

Rule Revisions Side-by-Side

Title 40, Part 2, Chapter 108, Early Childhood Intervention Services

Changes in purple represent changes made after the public comment period, which have not been posted previously.

Subchapter A General Rules

Rule number	Previous language	New language	Rationale	Implementation
§108.101	(a) This chapter is intended to implement the provisions of the Interagency Council on Early Childhood Intervention Act, Texas Human Resources Code, Chapter 73, the Individuals with Disabilities Education Act, Part C (20 USC §§1431 - 1444), and federal regulations 34 CFR Part 303, or their successors. This chapter shall be interpreted to be consistent with these statutes and rules to the extent possible. If such an interpretation is not possible for a portion of this chapter, the federal statutes and regulations shall prevail. The Texas statutes and this chapter shall then be given effect to the extent possible. (b) The purpose of the statutes, regulations and rules cited in subsection (a) of this section, and the purpose of this chapter are to:	(a) This chapter implements the provisions of the Texas Human Resources Code, Chapter 73; the Individuals with Disabilities Education Act (IDEA), Part C, 20 USC §§1431 - 1444; and 34 CFR Part 303 to: <i>§108.101(b) was repealed.</i>	Unnecessary language.	N/A
§108.102	The following statutes and regulations authorize or require the rules in this subchapter: (1) Texas Human Resources Code, Chapter 73; (2) Texas Human Resources Code, Chapter 117; (3) the Individuals with Disabilities Education Act, Part C (20 USC §§1431 - 1444); and (4) implementing federal regulations 34 CFR Part 303.	<i>§108.102 was repealed.</i>	Unnecessary language.	N/A
§108.103(5)	Comprehensive Needs Assessment-- Conducted by an interdisciplinary team,	Comprehensive Needs Assessment-- Conducted by an interdisciplinary team as	Clarifies that the Comprehensive Needs Assessment occurs as part of	No changes in program practices.

	the process for identifying a child's unique strengths and needs, and the family's resources, concerns, and priorities in order to develop an IFSP. The comprehensive assessment process gathers information across developmental domains regarding the child's abilities to participate in the everyday routines and activities of the family.	a part of the IFSP development process, the process for identifying a child's unique strengths and needs, and the family's resources, concerns, and priorities in order to develop an IFSP. The comprehensive assessment process gathers information across developmental domains regarding the child's abilities to participate in the everyday routines and activities of the family.	the IFSP process.	
§108.103(17) is proposed to become §108.103(15) with amendments.	ECI Professional--An individual employed by an Early Childhood Intervention Program who meets the requirements of qualified personnel as defined in 34 CFR §303.13(c) and §303.31, and who is knowledgeable in child development and developmentally appropriate behavior, possesses the requisite education and experience, and demonstrates competence to provide ECI services.	ECI Professional--An individual employed by or under the direction of an HHSC Early Childhood Intervention Program contractor who meets the requirements of qualified personnel as defined in 34 CFR §303.13(c) and §303.31, and who is knowledgeable in child development and developmentally appropriate behavior, possesses the requisite education and experience, and demonstrates competence to provide ECI services.	Clarifies that ECI professionals do not have to be employees of ECI programs as long as they are under the direction of an ECI program.	No changes in program practices.
§108.103(21) is proposed to become §108.103(19) with amendments.	Group Services--Early childhood intervention services provided at the same time to up to four non-related children and their parents or routine caregivers to meet the developmental needs of the individual infant or toddler.	Group Services--Early childhood intervention services provided at the same time to no more than four children and their parent or parents or routine caregivers per service provider to meet the developmental needs of the individual infant or toddler.	Removes "non-related" from the definition to clarify that siblings may participate in the same group.	This does not change the way group services are provided. For example, providing a service to multiple siblings in their home, without other participants, is not a group service.
§108.103(27)	LPHA--Licensed Practitioner of the Healing Arts. A licensed physician, registered nurse, licensed physical therapist, licensed occupational therapist, licensed speech language pathologist, licensed professional counselor, licensed clinical social worker, licensed psychologist, licensed dietitian, licensed audiologist, licensed physician assistant, licensed marriage and family therapist, licensed intern in speech language pathology, or advanced practice registered nurse who is an employee or a subcontractor of an ECI contractor. LPHA responsibilities are further described in §108.312 of this	LPHA--Licensed Practitioner of the Healing Arts. A licensed physician, registered nurse, licensed physical therapist, licensed occupational therapist, licensed speech language pathologist, licensed professional counselor, licensed clinical social worker, licensed psychologist, licensed dietitian, licensed audiologist, licensed physician assistant, licensed marriage and family therapist, licensed intern in speech language pathology, licensed behavior analyst, or advanced practice registered nurse who is an employee or a subcontractor of an ECI contractor. LPHA responsibilities are further described in §108.312 of this title	Adds licensed behavior analyst to the list of LPHAs.	LBAs may now serve as the LPHA for children when appropriate to meet the needs of those children.

	title (relating to Licensed Practitioner of the Healing Arts (LPHA)).	(relating to Licensed Practitioner of the Healing Arts (LPHA)).		
§108.103(36)	Qualifying Medical Diagnosis--A diagnosed medical condition that has a high probability of developmental delay. The list of conditions that automatically qualify a child for ECI services is available at http://www.dars.state.tx.us/ecis/resources/diagnoses.asp .	Qualifying Medical Diagnosis--A diagnosed medical condition that has a high probability of developmental delay as determined by HHSC, as described in §108.811 of this chapter (relating to Eligibility Determination Based on Medically Diagnosed Condition That Has a High Probability of Resulting in Developmental Delay).	Removes link from rule, as links should not be in TAC. Adds a reference to §108.811, which has more specific information on eligibility determination for children with a qualifying medical diagnosis.	No changes in program practices.
§108.103(40)	Sign Language and Cued Language--As defined in 34 CFR §303.13(b)(12).	<i>§108.103(40) was repealed and §108.1105 was amended to include signed language and cued language.</i>	Improve clarity.	N/A
§108.103(41)	<i>§108.103(41) was added.</i>	(41) Telehealth services--Healthcare services, other than telemedicine medical services, delivered by a health professional licensed, certified or otherwise entitled to practice in Texas and acting within the scope of the health professional's license, certification, or entitlement to a patient at a different physical location than the health professional using telecommunications or information technology.	Several commenters suggested defining telehealth services. This definition aligns with that currently used by Texas Medicaid.	ECI programs may provide services via telehealth when allowed by a provider's licensure/practice act. This does not necessarily mean the service will be reimbursed by Medicaid or private insurance, except when specified in the Medicaid state plan or the private insurance plan. More specifics on the provision of telehealth in ECI will be included in the FY2020 contract amendment and in forthcoming guidance.

Subchapter B Procedural Safeguards and Due Process Procedures

Rule number	Previous language	New language	Rationale	Implementation
§108.201	The purpose of this subchapter is to describe general requirements for procedural safeguards pertaining to early childhood intervention services. In addition to the requirements described in this subchapter, the contractor must comply with all federal and state requirements related to procedural safeguards and due process pertaining to early childhood intervention services including: 20 USC §§1431 - 1444; 20 USC §1232g; 42 USC §§2000d - 2000d-	The purpose of this subchapter is to describe general requirements for procedural safeguards pertaining to early childhood intervention services. In addition to the requirements described in this subchapter, the contractor must comply with all federal and state requirements related to procedural safeguards and due process pertaining to early childhood intervention services including: 20 USC §§1431 - 1444; 20 USC §1232g; 42 USC §§2000d - 2000d-	§101.1109 was removed in a previous rule amendment process.	N/A

	7; implementing regulations 34 CFR Part 99 and 34 CFR §§303.123, 303.400 - 303.417, 303.421, 303.422, 303.430 - 303.436; and §§101.1107, 101.1109, and 101.1111 of this title (relating to Administrative Hearings Concerning Individual Child Rights, Motion for Reconsideration, and Appeal of Final Decision). In cases of conflict between this subchapter and the federal authorities, the interpretation must be in favor of the higher safeguards for children and families.	7; implementing regulations 34 CFR Part 99 and 34 CFR §§303.123, 303.400 - 303.417, 303.421, 303.422, 303.430 - 303.436; and §101.1107 and §101.1111 of this title (relating to Administrative Hearings Concerning Individual Child Rights and Appeal of Final Decision). In cases of conflict between this subchapter and the federal authorities, the interpretation must be in favor of the higher safeguards for children and families.		
§108.203(c)	The contractor must provide the family the DARS ECI family rights publication. The contractor must document the following were explained:	The contractor must provide the family the ECI Parent Handbook. The contractor must document the following were explained:	Changes "DARS ECI family rights publication" to "ECI Parent Handbook."	N/A
§108.204	The purpose of prior written notice is to inform the parent when the contractor is scheduling an event or proposing to take or not take certain actions as well as to remind the parent about his or her rights regarding these actions. Through prior written notice, the contractor: (1) provides the parent with sufficient notice of meetings to allow the parent time to prepare for and to invite other individuals if they choose; (2) keeps the parent informed about any action the contractor is proposing or refusing to take; and	In accordance with 34 CFR §303.421, prior written notice is required to inform the parent of any actions the contractor proposes to take or not take, the reason for taking or not taking the action , and to remind the parent about the parent's rights regarding these actions. These actions include identification of the child, evaluation, IFSP meetings, and the provision of early childhood intervention services. Through prior written notice, the contractor: (1) provides the parent with sufficient notice of meetings to allow the parent time to prepare for the meeting and to invite other individuals if they choose; (2) keeps the parent informed about any action the contractor is proposing to take or not take; and	Provides more specificity and aligns with CFR. Requirements from §108.205 were moved here for clarity.	No changes to program practices.
§108.205	(a) IFSP meeting arrangements must be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend. See 34 CFR §303.342(d). (b) If, at any time, the contractor proposes, or refuses to initiate or	<i>§108.205 was repealed and requirements added to §108.204.</i>	Improve clarity.	N/A

	change the identification, evaluation, or the provisions of appropriate early childhood intervention services to the child and the child's family, the contractor must provide prior written notice as described in 34 CFR §303.421. (c) In addition to the requirements in 34 CFR §303.421, the notice must be in sufficient detail to inform the parent about each record or report considered when the contractor proposes or refuses to initiate or change the items in subsection (b) of this section.			
§108.206	Written parental consent provides documentation that the parent has been informed of and agrees, in writing, to the proposed action. Consent is voluntary and can be withdrawn by the parent at any time. Any action for which the parent has withdrawn consent must be stopped immediately.	<i>§108.206 was repealed and the language was added to §108.207.</i>	Improve clarity.	N/A
§108.207	<i>The language from §108.206 was added to §108.207.</i>	(a) Written parental consent provides documentation that the parent has been informed of and agrees, in writing, to the proposed action. Consent is voluntary and can be withdrawn by the parent at any time. Any action for which the parent has withdrawn consent must be stopped immediately.	Improve clarity.	N/A
§108.213(b)(2)	assigning a surrogate parent to the child; and	assigning a surrogate parent within the required 30-day timeframe; and	Improve clarity.	Programs must ensure a surrogate parent, when needed, is assigned within 30 days.
§108.215(d)(1)	All complaints received by DARS concerning early childhood intervention services shall be forwarded to the DARS ECI Assistant Commissioner who will log and assign all complaints, monitor the resolution of those complaints, and maintain a copy of all complaints for a five-year period.	All complaints received by HHSC concerning early childhood intervention services shall be forwarded to the HHSC Director of ECI who will log and assign all complaints, monitor the resolution of those complaints, and maintain a copy of all complaints for a seven-year period.	Changes related to HHSC transformation.	N/A
§108.218	(a) If the parties to a request for a due process hearing as described in §101.1107 of this title (relating to Administrative Hearings Concerning	(a) At any time, a party or all parties to a dispute involving a matter with respect to the provision of appropriate early childhood intervention services or a	Order of rules was changed to improve clarity. Changes related to HHSC transformation.	N/A

