

OSEP Finding #1: Provide appropriate EI services to all infants and toddlers with disabilities and their families that are eligible for those services consistent with IDEA Section 635(a)(2) and 34 C.F.R. § 303.112, including, failing to:

- a. Ensure its local ECI programs are appropriately maintaining records as required by IDEA Section 637(b)(4), as well as 34 C.F.R. § 303.224(b), 2 C.F.R. § 200.333, and 2 C.F.R. § 200.303, in order to provide EI services to infants and toddlers with disabilities in a timely manner;
- b. Ensure that it has a comprehensive child find system in place that is able to appropriately identify infants and toddlers with disabilities for IDEA Part C services consistent with IDEA Section 635(a)(5) and 34 C.F.R. § 303.302(b)(1); and
- c. Ensure that IDEA Part C resources are available for all geographic areas in the State consistent with IDEA Section 637(a)(7) and 34 C.F.R. § 303.207.

Required Corrective Action 1a

Develop, and submit for OSEP approval, a corrective action plan (CAP) that addresses service provision and identifies the steps that the State will take to ensure that appropriate EI services are available to all infants and toddlers with disabilities and their families as required by IDEA Section 635(a)(2) and 34 C.F.R. § 303.112. This CAP must include a description of how the State will ensure continuity of EI services when a provider exits ECI prior to a new provider being secured for a region. The CAP must also include a description of how it will monitor EIS providers to ensure that IFSP teams review, on an individualized basis, whether and what compensatory services may be needed for eligible children for whom there has been a disruption in service provision.

| TX-C Response to Required Action | TX-C Timeline | OSEP Analysis & Discussion | Required Action /Next Steps |
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| 1.a.1: In 2018, HHSC added language to the base ECI contract that allows contractors to provide services to clients outside of their designated service area if the children reside in counties or zip codes not covered by an existing ECI contractor. This language provides a mechanism for other ECI contractors to temporarily provide services to families in another area should there ever be a future gap. As a result of the COVID-19 pandemic, all 41 providers are utilizing telehealth for some aspects of service delivery. This | 1.a.1: Completed | 1.a.1: OSEP accepts the HHSC corrective action to add language to the base ECI contract that allows contractors to provide services to clients outside of their designated service area if the children reside in counties or zip codes not covered by an existing ECI contractor. However, OSEP is unclear how this correction action completed in 2018 before the issuance of OSEPs finding of noncompliance that HHSC failed to provide appropriate EI services to all infants and toddlers with disabilities and their families that | 1.a.1: HHSC must provide OSEP the final language added to the base ECI base ECI contract that allows contractors to provide services to clients outside of their designated service area if the children reside in counties or zip codes not covered by an existing ECI contractor. In, addition, HHSC must identify the steps it will take, or has taken, to ensure effective implementation of this practice to ensure continuity of EI services when a provider exists ECI prior to a new provider being secured for a region. |

| TX-C Response to Required Action | TX-C Timeline | OSEP Analysis & Discussion | Required Action /Next Steps |
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| <p>modality can help provide coverage across the provider network should another contractor exit the program.</p> | | <p>are eligible for those services consistent with IDEA Section 635(a)(2) and 34 C.F.R. § 303.112 will assist in preventing future instances of noncompliance. OSEP was unable to identify specific steps or a description of implementation policies practices or procedures that may prevent future noncompliance concerning this specific practice HHSC had in place at the time of OSEP's onsite monitoring completed in August of 2019 and OSEP October 5, 2020 monitoring letter.</p> <p>The Texas Administrative Code - Title 40, Part 2, Chapter 108, Subchapter K, Section 108.1104 (3) notes that a parent must consent to service delivery via telehealth. OSEP is unclear what impact this provision of the Texas Administrative Code may have on HHSC's ability to provide services if an ECI provider leaves a service network.</p> | |

