

# Third Party Insurance: A Parent's Perspective

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# My Family

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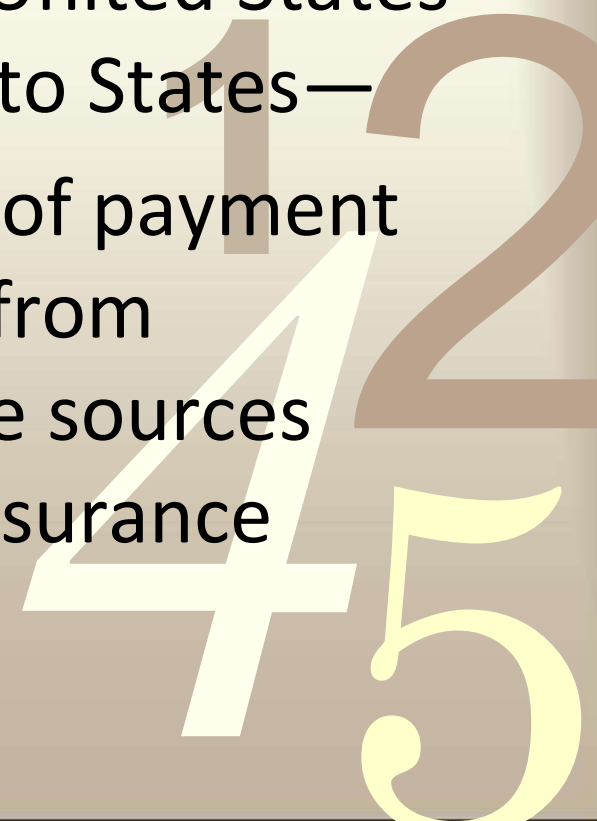
# IDEA 2004

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20 USC 1431 Sec 631 Findings and Policy

(b) Policy—It is the policy of the United States to provide financial assistance to States—

(2) To facilitate the coordination of payment for early intervention services from Federal, State, local and private sources (including public and private insurance coverage);



# NPRM for Part C

## § 303.520 Policies related to use of insurance or public benefits for payment for services. (cont.)

- (b) Private insurance. (1)(i) Except as provided in paragraph (b)(2) of this section, the State may use the private insurance of a parent to pay for services under this part only if the parent provides consent to do so in accordance with Sec. 303.7, 303.414, and 303.420(a)(3).
- (ii) If the State requires a parent to pay any types of costs that the parent may incur as a result of the State's use of private insurance to pay for early intervention services, those types of costs (such as deductibles or co-payments) must be identified in the State's system of payments policies under § 303.521; otherwise, the State will not be allowed to charge those costs to the parent.
- (iii) In obtaining parental consent required under this section, the lead agency must provide a copy of the State's system of payments policies that identify the potential types of costs that the parent may incur while enrolled in a private insurance program (such as co-payments, premiums or deductibles).
- (iv) If a parent or family is determined unable to pay under the State's definition of inability to pay under § 303.521(a)(3) and does not provide consent under paragraph (b)(1)(i) of this section, the lack of consent may not be used to delay or deny any services under this part to a child or the family.

# Medicaid

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- Public insurance that can be used to fund early intervention services
- Ask how effectively your state is accessing these funds. What services is Medicaid being billed for by the state?



# EPSDT

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- Early, Periodic, Screening, Diagnosis and Treatment—under Medicaid
- Medicaid can finance early intervention services under EPSDT



# Medicaid Waiver

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- Some states, like North Dakota, specifically make all children enrolled in early intervention eligible for Medicaid, thus increasing financing using a Medicaid Waiver.



# SCHIP

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- Publicly funded, privately administered health insurance program for low-income children.
- Are they paying for early intervention services in your state? How well is your early intervention program and SCHIP aligned with one another?



