

**New York State Department of Health**

**Bureau of Early Intervention – General Frequently Asked Questions**

**1. Question: What must be included in a session note?**

**Answer:** Early Intervention Program (EIP) Regulation Section 69-4.26(c) includes the requirement that session notes are completed for every service delivered and must include:

- \* Recipient's name (child/parent/caregiver).
- \* Date of service.
- \* Type of service provided.
- \* Duration (length) of session (time the provider began and ended the session).
- \* Brief description (2-3 sentences) of the recipient's progress made by receiving the service during the session as related to outcome(s) contained in the Individualized Family Service Plan (IFSP).
- \* Name, title and signature of the parent or caregiver which documents the service was received.
- \* Name, title and signature of the person delivering the service and date the session note was created.

In addition, billing and claiming documentation submitted by the provider, must also include a Current Procedural Terminology (CPT) code for delivered services, International Classification of Diseases (ICD) code, National Provider Identifier (NPI) number and the name of the provider who directly rendered the service. If a provider has both an NPI number and a license, registration or certification number, both numbers should be included on the billing and claiming documentation.

Link to **Early Intervention Program Regulations 10 NYCRR Section 69-4.26(c)**

<https://regs.health.ny.gov/content/section-69-426-content-and-retention-child-records>

Link to **Early Intervention Program Memorandum 2003-1 Early Intervention Program Records**

[http://www.health.ny.gov/community/infants\\_children/early\\_intervention/memo03-1.htm](http://www.health.ny.gov/community/infants_children/early_intervention/memo03-1.htm)

**2. Question: How long do I have to keep child records?**

**Answer:** Child records must be maintained according to Early Intervention Regulation (Section 69-4.26), Medicaid Program requirements and any requirements of laws and regulations governing the professions of providers who are licensed, registered or certified under State Education Law.

**Individual/Independent Providers of Early Intervention Services**

Individual providers who contract with an agency are considered the rendering provider of service and are responsible for maintaining records for the services that they provide. Rendering providers of early intervention services must maintain their original child records, at a minimum, for six years from the last date that care, services, or supplies were provided to the child and family or billed, whichever is later, to assure compliance with the Medicaid Program.

In addition, rendering early intervention providers who are licensed, registered, or certified under State Education Law must retain records in accordance with the laws and regulations that apply to their profession. For many professions, the standard for retaining records is until age 21. Providers are responsible for understanding their professional obligations regarding record retention under their professional licensure. Teachers can contact the State Department of Education for guidelines relevant to teaching certifications and any related record retention requirements.

If a provider is an employee of an agency, the agency is considered the rendering provider and is responsible for maintaining the original records.

**Agency Providers of Early Intervention Services**

An agency that directly employs professionals who provide services to children in the EIP is considered the rendering provider and must maintain the original child records, at a minimum, for six years from the last date that care, services, or supplies were provided to the child and family or billed, whichever is later, to assure compliance with the Medicaid Program.

For agencies, where the agency provider delivers services through a subcontractor, the direct provider of service (the subcontractor) is responsible to retain the complete and original records related to the service(s) they delivered to the child/family.

New York City public agencies are subject to Department of Records and Information Services (DORIS) and requirements under the Family Educational Rights and Privacy Act (FERPA), IDEA, PHL, and Medicaid. In New York City, early intervention records must be retained for a minimum of six years from the last date that care, services, or supplies were provided to the child and family.

For more information, please refer to ***Early Intervention Program Memorandum 2003-1 Early Intervention Program Records*** at the following link:

[http://www.health.ny.gov/community/infants\\_children/early\\_intervention/memo03-1.htm](http://www.health.ny.gov/community/infants_children/early_intervention/memo03-1.htm) .

**3. Question: What are the requirements for keeping electronic records?**

**Answer:** The use of electronic records, including electronic signatures, is permissible under Federal Electronic Signatures in Global and National Commerce Act and Article 1 of the State Technology Law. **Early Intervention Program Memorandum 2003-1 Early Intervention Program Records**, provides information regarding all requirements related to Early Intervention Program records and the use of electronic records and signatures.

