

Original: 2122

RECEIVED
2000 AUG -2 PM 2:20
REVIEW COMMISSION
August 1, 2000

Pennsylvania Association of Home Health Agencies

20 Erford Road • Suite #115 • Lemoyne, PA 17043 • (717) 975-9448 • (800) 382-1211 • Fax (717) 975-9456

Mr. Mel Knowlton
Department of Public Welfare
P. O. Box 2675
Harrisburg, PA 17105

Dear Mr. Knowlton:

The purpose of this letter is to submit comments on the Department's proposed rule for Early Intervention Services on behalf of the Pennsylvania Association of Home Health Agencies. PAHHA's member home care agencies often serve as contractors for the Early Intervention Program as providers on health and health related in home services. Much of the proposed rule has no impact on home care providers with the exception of the training requirements set forth in Section 4226.37. It is to this point that the Association directs its comments.

Section 4226.37 Annual Training

This provision represents a true hardship for home care providers. PAHHA's members report that they receive minimal reimbursement via the EI Contract for the time the therapist(s) attend training. Furthermore, training sessions are frequently held in locations which are difficult to access for rural providers. PAHHA appreciates the logistical problems presented by a state as large as Pennsylvania. However, rural providers report the loss of the services of their therapists for a full day and the revenue attenuate to their services for that day three times each year to meet the requirements for 24 hours of in-service training.

The difficulty in the proposed language is that the rule views contracting as "contracting with a person" (in which case, annual training would have merit). Yet the rule overlooks those circumstances where the contract is with a home health agency which is Medicare Certified and/or Pennsylvania licensed and whose personnel already must meet education/training requirements established by the Medicare Conditions of Participation or Pennsylvania licensure standards.

PAHHA strongly recommends that the Department of Public Welfare rewrite this section. The Department must recognize the extensive training and staff education requirements of Medicare Certified and Pennsylvania licensed home care agencies. We suggest that the Early Intervention Program accept the training requirements of Certification and licensure as sufficient to meet the requirements of the Early Intervention Program.

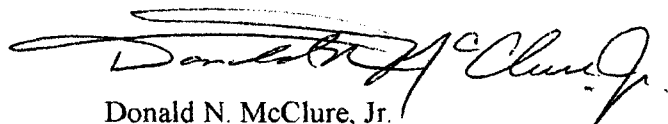
Mr. Mel Knowlton

August 1, 2000

Page 2

Please know that we stand ready to offer further guidance on this matter. I will be contacting you later this month to discuss language which will address the Association's concern. In the meantime, please do not hesitate to contact me should you have additional questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Donald N. McClure, Jr.", with a long horizontal flourish extending to the left.

Donald N. McClure, Jr.
Director of Government Affairs

Mel Knowlton
Department of Welfare
PO Box 2675
Harrisburg, PA 17105-2675

Original: 2122 RECEIVED

2000 AUG -2 AM 10: 04

REVIEW COMMISSION

Barbara Miller
81 Ames Road
Bentleyville, PA 15314

Mr. Knowlton:

I am submitting some of my concerns regarding PA infants and Toddlers with Disabilities Regulations.

A regulation should be in place, to ensure qualified personnel at county and state level in policy development. I was very shocked that our county had a mental health specialist I With no E.I. education. I requested this information in writing. Problems at the county level took me to a Due Process. Policies were written that were not in compliance with The IDEA. (Attached is copies of rescinded policies) These policies were very troubling to me; I contacted Western Region OMR and made them aware of the policies.

Nothing happened until I contacted Secretary Heuman's office. If policies are written to This degree, who is watching who and how can these administrators monitor provider Agencies.

I understand workshops are offered though out the state to counties, providers and parents. When such workshops are offered, very few parents were made aware of them. I for one found out about Hershey's conference though a friend. Parents are not given Enough information and support. As for the local LICC, I was invited to the picnics. Information should always be given in writing. I have been told things verbally, when I ask for it to be put in writing, I am told it was never said.

Each child should be looked at, as an individual not lumped into a group. Dollars should not be an issue.

I have been very troubled over many issues in the E.I. program and have expressed them In writing and verbally. I feel I have been ignored. No one seems to know the answer to My questions. Parents are afraid if they speak out their child will be denied services. The complaint process is very difficult for some parents. The county and state should be Better prepared in how they handle complaints. Many can be resolved without a due Process. Which is not an easy task.

Thank you very much for your time and effort. If I can be of further assistance, please Call me any time 724-239-5387.

Thank you,

Barbara Miller
Barbara Miller

Original: 2122

Washington County Behavioral Services
Thomas R. Milarski, Administrator
Suite 402, Plaza Building
Washington, Pa. 15301

RECEIVED

2000 AUG -2 AM 10: 04

REVIEW COMMISSION

Barbara Miller
81 Amcs Road
Bentleyville, Pa. 15314

Mr. Milarski:

I am requesting in writing all information concerning why Washington County no longer will fund center-based programs in the birth to three Early Intervention Program. You and your staff have stated in the past that the reason you no longer will fund a center-based program is because it is against the IDEA. Please respond in writing, in five days upon receipt of this request. Your cooperation is very much appreciated.

Thank you,

Barbara Miller

Cc:

Commissioner: John Bevec
Commissioner: Diana Irely
Commissioner: Bracken Burns
Director of Human Resources: George Krcelich
Vicki Amos
Thomas Jones

JOHN P. BEVEC, CHAIRMAN
DIANA L. IREY
J. BRACKEN BURNS, SR.
COUNTY COMMISSIONERS
(724) 228-6724



THOMAS R. MILARSKI
ADMINISTRATOR

PHONE: (724) 228-6832
FAX: (724) 223-4685

COUNTY OF WASHINGTON
MENTAL HEALTH/MENTAL RETARDATION PROGRAM
SUITE 402, PLAZA BUILDING
150 WEST BEAU STREET
WASHINGTON, PA 15301

July 20, 2000

Barbara Miller
31 Ames Road
Bentleyville, PA 15314

Dear Ms. Miller:

In response to your letter dated July 19, 2000, please find the Natural Environment Policy and related Mental Retardation Bulletin 00-99-08 enclosed.

Further, I would like to clarify that no one from our Office has indicated that we will not fund a Center Based Program for Early Intervention Services.

As you are aware from our numerous discussions and your Due Process Hearing, the decision made by various provider agencies to close Center Based Programs was their choice.

I hope this information helps clarify your concerns regarding this matter to your satisfaction.

Very truly yours,

A handwritten signature in cursive script that reads "Thomas R. Milarski".

Thomas R. Milarski,
Administrator

TRM/cp

Enclosure

cc: Commissioner Bevec
Commissioner IreY
Commissioner Burns

George Krcelich
Vickie Amos
Tom Jones

Mary Puskarich


Washington-Greene
Behavioral Health Services

Thomas R. Milarski
Administrator

Robert A. Harms, Deputy Administrator
Washington-Greene MH/MR Program
Suite 402, Plaza Building
Telephone: (724) 228-6832
FAX: (724) 228-6885

Holly Martin, Director
Drug & Alcohol Planning Commission
Suite 406, Plaza Building
Telephone: (724) 228-6764
FAX: (724) 228-6765

TO: Jill Ealy, Selma Tansey, Janet Bitonti, Marvin Batten, Monica Dipytic,
Cindy Cummings, Lori Martin, Toni Tarquinio, Nancy Barshick,
John Cumpston, Lynn Mosallem, Janet Gmitter, Ron Staszal

FROM: Thomas R. Milarski 

DATE: January 6, 2000

RE: Natural Environment Policy

Effective immediately, Washington-Greene Behavioral Health Services Program will utilize Mental Retardation Bulletin 00-99-08 entitled "Natural Environment" for its Natural Environment Policy.

