

DMS REPORT

DIFFERENTIATED MONITORING AND SUPPORT OFFICE OF SPECIAL EDUCATION PROGRAMS U.S. DEPARTMENT OF EDUCATION

STATE SOUTH CAROLINA

DATE AUGUST 29, 2019

IDEA PART C

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

August 29, 2019

Honorable Joshua Baker
Director
South Carolina Department of Health and Human Services
P.O. Box 8206
Columbia, South Carolina 29202

Dear Director Baker:

The purpose of this letter is to provide a summary of the results of the differentiated monitoring and support (DMS) activities conducted by the U. S. Department of Education's Office of Special Education Programs (OSEP) during an on-site visit to the South Carolina Department of Health and Human Services (SCDHHS) on April 16-18, 2019. OSEP's visit examined specific aspects of SCDHHS's implementation of the early intervention program for infants and toddlers with disabilities and their families under Part C of the Individuals with Disabilities Education Act (IDEA).

Participants during the visit included OSEP staff, technical assistance providers from the OSEP-funded Early Childhood Technical Assistance Center and Center for IDEA Early Childhood Data Systems, staff from SCDHHS and the South Carolina Department of Developmental Disabilities (SCDDSN), and local early intervention providers.

As part of the DMS process, OSEP conducts an organizational assessment (OA) of factors to identify States' progress in meeting performance standards and complying with the requirements of Part C of the IDEA and its implementing regulations, the Education Department General Administrative Regulations and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. OSEP uses the information from the OA and an Engagement Decision Tree to make decisions about how it will engage with States over the course of the Federal fiscal year (FFY). The Federal fiscal year (FFY) 2018 DMS areas were: 1) Results; 2) Compliance; 3) State Systemic Improvement Plan (SSIP); and 4) Fiscal.

On March 14, 2019, OSEP sent SCDHHS's DMS notice to South Carolina's Part C State Coordinator, Jennifer Buster. OSEP's notice provided a level of engagement of universal, targeted, or intensive for each of the four areas OSEP identified for DMS. The levels of engagement in the notice are based on a snapshot of the most recently available data in the corresponding four areas. The notice also identified the monitoring and support activities that would be carried out to address the factors contributing to the elevated need for monitoring and support in each of the areas that were identified for intensive engagement. We have attached a copy of the DMS notice for your convenience.

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The Department of Education's mission is to promote student achievement and preparedness for global competitiveness by fostering educational excellence and ensuring equal access.

The enclosure describes the: 1) Background; 2) Monitoring¹ and Technical Assistance Activity for each DMS area; 3) Summary; and 4) OSEP's conclusion including Next Steps and Required Actions. Given that OSEP issued findings of noncompliance with the IDEA requirements, the enclosure provides the specific details pertaining to the finding of noncompliance, along with the respective citation(s); and the corrective action required to address the identified finding of noncompliance.

We appreciate South Carolina's efforts to improve results for infants and toddlers with disabilities. If you have any questions, please contact Brenda Wilkins, your OSEP State Lead, at 202-245-6920.

Sincerely,

/s/

Laurie VanderPloeg
Director,
Office of Special Education Programs

cc: Jennifer Buster, Part C Coordinator

Enclosure
DMS Notice

¹ Monitoring is broadly defined as including activities examining both compliance and performance issues and encompasses traditional monitoring reviews and technical assistance activities.

ENCLOSURE

Background

OSEP's Differentiated Monitoring and Support (DMS) system is a component of Results Driven Accountability to improve results for children with disabilities under the Individuals with Disabilities Education Act (IDEA). DMS is designed to help the Department identify potential grantee risk to and to assist OSEP in effectively using its resources to monitor grantees. DMS addresses State-specific and Entity-specific needs in the areas of results, compliance, State Systemic Improvement Plan (SSIP), and fiscal areas by differentiating levels and types of monitoring and support based on each State's and Entity's unique strengths, progress, and challenges in each area.

During the 2019 visit, OSEP reviewed the State's compliance, SSIP, and fiscal systems. As part of the compliance review, OSEP also gathered information on the progress made by SCDHHS in implementing its corrective action plan (CAP), submitted initially to OSEP in May 2018 and revised in January 2019 in response to the four areas of noncompliance identified in OSEP's December 2017 monitoring: data, timely service provision, general supervision, and SSIP.

