

# South Dakota Department of Education's Administrative Review Birth to Three Connections Program

## Final Report

July 1, 2009

Introduction: The Joint Committee on Appropriations directed the Department of Education to conduct an administrative review of the Birth to Three program. The review was directed to include the effectiveness of the program in serving children and reimbursement options to help support the program. The review was directed to include input from parents and other stakeholders on recommended changes to the program.

A stakeholder's workgroup convened in May and June of 2009 to review and make recommendations on the following items: billing Medicaid for Birth to Three services; travel time reimbursement for providers; and the feasibility of family fees. The workgroup also reviewed constituent concerns which included services, personnel, and accountability. The workgroup included representation from parents; providers; service coordinators; the Birth to Three Interagency Coordinating Council; the Department of Social Services; and the Department of Education. There were 19 members in the workgroup. The workgroup reached consensus on each of the following recommendations:

**Recommendation #1: Provide additional training for Birth to Three providers on Medicaid: how to bill for Birth to Three services; and understanding Medicaid's definition of Medical Necessity. The training should be open to both providers and parents.**

Background: Birth to Three providers were required to enroll as Medicaid providers if they qualified to do so (occupational therapists, physical therapists, Master's level speech language pathologists, etc.) as of October 23, 2008. Before that date the majority of Birth to Three private providers did not bill Medicaid due to a much higher Birth to Three rate. As of October 23, 2008, Birth to Three rates aligned with Medicaid rates and providers were required to bill Medicaid. Providers are confused about the billing process and Medicaid's definition for determining 'medical necessity.'

Kim Malsam-Rysdon, Deputy Secretary for the Department of Social Services, provided an overview of Medicaid in South Dakota to the workgroup. The presentation included what Medicaid is and is not, who is eligible for covered services, the state Medicaid plan, optional services, and the Federal Medicaid Assistance Percentages (FMAP) for South Dakota. There are technical assistance resources for providers with questions about Medicaid, including help through a toll free line and a specific contact person for Birth to Three providers with questions.

Revi Warne, Program Manager for the Division of Medical Services, explained that providers must enroll with Medicaid as Birth to Three providers and bill using a Birth to Three taxonomy code. This code is used to track the Birth to Three services so that the Department of Education can be billed for the federal match share. Revi reviewed ARSD 67:16:01:06.02 and explained each of the five components which define medical necessity. He also explained that a physician's referral and provider progress notes must support services billed to Medicaid. A discussion from the workgroup brought up issues about when and how a provider determines the services are no longer medically necessary and what is appropriate for the level and intensity and duration of services.

While representatives from the Department of Social Services reviewed the medical necessity requirements for services billed to Medicaid, Secretary Oster explained that services under the Birth to Three program are not considered medically necessary when the IFSP goals have been met. However, if the IFSP team determines the child still requires services to increase their level of functioning to age appropriate standards, new goals could be developed for the IFSP. If the service is funded by Medicaid, the services must be ordered by a physician and meet the criteria of ARSD 67:16:01:06:02.

The Department of Education representatives further explained that parents cannot direct the IFSP team to continue services when the services are deemed no longer medically necessary. Parents are an important part of the IFSP team but represent only part of the team. If parents disagree with the recommendations of the team, they have the due process rights to challenge the decision.

***Consensus:*** *The workgroup came to consensus that more training and education is needed for Birth to Three providers. The Department of Social Services agreed to schedule and provide training specifically for Medicaid requirements and archive the training for future use by providers.*

**Recommendation #2: Establish a flat fee per service for travel time reimbursement and structure the administrative rule so that the travel time reimbursement rates increase at the same rate of provider inflation.**

Background: When the Birth to Three therapy rates were aligned with Medicaid rates, providers were required to bill Medicaid. The travel time was increased to 90 percent of the therapy rate provided during the therapy session. This was done to offset the lower Medicaid rate and still remain within the budget. (ARSD 24:14:04:13). If more than one therapy is provided during a session, the provider is allowed to calculate their travel time on the highest therapy rate.

A flat rate for travel time would ensure correct billing for travel time and simplify the process.