If you require a copy of the above referenced bulletin and/or if you have any questions, please contact Vickie Amos at (724) 228-6977.

cc: Mary Puskarich
Tom Jones

TRM/rlh

Rescinded
~~D. L.~~

Washington-Greene

1/1/1999

Behavioral Health Services

Thomas R. Milarski,
Administrator - 2 1110: 04
2000 AUG

Robert A. Harms, Deputy Administrator
Washington-Greene MH/MR Program
Suite 402, Plaza Building
Telephone: (724) 228-6832
FAX: (724) 223-4685 1999

Original: 2122 VIEW COMMISSION

Holly Martin, Director
Drug & Alcohol Planning Commission
Suite 406, Plaza Building
(724) 228-6764
FAX: (724) 228-6765

303512

We have received the results of our Compliance Monitoring for Early Intervention conducted by Ronald H. Staszal and David A. Kucherauy on March 23-26 and our exit interview on May 7, 1999.

I have enclosed the sheets showing our areas of non-compliance and will forward our Plan of Correction to you when it is completed.

This letter is in regard to the following three areas of non-compliance:

- ⓐ M-4 To the maximum extent appropriate early intervention services are not provided in natural environments.
- ⓑ M-5 Early Intervention services are provided in a setting other than a natural environment even when such services could satisfactorily be provided in a natural environment.
- ⓒ P-3 Objectives do not always include ways that make family routines and activities easier since one provider continues to provide center based program.

The Federal Office of Special Education Program. (OSEP) is scheduled to review our state next year, possibly the month of March. I have enclosed a draft of the tool they may be using during their monitoring. As you review the Cluster areas that will be targeted, please note the three cites listed above are in the two clusters emphasized by OSEP. Part C Cluster Area E and Part C Cluster Area F. It is imperative that we make every effort to be in compliance with this Draft Continuous Improvement Monitoring Process.

The rationales used to justify center based services on the IFSP were not acceptable to the Office of Mental Retardation and we can assume they will not be acceptable to OSEP. Therefore the following steps are to be taken to ensure that every reasonable effort be made to provide services in natural environments:

1. Services must take place in the child's natural environment for at least one year. Only if the child shows no improvement in any of the five areas of developmental will a change in the location of the services be considered. If the child has a set back due to illness, hospitalizations or the onset of a new condition etc., the time frame will start over, beginning with the time the child's health stabilized.
2. If the child shows no improvement in any of the five areas, the service coordinator will do an exhaustive search for another natural environment, such as a typical daycare center, a play group, a library group, or a time with other children in the neighborhood or relatives. An inclusive environment must first be tried for a period of 8 months. Only if the child shows no improvement in this environment can the next step be considered.

3. Any IFSP meeting that will discuss providing services in a segregated setting must include a representative from Washington-Greene Behavioral Health Services (W-G BHS). Every effort will be made to accommodate the schedule of the individual from W-G BHS. Segregated settings must be authorized by W-G BHS. If services are provided in a segregated setting apart from the approved authorization, those services will not be reimbursed by W-G BHS.

Also, because the rationales listed on the current IFSP's of children receiving segregated services are not acceptable to the Office of Mental Retardation, every effort should be made to move those services into natural environments and follow the above steps.

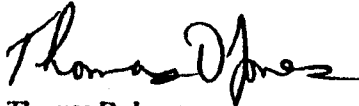
This policy is effective June 14, 1999.

Please call if you have any questions.

Sincerely,



Thomas R. Milarski,
Administrator



Thomas D. Jones
MR Program Director

Rescinded

WASHINGTON-GREENE BEHAVIORAL HEALTH SERVICES
EARLY INTERVENTION POLICY AND PROCEDURE

NATURAL ENVIRONMENT POLICY

PURPOSE

The purpose of Mental Retardation Bulletin 00-99-08 is to establish the Department's policy for natural environments. The policy is to meet statutory requirements established by Public Law 105-17, the Individuals with Disabilities Education Act (IDEA), enacted on June 4, 1997.

BACKGROUND

The initial Federal P.L. 99-457, Part H, under the "Education of the Handicapped Act Amendment" was enacted on October 8, 1986. In October 1991, Part H of the Individuals with Disabilities Education Act (IDEA) was reauthorized as P.L. 102-119, the "Early Intervention Program for Infants and Toddlers with Disabilities." Part H of IDEA states "that to the maximum extent appropriate to the needs of the child, early intervention services must be provided in natural environments, including the home and community settings in which children without disabilities participate," and that "natural environments means settings that are natural or normal for the child's age peers who have no disabilities." This law was amended by P.L. 105-17. As a result of these amendments, prior to October 1, 1997, Part C of IDEA was known as Part H.

The statutory amendments reflected in P.L. 105-17, Part C, made changes to the original Part H which impact on early intervention supports and services for eligible infants and toddlers and their families. Statutory amendments of 1997 added two requirements related to the provision of early intervention services in natural environments. First, 34 C.F.R. Part 303.167 ©, requires that states develop policies and procedures to ensure that to the maximum extent appropriate, early intervention services are to be provided in natural environments and occur elsewhere only if early intervention cannot be achieved satisfactorily in a natural environment.

DEFINITION:

The following is the definition of natural environments as defined in Mental Retardation Bulletin 00-99-08 effective July 1, 1999, "Natural Environments means settings that are natural or normal for the child's age peers who have no disabilities." (34 C.F.R. Part 303.12(4)(b)(2).

"Early intervention services means developmental services that to the maximum extent appropriate are provided in natural environments, including the home and community settings in which children without disabilities participate" and "The provision of early intervention services for any infant or toddler occurs in a setting other than a natural environment **only** when early intervention cannot be achieved satisfactorily for the infant

**WASHINGTON-GREENE BEHAVIORAL HEALTH SERVICES
EARLY INTERVENTION POLICY AND PROCEDURE**

or toddler in a natural environment.” (P.L 105-17 – June 4, 1997 Amendments to IDEA)
In addition, under the new Part C 1997 Amendments of IDEA, the definition of “natural environments” moves from Section 303.12(b) to Section 303.18.

POLICY

To the maximum extent appropriate, supports and services shall be provided in natural environments. Services shall be provided in communities or locations where the child lives, learns and plays in order to enhance the child’s participation in family routines, and in the activities and routines that occur in a variety of community settings where children and families spend time. Home and community settings provide children the opportunity to learn and practice new skills within a context that provides educational and developmental interventions. The natural environment locations in which supports and services will be provided are determined by an individual assessment of the child’s need (s) and the family’s concerns, resources and priorities which relate to the outcomes outlined on the IFSP.

Washington-Greene Behavioral Health Services is committed to providing services in natural environments and believes that by providing our birth to three year old children in our program with services in natural environments we will be giving our families the beginning of the resources they need to keep their children in inclusive settings and activities for their life time.

Washington-Greene Behavioral Health Services has developed the following general guidelines to be used to ensure that every reasonable effort is made to provide services in natural environments. As always children are evaluated on a case by case basis.

1. Services should take place in the child’s natural environment for **at least one year**. Only if the child shows unsatisfactory improvement in any of the five areas of developmental will a different location for services be considered. Set backs due to illness, hospitalizations or the onset of a new condition etc. as well as conditions where little or no improvement is expected, will be taken into consideration at the time of IFSP reviews.
2. If the child shows unsatisfactory improvement in any of the five areas, the service coordinator will do an exhaustive search for a community environment in which children without disabilities participate, such as a typical daycare center, a play group, a library group, a time with other children in the neighborhood or with relatives of the child. This type of environment should be tried for a period of **6 months**. Only if the child shows unsatisfactory improvement in this environment should other options be considered.
3. Any IFSP meeting that will discuss providing services in a setting that is not natural or normal for the child’s age peers must include a representative from Washington-Greene Behavioral Health Services (W-G BHS). Every effort will be made to accommodate the schedule of the individual from W-G BHS.