In reviewing the State's systems for compliance, SSIP, and fiscal, OSEP:

- Reviewed the State's systems for collecting and reporting data the State submitted for selected indicators in the State's FFY 2016 Annual Performance Report (APR)/State Performance Plan (SPP);
- Reviewed the following—
 - FFY 2016 SPP/APR and Phase II SSIP
 - The State's FFY 2018 IDEA Part C Application
 - The State's Specific Conditions attached to the FFY 2018 IDEA Part C Application
 - The South Carolina Part C CAP
 - Other pertinent information related to the State's systems; and
- Gathered additional information through interviews with—
 - Joshua Baker, Lead Agency Director
 - Jennifer Buster, South Carolina's Part C Coordinator
 - State and local personnel responsible for implementing the compliance, SSIP, data, and fiscal systems:

- Erin Laughter, IDEA Policy Manager
- Stephanie Hicklin, IDEA Part C Training Director
- Melody Lucas, Single Point of Entry (SPOE) Program Manager
- Heather Googe, University of South Carolina, South Carolina Child Care Inclusion Collaborative

During the visit, OSEP did not examine the area of results, in which the State received a universal level of engagement. However, OSEP will continue to work with the State on this area during regular conference calls and other virtual engagement opportunities and provide universal technical assistance (TA) through National TA calls, webinars and documents posted on our websites.

Compliance

History

The IDEA Part C program in South Carolina referred to as BabyNet, has a long history of noncompliance with IDEA Part C requirements. OSEP imposed Specific Conditions on South Carolina's IDEA Part C grant for the last twelve years (for FFYs 2008 through 2019). Previously, OSEP entered into a compliance agreement under IDEA Part C with South Carolina from 2004 through 2007. The State has had three different State lead agencies from 2007 through 2019 and SCDHHS has been designated the State lead agency since July 1, 2017.

OSEP's 2019 visit focused on the four areas of noncompliance identified in OSEP's December 2017 letter as well as the fiscal area of the State system of payments. South Carolina's FFY 2019 grant included Specific Conditions that incorporated the CAP as revised in January 2019. SCDHHS's CAP required the State to address the following four areas noncompliance:

1. Data: Provide valid and reliable data under IDEA Sections 616, 618, 635(a)(14), and 642 and 34 C.F.R. §§ 303.701(c) and 303.720.
2. Timely Service Provision: Have in place a Statewide system and provide early intervention services to infants and toddlers with disabilities in a timely manner as required by IDEA Sections 633 and 634 and 34 C.F.R. § 303.342(e).
3. General Supervision: Implement its State-level general supervision responsibilities including, monitoring, funding, and ensuring interagency coordination of the early intervention program as required by IDEA Sections 635(a)(10) and 640 and 34 C.F.R. §§ 303.120 and 303.501.
4. SSIP: Submit its FFY 2015 (Phase III) SSIP, which was due on April 3, 2017 and is submitted under IDEA Sections 616 and 642 and 34 C.F.R. §§ 303.700 through 303.708.

The CAP was also incorporated as part of the Specific Conditions attached to the State's FFY 2018 and 2019 grant award letters. As part of the FFY 2018 Specific Conditions and CAP, SCDHHS submitted its Phase II SSIP as required, in April 2019.

Over the past two years, OSEP has provided monthly TA to SCDHHS as it implements activities outlined in the CAP that the State identified as necessary to achieve compliance. Throughout this process, the State completed some items and requested extensions of time to complete others. OSEP-funded TA providers from the Early Childhood Technical Assistance Center and Center for Early Childhood Data Systems have also participated in TA conference calls with OSEP and SCDHHS.

OSEP's visit confirmed that the State has made progress in its SSIP and development of data systems and is continuing to work on ensuring timely service provision and its general supervision responsibilities including a monitoring system that can identify and correct noncompliance. Additionally, delays in integrating a data system for reporting valid and reliable data have led to delays in correcting timely service provision and in developing a Statewide monitoring system that can identify and correct noncompliance by early intervention service (EIS) programs and providers. OSEP's visit with SCDHHS began with a detailed overview of the State's implementation of its new data system, followed by a more focused discussion on the State's progress in the timely provision of services, meeting the 45-day timeline, and implementing its monitoring plan for identifying and correcting noncompliance.