The proposed flat rate is based on the most often billed therapy rate for occupational and physical therapy, speech and language therapy, and special instruction. These categories were used to determine a flat rate that would be fair to providers because they capture most of the Birth to Three services. There was discussion about how the flat rate could be increased if provider rates increase in the future. A revised administrative rule could be worded so that the travel time rate would increase at the same percentage as the provider rates. For example, if providers receive an inflationary cost of living increase of 3 percent, then the travel time reimbursement would be increased by that same percentage.

The following proposed flat rates would not have a detrimental effect on the overall budget.

**Proposed Flat Rate for Travel Time**

|                 | Most Commonly Billed Therapy<br>p/15 min. | Travel Time Flat Rate<br>p/15 min. |
|-----------------|---|------------------------------------|
| OT & PT         | 16.70                                     | 15.05                              |
| Sp L            | 12.81                                     | 11.55                              |
| Spec. Instruct. | 8.00                                      | 7.25                               |

**Formula for calculating travel time:**

Using odometer reading, determine how many miles the provider has traveled and whether it is in-city or outside of city limits.

**In-city formula:** Mileage x 3 = \_\_\_\_\_ ÷ 15 = unit of travel

Number of miles x 3 (one mile per 3 minutes to allow for traffic) = number of minutes of travel time. Then ÷ by 15 minutes (one unit).

Example, the provider travels 5 in-city miles to the child's home. 5 miles x 3 = 15. The provider can bill for 15 minutes or 1 unit of travel time.

**Outside of city limits formula** = number of miles x 1 (one mile per minute) = the number of minutes of travel time ÷ by 15 minutes (one unit).

Example, the provider travels 120 miles outside of city limits to the child's home. 120 miles x 1 = 120 minutes ÷ by 15 minutes (one unit). The provider can bill for 8 units.

Mileage reimbursement was not addressed by the workgroup, but is added to this report for clarification. Mileage reimbursement at state rates is paid to providers as a separate item in addition to travel time reimbursement. Mileage is reimbursable for travel outside of city limits. No mileage reimbursement is paid for in-city travel.

A more comprehensive explanation and tip sheet for providers is available on the Birth to Three website at <http://doe.sd.gov/oess/Birthto3/servcoord.asp>. The workgroup came to consensus that a flat rate for travel time as proposed should be pursued through the administrative rule process.

**Consensus:** *The workgroup supports a flat rate for travel time reimbursement and recommends that ARSD 24:14:04:13 be revised as proposed by the Department of Education and the flat rate will increase at the same rate as the provider inflationary increase.*

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| <b>Recommendation #3: Charging family fees for Birth to Three services is not feasible.</b> |
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Background: The workgroup reviewed data from other states. Only fourteen states out of fifty charge a family fee. Of those fourteen, seven states with demographics or unique features similar to South Dakota were surveyed. The survey was conducted by Mountain Plains Regional Resource Center which provides technical assistance to early intervention programs. The questions asked were "Is collecting the fee worth the administrative cost?" and "Are families choosing not to access early intervention services because of the fees"? Seven states responded with varying answers from very few fees are collected; to some families choose not to participate in the program due to fees, and others who discontinue services when they fall behind on payments.

Also surveyed were the South Dakota Department of Health and the South Dakota Department of Human Services. The Department of Health eliminated family fees for the children's special health program after several years. They were never able to recover the cost of administering family fees and there was no benefit to the program. The Department of Human Services does not charge fees for their family support program or the respite care program for children with disabilities.

The workgroup analyzed the data from two different fee scenarios: fees based on a percentage of the services utilized; and a flat fee based on income, regardless of the level of services utilized. Excel spreadsheets were projected on large screens for the workgroup to analyze the various family incomes, units of service utilized, and monthly fees generated. The spreadsheets allowed various scenarios to be entered so that the workgroup could immediately see the results of the calculations and the total amount generated by each scenario. Fifty –five percent of all Birth to Three families are on Medicaid. Those families were exempt from any fees in the scenarios. (See Attachments 1 and 2.)

The workgroup made the following assumptions as they worked through the fee scenarios: various income brackets as reported by the U.S. Census Bureau 2005-2007 American Community Survey matched the percentage of Birth to Three families in those same brackets, for example, if 23 percent of all households in South Dakota earned \$60,000 in gross income, then 23 percent of all families in the Birth to Three Program would fall in that same income bracket; and each household had four family members. These are assumptions only as the program does not collect family income or household member information from participating families.