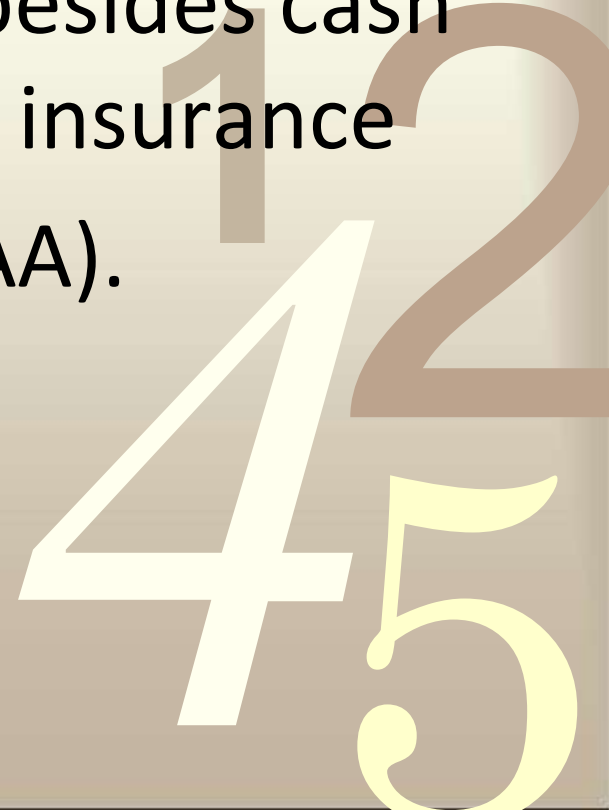
# Private Insurance

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- What does your state look like? Are most families with young children in employer-sponsored health plans? Small Business plans? Or, individual plans?
- Are Premiums covered by the employer or family?
- What state mandates exist in your state?

# ERISA (Employee Retirement Income Act of 1974)

- Federal law governing employers, and the benefits they provide besides cash compensation., i.e., health insurance (including COBRA and HIPAA).



# ERISA

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ERISA does not apply to any health insurance policy that an individual purchases for themselves.

ERISA applies to ALL employers. Sometimes people say a plan is an "ERISA plan" when they talk about employers that "self-fund" health benefits for their employees. That's a little misleading. All employers are subject to ERISA.

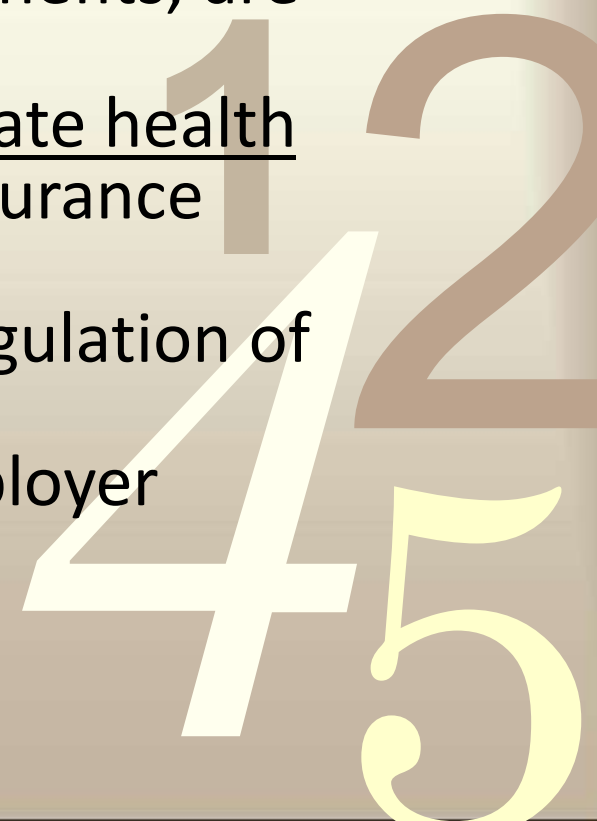
0011 ERISA makes a distinction between regulating employers (a federal function) and regulating insurance (a state function).

Employers that actually buy insurance, as opposed to "self-funding" employee health benefits, are treated differently.

An insured ERISA plan is subject to state health insurance mandates. (considered insurance regulation)

A "self-funded" ERISA plan is not. (regulation of employers)

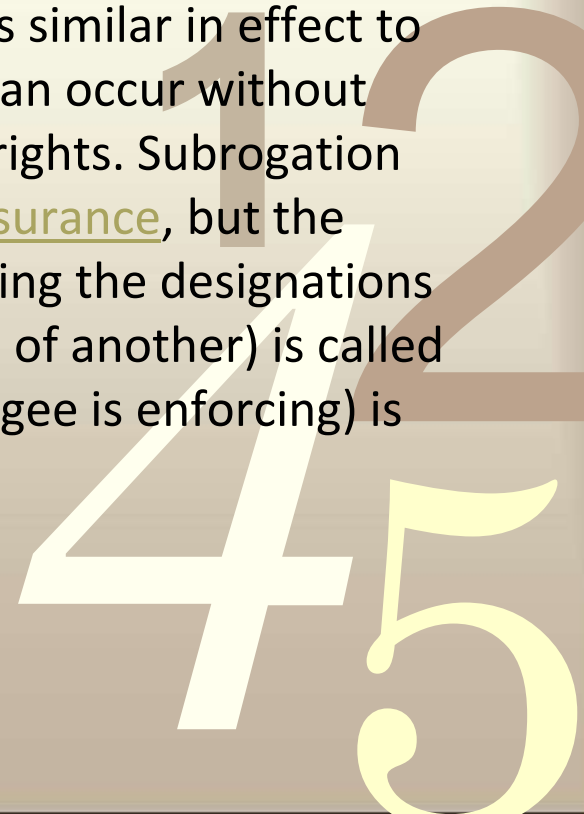
It is estimated that 40-60% of all employer sponsored plans are self-funded.



