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## REGULATIONS

OF

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NAME OF AGENCY  
DEPARTMENT OF MENTAL RETARDATION

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Concerning

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SUBJECT MATTER OF REGULATION  
**Early Intervention Services for Infants and  
Toddlers and their Families**

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Section 1. Section 17a-248-1 of the Regulations of Connecticut State Agencies is amended to read as follows:

### Sec. 17a-248-1 Definitions

For purposes of Sections 17a-248-2 to 17a-248-10 of these regulations, the following definitions shall apply:

- (1) "Administrative proceeding" means a formal procedure before an impartial decision maker appointed to hear evidence and render a decision final and binding on the parties unless reversed or modified on appeal.
- (2) "Birth to Three System" means a statewide, comprehensive, multidisciplinary, interagency program of early intervention services for infants and toddlers with disabilities.
- (3) "Days" means calendar days.
- (4) "Diagnosed Condition expected to lead to a developmental delay" means those conditions, diagnosed by a physician, audiologist or speech pathologist, that are designated by the lead agency as having a high probability of resulting in a developmental delay.
- (5) "Director" means the person designated by the Commissioner of the lead agency as the person responsible for all statewide aspects of the Birth to Three System.
- (6) "Impartial decision maker" means the person duly designated for the purpose of conducting an administrative proceeding pursuant to 34 CFR 303.421 through 425.
- (7) "Individualized Family Service Plan or (IFSP)" means a written plan for providing early intervention services to an eligible child and the child's family.
- (8) "Interim IFSP" means a temporary plan developed with parental consent for a child who has apparent immediate needs to enable early intervention service delivery between initial identification of the child's needs and the completion of the multidisciplinary evaluation and assessment of a child with a known developmental delay or disability. The interim IFSP shall include the name of the service coordinator and the early intervention services that have been determined to be needed immediately.
- (9) "Mediation" means a voluntary, non-adversarial process by which the parent of a child and the early intervention program are assisted by a trained mediator that has been designated by the lead agency to provide mediation services to reach agreement regarding eligibility, the provision of early intervention services, or the failure of an early intervention program to act within a period required by 34 CFR 303.423.

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- (10) "Personally identifiable" means information which includes but is not limited to the name of the child, the parent, or other family member; the address of the child, the parent or other family member; a personal identifier, such as the social security number of the child, parent, or other family member; a list of description of personal or physical characteristics or other information that would make it possible to identify the child, the parent or other family member with reasonable certainty.
- (11) "Program" means an agency providing comprehensive, early intervention services to eligible children operated by, under contract with, or through an interagency agreement with the lead agency.
- (12) "Record" means any information recorded in any way, maintained by a Birth to Three program, regional manager, Birth to Three contractor or other DMR personnel. A record shall include any information recorded in any way, including, but not limited to handwriting, print, tape, film, microfilm, and microfiche.
- (13) "Regional Director" means that person or his designee appointed by the commissioner to be directly responsible for the management of one of the department's regions.
- (14) "Regional Manager" means the person designated by the Regional Director as the person responsible for the administration of the Birth to Three System in that region.
- (15) "Service Coordination" means activities which assist and enable an eligible child and the child's family to receive the rights, procedural safeguards, and services that are authorized to be provided by the Birth to Three System.
- (16) "Significant Developmental Delay" means the child's scores on an appropriate norm-referenced standardized diagnostic instrument are (A) two standard deviations below the mean in one area of development; or (B) one and one-half standard deviations below the mean in two areas of development. When the use of the standardized diagnostic instrument is not appropriate due to a child's age or when a child requires significant adaptation to perform on a standardized instrument, the evaluator may substitute another procedure.
- (17) "Surrogate Parent" means a person appointed or designated to act as a parent for the child for the birth to three system, when a child's birth or adoptive parents are unknown or unavailable.

Section 2. Section 17a-248-3 to Section 17a-248-4, inclusive, of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 17a-248-3 Eligibility

Children eligible for the Connecticut Birth to Three System are those children who are:

- (1) experiencing a significant developmental delay in one or more of the following areas:
- (A) cognitive development;

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- (B) physical development, including vision or hearing
  - (C) communication development;
  - (D) social or emotional development; or
  - (E) adaptive skills; or
- (2) diagnosed as having a physical or mental condition that has a high probability of resulting in a significant developmental delay.

