

Nebraska Early
Development
Network

Part C Services Coordinator and Service Provider Co-Visit Clarification

The Individuals with Disabilities Education Act (IDEA)
NDE 92 NAC 52 (Rule 52) and DHHS 480 NAC 1

January 2024
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The Early Development Network Co-Lead Agencies, Nebraska Departments of Education and Health and Human Services, provide this clarification document in response to recent monitoring activities and observations of Routines Based Early Intervention home visiting practice implementation. The EDN Co-lead agencies are aware of early intervention service visits with multiple service providers visiting concurrently with one family, or a service provider and a services coordinator visiting concurrently with one family. Both scenarios are addressed in this guidance document.

Joint Service Visits by 2 or more Early Intervention Providers

In order to fulfill early intervention service delivery length, frequency, and duration, each service listed on the IFSP must be provided as listed on the IFSP. For example, if the IFSP lists the child will receive 45 minutes of Special Instruction 12 times in 6 months, and 45 minutes of Physical Therapy 6 times in 6 months, each of these services must be provided individually for the 45-minute length. If both providers visit the child/family together and at the same time, the visit would need to be for a total of 90 minutes to allow each provider 45 minutes to deliver their specific service and comply with the IFSP. Failure to provide the full amount of service length, frequency, and duration listed on the plan is in violation of the child's rights, and the family is able to seek out dispute resolution process options including filing a state complaint.

If the Services Coordinator becomes aware that the child is not receiving services as listed on the IFSP, it is their regulatory required duty to inform the family of their rights and dispute resolution process options. The Services Coordinator must document this activity in their monthly CONNECT narrative.

Joint Service Visits by an Early Intervention Provider and Services Coordinator

Services coordination is an entitlement for early intervention families. This means that all eligible children and their families must be assigned a Services Coordinator who is responsible for important duties such as assisting parents in obtaining access to needed early intervention services and other services listed in the IFSP, monitoring the delivery of services to ensure they are provided in a timely manner, conducting follow-up activities to determine appropriate early intervention services are being provided, and informing families of their rights and procedural safeguards. Since these tasks cannot be effectively completed during a home visit in which some or all of the other members of the early intervention team are present, the Services Coordinator must meet privately with the child and family for at least the frequency, length, and duration listed on the IFSP, to complete services coordination duties listed in 480 NAC 1.

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document. For comments regarding this document contact nde.guidance@nebraska.gov.

In some instances, a family may request that the Services Coordinator and early intervention provider visit together on the same date. This can be accomplished by the Services Coordinator arriving at the visit early or staying longer than the early intervention services provider in order to fulfill the minutes listed on the IFSP and conduct their regulatory required duties.

Parents have the right to exercise the Dispute Resolution procedures available under IDEA Part C for any denial of receipt of early intervention procedures or services as written on the IFSP due to the district's or services coordination agency's refusal to provide such procedures and/or services in accordance with federal and state regulatory requirements. The Co-Lead agencies will exercise Monitoring and Enforcement actions as authorized by applicable federal and state regulations, policies, and statutes to ensure regulatory adherence by early intervention programs and providers.

The applicable regulations include:

Medicaid Targeted Case Management

The Social Security Act, § 1915(g)(2), defines case management services as those assisting individuals eligible under the State plan in gaining access to needed medical, social, educational, and other services. Case management services do not include the direct delivery of an underlying medical, educational, social, or other service for which an eligible individual has been referred. Payments for case management services may not duplicate payments made to public agencies under other program authorities for the same service.

Nebraska Medicaid Program and Targeted Case Management: In Nebraska, the State agency administers the provision and payment of Medicaid services. The Nebraska State plan includes a Supplement that addresses the provision of TCM services (TCM State plan supplement) and designates three target groups to receive TCM services: aged, blind, and disabled; families with children aged three and younger who have developmental delays, health care needs, or both; and persons with developmental disabilities.

DHHS 480 NAC 1

480 NAC 1-005. SERVICES COORDINATION ENTITLEMENT. Services coordination is an entitlement for early intervention families. Eligible children and their families must be assigned a services coordinator who is responsible for: (A) Coordinating all services across agency lines; and (B) Serving as the single point of contact for carrying out the activities specified below.

005.01 SPECIFIC SERVICES COORDINATOR ACTIVITIES INCLUDE: (A) Assisting parents of eligible children in obtaining access to needed early intervention services and other services identified in the Individualized Family Service Plan (IFSP), including making referrals to providers for needed services and scheduling appointments for eligible children and their families; (B) Coordinating the provision of early intervention services and other educational, social, or medical services that the eligible child needs or is being provided; (C) Coordinating screenings, evaluations, and assessments; (D) Facilitating and participating in the development, review, and evaluation of Individualized Family Service Plans (IFSPs); (E) Conducting referral and other activities to assist families in identifying available service providers; (F) Coordinating, facilitating, and monitoring the delivery of services to ensure that the services are provided in a timely manner; (G) Conducting follow-up activities to determine that appropriate early intervention services are being provided; (H) Informing families of their rights and procedural safeguards and ensuring that the family rights are safeguarded; (I) Coordinating the funding sources for early intervention services; and (J) Facilitating the development of a transition plan to preschool or other services, if appropriate.

480 NAC 1-007.02(B) SERVICES PROVIDED. The family's need and priority for services coordination is jointly determined and documented by the Individualized Family Service Plan (IFSP) team, including the family and the services coordinator. The amount and duration of services coordination is based on the documented need, is provided in accordance with Department policy and standards, and is identified in the Individualized Family Service Plan (IFSP).