**WASHINGTON-GREENE BEHAVIORAL HEALTH SERVICES
EARLY INTERVENTION POLICY AND PROCEDURE**

- Any setting that is not considered a natural environment **must** be authorized by W-G BHS. If services are provided in a non-natural setting apart from the approved authorization, those services will **not** be reimbursed by W-G BHS.
4. If the IFSP team members agree to the provision of supports and services in locations other than a child's natural environment (s), the team must show sufficient documentation during the initial writing of the IFSP that supports the team's decision that the child's and family's outcomes cannot be met by providing supports and services in the natural environment (s) of the child and family. As part of the six-month review, or at the request of the family, the IFSP and justification are reconsidered, documented on the IFSP, and include:
 - a) How services provided in location other than a natural environment will be generalized enough to support the child's future ability to function in his/her natural environment, including:
 - b) A plan with timelines and the supports necessary to allow the child's and family's outcomes to be satisfactorily achieved in his/her natural environments (as an addendum to the initial IFSP).
 5. A review of the IFSP must be continued during the period that a child and family is receiving early intervention supports and services. This method should be repeated until the child and family can receive supports and services that are naturally provided in their everyday lives (home and community activities).

A representative of Washington-Greene Behavioral Health Services is available to provide technical assistance through various means, discuss special cases, and attend IFSP meetings. Please give the representative ample notice so that time can be scheduled for technical assistance or to attend IFSP meetings.

Public Comment #31

Chester County Disability Services

Cerebral Palsy Association of Chester County, Inc.



RECEIVED

749 Springdale Drive, Exton, PA. 19341-2858

Tel: (610) 524-5850 1-800-559-2237

FAX: (610) 524-5855

2000 AUG -1 PM 2: 34

REVIEW COMMISSION

Original: 2122

July 28, 2000

Mel Knowlton
Department of Public Welfare
PO Box 2675
Harrisburg, PA 17105-2675

Dear Mel:

Enclosed are my comments on proposed rulemaking on Early Intervention Services.

Thank you for your time and consideration.

Truly yours,


James McKittrick

Cerebral Palsy Association of Chester County, Inc.

Comments on Early Intervention Regulations

GENERAL REQUIREMENTS - 4226.21 - 4226.43

4226.25 - 4226.28 Initial Screening

Comment:

- The concept of screening needs more definition. There should be some uniformity so that children across the state are treated equally.

4226.26 Purpose of Initial Screening.

The purpose of the initial screening shall be to determine the need for referral for an MDE to determine eligibility for early intervention services or tracking

Comment:

Since screening is to sort out who needs and MDE and who does not, there should be some provision for parents to request an MDE when their child is "screened" out if they still have a concern, short of a due process hearing.

4226.32. Contacting Families

(a) The legal entity shall contact the families by telephone, in writing or through a face-to-face meeting at least every four months after a child is referred to the tracking system, or until parent requests no further contact by the legal entity.

Comment:

Email should also be an option or count as "in writing".

4226.37. Annual Training

The service coordinator, early interventionist and other personnel who work directly with the child, including personnel hired through contract, shall have at least 24 hours of training annually...

Comment:

This is vague and possibly excessive. Given the historically low reimbursements to providers how is this 24 hours to be paid. If it is university credits it would mean full time attendance, when would they work? It would also cost more than \$12,000 per year per employee. This section should be clarified or dropped.

4226.38. Criminal History Records Check

Comment:

Is it the intent of the Department to eliminate the current child abuse check?

PERSONNEL 4226.51 -4226.5

4226.55 Early Interventionist

Comment:

Is this position the same as a special educator?

4226.56 requirements and Qualifications

An early interventionist shall have one of the following group of qualifications:

(a)

(1) A bachelor's degree or above from an accredited college or university and I year work or volunteer experience working directly with children, families or people with disabilities or in counseling.

(2) An associate's degree, or 60 credit hours, from an accredited college or university and 3 years work or volunteer experience working directly with children, families or people with disabilities or in counseling.

(b) An early interventionist shall obtain a minimum of 6 credit hours annually in the field of infant toddler developmental services, early childhood services, or any specific areas that relate to infant and child disabilities.

Comment:

These regs should grandfather in anyone currently performing adequately in the position regardless of educational level and also eliminate the six credit hours requirement. Credit hours are expensive and the state already underfunds the program and there are no credible studies or research to validate this requirement. It is just another pointless, elitist credentialing exercise.

EVALUATION AND ASSESSMENT 4226.61 - 4266.63

4226.62MDE

(a)Requirements for MDE

(2)The initial MDE is conducted by personnel independent of service provision.

Comments:

This a paranoid regulation inserted by overly suspicious bean counters. In some rural counties it would present hardship and in all other counties insults the ethics of entire professions. It is capricious and unnecessary and should be dropped.

Evaluation and Assessment

(b)(2) The annual MDE will be composed of the family, service coordinator, anyone whom the parent would like to invite and at least one other professional who meets State approved or recognized certification, licensing, registration or other comparable requirements, if applicable, in which the person is providing services.

Comment:

This would be clearer if it said MDE team.

IFSPs 4226.71-422675

422671. General

Comment:

Since some of this deals with the silly natural environments issue, I should just note that since family centered services are encouraged elsewhere in the regulations that the IFSP final recommendation not have any veto power resting with a government employee as to locales but instead reflect the consensus of the team including the parents.

4226.73 Participants in IFSP Meetings and periodic reviews.

(a) Each of initial meeting and each annual meeting to evaluate the IFSP shall include the following participants:

(3) An advocate or person outside of the family, if the parent requests that the person participate.

Comment:

This should be given a parent in writing

4226.74 Content of IPSP

(5) Natural environments. A statement of the natural environments in which early intervention

services shall appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment.

Comment:

Future experts in the field will look upon the natural environments policy as some inexplicable late 20th century silliness. Children with needs should go wherever their family thinks the best people will handle it. Children do not live in early intervention land. The state pays for services in 15 minute increments not 24/7. What is an unnatural environment? Some folks would say a therapy ball in their living room is not natural.

(7) Dates: duration of services. The IFSP shall include the following:

(i)The projected dates for initiation of the services in paragraph (4) as soon as possible after the IFSP meetings described in Section 4226.72 (relating to procedures for IFSP development, review and evaluation)

Comment:

Please resist putting an arbitrary timeline on this. There should be some assumption of good faith

James McKittrick
Executive Director

07/28/00

Original: 2122



Serving citizens with developmental disabilities since 1950

ARC of Montgomery County
Administrative Offices
Continental Plaza
1010 West Ninth Avenue
King Of Prussia
Pennsylvania, 19406

Tel: 610.265.4700
Fax: 610.265.3439

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2000 AUG -3 PM 3: 01

REVIEW COMMISSION

July 27, 2000

Mr. Mel Knowlton
Office of Mental Retardation
P.O. Box 2675
Harrisburg, PA 17105-2675

Dear Mr. Knowlton:

This letter is being written to give you input concerning the recently drafted Early Intervention Regulations, the State Interagency Coordinating Council. First, I would like to take this opportunity to congratulate the State on their decision to have 3 hearing statewide and to have a 60-day comment period as opposed to 30 days. This effort to maximize the opportunity for parents and professionals to give input on these new regulations are most impressive.

I would also like to commend your office in attempting to extend the comment period through October and to increase the hearings to 2 other sites. It is particularly rewarding to see that the Office of Mental Retardation has responded so quickly and favorably to the requests of the State ICC concerning this matter.

In general the State ICC has been very pleased with the draft of the new regulations

In addition the State ICC would like to commend the department for maintaining the present eligibility for services. The Office of Mental Retardation could have proposed having the eligibility requirements in Pennsylvania mirror the federal requirements. If this was done, a number of children who could benefit from early intervention services would not have been eligible and the department should be commended on maintaining the eligibility requirements set forth in Pennsylvania by Act 12.

The recommendations for changes in the Early Intervention Regulations from the SICC are as follows:

1. The early intervention regulations should detail how a family can get an independent evaluation at public expense when a family disagrees with the county evaluation.
2. The regulations state (as do federal law) that the services on an IFSP must be provided to children "as soon as possible." There should be a clearly stated

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definition as to what is meant by "as soon as possible" or a deadline of a specific number of days should be set.

