

Connecticut General Statutes

Sec. 17a-248. Birth-to-three program. Definitions. As used in this section and sections 17a-248b to 17a-248g, inclusive, 38a-490a and 38a-516a, unless the context otherwise requires:

- (1) "Commissioner" means the Commissioner of Mental Retardation.
- (2) "Council" means the State Interagency Birth-to-Three Coordinating Council established pursuant to section 17a-248b.
- (3) "Early intervention services" means early intervention services, as defined in 34 CFR Part 303.12, as from time to time amended.
- (4) "Eligible children" means children from birth to thirty-six months of age, who are not eligible for special education and related services pursuant to sections 10-76a to 10-76h, inclusive, and who need early intervention services because such children are:
 - (A) Experiencing a significant developmental delay as measured by standardized diagnostic instruments and procedures, including informed clinical opinion, in one or more of the following areas: (i) Cognitive development; (ii) physical development, including vision or hearing; (iii) communication development; (iv) social or emotional development; or (v) adaptive skills; or
 - (B) Diagnosed as having a physical or mental condition that has a high probability of resulting in developmental delay.
- (5) "Evaluation" means a multidisciplinary professional, objective assessment conducted by appropriately qualified personnel in order to determine a child's eligibility for early intervention services.
- (6) "Individualized family service plan" means a written plan for providing early intervention services to an eligible child and the child's family.
- (7) "Lead agency" means the Department of Mental Retardation, the public agency responsible for the administration of the birth-to-three system in collaboration with the participating agencies.
- (8) "Parent" means the child's parent or a person in a parental relationship to the child. With respect to a child who has no parent or person in a parental relationship, "parent" means the person designated to serve in a parental relationship for the purposes of this section and sections 17a-248b to 17a-248g, inclusive, as amended, 38a-490a, as amended, and 38a-516a, as amended, pursuant to regulations of the Department of Mental Retardation, adopted in accordance with chapter 54 in consultation with the Department of Children and Families, for children in foster care.
- (9) "Participating agencies" includes, but is not limited to, the Departments of Education, Social Services, Public Health, Children and Families and Mental Retardation, the Insurance Department, the Board of Education and Services for the Blind, the Commission on the Deaf and Hearing Impaired and the Office of Protection and Advocacy for Persons with Disabilities.
- (10) "Qualified personnel" means persons who meet the standards specified in 34 CFR Part 303.12(e), as from time to time amended, and who are licensed physicians or psychologists or persons holding a state-approved or recognized license, certificate or registration in one or more of the following fields: (A) Special education, including teaching of the blind and the deaf; (B) speech and language pathology and audiology;

(C) occupational therapy; (D) physical therapy; (E) social work; (F) nursing; (G) dietary or nutritional counseling; and (H) other fields designated by the commissioner that meet requirements that apply to the area in which the person is providing early intervention services, provided there is no conflict with existing professional licensing, certification and registration requirements.

(11) "Region" means a region within the Department of Mental Retardation.

(12) "Service coordinator" means a person carrying out service coordination, as defined in 34 CFR Part 303.22, as from time to time amended.

(13) "Primary care provider" means physicians and advanced practice registered nurses, licensed by the Department of Public Health, who are responsible for performing or directly supervising the primary care services for children enrolled in the birth-to-three program.

(P.A. 96-185, S. 1, 16; P.A. 00-27, S. 1, 24.)

History: P.A. 96-185 effective July 1, 1996; P.A. 00-27 made technical changes, effective May 1, 2000.

P.A. 04-54 made technical changes and added the definition of "primary care provider", effective April 21, 2004.

Sec. 17a-248a. Birth-to-three program not deemed humane institution. The birth-to-three program established pursuant to section 17a-248b shall not be considered a humane institution, as defined in section 17b-222.

(P.A. 96-238, S. 13, 25.)

History: P.A. 96-238 effective July 1, 1996.

