

Richard F. Daines, M.D.  
*Commissioner*

Wendy E. Saunders  
*Chief of Staff*

October 17, 2008

Marie Casalino, MD, MPH  
Assistant Commissioner  
Bureau of Early Intervention  
NYC Department of Health and Mental Hygiene  
93 Worth Street, Room 303  
New York, NY 10013

Dear Dr. Casalino:

I am writing in follow-up to Dr. Stone's letter of September 28, 2007, and subsequent discussion with New York City Department of Health and Mental Hygiene's (NYCDOHMH) Bureau of Early Intervention staff, on proposed strategies to ensure that State and federal requirements to convene Individualized Family Service Plan (IFSP) meetings within 45 days of a child's referral to the Early Intervention Program (EIP) are met; and, reduce the IFSP backlog in New York City. This letter also responds to the corrective action plan submitted to me on February 9, 2007, as required to address the November 30, 2006 systems complaint finding regarding failure to convene IFSPs within the required timeframe. Your CAP is partially acceptable, with the following directions for revision; however, no resubmission is required.

The following are my responses to your proposed strategies:

1. Parents will be offered the option of conducting all but initial IFSPs by phone if it is convenient to them.

Response: Federal regulations at 34 CFR § 303.342 (b) (2) and State regulations at 10 NYCRR § 69-4.11(b) (1) provide that IFSP reviews may be conducted by a meeting or other means amenable to the parent. Therefore, it is permissible to conduct six-month reviews and reviews requested by the parent or when conditions warrant, by telephone or video conference call or record review and written correspondence. However, if a face to face meeting takes place with the parent, the Early Intervention Official designee (EIO/D) must be in attendance at this meeting, either on-site where the meeting is convened, or by telephone conference call. Additionally, if a six month review is conducted by other means rather than an in-person meeting (including those meetings where the EIO/D attends via a telephone conference call), full and complete documentation must be maintained in the child record clearly identifying the circumstances and the options presented to and selected by the parent.

The process for holding six-month reviews by written correspondence must not delay agreement on the terms of the IFSP by the parent and the EIO/D, and the timely implementation of the IFSP. Finally, if a parent requests that the six-month review be conducted through an in-person meeting, and the six-month review meeting is delayed due to family circumstances or circumstances beyond the control of NYCDOHMH (such as hazardous weather conditions or emergency situations), such circumstances should be clearly documented in the child's record for monitoring purposes.

However, federal and State regulations require that an annual meeting must be convened to evaluate the IFSP for the child and the child's family ((34 CFR § 303.342 (c); 10 NYCRR § 69-4.11(b) (3)) and there are no provisions to allow for use of telephone or video conferencing to conduct these meetings. Therefore, required participants for the annual evaluation of IFSPs must meet in person to conduct this evaluation.

2. Children aging out of EI within 30 days after their IFSP expires will be provided with a "gap" IFSP to extend existing services until the day before the child's third birthday or, if the child is transitioning to CPSE, August 31<sup>st</sup> or December 31<sup>st</sup> as appropriate.

Response: It is permissible to extend existing services in a child's and family's IFSP, for a child aging out of the EIP within 30 days after their IFSP expires, provided that the parent and the EIO/D are in agreement that these services continue to be appropriate for the child and family. Federal and State regulations require that a transition plan be developed for all children transitioning from early intervention services to preschool special education or other early childhood services that may be available, if appropriate (34 CFR 303.344(h); 10 NYCRR 69-4.20(a)). The transition plan must include procedures to prepare the child and family for changes in service delivery. If the parent and the EIO/D agree that extending existing services until the date on which a child exits the EIP is appropriate, this decision should be documented in the child's transition plan. The transition plan is incorporated into the IFSP, with parental consent.

Please be advised that for children transitioning to preschool special education programs and services under section 4410 of the education law, the date on which early intervention services must be agreed upon with the parent and included in the child's IFSP, and could be *earlier* than the date on which the child ages out (i.e., August 31<sup>st</sup> or December 31<sup>st</sup>).

3. For children with upcoming IFSP reviews, the following procedures were proposed:
  - If there is no request for a change in services and an in-person meeting was conducted at the most recent IFSP event, a paper review will be conducted and services extended for another six months. The ongoing service coordinator will meet with the family and send the required paper work to the EIO/D for review and approval.
  - If there is a request for a change in services, or an in-person meeting was not conducted at the most recent IFSP event, an IFSP meeting will be held and families will have the option of conducting the meeting by telephone.
  - If the EIO/D has questions regarding the child's progress report or notes, an IFSP meeting may be held in person or by telephone.

Response: It is permissible to conduct the required six-month IFSP review through a review of applicable records and written correspondence, or reviews of IFSPs upon the request of the parent or when conditions warrant, provided that this type of review is amenable to the parent. A meeting to review the IFSP must be conducted upon parent request. Meetings to conduct a six-month review or review initiated upon parent request, or for the reasons described above, may be conducted by telephone if amenable to the parent (34 CFR 303.342(2); 10 NYCRR 69-4.11(b)(2)), and all circumstances and options provided to parents must be fully documented in the child's record.

Please note again that as stated in #1 above, a meeting must be conducted to complete the annual review of the IFSP, regardless of the circumstances.

We appreciate the ongoing efforts of NYCDOHMH to ensure timely IFSPs for children and families in the NYC EIP. Should you have any questions, please do not hesitate to contact me at 518-473-7016.

Sincerely,

Bradley Hutton, M.P.H.  
Director  
Bureau of Early Intervention

cc: Mary Lou Clifford  
Andrea Juris  
bcc: Donna Noyes  
Brenda Knudson Chouffi  
Denise Berletic  
Jeff Simon

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