For Medicaid audit purposes, electronic documentation must be maintained in such a manner that Medicaid audit staff can answer basic questions to determine whether the requirement to prepare and maintain contemporaneous records that demonstrate the provider's right to receive payment under the Medicaid program has been met. These questions include:

- Does the record itself meet the general and specific requirements of the regulations as to content?
- Is it possible to determine when the record was created?
- Is there a process to prevent records from being altered after they are created?
- If records can be altered, is the alteration process documented?
- Is the actual caregiver (rendering provider) identified in the record?
- If entries are menu driven, are they appropriate to the service provided and is the caregiver identified as having selected the entry?
- Has the provider set up a system of internal controls that insures that actual completed service delivery drives Medicaid billing?
- Are the records accessible? Records should be maintained in the ordinary course of business so that no "special" programming, software, language, etc., is required to access them.

If an early intervention provider is able to affirmatively answer these questions about their record keeping system, the system would meet Medicaid requirements. Scanned documents, when consistent with the above requirements, are also generally acceptable for Medicaid record-keeping purposes. All individual early intervention providers who are licensed, registered, or certified under State Education Law are bound by the laws and regulations that govern their profession and must retain records in accordance with the laws and regulations that apply to their profession.

Additionally, the electronic system must have the ability to make records and signatures available on demand to access for audits and/or EI program reviews. For information regarding professional obligations for record retention, the New York State Education Department, Office of the Professions can be contacted at (518) 474-3817 or by email at [op4info@mail.nysed.gov](mailto:op4info@mail.nysed.gov).

In addition to the EIP guidance document on Program Records, you may find the following reference to be of assistance: Department of Health Medicaid Update, Office of Medicaid Management, November 2003 Vol. 18, No. 11, Use of Electronic Records by Medicaid Providers, page 4, located at:

[http://www.health.ny.gov/health\\_care/medicaid/program/update/2003/nov2003.htm#erecs](http://www.health.ny.gov/health_care/medicaid/program/update/2003/nov2003.htm#erecs)

Link to **Early Intervention Program Memorandum 2003-1 Early Intervention Program Records**. [http://www.health.ny.gov/community/infants\\_children/early\\_intervention/memo03-1.htm](http://www.health.ny.gov/community/infants_children/early_intervention/memo03-1.htm)

Link to **Early Intervention Program Regulations 10 NYCRR Section 69-4.26(c)**  
<https://regs.health.ny.gov/content/section-69-426-content-and-retention-child-records>

**4. Question: Are updated formalized tests or assessments required for the 6 month and annual Individualized Family Service Plan (IFSP) reviews?**

**Answer:** Formalized testing and assessments are not required at 6 month or annual reviews. Once a child is found to be eligible for the EIP, there is no requirement that children must have their eligibility for the EIP re-established each year at their annual IFSP review. The purpose of both the 6-month and annual IFSP reviews is to provide the IFSP team with the opportunity to review the effectiveness of the current service plan, have a detailed discussion about the amount of progress the child has made in achieving the outcomes that are documented in the current IFSP, and discuss what, if any, changes should be made to the current IFSP to meet the child's continuing or emerging needs. If it is determined that significant changes to the child's developmental status or other circumstances indicate a change in the child's eligibility status, the IFSP team will need to discuss if there is a need for establishing continuing eligibility or discontinuing services and a multidisciplinary evaluation (MDE) including formalized assessment measures can be completed.

In preparation for all IFSP reviews, providers should prepare a report of their ongoing assessment of the child to document the current level of functioning and progress made toward achieving outcomes. This ongoing assessment may include testing, but, again, testing is not required. There are other means of providing "ongoing assessment" of the child's developmental status, including observations from the parent, observations from the provider, clinical opinion, professional judgment, and information from other caregivers, if appropriate. Information from all of these sources should be included in the provider's progress report and discussed at IFSP reviews. If testing is performed, the results should also be included in the progress report and discussed at the IFSP review, but the results do not determine continuing eligibility for the EIP, nor do they "qualify" a child to receive a specific service. These results should be used to facilitate an IFSP team discussion about the child's current level of functioning, and to help the team make informed decisions when reviewing the child's current service plan.

