

1.C.2 Fiscal Control and Accountability

I Policy Index:

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| | Responsible Authority | BWEIP Manager |

II Purpose:

The purpose of this policy is to define Utah's procedures for fiscal control and accounting for part C funds under the Individuals with Disabilities Education Improvement Act (IDIEA), as well as procedures for distribution and use of funds; a system of payments for part C and procedures for ensuring compliance with all fiscal requirements of part C.

III Definition(s):

Children's Health Insurance Program (CHIP)

Children's Health Insurance Program (hereafter, referred to as CHIP) is a program administered by the United States Department of Health and Human Services that provides matching funds to states for health insurance to families with children. CHIP was designed to cover uninsured children in families with incomes that are modest, but too high to qualify for Medicaid.

Early Intervention (EI):

Early Intervention (EI) refers to programs or services which are selected in collaboration with parents, and are designed to meet the developmental needs of a child and the needs of the family to assist in the child's development.

Early Intervention (EI) Services:

Early Intervention (EI) services are developmental services that

- Are provided under public supervision;
- Are selected in collaboration with the parents;
- Are provided at no cost, except, where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;
- Are designed to meet the developmental needs of an infant or toddler with a disability and the needs of the family to assist appropriately in the infant's or toddler's development, as identified by the IFSP team;
- Meet the standards of Utah and part C, in which EI services are provided, including the requirements of part C;
- Are provided by qualified personnel;
- To the maximum extent appropriate, are provided in natural environments; and
- Are provided in conformity with an IFSP.

Individualized Family Service Plan (IFSP):

An Individualized Family Service Plan (IFSP) is a working document agreed upon by EI service providers and family members to address the special needs of eligible children from birth to three (3).

Infant or Toddler with a Disability (Child):

A child under three (3) years of age who needs EI services because s/he is experiencing a developmental delay in one or more of the following areas:

- Cognitive development;
- Physical development, including vision and hearing;
- Communication development;
- Social or emotional development;
- Adaptive development; or
- Is diagnosed with a physical or mental condition that has a high probability of resulting in a developmental delay.

Medicaid:

Medicaid is a program that is jointly funded by the State and Federal government which pays for medical care for those who can't afford it, which to be eligible for Medicaid you shall meet certain income guidelines. Medicaid is often referred to as Title XIX.

Parent:

A biological or adoptive parent of a child, a foster parent, a guardian generally authorized to act as the child's parent or authorized to make EI, educational, health, or developmental decisions for the child, an individual acting in the place of a biological or adoptive parent with whom the child lives or an individual who is legally responsible for the child's welfare, or a surrogate parent as assigned by BWEIP.

IV Principles and Procedures:

A. Funding Sources

1. The BWEIP administers all funds received for the delivery of EI services. Funding is received from various sources, thus creating a system of payments (See BWEIP policy 1.C.1 *System of Payments and Fees*). The State has in place interagency agreements, contracts, and grants establishing financial responsibility and funding sources for BWEIP services. Funding sources that support the BWEIP are:
 - a. State Appropriation (State General Fund);
 - b. IDEIA part C Grant Award;
 - c. Medicaid;
 - d. Children's Health Insurance Program (CHIP); and
 - e. Family Cost Participation Fees.

B. Use of Part C Funds:

1. Utah ensures that Federal funds made available to the State under part C are implemented and distributed in accordance with the provisions of part C.

2. BWEIP may use funds under part C for activities or expenses that are reasonable and necessary for implementing the State's EI program for infants and toddlers with disabilities, to include funds:
 - a. For direct EI services for infants and toddlers with disabilities and their families under part C that are not otherwise funded through other public or private sources;
 - b. To expand and improve services for infants and toddlers with disabilities and their families under this part that are otherwise available;
 - c. 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 and private community-based organizations, services, and personnel for the purposes of:
 - 1) Identifying and evaluating at-risk infants and toddlers;
 - 2) Making referrals for the infants and toddlers identified and evaluated; and
 - 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 this part.
3. In its annual application for part C funds, BWEIP includes the required description of use of funds, to include:
 - a. The amount of funds retained by BWEIP for administration purposes, including the number of full-time equivalent administrative positions to be used to implement part C, and the total amount of salaries (including benefits) for those positions;
 - b. A description of the nature and scope of each major activity to be carried out under this part and the approximate amount of funds to be spent for each activity;
 - c. A description of any direct services that the State expects to provide to infants and toddlers with disabilities and their families with funds under this part and the approximate amount of funds to be used for the provision of each direct service; and
 - d. If other public agencies are to receive funds under this part:
 - 1) The name of each agency expected to receive funds;
 - 2) The approximate amount of funds each agency will receive; and
 - 3) A summary of the purposes for which the funds will be used.

