# SCDHHS Report on BabyNet Federal Compliance Efforts

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## Background

First authorized in 1986 as an amendment to the Education of the Handicapped Act, the current iteration of a federally-sponsored early intervention system for children from infancy through their 3rd birthday is authorized by Part C of the Individuals with Disabilities Education Act (IDEA) of 2004 (PL 108-446). The purpose of the IDEA Part C program is the timely and accurate identification and evaluation of children under the age of 3 with developmental delays, appropriate referrals to service, and ongoing service coordination necessary to aid the child's ongoing social, emotional, and educational development. At the federal level, the IDEA Part C program is overseen by the Office of Special Education Programs (OSEP) within the United States Department of Education.

Effective July 1, lead agency responsibilities for the South Carolina system of early intervention known as "BabyNet" transitioned from South Carolina First Steps to School Readiness (SCFSSR) to the South Carolina Department of Health and Human Services (SCDHHS) pursuant to Executive Order 2016-20, issued by Governor Nikki R. Haley on September 14, 2016.

## Noncompliance

*Federal Evaluations of Program Performance*

South Carolina's Part C program has a history of comprehensive and longstanding noncompliance with federal Part C performance indicators, with 11 of the last 14 federal determinations indicating that the state needs some form of intervention.

| Fiscal year | Determination Status | Enforcement Action |
|---|---|---|
| 2002/03 | Needs Substantial Intervention | Findings of Non-Compliance |
| 2003/04 | Needs Substantial Intervention | Compliance Agreement |
| 2004/05 | Needs Substantial Intervention | Compliance Agreement |
| 2005/06 | Needs Intervention | Compliance Agreement |
| 2006/07 | Needs Intervention | Special Conditions |
| 2007/08 | Needs Assistance | Special Conditions |
| 2008/09 | Needs Assistance | Special Conditions |
| 2009/10 | Needs Intervention | Special Conditions |
| 2010/11 | Needs Intervention | Special Conditions |
| 2011/12 | Needs Intervention | Special Conditions |
| 2012/13 | Needs Intervention | Corrective Action Plan |
| 2013/14 | Needs Intervention | Corrective Action Plan |
| 2014/15 | Needs Intervention | Corrective Action Plan |
| 2015/16 | Needs Assistance | Special Conditions |

These determinations – often cited as an evaluation of the program's compliance – and calculated by a formula that considers child outcomes, system operations, and data quality performance indicators. These indicators are grouped into two major categories: Results and Compliance.

*Measures of Results*

Child outcomes are evaluated based on data quality and completeness (4 points), on reported outcomes relative to other states (2 points), and improvements to outcomes on a percentage basis (2 points). Child outcomes are determined by yes/no answers to two summary statements applied across several of the child's domains:

**Summary Statement 1**: Has the child substantially improved growth in this domain?

**Summary Statement 2**: Is the child performing at age level in this domain?

Although South Carolina's data has historically been judged as unreliable or incomplete, the state currently has sufficient data quality and completeness to achieve 3 or 4 of 4 possible points for completeness and quality, and typically receives 2 of 4 possible points for the child outcomes indicators. While ongoing improvement to child outcomes is an underlying goal of the program, receiving additional points for child outcomes would require the state to perform in the top decile in the nation. SCDHHS believes it is unlikely this is attainable in the next one to three years of program improvement.

*Measures of Compliance*

The IDEA Part C Compliance Matrix for FY 2015-16 evaluated 7 performance indicators, each worth a possible 2 points. South Carolina received:

- 0 of 2 points for timely provision or services
- 0 of 2 points for timely commencement of an Individual Family Service Plan (IFSP)
- 0 of 2 points due to longstanding noncompliance
- 1 of 2 points for accurate and timely state-reported data

These scores indicate the primary driver of BabyNet's non-compliance is associated with processes either directly under System Point of Entry (SPOE) staff control, or under the control of SCDDSN-contracted service coordinators.

*Differentiated Monitoring*

In addition to annual state performance determination letters, OSEP has recently started issuing differentiated monitoring guidance to provide more specific feedback to states on the status of their operations under Part C grants. The purpose of this exercise is to identify additional OSEP-sponsored technical assistance opportunities for states. Not surprisingly, South Carolina was identified for "intensive" assistance across most domains including results, compliance, child find, and financial coordination. Although not part of the annual performance monitoring program, differentiated monitoring appears to be a component of OSEPs ongoing risk mitigation strategy in states with persistently poor performance.

