## Chapter HSS 90

# EARLY INTERVENTION SERVICES FOR CHILDREN FROM BIRTH TO AGE 3 WITH DEVELOPMENTAL NEEDS



Note: Chapter HSS 90 was created as an emergency rule effective October 1, 1991.

**HSS 90.01 Authority and purpose.** This chapter is promulgated under the authority of s. 51.44 (5) (a), Stats., to implement a statewide program of services for children in the age group birth to 3 who are significantly delayed developmentally insofar as their cognitive development, physical development, including vision and hearing, communication development, social and emotional development or development of adaptive behavior and self-help skills is concerned, or are diagnosed as having a physical or mental condition which is likely to result in significantly delayed development.

History: Cr. Register, June, 1992, No. 438, eff. 7-1-92.

**HSS 90.02 Applicability.** This chapter applies to the department, to county agencies administering the early intervention services program, to other county agencies providing services under that program, and to all providers of early intervention services who are under contract to or have entered into agreement with county agencies to provide those services.

History: Cr. Register, June, 1992, No. 438, eff. 7-1-92.

**HSS 90.03 Definitions.** In this chapter:

(1) "Assessment" means the initial and ongoing procedures used by qualified personnel and family members, following determination of eligibility, to determine an eligible child's unique needs and the nature and extent of early intervention services required by the child and the child's family to meet those needs.

(2) "Assistive technology device" means an item, piece of equipment or product system, whether acquired commercially, modified or customized, that is used to increase, maintain or improve the functional capability of an eligible child.

(3) "Atypical development" means development that is unusual in its pattern, is not within normal developmental milestones, and adversely affects the child's overall development.

(4) "Birth to 3" means from birth up to but not including age 3.

(5) "Birth to 3 program" means the effort in Wisconsin under s. 51.44, Stats., and this chapter that is directed at meeting the developmental

needs of eligible children and meeting the needs of their families as these needs relate to the child's individual development.

emerg. am eff. 1-1-93

(6) "Child" means a person in the age group birth to 3 with a disability.

(7) "Child find" means identifying, locating and evaluating children who may be eligible for the birth to 3 program.

(8) "Consent" means, in reference to a parent, that the parent:

(a) Has been fully informed of all information relevant to an activity for which consent is sought, in the parent's language or other mode of communication;

emerg. renum. 1 am. (b) 1-1-93

(b) Understands that information;

(c) Understands that the granting of consent is voluntary and may be revoked at any time; and

(d) Agrees in writing to the activity.

(9) "Core services" means the interdisciplinary evaluation of a child to determine eligibility, the identification of a service coordinator, provision of service coordination, development of an individualized family service plan, and the protection of rights under procedural safeguards.

emerg. am. 1-1-93

(10) "County administrative agency" means the s. 46.21, 46.22, 46.23 or 51.437, Stats., department, local public health agency or other public agency either designated by a county board of supervisors or acting under contract or agreement with the county board of supervisors to operate the birth to 3 program in the county and provide or contract for early intervention services for eligible children in that county.

(11) "Department" means the Wisconsin department of health and social services.

(12) "Developmental delay" means development that lags behind established developmental milestones as determined in accordance with the criteria under s. HSS 90.08 (5).

(13) "Developmental status" means the current functioning of a child in the areas of cognition, communication, vision and hearing, social interaction, emotional response, adaptive behavior and self-help skills, and the current physical condition and health of the child.

(14) "Diagnosed condition" means a physical or mental condition for which the probability is high, based on a physician's diagnosis and documenting report, that the condition will result in a developmental delay.

(15) "Early intervention record" means information recorded in any way regarding a child's screening, evaluation, assessment or eligibility determination, development and implementation of the IFSP, individual complaints dealing with the child or family and any other matter related to early intervention services provided to the child and the child's family.

emerg. am. 1-1-93

(16) "Early intervention services" means services designed to meet the special developmental needs of an eligible child and the needs of the child's family related to the child's development and selected in collaboration with the parent.

(17) "EI team" or "early intervention team" means the interdisciplinary team consisting of the parent, service coordinator and appropriate qualified personnel that conducts the evaluation or assessment of a child.

(18) "Eligible child" means a child eligible for the birth to 3 program.

(19) "Evaluation" means the process used by qualified professionals to determine a child's eligibility for early intervention services under s. 51.44, Stats., and this chapter.

(20) "Family-directed assessment" means the ongoing process by which the parent and service providers work together in partnership to identify and understand the family's strengths, resources, concerns and priorities including relevant cultural factors, beliefs and values, in order to provide support and services to increase the family's capacity to meet the developmental needs of the child.

(21) "IFSP" or "individualized family service plan" means a written plan for providing early intervention services to an eligible child and the child's family.

(22) "IFSP planning process" means the process to develop the IFSP which begins with the family's first contacts with the birth to 3 program, includes the evaluation of the child's abilities to determine eligibility; identification and assessment of the eligible child's unique needs; at a family's option, family-directed assessment of the family's strengths, resources, concerns and priorities; development of the written IFSP; implementation of the plan; planning for transition to other programs or services; and ongoing review and revision of the written plan.

(23) "IFSP team" means the team that develops and implements the IFSP consisting of the parent, service coordinator, service providers, at least one professional who served on the EI team and any other person identified by the parent.

(24) "Interdisciplinary" means drawing from different disciplines, specialties and perspectives, including perspectives of parents, and using formal channels of communication that encourage members or contributors to share information and discuss results.

(25) "Natural environment" means a place where a particular child usually spends his or her time.

(26) "Parent" means the biological parents with parental rights or, if there is only one, the biological parent with parental rights; the parents by adoption or, if there is only one, the parent by adoption; a person acting as a parent such as a grandparent or stepparent with whom the child lives; a guardian; or a surrogate parent.

Note: The term "parent" is being used in the singular throughout this chapter for reasons of convenience of expression. In most cases there will be 2 parents whether biological or adoptive. Assuming that both retain parental rights, the county administrative agency is obliged to ensure that both are informed, invited to participate and asked to consent. Either one may consent, object, examine the child's record, or file a complaint with the agency. As a practical matter the county administrative agency will satisfy its obligation to ensure that both parents are informed, invited to participate and asked to consent by contacting one parent if both are living at the same address.

(27) "Parent facilitator" means the parent of a child with a disability, who is hired by the county administrative agency or a service provider

on the basis of demonstrated skills in planning and communicating and in providing support to other parents.

(28) "Part H" means the federal grant program to help states establish statewide comprehensive systems of early intervention services for children in the age group birth to 3 and their families, 20 USC 1471-1485, which was added to the Individuals with Disabilities Education Act, 20 USC ch. 33, by PL 99-457.

(29) "Procedural safeguards" means the requirements under ss. HSS 90.12 and 90.13 designed to protect the rights of children and families receiving services through the birth to 3 program.

(30) "Public health agency" means a health department, commission, committee, board or officer under s. 140.09, 141.01, 141.015, 141.02 or 141.04, Stats.

(31) "Qualified personnel" means persons who have met Wisconsin approved or recognized certification, licensing, registration or other comparable requirements set out in s. HSS 90.11 (6) for providing an early intervention service.

(32) "Screening" means the process for identifying children who need further evaluation because they may have a developmental delay or a diagnosed condition.

(33) "Service coordinator" means the person appointed by a county administrative agency to coordinate the evaluation of a child, the assessment of the child and family, and the development of an individualized family service plan, and to assist and enable the eligible child and the child's family to receive early intervention and other services and procedural safeguards under this chapter. A "service coordinator" is called a "case manager" for purposes of reimbursement for services under chs. HSS 101 to 108.

(34) "Service provider" means a public or private agency which by contract or agreement with a county administrative agency provides early intervention services under s. 51.44, Stats., and this chapter.

