

**Kentucky Part C 2008 Verification Visit Letter  
Enclosure**

Background: The Cabinet for Health and Family Services (CHFS) is the State lead agency (LA) designated by the Governor and responsible for administering Part C of the Individuals with Disabilities Education Act (IDEA) in Kentucky. CHFS is home to most of the State's human services and health care programs, including Medicaid and the Department for Public Health (DPH). Within DPH, the First Steps program operates the Kentucky early intervention services program (or KEIS) in the State through contracts with 15 early intervention services (EIS) programs at the district level, which are known as points of entry (POE) programs. The POE programs are responsible for conducting evaluations, assessments, and IFSP meetings and providing service coordination services, and contract with individual EIS providers who provide all other IFSP services.

Kentucky reported in its Part C FFY 2006 annual performance report (APR) that it served 3,786 infants and toddlers with disabilities, which represent 2.26% of the State's population from birth to age three. CHFS has adopted the Part C due process hearing procedures under 34 CFR §303.420 and a State system of payments under Part C of the IDEA, for which Kentucky provided a specific assurance as part of its FFY 2008 Part C grant award. CHFS also indicated in its FFY 2008 Part C grant application that it does not charge indirect costs to its Federal Part C grant funds.

**I. General Supervision**

***Critical Element 1: Identification of Noncompliance***

*Does the State have a general supervision system that is reasonably designed to identify noncompliance in a timely manner using its different components?*

**Verification Visit Details and Analysis**

*Components:* KEIS State staff reported that several components work together to assist CHFS in meeting its general supervision responsibilities, including monitoring EIS programs and providers to ensure that they meet the requirements of Part C of the IDEA. These components include: (1) on-site monitoring, which includes program reviews and focused monitoring visits; (2) local determinations; and (3) dispute resolution processes, including complaints. CHFS has the authority to monitor and enforce all of the requirements of Part C of IDEA through State regulations, contracts with EIS providers (which are renewed every two years and include provisions for sanctions), interagency agreements and other CHFS policies and procedures. Kentucky reported in its FFY 2007 APR data under Indicator 9 that "Kentucky is reporting FFY 2006 findings of noncompliance ...that were identified through [focused] onsite program reviews and complaint investigations." KEIS is not reporting findings based on its local determinations, which are based on data from its Central Billing and Information System (CBIS).

On-Site Monitoring: KEIS has seven Technical Assistance Teams (TATs) made up of a program evaluator, a program consultant, and a parent consultant. In addition to providing on-going technical assistance (TA), these TATs also conduct on-site monitoring visits, including the regular annual or bi-annual program reviews, and focused monitoring visits. These TATs also provide on-going TA. Six of the seven TATs are based in universities and the seventh is based in a mental

health care agency. Each TAT monitors the POEs in its region at least once every two years and smaller POEs annually. Program evaluators randomly select both independent EIS providers and POE staff for on-site monitoring visits. When a formal complaint is filed that involves specific POEs or EIS providers, TATs automatically conduct an additional monitoring visit and include those POEs or EIS providers in their review.

Issuing Findings through Focused Monitoring: Each year KEIS staff identify a specific focused monitoring area – Early childhood transition in FFY 2006 and the provision of Part C services in natural environments in FFY 2007. Evaluators interview providers, review all regulatory requirements, and randomly select for review child records representing 20% of the provider's caseload. Within 10 days of the visit, evaluators issue to EIS providers a written report that identifies strengths, weaknesses, and areas of noncompliance. KEIS staff issue reports either to POEs or to individual EIS providers and, as appropriate, send a copy to the respective POE. The report identifies the area of noncompliance, the citation to Kentucky's requirements (and IDEA requirements as appropriate) and the data relied upon for the finding.

However, the focused monitoring report does not include: (1) a requirement that the noncompliance be corrected; (2) that it be corrected as soon as possible but not later than within one year of the identification (i.e., KEIS's report); or (3) the actions the POE or EIS provider must take to demonstrate correction (e.g., the data or information it must provide to KEIS). Because KEIS staff reported that KEIS does not have a consistently applied standard for identifying what constitutes noncompliance with a regulation or requirement, it is unclear if all TATs are ensuring 100% compliance. KEIS staff acknowledged that each evaluator applies a different standard when identifying noncompliance and that they have not developed or disseminated any guidance to ensure consistency. Therefore, KEIS staff could not ensure that they have issued findings when monitoring uncovers noncompliance.

