

## NEW YORK STATE DEPARTMENT OF HEALTH BUREAU OF EARLY INTERVENTION

### PARENT NOTICE REGARDING INSURANCE

In New York State, early intervention services must be provided at no cost to families. However, New York State 's system of payments for the Early Intervention Program includes the use of public insurance (such as Medicaid and Child Health Plus) and private insurance (such as CDPHP, UHC, and others) for reimbursement of early intervention services. These important sources of funding help to secure the availability of early intervention services for future generations.

Under Public Health Law, providers of early intervention services are required to bill public and private insurance for early intervention services first, before submitting bills for payment by your municipality. Private insurance will only be billed if your insurance policy is subject to New York State law, or with your consent if your insurance policy is not subject to State law.

#### **Medicaid and Private Insurance:**

If your family has both private insurance and public insurance (Medicaid) coverage, claims for payment of early intervention services will first be billed to your private insurance and only the remaining balance will be billed to public insurance (Medicaid) for payment. If your child is covered by Medicaid, your consent was provided to bill any private insurance coverage available to your child for early intervention services first as part of the Medicaid enrollment application. Your child's insurance plan will be billed for early intervention services and no additional consent is needed from you if the child's insurance is subject to New York State Insurance Law. Your consent will be needed to bill your child's private insurance plan if the plan is not fully insured and subject to New York State Insurance law.

#### **Collection of Insurance and Social Security Numbers:**

Under New York State Public Health Law (PHL):

- Your service coordinator must collect, and you must provide, information and documentation about your child's insurance coverage, including public and private insurance. This information includes: the type of insurance policy or health benefits plan, the name of the insurer or plan administrator, the policy or plan identification number, the type of coverage in the policy and any other information needed to bill your insurance. Your service coordinator will explain your rights and responsibilities, and the protections that the law provides for families. [PHL§2543(3); PHL§2559(3)(a)(i)]
- Your Early Intervention Official must collect, and you must provide, your social security number and your child's social security number. This information will be maintained in a secure and confidential manner. [PHL§2552(2)]

### **Insurance Policies Regulated by New York State:**

**The following protections are ensured under New York State Public Health Law (PHL) and New York State Insurance Law (SIL) for insurance plans that are regulated by New York State, when public and private insurance is used to pay for early intervention services.**

- 1. The early intervention services your child needs will be provided at no cost to your family.** You cannot be asked to pay any out-of-pocket costs, such as deductibles or co-payments, for any services your child and family receive in the Early Intervention Program. The Early Intervention Official will arrange for payment of all co-payments and deductibles. [PHL§2557(1); PHL§2559(3)(b)]
- 2. Insurers are prohibited from charging any benefits paid for early intervention services against any maximum annual or lifetime policy limits ("caps").** This means that any payment made by your insurance company for early intervention services will not decrease your family's total insurance coverage. [PHL§2559(3)(c); SIL§3235-a(b)]
- 3. Insurers are prohibited from charging any early intervention services paid against visit limits in your policy.** This means that early Intervention visits reimbursed by the insurer cannot reduce the number of visits otherwise available to your child and family for health care. [SIL§3235-a(b)]
- 4. The early intervention services available to your child and family will not be limited to what is covered by your insurance.** Your Early Intervention Official has to make sure that appropriate early intervention services are provided to your child, even if your insurance does not cover these services or if you have no insurance. [PHL§2552(1)]
- 5. Your health insurance company cannot discontinue or fail to renew your insurance coverage solely because your child is receiving services through the Early Intervention Program.** [SIL§3235-a(d)]
- 6. Your health insurance company cannot increase your health insurance premiums solely because your child and family are receiving services through the Early Intervention Program.**
- 7. Your child's eligibility for home and community-based waiver programs will not be affected** by use of public health insurance (i.e., Medicaid) to pay for early intervention services. Receiving early intervention services does not preclude participation in home and community-based waiver programs.
- 8. Early intervention services in your IFSP must still be provided even if you do not have private or public insurance coverage.** You cannot be required to obtain health insurance coverage as a condition of participating in the Early Intervention Program, although your service coordinator can assist you with referral and application for public benefits if you choose. [PHL§2552(1); PHL§2559(1)]
- 9. If your private insurance is not regulated by New York State** (such as if your employer is self-insured) and the use of private insurance would result in any cost to your family (including loss of benefits), your insurance plan will **not** be billed unless you give informed written consent. [PHL§2559(3)(a)]

