

Reissued
Early Intervention Memorandum 93-3

To: Early Intervention Officials
Interested Parties

From: Bureau of Early Intervention
Early Intervention Program

Revised: June 1, 2019

Subject: Respite Services in the Early Intervention Program and Frequently Asked Questions and Answers

The state law which established the Early Intervention Program (EIP) included provisions for respite services to eligible children (Public Health Law §2547). This memo provides instructions and guidance for Early Intervention Officials in administering respite services.

1. What is respite?

Respite is temporary relief from caregiving responsibilities. It is intended to provide support to parents or other caregivers who may otherwise be overwhelmed by the intensity and constancy of caregiving responsibilities that may be necessary for a child with special needs. Respite may be provided in the child's home or another appropriate location. There is no required minimum or maximum frequency or duration for respite. However, in the current early intervention (EI) system, New York Early Intervention System (NYEIS), respite services can only be authorized in one-hour increments, which means the minimum duration is 60 minutes. Respite services delivered to a child who is eligible for early intervention services must be included in the child's Individualized Family Service Plan (IFSP).

2. Who is eligible for respite services?

For a family to receive respite services, a child must first meet the eligibility criteria for the Early Intervention Program (EIP) (i.e., the child has a developmental delay or a diagnosed condition with a high probability of resulting in delay that meets established eligibility criteria for the EIP). If respite services are to be provided, they must be included in an eligible child's IFSP.

3. What criteria must be considered in assessing when respite services are appropriate?

The Department of Health (DOH) Early Intervention Program regulations (10 NYCRR section 69-4.18) provide criteria to be considered in assessing when respite services are appropriate. As with other early intervention services, the need for respite must be determined in the context of IFSP development, based on the individual needs of the child and family. Specific criteria to be considered include:

- a. Severity of the child's disability and needs.
- b. Potential risk of out-of-home placement for the child if respite services are not provided.
- c. Lack of access to informal support systems such as extended family, supportive friends, community supports, etc.
- d. Lack of access to other sources of respite, for example, family supports through the Office for People with Developmental Disabilities or respite provided through other State early intervention service agencies, due to barriers such as waiting lists, and remote/inaccessible location of services.
- e. Presence of factors known to increase family stress, such as family size, presence of another child or family member with a disability, etc. and
- f. The perceived and expressed level of need for respite services by the parent.

3. Who may provide respite services?

There is no DOH list of approved respite providers. Early Intervention Officials must first reach out to agencies and individuals with experience in respite service delivery, such as those under the Office for People with Developmental Disabilities (OPWDD) Family Support Services Program. This includes family reimbursement approaches in which families select, train, and supervise respite care workers. Respite providers need not be licensed or certified professionals. Additional information about OPWDD's Family Support Services Program is available at https://opwdd.ny.gov/opwdd_services_supports/family_support_services .

4. What rates should municipalities pay for respite?

Municipalities set the reimbursement rate for respite services. As such, the Early Intervention Official (EIO) in each municipality should use rates of payment or fees which are consistent with those currently in use for respite services under OPWDD Family Support Services Program. By contacting their local Developmental Disabilities Services Office (DDSO), EIOs will obtain the most current information about OPWDD respite providers, models and payment levels. (A representative from the local DDSO is a required member of each municipality's Local Early Intervention Coordinating Council.)

5. How are funds for respite allocated?

In 2006, a separate appropriation was made available in the State Budget for reimbursement of respite services provided to families of eligible children in the EIP. DOH allocates funds to municipalities for reimbursement of respite services on a population-based formula.

6. How will municipalities be reimbursed for respite costs?

Respite services provided in accordance with early intervention (EI) regulations at 10 NYCRR section 69-4.18 are currently reimbursed with 50 percent State funds and 50 percent county funds.

Municipalities may claim reimbursement for respite costs through the same process used for other non-Medicaid early intervention service costs. While state reimbursement for other early

intervention services is not available to municipalities, by law, until after April 1 of the program year (July 1 to June 30) in which the municipality paid for the services, this lag in reimbursement is not applied to respite costs. Respite services furnished between April 1st and March 31st must be claimed by June 30th, which is three months after the close of the state fiscal year and coincides with the close of the EI program year.

7. What happens if a municipality uses its full allocation of State funds for respite services prior to the end of the state fiscal year (prior to March 31st)?

If a county uses its annual allocation of State funds for respite services before the end of the state fiscal year, the county will assume responsibility for 100 percent of reimbursement for early intervention respite services for the remainder of the fiscal year.

Please reference *Early Intervention Program Respite Services Frequently Asked Questions and Answers* below for additional information.

Questions about respite services may be directed to the Early Intervention Program at beipub@health.ny.gov or 518-473-7016.

Early Intervention Program Respite Services Frequently Asked Questions and Answers

1. Question: Are there restrictions to what respite reimbursement can be used for?

Response: As stated in the June 1, 2019 reissued Memorandum 93-3, respite is temporary relief from caregiving responsibilities. It is intended to provide support to parents or other caregivers who may otherwise be overwhelmed by the intensity and constancy of caregiving responsibilities that may be necessary for a child with special needs. Respite funds cannot be used to pay for daycare coverage while the parent or caregiver goes to work. Respite reimbursement cannot be used for equipment or supplies needed by the child.