Link to **Early Intervention Program Regulations 10 NYCRR Section 69-4.23- Initial and continuing eligibility criteria:**

<https://regs.health.ny.gov/content/section-69-423-initial-and-continuing-eligibility-criteria>

**5. Question: How is ongoing eligibility established in the EIP?**

**Answer:** EIP Regulations, Section 69-4.23(b) states the following, "If there is an observable change in the child's developmental status that indicates a potential change in eligibility, the early intervention official may require a determination to be made of whether the child continues to be eligible for early intervention program services." Section 69-4.23(b)(1) further states, "Continuing eligibility for the early intervention program shall be established by a multidisciplinary evaluation."

After reviewing all sources of information, if the Early Intervention Official (EIO) feels that there has been such an observable change in the child's developmental status that it is questionable as to whether the child continues to meet regulatory criteria for continuing eligibility, the EIO can request that a full MDE be completed. The EIO should only request the MDE for children under this circumstance, and not for all children. If the EIO makes such a request, the parent must comply and has the right to select an approved evaluator to complete the MDE. If the parent does not comply, the child's continuing eligibility has not been established, the child must be discharged, and the parents must be informed of their due process rights. It is important to note the EIO cannot request that an MDE to determine a child's continuing eligibility take place sooner than six months following the child and family's initial IFSP. In addition, if a full MDE is completed at the request of the EIO for the purpose of establishing continuing eligibility of a child, the evaluator must be reimbursed for the MDE at the rate established for provision of this service.

**Link to NYS Early Intervention Regulations 10 NYCRR Section 69-4.8- Evaluators/screening, evaluation and assessment responsibilities:**

<https://regs.health.ny.gov/content/section-69-48-evaluatorsscreening-evaluation-and-assessment-responsibilities>

**Link to Early Intervention Program Memorandum 2005-02- Standards and Procedures for Evaluations, Evaluation Reimbursement, and Eligibility Requirements and Determination Under the Early Intervention Program:**

[http://www.health.ny.gov/community/infants\\_children/early\\_intervention/memoranda/2005-02/](http://www.health.ny.gov/community/infants_children/early_intervention/memoranda/2005-02/)

**Link to Addendum to Early Intervention Guidance Memorandum 2005-02**

[http://www.health.ny.gov/community/infants\\_children/early\\_intervention/memoranda/2005-02/addendum\\_memo\\_2005-02.htm](http://www.health.ny.gov/community/infants_children/early_intervention/memoranda/2005-02/addendum_memo_2005-02.htm)

**Link to Dear Colleague Letter, November 2007- Appropriate Use of External Evaluations**

[http://www.health.ny.gov/community/infants\\_children/early\\_intervention/guidance/external\\_evaluations\\_2007-11.htm](http://www.health.ny.gov/community/infants_children/early_intervention/guidance/external_evaluations_2007-11.htm)

**6. Question: Is testing required for children who are in the EIP, approaching their third birthday and are being referred to the Committee on Preschool Special Education?**

**Answer:** When a child in the EIP is in the transition process, it is not the responsibility of the EIP to complete testing to determine if a referral to the Committee on Preschool Special Education (CPSE) should be made, or to assist the CPSE in making an eligibility determination. However, if the parent consents, the service coordinator is responsible to forward to the school district any progress reports/updates that are available on the child whether they provide updated testing or not. It is the responsibility of CPSE evaluators to assess the child and to provide the information necessary to determine if the child is eligible for the CPSE Program.

The **Transition Tool Kit** for Service Coordinators provides more information on the transition process and responsibilities related to children who are transitioning to the CPSE.

[http://www.health.ny.gov/community/infants\\_children/early\\_intervention/docs/transition\\_service\\_coordination\\_tool\\_kit.pdf](http://www.health.ny.gov/community/infants_children/early_intervention/docs/transition_service_coordination_tool_kit.pdf)

**NYS Early Intervention Regulations 10 NYCRR Section 69-4.20- Transition planning:**  
<https://regs.health.ny.gov/content/section-69-420-transition-planning>

**7. Question: Is written parental consent needed to transfer a child’s case in the New York Early Intervention System (NYEIS) from one county to another?**

**Answer:** Written consent of the parent is needed to transfer a child’s case in NYEIS from one county to another.

**8. Question: What is the procedure for transferring a case in NYEIS?**

**Answer:** Prior to any transfer, the transferring county should not close the integrated case, or IFSP, and associated service authorizations should remain open. When the receiving county accepts the transfer and enters a date, any open IFSP and associated service authorizations will close with the correct date.