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| <p>1.a.2: HHSC will revise its contractor transition checklists to include prompts to assess if the incoming contractor is able and interested in processing new referrals prior to its contract effective date or delivering and billing for specific services prior to its contract effective date if there are staffing challenges with the outgoing contractor.</p> | <p>1.a.2: 04/01/2021</p> | <p>1.a.2: OSEP accepts the HHSC proposed corrective action to revise the ECI contractor transition checklist. However, OSEP is not able to analyze the implementation of this corrective action until HHSC is able to provide a copy of the final revised checklist. In addition, HHSC does not describe what will be done if the checklist indicates that an incoming contractor declines to process new referrals, or delivery of services when there has been a disruption in service provision contractors.</p> | <p>1.a.2: HHS must provide OSEP a copy of the final revised ECI contractor transition checklist. In addition, HHSC must identify and describe the continuity of services plan HHSC has in place in the event an incoming contractor is not interested in processing new referrals prior to their contract effective date.</p> |
| <p>1.a.3: HHSC will explore, with its Legal Services staff, adding additional enforcement options to the ECI contract to encourage exiting contractors to continue service delivery with full compliance. These additional enforcement options could include withholding payments or assessing damages if an exiting contractor does not successfully perform transition responsibilities before the effective termination date of the contract.</p> | <p>1.a.3: Effective 09/01/2021</p> | <p>1.a.3: OSEP accepts the HHSC proposed corrective action to consider including additional enforcement actions in ECI contract language. However, OSEP is not able to review the implementation of this corrective action until HHSC is able to provide the final approved enforcement actions that will be added to existing ECI contractors.</p> | <p>1.a.3: HHSC must provide OSEP an explanation of the outcomes of exploring additional contract language, including, if applicable a list and description of the final approved enforcement actions to address how the agency will intercede in the event an outgoing contractor cannot continue service delivery with full compliance with IDEA Section 635(a)(2) and 34 C.F.R. § 303.112</p> |

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| <p>1.a.4: HHSC will add language to an incoming contractor's contract to require the incoming contractor to have IFSP teams review whether and what services, compensatory or otherwise, may be needed.</p> | <p>1.a.4: “going forward”</p> | <p>1.a.4: OSEP is not able to review this corrective action until HHSC is able to provide the final approved language that will be added to new ECI contractors. As noted in OSEP's monitoring report, the CAP must include a description of how HHSC will monitor providers to ensure that IFSP are completing these reviews. An appropriate description of monitoring language could appear in contract language or in other documentation.</p> | <p>1.a.4: HHSC must provide OSEP the final approved language that describes the requirements for incoming contracts to have IFSP teams review whether and what services, compensatory or otherwise may be needed for eligible children who may be impacted by the change in contractors or a disruption in services.</p> |

Required Corrective Action 1b

Develop a CAP that addresses service provision and identifies the steps that the State will take to ensure that HHSC and EIS providers implement a system of internal controls for data entry into TKIDS to ensure its local ECI programs are maintaining records consistent with 34 C.F.R. § 303.224(b) and 2 C.F.R. § 200.303. This CAP must identify how the LA will demonstrate to OSEP that any revised policies and/or procedures are reasonably designed to ensure compliance with IDEA requirements including, evidence of implementation by its EIS providers.

