



Date: 6/5/2025

DMS Numbered Memo 2025-01

To: County Birth to 3 Program Coordinators
County Department of Human Services Directors
County Department of Social Services Directors
County Department of Community Programs Directors
Long-Term Support Supervisors and Leads

From: Bill Hanna, Medicaid Director
Division of Medicaid Services

Birth to 3 Program: Annual Data Review Process and Issuing Findings of Noncompliance

Background

The federal Office of Special Education Programs (OSEP) within the U.S. Department of Education requires states to provide monitoring and oversight of programs that provide early intervention services to ensure compliance with the Individuals with Disabilities Education Act (IDEA) Part C requirements, as outlined per 34 CFR 303.700. To comply with these requirements, states must identify and demonstrate timely correction of instances of noncompliance in early intervention service programs. The [OSEP State General Supervision Responsibilities Under Part B and Part C of IDEA](#) established specific requirements for demonstrating timely correction of instances of identified noncompliance. As the IDEA Part C lead agency, the Wisconsin Department of Health Services (DHS) is tasked with ensuring implementation of these requirements and monitoring compliance of local Birth to 3 Programs.

Purpose

This memo details the updated procedure for the local Birth to 3 Program verification and correction of pre-findings and findings of noncompliance. OSEP updated guidance on the verification correction process for instances of child-specific compliance. Updated guidance is provided for both the pre-finding correction period and the final issuance of findings process.

Annual Data Review Process

DHS reviews data from January 1 through March 31 each year to monitor Part C compliance. DHS issues a written finding of noncompliance to a local Birth to 3 Program when the annual compliance data review shows less than 100% compliance for the following indicators if they are not corrected during a pre-finding correction period:

- Indicator 1: Timely Services
- Indicator 7: Timely Individualized Family Service Plans
- Indicator 8: Timely Transition
 - Indicator 8A: Timely Transition Planning

- Indicator 8B: Timely Referral to the Local Education Agency (LEA)
- Indicator 8C: Timely Transition Planning Conference

Pre-Findings Correction Period

DHS has established a pre-findings correction period as part of the annual data review process. The pre-findings correction period gives local Birth to 3 Programs an opportunity to demonstrate compliance with Part C requirements for indicators 1, 7, 8A, 8B, and 8C before DHS issues a written notification of noncompliance. DHS will follow the pre-finding correction process before a finding of noncompliance:

- DHS will review data reports and identify any data from the annual compliance data review to offer a pre-findings correction.
- DHS will inform local Birth to 3 Programs of the indicators that may be addressed through the pre-findings correction process.
- By the date determined by DHS, local Birth to 3 Programs may demonstrate that:
 - They made corrections to erroneously-entered data for the dates between January 1–March 31, and this data is now accurate.
 - They made and can demonstrate a system level adjustment by identifying 60 consecutive days with 100% compliant data for the identified indicator(s) within the timeframe prescribed by DHS.

Any instances of child level noncompliance discovered during the pre-finding period must still be corrected. Local programs can evidence correction(s) by submitting child file documentation to DHS showing the implementation of required activity for each indicator(s). DHS will verify the correction(s) through data review and contact the local program for additional documentation and context regarding missing, late compliant, and non-compliant activities.

Issuing Findings of Noncompliance

If the local program cannot demonstrate compliance during the pre-finding correction period, DHS will issue a written notification of non-compliance findings. The local program must then follow the DHS correction process for findings of noncompliance.

Correction of Findings of Noncompliance

The local Birth to 3 Program must demonstrate correction of findings of noncompliance. The local Birth to 3 Program is required to take the following actions to correct findings of noncompliance:

- By the date determined by DHS, and no later than 12 months after the dated findings of noncompliance notification letter, the local program must demonstrate system level correction and, when applicable, child-specific correction for any indicator(s) identified.
- Demonstrate system level correction for indicator(s) 1, 7, 8A, 8B, and 8C by identifying 60 consecutive days with 100% compliant data in the statewide data base for the indicator(s). This data may be subject to file-level review by DHS.
- If applicable, demonstrate child-specific correction for indicator(s) 1, 7, 8A, 8B, and 8C by submitting child file documentation to DHS showing the implementation of a required activity for the indicator(s).

At any time after receiving a written notification of findings of noncompliance from DHS, the local Birth to 3 Program may contact the Bureau of Children's Services Technical Assistance Center (TAC) for support in correcting the finding(s) of noncompliance at DHSBCSTAC@dhs.wisconsin.gov.

Verification of Correction of Findings of Noncompliance

DHS ensures systemic correction by reviewing the state data system for the 60 consecutive days timeframe and verifying 100% compliance. DHS examines documentation submitted by the local Birth to 3 Program to ensure that child-specific correction was completed for child file(s) with identified findings of noncompliance and that the local Birth to 3 Program correctly implemented regulatory requirements.

The local Birth to 3 Program will receive a written notification communicating the outcome of the DHS verification review. The written notification will include the following information:

- Date finding(s) of noncompliance was given
- Identification of Finding(s)/Indicator(s) involved
- Date of DHS review
- Two months of data reviewed for verification of correction
- Outcome of verification process

Corrective Action Plans

Failure to correct findings of noncompliance will result in the issuance of a corrective action plan. The local Birth to 3 Program must then implement the correction process with assistance from DHS.

Summary of Action

This information is effective immediately and replaces any previous findings of noncompliance guidance provided by DHS.

Assistance

Local Birth to 3 Programs are encouraged to direct any questions to the BCS TAC by emailing DHSBCSTAC@dhs.wisconsin.gov.