Local Determinations Based on CBIS data: In FFY 2006, KEIS staff analyzed data on the SPP/APR compliance indicators, which KEIS collects and reports through CBIS, and provided each of its 15 POEs with a determination letter identifying any noncompliance. Determination letters included a list of available TA resources and described the documentation that each POE must submit to KEIS to demonstrate it will correct the noncompliance as soon as possible, but not later than one year from identification. OSEP staff reviewed determination letters issued to EIS programs (the POEs) and found that KEIS informs each POE of its determination regarding the POE's compliance and requires that the POE demonstrate compliance by the following year if KEIS finds the POE in noncompliance. KEIS does not, however, report noncompliance identified through its local determination as findings of noncompliance in its APR nor does it issue separate findings of noncompliance for POEs based on these data. In addition, the TATs do not use the CBIS data or local determinations to identify noncompliance.

Complaints/Dispute Resolution Process: KEIS staff reported that complaints it receives are not always in writing and do not always contain all the requirements of a formal complaint. When a signed, written complaint is received, KEIS staff resolve it through the formal complaint process, which may result in a full EIS program review, a targeted review, or TA provided by the TAT team. When a complaint results in a formal program review, KEIS staff treat it as a regularly scheduled on-site monitoring visit, as discussed above.

### **OSEP Conclusions**

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds that CHFS has two general supervision components – its on-site monitoring (program reviews and focused monitoring) and dispute resolution processes – that it is using to identify noncompliance in a timely manner. However, OSEP cannot conclude that the on-site monitoring component is reasonably designed to identify noncompliance because CHFS does not have a standard for identifying what constitutes noncompliance. Furthermore, when KEIS issues a report, the report does not include: (1) a requirement that the noncompliance be corrected; (2) a requirement that it be corrected as soon as possible but not later than within one year of the identification (i.e., KEIS’s report); or (3) the actions the POE or EIS provider must take to demonstrate correction (e.g., the data or information the POE or EIS provider must provide to KEIS).

### **Required Actions/Next Steps**

Within 60 days of receipt of this letter, Kentucky must submit to OSEP for review its revised monitoring policies and procedures to include: (1) a standard that ensures consistent identification of all noncompliance with a regulation or requirement; (2) a requirement that any monitoring reports will: (a) require that any noncompliance will be corrected; (b) require that any noncompliance will be corrected as soon as possible but not later than within one year of the identification (i.e., KEIS’s report); and (c) identify the actions the POE or EIS provider must take to demonstrate correction (e.g., the data or information it must provide to KEIS). Furthermore, KEIS must provide with its FFY 2009 Part C Application an assurance that it will revise its monitoring policies and procedures as specified above and will inform TATs, POEs, and EIS providers of these revised policies and procedures.

### ***Critical Element 2: Correction of Noncompliance***

*Does the State have a general supervision system that is reasonably designed to ensure correction of identified noncompliance in a timely manner?*

### **Verification Visit Details and Analysis**

In its February 2, 2009, FFY 2007 APR submission, Kentucky acknowledged that its current monitoring system is “unable to efficiently or effectively assist the State in determining timely correction of noncompliance” and that this problem has existed since FFY 2005. Kentucky reported in its FFY 2007 APR that it is unable to demonstrate correction of the noncompliance identified in FFY 2005 and FFY 2006. Kentucky further reported in its FFY 2007 APR that its timeliness measure used in FFY 2006, which it also used for FFY 2007, is not consistent with the measurement for Indicator 1. Although Kentucky began reporting findings of noncompliance and timely correction of noncompliance by EIS program in FFY 2006, it did not formally notify EIS programs of this change until June 2008. In addition, Kentucky reported that it still has not included the citation to the statute or regulation the EIS program failed to comply with nor has the notice to EIS programs yet informed them of the requirement to correct the noncompliance as soon as possible but in no case later than one year from the time of identification of the noncompliance.