## SCDHHS Evaluation of Compliance and Prioritization

*Evaluation of Internal and External Assessments*

The reputation of the BabyNet program both locally and nationally is one of persistent non-compliance and poor performance. Given that such performance warrants increased scrutiny by grantors and oversight bodies, South Carolina's Part C program has been one of the most-studied programs in South Carolina state government since 2007. As a result, there is extensive documentation from the U.S. Department of Education, South Carolina Legislative Audit Council, Education Oversight Committee, Office of the Governor of South Carolina, special and ad-hoc study committees, technical assistance (TA) providers, and various other external stakeholders that, although in different ways, largely restate the same 3 common deficiencies:

- The program is ineffective at the timely identification and assessment of children who may have developmental delays;

- The program's structural division between the lead agency and the South Carolina Department of Disabilities and Special Needs (SCDDSN) in the middle of the 45-day eligibility process results in impaired hand-offs that further result in service delays;

- The program's lack of core infrastructure across all domains including management, physical facilities, information technology, analytical capacity, and others has resulted in a fragmented system that is inconsistent, highly localized, and ultimately not accountable to a central authority.

Although the state's federal partners have indicated a willingness to assist South Carolina with performance improvement, the tools offered by OSEP seem limited to withdrawal of grant funding and/or intensive technical assistance. Given that the Part C grant finances as much as one-quarter of the system's operations and services and that its loss would not eliminate the state's desire to provide high-quality early intervention services, elimination of the grant would only result in a cost-shift to state revenues, not performance improvement.

Historically, TA engagements have not proven effective, as nearly two decades of such efforts have resulted in a program substantially no nearer compliance in FY 2016 than in FY 2003. A preliminary evaluation of the state's TA engagements reveal they have largely not been used to address the foundational issues driving poor performance, or the TA provider engaged is more suited for helping a higher-functioning program improve specific policies or operations.

South Carolina's needs are much more basic in nature and SCDHHS believes that the program needs the "re-boot" that was intended when the program moved to SCFSSR, but never received. Accordingly, the activities described in the remainder of this report focus on foundational improvements needed to turn South Carolina's Part C program around.

*Prioritizing Internal Process Improvement*

Some elements of the program's non-compliance must eventually be addressed through cooperation with agency partners and the provider community. However, SCDHHS believes that initial performance improvement and compliance activities should be focused on the foundations of internal operations and infrastructure. Given that the first 22 days of the 45-day referral, intake, eligibility, and IFSP origination process is within direct control of SPOE staff, SCDHHS believes that focusing on the front-end processes within agency control will have near-term impacts to the overall quality and timeliness of the system.

The fidelity of future external performance improvement efforts will be directly related to state staff's ability to implement program standards and policies with consistency and authority. Ultimately, it is SCDHHS' responsibility to rebuild functional units of the Part C system from the ground-up to ensure the system serves South Carolina's earliest learners.

Accordingly, SCDHHS is focusing program compliance and improvement efforts at the following activities:

- Program leadership and culture
- Referral intake and case assignment
- SPOE staffing, education, and performance monitoring
- Payment system integration

As each of these areas demonstrate success, the second iteration of performance improvement initiatives are:

- Family outcomes data collection
- Alignment of Medicaid and BabyNet reimbursement policies
- Discontinuing service coordination activity by SPOE staff
- Regional integrated eligibility and service coordination pilots
- Deployment of standard service calendars statewide
- Expanded use of natural environment settings for evaluation and service

## Near-Term Performance Improvement (FY 2018, 2019)

*Leadership and Culture*

BabyNet senior management has long suffered from a culture of failure acceptance and non-compliance that anchored the program to low expectations both internally and externally. Further, the program's state-office team has traditionally been insular and disconnected from the operations of field staff. Policies were developed centrally and by a handful of individuals with little input from the field, not published on the agency's website and were not readily available to field staff. Senior roles in the central organization have traditionally been ill-defined and the formal management of field staff resulted in a 11:1 ratio of field supervisors to a single central office supervisor. Further a "meetings culture", in which nearly all program staff regularly engaged in hours-long unstructured collective conversation about program topics without clear objectives, assignment of responsibility, or calls to action has paralyzed decision-making and execution processes.