The receiving county must work with the transferring county to obtain information on the last date of service delivery. If the last date of service delivery was within approximately 3 months of the transfer of the case then the transferring county should transfer the open integrated case (with parental consent) and the receiving county may use the completed MDE and proceed with a new IFSP (the IFSP from the transferring county should not be cloned, a “new” IFSP must be created). If the last date of service delivery is not within approximately 3 months of the transfer of the case, then the transferring county must close the integrated case and transfer the closed integrated case (with parental consent) and the receiving county must complete a new MDE to document eligibility. Results from the previously completed MDE may be used to augment the new MDE, but an entire MDE with 2 qualified personnel assigned must be completed prior to proceeding to the initial IFSP.

The recommended practice for transferred cases can be found in the NYEIS targeted resource titled: ***NYEIS Transfers and Transitions Information and Frequently Asked Questions***. This information is located on the Health Commerce System (HCS). To access this resource, log into the Health Commerce System. Select the My Content button. Select Documents by Group. Click on the link for your appropriate group (e.g. LHD, Health Care). Select Family and Community Health, select Early Intervention, select NYEIS, select Targeted Resources, select Transfers and Transitions to view this document. This document contains different transfer scenarios and what the recommended practice would be for each scenario. Please refer to this document for additional information you may need specific to your case transfer.

**9. Question: Is an ordering/prescribing/referring provider NPI required for all early intervention services?**

**Answer:** An ordering/prescribing/referring provider NPI is required to be included on all claims for service coordination, evaluations (including screenings, core, bi-lingual add on and supplemental evaluation claims), and all other general services. There is no requirement in NYEIS to enter an ordering/prescribing/referring provider NPI for respite, transportation or

assistive technology devices (ATD). Please note that the ordering/prescribing/referring provider NPI is required for assistive technology device (ATD) services.

This matrix was included in a correspondence to the field on July 13, 2015, and provides Department guidance on which ordering/referring provider NPI is required for each type of claim submitted that will require an NPI. BEI worked with the Office of Health Insurance Programs (Medicaid Program) to establish this guidance.

<b>EARLY INTERVENTION SERVICE METHOD TYPE</b>	<b>REFERRING PROVIDER NPI Provider must be enrolled in Medicaid when submitting to Medicaid for payment.</b>
Service Coordination Core Evaluations Supplemental Evaluations	Physician NPI, OR Nurse Practitioner NPI, OR Physician Assistant NPI, OR Institutional Medicaid provider NPI (Agency or Individual)
Licensed Professional Services- Speech Language Pathology (SLP)	SLP provider NPI, OR Physician NPI, OR Nurse Practitioner NPI, OR Physician Assistant NPI
Licensed Professional Services- All other services (Physical Therapy, Occupational Therapy, Nursing)	Physician NPI, OR Nurse Practitioner NPI, OR Physician Assistant NPI
All other EI services (e.g. Special Instruction)	Institutional Medicaid provider NPI (Agency or Individual), OR Physician NPI, OR Nurse Practitioner NPI, OR Physician Assistant NPI

**Link to *EI-NYEIS Ordering/Referring Communication* on EI BILLING website:**  
<https://support.eibilling.com/KB/a266/ei-nyeis-orderingreferring-communication.aspx?KBSearchID=32164>

**10. Question: What ICD-10 Codes should I use when claiming for a service?**

**Answer:** It is the responsibility of the rendering provider to choose accurate and appropriate diagnostic codes for Early Intervention services they provide to children and families in the EIP. Codes assigned should be consistent with the scope of practice of the professional's license, certification, or registration. For scripted services, an appropriate ICD-10 should be assigned and written on the script. Providers should access their professional organizations for information on coding requirements and codes related to diagnosed conditions. For definitive information regarding scope of practice for licensed professionals, including responsibilities regarding diagnoses, providers can access the New York State Office of the Professions website. Questions can be directed to the Office of Professions Board for each profession. A list of many of the available ICD-10 codes are provided in NYEIS for your reference.



Link to New York State Office of the Professions website <http://www.op.nysed.gov>.