# Subrogation

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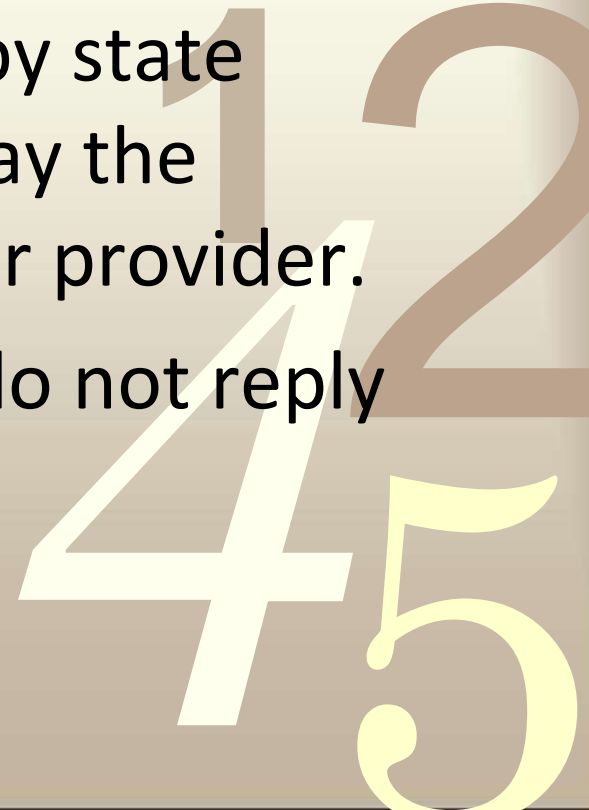
- **Subrogation** is the legal technique under common law by which one party, commonly an insurer (I-X) of another party (X), steps into X's shoes, so as to have the benefit of X's rights and remedies against a third party such as a defendant (D). Subrogation is similar in effect to assignment, but unlike assignment, subrogation can occur without any agreement between I-X and X to transfer X's rights. Subrogation most commonly arises in relation to policies of insurance, but the legal technique is of more general application. Using the designations above, I-X (the party seeking to enforce the rights of another) is called the *subrogee*. X (the party whose rights the subrogee is enforcing) is called the *subrogor*.



# Subrogation

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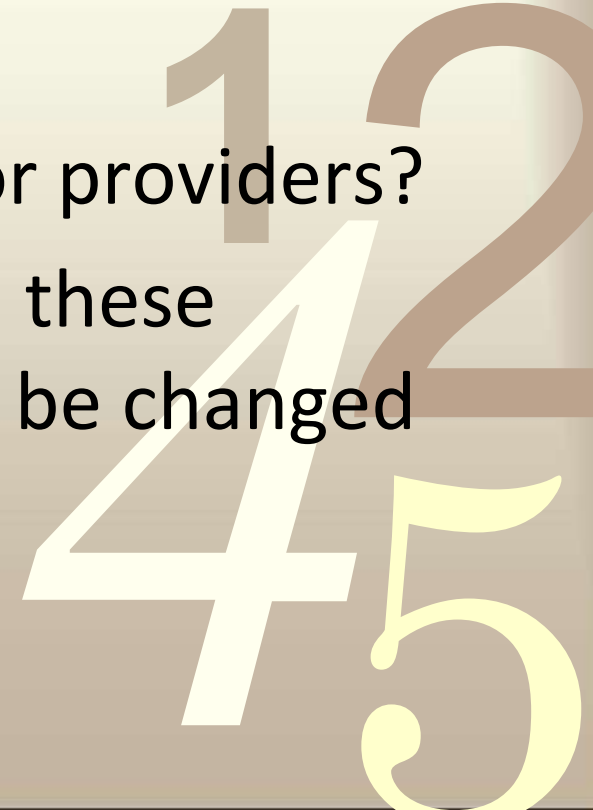
- Some states require that localities send subrogation papers to insurers to ensure that the healthplan will abide by state mandates, and that they will pay the locality as they would any other provider.
- What happens when insurers do not reply to these subrogation notices?



# ICD-9 codes

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- To receive payment from a healthplan providers need to be aware of and utilize ICD-9 codes.
- Will this increase paperwork for providers?
- Will providers need training on these codes? Will EI policies need to be changed to align with the codes?



# Progress notes/medical necessity

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- Healthplans often require progress notes on a different schedule . How will the two schedules be coordinated? Who will submit the progress notes?
- Healthplans often require statements of medical necessity for services. Do providers have the skills necessary to write these statements? Will this require training?

# Coverage

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Will you designate only certain services?

- OT, PT, SLP, AT (MO)

Or Total hours covered

Or a maximum total dollar figure covered  
(MA, VA)

What are the pros/cons of each approach?

