



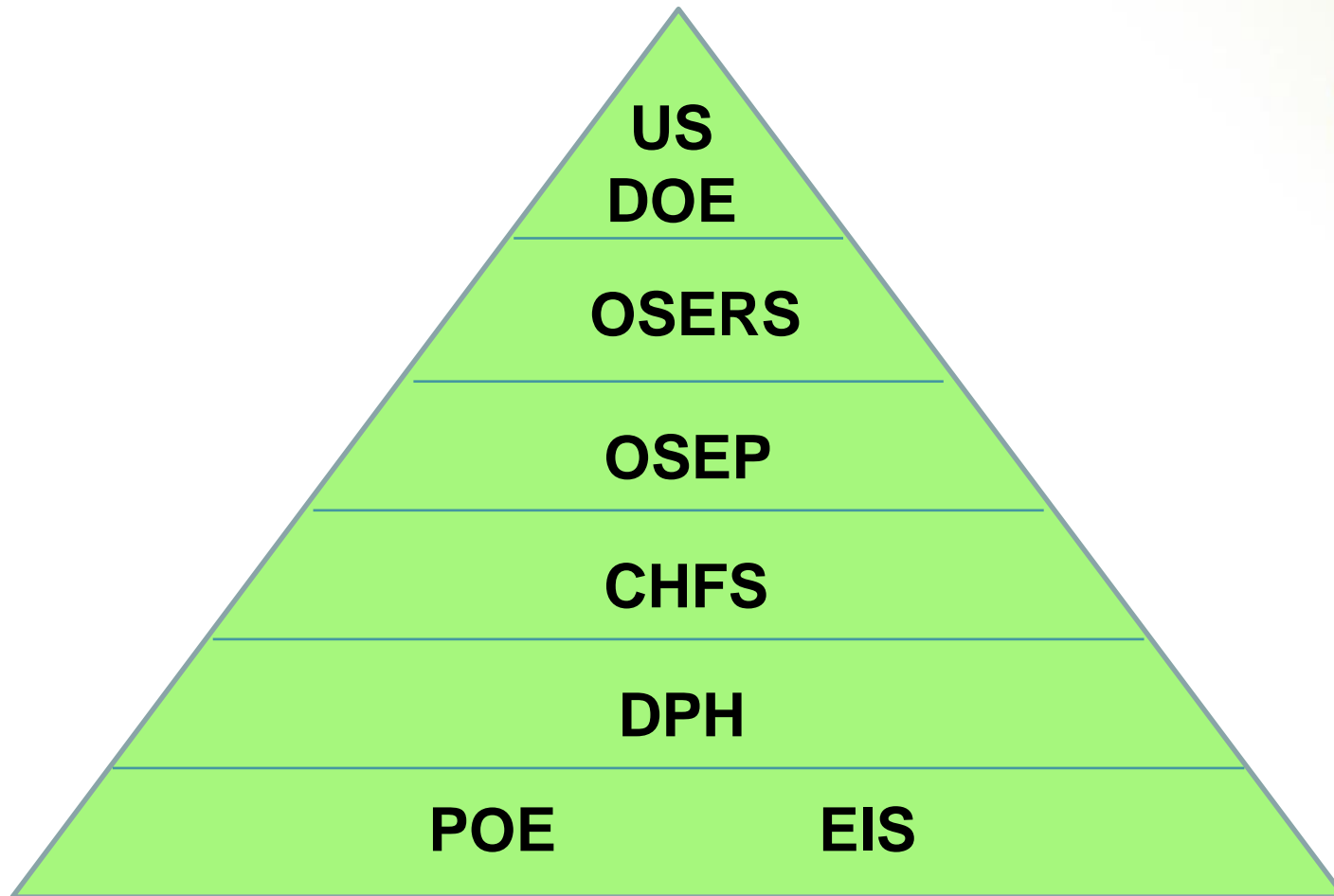
**Springing into New Regulations!**


**March 2011**


# 902 KAR Chapter 30

- Regulations are posted on the LRC website:
- <http://www.lrc.ky.gov/kar/TITLE902.HTM>
- Scroll down to Chapter 30

# Early Intervention Line of Authority



- 
- Early Intervention Services in Kentucky are now regulated by 902 KAR Chapter 30.
  - Kentucky Revised Statutes (KRS) 200.650 to 200.676 are the laws related to Early Intervention Services.
  - All entities wishing to contract with First Steps are bound to follow both state regulations and statutes.