## Sec. 17a-248-4 Parents, persons in parental relations, and surrogate parents

- (a) The program shall make every effort to protect the right of parents to make decisions about the child's early intervention services, unless the child is committed to the care of the Commissioner of the Department of Children and Families and parental rights have been terminated; no parent can be identified; the public agency cannot, after reasonable efforts, discover the whereabouts of the parents; or the child is a ward of the Commissioner of Children and Families.
- (b) Where the parent's availability to the child is limited due to life circumstances, including residing far from their child or the parent is residing in an institution, or the child's placement in the care and custody of the Commissioner of the Department of Children and Families, the program shall, as appropriate, facilitate the parent's involvement in early intervention services by one or more of the following:
- (1) providing transportation to the parent;
  - (2) enabling the parent's participation in meetings via telephone;
  - (3) convening meetings at times and in locations convenient to the parent; and
  - (4) allowing a birth parent or adoptive parent to voluntarily appoint a surrogate parent upon written consent.
- (c) For purposes of the Birth to Three System, a foster parent may be considered a person in a parental relationship to a child if:
- (1) the natural parents' authority to make early intervention or educational decisions on the child's behalf has been relinquished under State law;
  - (2) the foster parent has an ongoing, long-term parental relationship with the child;
  - (3) the foster parent is willing to participate in making early intervention or educational decisions on the child's behalf; and
  - (4) the foster parent has no interest that would conflict with the interests of the child.
- (d) The regional manager shall determine whether a child requires a surrogate parent.
- (e) The regional manager shall make reasonable efforts to discover the whereabouts of a parent before appointing a surrogate.
- (f) The regional manager shall select a surrogate parent who is willing to serve in such capacity and who:
- (1) has no interest that conflicts with the interests of the child;
  - (2) has knowledge and skills that ensure adequate representation of the child; and
  - (3) is not an employee of the State lead agency, or other State agency, and who is not a person, or any employee of a person, providing

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early intervention services to the infant or toddler, or any family member of the infant or toddler. A person who is paid to serve as a surrogate parent is not deemed to be an employee of a public agency.

- (g) The program shall afford the surrogate parent the same rights and responsibilities as accorded to the parent by the Birth to Three System and shall represent a child in all matters related to:
- (1) evaluation of the child;
  - (2) development and implementation of the Individualized Family Service Plan, including annual evaluations and periodic reviews;
  - (3) the ongoing provision of early intervention services;
  - (4) the right to request mediation or an administrative proceeding in the event of a dispute; and
  - (5) any other rights established in the Birth to Three System.
- (h) The surrogate parent shall maintain the confidentiality of all information regarding the child, including written records in accordance with 34 CFR 99.2 to 99.37, inclusive.
- (i) The lead agency, in collaboration with programs and local interagency coordinating councils, shall develop a procedure for recruitment of qualified persons to serve as surrogate parents, including but not limited to the recruitment of parents of children with disabilities to serve as surrogate parents.
- (j) The lead agency, in collaboration with interested organizations shall ensure that qualified persons receive training in the developmental needs, service options and rights of children eligible for early intervention services and shall maintain and disseminate a list of individuals who have received such training to regional managers.
- (k) The regional manager may revoke the appointment of a surrogate parent in the event:
- (1) the surrogate parent is no longer willing or available to participate in that capacity or fails to fulfill the duties;
  - (2) the child is no longer a ward of the state; or,
  - (3) a parent becomes available.
- (l) The surrogate parent may within ten (10) calendar days request, in writing, a review of the revocation. Within twenty (20) calendar days of the notice the regional manager shall send the individual written notice that the surrogate parent appointment has been reinstated or has been revoked.
- (m) In the event that the surrogate parent's appointment is revoked and the child continues to require the assistance of a surrogate parent, the regional manager shall appoint a surrogate parent.
- (n) Upon review of the Individualized Family Service Plan, and, at a minimum, upon annual review, the program shall determine whether any change in circumstances warrant review of the appointment of the child's surrogate parent. When circumstances warrant such a change, the program shall make a request to the regional manager, who shall take action to effectuate the change in consultation with the Department of Children and Families regional office or other public agency, where appropriate.

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- (o) When an eligible child is turning three years of age and is thought to be eligible for preschool special education services, the surrogate parent may give consent for the referral to the school district who is responsible for the child's education and for the initial evaluation by that school district. The local school district shall then request a surrogate parent from the State Department of Education (SDE).

