

## Chapter 9



# FINANCIAL MATTERS

## Arizona Early Intervention Program

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**9.0.0 Authority:** 20 U.S.C. §§ 1432, 1435, 1437-1438, 1440; 34 C.F.R. §§ 303.500, 501, 510, 511, 520, 521

### **9.1.0 Financial Responsibility for AzEIP Participating Agencies**

#### **9.1.1 Policy - § 303.521(a)**

1. Each AzEIP Participating Agency will maintain eligibility criteria as set forth in State and Federal law and policy.
2. If a child meets the eligibility criteria for an AzEIP Service Providing Agency and AzEIP, the AzEIP Service Providing Agency is financially responsible for providing and/or arranging for the provision of early intervention services, in accordance with IDEA, Part C requirements, AzEIP policies and procedures, relevant Intergovernmental Agreements, and State law.
3. DES/AzEIP is responsible for the general administration and oversight of programs and activities in the Arizona Early Intervention Program and monitoring the programs and activities used by Arizona to carry out the early intervention system, whether or not these programs or activities are receiving assistance from IDEA, Part C.
4. If DES/AzEIP, in resolving a dispute, determines that the assignment of agency financial responsibility was inappropriately made, DES/AzEIP shall:
  - A. Reassign the responsibility to the appropriate agency; and/or
  - B. Make appropriate arrangements for reimbursement of any expenditures incurred by the agency originally assigned this responsibility.

### **9.2.0 Federal Funds Available Under IDEA, Part C: Payor of Last Resort**

#### **9.2.1 Policy - 34 C.F.R. §§ 303.501, 510-511; § 303.203(b)(1)**

1. IDEA, Part C funds will be used to pay for the following:
  - A. Activities, functions and services authorized under IDEA, Part C, including administration, maintenance and implementation activities, direct early intervention services for eligible children and their families, related activities by other agencies, and support for the Interagency Coordinating Council.
  - B. Early intervention services for an AzEIP eligible child and his/her family, but that is not otherwise funded through other public or private sources.
  - C. To expand and improve services for eligible children and their families that are otherwise available.
2. IDEA, Part C funds will not be used for the following:
  - A. To pay for early intervention services that are to be paid by another public or private source, including any medical program administered by the Department of Defense, but for the enactment of IDEA, Part C.
  - B. To supplement the level of state and local funds expended for AzEIP eligible children and their families, and in no case will supplant those state and local

funds.

3. IDEA, Part C funds will not be commingled with state funds.
4. No child will be denied or have early intervention services delayed due to disputes between agencies regarding financial or other responsibilities. If necessary to prevent delay in receipt of appropriate early intervention services to an eligible child or child's family, IDEA, Part C funds may be used to pay the provider of services, pending reimbursement from the agency or entity that has ultimate responsibility for the payment.
5. If necessary to prevent the delay of timely and appropriate early intervention services to an eligible child and/or his family, DES/AZEIP may use IDEA, Part C funds to pay for the provider of early intervention services, functions of the child find system, and evaluations and assessments as allowed under Part C pending reimbursement from the agency or entity that has the ultimate responsibility for payment.

### 9.3.0 System of Payments

#### 9.3.1 Definitions

##### 9.3.1.1 Policy - 34 C.F.R. § 520

1. For purposes of the Financial Matters policy, the following definitions apply:
  - A. "Responsible person" is defined as (a) the biological or adoptive parent(s) or (b) the guardian(s) of a child enrolled in the Arizona Early Intervention Program.
  - B. "Consent" includes informed permission to utilize Private Insurance and Public Insurance and Benefits, and to share personally identifiable information for the purposes of billing.
  - C. "AzEIP Service Providing Agencies" are those state agencies identified in A.R.S. § 41-2022 that provide early intervention services under IDEA, Part C: Arizona Department of Economic Security and the Arizona State Schools for the Deaf and the Blind. The Arizona Department of Economic Security provides early intervention services through the DES, Arizona Early Intervention Program (DES/AZEIP) and the DES, Division of Developmental Disabilities (DES/DDD).

