



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

September 13, 2021

Honorable Dave Jeppesen
Director
Idaho Department of Health and Welfare
450 West State Street, 10th Floor
Boise, Idaho 83720
Sent via email: Dave.jeppesen@dhw.idaho.gov

Dear Director Jeppesen:

This letter is to inform the State lead agency (LA), Idaho Department of Health and Welfare (IDHW), of the results of Office of Special Education Programs' (OSEP's) monitoring under Part C of the Individuals with Disabilities Education Act (IDEA) as part of OSEP's Differentiated Monitoring and Support System (DMS 2.0). OSEP has identified one finding of noncompliance under Part C of the IDEA and as explained further below, IDHW must submit a corrective action plan and additional documentation to address this finding of noncompliance.

Finding: OSEP finds that the State LA does not monitor early intervention service (EIS) providers used by the State to carry out Part C to identify and correct noncompliance, consistent with IDEA Section 635(a)(10) and 34 C.F.R. § 303.120(a) of the Part C regulations, related to fiscal requirements including the payor of last resort and system of payment requirements in 34 C.F.R. §§ 303.500 through 303.521.

Background: During Phase 1 of OSEP's DMS 2.0 activities, the first component of OSEP's review was State fiscal management. OSEP staff held phone calls with IDHW staff on November 2, 2020, and December 2, 2020, to discuss the IDEA Part C single line of responsibility fiscal monitoring protocol. This protocol examines how Idaho's Statewide system implements fiscal elements of the single line of responsibility under IDEA Section 635(a)(10) as well as other selected requirements as described under IDEA Sections 635(a), 616 and 642 of IDEA and the corresponding Part C regulatory requirements. In addition to conducting discussions with representatives from IDHW, OSEP staff reviewed publicly available information, policies and procedures, quality control checklists and other related documents IDHW submitted to OSEP.

Legal Requirements: Under IDEA Section 635(a)(10) and 34 C.F.R. § 303.120(a)(1), each State's system must include a single line of responsibility in a LA, designated or established by the Governor, that is responsible for the general administration and supervision of all EIS providers (regardless of whether they receive Federal IDEA funds), to ensure Statewide compliance with IDEA Part C requirements. As part of this responsibility, LAs must monitor and enforce the fiscal requirements under Part C of the IDEA, including the payor of last resort requirements in IDEA Section 640 and 34 C.F.R. §§ 303.500 and 303.510 and the system of payment policies, such as use of public benefits or insurance or private insurance to pay for Part C services in 34 C.F.R. §§ 303.520 and 303.521. If the State LA identifies noncompliance, it must ensure that the noncompliance is corrected as soon as possible and in no case later than one year after the LA's identification of the noncompliance consistent with 34 C.F.R. §

303.120(a)(2)(iv) and 303.700(e). Further, under 2 C.F.R. § 200.303, the LA must establish internal controls in order to comply with “Federal statutes, regulations, and the terms and conditions of Federal awards,” and the LA must monitor its compliance with the requirements of the Federal award.

OSEP Analysis: IDHW staff acknowledged to OSEP that it has not monitored for fiscal requirements. During OSEP’s discussions with the State, IDHW discussed its quality control checklists and data system with OSEP. However, when asked about its current process of monitoring payor of last resort requirements and other system of payment requirements, the State reported that it does not currently have a fiscal monitoring system or fiscal monitoring policies and procedures in place. Further, the State’s quality control checklists and data system capabilities only address a few fiscal requirements and have not been implemented in a systematic manner. For example, the State’s quality checklists include a review of file samples to confirm that financial information for the family is updated annually. The checklists also include confirmation that documentation of the provision of the system of payments polices to families is on file, as well as documentation of parental consent to bill private insurance. The State also reported its data system identifies billing errors in the IDEA Part C program but confirmed it has been reacting to issues identified by its data system rather than proactively monitoring the Part C fiscal requirements and identifying noncompliance. These limited checklists and capabilities of the data system do not meet the requirements under 34 C.F.R. § 303.120(a)(2) of the Part C regulations.

During follow-up technical assistance conversations with the State on February 1, 2021, and March 1, 2021, the State provided OSEP with a draft action plan to address the fiscal monitoring requirements, which included reviewing other States’ fiscal monitoring procedures and completing a gap analysis to determine necessary monitoring activities. To date, monitoring procedures have not been provided to OSEP. Based on this information OSEP is requiring the following corrective action.

Conclusion and Action Required: OSEP’s analysis is based on the documents and information provided by, and interviews with, staff of IDHW as the State LA. Based on this analysis, OSEP finds that the State LA does not monitor EIS providers as required by IDEA Section 635(a)(10) and 34 C.F.R. § 303.120(a) of the Part C regulations, related to fiscal requirements including the payor of last resort and system of payment requirements in 34 C.F.R. §§ 303.500 through 303.521.

Within 90 days from the date of this letter, the State must submit to OSEP:

- (1) monitoring procedures under IDEA Section 635(a)(10)(A) and 34 C.F.R. § 303.120(a)(2) to reflect the IDEA Part C fiscal requirements, including the payor of last resort and system of payments requirements; and
- (2) a corrective action plan that includes a timeline¹ for, and evidence of, implementation of the State’s fiscal monitoring procedures. Evidence shall include submitting to OSEP a schedule of monitoring activities and sample letters of findings to EIS providers regarding fiscal requirements.

¹ In accordance with 34 C.F.R. §§ 303.120(a)(2)(iv) and 303.700(e), all noncompliance must be corrected as soon as possible, and in no case later than one year after the identification of the noncompliance.

Page 3 - Director Jeppesen

OSEP appreciates the State's cooperation during the DMS 2.0 process and its receptiveness to technical assistance in this area. We look forward to our continued work on these issues. If you have any questions, please contact your State lead at Jennifer.Barrett.Zitkus@ed.gov.

Sincerely

A handwritten signature in cursive script that reads "David Cantrell".

David Cantrell, PhD
Acting Director
Office of Special Education Programs

cc: Sandy Griffin, State Part C Coordinator