

Project: DODD & ODM Early Intervention Operations Protocol

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PROJECT PURPOSE

Situation

Ohio Early Intervention is regulated by Part C of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1431 through 1445 and 34 C.F.R. part 303, which mandates that the EI lead agency have a written method to establish financial responsibility for the provision of Part C services if there are state-level agencies, other than DODD, that provide or pay for Part C services. ODM and DODD have already added language to the SFY 18/19 IAA to address this requirement. This operations protocol specifies how the responsibilities of ODM and DODD are operationalized.

Ohio is committed to the health and developmental well-being of young children. The Early Intervention system provides health and developmental supports and interventions directly to children with developmental disabilities, their parents, and other caregivers, in the child's routine activities and places, while promoting parent participation in the interventions between visits. Many of the intervention service types mandated by IDEA are currently covered by Ohio Medicaid and, when Medicaid providers are willing to provide services to this population in accordance with both EI and Medicaid requirements, Medicaid is an important funding source. Because Medicaid and Part C funds are limited, the two programs need to work together to ensure proper payment for needed services. Part C funds are federally mandated to be payer of last resort.

Hot Spots

DODD and ODM share responsibility for, and are committed to, the health and developmental well-being of very young children and to providing the supports to parents to ensure healthy families. Both agencies share a mission for improving health and developmental outcomes for both children and families.

Early intervention is required to ensure collaboration of a statewide, comprehensive, coordinated, multidisciplinary, interagency, and intra-agency service delivery system for infants and toddlers with disabilities/developmental delays (eligible under Part C), and their families. This system is designed to ensure the availability and accessibility of early intervention services for all eligible children and their families.

In addition to meeting the federal requirements under IDEA for establishing financial responsibilities for early intervention services, this Operations Protocol sets the groundwork for

future, more comprehensive, ODM/DODD partnerships related to Medicaid funded EI services under EPSDT.

Scope of Work

In accordance with the Early Intervention Services-System of Payments rule (Ohio Administrative Code 5123:2-10-01), Medicaid funds may only be used to pay for EI services when no other funds, except federal part C funds, are available to pay for the needed EI services when a qualified provider signs the Early Intervention Provider Contract with DODD, when the parent provides consent to share PII with the state Medicaid agency for billing purposes, and when the child and provider meet all the Medicaid eligibility requirements.

ODM and DODD will use the processes described in the Interagency Agreement and this Operations Protocol for identifying and responding to any internal or interagency disputes regarding the Medicaid funding of EI services.

ODM and DODD will share data regarding the number of applications to DODD for Payor of Last Resort funding, the number of parents whose children were enrolled in Medicaid at the time of application and the counties of residence, the number of applications that included parent permission for DODD to share PII with ODM for billing purposes, the number of children who received an EI service through a contracted EI provider who attempted to bill Medicaid, and the types and number of units (claims) paid by Medicaid for EI services. This data will be tracked over time and any trends will be analyzed.

High-Value Targets

ODM and DODD will meet the requirements specified in the ODM/DODD IAA: ODM and DODD shall comply with the business requirements and deliverables as outlined in the Early Intervention Program Operating Protocols adopted under ORC 191.06 and defined in ORC 191.01(F). In the case of any conflict between the language in the Interagency Agreement and the language in this Operations Protocol, the language in this Operations Protocol shall supersede the language in the Interagency Agreement.

PROJECT TEAM

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Operations Protocol

- A. Applicability.** This Operations Protocol is adopted under ORC 191.06 and defined in ORC 191.01(F). It is applicable to the Ohio Departments of Medicaid and Developmental Disabilities.
- B. Purpose.** Under Part C of the Individuals with Disabilities Education Act (34 CFR part 303), specifically 34 CFR 303.511, DODD must have a written method to establish financial responsibility for the provision of Part C services if there are state-level agencies, other than DODD, that provide or pay for Part C services. This Operations Protocol constitutes agreement by the directors of these agencies with the personnel, workflow, and data sharing responsibilities stated herein.
- C. Funding Responsibilities.**
1. Ohio’s system of payments for early intervention services is described in OAC 5123:2-10-01 and for Medicaid services in 5160-1-02. Nothing in this Operations Protocol shall be construed to conflict with the provisions of OAC 5123:2-10-01 and 5160-1-02 and follows payment and coverage rules outlined in Chapter 5160 of the Ohio Administrative Code, including those provisions related to the use of public and private insurance to pay for early intervention services, parent cost participation fees, and use of federal Part C funds to pay for early intervention services.
 2. Ohio has a newly updated system of payments for early intervention services, including the protections of 34 CFR 303.520 and 303.521 and OAC 5123:2-10-01.
 3. Pursuant to 34 CFR 303.510, federal Part C funds are to be used as payor of last resort and, therefore, may not be used to satisfy a financial commitment for early intervention services that would otherwise have been paid for from other public or private sources, including any medical program administered by the Secretary of Defense.