	<p>Individual Child Rights) agree to mediate the dispute in accordance with §101.947 of this title (relating to Mediation Procedures), those procedures shall apply, but the mediation shall also comply with the requirements of federal regulation 34 CFR §303.431.</p> <p>(b) If the parties to a complaint filed with DARS under §108.215 of this title (relating to Early Childhood Intervention Procedures for Filing Complaints) agree to mediate the dispute in accordance with §108.217 of this title (relating to Procedures for Investigations and Resolution of Complaints), the procedures in this section apply except for those in subsections (a) and (c) of this section.</p> <p>(c) At any time, a party or all parties to a dispute involving a matter with respect to the provision of appropriate early childhood intervention services or a potential or actual violation of Part C or other applicable federal or Texas statutes or regulations or rules may request mediation of that dispute by sending the request in writing to the DARS ECI Assistant Commissioner. If the request for mediation is also a complaint pursuant to §108.215 of this title, it will be handled both as a complaint and as a request for mediation under subsection (b) of this section. If the request for mediation is also a request for due process hearing, it will be handled both as a request for due process hearing and a request for mediation under subsection (a) of this section. If the request for mediation does not clearly designate itself as a complaint or request for due process hearing, or if it does not comply with the filing requirements for those</p>	<p>potential or actual violation of Part C or other applicable federal or Texas statutes or regulations or rules may request mediation of that dispute by sending the request in writing to the HHSC Director of ECI. A request for mediation must:</p> <ol style="list-style-type: none"> (1) be in writing and signed by the requesting party; (2) state the dispute to be mediated with some detail showing it is a matter with respect to the provision of appropriate early childhood intervention services to a particular child or children, or that it is a matter with respect to a potential or actual violation of Part C or other applicable federal or Texas statutes or regulations or rules; (3) name the opposing party or parties and, if they have agreed to mediation, contain their signatures; (4) give contact information for all parties to the extent known by the requestor; and (5) show that the request for mediation has also been sent to all other parties or that attempts have been made to do so, if possible. <p>(b) If the request for mediation is also a complaint pursuant to §108.215 of this subchapter (relating to Early Childhood Intervention Procedures for Filing Complaints), it will be handled both as a complaint and as a request for mediation under subsection (c) of this section. If the request for mediation is also a request for due process hearing, it will be handled both as a request for due process hearing and a request for mediation under subsection (c) of this section. If the request for mediation does not clearly designate itself as a complaint or request for due process hearing, or if it does not comply with the filing requirements for those procedures, it will be handled only</p>		
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	<p>procedures, it will be handled only as a request for mediation under this section. A request for mediation must:</p> <p>(1) be in writing and be signed by the requesting party;</p> <p>(2) state the dispute to be mediated with some detail showing that it is a matter with respect to the provision of appropriate early childhood intervention services to a particular child or children or that it is a matter with respect to a potential or actual violation of Part C or other applicable federal or Texas statutes or regulations or rules;</p> <p>(3) name the opposing party or parties and, if they have agreed to mediation, contain their signatures;</p> <p>(4) give contact information for all parties to the extent known by the requestor; and</p> <p>(5) show that the request for mediation has also been sent to all other parties or that attempts have been made to do so, if possible.</p> <p>(d) If not all parties have agreed to mediation, DARS will make reasonable efforts to contact the other parties and to give them the opportunity to agree or to decline mediation. If neither DARS nor the requesting party is able to obtain agreement to mediate by all parties within a reasonable time, DARS may notify the requesting party and treat the original request for mediation as having been declined by the other party or parties.</p> <p>(e) The parties may agree to mediate some or all of the disputes described in the request for mediation, and they may amend the disputes to be mediated by agreeing in writing.</p> <p>(f) The requirements of 34 CFR §303.341 will apply to the mediation.</p> <p>(g) If DARS is not a party to the dispute</p>	<p>as a request for mediation under this section.</p> <p>(c) If the parties to a request for a due process hearing as described in §101.1107 of this title (relating to Administrative Hearings Concerning Individual Child Rights) agree to mediate the dispute in accordance with §101.947 of this title (relating to Mediation Procedures), those procedures shall apply, but the mediation shall also comply with the requirements of federal regulation 34 CFR §303.431.</p> <p>(d) If the parties to a complaint filed with HHSC under §108.215 of this subchapter agree to mediate the dispute in accordance with §108.217 of this subchapter (relating to Procedures for Investigation and Resolution of Complaints), the procedures in this section apply except for those in subsections (b) and (c) of this section.</p> <p>(e) If not all parties have agreed to mediation, HHSC will make reasonable efforts to contact the other parties and to give them the opportunity to agree or to decline mediation. If neither HHSC nor the requesting party is able to obtain agreement to mediate by all parties within a reasonable time, HHSC may notify the requesting party and treat the original request for mediation as having been declined by the other party or parties.</p> <p>(f) The parties may agree to mediate some or all of the disputes described in the request for mediation, and they may amend the disputes to be mediated by agreeing in writing.</p> <p>(g) If HHSC is not a party to the dispute being mediated, HHSC will not be a party to any mediation resolution agreement and will not sign it, but HHSC may assist in the enforcement of it if requested.</p>		
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	being mediated, DARS will not be a party to any mediation resolution agreement and will not sign it, but DARS may assist in the enforcement of it if requested.			
§108.233(a)	Unless authorized to do so under 34 CFR §99.31, parental consent must be obtained before personally identifiable information is:	(a) Unless authorized to do so under 34 CFR §99.31 or the Uninterrupted Scholars Act (Public Law 112-278), parental consent must be obtained before personally identifiable information is:	Adds reference and citation to the Uninterrupted Scholars Act. This act has been in effect since 2013, but was not reflected in rule. It amends FERPA to allow education agencies to release the educational record or any part of the record, without parental consent, to a child welfare agency or tribal organization, when that agency or organization is "legally responsible, in accordance with State or tribal law, for the care and protection of the student."	Clarifies that ECI providers may release information to CPS or a tribal organization, without parental consent, when the child is in the conservatorship of CPS (including children in foster care) or the tribal organization. This means providers do not need the consent of foster parents or biological parents to release information to the child's CPS worker. The USA does not apply to children served by CPS who remain in the custody of their parents.
§108.233(b)(5)(A)	not to exceed five years after the child exits services or other applicable record retention period, as described in §108.221 of this title (relating to Records Management) for billing records; or	not to exceed seven years after the child exits services or other applicable record retention period, as described in §108.237 of this subchapter (relating to Record Retention Period) for billing records; or	Aligns ECI requirements with those of HHSC.	No changes to program practices, as this was already in contract.
§108.233(c)	<i>§108.233(c) was added.</i>	The contractor may disclose personally identifiable information without prior written parental consent if the disclosure meets one or more of the following conditions: (1) the disclosure is to another HHSC ECI contractor during a transfer of services; (2) the disclosure is restricted to limited personal identification, as defined in §108.1203 of this chapter (relating to Definitions), being sent to the LEA for child find purposes, unless the parent opted-out of the notification in accordance with §108.1213 of this chapter (relating to LEA Notification Opt Out); (3) the disclosure is to the Texas Department of Family and Protective Services for the purpose of reporting or	Improve clarity.	This does not represent a change in requirements or in FERPA; it just provides more detail as to whom information can be disclosed without written parental consent.

		<p>cooperating in the investigation of suspected child abuse or neglect;</p> <p>(4) the disclosure is in response to a court order or subpoena;</p> <p>(5) the disclosure is to a federal or state oversight entity, including:</p> <p>(A) United States Department of Health and Human Services or its designee;</p> <p>(B) Comptroller General of the United States or its designee;</p> <p>(C) Office of the State Auditor of Texas or its designee;</p> <p>(D) Office of the Texas Comptroller of Public Accounts;</p> <p>(E) Medicaid Fraud Control Unit of the Texas Attorney General's Office or its designee;</p> <p>(F) HHSC, including:</p> <p>(i) Office of Inspector General;</p> <p>(ii) MCO Program personnel from HHSC or designee;</p> <p>(iii) any other state or federal entity identified by HHSC, or any other entity engaged by HHSC; and</p> <p>(iv) any independent verification and validation contractor, audit firm or quality assurance contractor acting on behalf of HHSC;</p> <p>(G) state or federal law enforcement agency; or</p> <p>(H) State of Texas Legislature general or special investigating committee or its designee; or</p> <p>(6) the disclosure meets the requirements of the Uninterrupted Scholars Act, which provides that:</p> <p>(A) the disclosure is to a caseworker or other representative of a</p>		
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		State or local child welfare agency or tribal organization authorized to access the child's case plan; (B) the child is in foster care and the child welfare agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student; and (C) the disclosure must pertain to addressing the education needs of the child.		
§108.237(a)	The contractor must retain records for five years after the child has been dismissed from services unless a longer period is required by state or federal law.	The contractor must retain records for seven years after the child has been dismissed from services unless a longer period is required by state or federal law.	Aligns ECI requirements with those of HHSC.	No change in program practices, as this was already in contract.

Subchapter C Staff Qualifications

Rule number	Previous language	New language	Rationale	Implementation
§108.302	The following statutes and regulations authorize or require the rules in this subchapter: (1) Texas Human Resources Code, Chapter 73; (2) Texas Human Resources Code, Chapter 117; (3) the Individuals with Disabilities Education Act, Part C (20 USC §§1431 - 1444); and (4) implementing federal regulations 34 CFR Part .	<i>§108.302 was repealed.</i>	Unnecessary language.	N/A
§108.309(b)	The contractor must comply with DARS ECI requirements related to initial training requirements for direct service staff. Before working directly with children and families, all staff must:	The contractor must comply with HHSC ECI requirements related to initial training requirements for direct service staff. Before providing services, all staff must:	Changes related to HHSC transformation. Improve clarity.	No changes in program practices.
§108.309(b)(2)	hold current certification in first-aid including emergency care of seizures and cardiopulmonary resuscitation for children and infants; and	hold current certification in first-aid and cardiopulmonary resuscitation for children and infants; and	Unnecessary language. Emergency care of seizures is usually included in most first-aid certificate training.	This is unlikely to change program practices.
§108.309(c)	The contractor must comply with DARS ECI requirements related to continuing	The contractor must comply with HHSC ECI requirements related to continuing	Changes related to HHSC transformation. Unnecessary	This is unlikely to change provider practices.

	education requirements for direct service staff. All staff providing early childhood intervention services to children and families must maintain current certification in first aid including emergency care of seizures and cardiopulmonary resuscitation for children and infants.	education requirements for direct service staff. All staff providing early childhood intervention services to children and families must maintain current certification in first aid and cardiopulmonary resuscitation for children and infants.	language. Emergency care of seizures is usually included in most first-aid certificate training.	
§108.309(e)	The contractor must comply with DARS ECI requirements related to supervision of direct service staff. (1) All staff members who work directly with children and families must receive supervision oversight that consists of documented consultation, record review, and observation from a qualified supervisor. The intent of supervision is to provide oversight and direction to staff. Supervisor qualifications are further described in this subchapter in §§108.313(c), 108.315(c), and 108.317(c) of this title (relating to Early Intervention Specialist (EIS), Service Coordinator and Staff Who Do Not Hold a License or EIS Credential and Provide Early Childhood Intervention Services to Children and Families).	The contractor must comply with HHSC ECI requirements related to supervision of direct service staff. A contractor must implement a system of supervision and oversight that consists of consultation, record review, and observation from a qualified supervisor. The intent of supervision is to provide oversight and direction to staff. Supervisor qualifications are further described in this subchapter in §108.313(c) and §108.315(d) of this subchapter (relating to Early Intervention Specialist (EIS) and Service Coordinator).	Changes related to HHSC transformation. Increase efficiency.	Removes requirement to document consultation, record review, and observation of all direct service providers.
§108.309(e)(A) is proposed to become §108.309(e)(1) with amendments.	Documented consultation means evaluation and development of staff knowledge, skills, and abilities in the context of case-specific problem solving.	Consultation means evaluation and development of staff knowledge, skills, and abilities in the context of case-specific problem solving.	Increase efficiency.	Removes requirement to document consultation.
§108.309(e)(2)	The contractor must verify that newly employed staff members receive documented supervision as required by DARS ECI.	<i>§108.309(e)(2) was repealed.</i>	Increase efficiency.	Removes requirement to document supervision for all new staff.
§108.310(c)(1)	The three charts are published on the DFPS website at www.dfps.state.tx.us/Child_Care/ .	The three charts are published on the HHSC website:	Changes related to HHSC transformation. Removes link, as links should not be in TAC.	No changes in program practices.
§108.311(b)	The contractor must comply with DARS ECI requirements related to continuing education for licensed professionals. A licensed professional must complete	<i>§108.311(b) was repealed.</i>	Unnecessary language. HHSC ECI does not have requirements for continuing education for licensed professionals.	No changes in program practices.

	continuing education as required by the applicable licensing board.			
§108.311(c)	The contractor must provide documented administrative supervision to licensed professionals as required by DARS ECI.	<i>§108.311(c) was repealed.</i>	Increase efficiency.	Removes the requirement to document administrative supervision of licensed staff.
§108.311(d) is proposed to become §108.311(b) with amendments.	A licensed professional must comply with all established licensing board requirements for receiving or providing clinical supervision.	A licensed professional must comply with the established licensing board requirements for the licensed professional's discipline for continuing education, providing and receiving supervision, and conduct.	Improve clarity.	No changes in program practices.
§108.311(e)	The contractor must comply with DARS ECI requirements related to ethics for licensed professionals. A licensed professional must meet all established rules of conduct as required by the applicable board.	<i>§108.311(e) was repealed.</i>	Unnecessary language. HHSC ECI does not have ethics requirements for licensed professionals.	No change in program practices.
§108.312(d)	The LPHA provides ongoing monitoring of the IFSP, at least once every six months, to provide professional opinion as to the effectiveness of services.	The LPHA provides ongoing monitoring and assessment of the IFSP, at least once every six months as part of the periodic review, to provide professional opinion as to the effectiveness of services.	Improve clarity.	No change in program practices.
§108.313(a)(2)	hold a bachelor's degree which includes a minimum of 18 hours of semester course credit relevant to early childhood intervention including three hours of semester course credit in early childhood development or early childhood special education.	hold a bachelor's degree which includes a minimum of 18 hours of semester course credit relevant to early childhood intervention, with at least three of the 18 hours of semester course credit in early childhood development or early childhood special education.	Improve clarity.	No change in program practices.
§108.313(a)(2) (A)	Forty clock hours of continuing education in early childhood development or early childhood special education completed within five years prior to employment with ECI may substitute for the three-hour semester course credit requirement in early childhood development or early childhood special education.	Forty clock hours of continuing education in early childhood development or early childhood special education completed within three years prior to employment as an EIS may substitute for the three hour semester course credit requirement in early childhood development or early childhood special education. The EIS must complete these hours before the EIS is entered in the EIS Registry.	Changes requirement for continuing education for EIS staff who don't meet education requirement from within five years prior to employment to three years prior to employment. Clarifies that hours must be completed prior to entry in the registry.	Contractors must ensure relevant continuing ed was completed within the past three years, and EIS may not be registered until the hours are completed.
§108.313(a)(2) (B)(ii)	child psychology or child and adolescent psychology;	child psychology;	Ensures education is relevant to ECI.	Classes in adolescent psychology do not meet the initial requirements for credentialing as an EIS.