3. The regulations should include the complaint management system as it is implemented in PA (whereby parents can request that the Department correct violations of federal and state law).
4. Either the service coordinator (as a mandatory member of the IFSP team), or another County representative present at the IFSP meeting, must have the authority to commit the county's resources and complete the IFSP at the meeting.
5. The credentialing for service coordinators are too low to insure that these important functions are performed by qualified staff.
6. The initial screening of children needs to be completed by a staff person who is adequately and appropriately trained. The screening needs to be done through a direct observation of the child. Furthermore, parents need to be notified of their right to obtain an MDE, even if a child is determined ineligible for services as a result of the screening process.
7. The regulations should encourage, to the maximum extent consistent with federal law, the use of foster parents to serve as surrogate parents for children without "parents" to act on their behalf.
8. The training requirements for early interventionists of 6 college credits per year should only apply to staff who are not licensed or do not hold a masters degree in a related field.

The State ICC also has concerns that there will be a significant fiscal impact that will result in the implementation of these regulations and that in the draft of the regulations there is indication that there is no fiscal impact. We believe the Office of Mental Retardation needs to determine what fiscal impact will result in passage of these regulations and that appropriate allocations need to be made by the State legislature to meet these increased financial burdens.

The State ICC hopes that you will be able to make the changes recommended in this letter to the proposed early intervention regulations. The State ICC would like to reiterate and commend the Office of Mental Retardation for the quality of the draft of these early intervention regulations and your efforts to guarantee appropriate inputs from families for extending the comment period and having hearings around the state to gain input on these regulations.

Sincerely,



Paul Stengle, State ICC Member
Chairperson - Committee to Review EI Regulations

PS/cm

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Chester County Disability Services

Cerebral Palsy Association of Chester County, Inc.

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749 Springdale Drive, Exton, PA. 19341-2858

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REVIEW COMMISSION

July 28, 2000

Mel Knowlton
Department of Public Welfare
PO Box 2675
Harrisburg, PA 17105-2675

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(2)The initial MDE is conducted by personnel independent of service provision.

Comments:

This a paranoid regulation inserted by overly suspicious bean counters. In some rural counties it would present hardship and in all other counties insults the ethics of entire professions. It is capricious and unnecessary and should be dropped.

Evaluation and Assessment

(b)(2) The annual MDE will be composed of the family, service coordinator, anyone whom the parent would like to invite and at least one other professional who meets State approved or recognized certification, licensing, registration or other comparable requirements, if applicable, in which the person is providing services.

Comment:

This would be clearer if it said MDE team.

IFSPs 4226.71-422675

422671. General

Comment:

Since some of this deals with the silly natural environments issue, I should just note that since family centered services are encouraged elsewhere in the regulations that the IFSP final recommendation not have any veto power resting with a government employee as to locales but instead reflect the consensus of the team including the parents.

4226.73 Participants in IFSP Meetings and periodic reviews.

(a) Each of initial meeting and each annual meeting to evaluate the IFSP shall include the following participants:

(3) An advocate or person outside of the family, if the parent requests that the person participate.

Comment:

This should be given a parent in writing

4226.74 Content of IPSP

(5) Natural environments. A statement of the natural environments in which early intervention

services shall appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment.

Comment:

Future experts in the field will look upon the natural environments policy as some inexplicable late 20th century silliness. Children with needs should go wherever their family thinks the best people will handle it. Children do not live in early intervention land. The state pays for services in 15 minute increments not 24/7. What is an unnatural environment? Some folks would say a therapy ball in their living room is not natural.

(7) Dates: duration of services. The IFSP shall include the following:

(i) The projected dates for initiation of the services in paragraph (4) as soon as possible after the IFSP meetings described in Section 4226.72 (relating to procedures for IFSP development, review and evaluation)

Comment:

Please resist putting an arbitrary timeline on this. There should be some assumption of good faith

James McKittrick
Executive Director

07/28/00

Pennsylvania Partnerships for Children

20 N. Market Square
Suite 300
Harrisburg, PA 17101-1632



Joan L. Benso
Executive Director

Lucy D. Hackney
Chair of the Board

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Mel Knowlton
Department of Public Welfare
P.O. Box 2675
Harrisburg, PA
17105-2675

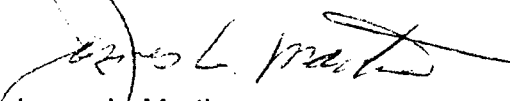
July 26, 2000

Dear Mr. Knowlton:

Enclosed please find our comments on the proposed regulations for the State Infants and Toddlers Early Intervention program. The proposed regulations are critical to the appropriate service provision for the children across the state. We ask that you consider our recommendations for these regulations. If you have any questions regarding our comments, please call Lucy Johnston-Walsh on our staff, at 717-236-5680.

Thank you for your consideration.

Sincerely,


James L. Martin
Deputy Director of Operations

cc: IRRC

RECEIVED
2000 JUL 28 AM 9:39
REVIEW COMMISSION

COMMENTS ON PROPOSED EARLY INTERVENTION SERVICES REGULATIONS

Submitted by:
James L. Martin
Pennsylvania Partnerships for Children
20 N. Market Square, Suite 300
Harrisburg, PA 17101-1632
(717) 236-5680

Date: July 26, 2000

FINANCIAL MANAGEMENT:

- §4226.13 (Nonsubstitution of funds): Recommend change to subsection (b) to add language that states that parents cannot be required to apply for Medicaid in order to receive early intervention services.

GENERAL REQUIREMENTS:

- §4226.24 (Comprehensive child find system): This section of the proposed regulation covers the child find system. Federal regulations require that there be a "public awareness program," in addition to a child find system, 34 C.F.R. Section 303.320. Recommend that this section of the state regulations address the roles and responsibility of the state and the county legal entity regarding the public awareness program. 34 C.F.R. Sec. 303.320 states that each system must include a public awareness program that focuses on the early identification of eligible children. According to the federal regulations, the public awareness program must provide information to the public on: (a) the State's early intervention program; AND, (b) the child find system, including the purpose and scope of the system; how to make referrals; and how to gain access to a comprehensive, multidisciplinary evaluation and other early intervention services; and the central directory. The federal regulations note that an effective public awareness program is one that provides a continuous, ongoing effort that is in effect throughout the state, including rural areas; has coverage broad enough to reach the general public, including those who have disabilities; and includes a variety of methods for informing the public, etc.
- §4226.24 – 4226.25 (Child find and Screening): Language regarding the timelines in §4226.24(f) should clarify the timeline and requirements of the federal regulations, which state that the evaluation and assessment activities shall be completed within 45 days of the date the public agency receives the referral, 34 C.F. R. Section 303.321(e) – "Once the public agency receives a referral, it shall appoint a service coordinator as soon as possible and within 45 days after it receives a referral, the public agency shall-- (i) Complete the evaluation and assessment activities in Sec. 303.322; and (ii) Hold an IFSP meeting, in accordance with Sec. 303.342. The proposed regulations

§4226.24 state that legal entity shall do one of the following within 45 days: complete the evaluation, hold IFSP, OR develop plan for further assessment. This is inconsistent with federal regulations.

PERSONNEL:

- §4226.54 (Requirements and qualifications): The qualifications of the service coordinators in the proposed regulations are inadequate. We recommend the service coordinator have training and experience in child development and disabilities. The required qualifications should reflect the competencies required for the position.
- §4226.55 and .56 (Early interventionist, requirements and qualifications): These proposed regulations create a new type of early intervention service and provider. Unclear in proposed regulations how this differs from service coordinator and special educator. Minimal requirements are proposed; again required qualifications should reflect required competencies.
- §4226.57 (Effective date of personnel qualifications): Grandfather clause should have time limit for all staff to meet applicable standards, i.e. within a three or four year period.

