SCOPE:

County Mental Health/Mental Retardation Program Administrators

PURPOSE:

The purpose of this bulletin is to transmit the supplemental grant agreement between the Department of Public Welfare, Office of Mental Retardation and County Mental Health and Mental Retardation (MH/MR) Programs for services under the Medicaid waiver for infants, toddlers and families.

DISCUSSION:

The Department’s approved waiver application (HCFA #0324) under Section 1915(c) of the Social Security Act provides for a grant agreement between the Department and the County MH/MR Programs for the administration of services.

This supplemental grant agreement is being sent to County MH/MR Program administrators for signature by the appropriate County Commissioners or county authority, who may be the County MH/MR Program Administrator. The agreement is to be effective with services provided on and after July 1, 1998. After the agreement is signed by the county, it should be forwarded to the appropriate regional program manager to obtain departmental signatures.

Once signed by the parties, the agreement will continue to be in force through state Fiscal Year 2000-01, unless otherwise amended. Any subsequent change in the agreement will require the approval of the Deputy Secretary for Mental Retardation as a modification to Appendix A of the Agreement - Supplemental Grant Conditions. This method of making modifications within Appendix A will avoid the need to enter into new agreements from year to year.

The Department will not allocate County administration funding for the waiver until this supplemental agreement is signed by the appropriate County authority.

REFER COMMENTS AND QUESTIONS TO:

Appropriate Regional Mental Retardation Program Managers
COUNTY
SUPPLEMENTAL GRANT AGREEMENT
FOR INFANTS, TODDLERS AND FAMILIES MEDICAID WAIVER

THIS AGREEMENT made this ______ day of ____________, 1998, between the Office of Mental Retardation, Department of Public Welfare, hereinafter referred to as "Department," and the ______________ County Mental Health and Mental Retardation Program, hereinafter referred to as the "County."

WITNESSETH:

WHEREAS, the County is responsible for providing home and community services pursuant to the Mental Health and Mental Retardation Act of 1966 (§PS 54101); and

WHEREAS, the County is responsible for the administration of early intervention services under Act 212 of 1990; and

WHEREAS, authorization has been given for a home and community based services waiver as a result of Federal approval under Section 1915(c) of the Social Security Act; and

WHEREAS, Federal approval was conditioned on assurances that the expenditure of funds be governed by criteria set forth below.

NOW, THEREFORE, the parties intending to be legally bound agree as follows:

1. Subject to appropriation of funds, the Department will allocate Medicaid Waiver funding as part of the County's approved early intervention allocation.
2. Allocation of the Medicaid Waiver funding is conditional upon the County Program's compliance with the Supplemental Grant Conditions, Appendix A, which is herein attached and made a part of this agreement.

3. Changes or corrections in written policies and procedures under this Waiver shall be effective only as of the dates mentioned therein.

4. This agreement shall remain in full force and effect as an integral part of the Department's funding obligation for the County's annual statutory grant for early intervention services until superseded by another agreement or amendment to this agreement. The term of this agreement shall be from July 1, 1998 through June 30, 2001, subject to Federal approval of the waiver and availability of appropriated funds.

5. At any time during the term of this agreement, either party to the supplemental grant agreement may initiate discussions regarding modifications to Appendix A. The currently existing agreement shall remain in effect until superseded by agreed upon modifications.

6. Either party may at any time during the term of this agreement terminate by giving ninety (90) days written notice by certified mail, return receipt requested, to the other party of the intent to terminate.

Department of Public Welfare
Signatures
__________________________ /Date:________________

__________________________ /Date:________________

County Authority
Signatures
__________________________ /Date:________________

__________________________ /Date:________________
APPENDIX A
SUPPLEMENTAL GRANT CONDITIONS
FOR INFANTS, TODDLERS AND FAMILIES MEDICAID WAIVER

The following preconditions govern the allocation and expenditure of the supplemental grant funds for the provision of services for infants, toddlers and families by the County pursuant to the Department's home and community-based services waiver, hereinafter referred to as the "waiver", approved by the Department of Health and Human Services under Section 1915(c) of the Social Security Act.