(35) "Surrogate parent" means a person who has been appointed in accordance with s. HSS 90.13 to act as a child's parent in all matters relating to s. 51.44, Stats., and this chapter.

History: Cr. Register, June, 1992, No. 438, eff. 7-1-92.

**HSS 90.04 Eligibility.** A child shall be eligible for early intervention services under this chapter if the child is either:

(1) Determined by the EI team under s. HSS 90.08 to be developmentally delayed; or

(2) Determined by the EI team under s. HSS 90.08 to have a physician-diagnosed and documented physical or mental condition which has a high probability of resulting in a developmental delay.

History: Cr. Register, June, 1992, No. 438, eff. 7-1-92.

**HSS 90.05 Department responsibilities.** (1) GENERAL. The department is responsible for developing and supporting a statewide comprehensive system of services for children with disabilities in the age group birth to 3 and their families, and for supervising and monitoring local birth to 3

programs to ensure that they comply with 20 USC 1471-1485, 34 CFR Pt. 303, s. 51.44, Stats., and this chapter.

(2) DEVELOPMENT AND SUPPORT. In developing and supporting the statewide system, the department shall:

(a) Provide technical assistance to county administrative agencies on operation of a local birth to 3 program;

(b) Enter into an interagency agreement with the Wisconsin department of public instruction related to operation of the birth to 3 program, including operation of child find and facilitating the transition at age 3 of a child with a disability from the birth to 3 program to the program for children with exceptional educational needs under ch. 115, Stats., and ch. PI 11, and such other state-level interagency and intra-agency agreements as are necessary to facilitate and coordinate the operation of birth to 3 programs. The interagency and intraagency agreements shall cover assignment of financial responsibility and the resolution of disputes;

(c) Undertake public awareness and other child find activities that focus on identification of children who are eligible to receive early intervention services. The department shall endeavor to make the public aware of the rationale for early intervention services, the availability of those services, how to make referrals and how a family might obtain the services, through various means such as public service announcements and the distribution of brochures and other printed materials;

(d) Operate or arrange for operation of a central directory of services to provide information on request by mail or telephone about public and private early intervention resources, research and demonstration projects in the state and various professional and other groups providing assistance to children in the birth to 3 age group and their families; and

(e) Develop a comprehensive system of personnel development, including a plan for the provision of both preservice and inservice training, conducted as appropriate on an interdisciplinary basis, for the many different kinds of personnel needed to provide early intervention services, including personnel from public and private providers, primary referral sources, paraprofessionals and service coordinators. The training shall be directed specifically at:

1. Meeting the interrelated social, emotional, health, developmental and educational needs of eligible children; and

2. Assisting parents of eligible children in furthering the development of their children and in participating fully in the development and implementation of the IFSP.

(3) SUPERVISION AND MONITORING. In supervising and monitoring local birth to 3 programs, the department shall:

(a) Collect from county administrative agencies information on use of funds, system development, number of children needing and receiving early intervention services, types of services needed, types of services provided and such other information the department requires to describe and assess the operation of local programs;

(b) Have ready access to county administrative agency files and staff, and the files and staff of service providers under contract or agreement with the county administrative agency; and

(c) Ensure that deficiencies identified through monitoring are corrected.

(4) PROCEDURES FOR RECEIVING AND RESOLVING COMPLAINTS ABOUT OPERATION OF THE PROGRAM. (a) Any individual or organization having reason to believe that one or more requirements of this chapter or Part H and its implementing regulations, 34 CFR Pt. 303, are not being met may complain to the department. The complaint shall be in writing and be signed and shall consist of a statement setting forth the complaint and the facts upon which the complaint is based.

Note: A complaint under this subsection should be sent to the Birth to 3 Program, Division of Community Services, P.O. Box 7851, Madison, WI 53707.

(b) The department in response to a complaint filed under par. (a) shall appoint a complaint investigator who shall do the following:

1. Find out the facts related to the complaint;

2. Interview the complainant or the complainant's representative as part of fact-finding if that seems useful;

3. Conduct an independent on-site investigation at the county administrative agency or of a service provider if the department considers that necessary;

4. Consider the merits of the complaint; and

5. Recommend resolution of the complaint.

(c) 1. Except as provided under subd. 2, within 60 days after receiving a complaint under this subsection the department shall prepare a written decision stating the reasons for the decision, provide notice that the complainant or agency may request review of that decision by the secretary of the U.S. department of education, and forward the decision to the affected agency or agencies with a copy to the complainant.

2. The department may extend the time limit for resolving a complaint by an additional 60 days if it determines that exceptional circumstances exist with respect to a particular complaint.

History: Cr. Register, June, 1992, No. 438, eff. 7-1-92.

**HSS 90.06 County administrative agency designation and responsibilities.** (1) DESIGNATION BY COUNTY BOARD. The county board of each county shall designate a county department under s. 46.21, 46.22, 46.23 or 51.437, Stats., a local public health agency or any other county agency or enter into a contract or agreement with any other public agency to be the administrative agency in the county for the birth to 3 program. That designation or notice of other arrangement shall be made by letter to the department.

Note: The letter identifying the county administrative agency should be sent to Birth to 3 Program Coordinator, Division of Community Services, P.O. Box 7851, Madison, WI 53707.

(2) RESPONSIBILITIES. A county administrative agency shall ensure that all of the following are done:

(a) Parents, representatives of agencies that refer, evaluate or provide services to young children and their families in the community and other interested persons are involved in planning, development and operation of the early intervention service system;

(b) A comprehensive child find system is established in accordance with s. HSS 90.07, including activities to make the public aware of the local birth to 3 program and development of a formal system of communication and coordination among pertinent agencies operating in the county that may have contact with eligible children and their families;

(c) A service coordinator is appointed for every child referred for evaluation. The service coordinator need not be an employe of the county administrative agency but shall be accountable to the county administrative agency;

(d) The parents are informed orally and in writing about the purposes of the birth to 3 program, the process and the procedural safeguards;

(e) The parents are collaborators in the IFSP planning process;

(f) Written consent of the child's parents is obtained, in accordance with s. HSS 90.12 (2) (a), before the initial evaluation and assessment are conducted;

(g) The core services are provided, and they are provided at no cost to the parent;

(h) Written consent of the child's parent is obtained, in accordance with s. HSS 90.12 (2) (b), for provision of early intervention services for the child and family to implement the IFSP;

(i) Interagency agreements are entered into with other local agencies to identify respective roles and responsibilities in the delivery of early intervention services, coordinate service delivery, ensure the timely delivery of services and identify how disputes will be resolved when there is disagreement about the agency responsible for provision of a particular service;

(j) The confidentiality of personally identifiable information about a child, a parent of the child or other member of the child's family, in accordance with s. HSS 90.12 (3), is maintained;

(k) An impartial decisionmaker is appointed to resolve complaints of parents under s. HSS 90.12 (5);

(l) The need of a child for a surrogate parent is determined, and a surrogate parent is appointed in accordance with s. HSS 90.13 if the child needs one;

(m) An early intervention record is maintained for each child which includes the individualized family service plan for the child, all records of core services and other early intervention services received by the child, parental consent documents and other records pertaining to the child or the child's family required by this chapter, and these are made available for inspection by the child's parents and representatives of the department;

(n) Local birth to 3 program records are maintained, including interagency agreements, records of how funds were expended, records of personnel qualifications, records related to state training plan implementation and copies of contracts with service providers, and these are made available for inspection by representatives of the department; and

(o) The department is provided, on request, with information on use of funds, system development, number of children needing and receiving early intervention services, types of services needed, types of services provided and such other information the department requires to describe and assess the operation of the local program.

History: Cr. Register, June, 1992, No. 438, eff. 7-1-92.

