Proposed Statutory Amendments to 10-16-104, C.R.S. for the Coordinated System of Payment for Early Intervention Services

Proposed Amendment	Reason for the Amendment
10-16-104 (1.3) (a) (VI) "Qualified early intervention service provider" or "qualified provider" means a person or agency, as defined by the DIVISION in accordance with part C, who provides early intervention services and is listed on the registry of early intervention service providers pursuant to section 27-10.5-708 (1) (a), C.R.S.	Department is defined in this section, therefore in this context would refer to the Department of Regulatory Agencies. Division is defined to mean the Division for Developmental Disabilities.
10-16-104 (1.3) (b) (I) All individual and group sickness and accident insurance policies OR CONTRACTS issued OR RENEWED by an entity subject to part 2 of this article on or after JULY 1, 2009, and all service or indemnity contracts issued OR RENEWED by an entity subject to part 3 or 4 of this article on or after JULY 1, 2009, that include dependent coverage shall provide coverage for early intervention services delivered by a qualified early intervention service provider to an eligible child. Early intervention services specified in an eligible child's IFSP shall qualify as meeting the standard for medically necessary health care services as used by private health insurance plans.	Updates the language to ensure that contracts and renewed plans are included.
10-16-104 (1.3) (b) (II) The coverage required by this subsection (1.3) shall be available annually to an eligible child from birth up to the child's third birthday and shall be limited to five thousand seven hundred twenty-five dollars, including case management costs, for early intervention services for each dependent child per calendar or policy year. For policies or contracts issued or renewed on or after January 1, 2009, and on or after each January 1 thereafter, the limit shall be adjusted by the division based on the consumer price index for the Denver-Boulder-Greeley metropolitan statistical area for the state fiscal year that ends in the preceding calendar year, OR BY SUCH ADDITIONAL AMOUNT TO BE EQUAL TO THE INCREASE BY THE GENERAL ASSEMBLY TO THE ANNUAL APPROPRIATED RATE TO SERVE ONE CHILD FOR ONE FISCAL YEAR IN THE STATE-FUNDED EARLY INTERVENTION PROGRAM, SHOULD THAT INCREASE BE MORE THAN THE CONSUMER PRICE INDEX INCREASE.	Adds a requirement so that should the General Assembly increase the base rate for State funded EI services by more than the normal COLA increases (e.g., current rate is $5,725, if a cost study were completed that demonstrated that the base rate should be increased to $8,000), that the rate paid by private health insurance plans would be at least equal to the State rate.

Proposed Amendment	Reason for the Amendment
10-16-104 (1.3) (b) (IV) USE OF AVAILABLE COVERAGE UNDER THIS SUBSECTION (1.3) FOR THE COST OF EARLY INTERVENTION SERVICES IS MANDATORY, CONSISTENT WITH THE REQUIREMENTS OF PART C. AN ELIGIBLE CHILD MUST FULLY UTILIZE AVAILABLE COVERAGE UNDER THIS SUBSECTION (1.3) PRIOR TO ACCESSING STATE GENERAL FUNDS OR FEDERAL PART C FUNDS. A CARRIER SHALL NOT TERMINATE OR FAIL TO RENEW HEALTH COVERAGE ON THE BASIS THAT AN ELIGIBLE CHILD HAS ACCESSED OR WILL BE ACCESSING EARLY INTERVENTION SERVICES UNDER THIS SUBSECTION 1.3.	Currently, families are allowed to refuse use of their private insurance coverage. However, allowing this option can undermine the purpose of a Coordinated System of Payment. The federal Individuals with Disabilities Education Act (IDEA), Part C[1], requires that EI services be provided to families at no cost unless state law provides for a system of payments by families, including a schedule of sliding fees. Inserting this requirement into state statute will provide DDD with the authority to access private insurance funds prior to use of state or federal funds and still at no cost to a family.
10-16-104 (1.3) (b) (V) The limit on the amount of coverage for early intervention services specified in subparagraph (II) of this paragraph (b) shall not apply to: (A) Rehabilitation or therapeutic services that are necessary as the result of an acute medical condition OR POST SURGICAL REHABILITATION.	Adds clarification that post surgical rehabilitation is meant to be included to the exclusion list.
10-16-104 (1.3) (e) PAYMENT OF BENEFITS FOR AN ELIGIBLE CHILD SHALL BE MADE IN ACCORDANCE WITH SECTION 27-10.5-709 (1), C.R.S.	This is a conforming amendment in order for 27-10.5-709 (1) to be implemented.
10-16-104 (1.3) (f) Within NINETY days after the division determines that a child is no longer an eligible child for purposes of this subsection (1.3), the division shall notify the carrier that the child is no longer eligible and that the carrier is no longer required to provide the coverage required by this subsection (1.3) for that child.	The Community Centered Boards, who are the early intervention service brokers, and CDHS accounting have indicated that it is very difficult to get all of outstanding invoices submitted and the reconciliation completed with the current 60 days and have requested that this be extended to 90 days.