### **OSEP Conclusions**

To effectively monitor the implementation of Part C of the IDEA in the State under IDEA sections 616(a), 635(a)(10)(A) and 642 and 34 CFR §303.501(b), the State must ensure that identified noncompliance is corrected in a timely manner. Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds that KEIS does not have a general supervision system that is reasonably designed to ensure correction of identified noncompliance in a timely manner.

### **Required Actions/Next Steps**

Within 60 days of receipt of this letter, Kentucky must submit: (1) revised monitoring policies and procedures that describe: (a) how POEs or EIS providers that receive a finding of noncompliance will demonstrate correction in a timely manner; (b) the requirements of an approvable corrective action plan; and (c) how TATs, POEs, and EIS providers will be informed of these revised policies and procedures. Furthermore, KEIS must provide with its FFY 2009 Part C Application an assurance that it will revise its monitoring policies and procedures as specified above and that these revised monitoring policies and procedures will be in effect throughout FFY 2009.

### ***Critical Element 3: Dispute Resolution***

*Does the State have procedures and practices that are reasonably designed to implement the dispute resolution requirements of IDEA?*

### **Verification Visit Details and Analysis**

KEIS staff reported that all certified programs and providers are responsible for ensuring families are informed of their procedural safeguards. Each child's record includes documentation to verify that each family received a copy of the Family Rights Handbook. Service coordinators must review with each family their rights and responsibilities and the State's complaint procedures. KEIS staff indicated that its Family Rights Handbook includes the forms required for filing a complaint and for requesting mediation or a due process hearing; and that these forms are also available on the DPH website.

DPH submitted a complete application to OSEP that described the procedures for complaints, mediation, due process hearings, and other components of the dispute resolution system in Kentucky, as required under Part C of IDEA. OSEP staff approved those procedures with the State's FFY 2006 grant application. KEIS staff utilize all complaints as a means to identify training and TA needs and to identify findings of noncompliance.

Complaints: Parents call service coordinators directly when a problem or concern arises. If necessary, KEIS staff refer the complaint to the TAT for follow-up. KEIS staff forward any complaint received to the TAT that is responsible for resolving complaints and reporting the number of complaints received in each POE to KEIS. In FFY 2006 APR, the State reported receiving 17 signed written complaints, of which 13 resulted in decisions that were all timely issued within the 60-day timeline. KEIS staff explained that other complaints it received were informal, not always in writing, and did not contain all the requirements of a formal complaint. However, when a complaint resulted in a formal program review, the program review letter

included the outcome of the complaint. KEIS staff reported that all resolved complaints are logged and closed out within 60 days.

Mediation and Due Process Hearing Requests: OSEP staff confirmed that mediation is available at any time and is also offered whenever there is a dispute. KEIS staff reported that mediators under contract with the Kentucky Department of Education (KDE) are available for resolving Part C mediation requests. The State has not received any requests for due process hearings; however, in the event a due process hearing is requested, the hearing would be facilitated through the Due Process Hearing Branch within DPH. Hearing officers have been trained by KEIS staff on the due process hearing requirements under Part C of the IDEA.

### **OSEP Conclusions**

Based on the review of documents and interviews with State personnel, OSEP concludes that the State has procedures and practices that are reasonably designed to implement the dispute resolution requirements of Part C of the IDEA. However, because the State had not received any mediation or due process hearing requests, OSEP could not determine the effectiveness of those procedures and practices.

### **Required Actions/Next Steps**

No action is required.

