



Bangor School Department

Written Notification Regarding Use of Medicaid Benefits or Insurance

IDEA Part B: Written Notification Regarding Use of Public Benefits or Insurance Introduction:

You are receiving this written notification to give you information about your rights and protections under Part B of the Individuals with Disabilities Education Act (IDEA), so that you can make an informed decision about whether you should give your written consent to allow your school district to use your or your child's public benefits or insurance to pay for special education and related services that Bangor School Department (BSD) is required to provide at no cost to you and your child under IDEA. First we will provide some basic information about IDEA.

Part B of IDEA is the Federal law that provides for assistance to States and school districts in making a free appropriate public education (FAPE), which includes special education and related services, available to children with disabilities in the least restrictive environment. If your child has been evaluated for and found eligible for services under IDEA because they have a disability and needs special education and related services, BSD must develop an individualized education program (IEP) for your child. BSD must provide the special education and related services included in your child's IEP at no charge to you or your child.

IDEA funds pay a portion of your child's special education and related services. Funds from a public benefits or insurance program (for example, Medicaid funds) also may be used by BSD to help pay for special education and related services, but only if you choose to provide your consent, as explained below. Also, BSD cannot access your or your child's public benefits or insurance if it would result in a cost to you, such as a decrease in your benefits or an increase in your premiums. These "no cost" provisions are explained below as well.

Before BSD can ask you to provide your consent to access your or your child's public benefits or insurance for the first time, it must provide you with this notification of rights and protections available to you under IDEA. This notification is intended to help you understand these rights and protections, including the type of consent BSD will ask you to provide. If you choose not to provide your consent, or later decide to withdraw your consent, BSD has continuing responsibility to ensure that your child is provided all required special education and related services under IDEA at no charge to you or your child.

Notification Requirements- 34 CFR §300.154(d)(2)(v)

You are receiving this notification because IDEA requires that you be informed of your rights and protections when BSD seeks to use your or your child's public benefits or insurance to pay for special education and related services. The following sections explain when you must receive this notification and what information must be included in the Notification.

When Notification Must Be Provided

You must receive this notification:

- before BSD seeks to use your or your child's public benefits or insurance for the first time and before it obtains your consent to use those benefits or insurance for the first time (the consent requirement is described below); and
- annually thereafter

Format of Notification

This notification must be:

- written;
- in language understandable to the general public; and
- in your native language or in another mode of communication you use, unless it is clearly not feasible to do so

Contents of Notification- 34 CFR §300.154(d)(2)(v)(A)-(D)

This notification will explain: 1) the consent that BSD must obtain from you before it can use your or your child's public benefits or insurance for the first time; 2) IDEA's "no cost" provisions that apply to your school district if it seeks to use your or your child's public benefits or insurance; 3) your right to withdraw your consent to the disclosure of your child's personally identifiable information to your State's public benefits or insurance program agency at any time; and 4) BSD's continuing responsibility to ensure that your child is provided all required special education and related services at no charge to you or your child, even if you withdraw your consent or refuse to provide consent.

Parental Consent - 34 CFR §300.154(d)(2)(iv)(A)-(B)

**If BSD has not accessed your public benefits or insurance in the past to pay for services that it was required to provide your child under IDEA at no charge to you or your child, all of the parental consent requirements described below apply.

Before BSD can use your or your child's public benefits or insurance for the first time to pay for special education and related services under IDEA, it must obtain your signed and dated written consent. Generally, your school district will provide you with a consent form for you to sign and date. Note that BSD is only required to obtain your consent one time.

This consent requirement has two parts.

1.) Consent for Disclosure of your Child's Personally Identifiable Information to the State agency responsible for

administering your State's Public Benefits or Insurance Program. Under Federal law - the Family Educational Rights and Privacy Act (FERPA) and the confidentiality of information provisions in IDEA – BSD is required to obtain your written consent before disclosing personally identifiable information (such as you child's name, address, social security number, student number, IEP, or evaluation results) from your child's education records to a party other than BSD, with some exceptions. In this situation, BSD is required to obtain your consent before disclosing personally identifiable information for billing purposes to the agency in your State that administers the public benefits or insurance program. Your consent must specify the personally identifiable information that your school district may disclose (for example, records or information about the services that may be provided to your child), the purpose of the disclosure (for example, billing for special education and related services), and the agency to which your school district may disclose the information (for example, the Medicaid or other agency in your State that administers the public benefits or insurance program).

2.) Statement to Access Public Benefits or Insurance Your consent must include a statement specifying that you understand and agree that your school district may use your or your child's public benefits or insurance to pay for services under 34 CFR part 300, which are special education and related services under IDEA.

Our consent form includes language that indicates that by giving us permission to bill Medicaid, you are allowing us to use your child's public benefits or insurance to pay for special education and related services.

Both parts of this consent requirement apply to the school district that is responsible for serving your child under IDEA. If your child moves to a new school within the same school district, you would not be required to provide new consent because the same school district is still responsible for serving your child under IDEA. But if you enroll your child in a new school in a new school district, the new school district that is responsible for serving your child under IDEA must obtain a new consent from you before it can bill your child's public benefits or insurance program for the first time. The consent you would provide to your child's new school district must include both parts of the consent as described above.

Electronic consent, if applicable (34 CFR §99.30(d)) As noted above, your consent must be written, signed, and dated. While there generally will be a paper form for you to fill out, you may provide your written consent in an electronic form, if your submission identifies and authenticates you as the individual providing the consent, includes an electronic signature and date, and your submission indicates that you approve the information contained in the consent.

