



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

Honorable Christine C. Ferguson
Commissioner
Massachusetts Department of Public Health
250 Washington Street
Boston, Massachusetts 02108-4619

OCT 27 2003

Dear Commissioner Ferguson:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP) recent verification visit to Massachusetts. As indicated in my letter to you of June 18, 2003, OSEP is conducting verification visits to a number of States as part of our Continuous Improvement and Focused Monitoring System (CIFMS) for ensuring compliance and improving performance with Parts B and C of the Individuals with Disabilities Education Act (IDEA). OSEP staff conducted a verification visit to Massachusetts during the week of July 14, 2003.

The purpose of our verification reviews of States is to determine if they use their general supervision, State-reported data collection, and Statewide assessment systems to assess and improve State performance, and to protect child and family rights. The purposes of the verification visits are to: (1) understand how the systems work at the State level; (2) determine how the State collects and uses data to make monitoring decisions; and (3) determine the extent to which the State's systems are designed to identify and correct noncompliance.

As part of the verification visit to the Massachusetts Department of Public Health (MADPH), the State's Part C Lead Agency, OSEP staff met with Ron Benham, (the State's Part C Coordinator and Director of the Division of Perinatal and Early Childhood Health), and members of MADPH's early intervention staff who are responsible for the State's general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings), and the collection and analysis of State-reported data. Prior to the visit, OSEP staff reviewed a number of documents, including the State's Part C Application, Self-Assessment, and Improvement Plan and submissions of data under Section 618 of the IDEA, as well as other information and documents provided during the Improvement Planning process.¹ OSEP also conducted a conference call on July 9, 2003 with members of the Part C Steering Committee to hear their perspectives on the strengths and weaknesses of the State's systems for general supervision, data collection and reporting.

The information that Mr. Benham and his staff provided during the OSEP visit, together with all of the information that OSEP staff reviewed in preparation for the visit, greatly enhanced our understanding of MADPH's general supervision systems and data collection and reporting

¹ Documents reviewed as part of the verification process were not reviewed for legal sufficiency but rather to inform OSEP's understanding of your State's systems.

systems it utilizes in carrying out its administrative and oversight responsibilities for the Massachusetts Early Intervention System.

General Supervision:

In looking at the State's general supervision system, OSEP collected information regarding a number of elements, including whether the State: (1) has identified any barriers (e.g., limitations on authority, insufficient staff or other resources, etc.) that impede the State's ability to identify and correct noncompliance; (2) has systemic, data-based, and reasonable approaches to identifying and correcting noncompliance; (3) utilizes guidance, technical assistance, follow-up, and—if necessary—sanctions, to ensure timely correction of noncompliance; (4) has dispute resolution systems that ensure the timely resolution of complaints and due process hearings; and (5) has mechanisms in place to compile and integrate data across systems (e.g., 618 State-reported data, due process hearings, complaints, mediation, large-scale assessments, previous monitoring results, etc.) to identify systemic issues and problems.

OSEP believes that MADPH's systems for general supervision constitute a reasonable approach to the identification and correction of noncompliance; however, OSEP cannot, without also collecting data at the local level, determine whether they are fully effective in identifying and correcting noncompliance.

OSEP learned through review of MADPH's Monitoring Documents and interviews with MADPH staff, that MADPH uses its program certification process to monitor, on a cyclical basis, (at least once every two years) all of the 63 early intervention vendors that provide service coordination and other early intervention services. OSEP also learned through interviews with MADPH staff that the State's monitoring and correction system analyzes and utilizes data from multiple sources, including: Early Intervention Information System (EIIS); Uniform Financial Reports; Service Delivery Reports; Program Certification Including Contract Performance Review and System Quality Assurance; Personnel Certification Process; and Local Program Annual Reports.

MADPH also monitors a program more frequently on specific areas of concern or issues of noncompliance identified during a recertification visit. The three to four day onsite program certification process, conducted by the regional specialist, a parent and as appropriate, the Director of Field Operations, is based on the Early Intervention Operational Standards (EIOS), which includes Part C requirements. Program certification procedures include an early intervention file review, focus groups, interviews with parents, staff and administrators, observations of child evaluations, assessments and home visits, family and community resource questionnaires, and local policy review, to determine compliance with Part C requirements. MADPH also conducts a facility review and reviews performance indicators as described on page two of this letter. At the conclusion of the review, MADPH conducts an exit interview with the program administrators. A unique feature of MADPH's process is the inclusion of parents who act as co-leaders for the focus groups. Within two to three weeks following a program certification visit, MADPH issues a written letter which, when appropriate, sets forth specific program actions and target dates needed in a corrective action plan. In preparation for the verification of correction of noncompliance issues, MADPH's Director of Field Operations and

the regional specialists access the EIIS information for current data on specific program issues. They then provide ongoing technical assistance visits to ensure correction of identified noncompliance. These onsite visits include early intervention file reviews, including IFSP reviews to verify correction.