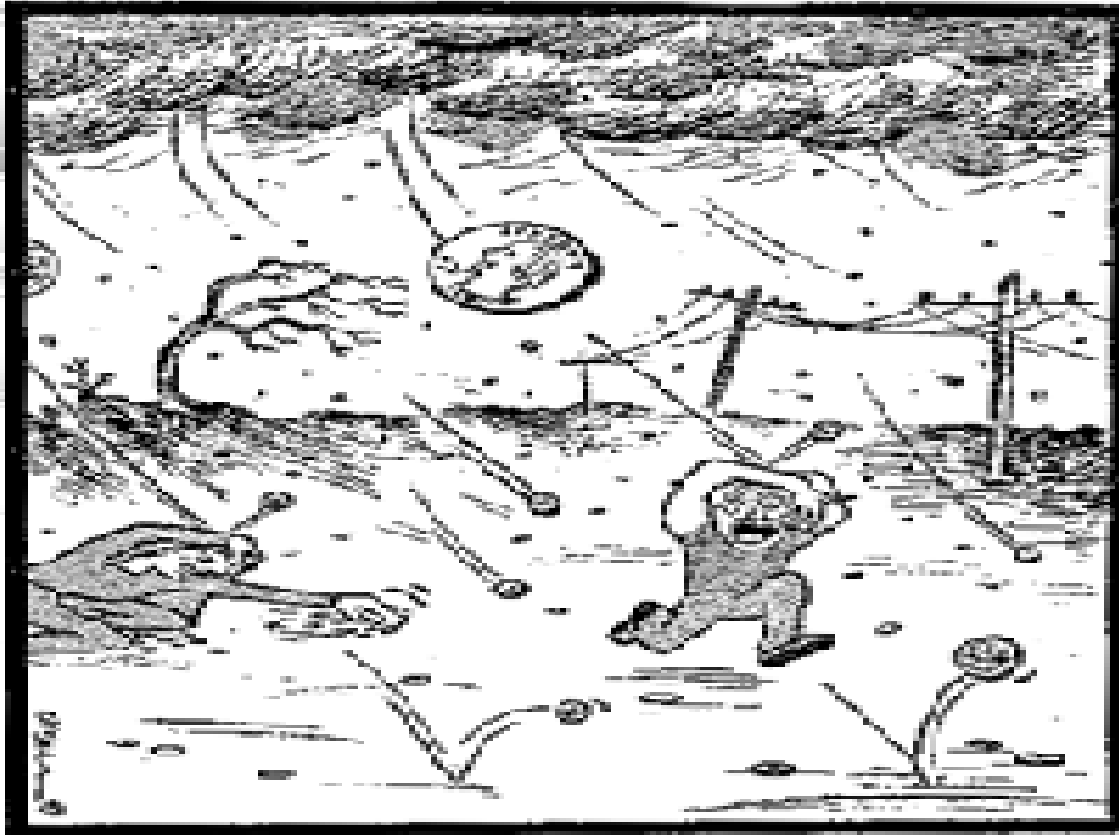
- 
- Kentucky's Early Intervention System must also adhere to all federal regulations and statutes related to services for children ages birth to three.
  - Each section of the chapter gives reference to the related state statute, federal regulation and federal statute (aka unified code) for Early Intervention Services.

- Legislative Research Commission requires that any state regulation be written so that they are easily understood by the layman. (KRS 13A.222(4)(a))



Regulations must be inclusive of all standards. There should be no misunderstanding or confusion regarding the requirements.

# Why Change Regulations?



**Winds of Change**

# Why change regulations?

- The First Steps regulations had not been promulgated since 2004.
- There were many outdated or incorrect federal statute and federal regulation citations that had to be corrected.
- The regulations did not match the day to day operations of the program.

# What's Not In Regulation

- References to CBIS
- Primary Service Coordination





- The term “therapeutic” intervention
- Service units
- References to the Commission for Children with Special Health Care Needs as the administrative authority for First Steps
- PLE completed within 10 days from date of referral

**902 KAR  
30:001**

# **Definitions**




# Definitions



- OSEP required the following definitions be added to state regulations:
  - Homeless child
  - Parent
  - Ward of the State
  - Assistive Technology

- LRC required the following definitions be added:
  - Part C Coordinator
  - Cabinet-approved criterion-referenced assessment
  - First Steps Data Management System
  - Kentucky Early Childhood Data System
  - Assistive Technology Monitoring Committee (added to 130)
  - NICU and ILE teams (added to 120)
  - Record Review team




- 
- Terms not used or found in any chapter of regulation were removed:
    - Interdisciplinary Team
    - Image Consistency Kit
    - Family Directed

**902 KAR  
30:110**


**Point of  
Entry and  
Service  
Coordination**




- 
- This regulation gives the Point of Entry the authority to act as the Local Lead Agency (LLA).
  - While the POE is still regulated to participate in child find activities, the office is no longer required to complete two face-to-face contacts each month with potential referral sources.

