

IC 12-12.7-2

Chapter 2. Infants and Toddlers With Disabilities Program

IC 12-12.7-2-1

"Agency"

Sec. 1. As used in this chapter, "agency" means a department, a commission, a council, a board, a bureau, a division, a service, an office, or an administration that is responsible for providing services to infants and toddlers with disabilities and their families, including the following:

- (1) The division of mental health and addiction.
- (2) The state department of health.
- (3) The division of family resources.
- (4) The division of disability, aging, and rehabilitative services.
- (5) The department of education.
- (6) The department of child services.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-2

"Council"

Sec. 2. As used in this chapter, "council" refers to the interagency coordinating council established by section 7 of this chapter.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-3

"Early intervention services"

Sec. 3. (a) As used in this chapter, "early intervention services" means developmental services that meet the following conditions:

- (1) Are provided under public supervision.
- (2) Are designed to meet the developmental needs of infants and toddlers with disabilities in at least one (1) of the areas specified in section 4(a)(1) of this chapter.
- (3) Meet all required state and federal standards.
- (4) Are provided by qualified personnel, including the following:
 - (A) Early childhood special educators, early childhood educators, and special educators.
 - (B) Speech and language pathologists and audiologists.
 - (C) Occupational therapists.
 - (D) Physical therapists.
 - (E) Psychologists.
 - (F) Social workers.
 - (G) Nurses.
 - (H) Nutritionists.
 - (I) Family therapists.
 - (J) Orientation and mobility specialists.
 - (K) Pediatricians and other physicians.

- (5) To the maximum extent appropriate, are provided in natural environments, including the home and community settings in which children without disabilities participate.

- (6) Are provided in conformity with an individualized family service plan adopted in accordance with 20 U.S.C. 1435.
- (b) The term includes the following services:
 - (1) Family training, counseling, and home visits.
 - (2) Special instruction.
 - (3) Speech and language pathology, audiology, and sign language and cued language services.
 - (4) Occupational therapy.
 - (5) Physical therapy.
 - (6) Psychological services.
 - (7) Service coordination services.
 - (8) Medical services only for diagnostic, evaluation, or consultation purposes.
 - (9) Early identification, screening, and assessment services.
 - (10) Other health services necessary for an infant or a toddler to benefit from the services.
 - (11) Vision services.
 - (12) Supportive technology services.
 - (13) Transportation and related costs that are necessary to enable an infant or a toddler and the infant's or toddler's family to receive early intervention services.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-4

"Infants and toddlers with disabilities"

Sec. 4. (a) As used in this chapter, "infants and toddlers with disabilities" means individuals from birth through two (2) years of age who need early intervention services because the individuals meet the following conditions:

- (1) Are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in at least one (1) of the following:
 - (A) Cognitive development.
 - (B) Physical development.
 - (C) Communication development.
 - (D) Social or emotional development.
 - (E) Adaptive development.
- (2) Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(b) The term may also include, under rules adopted by the division, individuals from birth through two (2) years of age who are at risk of having substantial developmental delays if early intervention services are not provided.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-5

Purposes of chapter

Sec. 5. The purposes of this chapter are as follows:

- (1) To enhance the development and minimize the potential for developmental delay of infants and toddlers with disabilities.

(2) To reduce educational costs to the state by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age.

(3) To minimize the likelihood of institutionalization and maximize the potential for independent living of individuals with disabilities.

(4) To enhance the capacity of families to meet the special needs of infants and toddlers with disabilities.

(5) To comply with 20 U.S.C. 1431 through 1445.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-6

Administration and supervision; financial responsibility

Sec. 6. (a) The division shall do the following:

(1) Carry out the general administration and supervision of programs and activities receiving assistance under this chapter, monitor programs and activities implemented by the state, regardless of whether the programs and activities are receiving assistance under this chapter, and ensure that the state complies with 20 U.S.C. 1431 through 1445 in implementing this chapter.