At the present time, the State system emphasizes a continuous improvement approach using State level data and local level certification review visits combined with extensive technical assistance for purposes of identification and correction in order to improve program performance. While compliance issues are generally corrected and rectified within 90 days, issues such as waiting lists, may take up to a year for correction.

It was evident from OSEP's review of selected program certification reports and interviews with Lead Agency staff, that MADPH consistently conducts follow-up data collection, and as necessary, provides on-going and frequent technical assistance to local programs to ensure that identified noncompliance is effectively corrected in a timely manner.

With respect to sanctions, MADPH staff commented that they have discussed and acted upon the imposition of sanctions with some programs, such as nonrenewable contracts, and have given some programs only a continued pending certification on specified conditions. OSEP reviewed sample MADPH letters, which imposed a moratorium on all new referrals to certain programs in response to issues of noncompliance, and provided notice to the programs that all families be immediately informed of other early intervention programs in their catchment area. The programs were also asked for a corrective action plan and notified that MADPH staff would reassess program status within one month to determine compliance with the EIIS. MADPH decided to continue the moratorium on referrals with a timeline based on MADPH's reassessment of program status in one of the samples.

There are some programs where MADPH has not yet ensured full and timely correction of noncompliance, but MADPH demonstrated that it is working aggressively and frequently with those programs to achieve full correction of all Part C program requirements. In order to further verify the State's ability to fully correct all identified areas of noncompliance with Part C, we ask that MADPH keep OSEP informed concerning its progress in ensuring correction in these programs.

OSEP also reviewed MADPH's system for the resolution of State complaints, due process hearings and mediation. The State has adopted and fully implemented complaint, due process hearing and mediation procedures. To date there have been two complaints filed in 2000 and 2001, one mediation request filed and withdrawn in 2002, and one due process hearing request filed and withdrawn in 2001. OSEP cannot determine whether the small number of administrative complaints and or due process hearing requests is due to a high degree of family satisfaction with Part C services or whether parents have not been sufficiently informed regarding the State's Part C dispute resolution process. The Lead Agency employs a Part C Due Process Coordinator who oversees the complaint resolution system. Regional specialists provide local technical assistance to parents and providers in order to encourage resolution at the local level using the IFSP process. The State Part C Coordinator is also available to respond directly to parents or provider issues.

Data Collection under Section 618 of the IDEA:

In looking at the State's system for data collection and reporting, OSEP collected information regarding a number of elements, including whether the State: (1) provides clear guidance and ongoing training to local programs/public agencies regarding requirements and procedures for reporting data under section 618 of the IDEA; (2) implements procedures to determine whether the individuals who enter and report data at the local and/or regional level do so accurately and in a manner that is consistent with the State's procedures, OSEP guidance, and section 618; and (3) implements procedures for identifying anomalies in data that are reported, and correcting any inaccuracies.

OSEP believes that MADPH's system for collecting and reporting data from the MADPH early intervention programs is a reasonable approach to ensuring the accuracy of the data that MADPH reports to OSEP under section 618.

In OSEP's interviews, MADPH staff stated that MADPH collects service and billing data information from 63 local contracted programs through the EIIS. MADPH does not collect 618 data as a distinct field; instead the information is obtained from a combination of claims data and client information. This includes: the MADPH identifier; referral source and date; demographics; evaluation information on eligibility criteria; medical support; assistive technology (if child comes to the program with a device); IFSP information; date of service; service type; service frequency; intensity; professional discipline providing the service; payer; and hours.

MADPH further informed OSEP that the early intervention programs submit specific client data annually, including new child evaluation information, child discharge information, and child functional abilities information at the time of discharge. The data system also includes information when multiple providers are providing similar services and it allows for a child to be enrolled several times if services are discontinued for any reason. The system is able to calculate any eligibility category. MADPH's EIIS can break down information according to the three eligibility categories (established conditions, developmental delay and the at-risk population) and can also refine the data to identify a specific disability with the established condition category. Duplicative counts are entered. If a nonduplicative count is needed, the established condition will override the developmental delay, which will in turn override the at-risk population.

Local early intervention programs transmit program data continuously to MADPH, thereby permitting the State's Part C data system to be current. MADPH staff acknowledges that validations of the data are not as strict as they should be. The present data system does not contain the internal checks that MADPH used in the past, since they were lost when the system was upgraded. However, checks are still present and the State's Lead Agency's Data Manager states that they can validate the data. MADPH sends monthly error reports to the program and the regional specialist. The data system detects local errors such as the submission of eligibility information and IFSP timelines over 45-days. The program must make corrections of any errors in the data in order to bill for service payment. MADPH staff states that they provide information to the program when needed and thus serve as a back-up data source.

The data system keeps information current for three months in order to highlight any problems and significant changes.

MADPH's billing system is able to reject duplicate claims of any sort and can ensure that the Lead Agency is the payor of last resort, by exhausting all other payment options prior to billing MADPH for services. MADPH staff requires local programs to make the appropriate edits and updates with regard to their program data entry. Additionally, when a child turns three years of age the data system automatically exits the child. As a result, Part C children who have exited the early intervention system at age three are no longer identified in the State's automated data system. MADPH appears to have an excellent internal consistency check for data fields. An acknowledged data challenge for MADPH is the State's mobile population. For example, Massachusetts offers multiple program options within certain regions such as Boston, and the EIIS system does not support tracking of children moving from program to program, as the data system does not have a unique child identifier.