# DEIC

- The District Early Intervention Committee (DEIC) is actually part of the state statute for Early Intervention Services.
- KRS 200.662 outlines the membership and duties of the DEIC.

- 
- Previous regulations outlined the monthly reporting requirements for the POE to the DEIC.
  - POEs that did not send all members of the DEIC the monthly report or met monthly with the DEIC to provide the report were out of compliance.

- 
- Current regulation states:
    - The POE staff shall maintain communication with the District Early Intervention Committee (DEIC) and the state lead agency on matters of child find, service options, and other issues relevant to the First Steps Program.

# Initial Home Visit

- Regulations still outline the required components for the initial home visit.
- However, the service coordinator is no longer directed to interview “others identified by the family”.



# RBI



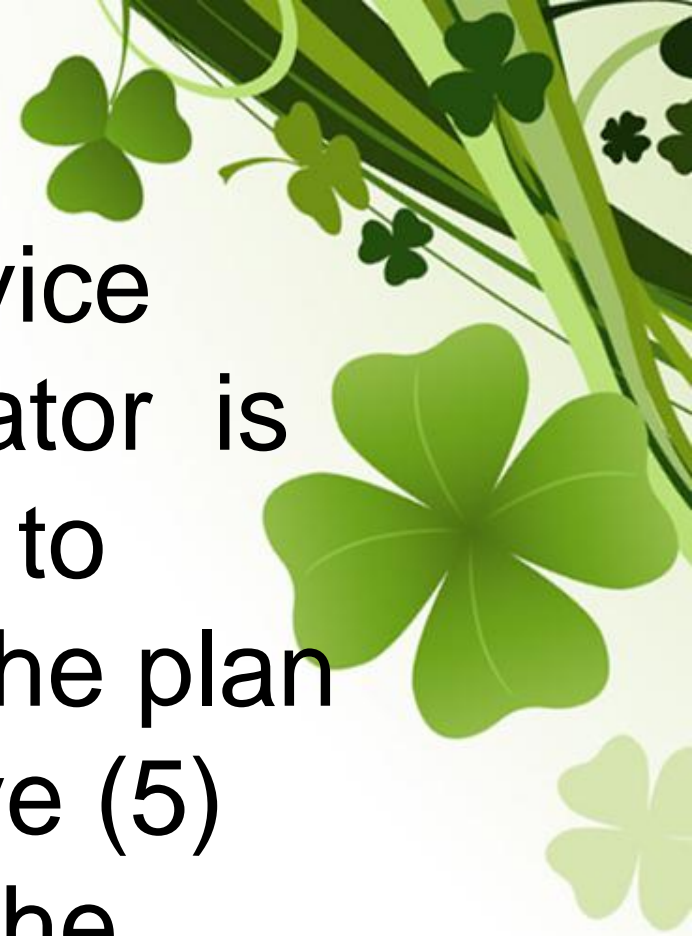
- First Steps uses the RBI information to meet the federally required “Family Assessment” piece of the evaluation and assessment process.
- 303.322 Evaluation and Assessment.
  - (d) Family Assessment (1) Family assessments under this part must be family-directed and designed to determine the resources, priorities and concerns of the family and the identification of the supports and services necessary to enhance the family’s capacity to meet the developmental needs of the child.

# IFSP Development



- The Service Coordinator is to facilitate the initial, annual and six (6) month review IFSP meetings and any IFSP meeting requested to address revisions.
- The IFSP data is to be entered into the First Steps data management system.

The Service Coordinator is required to finalize the plan within five (5) days of the date of the IFSP meeting.



# Documentation



- The Service Coordinator shall ensure that all contacts with the family or other service providers are documented in the child's record
  - Documentation shall occur within seven (7) days of the date of service and include:
    - Date, time and reason for the contact
    - The type of contact (telephone or face to face)
    - Results of the contact; and
    - Plan for further action.
- This is not a new requirement

- The Service Coordinator shall document all contacts attempted but not made; and
- the reason for services not delivered in a timely manner.