**HSS 90.07 Identification and referral.** (1) ESTABLISHMENT OF CHILD FIND SYSTEM. Each county administrative agency shall establish a comprehensive child find system to ensure that all children who may be eligibile for the birth to 3 program are identified and, with the parent's consent, referred for screening or for evaluation to determine eligibility for the birth to 3 program. The system shall include public awareness activities and an informed referral network.

(2) INFORMED REFERRAL NETWORK. (a) A county administrative agency shall establish a formal system of communication and coordination among agencies and others within the community serving young children. This referral network shall identify and include local providers of services related to early intervention, enhance each provider's knowledge of eligibility criteria under this chapter and coordinate referrals to the local birth to 3 program.

(b) The informed referral network shall be made up of all primary referral sources. Primary referral sources include but are not limited to:

1. Parents;

2. All agencies which receive funds directly or through a subcontract under relevant federal programs;

3. Health care providers such as neonatal intensive care units, perinatal follow-through clinics, hospitals, physicians, public health agencies and facilities, and rehabilitation agencies and facilities;

4. Day care providers;

5. Schools; and

6. Other qualified personnel and local providers of services to young children and their families.

(3) SCREENING AND REFERRAL FOR EVALUATION. (a) A primary referral source may request the county administrative agency to do or arrange for a formal screening or make a referral directly for evaluation, as follows:

1. If the primary referral source suspects that an infant or toddler has a developmental delay, the primary referral source shall, with the parent's permission, conduct or request a formal screening to determine if there is reason to refer the child for an evaluation; and

2. If the primary referral source has reasonable cause to believe that a child has a diagnosed physical or mental condition which has a high probability of resulting in a developmental delay or has a developmental delay, the primary referral source shall, with the parent's permission, refer the child for an evaluation. The primary referral source shall ensure that referral for evaluation is made no more than 2 working days after a child has been identified.

Note: Referral sources should differentiate between a request or need for a formal screening and referral for an evaluation. For example, a child diagnosed as having Down syndrome, which has a high probability of resulting in a developmental delay, should be referred for an evaluation rather than a formal screening, whereas a child who seems slow in speech or motor development may first be formally screened to determine if there is a need for an evaluation.

(b) 1. A service provider may do informal screening of a child as part of the service provider's routine observations or intake procedures. In this case permission of the parent is inferred from the parent's participation in the process.

2. Before a service provider formally screens a child as part of the intake process or refers a child to another agency for screening or evaluation, the service provider shall obtain written consent from the parent.

3. Following either a formal or informal screening, the primary referral source or the service provider shall inform the parent of the reason, procedures and results of the screening.

History: Cr. Register, June, 1992, No. 438, eff. 7-1-92.

**HSS 90.08 Evaluation.** (1) DESIGNATION OF SERVICE COORDINATOR. When a child is referred to the birth to 3 program for evaluation and possible early intervention services, the county administrative agency shall designate a service coordinator for that child and the child's family.

(2) DETERMINATION OF ELIGIBILITY. A referred child shall be evaluated in accordance with the criteria under sub. (4) to determine the child's eligibility for early intervention services under the program.

(3) EI TEAM. (a) In consultation with the parent and based on the child's suspected needs, the service coordinator shall select at least 2 qualified personnel from those under par. (b) who, in addition to the parent and service coordinator, will make up the EI team to perform the evaluation and make the determination of eligibility. Qualified personnel may be from different agencies and shall be from at least 2 different disciplines in areas of suspected need. At least one of the qualified personnel shall have expertise in the assessment of both typical and atypical development and expertise in child development and program planning. The service coordinator may be one of the qualified personnel if the service coordinator is qualified as required under par. (b).

(b) Qualified personnel who are qualified to serve on the EI team are the following:

1. Audiologists with at least a master's degree in audiology from an accredited institution of higher education who are registered or licensed under ch. 459, Stats.;

2. Nutritionists registered as dietitians by or eligible for registration as dietitians by the American dietetic association;

3. Occupational therapists certified under ch. 448, Stats.;

4. Physical therapists licensed under ch. 448, Stats.;

5. Physicians licensed under ch. 448, Stats.;

6. Psychologists licensed under ch. 455, Stats.;

7. Rehabilitation counselors employed by the department's division of vocational rehabilitation as coordinators of hearing impaired services

who have at least a master's degree in rehabilitation counseling or a related field;

8. Registered nurses with at least a bachelor's degree in nursing from an accredited institution of higher education and licensed under s. 441.06, Stats.;

9. School psychologists licensed under ch. 115 and ch. PI 3;

10. Social workers with at least a bachelor's degree in social work from a college or university accredited or approved by the council on social work education;

11. Special educators, including early childhood exceptional education needs (ECEEN) educators, vision educators and hearing educators, licensed under ch. 115, Stats., and ch. PI 3; and

12. Speech and language pathologists with at least a master's degree in speech and language pathology from an accredited institution of higher education and registration under ch. 459, Stats., or licensed under ch. 115, Stats., and ch. PI 3.

(4) ELIGIBILITY. A child is eligible for early intervention services under the birth to 3 program if the EI team determines under sub. (5) that the child is developmentally delayed or under sub. (6) that the child has a diagnosed physical or mental condition which will likely result in developmental delay.

(5) DETERMINATION OF DEVELOPMENTAL DELAY. (a) A determination of developmental delay shall be based upon the EI team's clinical opinion supported by:

1. A developmental history of the child and other pertinent information about the child obtained from parents and other caregivers;

2. Observations made of the child in his or her daily settings identified by the parent, including how the child interacts with people and familiar toys and other objects in the child's environment; and

3. Except as provided under par. (b), a determination of at least 25% delay or a score of 1.3 or more standard deviation below the mean in one or more areas of development as measured by appropriate norm-referenced instruments and interpreted by a qualified professional based on informed clinical opinion. In this subdivision, "areas of development" mean:

a. Cognitive development;

b. Physical development, including vision and hearing;

c. Communication development;

d. Social and emotional development; and

e. Adaptive development which includes self-help skills.

(b) If the results of the formal testing under par. (a) 3 closely approach but do not equal the standard in par. (a) 3 for a developmental delay but observation by qualified personnel or parents indicates that some aspect of the child's development is atypical and is adversely affecting the child's overall development, the EI team may use alternative procedures

or instruments that meet acceptable professional standards to document the atypical development and to conclude, based on informed clinical opinion, that the child should be considered developmentally delayed.

Note: Examples of atypical developments are asymmetrical movement, variant speech and language patterns, delay in achieving significant interactive milestones such as exhibiting a pleasurable response to a caregiver's attention, and presence of an unusual pattern of development such as a sleep disturbance or eating difficulties.

(6) DETERMINATION OF DIAGNOSED CONDITION. A determination of high probability that a child's diagnosed physical or mental condition will result in a developmental delay shall be based upon the EI team's informed clinical opinion supported by a physician's report documenting the condition. High probability implies that a clearly established case has been made for a developmental delay.

Note: Examples of these diagnosed conditions are chromosomal disorders such as Down syndrome, birth defects such as spina bifida, significant or progressive vision or hearing impairment, neuromotor disorders such as cerebral palsy, postnatal traumatic events such as severe head injuries, severe emotional disturbances, dysmorphic syndromes such as fetal alcohol syndrome, addiction at birth, a maternal infection transmitted to the fetus such as AIDS, neurological impairments of unknown etiology such as autism, untreated metabolic disorders such as PKU and certain chronic or progressive conditions.

(7) EI TEAM PROCEDURE. (a) The service coordinator shall ensure that the parents of the child are involved and consulted throughout the entire evaluation process.