(2) Identify and coordinate all available resources from federal, state, local, and private sources, including public and private insurance coverage and using all existing applicable resources to the full extent of the resources.

(3) Develop procedures to ensure that early intervention services are provided to infants and toddlers with disabilities and their families in a timely manner pending the resolution of disputes among public agencies and providers.

(4) Resolve disputes within an agency or between agencies.

(5) Enter into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services consistent with Indiana law and procedures for resolving disputes, including all additional components necessary to ensure meaningful cooperation and coordination.

(6) Develop and implement utilization review procedures for services provided under this chapter.

(b) The state shall designate an individual or entity responsible for assigning financial responsibility among appropriate agencies under this chapter.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-7

Establishment of council

Sec. 7. The interagency coordinating council is established.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-8

Membership

Sec. 8. (a) The council consists of at least fifteen (15) but not

more than twenty-five (25) members appointed by the governor as follows:

(1) At least twenty percent (20%) of the members must be individuals who:

(A) are parents, including minority parents, of infants or toddlers with disabilities or of children who are less than thirteen (13) years of age with disabilities; and

(B) have knowledge of or experience with programs for infants and toddlers with disabilities.

At least one (1) of the members described in this subdivision must be a parent of an infant or toddler with a disability or of a child less than seven (7) years of age with a disability.

(2) At least twenty percent (20%) of the members must be public or private providers of early intervention services.

(3) At least one (1) member must be a member of the general assembly.

(4) Each of the state agencies involved in the provision of or payment for early intervention services to infants and toddlers with disabilities and their families must be represented by at least one (1) member. The members described in this subdivision must have sufficient authority to engage in policy planning and implementation on behalf of the state agency the member represents.

(5) At least one (1) member must be involved in personnel preparation.

(6) At least one (1) member must:

(A) represent a state educational agency responsible for preschool services to children with disabilities; and

(B) have sufficient authority to engage in policy planning and implementation on behalf of the agency.

(7) At least one (1) member must represent the department of insurance created by IC 27-1-1-1.

(8) At least one (1) member must represent an agency or program that is:

(A) located in Indiana; and

(B) authorized to participate in the Head Start program under 42 U.S.C. 9831 et seq.

(9) At least one (1) member must represent a state agency responsible for child care.

(10) At least one (1) member must represent the office of Medicaid policy and planing established by IC 12-8-6-1.

(11) At least one (1) member must be a representative designated by the office of coordinator for education of homeless children and youths.

(12) At least one (1) member must be a state foster care representative from the department of child services established by IC 31-33-1.5-2.

(13) At least one (1) member must represent the division of mental health and addiction established by IC 12-21-1-1.

(b) To the extent possible, the governor shall ensure that the

membership of the council reasonably represents the population of Indiana.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-9

Appointment and terms of council members

Sec. 9. (a) The governor shall make the initial appointments under section 8 of this chapter with staggered terms and subsequent appointments for terms of three (3) years.

(b) A council member may be reappointed for succeeding terms.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-10

Chairperson

Sec. 10. (a) The governor shall:

(1) designate a member of the council to serve as the chairperson of the council; or

(2) require the council to designate a chairperson from within its membership.

(b) A member of the council who is a representative of the division may not serve as chairperson of the council.

(c) A chairperson may be reappointed for succeeding terms.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-11

Called meetings

Sec. 11. Any of the following may call a meeting of the council:

(1) The governor.

(2) The chairperson of the council.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-12

Vacancies

Sec. 12. The governor shall fill vacancies on the council.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-13

Frequency of meetings

Sec. 13. The council shall meet at least quarterly each year.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-14

Budget; use of funds

Sec. 14. The council may prepare and approve a budget using funds under this chapter to do the following:

(1) Conduct hearings and forums.

(2) Reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties, including child care for the members who are representatives of parents.

(3) Pay compensation to a member of the council if the member is not employed or is required to forfeit wages from other employment when absent from the other employment due to the performance of council business.