Data Systems — Revisions to the BabyNet Reporting & Intervention Data Gathering System (BRIDGES): *Integration*

BabyNet is South Carolina's IDEA Part C program administered through SCDHHS. The development of an integrated data system to collect valid and reliable data has been an intense focus and essential to the State's ability to monitor compliance with Part C requirements. Over the past year, SCDHHS has made significant changes to the BRIDGES with the intent of aligning the BRIDGES with the State's Medicaid Management Information System (MMIS) to ensure:

1. referrals are tracked;
2. BabyNet provider networks are expanded;
3. meeting Part C timelines are improved; and
4. alignment of the claims system with Part C processes are achieved.

OSEP learned that during the past year, SCDHHS identified critical errors during the testing phase. These errors created significant delays in the State's implementation of its integrated Medicaid Enterprise System (MES) which will be the new system that integrates the BRIDGES and MMIS data systems. During the discussion, SCDHHS provided detailed demonstrations of MES and a step-by-step overview of the system scheduled to go live on July 1, 2019. During the monthly TA call with OSEP on July 18, 2019, SCDHHS staff confirmed that the MES data system went live on July 1, 2019, but due to issues with their contractor, the system was not fully integrated. SCDHHS staff stated that they anticipate full integration by October 1, 2019.

As part of the CAP, SCDHHS collected and analyzed data from the BRIDGES to identify potential noncompliance. During OSEP's visit, SCDHHS shared factors from a root cause analysis that contributed to low compliance and plans to address data quality issues by establishing a roadmap for improvement in reporting and developing general supervision

activities to address root causes. For SPP/APR Indicator 1, timely provision of services, SCDHHS concluded that the high percentage of delays was due in part to service coordinators and/or EIS providers failing to enter initial service log data.

SCDHHS emphasized the need for system control of payments by not allowing EIS providers to be paid without first entering complete service log information. The State informed OSEP that once BRIDGES is fully integrated, SCDHHS will have a new data methodology that will give SCDHHS the ability to measure when services are being provided and to monitor improvement in the data over time. The State has indicated that it expects its initial data to reflect a low percentage of compliance, but its ability to report for its first time valid and reliable data for SPP/APR Indicator 1, is progress.

Timely Provision of Services and 45-day Timeline

SCDHHS's SPP/APR data for the timely provision of services (SPP/APR Indicator 1), was determined not valid and reliable for FFY 2016 and for FFY 2017², and data for meeting the 45-day timeline (SPP/APR Indicator 7) was 83.46% for FFY 2016 and 83.25% for FFY 2017. OSEP reviewed these data with the State. OSEP also met with representatives of the State and OSEP-funded TA Centers to discuss the factors that are impacting the State's data and compliance, and the activities that SCDHHS is implementing to address the timely provision of services and the 45-day timeline requirements across all early intervention programs.

45-day Timeline — Revised Central Referral Process

SCDHHS reported that it conducted a detailed analysis of the data for the 45-day timeline requirement (SPP/APR Indicator 7), and found that State personnel, specifically the Single Point of Entry (SPOE) staff, is responsible for most delays in the eligibility determination process due to submitting incomplete referral forms to regional staff responsible for determining eligibility. This delayed compliance with the 45-day timeline. Additionally, specific timeline delays were related to lost contacts, errors in managing referral data, and service coordinators' inability to manage caseloads and properly complete paperwork and reports. To address these delays, as outlined in the CAP, SCDHHS reorganized its central referral process. In August 2018, SCDHHS staff operationalized a new referral process and form with an in-house centralized referral intake system and online document management system called "OnBase." In addition to improving the central intake system, SCDHHS hired new Central Referral Team (CRT) staff and a Program Manager to facilitate implementation of the new system.

Once the referral form is received, the CRT staff member checks the form for completeness before sending it to the regional staff to complete the eligibility process. SCDHHS piloted the new central referral process in November 2018 and has since scaled up implementation in 11 regions in the State. As part of the BRIDGES integration and with the new CRT, SCDHHS has developed an online referral system called Curam that will align with the new MES system and serve as BabyNet's referral information and eligibility data system. The Curam data system will generate a unique identifier for all children referred to Part C to allow the CRT to check Medicaid eligibility as well as enter the necessary data into the MES system. During the follow-

² The South Carolina early intervention system defines timely receipt under SPP/APR Indicator 1 as initiation of all new Individualized Family Service Plan (IFSP) services within 30 calendar days of parent consent on the IFSP. (FFY 2017 APR)

up call with OSEP in July 2019, the State confirmed that as of July 1, 2019, the online web referral form was live and is sending data to the “OnBase” System. However, the State also confirmed that due to ongoing issues with the contractor, the timeline for the Curam data system to be fully functional was extended to October 2019.