# Coverage

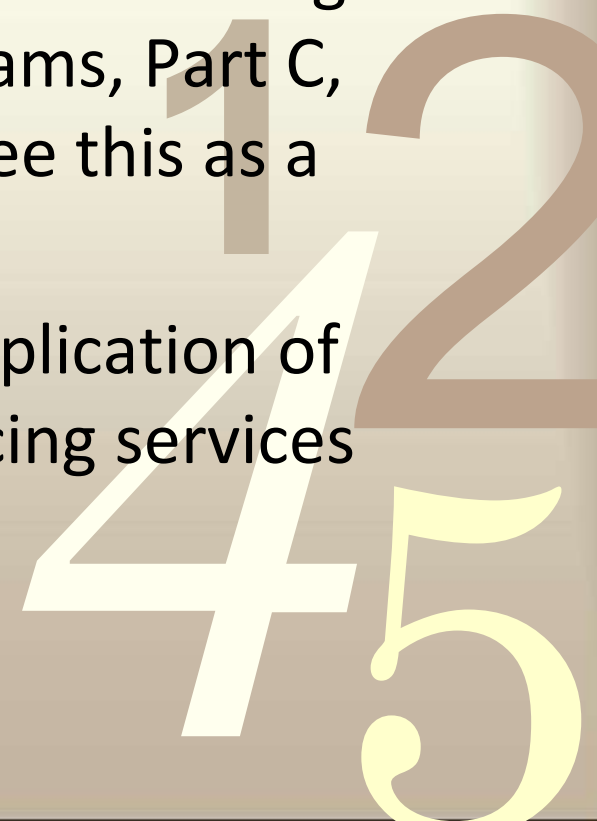
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- If you don't specify limits (\$, # or specific services) then each family will need to become familiar with their own plan and its exclusions. (NY)
- Most families do not realize the complexity of their health insurance plan.
- Many healthplans specifically exclude covering services for developmental or congenital conditions.

# Other state mandates

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- Autism insurance coverage
  - Families advocating for this see this coverage as, “in addition to” current programs, Part C, Part B and DDD programs may see this as a new funding stream.
  - OSEP says states cannot cite “duplication of services” as a rationale for reducing services under Part C (letter to Florida).



# Costs to families by using TPP

- Will you waive co-pays/co-insurance? (how will this affect a family's insurance-or the provider's contract with the insurer?)
- What happens if a family cannot afford an premium increase due to early intervention billing? Or if the employer, drops coverage citing increased costs relative to the child?
- Will you allow families to deny access to their insurance if they anticipate high insurance utilization in the future?

# Consents

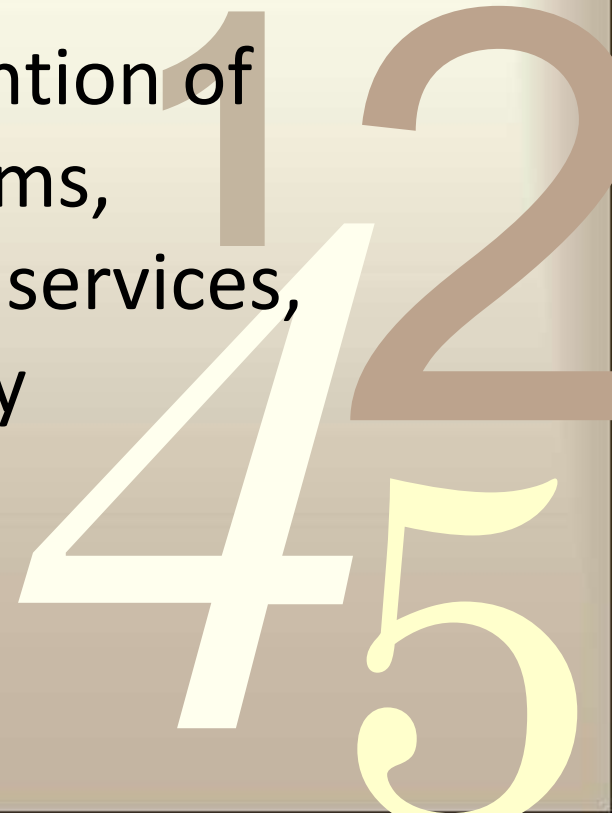
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- Currently IDEA regulations are silent on consent to bill. The 2004 NPRM required consent to bill.
- Does providing insurance information constitute consent? When is consent informed? Who informs? Who confirms coverage? Who will investigate overbilling?
- What effect might this have on families?

# Healthcare Reform

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- Current bills anticipate removing lifetime and annual caps.
- One proposed bill includes mention of covering parent visiting programs, developmental and behavioral services, how will this dovetail with early intervention?



This is only the beginning of the discussion...

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