

Rules Webinar Q&A March 2022

General Questions

Q: What is the effective date for the new rules?

A: The new rules will be posted to the Texas Register and made effective on March 17, 2022.

Q: When will the new rules be published in their entirety, including the rules that weren't amended this year?

A: Along with the rules being published in the Texas Register on March 17, we anticipate there will be a Word version of the entirety of 26 TAC Chapter 350 available on the ECI Extranet by March 24, 2022.

Subchapter C, Staff Qualifications

Q: For §350.313, can we include Making It Work in the 40 hours an EIS submits if they're missing three of their required semester course credit hours relevant to early intervention?

A: No. Making it Work is a required item for all direct service staff and cannot be applied to the EIS credential outside of fulfilling a portion of the Orientation requirement. Any items required for an EIS during the Orientation or Individualized Professional Development Plan cannot be used toward either of the 40 clock hour requirements.

Subchapter J, Individualized Family Service Plan

Q: For §350.1004, if child will be over 33 months at time the annual IFSP is due, we don't have to do an Annual IFSP, but do we have to conduct a periodic IFSP review?

A: Yes, at this time, a periodic review that meets the requirements in 26 TAC §350.1017 must be conducted if the child is 33 months of age or older when the annual IFSP is due.

Q: With completing a periodic review for the annual of a child over 33 months, is there certain paperwork that should be updated as well?

A: Any documentation required in 26 TAC §350.1017 must be completed.

Q: In §350.1004, will the periodic review that's completed if the child was 21 months of age or older on the date of the previous initial or annual IFSP need two disciplines present?

A: The periodic review must meet the requirements in 26 TAC §350.1017.

Q: For §350.1004, if a child is 34 months when the annual meeting is due, do we need to do an Annual IFSP, no IFSP, or a Periodic Review?

A: Because this child was 21 months or older on the date of the previous initial or annual IFSP, meaning the child will be 33 months or older when the annual meeting is due, a periodic review will need to be conducted.

Q: For §350.1007, on the interim annual would we have the person caring for the child in the parent's absence sign the IFSP?

A: If an interim annual IFSP is needed, and all requirements are met, you should get the signature of the person caring for the child on the IFSP if that person participated in the IFSP. However, you should be sure to get the parent's signature as soon as possible, and before providing services. This can be electronic as long as it complies with HIPAA and FERPA laws.

Q: Regarding §350.1007, what if parent is out of the country and can't make it back in time for annual IFSP? Can we complete an interim?

A: In order to conduct an interim IFSP, the following requirements must be met:

- The parent is available to provide written consent.
- The parent is unable to attend an annual meeting to evaluate the IFSP.
- The reason for their absence is beyond the parent's control.
- The ECI contractor has access to the child to continue providing services (e.g., at daycare, staying with a relative).

If the parent is out of the country for a reason beyond their control and is unable to attend an annual meeting to evaluate the IFSP but can still provide written consent and the contractor still has access to the child, an interim can be completed.

Q: Will TKIDS be updated to reflect the changes?

A: TKIDS is undergoing changes at this time, but we don't have an exact timeline for the completion of those changes. You will receive information when those changes are made.

Q: Would the Family Cost Share Agreement and Consent to Bill need to be updated if we were doing a complete review in place of the annual due to the child being 33 months or older at the annual meeting to evaluate the IFSP?

A: No, the Family Cost Share does not need to be updated if you are completing a periodic review in place of the annual meeting to review the IFSP because of the child's age. It is recommended that you ask the parent or caregiver if there have been any changes since the last IFSP that would warrant an update to the Family Cost Share Agreement or Consent to Bill, however.

Q: I thought we don't do a new Family Cost Share Agreement when changing services, only when income, insurance and family member changes. Are we required to do it when services are changed?

A: In accordance with 26 TAC §350.1417(c), the Family Cost Share agreement should be reviewed at the annual meeting to evaluate the IFSP regardless of any changes in services. The FCS agreement should also be updated when the family informs you of any income, insurance, and family member changes.