§108.313(b)(1)	a minimum of 10 contact hours of approved continuing education each year; and	a minimum of 20 contact hours of approved continuing education every two years; and	Increase flexibility for EIS continuing education and align with the ethics requirement every two years as well as practices for CEUs for most licensed ECI professionals.	Allows some flexibility for how and when EISs can earn continuing education hours.
§108.313(c)(1)	The contractor must provide an EIS documented supervision as defined in §108.309(e) of this title (relating to Minimum Requirements for All Direct Service Staff) as required by DARS ECI.	The contractor must provide an EIS supervision as defined in §108.309(e) of this title (relating to Minimum Requirements for All Direct Service Staff) as required by HHSC ECI.	Change related to HHSC transformation.	N/A
§108.313(d)(2)(A)(iii)	All credentialing activities (Final IPDP) must be completed within a year from the EIS's start date.	All credentialing activities (Final IPDP) must be completed within one year from the EIS's start date.	Improve clarity.	No change in program practices.
§108.313(d)(2)(A)(iv)	Any EIS who is in the Final IPDP stage as of March 1, 2015, must complete all credentialing activities by March 1, 2016.	<i>We propose repealing §108.311(d)(2)(A)(iv).</i>	Unnecessary language.	N/A
§108.313(d)(2)(B)(i)	submitting 10 contact hours of continuing education for every CPE due date that was missed while the EIS was on inactive status; and	submitting 10 contact hours of continuing education for every continuing education due date that was missed while the EIS was on inactive status; and	Improve clarity.	No change in program practices.
§108.313(e)	The contractor must comply with DARS ECI requirements related to ethics for an EIS. An EIS who violates any of the standards of conduct in §108.319 of this title (relating to EIS Code of Ethics) is subject to the contractor's disciplinary procedures. Additionally, the contractor must complete an EIS Code of Ethics Incident Report and send a copy to DARS ECI.	The contractor must comply with HHSC ECI requirements related to ethics for an EIS. An EIS who violates any of the standards of conduct in §108.314 of this subchapter (relating to EIS Code of Ethics) is subject to the contractor's disciplinary procedures. Additionally, the contractor must complete an EIS Code of Ethics Incident Report and send a copy to HHSC ECI.	Change related to HHSC transformation.	N/A
§108.315(a)(3)	<i>We propose adding §108.315(a)(3).</i>	A service coordinator must complete all assigned activities on the service coordinator's IPDP within one year from the service coordinator's start date.	Ensures service coordinators complete IPDP activities in a timely manner.	Contractors must ensure new service coordinators complete their IPDPs within one year.
§108.315(c)(3)	if the service coordinator does not hold a current license or credential that requires continuing professional education, an additional seven contact hours of approved continuing education.	if the service coordinator does not hold a current license or credential that requires continuing professional education, an additional seven contact hours of approved continuing education every year.	Improve clarity.	No change in program practices.
§108.315(d)(1)	<i>We propose adding §108.315(d)(1).</i>	A contractor's supervision of service coordinators must meet the requirements outlined in §108.309(e) of this subchapter (relating to Minimum	Improve clarity.	No change in program practices.

		Requirements for All Direct Service Staff).		
§108.315(d)(1)(A) is proposed to become §108.315(d)(2)(A) with amendments.	has completed all service coordinator training as required in subsection (a)(2) of this section;	has completed all service coordinator training as required in subsection (a)(2) and (a)(3) of this section;	Related to additions above.	See §108.315(a)(3).
§108.315(d)(1)(C)(i) is proposed to become §108.315(d)(2)(C)(i) with amendments.	child development, special education, psychology, social work, sociology, nursing, rehabilitation counseling, human development or a related field; or	child development, special education, psychology, social work, sociology, nursing, human development or a related field; or	Removes rehabilitation counseling from list of relevant degrees for an ECI service coordinator supervisor.	Contractors must ensure service coordinator supervisors meet requirements.
§108.315(d)(2)	The contractor must provide a service coordinator a minimum of three hours per quarter of documented supervision.	<i>We propose repealing §108.315(d)(2).</i>	Increase efficiency.	Removes requirements for documentation of supervision of service coordinators.
§108.315(e)	<p>Requirements for service coordinator active status and inactive status are as follows.</p> <p>(1) A service coordinator may return to active status from inactive status by submitting 10 contact hours of continuing education for every year of inactive status.</p> <p>(2) A service coordinator returning to active status must submit documentation of three contact hours of ethics training within the last two years.</p> <p>(3) In order to provide case management, a service coordinator who has been on inactive status for longer than 24 months must complete the orientation training, including the Family Centered Case Management module and other required initial training activities when returning to work for an ECI contractor.</p>	<p>Requirements for service coordinator active status and inactive status are as follows.</p> <p>(1) A service coordinator is on inactive status when the service coordinator fails to complete required training activities by the designated deadlines in subsections (a) and (c) of this section. Service coordinator active status is reinstated after the required training activities are completed and approved by the service coordinator's supervisor.</p> <p>(2) A service coordinator is on inactive status when the service coordinator is no longer employed by a contractor.</p> <p>(A) A service coordinator returns to active status when the service coordinator:</p> <p>(i) is employed by an ECI program within 24 months or less from the last day of employment;</p> <p>(ii) submits 10 clock hours of continuing education for every year of inactive status; and</p> <p>(iii) submits documentation of three clock hours of ethics training</p>	Improve clarity.	No changes in program practices.

		<p>completed within the last two years and not used to meet previous training requirements.</p> <p>(B) A service coordinator who has been on inactive status for longer than 24 months must complete the training requirements outlined in subsections (a)(2) and (a)(3) of this section.</p>		
§108.315(f)	<p>The contractor must comply with DARS ECI requirements related to ethics of service coordinators. Service coordinators must meet the established rules of conduct and ethics training required by their license or credential. A service coordinator who does not hold a license or credential must meet the rules of conduct and ethics established in §108.319 of this title (relating to EIS Code of Ethics).</p>	<p>The contractor must comply with HHSC ECI requirements related to ethics of service coordinators. Service coordinators must meet the established rules of conduct and ethics training required by their license or credential. A service coordinator who does not hold a license or credential must meet the rules of conduct and ethics established in §108.314 of this subchapter (relating to EIS Code of Ethics).</p>		
§108.317	<p>(a) The contractor must comply with DARS ECI requirements related to minimum qualifications of direct service staff members who do not hold a license or EIS credential. A direct service staff member who does not hold a license or EIS credential must hold a high school diploma or certificate recognized by the state as an equivalent of a high school diploma and:</p> <p>(1) have completed two years of documented paid experience providing services to children and families; or</p> <p>(2) provide behavioral intervention services according to a structured plan supervised by one of the following:</p> <p>(A) Board Certified Behavior Analyst; or</p> <p>(B) one of the following who is trained in Positive Behavior Supports or Applied Behavior Analysis:</p> <p>(i) Licensed Psychologist licensed by the Texas State Board of Examiners of Psychologists;</p> <p>(ii) Licensed Psychological</p>	<p><i>We propose repealing §108.317.</i></p>	<p>Unnecessary language.</p>	<p>No changes in program practices.</p>

	<p>Associate (LPA) licensed by the Texas State Board of Examiners of Psychologists;</p> <p>(iii) Licensed Professional Counselor (LPC) licensed by the Texas State Board of Examiners of Professional Counselors;</p> <p>(iv) Licensed Clinical Social Worker (LCSW) licensed by the Texas State Board of Social Work Examiners; or</p> <p>(v) Licensed Marriage and Family Therapist (LMFT) licensed by the Texas State Board of Examiners of Marriage and Family Therapists.</p> <p>(b) The contractor must comply with DARS ECI requirements related to continuing education of direct service staff members who do not hold a license or EIS credential. A direct service staff member who does not hold a license or EIS credential must complete:</p> <p>(1) a minimum of ten contact hours of approved continuing education each year; and</p> <p>(2) an additional three contact hours of training in ethics every two years.</p> <p>(c) The contractor must comply with DARS ECI requirements related to supervision of direct service staff members who do not hold a license or EIS credential.</p> <p>(1) The contractor must provide a direct service staff member who does not hold a license or EIS credential documented supervision as defined in §108.309(e) of this title (relating to Minimum Requirements for All Direct Service Staff) as required by DARS ECI.</p> <p>(2) An ECI staff member who has two years of experience providing early childhood intervention services is qualified to supervise a direct service staff member who does not hold a</p>			
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	license or EIS credential. (d) The contractor must comply with DARS ECI requirements related to ethics for direct service staff members who do not hold a license or EIS credential. A direct service staff member who does not hold a license or EIS credential must meet the rules of conduct and ethics established in §108.319 of this title (relating to EIS Code of Ethics).			
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Subchapter D Case Management for Infants and Toddlers with Developmental Disabilities

Rule number	Previous language	New language	Rationale	Implementation
§108.403(1)	Case management--In compliance with §108.405 of this subchapter (relating to Case Management Services), case management means services provided to assist an eligible child and their family in gaining access to the rights and procedural safeguards under the Individuals with Disabilities Education Act (IDEA), Part C, and to needed medical, social, educational, developmental, and other appropriate services.	Case management--In compliance with §108.405 of this subchapter (relating to Case Management Services), case management means services provided to assist an eligible child and their family in gaining access to the rights and procedural safeguards under the Individuals with Disabilities Education Act (IDEA), Part C, and to needed medical, social, educational, developmental, and other appropriate services. <i>Case management services may be provided via telehealth with the prior written consent of the parent. If the parent declines to consent to telehealth services, case management must still be provided.</i>	Adds telehealth as a means of providing services.	Contractors may deliver case management services via telehealth, if the parent consents. This does not guarantee telehealth case management services will be reimbursed by Medicaid.
§108.403(5)	<i>§108.403(5) was added.</i>	<i>Targeted case management--Medicaid reimbursable case management services for children eligible for ECI and enrolled in Medicaid.</i>	Improve clarity.	No changes in program practices
§108.403(5) is now §108.403(6)	Texas Health Steps--The name adopted by the State of Texas for the federally mandated Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program.	Texas Health Steps--The name adopted by the State of Texas for the federally mandated Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program.	Renumbered due to addition of §108.403(5).	N/A
§108.405	(a) Case management means services provided to assist an eligible child and their family in gaining access to the	(a) Case management means services provided to assist an eligible child and their family in gaining access to the	Improve clarity.	No changes in program practices

	<p>rights and procedural safeguards under IDEA Part C, and to needed medical, social, educational, developmental, and other appropriate services. Case management includes:</p> <p>(1) coordinating the performance of evaluations and assessments;</p> <p>(2) facilitating and participating in the development, review, and evaluation of the individualized family service plan in accordance with Subchapter J of this chapter (relating to Individualized Family Service Plan (IFSP)) which is based upon:</p> <p>(A) the child's applicable history;</p> <p>(B) the parent's input;</p> <p>(C) input from others providing services and supports to the child and family; and</p> <p>(D) the results of all evaluations and assessments;</p> <p>(3) assisting families in:</p> <p>(A) identifying unmet needs;</p> <p>(B) identifying available providers of services and supports;</p> <p>(C) making appropriate referrals and facilitating application; and</p> <p>(D) assisting with initial and ongoing contact to obtain services from medical, social, and educational providers to address identified needs and achieve goals specified in the IFSP;</p> <p>(4) following up with families and providers of services and supports to assist the child with timely access to services, and discuss the status of referrals to determine if the services have met the child's identified needs, and if ongoing assistance to ensure continued access will be necessary;</p> <p>(5) monitoring and assessment of the delivery of and effectiveness of services that:</p> <p>(A) occurs at least once every six</p>	<p>rights and procedural safeguards under IDEA Part C, and to needed medical, social, educational, developmental, and other appropriate services. Case management includes:</p> <p>(1) coordinating the performance of evaluations and assessments;</p> <p>(2) facilitating and participating in the development, review, and evaluation of the individualized family service plan in accordance with Subchapter J of this chapter (relating to Individualized Family Service Plan (IFSP)) which is based upon the child's applicable history, the parent's input, and the results of all evaluations and assessments;</p> <p>(3) assisting families in identifying available service providers and making appropriate referrals to obtain services from medical, social, and educational providers to address identified needs and achieve goals specified in the IFSP;</p> <p>(4) following up with families to assist the child with timely access to services, discuss the disposition of the referral with the family, and determine if the services have met the child's needs;</p> <p>(5) monitoring and reassessment of the delivery of and effectiveness of services through contacts with the child, family members, service providers, or other entities or individuals and conducted as frequently as necessary and at least once every six months to determine if:</p> <p>(A) services are being provided in accordance with the child's IFSP;</p> <p>(B) services are adequate; and</p> <p>(C) when the child has new needs or there are changes in the needs of the child, the IFSP and service arrangements are adjusted to address the identified needs.</p> <p>(6) informing families of the</p>		
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	<p>months, or more frequently as needed;</p> <p>(B) is individualized and clearly related to the needs of the child and family;</p> <p>(C) collects information from family members, service providers, and other entities and individuals who provide service or supports to the child and family to assess if:</p> <p>(i) services are being provided in accordance with the child's IFSP;</p> <p>(ii) services are adequate to meet the child's and family's needs;</p> <p>(iii) all service providers are effectively collaborating to address the child's and family's needs; and</p> <p>(iv) parents and routine caregivers are able to use the interventions being presented; and</p> <p>(6) adjusting the IFSP and service arrangements if new needs, ineffectiveness, or barriers to services are identified;</p> <p>(7) assisting the parent or routine caregiver in advocating for the child;</p> <p>(8) coordinating with medical and other health providers to ensure services are effective in meeting the child's and family's needs; and</p> <p>(9) facilitating the child's transition to preschool or other appropriate services and supports.</p> <p>(b) Medicaid reimbursement is available for the provision of targeted case management if the following criteria are met:</p> <p>(1) the contact occurs with the parent or routine caregiver;</p> <p>(2) the contact occurs face to face or by telephone;</p> <p>(3) the contact is of at least eight minutes in duration;</p> <p>(4) the desired outcome of the contact is of direct benefit to a child</p>	<p>availability of advocacy services;</p> <p>(7) coordinating with medical and other health providers;</p> <p>(8) facilitating the child's transition to preschool or other appropriate services; and</p> <p>(9) documenting, in accordance with §108.415 of this subchapter (relating to Documentation), all case management activities, the child and family response to case management, whether the child and family have declined any services in the plan, and coordination with other case management providers.</p> <p>(b) Case management may be delivered face to face or by telephone.</p> <p>(1) Contacts are billable to Medicaid when the interaction is directly with the child, and/or the child's parent as defined in 20 USC §1401 or routine caregiver.</p> <p>(2) Contacts may be made with other individuals when directly related to identifying the eligible child's needs, helping the eligible child access services, identifying needs and supports to assist the eligible child in obtaining services, providing the service coordinator with useful feedback, and alerting the service coordinator to changes in the eligible child's needs. These contacts must be documented in the child's record but are not separately billable to Medicaid.</p>		
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	<p>who is eligible for ECI services; and</p> <p>(5) during the contact the service coordinator performs a case management activity as described in subsection (a) of this section.</p> <p>(c) Non-billable case management contacts must be documented in a child's record. These contacts occur when:</p> <p>(1) the contact is with individuals other than a parent or routine caregiver;</p> <p>(2) the desired outcome of the contact is of direct benefit to a child who is eligible for ECI services; and</p> <p>(3) during the contact the service coordinator performs a case management activity as defined in subsection (a) of this section</p>			
§108.411(a)	<p>Early Childhood Intervention (ECI) case management services must be provided by service coordinators who meet the educational and work experience requirements, commensurate with their job responsibilities, as specified in Subchapter C of this chapter (relating to Staff Qualifications).</p>	<p>Early Childhood Intervention (ECI) case management services must be provided by service coordinators who meet the educational, training, and work experience requirements, commensurate with their job responsibilities, as specified in Subchapter C of this chapter (relating to Staff Qualifications).</p>	<p>Adds "training" to requirements for service coordinators.</p>	<p>Contractors must ensure ECI service coordinators meet all training requirements.</p>
§108.411(b)(2)	<p>ensuring that the service coordinator assigned by the ECI contractor has a combination of education and experience relevant to the child's needs; and</p>	<p>ensuring that the service coordinator assigned by the ECI contractor has a combination of education, training, and work experience relevant to the child's needs; and</p>	<p>Adds "training" to requirements for service coordinators.</p>	<p>Contractors must ensure ECI service coordinators meet all training requirements.</p>
§108.415	<p>Case Management Documentation. Documentation of each case management contact must include the name of the child, the names of the ECI contractor and assigned service coordinator, the date, start time, length of time and place of service, type of service (face to face or telephone), a description of the contact including all referrals made and the disposition of the referral, any relevant information</p>	<p>(a) The child's record must include:</p> <p>(1) whether the parent has declined recommended services;</p> <p>(2) the need for, and occurrences of, coordination with other service coordinators or case managers; and</p> <p>(3) whether case management goals have been achieved.</p> <p>(b) Documentation of each case management contact must include:</p> <p>(1) name of the child;</p>	<p>Improve clarity.</p>	<p>Contractors must ensure case management documentation includes all required components.</p>