#### 9.3.2 Private Insurance

##### 9.3.2.1 Policy - § 303.420(a)(3); § 303.520(b)(1)(i)

1. The AzEIP Service Providing Agencies, or their designated contractors or subcontractors, must obtain the responsible person's written consent to use the responsible person's or child's private insurance to pay for:
  - A. Evaluation;

- B. The initial provision of early intervention services on the Individualized Family Service Plan (IFSP); and
  - C. Each increase in frequency, length, duration, or intensity of an early intervention service on the IFSP.
2. If a responsible person declines the use of private insurance, the child and family will not be denied early intervention services (§ 303.520).
  3. A responsible person will be provided a copy of AzEIP's system of payments, including the identification of potential costs that the responsible person may incur if the person consents or does not consent to the use of their private insurance. Those costs may include co-payments, premiums or deductibles, long-term costs such as the loss of benefits because of annual or lifetime health insurance coverage caps (§ 303.520(b)(2); § 303.520(b)(1)(iii)).
  4. Families are responsible for any health insurance premiums, but the AzEIP Service Providing Agencies (including their employees, contactors, and subcontractors) will pay deductibles up to the cost of early intervention services.
  5. The AzEIP Service Providing Agencies (including their employees, contactors, and subcontractors) will not collect co-pays unless required by the health plan contract between the insurer and early intervention provider.
  6. If a family reaches the maximum allowable units or level of service covered by their private insurance for a specified period, the responsible AzEIP Service Providing Agency will pay for the remaining IFSP services, unless another funding source is identified.
  7. A responsible person with public insurance/benefits or private insurance will not be charged disproportionately more than a responsible person who does not have public benefits/insurance or private insurance (§ 303.521(a)(4)(iv)).
    - A. DES/AzEIP will immediately notify the AzEIP Team-based Contractor in the family's region; and
    - B. Appropriate early intervention professionals from the AzEIP Team-based Contractor will meet with the family to revise the IFSP.

### 9.3.3 Public Benefits and Insurance

#### 9.3.3.1 Policy

1. The AzEIP Service Providing Agencies utilize public insurance, such as Medicaid's Title XIX, including Arizona Long Term Care System (ALTCS) and Early Periodic Screening Diagnosis and Treatment (EPSDT), to the maximum extent possible.
2. A responsible person may not be required to sign up for or enroll in public benefits or insurance (AHCCCS) in order to receive early

intervention services.

3. Consent to use a responsible person's or child's public benefit or insurance is required if:
  - A. The responsible person or child is not already enrolled in AHCCCS; or
  - B. The use of the child's or responsible person's public benefit/insurance would:
    - (1) Decrease available lifetime coverage or any other insured benefit for the child or responsible person;
    - (2) Result in the responsible person paying for services that would otherwise be covered by the public benefit/insurance;
    - (3) Result in any increase in premiums or discontinuation of public benefits/insurance for that child or responsible person; or
    - (4) Risk loss of eligibility for the child or the responsible person for home and community-based waivers based on aggregate health-related expenditures (§ 303.520(a)(2)(ii)).
4. Consent to disclose a responsible person's or child's personally identifiable information to bill a public benefit or insurance (AHCCCS) is required prior to billing for all responsible persons (whether they are currently enrolled in AHCCCS or whether they enroll after they become eligible for AzEIP).
5. Responsible person may withdraw consent to use public insurance or benefits and/or share personally identifiable information for billing purposes, at any time.
6. Prior to using a responsible person's or child's public benefits or insurance to pay for early intervention services, the AzEIP Service Providing Agencies, or their designated contractors or subcontractors, must provide written notification to the responsible person. That notification must include a statement that:
  - A. Public benefits or insurance will not be billed unless the responsible person consents to share their or their child's personally identifiable information for billing purposes;
  - B. Describes certain no-costs provisions and that if the responsible person does not consent to use the public benefit or insurance, the early intervention services on the IFSP for which the responsible person has consented will be provided;
  - C. The responsible person has the right to withdraw their consent to disclose personally identifiable information at any time; and
  - D. Lists the potential categories of costs that the responsible person might incur from using their or their child's public benefit or insurance. Those categories include the cost of co-payments,

deductibles, or the use of private insurance before using the public insurance (such as with ALTCS) (§303.520(a)(3)).

### 9.3.4 Family Fees

#### 9.3.4.1 Policy

1. Arizona's system of payments for early intervention services includes public benefits or insurance or private insurance. It does not include family fees, sliding fees or the use of Part B funds. Arizona does not receive funds from a responsible person under the system of payments established under C.F.R §§ 303.520€(1)-(3) and therefore is not included in these fiscal policies.
2. Fees will not be charged for services that a child is required to receive at no cost to the family under IDEA, Part C. Fees will not be charged for the following services (§ 303.521(a)(4)(i); (a)(4)(ii); (b); and (c)):
  - A. Child find and public awareness;
  - B. Screening, evaluation and assessment and the functions related to them;
  - C. Service coordination; and
  - D. Administrative and coordination activities related to:
    - (1) Development, review, and evaluation of IFSPs and interim IFSPs;
    - (2) Transition conferences;
    - (3) Implementing procedural safeguards, including dispute resolution; and
    - (4) Teaming activities on behalf of a family, as described in DES/AzEIP contracts providing Team-Based Model services.
3. AzEIP Service Providing Agencies do not charge family fees for other early intervention services.
4. A responsible person who disagrees may:
  - A. Make an informal complaint with DES/AzEIP;
  - B. File a formal complaint with DES/AzEIP;
  - C. Request and/or participate in mediation; and/or
  - D. Request a due process hearing.