(4) Hire the staff and obtain services that are necessary to carry out the council's functions.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-15

Powers and duties

Sec. 15. The council shall do the following:

(1) Advise and assist the division in the performance of the responsibilities set forth in section 6 of this chapter, particularly the following:

(A) Identification of sources of fiscal and other support for services for early intervention programs.

(B) Use of existing resources to the full extent in implementing early intervention programs.

(C) Assignment of financial responsibility to the appropriate agency.

(D) Promotion of interagency agreements.

(E) Development and implementation of utilization review procedures.

(2) Advise and assist the division in the preparation of applications required under 20 U.S.C. 1431 through 1445.

(3) Prepare and submit an annual report to the governor, the general assembly, and the United States Secretary of Education by November 1 of each year concerning the status of early intervention programs for infants and toddlers with disabilities and their families. A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.

(4) Periodically request from the agencies responsible for providing early childhood intervention services for infants and toddlers with disabilities and preschool special education programs written reports concerning the implementation of each agency's respective programs.

(5) Make recommendations to the various agencies concerning improvements to each agency's delivery of services.

(6) Otherwise comply with 20 U.S.C. 1441.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-16

Advice and assistance regarding other services

Sec. 16. (a) To the extent that the services are appropriate, the council shall advise and assist the department of education regarding the transition of toddlers with disabilities to preschool special education services under IC 20-35.

(b) The council may advise and assist the division and the department of education regarding the provision of appropriate

services for children who are less than six (6) years of age.
As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-17

Cost participation schedule; cost participation plan

Sec. 17. (a) As used in this section, "per unit of treatment" means an increment of fifteen (15) minutes for services provided to an individual.

(b) A family shall participate in the cost of programs and services provided under this chapter to the extent allowed by federal law according to the following cost participation schedule:

Percentage of Federal Income Poverty Level		Copayment Per Unit of Treatment	Maximum Monthly Cost Share
At Least	But Not More Than		
0%	250%	\$ 0	\$ 0
251%	350%	\$ 0.75	\$48
351%	450%	\$ 1.50	\$96
451%	550%	\$ 3.75	\$240
551%	650%	\$ 6.25	\$400
651%	750%	\$ 13	\$800
751%	850%	\$ 19	\$1,200
851%		\$ 25	\$1,600

(c) A cost participation plan used by the division for families to participate in the cost of the programs and services provided under this chapter:

(1) must:

(A) be based on income and ability to pay;

(B) provide for a review of a family's cost participation amount:

(i) annually; and

(ii) within thirty (30) days after the family reports a reduction in income; and

(C) allow the division to waive a required copayment if other medical expenses or personal care needs expenses for any member of the family reduce the level of income the family has available to pay copayments under this section;

(2) may allow a family to voluntarily contribute payments that exceed the family's required cost participation amount;

(3) must require the family to allow the division access to all health care coverage information that the family has concerning the infant or toddler who is to receive services;

(4) must require families to consent to the division billing third party payors for early intervention services provided;

(5) may allow the division to waive the billing to third party payors if the family is able to demonstrate financial or personal hardship on the part of the family member; and

(6) must require the division to waive the family's monthly copayments in any month for those services for which it

receives payment from the family's health insurance coverage.

(d) Funds received through a cost participation plan under this section must be used to fund programs described in section 18 of this chapter.

As added by P.L.93-2006, SEC.11. Amended by P.L.229-2011, SEC.120.

IC 12-12.7-2-17.5

Remedies for failure to pay for services

Sec. 17.5. (a) Subject to subsection (b), the agency may do any of the following for any amount owed under section 17 of this chapter by a person if the amount owed is more than sixty (60) days past due:

(1) Set off under IC 6-8.1-9.7 on any state tax refund owed to the person against the delinquent debt.

(2) Terminate services provided to an individual under the program for failure to pay the cost participation set forth in section 17 of this chapter.

