**Section 500.130 Family Fee/Insurance**

a) A statewide sliding fee schedule shall be established by the Department and updated annually for direct EI services and assistive technology devices set forth in Section 500.55, except for those services that are required to be provided at no cost to families, including evaluation and assessment, service coordination, IFSP development and review, and procedural safeguards. (See Appendix A.)

b) Each family's fee obligation shall be established annually. Family participation fees will be billed and collected in installments through the centralized billing system. Families that fail to provide requisite income information will be charged the maximum amount on the sliding scale. Families shall not be required to pay more in annual fees than the cost of EI services and assistive technology devices received during the year and paid by the EI system. At the written request of the family, the fee obligation shall be adjusted prospectively at any point during the year upon proof of change in family income or family size.

c) With parental consent, families shall have their private insurance billed for services and devices set forth in Section 500.55, except for those services and devices that are required to be provided at no cost to the families.

d) Recipients of medical assistance under Article V of the Illinois Public Aid Code or the Children's Health Insurance Program Act and WIC Program recipients shall not be charged an EI family participation fee. Parents of children eligible for Medicaid shall be encouraged but not mandated to enroll their children with Medicaid so Medicaid funds can be accessed for EI services and devices.

e) DHS' definition of ability to pay compares a family's household size and income to the sliding scale found in Appendix A and considers excessive out-of-pocket medical/disaster expenses. A family meets the definition of ability to pay if the family falls within the scale and does not have excessive, proven out-of-pocket medical expenses. Medical expenses must be expenses identified by the Internal Revenue Service as allowable deductions, and disaster expenses must be directly related to fire, flood or other act of nature. A family meets the definition of inability to pay if the family does not fall within the scale or does fall within the scale but has excessive proven out-of-pocket medical/disaster expenses exceeding 15% of income.

f) Exemptions:

1) A family may request exemption through the regional intake entity from the family participation fee due to documentation of catastrophic circumstances or extraordinary expense, by showing either:

A) current (within 12 calendar months) out-of-pocket medical expense in excess of 15% of gross income; or

B) current (within 12 calendar months) out-of-pocket losses in excess of 15% of gross income caused by disaster, such as fire, flood or tornado.

2) A family that consents to insurance may request exemption through the regional intake entity from insurance use upon documentation showing a material risk of losing coverage because:

A) the insurance plan/policy covering the child is an individually purchased policy/plan purchased by a head of household who is not eligible for group medical insurance; or

B) the insurance plan/policy has a lifetime cap that applies to one or more specific types of EI services specified in the IFSP that coverage could be exhausted during the period covered by the service plan. The exemption will only apply to the EI service and/or plan or policy for which there is a showing of material risk of loss of coverage.

3) Regional intake entities shall submit requests for exemptions to the Department or its designee on the day that they are received, and the Department or its designee shall decide within 10 business days whether to grant the exemption and notify the regional intake entity to inform the family.

g) A parent wishing to contest his/her family participation fee assessment should contact the regional intake entity as soon as possible. The family who wishes to contest the imposition of the family participation fee may request Mediation under Section 500.145 or a Due Process Hearing under Section 500.140 or file a State Complaint under Section 500.170.

h) DHS will not use the public Medicaid benefits or insurance of a child to pay for Part C services without written notification to the family (see subsection (h)(3)). DHS will also meet the no-cost protections identified in subsections (h)(l) and (h)(2).

1) Parents of children eligible for Medicaid shall be encouraged, but not mandated, to enroll their children with Medicaid so Medicaid funds can be accessed for reimbursement for EI services and devices. Parental consent must be obtained to use public benefits of a child or parent that is not already enrolled in Medicaid.

2) Consent must be obtained prior to using a child's parents' public benefits to pay for EI services or devices if that cost would:

A) Decrease available lifetime coverage or any other benefit for the child or parent.

B) Result in the family paying for services that would otherwise be covered by the public benefits plan.

C) Result in any increase in premiums or discontinuation of the public benefits plan for the child or parents.

