

**State of Connecticut
Regulation of
Department of Social Services
Concerning
Requirements for Payment of Early Intervention Services Pursuant to EPSDT Under
the Birth to Three System**

Section 1. The Regulations of Connecticut State Agencies are amended by adding sections 17b-262-1109 to 17b-262-1119, inclusive, as follows:

(NEW) Sec. 17b-262-1109. Scope

Sections 17b-262-1109 to 17b-262-1119, inclusive, of the Regulations of Connecticut State Agencies set forth the department's requirements for payment of early intervention services pursuant to EPSDT provided by providers under contract with the lead agency, to Connecticut Medical Assistance Program members.

(NEW) Sec. 17b-262-1110. Definitions

As used in sections 17b-262-1109 to 17b-262-1119, inclusive, of the Regulations of Connecticut State Agencies:

- (1) "Advanced practice registered nurse" or "APRN" means an individual licensed pursuant to section 20-94a of the Connecticut General Statutes;
- (2) "Assessment" has the same meaning as provided in 34 CFR 303.321, as amended from time to time, and which is provided in accordance with subsection (c) of section 17b-262-1114 of the Regulations of Connecticut State Agencies;
- (3) "Assistive technology professional" or "ATP" means an individual who is certified as an ATP by the Rehabilitation Engineering and Assistive Technology Society of North America;
- (4) "Audiologist" means an individual who (A) is licensed pursuant to section 20-395c of the Connecticut General Statutes and (B) meets the definition of "qualified audiologist" in 42 CFR 440.110(c)(3), as amended from time to time;
- (5) "Billing provider" means the provider that is enrolled in the Connecticut Medical Assistance Program, under contract with the lead agency to provide services under the Birth to Three System and bills the department for early intervention services provided to members;
- (6) "Birth to Three System" means the statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for infants and toddlers with disabilities that is administered by the lead agency in accordance with Part C of IDEA and sections 17a-248 to 17a-248i, inclusive, of the Connecticut General Statutes;
- (7) "Board certified assistant behavior analyst" or "BCaBA" means an individual certified as a BCaBA by the Behavior Analyst Certification Board and who provides services under the supervision of a BCBA;
- (8) "Board certified behavior analyst" or "BCBA" means an individual certified as a BCBA by the Behavior Analyst Certification Board;
- (9) "Children's Health Insurance Program" or "CHIP" means the federally subsidized program of health care for uninsured, low-income children authorized by Title XXI of the Social Security Act and operated by the department pursuant to sections 17b-289 to 17b-307, inclusive, of the

Connecticut General Statutes, also known as HUSKY B;

(10) “CMS” means the U.S. Centers for Medicare and Medicaid Services;

(11) “Commissioner” means the Commissioner of Social Services or the commissioner’s designee;

(12) “Connecticut Medical Assistance Program” or “CMAP” means all of the medical assistance programs administered by the department pursuant to state and federal law, including, but not limited to, Medicaid and CHIP;

(13) “Department” means the Department of Social Services or its agent;

(14) “Developmental delay” means “significant developmental delay” as defined in section 17a-248-1 of the Regulations of Connecticut State Agencies;

(15) “Developmental screening” means the “screening procedures” as defined in 34 CFR 303.320, as amended from time to time, and which is provided in accordance with section 17b-262-1115 of the Regulations of Connecticut State Agencies;

(16) “Developmental therapist” means an individual with a bachelor’s or master’s degree in a human services field and who is certified by the state Department of Education in a field that is authorized as qualified to provide EIS in accordance with the lead agency’s personnel standards;

(17) “Developmental therapy specialist” means an individual with a bachelor’s or master’s degree in a human services field credentialed by the lead agency as an infant, toddler and family specialist;

(18) “Developmental therapy associate” means an individual who works under the direct supervision of a licensed or certified EIS performing provider and who has a minimum of a bachelor’s degree in a human services field, unless such individual: (A) prior to July 1, 2013, was providing EIS employed by or under contract to a billing provider, as documented by the lead agency and (B) has not less than four years of experience providing EIS;

