

**CHAPTER 1686****NEWBORN HEARING PROGRAM****§8821. Newborn Hearing Program established**

There is established within the department the Newborn Hearing Program, referred to in this chapter as the "program," to enable children and their families and caregivers to obtain information regarding hearing screening and evaluation and to learn about treatment and intervention services at the earliest opportunity in order to prevent or mitigate developmental delays and academic failures associated with undetected hearing loss. The obligations of the department regarding this program begin when funding is available to the department to implement the program. [PL 1999, c. 647, §2 (NEW).]

**SECTION HISTORY**

PL 1999, c. 647, §2 (NEW).

**§8822. Program requirements**

**1. Definitions.** As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

A. "Birth admission" means the time after birth that the newborn remains in the hospital nursery prior to discharge. [PL 1999, c. 647, §2 (NEW).]

B. "Board" means the Newborn Hearing Screening Advisory Board. [PL 1999, c. 647, §2 (NEW).]

C. "Hearing loss" means a hearing loss of 30 decibels or more in the frequency region important for speech recognition and comprehension in one or both ears. The department may adopt rules to decrease the amount of decibels of hearing loss as technology allows for detection of hearing loss of 15 to 25 decibels in one or both ears. [PL 1999, c. 647, §2 (NEW).]

D. "Intervention" or "treatment" means the early intervention services described in the federal Individuals with Disabilities Education Act, 20 United States Code, Chapter 33, Subchapter III, Sections 1431 to 1445, as amended. "Intervention" or "treatment" includes, but is not limited to, audiological, medical or early educational services that provide a choice of methods of communication in a variety of sensory modalities. [PL 1999, c. 647, §2 (NEW).]

E. "Parent" means a natural parent, stepparent, adoptive parent, legal guardian or other legal custodian of a child. [PL 1999, c. 647, §2 (NEW).]

F. "Person who is culturally deaf" means a person with permanent hearing loss who identifies as a member of the deaf community and who utilizes American Sign Language as the primary mode of communication. [PL 1999, c. 647, §2 (NEW).]

G. "Person who is hard-of-hearing" or "person who is deaf" means a person with permanent hearing loss who communicates using aural or oral skills for accessing spoken language. [PL 1999, c. 647, §2 (NEW).]

[PL 1999, c. 647, §2 (NEW).]

**2. Information to parents of children born in hospitals.** Beginning November 1, 2000, a hospital shall provide information to the parents of children born in the hospital regarding the importance of screening the hearing of newborns and of receiving follow-up care. The information must explain the process of hearing screening, the likelihood of a child having a hearing loss, follow-up procedures and community resources and must include a description of the normal auditory, speech

and language development process in children. The hospital must provide information about hearing screening that may be provided at the hospital or coordinated, scheduled or arranged for by the hospital. The program must provide this information prior to discharge from the birth admission to the hospital or within 3 months of discharge.

[PL 1999, c. 647, §2 (NEW).]

**3. Information to parents of children born outside of hospitals.** By November 1, 2002, when a newborn is delivered in a facility other than a hospital, the department shall provide information to the parents on the merits of having the hearing screening performed and on the availability of the hearing screening within 3 months of the date of birth.

[PL 1999, c. 647, §2 (NEW).]

**4. Guidelines for services for children with hearing loss and at-risk children.** The department, after consultation with the board, shall establish guidelines for the provision of follow-up services for newborn children in the State who are identified as having or being at risk of developing hearing loss. These services must include, but are not limited to, diagnostic audiologic assessment, counseling and educational services for the parents and an explanation of the potential effects of the identified hearing loss on the development of the newborn's speech, language and cognitive skills as well as the potential benefits of early identification and use of spoken or sign language.

[PL 1999, c. 647, §2 (NEW).]

**4-A. Follow-up appointment with an audiologist.** Upon the approval of a parent or legal guardian of a newborn who is screened and receives a screening result of "refer," the birthing hospital, birthing center, hospital or other medical facility in which the child was screened must schedule the newborn for a follow-up appointment with an audiologist. That follow-up appointment must be scheduled prior to discharge, when possible. The hospital, center or facility must notify the newborn's primary care provider in writing of the screening result and audiologist appointment. This notice must be prepared prior to discharge, when possible.

[PL 2007, c. 646, §1 (NEW).]

**5. Reporting.** Beginning January 1, 2003, every hospital and other location providing birthing services shall report annually to the department concerning the following:

A. The number of newborns born in the hospital or location, the number screened at birth admission and the number of newborns who passed and did not pass the screening; [PL 1999, c. 647, §2 (NEW).]

B. The number of newborns and infants who participated in follow-up rescreening at that hospital or location and the number who passed the rescreening; [PL 1999, c. 647, §2 (NEW).]

C. The number of newborns recommended for monitoring, intervention and follow-up care; [PL 1999, c. 647, §2 (NEW).]

D. The number of newborns and infants recommended for diagnostic audiologic evaluation; and [PL 1999, c. 647, §2 (NEW).]

E. The number of newborns whose parents declined screening. [PL 1999, c. 647, §2 (NEW).]  
[PL 1999, c. 647, §2 (NEW).]

**6. Application.** The requirements of this section apply to all hospitals licensed under this Title and to other locations providing birthing services.

[PL 1999, c. 647, §2 (NEW).]

#### SECTION HISTORY

PL 1999, c. 647, §2 (NEW). PL 2007, c. 646, §1 (AMD).