EVALUATION AND ASSESSMENT:

- §4226.62 (MDE): Proposed regulation needs clarification on subsection (a)(2). Is evaluator not able to provide any services in the future to the child? While in general it a good for the evaluation to be completed by personnel independent of the service provider, exceptions may need to be made for those situations where no comparable skilled independent evaluator is available. Acknowledge need to exemptions from independence when child's need for an appropriate MDE team supercedes independence.

IFSPs:

- §4226.72(b): Recommend that phrase be added that IFSPs shall be reviewed at 6 month intervals, *or more often, if family requests a review*, to be consistent with federal regulation – 34 C.F.R. Section 303.342(b)(1).
- §4226.73 (Participants in IFSP): The proposed regulation includes the list of personnel required by federal regulations. Recommend inclusion of person with authority to commit the County's resources to avoid situations when decisions are not made by the team but instead deferred for decision to be made by person who makes the ultimate financial decisions.
- §4226.74(7)(i) (Dates and duration of services): Recommend that deadline for implementation of services of 14 days be included in this subsection to ensure that families are aware of their rights and counties are aware of their duties.

- §4226.74(9) (Transition): Federal regulations describe the extent to which the IFSP must provide for training and discussion with parents, steps to help the child adjust to new setting, and clarification on transmission of records, 34 C.F.R. 303.344(h). The state regulations should explicitly list such steps. This regulation should also explicitly describe the relationship between the birth to age three system and the preschool system. Children cannot be dropped from services in the IFSP at age three because their parents do not agree with services offered by the MAWA.

PROCEDURAL SAFEGUARDS:

- §4226.91 (General responsibility of legal entity for procedural safeguards): Proposed regulations do not refer to a complaint management system, as required by federal regulations, in 34 C.F.R. Sections 303.512-515. Recommend that language be added that acknowledges the state's obligation to widely disseminate to parents, the state's complaint management procedures, 34 C.F.R. Section 303.510(a)(2).
- §4226.96 (Opportunity to examine records): Recommend that phrase be added to this section which states that families can have access to copies of the child's record without cost.
- §4226.102 (Impartial hearing officer): Recommend that regulations state that hearing officer must have knowledge about the early intervention law and the needs of, and services available for, eligible children and their families, in accordance with federal regulation 34 C.F.R. Section 303.421.
- §4226.103 (Convenience of proceedings, timelines): Recommend inclusion of 30 day timeline for resolving hearing requests. 34 C.F.R. Section 303.423 (b).
- §4226.105(f) (Surrogate parents): Proposed regulation would significantly limit foster parents' ability to serve as surrogate parents for children in their care. Foster parents role should not be limited due to their daily responsibility in the care of the child. A foster parent should be able to serve as surrogate parent if all requirements of surrogacy are met. See 34 C.F.R. 303.19(b). See 34 C.F.R. Section 303.406 for applicable criteria for surrogate parents.

CRITICAL OMISSIONS FROM REGULATIONS:

- Regulations do not address service coordinator caseload sizes. Limitations on caseload sizes are critical for the appropriate provisions of services. PPC strongly recommends that a maximum caseload size of 35 to 1 be included in the proposed regulations. We believe it is critical to have a strong service coordinator system throughout Pennsylvania. The role of the service coordinator is critical to the implementation of services to ameliorate developmental delays.



Securing citizens with developmental disabilities since 1950

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RECEIVED
2000 AUG -7 AM 9:10
REVIEW COMMISSION

Original: 2122

July 27, 2000

Mr. Mel Knowlton
Office of Mental Retardation
P.O. Box 2675
Harrisburg, PA 17105-2675

Dear Mr. Knowlton:

This letter is being written to give you input concerning the recently drafted Early Intervention Regulations, the State Interagency Coordinating Council. First, I would like to take this opportunity to congratulate the State on their decision to have 3 hearing statewide and to have a 60-day comment period as opposed to 30 days. This effort to maximize the opportunity for parents and professionals to give input on these new regulations are most impressive.

I would also like to commend your office in attempting to extend the comment period through October and to increase the hearings to 2 other sites. It is particularly rewarding to see that the Office of Mental Retardation has responded so quickly and favorably to the requests of the State ICC concerning this matter.

In general the State ICC has been very pleased with the draft of the new regulations

In addition the State ICC would like to commend the department for maintaining the present eligibility for services. The Office of Mental Retardation could have proposed having the eligibility requirements in Pennsylvania mirror the federal requirements. If this was done, a number of children who could benefit from early intervention services would not have been eligible and the department should be commended on maintaining the eligibility requirements set forth in Pennsylvania by Act 12.

The recommendations for changes in the Early Intervention Regulations from the SICC are as follows:

1. The early intervention regulations should detail how a family can get an independent evaluation at public expense when a family disagrees with the county evaluation.
2. The regulations state (as do federal law) that the services on an IFSP must be provided to children "as soon as possible." There should be a clearly stated

Unit: EW by E-mail Number: CC006

- definition as to what is meant by "as soon as possible" or a deadline of a specific number of days should be set.
3. The regulations should include the complaint management system as it is implemented in PA (whereby parents can request that the Department correct violations of federal and state law).
 4. Either the service coordinator (as a mandatory member of the IFSP team), or another County representative present at the IFSP meeting, must have the authority to commit the county's resources and complete the IFSP at the meeting.
 5. The credentialing for service coordinators are too low to insure that these important functions are performed by qualified staff.
 6. The initial screening of children needs to be completed by a staff person who is adequately and appropriately trained. The screening needs to be done through a direct observation of the child. Furthermore, parents need to be notified of their right to obtain an MDE, even if a child is determined ineligible for services as a result of the screening process.
 7. The regulations should encourage, to the maximum extent consistent with federal law, the use of foster parents to serve as surrogate parents for children without "parents" to act on their behalf.
 8. The training requirements for early interventionists of 6 college credits per year should only apply to staff who are not licensed or do not hold a masters degree in a related field.

The State ICC also has concerns that there will be a significant fiscal impact that will result in the implementation of these regulations and that in the draft of the regulations there is indication that there is no fiscal impact. We believe the Office of Mental Retardation needs to determine what fiscal impact will result in passage of these regulations and that appropriate allocations need to be made by the State legislature to meet these increased financial burdens.

The State ICC hopes that you will be able to make the changes recommended in this letter to the proposed early intervention regulations. The State ICC would like to reiterate and commend the Office of Mental Retardation for the quality of the draft of these early intervention regulations and your efforts to guarantee appropriate inputs from families for extending the comment period and having hearings around the state to gain input on these regulations.

Sincerely,



Paul Stengle, State ICC Member
Chairperson - Committee to Review EI Regulations

PS/cm

Original: 2122	Centre County Local Interagency Coordinating Council
----------------	-----------------------------------------------------------------------

July 27, 2000

Mr. Mel Knowlton
P.O. Box 2675
Harrisburg, PA 17105-2675

RECEIVED
2000 AUG 16 PM 3:55
HISTORICAL
REVIEW COMMISSION

To Whom It May Concern:

The following testimony is respectfully submitted in response to the proposed Early Intervention regulations as published in the *Pennsylvania Bulletin, Doc. No. 00-941* on June 2, 2000. This testimony is given following a team review of the draft regulations. Our reviewing team was comprised of a representative sample of Centre County Local Interagency Coordinating Council members, including parent representatives and professional representatives from MH/MR, a provider agency and a community program. We appreciate your consideration of the following suggestions in your preparation of the final-form regulations:

§ 4226.5 Definitions.

early intervention services (iii)

- ▶ currently reads: Designed to meet the developmental needs of an infant or toddler with a disability in any one or more of the following areas:
- ▶ suggested change: Designed to meet the developmental needs of an infant or toddler with a developmental delay in any one or more of the following areas, but not limited to these areas:
 - ▶ Please provide a clear definition for *early interventionist* - How does it differ from a developmental teacher or a service coordinator?