- Additional information in this regulation includes the process to take to determine a child's hearing status.
- This is not new practice, only the language has been cleaned up.



**902 KAR  
30:120**

**Evaluation  
and  
Eligibility**



# Established Risk List

## Added:

- Galactosemia



## Removed:

- Biotinidase Deficiency
- Exencephaly
- Fatty Acid Oxidation Disorder
- Huntington Disease
- Pierre Robin Sequence

\*List is now incorporated by reference\*

# Intensive Level Evaluation For Eligibility



Regulations:

ILE for Eligibility only

After IFSP has been written:

ILE must be approved by SLA

# Prematurity

< 6 months adjusted age:

ILE, NICU Follow-Up

> 6 months adjusted age:

DCES, PLE



# Recommendation for Eligibility

- PLE is not sole criterion to determine eligibility
- PLE report must never include:
  - “eligible” or “not eligible”
- **Make recommendation of eligibility only**



# Notice of Action

- No verbal consent for evaluation
- Planned service reflects 7 day wait
  - Consent signed 1-12-11
  - Planned services:
    - Start date: 1-19-11
    - End date: 1-29-11
- Best practice 10 days, it is no longer a regulation



The background of the slide is a decorative pattern of green leaves and clovers. The leaves are in various shades of green, from light to dark, and are arranged in a way that suggests a growing plant. The clovers are also in various shades of green and are scattered throughout the design. The overall style is clean and modern, with a focus on natural elements.

**902 KAR  
30:130**

**Assessment,  
Service Planning,  
and  
Assistive  
Technology**

# Assessment Timelines



- (6) A copy of the cabinet-approved criterion-referenced assessment protocol shall be submitted electronically to the Kentucky Early Childhood Data System within ten (10) calendar days of the completion of the assessment.
- (7)(a) The initial or other formal assessments, with written reports, shall be completed and recorded in the child's record using the First Steps data management system within ten (10) calendar days of the provider completing the assessment.

**902 KAR  
30:150**

**Personnel  
Qualifications**



# LPCC



## Licensed Professional Clinical Counselor

- Master's degree
- License from KY Board of Licensed Professional Counselors

### **335.500 Definitions for KRS 335.500 to 335.599.**

(3) "Licensed professional clinical counselor" means a credential holder who has been determined by the board to have met all qualifications set forth in KRS 335.525(1) to engage in the independent practice of professional counseling;

# LPCC

## Core Content:

Human growth and development across the lifespan, including normal and abnormal behavior and an understanding of developmental crises, disability, psychopathology, and situational and environmental factors that affect both normal and abnormal behavior.



# DAs

- Must be directly supervised by a DI



**902 KAR  
30:160**

**Covered  
Services**



# Covered Services



## New Provider Types:

- Licensed Professional Clinical Counselor (LPCC)
- Optometrist
- Ophthalmologist

# Covered Services

Face-to-Face not required for Early Intervention Service when:

- Provided by a psychologist, counselor, marriage and family therapist, or social worker

AND

- Documentation shows clear evidence why having the child present is clinically contraindicated



# Covered Services

Language access services are consistent with the provisions of IDEA—at a minimum, assist the family in understanding the purpose of First Steps and the procedural safeguards during referral, eligibility determination activities, and IFSP.



**902 KAR  
30:180**

**Procedural  
Safeguards**



# Procedural Safeguards



- Important foundation of IDEA
- Must be able to explain rights in ways that families understand what they are and how to exercise their rights

# Procedural Safeguards



- Prior Written Notice
  - 7 days before the initiation, change, or refusal of action
- Consent
  - Must be written (parent signature)
  - Must have this before the initial evaluation and assessment, provision of Early Intervention Services
  - *Also required for ILE*

# Procedural Safeguards



- Representation of Children & Surrogate Parent
- **Surrogate Parent Needed**
  - Parent/guardian cannot be identified
  - Parent/guardian whereabouts are unknown after reasonable efforts have been made by the POE to locate the parent/guardian
  - Child is a ward of the state residing in a residential facility/group home

# Procedural Safeguards



- **Surrogate Parent NOT Needed or NO Longer Needed**
  - Child resides with parent/guardian
  - Child resides with “person acting in the place of a parent” (grandparent, relative, stepparent, etc)
  - Child resides with state-appointed foster parent(s)

# Procedural Safeguards



- ***Attention:*** Persons employed by a State Agency, including Department for Community-Based Services may not serve as a Surrogate Parent or “Person acting in the place of a parent”.