Sec. 17a-248b. State Interagency Birth-to-Three Coordinating Council. (a) The lead agency shall establish a State Interagency Birth-to-Three Coordinating Council and shall provide staff assistance and other resources to the council. The council shall consist of the following members, appointed by the Governor: (1) Parents, including minority parents, of children with disabilities twelve years of age or younger, with knowledge of, or experience with, programs for children from birth to thirty-six months of age with disabilities, the total number of whom shall equal not less than twenty per cent of the total membership of the council, and at least one of whom shall be a parent of a child six years of age or younger, with a disability; (2) two members of the General Assembly at the time of their appointment, one of whom shall be designated by the speaker of the House of Representatives and one of whom shall be designated by the president pro tempore of the Senate; (3) one person involved in the training of personnel who provide early intervention services; (4) one person who is a member of the American Academy of Pediatrics; (5) one person from each of the participating agencies, who shall be designated by the commissioner or executive director of the participating agency and who have authority to engage in policy planning and implementation on behalf of the participating agency; (6) public or private providers of early intervention services, the total number of whom shall equal not less than twenty per cent of the total membership of the council; and (7) a representative of a Head Start program or agency. The Governor shall designate the chairperson of the council who shall not be the designee of the lead agency.

(b) The Governor shall appoint all members of the council for terms of three years.

(c) The council shall meet at least quarterly and shall provide public notice of its meetings, which shall be open and accessible to the general public. Special meetings may be called by the chairperson and shall be called at the request of the commissioner.

(d) Council members who are parents of children with disabilities shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties under this section.

(e) The council shall: (1) Assist the lead agency in the effective performance of the lead agency's responsibilities under section 17a-248, this section and sections 17a-248c to 17a-248g, inclusive, 38a-490a and 38a-516a, including identifying the sources of fiscal support for early intervention services and programs, assignment of financial responsibility to the appropriate agency, promotion of interagency agreements and preparing applications and amendments required pursuant to federal law; (2) advise and assist the commissioner and other participating agencies in the development of standards and procedures pursuant to said sections; (3) advise and assist the commissioner and the Commissioner of Education regarding the transition of children with disabilities to services provided under sections 10-76a to 10-76h, inclusive; (4) advise and assist the commissioner in identifying barriers that impede timely and effective service delivery, including advice and assistance with regard to interagency disputes; and (5) prepare and submit an annual report in accordance with section 11-4a to the Governor and the General Assembly on the status of the birth-to-three system. At least thirty days prior to the commissioner's final approval of rules and regulations pursuant to section 17a-248, this section, sections 17a-248c to 17a-248g, inclusive, 38a-490a and 38a-516a, other than emergency rules and regulations, the commissioner shall submit proposed rules and regulations to the council for its review. The council shall review all proposed rules and regulations and report its recommendations thereon to the commissioner within thirty days. The commissioner shall not act in a manner inconsistent with the recommendations of the council without first providing the reasons for such action. The council, upon a majority vote of its members, may require that an alternative approach to the proposed rules and regulations be published with a notice of the proposed rules and regulations pursuant to chapter 54. When an alternative approach is published pursuant to this section, the commissioner shall state the reasons for not selecting such alternative approach.

(P.A. 96-185, S. 8, 16; P.A. 98-250, S. 5, 39; June Sp. Sess. P.A. 99-2, S. 28; P.A. 00-27, S. 2, 24.)

History: P.A. 96-185 effective July 1, 1996 (Revisor's note: In Subsec. (a) a reference to the "chair" of the council was replaced editorially by the Revisors with "chairperson" for conformity with Subsec. (c) and customary statutory usage); P.A. 98-250 increased number of parents from five to six and added a representative of a Head Start program or agency, effective July 1, 1998; June Sp. Sess. P.A. 99-2 amended Subsec. (b) by replacing staggered appointments with appointed for three years; P.A. 00-27 made technical changes, effective May 1, 2000. P.A. 05-256 changed the number of parents and providers from six to "not less than 20%" and changed "approved Birth to Three programs" as a membership category to "public or private providers of early intervention services."

Sec. 17a-248c. Local interagency birth-to-three coordinating councils. (a) The commissioner shall establish at least one local interagency coordinating council in each region of the state. Each council shall consist of five or more individuals interested in the welfare of children ages birth to three years with disabilities or developmental delays.

(b) Each local interagency coordinating council shall meet at least four times a year and shall advise the regional birth-to-three managers regarding:
any matter relating to early intervention policies and procedures within the towns served by that council as are brought to its attention by parents, providers, public agencies or others, including the transition from early intervention services to services and programs under section 10-76a to 10-76g, inclusive, and other early childhood programs.

(c) Council members who are parents of children with disabilities shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties.

(P.A. 96-185, S. 9, 16; P.A. 00-27, S. 3, 24.)