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| 1.b.1: HHSC already monitors the accuracy of data entry compliance during on-site, comprehensive monitoring visits by comparing the service entry and demographic information in TKIDS for the sample period to the service entry documentation in the contractor's system. HHSC will also begin to provide additional quality assurance oversight of and technical assistance on record keeping by local programs during fiscal year 2022, prioritizing those programs with the greatest percentage of noncompliance with records accuracy for on-site quality assurance reviews. | 1.b.1: Throughout FY22, beginning 09/2021 | 1.b.1: OSEP is unclear whether the HHSC monitoring of accuracy of data entry compliance during on-site comprehensive monitoring visits as described in HHSC's corrective actions is a practice implemented before OSEP's finding that local ECI programs did not maintain records consistent with 34 C.F.R. § 303.224(b) and 2 C.F.R. § 200.303, or is a newly implemented practice. The indication that HHSC will provide additional quality assurance oversight and technical assistance lacks sufficient detail for OSEP to conclude that the CAP identifies or describes the steps the State will take to ensure that HHSC and EIS providers implement a system of internal controls for data entry into TKIDS to ensure its local ECI programs are maintaining records consistent with 34 C.F.R. § 303.224(b) and 2 C.F.R. § 200.303. HHSC also did not provided evidence of implementation of this requirement by EIS providers. | 1.b.1: HHSC must provide OSEP a description of the steps the State will take to ensure that HHSC and EIS providers implement a system of internal controls for data entry into TKIDS to ensure its local ECI programs are maintaining records consistent with 34 C.F.R. § 303.224(b) and 2 C.F.R. § 200.303. If HHSC currently has monitoring and procedures in place that address this finding, HHSC must indicate what specific steps are being taken to prevent future noncompliance in this area, as well as how the current noncompliance identified by OSEP has been corrected. |

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| <p>1.b.2: HHSC will develop comprehensive procedures for virtual or on-site inspection of records, including HHSC oversight for the transfer of records to the incoming provider, during contractor transitions. This will include an agreed upon process and timelines for exiting contractors to provide relevant records to the incoming contractor in advance of their exit to allow an opportunity for the incoming agency to review the records provided and request any additional information needed to support timely and effective service delivery.</p> | <p>1.b.2: 09/01/2021</p> | <p>1.b.2: OSEP accepts the HHSC proposed corrective action to develop comprehensive procedures for virtual or on-site inspection of records, including HHSC oversight for the transfer of records to the incoming provider, during contractor transitions. OSEP is not able to review implementation of this corrective action until HHSC is able to provide the final approved language that describes procedures for virtual or on-site inspection of records.</p> | <p>1.b.2: HHSC must provide OSEP a copy of the finalized comprehensive procedures for virtual or on-site inspection of records, including HHSC oversight for the transfer of records to the incoming provider, during contractor transitions.</p> |

Required Corrective Action 1c

Addresses service provision and identifies the steps that the State will take to ensure that it is meeting the requirements under IDEA Section 635(a)(5) and 34 C.F.R. § 303.302(b)(1) to meet its child find responsibilities including identifying, evaluating, and locating all infants and toddlers with disabilities.

| TX-C Response to Required Action | TX-C Timeline | OSEP Analysis & Discussion | Required Action /Next Steps |
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| 1.c.1: HHSC will continue using the voluntary child find self-assessment tool newly developed by OSEP to analyze Texas outreach efforts and identify areas of strength, as well as areas for improvement, and develop a plan of action for implementation. To date, this has included surveys of contractors and stakeholders/referral sources that have generated over 1,100 responses, with plans for family and community focus groups in the coming months. | 1.c.1: 09/01/2021 | 1.c.1: OSEP accepts the State corrective action to use the voluntary child find self-assessment tool. OSEP is not able to review implementation of this corrective action until HHSC identifies the specific steps or the plan HHSC has developed based upon the data collected from the self-assessment tool. | 1.c.1: HHSC must provide to OSEP evidence of the specific steps and plans developed from the use of the voluntary child find self-assessment tool as of the completion date of 9/01/2021 for the corrective action item. |
| 1.c.2: HHSC will host child find forums twice a year for contractor staff who are involved in child find activities. These forums will be topic specific. They will also provide an opportunity for contractors to share best practices and exchange program ideas. | 1.c.2: By 07/01/2021, every six months thereafter | 1.c.2: OSEP accepts the proposed corrective action of HHSC to host child find forums twice a year for contractor staff who are involved in child find activities. OSEP acknowledges that State and Federal guidelines regarding COVID19 may impact the implementation of this corrective action. | 1.c.2: HHSC to must provide to OSEP evidence of implementation of the child find forums. |