(19) “Dietician-nutritionist” means an individual who is certified pursuant to section 20-206n or 20-206o of the Connecticut General Statutes;

(20) “Early and periodic screening, diagnostic and treatment” or “EPSDT” means the services provided in accordance with section 1905(r) of the Social Security Act, as amended from time to time;

(21) “Early Intervention Services” or “EIS” means, consistent with 20 USC 1432 and 34 CFR 303.13, each as amended from time to time, developmental screenings; developmental evaluations; IFSP planning; assessments; early intervention treatment services; medical equipment, supplies and appliances; or any combination thereof;

(22) “Early intervention treatment services” means those services provided in accordance with subsection (e) of section 17b-262-1114 of the Regulations of Connecticut State Agencies;

(23) “EIS performing provider” means any licensed practitioner or non-licensed practitioner who is employed by or under contract to a billing provider and who is qualified to provide EIS services on behalf of the billing provider in accordance with applicable requirements for the provision of EIS;

(24) “Evaluation” has the same meaning as provided in section 17a-248 of the Connecticut General Statutes and which is provided in accordance with 34 CFR 303.321, as amended from time to time, and subsection (b) of section 17b-262-601 of the Regulations of Connecticut State Agencies;

(25) “Individualized Family Service Plan” or “IFSP” has the same meaning as provided in section 17a-248 of the Connecticut General Statutes and which complies with 20 USC 1436 and 34 CFR 303.20, each as amended from time to time, section 17a-248e of the Connecticut General Statutes and section 17a-248-1 of the Regulations of Connecticut State Agencies and also includes an interim IFSP as defined in section 17a-248-1 of the Regulations of Connecticut State Agencies;

(26) “Individual in training” means an individual who has graduated with a degree that qualifies towards licensure in a category of licensed practitioners and is actively working towards licensure under the direct supervision of the applicable fully licensed practitioner;

(27) “International Classification of Diseases” or “ICD” means the version of the International Classification of Diseases code set as maintained and distributed by CMS that is required to be used pursuant to 45 CFR 162.1002, as amended from time to time;

(28) “Lead agency” means the Office of Early Childhood or such other successor agency designated by the state as the lead agency for Part C of IDEA in accordance with 20 USC 1435(a)(10) and 34 CFR 303.22, each as amended from time to time, and section 17a-248 of the Connecticut General Statutes;

(29) “Licensed practitioner” means an individual who (A) is an APRN, audiologist, licensed alcohol and drug counselor, LCSW, LMFT, LMSW, licensed professional counselor, occupational therapist, occupational therapy assistant, physician, physician assistant, physical therapist, physical therapy assistant, psychologist, registered nurse, speech and language pathologist or such other category of individual licensed by the Department of Public Health and which the lead agency has designated in writing as qualified to provide early intervention services; (B) works within such individual’s scope of practice under state law; and (C) complies with all applicable lead agency qualifications and other requirements for the provision of EIS;

(30) “Licensed alcohol and drug counselor” means an individual licensed pursuant to section 20-74s of the Connecticut General Statutes;

(31) “Licensed clinical social worker” or “LCSW” means an individual licensed pursuant to subsection (c) or subsection (e) of section 20-195n of the Connecticut General Statutes;

(32) “Licensed marital and family therapist” or “LMFT” means an individual licensed pursuant to section 20-195c of the Connecticut General Statutes;

(33) “Licensed master social worker” or “LMSW” means an individual who (A) is licensed pursuant to subsection (b) or subsection (d) of section 20-195n of the Connecticut General Statutes and (B) complies with such individual’s scope of practice under state law, including, but not limited to, the requirements in section 20-195s of the Connecticut General Statutes concerning professional supervision under a licensed practitioner specified therein and consultation regarding mental health diagnoses with a licensed practitioner specified therein;

(34) “Licensed professional counselor” means an individual licensed pursuant to sections 20-195cc and 20-195dd of the Connecticut General Statutes;