SCOPE

1. a. All services must be provided in compliance with the Department's approved waiver application, as transmitted by the Department and subsequently approved waiver amendments and corrective action plans.

b. Any changes which result from changes in Federal or State law, regulation, or conditions of waiver approval shall be binding on the parties pursuant to the issuance of such a change by the Department.

2. a. The County shall provide waiver funded services for up to the allocated unduplicated number of infants and toddlers indicated in the County's allocation letter. The County cannot at any point in time during the State fiscal year exceed this allocated unduplicated number of infants and toddlers receiving waiver funded services or their waiver allocation without prior approval of the Department.
b. The Department reserves the right to adjust the County's allocation for waiver services should the County not be able to provide services for the unduplicated number of infants, toddlers and families identified in the County's allocation letter.

SERVICES

1. a. Only habilitation services, as defined in the Department's approved waiver or subsequently amended application, are eligible for Federal financial participation under the waiver.

b. To the extent that funds are allocated to the County by the Department, the County shall make habilitation services, herein referred to as "waiver eligible services," available for up to the allocated unduplicated number of eligible infants and toddlers who need them.

2. a. All other early intervention services and provisions, herein referred to as "waiver ineligible services," are excluded from Federal financial participation (FFP) under the approved waiver. However, Counties are still responsible for providing all of the services in the child's Individualized Family Service Plan (IFSP) whether or not those services are waiver eligible. Funding sources to pay for waiver ineligible services include: The Early Intervention Medicaid (MA/El) fee schedule; Social Service Block Grant (SSBG); Part H, superseded by Part C of the Individuals with Disabilities Education Act (IDEA); Early Periodic Screening, Diagnosis and Treatment (EPSDT); state and county funded early intervention, generic community resources, private insurance, and other
third party payors. Waiver ineligible services do not need to be tracked for purposes of State or Federal reporting under the waiver.

b. The County shall assure that providers cannot be limited in any way which would violate the Department's assurance of freedom of choice under Medical Assistance or the waiver. Medicaid providers of service who meet the qualifications in the Department's approved waiver application cannot be denied access to providing services on the basis of single source contracting or other practices which would deny or limit a family's choice of qualified providers. In addition, children participating in the waiver will maintain access to all services covered in the Medical Assistance State Plan, including EPSDT, with free choice of participating Medical Assistance enrolled providers.

c. Nothing in this agreement shall be construed to permit the County to compel families either to enroll in Medical Assistance or to use private insurance.

d. The County is responsible to assure that all early intervention services in the child's IFSP are provided, in accordance with Part H/C, regardless of the child's eligibility for waiver funding.

3. In arranging for service, the County is responsible to assure that services are arranged in a manner which supports family centered principles, including that:

- families and family members are treated with dignity and respect at all times.
- practitioners are sensitive to family cultural, ethnic and socio-economic diversity.
- family choice and decision-making occurs at all levels of family involvement in the intervention process.
family choice and decision-making occurs at all levels of family involvement in the intervention process.

information necessary for families to make informed choices is shared in a complete and unbiased manner.

the focus of intervention practices is based on family-identified choices, priorities and needs.

the provision/mobilization of supports, resources, and services is done in a flexible, responsive and individualized manner.

a broad range of formal, informal and community supports and resources are used for achieving family-identified outcomes.

the strengths and capabilities of families and individual family members are used as resources for meeting family-identified needs and as competencies for procuring extra family resources.

practitioner/family relationships are characterized by partnerships and collaboration based upon mutual trust and respect.

practitioners employ competency-enhancing and resource-based empowering helping giving styles that promote and enhance family functioning and have family strengthening influences.

4. a. The County, as the Department's fiscal agent, is required to provide administrative services for the proper and efficient operation of the waiver eligible services.

b. The Department shall authorize funding to the County for administration of the waiver, subject to the County's signing of this supplemental grant agreement and the availability of funds.
5. All services must be provided by the County pursuant to the Mental Health and Mental Retardation Act of 1966 and in compliance with the Department's regulations, policy and procedures.