Section 3. Section 17a-248-8 to Section 17a-248-9, inclusive, of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 17a-248-8 Mediation Procedures to Resolve Individual Child Complaints

- (a) A statewide mediation system shall be available to ensure parents and programs may voluntarily access a non-adversarial process for the resolution of complaints regarding the provision of early intervention services.
- (a) The decision of the parent to not participate in mediation proceedings shall not prevent or delay the parent from pursuing an administrative proceeding as provided by Section 17a-248-9 of these regulations.
- (c) The lead agency shall, upon written request for a mediation from either a parent or program, appoint an impartial mediator. Impartial mediators shall not be employees of any public or private agency or program involved in the provision of early intervention services or care of the child and shall not have a personal or professional interest that would conflict with his or her objectivity as an impartial mediator.
- (d) Any parent requesting mediation has the right to:
- (1) withdraw at any time from mediation and request an administrative proceeding;
  - (2) have the mediation conducted at a neutral, reasonably convenient site and time; and
  - (3) interpreter services or alternative communication services, if any are needed
- (e) When mediation results in successful negotiation of a partial or full agreement on areas in dispute between the parent and the program, the mediator shall:
- (1) document the terms of the negotiated agreement in writing and obtain the signatures of the parent and the program representative on the written agreement;
  - (2) if applicable, list the unresolved issues and state only that no agreement was reached on these issues;
  - (3) whenever practicable, provide the written agreement in the dominant language of the parent or other alternative mode of communication;
  - (4) ensure that the parent and program representative receive a copy of the written agreement; and
  - (5) inform the Birth to Three regional manager and director of the disposition of the mediation.
- (f) The service coordinator from the early intervention program shall ensure that the terms of the written agreement are incorporated into

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the Individualized Family Service Plan within five working days of the receipt of the written document.

- (g) Except as otherwise required by State and Federal law, all statements made during the mediation and all documents prepared for the mediation shall remain confidential unless both parties agree to release that information. No such information shall be used in any subsequent due process proceeding without the consent of both parties.

Sec. 17a-248-9 Administrative Proceeding to Resolve Individual Child Complaints

- (a) The lead agency shall establish, implement and maintain an administrative proceeding process for the resolution of individual complaints regarding the identification, evaluation and assessment; eligibility determination; development, review and implementation of the Individualized Family Service Plan (IFSP); and procedural rights and safeguards.
- (b) A parent of a child who is or who may be eligible for early intervention services may request, in writing, of the lead agency an administrative proceeding to review the proposal, or refusal, of an agency to initiate or change the identification, evaluation or placement of the child, or the provision of early intervention services to the child and the child's family.
- (c) Upon receipt of a written request for an administrative proceeding, the lead agency shall schedule such a proceeding which shall be held in accordance with this section.
- (d) The lead agency shall, upon receipt of a request for an administrative proceeding in accordance with subsection (a) of this section, appoint an impartial decision maker, knowledgeable about the provisions of Section 17a-248-1 through 17a-248-12, inclusive these regulations, and the need of, and services available for, eligible children and their families. The proceeding shall be scheduled at a time and in a location reasonably convenient to the parents. The impartial decision maker shall not be an employee of any public or private agency or program involved in the provision of early intervention services or care of the child and shall not have a personal or professional interest that would conflict with his or her objectivity as an impartial decision maker. A person who is paid to serve as an impartial decision maker is not deemed to be an employee of a public agency. The impartial decision maker shall make a record of the proceedings.
- (e) The impartial decision maker shall listen to the presentation of relevant viewpoints concerning the matter under review, examine all information relevant to the issues and seek to reach a timely resolution of the matter. The findings of fact, conclusions of law and decision shall be written without personally identifiable information concerning the child or the child's family.
- (f) A record of the administrative proceeding shall be kept and shall include all notices, pleadings, and motions; evidence presented during the administrative proceeding; questions and offers of proof, objections thereto, and ruling thereon; any statements of matters officially noticed by the impartial person; and any findings of fact,

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conclusions of law, decision, determination, opinion, order or report made by the impartial person.

