

**Testimony to the 2021 Joint Legislative Budget Hearing on Health**  
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Thank you for the opportunity to address you today about New York State's Early Intervention program.

The Early Intervention program (EI) is New York State's implementation of the federal Individuals with Disabilities Act (IDEA) - Part C, which covers children birth to 2 years old. When the right to individualized, appropriate, and timely services for infants and toddlers was added to the federal law in 1986, it was in recognition of the fact that when services are available early and on time, young children with developmental delays or disabilities are more likely to develop to their full potential, and the cost is significantly less than waiting until children reach school age.

Low reimbursement rates have led to gaps and delays in Early Intervention services

New York's Early Intervention program was established in 1992. In that first decade, state-funded reimbursement rates for EI service providers were at their highest point in the program's history. Even with the 5% increase in rates paid to select providers (occupational therapists, physical therapists, and speech-language pathologists) that was included in SFY20 enacted budget, reimbursement rates for EI providers are lower now than they were in the 1990s.

The reduction in rates is not due to inflation, but to two actual cuts to EI reimbursement payments. In April 2010, the State imposed a 10% cut to the rates for all EI services taking place in children's homes or community settings, which reduced resources for nearly all EI services. New York State then cut the rate for all EI services by an additional 5% in April 2011.

This pattern of inadequate compensation has led to a critical shortage of EI providers, which has resulted in delays in service delivery across the state. Because brain growth is explosive in the first three years of a child's life, waiting for therapies during that time period can have lifelong impacts on a child's life trajectory.

For example, in a 2018 analysis released by The Children's Agenda<sup>1</sup>, low reimbursement rates were determined to be a significant cause of delays in receiving EI services in Monroe County. The report found that:

- Reimbursement rates for Early Intervention services do not cover the cost of providing services to young children;
- Occupational Therapists, Physical Therapists, and Speech Therapists who work with young children are paid significantly less than their peers who work in school systems, hospitals, and adult rehabilitation programs and receive few, if any, employee benefits.
- A number of well-known and respected providers have stopped providing Early Intervention services in recent years, largely due to reimbursement cuts and new non-billable mandates.

Statewide, only 73.7% of children received timely services between 2016 and 2018, with a number of counties seeing less than half of children receiving services on time.<sup>2</sup>

<sup>1</sup> <https://thechildrensagenda.org/publications/2018-valuing-early-childhood-developmental-services/>

<sup>2</sup> The New York State Department of Health provided this data set in February 2019 in response to a Freedom of Information Law (FOIL) request submitted by The Children's Agenda.

The costs of inadequate funding for Early Intervention are not all financial. When the Children’s Agenda launched the statewide Kids Can’t Wait campaign to advocate for reforms in policy and funding for developmental services, we did so in response to the stories we were told about children waiting for services, like the one Meredith’s mother told us:

*I applied for Early Intervention Services for Meredith in January 2019. The initial evaluation, completed in March 2019, showed that she met the eligibility criteria to receive services in the area of communication. However, Meredith would have to be waitlisted to receive the recommended speech therapy due to no providers being available to provide the service. It’s infuriating to see Meredith continue to struggle because of the lack of early intervention providers. She’s furious too but doesn’t have the words to articulate her anger. I owe it to her to use my words to advocate for her rights as well as the rights of all the children in NYS who want to communicate but CAN’T. Meredith can’t wait.*

### COVID-19 has led to more delays, gaps, and inequities

The COVID-19 pandemic has deepened the existing provider shortages and barriers to EI services, and it has had a disproportionate impact on Black and brown children who live in poor communities.<sup>3</sup> Data shows that across the state, 6,000 fewer children had EI service plans in the third quarter of 2020 (July-September 2020) compared with the same period in 2019, a 12% decline. There was a more than 30% reduction in EI services billed statewide during the second and third quarters of 2020 compared with the same time period in 2019, suggesting that, in addition to a decline in the number of children identified as needing EI services, a significant number of children who already had EI service plans did not receive their legally mandated services during the pandemic.<sup>4</sup>