(35) “Medicaid” means the program operated by the department pursuant to section 17b-260 of the Connecticut General Statutes and authorized by Title XIX of the Social Security Act, as amended from time to time;

(36) “Medicaid State Plan” means the plan describing Medicaid eligibility, coverage, benefits and reimbursement, including amendments thereto, which is established by the department and reviewed and approved by CMS pursuant to 42 CFR 430, Subpart B, as amended from time to time;

(37) “Medical necessity” or “medically necessary” has the same meaning as provided in section 17b-259b of the Connecticut General Statutes;

(38) “Member” or “child” means an individual eligible for goods and services under CMAP who is under age twenty-one;

(39) “Non-licensed practitioner” means an individual who (A) is an assistive technology professional, BCBA, BCaBA, developmental therapist, developmental therapy associate, developmental therapy specialist, dietician-nutritionist or such other category of individual with applicable certification or other credentials and which the lead agency has designated in writing as qualified to provide early intervention services; (B) works within such individual’s applicable scope of practice; and (C) complies with all applicable lead agency qualifications for the provision of EIS;

(40) “Occupational therapist” means an individual who (A) is licensed as an occupational therapist pursuant to sections 20-74b or 20-74c of the Connecticut General Statutes and (B) meets the definition of “qualified occupational therapist” in 42 CFR 440.110(b)(2), as amended from time to

time;

(41) “Occupational therapy assistant” means an individual who is licensed as an occupational therapy assistant pursuant sections 20-74b or 20-74c of the Connecticut General Statutes;

(42) “Parent” has the same meaning as provided in section 17a-248 of the Connecticut General Statutes;

(43) “Part C of IDEA” means Part C of the Individuals with Disabilities Education Act, 20 USC 1471 et seq. and 34 CFR 303, each as amended from time to time;

(44) “Performing provider” means an individual who (A) is a licensed practitioner or non-licensed practitioner; (B) is employed by or under contract to the billing provider; and (C) provides EIS in compliance with provider qualifications and other applicable requirements;

(45) “Physical therapist” means an individual who (A) is licensed as a physical therapist pursuant to section 20-70 or section 20-71 of the Connecticut General Statutes and (B) meets the definition of “qualified physical therapist” in 42 CFR 440.110(a)(2), as amended from time to time;

(46) “Physical therapy assistant” means an individual who is licensed as a physical therapy assistant pursuant to section 20-70 or section 20-71 of the Connecticut General Statutes;

(47) “Physician” means an individual licensed pursuant to section 20-13 of the Connecticut General Statutes;

(48) “Physician assistant” means an individual licensed pursuant to section 20-12b of the Connecticut General Statutes;

(49) “Prior authorization” means the department’s approval for a provider to render a service or deliver goods before the provider actually renders the service or delivers the goods;

(50) “Provider agreement” means the signed, written, contractual agreement between the department and the billing provider for enrollment in CMAP;

(51) “Psychologist” means an individual licensed pursuant to section 20-188 or section 20-190 of the Connecticut General Statutes;

(52) “Registered nurse” means an individual licensed pursuant to section 20-93 or section 20-94 of the Connecticut General Statutes;

(53) “Speech and language pathologist” means an individual who (A) is licensed pursuant to section 20-411 of the Connecticut General Statutes and (B) meets the definition of “speech pathologist” in 42 CFR 440.110(c)(2), as amended from time to time; and

(54) “State Medicaid Manual” means the current manual established by CMS that provides guidance to state Medicaid agencies regarding the administration of the Medicaid program.

(NEW) Sec. 17b-262-1112. Billing Provider Participation and Qualifications

(a) **Lead Agency.** The lead agency shall:

(1) Select one or more billing providers to provide EIS under contract with the lead agency through a competitive or non-competitive bidding process; and

(2) Ensure that all billing providers comply with the lead agency’s requirements, the department’s requirements, all requirements pursuant to Part C of IDEA and all additional requirements applicable to EIS providers.