	<p>provided by the family, or other individual or entity and the service coordinator's signature.</p>	<p>(2) name of the ECI contractor; (3) name of the assigned service coordinator; (4) date, start time, and duration of the contact; (5) physical location of the service coordinator at the time of contact (e.g., office, child's home, hospital, daycare); (6) method of service (face to face or telephone); (7) with whom the contact was made (e.g., parent, routine caregiver, physician); (8) a description of the case management activity performed as described in §108.405 of this subchapter (relating to Case Management Services); (9) course of action to respond to identified needs; (10) any relevant information provided by the family, or other individual or entity; and (11) service coordinator's signature.</p>		
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Subchapter E Specialized Skills Training is now **Specialized Rehabilitative Services**

Rule number	Previous language	New language	Rationale	Implementation
§108.501	<p>(a) Specialized skills training (developmental services) are rehabilitative services to promote age-appropriate development by providing skills training to correct deficits and teach compensatory skills for deficits that directly result from medical, developmental or other health-related conditions. (b) Services must: (1) be designed to create learning environments and activities that promote the child's acquisition of skills in one or more of the following developmental areas: physical/motor,</p>	<p>(a) Specialized rehabilitative services are rehabilitative services that promote age-appropriate development by correcting deficits and teaching compensatory skills for deficits that directly result from medical, developmental or other health-related conditions. Specialized rehabilitative services include physical therapy, speech language pathology services, occupational therapy, and specialized skills training. (1) Physical therapy. (A) Physical therapy services are defined in 34 CFR §303.13(b)(9). (B) Physical therapy services must</p>	<p>Includes all SRS in one place to align with Medicaid. Adds telehealth as a means for providing services.</p>	<p>Providers may now provide SRS services via telehealth, if parent consents and if allowed by the provider's practice act. This does not guarantee telehealth services will be reimbursed by payors.</p>

	<p>communication, adaptive, cognitive, and social/emotional;</p> <p>(2) include skills training and anticipatory guidance for family members, or other significant caregivers to ensure effective treatment and to enhance the child's development;</p> <p>(3) be provided in the child's natural environment, as defined in 34 CFR Part 303, unless the criteria listed at 34 CFR §303.167 are met and documented in the case record; and</p> <p>(4) be provided on an individual or group basis.</p> <p>(c) In addition to the criteria in subsection (b) of this section, group services must be:</p> <p>(1) recommended by the interdisciplinary team and documented on the IFSP, only when participation in the group will assist the child reach the outcomes in the IFSP;</p> <p>(2) planned as part of an IFSP that also contains individual services; and</p> <p>(3) be limited to no more than four children and their parent(s) or other significant caregiver(s) per Early Intervention Specialist.</p> <p>(d) Staff Qualifications. Specialized skills training must be provided by an Early Intervention Specialist as defined in §108.103 of this chapter (relating to Definitions).</p> <p>(e) Service Authorization.</p> <p>(1) Specialized skills training must be recommended by an interdisciplinary team that includes a physician or licensed practitioner of the healing arts and be documented in an Individualized Family Service Plan (IFSP) in accordance with Subchapter J of this chapter (relating to Individualized Family Service Plan</p>	<p>meet the requirements of subsection (b) of this section.</p> <p>(C) Physical therapy services must be provided by a licensed physical therapist who meets the requirements of 42 CFR §440.110(a) and all other applicable state and federal laws or a licensed physical therapy assistant (LPTA) when the assistant is acting under the direction of a licensed physical therapist in accordance with 42 CFR §440.110 and all other applicable state and federal laws.</p> <p>(2) Speech language pathology services.</p> <p>(A) Speech language pathology services are defined in 34 CFR 303.13(b)(15).</p> <p>(B) Speech therapy services must meet the requirements of subsection (b) of this section.</p> <p>(C) Speech therapy services must be provided by:</p> <p>(i) a licensed speech language pathologist (SLP) who meets the requirements of 42 CFR §440.110(c) and all other applicable state and federal laws;</p> <p>(ii) a licensed assistant in SLP when the assistant is acting under the direction of a licensed SLP in accordance with 42 CFR §440.110 and all other applicable state and federal laws; or</p> <p>(iii) a licensed intern when the intern is acting under the direction of a qualified SLP in accordance with 42 CFR §440.110 and all other applicable state and federal laws.</p> <p>(3) Occupational therapy.</p> <p>(A) Occupational therapy services are defined in 34 CFR §303.13(b)(8).</p> <p>(B) Occupational therapy services must meet the requirements of subsection (b) of this section.</p>		
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	<p>(IFSP)).</p> <p>(2) Services must be monitored by the interdisciplinary team at least once every six months to determine:</p> <p>(A) what progress is being made toward achieving outcomes;</p> <p>(B) if services are reducing the child's functional limitations, promoting age appropriate growth and development, and are responsive to the family's identified goals for the child; and</p> <p>(C) whether modifications to the plan are needed.</p> <p>(3) Monitoring occurs as part of the IFSP review process and must be documented in the case record.</p> <p>(f) Documentation. Documentation of each specialized skills training contact must include:</p> <p>(1) the name of the child;</p> <p>(2) the name of the ECI contractor and Early Intervention Specialist;</p> <p>(3) the date, start time, length of time, and place of service;</p> <p>(4) method (individual or group);</p> <p>(5) a description of the contact including a summary of activities and the family or caregiver's participation;</p> <p>(6) the IFSP goal which was the focus of the intervention;</p> <p>(7) the child's progress;</p> <p>(8) relevant new information about the child provided by the family or other significant caregiver; and</p> <p>(9) the Early Intervention Specialist's signature.</p>	<p>(C) Occupational therapy services must be provided by a licensed occupational therapist who meets the requirements of 42 CFR §440.110(b) and all other applicable state and federal laws or a certified occupational therapy assistant (COTA) when the assistant is acting under the direction of a licensed occupational therapist in accordance with 42 CFR §440.110 and all other applicable state and federal laws.</p> <p>(4) Specialized skills training.</p> <p>(A) Specialized skills training seeks to reduce the child's functional limitations across developmental domains including, but not limited to strengthening the child's cognitive skills, positive behaviors, and social interactions.</p> <p>(B) Specialized skills training includes skills training and anticipatory guidance for family members or other routine caregivers to ensure effective treatment and to enhance the child's development.</p> <p>(C) Specialized skills training services must meet the requirements of subsection (b) of this section.</p> <p>(D) Specialized skills training must be provided by an Early Intervention Specialist.</p> <p>(b) Specialized rehabilitative services must:</p> <p>(1) be designed to create learning environments and activities that promote the child's acquisition of skills in one or more of the following developmental areas: physical/motor, communication, adaptive, cognitive, and social/emotional;</p> <p>(2) be provided in the child's natural environment, as defined in 34 CFR Part 303, unless the criteria listed at 34 CFR §303.126 are met and documented in</p>		
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		<p>the case record and may be provided via telehealth with the prior written consent of the parent and if the parent does not consent to telehealth services, will be provided in person;</p> <p>(3) meet the requirements of §108.1104 of this chapter (relating to Early Childhood Intervention Services Delivery); and</p> <p>(4) be provided on an individual or group basis.</p> <p>(c) In addition to the criteria in subsection (b) of this section, group services must meet the requirements as described in §108.1107 of this chapter (relating to Group Services).</p> <p>(d) Service Authorization.</p> <p>(1) Specialized rehabilitative services must be recommended by an interdisciplinary team that includes a licensed practitioner of the healing arts and be documented in an Individualized Family Service Plan (IFSP) in accordance with Subchapter J of this chapter (relating to Individualized Family Service Plan (IFSP)).</p> <p>(2) Services must be monitored by the interdisciplinary team as described in §108.1104 of this chapter (relating to Early Childhood Intervention Services Delivery).</p> <p>(e) Documentation. Documentation of each specialized rehabilitative services contact must meet the requirements in §108.1111 of this chapter (relating to Service Delivery Documentation Requirements).</p>		
§108.503	<p>In order to receive ECI specialized skills training; the child must meet the following criteria:</p> <p>(1) eligibility criteria established in Subchapter H of this chapter (relating to Eligibility), and</p> <p>(2) have a need for specialized skills</p>	<p>To receive ECI specialized rehabilitative services, a child must meet the following criteria:</p> <p>(1) eligibility criteria established in Subchapter H of this chapter (relating to Eligibility), and</p> <p>(2) have a need for specialized</p>	Includes all SRS in one place to align with Medicaid.	No changes in program practices.

	training as determined by the interdisciplinary team and identified on the IFSP which has been signed by a physician or licensed professional of the healing arts.	rehabilitative services as determined by the interdisciplinary team and identified on the IFSP which has been signed by an LPHA.		
§108.505	In order to be reimbursed for services specified in §108.501 of this subchapter (relating to Specialized Skills Training (Developmental Services)), a provider must: (1) be an Early Childhood Intervention contractor of the Department of Assistive and Rehabilitative Services; (2) comply with applicable federal and state laws and regulations governing the services provided; (3) ensure that services are provided by an Early Intervention Specialist defined in §108.103 of this chapter (relating to Definitions); and (4) be responsible for the Early Intervention Specialist's compliance with this subchapter.	To be reimbursed for services specified in §108.501 of this subchapter (relating to Specialized Rehabilitative Services), a contractor must: (1) comply with applicable federal and state laws and regulations governing the services provided; (2) ensure that services are provided by an ECI professional defined in §108.103 of this chapter (relating to Definitions); and (3) be responsible for the ECI professional's compliance with this subchapter.	Includes all SRS in one place to align with Medicaid.	No changes in program practices.
§108.507	(a) Medicaid-eligible individuals. Any Medicaid-eligible individual whose request for eligibility for specialized skills training is denied or is not acted upon with reasonable promptness, or whose specialized skills training has been terminated, suspended, or reduced is entitled to a fair hearing in accordance with 1 TAC Chapter 357, Subchapter A (relating to Uniform Fair Hearing Rules). (b) All individuals. If an ECI contractor denies, involuntarily reduces, or terminates specialized skills training for an individual, the individual has all rights to file complaints, request mediation, or request a hearing in accordance with Subchapter B of this chapter (relating to Procedural Safeguards and Due Process	(a) Medicaid-eligible individuals. Any Medicaid-eligible individual whose request for eligibility for specialized rehabilitative services is denied or is not acted upon with reasonable promptness, or whose specialized rehabilitative services has been terminated, suspended, or reduced is entitled to a fair hearing in accordance with 1 TAC Chapter 357, Subchapter A (relating to Uniform Fair Hearing Rules). (b) All individuals. If an ECI contractor denies, involuntarily reduces, or terminates specialized rehabilitative services for an individual, the individual has all rights to file complaints, request mediation, or request a hearing in accordance with Subchapter B of this chapter (relating to Procedural Safeguards and Due Process Procedures)	Includes all SRS in one place to align with Medicaid.	No changes in program practices.

