

## Round Table FAQ: Prior Written Notice, Consent

### Prior Written Notice

1. Is the PWN form given prior to and after an activity?

Prior Written Notice is given utilizing *the PWN* form before the following activities:

- An evaluation/assessment to determine eligibility
- All IFSP meetings (initial, annual, 6-month and periodic)
- Any changes in the child's services including the type of service, frequency, length, duration, discipline, location, or intensity of service
- A Transition Planning Conference

The *PWN* form is provided after:

- The multidisciplinary team makes a determination whether or not a child is eligible.
- An IFSP meeting when the IFSP team proposes or declines to make changes in the child's services related to the type of service, frequency, length, duration, discipline, location, or intensity of service, but PRIOR to the change occurring.

2. Please clarify. Is the Prior Written Notice form required to (a.) share results of the evaluation and (b.) to complete an IFSP meeting?

Yes. See response to Question #1.

3. When there is a change in location, duration, frequency, discipline, or ending of an IFSP services, would the program provide PWN and obtain consent on a Consent for Change in Service Delivery Plan page?

Yes. See response to Question #1.

4. Do we need to complete a PWN form if we are making a change at the parent's request?

Yes. See response to Question #1.

5. Both the PWN form and Consent for Evaluation/Assessment form have a box to mark off if the EI program is proposing to complete an evaluation/assessment to determine if a child is eligible for EI services. Prior to an EI program completing an eligibility evaluation do parents receive both of these forms with only the Consent for Evaluation/Assessment form being signed by the parent?

Yes, parents would be provided *prior written notice* utilizing the *PWN* form and the program would also obtain written consent on *Consent for Evaluation/Assessment* form. The *PWN* form does not require a signature and a copy would be maintained in the child's record.

6. Where does the discussion for changes get documented?

Under the *Summary of IFSP discussion* and *Describe the information used to make this decision* sections of the *PWN* form. See question #1

7. Can we use the *PWN* form for multiple activities? Is the assumption that *PWN* is provided in the moment or that providers will hold onto the form until the discussion occurs? For example, if we are giving *PWN* for an upcoming IFSP meeting can we hold that form until the next week when the IFSP meeting will be held so we can document that discussion?

The *PWN* form provides the family with the written notice of the activities, actions or discussions. A single *PWN* form is not intended to document activities, actions or discussions that occurred over multiple dates.

If there is more than one activity or proposal made on the same day, a single *PWN* form may be used. A program may provide *prior written notice* utilizing the *PWN* form that reflects more than one activity if these were activities, proposals or decisions that were made on the date the *PWN* form was provided. Future or follow-up activities, IFSP decisions, proposals or decisions the IFSP team declined would require a separate *PWN* form.

Example:

- A program finds a child eligible and proposes to schedule an IFSP meeting; because both the eligibility determination and the program's proposal to hold an IFSP meeting occurred on the same date, the program would be required to provide *prior written notice* utilizing the *PWN* form with both activities checked.

8. Just wondering why there is no family signature on the *PWN* form if this is replacing the review page to document the parent's consent to the changes in services? Why is there no place for the parent to sign the *PWN*?

Based on guidance from OSEP, prior written notice is required in writing to the parent about what the activity (such as an evaluation/assessment to determine eligibility, or an IFSP meeting where decisions about the child's services or outcomes will be made) or an action (such as a conclusion/decision by a multidisciplinary team that a child is not eligible, or that the members of the Team agree - or do not agree - that a change in IFSP services will occur).

The *PWN* form will be used in conjunction with the 2017 IFSP Consent for Change in Service Delivery Plan page. The 2017 IFSP Consent for Change in Service Delivery Plan page will list both the change in service, acknowledge family rights notice were provided, and document if parental consent for both the service and to access insurance was provided.

9. If we document the outcome from a visit on the *PWN* form, we do not have to complete a review page? For example we go out to review an IFSP and make changes to services we document these changes on the *PWN* and do not need to use the IFSP review page?

That is correct, as stated in the IFSP Implementation Policy Memo, "effective January 1, 2018, the IFSP Review Page is no longer available. A new consent page has been created to obtain consent and the discussion and decisions made at the IFSP meeting must be captured on the *PWN* form". You will need to complete a consent page, in addition to *PWN*, if changes in services/location/frequency are made.

10. With regard to PWN, do we not need to leave a copy with the family? Moving forward just keep the PWN in the child's file.

As stated in the September 26, 2017 Universal IFSP Implementation Memo, "A copy of the PWN form must be provided to the parents **and** maintained in the child's file. **\*\*\*This is a new requirement\*\*\*.**

11. On the *PWN* form, are we always expected to have something written in the Summary of IFSP discussion and describe the information used to make this decision sections if it seems like these boxes do not need to be completed for all activities noted above in the check off boxes.