History: P.A. 96-185 effective July 1, 1996; P.A. 00-27 made a technical change in Subsec. (a), effective May 1, 2000. P. A. 05-256 eliminated categorical membership requirements and required areas of advice.

Sec. 17a-248d. Birth-to-three early intervention services. Data collection.

Regulations. (a) The lead agency, in coordination with the participating agencies and in consultation with the council, shall establish and maintain a state-wide birth-to-three system of early intervention services pursuant to Part H of the Individuals with Disabilities Education Act, 20 USC 1471 et seq., for eligible children and families of such children.

(b) The state-wide system shall include a system for compiling data on the number of eligible children in the state in need of appropriate early intervention services, the number of such eligible children and their families served, the types of services provided and other information as deemed necessary by the lead agency.

(c) The state-wide system shall include a comprehensive child-find system and public awareness program to ensure that eligible children are identified, located, referred to the system and evaluated. The following persons and entities, within two working days of identifying a child from birth to three years of age suspected of having a developmental delay or of being at risk of having a developmental delay, shall refer the parent of such child to the early intervention system unless the person knows the child has already been referred: (1) Hospitals; (2) child health care providers; (3) local school districts; (4) public health facilities; (5) early intervention service providers; (6) participating agencies; and (7) such other social service and health care agencies and providers as the commissioner specifies in regulation.

(d) The commissioner, in coordination with the participating agencies and in consultation with the council, shall adopt regulations, pursuant to chapter 54, to carry out the provisions of section 17a-248 and sections 17a-248b to 17a-248g, inclusive, 38a-490a and 38a-516a.

(e) The state-wide system shall include a system for required notification to any local or regional school board of education no later than January first of each year of any child

who resides in the local or regional school district, participates in the state-wide program and will attain the age of three during the next fiscal year. Such system of notification shall include provisions for preserving the confidentiality of such child and of the parent or guardian or such child.

(P.A. 96-185, S. 2, 16; P.A. 00-27, S. 4, 24.)

History: P.A. 96-185 effective July 1, 1996; P.A. 00-27 made technical changes in Subsecs. (a) and (d), effective May 1, 2000. P.A. 03-174 added Subsec. (e) effective July 1, 2003. PA 04-54 added the provision that notification to local or regional school board shall preserve the confidentiality of the child and parent, effective April 21, 2004.

Sec. 17a-248e. Individualized family service plans. Continuation of services by providers.

- (a) Each eligible child and his family shall receive (1) a multidisciplinary assessment of the child's unique needs and the identification of services appropriate to meet such needs, (2) a written individualized family service plan developed by a multidisciplinary team, including the parent, within forty-five days after the referral, and (3) review of the individualized family service plan with the family at least every six months, with evaluation of the individualized family service plan at least annually.
- (b) The individualized family service plan shall be in writing and contain: (1) A statement of the child's present level of physical development, cognitive development, language and speech development and self-help skills, based on acceptable objective criteria; (2) a statement of the family's priority, resources and concerns relating to enhancing the development of the eligible child; (3) a statement of the major outcomes expected to be achieved for the child and the family and the criteria, procedures and timelines used to determine the degree to which progress toward achieving the outcomes are being made, and whether modifications or revisions of the outcomes are necessary; (4) a statement of specific early intervention services necessary to meet the unique needs of the eligible child and the family, including the frequency, intensity and the method of delivering services; (5) a statement of the natural environments in which the services shall be provided; (6) the projected dates for initiation of services and the anticipated duration of such services; (7) the name of the approved comprehensive service provider that will provide or procure the services specified in the individualized family service plan; (8) the name of the individual service coordinator from the profession most immediately relevant to the eligible child's or the family's needs who will be responsible for the implementation of the plan and coordination with the other agencies and providers or an otherwise qualified provider selected by a parent; and (9) the steps to be taken to support the transition of the child who is eligible for participation in preschool programs under Part B of the Individuals with Disabilities Act, 20 USC 1471 et seq., as appropriate.
- (c) The individualized family service plan shall be developed in consultation with the child's pediatrician or primary care physician.
- (d) On and after July 1, 1996, the parent of any child who received early intervention services, other than service coordination, from a provider prior to said date and remains eligible for such services may choose to have his child continue to receive the services from such provider.
- (e) The lead agency may contract with providers to deliver early intervention services to eligible children and the families of such children, provided during the period from July

1, 1996, to June 30, 1997, inclusive, the agency shall, in cases where substantially equivalent proposals are submitted, give preferential consideration to contracting with regional educational service centers and local and regional boards of education that provided such services, including service coordination, prior to July 1, 1996. The lead agency in contracting for services shall monitor the expenditures for administrative services, excluding evaluation assessments, and shall justify in writing, on or before September 1, 1997, and annually thereafter, to the Secretary of the Office of Policy and Management and the committees of the General Assembly having cognizance of matters relating to appropriations and to public health, if such expenditure levels exceed twenty per cent of the contracted amount.