Children and families throughout New York State have not been able to access developmental services during the pandemic due to inadequate devices or poor internet access for virtual services, or changes in their family situation such as job loss, economic insecurity or the need to supervise older children in remote schooling. In a Jan/Feb 2021 survey of New York parents with young children, 93% support more investments in Early Intervention and Preschool Special Education services.<sup>5</sup>



### Recommendations

1. The Children’s Agenda strongly recommends that legislators reject the proposed cuts to the Early Intervention program in the FY22 Executive Budget. Instead of investing in EI and addressing these challenges, Governor Cuomo’s proposed budget would cut state funding for the program by \$13.7 million by limiting the services children can receive regardless of their individualized needs and evaluation results. For example, children would no longer be able to receive back-to-back 60-minute service sessions—sessions that often help children with autism or other significant disabilities get the intensive intervention they need early in life. Such limits would deny many children the crucial individualized services they need at a time when thousands of children went without needed EI services due to the pandemic.

<sup>3</sup> <https://www.advocatesforchildren.org/node/1694>

<sup>4</sup> New York State Dept. of Health, Fiscal Agent Data

<sup>5</sup> <https://raisingnewyork.org/wp-content/uploads/sites/2/2021/02/NY-Early-Childhood-Memo-F02.12.21.pdf>

2. New York State must reverse pandemic-related reductions in services by taking the following steps:
  - Launch an outreach campaign and develop a comprehensive plan for developmental screenings to identify young children with developmental delays and disabilities and connect them to services.
  - Provide adequate technology and training to families and providers;
  - Engage in targeted outreach to families to identify and address barriers to participation, including issues related to telehealth access and equity; and
  - Provide make-up services to compensate for services missed during the pandemic and prepare for a potential surge in children needing EI and preschool special education evaluations and services.
3. We urge New York State to secure additional revenue that will be needed to build back Early Intervention and Preschool Special Education systems in order to provide timely services to all eligible children and to eliminate long-standing disparities due to race, poverty or geography.
4. To move toward ensuring all young children with developmental delays or disabilities in New York can access the support and therapies guaranteed to them under federal law, The Children’s Agenda recommends passage of a Covered Lives assessment to bring badly needed additional revenue into Early Intervention program and to ensure that commercial insurers pay their fair share of Early Intervention services. The assessment should be at least \$40 million in SFY22.

Commercial insurance plans are only paying around \$12.5 million of the roughly \$80 million claimed for EI services. This amounts to around 15 ¢ on the dollar. By comparison, Medicaid pays nearly 75 ¢ on the dollar for all claims submitted. Accordingly, commercial insurers are failing to pay their fair share into the EI system.

New York should impose a Covered Lives assessment on commercial insurers of at least \$40 million to improve EI provider reimbursement rates. By imposing a fee on state-regulated commercial insurance plans for EI services, a Covered Lives assessment would add tens of millions of dollars of badly needed revenue into the EI system and ensure that commercial insurers pay their fair share for EI services.

Advantages of a Covered Lives assessment include:

- ✓ New York could increase rates for EI providers.
  - ✓ The assessment would relieve plans of the administrative burden of processing claims and relieve providers of the burden of filing claims.
  - ✓ Increased reimbursement and streamlined billing processes will incentivize EI providers to remain in the system and attract new providers.
  - ✓ A Covered Lives assessment would cost commercial insurance plans less than mandating approval of all claims for health services identified on an IFSP.
5. We also recommend:
    - a. As a step towards an increase of 10% in both Early Intervention and Preschool Special Education reimbursement rates, the state should conduct a comprehensive assessment of the methodology used to determine payment for all early intervention evaluations, services and service coordination, and should develop a new tuition rate-setting methodology for Preschool Special Education so that rates better reflect the costs of delivering services.

- b. The state should guarantee parity in annual funding increases between public schools and preschool special education programs. We support the Board of Regents' proposal to change state law to require the State to provide at least the same percentage increase in funding to preschool special education programs as it gives to public schools each year.
- c. Passage of the health care workforce data bill (A7213, S8925) to establish regular collection and release of health workforce data, including EI providers, to inform and approve health planning and access and emergency preparedness.