The *PWN* form is intended to document the discussion with the parent of the proposed activity and there is an expectation that information be provided in all sections of the form. There is a requirement to document the activities (check off boxes) for the program to share information with the parent related to the activity being proposed.

12. Could you provide clarification or an example of when a family makes a request that is declined by the program and the program proposes another change? How is this documented on the *PWN* form?

The following is an example of when a family makes a request that is declined by a program:

The EI members of the IFSP team decline to fully implement the parent's proposal for a home visit by an SLP 3x/week. The IFSP team members instead recommend a home visit by an SLP 1x/week and an EI Child Group run by an SLP 1x/week. Because the program declined to act on the parent's specific proposal and proposed to change the child's IFSP services, the program would provide *prior written notice* utilizing a *PWN* form noting there was both a proposal (by the parent) that was declined and a proposal (by the program) that was made.

On the *PWN* form, the program would check off the box **"A change in EI services that you requested has been declined by the EI program"**.

If the program proposes an alternative and/or services that are currently not on the IFSP, the program would also check off the **"The EI program is proposing to make a change in your child's EI services"**.

The program would document the parent's specific request under the **"Summary of IFSP Team's Discussion: What is being proposed or declined? Why is the activity being proposed or declined?"** and any service(s) the program is proposing to provide. Programs are strongly encouraged to thoughtfully and comprehensively complete this section and the following section (**"Describe the information used to make this decision;** such as evaluation/assessment results, reports, etc.").

An EI Team has the right to make recommendations and proposals based on their clinical expertise within the context of the individual strengths and needs of the child and family. The program should be able to both verbally explain the reasoning for their recommendations/decisions as well as document them on the form.

13. If family ends services abruptly, ex. they may move, may not return from out of the country, may not return phone calls, how do you suggest we have "Consent for Change" Form signed?

There is no change to current practice. The program should provide the family with prior written notice, utilizing the PWN form of the activity being proposed – to hold a meeting to review the current IFSP services. If the parent does not respond to participate in the activity being proposed, the program would move forward with discharging the child & family from services. The program should document all of their efforts to contact the family, and keep record of the notifications.

14. When you do a co-visit to review outcomes how do you propose it to the parent, document and bill it with the same discipline?

If a program is proposing a change in the child's services, i.e. a co-treatment or home visit by another discipline for the purposes of gathering information for ongoing program planning, the family should be given prior written notice of an IFSP meeting, and dependent on the outcome of the meeting, prior notice of any changes in service delivery. The change in service should be documented on the IFSP Service Delivery page and Consent for Change in Service Delivery form must be completed.

15. On the EIS Evaluation form- the notification of deemed eligible or ineligible what date would we use now? The date we give PWN or the date we provide the family with the completed *Health & Eligibility Summary AND Developmental Summary* pages?

As noted in the Universal IFSP Implementation Policy Memo, "Massachusetts EI programs must provide *prior written notice* to parents a reasonable time before the program proposes or declines to begin or change the identification of a child for EI services". If a child is determined eligible or ineligible, the family is provided with *prior written notice (PWN form)* of the outcome of the evaluation/assessment. The PWN form is now used to document eligibility status, and the date the PWN form is provided, related to the identification of a child or the family is the date of notification on the EIS Evaluation form.

16. Do we need to give 3 days' notice before the consent for evaluation/assessment is given if we are using this to do family-directed assessment on the first face-to-face meeting with a family?

The 3 day timeframe on the PWN form has been removed. Early Intervention programs must provide written notice a "reasonable time" before the program proposes or declines to begin or change an evaluation of your child to determine eligibility. The Federal Regulations do not define "reasonable time". The program in collaboration with the family should determine what is considered a "reasonable" timeframe.

17. I am a bit confused about the new PWN form and seeking clarification on the dates and documentation required. There is only one place for a date. I am assuming that would be the date that we are giving the PWN form to the family and not the date the changes are discussed.

That is correct.

For example, if I am giving the family a PWN form because we are proposing an IFSP meeting to review the IFSP, discuss outcomes and proposing changing the plan to add group service and we are proposing that the team meeting occur during the next visit. Where am I then documenting the actual meeting, the IFSP team discussion and change of services if we are no longer using the review page forms?

PWN form would be provided to the family initially to propose an IFSP meeting. As a result of the IFSP meeting, the summary of the team's discussion is documented on the PWN. If the result of the meeting is to add a group service, the program would provide the family with prior written notice, using the PWN form, that the program is proposing to make a change in the child's EI

services. Programs should provide a PWN form for each event, and the date on the PWN form is the date the form is given. In addition, the program would obtain Consent for Change in IFSP Service Delivery Plan and document the change in service on the IFSP Service Delivery Plan page.