(b) The EI team shall examine all relevant available data concerning the child, including the following:

1. Medical records and other health records concerning the child's medical history and health status, including physical examination reports, hospital discharge records and specialty clinic reports;

2. Any records and screening results of the child's developmental functioning in the following areas:

a. Cognitive development;

b. Physical development, including vision and hearing;

c. Communication development;

d. Social and emotional development; and

e. Adaptive development which includes self-help skills; and

3. Records of any previous interventions provided to the child, including therapy reports, treatment records and service plans.

(c) The EI team shall use additional observation, screening results and other testing instruments and procedures as needed, to determine the child's level of functioning in each of the following areas of development:

1. Cognitive development, as evidenced by play skills, manipulation of toys, sensorimotor schemes, attention, perceptual skills, memory, problem solving and reasoning;

2. Physical development, including hearing and vision, as evidenced by gross motor and fine motor coordination, tactility, health and growth. If there has not been a physical examination of the child in the past 2 months, one shall be requested if appropriate;

3. Communication development, as evidenced by understanding, expression, quantity and quality of speech sounds or words, and communicative intent through gestures. Communication development includes the acquisition of communications skills during pre-verbal and verbal phases of development; receptive and expressive language, including spoken, non-spoken and sign language means of expression; oral-motor development; auditory awareness skills and processing; the use of augmentative communciation devices; and speech production and awareness.

4. Social and emotional development, as evidenced by temperament, mood attachment, self-soothing behaviors, adaptability, activity level, awareness of others and interpersonal relationships; and

5. Adaptive development which includes self-help skills, to include drinking, eating, eliminating, dressing and bathing.

(d) Testing instruments and other materials and procedures employed by the EI team shall meet the following requirements:

1. They shall be administered or provided in the child's or family's primary language or other mode of communication. When this is clearly not possible, the circumstances preventing it shall be documented in the child's early intervention record;

2. They may not be racially or culturally discriminatory;

3. They shall be validated for the specific purpose and age group for which they are used;

4. They shall be administered by trained personnel in accordance with instructions of the developer;

5. They shall be tailored to assess the specific area of development and not simply provide a single general intelligence quotient; and

6. In regard to tests, they shall be selected to ensure that when they are administered to a child with impaired sensory, manual or speaking skills, the test results accurately reflect what the tests purport to measure.

(e) No single procedure may be used as the sole criterion for determining eligibility.

(f) With the parent's consent, members of the EI team may consult with persons not on the EI team to help the EI team members determine if the child needs early intervention services.

(g) Following the evaluation, all members of the EI team shall jointly discuss their findings and conclusions and determine if there is documentation, data or other evidence that the child is developmentally delayed or has a condition which has a high probability of resulting in delayed development. If a member cannot participate, the member shall be represented by someone who is knowledgeable about the child and about the member's findings and conclusions.

(h) 1. At the conclusion of the joint discussion under par. (g), the EI team shall prepare a report which shall include each member's findings and conclusions and be signed by all members of the team. The report shall include:

a. Results of the evaluation, including levels of functioning in the areas of development under sub. (5) (a) 3; and

b. A determination of either eligibility or non-eligibility, with a determination of eligibility accompanied by documentation of the child's developmental delay or diagnosed condition.

2. If the EI team cannot reach an agreement about the child's eligibility, the EI team shall submit a report to the county administrative agency director giving the arguments for the 2 positions. The county administrative agency director shall approve one of the positions which shall then be included in the EI team's report.

emerg r eff. 1-1-93

(i) The service coordinator shall provide the child's parent with a copy of the EI team's report.

(j) If the EI team finds that the child is not eligible, the EI team report shall in addition include:

1. An offer to re-screen the child within 6 months;

2. Information about community services that may benefit the child and family, such as day care, parent support groups or parenting classes; and

3. A statement that, if the parent requests it and consents to it, referral will be made to other programs from which the child and family may benefit and that the service coordinator will assist the parent in locating and gaining access to other services.

(k) If the parent chooses not take part in the evaluation process or development of the report, the service coordinator shall meet with the parent upon completion of the evaluation to discuss the findings and conclusions of the EI team. The service coordinator shall document in the child's early intervention record why the parent was not involved and the steps taken to share the findings and conclusions of the EI team with the parent.

(8) EFFECT OF RELOCATION OF ELIGIBLE CHILD. When the family of a child who has been determined eligible for early intervention services based on an EI team evaluation moves to another county, the child shall remain eligible for services in the new county of residence on the basis of the original IFSP.

emerg. cr. 1-1-93

History: Cr. Register, June, 1992, No. 438, eff. 7-1-92.

**HSS 90.09 Assessment.** (1) ASSESSMENT OF CHILD. (a) *Initial assessment.* 1. Once a child is determined under s. HSS 90.08 to be eligible for early intervention services, the EI team shall, as needed, carry out additional observations, procedures and testing to assess and determine the child's unique developmental needs. All assessment tests and other materials and procedures shall comply with s. HSS 90.08 (7) (d).

2. Following the assessment under subd. 1, the EI team shall prepare a report. The report shall include:

a. A summary of the assessment, including the child's strengths and needs; and

b. A list of potential services needed.

3. The service coordinator shall provide the child's parent with a copy of the assessment report.

(b) *Ongoing assessment.* Ongoing assessments shall be carried on as needed by either the EI team or the IFSP team. All ongoing assessments shall meet the requirements in par. (a).

(c) *Discussion with nonparticipating parent.* If the parent chooses not to take part in the assessment or development of the report, the service coordinator shall meet with the parent upon completion of the assessment to discuss the findings and recommendations. The service coordinator shall document in the child's early intervention record why the parent was not involved and the steps taken to share the findings and recommendations of the assessment report with the parents.

(2) FAMILY-DIRECTED ASSESSMENT. (a) Any assessment of the child's family shall be with the family's consent. The assessment shall be directed by the family and shall focus on the family's strengths, resources, concerns and priorities related to enhancing development of the child.

(b) An assessment of the family shall:

1. Be completed by the family alone with a choice of assessment tools offered to the family, or be completed by the family in collaboration with other personnel trained to make use of appropriate formal or informal methods and procedures;

2. Be based on information provided by family members through personal interviews; and

3. Incorporate the family members' description of the family's strengths, resources, concerns and priorities as these are related to enhancing the child's development.

History: Cr. Register, June, 1992, No. 438, eff. 7-1-92.

**HSS 90.10 Development of service plan.** (1) TIME LIMIT. Except as provided in sub. (2) (a), within 45 days after receiving a referral for initial evaluation of a child, the county administrative agency shall complete the evaluation under s. HSS 90.08 and the assessment under s. HSS 90.09 and the service coordinator shall convene a meeting to develop the initial IFSP.

(2) INTERIM IFSP. (a) *Delay in completing evaluation and assessment.* If exceptional circumstances directly affecting the child or the child's family, such as illness of the child or a parent or the parent's refusal to consent to a procedure, make it impossible to complete the evaluation and assessment within 45 days, the county administrative agency shall:

1. Document the exceptional circumstances in the child's early intervention record;

2. With the parent, develop an interim IFSP. The interim IFSP shall include the service coordinator's name and the early intervention services that are needed immediately;

3. Obtain the parent's written consent to the services, and to a revised deadline for completion of the evaluation and assessment; and

4. Complete the evaluation within the extended period agreed upon by the family and EI team.

(b) *Provision of services before completing evaluation and assessment.* Provision of early intervention services to an eligible child and the child's family may be started before the evaluation and assessment are completed if there is a clear and obvious need that can be addressed without waiting for completion of the formal evaluation and assessment and if the following conditions are met:

1. The parent gives written consent for the services;

2. An interim IFSP is developed by the service coordinator and parent which includes the service coordinator's name, the early intervention services that are needed immediately and the circumstances and reasons for development of the interim IFSP; and

3. The evaluation and assessment are completed within the time period prescribed in sub. (1).

(3) IFSP TEAM. The IFSP team shall consist of the parent, other family members requested by the parent, the service coordinator, an advocate if requested by the parent, at least one of the qualified personnel who took part in the evaluation and assessment of the child, at least one professional who has expertise in assessment of both typical and atypical development and expertise in child development and program planning, and service providers as appropriate. If a professional who took part in the evaluation and assessment cannot be present at a meeting to develop the IFSP, the service coordinator shall ensure that the professional is involved through some other means.