**11. Question: What if the ICD-10 code I want to assign is not available in NYEIS?**

**Answer:** If providers determine there is an ICD-10 code that needs to be made available in NYEIS, users should submit a *NYEIS Feature Request* form available on the Health Commerce System (HCS), in the NYEIS folder, to request that the code be added to the ICD-10 code list in NYEIS. After completing this form, it should be submitted to the Bureau of Early Intervention using the *NYEIS Feature Request/Data Correction Request Upload Application* located on the Health Commerce System (HCS). Directions for completing and submitting the form can also be found on the HCS in the NYEIS folder, by selecting Feature Request – Data Change Request.

**12. Question: What CPT Code (Current Procedural Terms Code) should I use when billing for services?**

**Answer:** The Bureau of Early Intervention (BEI) cannot advise you as to which CPT code you should use. The codes must be provided by the early intervention professional delivering the service. The CPT codes reported on the claim must be appropriate for the diagnosis code (ICD) associated with the child. It is suggested that you select a code that most accurately describes the service(s) provided/technique(s) used with the child and/or family during the session.

**13. Question: How do we decide if a specific item for a child is an Assistive Technology Device (ATD) that should be pursued through Early Intervention?**

**Answer:** It is the responsibility of the IFSP team members (parent, Ongoing Service Coordinator, Early Intervention Official /Designee, and service providers) to determine if an assistive technology device is developmentally appropriate and is needed to increase, maintain, or improve the functional capabilities of an eligible child and achieve or facilitate the attainment of functional outcomes included in the child and family's individualized family service plan (IFSP). If the IFSP team agrees that this assistive technology device is needed, then the AT device would be included in the IFSP. After the item is included on the IFSP, the Service Coordinator/therapists or other professionals on the IFSP team are responsible for obtaining this device through the EIP, ATD procurement process. The State Fiscal Agent (SFA) has dedicated staff that will work directly with the municipality to identify a vendor and facilitate the procurement and delivery of the ATD.

Link to SFA website -***ATD Training-Overview and Process UPDATED***  
<https://support.eibilling.com/KB/a203/atd-training-overview-and-process-updated.aspx?KBSearchID=32173>

***Early Intervention Memorandum 99-1 – Assistive Technology*** Re-issued on December, 2000 addresses the subject of Assistive Technology in the EIP. You can find the full document at the following link: <http://www.health.ny.gov/guidance/oph/cch/bei/99-1.pdf> .

This document provides information that will be useful to the IFSP team to help them determine if the recommended item should be placed on the IFSP for a child as an ATD. It also includes



examples of items that are /are not considered assistive technology devices under the EIP and provides an outline of information about assistive technology that should be included in an IFSP.

**14. Question: A child is eligible for Early Intervention Services, but we do not have a provider for the service needed. Can we leave the service off of the Individual Family Service Plan (IFSP) until a provider is found?**

**Answer:** It is not permissible to leave a service off of a child's IFSP until a provider is located. The projected dates for initiation of services must be as soon as possible but no later than 30 days after the parent provides written consent for the services in the IFSP, or any subsequent amendments to the IFSP. If the parent and other members of the IFSP team determine that one or more types of service(s) included in the IFSP must appropriately be initiated more than 30 days after the parent provides written consent for the services in the IFSP, such service(s) must be delivered no later than 30 days after the projected date of initiation of such service(s) as set forth in the IFSP. It is the responsibility of the ongoing service coordinator to ensure implementation of the child's and family's IFSP, including ensuring the timely delivery of Early Intervention Program services within 30 calendar days from the projected dates for initiation of services as set forth in the plan.

Link to ***IFSP Implementation Tool Kit for Service Coordinators***

[http://www.health.ny.gov/community/infants\\_children/early\\_intervention/docs/ifsp\\_implementation\\_service\\_coordination\\_tool\\_kit.pdf](http://www.health.ny.gov/community/infants_children/early_intervention/docs/ifsp_implementation_service_coordination_tool_kit.pdf)