6. All services must be provided in accordance with the State's assurances under the approved waiver application, and provisions as required by Part H of the Individuals with Disabilities Education Act (P.L. 102-119), superseded by Part C of the IDEA (P.L. 105-17), and Act 212 (P.L. 1372, No. 212.11, pp. 875-101) and any revisions to Act 212.

a. The County is responsible to:

(i) provide reports containing information that the Secretary of the Department of Health and Human Services, or the Secretary's designee, may require, and

(ii) keep records and afford access to those records as the Secretary of the Federal Department of Education may find necessary to assure the correctness and verification of reports and proper disbursement of funds provided under Part H or Part C of the IDEA and Act 212.

b. The County is responsible to adopt fiscal controls and fund accounting procedures to assure proper disbursement of, and accounting for, Federal and State funds.

c. The County shall ensure involvement of traditionally underserved groups, including minority, low-income and rural families, in the planning and implementation of all the requirements of this part, and ensure that these
families have access to culturally competent services within their local
geographical areas.

d. This County is responsible for ensuring that all families whose children receive
waiver eligible services receive a statement of the dates, amounts, and charges
for waiver and other services rendered under the child's IFSP. Statements shall
be provided to families beginning no later than 12 months after requirements
for such statements are issued by the Department.

e. The County shall adopt policies and procedures that ensure that the initial
multi-disciplinary evaluation (MDE) is conducted by personnel independent of
service provision. If unable to provide this assurance, an alternative process
that assures impartiality must be submitted and approved by the Regional
Office of Mental Retardation. The alternative process must be submitted to the
Regional Office within 90 days after the County signs this supplemental grant
agreement. For purposes of the initial MDE, personnel independent of service
provision cannot be an employee or subcontractor of an agency that provides
an IFSP service for the child unless the agency is a service coordination
agency.

f. The County is responsible to utilize the State's approved IFSP form beginning
on or before July 1, 1998, for waiver and other services contained in the child's
IFSP.

g. The County is responsible for providing the Department with data on the cost
and amount of services received under the waiver in accordance with
instructions issued by the Department.

h. The County is responsible to render orientation and training to providers of waiver eligible services to assure each provider's understanding of State assurances and provider requirements under the waiver. Training will be based on policy and procedures developed by the Department.

7. The Department shall hold the County harmless from any Federal and State audit exception which may result from policy, procedures and bulletins issued by the Department which are not in compliance with the provisions of the approved waiver or related Federal requirements.

8. a. The County, in consultation with the Local Interagency Coordinating Council (LICC) and the County Mental Health/Mental Retardation Advisory Board, shall conduct an early intervention self-assessment review at least once in every three years, in accordance with a process approved by the Office of Mental Retardation. It is not the intent of this provision to require the LICC or the County MH/MR Advisory Board to make review visits.

b. This review will include visits to settings where services are provided to waiver recipients; and a review of program records, service coordination and family satisfaction, in accordance with a self-assessment instrument issued by the Department. The OMR Regional Office will receive a copy of the completed assessment.

c. The County will retain records noting the date of each review, families visited,
and that necessary action is taken to assure continuous quality enhancement, family and individual satisfaction, and compliance with State and Federal assurances.

9. a. The County MH/MR Program shall conduct an annual compliance monitoring review of all contracted waiver funded providers that measures compliance with early intervention requirements, as well as State and Federal requirements under the waiver.

b. Each annual compliance review shall represent approximately 10 percent of the families served, or not greater than 75 families served collectively by providers in major metropolitan areas.

c. The County shall ensure that each provider under contract completes a corrective action plan to address areas of non-compliance within 30 days of notification, and ensure that the provider's corrections are made in a timely fashion. This includes non-compliance noted as a result of monitoring activities by the Office of Mental Retardation or other Federal or State agencies.

d. The Department will assist the County in developing necessary procedures to comply with this and other sections of the agreement on request.

