



Early Start Rules on Using Private Insurance

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The State Legislature required the Department of Developmental Services (DDS) to reduce its budget in past years. As a result, there are changes to the Early Start (early intervention) services that regional centers can purchase and how the regional centers operate.

This publication describes changes in the law about using private insurance for Early Start services. This includes a change that says the individualized family service planning team may include, at the time of development, scheduled review, or modification of an Individual Family Service Plan (IFSP), a determination that a medical service identified in the IFSP is not available through the family's private health insurance plan and therefore will be funded by the regional center. This law went into effect on June 27, 2017.¹

Using Private Insurance

In 2012, the law changed regarding using private insurance for a medical or health care service identified in an eligible infant or toddler's IFSP to state that using a private health insurance plan shall not:²

¹ Welfare and Institutions Code Sec. 4646.4(a)(2) ([RETURN TO MAIN DOCUMENT](#))

² Government Code Sec. 95004(c) ([RETURN TO MAIN DOCUMENT](#))

- 1) Count towards or result in a loss of benefits for the person with a disability or any other covered family member due to an annual or lifetime cap, or
- 2) Negatively affect the availability or result in discontinuance of private insurance for the person with a disability or any other covered family member, or
- 3) Be the basis for increasing the premium for private insurance for the person with a disability or any other covered family member.

Federal law generally requires parental consent for a regional center to use a parent's private insurance to pay for early intervention services.³ However, a parent's consent is not required under federal law for a regional center to use the parent's private insurance if the state has enacted a state insurance law that protects parents from adverse financial consequences they might otherwise experience from their private insurance company because of a regional center using the private insurance benefits.⁴ Because California adopted the law described above that protects parents, from those three potential consequences, parental consent is no longer required. A regional center can access a parent's private insurance benefits to pay for early intervention services for the child.⁵

³ 34 CFR Sec. 303.520(b)(1). ([RETURN TO MAIN DOCUMENT](#))

⁴ 34 CFR Sec. 303.520(b)(2). ([RETURN TO MAIN DOCUMENT](#))

⁵ Although DDS still has a regulation which was adopted in 2003 (Title 17 Cal. Code of Regulations Sec. 52109(c)) which says that the use of parents' private insurance by regional centers for early intervention services must be voluntary, that regulation is no longer valid to the extent it conflicts with Government Code section 95004(b)(1), which says that private health insurance for medical services in the IFSP, other than for evaluation and assessment, shall be used in compliance with applicable federal and state law and regulation. ([RETURN TO MAIN DOCUMENT](#)).

Determination of Private Insurance Coverage of Medical Services to Ensure Timely Services

When a regional center tries to access private health insurance to cover early intervention services, it may delay the child receiving necessary services. This new law encourages planning teams to determine at the time an IFSP is developed, reviewed, or modified whether a medical service identified in the IFSP is available through the family's private health insurance plan.⁶ If it is determined that the medical service is not covered by the family's private health insurance plan, the regional center must fund the service without delay in compliance with the requirement that services are provided promptly.⁷

Parents Are Protected from Potential Consequences

If a parent incurs any premium costs, co-payments, or deductibles, those costs must be included in a system of family payments for early intervention services which the state must adopt.⁸ Because California has not yet adopted any state system of payments by families for early intervention services, a parent is not responsible for paying any deductibles or co-payments connected with an agreement to allow a regional center to utilize private insurance to pay for the child's early intervention services. Parents should include in any agreement which allows a regional center to use the parents' private health insurance to pay for early intervention services, and in the child's IFSP, an assurance by the regional center it will pay or reimburse parents for any deductible or co-payments charged by

⁶ Welfare and Institutions Code Sec. 4646.4(a)(2). [\(RETURN TO MAIN DOCUMENT\)](#)

⁷ Welfare and Institutions Code Sec. 4646.4(a)(2); Government Code Sec. 95004(b)(2); 34 CFR Sec. 303.511(d)(1). [\(RETURN TO MAIN DOCUMENT\)](#)

⁸ 34 CFR Sec. 303.520(b)(1)(ii). [\(RETURN TO MAIN DOCUMENT\)](#)

healthcare providers in providing healthcare-related early intervention services.

If California adopts a system of payments which requires that parents pay insurance co-payments or deductibles, the state must also include a provision for determining when a parent is unable to pay the costs related to early intervention services.⁹ Early intervention services for children of parents who meet the state's standard of inability to pay may not be denied or delayed because of these parents' unwillingness to consent to using their private insurance for early intervention services.¹⁰

Giving Health Care Cards to Regional Centers

In 2009, California adopted laws which require parents of children being evaluated for or receiving early intervention services to provide to the regional center copies of any health benefits cards under which the child is eligible, including private health insurance plans.¹¹ This enables regional centers to know which infants and toddlers have benefits that may be used in paying for early intervention services. This means regional centers may regularly ask parents to consent to using of their health insurance to pay for needed services.

Regional Center Must Give Written Notice of Action

If the regional center wants to change something about your early intervention services, it must give you written notice a reasonable time before the change begins. The notice must tell you:

- the action the regional center is proposing or refusing;

⁹ 34 CFR Sec. 303.521(a)(3). [\(RETURN TO MAIN DOCUMENT\)](#)

¹⁰ 34 CFR Sec. 303.520(c). [\(RETURN TO MAIN DOCUMENT\)](#)

¹¹ Government Code Sec. 95020(b) & (f). [\(RETURN TO MAIN DOCUMENT\)](#)

- the reasons for taking the action;
- how to file a complaint or ask for a due process mediation or hearing

The notice must also be understandable to the general public and in the parent's language of choice. The regional center must have it translated and make sure the parent understands it.

Filing for Mediation and Hearing

To file for mediation and hearing, you must make a written request. If you cannot, the regional center must help you make the request. Once you file for hearing, your child will continue to receive the early intervention services listed on the IFSP they are currently receiving. They will not get any new service in dispute unless there is a favorable mediation or hearing outcome. File your hearing or mediation request with:

Office of Administrative Hearings
Attention: Early Start Intervention Section
2349 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833-4231
Voice: (800) 515-2229
Fax: (916) 376-6318 or (916) 263-0549

Your Rights During the Hearing Process

You have a right to:

- See your regional center records
- Be present and give evidence by speaking or writing
- Have your own family, friends, therapists or doctors be present and speak on your behalf
- Have a lawyer or advocate present
- Have an interpreter if your primary language is not English

Prepare for Your Hearing

- Gather information that shows you need the services that the regional center wants to change. Make sure the information you use is accurate and explains your needs in detail. Also, find people who are willing to go to your hearing and tell the judge why you need the services. Make sure these people know your needs.
- At the hearing, you can argue that you have the right to have your needs met to fulfill your IFSP goals and objectives or explain why you meet an exception or exemption to the law.

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