D) Risk loss of eligibility for the child or parents for home and community-based waivers based on aggregate health-related expenditures.

3) Prior to using a child's or parent's public benefits or insurance, DHS will provide written notification to the family that includes a statement:

A) That parental consent must be obtained before the personally identifiable information (PII) of the child or parent is sent to HFS;

B) Of the no-cost protection provisions described in subsections (h)(l) and (h)(2) and, if the parent does not provide consent, that Part C service or services the parent has consented to receive will be included in the IFSP;

C) Of the parental right to withdraw at any time consent to disclose PII to the public benefits program; and

D) Of the general categories of cost the parent would incur as a result of participating in the public benefits program (such as co-payments or deductibles, or required use of private insurance benefits as primary insurance).

4) If a parent is required to pay any costs outlined in subsection (h)(3)(D), DHS can only charge those costs to the parent if DHS provides the parent with a statement of DHS' system of payments and fees as outlined and included in the Child Family & Connection (CFC) Procedure Manual at www.dhs.state.il.us/ei and provides the parent with notification pursuant to subsection (h)(3).

i) DHS will not use the private insurance benefits of a parent or child unless the parent provides consent, pursuant to subsection (i)(1), including the use of private insurance when such use is a prerequisite for the use of public benefits or insurance as outlined in 34 CFR 303.520(b).

1) Consent is required:

A) When seeking to use a private insurance plan not covered by the Illinois Insurance Code [215 ILCS 5] to pay for EI services under the IFSP; and

B) Each time IFSP services change or increase (frequency, length, duration or intensity).

2) If DHS requires payment from the parent for any costs incurred as a result of the use of the private insurance to pay for EI services (such as co-payments, deductibles), DHS will identify any potential costs in the system of payments and fees; otherwise, DHS must not charge the parent these costs.

3) When obtaining consent, the parent shall be provided a copy of DHS' system of payments and fees, as directed in the CFC Procedure Manual, identifying potential costs when using private insurance for EI services (such as co-payments, premiums or deductibles and other long-term costs such as loss of benefits because of annual or lifetime health insurance coverage caps).

4) DHS must not delay or deny services if a parent meeting the definition of inability to pay does not consent to use of private health insurance to pay for EI services.

j) A statement of DHS' system of payments and fees, as provided in the CFC Procedure Manual, shall be given to the family in writing, specifying which functions or services, if any, are subject to fees. The statement shall include:

1) Assurances that:

A) Fees will not be charged to parents for services that the child/family is entitled to receive at no cost to families;

B) The inability of the parents to pay for services will not result in a delay or denial of services if the parent meets the State's definition of inability to pay the services must be provided at no cost;

C) Families will not be charged any more than the actual cost of the service (factoring in payment from other sources for that service); and

D) Families with public benefits or private insurance will not be charged disproportionately more than families who do not have public benefits or private insurance.

2) Provisions that failure to provide requisite income information and documentation may result in a charge of a fee on the schedule and that the fee will equal the highest monthly installment.

3) Provisions governing how DHS will pay costs such as co-payments and deductibles.

k) The following functions are required at no cost to the child or family:

1) Child find requirements;

2) Evaluation and assessment and functions related to evaluation and assessment;

3) Service Coordination services: and

4) Administrative and coordinative activities related to:

A) IFSP development, review and evaluation for IFSP and Interim IFSP.

B) Implementation of procedural safeguards and other components of the statewide system of EI services.

l) Fees or costs collected from a parent or family to pay for EI services under the system of payments and fees are program income and must be used for the purposes of the grant under Part C of IDEA.

m) Funds received from the family participation fees are considered program income under 34 CFR 80.25. These funds:

1) Are not deducted from the total allowable costs charged under Part C of IDEA;

2) Must be used for DHS' Part C EI services program; and

3) Are considered neither State nor local funds under 34 CFR 303.225(b).

(Source: Amended at 38 Ill. Reg. 11086, effective May 12, 2014)