### **Insurance Policies Not Regulated by New York State:**

**If your insurance plan is not regulated by New York State, the protections in State Insurance or Public Health Law would not apply to your insurance plan. Under these circumstances:**

1. Your insurer may not be prohibited from applying the early intervention services to the policy's lifetime or annual monetary limits or from reducing the number of visits otherwise available.
2. Your insurer may not be prohibited from discontinuing or failing to renew your health insurance coverage because your child is receiving EIP services.
3. Your insurer may not be prohibited from increasing your insurance premiums because your child is receiving EIP services.

### **Written Consent:**

**Your written consent is required in order for your health insurance plan (if not regulated by New York State) to be accessed to help pay for early intervention services. If you decide you do not want to give written permission for the Early Intervention Program to bill your health insurance plan, the services in your IFSP must still be provided. [PHL§2552(1)]**

- If a parent has provided informed written consent to use non-regulated insurance for payment of EIP services, service coordinators must obtain a new informed written consent from the parent at every 6-month IFSP review/meeting and whenever there is an increase (in frequency, duration, or intensity) in the provision of services in the IFSP. [34 CFR §303.420(a)(3); §303.520(b)(1)(i)]

If you decide to give your written permission for your health insurance plan to be accessed to pay for early intervention services, the following protections are in place for you:

1. **The early intervention services your child needs will be provided at no cost to your family.** You will not be asked to pay any out-of-pocket costs, such as deductibles or co-payments, for any services your child and family receive in the Early Intervention Program. The Early Intervention Official will arrange for payment of all co-payments and deductibles by the municipality. [PHL§2559(3)(b)]
2. **The early intervention services available to your child and family will not be limited to what is covered by your insurance.** Your early intervention official has to make sure that appropriate early intervention services are provided to your child, even if your insurance does not cover these services. [PHL §2552(1)]

### **Subrogation:**

New York State Public Health Law gives the municipality and provider the right of 'subrogation' to reimbursement under your policy, to the extent that the municipality has paid for early intervention services or the provider has delivered services covered by your policy.

[PHL§2559(3)(d); SIL§3235-a(c)] This means that any payment for early intervention services made by private insurance must be made directly to the early intervention provider. Should payment be made to you in error, please contact your early intervention provider(s) and/or service coordinator for direction and assistance. This is important to ensure your provider is paid for early intervention services delivered to your child and family.

**Due Process Rights:**

Parents have the right to access due process procedures to settle disagreements or complaints about their child's early intervention services. These due process rights include the opportunity for mediation, seek a due process hearing, and/or the opportunity to file a state system complaint. All options are voluntary and at no cost to the parent. [34 CFR §303.431, §303.436, §303.441, §303.434; PHL §2549; 10 NYCRR Section 69-4.17]

- Mediation is a process conducted by a trained mediator from a Community Dispute Resolution Center who assists parents and Early Intervention Officials to reach an agreement about early intervention services.
- Impartial Hearings are conducted by hearing officers (administrative law judges assigned by the Commissioner of Health or designee) and are also used to settle disputes between a parent and an Early Intervention Official. Parents can ask for an impartial hearing if their child is found ineligible for services by an evaluator as long as the request is made within 6 months of the date the child was found ineligible.
- A system complaint can be filed if parents believe that their EIO, service coordinator, evaluator or service provider is not doing his or her job under the law, rules, or regulations. This complaint must be made in writing to the New York State Department of Health Director of the Bureau of Early Intervention and must be submitted less than one year from the date of the alleged violation.

If you have any questions about the information in this notice, please ask your service coordinator or Early Intervention Official, or call or e-mail the New York State Department of Health, Bureau of Early Intervention at 518-473-7016 or [beipub@health.ny.gov](mailto:beipub@health.ny.gov).