### ***Critical Element 4: Improving Educational Results***

*Does the State have procedures and practices that are reasonably designed to improve early intervention results and functional outcomes for all children with disabilities?*

### **Verification Visit Details and Analysis**

In the FFY 2006 APR the State indicated that progress data for APR Indicator C-3 (Early Childhood Outcomes) were not available due to the change in reporting categories in September 2006. After consultation with the National Early Childhood Outcomes Center (ECO), KEIS staff revised the measurement on child outcomes. State legislation requires developmental progress monitoring of all children from birth to age five. The *KY Early Childhood Standards* (2002) and *Continuous Assessment Guide* (2004) outline the standards and assessment process. KEIS staff revised the assessment process and selected three criterion-referenced assessment tools to provide outcome data: *Evaluation and Programming System for Infants and Children, Second Edition*; *Hawaii Early Learning Profile*; and the *Carolina Curriculum for Infants and Toddlers*. The entire protocol is in the Kentucky Early Childhood Data System (KEDS), which the State uses to report educational results and functional outcomes for all children with disabilities. Kentucky is not using the ECO Child Outcomes Summary Form.

Formal policies and procedures became effective in February 2008, at which time all children were to begin receiving an assessment at entry, annually and at exit. KEIS staff conducted Statewide training in 2007 and 2008. KEIS staff implemented several procedures to ensure the accuracy and completeness of assessment data. On-line data entry into KEDS has drop-down boxes with limited options, as defined by each assessment, to reduce the possibility for erroneous entries. KEDS staff at the University of Louisville entered the data reported in the FFY 2006 APR to ease the transition to the new procedures. The FFY 2006 data reflected one year of limited data; however, KEIS staff expect the multi-year progress data set will increase as assessments are

completed at points of entry and exit. OSEP will respond to the State's FFY 2007 Indicator C-3 in a separate letter.

### **OSEP Conclusions**

Based on the review of documents, interviews with State personnel and a discussion with a focus group of early intervention program administrators, OSEP concludes that the State has procedures and practices that are reasonably designed to improve early intervention results and functional outcomes for all infants and toddlers with disabilities.

### **Required Actions/Next Steps**

No action is required.

### ***Critical Element 5: Implementation of Grant Assurances***

*Does the State have procedures and practices that are reasonably designed to implement selected grant assurances (i.e., monitoring and enforcement, CSPD and interagency agreements, contracts or other arrangements)?*

### **Verification Visit Details and Analysis**

Local Determinations and Public Reporting: As part of the responsibilities under sections 616 and 642 of the IDEA, each State must annually report to the public on the performance of each EIS program against the State's SPP/APR targets and must make an annual determination for each EIS program. CHFS meets its public reporting requirements by including APR data for each POE on its website.

KEIS staff make an annual determination for each POE based on its compliance and performance on SPP/APR indicators. In making local determinations, KEIS staff reported that KEIS takes into consideration the degree of noncompliance, the correction of identified noncompliance, and whether the POE is the subject of any complaints. KEIS staff developed scoring criteria for determining noncompliance with a regulation or requirement at the local level (i.e., noncompliance by a POE or EIS provider). KEIS staff send a determination letter to each POE regarding the program's noncompliance, any required enforcement actions, and a program data report by June 30<sup>th</sup> of each year. KEIS staff provided OSEP with copies of the determination letters and the scoring criteria for making local determinations of noncompliance.

Interagency Coordination: Under IDEA sections 635(a)(10), 637(a)(2), (6) and (9), and 640, each State lead agency must include in its Part C application: (1) a certification that its methods to ensure service provision and fiscal responsibility for services are current; (2) its policies and procedures for transition (including an interagency agreement if the lead agency is not the SEA); and (3) potential interagency agreements regarding referrals of children under the Child Abuse and Protection and Treatment Act. KEIS staff confirmed that CHFS, the State lead agency, is the only State agency that is responsible for providing Part C services (through contracts with POEs, which subcontract with EIS providers) and, thus, did not report the use of any interagency mechanisms.

KEIS has a statewide interagency agreement that outlines the responsibilities of each agency regarding the requirements of early childhood transition. The comprehensive agreement addresses outreach, child find, and referrals between KEIS and KDE, Head Start, and Child Care agencies.

KEIS staff plan to develop regional and local interagency agreements within the next five years in several programs. KEIS staff reported that a contract between KEIS and Medicaid provides an additional revenue stream allowing KEIS to bill Medicaid for EIS provided by KEIS to Medicaid-eligible children.