To address basic deficiencies in program design and management, reporting structures, and delineation of responsibility, SCDHHS is taking the following steps:

- Appointment of an interim Part C Program Manager and immediate action to hire a durable replacement. A qualified candidate pool applied for the position and the agency is actively engaged in interviews. Hiring actions are expected mid- to late-January.

- State office staff have been re-assessed for skills and interest, and new position descriptions are being drafted and deployed. Expected completion of this effort is March 2018.

- Starting in October 2017, the Interim Part C Program Manager shortened program manager meetings, and instituted discipline regarding formal agendas issued in advance, clearer requirements for decisions and updates, and assignment of responsibility for follow-up activities.

- Part C program leadership now periodically trains SCDHHS support staff in legal, finance, compliance, and civil rights departments on the unique aspects of the IDEA and differences between Part C and Medicaid to fully integrate the program into SCDHHS.

- Staff have been assigned responsibility for the completion of individual tasks, including tasks that require stakeholder input.

- Central office staffing is being restructured to reduce the role of senior consultant and coordinator positions to instead focus on individual responsibility and productivity.

*Referral Intake and Case Assignment*

A review of current agency caseloads and activity indicates that BabyNet:

- Receives between 11,000 and 12,000 referrals annually to the program, but loses nearly half of those to parent withdrawal, unsuccessful contact, and other administrative reasons.
- Performs over 6,000 eligibility determinations at a rate of nearly 75% positive eligibility.
- Currently, the program maintains just over 5,000 active beneficiaries.

Anecdotal evidence suggests that some volume of referrals is not documented in the program's case management system, BRIDGES, but no data is available to indicate what volume of activity this would represent. The current system of local referral intake results in a general lack of central case management activity and inconsistent methods for case assignment across SPOE regions. In order to improve timely and accurate identification and eligibility determinations for children with developmental delays, SCDHHS is:

- Deploying a centralized, web-based referral form to allow improved electronic submission of referrals
- Staffing a 5-member centralized referral team to validate referrals and perform necessary follow-up inquiries and calls prior to eligibility determination
- Implementing an electronic document management system to improve organization of and access to beneficiary records
- Centralizing scheduling of eligibility determinations to ensure more uniform distribution of caseloads among SPOE staff

*SPOE Staffing, Education, and Performance Monitoring*

Accounting for reasonable utilization leave, training, and meetings, and assuming a uniform distribution of caseloads, initial evaluations by SCDHHS indicate that between 35 and 40 SPOE staff statewide should be sufficient to meet timely eligibility standards if their time is utilized effectively and on higher-skilled efforts. BabyNet currently employs 33 line SPOE staff, nearly equal to the amount required. SCDHHS is performing regional analysis of workload to account for regional variations to ensure appropriate resource distribution appropriately. The agency will undertake hiring actions throughout Spring 2018 to staff each region to an appropriate level.

In addition to staffing levels, SCDHHS is structuring appropriate regional supervision to improve the line supervisor to regional/state supervisory ratio. Currently, regional coordinators serve in an advisory, consulting, and performance management capacity. As those positions become available, they will be repurposed to serve in direct supervisory roles so that performance management is integrated with the SPOE supervisory chain.

In addition to appropriate staffing levels and structure, SCDHHS expects to see productivity gains associated with shifting county office work to the centralized referral team. The

underlying objective of this new staffing model is to reduce the time experienced SPOE staff spend on pursuing dead-end referrals and intakes.

Along with resource allocation, SCDHHS realizes that SPOE staff cannot be held accountable for performance standards that they are unaware of and had no input in crafting. SCDHHS has initiated a comprehensive revision of BabyNet manuals, including policies that must be approved by OSEP, operating procedure manuals to be deployed into county offices and among BabyNet enrolled service providers, as well as the creation of job-aids and reference guides to help drive consistency among field offices. Revised policy and procedure manuals are being drafted in sections, and section-by-section posting for review and comment by SPOE staff will begin January 2018. Public posting for review and comment will begin in March 2018.

Certain aspects of the process will not change with a new manual, including use of the Battelle Developmental Inventory (BDI), an evidence-based tool employed to assist with eligibility determinations. SCDHHS has authorized intensive re-training of all SPOE staff on the BDI, contracted with the tool's publisher in November 2017 to conduct this training, and expects to be complete by Spring 2018. During this training exercise, SCDHHS will also identity and qualify internal trainers to perform ongoing refreshers on the appropriate use of the BDI.

