



**ANNOUNCEMENT: ELS/EI-06 #07
CHILD DEVELOPMENT OFFICE
BUREAU OF EARLY LEARNING SERVICES
DIVISION OF EARLY INTERVENTION**

**ISSUE DATE: 8/15/2006
EFFECTIVE DATE: 8/10/2006**

SUBJECT: Clarification of Waiver of 4300 Fiscal Regulations for Early Intervention

TO: County MH/MR Early Intervention Program Administrative Staff

**FROM: Harriet Dichter
Deputy Secretary, Office of Child Development**

A handwritten signature in black ink, appearing to read "Harriet Dichter".

PURPOSE:

The purpose of this announcement is to communicate fiscal and reporting requirements and that the following sections of the Chapter 4300 Fiscal Regulations have been waived for all counties and will be the statewide standard for the Early Intervention Program, as of July 1, 2006:

- §4300.87(b) and (c)(2) - Occupancy
- §4300.103 - Equipment & Furnishings
- §4300.105 - Depreciation Allowance
- §4300.108(b) - Retained Revenue
- §4300.116(d) – County Negotiated Fees

BACKGROUND:

The Early Intervention Rate Setting Work group representing stakeholders in Pennsylvania recommended that the Office of Child Development standardize fiscal accounting and performance requirements. In addition statewide waivers of the Department's Chapter 4300 Fiscal Regulations were needed to support a fee for service model in the Early Intervention Program.

DISCUSSION:

Occupancy and Rent:

Agency Owned Real Estate

The Department of Public Welfare (DPW) will financially participate in depreciation for agency owned real estate for which the provider holds title; DPW will no longer financially participate in payments in lieu of rent. Depreciation must be applied in a method which conforms to

Internal Revenue Service Regulations. Once a real estate asset is fully depreciated, a continuing participation allowance will be allowed as found in §4300.87(c)(2)vii. Depreciation expense will be the basis for occupancy costs when developing rates. Related parties as defined in the Chapter 4300 Fiscal Regulations will be reimbursed as indicated in §4300.13 Related parties and §4300.144 Costs to related parties.

There are instances where EI services are provided by sole proprietors. When this is the case, Internal Revenue Service (IRS) regulations for charging occupancy apply. The IRS does not permit a sole proprietor who uses his own home for business purposes to rent his office to himself; however, the individual is permitted to deduct a pro-rata share of expenses such as depreciation of the home, home insurance, utilities, real estate taxes, mortgage interest, and repairs. Any direct expenses are fully deductible, such as repairs to the home office and separate phone/fax/internet lines.

Rental Costs

The amount of rent charged to the EI Birth to Three funded services shall be pro-rated in direct relation to the amount of space utilized by the Program. The cost of rent for any facility may not exceed the rental charge published for the general public for similar space in that geographic area.

Rental Costs Under Arms-Length Leases

The Department will participate in the cost of occupancy expenses up to fair market value. The amount of rent charged to EI Services shall be pro-rated in direct relation to the amount of space utilized by the Program.

Rental Costs Under Less-Than-Arms-Length Leases

When there is a less-than-arms-length lease arrangement, the renter is viewed as a related party, as defined in §4300.13 Related Parties. Therefore, the related party's reimbursement is consistent with the main provider as if the provider held title. Rental costs are allowable only up to the amount that would be allowed had title to the property vested in the organization. A less-than-arms-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other.

The determination of fair market value with related parties requires an assessment every five (5) years, or sooner, at the discretion of either party.

Equipment & Furnishings/ Depreciation

The Department has established a consistent capitalization policy for assets purchased with EI funds. Depreciation is the method for cost recovery for fixed assets. Fixed assets are those which have a useful life of more than one (1) year and a value of \$5,000 or more (a capitalization threshold consistent with the Government Finance Officers Association recommendation) Depreciation must be applied in a method which conforms to Internal Revenue Service Regulations.

An inventory list must be maintained for all items that have a useful life of greater than one (1) year and a value of more than \$500, but less than \$5,000.

Retained Revenue

The county will have responsibility for approving any revenues earned in excess of 3% of the gross revenues applicable to the EI contract. The Department will participate in a retained revenue allowance of 3% when the county has approved a plan submitted by the provider for this revenue. Any earnings in excess of 3%, which may be retained by the Provider if all the following criteria are met:

- Detailed in a written plan included in the contract and approved by the county in which it was earned
- Used for EI activities in the following fiscal year in the County in which it was earned
- Verified in the Audit, Agreed Upon Procedures Report, or Attestation by Provider, as appropriate
- The spending of this revenue should be monitored by the county to ensure compliance with the plan
- Returned to the county if the Provider stops providing EI services.

The concept of retained revenue assumes a pure fee-for-service model, with the same rules being applied to both profit and non-profit agencies, including the handling of both revenues and expenses. If retained revenues exceed 5%, the county program is required to negotiate rates that better represent actual costs.

County Negotiated Fees

The Department will participate in payments based on negotiated rates without adjustment for reported and/or audited costs. Counties, however, continue to have the obligation to review audited costs for purposes of rate determination.