

Executive Order No. 2016-20

WHEREAS, in 1986, Congress passed and President Reagan signed into law P.L. 99-457, which established an early intervention program to provide services to infants and toddlers with disabilities in order to enhance their development, reduce the need for special education in later years, minimize the likelihood of institutionalization, promote independent living, and enhance the capacity of families to meet their children's needs; and

WHEREAS, subsequent amendments to federal law folded these programs into Part C of the Individuals with Disabilities Education Act ("IDEA Part C"); and

WHEREAS, each state that participates in the IDEA Part C program must establish a State Interagency Coordinating Council ("Council") to advise and assist the lead agency in identifying sources of support for early intervention services, promoting interagency agreements, and in collaboration with the Department of Education, transitioning toddlers with disabilities to preschool and other appropriate services; and

WHEREAS, for fifteen years, the U.S. Department of Education's annual assessment has continuously found that South Carolina's IDEA Part C program "Needs Assistance", "Needs Intervention", or "Needs Substantial Intervention"; and

WHEREAS, each governor is responsible pursuant to 20 U.S.C. § 1400 et seq. for designating a responsible lead agency through which the IDEA Part C program will be administered; and

WHEREAS, Executive Order 2009-12 transferred the IDEA Part C program from the Department of Health and Environmental Control to First Steps for School Readiness; and

WHEREAS, the Department of Health and Human Services is responsible for administering the Medicaid and Children's Health Insurance Programs that already serve a majority of recipients of IDEA Part C services, often beginning with prenatal care; and

WHEREAS, as a major healthcare policy and financing agency, the Department of Health and Human Services is uniquely positioned to bring Medicaid managed care organizations and IDEA Part C care coordinators and providers together to align beneficiaries' Medicaid care plans with their Individualized Family Support Plans under IDEA Part C, while ensuring that private coverage funds appropriate services before public sources are used, as federally required; and

WHEREAS, the Department of Health and Human Services, through its existing infrastructure and relationships with other agencies, is well positioned to implement many of the remaining recommendations of various audits and reports, such as the Legislative Audit Council's finding that, "The General Assembly should appropriate all BabyNet funding directly to [the lead agency] to increase accountability for the lead agency with regard to partner agencies and providers."

NOW, THEREFORE, pursuant to the authority vested in me by the laws and Constitution of the State of South Carolina, I designate the Department of Health and Human Services as the lead agency for South Carolina's IDEA Part C Program, known locally as "BabyNet".

FURTHER, in order to effectuate the transition, the Department of Health and Human Services ("Department") shall:

1. Take all necessary and appropriate steps to assume responsibility for BabyNet effective July 1, 2017, and make any necessary filings with the U.S. Department of Education;
2. Determine the most effective means of administering the BabyNet program and establish partnerships with the appropriate state agencies in order to fulfill this mission; and
3. Engage with independent auditors and/or consultants at its discretion in order to:

- a. Ensure that BabyNet funds have been and are now appropriately accounted, including the proper segregation of these funds from other resources; and
- b. Support the development of a plan to separate BabyNet staff, equipment, funding, and other resources from those remaining with First Steps to School Readiness.

FURTHER, to support the State Interagency Coordinating Council (“Council”), the Department shall:

1. Coordinate with the Governor’s Office to ensure that the Council is fully constituted;
2. Make the Department’s facilities available for the quarterly meetings of the Council.

FURTHER, First Steps to School Readiness (“First Steps”) shall:

1. Maintain and fulfill all existing responsibilities as the BabyNet lead agency until July 1, 2017;
2. Cooperate fully in the Department’s transition efforts, which the Department may begin to implement prior to July 1, 2017, and provide accurate, complete, and timely information and other assistance upon the Department’s request to ensure continuity of care for the program’s beneficiaries; and
3. Refrain from entering into or extending for more than one year contracts relating to BabyNet without the Department’s prior consent.

FURTHER, in recognition of the BabyNet program’s complex structure and its connection to various other state and federal programs:

1. Additional state agencies including but not limited to the Department of Disabilities and Special Needs, Department of Social Services, and the School for the Deaf and Blind shall cooperate fully and participate actively in the Department’s planning efforts; and
2. The Department shall coordinate with the Department of Education on matters affecting the various programs established under IDEA.

FURTHER, the Executive Budget Office shall confer with both First Steps and the Department during the preparation of the Executive Budget for Fiscal Year 2017-18 to ensure that anticipated expenditures associated with the BabyNet program are appropriately presented.

This Order shall take effect immediately with the Department’s formal assumption of IDEA Part C lead agency responsibilities to begin July 1, 2017, upon which date Executive Order 2009-12 shall be rescinded.

**GIVEN UNDER MY HAND AND THE
GREAT SEAL OF THE STATE OF
SOUTH CAROLINA, THIS 14th DAY
OF SEPTEMBER, 2016.**

**NIKKI R. HALEY
Governor**