



# **south dakota** **BIRTH TO THREE**

**The first three years build a lifetime**

## **South Dakota Birth to Three Connections Program**

### **System of Payments**

**November 2012**

#### **Functions/Services Provided at No Cost**

The Birth to Three Connections program shall provide or purchase the following functions and services at public expense and at no cost to parents, as required by the federal Individuals with Disabilities Education Act (IDEA) Part C:

- A. Implementing child find requirements
- B. Evaluation and assessment, including the functions related to evaluation and assessment
- C. Service coordination services
- D. Administrative and coordinative activities related to the development, review, and evaluation of individual family service plans (IFSPs), interim IFSPs, and implementation of the procedural safeguards and other components of the statewide program of early intervention services.

#### **Family Fees**

The Birth to Three Connections program does not charge family fees for early intervention services.

#### **Funding Sources Incorporated into South Dakota's System of payments**

South Dakota has incorporated the following fund sources into its System of Payments policy:

- Public Benefits or Public Insurance (Medicaid); and
- Private Insurance.

### **Use of Public Benefits or Public Insurance (Medicaid)**

- Parents will not be required to sign-up for or enroll in a public benefits or insurance program if that child or parent is not already enrolled in such a program as a condition of receiving early intervention services from the Birth to Three Connections program.
- Birth to Three Connections obtains written consent to use a child's or parent's public benefits or insurance to pay for Part C services if that use would:
  - Decrease available lifetime coverage or any other insured benefit for that child or parent under that program;
  - Result in the child's parents paying for services that would otherwise be covered by the public benefits or insurance program;
  - Result in any increase in premiums or discontinuation of public benefits or insurance for that child or that child's parents; or
  - Risk loss of eligibility for the child or that child's parents for home and community-based waivers based on aggregate health-related expenditures.
- If a parent does not provide consent to access these public benefits or insurance to pay for Part C services, the Birth to Three Connections program must still make available early intervention services on the IFSP to which the parent has provided consent.
- If a parent consents in writing to have their or their child's public benefits or insurance (Medicaid) billed for early intervention services, the parent provides personally identifiable information to the service providers for billing purposes.
- Prior to using a child's or parent's public benefits or insurance to pay for Part C services, Birth to Three Connections provides written notification to the child's parents. The notification includes the following:
  - A statement that parental consent must be obtained under confidentiality protections, before the Birth to Three Connections 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);
  - A statement of the no-cost protection provisions in this section and that if the parent does not provide consent, the Birth to Three Connections must still make available those Part C services on the IFSP for which the parent has provided consent;
  - A statement that parents have the right under confidentiality protections to withdraw their consent to the 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

- A statement that the parent will not incur any costs as a result of participating in a public benefits or insurance program (such as co-payments or deductibles, or the required use of private insurance as the primary insurance). In South Dakota, parents are also informed that if their child is dually enrolled in both Medicaid and a private health insurance policy, Medicaid will re-coup its costs by billing the parent's private health insurance or the child's private health insurance. If a parent does provide consent to access Medicaid the State Lead Agency will pay co-pays and deductibles with Part C funds up to the cost of the early intervention service. However, the parent may decline to allow providers to bill Medicaid so that the parent's or child's private insurance will not be accessed and early intervention services will be provided at no cost to the parent.
- A statement that parents have the right to refuse to allow providers to bill Medicaid if they are concerned about the potential impact on their private health insurance coverage.
- A statement that parental consent is required if the level of services increases during the duration of the child's IFSP.

### **Use of Private Insurance**

- Birth to Three Connections may 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 Part C of IDEA, to use private insurance to pay for Part C services for his or her child.
- 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:
  - When Birth to Three Connections 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

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

If a State requires a parent to pay any costs that the parent would incur as a result of the State's use of private insurance to pay for early intervention services (such as co-payments, premiums, or deductibles), those costs must be identified in the State's system of payments policies under §303.521; otherwise, the State may not charge those costs to the parent. When obtaining parental consent required by this section or initially using benefits under a child or parent's private insurance policy to pay for an early intervention service, Birth to Three Connection must provide the parent a copy of the State's system of payments policies that identifies 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 other long-term costs such as the loss of benefits because of annual or lifetime health insurance coverage caps under the insurance policy). The State Lead Agency will pay co-pays and deductibles up to the cost of the early intervention service with Part C funds consistent with the payer of last resort requirements of Section 303.510.

Early intervention services, as specified in the child's Individualized Family Service Plan (IFSP) and to which the parent has consented, cannot be denied due to a parent's refusal to allow their private insurance to be billed for such services. Parents have the right to refuse to allow providers to bill their or their child's private insurance if

they are concerned about the potential impact on their private health insurance, such as an increase in premiums or the lifetime cap. If a parent refuses access to their or their child's private insurance, the Birth to Three Connections program must still provide early intervention services to the child as specified on the IFSP. Parental consent is required if the level of services increases during the duration of the child's IFSP.

### **Procedural Safeguards**

Consistent with Section 303.521(e), Birth to Three ensures that in the event a provider improperly charges a parent a fee for a Part C service, Birth to Three ensures the availability of procedural safeguards including the parent's right to do one of the following:

- Participate in mediation, in accordance with 303.431;
- Request a due process hearing under Section 303.441;
- File a state complaint under Section 303.434; or
- Use any other procedure established by South Dakota for speedy resolution of financial claims, provided that such use does not delay or deny the parent's procedural rights under Part C, including the right to pursue, in a timely manner, the options above as described in this System of Payment policy and procedures which is provided to parents whenever consent is obtained for the provision of early intervention services.

### **Serving Children In Need of Prolonged Assistance**

Since South Dakota has in effect a state law requiring the provision of FAPE for, and uses Part B funds to serve, an infant or toddler with a disability under the age of three who has been identified as needing prolonged assistance, South Dakota may not charge the parents of that infant or toddler for any services ( e.g., physical or occupational therapy ) under Part C of IDEA 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 IDEA.