[1] Sec. 303.12 Early intervention services (a) General. As used in this part, early intervention services means services that--(3) Are provided--(iv) At no cost, unless, subject to Sec. 303.520(b)(3), Federal or State law provides for a system of payments by families, including a schedule of sliding fees...
Sec. 303.520 Policies related to payment for services (b) Specific funding policies. A State's policies must--(3) Include an assurance that--(i) Fees will not be charged for the services that a child is otherwise entitled to receive at no cost to parents; and (ii) The inability of the parents of an eligible child to pay for services will not result in the denial of services to the child or the child's family...

February 4, 2009

Proposed Statutory Amendments to 27-10.5-701, 708 and 709, C.R.S. for the Coordinated System of Payment for Early Intervention Services

Proposed Amendment	Reason for the Amendment
27-10.5-701. Legislative declaration. (1) The general assembly hereby finds that: (J) THE INVOLVEMENT OF A CHILD'S PRIMARY AND OTHER HEALTH CARE PROVIDERS IS AN ESSENTIAL COMPONENT OF EFFECTIVE PLANNING FOR THE PROVISION OF EARLY INTERVENTION SERVICES. (K) THE PROVISION OF EARLY INTERVENTION SERVICES IS INTENDED TO MEET ONLY THE DEVELOPMENTAL NEEDS OF AN INFANT AND TODDLER, AND NOT TO REPLACE OTHER NEEDED MEDICAL SERVICES THAT ARE RECOMMENDED BY A CHILD'S PRIMARY HEALTH CARE PROVIDER.	Health care providers, including therapists, have expressed concern that for those small number of children who have extreme medical needs, the early intervention program is not adequately meeting the child's needs. Adding language to the Legislative Declaration will help to ensure that the expertise and recommendations of health care providers are included in the planning process and in the provision of appropriate services.
27-10.5-708 (4) Use of a certified early intervention broker is voluntary, EXCEPT FOR PRIVATE HEALTH INSURANCE CARRIERS THAT ARE INCLUDED UNDER SECTION 104, SUBSECTION (1.3) of ARTICLE 16 OF TITLE 10, C.R.S., SHALL BE REQUIRED TO MAKE PAYMENT IN TRUST UNDER SUBSECTION 709. Nothing in this part 7 shall prohibit a qualified provider of early intervention services from directly billing the appropriate program of public medical assistance or a participating provider, as defined in section 10-16-102 (28.5), C.R.S., from directly billing a private health insurance carrier for services rendered under this part 7 FOR INSURANCE PLANS THAT ARE NOT INCLUDED UNDER SECTION 104, SUBSECTION (1.3) of ARTICLE 16 OF TITLE 10, C.R.S.	This is a conforming amendment in order for 27-10.5-709 (1) to be implemented.
27-10.5-709 (1) Private health insurance carriers THAT ARE REQUIRED TO MAKE payment of benefits for early intervention services for which coverage is required pursuant to section 10-16-104 (1.3), C.R.S. SHALL PAY BENEFITS to the department in trust for payment to a broker or provider for early intervention services provided to an eligible child. UPON NOTIFICATION FROM THE DEPARTMENT OF AN ELIGIBLE CHILD, THE PRIVATE HEALTH INSURANCE CARRIER SHALL HAVE 30 DAYS TO MAKE PAYMENT TO THE DEPARTMENT.	Insurance carriers have expressed considerable concern about the potential for double payment for an eligible child who accesses therapy services through their provider networks even though the carrier may have paid into the Trust for the same child. Additionally, it is administratively burdensome for CCBs to track which child is in the Trust, and if so which network providers are being used to preventive duplicative service delivery and billing, and which are not in the Trust. By requiring all carriers to use the Trust, this will streamline administration.

Proposed Amendment	Reason for the Amendment
27-10.5-709 (2) (a) WHEN a private health insurance carrier makeS payments of benefits for an eligible child to the department in trust, those moneys shall be deposited in the early intervention services trust fund, which trust fund is hereby created in the state treasury. Except as provided in paragraph (b) of this subsection (2), the principal of the trust fund shall only be used to pay certified early intervention service brokers or qualified early intervention service providers for early intervention services provided to the eligible child for whom the moneys were paid to the department in trust by the private health insurance carrier. Except as provided in paragraph (b) of this subsection (2), the principal of the trust fund shall not constitute state fiscal year spending for purposes of section 20 of article X of the state constitution, and such moneys shall be deemed custodial funds that are not subject to appropriation by the general assembly.	This is a conforming amendment in order for 27-10.5-709 (1) to be implemented.
27-10.5-709 (c) Within NINETY days after the department determines that a child is no longer an eligible child for purposes of section 10-16-104 (1.3), C.R.S., the department shall notify the carrier that the child is no longer eligible and that the carrier is no longer required to provide the coverage required by said section for that child. Any moneys deposited in the trust fund on behalf of an eligible child that are not expended on behalf of the child before the child becomes ineligible shall be returned to the carrier that made the payments in trust for the child.	This is a conforming amendment in order for 10-16-104.5 (1.3) (f) to be implemented.