§ 4226.23 Waiver eligibility. (a)(1)

- ▶ currently reads: A licensed psychologist, certified school psychologist or a licensed physician shall certify that the applicant or recipient has significantly subaverage intellectual functioning which is documented by one of the following:
- ▶ suggested change: Please clarify the language to explain that a qualified professional can also certify that the applicant or recipient has significantly subaverage intellectual functioning...(as outlined in the Medicaid Waiver for Infants, Toddlers. and Families, #0324: Application Amendment Replacement Pages, Pages 60 and 61; Level of care criteria)

§ 4226.30 At-risk children.

- ▶ currently reads: A child identified through the initial multidisciplinary evaluation is eligible for tracking if the child is identified in one of the population groups which include:
- ▶ suggested addition: If the family declines the initial multidisciplinary evaluation, a child identified as at-risk (based on at-risk criteria § 4226.30) can be deemed eligible for tracking services (relating to §4226.31 Tracking system) with parental consent.

§ 4226.36 Preservice training. (9)

▶ currently reads: Training in fire safety, emergency evacuation, first aid techniques and child cardiopulmonary resuscitation (for all staff), as well as for the early interventionist and other personnel who work directly with the child. The date of the completion of the training shall be documented by the signature of a representative of the training entity. Documentation shall be retained in the agency's personnel file. Recertification will be required on or before expiration of specified certification.

▶ suggested change: Training in fire safety and emergency evacuation are not necessary for service delivery as services will not be provided in center-based programs. Although fire safety and emergency evacuation procedures are helpful for each individual family based on their natural environment, these trainings should not be required of the service coordinator, early interventionist or other early intervention personnel working directly with the child. If professionals are required to receive training in such areas, compensation should be provided to agencies to alleviate the financial burden of providing ongoing training in areas not directly related to service provision or health concerns.

§ 4226.37 Annual training. (a)

▶ currently reads: The service coordinator, early interventionist and other personnel who work directly with the child, including personnel hired through contract, shall have at least 24 hours of training annually, relevant to early intervention services, child development, community resources or services for children with disabilities. Specific areas shall include cultural competence, mediation, procedural safeguards and universal health procedures.

▶ suggested change: (last sentence should read) Specific areas may include, but are not limited to, cultural competence, mediation, procedural safeguards and universal health procedures.

§ 4226.52 Provision of service coordination.

▶ suggested addition: A service coordinator's caseload should not exceed 35 active children.

§ 4226.54 Requirements and qualifications. (c)(2)

▶ currently reads: [A service coordinator shall have...]An associate's degree, or 60 credit hours, from an accredited college or university and 3 years work or volunteer experience working directly with children, families or people with disabilities, or in counseling, management or supervision.

▶ suggested change: A service coordinator should have a minimum of a bachelor's degree from an accredited college or university and 1 year of work experience (or the equivalent in volunteer hours) working with children, families or people with disabilities, or in counseling, management or supervision.

§ 4226.56 Requirements and qualifications. (a)(2)

▶ currently reads: [An early interventionist shall have...]An associate's degree, or 60 credit hours, from an accredited college or university and 3 years work or volunteer experience working directly with children, families or people with disabilities or in counseling.

▶ suggested change: An early interventionist should have a minimum of a bachelor's degree from an accredited college or university and 1 year of work experience (or the equivalent in volunteer hours) working with children, families or people with disabilities, or in counseling, management or supervision.

§ 4226.72 Procedures for IFSP development, review and evaluation. (d)(1)

▶ currently reads: [IFSP meetings shall be conducted...]In settings and at times that are convenient to families.

▶ suggested change: [IFSP meetings shall be conducted...]In settings and at reasonable times convenient to families and agreed upon by team members.

§ 4226.74 Content of IFSP.

(4) Early intervention services (ii)

▶ currently reads: Early intervention services shall be provided by qualified personnel, including the following:

▶ suggested change: Early intervention services shall be provided by qualified personnel, including, but not limited to, the following:

(7) Dates; duration of services . The IFSP shall include the following: (i)

▶ currently reads: The projected dates for initiation of the services in paragraph (4) as soon as possible after the IFSP meetings described in § 4226.72 (relating to procedures for IFSP development, review and evaluation).

▶ suggested change: The projected dates for initiation of the services in paragraph (4) should be within 14 days, or at the family's earliest convenience, after the IFSP meetings described in § 4226.72 (relating to procedures for IFSP development, review and evaluation).

(9) Transition from early intervention services . (i)(B)

▶ currently reads: Review the child's program options for the period from the child's 23rd birthday through the remainder of the school year.

▶ suggested change: Review the child's program options for the period from the child's 3rd birthday through the remainder of the school year.

We appreciate the opportunity to comment on the proposed Early Intervention regulations and thank you for your consideration of our recommendations.

Sincerely,

Leslie V. Richendrfer
Early Intervention Service Coordinator/
Centre County LICC Co-Chairperson



SUNNY DAYS, INC.

"Quality Evaluative And Therapeutic Services"

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Freehold, NJ 07728
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(800) 891-3444
FAX (732) 761-2550

888 Sussex Boulevard
Broomall, PA 19008
TEL (610) 541-0434
(888) 571-3818
FAX (610) 541-0436

To: Mel Knowlton
From: Helen Vadala Clinical Coordinator
Sunny Days, Inc.
Re: Proposed Early Intervention Regulations
Date: 7-26-00

Although much of the information contained in the Proposed Early Intervention Regulations is replicate of already existing policy, some areas of concern are present. The following is a list of issues that require clarification:

- Mandatory training hours for all EI personnel (4226.37)

Proposed number of hours is too high. Based on our current work in Philadelphia County, which requires the proposed 24 hours yearly, we have experienced difficulty recruiting staff to attend the trainings and with rescheduling therapist/teacher caseloads. Every other month trainings at 2 hours or 12 hours of required training would be more reasonable number to manage for both agencies and for therapists/teachers.

The cost of supporting staff in attending these trainings is also a concern. The proposal stated that no additional costs were anticipated. To require mandatory trainings will definitely create an increase in cost for staff time and subsequently a hardship for provider agencies (for example: 25 staff persons x 24 hours x average hourly income of \$30 = \$18,000.00). No mention of additional funding to support this new requirement was mentioned. If professionals are expected to attend these trainings on their own time, recruiting and maintaining therapists/teachers in the field of Early Intervention will be difficult. This is a serious problem in a field already exhibiting shortages of teachers and speech therapists.

The 6 hours of required additional yearly credited training for EI providers (4226.56) should be included in the mandatory annual training.

- Regarding MDE (4226.62)

Clarify in the regulations what is meant by "initial MDE independent of service provision". Does this mean that an agency which provides EI service can use a separate team to evaluate or does it mean an agency that doesn't provide service in early intervention in that county must be utilized for initial assessment. We support the stance that to truly individualize outcomes and

thus services, independent evaluation must be completed by an agency not providing services.

- Regarding IFSP (4226.74) content

Clarification on "initiation of the services [on the IFSP] as soon as possible"(4226.74 7i). This leaves funding source unaccountable for implementation of services. While there may be compliance within the 45 day timeframe for MDE and IFSP development, actual service provision may not begin in a timely fashion if there is no standard for such. With the current personnel shortages in the field, this may be a significant issue and delay needed assistance for families and children. The term "as soon as possible" needs to be delineated into # of days.

We thank you for compiling concerns through your organization regarding these proposed regulations and wish you luck at the hearing. We are planning as well to attend the hearings. If you have any questions regarding our comments, you can reach us via email at Lorlocs@aol.com or vad6@HOME.com. I can also be reached via phone at 610-541-0434 during working hours or at home at 610-328-2706.

Thanks Again!



Helen

Public Comment #30

Original: 2122

RECEIVED

2000 AUG -1 PM 2:34

July 26, 2000

REVIEW COMMISSION

Mr. Mel Knowlton
Department of Public Welfare
P.O. Box 2675
Harrisburg, PA 17105

Dear Mr. Knowlton:

I am the parent of a child with special needs who received early intervention services in Allegheny County a few short years ago. I also work part time as the Parent Advisor to The Alliance for Infants & Toddlers, Inc. which provides services to over 1200 children in Allegheny County. In this capacity, I advise the organization on programs and policies, both internally and system-wide, from the parent perspective.