Comprehensive System of Personnel Development (CSPD): Finally, KEIS staff, through the TATs, provides personnel training to address compliance and performance issues from the APR. Providers and service coordinators learn of policy changes, available training, peer-to-peer collaboration, and other relevant information through weekly newsletters for providers and quarterly service coordinator meetings, respectively. Parent consultants who are members of the TATs are available as a resource for parents.

### **OSEP Conclusions**

Based on the review of documents and interviews with State personnel, OSEP concludes the State has procedures and practices that are reasonably designed to implement selected grant application requirements (i.e., EIS program determinations, CSPD, and interagency coordination).

### **Required Actions/Next Steps**

No action is required.

## **II. Data**

### ***Critical Element 1: Collecting and Reporting Valid and Reliable Data***

*Does the State have a data system that is reasonably designed to collect and report valid and reliable data and information to the Department and the public in a timely manner?*

### **Verification Visit Details and Analysis**

Data provided by the CBIS is part of a demographic, service, and billing (claims) database. The system includes edit checks to ensure data are entered accurately and proper documentation is submitted for authorized Part C services. For instance, drop down lists are used instead of text boxes and certain fields must be entered before a record can be saved or the next process can begin. In addition, incorrect or incomplete forms are returned by CBIS to initial and primary service coordinators at the time of data entry to ensure data accuracy.

For the FFY 2006 APR, KEIS staff obtained data for Indicators 1, 2, 4, 5, 6, 7, 8B, and 8C from CBIS. KEIS staff reported that, for Indicator 1, the calculation is based on the difference between the authorized service start date and the service claim date. KEIS staff identified the need to provide TA to service coordinators and providers to clarify that the correct service start date is the date the service is scheduled to begin, rather than the initial IFSP date. For Indicator 2, CBIS procedures require primary service coordinators to enter into CBIS the answer to the question, "Where were the majority of the child's services delivered?" Service coordinators and providers enter the data for each child when the IFSP is developed and during the 6-month IFSP review. KEIS staff obtain data for Indicator 4 from the National Center for Special Education Accountability Monitoring survey data that is entered into CBIS by service coordinators and providers. Based on the analysis of survey data, KEIS staff adjusted the data reported to ensure the responses were representative of the population served. The December 1 Child Count data, as

well as data for Indicators 5 and 6, come from reports submitted by initial service coordinators for each child when an IFSP is developed and a child is determined eligible for Part C services. Therefore, KEIS staff count every child who, on December 1, has an active IFSP. When a referral is received, initial service coordinators are required to enter child information, including the date of referral, eligibility, and whether the initial IFSP meeting was conducted within 45 days of referral (or the reason why not). This report generates data the State reported for Indicator 7. Every three months, KEIS automatically notifies the local educational agency (LEA) of all children receiving Part C services who will be turning age three within six months. CBIS generates a report of notification for Indicator 8B in the APR. Data for Indicator 8C is provided by primary service coordinators who are required to complete discharge forms when a child exits KEIS.

KEIS staff obtained data for Indicator 3 from KEDS. Providers are responsible for the administration of the criterion-referenced assessment instrument described in the general supervision section, critical element 4. KEDS staff at the University of Louisville entered data into KEDS. Program evaluators obtained data for Indicator 8A from the monitoring system. Program evaluators reviewed 20 percent of IFSPs in each EIS program/provider for all children exiting Part C, not just those potentially eligible for Part B. Program evaluators reviewed IFSPs to determine whether the IFSP contained transition steps and services. Program evaluators submitted findings of those on-site monitoring visits to KEIS staff for analysis. The data sources identified for Indicators 1 through 8C provide the data for Indicator 9. KEIS staff reported in the FFY 2006 APR the findings identified through Kentucky's data system, targeted on-site monitoring, and formal complaint investigations. KEIS's monitoring system also provides data for Indicators 10, 11 and 13.

### **OSEP Conclusions**

Based on the review of documents, analysis of data, demonstration of the data system capabilities, and interviews with State personnel, OSEP concludes that the State has a data system that is reasonably designed to collect and report valid and reliable data and information to the Department and the public in a timely manner.

### **Required Actions/Next Steps**

No action is required.