4. Federal Part C funds may be used in the interim, if necessary, to prevent a delay in the timely provision of early intervention services for an infant or toddler with developmental delays or disabilities and their family.
- D. **Personnel.** Personnel identified for the time period specified in the table below are committed to the (project).

Time Period: 8/1/2017 - 7/30/2019			
Agency	Staff Person Name	Position	Functions Performed
ODM	Bonnie Hubbard-Nicosia	Medicaid Policy	policy development, analysis
ODM	Icilda Dickerson	Long Term Services and Supports, Bureau Chief	Policy development oversight, ODM Leadership team
ODM	Amy Eaton	Medicaid Policy	Policy Section Chief
ODM	Jackie Rigutto	Medicaid Policy	DODD policy, analysis
ODM	Ronda Cress	Attorney	legal review
DODD	Nathan DeDino	Part C Coordinator	Part C, EI policy
DODD	Kim Hauck	Deputy Director	Policy development and oversight, DODD le

- E. **Workflow.** Key workflow process transactions for the (project) are described below.

1. Internal Agency Dispute Resolution Procedures.

- a. In the case of internal agency disputes at DODD regarding early intervention services, the Director of DODD shall make the final decision.
- b. In the case of internal agency disputes at ODM regarding early intervention services, the Director of ODM shall make the final decision.
- c. In accordance with 34 CFR 303.511(d), no service will be delayed pending resolution of any dispute.

2. Interagency Dispute Resolution Procedures

- a. Should the parties find themselves in a dispute which cannot be resolved at the core team level, a meeting will be scheduled within fourteen business days with agency leadership (Assistant or Deputy Directors) to agree upon a written resolution.

- b. When a resolution to a dispute has not occurred through the meeting above, the parties, including Directors, will meet with a Mediator/Facilitator from the Office of Health Transformation who will recommend a path to solution. If mediation is unsuccessful, the Director of the Office of Health Transformation, as the Governor’s designee, shall make the final decision.
- c. In accordance with 34 CFR 303.511(d), no service will be delayed pending resolution of any dispute.
- d. The parties agree that in no case will early intervention services a child is entitled to receive be delayed or denied due to a dispute regarding financial or other responsibilities.
- e. In cases where ODM refuses to pay for early intervention services to which a child is entitled, DODD will pay for those services while the dispute is pending.
- f. If during DODD’s resolution of a dispute regarding the assignment of financial responsibility for early intervention services, the Governor, the Governor’s designee, or DODD determines that the assignment of financial responsibility was inappropriately made, DODD shall make arrangements for reimbursement of any expenditures incurred by the agency originally assigned financial responsibility.

F. Data Sharing.

- 1. Data sources and elements to be shared for the (project) for the time period specified are shown in the table below.

Operating Protocols Data Sharing Table for:			
Time Period: 8/1/17-7/30/29			
Data Source	Description of Data Elements	Is Data Protected Health Information?	Description of Data Sharing Procedures
MITS	Eligibility, claims, reports	yes	Maintain HIPAA, follow agency/state policies for PHI sharing, ODM/DODD IA
EI data system	Eligibility, POLR applications, claims, reports	yes	Follow IDEA 34 CFR 303.414, PII data sharing restrictions, HIPAA, FERPA, ODM/DODD IA

- 2. DODD will provide to ODM on a semi-annual basis:
 - a. The number of applications to DODD for Payor of Last Resort funding;

- b. Of those applications, the number of children enrolled in Medicaid at time of application and the counties of residence;
 - c. Of those applications (when the child was enrolled in Medicaid), the number of applications that included parent permission for DODD to share PII with ODM for billing purposes;
 - d. The number of children who received an EI service through a contracted EI provider who attempted to bill Medicaid; and
 - e. The number of units (claims) paid by Medicaid for EI services.
- 3.** If a participating agency reasonably determines that its protected health information shared with another agency has been maintained, used, or disclosed in violation of state or federal law, the agency shall cease sharing access to the information until the matter is satisfactorily resolved among the agencies and the Governor's Office of Health Transformation.