System of Payments and Fees Policy

14.A Policy

14.A.1 Funding Early Intervention Services

(a) ESIT Provider Agencies and Service Providers must maximize the use of federal, state, and local fund sources, by accessing public benefits, private insurance, and family fees (e.g. co-pays, co-insurance, deductibles, and monthly participation fees) to pay for early intervention services; and

(b) For services, on an IFSP, subject to family cost participation (FCP), as described in 14.A.4, families are expected to contribute to the cost of services. This includes using one or more of the following funding sources:

(1) Apple Health for Kids CHIP

(2) Medicaid

(3) TRICARE

(4) Private Insurance

(5) Monthly Participation Fee

IDEA Part C funds or other state funds may be used to pay for costs such as co- pays, co-insurance, and deductibles in accordance with 34 CFR 303.521(a)(6).

14.A.2 ESIT Provider Agency Responsibilities

(a) ESIT Provider Agencies must:

(1) In accordance with 34 CFR §303.520(a)(2)(i), ensure families will not be required to enroll in Apple Health for Kids CHIP or Medicaid, as a condition for their child to receive services.

(2) Obtain parental consent for the use of the family's public benefits including TRICARE, and, in accordance with 34 CFR §303.520(b)(1)(i), use of the family's private insurance to pay for:

(i) Evaluations and Assessments **(regardless of consent no fees may be charged to families)**;

(ii) Early Intervention Services; and

(iii) Any increase in frequency, length, duration, or intensity of services.

Contact:

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(3) In accordance with 34 CFR §303.520(a)(3) and 303.520(b)(1)(iii), ensure all families receive a written or electronic copy of the ESIT System of Payments and Fees Policy, which includes their parent rights and procedural safeguards when the family's public benefits, Tricare, and/or private insurance is used.

(4) With consent, bill the families' public benefits, TRICARE, and/or private insurance for services that are subject to FCP as described in 14.A.4.

(5) Determine "Ability to Pay", unless waived by the family, as described in 14.B.3 for all families who have TRICARE, private insurance, or no insurance.

(6) Ensure families determined to have the "Inability to Pay" as described in 14.B.4 receive services at no cost.

(7) Approve a hardship exemption, as described in 14.B.11, for any family who has been determined to have the "Ability to Pay" and who indicates they are unable to meet their family cost participation obligation.

(8) Bill families for co-payments, co-insurance, and deductibles, for services subject to FCP as described in 14.A.4.

(9) Bill families for their monthly participation fee, when assigned

(10) For **all** services on a child's IFSP subject to FCP, as described in 14.A.4, ensure families only pay either:

(i) Co-payments, co-insurance, and/or deductibles; or

(ii) A monthly participation fee.

(11) If necessary to prevent a delay in the timely provision of services to a child or the child's family, the ESIT Provider Agency may use Part C of IDEA funds to pay for services subject to FCP as described in 14.A.4, pending reimbursement from the agency or entity that has ultimate responsibility for payment. Part C of IDEA funds are subject to Payor of Last Resort in accordance with 34 CFR 303.510(a) and (b) and 303.203(b)(1), see policy 15.A.

14.A.3 Services Provided at Public Expense

(a) In accordance with 34 CFR §303.521(b) (2011), the following services shall be provided at public expense by ESIT Provider Agencies and Service Providers for which **no fees may be charged to families**:

(1) Implementing the child find requirements in §§303.301 through 303.303;

(2) Initial and ongoing evaluation and assessment, in accordance with §303.320, and the functions related to evaluation and assessment in §303.13(b);

(i) With family consent, public benefits, TRICARE, and private insurance can be billed for initial and ongoing evaluations and assessments.

(3) Service Coordination (Family Resources Coordination), as defined in §§303.13(b) (11) and 303.34;

(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 Subpart E, Procedural Safeguards, and the other components of the statewide system of early intervention services in subpart D of 34 CFR Part 303.

14.A.4 Early Intervention Services Subject to Family Cost Participation

(a) In accordance with 34 CFR §303.521(b), the following services, **including but not limited to**, with billable medical codes to public benefits, TRICARE, or private insurance, are subject to FCP:

(1) Assistive Technology Devices and Services

(2) Audiology Services

(3) Family Training, Counseling, and Home visits

(4) Health Services

(5) Medical Services

(6) Nursing Services

(7) Nutrition Services

(8) Occupational Therapy

(9) Physical Therapy

(10) Psychological Services

(11) Sign Language and Cued Language

(12) Special Instruction

(13) Speech-Language Pathology Services

(14) Social Work Services

(15) Transportation and related costs

(16) Vision Services

(b) Assurance: In accordance with 34 CFR §303.521 (a) (4)(iii), families will not be charged more than the actual cost of services that are subject to FCP.