**PREREQUISITES FOR PROVIDER PARTICIPATION**

1. A provider is a person or agency that renders services to eligible infants, toddlers and families and must be licensed, certified or approved by the appropriate State agency or County.
2. The County shall verify that providers of waiver services meet the requirements established in the approved waiver application.

3. Providers whose Medical Assistance provider agreements have been terminated or who have been excluded from the Medicaid Program are not eligible to receive waiver funding. The County shall exclude such entities from receiving either direct or indirect waiver funding on receipt of notification of such terminations and exclusions from the Department.

4. The County shall ensure that each provider of waiver eligible services has a current provider agreement in accordance with MR Bulletin #6000-90-04, titled: "Provider Agreements Under 2176 Waiver".

INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP)

1. The County is required to develop and approve a written IFSP in accordance with Department policy, which is currently MR Bulletin #00-96-04 titled: "Individualized Family Service Plan", prior to each child's receipt of waiver services. This IFSP shall be based on the multi-disciplinary team evaluation which verifies the infant, toddler and family's need for waiver funded services. This IFSP shall include all waiver eligible and ineligible services the infant, toddler and family are authorized to receive by the County.

2. a. The County shall authorize services based on the approved IFSP. Such authorization shall be issued prior to the individual's receipt of waiver eligible services. Service authorization can be issued on the Form MH/MR-11.

b. The County's authorization for services must identify the service(s) being authorized; the duration, location and frequency for waiver eligible services;
each service provider's name, and the provider's rate or charge.

c. Individual service rates or charges shall be specified as part of the service
authorization unless the service rate or charge has been established pursuant to
a payment schedule in a separate provider contract or agreement.

3. The County shall ensure the authorization for waiver-eligible services and the IFSP are
reviewed at least once every six months and updated at least annually to reflect all
significant changes in the IFSP. A significant change in the IFSP shall include, but is
not limited to, any change in the location of a service and/or in the provider of service
or significant change in services, duration or frequency. Minor variances in service
delivery which routinely occur due to hospitalization or other reasons for non-
utilization shall not be considered a significant change in services.

4. Waiver eligible services authorized by the County shall not duplicate services which
are provided under the State Medical Assistance Plan, including services provided
under EPSDT. However, waiver services which are similar to those provided under
the State plan are allowable under the waiver when they differ in definition, amount,
duration or scope from those provided in the State plan.

FREEDOM OF CHOICE

1. The County shall ensure that the infant or toddler's parent or legal guardian is
informed of any feasible alternatives under the waiver and given the choice of home
and community-based services or ICF/MR in accordance with Department policy,
which is currently MR Bulletin #99-85-02, titled: "Beneficiary Choice Under 2176
Waiver Program".
2. The County shall provide an opportunity for fair hearing to the infant or toddler's family or legal guardian if denied the choice of home and community-based services or if denied the services of their choice or the provider(s) of their choice, in accordance with Department policy, which is currently MR Bulletin #99-87-08, titled: "Revised Fair Hearing Procedures Related to Services Under 2176-Waiver," as revised per the Department's approved waiver application.

3. The County shall assure coordination between fair hearing and freedom of choice procedures under the waiver and the early intervention due process system and conflict resolution and mediation options for infants, toddlers and their families in accordance with MR Bulletin #00-95-11, titled: "Conflict Resolution and Mediation Options for Infants, Toddlers and Families", and MR Bulletin #00-95-24, titled: "Early Intervention Due Process System".

FINANCIAL ADMINISTRATION

1. a. The County shall base payments on rates or charges for waiver funded services that do not exceed state established fees for these services.

   b. Provider travel time and collateral expenses of a provider that cannot be included in the provider's waiver rate are negotiable and may be paid to the provider as waiver ineligible costs by the County.

2. The County shall ensure that funding for waiver eligible services is not used to purchase waiver ineligible services, provide services or benefits to infants, toddlers and families who are ineligible for waiver services, or purchase services rendered by a
provider who is ineligible to render waiver services.

