

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 428

(Delegate Luedtke)

Ways and Means

Education, Health, and Environmental Affairs

---

Children - Maryland Infants and Toddlers Program - Eligibility

---

This bill expands eligibility for the Maryland Infants and Toddlers Program (MITP) by allowing a child to participate in the program until the beginning of the school year following a child's fourth birthday.

The bill takes effect July 1, 2014.

---

Fiscal Summary

**State Effect:** The expansion of eligibility for MITP codifies current practice that allows additional children to receive early intervention services through MITP. State expenditures will not be affected due to the availability of federal funds pursuant to the Individuals with Disabilities Education Act (IDEA) and the shifting of expenditures for eligible children from other programs. However, codifying this program expansion may increase State general fund expenditures if the *discretionary* funding formula for the MITP is fully funded or if federal funds for the program are decreased.

**Local Effect:** Since local funds are already being used for this purpose, it is assumed that no additional local funds will be required.

**Small Business Effect:** None.

---

Analysis

**Current Law/ Background:** MITP provides a statewide community-based interagency system of comprehensive early intervention services to eligible infants and toddlers, birth through age *two*, and their families. However, the State and each local school system

must make a free appropriate public education available to each child with a disability from birth through the end of the school year in which the child turns 21 years old. Historically, MITP has provided these services to eligible children from birth until their third birthday through the development of an Individualized Family Service Plan (IFSP). And in the past, if on a child's third birthday it was determined that a child continued to need special education services, an Individualized Education Program (IEP) was developed for the child. In that case, funding for the services needed by the child was provided through federal grants pursuant to IDEA and State preschool special education services rather than through MITP.

In 2010, federal IDEA law changed to permit states to make IFSP early intervention services available to children beyond their third birthday (34 CFR § 303.211). In response to this federal flexibility, on February 1, 2010, Maryland began offering families of eligible children the choice to continue to receive early intervention services through an IFSP or to begin services through an IEP when the child is three years old.

This choice, known as the Extended IFSP Option, is available only to children who are already receiving early intervention services at their third birthday and who have been found to be eligible for preschool special education services through an IEP. As a result, these children would be provided with early intervention/special education services either through an IFSP or an IEP. Therefore, while this change has provided additional children with the opportunity to continue receiving early intervention services through an IFSP, those same students would have been eligible to receive preschool special education services through an IEP.

The implementation of the Extended IFSP Option has been, and will continue to be, fiscally supported through federal IDEA discretionary funds (including IDEA Part B, Section 611; IDEA Part B, Section 619; and IDEA Part C), Medical Assistance reimbursement, State funds, and local use of funds. To date, additional State general funds have not been necessary to provide families with the option of continuing to receive these services.

#### *Purpose and Background of the Maryland Infants and Toddlers Program*

The purpose of MITP is to provide a statewide, community-based interagency system of comprehensive early intervention services designed to meet the developmental needs of each eligible child and the needs of the family relating to the child's development in order to enhance a child's potential for growth and development before the child reaches school age. The services are selected in collaboration with parents and provided by qualified personnel in conformity with the IFSP developed for each child.

The program includes early intervention services provided or supervised by the Maryland State Department of Education (MSDE), the Department of Health and Mental Hygiene (DHMH), the Department of Human Resources, and the Governor's Office for Children. These services can include assistive technology devices and services, occupational therapy, physical therapy, psychological services, recreation, social work services, special education, speech pathology, vision services, and transportation.

MSDE is the lead agency for the State's early intervention system for children with disabilities and their families. MSDE supervises and monitors MITP assisted by a State interagency coordinating council appointed by the Governor and provides technical assistance and enforcement of the obligations imposed by the program. In overseeing the program, MSDE maintains a central directory of information, publishes an annual statewide public awareness plan, provides the Maryland IFSP process and document for statewide use, develops and implements a comprehensive system of personnel development, and establishes appropriate professional requirements for personnel providing early intervention services for eligible children and their families.

At the local level, local lead agencies designated by the local governing authority in each county and Baltimore City administer the program in their jurisdictions under the direction of MSDE. The local lead agencies are advised and assisted in the development and implementation of policies that constitute the local program by local interagency coordinating councils.

#### *Maryland Infants and Toddlers Program Discretionary Funding Formula*

Funding for MITP is discretionary. Subject to the availability of funding for the infants and toddlers program in the annual State budget, MSDE must distribute grants for each county according to the program's statutory formula. The formula is based on enrollment and a per pupil cost, of which the State pays 20% in fiscal 2007 and beyond. In addition, an inflation factor is applied to the per pupil funding level each year. If the formula is not funded, the State budget must include at least as much funding as was appropriated in the prior year for the program.

In 2013, MITP served more than 16,500 children and families throughout the State of which approximately 1,000 are under the Extended IFSP Option program expansion. The Governor's proposed fiscal 2015 budget for MITP includes \$10.4 million in general funds, \$4.8 million in federal special education preschool grants, and \$6.8 million in federal special education grants for infants and families with disabilities.

State general funds for MITP have been level funded at \$10.4 million annually since fiscal 2009.

**State Fiscal Effect:** MSDE reports that no fiscal or operational impact is anticipated since the bill only codifies the expansion of eligibility for MITP as allowed under federal law. When the federal law changed, additional children were eligible to receive early intervention IFSP services through MITP; MSDE advises that expenditures have not increased due to the program being fiscally supported through federal IDEA discretionary funds, Medical Assistance reimbursement, State general funds, and local use of funds.

In addition, while this change has provided additional children with the opportunity to continue receiving early intervention IFSP services through MITP, those same children would have been eligible to receive preschool special education services through an IEP. Therefore, no additional funds are anticipated.

However, the Department of Legislative Services advises that codifying this program expansion may increase State general fund expenditures if the *discretionary* per-student funding formula for MITP is fully funded or if federal funds for the program are decreased. State general funds for MITP have been level funded at \$10.4 million annually since fiscal 2009, and MSDE reports that no additional State general funds are required due to the availability of federal funds.

*For illustrative purposes only*, general fund expenditures increase by approximately \$1.1 million in fiscal 2015 to cover the approximately 1,000 additional eligible children under the Extended IFSP Option if the *discretionary* MITP funding formula was fully funded. This is the State's 20% share of an additional enrollment of 1,000 and a per pupil amount of \$5,721.

If federal funding for IDEA is decreased, even though the State is required to provide a free and appropriate education for preschool students with disabilities, codifying this expansion may require additional general funds for MITP to continue serving these eligible children in the Infants and Toddlers program. This is due to the State funding mechanisms for MITP and the Extended IFSP Option as opposed to current law, which requires these children to receive services through local school systems. However, since the funding formula for the MITP program is discretionary, additional funding will not be mandated. Alternatively, these eligible children could be served by local school systems through an IEP; in that case, the services will be paid for through federal IDEA funds, local education funds, and already budgeted State education funds.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland State Department of Education, Dorchester and Garrett counties, Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2014  
ncs/rhh Revised - House Third Reader - March 17, 2014

---

Analysis by: Caroline L. Boice

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510