(c) Fees will not be charged to families for services that a child is otherwise entitled to receive at no cost as described in 14.A.3.

14.B Procedures

14.B.1 SOPAF Form

(a) The SOPAF form must be:

(1) Completed for all families regardless of type of insurance or lack of insurance

(2) Signed by the insurance subscriber or parent/guardian.

(3) Completed annually to verify insurance coverage and ability to pay status.

(4) Completed sooner when the following occurs:

(i) Family insurance changes, such as moving from public benefits to private insurance or moving from no insurance to public benefits or private insurance;

(ii) A family has TRICARE or private insurance and there is any increase in frequency, length, duration, or intensity of services on the IFSP subject to FCP;

(iii) Change in family size, and annual income and expense information;

(iv) Family requests a hardship exemption;

(v) Child's parent/guardian changes; or

(vi) When the previous IFSP had no services subject to FCP and a service subject to FCP is added to the IFSP.

14.B.2 14.B.2 Ability and Inability to Pay

(a) Unless waived by the family, "Ability to Pay" must be determined using the SOPAF form for families who have costs associated with services on an IFSP subject to FCP, as described in 14.A.4.

(b) Ability and Inability to Pay is determined by:

(1) Family size, and

(2) Income adjusted for allowable expenses.

(c) Documentation of income information for the past twelve months must be reviewed but not retained by the ESIT Provider Agency. Documentation may include:

(1) IRS 1040 tax form or,

(2) Most recent W2(s) and/or 1099(s),

(3) Most recent pay stub, or

(4) A written or verbal statement of income from the family.

(d) Documentation of allowable non-reimbursed expenses include the following expenses incurred for the child and/or other family members during the past twelve months:

(1) Medical and dental expenses including premiums, deductibles, co- pays, and co-insurance

(2) Mental health treatment not covered by insurance

(3) Home health care provided by licensed home health agency

(4) Child support/alimony payments

(5) Childcare costs incurred while parent(s) work or go to school

14.B.3 14.B.3 Ability to Pay Criteria

(a) Ability to Pay is when the family's total adjusted annual income falls at or above 200% of the Federal Poverty Level (FPL).

(b) Unless waived by the family, "Ability to Pay" must be determined when the family has:

(1) Denied access to Apple Health for Kids CHIP, TRICARE, and/or private insurance; or

(2) No insurance.

(c) Families determined to have an ability to pay will be responsible for co-pays, co-insurance, deductibles, or a monthly participation fee. Families will be given the option to:

(1) Pay their co-pays, co-insurance, and deductible costs, or

(2) Decline use of their insurance and pay a monthly participation fee, or

(3) Request a hardship exemption.

(d) If the family declines to provide the necessary income and expense information, they will be responsible for their co-pays, co-insurance, and deductibles or a monthly participation fee at the highest level for their family size.

14.B.4 Inability to Pay Criteria

(a) Inability to pay is when total adjusted annual income falls below 200% of the Federal Poverty Level (FPL).

(b) Families determined to have an "Inability to Pay" **do not pay** co-pays, co- insurance, deductibles, or a monthly participation fee. This includes families who have no insurance, TRICARE, or private insurance

(c) Assurance: In accordance with 34 CFR §303.521(a)(4) (ii), if a family meets the definition of "Inability to Pay", all services subject to FCP will be provided at no cost. In addition, the family's inability to pay will not result in a delay or denial of services.

(d) IDEA Part C funds or other state funds may be used to pay for costs such as co-pays, co-insurance, and deductibles in accordance with 34 CFR 303.521(a)(6).

14.B.5 Use of public benefits (Apple Health for Kids CHIP and Medicaid)

(a) Families with public benefits will receive services at no cost.

(b) ESIT Provider Agencies and Service Providers must:

(1) In accordance with 34 CFR §§303.414 and 303.520(a)(3)(i), give written notification to families enrolled in public benefits informing them that personally identifiable information will be disclosed to Apple Health for Kids CHIP or Medicaid for the purpose of billing;

(2) In accordance with 34 CFR §303.520(a)(3)(iii), inform families that they have the right to withdraw their consent to the disclosure of personally identifiable information for billing purposes at any time.

(c) ESIT Provider Agencies and Service Providers will not pay the cost of premiums for Apple Health for Kids CHIP.

(d) In accordance with 34 CFR §303.520(a)(2)(iii), ESIT Provider Agencies and Service Providers must make available those services agreed upon in the IFSP, subject to FCP, as described in 14.A.4. The lack of consent for use of public benefits may not be used to delay or deny any services on an IFSP to the child or family.

(e) Assurance: In accordance with 34 CFR §303.521(a)(4)(iv), families with public insurance or benefits will not be charged disproportionately more than families who do not have public insurance or benefits or private insurance.