I am very interested in the Department of Public Welfare's proposed regulations for early intervention services, both personally and professionally. I had intended to testify at the Western Region hearing in July; however, my family vacation was scheduled for that same week, and I was unable to attend. I would, however, like to submit written testimony and hope that at a future date, I might be able to attend a public hearing if the comment period is extended.

Summer is a busy time for many families, with vacations and children's camps and activities. I would urge you to consider extending the public comment period for the regulations beyond the August 2nd deadline, as it would give more parents the opportunity to review and comment on the proposed regulations. The last time the department met with stakeholders to discuss regulations was over two years ago. Most children receiving early intervention services today were not even in a program at that point. I think it is important that the state take the time to talk to the families who are actually receiving services now, and get their very important input in this process. Not only would more hearings be helpful, but some time for questions and answers and discussions would be of benefit as well.

I believe there are several sections of the department's proposal which are inconsistent with federal law. To begin with, Section 4226.24(f) regarding timelines reads that the 45 day timeline is satisfied if one of the following occurs: evaluating the child, holding an IFSP meeting, or developing a plan for further assessment and tracking. A county could declare itself to be in compliance by merely conducting an evaluation within 45 days of a referral. IDEA requires that not only do evaluation and assessment activities have to be completed within 45 days, but that an IFSP meeting has to be held as well.

Section 4226.25 regarding screening is also, I believe, inconsistent with IDEA. Although a family may decide after an initial screening not to pursue an MDE or any other early intervention services, they still have the right to request an MDE if they choose - even if it is doubtful that the child will be found eligible. While a child may be

determined eligible for services based on a screen alone, no child can be determined ineligible based on a screen. The proposal as written defines the purpose of a screen to be to determine whether or not a child should be referred for an MDE. This is simply incorrect. I would recommend incorporating the language regarding screening directly from the OMR bulletin as it is more in line with the intent of the law and spells out a family's options more clearly.

There is general confusion in the early intervention community regarding the provisions of Section 4226.55 for early interventionists. It is unclear what this position is, and since it is not a profession listed in the federal regulations, it should be removed. Many of the job requirements listed for this individual are responsibilities of a service coordinator or developmentalist.

While I agree that early intervention staff should have Act 33 clearances, I would also recommend adding a requirement for an Act 34 clearance, the child abuse check. This is common practice for most agencies, and as a parent it is very important to me.


I support Section 4226.62(a)(2) which requires that MDEs be conducted by personnel independent of service provision, although I think counties should be able to obtain a waiver when enough qualified professionals are not available to allow them to fulfill this requirement. It is more important that services begin in a timely manner for the child.

I feel strongly that Section 4226.74(7)(I) be changed to include a definitive number of days for when services must begin following an IFSP meeting. While there are always going to be some extenuating circumstances, the phrase "as soon as possible" opens the door for significant problems for families. Counties must be held accountable to a specific number of days, and I would suggest 14, as is the generally accepted timeframe for implementation of IEPs for school-age children.

And finally, Section 4226.96 regarding the family's opportunity to examine records should include a section stating that families can have access to these records without cost.

Thank you for the opportunity to express my views on these very important regulations. I am sure that implementing regulations is merely a procedural requirement and becomes very routine to state policymakers after awhile. Let me assure you, though, as the parent of a child who made remarkable gains in early intervention, the nature and scope of these rules are very important to families. I want to help ensure that the intent of the federal IDEA law remains intact in Pennsylvania, so that other children may benefit from it to the extent that my son did.

Sincerely,



Jane Pilditch

400 Legendary Lane

Mars, PA 16046

(724) 776-8083

20 N. Market Square
Suite 300
Harrisburg, PA 17101-1632

Original: 2122



Joan L. Benso
Executive Director

Lucy D. Hackney
Chair of the Board

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Mel Knowlton
Department of Public Welfare
P.O. Box 2675
Harrisburg, PA
17105-2675

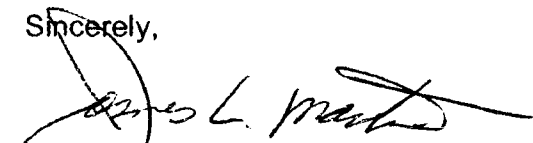
July 26, 2000

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Thank you for your consideration.

Sincerely,



James L. Martin
Deputy Director of Operations

cc: IRRRC

COMMENTS ON PROPOSED EARLY INTERVENTION SERVICES REGULATIONS

Submitted by:
James L. Martin
Pennsylvania Partnerships for Children
20 N. Market Square, Suite 300
Harrisburg, PA 17101-1632
(717) 236-5680

Date: July 26, 2000

FINANCIAL MANAGEMENT:

- §4226.13 (Nonsubstitution of funds): Recommend change to subsection (b) to add language that states that parents cannot be required to apply for Medicaid in order to receive early intervention services.

GENERAL REQUIREMENTS:

- §4226.24 (Comprehensive child find system): This section of the proposed regulation covers the child find system. Federal regulations require that there be a "public awareness program," in addition to a child find system, 34 C.F.R. Section 303.320. Recommend that this section of the state regulations address the roles and responsibility of the state and the county legal entity regarding the public awareness program. 34 C.F.R. Sec. 303.320 states that each system must include a public awareness program that focuses on the early identification of eligible children. According to the federal regulations, the public awareness program must provide information to the public on: (a) the State's early intervention program; AND, (b) the child find system, including the purpose and scope of the system; how to make referrals; and how to gain access to a comprehensive, multidisciplinary evaluation and other early intervention services; and the central directory. The federal regulations note that an effective public awareness program is one that provides a continuous, ongoing effort that is in effect throughout the state, including rural areas; has coverage broad enough to reach the general public, including those who have disabilities; and includes a variety of methods for informing the public, etc.
- §4226.24 – 4226.25 (Child find and Screening): Language regarding the timelines in §4226.24(f) should clarify the timeline and requirements of the federal regulations, which state that the evaluation and assessment activities shall be completed within 45 days of the date the public agency receives the referral, 34 C.F. R. Section 303.321(e) – "Once the public agency receives a referral, it shall appoint a service coordinator as soon as possible and within 45 days after it receives a referral, the public agency shall-- (i) Complete the evaluation and assessment activities in Sec. 303.322; and (ii) Hold an IFSP meeting, in accordance with Sec. 303.342. The proposed regulations

§4226.24 state that legal entity shall do one of the following within 45 days: complete the evaluation, hold IFSP, OR develop plan for further assessment. This is inconsistent with federal regulations.

PERSONNEL:

- §4226.54 (Requirements and qualifications): The qualifications of the service coordinators in the proposed regulations are inadequate. We recommend the service coordinator have training and experience in child development and disabilities. The required qualifications should reflect the competencies required for the position.
- §4226.55 and .56 (Early interventionist, requirements and qualifications): These proposed regulations create a new type of early intervention service and provider. Unclear in proposed regulations how this differs from service coordinator and special educator. Minimal requirements are proposed; again required qualifications should reflect required competencies.
- §4226.57 (Effective date of personnel qualifications): Grandfather clause should have time limit for all staff to meet applicable standards, i.e. within a three or four year period.

EVALUATION AND ASSESSMENT:

- §4226.62 (MDE): Proposed regulation needs clarification on subsection (a)(2). Is evaluator not able to provide any services in the future to the child? While in general it a good for the evaluation to be completed by personnel independent of the service provider, exceptions may need to be made for those situations where no comparable skilled independent evaluator is available. Acknowledge need to exemptions from independence when child's need for an appropriate MDE team supercedes independence.