See Chapter 7, *Procedural Safeguards* for AzEIP policies regarding family rights A through D.

### 9.4.0 Inability to Pay

#### 9.4.1 Policy

1. If a responsible person or child is unable to pay, , and does not provide consent to use their private insurance, the lack of consent will not be used to delay or deny early intervention services to the child and family (§ 303.521(a)(3); § 303.520(b)(1)).
2. Families are not charged family fees, copayments are not collected unless required by the health plan contract between the insurer and early intervention provider, and families are not charged deductibles for any early intervention service; therefore Arizona is not required to have a definition of “inability to pay.”

## **9.5.0 Coordination with Other Funding Sources**

### **9.5.1 Policy**

1. DES/AzEIP, in partnership with the AzEIP Participating Agencies and the ICC:
  - A. Identifies and coordinates available resources to pay for and provide early intervention services, including federal, state, local, and private resources.
  - B. Updates information on funding sources for early intervention services resulting from changes in administrative rules or legislation.
2. Federal funding resources include monies available under at least the following:
  - A. Title V of the Social Security Act (Maternal & Child Health);
  - B. Title XIX of the Social Security Act (Medicaid/AHCCCS & EPSDT);
  - C. The Head Start Act;
  - D. Parts B and C of IDEA;
  - E. The Developmental Disabilities Assistance and Bill of Rights Act (P.L. 94-103); and
  - F. Other Federal programs.

## **9.6.0 Contracting or Otherwise Arranging for Services**

### **9.6.1 Policy**

1. AzEIP Service Providing Agencies establish contracts, vendor agreements, Intergovernmental Agreements, Interagency Service Agreements, and Memoranda of Agreement or Understanding in accordance with Arizona Revised Statutes and Arizona Rules, including Arizona’s Procurement Code and any applicable federal law to ensure an adequate provider network to provide early intervention services.
2. A contractor/vendor with an AzEIP Service Providing Agency shall provide early intervention services to children who are AzEIP eligible and their families according to:
  - A. IDEA, Part C and its regulations;
  - B. The Education Department General Administrative Regulations in 34 C.F.R.

part 80;

- C. All Arizona standards, including applicable state laws;
  - D. Other applicable federal and state laws;
  - E. The specific terms and conditions of the contract (including applicable state and agency Terms & Conditions); and
  - F. AzEIP policies and procedures.
3. All contractors/vendors with an AzEIP Service Providing Agency shall submit timely bills for reimbursement.
  4. AzEIP Service Providing Agencies ensure the timely payment to contractors/vendors for timely, accurate and approved invoices.
  5. The AzEIP Service Providing Agencies shall ensure the regular review, at least annually, of contractual obligations and shall amend those obligations as necessary. Contractors may be required to submit regular reports (such as monthly, quarterly, or annually) to the AzEIP Service Providing Agencies on the performance or fulfillment of contractual obligations.
  6. Upon review of contractual obligations, an AzEIP Service Providing Agency may take the following action(s) when it finds that a contractor does not comply with the terms and conditions of the agreement, including any and all applicable laws, regulations, or policies. Those actions may include:
    - A. Requesting the submission of additional information and/or requiring more frequent program reporting;
    - B. Conducting focused monitoring visits and providing technical assistance, as discussed in AzEIP's General Supervision Policy;
    - C. Implementing a corrective action plan, including timelines for implementation. See AzEIP's General Supervision Policy;
    - D. Revising contract terms and provisions when necessary and with appropriate notice;
    - E. Suspending or terminating the contract in whole or in part due to the failure of the contractor to comply with any term or condition of the contract. Written notice of termination will be provided;
    - F. Offsetting against any sums due the contractor, any expenses or costs incurred by the AzEIP Service Providing Agency, or damages assessed by it concerning the contractor's non-conforming performance or failure to perform the contract, including expenses, costs and damages;
    - G. Implementing other dispute resolution procedures provided by contract, such as arbitration;
    - H. Withholding or reducing payment to offset any reimbursement due for ineligible expenditures not refunded to the AzEIP Service Providing Agency by the contractor; and
    - I. Withholding or reducing payments for noncompliance issues including, but not limited to the following:

- (1) Failure to submit required program and financial reports;
  - (2) Failure to respond to inquiries about data on reports within the specified timelines; and
  - (3) Failure to address required corrective actions resulting from monitoring activities, and;
- J. Using other remedies as provided by law.