14.B.6 Use of TRICARE and/or Private Insurance

(a) In accordance with 34 CFR §303.520(b)(1)(ii), ESIT Provider Agencies and Service Providers will provide a written statement of the general categories of costs that the family may incur as a result of the use of TRICARE or private insurance, such as:

(1) Co-payments, co-insurance, or deductibles or other long-term costs, such as the loss of benefits because of annual or lifetime health care coverage/insurance caps under the insurance policy for the child, the parent, or the child's family members;

(2) The potential that the use of the family's TRICARE or private insurance may negatively affect the availability of health insurance to the child with a disability, the parent, or the child's family members covered under the policy; and health care coverage/insurance may be discontinued due to the use of the insurance policy to pay for Part C of IDEA services; or

(3) The potential that health care coverage/insurance premiums may be affected by using TRICARE or private insurance to pay for services.

(4) The potential that the family may pay for services that would otherwise be covered by TRICARE or private insurance.

(5) The potential risk of loss of eligibility for the child or child's parents for home and community-based waivers based on aggregate health- related expenditures.

(b) Families determined to have the "Ability to Pay" will be responsible for co- pays, co-insurance, and deductibles, unless a hardship exemption has been approved.

(c) ESIT Provider Agencies and Service Providers will not pay the cost of premiums for health care coverage/insurance.

(d) In accordance with §303.520(c), if a family has been determined to have the "Inability to Pay" and does not provide consent to use their TRICARE or private insurance, their lack of consent may not be used to delay or deny any services under IDEA Part C to the child or family.

(e) Assurance: In accordance with 34 CFR §303.521(a)(4)(iv), 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.

14.B.7 Use of Public Benefits (Apple Health for Kids CHIP/Medicaid) and TRICARE and/or Private Insurance

(a) In accordance with 34 CFR §303.520(b)(1), when families have both public benefits and private insurance, including TRICARE, ESIT Provider Agencies and Service Providers shall obtain parental consent for:

(1) The use of the family's TRICARE or private insurance to pay for any initial or ongoing eligibility evaluation and assessment.

(i) Insurance may be billed but the family is not responsible for any co-pays, co-insurance, or deductibles

(2) The use of the family's TRICARE or private insurance to pay for services subject to FCP as described in 14.A.4; and

(3) The use of TRICARE or private insurance to pay for any increase in frequency, length, duration, or intensity of services subject to FCP, as described in 14.A.4.

14.B.8 Monthly Participation Fee

(a) In accordance with 34 CFR §303.521, families who have been determined to have the "Ability to Pay" will pay a monthly participation fee when the family has:

(1) No insurance; or

(2) Denied access to Tricare or private insurance

(b) The Monthly Participation Fee is:

(1) Based on family size;

(2) Determined by using the Monthly Fee Schedule (revised annually using the Federal Poverty Level (FPL) Guidelines);

(3) Updated annually or sooner if there has been a change in family size, income, or expenses;

(4) A flat fee for **all** services on an IFSP subject to FCP, as described in 14.A.4;

(5) A maximum amount charged regardless of the number of children in the family enrolled in services; and

(6) Cannot exceed the actual cost of services.

(c) Families may ask to have a re-determination of their monthly participation fee any time there is a change in family size, income, and/or expenses.

(d) Families who decline to provide income and expense information will be charged a monthly participation fee at the highest level based upon family size.

14.B.9 Insurance Denials, No Benefits, and Exhausted Benefits

(a) When TRICARE, or private insurance **covers some but not all services** subject to FCP, as described in 14.A.4, on an IFSP:

(1) Every effort must be made and documented in the child's record, to obtain coverage approval.

(2) Services not covered must be provided at no cost to the family.

(b) When TRICARE or private insurance **does not cover any services** subject to FCP, as described in 14.A.4, on an IFSP:

(1) A monthly participation fee will be required if the family has been determined to have the "Ability to Pay" and a hardship exemption has not been approved.

(c) When TRICARE or private insurance **benefits have been exhausted** for all services on the IFSP subject to FCP, as described in 14.A.4, services will be provided at no cost.

14.B.10 Delinquent Payments

(a) For families determined to have the "Ability to Pay" and who have unpaid balances equaling 90 days of invoices due, the ESIT Provider Agency must:

(1) Gather income and expense information to redetermine the family's "Ability to Pay", if not determined within the last year, or if there has been a change in family size, income, or expenses.

(b) If the family is redetermined to have the "Inability to Pay", the family will not be responsible for any future co-pays, co-insurance, deductibles, or monthly participation fees.

(c) If the family has been redetermined to have the "Ability to Pay" and indicated they are not able to meet their family cost participation obligation, a hardship exemption must be approved.

(d) If the family declines to provide income and expense information:

(1) The family will be responsible for any unpaid balance and future co-pays, co-insurance, deductibles, or monthly participation fee; and

(2) Every reasonable effort should be made and documented to avoid sending families to collection by developing a payment plan agreed to by the family and ESIT Provider Agency.