- (g) Any parent requesting an administrative proceeding has the right to:
- (1) be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for eligible children;
  - (2) present evidence and confront, cross-examine and compel the attendance of witnesses;
  - (3) prohibit the introduction of any evidence at the administrative proceeding which has not been disclosed to the parent at least five days before the proceeding;
  - (4) obtain a written or electronic verbatim transcription of the proceedings;
  - (5) obtain written findings of fact, conclusions of law and decisions;
  - (6) have his or her child present at the proceeding; and
  - (7) open the proceeding to the public.
- (h) During the pendency of an administrative proceeding, (1) unless the parties otherwise agree, the child shall continue to receive early intervention services currently being provided and (2) if the proceeding involves an application for initial early intervention services, the child shall receive those services that are not in dispute.

Section 4. Section 17a-248-11 to 17a-248-14, inclusive, of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 17a-248-11 Financial Liability Definitions

For the purposes of Sections 17a-248-12 through 17a-248-14, inclusive, of these regulations, the following definitions shall apply:

- (a) "Contribution" means an amount of money determined to be due and payable currently from a parent.
- (b) "Adjusted Gross income" means the total of adjusted earned and unearned income as shown on the parent's most recent state income tax return or, in lieu of a state income tax return, a federal income tax return. In lieu of either, the lead agency may approve an alternative means of reporting income.
- (c) "Family" means a group of two or more persons related by birth, marriage, or adoption who live together.
- (d) "IFSP early intervention services" means the early intervention services described in an IFSP excluding any services which are to be carried out at public expense. Services which are to be carried out at public expense are described in 34 CFR Section 303.521 and include, but are not limited to, evaluation, assessment and service coordination.
- (e) "Insurance" means third party coverage for the costs of health care services.

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- (f) "Medicaid" means the program operated by the Department of Social Services pursuant to Section 17b-260 of the Connecticut General Statutes and authorized by Title XIX of the Social Security Act.
- (g) "Parent" means the natural or adoptive parent or legal guardian of any children receiving IFSP early intervention services.
- (h) "Program" means an agency providing comprehensive early intervention services to eligible children operated by, under contract with, or through an interagency agreement with the lead agency.
- (i) "Uninsured parent" means a parent who does not have insurance.

Sec. 17a-248-12 Insurance

- (a) Programs shall be responsible for billing insurance.
- (b) Parents shall be responsible for reimbursement of costs for early intervention services included in an eligible child's IFSP through contributions from insurance and a fee schedule established by the lead agency.
- (c) Parents who have insurance may assign to the lead agency the right of recovery or indemnification which he has against his insurer for the cost of IFSP early intervention services for which he is liable and shall make a contribution to the lead agency based on the schedule of contributions in Section 17a-248-13(a) of the Regulations of Connecticut State Agencies. The total reimbursement from insurance and parent contributions shall not exceed the actual cost for early intervention services.
- (d) Uninsured parents shall make a contribution to the lead agency based on the schedule of contributions in Section 17a-248-13(a) of these regulations.
- (e) Parents who have insurance and elect not to assign such right of recovery or indemnification to the lead agency shall make a contribution to the lead agency based on the schedule of contributions in Section 17a-248-13(b) of these regulations.
- (f) Parents of a child that is eligible for Medicaid shall not be required to make any contribution.

Sec. 17a-248-13 Schedule of contributions

- (a) The schedule of contributions based on a sliding scale for parents who are uninsured or who assign to the lead agency the right of insurance recovery shall be as follows:

| Adjusted Gross Family Income | Monthly Contribution by Family Size |      |      |           |
|------------------------------|-------------------------------------|------|------|-----------|
|                              | 3 or Fewer                          | 4    | 5    | 6 or More |
| Less than \$45,000           | \$0                                 | \$0  | \$0  | \$0       |
| \$45,000 - \$55,000          | \$15                                | \$10 | \$5  | \$5       |
| \$55,001 - \$65,000          | \$20                                | \$15 | \$10 | \$5       |
| \$65,001 - \$75,000          | \$25                                | \$20 | \$15 | \$10      |
| \$75,001 - \$85,000          | \$35                                | \$30 | \$25 | \$20      |
| \$85,001 - \$95,000          | \$65                                | \$60 | \$55 | \$50      |
| \$95,001 - \$105,000         | \$75                                | \$70 | \$65 | \$60      |

