



COMMONWEALTH of VIRGINIA
Department of Education

March 15, 2013

TO: Division Superintendents

FROM: Patricia I. Wright, Superintendent of Public Instruction

SUBJECT: Regulations Governing Parental Consent to Bill Public Insurance

On February 14, 2013, the Office of Special Education and Rehabilitative Services (OSERS) within the United States Department of Education promulgated revised regulations regarding the use of public benefits or insurance to pay for services under Part B of the Individuals with Disabilities Education Act (IDEA). The implementation date for these regulations is March 18, 2013, with full compliance by July 1, 2013. This date aligns with the IDEA Part B grant FY13 funding cycle. You may find the revised regulations in their entirety at: <http://www.gpo.gov/fdsys/pkg/FR-2013-02-14/pdf/2013-03443.pdf>.

OSERS has provided a summary and a Question and Answer Sheet regarding the revised regulations. You may go to <http://www2.ed.gov/policy/speced/reg/idea/part-b/part-b-parental-consent.html> to review these documents.

In summary, local education agencies must obtain a one-time written consent to bill public benefits or insurance, with an annual notification to follow thereafter.

The one-time written consent must specify (a) the personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided to a particular child); (b) the purpose of the disclosure (e.g., billing for services); and (c) the agency to which the disclosure may be made (e.g., Medicaid).

The consent also must specify that the parent understands and agrees that the public agency may access the child's or parent's public benefits or insurance to pay for services.

If the required parental consent is in your division's current IEPs, or in a parental consent form that met the prior consent requirements, you may continue to use that consent until there is a change in the type of services (e.g., physical therapy or speech therapy) to be provided to the child or the amount of services to be provided to the child (frequency or duration). For IEPs developed on or after March 18, where consent to bill has not previously been given, adherence to the new regulations is required.

Regardless of whether consent has been previously obtained, school divisions must provide a notification to all parents before billing for services, and must then provide a subsequent notice annually. This notice must be provided in language understandable to the general public and in the parent's native language.

Attached is a sample form that can be included in your division's IEPs or used as a one-time consent form. If you elect to incorporate this sample in the IEPs, you will want to ensure that it is clear that consent continues until expressly revoked or until there is a change in the type or amount of services after the one-time consent requirement.

We have also included a sample notification form that can be used as the initial parent notification. Guidance will be issued later regarding the provision of annual notice.

If you have any questions, please contact Amy Edwards, medicaid specialist, Office of Student Services, at amy.edwards@doe.virginia.gov, or by telephone at 804-692-0150.

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Attachment:

- a. [Prior Written Notice for Billing Public Insurance](#) (PDF)
- b. [Parental Consent Form](#) (Word)