### ***Critical Element 2: Data Reflect Actual Practice and Performance***

*Does the State have procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance?*

### **Verification Visit Details and Analysis**

KEIS staff reported on the statewide data collection forms that all programs use to collect and enter data into CBIS. (KEIS staff provided copies of these forms to OSEP staff.) KEIS staff verify the accuracy of the database data by conducting record reviews and interviews during monitoring visits. An additional data verification check occurs when the CBIS data are processed for electronic payment of services rendered. These data need to be complete and accurate before a service provider can receive payment.



### **OSEP Conclusions**

Based on the review of documents, analysis of data and interviews with State and early intervention program personnel, OSEP concludes that the State has procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance.

### **Required Actions/Next Steps**

No action is required.

### ***Critical Element 3: Integrating Data across Systems to Improve Compliance and Results***

*Does the State compile and integrate data across systems and use the data to inform and focus its improvement activities?*

### **Verification Visit Details and Analysis**

DPH contracts with the University of Louisville to implement CBIS, the KEIS billing and information system. CBIS provides critical financial and other program data to satisfy State and Federal requirements. However, because CBIS was developed 12-15 years ago as only a billing system, KEIS staff reported that data are not provided in a user-friendly or practical format. Although CBIS previously designated a staff person to collaborate with KEIS staff, CBIS now manages the KEIS data alone and provides these data to KEIS staff only as needed.

The service coordinators submit a statewide summary form based on the IFSP that summarizes the services authorized by the IFSP team. Service coordinators mail or fax the forms to CBIS staff, who enter the data into CBIS. Providers submit billing claims based on services authorized by service coordinators. CBIS staff generate payment files and send them to the DPH financial system. The DPH financial system staff verify that the appropriate codes are used for services permissible under Part C of the IDEA and generate a payment. CBIS staff implemented a web-based system and developed electronic formats for data entry forms to assist service coordinators in submitting service authorizations electronically.

Data obtained from CBIS are delayed due to the lag in time between service provision and the time the actual claim is processed for payment. Therefore, data do not necessarily reflect current practice and there is a considerable lapse in time before KEIS staff can determine the need for TA. Nevertheless, KEIS staff reported that CBIS did produce useful data. For example, CBIS staff generated a report identifying the average age at referral and the number of referrals for children under age one who were received by each district. KEIS was able to target child find efforts for children under age one. Additionally, CBIS staff generated a report to determine compliance with the 45-day timeline by district. KEIS staff reviewed districts quarterly and awarded incentives for good performance or issued penalties for poor performance. CBIS was also able to provide KEIS with data regarding the average number of days districts took to develop IFSPs. KEIS was able to identify where delays were occurring in the IFSP development process and provide TA to service coordinators to improve the process.

On December 15, 2008, KEIS began relying exclusively on its new data system. Service coordinators and providers entered child data for all children receiving Part C services into the Technology Assisted Observation and Teaming Support System (TOTS). To ensure all data were completely entered until full implementation of TOTS, CBIS and TOTS ran concurrently until December 15, 2008. CBIS staff provided only limited support to the KEIS program, such as

assistance with payment files and general inquiries, until TOTS was fully implemented.

**OSEP Conclusions**

Based on the review of documents, analysis of data, and interviews with State and early intervention program personnel, OSEP believes the State compiles and integrates data across systems and uses the data to inform and focus its improvement activities

**Required Actions/Next Steps**

No action is required.

**III. Fiscal Part C**

***Critical Element 1: Timely Obligation and Liquidation of Funds***

*Does the State have procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA funds?*

**Verification Visit Details and Analysis**

DPH staff described the procedures DPH uses for timely obligating and liquidating Federal IDEA Part C funds. The integrated financial management system is the mechanism the State uses to track all expenditures within DPH. DPH staff reported that KEIS obligates and liquidates Part C funds by September 30<sup>th</sup> of each year, well within the required 27-month period. OSEP's review of GAPS data confirms that Kentucky has expended all of its FFYs 2004, 2005, or 2006 Federal IDEA Part C funds.