Once staff have been resourced, provided with clear and transparent policies they aided in writing, and trained on the tools they use, they will be held accountable for the quality and timeliness of eligibility determinations. To ensure performance monitoring occurs in an objective and data-driven manner, SCDHHS is relocating the position of Data Manager, currently vacant, from a contracted entity to state staff. Traditionally used to prepare data for state and federal reporting, the Data Manager will also be tasked with the design, preparation, and analysis of BRIDGES data to evaluate the timeliness and completeness of SPOE eligibility determinations. This data will be used both to assist program management with resource allocation and field management with evaluation of their team and individual staff.

*Payment System Integration*

Pursuant to Part C of the IDEA and relevant regulations, each state must have policies and procedures in-place to create a system of payment that:

- Details services covered by an IFSP in accordance with 34 CFR 303.13
- Provides for timely provision of and payment for services to providers in accordance with 34 CFR 303.511(c)
- Ensures compliance with payer of last resort provisions in accordance with 34 CFR 303.510 et. seq. and payment coordination with public insurance such as Medicaid and private insurance.

The BabyNet program currently uses a combination of BRIDGES, a highly-customized case management system, and the Jasper County Board of Disabilities and Special Needs (DSN) to generate payment for services performed by enrolled BabyNet providers for BabyNet

beneficiaries. Under this system, providers must first bill private insurance, then Medicaid, then BabyNet for services. It is manual, paper-intensive, fragmented across several payment systems, and generally lacks effective controls. There are several single points of failure throughout the payment process, and elements of the payment system that require providers to submit evidentiary documentation lack document accountability and auditability. Finally, the policies, contract vehicles, and training in-place to ensure that Jasper DSN complies with payer of last resort requirements are inadequate.

SCDHHS does not believe that the current process can be modernized without significant investment from its vendors, and that the current system of processes is incapable of fully integrating with the state's Medicaid Management Information System (MMIS). Accordingly, the state is engaging in a comprehensive redesign of the Part C payment system to include comprehensive integration into MMIS and using BRIDGES as a related case management module.

In the most basic sense, payment in the system should occur when a **qualified and enrolled provider** provides an **authorized service** to an **eligible BabyNet beneficiary** and the details of the claim are applied against and pass a set of **payment rules.** SCDHHS' approach to payment system integration is designed to address each one of these elements in-kind to ensure that the state's system of payments complies with all state and federal standards. The following efforts are underway:

- Creation of a unique category for non-Medicaid, BabyNet-only beneficiaries has been added to the agency's member eligibility system, completed Summer 2017.

- Development to add separate unique identifiers to BabyNet beneficiaries that are/are not Medicaid eligible in the MMIS system.

- Gathering requirements to implement the direct enrollment of Service Coordinators, currently under contract with the South Carolina Department of Disabilities and Special Needs (SCDDSN).

In addition to member and provider enrollment activities, the agency is preparing for electronic claims processing:

- SCDHHS is in discussions with the BRIDGES vendor to add electronic claims and remittance advice submission to the existing service contract. The vendor will also have to add the ability to receive standard member and provider enrollment files.

- The SCDHHS Medicaid Operations and Finance Divisions are designing the payment logic and accounting rules that will be necessary to comply with the provisions for 34 CFR 303.510 regarding payer of last resort.

- SCDHHS is separately engaging its Quality Improvement Organization (QIO) vendor to develop standard and repeatable workflows to translate agency-approved service requests into MMIS-usable service authorizations. Once complete, this process will be used to translate IFSPs into discrete service authorizations in MMIS.

Once payment system redesign is complete, BabyNet providers will be able to bill SCDHHS a single time for payment, not twice – once for Medicaid and once for Part C – as is the current system. The payment logic programmed into the MMIS system is designed to satisfy federally-required payment coordination activities in the background, without active effort by service providers.

Of all process improvement initiatives, payment integration is the one at greatest risk for delay because of its complexity, reliance on contract amendments and vendor negotiations, potential conflict with other MMIS replacement activities currently underway, and the extensive change management and provider outreach necessary for a smooth transition. This effort will also require significant cooperation and resourcing (financed by SCDHHS, but executed through the agency) from the SCDDSN and Clemson University.