3. a. The County shall prohibit payments for waiver eligible services to anyone other than a provider, except in specified circumstances pre-approved by the Department, such as a voluntary agent of the provider.

b. The County shall ensure that state payment for a waiver service furnished to infants, toddlers and families by a provider is not made to or through a factor, either directly or by power of attorney. A factor means an individual or an organization, such as a collection agency or service bureau, that advances money to a provider for accounts receivable that the provider has assigned, sold or transferred to the individual organization for an added fee or a deduction of a portion of the accounts receivable. A factor does not include a business agent, such as a billing service or an accounting firm, that furnishes statements and receives payments in the name of the provider, if the agency’s compensation for this service is:

(i) related to the cost of processing the billing

(ii) not related on a percentage or other basis to the amount that is billed or collected; and

(iii) not dependent upon the collection of the payment.

4. a. The average per capita cost of waiver eligible services reported by the County for the fiscal year cannot exceed the average per capita cost for waiver eligible services established in the County’s waiver allocation without the written consent of the Department.
b. The average per capita cost shall be computed by dividing the County's total waiver eligible allocation expenditures by the total number of unduplicated infants, toddlers and families served by these expenditures in the fiscal year.

5. a. The County is required to make timely payments to providers for waiver eligible services within the amounts established in the County's waiver allocation(s) and in any other special purpose allocation by the Department used for funding services for infants, toddlers and families receiving waiver services.

b. The County shall not claim expenditures which exceed the county's allocation for waiver eligible services, or other categorical and special purpose funding provisions for infants, toddlers and families receiving waiver services.

6. County requests for an allocation change resulting from expenditures exceeding the waiver allocation must be submitted to the Department for approval. Costs in excess of allocated funds, without the written consent of the Department, must be reported as waiver ineligible costs. Costs in excess of allocated funds, without the written consent of the Department, are waiver ineligible costs. They are not reported on the waiver reporting forms; however, they must be reported on the Annual Income and Expenditure Reports.

7. The Department shall make quarterly waiver payments to the County.

8. The County is required to ensure that each provider of waiver service prepares a billing for waiver eligible services at the end of each month or other time frame approved by the Department and that the provider forwards this report to the County.
9. The County is required to ensure that the billing specifies:
   a. the name(s) of the infants and toddlers receiving waiver eligible services or an alternate unique identifier approved by the Regional Program Manager;
   b. all infants and toddlers are financially eligible for Federal financial participation based on a current eligibility notice from the County Assistance Office.
   c. waiver services are properly reported;
   d. all appropriate third party payors are assessed for relevant service funding;
   e. providers are eligible to render waiver services and have used their correct provider number in billing.

11. The County is required to consolidate waiver billings and adjustments and complete a Department quarterly report. The Department quarterly report shall be forwarded to the Central Office of Mental Retardation (OMR) within 14 working days following the end of the quarter. Only waiver eligible expenditures need to be reported on this report.

12. The County is required to make adjustments to its quarterly report based on its quarterly review of provider billings. Adjustments shall be made in the fiscal quarter following the quarter in which the adjustments were reported by the provider with the exception of fourth quarter adjustments which shall only be included in the annual report. All quarterly adjustments including the fourth quarter adjustment must be reflected on the
County's annual waiver expenditure report.

13. The County is required to submit annual reports to the Department for the waiver program in accordance with reporting instructions and on forms issued by the Department.

14. The County shall not assess infants, toddlers and families for any financial liability for services under the Department's 55 PA Code Chapter 4305 Regulations titled: Liability for Community Mental Health and Mental Retardation Services, for waiver eligible services provided under this agreement.

15. The County shall ensure that waiver funding is not claimed until the date the infant, toddler and family first receives waiver eligible services and after all of the following State assurances are met:
   a. the County Assistance Office has provided notice of eligibility;
   b. the infant or toddler's family or legal guardian has exercised freedom of choice in accordance with Department policy;
   c. the County has authorized waiver eligible services in the IFSP;
   d. providers are appropriately licensed, certified and/or approved to render waiver services.