The average number of service units per family was calculated by dividing the total number of service units by the total number of children served. In FY 2008, the average monthly utilization per child for occupational therapy was 1.11 units; physical therapy 1.86 units; and speech therapy 4.31 units.

The various percentages used to calculate a fee ranged anywhere from 25% to 50%, depending on the income bracket of the family and the annual amount the Department estimated to make the process feasible. The same process was used for the flat fee scenario. Flat fees ranged from \$20 to \$100 per month. The Excel spreadsheets used for the analysis are included as an attachment to this report.

Based on the two scenarios, the workgroup raised the following concerns:

- on-going verification of family income;
- adjustments when family income changes;
- determining exemptions from family income, i.e. child support payments, medical costs, education and child care costs;
- cost of developing a data system to generate monthly bills;
- collection of fees;
- sanctions for families who have been determined as able to pay, but do not pay;
- families who drop out of the program because of fees;
- flat monthly fee vs. level of services and “fairness”; and
- additional FTE needed by the Department of Education to administer a family fee pay structure.

It was the opinion of the providers in the workgroup that family fees could negatively impact the relationship between parents and providers. The philosophy of early intervention services in the home is that it involves parents who can, with instruction from the therapist, incorporate specific activities into the child's daily routines in-between the therapist's regular visits.

The workgroup's major concern was for those children whose families decline services because of the cost (the family may not admit that is the reason), or drop out of the program when they fall behind on payments. Research shows that for every dollar spent on early intervention, at least four to eleven dollars are saved, depending on the various studies. Research shows that providing early intervention services saves the state money in both the short-term and long-term. Additionally, if parents decline services or drop out of the program, the state is held accountable by the federal Office of Special Education Programs (OSEP) for the numbers of children served in the birth to age one category and the birth to age three category.

The workgroup recognized that South Dakota has achieved a 100% score for meeting or exceeding federal requirements in identifying and serving children three years in a row. The consensus of the group was that the program is successful as currently structured and a family fee is not the best approach to serving children in South Dakota. A suggestion was made to consider establishing a charitable contribution fund if there are parents and other interested individuals who want to contribute to the Birth to Three program.

***Consensus:*** *Based on the analysis of the limited number of families who could be charged a fee, the amount of revenue which could be generated, and the negative impact charging a family fee could have on children, the workgroup recommended not to impose family fees.*

Additional Discussion: Issues raised by constituents regarding service provision, adequate personnel, and accountability were discussed by the workgroup. Although no recommendations were made to the Legislature regarding these concerns, the Department of Education is committed to continuing outreach to families, ensuring that all services are fulfilled by qualified personnel, and that appropriate transition from the program continues to occur. The program will continue to monitor services for each child and hold each regional Birth to Three program to a high standard of accountability. The fact that South Dakota was in 100% compliance for monitoring timely services, meeting the 45-day timeline from initial referral to initial IFSP meeting, timely transition meetings, and monitoring complaints speaks to the excellent work of the Birth to Three Service

Coordinators and providers, and the Department of Education's Birth to Three staff.

The workgroup made specific suggestions to enhance outreach activities. These suggestions will be presented at the quarterly Birth to Three Interagency Coordinating Council meeting. All Interagency Coordinating Council meetings are open to the public and advertised in all major newspapers in the state.

Secretary Oster thanked the workgroup for their insights and hard work. The process was time well spent and their recommendations to the department will help strengthen the administration of the Birth to Three program.

Birth to Three Cost Share Based on a Percentage of Service Costs

|                                   |           |            |            |                |
|-----------------------------------|-----------|------------|------------|----------------|
| Median Family Income              | \$ 53,806 |            |            |                |
| Total Number of families          | 205,964   | % Medicaid | # Medicaid | # Non-Medicaid |
| Number of Birth to Three Families | 1,128     | 55%        | 620.40     | 507.60         |

| Service | FY08 Units | Average Units/Child/Year | Average Monthly Units/Child |
|---------|------------|--------------------------|-----------------------------|
| OT      | 28,631     | 25.38                    | 2.12                        |
| PT      | 39,499     | 35.02                    | 2.92                        |
| SL      | 72,039     | 63.86                    | 5.32                        |