	Procedures) and in accordance with Chapter 101, Subchapter J, Division 3 of this title (relating to Administrative Rules and Procedures).	and in accordance with Chapter 101, Subchapter E, Division 3 of this title (relating to Appeals and Hearing Procedures).		
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Subchapter F Public Outreach

Rule number	Previous language	New language	Rationale	Implementation
§108.603	The following statutes and regulations authorize or require the rules in this subchapter: (1) Texas Human Resources Code, Chapter 73; (2) Texas Human Resources Code, Chapter 117; (3) the Individuals with Disabilities Education Act, Part C (20 USC §§1431-1444); and (4) implementing federal regulations 34 CFR Part 303.	<i>§108.603 was deleted.</i>	Unnecessary language.	N/A

Subchapter G Referral, Pre-Enrollment and Developmental Screening

Rule number	Previous language	New language	Rationale	Implementation
§108.702	The following statutes and regulations authorize or require the rules in this subchapter: (1) Texas Human Resources Code, Chapter 73; (2) Texas Human Resources Code, Chapter 117; (3) the Individuals with Disabilities Education Act, Part C (20 USC §§1431 - 1444); and (4) implementing federal regulations 34 CFR Part 303.	<i>§108.702 was deleted</i>	Unnecessary language.	N/A
§108.706 (previous)	(a) When a child moves to Texas with a completed IFSP from another state, eligibility for Texas early childhood intervention services must be determined in accordance with	<i>This language was moved to §108.707 with no amendments.</i>	Renumbered to add a new rule.	N/A

	<p>Subchapter H of this chapter (relating to Eligibility, Evaluation, and Assessment).</p> <p>(b) The interdisciplinary team considers existing evaluation data and medical diagnoses, as documented on the out-of-state IFSP, as appropriate.</p> <p>(c) Early childhood intervention services in Texas must be planned in accordance with Subchapter J of this chapter (relating to Individualized Family Service Plan (IFSP)) and delivered in accordance with Subchapter K of this chapter (relating to Service Delivery).</p>			
§108.706 (new)		<p>(a) In order to facilitate discharge planning and provide continuity of care, a contractor may accept referrals for children who are residing in a hospital at the time of referral.</p> <p>(b) If a referral is received for a child who has an adjusted age of 0 months or less, or who has a qualifying medical diagnoses, the contractor may choose to determine eligibility and complete the initial IFSP prior to the child's discharge from the hospital.</p> <p>(1) The interdisciplinary team who determines eligibility may include a licensed or registered hospital professional, who will serve as the LPHA while the child is in the hospital. The LPHA on the IFSP team may participate by means other than face to face, if acceptable to the team and if the initial IFSP is conducted while the child is in the hospital.</p> <p>(2) The interdisciplinary team must include at least one ECI professional and a licensed or registered hospital professional who is familiar with the needs of the child and knowledgeable in the area or areas of concern. The participating licensed or registered hospital professional is not required to complete the orientation training</p>	Allows for continuity of care for children and families.	Contractors may accept referrals for a child who is in the hospital. If the child has an adjusted age of 0 months or a qualifying medical diagnosis, eligibility may be determined and the initial IFSP completed while this child is still in the hospital. A hospital employee who meets the criteria for an LPHA may serve as the LPHA for this purpose. This is not a requirement; contractors who do not wish to do this do not have to. Additionally, not all hospitals may wish to participate in this practice. The 28-day timeline will apply to these IFSPs. However, if a child's discharge was imminent at the time of the IFSP, but the child suffered a setback and required hospitalization for longer than expected, that is considered a family reason for not meeting the timeline.

		<p>required in §108.309(b) of this chapter (relating to Minimum Requirements for All Direct Service Staff). Allowable licensed or registered hospital professionals include:</p> <ul style="list-style-type: none"> (A) licensed physician; (B) registered nurse; (C) licensed physical therapist; (D) licensed occupational therapist; (E) licensed speech language pathologist; (F) licensed dietitian; (G) licensed audiologist; (H) licensed physician assistant; (I) licensed intern in speech language pathology; or (J) advanced practice registered nurse. 		
<p>§108.707 is proposed to become §108.708 with amendments.</p>	<p>(a) Pre-enrollment begins at the point of referral, includes the following activities, and ends when the parent signs the IFSP or a final disposition is reached.</p> <ul style="list-style-type: none"> (1) The contractor must assign an initial service coordinator for the family and document the name of the service coordinator in the child's record. (2) The contractor must provide the family the HHSC ECI family rights publication and document in the child's record that the following were explained: <ul style="list-style-type: none"> (A) the family's rights regarding eligibility determination and enrollment; (B) the early childhood intervention process for determining eligibility and enrollment; and (C) the types of early childhood intervention services that may be delivered to the child and the manner in which they may be provided. (3) The contractor provides pre-IFSP service coordination as defined in 34 CFR §303.13(b)(11) and §303.34. (4) The contractor must collect 	<p>(a) Pre-enrollment begins at the point of referral, includes the following activities, and ends when the parent signs the IFSP or a final disposition is reached.</p> <ul style="list-style-type: none"> (1) The contractor assigns an initial service coordinator for the family and documents the name of the service coordinator in the child's record. (2) The contractor provides the family the HHS ECI Parent Handbook and documents in the child's record that the following were explained: <ul style="list-style-type: none"> (A) the family's rights regarding eligibility determination and enrollment; (B) the early childhood intervention process for determining eligibility and enrollment; and (C) the types of early childhood intervention services that may be delivered to the child and the manner in which they may be provided. (3) The contractor provides pre-IFSP service coordination as defined in 34 CFR §303.13(b)(11) and §303.34. (4) The contractor collects 	<p>Renumbered to add a new rule. Additional amendments were made to eliminate unnecessary language and refer to the Parent Handbook by name.</p>	<p>No changes in program practices.</p>

	<p>information on the child throughout the pre-enrollment process.</p> <p>(5) The contractor must assist the child and family in gaining access to the evaluation and assessment process. The contractor:</p> <p>(A) schedules the interdisciplinary initial evaluation and assessment; and</p> <p>(B) prepares the family for the evaluation and assessment process.</p> <p>(6) The contractor must comply with all requirements in Subchapter B of this chapter (relating to Procedural Safeguards and Due Process Procedures).</p> <p>(b) The contractor must explain the requirement to provide early childhood intervention services in the natural environment to the family before eligibility determination.</p> <p>(c) The contractor must determine the need for and appoint a surrogate parent in accordance with 34 CFR §303.422 and §108.213 of this title (relating to Surrogate Parents).</p>	<p>information on the child throughout the pre-enrollment process.</p> <p>(5) The contractor assists the child and family in gaining access to the evaluation and assessment process, including:</p> <p>(A) scheduling the interdisciplinary initial evaluation and assessment; and</p> <p>(B) preparing the family for the evaluation and assessment process.</p> <p>(6) The contractor complies with all requirements in Subchapter B of this chapter (relating to Procedural Safeguards and Due Process Procedures).</p> <p>(b) The contractor must explain to the family, before eligibility determination, the requirement to provide early childhood intervention services in the natural environment.</p> <p>(c) The contractor must determine the need for and appoint a surrogate parent in accordance with 34 CFR §303.422 and §108.213 of this chapter (relating to Surrogate Parents).</p>		
§108.709	<p>(a) Developmental screenings are only used to determine the need for further evaluation. The contractor must:</p> <p>(1) use developmental screening tools that are approved by DARS ECI; and</p> <p>(2) train providers administering the screening tool according to the parameters required by the selected tool.</p> <p>(b) The parent has the right to decide whether to proceed to a comprehensive evaluation after a developmental screening or request a comprehensive evaluation instead of a developmental screening at any time.</p> <p>(c) If the results of a child's developmental screening do not indicate a developmental concern, the contractor</p>	<p>(a) Developmental screening is done to determine the need for further evaluation. A contractor must:</p> <p>(1) use tools that are approved by HHSC ECI; and</p> <p>(2) train providers administering the tool according to the parameters required by the selected tool.</p> <p>(b) A parent has the right to request a comprehensive evaluation after a developmental screening or a comprehensive evaluation instead of a developmental screening at any time.</p> <p>(c) If the results of a child's developmental screening do not indicate a concern, a contractor must:</p> <p>(1) provide written documentation to the parent that further evaluation is not</p>	Changes related to HHSC transformation. Other amendments were made to improve clarity and align with the ECI MOU with DFPS.	No changes in program practices.

	<p>must:</p> <p>(1) provide written documentation to the parent that further evaluation is not recommended;</p> <p>(2) offer the parent a comprehensive evaluation; and</p> <p>(3) conduct a comprehensive evaluation if requested by the parent.</p> <p>(d) The contractor must coordinate with the Texas Department of Family and Protective Services (DFPS) to accept referrals for children under 36 months of age who are in the conservatorship of DFPS, involved in a substantiated case of child abuse or neglect, identified as being affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure, or suspected of having a disability or developmental delay.</p> <p>(1) If the contractor receives a completed developmental screening from a health care provider acting within their scope of practice indicating a child in the conservatorship of DFPS has a developmental delay, the contractor must offer a comprehensive evaluation to determine eligibility for early childhood intervention services.</p> <p>(2) If the contractor receives a referral on a child who has not been placed in the conservatorship of DFPS, but who is involved in a substantiated case of child abuse or neglect, the contractor must offer a developmental screening to determine the need for a comprehensive evaluation or proceed to a comprehensive evaluation without a developmental screening.</p> <p>(3) If the contractor receives a referral on a child who is identified as being affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure, the</p>	<p>recommended;</p> <p>(2) offer the parent a comprehensive evaluation; and</p> <p>(3) conduct a comprehensive evaluation if requested by the parent.</p> <p>(d) A contractor must coordinate with the Texas Department of Family and Protective Services (DFPS) to accept a referral for a child under 36 months of age who is involved in a substantiated case of child abuse or neglect, affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or suspected of having a disability or developmental delay.</p> <p>(1) A child in DFPS conservatorship. A contractor must offer a comprehensive evaluation to determine eligibility for early childhood intervention services when the contractor receives a completed developmental screening from a health care provider indicating the child has a developmental delay.</p> <p>(2) A child not in DFPS conservatorship who is involved in a substantiated case of abuse or neglect. A contractor must offer either a developmental screening or proceed directly to a comprehensive evaluation.</p> <p>(3) A child affected by illegal substance abuse or withdrawal symptoms from prenatal drug exposure. A contractor must offer either a developmental screening or proceed directly to comprehensive evaluation.</p> <p>(4) A child suspected of having a disability or developmental delay. A contractor follows their local procedures for accepting a referral, conducting a developmental screening, and completing an evaluation unless the child meets one of the criteria in paragraphs (1) - (3) of this subsection.</p>		
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	<p>contractor must offer a developmental screening to determine the need for a comprehensive evaluation. The contractor may use professional judgment to proceed to comprehensive evaluation without first conducting a developmental screening.</p> <p>(4) If the contractor receives a referral from DFPS due to suspected disability or developmental delay, the contractor follows their local procedures for accepting referrals, screening, and evaluating when the child is:</p> <p>(A) not in the conservatorship of DFPS;</p> <p>(B) not involved in a substantiated case of child abuse or neglect; and</p> <p>(C) not identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.</p>			
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Subchapter H Eligibility, Evaluation, and Assessment

Rule number	Previous language	New language	Rationale	Implementation
§108.803	<p>The following statutes and regulations authorize or require the rules in this subchapter:</p> <p>(1) Texas Human Resources Code, Chapter 117;</p> <p>(2) 34 CFR Part 303; and</p> <p>(3) 20 USC §§1431 through 1443.</p>	<p><i>§108.803 was repealed.</i></p>	<p>Unnecessary language.</p>	<p>N/A</p>
§108.811(b)	<p>The DARS ECI assistant commissioner approves the list of qualifying medical conditions based on prevailing medical opinion. Copies of the list of medically qualifying diagnoses can be obtained from DARS.</p>	<p>The HHSC Director of ECI approves the list of qualifying medical conditions based on prevailing medical opinion that the diagnoses have a high probability of resulting in developmental delay. Copies of the list of medically qualifying diagnoses can be obtained from HHSC.</p>	<p>Changes related to HHSC transformation. Improve clarity.</p>	<p>No changes in program practices.</p>
§108.811(c)	<p>If a review of the child's records indicates that the child has a qualifying medical condition, the evaluation team</p>	<p>If a review of the child's records indicates that the child has a qualifying medical condition, the interdisciplinary</p>	<p>Improve clarity.</p>	<p>No changes in program practices.</p>

	must determine and document a need for early childhood intervention services as required in §108.837 of this title (relating to Needs Assessment).	team must determine and document a need for early childhood intervention services as required in §108.837 of this title (relating to Needs Assessment).		
§108.813(c)	<p>If the contractor receives an audiological assessment that indicates the child has an auditory impairment, the contractor must, with written parental consent, refer the child within five business days:</p> <p>to an otologist, an otolaryngologist, or an otorhinolaryngologist for an otological examination. An otological examination may be completed by any licensed medical physician when an otologist is not available. The child's record must include documentation that an otologist, an otolaryngologist, or an otorhinolaryngologist was not available to complete the examination; and</p> <p>(2) to the LEA to complete the communication evaluation and participate in the eligibility determination process as part of the interdisciplinary team. The contractor must also refer to the LEA any child who uses amplification.</p>	<p>If the contractor receives an audiological assessment that indicates the child has an auditory impairment, the contractor must respond as follows.</p> <p>(1) The contractor must, within five business days, make a referral to the LEA to participate in the eligibility determination process as part of the interdisciplinary team, and with written parental consent, complete the communication evaluation. The contractor must refer to the LEA any child who uses amplification.</p> <p>(2) With prior written parental consent, the contractor must refer the child to an otologist, an otolaryngologist, or an otorhinolaryngologist for an otological examination. An otological examination may be completed by any licensed medical physician when an otologist is not available. The child's record must include documentation that an otologist, an otolaryngologist, or an otorhinolaryngologist was not available to complete the examination.</p>	Improve clarity.	No changes in program practices.
§108.815(c)	If the contractor receives a medical eye examination report that indicates vision impairment, the contractor must refer the child to the LEA and to the local office of the DARS Division for Blind Services, with parental consent and within five days of receiving the report.	<p>If the contractor receives a medical eye examination report that indicates vision impairment, the contractor must, within five business days of receiving the report,:</p> <p>(1) refer the child to the LEA; and</p> <p>(2) with prior written consent, refer the child to the local office of the HHS Blind Children's Vocational Discovery and Development Program (BCVDDP).</p>	Improve clarity.	No changes in program practices.
§108.815(d)	The referral must be accompanied by a form containing elements required by the Texas Education Agency completed by an ophthalmologist or an	The referral to the LEA must be accompanied by a form containing elements required by the Texas Education Agency completed by an	Improve clarity.	No changes in program practices.