2. Question: Who determines if respite services are appropriate for a child and family?

Response: The Individualized Family Service Plan (IFSP) team (parent, service coordinator, early intervention official/designee, evaluator, provider, etc.) is responsible for determining if respite services are needed based on the individualized needs of the child and family. If the IFSP team decides that respite services will be provided, respite would be included on a child's IFSP. If the IFSP team cannot reach agreement about services the child and family will receive, the sections of the IFSP that are not in dispute are implemented and the parent may seek mediation or an impartial hearing to resolve the dispute.

3. Question: How should the IFSP team use the criteria identified in NYS Early Intervention Program regulation 10 NYCRR 69-4.18 to determine if respite services are appropriate for a family?

Response: The IFSP team should carefully consider all factors outlined in regulation collectively when deciding if respite is needed for a family. Justification for respite services is not based on any single criterion. For example, a child who has a severe disability and a high level of needs may have a large support system of family members and friends that are available to assist the family. In this case the IFSP team may decide that respite services are not necessary for the family at this time. In contrast, the IFSP team may determine that respite is necessary for a family who has a child with less severe needs but lacks informal supports and has several factors known to increase family stress.

“The perceived need for respite services by the parent, in the absence of any other factors, is not a sufficient indicator of the need for respite. Part C requirements make clear that the determination of Part C services on the IFSP must be made by the IFSP team, which includes the child's parent(s), but that such a determination is not based solely on parent request.” (Office of Special Education Programs June 19, 2009 letter to the New York State Early Intervention Program)

4. Question: What information must be included in the child's IFSP regarding respite services?

Response: During the IFSP meeting, the IFSP team must decide if respite services are appropriate, the number of hours that respite will be provided, the model of respite that is most appropriate, and the start and end dates for respite services. These details must be included in the child's IFSP. If the child and family receive respite services from a different source (Office for

People with Developmental Disabilities waiver programs, a community program, etc.) or will be receiving these services through another source outside the EIP, these services and their payment mechanism would also be documented in the IFSP.

5. Question: How can respite be delivered?

Response: Models of respite available in the EIP are as follows:

- Municipalities may contract with or have in place a vendor agreement with individuals or agencies to deliver respite services. In this model, the municipality would pay the respite provider directly for respite services delivered up to the number of hours approved on the child's IFSP; or
- Municipalities may reimburse families directly for the number of hours of respite agreed to in the IFSP. In a family reimbursement approach, the family selects, trains, and supervises the respite care provider. The family pays the respite care provider for the provision of respite and submits a claim to the municipality for reimbursement.

Note: Municipalities can choose to utilize both models but are not required to have both models available for families. Either service delivery model is acceptable as long as the needs of the child and family are met.

6. Question: In a family reimbursement approach in which the family selects, trains, and supervises the respite care worker, are there restrictions regarding who the family can select to provide these respite services?

Response:

- Respite care workers must at least be 18 years of age.
- Any individual who is legally responsible for the child (parent, guardian, foster parent, etc.) cannot be reimbursed through the EIP for providing respite services to the child.
- Immediate family members (siblings) and extended family members (grandparents, aunts, uncles, cousins, etc.) cannot be reimbursed through the EIP for respite services.

7. Question: Can respite be provided to two children from the same family who are in the EIP at the same time?

Response: Respite could be provided to multiple children in the same family, enrolled in the EIP at the same time, as long as it is appropriate for each child and their individual needs. The respite provider would be responsible for ensuring the health and safety of the children in their care. Respite services must be agreed upon by the IFSP team and included in each child's IFSP.

8. Question: Are there specific time periods for respite reimbursement?

Response: The allocation time period for respite reimbursement is based on the New York State budget year, April 1 through March 31. For example, respite services provided between April 1, 2018 and March 31, 2019 must be received by the Department on a voucher no later than 90 days after the end of the allocation year (in this example, June 30, 2019) for municipalities to request reimbursement. Due to the time frames for respite reimbursement and the claiming process currently used, the Department recommends that service authorizations created in the New York Early Intervention System (NYEIS) do not span the April 1st date.

9. Question: Where can I find additional information about respite?

Response: Additional Information regarding respite can be found in the following resources:
EIP regulation 10 NYCRR 69-4.18 <https://regs.health.ny.gov/content/section-69-418-respite-services>

Public Health Law §2547

https://www.health.ny.gov/community/infants_children/early_intervention/regulations/title2.htm#2547

United States Department of Education Office of Special Education Programs (OSEP) June 19, 2009 letter to Dr. Brad Hutton <https://www2.ed.gov/policy/speced/guid/idea/letters/2009-2/hutton061909eis2q2009.pdf>

NYEIS User Manual Unit 8: Provider Invoicing located in the NYEIS folder on the Health Commerce System.