During the visit, OSEP met with SPOE and CRT staff regarding the new central referral process. During interviews, OSEP learned that moving to a web-based system and the standardization of policies and procedures has created faster intake processing times. Local staff also reported that SCDHHS provided adequate training on the Curam system as well as the reorganized central referral process leading to increased referrals and positive collaboration with staff throughout their four regions. CRT and SPOE staff expressed appreciation for the ongoing support of SCDHHS leadership.

General Supervision — Monitoring System to Identify & Correct Noncompliance

Under IDEA Section 635(a)(10) and 34 C.F.R. § 303.120 (Lead agency role in supervision, monitoring, funding, interagency coordination, and other responsibilities), the State lead agency must have a general supervision system that identifies and corrects noncompliance in a timely manner. Each system must include a single line of responsibility in a lead agency designated or established by the Governor that is responsible for the following: (1) the general administration and supervision of programs and activities administered by agencies, institutions, organizations, and EIS providers receiving assistance under Part C of the Act; and (2) the monitoring of programs and activities used by the State to carry out Part C of the Act (whether or not the programs or activities are administered by agencies, institutions, organizations, and EIS service providers that are receiving assistance under Part C of the Act), to ensure that the State complies with Part C of the Act, including—

1. Monitoring agencies, institutions, organizations, and EIS service providers used by the State to carry out Part C of the Act;
2. Enforcing obligations imposed on those agencies, institutions, organizations, and EIS providers under Part C of the Act and these regulations;
3. Providing TA, if necessary, to those agencies, institutions, organizations, and EIS providers; and
4. Correcting any noncompliance identified through monitoring as soon as possible and in no case later than one year after the lead agency’s identification of the noncompliance.

SCDHHS proposed June 30, 2019 as the completion date for demonstrating implementation of an interim monitoring plan under Objective 2a of the CAP, which is to develop a monitoring system that identifies (issues findings) of noncompliance and ensures correction. The State completed activities toward achieving the objective, i.e., collected and analyzed interim monitoring data on the timely provision of services and the 45-day timeline, developed a process for issuing findings of noncompliance to SPOE staff, and submitted the Interim Monitoring Plan for OSEP’s approval on June 28, 2019. OSEP reviewed the interim plan and continues to have concerns. Specifically, the State will need to make substantive revisions to ensure that it can

report issuance of findings by October 2019 and meet other timelines and implementation strategies.

OSEP Conclusion

OSEP appreciates the State's progress in the complex enterprise of developing the BRIDGES and integrating this data system with MMIS. OSEP also recognizes the State's efforts in developing and implementing the new central referral and intake process.

However, OSEP continues to have concerns with the State's timelines for accomplishing Objective 2a of the CAP, which is to have in place a monitoring system. While OSEP acknowledges that the State has collected interim monitoring data with the intent of issuing findings to State-level staff, OSEP has determined that the State does not have in place a monitoring system that identifies and corrects noncompliance in a timely manner.

To effectively monitor the implementation of Part C of the IDEA by EIS programs/providers, as required by IDEA Sections 616, 635(a)(10)(A), and 642 and 34 C.F.R. §§ 303.500 and 303.501, the State must have a general supervision system that identifies and corrects noncompliance in a timely manner. In addition, as noted in OSEP Memorandum 09-02, Reporting on Correction of Noncompliance in the Annual Performance Report Required under Sections 616 and 642 of the Individuals with Disabilities Education Act, dated October 17, 2008 (OSEP Memo 09-02), in order to verify that previously identified noncompliance has been corrected, the State must verify that the EIS program and/or provider: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected noncompliance for each child, unless the child is no longer within the jurisdiction of the EIS program and/or provider.