(b) **Billing Providers – General Participation Requirements.** In order to receive payment from CMAP for providing EIS, each billing provider shall:

(1) Have a contract in good standing to provide Birth to Three services with the lead agency;

(2) Comply with all department enrollment requirements;

(3) Have a valid provider agreement on file with the department;

(4) Provide all EIS in compliance with all applicable federal and state statutes and regulations, including, but not limited to, as applicable, Part C of IDEA; 20 USC 1232g and 34 CFR 99, each as amended from time to time; sections 17a-248 to 17a-248i, inclusive, of the Connecticut General

Statutes; and sections 17a-248-1 to 17a-248-14, inclusive, and 17b-262-1109 to 17b-262-1119, inclusive, of the Regulations of Connecticut State Agencies;

(5) Comply with all CMAP documentation and other requirements;

(6) Comply with all lead agency requirements and procedures, including, but not limited to, providing timely IFSPs, providing timely new services, timely transition planning, cultural and linguistic competency and complying with the lead agency's payment procedures; and

(7) Ensure that all performing providers (A) comply with all applicable provider qualifications; (B) perform services only within the scope of each license, certification, other credential or combination thereof that are applicable to such individual and comply with all applicable related requirements; (C) comply with all applicable department enrollment requirements; and (D) perform only the specific categories of EIS that are permissible for such individual to provide in accordance with sections 17b-262-1114 and 17b-262-1115, as applicable, of the Regulations of Connecticut State Agencies and the lead agency's requirements.

(c) **Provider Qualifications.** Each billing provider shall:

(1) Be a Connecticut municipality or a private provider with an office in Connecticut;

(2) Have sufficient information technology knowledge and support to provide Birth to Three services;

(3) Be fiscally viable in order to continue providing Birth to Three services, as determined by the lead agency in accordance with its standard procedures; and

(4) Comply with all other applicable lead agency and department requirements for the provision of EIS.

(NEW) Sec. 17b-262-1113. Eligibility

(a) Payment for EIS is available for all members subject to the conditions and limitations which apply to EIS, in accordance with sections 17b-262-1109 to 17b-262-1119, inclusive, of the Regulations of Connecticut State Agencies.

(b) Payment for EIS is available only for developmental screening, evaluations, assessments, IFSP planning and review, early intervention treatment services and medical equipment, devices and supplies.

(NEW) Sec. 17b-262-1114. Services covered and limitations

(a) **General Requirements.** The department pays for Birth to Three services in accordance with this section. The billing provider shall provide Birth to Three services in accordance with all applicable department and lead agency requirements.

(1) All EIS shall comply with all applicable federal and state statutes and regulations, including such requirements applicable to specific categories of performing providers.

(2) All EIS provided by non-licensed practitioners shall, in accordance with 42 CFR 440.130(c), as amended from time to time, be recommended by a licensed practitioner to prevent the progression of developmental delays, prolong life and promote physical and mental health and efficiency. Such services shall also, in accordance with section 4385 of the State Medicaid Manual or any successor sections, be direct patient care provided to the member for the primary purpose of diagnosing, treating or preventing the progression of developmental delays, which is a set of conditions that directly affects the member's mental and physical health. Such services shall also comply with all other applicable federal requirements.

(3) EIS shall be provided in the child's natural environment to the maximum extent appropriate to the needs of the child.

(4) Subject to and in accordance with the lead agency's procedures, early intervention treatment

services shall be limited to those services authorized by a parent in the IFSP.

(5) Each billing provider shall provide EIS only in accordance with the lead agency's referral and the service area approved by the lead agency for each such billing provider.

(6) Each billing provider shall ensure that each performing provider complies with the lead agency's personnel standards for EIS and only within the applicable scope of practice under state law and in compliance with the requirements of each license, certification or other credential applicable to the performing provider.