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| <p>1.c.3: HHSC will provide each contractor with a breakdown of key referral data and how it compares to statewide referral data. HHSC will require contractors with significant variances from the statewide data to develop plans for how they will target referrals that are under-represented in their community.</p> | <p>1.c.3: Local data to be sent by 03/01/2021; Underperforming contractors to send improvement plans by 09/01/2021</p> | <p>1.c.3: OSEP accepts HHSC’s proposed correction action to provide data to each contractor and require contractors with significant variances from Statewide data to develop plans to target referral that are under-represented in their community. OSEP is not able to review implementation of this corrective action until evidence of completed improvement plans is received.</p> | <p>1.c.3: HHSC must provide to OSEP a summary of the key referral data provided to ECI contractors, and a sample of at least 5% of the submitted improvement plans for underperforming ECI contractors.</p> |
| <p>1.c.4: HHSC ECI will consult with the ECI Advisory Committee and coordinate with the HHSC Office of Disability Prevention for Children to plan and participate in a media campaign that will increase public awareness about ECI.</p> | <p>1.c.4: Planning to begin in Spring 2021; launch in Fall 2021 or Spring 2022</p> | <p>1.c.4: OSEP accepts HHSC’s proposed corrective action to plan and participate in a media campaign to increase public awareness of ECI. OSEP is not able to review implementation of this corrective action until the media campaign is launched.</p> | <p>1.c.4: HHSC must provide to OSEP a description of the media campaign including the launch date of the campaign.</p> |
| <p>1.c.5: HHSC will increase the weight of federal Indicator 6 related to the percent of the birth to three population each contractor is serving in its local performance determinations formula.</p> | <p>1.c.5: Beginning with state fiscal year 2021 local performance determinations.</p> | <p>1.c.5: OSEP accepts HHSC’s proposed corrective action to increase the weight of federal Indicator 6 related to the percent of the birth to three population each contractor is serving in its local performance determinations formula and HHSC’s proposed action to provide key partners with contact information for new ECI providers.</p> | <p>1.c.5: No further action required.</p> |

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| <p>1.c.6: In the event of a contractor transition, incoming contractors conduct outreach to local referral sources and HHSC reaches out to state referral sources to notify them of the change in service providers. HHSC will also begin coordinating with its statewide partners, such as the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) program, Child Care Regulation, Texas Health Steps, MCOs, and other key partners to obtain a list of local programs/referral sources specific to the area of transition and will complete targeted outreach to ensure those referral sources have the new ECI provider's contact information to make the required updates in their referral systems.</p> | <p>1.c.6: Beginning with its next contractor transition following a termination notice.</p> | <p>1.c.6: OSEP accepts HHSC's proposed corrective action to increase outreach to local referral sources and notify referral sources of changes in ECI providers.</p> | <p>1.c.6: No further action required.</p> |

Required Corrective Action 1d

Addresses service provision and identifies the steps that the State will take to ensure that resources are made available to all geographic areas within the State as required under 34 C.F.R. § 303.207

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| 1.d.1: The \$1.5 million in supplemental funding for fiscal year 2019 was distributed in August 2019 to 11 contractors that were serving significantly over their contractual target of enrolled children and meeting the performance target for delivered hours. The fiscal year 2020 exceptional item funding provided an increase for all 41 providers, and HHSC utilized a standard, metrics-based methodology to allocate funding to every geographic area of the state. The additional dollars went directly to providers to fund their caseload. The fiscal year 2021 exceptional item funding was allocated across the provider base through a competitive procurement resulting in statewide coverage. | 1.d.1: Completed | 1.d.1: OSEP appreciates the State's efforts to increase funding to address the provision of Part C services and to ensure that resources are made available to all geographic areas within the State as required under 34 C.F.R. § 303.207. | 1.d.1: No Further Action Required |