Required Actions/Next Steps

OSEP will continue to provide TA to the State to implement its plan to implement a monitoring system. Additionally, as incorporated in the CAP and the FFY 2019 grant Specific Conditions, and in this letter, the State must submit progress reports to OSEP by October 1, 2019 and May 1, 2020 to include:

1. CAP: All submissions required (all highlighted sections) under the corrective action plan, approved by OSEP on January 31, 2019;
2. SPP/APR Indicator 1: Updated valid and reliable data for SPP/APR Indicator 1 (timely service provision):
 - a. In the October 1, 2019 progress report, SCDHHS must provide for SPP/APR Indicator 1:
 - i. data for FFY 2018 (July 1, 2018 through June 30, 2019 to be reported in the State's FFY 2018 SPP/APR to be submitted in February 2020); and

- ii. updated data for FFY 2019 (for the period from July 1, 2019 through August 31, 2019).
 - b. In the May 1, 2020 progress report updated data on SPP/APR Indicator 1 from July 1, 2019 through March 31, 2020).
3. Monitoring Data: The State must provide:
 - a. In the October 1, 2019 progress report, copies of its letters notifying EIS providers of any findings of noncompliance based on the State's FFY 2017 data (for SPP/APR Indicators 1 and 7) and the actions required by the EIS providers.
 - b. In the May 1, 2020 progress report, a narrative containing updated information about the number of findings of noncompliance issued to EIS provider through March 31, 2020 (for SPP/APR Indicators 1 and 7) and the status of correction of these findings.

SSIP

Over the past several years, the Part C system has undergone significant infrastructure changes. Some of these changes included a new lead agency with new Part C personnel including a Lead Agency Director, State Coordinator, and data manager; and a restructuring of State staff within the BabyNet program. Due to these changes, and the actions required under the CAP, the State was delayed in submitting its revised SSIP Phase I until April 2018, and its SSIP Phase II until April 2019. With input from stakeholders and discussions with State staff, the State made the decision to change its SSIP State-identified measurable result or SiMR, to the following:

Families who have received BabyNet services for 6-12 months will be able to more effectively help their child develop and learn.

State's SSIP Phase II Submission

SCDHHS timely submitted its SSIP Phase II with the FFY 2017 SPP/APR on April 1, 2019. In discussions with SCDHHS, OSEP commented on the State's plan to implement Routines Based Intervention (RBI) as the evidenced-based practice for family engagement and the Routines Based Interview for collecting family-based information, noting that implementation is resource and time-intensive. However, SCDHHS staff replied that the practice was selected because RBI has already been implemented in one region and they currently have 100 service providers who have been trained and are now implementing RBI. The State discussed its plans to train additional staff beginning in May 2019 and is confident that RBI is the best evidence-based practice that will provide measurable improvement.

OSEP provided TA regarding how the State can use existing resources, develop short-term objectives and a plan to evaluate its outcomes. Additionally, OSEP encouraged the State to identify the steps it will take to further align their improvement strategies and leverage other initiatives and programs within the State.

Lastly, OSEP suggested that SCDHHS expand engagement of various stakeholders throughout the process. OSEP staff explained that as SCDHHS prepares the Phase III submission, to clearly articulate the activities, steps, and resources required to implement the coherent improvement strategies, with attention to the research on evidence-based practices and implementation, timelines for implementation, and measures needed to evaluate implementation and impact on meeting the State's targets.

OSEP Conclusion

OSEP looks forward to reviewing South Carolina's FFY 2018 APR to be submitted in February 2020 regarding its continued implementation of its Phase II SSIP and will continue to provide TA to the State in preparation for next year's Phase III submission.

Fiscal Systems

Overview of Fiscal System: Historical Context

During the 2019 monitoring visit, OSEP learned that South Carolina primarily funds early intervention from the following payment sources: (1) IDEA Part C funds; (2) State appropriations for early intervention services by the lead agency and the Department of Disabilities and Special Needs; (3) public benefits and insurance (i.e., Medicaid and the corresponding State match); and (4) private insurance. South Carolina has a statute, the Infants and Toddlers with Disabilities Act (ITDA), which requires that early intervention services provided pursuant to an Individualized Family Service Plan (IFSP) be provided at no cost to infants and toddlers with disabilities and their families.³