C. Grants:

1. BWEIP provides grants to agencies in the state to support and carry out the purposes and requirements of part C and state regulations.
2. Copies of applications for BWEIP grants and the conditions of grants are available from BWEIP.
3. Grants are awarded yearly to EI agencies providing services throughout the state by way of an annual application process. If the need arises to identify a new EI provider agency, the BWEIP develops and disseminates a Request for Application to any interested party in the state. Prospective agencies submit a response to the Request for Application for approval through a competitive review process conducted by the BWEIP. A grant is developed with an agency who has received an approved application through the competitive review process.

4. The General and Special Provisions of each EI grant include specifications that cover:
 - a. Submission of Reports and Payment;
 - b. Record Keeping, Audits, & Inspections
 - c. Federal OMB Cost Principles and Accounting Procedures
 - d. Requirements to abide by all pertinent State and Federal regulations including part C of IDEIA (regulations in part 303), and in 34 CFR part 300 (Assistance to States for Children with Disabilities Program); and the Education Department General Administrative Regulations (EDGAR);
 - e. Requirement to maintain and make all records necessary and reasonable for a full and complete audit, inspection, and monitoring of services by state auditors; and
 - f. Termination of the grant by either party.
5. BWEIP is required to ensure that only individuals or organizations with a legal status recognized by the State of Utah may provide EI services.

D. Timely Reimbursement of Funds:

1. BWEIP is allowed to access other responsible sources for payment for specific EI services such as Medicaid, CHIP and parent fees.
2. To ensure that BWEIP provides timely provision of specific EI services in exceptional circumstances, part C funds may be used to provide interim payments.
3. BWEIP will seek reimbursement from the responsible parties through use of existing State of Utah accounts receivable protocols.
4. Each local EI program's corresponding reimbursement procedures are implemented to recover interim payments for direct services.

E. Payor of Last Resort:

1. Nonsubstitution of Funds: Part C funds 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. Therefore, funds under this part may be used only for EI services that a child needs, but is not currently entitled to receive or have payment made from any other Federal, State, local, or private source.
2. Interim Payments - Reimbursement: If necessary to prevent a delay in the timely provision of appropriate EI services to a child or the child's family, part C funds may be used to pay the provider of services (for services and functions authorized under part C, including health services, but not medical services, functions of the child find system, and evaluations and assessments), pending reimbursement from the agency or entity that has ultimate responsibility for the payment.
3. Use of Part C Funds: BWEIP is permitted but not required to use part C or other funds to pay for costs such as the premiums, deductibles, or co-payments.

4. Non-Reduction of Benefits: Nothing in part C may be construed to permit BWEIP to reduce medical or other assistance available in the State or to alter eligibility under Title V of the Social Security Act, (relating to maternal and child health) or Title XIX of the Act, (relating to Medicaid), regarding medical assistance for services furnished to a child when those services are included in the child's IFSP adopted pursuant to part C.
4. BWEIP's methods for State interagency coordination to ensure payor of last resort include interagency and intra-agency agreements that ensure the provision of and financial responsibility for EI services provided under part C.
 - a. BWEIP is housed within the Utah Department of Health, which is responsible for entering into formal interagency agreements with other State public agencies involved in the State's EI system. Current copies of interagency agreements can be found on the BWEIP website at [Baby Watch Early Intervention](#).
 - b. Each agreement defines the financial responsibility of each agency for paying for EI services.
 - c. Resolution of Disputes:
 - 1) Each agreement includes procedures for achieving a timely resolution of intra-agency and interagency disputes about payments for a given service, or disputes about other matters related to the State's EI service program. Those agreements include a mechanism for resolution of disputes within agencies and for the Governor, Governor's designee, or BWEIP to make a final determination for interagency disputes, which determination must be binding upon the agencies involved.
 - 2) BWEIP may resolve its own internal disputes (based on BWEIP's procedures that are included in the agreement), as long as the agency acts in a timely manner.
 - 3) Intra-agency agreements include the process that BWEIP will follow in achieving resolution of intra-agency disputes, if it is unable to resolve its own internal disputes in a timely manner.
 - 4) If, during BWEIP's resolution of the dispute, the Governor, Governor's designee, or BWEIP itself determines that the assignment of financial responsibility under this section was inappropriately made:
 - a) The Governor, Governor's designee, or BWEIP shall reassign the financial responsibility to the appropriate agency; and
 - b) BWEIP shall make arrangements for reimbursement of any expenditure incurred by the agency originally assigned financial responsibility.
 - d. Delivery of Services in a Timely Manner:
 - 1) BWEIP's interagency agreements:
 - a) Include a mechanism to ensure that no services that a child is entitled to receive under part C are delayed or denied because of disputes between agencies regarding financial or other responsibilities; and
 - b) Are consistent with the BWEIP policies, including those regarding the use of insurance to pay for part C services.
 - e. Additional components: Each interagency agreement includes any additional components necessary to ensure effective cooperation and coordination among, and BWEIP's general supervision (including monitoring) of EI service providers (including all public agencies) involved in the State's EI programs.

