



*California's Protection & Advocacy System
Toll-Free (800) 776-5746*

Changes to Early Start – Utilization of Private Insurance

September 2012, Pub #F073.01

The State Legislature required the Department of Developmental Services (DDS) to reduce its budget by \$200 million for this fiscal year, 2012-2013. This reduction is in addition to significant reductions in fiscal years 2009-2010 and 2010-2011. As a result, there are changes to the services that regional centers can purchase and how the regional centers operate. The state budget also includes a provision for an additional \$50 million dollar reduction if the tax initiatives are not approved by voters in the November election plus a \$100 million reduction in fiscal year 2013-2014. If the additional cuts occur, DDS is required to have the reduction affect consumer services as little as possible. DDS shall consult with stakeholders groups, including, consumers, family members, advocacy groups, service providers and staff of regional centers and developmental centers to determine how the budget reduction will be achieved.

This fact sheet describes the 2012 change to the law that requires families to utilize private insurance to access services under the Early Start program. This law goes into effect on July 1, 2012.

Utilization of Private Insurance

The law has been changed regarding utilization of private insurance for a medical or health care service identified in an eligible infant or toddler's Individual Family Service Plan (IFSP). The utilization of a private health insurance plan shall not:

- 1) Count towards or result in a loss of benefits for the person with a disability or any other covered family member due to an annual or lifetime cap,¹ or
- 2) Negatively affect the availability or result in discontinuance of private insurance for the person with a disability or any other covered family member,² or
- 3) Be the basis for increasing the premium for private insurance for the person with a disability or any other covered family member.³

The law related to this issue for infants and toddlers generally requires parental consent for a regional center's utilization of a parent's private insurance to pay for early intervention services.⁴ However, a parent's consent is not required for a regional center to utilize the parent's private insurance if the state has enacted a state insurance law that protects parents from the adverse financial result they might receive from their private carriers due to a regional center's utilization of the private insurance benefits.⁵ This new law protects parents, as required. Parental consent will no longer be required after July 1, 2012. A regional center can access a parent's private insurance benefits to pay for early intervention services for the child.

Potential Adverse Consequences from which Parents Are Protected

If a parent incurs any premium costs, co-payments, or deductibles, those costs must be included in a system of family payments for early intervention services which the state must adopt.⁶ Because California has not yet adopted any state system of payments by families for early intervention services, a parent is not responsible for paying any deductibles

¹ Government Code Sec. 95004(c)(1)

² Government Code Sec. 95004(c)(2)

³ Government Code Sec. 95004(c)(3)

⁴ 34 CFR Sec. 303.520(b)(1).

⁵ 34 CFR Sec. 303.520(b)(2).

⁶ 34 CFR Sec. 303.520(b)(1)(ii).

or co-payments connected with an agreement to allow a regional center to utilize private insurance to pay for the child's early intervention services.

If California adopts a system of payments which includes a requirement that parents pay insurance co-payments or deductibles, the state must also include a provision for determining when a parent is unable to pay the costs related to early intervention services.⁷ Early intervention services for children of parents who meet the state's standard of inability to pay may not be denied or delayed because of these parents' unwillingness to consent to the utilization of their private insurance for early intervention services.⁸

Provision of Health Care Cards to Regional Centers

In 2009, California adopted laws which require parents, whose infants or toddlers are being initially evaluated for early intervention services or who are participating in their child's annual or periodic review, to provide to the regional center copies of any health benefits cards under which the child is eligible for benefits, including private health insurance and health care services plans.⁹ This enables regional centers to know which infants and toddlers have benefits which might be utilized in paying for early intervention services. This information, in combination with any increase in coverage for behavioral services for children with autism resulting from SB 946, may cause regional centers to regularly ask parents to consent to utilization of their health care insurance to pay for needed services.

Co-payments and Deductibles for Private Insurance Coverage

Parents should understand that until California adopts a state system of payments by parents for early intervention services, regional centers cannot make parents pay the co-payments or deductibles resulting from utilization of their private insurance to pay for early intervention services.

⁷ 34 CFR Sec. 303.521(a)(3).

⁸ 34 CFR Sec. 303.520(c).

⁹ Government Code Sec. 95020(b) & (f).

Written Notice of Action Required to Be Given by the Regional Center

If you and your regional center do not agree on a change in your IFSP, the regional center must give you a notice 30 days before the change begins.¹⁰ The notice must give you the following information:

- the action the regional center is taking;
- the basic facts about why the regional center is making its decision;
- the reason for the action;
- the effective date; and
- the specific law, regulation or policy that supports the action.¹¹

Filing for Hearing

If you are already receiving the service and you disagree with the regional center's decision and want to continue to receive the service, you must request a fair hearing within 10 days of receiving the notice.¹² Otherwise, the request must be made within 30 days.¹³

Mediation may be requested during a due process hearing if you decide that that it is appropriate. File your hearing or mediation request with:

Office of Administrative Hearings
Attention: Early Start Intervention Section
2349 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833
(916) 263-0654; Fax: (916) 376-6318

¹⁰ Welfare & Institutions Code Sec. 4710

¹¹ Welfare & Institutions Code Sec. 4701. The information must also be in the language you understand.

¹² Welfare & Institutions Code Sec. 4715.

¹³ Welfare & Institutions Code Sec. 4710.5 (a)

Your Rights during the Hearing Process

You have a right to:

- See your regional center records;
- Be present and give evidence by speaking or writing.
- Have your own family, friends, therapists or doctors be present and speak on your behalf.
- Have a lawyer or advocate present.
- Have an interpreter if your primary language is other than English.

Prepare for Your Hearing

- Gather information that shows that you need the services that the regional center wants to change. Make sure the information you use is accurate and explains your needs in detail. Also, find people who are willing to go to your hearing and tell the judge why you need the services. Make sure these people know your needs.
- At the hearing, you can argue that you have the right to have your needs met to fulfill your IFSP goals and objectives or explain why you meet an exception or exemption to the law.

Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>.