### Consent for Evaluation

18. Are we required to maintain copy of *Consent for Evaluation/Assessment* form in the child's record?

Programs must maintain a copy of the *Consent for Evaluation/Assessment* form. Neither the EIOS nor IDEA require a copy of the *Consent for Evaluation/Assessment* form be provided to parents in the same way a copy of the *PWN* form must be provided to parents. A copy of the *Consent for Evaluation/Assessment* form would need to be provided to parents upon request. If a parent were to make a request for a copy of the consent form, the program would need to comply within 10 days

19. There is no place for the date on the new *Consent for Evaluation/Assessment* form. It seems as though this would be important to understand for what evaluation the family is consenting. Will date be added? How will we distinguish different consent forms in a child's file? There is no place for names of participants & disciplines on the new *Consent for Evaluation/Assessment* form. Are disciplines needed?

The program may use the date of the parent signature to distinguish which consent form corresponds to a specific evaluation. Staff names and disciplines are not required to be identified on the form.

20. What is duration of Consent for Evaluation/Assessment – one year?

The *Consent for Evaluation/Assessment* form must be obtained every time the program is determining eligibility.

21. Does this mean that Evaluation and Assessment is the same thing? If assessment is considered to be ongoing, does that mean that the administration of the ASQ: SE does not require parental consent? What paperwork does a consultation from another provider such as a speech pathologist require, PWN, Consent for Change?

An evaluation of a child is completed to determine initial and ongoing eligibility and would require the *Consent for Evaluation/Assessment to Determine Eligibility* form. Assessment is the ongoing determination of strengths and needs and does not require consent. Programs may obtain consent for the administration of a tool to obtain further information regarding the child's strengths, needs, etc. but it is not required. If a program is proposing a change in the child's services, i.e. a co-treatment or home visit by another discipline for the purposes of gathering information for ongoing program planning, the family should be given prior written notice of an IFSP meeting, and dependent on the outcome of the meeting prior notice of any changes in service delivery. The change in service should be documented on the *IFSP Service Delivery* page and *Consent for Change in Service Delivery* form must be completed.

22. The new consent form appears to be specific to the eligibility determination. What form should we use to request consent for other evaluations and assessments. For example, a PT assessment to determine need for equipment; a feeding assessment with an OT or SLP; an additional assessment after determining eligibility based on clinical judgement?

See response to Question 21.

### Other Questions

23. It would be great to receive clarification on what activities require family rights.

There is no change in practice related to when parents are to receive a copy of the DPH Early Intervention Family Rights notice. Please refer to Section XIII. A.2. of the Operational Standards which states:

*The “Massachusetts Early Intervention and You” family rights notice of procedural safeguards must be provided to families:*

- a. prior to any determination of eligibility,*
- b. prior to the development of an initial or subsequent IFSPs,*
- c. prior to a meeting to review the IFSP,*
- d. when a copy is requested by a parent,*
- e. upon disagreement between members of the IFSP team and the parent(s) on an initial or subsequent IFSP or a proposed amendment to an existing IFSP, and*
- f. when a parent files an informal complaint at the program level, a formal administrative complaint, or request for mediation or due process hearing.*

24. Do we have to give the family a new copy of their family rights each time required or is it ok to give them a copy at intake and then when required reference that copy if we make sure the family still has the copy available that they can reference?

Please refer to the question above and Section XIII. A.2 of the Operational Standards.

25. PWN: SSP were receiving the IFSP meeting invitation in the past, will SSP receive the PWN now?

As stated in the September 26, 2017 IFSP Implementation Policy Memo, “The IFSP meeting Invitation form is no longer required. However, programs are still required to notify all IFSP team members including SSPs (vision, hearing, and autism).” Programs may determine how they notify and document the notification.

26. My understanding is assessment is not an IFSP service so why are we now adding it to the IFSP and doing consent for change form?

That is correct; assessment is not an IFSP service. However, the Department recognizes the various practices within the field related to providing ongoing assessment to determine a child’s progress.

If the assessment activity being proposed is provided by a discipline not listed as an ongoing service provider on the child’s IFSP the program has two options to obtain consent.

1. The program may obtain consent by completing the *Consent for Evaluation/Assessment* form with the family and check off the proposed activity as “A Child Assessment to determine ongoing

strengths and needs". The activity (assessment) would not be listed on the IFSP Service Delivery Plan.

2. The other option is to provide the family with *prior written notice* utilizing the *PWN* form to hold an IFSP meeting to make a change to the child's services to provide a home visit or co-treatment and complete the Consent for Change in Service Delivery Plan to document the home visit or co-treatment on the IFSP Service Delivery Plan.