#### §8823. Newborn Hearing Screening Advisory Board

The Newborn Hearing Screening Advisory Board, as established in Title 5, section 12004-G, subsection 14-C, is created to provide oversight and advice on the program. The department shall provide administrative support services required by the board. [PL 1999, c. 647, §2 (NEW).]

**1. Duties.** The board shall perform the following duties.

A. The board shall oversee the program and advise the commissioner on issues relating to the program and shall recommend procedures for hearing screening, evaluation, treatment and intervention services. [PL 1999, c. 647, §2 (NEW).]

B. Beginning January 1, 2001, the board shall report each year to the joint standing committees of the Legislature having jurisdiction over health and human services matters and education matters on the program, the percentages of children being screened and evaluated and those children being offered and receiving intervention and treatment services. The report must be made available to the public. [PL 1999, c. 647, §2 (NEW).]

[PL 1999, c. 647, §2 (NEW).]

**2. Composition of board.** The board consists of an odd number of members, numbering at least 15, appointed by the Governor, including but not limited to:

A. An audiologist, a physician, a speech-language pathologist, a nurse, a certified teacher of the deaf and a person who provides early intervention services to children who are deaf or hard-of-hearing through the Governor Baxter School for the Deaf; [RR 2017, c. 1, §15 (COR).]

B. A person who is culturally deaf, a person who is hard-of-hearing or deaf, a parent of a child who is culturally deaf, a parent of a child who is hard-of-hearing or deaf and a parent of a hearing child; and [PL 1999, c. 647, §2 (NEW).]

C. A representative of hospitals, a representative of health carriers, a representative of the early childhood special education program under Title 20-A, chapter 303 and a representative of the department. [PL 2005, c. 662, Pt. A, §42 (AMD).]

[RR 2017, c. 1, §15 (COR).]

**3. Reimbursement for expenses.** Board members may be reimbursed for reasonable and necessary expenses incurred to attend board meetings but are not entitled to per diem payments.

[PL 1999, c. 647, §2 (NEW).]

**4. Funding.** The department shall provide financial and staff support for the board. The department shall submit grant proposals for funding the program to the Federal Government under the federal Newborn and Infant Hearing Screening and Intervention Act of 1999 and under 42 United States Code, Chapter 7, Subchapter V.

[PL 1999, c. 647, §2 (NEW).]

#### SECTION HISTORY

PL 1999, c. 647, §2 (NEW). PL 2005, c. 662, §A42 (AMD). RR 2017, c. 1, §15 (COR).

#### §8824. Tracking system

The department is authorized to implement a tracking system that provides the information necessary to effectively plan, establish and evaluate a comprehensive system of developmentally appropriate services for newborn infants and children up to 3 years of age who are deaf or hard-of-hearing and to ensure that all families are given information regarding the availability of hearing screening for their infants. The services must be designed to reduce the likelihood of associated disabling conditions for these children. The tracking system may be integrated with any national database or similar system developed by the Federal Government or with any regional database or with both. [PL 2007, c. 508, §2 (AMD).]

**1. Mandatory reporting.** Once the tracking system is operating, all hospitals licensed in the State and other providers of services that have established hearing screening or diagnostic procedures for newborn infants and children up to 3 years of age shall report to the department all data on hearing screening, evaluation and diagnoses of newborn infants and children up to 3 years of age. Reports that are required under this subsection must be submitted at least monthly.

[PL 2007, c. 236, §2 (AMD).]

**1-A. Referral to Child Development Services System.** The department shall adopt rules according to which it shall in a timely fashion refer children identified in subsection 1 as having a high likelihood of having a hearing impairment to the Child Development Services System. The rules must also describe the timetables under which the department shall refer to the Child Development Services System children identified by the department in accordance with subsection 1 as having possible hearing impairment but for whom hearing impairment has been neither confirmed nor disconfirmed by 6 months of age. The Department of Education and the Department of Health and Human Services shall execute an interagency agreement to facilitate the referrals in this subsection. In accordance with the interagency agreement, the Department of Education shall offer a single point of contact for the Department of Health and Human Services to use in making referrals. Also in accordance with the interagency agreement, the Child Development Services System may make direct contact with the families who are referred. The referrals may take place electronically. For purposes of quality assurance and improvement, the Child Development Services System shall supply to the Department of Health and Human Services aggregate data at least annually on the number of children referred under this subsection who are found eligible for early intervention services and on the number of children found not eligible for early intervention services.

[PL 2007, c. 695, Pt. A, §28 (AMD).]

**2. Use of information.** Information collected in the tracking system is confidential health care information subject to section 1711-C. Parents must be provided information on the availability of resources and services for children with hearing loss, including those provided in accordance with the federal Individuals with Disabilities Education Act and departmental policy.

[PL 1999, c. 647, §2 (NEW).]

**3. Immunity.** Persons reporting information in good faith in compliance with this chapter are immune from civil liability.

[PL 1999, c. 647, §2 (NEW).]

#### SECTION HISTORY

PL 1999, c. 647, §2 (NEW). PL 2007, c. 236, §§1, 2 (AMD). PL 2007, c. 450, Pt. A, §8 (AMD). PL 2007, c. 508, §2 (AMD). PL 2007, c. 695, Pt. A, §28 (AMD).

#### §8825. Rulemaking

The department shall adopt rules as required to implement this chapter. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter II-A. [PL 1999, c. 647, §2 (NEW).]

#### SECTION HISTORY

PL 1999, c. 647, §2 (NEW).

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