(4) MEETING TO DEVELOP IFSP. The IFSP shall be developed on the basis of the evaluation and assessment by the IFSP team and with attention to the concerns and priorities of the parent. All meetings shall be conducted in settings and at times that are convenient to families, and the service coordinator shall ensure that written notice of a meeting is provided to all participants early enough before the meeting date so that they will be able to attend. If the parent wishes to attend but cannot attend at the scheduled time, the meeting shall be rescheduled.

(5) CONTENT. The IFSP may have several different sections that are completed at various times throughout the process. All sections of the IFSP shall be maintained in one file or binder. The parents shall be given a copy which shall be kept current. The IFSP shall contain:

(a) Information about the child's developmental status, including statements concerning the child's present levels of cognitive development, physical development, to include vision, hearing and health status, communication development, social and emotional development and adaptive development such as self-help skills, based on professionally acceptable objective criteria;

(b) The basis for the determination of the child's eligibility for the birth to 3 program;

(c) Summaries of the evaluation and initial assessment reports on the child and of reports of any ongoing assessments;

(d) With the concurrence of the parent, a summary of the family's strengths, resources, concerns and priorities related to enhancing the development of the child;

(e) A statement of the outcomes expected to be achieved for the child and family, as identified by the IFSP team, and the criteria, procedures and timelines used to determine:

1. Progress being made toward achieving the outcomes; and

2. Whether modification of the outcomes or services is necessary;

(f) Identification of the specific early intervention services necessary to achieve the outcomes identified in par. (e), including:

1. The frequency and intensity of a service, to include the number of days or sessions it will be provided, the length of time the service will be provided during a session and whether the service will be provided on an individual or group basis;

2. The location where a service will be provided, whether in the child's home or an alternative child care setting, an early intervention center, a hospital or clinic or another setting appropriate to the age and needs of the child. If the service will not be provided in a natural environment of the child, the reason shall be documented;

3. How a service will be provided;

4. Payment arrangements, if any;

5. If appropriate, medical and other services that the child needs that are not required under the birth to 3 program and the steps that will be taken to secure those services from public or private sources. This does not apply to routine medical services such as immunizations and well baby care unless a child needs those services and they are not otherwise available or being provided; and

6. The projected dates for initiating the services and the expected duration of the services;

emerg. cr. 1-1-93

(g) The name of the service coordinator who will be responsible for the implementation of the IFSP and coordination with other agencies and individuals;

emerg. cr. 1 yr. 1-1-93

(h) The steps to be taken to support the child and family through transitions, including the transition upon reaching the age of 3 to early childhood special education programs, and other services that may be available. These steps shall include:

1. Discussing a prospective transition in advance with the parents and giving them information about it;

2. Implementing procedures to prepare the child for changes in service delivery including helping with adjustment to a new setting; and

3. With parental consent, forwarding of information about the child to the local educational agency or other service agency to ensure continuity of services; and

(i) Provision in accordance with sub. (7) for ongoing review, evaluation and, as necessary, revision of the plan.

(6) CONSOLIDATED PLAN. If an eligible child is required to have both an IFSP and an individualized service plan under another federal or state program, the county administrative agency may develop a single consol-

idated document provided that the document contains all of the information required for the contents of the IFSP under sub. (5) and is developed in accordance with the requirements of this chapter.

(7) REVIEW AND EVALUATION. (a) *Periodic review.* A review of an IFSP shall take place every 6 months or more frequently if warranted or a parent requests it. The review shall be carried out at a meeting or by other means acceptable to the parent and other participants and shall involve at least the parent or parents and the service coordinator, other family members if requested by a parent, and an advocate or other person from outside the family if requested by a parent. The purpose of the review is to determine:

emerg cr eff. 1-1-93

1. The progress being made toward achieving the planned outcomes; and

2. Whether modification or revision of the planned outcomes or services is necessary.

(b) *Annual meeting.* 1. At least annually the service coordinator shall convene a meeting at which the IFSP shall be evaluated and, as appropriate, revised. To the extent possible, participants shall be those persons who participated in the development of the IFSP or reviews under par. (a) and, in addition, a person or persons directly involved in conducting the evaluation and assessment and, as appropriate, persons providing services to the child or family. If a professional who was directly involved in the evaluation and assessment cannot be present at the annual meeting to evaluate the IFSP, the service coordinator shall ensure that the professional is involved through other means.

emerg cr eff. 1-1-93

2. The meeting shall be conducted in a setting and at a time that is convenient to families, and written notice of a meeting shall be provided to all participants early enough before the meeting date to ensure that they will be able to attend.

emerg cr 3. eff. 1-1-93

History: Cr. Register, June, 1992, No. 438, eff. 7-1-92.

**HSS 90.11 Service provision.** (1) COORDINATION. (a) *Role of the service coordinator.* The service coordinator shall coordinate the delivery of all services across agency lines and serve as the single point of contact in helping a family obtain the services the child and family need as described in the IFSP.

(b) *Functions of the service coordinator.* In addition to coordinating the evaluation and assessment, the service coordinator has functions in relation to service provision. These include:

emerg cr eff. 1-1-93

1. Facilitating and participating in development, review and evaluation of the IFSP;

2. Assisting parents in identifying available service providers;

3. Facilitating access to services and facilitating or coordinating provision of services;

4. Arranging for and monitoring the timely delivery of services;

5. Informing parents of the availability of advocacy services;

6. Coordinating with medical and other health care providers; and

7. Facilitating the development of transition plans under s. HSS 90.10 (5) (h).

(c) *Qualifications of the service coordinator.* 1. A service coordinator shall have at least one year of supervised experience working with families with special needs, and have demonstrated knowledge and understanding about:

a. Children in the age group birth to 3 who are eligible for the program;

b. Part H and the federal implementing regulations, 34 CFR Pt. 303, and this chapter; and

c. The nature and scope of services available under the birth to 3 program and how these are financed.

2. The service coordinator may be a person from the list of qualified personnel in s. HSS 90.08 (3) (b), another person with experience and training indicated under subd. 1 or a parent facilitator.

(2) CORE SERVICES. (a) County administrative agencies shall make the following services available at no cost to families that have a child who is eligible or may be eligible for the birth to 3 program:

1. Identification and referral;

2. Screening;

3. Evaluation;

4. Assessment for an eligible child;

5. Development of the IFSP for an eligible child and family;

6. Service coordination for an eligible child and family; and

7. Protection of parent and child rights by means of the procedural safeguards.

(b) With the parent's consent, third parties may be billed for core services. A parent may not be compelled to consent to the billing of third parties. The service coordinator shall ensure that the parent, prior to giving his or her consent, is informed of and understands that in consequence of third party billing the parent may incur financial loss, including but not limited to a decrease in benefits or increase in premiums, discontinuation of the policy or out of pocket-expenses.

(3) EARLY INTERVENTION SERVICES — GENERAL CONDITIONS AND GENERAL ROLE OF PROVIDERS. (a) *General conditions for early intervention services.* The county administrative agency shall provide or arrange for the provision of early intervention services identified in the IFSP to the extent possible within the level of available resources. Early intervention services for an eligible child and the child's family shall be based on the developmental needs of the child and be provided with the written consent of the parent. Services shall be provided in collaboration with the parent, by qualified personnel, and in compliance with applicable state standards and Part H requirements.