F. Prohibition Against Supplanting and Indirect Costs:

1. The BWEIP assures that federal funds:
 - a. Are not comingled with BWEIP funds; and
 - b. Are used to supplement the level of BWEIP and local EI funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds. The total amount of BWEIP and local EI funds budgeted for expenditures in the current fiscal year for EI services for children eligible under this part and their families shall be at least equal to the total amount of BWEIP and local funds actually expended for EI services for these children and their families in the most recent preceding fiscal year for which the information is available.
2. The Utah Department of Health charges indirect costs to the part C grant as approved by a current indirect cost Negotiation Rate Agreement with the U.S. Department of Health & Human Services.
3. The Utah Department of Health does not charge rent, occupancy, or space maintenance costs directly to the part C grant.

G. System of Payments:

1. BWEIP shall utilize its established system of payments and fees for EI services under part C (See BWEIP policy 1.C.1-*System of Payment and Fees*), including a schedule of sliding fees and cost participation fees under State public insurance programs for which the child or his/her family is enrolled.
2. Fees collected from a parent or the child's family to pay for EI services under the BWEIP's system of payments shall be considered as program income.
 - a. BWEIP counts this as program income to its part C grant funds, rather than deducting the program income from the amount of the BWEIP's part C grant.
 - b. Any fees collected shall be used for the purposes of the grant under part C of the Act.
 - c. Fees collected under the BWEIP's system of payments and fees are considered neither BWEIP nor local EI funds.
3. BWEIP shall include written policies to inform parents of their procedural safeguards and the right to contest the imposition of a fee through dispute resolution processes (See BWEIP policy 1.C.1-*System of Payment and Fees*) BWEIP shall inform parents of available procedural safeguard options by providing them with a copy of BWEIP policy 1.C.1-*System of Payment and Fees*) at the time of obtaining consent for provision of EI services.

H. Use of Public Benefits or Public Insurance:

1. The BWEIP, Medicaid, and CHIP are programs within the Utah Department of Health, therefore parental consent is not required prior to a child's personally identifiable information (name, date of birth, address and policy number) is submitted for billing purposes.

2. EI services, as specified in the child's IFSP and to which the parent has consented, cannot be denied due to a parent's refusal to allow their public insurance (Medicaid and CHIP) to be billed for such services;
3. Parents have the right to withdraw their consent to disclose their child's personally identifiable information at any time without affecting the BWEIP services their child is receiving as specified in their child's IFSP;
4. The BWEIP shall not require a parent to sign up for or enroll in public benefits or insurance programs as a condition of receiving part C services;
5. BWEIP does not enroll children and parents in public benefits and insurance,
6. BWEIP will not use public insurance to pay for part C services if the child is not already enrolled in such a program; and
7. The BWEIP shall provide parents with written notice prior to billing public insurance;
8. Parents shall be informed of the no-cost protections in the use of their public benefits to pay for part C services.
9. BWEIP shall obtain written consent from parents to use the child's or parent's public benefits or insurance 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.
7. The BWEIP shall not require a parent to pay any costs that the parent would incur as a result of the State's using a child's or parent's public benefits or insurance to pay for part C services.
8. BWEIP shall not use the private insurance of a parent of a child to pay for part C services.
9. BWEIP shall not count proceeds or funds from public insurance or benefits or from private insurance as program income.
 - a. If the State receives reimbursements from Federal funds (e.g., Medicaid reimbursements attributable directly to Federal funds) for services under part C, those funds are considered neither State nor local funds.

V Authority:

- 34 CFR § 76.560 [General indirect cost rates; exceptions](#)
- 34 CFR § 303.7 [Consent](#)
- 34 CFR § 303.120 [Lead agency role in supervision, monitoring, funding, interagency coordination..](#)
- 34 CFR § 303.121 [Policy for contracting or otherwise arranges for services](#)
- 34 CFR § 303.122 [Reimbursement procedures](#)
- 34 CFR § 303.203 [Statewide system and description of services](#)
- 34 CFR § 303.224 [Reports and records](#)
- 34 CFR § 303.225 [Prohibition against supplanting; indirect costs](#)
- 34 CFR § 303.226 [Fiscal Control](#)
- 34 CFR § 303.500 [System of payments](#)
- 34 CFR § 303.501 [Permissive use of funds](#)
- 34 CFR § 303.510 [Payor of last resort](#)
- 34 CFR § 303.511 [Methods to ensure the provision of, and financial responsibility for part C..](#)
- 34 CFR § 303.520 [Policies related to use of public benefits or insurance or private insurance to pay for part C services](#)

VI Related Directives:

BWEIP policy 1.C.1 [System of Payments and Fees;](#)

VI Revision Log:

January 2013: **New** policy.

June 2013: **Revised** to include no-cost protections

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|  | | <i>7-01-13</i> |
| Susan Ord, BWEIP Program Manager | | Date |