	optometrist, or a medical physician when an ophthalmologist or optometrist is not available.	ophthalmologist or an optometrist, or a medical physician when an ophthalmologist or optometrist is not available.		
§108.823	<p>(a) The contractor must re-determine the child's eligibility for early childhood intervention services at least annually.</p> <p>(b) Continuing eligibility based on a qualifying medical diagnosis must be determined one year after initial eligibility.</p> <p>(1) If a review of the child's records confirms that a qualifying medical condition continues, the child remains eligible for comprehensive early childhood intervention services, and the interdisciplinary team the continued need for early childhood intervention services</p> <p>(2) The contractor must ensure that the child's record contains written documentation of any change in medical diagnosis.</p> <p>(c) Continuing eligibility based on auditory or visual impairments as defined by the Texas Education Agency in 19 TAC §89.1040 (relating to Eligibility Criteria) is determined one year after initial eligibility.</p> <p>(d) Continuing eligibility for developmental delay based on the standardized tool must be determined one year after initial eligibility.</p> <p>(1) Eligibility is re-determined through an evaluation using the standardized tool designated by DARS ECI</p> <p>(2) The child must demonstrate a documented delay of at least 15% in one or more areas of development. If applicable use adjusted age as specified in §108.819 of this subchapter (relating to Adjustment for Children Born Prematurely).</p>	<p>(a) The contractor must determine the child's eligibility for continued early childhood intervention services at least annually if the child is younger than 21 months of age. A child who is determined eligible at 21 months of age or older remains eligible for ECI until the child's third birthday or until the child has reached developmental proficiency, whichever happens first.</p> <p>(b) The contractor must comply with all requirements in 34 CFR §303.321(a)(3), including ensuring that informed clinical opinion may be used as an independent basis to establish a child's continued eligibility.</p> <p>(1) Continuing eligibility is based on one of the following:</p> <p>(A) a qualifying medical diagnosis confirmed by a review of the child's medical records with:</p> <p>(i) interdisciplinary team documentation of the continued need for early childhood intervention services; and</p> <p>(ii) documentation in the child's record of any change in medical diagnosis;</p> <p>(B) an auditory or visual impairment as defined by the Texas Education Agency in 19 TAC §89.1040 (relating to Eligibility Criteria) with:</p> <p>(i) interdisciplinary team documentation of the continued need for early childhood intervention services; and</p> <p>(ii) documentation in the child's record of any change in hearing or vision status; or</p> <p>(C) a developmental delay</p>	Improve clarity. Increase efficiency.	<p>If a child was 21 months or older at the last eligibility determination (initial or annual), the child may remain eligible until the child turns three, or until the child's team determines he or she has met developmental proficiency. This does not apply to children determined eligible via QDD who were 21 through 26 months old at the time of eligibility determination. Those children must have eligibility redetermined within 6 months.</p> <p>Federal regulations require informed clinical opinion to be used in all eligibility determinations, including continuing eligibility. This does not mean children with a delay of less than 15% on the BDI-2, who do not have a qualifying medical diagnosis or documented auditory or visual impairment, can be determined eligible. There are a variety of ways evaluators can use informed clinical opinion in eligibility determination, including determining whether a child has mastered individual items on the BDI-2. For examples of this, see the webinar, Eligibility Changes and the BDI-2, Part 1 and Making It Work for Therapists.</p>

	<p>(e) Continuing eligibility for a child whose initial eligibility was based on a qualitative determination of developmental delay must be determined after six months.</p> <p>(1) Eligibility is re-determined through an evaluation using the standardized tool designated by DARS ECI.</p> <p>(2) The child must demonstrate a documented delay of at least 15% in one or more areas of development. If applicable use adjusted age as specified in §108.819 of this subchapter.</p> <p>(f) If the parent fails to consent or fails to cooperate in re-determination of eligibility, the child becomes ineligible. The contractor must send prior written notice of ineligibility and consequent discontinuation of all ECI services to the family at least 14 days before the contractor discharges the child from the program, unless the parent:</p> <p>(1) immediately consents to and cooperates in all necessary evaluations and assessments; and</p> <p>(2) consents to all or part of a new IFSP.</p> <p>(g) The family has the right to oppose the actions described in subsection (f) of this section using their procedural safeguards including the rights to use local and state complaint processes, request mediation, or request an administrative hearing in accordance with §101.1107 of this title (relating to Administrative Hearings Concerning Individual Child Rights).</p>	<p>determined by the administration of the standardized tool designated by HHSC ECI, with the child demonstrating a documented delay of at least 15 percent in one or more areas of development, including the use adjusted age as specified in §108.819 of this subchapter (relating to Age Adjustment for Children Born Prematurely), as applicable.</p> <p>(2) Continuing eligibility for a child whose initial eligibility was based on a qualitative determination of developmental delay must be determined after six months.</p> <p>(A) Eligibility is re-determined through an evaluation using the standardized tool designated by HHSC ECI.</p> <p>(B) The child must demonstrate a documented delay of at least 15% in one or more areas of development. If applicable use adjusted age as specified in §108.819 of this subchapter.</p> <p>(b) If the parent fails to consent or fails to cooperate in re-determination of eligibility, the child becomes ineligible. The contractor must send prior written notice of ineligibility and consequent discontinuation of all ECI services to the family at least 14 days before the contractor discharges the child from the program, unless the parent:</p> <p>(1) immediately consents to and cooperates in all necessary evaluations and assessments; and</p> <p>(2) consents to all or part of a new IFSP.</p> <p>(c) The family has the right to oppose the actions described in subsection (b) of this section using their procedural safeguards including the rights to use local and state complaint processes, request mediation, or request an administrative hearing in accordance</p>		
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		with §101.1107 of this title (relating to Administrative Hearings Concerning Individual Child Rights).		
§108.825(e) is proposed to become §108.825(e) and (f) with amendments.	(e) The eligibility statement is valid for 1 year, except for children who are eligible with a qualitative determination of developmental delay. The eligibility statement for children who are determined eligible with a qualitative determination of developmental delay is valid for six months. Information about additional qualifying criteria is documented in the child's record. The eligibility statement does not need to be changed or updated until eligibility is re-determined.	(e) The eligibility statement is valid: (1) for twelve months if the child is younger than 21 months of age; (2) until the child's third birthday for a child whose eligibility was determined at 21 months of age or older; or (3) for six months from the initial eligibility determination based on a qualitative determination of developmental delay. (f) If new information about additional qualifying criteria is discovered, the new information is documented in the child's record. The eligibility statement does not need to be changed or updated until eligibility is re-determined.	Increase efficiency.	This amendment allows the eligibility statement to remain in effect until the child's third birthday for children whose eligibility was determined at 21 months of age or older. This does not apply to children determined eligible via QDD who were 21 through 26 months old at the time of eligibility determination. Those children must have a new eligibility statement within six months of the initial eligibility statement.
§108.837(a)	The interdisciplinary team, which includes the service coordinator, must conduct a comprehensive needs assessment initially and annually as part of the IFSP process. The comprehensive needs assessment must identify and document:	The IFSP team, which includes the service coordinator, must conduct a comprehensive needs assessment initially and annually as part of the IFSP process. The comprehensive needs assessment must identify and document:		

Subchapter J Individualized Family Service Plan (IFSP)

Rule number	Previous language	New language	Rationale	Implementation
§108.1002	The following statutes and regulations authorize or require the rules in this subchapter: (1) Texas Human Resources Code, Chapter 73; (2) Texas Human Resources Code, Chapter 117; (3) the Individuals with Disabilities Education Act, Part C (20 USC §§1431 - 1444); and (4) implementing federal regulations	<i>§108.1002 was repealed.</i>	Unnecessary language.	N/A

	34 CFR Part 303.			
§108.1003(3)	IFSP Outcomes--Statements of the measurable results that the family wants to see for their child or themselves.	IFSP Goals--Statements of the measurable results that the family wants to see for their child or themselves.	Improve clarity by changing "outcomes" to "goals" to reduce confusion with the Global Child Outcomes. This was recommended by the Administrative Efficiencies Committee.	Programs may choose to update forms and inform service providers of the change.
§108.1004 IFSP is proposed to become §108.1004 IFSP Development with amendments.	<p>(a) The IFSP team must develop a written initial IFSP during a face-to-face meeting with the family in accordance with 20 USC §1436 and 34 CFR §§303.340 - 303.346.</p> <p>(b) The annual meeting to evaluate the IFSP may be conducted by means other than a face-to-face meeting if:</p> <ol style="list-style-type: none"> (1) approved by the parent; and (2) the contractor has a plan approved by DARS for conducting annual meetings to evaluate the IFSP by means other than a face-to-face meeting when appropriate for the child and family and approved by the parent, in which case the contractor must document how the most recent observations and conclusions of the LPHA conducting the re-evaluation were communicated and incorporated into the IFSP. <p>(c) The parent must be informed of his or her choices for conducting the annual meeting.</p> <p>(d) The IFSP must be developed based on evaluation and assessment described in 34 CFR §303.321 and Subchapter H of this chapter (relating to Eligibility, Evaluation, and Assessment). The IFSP must address the developmental needs of the child and the case management needs of the family as identified in the comprehensive needs assessment, unless the family declines to address a specified need.</p> <p>(e) The contractor must deliver early</p> 	<p>(a) The IFSP team must develop a written initial IFSP within 45 days from the date HHSC ECI receives a referral on a child. The IFSP is completed during a face-to-face meeting with the family in accordance with 20 USC §1436 and 34 CFR §§303.340 - 303.346.</p> <p>(b) The IFSP must be developed based on evaluation and assessment of a child as described in 34 CFR §303.321 and Subchapter H of this chapter (relating to Eligibility, Evaluation, and Assessment). An IFSP must address the developmental needs of the child and the case management needs of the family as identified in the comprehensive needs assessment, unless the family declines to address a specified need.</p> <p>(c) A contractor must provide a parent with a copy of the IFSP, as required by 34 CFR §303.405 and §303.409, and maintain the original IFSP in the child's record.</p> <p>(d) A contractor must deliver early childhood intervention services according to the IFSP.</p> <p>(e) An IFSP team must conduct a periodic review of the IFSP at least every six months in accordance with 34 CFR §303.342.</p> <p>(f) An IFSP meeting must be conducted at least annually to evaluate and revise, as appropriate, the IFSP for a child and the child's family in accordance with 34 CFR §303.342. The meeting may be conducted by a method other than face-to-face if:</p>	Improve clarity.	No changes in program practices.

	<p>childhood intervention services according to the IFSP.</p> <p>(f) The IFSP team must complete a periodic review of the IFSP at six-month intervals as required in 20 USC §1436 and 34 CFR §303.342.</p> <p>(g) The IFSP team must conduct an annual to evaluate the IFSP as required in 34 CFR §303.342, or more frequently if the parent requests.</p> <p>(h) Documentation in the child's record must reflect compliance with related state and federal requirements.</p> <p>(i) The contractor must provide the parent with a copy of the IFSP, as required in §108.223(d) of this chapter (relating to Fees for Records) and maintain the original IFSP in the child's record.</p> <p>(j) The contractor must comply with all requirements in Subchapter B of this chapter (relating to Procedural Safeguards and Due Process Procedures) during the IFSP process.</p>	<p>(1) approved by the parent;</p> <p>(2) the contractor has a plan approved by HHSC for conducting annual IFSP meetings by a method other than face-to-face when appropriate for the child and family; and</p> <p>(3) the contractor documents how the LPHA's observations and conclusions of the re-evaluation of the child were communicated and incorporated into the IFSP.</p> <p>(g) Documentation in the child's record must reflect compliance with related state and federal requirements.</p> <p>(h) The contractor must comply with all requirements in Subchapter B of this chapter (relating to Procedural Safeguards and Due Process Procedures) during the IFSP process.</p>		
§108.1007	<p>(a) An interim IFSP can be developed before completing the evaluation and assessment in accordance with 34 CFR §303.345.</p> <p>(b) The evaluation, comprehensive needs assessment, and the IFSP must be completed within the time frames required in 34 CFR §303.310</p>	<p>An interim IFSP is developed for an eligible child and family who need supports and services to begin immediately. ECI services may begin before completing an evaluation and assessment if the following conditions are met:</p> <p>(1) parental consent is obtained;</p> <p>(2) the interim IFSP includes the name of the assigned service coordinator;</p> <p>(3) the interim IFSP includes the services that have been determined to be needed immediately; and</p> <p>(4) the evaluation, assessment, and initial IFSP are completed within the 45-day timeframe in accordance with 34 CFR §303.310.</p>	Improve clarity.	Programs may need to develop stricter policy pertaining to interim IFSPs.
§108.1009 Participants in	(a) The initial IFSP meeting and each annual meeting to evaluate the IFSP	(a) The initial IFSP meeting and each annual meeting to evaluate the IFSP	Moved requirements for all participants, including AI and VI	No changes in program practices.

