**Wyoming Department of Education**

**Special Programs Unit**

**Policy and Procedures for Special Education**

**Methods of Ensuring Services:**

**Third Party Billing**

**Adopted: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

1. **Students with Disabilities Covered by Public Benefits or Insurance:**
2. A school district or public agency may use Medicaid or other public insurance benefits programs in which a student participates to provide or pay for special education and related services as permitted by the public insurance program. (See W.S. §42-4-103 for authorized services and supplies.) If a school district or public agency seeks reimbursement from Medicaid or other public insurance benefits, the financial responsibility of each noneducational public agency (e.g. the state agency administering public insurance) must precede the financial responsibility of the school district or public agency responsible for ensuring the provision of a Free Appropriate Public Education (FAPE) and developing a child’s Individualized Education Program (IEP). School districts or public agencies shall not be reimbursed from more than one source for the same special education or related service.
3. When providing special education and related services to students with disabilities, the school district or public agency:
	1. May not require a parent/adult student to sign up for or enroll in public insurance programs in order for the student to receive a FAPE under Part B of the IDEA.
	2. May not require the parent to incur any out-of-pocket expense, such as payment of a deductible or co-pay amount incurred in filing a claim for services provided as described in this section, but may utilize Individuals with Disabilities Education Act (IDEA) Part B funds to pay the out-of-pocket expense that the parent/adult student would be required to pay.
	3. May not access a student’s benefits under a public insurance program if that use would:
		1. Decrease available lifetime coverage or any other insured benefit;
		2. Result in a parent paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the student outside of the time the student is in school;
		3. Increase premiums or lead to the discontinuation of benefits or insurance; or
		4. Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.
	4. Shall not compel or require a parent/adult student to dispute or appeal a denial of public benefits.
	5. Must obtain a one-time written consent from the parent/adult student, after providing the written notification described below in paragraph six (6), before accessing the student’s public benefits or insurance for the first time. This consent must specify:
		1. The personally identifiable information that may be disclosed (e.g., records or information about services that may be provided to a particular student consistent with 34 C.F.R. §99.30 and 34 C.F.R. §300.622);
		2. The purpose of the disclosure (e.g., billing for services);
		3. The agency to which the disclosure may be made (e.g., Medicaid); and
		4. That the parent/adult student understands and agrees that the public agency may access the student’s public benefits or insurance to pay for IEP services.
	6. Must provide written notification to the parents/adult student before:
		1. Accessing the student’s public benefits or insurance for the first time;
		2. Prior to obtaining the one-time parental consent; and
		3. Annually thereafter each year the student’s public benefits are accessed to pay for IEP services.

The written notification must explain all of the protections available to the parents/adult student under Part B, to ensure that the parents/adult students are fully informed of their rights before a public agency can access public benefits or insurance to pay for IEP services under the IDEA. The notice must be written in a language understandable to the general public and in the native language of the parent/adult student, or in another mode of communication used by the parent/adult student, unless it is clearly not feasible to do so.

**II. Students with Disabilities Covered by Private Insurance**

1. A school district or public agency may access a parent’s private insurance to provide special education and related services in order to provide FAPE to an eligible student only if the parent provides informed consent. A school district or public agency shall not be reimbursed from more than one source for the same special education or related service.
2. Each time the school district or public agency seeks to access a parent’s private insurance coverage, the school district or public agency:
	1. Must obtain informed parental consent consistent with 34 C.F.R. §300.9;
	2. Must inform the parent that the refusal to permit the school district or public agency to access the parent’s private insurance does not relieve the school district or public agency of its responsibility to ensure that all required IEP services are provided at no cost to the parent.
3. If a school district or public agency is unable to obtain parental consent to use a parent’s private insurance, the school district or public agency may use IDEA Part B funds to pay for the IEP service.
4. To avoid financial cost to a parent who consents to the use of the parent’s private insurance to pay for IEP services, the school district or public agency may use its IDEA Part B funds to pay those costs incurred by the parent (e.g., deductible or co-pay amounts).
5. A school district or public agency shall not compel or require a parent to dispute or appeal a denial of public benefits.

*Citations:*

*34 C.F.R. §300.9 Consent*

*34 C.F.R. §300.154 Methods of ensuring services*

*34 C.F.R. §300.622 Confidentiality of Information - Consent*

*34 C.F.R. §99.30 Under what conditions is prior consent required to disclose information?*

*W.S. §42-4-103 Authorized services and supplies*

*W.S. §42-4-104 State Medicaid agent appointed by governor*