(P.A. 96-185, S. 3, 16.)

History: P.A. 96-185 effective July 1, 1996.

See Secs. 38a-490a and 38a-516a re mandatory insurance coverage.

Sec. 17a-248f. Birth-to-three procedural safeguards. Procedural safeguards shall be the same as required under Part H of the Individuals with Disabilities Education Act, 20 USC 1471 et seq.

(P.A. 96-185, S. 4, 16.)

History: P.A. 96-185 effective July 1, 1996.

Sec. 17a-248g. Birth-to-three funding. Fees for services. Insurance coverage.

Regulations. (a) Subject to the provisions of this section, funds appropriated to the lead agency for purposes of section 17a-248, as amended, sections 17a-248b to 17a-248f, inclusive, this section and sections 38a-490a, as amended, and 38a-516a, as amended, shall not be used to satisfy a financial commitment for services that would have been paid from another public or private source but for the enactment of said sections, except for federal funds available pursuant to Part H of the Individuals with Disabilities Education Act, 20 USC 1471 et seq., except that whenever considered necessary to prevent the delay in the receipt of appropriate early intervention services by the eligible child or family in a timely fashion, funds provided under said sections may be used to pay the service provider pending reimbursement from the public or private source that has ultimate responsibility for the payment.

(b) Nothing in section 17a-248, sections, as amended by this act, 17a-248b to 17a-248f, inclusive, this section and sections 38a-490a, as amended, and 38a-516a, as amended, shall be construed to permit the Department of Social Services or any other state agency to reduce medical assistance pursuant to this chapter or other assistance or services available to eligible children. Notwithstanding any provision of the general statutes, costs incurred for early intervention services that otherwise qualify as medical assistance that are furnished to an eligible child who is also eligible for benefits pursuant to this chapter shall be considered medical assistance for purposes of payments to providers and state reimbursement to the extent that federal financial participation is available for such services.

(c) Providers of early intervention services shall, in the first instance and where applicable, seek payment from all third-party payers prior to claiming payment from the

birth-to-three system for services rendered to eligible children, provided, for the purpose of seeking payment from the Medicaid program or from other third-party payers as agreed upon by the provider, the obligation to seek payment shall not apply to a payment from a third-party payer who is not prohibited from applying such payment, and who will apply such payment, to an annual or lifetime limit specified in the third-party payer's policy or contract.

(d) The commissioner, in consultation with the Office of Policy and Management and the Insurance Commissioner, shall adopt regulations, pursuant to chapter 54, providing public reimbursement for deductibles and copayments imposed under an insurance policy or health benefit plan to the extent that such deductibles and copayments are applicable to early intervention services.

(e) The commissioner shall establish a schedule of fees based on a sliding scale for early intervention services. The schedule of fees shall consider the cost of such services relative to the financial resources of the parents or legal guardians of eligible children. Fees may be charged to any such parent or guardian, regardless of income, and shall be charged to any such parent or guardian with a gross annual family income of forty-five thousand dollars or more, except that no fee may be charged to the parent or guardian of a child who is eligible for Medicaid. The Department of Mental Retardation may assign its right to collect fees to a designee or provider participating in the early intervention program and providing services to a recipient in order to assist the provider in obtaining payment for such services. The commissioner may implement procedures for the collection of the schedule of fees while in the process of adopting or amending such criteria in regulation provided the commissioner prints notice of intention to adopt or amend the regulations in the Connecticut Law Journal within twenty days of implementing the policy. Such collection procedures and schedule of fees shall be valid until the time the final regulations are effective.

(f) The commissioner shall develop and implement procedures to hold a recipient harmless for the impact of pursuit of payment for early intervention services against lifetime insurance limits.