(7) All EIS (including developmental evaluations, assessments, IFSP planning and early intervention treatment services) may be multi-disciplinary and more than one type of practitioner may be present at the same time or at different times as medically necessary for the provision of each service based on the unique needs of each child. In addition, for early intervention treatment services, more than one of the same type of practitioner may be present at the same time or at different times as medically appropriate and necessary to provide early intervention treatment services, as documented by the provider.

(b) Developmental Evaluations.

(1) Comprehensive multi-disciplinary evaluations are conducted to determine each child's developmental status, including related physical and mental conditions. Each evaluation shall consider each member's unique needs. Such evaluation is necessary to determine if EIS is medically necessary for a child; and, if so, to determine which areas of development should be further assessed to determine specific recommended EIS necessary to meet the involved member's unique needs. The evaluation shall occur prior to the provision of early intervention treatment services for a child. Whenever possible, the evaluation report shall be completed and signed by each applicable performing provider prior to the provision of early intervention treatment services for a child. In all cases, the evaluation report shall be completed and signed by the performing provider not later than forty-five days after the evaluation was performed. If indicated by the evaluation, a performing provider described in subdivision (2) of this subsection shall refer the member for an assessment.

(2) Provider Qualifications. Developmental evaluations shall be provided by an audiologist, BCBA, developmental therapist, developmental therapy specialist, LMFT, licensed professional counselor, APRN, registered nurse, occupational therapist, optometrist, physical therapist, physician, physician assistant, psychologist, LCSW, LMSW, speech and language pathologist or such other category of licensed practitioner as is designated both by the department and by the lead agency. Individuals in training for one of the categories of practitioners listed in this subdivision may also provide developmental evaluations.

(3) Developmental evaluations are covered regardless of whether or not the evaluation recommends that the child receive early intervention treatment services.

(4) Limitation. A subsequent developmental evaluation may not be completed sooner than three months after a prior developmental evaluation was completed for a child, which may be exceeded with prior authorization based on medical necessity.

(c) Assessments.

(1) Based on the recommendations of the evaluation, initial and ongoing assessments are conducted to determine the frequency, intensity, duration, and type of EIS needed. Assessments are necessary in order to enable the provider to develop, implement, and update the IFSP. Assessments focus on areas and conditions identified in the evaluation or from subsequent information and are used to determine specific services that are medically necessary. A provider shall perform an assessment for each member not more than twelve months after the previous assessment was performed. Each assessment report shall be signed by each applicable performing provider. Assessments, including new or repeated components of an assessment, may be performed, updated or repeated as medically necessary for a child, as documented by the provider in the assessment report.

A non-exclusive example of circumstances under which a new assessment could be conducted is where there are delays in areas of development other than those that were the focus of the initial or earlier assessments.

(2) **Provider Qualifications.** Assessments shall be provided by an ATP, audiologist, BCBA, developmental therapist, developmental therapy specialist, LMFT, licensed professional counselor, APRN, registered nurse, occupational therapist, optometrist, optician, physical therapist, physician, physician assistant, psychologist, LCSW, LMSW, speech and language pathologist or such other category of licensed practitioner designated both by the department and by the lead agency. Individuals in training for one of the categories of practitioners listed in this subdivision may also provide an assessment.

(d) IFSP Planning.

(1) This service includes one or more of the performing providers described in subdivision (4) of this subsection attending and participating in IFSP planning meetings and completing individual evaluation and treatment recommendations that may be included in the IFSP. Based on the assessment, the practitioner codifies the evaluation and treatment recommendations in the IFSP to determine and outline the individualized goals, objectives and strategies for treatment, including specific types, frequency, intensity, and duration of recommended early intervention treatment services.

(2) The IFSP defines individualized goals, objectives and strategies for treatment, including recommendations for specific EIS including the frequency, intensity, and duration of recommended EIS and which type or types of qualified EIS practitioner will deliver services. The IFSP is agreed upon by the IFSP team, which includes the child's parent and signed by the child's parent in addition to any other signatures required by the lead agency.