(b) *General role of early intervention service providers.* 1. A provider of early intervention services shall do all of the following:

a. To the extent appropriate, consult with parents, other service providers and community agencies to ensure that the service is effective;

b. To the extent appropriate, educate parents, other service providers and community agencies in regard to the provision of that type of service;

c. To the extent appropriate, participate in the EI team's assessment of a child and the child's family, and in development of integrated goals and outcomes for the IFSP; and

d. Make a good faith effort to assist each eligible child in achieving the outcomes of the child's IFSP.

2. Service providers, including service coordinators, shall attend or otherwise avail themselves of 5 hours of training each year related to early intervention. Training may be inservice training, conferences, workshops, earning of continuing education credits or earning of higher education credits.

3. A service provider is not liable if an eligible child does not achieve the growths projected in the child's IFSP.

(4) TYPES OF EARLY INTERVENTION SERVICES. Types of early intervention services are the following:

(a) *Assistive technology services.* Assistive technology services, to include:

1. Evaluation of the need of a child with a disability for an assistive technology device, such as an adaptive switch or a speech synthesizer, including a functional evaluation of the child in the child's customary environment;

2. Purchasing, leasing, or otherwise providing for acquisition of assistive technology devices for children with disabilities;

3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

4. Coordinating and using other therapies, interventions or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

5. Training a child with disabilities or, where appropriate, the family of a child with disabilities in use of the assistive technology device; and

6. Training or providing technical assistance to professionals, including individuals providing education and rehabilitation services and other individuals who provide services to or are otherwise substantially involved in the major life functions of children with disabilities.

(b) *Audiology services.* Audiology services, to include:

1. Identification and determination of the range, nature and degree of hearing loss;

2. Referral for medical and other services necessary for habilitation or rehabilitation;

3. Services for prevention of hearing loss;

4. Auditory training, aural rehabilitation, speech reading and, listening device orientation and training; and

5. Determination of the child's need for individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.

(c) *Communication services.* Communication services, to include:

1. Identification, diagnosis and assessment of children with communicative or oral pharyngeal disorders or delays in development of communication skills, which include delays in the acquisition of communciation skills during preverbal and verbal phases of development; in the development of receptive and expressive language, including spoken and nonspoken means of expression; in oral-motor development; and in auditory awareness and processing. This also includes identification of the need for the acquisition of sign language and augmentative communication devices or systems;

2. Referral for and coordination with medical or other professional services necessary for the habilitation or rehabilitation of children with communicative or oral pharyngeal disorders and delays in development of communication skills;

3. Services for the habilitation, rehabilitation or prevention of communicative or oral pharyngeal disorders and delays in development of communication skills, including services directed at the acquisition of sign language, the development of auditory awareness skills and speech production and the use of augmentative communication devices; and

4. Development of augmentation devices or systems, including communication boards and sign language.

(d) *Family education and counseling services.* Family education and counseling services, to include:

1. Services to assist the family or caregiver in caring for the child, understanding the special needs of the child, enhancing the child's development, modeling appropriate parent-child interactions and providing information on child development; and

2. Providing informal support and connecting parents with other parents. This may include parent to parent match programs and parent support groups.

(e) *Health care services.* Health care services necessary to enable a child to benefit from other early intervention services under this paragraph while receiving those other early intervention services. These include:

1. Performing clean, intermittent catheterization; tracheotomy care; tube feeding; and changing dressings or osteotomy collection bags; and

2. Consultation provided by physicians to other service providers concerning the special health care needs of eligible children that have to be addressed in the course of providing early intervention services.

(f) *Medical services.* Medical services only for diagnostic or evaluation purposes. These are services provided by a licensed physician to determine a child's developmental status and need for early intervention services.

(g) *Nursing services.* Nursing services, to include:

1. The assessment of health status for the purpose of providing nursing care, including identification of patterns of human response to actual or potential health problems, and the assessment of home environment and parent-child interactions for the purpose of providing interventions and referrals to support parents and enhance the child's development;

2. Provision of nursing care to prevent health problems, restore or improve functioning and promote optimal health and development. This includes identification of family concerns and coordination of available resources to meet those concerns; and

3. Administration of medications, treatments and regimens prescribed by a physician licensed under ch. 448, Stats.

(h) *Nutrition services.* Nutrition services, to include:

1. Conducting individual assessments in nutritional history and dietary intake: anthropometric, biochemical, and clinical variables; feeding skills and feeding problems; and food habits and food preferences;

2. Developing and monitoring appropriate nutritional plans based on assessment results; and

3. Making referral to appropriate community resources to carry out nutrition goals.

(i) *Occupational therapy services.* Occupational therapy services that address the functional needs of a child related to the performance of self-help skills, adaptive behavior and play, and sensory, motor and postural development. These services are designed to improve the child's functional ability in home and community settings and include:

1. Identification, assessment and intervention;

2. Adaptation of the environment, and selection, design and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and

3. Prevention or minimization of the impact of initial or future impairment, delay in development or loss of functional ability.

(j) *Physical therapy.* Physical therapy, to include:

1. Screening of infants and toddlers to identify movement dysfunction;

2. Obtaining, interpreting and integrating information appropriate to program planning, to prevent or alleviate movement dysfunction and related functional problems; and

3. Providing individual and group services and treatment to prevent or alleviate movement dysfunction and related functional problems.

(k) *Psychological services.* Psychological services, to include:

1. Administering psychological and developmental tests and other assessment procedures, interpreting results, and obtaining, integrating and interpreting information about child behavior and child and family conditions related to learning, mental health and development; and

2. Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, and parent education.

(l) *Social work services.* Social work services, to include:

1. Making home visits to evaluate a child's living conditions and patterns of parent-child interactions;

2. Preparing a social and emotional developmental assessment of the child within the family context;

3. Providing individual and family group counseling with parents and other family members, and appropriate social skill-building within the family context;

4. Working with problems in a child's and family's living situation, at home, in the community and at any center where early intervention services are provided, that affect the child's maximum utilization of early intervention services; and

5. Identifying, mobilizing and coordinating community resources and services to enable the child and family to receive maximum benefit from early intervention services.

(m) *Special instruction.* Special instruction, to include:

1. Evaluation and assessment in all areas of development;

2. Designing learning environments and activities that promote the child's acquisition of skills in a variety of developmental areas including cognitive processes, communication and social interaction;

3. Curriculum planning, including the planned interaction of personnel, materials and time and space, that leads to achieving the outcomes in the child's individualized family service plan;

4. Providing families with information, skills and support related to enhancing the skill development of the child;

5. Working with a child to enhance the child's development;

6. Working with other providers to develop an understanding of the child's disability and the impact of that disability on the child's development; and

7. Providing support and consultation to child care providers and others in integrated child care settings.

(n) *Transportation.* Transportation necessary to enable an eligible child and the child's family to receive early intervention services.

(o) *Vision services.* Vision services, to include:

1. Identifying visual acuity and field of vision and determining the range, nature and degree of vision loss and functions;

2. Referring for medical and other services necessary for habilitation or rehabilitation;

3. Services for prevention of vision loss; and

4. Vision training and rehabilitation, to include determining the child's need for individual orientation and mobility training and intersensory coordination training.

Note: Early intervention service providers are encouraged to refer families to other programs within the community that may provide additional services for a child and the child's family. Other services may include respite care, child care, recreational activities, mental health services, supplemental provision of food, housing services, alcohol and other drug abuse treatment services and economic support services.

(5) SERVICE DELIVERY. (a) *Location of services.* To the maximum extent appropriate, early intervention services shall be provided in the child's natural environments, including home and community settings where children without disabilities participate. The reasons for not providing services in the child's natural environments shall be documented in the IFSP.