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| \$105,001 - \$125,000 | \$95  | \$90  | \$85  | \$80  |
| \$125,001 - \$150,000 | \$120 | \$115 | \$110 | \$105 |
| \$150,001 - \$175,000 | \$145 | \$140 | \$135 | \$130 |
| \$175,001 - and above | \$170 | \$165 | \$160 | \$155 |

(b) The schedule of contributions based on a sliding scale for parents who have insurance and do not assign to the lead agency the right of insurance recovery shall be as follows:

| Adjusted Gross Family Income | Monthly Contribution By Family Size |       |       |           |
|------------------------------|-------------------------------------|-------|-------|-----------|
|                              | 3 or Fewer                          | 4     | 5     | 6 or More |
| Less than \$45,000           | \$0                                 | \$0   | \$0   | \$0       |
| \$45,001 - \$55,000          | \$30                                | \$20  | \$10  | \$10      |
| \$55,001 - \$65,000          | \$40                                | \$30  | \$20  | \$10      |
| \$65,001 - \$75,000          | \$50                                | \$40  | \$30  | \$20      |
| \$75,001 - \$85,000          | \$70                                | \$60  | \$50  | \$40      |
| \$85,001 - \$95,000          | \$130                               | \$120 | \$110 | \$100     |
| \$95,001 - \$105,000         | \$150                               | \$140 | \$130 | \$120     |
| \$105,001 - \$125,000        | \$190                               | \$180 | \$170 | \$160     |
| \$125,001 - \$150,000        | \$240                               | \$230 | \$220 | \$210     |
| \$150,001 - \$175,000        | \$290                               | \$280 | \$270 | \$260     |
| \$175,001 - and above        | \$340                               | \$330 | \$320 | \$310     |

- (c) Monthly contributions from parents in accordance with the schedules established by these regulations shall not accrue except after the second full month following the enrollment of a child.
- (d) The parent shall be liable for the monthly contributions for each full month that their child is enrolled in the Birth to Three System after IFSP early intervention services begin and until the child exits the system. Additional contributions shall not be required if the parent has more than one child enrolled in the Birth to Three System at the same time.
- (e) The aggregate contributions made by the parent shall not exceed the aggregate cost of IFSP early intervention services received by their child and family.
- (f) The State Interagency Birth to Three Coordinating Council shall review the schedule of contributions at least once every three years and shall make recommendations to the lead agency regarding such schedule.
- (g) The lead agency or its designee shall be responsible for billing. Bills which are unpaid after three (3) months shall result in the suspension of IFSP early intervention services until such time as payment is made. The parent shall not be required to make a contribution for any month in which no IFSP early intervention services are delivered. Services that are not cancelled by the family at least 24-hours prior to their scheduled time are considered to have been delivered.
- (h) At least annually, or when the lead agency determines that a reassessment of the parent's financial circumstances is warranted, the lead agency or its designee shall conduct such a reassessment and adjust the contribution for early intervention services.

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- (i) The parent has the right to have a reassessment at any time if there are significant changes affecting the determination of his contribution. Such request shall be in writing.
- (j) Parents may request in writing an adjustment of fees if there are extraordinary expenditures that should be taken into account when calculating the contribution. Adjustments may be requested through the regional manager as outlined in section 17a-248-14 of these regulations. If such an adjustment is denied the parent may request an administrative proceeding pursuant to section 17a-248-9 of these regulations.

**Sec. 17a-248-14 Adjustment to Parent Fees**

- (a) The lead agency may, upon the written request of a parent and proper documentation and determination, reduce the parent's adjusted gross income from which the contribution is calculated.
- (b) The lead agency shall review requests submitted pursuant to section 17a-248-13(f) of these regulations and shall notify the parent by mail of its decision.
- (c) A parent who is aggrieved by such a decision may request in writing through the regional manager an administrative review within thirty days of the receipt of the notice of the decision.
- (d) The lead agency shall hold such review within thirty days of the receipt of such a request for such review and shall, at least ten days prior to the date of such review mail a notice, giving the time and place of the review to the aggrieved parent. A period of continuance not to exceed twenty (20) days may be granted.
- (e) The aggrieved parent shall appear personally at the administrative review and may have representation.
- (f) A record shall be made of each administrative review, but need not be transcribed.
- (g) The administrative review shall be conducted by the commissioner or his designee.
- (h) The lead agency shall render a final decision within ninety (90) days after the close of the administrative review. Written notice of the final decision shall be sent to the aggrieved parent by the lead agency by certified mail.

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