(3) The IFSP is planned in collaboration with the child's caregivers and a multi-disciplinary team that includes professionals appropriate to determine each child's unique needs. In order to ensure that the IFSP is recommended by at least one licensed practitioner in accordance with 42 CFR 440.130(c), the IFSP team shall include at least one of the following licensed practitioners: audiologist, LMFT, APRN, registered nurse, occupational therapist, optometrist, physical therapist, physician, physician assistant, licensed professional counselor, licensed psychologist, LCSW, LMSW or speech and language pathologist. It is not required that each of these individuals attends each meeting but at least one such individual shall participate as part of the IFSP team in accordance with lead agency procedures and shall sign the IFSP. As part of this process, the provider coordinates with other appropriate providers and the child's caregivers. Revisions and updates are provided as necessary and appropriate in order to ensure that the IFSP continues to be appropriately tailored to each child's needs.

(4) **Provider Qualifications.** IFSP planning may be provided by any performing provider who has completed applicable training specified by the lead agency.

(e) Early Intervention Treatment Services.

(1) In accordance with and subject to lead agency procedures, early intervention treatment services provided to the child's family are provided for the direct benefit of the child as medically necessary for each child and in accordance with the child's needs and treatment goals identified in the IFSP and for the purpose of assisting in the child's treatment. Early intervention treatment services include assisting caregivers with enhancing the functional development of the child with an emphasis on specific developmental areas appropriately tailored to each child's needs. As medically necessary for each child based on that child's individual needs, early intervention treatment services include, but are not limited to, the following:

(A) Consulting with and training the child's caregivers for the benefit of the child to design or adapt environments, activities and materials to enhance the child's development and collaborating

with caregivers and other medical and EIS providers to support medically necessary services.

(B) Assisting the family, for the benefit of the child, in gaining access to and coordinating services, including making referrals to providers for needed services and scheduling appointments; facilitating and participating in the development, review, and evaluation of IFSPs, coordinating all EIS provided under the IFSP and planning transition out of receiving EIS.

(C) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with the IFSP; training or technical assistance in the use of medical equipment, devices and supplies for the benefit of the child; and training or technical assistance in the use of medical equipment, devices and supplies for professionals or others who provide services to, or are otherwise substantially involved in assisting the child with major life functions.

(2) Services in Accordance with IFSP. In accordance with and subject to the lead agency's procedures, early intervention treatment services shall be provided in accordance with the IFSP, which also includes any updates thereto and refers to the actual IFSP signed by the child's parent and that is maintained in the provider's medical records. The specific provision of early intervention treatment services (including the setting, type, frequency, specific performing providers and length of service visits) may occasionally vary from the terms of the IFSP to the extent medically necessary for each child and in order to best meet the child's needs in addressing the joint plan developed with the child's caregiver or caregivers at each visit with the provider. The provider shall document and explain in the provider's medical records any variance between the IFSP and actual provision of early intervention treatment services. The signed IFSP is the licensed practitioner's recommendation of the EIS to be provided to a member.

(3) Setting. Each billing provider shall primarily provide in-person early intervention treatment services. When appropriate in accordance with the IFSP, a provider may provide early intervention treatment services using a synchronous real-time video conference, provided that such mode of treatment: is clinically appropriate for a child's circumstances for a specific service to be delivered other than in-person; is provided in accordance with all applicable lead agency and department procedures; complies with all applicable information security and privacy requirements; and meets all other applicable requirements for a service, including, but not limited to, provider qualifications, duration of service and specific services provided.

(4) Provider Qualifications. Early intervention treatment services may be provided by any qualified performing provider.

(f) Medical Equipment, Devices and Supplies.