(b) *Method of service delivery.* Early intervention services shall be provided in ways that are most appropriate for meeting the needs of eligible children and their families. These may include parent and child activities, group activities, one-to-one sessions, and provision of a resource such as staff time.

(6) QUALIFIED PERSONNEL. Early intervention services for eligible children and their families may only be provided by qualified personnel listed in this subsection who meet Wisconsin requirements for practice of their profession or discipline or other professionally recognized requirements, as follows:

(a) Audiologists shall have at least a master's degree in audiology from an accredited institution of higher education and be registered or licensed under ch. 459, Stats.;

(b) Early intervention program assistants shall be at least 18 years of age and meet one of the following requirements:

1. Have at least 3 years of experience in supervising structured youth activities;

2. Have completed at least 3 years of college education;

3. Have a combination of education and experience under subds. 1 and 2 totaling 3 years; or

4. Have completed a 2-year program in child care and development approved by the Wisconsin department of public instruction.

(c) Nutritionists shall be registered or be eligible for registration as dietitians by the American dietetic association, and dietitian technicians shall have at least an associate degree from an accredited institution of higher education and be registered as dietitian technicians by the American dietetic association;

(d) Occupational therapists shall be certified under s. 448.05 (5m) (a), Stats; and occupational therapy assistants shall be certified under s. 448.05 (5m) (b), Stats.;

(e) Orientation and mobility specialists shall have completed an orientation and mobility program approved by the association for education and rehabilitation of the blind and visually impaired;

(f) Parent facilitators shall be parents of disabled children who are hired by county administrative agencies or service providers on the basis of their demonstrated skills in planning, communicating and providing support to the parents of eligible children;

(g) Pediatricians and other physicians shall be licensed under ch. 448, Stats., and physician assistants shall be certified under s. 448.05 (5), Stats.;

(h) Physical therapists shall be licensed under ch. 448, Stats., and physical therapist assistants shall have graduated from a 2-year college level program approved by the American physical therapy association;

(i) Psychologists shall be licensed under ch. 455, Stats.;

(j) Registered nurses shall be licensed under s. 441.06, Stats., and within 5 years after July 1, 1992, shall have at least a bachelor's degree in nursing from an accredited institution of higher education, and licensed practical nurses shall be licensed under s. 441.10, Stats.;

(k) Rehabilitation counselors shall be employed by the department's division of vocational rehabilitation as coordinators of hearing impaired services and have at least a master's degree in rehabilitation counseling or a related field;

(l) School psychologists shall be licensed under ch. 115, Stats., and ch. PI 3;

(m) Social workers shall have at least a bachelor's degree in social work from a college or university accredited or approved by the council on social work education;

(n) Special educators, including early childhood exceptional education needs (ECEEN) educators, vision educators and hearing educators, shall be licensed under ch. 115, Stats., and ch. PI 3, within 5 years after the effective date of this chapter; and

(o) Speech and language pathologists shall have at least a master's degree in speech and language pathology from an accredited institution of higher education and be registered or licensed under ch. 459, Stats., or shall be licensed under ch. 115, Stats., and ch. PI 3.

History: Cr. Register, June, 1992, No. 438, eff. 7-1-92.

**HSS 90.12 Procedural safeguards for parents.** (1) PRIOR NOTICE. (a) A reasonable time before a county administrative agency or service provider does any of the following, the county administrative agency or service provider shall provide written notice to the parent and ensure that the parent understands the notice:

1. Identifies or evaluates a child;

2. Provides early intervention services to the child;

3. Makes a change in the early intervention services a child receives;

4. Refuses to identify or evaluate a child; or

5. Refuses to provide early intervention services to a child.

(b) The notice under par. (a) shall provide sufficient detail to inform the parent about:

1. The proposed action;

2. The reasons for taking the action, including a description of other options considered and reasons for rejecting them;

3. The information upon which the proposed action is based;

4. Their right to refuse consent to an evaluation or a service; and

5. The procedural safeguards the parent has under this section, including the right to file a complaint regarding the proposed action.

(c) 1. The notice under par. (a) shall be in language understandable to the general public.

2. If the parent's proficiency in English is limited, the notice under par. (a) shall also be provided in the language normally used by the parent unless this is clearly not feasible.

3. If the language or other mode of communication normally used by the parent is not written, the county agency or service provider shall take steps to ensure that:

a. The notice is translated orally or by other means into the language the parent normally uses or other mode of communication;

b. The parent understands the notice; and

c. There is written evidence of notice that complies with this subsection.

4. If a parent is deaf or blind, the mode of notifying the parent shall be the mode of communication normally used by the parent, such as sign language, braille or oral communication.

(2) CONSENT. (a) *For evaluation and assessment.* 1. The county administrative agency shall obtain the parent's written consent before conducting the initial evaluation and assessment of a child. This consent shall continue in effect until revoked by the parent or until the child is no longer receiving early intervention services.

2. The county administrative agency requesting a parent's written consent to the evaluation and assessment shall inform the parent of the following:

a. The purpose of the evaluation and assessment, the procedures to be employed and the types of professionals who will be involved;

b. Any likely effects on the parents of the evaluation or assessment such as need to provide transportation for the child; and

c. If consent is not given, the child will not receive the evaluation or assessment.

3. The parent may refuse to give consent for a particular evaluation or assessment procedure. If a parent refuses consent, the county administrative agency may not carry out that procedure. The county administrative agency may not limit or deny the use of a particular procedure because the parent has refused to consent to another procedure.

(b) *For services.* 1. The county administrative agency shall develop the IFSP in collaboration with the parent and obtain the parent's written

consent for the delineated services before early intervention services are provided to the eligible child and family. This consent shall continue in effect until revoked by the parent or until the child is no longer receiving early intervention services.

2. The county administrative agency requesting a parent's written consent for services shall inform the parents of the following:

a. The purpose of each service to be provided and the manner in which the service will be provided. The parent's written consent shall specify each service the parent has authorized;

b. The known cost to the parents of the services, if there are any costs, whether direct or indirect;

c. Any likely effects on the parents of each service;

d. The possible consequences of not consenting to each proposed service; and

e. If consent is not given, the child will not receive the services.

3. A parent may consent to some services and reject others. If the parent objects to a proposed service, the program may not provide that service. The county administrative agency may not limit or deny the provision of a particular service because the parent has refused to consent to another service.

emerg. cr. (3) eff. 1-1-93

(3) CONFIDENTIALITY. (a) Personally identifiable information about a child, a parent of the child or other member of the child's family is confidential.

emerg. am. 1-1-93

(b) The county administrative agency is responsible for maintaining the confidentiality of a child's early intervention records wherever those records are located. Any interagency agreement or contract with a service provider shall set forth the service provider's responsibility to keep early intervention records confidential. One staff member at each agency maintaining early identification records shall be designated to ensure that personally identifiable information is kept confidential.

(c) Parents may review the early intervention records of their child.

emerg. am. 1-1-93

(d) A county administrative agency or service provider may disclose confidential information from early intervention records, without parental consent, only to those of its employes who have a legitimate need for the information in the performance of their duties and to representatives of the department who require the information for purposes of supervising and monitoring services provision and enforcing this chapter. A log shall be maintained as part of an early intervention record, on which the name of each employe or representative given access to the record or to whom information from the record was disclosed shall be recorded, along with the date of access or disclosure and the purpose of the access or disclosure.

(e) No county administrative agency or service provider may disclose confidential information to any other agency or individual except as authorized in par. (d), as required in s.115.80 (1) (a) to (c), Stats., or with the parent's written consent consistent with s. 51.30 (2), Stats. If a parent refuses consent to release confidential information and the refusal falls within the scope of s. 48.981, Stats., the county administrative

agency or service provider shall take action in accordance with s.48.981, Stats.

(4) OPPORTUNITY TO EXAMINE RECORDS. (a) The parent of a child may review all early intervention records concerning the child.