| Income Level                    | # of Families | Est. % of Families over \$45,000 | Est. # Birth to Three Families | Average Number of B3 Children in Family | Services/Units/Mon            |                            | Est. Average Total Monthly Expended/Family | % of Cost Paid by Family | Est Total Monthly Income From Fees | Est. Annual Income From Fees | Est. Cost per Family per Month | Est. Cost per Family per year |
|---------------------------------|---------------|----------------------------------|--------------------------------|---|-------------------------------|----------------------------|--|--------------------------|------------------------------------|------------------------------|--------------------------------|-------------------------------|
|                                 |               |                                  |                                |   | Average PT/OT Units Per Month | Average SL Units per Month |  |                          |                                    |                              |                                |                               |
| Less than \$10,000              | 8,442         |                                  | 65.06                          | 1                                       | 5.04                          | 5.32                       | \$ 141.73                                  | 0%                       | \$ -                               | \$ -                         | \$ -                           | \$ -                          |
| \$10,000 to \$14,999            | 7,392         |                                  | 56.97                          | 1                                       | 5.04                          | 5.32                       | \$ 141.73                                  | 0%                       | \$ -                               | \$ -                         | \$ -                           | \$ -                          |
| \$15,000 to \$19,999            | 8,570         |                                  | 66.05                          | 1                                       | 5.04                          | 5.32                       | \$ 141.73                                  | 0%                       | \$ -                               | \$ -                         | \$ -                           | \$ -                          |
| \$20,000 to \$24,999            | 10,955        |                                  | 84.43                          | 1                                       | 5.04                          | 5.32                       | \$ 141.73                                  | 0%                       | \$ -                               | \$ -                         | \$ -                           | \$ -                          |
| \$25,000 to \$29,999            | 11,282        |                                  | 86.95                          | 1                                       | 5.04                          | 5.32                       | \$ 141.73                                  | 0%                       | \$ -                               | \$ -                         | \$ -                           | \$ -                          |
| \$30,000 to \$34,999            | 11,534        |                                  | 88.89                          | 1                                       | 5.04                          | 5.32                       | \$ 141.73                                  | 0%                       | \$ -                               | \$ -                         | \$ -                           | \$ -                          |
| \$35,000 to \$39,999            | 11,339        |                                  | 87.39                          | 1                                       | 5.04                          | 5.32                       | \$ 141.73                                  | 0%                       | \$ -                               | \$ -                         | \$ -                           | \$ -                          |
| \$40,000 to \$44,999            | 10,983        |                                  | 84.65                          | 1                                       | 5.04                          | 5.32                       | \$ 141.73                                  | 0%                       | \$ -                               | \$ -                         | \$ -                           | \$ -                          |
| \$45,000 to \$49,999            | 11,874        | 9%                               | 48.04                          | 1                                       | 5.04                          | 5.32                       | \$ 141.73                                  | 0%                       | \$ -                               | \$ -                         | \$ -                           | \$ -                          |
| \$50,000 to \$59,999            | 25,020        | 20%                              | 101.22                         | 1                                       | 5.04                          | 5.32                       | \$ 141.73                                  | 0%                       | \$ -                               | \$ -                         | \$ -                           | \$ -                          |
| \$60,000 to \$74,999            | 29,104        | 23%                              | 117.75                         | 1                                       | 5.04                          | 5.32                       | \$ 141.73                                  | 20%                      | \$ 3,337.82                        | \$ 40,053.84                 | \$ 28.35                       | \$ 340.16                     |
| \$75,000 to \$99,999            | 30,150        | 24%                              | 121.98                         | 1                                       | 5.04                          | 5.32                       | \$ 141.73                                  | 25%                      | \$ 4,322.15                        | \$ 51,865.80                 | \$ 35.43                       | \$ 425.20                     |
| \$100,000 to \$149,999          | 19,898        | 16%                              | 80.50                          | 1                                       | 5.04                          | 5.32                       | \$ 141.73                                  | 30%                      | \$ 3,422.86                        | \$ 41,074.32                 | \$ 42.52                       | \$ 510.24                     |
| \$150,000 to \$199,999          | 4,330         | 3%                               | 17.52                          | 1                                       | 5.04                          | 5.32                       | \$ 141.73                                  | 35%                      | \$ 869.11                          | \$ 10,429.32                 | \$ 49.61                       | \$ 595.28                     |
| \$200,000 and over              | 5,091         | 4%                               | 20.60                          | 1                                       | 5.04                          | 5.32                       | \$ 141.73                                  | 40%                      | \$ 1,167.88                        | \$ 14,014.56                 | \$ 56.69                       | \$ 680.32                     |
| # Families over \$45,000 Income | 125,467       | 100%                             | 507.61                         |   |                               |                            |  |                          | \$ 13,120                          | \$ 157,438                   |                                |                               |

