

To: Early Intervention Officials
Interested Parties

From: Bureau of Early Intervention
Early Intervention Program

Issued: December 29, 2020

Subject: Policy for the Provision of Make-up Early Intervention Program Visits

Background and Purpose

Just as it is important that children and families receive the services that are authorized on a child's IFSP, it is also important that any make-up Early Intervention Program (EIP) visits are provided in a clinically appropriate and timely manner. Accordingly, the purpose of this policy is to provide statewide guidelines for the provision of make-up EIP visits in accordance with EIP regulations. Specifically, 10 NYCRR 69-4.9(g)(2)(ii)(a) provides that "[m]issed visits may be rescheduled and delivered to the child and family by such provider, as clinically appropriate, agreed upon by the parent and in conformance with the child's and family's IFSP" (hereinafter, "make-up visits"). A missed early intervention session that was included in a child and family's current individualized family service plan (IFSP) (hereinafter, "missed session") may be subject to a make-up visit pursuant to this policy. This policy applies to sessions that occur after a provider has been assigned to a child and services have been initiated with the family.

EIP Make-up Visit Policy

Effective for new IFSPs developed and agreed upon on or after January 1, 2021, and all existing IFSPs reviewed or amended after this date, a make-up visit must be provided within two (2) weeks (14 calendar days) after the date of the missed session. Additionally, make-up visits must occur within the IFSP period in which the session was authorized and was to have been delivered. This applies whether a new authorization period (pursuant to a six-month, annual, or other IFSP review) is beginning. Submission of claims for an early intervention service that is delivered outside of the service authorization dates is not permitted.

Similarly, in situations in which children will be aging out of the EIP, transitioning to Preschool Special Education Program services, or will be discharged from EI services, all make-up visits must be delivered prior to the child's last date of EIP eligibility, as children cannot receive services in both federal Part B (Preschool Special Education) and Part C (Early Intervention) services at the same time and no payment can be made for services delivered after a child has exited the EIP through discharge or transition to the Preschool Special Education Program. In some circumstances, there may not be a full 14 calendar days after the missed session. In these cases, service providers should

work closely with the family and service coordinator to deliver services as clinically appropriate prior to the child's exit from the EIP.

Make-up visits can only be delivered if such sessions are included in the child's IFSP and authorized in the EI child case management system in advance of delivering the make-up visit. Sometimes, a missed session will be rescheduled and delivered on another day within the same week, in which case, there would be no alteration to the frequency identified in the IFSP. Other times, a make-up visit is delivered in a subsequent week and would result in a service exceeding the authorized frequency of that service on the child's IFSP. For example, an occupational therapy (OT) session is authorized as two (2) times per week and one of these visits is canceled due to child illness. The following week, three (3) OT sessions are provided to the child (where one of these sessions would be a make-up visit for the missed session in the prior week). Because it is not permissible to exceed the frequency limits in the written order or the service authorization in the EI system, the IFSP team must ensure in advance that such a change comports with the written orders for those services that require a written order and is properly authorized in the EI data system (NYEIS or EI Hub, as applicable).

To summarize, EI is an IFSP-driven service system. Therefore, authorization for make-up visits is required in advance of delivering the service, and, where applicable, providers must also ensure that make-up visit services are delivered in a manner that aligns with applicable written orders and is clinically appropriate.

Missed Sessions Covered and Not Covered Under this Policy

Sessions not delivered to a child and family due to cancellations by the family in cases of child or family illness, or by the provider due to illness or hazardous weather conditions are covered under this policy. EI sessions missed due to a family vacation are not covered under this policy.

Requirements for Conducting Make-up Visits

It is the responsibility of the IFSP team to discuss the need for make-up visits and if clinically appropriate for the child, to include details of such visits in the IFSP document. If make-up visits are determined to be appropriate for the child and the family is in agreement, the IFSP document must include the number of make-up visits allowed, how these sessions will be delivered, identify which services can be received through make-up visits (make-up visits are not authorized for service coordination services), and the specific location where these sessions will occur. If the IFSP team cannot reach full agreement on the IFSP, the service coordinator must implement the services that are not in dispute and have been consented to by the parent, and the parent may exercise due process rights to resolve the dispute.

Where services require a physician's or nurse practitioner's order/script/prescription or a speech-language pathologist's recommendation in the case of speech-language therapy services, providers are required to comply with the written order or the recommendation for the service. If the written order or recommendation specifies two

(2) visits per week, the provider cannot provide additional (make-up) sessions above 2 sessions per week unless the IFSP and written order allow for such visits. Accounting for make-up visits in the IFSP and in consultation with the ordering practitioner will ensure that clinically appropriate early intervention services are delivered in a manner consistent with the child and family's IFSP. Therefore, decisions about service delivery, including frequency of services per week, the appropriateness of adding make-up sessions that increase the number of sessions in a week, and the maximum permissible number of sessions per week must be made and documented in the child and family's IFSP.

Make-up Visits and Written Orders

Allowable make-up visits must be consistent with written orders (prescriptions) for early intervention services where written orders are required. Written orders establish medical necessity for certain services. For example, if a child's IFSP includes three (3) physical therapy sessions per week, it may not be clinically appropriate to provide three make-up visits in addition to the three regularly-scheduled sessions in a one-week period.

Make-up Visits on Same Day of Regular Session

A make-up visit cannot be delivered on the same day that a regular session occurs. Providers cannot add time to their regular session to compensate for a missed session.