**OSEP Conclusions**

Based on the review of documents, analysis of data, and interviews with State and early intervention program personnel, OSEP concludes that KEIS has procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA funds.

**Required Actions/Next Steps**

No action required.

***Critical Element 2: Appropriate Distribution of IDEA Funds***

*Does the State have procedures that are reasonably designed to ensure appropriate use of IDEA funds at the State level?*

**Verification Visit Details and Analysis**

*Procedures for Appropriate Use of IDEA Part C Funds at the State Level:* Each lead agency must ensure that IDEA Part C funds are expended at the State level on appropriate uses, consistent with the requirements in IDEA section 638, the Education Department General Administrative Regulations, Office of Management and Budget Circular A-87, and other applicable Federal requirements. DPH staff reported that Federal Part C funds are used to pay for direct early intervention services (EIS). DPH staff reported that the cost of providing direct Part C services is over \$29,000,000. Medicaid funds provide about \$15,000,000 and the Part C allocation provides roughly \$5,600,000. State funds provide the balance.

DPH staff reported that Federal Part C funds are administered through an accounting system of codes distinguished by the type of expenditure. DPH staff use only four codes to identify KEIS programs and activities. DPH staff pay service coordinators and providers directly only for the allowable services under Part C of the IDEA that they provide and never disburse funds to local districts or POEs.

DPH finance staff stated that, in addition to Part C funds, they also pay for EIS with State, Tobacco Settlement, and Medicaid funds. The financial system maintains clear, separate, and precise accounting codes that identify each funding source to ensure that IDEA Part C funds are not commingled. Additionally, DPH staff described checks and balances in the accounting system. KEIS staff stated that CBIS training includes directives regarding the services for which they are allowed to bill. When CBIS staff enter data into CBIS on which services have been provided, CBIS electronically submits data to the financial system to pay the providers.

*Nonsupplanting Requirements:* DPH staff described how CHFS ensures that the total amount of State and local funds expended for EIS in one year is maintained or increased in each subsequent year. DPH staff track local funding for early intervention services through CBIS. The State also has separate budget numbers and codes under which it reports use of Federal and State funds. In the State's FFY 2008 Part C Application and during OSEP's verification visit, DPH staff confirmed that KEIS does not charge indirect costs to Federal Part C grant funds.

*Payor of Last Resort Requirements:* KEIS has adopted a policy that Part C funds are payor of last resort for EIS. KEIS also has adopted a system of payments that identifies the financial responsibilities of parents, as well as when public benefits and private insurance may be used to pay for Part C services. In its FFY 2008 Part C grant, KEIS provided a specific assurance regarding its system of payments to ensure that eligible children whose families are determined unable to pay are not charged for the cost of any Part C services.

KEIS staff confirmed that State allocations are payors of first resort before Federal IDEA Part C funds are utilized to pay for Part C services. KEIS provides evaluation and assessment to determine eligibility, service coordination of identified needs, and services under 34 CFR §303.521(b) at no cost to families. For other EIS identified in the IFSP, KEIS requires families to contribute, based on a sliding fee scale, toward payment for EIS they receive. Family Share is the State's program that establishes the amount a family must pay for EIS. This amount is based on a family's total household income and size, which follows the Federal poverty guidelines. The maximum amount a family contributes to the cost of EIS is \$50.00 per month. KEIS may provide a waiver if service providers determine a family is unable to pay for EIS. If a child is eligible for either the Kentucky Medical Assistance Program or the Kentucky Children's Health Insurance Program, the program under which the child is eligible will cover the cost of EIS. Parents may utilize private health insurance to reduce their contribution, but are not required to do so. Service coordinators inform a family of its responsibility to confirm coverage with the insurance carrier and determine whether any restrictions apply. The Family Rights document reiterates this. KEIS staff provide training to EIS programs and providers on the State's payor of last resort policies and procedures.

**OSEP Conclusions**

Based on the review of documents, analysis of data, and interviews with State and early intervention program personnel, OSEP concludes that KEIS has procedures that are reasonably designed to ensure appropriate use of IDEA Part C funds at the State level.

**Required Actions/Next Steps**

No action is required.