(b) The agency may not terminate services under subsection (a)(2) until the agency has provided the family with written notice:

(1) stating:

(A) the amount of money owed by the family that is past due for services provided; and

(B) the amount of payment necessary in order to prevent termination of services; and

(2) advising the family to contact the agency:

(A) for assistance; or

(B) to negotiate an alternative payment arrangement or to recalculate the amount of payment owed.

As added by P.L.229-2011, SEC.121.

IC 12-12.7-2-18

Adoption of rules

Sec. 18. Upon the recommendations of the council, the division shall adopt rules under IC 4-22-2 providing for a statewide system of coordinated, comprehensive, multidisciplinary, interagency programs that provide appropriate early intervention services to all infants and toddlers with disabilities and their families to the extent required under 20 U.S.C. 1431 through 1445.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-19

Budget agency reports

Sec. 19. The budget agency shall annually report to the health finance commission, the budget committee, and the commission on developmental disabilities the following information concerning the funding of the program under this chapter:

(1) The total amount billed to a federal or state program each state fiscal year for services provided under this chapter, including the following programs:

(A) Medicaid.

- (B) The children's health insurance program.
- (C) The federal Temporary Assistance for Needy Families (TANF) program (45 CFR 265).
- (D) Any other state or federal program.
- (2) The total amount billed each state fiscal year to an insurance company for services provided under this chapter and the total amount reimbursed by the insurance company.
- (3) The total copayments collected under this chapter each state fiscal year.
- (4) The total administrative expenditures.

The report must be submitted before September 1 for the preceding state fiscal year in an electronic format under IC 5-14-6.

As added by P.L.93-2006, SEC.11. Amended by P.L.3-2009, SEC.7.

IC 12-12.7-2-20

Mandatory features of statewide early intervention services system

Sec. 20. To the extent required in 20 U.S.C. 1431 through 1445, the statewide system must include the following:

- (1) A definition of the term "developmentally delayed" to be used in carrying out the programs under this chapter.
- (2) The timetables necessary for ensuring that the appropriate early intervention services are available to all infants and toddlers with disabilities before the beginning of the fifth year of the state's participation under 20 U.S.C. 1431 through 1445.
- (3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant and toddler with disabilities in Indiana and the needs of the families, to appropriately assist in the development of the infant and toddler with disabilities program.
- (4) For each infant and toddler with disabilities in Indiana, an individualized family service plan in accordance with 20 U.S.C. 1436, including case management services consistent with the individualized family service plan.
- (5) A comprehensive system for identifying infants and toddlers with disabilities, including a system for making referrals to service providers that:
 - (A) includes time lines; and
 - (B) provides for the participation by primary referral sources.
- (6) A public awareness program.
- (7) A central directory that includes early intervention services, resources, experts, and research and demonstration projects being conducted.
- (8) A comprehensive system of personnel development.
- (9) A policy pertaining to contracting or making other arrangements with service providers to provide early intervention services in Indiana, consistent with 20 U.S.C. 1431 through 1445 and including the contents of the application used and the conditions of the contract or other arrangements.
- (10) A procedure for securing timely reimbursement of funds

used under this chapter in accordance with 20 U.S.C. 1440(a).
(11) Procedural safeguards with respect to programs under this chapter as required under 20 U.S.C. 1439.

(12) Policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this chapter are appropriately and adequately prepared and trained, including the following:

(A) The establishment and maintenance of standards that are consistent with any state approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the personnel are providing early intervention services.

(B) To the extent the standards are not based on the highest requirements in Indiana applicable to the specific profession or discipline, the steps the state is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in Indiana.

(13) A system for compiling data on the following:

(A) The number of infants and toddlers with disabilities and their families in Indiana in need of appropriate early intervention services, which may be based on a sampling of data.

(B) The number of infants, toddlers, and families of infants and toddlers served.

(C) The types of services provided, which may be based on a sampling of data.

(D) Other information required under 20 U.S.C. 1431 through 1445.

As added by P.L.93-2006, SEC.11.