## Surrogate Parent Identification of Need

Child's Status and Surrogate Parent Determination (Check one and proceed accordingly):

Surrogate Parent Needed		Surrogate Parent NOT Needed or NO Longer Needed	
<input type="checkbox"/>	Parent/guardian cannot be identified	<input type="checkbox"/>	Child resides with parent/guardian
<input type="checkbox"/>	Parent/guardian whereabouts are unknown after reasonable efforts have been made by the POE to locate the parent/guardian	<input type="checkbox"/>	Child resides with "person acting in the place of a parent" (grandparent, relative, stepparent, etc)
<input type="checkbox"/>	Child is a ward of the state residing in a residential facility/group home	<input type="checkbox"/>	Child resides with state-appointed foster parent(s)
If any item above is marked, documentation (staff notes, court order, custody agreement, correspondence, etc) must be attached to this form and placed in child's hard file.			

Attention: Persons employed by a State Agency, including Department for Community-Based Services may not serve as a Surrogate Parent or "Person acting in the place of a parent".

### Contact Information of Individuals Where Child Resides

Contact Person:	Relationship to the child:
Contact Person's mailing address:	
Phone Number where contact person can be reached:	

### Department for Community-Based Services (DCBS) Contact Information

Contact Person:
Contact Person's mailing address:
Phone Number where contact person can be reached:

The information contained in this document (including attachments) is true and complete to the best of my knowledge from information gathered through available resources.

Printed Name \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_



**New Form  
Required For  
Every Child:**  
beginning  
April 1, 2011

- All new referrals
- Add to child's record at next natural IFSP meeting point

# Procedural Safeguards



- Mediation & Due Process for Parents & Children
- NO changes to these regulations
  
- State Complaint Procedures are now in regulation



The Cabinet for Health and Family Services  
 Division of Maternal and Child Health  
 Early Childhood Development Branch  
 275 East Main Street H 82W-C  
 Frankfort, KY 40621  
 Telephone: (502) 564-3756 Fax: (502) 564-0325

Mediation/Due Process Request



Name of Individual/Organization Filing Complaint		Date
Address		
City/State/Zip Code		
Child's Name (if applicable)		Child's Date of Birth (if applicable)
Telephone Number(s)	Fax Number(s)	Email Address (optional)
<p>Kentucky Early Intervention System (KEIS), First Steps, under the Department of Public Health, Division of Maternal and Child Health is committed to maximizing family involvement at each step of Kentucky's Part C early intervention system. As part of ensuring the parents' involvement in decision-making and maintaining the partnerships critical to the success of the program, First Steps encourages and recommends that all parties work together using informal means to resolve disagreements that may arise.</p> <p>First Steps State Lead Agency staff is available to advise parents of their rights under the Part C of the Individuals with Disability Education Improvement Act (IDEA) and help them understand the options available to them when disputes arise. First Steps State Lead Agency staff recommends that parents work with staff from the Point of Entry/Local Lead Agency (POE/LLA) as well as service providers to address concerns in an attempt to avoid a family decides to request formal dispute resolution, or if the informal process does not resolve the concerns of the parties involved, First Steps offers several options for formal resolution of dispute process hearings, and 3) administrative complaints.</p> <p>The primary purpose of this form is to document the option selected in order to initiate any disagreement. Please provide the information requested on this form, sign, date, and return to the State Lead Agency staff. Parents may request assistance in completing this form by contacting their First Steps State Lead Agency staff.</p>		
<p>FORMAL DISPUTE RESOLUTION OPTION(S) (Description)</p> <p><input type="checkbox"/> Mediation Only</p> <p><input type="checkbox"/> Due Process Hearing</p> <p><input type="checkbox"/> Check here if you initially want to attempt to resolve the dispute through mediation and/or due process hearings.</p>		

Two Page Form for Mediation and Due Process

FORMAL DISPUTE RESOLUTION REQUEST  
 (Continued)

