

07/05/2022

Reminder: Federal Entitlement to Medicaid and Early Childhood Intervention (ECI) Services

Background:

Early Childhood Intervention (ECI) is a statewide program for children, birth to age three, with disabilities and developmental delays. To be eligible for ECI and receive ECI services from an ECI contractor, a child must have a medically diagnosed condition that has a high probability of resulting in developmental delay, an auditory or visual impairment, or a developmental delay.

Key Details:

The purpose of this notice is to clarify Medicaid beneficiary rights regarding accessing similar services from more than one type of provider. This notice focuses on situations where an ECI contractor is one of these providers.

HHSC has been notified of home health agencies and rehabilitation centers in the Bexar, Dallas, Harris, Hidalgo, MRSA Central, and MRSA West service areas requiring families to choose between ECI services and other Medicaid-covered therapy services. These providers appear to be communicating to families they cannot provide Medicaid-covered therapy services if the member is also receiving ECI services.

HHSC expects MCOs to address this issue with their providers and to ensure that their providers are not creating barriers to accessing medically necessary Medicaid services, including ECI services.

Please educate your provider network of the federal entitlement to Medicaid and ECI services as described in [UMCM, Chapter 16.1, Section 16.1.9](#):

Additional Information:

Access to medically necessary services is a federal entitlement under both Title XIX of the Social Security Act (Medicaid) and Part C of the Individuals with Disabilities Education Act (IDEA). Eligible children are entitled to receive Medicaid medically necessary services from IDEA Part C Early Childhood Intervention (ECI) contractors and other Medicaid service providers. Therefore, independent practitioners, home health agencies, rehabilitation clinics, and ECI contractors may provide complementary Medicaid-funded services to the same child.

Section 1905(r)(5) of the Social Security Act requires that a Medicaid recipient under the age of 21 has access to the health care services listed in Section 1905(a) of the Act for which she or he has medical need. If the family of a child with Medicaid wants services listed in Section 1905(a) of the Social Security Act (including, but not limited to, occupational therapy, physical therapy, or speech therapy) other than, or in addition to, what the ECI contractor provides, and these services are medical necessary, the child is entitled to receive those additional services.

Similarly, the US Department of Education has stated that access to Part C early intervention services (i.e., ECI services) cannot be denied or reduced because a family wishes to receive services that are provided outside of the Part C service system (US Dept. of Ed. letter dated Sept. 4, 2007). Access to services from providers other than ECI contractors cannot create a barrier to the child's access to ECI services. Therefore, a child may receive medically necessary Medicaid services in addition to ECI services.

Both Medicaid and IDEA Part C regulations ensure the right of the parent or legally authorized representative to choose their child's service providers and to decline services they do not want. Federal regulations for Medicaid and IDEA Part C convey the importance of informed decision making and the parent's right to accurate information.

Based on federal statutory language, rules, and subsequent guidance, families do not have to choose between ECI and other Medicaid service providers. If there is medical necessity for Medicaid services, the child is entitled to receive her or his services from multiple providers.