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| 1.d.2: HHSC will begin development of training on evidence-based personnel retention strategies that will be made available to all contractors and planning for select retention strategies and financial assistance targeted toward contractors with the highest turnover rates as part of its personnel retention grant from OSEP. | 1.d.2: 10/04/2021 | 1.d.2: OSEP accepts HHSC proposed plan to provide training on evidence-based personnel retention strategies. | 1.d.2: HHSC must provide to OSEP documentation of training sessions to all ECI contractors on personnel retention strategies. |
| 1.d.3: HHSC, along with a workgroup of contractor representatives, will review early intervention specialist credentialing requirements to determine if flexibilities should be added to support contractors' ability to hire qualified staff. | 1.d.3: 05/01/2021 | 1.d.3: OSEP accepts HHSC proposed plan to review early intervention credentialing requirements. | 1.d.3: No further action required. |
| 1.d.4: HHSC will analyze the temporary flexibilities implemented during the COVID-19 pandemic to determine the viability of continuing those that helped facilitate statewide ECI service delivery via telehealth. | 1.d.4: 06/01/2021 | 1.d.4: OSEP accepts HHSC proposed plan to review temporary flexibilities permitted during COVID-19 to determine the viability of continuing some practices. | 1.d.4: No further action required. |

The State must submit a CAP that addresses the State's single line of responsibility and identifies the steps that the State will take to ensure the general administration and supervision of programs and activities administered by agencies, institutions, organizations, and EIS providers, as required under 34 C.F.R. § 303.120, and to ensure the continuity of IDEA Part C service provision during financial disputes or untimely reimbursement for services. The CAP must include a process and any necessary implementing policies or intra-agency agreement(s) necessary to ensure that the LA is providing sufficient guidance and supervision to EIS providers for them to implement the State's SoP.

Required Corrective Action 2

The CAP must address the State's single line of responsibility and identify the steps that the State will take to ensure the general administration and supervision of programs and activities administered by agencies, institutions, organizations, and EIS providers, as required under 34 C.F.R. § 303.120, and to ensure the continuity of IDEA Part C service provision during financial disputes or untimely reimbursement for services. The CAP must include a process and any necessary implementing policies or intra-agency agreement(s) necessary to ensure that the LA is providing sufficient guidance and supervision to EIS providers for them to implement the State's SoP.

| TX-C Response to Required Action | TX-C Timeline | OSEP Analysis & Discussion | Required Action /Next Steps |
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| 2.1: ECI and MCS will develop a survey to identify specific areas of concern regarding payments from MCOs and use the results to determine a more targeted approach to addressing problems and providing training to ECI contractors and/or MCOs. | 2.1: Survey: 03/01/2021 Next Steps: 08/01/2021 | 2.1: OSEP accepts HHSC's proposed corrective action pending evidence and receipt of completion of corrective action activities. | 2.1: HHSC must provide OSEP documentation describing the results of the survey and identifying the follow up actions taken as a result of the survey, as well as the dates for completion those actions. |
| 2.2: HHSC will determine if any additional guidance on Medicaid dispute resolution needs to be added to the ECI Reimbursement Guide and will plan additional training to ECI providers on the policies and procedures to resolve Medicaid payment delays and disputes. | 2.2: 10/04/2021 | 2.2: OSEP accepts HHSC's proposed corrective action pending evidence and receipt of completion of corrective action activities. | 2.2: HHSC must provide OSEP a summary of any additional guidance or training created as a result of its review. |

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| 2.3: HHSC will assign a liaison for ECI contractors within the MCS Department to assist with resolution of ECI provider complaints related to Medicaid payments and routinely report metrics for resolution within the agency's Agency Monthly Contact Report. | 2.3: 10/04/2021 | 2.3: OSEP accepts HHSC's proposed corrective action pending evidence and receipt of completion of corrective action activities. | 2.3: No further action required. |
| 2.4: HHSC will review complaints data on a monthly basis to identify and track ECI complaints, including identification of any trends. | 2.4: Began 12/01/2020 | 2.4: OSEP accepts HHSC's proposed corrective action pending evidence and receipt of completion of corrective action activities. | 2.4: No further action required. |