Under the previous State lead agency, South Carolina's First Steps for School Readiness, the State contracted with a county disabilities and special needs board (county disabilities board) to act as a fiscal agent and implement the State's Systems of Payment by submitting payments to early intervention payor sources. During the visit, through discussions with EIS providers, OSEP learned that in many instances the EIS providers were uncertain which source of funding would ultimately pay the EIS provider for IFSP services. As reported by the SCDHHS and local providers in South Carolina, under the previous system, providers would bill private insurance, then Medicaid, and then ultimately IDEA Part C Federal funds. This system administered by the county disabilities board was a paper intensive process, and due to the long wait times between the submission of a claim and determination of whether a payment would be issued by a payor source, EIS providers would submit multiple claims for multiple funding sources for a single early intervention service. The influx of invoices had three major consequences, it:

³ The ITDA defines early intervention services as "services designed to meet the developmental needs of infants and toddlers with disabilities, provided in conformity with an individualized family service plan under public supervision by qualified personnel. They include, but are not limited to, family training, counseling and home visits, special instruction, speech pathology and audiology, occupational therapy, physical therapy, psychological services, service coordination, medical services only for diagnostic or evaluation purposes, early identification, screening and assessment services, health services necessary to enable the infant or toddler to benefit from the other early intervention services, and transportation services." South Carolina Code Section 44-7-2520(3). While this definition is not as broad as IDEA's definition of early intervention services, the lead agency reported that it does not charge parental fees for any early intervention services defined in either IDEA or the ITDA.

1. overwhelmed the county disability board and limited its ability to review and submit payments;
2. paid EIS providers multiple times for a specific early intervention service in some instances, as EIS providers would submit multiple claims in an attempt to receive funding for services provided to infants and toddlers; and
3. allowed payments to be made without regard to IDEA's payment of last resort requirement in IDEA Section 640 and 34 C.F.R. § 303.510.

In 2018, SCDHHS stopped utilizing the county disability board as the third-party billing agency, and began processing claims in-house. Under the current system, while EIS providers are still required to submit paper claims, the EIS providers reported to OSEP that payments are now processed within days of receipt by SCDHHS and EIS providers are often paid for services within two weeks of providing the service. As the current process still utilizes paper submissions, and due to the sheer volume of paper submissions, both SCDHHS and the EIS providers acknowledge that there is a need to audit a sample of claims for service submitted by EIS providers to ensure that the appropriate funding source and amount is applied, and to ensure that providers are not double billing for services. Starting July 1, 2019, representatives of SCDHHS reported that it will be implementing a system where all claims are submitted electronically through the State's Medicaid billing system.

Relevant Law

Under IDEA Part C and specifically 34 C.F.R. § 303.120(a)(1), each State's system must include a single line of responsibility in a State lead agency, designated or established by the Governor, that is responsible for the general administration and supervision of programs and activities administered by agencies, institutions, organizations, and other EIS programs and providers receiving assistance under Part C. As part of a State's single line of responsibility, the State lead agency must develop and implement policies and procedures including, but not limited to ensuring that:

1. Traditionally underserved groups, including minority, low-income, homeless, and rural families and children with disabilities who are wards of the State, are meaningfully involved in the planning and implementation of all the requirements of this part (34C.F.R. § 300.227(a));
2. Funds under IDEA Part C may be used only for early intervention services that an infant or toddler with a disability needs, but is not currently entitled to receive or have payment made from any other Federal, State, local, or private source (34 C.F.R. § 303.510(a)); and
3. Fiscal control and fund accounting procedures will be adopted as necessary to ensure proper disbursement of, and accounting for, Federal funds paid under IDEA Part C. (34C.F.R. § 303.226).

Additionally, South Carolina's ITDA expressly states that "families must not be charged for early intervention services provided pursuant to this article [i.e. the ITDA]." To implement the IDEA Part C program consistently with the ITDA, the State lead agency will need to revise its system of payments policy to ensure that families are not charged for IDEA Part C services and specifically that families of eligible children with health savings accounts (HSAs) do not incur

charges or receive reimbursement for IDEA Part C services (South Carolina Code Section 44-7-2570(A)).

Findings

During the on-site visit, the SCDHHS explained in detail the challenges in having the BRIDGES, which is the State's IFSP data system, interface with the SCDHHS MMIS. SCDHHS reported that, when implemented, an EIS provider will be able to report on the IDEA Part C services provided in BRIDGES and then submit a claim. The claim information will be transmitted to MMIS which will determine whether the infant or toddler is eligible for Medicaid services. If the infant or toddler is Medicaid eligible, Medicaid will pay for the services. Based on family data entered into MMIS, if the family is not eligible for Medicaid, other payor sources such as commercial insurance, or TRICARE will be billed, with IDEA Part C funds being used for payment for services as a last resort.