Note - there may be some variances in amounts due to rounding issues

**Birth to Three Cost Share Based a Flat Fee Sliding Scale**

|                                   |           |            |            |                |
|-----------------------------------|-----------|------------|------------|----------------|
| Median Family Income              | \$ 53,806 |            |            |                |
| Total Number of families          | 205,964   | % Medicaid | # Medicaid | # Non-Medicaid |
| Number of Birth to Three Families | 1,128     | 55%        | 620.40     | 507.60         |

| Income Level           | # of Families | Est. % of Families over \$45,000 | Est. # Birth to Three Families | Monthly Family Fee | Est Monthly Income | Est. Annual Income | Cost per Family per year |
|------------------------|---------------|----------------------------------|--------------------------------|--------------------|--------------------|--------------------|--------------------------|
| Less than \$10,000     | 8,442         |                                  | 65.06                          | -                  | \$ -               | \$ -               | \$ -                     |
| \$10,000 to \$14,999   | 7,392         |                                  | 56.97                          | -                  | \$ -               | \$ -               | \$ -                     |
| \$15,000 to \$19,999   | 8,570         |                                  | 66.05                          | -                  | \$ -               | \$ -               | \$ -                     |
| \$20,000 to \$24,999   | 10,955        |                                  | 84.43                          | -                  | \$ -               | \$ -               | \$ -                     |
| \$25,000 to \$29,999   | 11,282        |                                  | 86.95                          | -                  | \$ -               | \$ -               | \$ -                     |
| \$30,000 to \$34,999   | 11,534        |                                  | 88.89                          | -                  | \$ -               | \$ -               | \$ -                     |
| \$35,000 to \$39,999   | 11,339        |                                  | 87.39                          | -                  | \$ -               | \$ -               | \$ -                     |
| \$40,000 to \$44,999   | 10,983        |                                  | 84.65                          | -                  | \$ -               | \$ -               | \$ -                     |
| \$45,000 to \$49,999   | 11,874        | 9%                               | 48.04                          | -                  | \$ -               | \$ -               | \$ -                     |
| \$50,000 to \$59,999   | 25,020        | 20%                              | 101.22                         | -                  | \$ -               | \$ -               | \$ -                     |
| \$60,000 to \$74,999   | 29,104        | 23%                              | 117.75                         | 20                 | \$ 2,355.00        | \$ 28,260.00       | \$ 240.00                |
| \$75,000 to \$99,999   | 30,150        | 24%                              | 121.98                         | 30                 | \$ 3,659.00        | \$ 43,908.00       | \$ 360.00                |
| \$100,000 to \$149,999 | 19,898        | 16%                              | 80.50                          | 40                 | \$ 3,220.00        | \$ 38,640.00       | \$ 480.00                |
| \$150,000 to \$199,999 | 4,330         | 3%                               | 17.52                          | 70                 | \$ 1,226.00        | \$ 14,712.00       | \$ 840.00                |
| \$200,000 and over     | 5,091         | 4%                               | 20.60                          | 100                | \$ 2,060.00        | \$ 24,720.00       | \$ 1,200.00              |

|                                 |         |      |        |           |                   |
|---------------------------------|---------|------|--------|-----------|-------------------|
| # Families over \$45,000 Income | 125,467 | 100% | 507.61 | \$ 12,520 | <b>\$ 150,240</b> |
|---------------------------------|---------|------|--------|-----------|-------------------|

Note - there may be some variances in amounts due to rounding issues

The estimated monthly and annual income from family fees assumes we would impose a flat monthly fee on households at 300% or more of FPG, regardless of how many or how few services. Also assumed is that %'s of households in the B3 program match the %'s as shown above. These %'s are based on the number of households in these income brackets as reported to the US Census Bureau, 2005-2007 American Community Survey. In other words, if 23% of non-Medicaid households in SD make between \$60,000 and \$74,999, then we assumed that 23% of 508 families in the B3 program also make between \$60,000 and \$74,999. Since we do not collect family income information from Birth to Three families, these are assumptions used for this scenario.