Make-up Visits within the Same Week

A make-up visit may occur within the same week as the missed session as long as the authorized visit frequency is not exceeded and the written orders and the IFSP accommodates an additional visit(s).

Vacations

Services included in an IFSP which would have occurred while a child is away on vacation are not subject to make-up visits after the family returns from vacation.

Communication Among the IFSP Team

If missed sessions are chronic, the IFSP team should meet to review the reasons for the missed sessions and determine whether a different frequency for service(s) or other changes to the IFSP would be more appropriate for the child and family.

Notification of Absences

Providers are responsible for making reasonable efforts to notify the child's parent/family/caregiver within a reasonable period prior to the date on which a service is to be delivered, or within one hour prior to the time in which a service is scheduled to be delivered, of any temporary inability to deliver such service due to circumstances such as illness, emergencies, hazardous weather, or other unforeseen circumstances which impede the provider's ability to deliver the service as scheduled. If extenuating circumstances prevent such notification prior to a visit, notification should be provided as soon as possible following the missed session. Providers are also responsible for making reasonable efforts to notify the child's parent/family/caregiver if the provider will be more than fifteen (15) minutes late for a scheduled session, due to uncontrollable

circumstances (NYS DOH Provider Agreement and EIP regulations at 10 NYCRR 69-4.9(g)(2)(i)).

Providers are responsible for notifying the child's parent and service coordinator at least five (5) business days prior to any scheduled absences due to vacation, professional activities, or other circumstances, including the dates for which the provider will be unable to deliver services to the child and family in conformance with the IFSP and the date on which services will be resumed by such provider (10 NYCRR 69-4.9(g)(2)(ii)). The service provider is responsible for making reasonable efforts to notify the Department and municipality(ies) within five (5) business days of any prolonged closure or unavailability to provide EI services to children located in a specific municipality (NYS DOH Provider Agreement).

Providers are responsible for notifying the child's service coordinator within twenty-four (24) hours of the child's absence from more than three (3) consecutive scheduled sessions for the delivery of services, indicating the reason for said absence, if known, documenting the missed sessions in the child's record and documenting the contact to the service coordinator. When a service coordinator is notified by a provider or by otherwise becoming aware of a child's absence from more than three (3) scheduled sessions for the delivery of services, the service coordinator shall contact the child's parent/family/caregiver to ascertain the reason for any absences and immediately notify the Early Intervention Official (EIO) regarding the absences, reason for such absences and whether there is a need to modify an existing IFSP (NYS DOH Provider Agreement).

Additionally, parents/families/caregivers have a responsibility to notify service providers if unavailable for scheduled visits. Parents/families/caregivers should make reasonable efforts to notify service providers if the child and/or family is unable to participate in scheduled sessions due to child/family illness or other unexpected reasons at least one hour prior to the scheduled session time. Parents/families/caregivers should notify service providers in advance of any scheduled vacations where the child/family may be unavailable to receive scheduled sessions.

Data Systems, Documentation, and Billing

Authorization in NYEIS:

When agreed upon by the IFSP team that make-up sessions will be included in the IFSP, and written orders are in place where necessary, NYEIS captures information related to make-up sessions on the service authorization for each service. In NYEIS, as service authorizations are entered, there is an onscreen check box to allow make-up visits. Under that checkbox, details about the number of make-up sessions allowed in a specified time period should be entered where indicated. The IFSP team, in consultation with the child's medical practitioner, should agree on a maximum number of make-up sessions that will be allowed and specify the maximum per week, per month, or per IFSP period as applicable, with consideration of the child's age, diagnosis, medical condition, ability to tolerate make-up sessions and the setting in which early intervention

services will be provided. Detailed directions regarding the entry of this information can be found in the *NYEIS User Manual, Unit 6: Individualized Family Service Plan & Service Authorization*, starting on page 78.

Authorization in EI-Hub:

Additional instructions will be forthcoming regarding data entry of authorizations for EI services and make-up visits included in a child's IFSP. The data system will include an indicator for the IFSP to confirm if make-up visits are agreed upon for each service as well as the number of make-up visits allowed in the IFSP period for such service.

Documentation:

In addition to documentation in the IFSP regarding the provision of make-up visits, a session note must be created for each make-up visit furnished to a child participating in the EIP. Session notes for make-up visits must include all required components of a session note, accurately state that the session is in place of a previously scheduled missed session, and reflect the date/time that the make-up visit occurred (NYS DOH EIP Provider Agreement and EIP regulations at 10 NYCRR 69-4.26(c)).

Billing:

In order for a make-up visit to be billable, it is required that the session must be:

- Delivered as authorized in the child's IFSP (documented in the IFSP)
- Clinically appropriate and consistent with the written order/referral for the child (for services which require medical orders)
- Delivered within fourteen (14) calendar days after the date of the missed session
- Documented in a manner that supports billing for the make-up session that was furnished
- Delivered in a manner which complies with EIP billing rules identified in EIP regulation 10 NYCRR 69-4.30.

Failure to adhere to requirements outlined in this guidance may result in denial of claims by payers, including commercial insurance and Medicaid, and payments for EI make-up visits that do not adhere to this guidance are subject to recoupment on audit.

Questions related to this policy should be directed to the Bureau of Early Intervention at beipub@health.ny.gov or 518-473-7016.