<p>Initial and Annual Meetings to Evaluate the IFSP is proposed to become §108.1009 Participants in Initial and Annual IFSP Meetings with amendments.</p>	<p>must be conducted by the IFSP team as defined in 34 CFR §303.343(a) (relating to IFSP Team meeting and periodic review).</p> <p>(b) The initial IFSP meeting and the annual meeting to evaluate the IFSP must be conducted by an interdisciplinary team that includes, at a minimum, the parent and at least two professionals from different disciplines or professions.</p> <p>(1) At least one of the two ECI professionals must be a service coordinator.</p> <p>(2) At least one of the two ECI professionals must be an LPHA.</p> <p>(3) At least one ECI professional attending the meeting must have been involved in conducting the evaluation. This may be the service coordinator, the LPHA, or a third professional. If the LPHA attending the IFSP meeting is not an LPHA who conducted the evaluation, the contractor must ensure that the most recent observations and conclusions of the LPHA who conducted the evaluation were communicated to the LPHA attending the initial IFSP meeting and incorporated into the IFSP.</p> <p>(4) Other team members may participate by other means acceptable to the team.</p> <p>(c) With parental consent, the contractor must also invite to the initial IFSP meeting and annual meetings to evaluate the IFSP:</p> <p>(1) Early Head Start and Migrant Head Start staff members, if the family is jointly served; and</p> <p>(2) representatives from other agencies serving or providing case management to the child or family</p>	<p>must be conducted by the IFSP team as defined in 34 CFR §303.343(a) (relating to IFSP Team meeting and periodic review).</p> <p>(b) The initial IFSP meeting and the annual meeting to evaluate the IFSP must be conducted by an interdisciplinary team that includes, at a minimum, the parent and at least two ECI professionals from different disciplines or professions.</p> <p>(1) At least one ECI professional must be a an ECI service coordinator.</p> <p>(2) At least one ECI professional must be an LPHA.</p> <p>(3) At least one ECI professional must have been involved in conducting the evaluation. This may be the service coordinator, the LPHA, or a third professional.</p> <p>(4) If the LPHA attending the IFSP meeting did not conduct the evaluation, the contractor must ensure that the most recent observations and conclusions of the LPHA who conducted the evaluation were communicated to the LPHA attending the initial IFSP meeting and incorporated into the IFSP.</p> <p>(5) Other team members may participate by other means acceptable to the team.</p> <p>(c) With parental consent, the contractor must also invite to the initial IFSP meeting and annual meetings to evaluate the IFSP:</p> <p>(1) Early Head Start and Migrant Head Start staff members, if the family is jointly served; and</p> <p>(2) representatives from other agencies serving or providing case management to the child or family including Medicaid managed care programs.</p> <p>(d) If a child has a documented:</p>	<p>personnel, into one rule. Other changes were made to improve clarity.</p>	
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	<p>including STAR, STAR+PLUS, or STAR Health Medicaid managed care.</p>	<p>(1) auditory impairment as described in §108.813(a) of this chapter (relating to Determination of Hearing and Auditory Status), the IFSP team for an initial IFSP meeting and annual IFSP evaluation meetings must include a certified teacher of the deaf and hard of hearing; or</p> <p>(2) visual impairment as described in §108.815(a) of this chapter (relating to Determination of Vision Status), the IFSP team for an initial IFSP meeting and annual IFSP evaluation meetings must include a certified teacher of the visually impaired.</p> <p>(e) Unless there is documentation that the LEA has waived notice, the contractor must:</p> <p>(1) provide the certified teacher required in subsection (d) of this section at least a 10-day written notice before the initial IFSP meeting, any annual meetings to evaluate the IFSP or any review and evaluation that affects the child's auditory or vision services; and</p> <p>(2) keep documentation of the notice in the child's ECI record.</p> <p>(f) The IFSP team cannot plan auditory or vision services or make any changes that affect those services if the certified teacher required in subsection (d) of this section is not in attendance.</p> <p>(g) The IFSP team must route the IFSP to the certified teacher required in subsection (d) of this section for review and signature when changes to the IFSP do not affect the child's auditory or vision services.</p> <p>(h) The certified teacher of the deaf and hard of hearing and the certified teacher of the visually impaired required in subsection (d) of this section may submit a request within five days of the IFSP meeting to have another IFSP</p>		
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		meeting if the teacher disagrees with any portion of the IFSP. (i) The certified teacher required in subsection (d) of this section is not required to attend an IFSP review when changes do not affect the child's auditory or vision services, but the contractor must obtain the teacher's input.		
§108.1011	<p>(a) In addition to the requirements in §108.1009 of this title (relating to Participants in Initial and Annual Meetings to Evaluate the IFSP), the IFSP team for an initial IFSP meeting or annual meetings to evaluate the IFSP must include a certified teacher of the deaf and hard of hearing or a certified teacher of the visually impaired if the child has a documented auditory or visual impairment as described in 19 TAC §89.1040 (relating to Eligibility Criteria).</p> <p>(b) Unless there is documentation that the LEA has waived notice, the contractor must:</p> <p>(1) provide the teacher at least a 10-day written notice before the initial IFSP meeting, any annual meetings to evaluate the IFSP or any review and evaluation that affects the child's auditory or vision services; and</p> <p>(2) keep documentation of the notice in the child's record.</p> <p>(c) The IFSP team cannot plan auditory or vision services or make any changes that affect those services if the certified teacher of the deaf and hard of hearing or certified teacher of the visually impaired is not in attendance.</p> <p>(d) The IFSP team must route the IFSP to the certified teacher of the deaf and hard of hearing or certified teacher of the visually impaired for review and signature when changes to the IFSP do not affect the child's auditory or vision</p>	<i>§108.1011 was repealed, and content added with amendments to §108.1009.</i>	Improve clarity.	N/A

	<p>services.</p> <p>(e) The certified teacher of the deaf and hard of hearing and the certified teacher of the visually impaired may submit a request within five days of the IFSP meeting to have another IFSP meeting if the teacher disagrees with any portion of the IFSP.</p> <p>(f) The certified teacher of the deaf and hard of hearing or certified teacher of the visually impaired are not required to attend the review when changes do not affect the child's auditory or vision services, but the contractor must obtain their input.</p>			
§108.1015(a)(3)	<p>measurable outcomes that:</p> <p>(A) address the child's and family's needs which were identified during pre-enrollment, evaluation, and assessment; and</p> <p>(B) address the child's functional developmental skills by describing targeted participation in everyday family and community routines and activities;</p>	<p>measurable goals that address:</p> <p>(A) the child's and family's needs which were identified during pre-enrollment, evaluation, and assessment;</p> <p>(B) the child's functional developmental skills by describing targeted participation in everyday family and community routines and activities; and</p> <p>(C) when the IFSP target is achieved and the action or skill is generalized.</p>	Improve clarity related to requirement for measurable goals.	Providers may need training on identifying a target date, and programs may wish to include this in internal QA activities.
§108.1015(a)(4) (A)	address the outcomes in the IFSP;	address the goals in the IFSP;		
§108.1015(b)	<p>IFSP services must be monitored to assess child progress by the interdisciplinary team as described in §108.1017 of this chapter (relating to Periodic Reviews). If the team determines that Specialized Skills Training (SST) is necessary, the team must ensure interdisciplinary monitoring of the SST and of child progress in accordance with §108.501 of this chapter (relating to Specialized Skills Training (Developmental Services)) by planning in the IFSP:</p> <p>(1) regularly occurring service by the LPHA; or</p>	<p>IFSP services must be monitored to assess child progress by the interdisciplinary team as described in §108.1017 of this chapter (relating to Periodic Reviews).</p>	Increase efficiency.	Re-Assessment by an LPHA no longer needs to be documented on the IFSP for children receiving SST only. The team will still need to monitor the IFSP at least once every six months, and an LPHA must assess a child who is not receiving an ongoing service by an LPHA within 45 days of a periodic review.

	(2) re-assessment by the LPHA at least every six months.			
§108.1015(f)	If the IFSP team determines that an IFSP outcome cannot be achieved satisfactorily in a natural environment, the IFSP must contain a justification as to why an early childhood intervention service will be provided in a setting other than a natural environment, as determined appropriate by the parent and the rest of the IFSP team.	If the IFSP team determines that an IFSP goal cannot be achieved satisfactorily in a natural environment, the IFSP must contain a justification as to why an early childhood intervention service will be provided in a setting other than a natural environment, as determined appropriate by the parent and the rest of the IFSP team.	Improve clarity.	No changes in program practices.
§108.1015(i)	The contractor must obtain, on the IFSP services page, the dated signatures of every member of the IFSP team as defined in §108.103(24) of this chapter (relating to Definitions). The IFSP must be signed by the LPHA on the team to acknowledge the planned services are reasonable and necessary.	The contractor must obtain, on the IFSP services page, the dated signatures of every member of the IFSP team. The IFSP must be signed by the LPHA on the team to acknowledge the planned services are reasonable and necessary.	Unnecessary language.	N/A
§108.1016	If delivering services with the participation of the routine caregiver in the absence of the parent is necessary, the IFSP team must: (1) document in the IFSP a justification of how the child will benefit from delivering the specified services with the routine caregiver as required in §108.1015(d) of this title (relating to Content of the IFSP); (2) document the names of the routine caregivers in the child's record; (3) obtain written parental consent before releasing personally identifiable information to the routine caregiver; and (4) obtain written authorization from the parent to provide early childhood intervention services with the routine caregiver.	(a) If delivering services with the participation of the routine caregiver in the absence of the parent is necessary, the IFSP team must: (1) document the names of the routine caregivers in the child's record; (2) obtain written parental consent before releasing personally identifiable information to the routine caregiver; and (3) obtain written authorization from the parent to provide early childhood intervention services with the routine caregiver. (b) A member of the IFSP team must contact the parent face-to-face or by telephone at least once every month to provide an update on services provided with a routine caregiver.	Increase efficiency. Moves language from §108.1106 to this rule.	Documentation of justification for providing services with a routine caregiver is no longer required.
§108.1017(b)	Additionally, the child's record must contain documentation of all IFSP team members' participation in the periodic review. Participation in the periodic	Additionally, the child's record must contain documentation of all IFSP team members' participation in the periodic review. Participation in the periodic	Increase efficiency.	In cases in which an LPHA is not providing ongoing services, they must now see them within 45 days prior to a periodic review.

	review may be accomplished by a team member attending the meeting face-to-face or by telephone or by providing input and information in advance of the meeting. If a team member participates by means other than a face-to-face meeting, the team member must give the service coordinator his or her most recent observations and conclusions about the child. The team member must document in the child's record how this information was communicated to the service coordinator. If the team member is an LPHA who is not providing ongoing services to the child, he or she must have assessed the child within the previous 30 days.	review may be accomplished by a team member attending the meeting face-to-face or by telephone or by providing input and information in advance of the meeting. If a team member participates by means other than a face-to-face meeting, the team member must give the service coordinator his or her most recent observations and conclusions about the child. The team member must document in the child's record how this information was communicated to the service coordinator. If the team member is an LPHA who is not providing ongoing services to the child, he or she must have assessed the child face-to-face within the previous 45 days.		
§108.1017(e)(1)	a review of the child's progress toward meeting each outcome on the IFSP and the child's functional abilities related to the outcome;	a review of the child's progress toward meeting each goal on the IFSP and the child's functional abilities related to the goal;	Improve clarity.	No changes in program practices.
§108.1017(e)(4)	the development of new outcomes or the modification of existing outcomes, as appropriate, that must be dated and attached to the IFSP; and	the development of new goals or the modification of existing goals, as appropriate, that must be dated and attached to the IFSP; and	Improve clarity.	No changes in program practices.
§108.1017(i)	If new outcomes are developed, the documentation must be provided to the parent.	If new goals are developed, the documentation must be provided to the parent.	Improve clarity.	No changes in program practices.
§108.1019(a)(2)	progress toward achieving the IFSP outcomes; and	progress toward achieving the IFSP goals; and		
§108.1019(a)(3)	any needed modification of the outcomes and early childhood intervention services.	any needed modification of the goals and early childhood intervention services.	Improve clarity.	No changes in program practices.

