**Wyoming Department of Education**

**Special Programs Unit**

**Policy and Procedures for Special Education**

**Third-Party Billing**

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

1. **Students with Disabilities Covered by Public Benefits or Insurance:**
2. An LEA 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 an LEA seeks reimbursement from Medicaid or other public insurance benefits, the financial responsibility of each provider of public insurance benefits shall precede the financial responsibility of the LEA responsible for developing a child’s IEP. LEAs 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 LEA:
   1. May not require parents/adult students to sign up for or enroll in public insurance programs in order for their student to receive a FAPE under Part B of the IDEA.
   2. May not require parents to incur an out-of-pocket expense, such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided as described in this section, but may pay the cost that the parent otherwise would be required to pay.
   3. May not use 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 family 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. May not compel or demand that a parent/adult student to contest 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 (5), before accessing the student’s or the parent’s public benefits or insurance for the first time. This consent must specify the:
      1. 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. Purpose of the disclosure (e.g., billing for services);
      3. Agency to which the disclosure may be made (e.g., Medicaid); and
      4. Parent/adult student understands and agrees that the public agency may access the student’s or parents’ public benefits or insurance to pay for services.
   6. Must provide written notification to the student’s parents/adult student before accessing the student’s or the parent’s public benefits or insurance for the first time and prior to obtaining the one-time parental consent and annually thereafter. The written notification must explain all of the protections available to parents/adult student under Part B, to ensure that parents/adult students are fully informed of their rights before a public agency can access their or their student’s public benefits or insurance to pay for 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 other 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. An LEA may access a parents’ private insurance to provide special education and related services in order to provide FAPE to an eligible student only if the parent provides consent. LEAs shall not be reimbursed from more than one source for the same special education or related service.
2. Each time the LEA proposes to access a parent’s private insurance coverage, the LEA must:
   1. Obtain informed parental consent consistent with 34 C.F.R. §300.9;
   2. Inform the parents that their refusal to permit the LEA to access their private insurance does not relieve the public agency of its responsibility to ensure all the required services are provided at no cost to the parents.
3. If an LEA is unable to obtain parental consent to use a parents’ private insurance, or when parents would incur a cost for a specified service for access to their private insurance, LEAs may use Part B funds to pay for the service.
4. To avoid financial cost to parents who otherwise would consent to use private insurance, if the parents would incur a cost, the LEA may use its Part B funds to pay those costs (e.g., deductible or co-pay amounts).

*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*