Based on OSEP's review of SCDHHS current and proposed system of payments policy and in discussions with lead agency officials and local EIS providers, OSEP has determined that SCDHHS does not currently have a system to ensure that payments for early intervention services providers are reasonable, necessary, and allocable and in accordance with an infant or toddler's IFSP. Under 34 C.F.R. § 303.120(a)(1), each State's system must include a single line of responsibility in a lead agency designated or established by the Governor, that is responsible for the general administration and supervision of programs and activities administered by agencies, institutions, organizations, and EIS providers receiving assistance under Part C of the Act. Further under 34 C.F.R. § 303.226, SCDHHS must ensure that fiscal control and fund accounting procedures will be adopted as necessary to ensure proper disbursement of, and accounting for, Federal funds paid under IDEA Part C. OSEP's discussions with EIS providers during the visit raised two concerns regarding how certain managed care organizations (MCOs) are paying EIS providers for IDEA Part C services, that potentially impact compliance with IDEA's payor of last resort requirement in 34 C.F.R. § 303.510 and serving traditionally underserved groups in 34 C.F.R. § 303.227. First, EIS providers and SCDHHS reported that certain MCOs routinely deny claims by EIS providers for early intervention services. Rather than disputing the denial and resubmitting the claim, some EIS providers will seek funding under IDEA Part C which is more likely to process the claim for IDEA Part C services. Second, some MCOs pay providers at a lower percentage of the State-approved rate for services. EIS providers reported that receiving a reduced rate is impacting the timely completion of evaluations for eligibility, and the provision of services in rural areas where providers are required to travel long distances between families. Reduced payments make it unprofitable for EIS providers to serve infants and toddlers who reside in rural areas of South Carolina.

Additionally, based on discussions with State lead agency officials and local EIS providers, OSEP found a situation where the State lead agency is receiving parent fees for IDEA Part C services, which is inconsistent with the ITDA and the State's system of payments policy. Specifically, families that have a high-deductible health plan, where their insurance policy has an annual deductible that exceeds \$2,700, are eligible to create a HSA to pay for deductibles,

copayments, and coinsurance.⁴ The State lead agency acknowledged that if a family has an HSA it may be utilizing HSA funds for IDEA Part C services to meet their annual deductible and that SCDHHS does not currently confirm whether a family has an HSA prior to providing IDEA Part C services and cannot specifically track how many infants and toddlers with disabilities and their family in South Carolina are receiving IDEA Part C services and whose parents have an HSA. As South Carolina Code Section 44-7-2570(A) expressly states, “families must not be charged for early intervention services provided pursuant to this article [i.e. the ITDA],” the lead agency will need to develop procedures to ensure that families with HSAs do not incur charges or are reimbursed for Part C services.

Required Actions/Next Steps

Within 120 days from the date of this letter, SCDHHS must submit:

1. Policies and procedures that are reasonably designed to ensure the accuracy of SCDHHS’ payments to its early intervention service or EIS providers. Those policies and procedures must include a review of EIS provider claims for early intervention services and ensure that EIS providers are not submitting multiple claims or receiving duplicate payments. A review of the policies and procedures must also examine MCO practices to ensure that their relationship with EIS providers does not negatively impact IDEA’s payor of last resort requirement in 34 C.F.R. § 303.510 or the requirement to serve traditionally underserved groups (including rural populations) in 34 C.F.R. § 303.227; and
2. Documentation supporting the implementation of those policies and procedures, including training on SCDHHS’ updated procedures and processes, and examples of reports generated through SCDHHS’ general supervision oversight responsibilities.

With its FFY 2020 IDEA Part C grant application, SCDHHS must submit its final, revised system of payments policy that is consistent with all applicable requirements under 34 C.F.R. §§ 303.501, 303.520, and 303.521 and ensures that EIS providers determine whether a family of a child referred to IDEA Part C has an HSA and reimburse parents for any Part C services charged to a family’s HSA, consistent with South Carolina Code Section 44-7-2570(A) (which requires that families not be charged for IDEA Part C early intervention services).