IFSPs:

- §4226.72(b): Recommend that phrase be added that IFSPs shall be reviewed at 6 month intervals, *or more often, if family requests a review*, to be consistent with federal regulation – 34 C.F.R. Section 303.342(b)(1).
- §4226.73 (Participants in IFSP): The proposed regulation includes the list of personnel required by federal regulations. Recommend inclusion of person with authority to commit the County's resources to avoid situations when decisions are not made by the team but instead deferred for decision to be made by person who makes the ultimate financial decisions.
- §4226.74(7)(i) (Dates and duration of services): Recommend that deadline for implementation of services of 14 days be included in this subsection to ensure that families are aware of their rights and counties are aware of their duties.

- §4226.74(9) (Transition): Federal regulations describe the extent to which the IFSP must provide for training and discussion with parents, steps to help the child adjust to new setting, and clarification on transmission of records, 34 C.F.R. 303.344(h). The state regulations should explicitly list such steps. This regulation should also explicitly describe the relationship between the birth to age three system and the preschool system. Children cannot be dropped from services in the IFSP at age three because their parents do not agree with services offered by the MAWA.

PROCEDURAL SAFEGUARDS:

- §4226.91 (General responsibility of legal entity for procedural safeguards): Proposed regulations do not refer to a complaint management system, as required by federal regulations, in 34 C.F.R. Sections 303.512-515. Recommend that language be added that acknowledges the state's obligation to widely disseminate to parents, the state's complaint management procedures, 34 C.F.R. Section 303.510(a)(2).
- §4226.96 (Opportunity to examine records): Recommend that phrase be added to this section which states that families can have access to copies of the child's record without cost.
- §4226.102 (Impartial hearing officer): Recommend that regulations state that hearing officer must have knowledge about the early intervention law and the needs of, and services available for, eligible children and their families, in accordance with federal regulation 34 C.F.R. Section 303.421.
- §4226.103 (Convenience of proceedings, timelines): Recommend inclusion of 30 day timeline for resolving hearing requests. 34 C.F.R. Section 303.423 (b).
- §4226.105(f) (Surrogate parents): Proposed regulation would significantly limit foster parents' ability to serve as surrogate parents for children in their care. Foster parents role should not be limited due to their daily responsibility in the care of the child. A foster parent should be able to serve as surrogate parent if all requirements of surrogacy are met. See 34 C.F.R. 303.19(b). See 34 C.F.R. Section 303.406 for applicable criteria for surrogate parents.

CRITICAL OMISSIONS FROM REGULATIONS:

- Regulations do not address service coordinator caseload sizes. Limitations on caseload sizes are critical for the appropriate provisions of services. PPC strongly recommends that a maximum caseload size of 35 to 1 be included in the proposed regulations. We believe it is critical to have a strong service coordinator system throughout Pennsylvania. The role of the service coordinator is critical to the implementation of services to ameliorate developmental delays.

PENNSYLVANIA OPTOMETRIC ASSOCIATION

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REVIEW COMMISSION

Original: 2122

July 26, 2000

Mel Knowlton
Department of Public Welfare
PO Box 2675
Harrisburg, PA 17105-2675

RE: Proposed Early Intervention Services regulations

Dear Mr. Knowlton:

The Pennsylvania Optometric Association has reviewed the proposed rulemaking published in the June 3, 2000 Pennsylvania Bulletin regarding Early Intervention Services, and we submit the following comments for your consideration.

The definition of early intervention services provides a list of services "designed to meet the developmental needs of an infant or toddler with a disability..." and lists 14 types of services, including vision services. The definition goes on to list the "qualified personnel", which includes virtually every type of health care provider except optometrists. We believe this to be an unfortunate oversight, and ask that the list be expanded to include doctors of optometry.

Doctors of optometry are the only health care providers specifically licensed to provide vision services. Optometrists are the most widely available eye care practitioners in the Commonwealth, and provide the vast majority of primary eye care in this state. Many optometrists have practices devoted to the needs of children and those with disabilities. Section 10 of the Optometric Practice and Licensure Act states; "Any State or municipal board, commission, department, institution, agency or bureau including public schools, expending public money for any purpose involving eye care which is within the scope of practice of optometry shall not deny the recipients or beneficiaries the freedom to choose an optometrist or a physician and shall make the same reimbursement whether the service is provided by an optometrist or physician..."

The definition of "Vision Services" in this proposed regulation contains numerous services that licensed doctors of optometry provide, and in some cases *only* optometrists and physicians may provide. Under the definition of "health services", Subsection (i)(B) reads: "Consultation by physicians with other service providers concerning the special health care needs of an eligible child that will need to be addressed in the course of providing other early intervention services." Optometrists work in this area with occupational therapists, physical therapists and other EIS providers, yet the definition seems to exclude optometrists from participation in this program by the use of the term "physician".

For all of these reasons we respectfully request that optometrists be added to the list of "qualified personnel", so that parents can be assured that their eligible children will be covered for vision services provided by their doctor of optometry as part of the multidisciplinary evaluation team.

David R. McPhillips, O.D.
President

Daniel W. Doberneck, O.D., F.A.A.O.
Trustee

Melvin E. Lilly, O.D., F.A.A.O.
President-Elect

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Carl J. Urbanski, O.D.
Trustee

Charles J. Stuckey, Jr., O.D., M.P.A., F.A.A.O., Executive Director

The goals of the early intervention program are laudable. POA believes that for the program to reach its potential the most qualified health care providers should be involved in screening and providing for the needs of this most vulnerable population. We further believe that these goals can only be met in the vision care area if patients have the choice to consult an optometrist for their eye care needs.

We appreciate the opportunity to comment on this rulemaking, and would be happy to discuss the role of optometrists in providing vision care to those in need of early intervention services in more detail at your convenience. We look forward to talking again.

Very truly yours,

PENNSYLVANIA OPTOMETRIC ASSOCIATION

A handwritten signature in cursive script that reads "Charles J. Stuekey".

Charles J. Stuekey, Jr. OD
Executive Director

CJS/iks

Original: 2122



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Stephen A. Sheridan
Executive Director

I am Patricia Benvenuto, Director of Children Services for UC P of Philadelphia. I would like to offer comment on four areas of the proposed Early Intervention Regulations.

Under sections 4226.54 and 4226.56, Requirements and Qualifications, I would suggest that service coordinators and early interventionists both have a minimum educational requirement of a bachelor's degree. I believe that the complexities of our families demand a skill level that is commensurate with a professional who has completed at least a four-year college program. In addition, I would suggest that licensure and/or certification requirements be more specifically defined for therapists, social workers, psychologists, and medical professionals as well. Consideration of parity with the Department of Education's standards for teachers should also be pursued. I believe that special instructors should be certified as teachers, in Early Childhood or Special Education.

The requirement of six credit hours annually suggests that two, three credit college courses be taken annually for the early interventionist. This requirement is confusing as 24 hours of annual training is previously defined. As well, the cost of six college credits per year, per early interventionist would be prohibitive within our current budget structure. In addition, the staff time needed to complete this requirement negatively impacts the number of hours available per week for direct service.

Under Evaluation and Assessment, section 4226.62, MDE, I believe that at least two professionals who meet State certification or licensing requirements should be required on the MDE Team. While we continually promote transdisciplinary approaches, I suggest that we cannot assume that all professionals at all times are capable of thoroughly assessing all areas of development.

Under section 4226.74, content of IFSP, transition from early intervention services (II) (B) states that the legal entity shall review the child's program options for the period from the child's 23rd birthday through the remainder of the school year. This appears to be a typographical error. I assume that this paragraph refers to the transition year between a child's 2nd and 3rd birthday. As some children do transition to programs provided in a center at age 3, I would suggest that more specific language define the ability of the team to authorize or refer a child to services in a center at the time during the transition year when it is most appropriate and not necessarily on the day of the child's third birthday.

Under section 4226.75, provision of services before evaluation and assessment are completed, interim IFSP's may be developed. It is not clear to me how services can be determined in the absence of an evaluation. I would suggest, as well, that the scope of practice for therapists and nurses would not permit services without assessment. I believe that this section should be eliminated as it does not promote good practice, may lead to inappropriate use of services, and appears to undermine and short cut the previously established guidelines for practice.

Patricia Benvenuto
7/25/00