

ANNOUNCEMENT: EI-16 #01
Effective Date: 02/12/2016

SUBJECT: Provider Qualifications
TO: Infant/Toddler Leadership
FROM: Michelle Figlar *Michelle Figlar*
Deputy Secretary
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PURPOSE:

The purpose of this announcement is to clarify the Infant/Toddler Early Intervention (EI) Programs' responsibility to:

1. Assure family choice of provider;
2. Qualify willing providers of Medical Assistance/Early Intervention (MA/EI) services or Infants, Toddlers and Families (ITF) Medicaid Waiver services; and
3. Contract with qualified providers.

This announcement is also intended to clarify the process for suspension or termination of an MA/EI and ITF Medicaid Waiver provider.

Announcement EI-09#14 Contracting with Early Intervention Service Providers and Suspending and Terminating Early Intervention Service Providers is obsolete with issuance of this announcement.

BACKGROUND:

Section 1902(a)(23) of the Social Security Act, 42 U.S.C. § 1396a(a)(23), and 42 CFR § 431.51(b)(1) (relating to free choice of providers) require that Medical Assistance (MA) recipients be allowed to obtain services from any willing institution, agency, pharmacy, person or organization that is qualified to provide the services. Similarly, the ITF Medicaid Waiver provides that a participant in the ITF Medicaid Waiver must be allowed to obtain services from any willing and qualified provider. As a result, Infant/Toddler EI Programs must contract with any willing and qualified provider that is selected by a family. The Office of Child Development and Early Learning (OCDEL) recommends that Infant/Toddler EI Programs offer all families a choice of providers regardless of funding source.

DISCUSSION:

I. Family Choice of Provider

In order to facilitate a family's choice of a provider, the service coordinator supporting the family should inform the family that they have the option to choose their provider(s)

from the statewide provider list at the initial individualized family service plan (IFSP) team meeting and whenever an IFSP team has determined that a child requires an additional service. The complete list may be made available in electronic form as a .pdf or link to the provider statewide provider list as long as families are also informed that they can request a hard copy.

Service coordinators should also provide the family with information related to providers' qualifications as well as location and availability of providers. The service coordinator should inform the family that if the family does not indicate a choice of provider, a provider will be assigned to the child and family.

If a child's family chooses a provider that is not included on the statewide provider list and the provider is willing to provide services to the child, the Infant/Toddler EI Program must proceed with the qualifying process outlined below.

II. Qualifying Willing Providers

Process for Qualifying Providers of EI Services

When a potential provider contacts an Infant/Toddler EI Program about becoming a contracted provider of EI services, the Infant/Toddler EI Program should first determine if another county Infant/Toddler EI Program has qualified the provider. If another Infant/Toddler EI Program has not already qualified the provider, the Infant/Toddler EI Program shall complete the following steps within 30 days of being contacted by the potential provider of EI services:

1. Provide the provider with guidance on how to enroll to provide MA/EI services and ITF Medicaid Waiver services.
2. Inform the provider of the pre-service training requirements specified in 55 Pa. Code § 4226.29(a).
3. Inform the provider that the provider will need to comply with the criminal history record information and child abuse clearance requirements specified in the Child Protective Services Law, 23 Pa. C.S.A. §§ 6301, et seq.
4. Inform the provider that the provider must obtain a state license if a license is required.

Within 15 days after receipt of documentation from the provider that demonstrates that the provider has completed the required pre-service training and obtained valid clearances and the appropriate state license, if needed, the Infant/Toddler EI Program should issue a signed, written assurance to the potential provider and to OCDEL indicating that the provider is qualified to provide services.

If a provider that has been previously qualified by an Infant/Toddler EI Program wants to provide EI services in another county, the provider does not need to repeat the steps listed above, but shall instead provide a copy of the signed, written assurance to any other Infant/Toddler EI Program with which the provider wishes to enter into a contract.

Adding Qualified Providers to the Statewide Provider List

OCDEL will add providers to the statewide provider list after it receives the following:

- a. A signed, written assurance from an Infant/Toddler EI Program;
- b. A Provider Agreement for Participation in the Pennsylvania Medical Assistance Program for Early Intervention Services in the ITF Medicaid Waiver; and
- c. Proof of the provider's enrollment in the MA Program.

III. Contracting with Qualified Providers on the Statewide Provider List

If a child's family chooses a provider from the statewide provider list and the provider agrees to provide the EI services to the child, but the Infant/Toddler EI Program does not have a contract with the provider, the Infant/Toddler EI Program shall enter into a contract with the qualified provider within 30 days of the family's choice of the provider.

A provider can be either a provider agency or a sole (individual) provider. Infant/Toddler EI Programs cannot require a sole provider to become employed by or enter into a contract with a provider agency as a condition of becoming an EI provider.

IV. Suspension or Termination of a Provider

Providers may be suspended or terminated for the following reasons:

- Provider commits a prohibited acts identified in 55 Pa. Code § 1101.75, including making false or deceitful claims. Failure to comply with § 1101.75, may subject the provider to criminal penalties specified in 55 Pa. Code § 1101.76 (relating to criminal penalties) or termination from the MA Program and required payment of restitution as specified in 55 Pa. Code § 1101.77 (relating to enforcement actions by the Department) and 55 Pa. Code § 1101.83 (relating to restitution and repayment).
- Provider violates 42 CFR § 431.54(f) (relating to exceptions to certain State plan requirements) by abusing the MA Program and provides services at a frequency or amount not medically necessary or provides services whose quality does not meet professionally recognized standards of care. Abuses of the MA Program may lead to suspension from participation in the MA Program for a reasonable period of time.

If an Infant/Toddler EI Program believes that a provider has performed a prohibited act or abused the MA Program, the Infant/Toddler EI Program must notify the OCDEL Director of the Bureau of Early Intervention Services in writing. Within 7 days of notifying the Director, the Infant/Toddler EI Program must submit proof to OCDEL that supports their concern. OCDEL will review the proof submitted by the Infant/Toddler EI

Program, consult with the Department of Human Services, Bureau of Program Integrity (BPI) and forward the information provided by the Infant/Toddler EI Program to BPI. BPI will review the information and determine whether a recommendation for referral to the Office of Attorney General, Medicaid Fraud Control Section is warranted.

If a provider violates the terms of the provider's contract with an Infant/Toddler EI Program, the Infant/Toddler EI Program may terminate its contract with the provider.

NEXT STEPS:

Upon receipt of this Announcement, Infant/Toddler EI Programs shall implement the requirements of this Announcement.

Comments and Questions regarding this Announcement should be directed to the Office of Child Development and Early Learning, Bureau of Early Intervention Services at ra-ocdintervention@pa.gov.