Previous consent

If you gave your consent in the past for BSD to access your or your child's public benefits or insurance to pay for special education and related services under IDEA, BSD is not required to obtain a new consent from you if the following two conditions are present:

- 1.) There is no change in any of the following: the type of services to be provided to your child (for example, physical therapy or speech therapy); the amount of services to be provided to your child (for example; hours per week lasting for the school year); of the cost of the services (that is, the amount charged to the public benefits or insurance program); and
- 2.) BSD has on file the consent you previously provided. This previous consent must meet the requirements that were in effect under the prior IDEA regulations, and BSD knows what requirements applied under those prior regulations. An example of a previous BSD may have on file is a parental consent form you gave directly to another agency such as the ME Medicaid agency.

Even if BSD is not required to obtain a new consent from you, BSD still must provide you with this notification before it may continue to bill your or your child's public benefits or insurance program to pay for special education and related services under IDEA.

If BSD already has on file your consent to use your or your child's public benefits or insurance program to pay for special education or related services under IDEA, BSD must request that you provide a new consent when there is a change in any of the following: the type (for example, physical therapy or speech therapy), amount (for example hours per week lasting for the school year); or cost of services (that is, the amount charged to the public benefits or insurance program).

An example of a change in the type of services would be that your child would receive speech therapy in addition to physical therapy and therefore, the services billed to your public benefits or insurance program would be different. An example of a change in the amount of services would be if your child was previously receiving 3 hours per week of physical therapy and will now be receiving 2 hours per week. An example of a change in the cost of your child's services would occur if the amount billed to the public benefits or insurance program for a particular service increases or decreases.

If any of these changes occur, BSD must obtain from you a one-time consent, specifying that you understand and agree that BSD may access your or your child's public benefits or insurance to pay for special education and related services under IDEA. Before you provide BSD that new, one-time consent, BSD must provide you with this notification. Once you provide this one-time consent, your school district must provide you with this notification. Once you provide this one-time consent, you will not be required to provide BSD

with any additional consent in order for it to access your or your child's public benefits or insurance if your child's services change in the future. However, BSD must continue to provide you with this notification annually.

No Cost Provision 34 CFR §300.154(d)(2)(i)-(iii) The IDEA "no cost" protections regarding the use of public benefits or insurance are as follows:

- 1.) BSD may not require you to sign up for, or enroll in, a public benefits or insurance program in order for your child to receive FAPE. This means that BSD may not make your enrollment in public benefits or insurance program a condition of providing your child the services it is required to provide your child under IDEA at no charge to you or your child.
- 2.) BSD may not require you to pay an out-of-pocket expense, such as the payment or deductible amount for filing a claim for services that BSD is otherwise required to provide your child without charge. For example, if your child's IEP includes speech therapy and your insurance requires a \$25 copay or deductible payment for a session, you could not be charged the \$25. BSD would need to pay the cost of your copay or deductible in order to bill your or your child's public benefits or insurance program for the particular service.
- 3.) BSD may not use your or your child's public benefits or insurance if using those benefits would:
 - a. Decrease your available lifetime coverage or any other insured benefit, such as a decrease in your plan's allowable number of physical therapy sessions available to your child or a decrease in your plan's allowable number of sessions for mental health services;
 - b. Cause you to pay for services that would otherwise be covered by your public benefits or insurance program because your child also requires those services outside of the time your child is in school;
 - c. Increase your premiums or lead to the cancellation of your public benefits or insurance; or
 - d. Cause you to risk the loss of your or your child's eligibility for home and community based waivers that are based on your total health-related expenditures.

Withdrawal of Consent- 34 CFR §300.154(d)(2)(v)(C)

If you provided your consent for BSD to disclose your child's personally identifiable information to the State agency that is responsible for administering your public benefits or insurance program you have the right under 34 CFR part 99 (FERPA regulations) and 34 CFR part 300 (IDEA regulations) to withdraw that consent at any time. If you do not want BSD to continue to bill your or your child's public benefit or insurance program for special education or related services under IDEA, you would need to withdraw your consent to BSD's disclosure of your child's personally identifiable information to the agency in your State that is responsible for administering that program. The FERPA and IDEA regulations, however, do not contain procedures for withdrawal of consent to disclosure of

your child's personally identifiable information. If you wish to withdraw your consent, you should ask BSD what procedures you would need to follow. For example, BSD may ask you to submit your withdrawal request in writing. To withdraw your consent please submit a written request, including full name of the child and parent(s)/guardian(s), to the following:

Christina Babin, Director of Pupil Services

73 Harlow St, Bangor, Maine 04401

What Bangor School Department Must Do if You Withdraw Your Consent or Refuse to Provide Your Consent - 34 CFR §300.154(d)(2)(v)(D)

Finally, without your consent, BSD cannot bill your or your child's public benefit or insurance program to pay for special education and related services that it is required to provide your child under IDEA at no charge to you or your child. If you withdraw your consent or refuse to provide consent under the FERPA and IDEA regulations, BSD may not use your withdrawal of consent under the FERPA and IDEA regulations, BSD may not use your withdrawal of consent or refusal to provide consent to disclose personally identifiable information to a public benefits or insurance program to deny your child the special education or related services they are otherwise entitled to receive IDEA. Therefore, if you refuse to provide consent or withdraw consent, BSD has a continuing responsibility to ensure that your child is provided all required services necessary to receive an appropriate education at no charge to you or your child.

We hope this information is helpful to you in making an informed decision regarding whether to allow BSD to use your or your child's public benefits or insurance to pay for special education and related services under IDEA.

Contact information: For additional information and guidance on the requirements governing the use of public benefits or insurance to pay for special education and related services see: <http://www2.ed.gov/policy/speced/reg/idea/part-b/part-b-parental-consent.html>.

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