480 NAC-010.07 IMPLEMENTATION PROCEDURES. Individualized Family Service Plan (IFSP) Implementation procedures conducted by the services coordinator must include: (A) Assisting the child and family to gain access to, and coordinate the provision of, the early intervention services and other services identified in the Individualized Family Service Plan (IFSP) in settings most natural and within daily routines; (B) Coordinating the funding sources for services required under this part; (C) Monitoring implementation of the plan as written by the team members designated on the Individualized Family Service Plan (IFSP); (D) Advocating for the family; (E) Coordinating, facilitating, and monitoring the delivery of services required under this part to ensure the services are provided within 30 days of parental consent; and (F) Contacting the family at least monthly to review the progress of the Individualized Family Service Plan (IFSP) and to conduct follow-up activities to determine that appropriate early intervention services are being provided. This contact must be face-to-face contact with the family and child at least every other month.

NDE 92 NAC 52 (Rule 52)

Rule 52 007.04C - A statement of the specific early intervention services, based on peer reviewed research (to the extent practicable), that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes identified in 92 NAC 52-007.04B including: 007.04C1 The length, duration, frequency, intensity, and method of delivering the early intervention services; 007.04C1a Frequency and intensity mean the number of days or sessions that a service will be provided, and whether the service is provided on an individual or group basis; 007.04C1b Method means how a service is provided (such as individually or in a group); 007.04C1c Length means the length of time the service is provided during each session of that service (such as an hour or other specified time period); 007.04C1d Duration means projecting when a given service will no longer be provided (such as when the child is expected to achieve the results or outcomes of his or her IFSP).

Rule 52 007.07 Year-Round Continuous Services 007.07A FAPE early intervention services provided by the school district or approved cooperative may not be interrupted or modified or otherwise changed for reasons unrelated to the child's needs such as service provider availability or scheduling.

IDEA Part C

§ 303.344 Content of an IFSP. (d) Early intervention services. (1) The IFSP must include a statement of the specific early intervention services, based on peer-reviewed research (to the extent practicable), that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes identified in paragraph (c) of this section, including— (i) The length, duration, frequency, intensity, and method of delivering the early intervention services; (ii)(A) A statement that each early intervention service is provided in the natural environment for that child or service to the maximum extent appropriate, consistent with §§ 303.13(a)(8), 303.26 and 303.126, or, subject to paragraph (d) (1)(ii)(B) of this section, a justification as to why an early intervention service will not be provided in the natural environment. (B) The determination of the appropriate setting for providing early intervention services to an infant or toddler with a disability, including any justification for not providing a particular early intervention service in the natural environment for that infant or toddler with a disability and

service, must be— (1) Made by the IFSP Team (which includes the parent and other team members); (2) Consistent with the provisions in §§ 303.13(a)(8), 303.26, and 303.126; and (3) Based on the child’s outcomes that are identified by the IFSP Team in paragraph (c) of this section; (iii) The location of the early intervention services; and (iv) The payment arrangements, if any. (2) As used in paragraph (d) (1)(i) of this section— (i) Frequency and intensity mean the number of days or sessions that a service will be provided, and whether the service is provided on an individual or group basis; (ii) Method means how a service is provided; (iii) Length means the length of time the service is provided during each session of that service (such as an hour or other specified time period); and (iv) Duration means projecting when a given service will no longer be provided (such as when the child is expected to achieve the results or outcomes in his or her IFSP).

§ 303.346 Responsibility and accountability. Each public agency or EIS provider who has a direct role in the provision of early intervention services is responsible for making a good faith effort to assist each eligible child in achieving the outcomes in the child’s IFSP. However, part C of the Act does not require that any public agency or EIS provider be held accountable if an eligible child does not achieve the growth projected in the child’s IFSP.

§ 303.34 Service coordination services (case management). (a) General. (1) As used in this part, service coordination services mean services provided by a service coordinator to assist and enable an infant or toddler with a disability and the child’s family to receive the services and rights, including procedural safeguards, required under this part. (2) Each infant or toddler with a disability and the child’s family must be provided with one service coordinator who is responsible for— (i) Coordinating all services required under this part across agency lines; and (ii) Serving as the single point of contact for carrying out the activities described in paragraphs (a)(3) and (b) of this section. (3) Service coordination is an active, ongoing process that involves— (i) Assisting parents of infants and toddlers with disabilities in gaining access to, and coordinating the provision of, the early intervention services required under this part; and (ii) Coordinating the other services identified in the IFSP under § 303.344(e) that are needed by, or are being provided to, the infant or toddler with a disability and that child’s family. (b) Specific service coordination services. Service coordination services include— (1) Assisting parents of infants and toddlers with disabilities in obtaining access to needed early intervention services and other services identified in the IFSP, including making referrals to providers for needed services and scheduling appointments for infants and toddlers with disabilities and their families; (2) Coordinating the provision of early intervention services and other services (such as educational, social, and medical services that are not provided for diagnostic or evaluative purposes) that the child needs or is being provided; (3) Coordinating evaluations and assessments; (4) Facilitating and participating in the development, review, and evaluation of IFSPs; (5) Conducting referral and other activities to assist families in identifying available EIS providers; (6) Coordinating, facilitating, and monitoring the delivery of services required under this part to ensure that the services are provided in a timely manner; (7) Conducting follow-up activities to determine that appropriate part C services are being provided; (8) Informing families of their rights and procedural safeguards, as set forth in subpart E of this part and related resources; (9) Coordinating the funding sources for services required under this part; and (10) Facilitating the development of a transition plan to preschool, school, or, if appropriate, to other services. (c) Use of the term service coordination or service coordination services. The lead agency’s or an EIS provider’s use of the term service coordination or service coordination services does not preclude characterization of the services as case management or any other service that is covered by another payor of last resort (including Title XIX of the Social Security Act—Medicaid), for purposes of claims in compliance with the requirements of §§ 303.501 through 303.521 (Payor of last resort provisions).