16. Reasonable and appropriate costs incurred prior to meeting all the conditions in
subparagraph 16 are eligible for waiver funding when all of the following conditions are met:

a. the infant, toddler and family is in the process of enrolling into waiver;
b. each service provided comports with the definition of a compensable waiver service;
c. the requirements of subparagraph 15 b), c) and d) are met;
d. costs are not claimed for a prior fiscal year;
e. the provider maintains adequate financial records to substantiate the costs which are actually incurred.

17. The County may use that portion of their early intervention allocation that does not include waiver funds for the cost of waiver ineligible funded services incurred prior or subsequent to the determination of the infant, toddler and family’s eligibility for waiver eligible services.

18. The County agrees that all unresolved disputes between the County and the Department are subject to the exclusive jurisdiction of the Department’s Office of Hearings and Appeals.

ELIGIBILITY FOR SERVICES

The County shall ensure that infants, toddlers and families are eligible for level of care in accordance with criteria and procedures established by the Department, which are currently included as part of the Department’s approved waiver application.

The County shall cooperate with the County Assistance Office in determining an infant, toddler and family’s initial and continuing financial eligibility for waiver services.

CONTRACTING RESPONSIBILITIES
1. The County is required to:
   a. enter into an annual contract with providers of waiver eligible services in accordance with the Department's Fiscal Regulations for the County MH/MR Program, 55 PA Code 4300 and in compliance with Sections 1902(a)(4) and 1902(a)(27) of the Social Security Act, relating to recordkeeping and the furnishing of information by all providers, and CFR Section 431.107 which implements the above-cited statutory provisions;
   b. provide that all unresolved contract disputes between providers and counties are subject to the requirements of 55 PA Code §4300.139(d) (relating to procedures to resolve contract disputes) and to portions of the Judicial Code relating to the use of arbitration and the jurisdiction of the Court of Common Pleas.

2. All contracts for waiver eligible services shall include the following additional standard provisions:
   a. The provider shall use funds available under the waiver for only those infants, toddlers and families authorized by the County and eligible to receive waiver eligible services;
   b. The provider shall use funds available for waiver eligible services for only those services authorized by the County in accordance with the infant, toddler and family's IFSP;
   c. The provider shall maintain adequate program and financial records
which separately identify recipients, funds and services under the waiver from recipients, funds and services reimbursed by other means;

d. The provider shall preserve books, documents, and records until the expiration of four years after the waiver funded service is furnished under the contract and give full and free access to:

   (i) the Commonwealth,

   (ii) the U.S. Comptroller General,

   (iii) the U.S. Department of Health and Human Services, and their authorized representatives.

e. Records which relate to litigation or the settlement of claims arising out of the performance or expenditures under this contract, to which exception has been taken by the auditors, shall be retained by the provider until such litigation, claims, or exceptions have reached final disposition;

f. The provider assures that it presently has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The provider further assures that in the performance of this contract, it will not knowingly employ any person having such interest;

g. The provider understands and agrees that all services provided under this contract and billed by the provider to the County for waiver services are subject to all of the provisions of this agreement and that
the provider shall be held fully responsible for the performance thereof;

h. The provider further understands and agrees that this contract is subject to all pertinent Federal, State and local laws and regulations and all amendments made thereto. Definitions of service, eligibility, and other limitations in this contract are subject to modification by amendments to Federal and State laws and regulations without further notice to the provider;

i. The provider agrees to furnish to the Commonwealth, the U.S. Comptroller, the Department of Health and Human Services, or their authorized representatives such information as required under 42 CFR 431.107;

j. The provider agrees that these standard provisions will be applicable to and included in each subcontract for waiver services and shall also apply to organizations related to Contractor/Subcontractor; and

k. If the contract to provide waiver eligible services is terminated, the provider agrees to preserve the records relating to waiver funded services provided up to the effective date of termination in accordance with the requirements of paragraphs d and e.