## Performance Improvements (FY 2019, 2020)

In addition to the infrastructure improvements noted in this document, SCDHHS is planning follow-up activities for the next phase of compliance- and performance-focused activities for Fiscal Years 2018-19 and 2019-20. Some of these activities have been scheduled for later implementation because they are contingent upon successful completion of the initiatives detailed earlier in this report. Others are scheduled for later implementation because SCDHHS believes they are useful initiatives, but will ultimately have a lower return on initial investment than others.

*Family Outcomes Data Collection*

One of 11 standard indicators – indicator 4 - measures how a family feels about its outcomes after engagement with the BabyNet system. As with others, South Carolina experiences both a low response rate and poor marks on the outcomes data. Some of this is believed to be a selection bias where families who have particularly strong feelings about the program tend to be the most responsive. Other elements of data reliability are believed to the be the result of the data collection process as families are contacted through physical mail to provide responses a full three months after the child has exited the program. SCDHHS believes there is an opportunity to improve indicator 4 performance by first improving the data collection process.

In a related compliance need, South Carolina is currently delayed in completing activities for indicator 11 – the State Systemic Improvement Plan (SSIP). The SSIP is not a comprehensive, nor systemic, improvement plan, but is rather a requirement for states to engage in targeted and iterative improvements focused on child and family outcomes. Previously, South Carolina selected a highly-focused child outcomes project for its SSIP that, while an important effort, may no longer be viable following the July 1, 2017 lead agency change. Accordingly, SCDHHS intends to leverage at least one national TA provider and the Team for Early Childhood Solutions (TECS) at the University of South Carolina (USC) to re-focus the indicator 11 SSIP on improving indicator 4 family outcomes data.

*Alignment of Medicaid and BabyNet reimbursement policies*

As previously stated, there are differences between Medicaid and BabyNet billing policies for the same services including rates, frequency limitations, third-party insurance information, and allowable or disallowable activities for each. Following the comprehensive integration of payment processes, SCDHHS will also issue policies unifying billing practices for BabyNet and Medicaid authorized services to create a consistent and stable market across both programs.

*Discontinuing service coordination activity by SPOE staff*

Currently, some SPOE staff engage in ongoing service coordination activities after initial eligibility decisions. SCDHHS has determined the primary rationale for this practice is derived

more from a need to accommodate a third-party's billing behavior than from a need to provide high-quality services to children. The agency intends to put a stop to this practice as soon as the appropriate Medicaid policy manual changes and payment coding can be put into place.

*Regional integrated eligibility and service coordination pilots*

Several members of the provider community have expressed interest in piloting a model where ongoing service coordination begins at referral, and not in the middle of the 45-day eligibility process as it is today. This model is in practice in other states, and could be a successful way to hold providers accountable for timely and accurate eligibility determinations, IFSP development, and ongoing service coordination. SCDHHS is in discussion with OSEP about the nature and scope of such a pilot, and will issue either a Request for Expression of Interest or Request for Proposal for a regional pilot in 2018.

*Expanded use of natural environment settings for evaluation and service*

It is among SCDHHS's goals to support provision of early intervention services in a child's natural environment. Once the agency believes that SPOE capacity is at a sustainable and compliant level, it intends to expand the use of in-home and natural environment eligibility determinations and will, in conjunction with Medicaid Health programs, issue common policies that incentivize early intervention services provided in a child's natural environment.

*Deployment of standard service calendars statewide*

Contingent upon a successful implementation of the Central Referral Team, SCDHHS intends to implement standard service-availability schedules statewide, to improve access and predictability both for parents and children, but also for service providers that have to participate both in eligibility and IFSP processes.

## Conclusion

South Carolina's implementation of the IDEA Part C system has historically been fragmented, resourced asymmetrically, and poorly managed. As a result, it has a poor reputation nationally and among the referring provider community. Performance improvement efforts have been focused at minor, low-return, or already reasonably well-functioning components of the system instead of the foundational infrastructure the program needs to succeed. SCDHHS intends to reverse this trend with aggressive actions related to personnel assignment, staff development, financial and systems process improvement, contracts with partner agencies, and an unwavering commitment to treat programmatic failure as an unacceptable outcome among program leadership. BabyNet will not be fixed overnight, or even in a single year, and the agency cannot provide such an assurance. Rather, the agency commits to sustained improvement over 1 to 3 fiscal years, with specific targets designed to improve both overall performance and specific compliance ratings.