedural safeguards and other components of the statewide system of early intervention services

With an approved "Exemption from Billing Private Insurance and/or Public Insurance" form on file, a provider is not required to request a parent to sign the Consent for the Use of Private Insurance form or the Consent for the Use of Public Insurance. The provider must submit this form annually for approval and continued exemption. With approval based on the information contained within the exemption request, private and/or public insurance funds will be considered unavailable.