(g) Notwithstanding any provision of title 38a relating to the permissible exclusion of payments for services under governmental programs, no such exclusion shall apply with respect to payments made pursuant to section 17a-248, as amended, sections 17a-248b to 17a-248f, inclusive, this section and sections 38a-490a, as amended, and 38a-516a, as amended. Except as provided in this subsection, nothing in this section shall increase or enhance coverages provided for within an insurance contract subject to the provisions of section 10-94f, subsection (a) of section 10-94g, subsection (a) of section 17a-219b, subsection (a) of section 17a-219c, sections 17a-248, as amended, 17a-248b to 17a-248f, inclusive, this section, and sections 38a-490a, as amended, and 38a-516a, as amended.

(h) Notwithstanding any provision of the general statutes or the regulations of Connecticut state agencies, the signature on an individualized family service plan of an advanced practice registered nurse, working within said nurse's scope of practice in collaboration with a physician licensed to practice medicine in this state, in accordance with section 20-87a, and performing or directly supervising the primary care services for

children enrolled in the birth-to-three program, shall be deemed sufficient to order all such services included in the individualized family service plan and shall be deemed sufficient by the Department of Social Services to substantiate a claim for federal financial participation.

(P.A. 96-185, S. 5, 16; P.A. 00-27, S. 5, 24.)

History: P.A. 96-185 effective July 1, 1996; P.A. 00-27 made technical changes, effective May 1, 2000. P.A. 03-03 passed August 16, 2003 and effective from passage, made the billing of all families with incomes of \$45,000 or more mandatory, except for families with children who are eligible for Medicaid. The bill also added "or amended" to the sentence that allows the department to begin the procedure to collect fees prior to adoption or amendment of regulations as long as notice of intention to adopt or amend regulations is published in the Connecticut Law Journal within 20 days of implementing the policy. P.A. 04-54 made technical changes and added section (h) allowing advanced practice registered nurses to sign IFSPs, effective April 21, 2004.

Sec. 38a-490a. Coverage for birth-to-three program. Each individual health insurance policy providing coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 delivered, issued for delivery or renewed in this state on or after July 1, 1996, shall provide coverage for medically necessary early intervention services provided as part of an individualized family service plan pursuant to section 17a-248e. Such policy shall provide (1) coverage for such services provided by qualified personnel, as defined in section 17a-248, for a child from birth until the child's third birthday, and (2) a maximum benefit of three thousand two hundred dollars per child per year and an aggregate benefit of nine thousand six hundred dollars per child over the total three-year period. No payment made under this section shall be applied by the insurer, health care center or plan administrator against any maximum lifetime or annual limits specified in the policy or health benefits plan.

(P.A. 96-185, S. 6, 16.)

History: P.A. 96-185 effective July 1, 1996. P.A. 03-03 passed August 16, 2003 and effective from passage, deleted the phrase "at least five thousand dollars annually" and added: "Such policy shall provide (1) coverage for such services provided by qualified personnel, as defined in section 17a-248, for a child from birth until the child's third birthday, and (2) a maximum benefit of three thousand two hundred dollars per child per year and an aggregate benefit of nine thousand six hundred dollars per child over the total three year period."

See Sec. 38a-516a for similar provisions re group policies.

Sec. 38a-516a. Coverage for birth-to-three program. Each group health insurance policy providing coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 delivered, issued for delivery or renewed in this state on or after July 1, 1996, shall provide coverage for medically necessary early intervention services provided as part of an individualized family service plan pursuant to section 17a-248e. Such policy shall provide (1) coverage for such services provided by qualified personnel, as defined in section 17a-248, for a child from birth until the child's third birthday, and (2) a maximum benefit of three thousand two hundred dollars per child per year and an aggregate benefit of nine thousand six hundred dollars per child over the total three-year period. No payment made under this section shall be applied by the insurer, health care center or plan administrator against any maximum lifetime or annual

limits specified in the policy or health benefits plan.
(P.A. 96-185, S. 7, 16.)

History: P.A. 96-185 effective July 1, 1996. P.A. 03-03 passed August 16, 2003 and effective from passage, deleted the phrase "at least five thousand dollars annually" and added: "Such policy shall provide (1) coverage for such services provided by qualified personnel, as defined in section 17a-248, for a child from birth until the child's third birthday, and (2) a maximum benefit of three thousand two hundred dollars per child per year and an aggregate benefit of nine thousand six hundred dollars per child over the total three year period."

See Sec. 38a-490a for similar provisions re individual policies