MADPH states that it disseminates the Early Intervention Information System User Guide to all local early intervention programs as instructional guidance on how to collect and report section 618 data and other services and claims data collected by the State. The Lead Agency expressed and reported a high level of confidence in all of its 618 data. All the 618 data collection categories, except for personnel, (i.e., child count, settings, services and exiting) are collected, maintained, and reported based upon actual data in the State's current automated data system. Personnel data is collected through the local program's Annual Reports and monitored through personnel databases. The Annual Report assists MADPH in understanding program issues related to the State's system of early intervention services and allows for the identification of technical assistance needs. MADPH also uses this report to monitor the extent to which programs are achieving contract performance standards.

Training and technical support is available any time a program needs assistance. MADPH provides technical support for the claims system. Regional specialists incorporate monthly error reports into the program certification process and on-going technical assistance plans. MADPH provides training events for State and local data entry staff and incorporates data entry training into program directors' training events as well. Programs that have frequent errors are invited to attend trainings.

During the discussion of 618 data, OSEP expressed concern about the State's past and current submission of settings data to OSEP. MADPH's 1999 and 2000 data submission of required settings data was limited to the home. MADPH was unsuccessful in 2001 in correcting this problem. MADPH made home a separate category in the database and by using data collected through their billing system, added codes that reflected additional sites (i.e. child care, neighborhood playgroups). MADPH did not succeed because it was apparent from OSEP's review of multiple documents and interviews with MADPH staff, that MADPH does not collect information on services delivered in hospitals, residential facilities or service provider locations. The code for any service delivered in these settings is *home*. However, OSEP's review of the State's Operational Standards Manual instructions confirmed that for billing data collection purposes, the home setting includes many other locations. OSEP concludes that MADPH coding of service locations specific to the child's home or place of residence is not consistent with

OSEP instructions regarding settings information. Subsequent to OSEP's visit, MADPH staff assured OSEP in a telephone call that they are working on a plan to address this issue by revising their data system. OSEP requests that MADPH submit the plan to revise its settings data to OSEP as soon as possible, but within 60 days from the date this letter is received.

In response to OSEP's interest in verifying the collection of race/ethnicity data on all eligible infants and toddlers, Lead Agency staff stated that providers are unable to obtain race/ethnicity data on all children because in some cases, parents choose not to provide the information. At times, a program may utilize the "other" category; at another time, no race or ethnicity is indicated. Subsequent to OSEP's visit, OSEP discussed the use of Westat's Known Distribution Chart as a method of data correction with Mr. Benham.

The Lead Agency is attempting a stricter adherence to OSEP's 618 definitions in the early intervention services data reported. However, MADPH is providing some categories of services as estimates only. OSEP asked MADPH staff about the State's use of estimated service categories/data elements in the EIIS, as well as the provision of these estimated services if the actual service is not entered into the data system. MADPH staff states that even though some services may be listed on the IFSP, they are not captured (coded) in the data system as a distinct service provided. Instead they are included in the discipline that provides the service. For example, assistive technology is not counted as a distinct early intervention service but is counted as an occupational therapy service if the assistive technology service or device is provided by an occupational therapist. MADPH states that they know which child uses assistive technology from the client data; however, the State confirmed that assistive technology is not listed as a distinct service on the IFSP. MADPH states that as of the December 1, 2001 count, audiology and nutrition are reported as distinct services on the IFSP (previously reported as estimated services by Westat).

As confirmed by OSEP's interviews with MADPH staff, MADPH is not fully meeting the Part C section 618 requirements for listing assistive technology/devices as a distinct service on the IFSP but the State has taken the necessary steps to report audiology and nutrition as distinct services on the IFSP. OSEP discussed with State staff the necessity of both identifying as appropriate, assistive technology as an IFSP service and collecting and reporting this data for purposes of meeting individualized needs of children and providing the State with critical data for effective general supervision.

In order to ensure that MADPH can meet its responsibility to submit accurate data under section 618 and 642 of the IDEA, OSEP requests that, as soon as possible, but within 60 days of the date of this letter, MADPH submit to OSEP its plan for ensuring that, settings data and services and race/ethnicity data are accurate, and that assistive technology data as listed on the IFSP is accurate by February 1, 2004 and November 1, 2004, when MADPH must make its next required section 618 data submission to OSEP.

Page 7 - Honorable Christine C. Ferguson

We appreciate the cooperation and assistance provided by your staff during our visit. We request that you keep us informed of your progress in ensuring correction of the above noted data submissions to OSEP.

We look forward to collaborating with Massachusetts as you continue to work to improve results for children with disabilities and their families.

Sincerely,



Stephanie Smith Lee

Director

Office of Special Education Programs

cc: Ron Benham