PROVIDER/ORGANIZATION DISPUTE FILED AGAINST	
Name	
Address	
City/State/Zip Code	
Telephone Number	Email Address (optional)
Other Parties to Dispute (if applicable)	
<p>STATEMENT OF DISAGREEMENT</p> <p>Please provide a written description of the area(s) of disagreement (concerns related to the identification, evaluation and assessment, eligibility determination, placement of the child, provision of appropriate early intervention services to child or family, or alleged violation of Federal/State laws or state guidelines). Be as specific as possible. Attach additional pages as needed.</p>	

<p>FACTS SUPPORTING STATEMENT OF DISAGREEMENT</p> <p>Please provide a written description of the facts supporting your statement of disagreement and identify any pertinent information (i.e. IFSPs, written correspondence, evaluations/assessments) that may verify your concerns. Be as specific as possible.</p>
<p>Available over the next two weeks if on page one you selected mediation and/or due process hearings.</p>



Send to:  
KRS General Supervision Administrator  
275 East Main Street, HS2WC  
Frankfort, KY 40621  
Fax (502)564-0520

### Complaint Form

TOTS ID Number:	Date:
Provider Name:	Agency:
Person Filing Complaint:	Relationship to child:
Phone Number:	
Complaint:	

Attach additional sheets needed

To be completed by State Lead Agency

Resolution:

Date Resolved:



# Complaint Form-- Sent to State Lead Agency

**902 KAR  
30:200**

**Payment &  
Limitations**



# Payment & Limitations



- Service logs 5 days from date of service
- Developmental Interventionists required to bill insurance
- A child may not have both group and individual Early Intervention Services by the same discipline concurrently.

# Payment & Limitations



- Insurance
  - Families consent to use of insurance receive all IFSP services
  - Families don't consent to use of insurance receive only no cost services
  - Insurance coverage verified every 6 months
- This goes into effect April 1, 2011 for all new referrals!



### Consent for Use of Private Insurance

First Steps uses a variety of public and private resources to support the costs for early intervention services. By federal law, all resources for payment are explored prior to the use of early intervention funds. This includes private health insurance. Some of the early intervention services listed on the Individualized Family Service Plan (IFSP) may be covered by private health insurance for which you are paying a monthly premium. Kentucky includes private health insurance in its definition of ability to pay for early intervention services.

If you have health insurance, you may choose to use this resource to help pay for covered services. If your health insurance deductible has not yet been met, the provision of First Steps services will be applied to your deductible and will assist you in meeting it for the year. First Steps funds can be used to cover the co-payments or deductibles associated with the First Steps services billed to your insurance.

You may decline use of your private health insurance for First Steps. The First Steps services that you will receive in that case are those that are at no cost to families—service coordination, screening, evaluation and assessment, IFSP development and implementation of procedural safeguards.

Please choose one of the two choices below:

I give permission for my health insurance to be used to help pay for First Steps early intervention services that are covered under our family's health insurance plan. I understand that my permission is voluntary and can be revoked at any time.

I do not give permission for my health insurance to be used to help pay for First Steps early intervention services. I understand that I will receive the following services from First Steps: service coordination, screening, evaluation and assessment, IFSP development, and implementation of procedural safeguards.

Child's name:			
Parent's name:			
Parent's signature:			
Date:			
Insurance Information	Name of Insurance Company:		
	Address:	Phone Number:	
Policy Holder Information	Name:	Date of Birth:	Social Security Number:
Relationship to Insured	<input type="checkbox"/> parent <input type="checkbox"/> other: (describe)		
	Policy Holder's Employer:		
Policy Number:	Group Number:	Effective Date:	

02/11

The cost of printing was paid from state funds through the Department of Health, First Steps Program, pursuant to KRS 57.375

# New Consent for Use of Private Insurance Form



# Payment & Limitations



- Family Share
  - Income verified every 6 months
  - All families are assessed
  - Children are not prevented from receiving services if the family can show an inability to pay to the satisfaction of DPH

# Payment & Limitations



- Family Share Procedures:
  - IFSP services will be suspended for children whose families have an ability to pay but who are in arrears by at least 90 days. Services will be suspended until the bill is paid.
- This procedure will be implemented in late summer or fall of 2011.

# Questions?

[chfs.firststeps@ky.gov](mailto:chfs.firststeps@ky.gov)

Or call:

1-877-417-8377

1-877-41 STEPS

# Upcoming Events



- Webcast #2:
  - Policy and Procedure:
    - POE, Intake, Referral, and Eligibility Determination
- Webcast #3:
  - Policy and Procedure:
    - IFSP Development and Implementation
- Webcast #4:
  - Policy and Procedure:
    - Miscellaneous