3701-8-10 **Part C payment system.**

(A) As used in this rule:

(1) "Ability to pay" means that the family unit's maximum ability to pay for part C specialized services as defined in paragraph (A)(5) of this rule is greater than or equal to two thousand dollars.

(2) "Family income" means the current year's projected adjusted gross earnings based on current gross earnings as reported on pay stubs and/or the sum of the annual adjusted gross incomes, as reported to the United States internal revenue service for federal income tax purposes for the previous year, of each member of the family unit.

For purposes of this rule, family income does not include educational scholarships, loans, and grants; amounts spent by the family unit for childcare expenses; amounts spent by the family unit for respite care (with appropriate verification from a qualified respite care provider); and lump-sum death benefits.

(3) "Family unit" means the group consisting of the following persons:

(a) Infant and toddler as defined in rule 3701-8-01 of the Administrative Code;

(b) Parents of the infant or toddler, specifically, the natural or adoptive parent of an infant or toddler or the parent with legal custody if the parents are separated or divorced, or a person acting in the place of a parent such as a grandparent or stepparent with whom the infant or toddler lives.

(c) Other persons, who, for federal income tax purposes, are considered dependents of the parents.

(4) "Income guidelines" means the guidelines, as established by the director on April first of each year, for use in determining financial eligibility for payment for part C specialized services. The income guidelines shall be equal to one hundred eighty-five per cent of the poverty income for each size family, as reported in the "Federal Register" by the United States department of health and human services, rounded up to the nearest five hundred dollars.

(5) "Maximum ability to pay for part C specialized services" means the difference between the amount the family unit spends, including payroll deductions, for health-related insurance coverage and the sum of the following amounts:

(a) Ten per cent of the first fifteen thousand dollars by which the family income exceeds the applicable income guideline, as defined in paragraph (A)(4) of this rule;

(b) Twenty-five per cent of the next twenty-five thousand dollars by which the family income exceeds the applicable income guideline, as defined in paragraph (A)(4) of this rule; and

(c) Thirty-seven and one half per cent of the remaining amount by which the family income exceeds the applicable income guideline, as defined in paragraph (A)(4) of this rule.

(6) "Service level credit" means a credit of two thousand dollars against the maximum ability to pay for part C specialized services.

(B) The director shall accept from families eligible for part C services applications for payment of part C specialized services. The director shall process an application within thirty days of receipt of a complete application. A determination that the family is unable to pay for part C specialized services shall be specified in writing to the family and shall include an effective period of time for the determination, which shall be no more than twelve months.

(1) The family unit shall be determined to be able to pay for part C specialized services if the family unit's maximum ability to pay for part C specialized services as defined in paragraph (A)(5) of this rule is greater than or equal to two thousand dollars.

(2) If the director determines that the family is able to pay for part C specialized services as defined in paragraph (A)(1) of this rule, the director will provide the family with notice of the amount the director determines to be the family's maximum ability to pay. Once the family spends an amount equal to their maximum ability to pay, minus the two thousand dollar service level credit, for unreimbursed medical, vision, dental, and part C specialized services, the department will pay for part C specialized services within the remaining effective period of time in accordance with paragraph (B)(3) of this rule.

(3) The family unit shall be determined to be unable to pay for part C specialized services and eligible for payment of part C specialized services by the department if:

(a) The family is not able to obtain part C specialized services at no charge to the family through a governmental program, such as medicaid, children with medical handicaps program, or the county board of mental retardation and developmental disabilities;

(b) The family does not have available insurance coverage, as specified in paragraph (H) of this rule, for part C specialized services; and

(c) The family unit's income is less than or equal to the applicable income guideline defined in paragraph (A)(4) of this rule, or the family's

maximum ability to pay for part C specialized services as defined in paragraph (A)(5) of this rule is less than the two thousand dollar service level credit.

(C) Notwithstanding paragraph (B)(3)(c) of this rule, in order to assure that specialized services to a part C eligible child and family will not be interrupted, the family will be determined to be unable to pay for part C specialized services if the family unit provides satisfactory evidence of both of the following:

(1) During the twelve-month period before the date of written allegation of inability to pay the family unit paid for unreimbursed medical, vision, dental, or part C specialized services that were provided to any member of the family unit or the family unit has contracted in writing to pay for any such services during the twelve months after the written allegation of inability to pay; and

(2) The total dollar amount that the family unit spent or is contracted to pay equals or exceeds the difference between the maximum ability to pay for part C specialized services, as defined in paragraph (A)(5) of this rule, and the service level credit, as defined in paragraph (A)(6) of this rule.

(D) Applicants or recipients who are receiving services from the special supplemental food program for women, infants, and children (WIC), supplemental security income (SSI) benefits, or medicaid benefits, except for delayed medicaid spend-down cases as defined in rule 5101:1-39-10 of the Administrative Code, shall be determined unable to pay for part C specialized services.

(E) The director may contract with and pay as providers for part C specialized services provided to part C eligible families:

(1) Providers for the bureau for children with medical handicaps;

(2) Providers for the Ohio medicaid program; or

(3) Other provider types as determined necessary by the director.

(F) The department may pay part C providers authorized under paragraph (E) of this rule for part C specialized services provided to part C eligible families if the family unit has been determined unable to pay for part C specialized services in accordance with this rule and the specialized services are listed on the IFSP for the family.

(G) The provider shall bill medicaid or the bureau for children with medical handicaps if such services are covered by medicaid or the bureau for children with medical handicaps. The provider shall accept the payment from medicaid or the bureau for children with medical handicaps as payment in full. If medicaid or the bureau for children with medical handicaps does not cover the services, the provider may bill the department, bureau of early intervention services, for services authorized pursuant to this rule and the provider shall accept the payment from the bureau of

early intervention as payment in full.

(H) The director may determine that the family does not have available insurance coverage for part C specialized services if the family documents to the director's satisfaction that the family will be subject to a material risk of losing medical insurance coverage because:

(1) The insurance plan or policy covering the child is an individually purchased plan or policy purchased by the head of household who is not eligible for group medical insurance; or

(2) The insurance plan or policy has a lifetime cap that applies to one or more specific types of early intervention services specified in the IFSP and coverage for that service could be exhausted during the period covered by the service plan.

Replaces:	3701-8-10
Effective:	01/27/2006
R.C. 119.032 review dates:	01/27/2011

CERTIFIED ELECTRONICALLY

Certification

01/17/2006

Date

Promulgated Under:	119.03
Statutory Authority:	3701.61
Rule Amplifies:	3701.61
Prior Effective Dates:	9/30/2005 (Emer.)