

§ 1440. Payor of last resort**(a) Nonsubstitution**

Funds provided under section 1443 of this title may not be used to satisfy a financial commitment for services that would have been paid for from another public or private source, including any medical program administered by the Secretary of Defense, but for the enactment of this subchapter, except that whenever considered necessary to prevent a delay in the receipt of appropriate early intervention services by an infant, toddler, or family in a timely fashion, funds provided under section 1443 of this title may be used to pay the provider of services pending reimbursement from the agency that has ultimate responsibility for the payment.

(b) Obligations related to and methods of ensuring services**(1) Establishing financial responsibility for services****(A) In general**

The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency and the designated lead agency, in order to ensure—

(i) the provision of, and financial responsibility for, services provided under this subchapter; and

(ii) such services are consistent with the requirements of section 1435 of this title and the State's application pursuant to section 1437 of this title, including the provision of such services during the pendency of any such dispute.

(B) Consistency between agreements or mechanisms under subchapter II

The Chief Executive Officer of a State or designee of the officer shall ensure that the terms and conditions of such agreement or mechanism are consistent with the terms and conditions of the State's agreement or mechanism under section 1412(a)(12) of this title, where appropriate.

(2) Reimbursement for services by public agency**(A) In general**

If a public agency other than an educational agency fails to provide or pay for the services pursuant to an agreement required under paragraph (1), the local educational agency or State agency (as determined by the Chief Executive Officer or designee) shall provide or pay for the provision of such services to the child.

(B) Reimbursement

Such local educational agency or State agency is authorized to claim reimbursement for the services from the public agency that failed to provide or pay for such services and such public agency shall reimburse the local educational agency or State agency pursuant to the terms of the interagency agreement or other mechanism required under paragraph (1).

(3) Special rule

The requirements of paragraph (1) may be met through—

(A) State statute or regulation;

(B) signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

(C) other appropriate written methods as determined by the Chief Executive Officer of the State or designee of the officer and approved by the Secretary through the review and approval of the State's application pursuant to section 1437 of this title.

(c) Reduction of other benefits

Nothing in this subchapter shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act [42 U.S.C. 701 et seq.] (relating to maternal and child health) or title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] (relating to medicaid for infants or toddlers with disabilities) within the State.

(Pub. L. 91-230, title VI, §640, as added Pub. L. 108-446, title I, §101, Dec. 3, 2004, 118 Stat. 2757.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles V and XIX of the Act are classified generally to subchapters V (§701 et seq.) and XIX (§1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1440, Pub. L. 91-230, title VI, §640, as added Pub. L. 105-17, title I, §101, June 4, 1997, 111 Stat. 116, related to the payor of last resort, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108-446.

§ 1441. State interagency coordinating council**(a) Establishment****(1) In general**

A State that desires to receive financial assistance under this subchapter shall establish a State interagency coordinating council.

(2) Appointment

The council shall be appointed by the Governor. In making appointments to the council, the Governor shall ensure that the membership of the council reasonably represents the population of the State.

(3) Chairperson

The Governor shall designate a member of the council to serve as the chairperson of the council, or shall require the council to so designate such a member. Any member of the council who is a representative of the lead agency designated under section 1435(a)(10) of this title may not serve as the chairperson of the council.

(b) Composition**(1) In general**

The council shall be composed as follows:

(A) Parents

Not less than 20 percent of the members shall be parents of infants or toddlers with