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CDS Administrative Letter: Number 35

TO: CDS Contract Providers, CDS Regional Sites
FROM: Roy Fowler, CDS State Director
DATE: November 15, 2017
RE: Clarification of Make-up, Inclement Weather and Services Previously Unavailable

CDS Regional Sites and the CDS State IEU receive many queries about missed sessions and whether sessions missed earlier in the year can be made up during the summer or other times during the school year. This letter refers only to Early Childhood Special Education and Related Services for children ages 3-5.

Make-up

The services on a child's IEP are reasonably calculated at a certain frequency (times per week) and intensity (length of sessions) and duration (beginning/end dates) to enable the child to make progress toward goals. The anticipated progress is predicated on the rate of intervention being delivered over a period of time. It is not predicated on the precise volume of intervention represented by multiplying frequency times X intensity times X the number of weeks.

When implementing the IEP, we presume that over the course of time some sessions will be missed because of illness, vacations, holidays, staff development and other normal occurrences for the child and/ or the provider/ program. The fact that sessions are missed is not an entitlement to have those sessions re-scheduled at a later date.

If a missed session can be re-scheduled and conducted within a week of the missed session in situations where frequency and intensity is listed weekly (ex. 2x per week), or in a month of the missed session in situations where frequency and intensity is listed monthly (ex. 2x per month), CDS will honor the make-up session if what was done has been appropriately documented. To document this appropriately a service log must be entered for all missed sessions (please see the Provider Q&A in CINC for further detail) and a service log for the make-up session must be entered. In the service log of the make-up session you must indicate it is a make-up session, the date of the missed session and the service log the service log id# for the missed session.

Whether because of missed sessions or a delayed start, or for any other reason, if a child is not making anticipated progress toward annual goals, the IEP team should meet and make necessary adjustments to the IEP to enable the child to make expected progress.

Inclement Weather

Make-up for days closed due to weather is allowed for at the end of the school year. Upon closure, the CDS contracted provider must notify the appropriate CDS Regional Site(s) that they have closed and enter a service log of each child due to have service on the day of closure.

The CDS Regional Site Director and the contracted provider will determine the last day of services allowed for each CDS contracted provider no later than May 15th. The CDS Regional Site Director will maintain a list of last days of school for providers and will make it available upon request.

The only time the school calendar will have adjustments will be for inclement weather. If you or your program close for other reasons, that time cannot not be billed for make-up.

Services Previously Unavailable (SPU)

Services previously unavailable (SPU) are IEP services that have not been able to be provided per the IEP due to the availability of the service or providers. SPU have also been referred to as unmet needs. A CDS contracted provider may receive a referral for SPU. The referral and authorization in CINC will be specific to SPU. When logging the service in CINC the provider must ensure they are documenting the service on the correct authorization.

SPU can be provided during non-school days (per the CDS calendar) and during vacations. The referral for SPU must have a specific number of sessions/ hours to be delivered. Once the frequency has been met, SPU must conclude.

For further information, please contact Roy Fowler at Roy.Fowler@maine.gov.