**15. Question: Can we delay the start of the services on the IFSP because of delays entering information into NYEIS?**

**Answer:** It is not permissible to delay the start of EI services because of delays entering information into NYEIS. NYEIS is the data system into which information is entered and stored, but EI service delivery is not dependent upon this system for services to be implemented. According to EIP Regulations, Section 69-4.11(a)(10)(x), the IFSP must include, "The projected dates for initiation of services, which date must be as soon as possible but no later than 30 days after the parent provides written consent for the services in the IFSP, provided however that: if the parent and other members of the IFSP team determine that one or more types of service(s) included in the IFSP must appropriately be initiated more than 30 days after the parent provides written consent for the services in the IFSP, such service(s) must be delivered no later than 30 days after the projected date of initiation of such service(s) as set forth in the IFSP". For the initial IFSP, the projected date is defaulted in NYEIS to the date after the IFSP meeting, when the parent and the EIO would have agreed on services and signed the IFSP. For IFSP reviews, the projected date is defaulted in NYEIS to the day after the end date of the current IFSP.

Services for a child should not be delayed due to an issue with NYEIS or due to a delay in entering information into NYEIS. The municipality must have policies and procedures in place which address this situation so that providers are not waiting before initiating contact with the family and beginning the service provision. The municipality should use procedures that were in place prior to NYEIS to ensure timely start of services which may have included providing a hard copy of the IFSP to each provider before the SA was generated, or providing an email

confirmation to the provider. It is up to the municipality to establish a policy to ensure that providers are aware of the municipality's expectation to begin services in a timely manner. The municipality's procedures should address payment to providers. The municipality should also have policies in place which address timely entry of information into NYEIS so that there is not a delay in processing information needed by the service providers.

**16. Question: What are the requirements for providers regarding training/continuing education hours?**

**Answer:** Detailed information about continuing education requirements for providers is found in the Provider Agreement, Section IV. Personnel. The Provider agreement states that a provider shall participate in a minimum of ten clock (10) hours of professional development activities per year. These activities are not restricted to Department sponsored trainings and may include other professional activities necessary for licensure and identified by the Provider to increase the Provider's professional skills and knowledge. The Provider will maintain documentation of professional development activities and make such documentation available upon request to the Department and/or Municipality.

Those who provide **service coordination services** must participate each calendar year, in 1.5 clock hours minimum of professional development which is directly related to service coordination. These 1.5 hours may count toward the total 10 hours required annually for EIP providers.

Those who provide **evaluations and screening services** in the EIP must complete 1.5 hours minimum of professional development annually that is related to the provision of evaluation and assessments to children under the age of 5 years. These 1.5 hours may count toward the total 10 hours required annually for EIP providers.

**17. Question: What needs to be included in a Quality Assurance Plan (QAP) for an agency providing Early Intervention Services?**

**Answer:** An agency must develop and implement a quality assurance plan for each type of profession/service they offer, including evaluations and service coordination. This is required in EI Regulation, Section 69-4.5(a)(4)(vii).

Quality Assurance Plans are highly individualized and based upon the agency's specific structure and the nature of the services they provide. The QA plan should be unique to the agency and based on the services provided, the age of the children served, the profession(s) involved, and the experience of the staff, both employees and contractors.

The following information will be helpful in the development of a Quality Assurance Plan.

- The agency should employ a person(s) to serve in the role of Quality Assurance Professional(s) (QAP) to help create a QA plan and to monitor and implement the plan for all services provided by each profession practiced by your agency whether the services are provided by agency employees or agency contractors.
- The usual questions, who, what, when, where, why, and how, need to be answered. Who is responsible? What are they responsible for? When will the activities take place? Where? Why? How?

- Each QAP should know what the expected practice standards/guidelines are for their profession as well as the expectations for that profession. Professionals may want to view information on the New York State Education Department Office of Professions Website and their professional association Website related to the practice of their profession at: <http://www.op.nysed.gov/>
- The QAP and the program director should be familiar with the regulatory requirements for EI both at the federal and state level.
- The agency is responsible for setting the standard and ensuring the quality of services provided by and on behalf of their agency. When using contractors, what measures are in place to determine if the deliverables are meeting standards? What are the consequences if they are not? How are these carried out? If using employees, what are the plans for supervision? What measures will be used to determine that they are providing quality services? What are the consequences if they are not?

**Early Intervention Program Regulations 10 NYCRR Section 69-4.5(a)(4)(vii)**

<https://regs.health.ny.gov/content/section-69-45-approval-service-coordinators-evaluators-and-service-providers>