(1) A provider may provide only those medical equipment, devices and supplies pursuant to 42 CFR 440.70(b)(3), as amended from time to time, that are medically necessary for a member and that are not provided and billed by a medical equipment, devices and supplies provider for the same member pursuant to sections 17b-262-672 to 17b-262-683, inclusive, 17b-262-712 to 17b-262-723, inclusive, 17b-262-736 to 17b-262-746, inclusive, or 17b-262-792 to 17b-262-803, inclusive, of the Regulations of Connecticut State Agencies. Each billing provider shall comply with all applicable department guidelines and procedures in providing and billing for medical equipment, devices and supplies. Each billing provider shall bill for medical equipment, devices and supplies only using the department's fee schedule for EIS providers, not using the general fee schedule for medical equipment, devices and supplies providers.

(2) Provider Qualifications. Medical equipment, devices and supplies may be provided by any billing provider.

(g) **Dispute Resolution.** If a child's parent has one or more individual complaints regarding the provision of EIS for such child, on behalf of the child, the parent may exercise any of the available dispute resolution procedures provided by the lead agency, including mediation pursuant to section 17a-248-8 of the Regulations of Connecticut State Agencies, an administrative proceeding pursuant

to section 17a-248-9 of the Regulations of Connecticut State Agencies or both.

(NEW) Sec. 17b-262-1115. Screening Procedures.

(a) If the lead agency adopts procedures to screen children in accordance with 34 CFR 303.320, as amended from time to time, then, after reviewing such procedures, the department may choose to establish payment to billing providers for providing screening in accordance with this section. Billing providers shall not bill for screening and the department shall not pay for screening unless the lead agency has adopted such procedures. This screening is separate from the department's standard EPSDT screening services that are provided in accordance with the periodicity schedule.

(b) Subject to subsection (a) of this section, the department may pay billing providers only for screening that complies with 34 CFR 303.320, as amended from time to time, and the lead agency's screening procedures. In accordance with 34 CFR 303.320, as amended from time to time, screening procedures include the administration of appropriate instruments by personnel trained to administer those instruments, each as defined in the lead agency's screening procedures.

(c) Subject to subsection (a) of this section and in accordance with the lead agency's screening procedures, payment for screening provided by billing providers to members may be available in any of the following circumstances, subject to the commissioner's discretion: as part of mass screenings designed to screen a large number of children for whom EIS may be medically necessary; referrals from the Department of Children and Families to the lead agency that are required by law; in other circumstances where there is a risk that a child has one or more developmental delays that could potentially make EIS medically necessary, but only when that child was not previously screened; or in other circumstances as specified by the department.

(d) Subject to subsections (a) and (c) of this section, payment for screening shall not duplicate other screening that has been carried out for a child unless it is medically necessary. If a duplicate screening was provided in accordance with this subsection, the billing provider shall maintain documentation that such additional screening was medically necessary.

(e) A child is not required to receive a screening before receiving an evaluation. In accordance with 34 CFR 303.320, as amended from time to time, regardless of the timing or outcome of a screening, a parent may request an evaluation for a child at any time.

(f) Provider Qualifications. Screening may be provided by any qualified EIS performing provider who complies with the lead agency's screening procedures.

(NEW) Sec. 17b-262-1116. Services Not Covered

The department shall not pay a billing provider for any of the following:

1. Any procedure or service of an unproven, experimental, cosmetic or research nature; any service that is not medically necessary for a member; or services not directly related to the member's diagnosis, symptoms or medical history;
2. Cancelled services or appointments not kept;
3. Any services provided to a member that would duplicate services being received concurrently from any other source in excess of the total amount of services that are medically necessary for the member, regardless of the source of payment;
4. Services that are solely educational, vocational, recreational or social;
5. Services that are related solely to specific employment opportunities, work skills, work settings or academic skills that are not medically necessary;
6. Services that are not coverable within the Medicaid State Plan pursuant to 42 USC 1396d(a), as amended from time to time, such as respite care, child care or other custodial services; or
7. Subject to section 17b-262-1114 of the Regulations of Connecticut State Agencies, services

provided to a member by a provider in any setting other than in-person, except as otherwise specifically authorized in writing by the department.

(NEW) Sec. 17b-262-1117. Billing Procedures and Payment

(a) The billing provider shall submit claims electronically to the department's fiscal agent and shall include all information required by the department to process the claim for payment. The billing provider shall follow all instructions from the department in billing for EIS.