⁴ According to the Internal Revenue Service (IRS) Publication 969 *Health Savings Accounts and Other Tax-Favored Health Plans* (<https://www.irs.gov/publications/p969>), “An HSA may receive contributions from an eligible individual or any other person, including an employer or a family member, on behalf of an eligible individual. Contributions, other than employer contributions, are deductible on the eligible individual’s return whether or not the individual itemizes deductions. Employer contributions aren’t included in income. Distributions from an HSA that are used to pay qualified medical expenses aren’t taxed.”

DMS NOTICE

Differentiated Monitoring and Support Engagement Decisions:

South Carolina 2018–2019

This year we have selected four States for on-site visits as part of OSEP's Differentiated Monitoring and Support (DMS) system. These selections were based on the relative number of intensive and targeted Levels of Engagement (LOEs) across all states. **Your State has been selected for an on-site visit.**

OSEP's Differentiated Monitoring and Support (DMS) system is a component of Results Driven Accountability. DMS is designed to identify potential grantee risk to the Department and to assist OSEP in effectively using its resources to monitor grantees. DMS addresses State-specific needs in the areas of results, compliance, State Systemic Improvement Plan (SSIP), and fiscal by differentiating levels and types of monitoring and support based on each State's unique strengths, progress, and challenges in each area.

DMS is a multi-tiered model for monitoring and providing support based on the principle that supports are first provided at a core or universal level to effectively address the needs of all States. Targeted monitoring and support is generally based on OSEP's identification of common needs among multiple States. Intensive monitoring and support is reserved for those States with the most intense or complex challenges to implementation.

OSEP has assessed States' and Entities' progress in meeting performance standards and compliance with the legal requirements of the Individuals with Disabilities Education Act, the Education Department General Administrative Regulations and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. This information was used to help OSEP make decisions about a State's or an Entity's levels of engagement for monitoring and support.

The charts below specify your State's level of engagement in each area — fiscal, compliance, results, and SSIP.

Fiscal | Level of Engagement: *Intensive*

Factors	Existing/Current Engagement
<ul style="list-style-type: none"> • The State has designated a new lead agency within the past 2 years. • The State has more than 30 EIS programs • State has had a change in the Part C Coordinator position within the past two years. • The State has OSEP Special Conditions or specific assurances on its most recent grant awards. 	<p>OSEP continues to make information and technical assistance (TA) resources available and provide universal support to all States.</p>

New Engagement

OSEP will contact the State and discuss the level of engagement. OSEP may also request additional documentation from the State and collect additional publicly available information. Based upon discussions with the State, technical assistance or additional data collection may be done on-site or virtually.

Compliance | Level of Engagement: *Intensive*

Factors	Existing/Current Engagement
<ul style="list-style-type: none"> • Indicator 1: Timely service provision - Not Valid and Reliable • Indicator 7: 45-day timeline - 83.46 • Indicator 8C: Timely transition conference - 85.97 • Timely and Accurate State-Reported Data: 77.8 • Longstanding Noncompliance: Special Conditions, Uncorrected identified noncompliance 	<p>OSEP continues to make information and TA resources available and provide universal support to all States.</p>

New Engagement

OSEP will gather additional information to determine the scope of engagement necessary to assist the State in improving IDEA compliance. This may include working collaboratively with the State and OSEP-funded technical assistance centers, working with the State to conduct a root cause analysis of the factors that contributed to low compliance, and /or additional OSEP monitoring.

Results | Level of Engagement: *Universal*

Factors	Existing/Current Engagement
<ul style="list-style-type: none"> • Factors are only listed when the level of engagement is targeted or intensive. 	<p>OSEP continues to make information and TA resources available and provide universal support to all States.</p>

New Engagement

OSEP will provide universal support to improve data quality and child performance outcomes related to positive social relationships, skills and knowledge.

SSIP | Level of Engagement: *Intensive*

Factors	Existing/Current Engagement
<ul style="list-style-type: none"> • Infrastructure changes to support SSIP initiatives. • Evidence-based practices. • Progress toward the SiMR. 	<p>OSEP continues to make information and TA resources available and provide universal support to all States.</p>

New Engagement

OSEP will offer to provide the State intensive technical assistance and support around its work to develop, implement and evaluate the SSIP. OSEP will offer to establish a schedule of regular contact with the State, explore improvement activities and discuss the progress of the activities currently underway in the State. OSEP will also work collaboratively with OSEP-funded TA providers and may, if necessary, explore opportunities for onsite technical assistance in the State.