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DMS Numbered Memo 2022-02

To: DHS Area Administrators/Human Services
County Department of Community Programs Directors
County Departments of Human Services Directors
County Departments of Social Services Directors
County Department of Public Health Directors
County Birth to 3 Program Administrators and Coordinators

From: Krista Willing, Assistant Administrator
System, Fiscal, and Operational Management

A handwritten signature in black ink that reads "Krista Willing".

Maintenance of Effort Requirements for Wisconsin Birth to 3 Program

Summary

This memo explains policies relating to the Reconciliation Report and Maintenance of Effort (MOE) processes required for local Birth to 3 programs. This memo continues current policies that define the “local funds” funding categories that local programs may use to meet the annual MOE. It also describes the calculation processes used to establish the MOE for local Birth to 3 programs.

Background

The Wisconsin Department of Health Services (DHS) operates the Birth to 3 Program through its counties. Each of Wisconsin’s 72 counties are responsible for providing Birth to 3 Program services as outlined in Part C of the Individuals with Disabilities Education Act (IDEA). DHS provides technical assistance, monitoring, and supervision of local programs to ensure the Birth to 3 Program is operating in accordance with IDEA requirements. DHS also assigns financial responsibility among funding sources to ensure compliance with IDEA, Part C requirements.

According to the IDEA Part C regulations, federal funds are to be used to supplement state and local funds expended for infants and toddlers with developmental delays or disabilities enrolled in the Birth to 3 Program. Federal funds cannot be used to supplant or replace those state and local funds. DHS annually provides assurances to the U.S. Department of Education, Office of Special Education Programs that the federal funds awarded for early intervention services will not supplant state and local funds. To comply with this requirement, DHS must ensure that the total amount of state and local funds budgeted for early intervention services in the current fiscal year be at least equal to the total amount of state and local funds actually spent for early intervention services in the most recent preceding fiscal year for which the information is available.

The specific IDEA citation regarding the prohibition against supplanting is below:

Section 303.225 Prohibition against supplanting; indirect costs. [34 CFR § 303.225](#)

(a) Each application must provide satisfactory assurance that the Federal funds made available under section 643 of the Act to the State:

- (1) Will not be commingled with state funds; and
- (2) Will be used so as to supplement the level of state and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those state and local funds.

(b) To meet the requirement in paragraph (a) of this section, the total amount of state and local funds budgeted for expenditures in the current fiscal year for early intervention services for children eligible under this part and their families must be at least equal to the total amount of State and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available.

Allowance may be made for—

- (1) A decrease in the number of infants and toddlers who are eligible to receive early intervention services under this part; and
- (2) Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of facilities.

Reconciliation Report and Maintenance of Effort Processes

The county Birth to 3 Program Reconciliation Reporting process and MOE calculation is based on fiscal data gathered between 2010 and 2013. The process described below provides flexibility for local programs to exercise control over the funding used to satisfy the MOE amount.

Definition of “Local Funds”

DHS definition of “local funds” that may be used to determine whether a local Birth to 3 Program meets its established MOE requirement. include following categories:

- Line A: Community Aids
- Line B: County Funds¹
- Line C: Revenues from Medicaid
- Line D: Revenues from Private Insurance
- Line E: Parental Cost Share
- Line F: Other funds

This definition of local funds creates flexibility for counties to increase or diversify revenue sources to support expenditures of Birth to 3 Program services and to meet the MOE. Under this criteria of local funds, county funds may fluctuate based on fluctuations of other revenue sources from other categories (for example, Medicaid or other funds) as long as the total sum of local funds meets the MOE requirement each calendar year.

The [Birth to 3 Program Reconciliation Report \(F-00388\)](#) reflects the above definition of local funds.

¹ Funds from Line A and Line B are not counted in the state’s reporting to the federal MOE

Calculation of Annual Maintenance of Effort Amount

The local funds total from the Revenue section of the CY 2013 county Birth to 3 Program reconciliation report (Lines A and B as noted above) established the local program MOE amount. This ongoing standard provides counties a predictable MOE requirement for future years.

Assistance

Local Birth to 3 programs should direct questions regarding their MOE requirement to their [Birth to 3 Program children and family program specialist](#) or the [Birth to 3 fiscal inbox](#).