Subchapter K Service Delivery

Rule number	Previous language	New language	Rationale	Implementation
§108.1102	The following statutes and regulations authorize or require the rules in this subchapter: (1) Texas Human Resources Code, Chapter 73;	<i>§108.1102 was repealed.</i>	Unnecessary language.	N/A

	<p>(2) Texas Human Resources Code, Chapter 117;</p> <p>(3) the Individuals with Disabilities Education Act, Part C (20 USC §§1431 - 1444); and</p> <p>(4) implementing federal regulations 34 CFR Part 303.</p>			
§108.1104(b)	<p>(b) The contractor must ensure that early childhood intervention services are appropriate, as determined by the IFSP team, and based on scientifically based research, to the extent practicable. In addition to the requirements in 34 CFR §303.13, early childhood intervention services must be provided:</p> <p>(1) according to a plan and with a frequency that is individualized to the parent and child to effectively address the outcomes established in the IFSP; and</p> <p>(2) in the presence of the parent or other routine caregiver, with an emphasis on enhancing the family's capacity to meet the developmental needs of the child.</p>	<p>(b) The contractor must ensure that early childhood intervention services are appropriate, as determined by the IFSP team, and based on scientifically based research, to the extent practicable. In addition to the requirements in 34 CFR §303.13, early childhood intervention services must be provided:</p> <p>(1) according to a plan and with a frequency that is individualized to the parent and child to effectively address the goals established in the IFSP;</p> <p>(2) in the presence of the parent or other routine caregiver, with an emphasis on enhancing the family's capacity to meet the developmental needs of the child; and</p> <p>(3) in the child's natural environment, as defined in 34 CFR Part 303.26, unless the criteria listed in 34 CFR §303.126 are met and documented in the case record, and may be provided via telehealth with the written consent of the parent. <i>If the parent declines to consent to telehealth for some or all services, those services must be provided in person.</i></p>	Adds the requirement for provision of services in the natural environment and allows for telehealth services.	Providers may provide services via telehealth, as long as the parent consents to the service and telehealth delivery is allowed by the provider's practice requirements. This does not guarantee that telehealth services will be reimbursed by TMHP, Medicaid MCOs or private insurers.
§108.1104(g)(1)	what progress is being made toward achieving outcomes;	what progress is being made toward achieving goals;	Improve clarity.	No changes in program practices
§108.1105(5)	Family Education and Training--As family training, counseling, and home visits are defined in 34 CFR §303.13(b)(3). Family education and training is provided when the family needs information about general parenting techniques and/or environmental concerns. Information	Family Education and Training--As family training, counseling, and home visits are defined in 34 CFR §303.13(b)(3). Family education and training is provided when the family needs information about general parenting techniques and/or environmental concerns. Information provided follows a specific scope and	Improve clarity.	This change allows programs to provide Family Education and Training in classes without children present.

	provided follows a specific scope and sequence. Information may be based on general child care, developmental education, or other specific curriculum.	sequence. Information may be based on general child care, developmental education, or other specific curriculum. Family Education and Training can be provided to parents in group settings without the children present.		
§108.1105(13)	Re-assessment--A specific type of assessment (§108.103(1) of this title (relating to Definitions)) service, planned on the IFSP, in which a team member gathers and documents information regarding the child's functional progress on IFSP outcomes, and considers whether any modifications to the IFSP should be recommended.	<i>§108.1105(13) was repealed.</i>	Increase efficiency.	Re-Assessment is no longer considered an ECI service and is not required to be documented on the IFSP Services Page. Providers may still reassess a child in the context of service delivery visits, and an assessment by an LPHA is required within 45 days prior to a periodic review.
§108.1105(15)	<i>§108.1105(15) was added.</i>	Sign Language and Cued Language--As defined in 34 CFR §303.13(b)(12).	This language was moved from Subchapter A.	No changes in program practices.
§108.1106	(a) When necessary to benefit the child, the IFSP team may provide early childhood intervention services with a routine caregiver in the absence of the parent. The team must: (1) document in the IFSP a justification of how the child will benefit from delivering the specified services with the routine caregiver as required in §108.1015(d) of this chapter (relating to Content of the IFSP); and (2) plan for services to be delivered with the routine caregiver as required in §108.1016 of this chapter (relating to Planning for Services to be Delivered with the Routine Caregiver). (b) A member of the IFSP team must contact the parent face-to-face or by telephone at least once every month.	<i>§108.1106 was repealed.</i>	Increase efficiency. (b) was moved to §108.1016.	Programs are no longer required to document justification in the IFSP for providing services with someone other than the parent.
§108.1107 Group Services is proposed to become §108.1107 Group	recommended by the interdisciplinary team and documented on the IFSP only when participating in the group will assist the child to reach the outcomes in the IFSP;	recommended by the interdisciplinary team and documented on the IFSP only when participating in the group will assist the child to reach the goals in the IFSP;	Improve clarity.	No change in program practices.

Services for Children, with a proposed amendment to §108.1107(a)(1).				
§108.1108(a)	The Texas General Appropriations Act authorizes reimbursement to the enrolled child's family for respite services that are not directly related to IFSP outcomes.	The Texas General Appropriations Act authorizes reimbursement to the enrolled child's family for respite services that are not directly related to IFSP goals.	Improve clarity.	No change in program practices.
§108.1111(6)	the IFSP outcome that was the focus of the intervention;	the IFSP goal that was the focus of the intervention;	Improve clarity.	No change in program practices.
§108.1111(7)	the child's progress related to the outcomes in the IFSP;	the child's progress related to the goals in the IFSP;	Improve clarity.	No change in program practices.

Subchapter L Transition

Rule number	Previous language	New language	Rationale	Implementation
§108.1202	The following statutes and regulations authorize or require the rules in this subchapter: (1) Texas Human Resources Code, Chapter 73; (2) the Individuals with Disabilities Education Act, Part C (20 USC §§1431-1444); (3) implementing federal regulations 34 CFR Part 303; and (4) Code of Federal Regulations, Title 34, Part 99, Family Educational Rights and Privacy.	<i>§108.1202 was repealed.</i>	Unnecessary language.	N/A
§108.1207(d)(1)	Except as provided in subsections (f) - (h) of this section, the meeting to plan and document appropriate steps and transition services in the IFSP must be conducted not fewer than 90 days, and at the discretion of all parties, not more than nine months before the child's third birthday.	Except as provided in subsections (f) - (g) of this section, the meeting to plan and document appropriate steps and transition services in the IFSP must be conducted not fewer than 90 days, and at the discretion of all parties, not more than nine months before the child's third birthday. If the child is referred and determined to be eligible more than 45 but less than 90 days before the child's third birthday, appropriate steps	Improve clarity.	No changes in program practices.

		and transitions services must be included in the child's initial IFSP.		
§108.1207(g)	If the child is referred 45 days to six months before the child's third birthday, the IFSP team must plan and document appropriate steps and transition services as a part of the initial IFSP development.	<i>We propose repealing §108.1207(g).</i>	Improve clarity. The content has been incorporated into other parts of this rule.	No changes in program practices.
§108.1209	DARS coordinates the State Education Agency's (SEA) notification of children potentially eligible for special education services, in compliance with 34 CFR §303.209(b). DARS will send notification of children potentially eligible for special education services to the SEA at least 90 days before each child's third birthday, or as soon as possible for children referred between 90 and 45 days before the child's third birthday. If a referral is received for a child fewer than 45 days before the child's third birthday and the child may be potentially eligible for preschool special education services, DARS will, with written parental consent, refer the child directly to the SEA.	HHSC coordinates the State Education Agency's (SEA) notification of children potentially eligible for special education services, in compliance with 34 CFR §303.209(b). HHSC will send notification of children potentially eligible for special education services to the SEA at least 90 days before each child's third birthday, or as soon as possible for children who are determined eligible for ECI services more than 45 but less than 90 days before the child's third birthday. If a referral is received for a child fewer than 45 days before the child's third birthday and the child may be potentially eligible for preschool special education services, HHSC will, with written parental consent, refer the child directly to the SEA.	Improve clarity.	No changes in program practices.
§108.1213(f)	If the contractor receives the child's referral between 90 and 45 days before the child's third birthday and the IFSP team determines the child is potentially eligible for special education services, the contractor must:	If the contractor determines a child is eligible more than 45 days but less than 90 days before the child's third birthday and the IFSP team determines the child is potentially eligible for special education services, the contractor must:	Improve clarity.	No changes in program practices.
§108.1217(e)	The 14-day timeline for inviting the LEA representative may be changed by written local agreement between the LEA and the contractor. If the contractor becomes aware of a consistent pattern of the LEA representative not attending transition conferences, the contractor must make efforts to meet with the	The 14-day timeline for inviting the LEA representative may be changed by written local agreement between the LEA and the contractor. If the contractor becomes aware of a consistent pattern of the LEA representative not attending transition conferences, the contractor must make efforts to meet with the LEA to reach a cooperative agreement to maximize LEA	Improve clarity.	No changes in program practices.

	LEA to reach a cooperative agreement to maximize LEA participation.	participation. One option is to encourage the LEA representative to participate in the meeting by phone if unable to attend the meeting in person.		
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Subchapter M Child and Family Outcomes

Rule number	Previous language	New language	Rationale	Implementation
§108.1303	The following statutes and regulations authorize or require the rules in this subchapter: (1) Texas Human Resources Code, Chapter 73; (2) Texas Human Resources Code, Chapter 117; (3) the Individuals with Disabilities Education Act, Part C (20 USC §§1431-1444); and (4) implementing federal regulations 34 CFR Part 303.	<i>§108.1303 was repealed.</i>	Unnecessary language	N/A

Subchapter N Family Cost Share System

Rule number	Current language	Proposed language	Rationale	Implementation
§108.1403	The following statutes and regulations authorize or require the rules in this subchapter: (1) Texas Human Resources Code, Chapter 73; (2) the Individuals with Disabilities Education Act, Part C (20 USC §§1431-1444); (3) Code of Federal Regulations, Title 34, Part 303, Early Intervention Program for Infants and Toddlers with Disabilities; and (4) Code of Federal Regulations, Title 34, Part 99, Family Educational Rights and Privacy.	<i>§108.1403 was repealed.</i>	Unnecessary language	N/A
§108.1407(b)	In compliance with 34 CFR §303.510(a) and (b) and §303.203(b)(1), IDEA Part C funding is the payor of last resort	In compliance with 34 CFR §303.510(a) and (b) and §303.203(b)(1), IDEA Part C funding is the payor of last resort for early childhood intervention services. The	Unnecessary language.	N/A

	for early childhood intervention services. The contractor must comply with the requirements in §108.1621 of this title (relating to Financial Management and Recordkeeping Requirements). The contractor must:	contractor must:		
§108.1409(a)(1)	receive certain early childhood intervention services at no cost;	receive certain early childhood intervention services at no cost in accordance with 34 CFR §303.521(b);	Improve clarity.	No change in program practices.
§108.1413(a)(13)	specialized skills training (previously known as developmental services);	specialized skills training;	Unnecessary language	N/A
§108.1413(a)(14)	<i>§108.1413(a)(14) was added.</i>	family education and training; and	Improve clarity.	No change in program practices.
§108.1425(d)	If the child is not already receiving public insurance, the contractor must obtain written parental consent before billing. The contractor may waive the maximum charge while eligibility is being determined, not to exceed 90 days.	If the child is not already receiving public insurance, the contractor must obtain written parental consent before billing. The contractor must waive the maximum charge while eligibility is being determined, not to exceed 90 days.	Improve clarity.	The contractor must not charge the family for services for up to 90 days if they have applied for Medicaid for the ECI child, but Medicaid eligibility has not yet been determined.
§108.1425(h)	If the child has private insurance in addition to Medicaid, the private insurance is the primary payor. The contractor must bill the private insurance before filing a claim with Medicaid for all services other than targeted case management.	If the child has private insurance in addition to Medicaid, the private insurance is the primary payor. The contractor must bill the private insurance before filing a claim with Medicaid for all services other than targeted case management or specialized skills training.	Increase efficiency.	Contractors are not required to bill private insurance before billing Medicaid for SST.
§108.1425(m)	<i>§108.1425(m) was added.</i>	If a child is covered by private insurance only, once the contractor has verified that the private insurance plan will not pay for certain ECI services for a child, the contractor is not required to continue to bill the private insurance plan for those services for that child. The contractor must verify coverage for ECI services with the private insurance plan at least annually.	Increase efficiency.	For children covered by private insurance only, the contractor does not have to continue billing insurance for services they have verified are not covered by the child's plan. The contractor must verify coverage of ECI services at least annually for children with private insurance.
§108.1431(b)	The DARS ECI sliding fee scale assigns a set dollar amount as the maximum charge for adjusted income ranges less than or equal to 1000 percent of the federal poverty level. DARS calculates the maximum charge for each income range by applying a fixed percentage	The HHSC ECI sliding fee scale assigns a set dollar amount as the maximum charge for adjusted income ranges less than or equal to 1000 percent of the federal poverty level. HHSC calculates the maximum charge for each income range by applying a fixed percentage (ranging from 0.25 to 5 percent) to the mid-point	Unnecessary language. Changes related to HHSC transformation	N/A

	(ranging from 0.25 to 5 percent) to the mid-point income within each range based on the US Health and Human Services Federal Poverty Levels for 2014, as published in the January 24, 2014 edition of the <i>Federal Register</i> .	income within each range based on the U.S. Department of Health and Human Services most recently published Federal Poverty Levels.		
§108.1431(c)	For children and families who enroll in ECI services on or after September 1, 2015, the family's maximum charge shall be pursuant to Figure: 40 TAC §108.1431(c) identified in this subsection:	For children and families who enroll in ECI services on or after September 1, 2015, the family's maximum charge shall be pursuant to Figure: 40 TAC §108.1431(c) identified in this subsection. If the parent refuses to attest in writing that information about their third-party coverage, family size, and gross income is true and accurate, then the family monthly maximum payment equals the full cost of services.	Improve clarity.	No change in program practices.
§108.1432	For children and families enrolled in ECI services before September 1, 2015, the family's maximum charge shall be pursuant to the figure located in this section until the family's annual IFSP review. Thereafter, the family's maximum charge shall be pursuant to the figure located in §108.1431 of this chapter (relating to DARS ECI Sliding Fee Scale). This section shall expire on August 31, 2016.	<i>§108.1432 and accompanying sliding fee scale table were repealed.</i>	Unnecessary language.	N/A