(e) Services subject to FCP, as described in 14.A.4, on the IFSP should not be suspended due to delinquent payments.

(f) The ESIT Provider Agency must have consistent protocols and procedures to address the collection of delinquent payments that are implemented equitably for all families.

14.B.11 Hardship Exemption

(a) A hardship exemption must be approved when:

(1) A family who has provided their income and expense information and has been determined to have the "Ability to Pay" indicates they are unable to meet their family cost participation obligation due to a circumstance, **including but not limited to the following**:

(i) A change in income or allowable expenditures.

(ii) Any significant and/or ongoing medical expense(s).

(iii) A change in employment status (e.g. loss of job or reduced hours).

(iv) A significant life event (e.g. divorce, relationship breakdown, injury, illness, or death in the family).

(v) An emergency or natural disaster.

(vi) Rent and mortgage payments, with monthly costs, including utilities other than telephone, that exceed 30% of a household's monthly income.

(b) Families' signed attestation of hardship on the SOPAF form is sufficient, no additional documentation is required.

(c) Insurance can be billed with parent permission; however, the family is not responsible for co-pays, coinsurance, or deductibles.

(d) When transferring from one ESIT Provider Agency to another, "Ability to Pay" and Hardship attestation transfers with the family.

(e) Unless there is a change in the family's circumstance, hardship exemptions must be reviewed at least annually.

(f) ESIT Provider Agencies may use other agency funds, including Part C payer of last resort funds, to cover co-pays, co-insurance, deductibles, or monthly participation fees.

14.B.12 Procedural Safeguards

(a) In accordance with 34 CFR §303.521(e)(1), families have the right to contest the imposition of a fee, or the determination of "Ability to Pay" by:

(1) Participating in mediation in accordance with 34 CFR §303.431;

(2) Requesting a due process hearing under 34 CFR §303.436 or §303.441, whichever is applicable;

(3) Filing a state complaint under 34 CFR §303.434; and/or

(4) Using any other procedure established by the state to speed resolution of financial claims.

(b) In accordance with 34 CFR §303.520(b)(1)(iii) and §303.521(e)(2), families must be provided a written or electronic copy of the System of Payment and Fees Policy that details their procedural safeguards when:

(1) The program initiates IFSP services; and

(2) There is an increase in IFSP services

14.C Related Tools

Available on DCYF's ESIT Website at:
www.dcyf.wa.gov/services/child-dev-support-providers/esit/forms-publications

(a) Family Cost Participation Guidelines

(b) SOPAF Form

(c) Monthly Participation Fee Schedule

14.D Definitions

(a) At Public Expense means the cost of IDEA Part C functions and services that are required to be paid or provided by a public agency at no cost to the individual or family receiving the service.

(b) Public Benefits means government assistance programs such as Apple Health for Kids CHIP and Medicaid.

(c) TRICARE means the public health care program provided by the U.S. Department of Defense for active and retired military personnel, their dependents and some members of the National Guard and Reserves. Co-pays, co-insurance, and deductibles may apply to services on an IFSP subject to family cost participation.

(d) Private Insurance means an Insurance other than public benefits and TRICARE, for which co-pays, co-insurance, and deductibles may apply to services on an IFSP subject to family cost participation. This includes high-deductible insurance plans.

(e) Insurance subscriber means an Individual or entity that enters into a contractual agreement with an insurance company, who may pay premiums, and is entitled to receive insurance benefits as outlined in the policy.

(f) Family Cost Participation mean those services on an IFSP subject to family cost participation that the family must contribute financially to by using their public benefits, Tricare, private insurance, and/or paying a monthly participation fee.

(g) Monthly Participation Fee means a monthly flat fee assigned to the family based on family size, income, and expense information.

(h) ESIT Provider Agency means any DCYF approved organization including but not limited to a public, private, tribal, or non-profit entity including a School District, that provides all Early Intervention Services including Family Resources Coordination in accordance with the ESIT Provider Agency contract with the DCYF, Part C of IDEA, and Washington's Federally Approved State Plan regardless of whether or not the entity receives federal funds under Part C of IDEA. (Listed as EISPA in WAC 110-140).

(i) Early Intervention Services or Services means the direct early intervention services, as defined in Part C of IDEA, and the Washington State Policies and Procedures, Policy 2 Definitions. (Sec. 303.13 Early intervention services - Individuals with Disabilities Education Act) on a child's IFSP that are subject to family cost participation.

(j) ESIT Service Provider means an individual, that is either an employee or subcontractor, who provides Early Support Services, in accordance with the ESIT Provider Agency contract with the DCYF, Part C of IDEA, and Washington's Federally Approved State Plan regardless of whether or not the entity or individual receives federal funds under Part C of IDEA.