(b) Payment Requirements.

(1) The department shall reimburse the billing provider only when all applicable requirements, including those contained in sections 17b-262-1109 to 17b-262-1119, inclusive, of the Regulations of Connecticut State Agencies have been met.

(2) Only the billing provider may bill and receive payment from the department for EIS. No performing provider may bill the department or receive payment directly from the department for providing EIS.

(3) The department shall establish payment rates for EIS and may update such rates and any applicable payment methodology as determined by the department.

(4) Payment shall be made for EIS only for the period covered by the IFSP.

(5) After it is determined that EIS are no longer medically necessary for a child, if applicable, payment shall not be made for any assessment, IFSP or early intervention treatment services provided after such determination.

(NEW) Sec. 17b-262-1118. Documentation Requirements

(a) The provider shall document all services provided in a form and manner specified by the department and the lead agency and shall include sufficient information to demonstrate that each service complies with applicable requirements.

(b) The provider shall maintain documentation of compliance with all applicable requirements, including provider qualifications. The provider shall maintain copies of all documents relevant to services provided to each member, including, as applicable, the developmental evaluation report, the assessment report, the IFSP and any updates or amendments to any such document. Each such document shall be signed by each applicable performing provider.

(c) Each provider shall maintain a specific record for all services provided to each member, including, but not limited to:

(1) Member's name, address, birth date and Medicaid identification number;

(2) A clinical progress note for each early intervention treatment service rendered. The practitioner who provided the service on behalf of the billing provider shall sign all clinical progress notes not later than ten days after the treatment was completed. Clinical progress notes shall include:

(A) Types of early intervention treatment services provided;

(B) Date and start time and end time of the treatment;

(C) The location or setting at which the treatment was rendered; and

(D) The name, role or both of each individual who primarily participated in the early intervention treatment services.

(d) The billing provider shall maintain all required documentation in its original form or a secured electronic format for five years or longer as required by applicable statutes, regulations or lead agency requirements. All documentation is subject to the department's review. In the event of a dispute between the provider, member, department or a third party concerning a service provided, the provider shall maintain all required documentation until the end of the dispute, five years or the length of time required by statute or regulation, whichever is longest.

(e) If the billing provider fails to maintain all required documentation, including, but not limited to, required documentation regarding services provided and provider qualifications, the department may disallow and recover any amounts that it has paid to the billing provider for which the required documentation is not maintained or not provided to the department upon request.

(f) The department may audit all relevant records and documentation and take any other appropriate quality assurance measures it deems necessary to assure compliance with regulatory and statutory requirements.

(g) Upon request from the department, each billing provider shall submit documentation to the department that the department determines is necessary for rate-setting purposes, such as cost reports.

(NEW) Sec. 17b-262-1119. Reserved

Section 2. Sections 17b-262-597 to 17b-262-605, inclusive, of the Regulations of Connecticut State Agencies are repealed.

Statement of Purpose

The purpose of the regulation is to update and recodify the department's regulations regarding EIS provided under the Birth to Three System.

(A) The problems, issues or circumstances that the regulation proposes to address: In order to ensure ongoing compliance with federal Medicaid requirements and to maximize federal Medicaid reimbursement, several program changes are being made to the Birth to Three System. These changes include direct Medicaid payment from the department to billing providers and changing from bundled payments to a fee schedule. In addition, federal requirements and clinical and operational practices have modernized, all of which need to be included in updated regulations.

(B) The main provisions of the regulation: (1) set forth definitions; (2) describe provider qualifications; (3) provide specific requirements for each covered early intervention service; (4) identify the services not covered; and (5) detail billing, payment and documentation requirements.

(C) The legal effects of the regulation, including all of the ways that the regulation would change existing regulations or other laws: This regulation updates the requirements for provision of EIS in order to reflect changes in the program and related federal requirements. This regulation also repeals the department's previous regulation for Medicaid payment for EIS.