(b) When a child's parent asks to review the child's early intervention records, the county administrative agency or service provider shall:

1. Make the records available to the parent without unnecessary delay but not later than 15 working days following the date of the request except that if the request is in connection with a meeting on the individualized family service plan or a hearing to resolve a dispute or complaint involving the parent and the county agency or service provider, the records shall be made available before the meeting or hearing;

2. Permit the parent to have a representative of the parent's choosing review the record with the parent or, with the parent's written consent, in place of the parent; and

3. Respond to reasonable requests of the parent or parent's representative for explanations and interpretations of the record.

(c) If an early intervention record includes information on more than one child, the parent may review the information relating only to the parent's child or, if this is not separable, the information shall be disclosed to the parent.

(d) The county administrative agency shall provide a parent, at the parent's request, with a list of the types and locations of early intervention records.

(e) No fee may be charged for parent review of an early intervention record or for information disclosed to a parent or for the search for or retrieval of a record. If a parent requests a copy of the record, one copy shall be supplied free of charge. A fee may be charged for additional copies.

(f) 1. A child's parent may request that particular information in the child's record be amended or deleted on grounds that it is inaccurate or misleading, or violates the privacy or any other right of the child, a parent or other family member.

2. The county administrative agency or service provider shall respond in writing to a request for amendment or deletion of information as soon as possible but not later than 30 days after the request is made.

3. If the county administrative agency or service provider refuses to amend or delete the information as requested, the parent may appeal that decision within 14 days after being notified of it by asking the county administrative agency in writing or in the parent's normal mode of communication for a hearing on it.

4. The county administrative agency shall hold a hearing in accordance with 34 CFR 99.22 on an appeal under subd. 3 within a reasonable time after receiving the request and shall provide the parent with a written decision within a reasonable period after the hearing.

5. If the information is not finally amended or deleted as requested, the parent may ask the county administrative agency or service provider to

include in the record a statement prepared by the parent commenting on the information in question and giving the parent's reasons for disagreeing with the decision not to amend or delete the information. The county administrative agency or service provider shall then maintain that statement as part of the record and shall disclose it with the contested information whenever that information is disclosed.

(5) PROCEDURES FOR RESOLUTION OF PARENT COMPLAINTS. (a) *Definition.* In this subsection, "impartial decisionmaker" means a person appointed by the county administrative agency to implement the complaint resolution process who:

1. Is knowledgeable about the requirements of this chapter and the needs of and services available for eligible children and their families;

2. Is not an employe of the county administrative agency or of any other agency or program involved in the provision of early intervention services for the child, although he or she may be paid by the agency or program to provide impartial decisionmaker services; and

3. Does not have a personal or professional interest that would conflict with his or her objectivity in implementing the process.

(b) *Filing of complaint.* A parent may challenge a county administrative agency's proposal or refusal to initiate or change the evaluation process or eligibility determination of the child or to provide appropriate early intervention services for the child and the child's family by filing a written complaint with the county administrative agency which identifies the action or inaction which is the subject of the complaint and the parent's reasons for objecting to the action or inaction.

(c) *Referral of complaint to impartial decisionmaker.* 1. Upon receipt of a written complaint from a parent under par. (b), the county administrative agency shall promptly refer the complaint to an impartial decisionmaker.

2. Upon receipt of the complaint from the county administrative agency, the impartial decisionmaker shall inform the parent about the availability of mediation and any free or low cost legal services that might be available to the parent.

3. The parent is not obliged to accept mediation, but if the parent does accept it, the impartial decisionmaker, with the agreement of the parent and the county administrative agency, may serve as mediator or select someone else to serve as mediator. If through mediation a solution satisfactory to the parent and the county administrative agency is found and committed to writing, the complaint shall be considered resolved.

4. If the parent does not accept mediation or if the mediation effort does not produce a solution satisfactory to both parties, the impartial decisionmaker shall schedule a hearing at a time and place that is reasonably convenient to the parent and shall notify the parties accordingly.

(d) *Conduct of hearing.* 1. Both parties at the hearing may:

a. Be accompanied and advised by counsel and by individuals with special knowledge of or training in early intervention services for eligible children; and

b. Present evidence, compel the attendance of witnesses and the production of relevant documents, and confront and cross-examine witnesses.

2. Either party at a hearing may prohibit the introduction of any evidence that was not disclosed to the other party at least 5 days before the hearing.

3. Either party at the hearing may obtain a written or electronic verbatim transcript of the proceedings.

4. The impartial decisionmaker shall:

a. Serve as hearing officer;

b. Look at the record, listen to testimony, examine evidence and make a decision about the complaint; and

c. Produce a record of the hearing, including a written decision, and mail it to both parties and to the department's birth to 3 program coordinator not later than 30 days after receipt of the parent's complaint under par. (c) 1.

Note: The mailing address of the program coordinator is Birth to 3 Program, Division of Community Services, P.O. Box 7851, Madison, WI 53707.

(e) *Appeal.* 1. Either party may appeal the decision by filing a written request for review with the secretary of the department within 30 days after the date of the written decision under par. (d) 4 c. The secretary or designee shall make a decision on the appeal and shall notify both parties of that decision in writing within 30 days after receipt of the request for review.

Note: A request for review of the impartial decisionmaker's decision should be addressed to Secretary, Department of Health and Social Services, P.O. Box 7850, Madison, WI 53707.

2. Either party aggrieved by the decision under subd. 1 may bring a civil action in state or federal court to have that decision overturned.

(f) *Services pending decision on a complaint.* Pending the decision on a complaint, unless the county administrative agency and parent agree otherwise, a child shall continue to receive the early intervention services that were provided before the complaint was filed. If the complaint involves an application for initial services, the child shall receive any services that are not in dispute.

History: Cr. Register, June, 1992, No. 438, eff. 7-1-92.

**HSS 90.13 Surrogate parent.** (1) APPOINTMENT. (a) The county administrative agency shall, in accordance with this section, appoint a person to serve as a surrogate parent to represent the interests of an eligible child or of a child who is suspected of being eligible for early intervention services under this chapter if one of the following applies:

1. The county administrative agency cannot identify a parent of the child;

2. The county administrative agency, after reasonable efforts, cannot discover the whereabouts of a parent; or

3. The child was made a ward of the state or a county or a child welfare agency under ch. 880, Stats., or was placed in the legal custody of the

state or a county or a child welfare agency under ch. 48 or 767, Stats., and the state, county or child welfare agency has the authority to make service decisions for the child.

(b) A surrogate parent shall be appointed for an indefinite period of time and shall continue to serve until he or she resigns, the appointment is terminated by the county administrative agency or the child is no longer eligible for early intervention services.

(2) QUALIFICATIONS. A person appointed to serve as a child's surrogate parent shall:

(a) Be at least 18 years of age;

(b) Not be an employe of an agency providing services to the child, although he or she may be paid by that agency to provide surrogate parent services;

(c) Have no other interest that conflicts with the interests of the child;

(d) Be of the same ethnic background as the child or be sensitive to factors in the child's ethnic background that may be relevant for services provision and receipt;

(e) Have knowledge or skills that enable him or her to provide adequate representation for the child;

(f) Be familiar with available early intervention services;

(g) Be committed to acquaint himself or herself with the child and the child's early intervention service needs; and

(h) Not be a surrogate parent for more than 4 children at any one time.

(3) FUNCTIONS. A surrogate parent may represent a child in all matters related to:

(a) The evaluation and assessment of the child;

(b) The development and implementation of the child's IFSP, including annual evaluations and periodic reviews;

(c) The ongoing provision of early intervention services to the child; and

(d) The working of the other procedural safeguards under s. HSS 90.12.

History: Cr. Register, June, 1992, No. 438, eff. 7-1-92.