



Testimony to the SFY2023 Joint Legislative Budget Hearing on Health
Submitted by Brigit Hurley, Kids Can't Wait campaign
February 8, 2022

Thank you for this opportunity to submit testimony regarding New York State's Early Intervention (EI) program.

The goal of the Kids Can't Wait campaign is to successfully advocate for reform and improvement of New York's Early Intervention and Preschool Special Education systems, bringing them into compliance with federal law and ensuring that young children receive the services and therapy they need in a timely and equitable manner.

In the United States, children from birth through two years old with developmental delays or disabilities and their families have a right to early childhood developmental services that is established in federal law through the Individuals with Disabilities Education Act (IDEA) – Part C. Federal law requires these services to be delivered in a timely manner according to a plan developed by developmental and educational experts along with the family. However, families across New York routinely face illegal waitlists and delays for services.

We are disappointed that the Executive Budget does not direct funds made available through the Covered Lives assessment toward an increase in reimbursement rates. Young children are losing opportunities to gain developmental progress and lifelong skills because there is no provider available to meet their established need. For years, families, providers and child advocates have repeatedly communicated their strong support for investments in EI provider compensation to help recruit and retain the professionals needed to eliminate long wait times, yet Governor Hochul did not respond to those calls in her Executive budget.

The FY23 enacted budget must include investments and reforms to eliminate illegal wait lists, increase provider capacity and eradicate disparities that harm children based on their race, income, geography or disability. The Kids Can't Wait campaign strongly recommends that New York State take the following steps to ensure that the Early Intervention program complies with federal timelines and mandates:

1. Increase rates for all Early Intervention providers and evaluators by 11% to move New York State closer to meeting the needs of all young children in New York with developmental delays or disabilities. To help achieve this goal, the State can use the new Covered Lives assessment, signed into law in December 2021, which requires private health insurance companies to contribute \$40 million to the Early Intervention program.
2. Conduct a comprehensive assessment of the methodology used to determine payment for all Early Intervention evaluations, services and service coordination and re-setting rates accordingly (S.5676/A.6579).
3. Ensure that expansions in New York's child care assistance provide equal access and needed support for families with children with disabilities through enhanced rates and supports for providers serving children with disabilities so that they are not turned away from child care programs.
4. Require that the Bureau of Early Intervention publish an annual report with data by county, disaggregated by race/ethnicity, about referrals, assessments, enrollment, and timely receipt of services.

New York State is missing out on the benefits of early childhood investments by operating an EI program that does not meet the needs of eligible children and families. Early childhood developmental services and supports can change a child's life, with positive outcomes that benefit not just children and their families but also our communities. Abundant research points to the role that specialized services and instruction can play in reducing the need for more expensive special education services later in life.¹ The architecture of a young child's brain is responsive and highly resilient, and some of its most dramatic changes take place during the first few years of life. Our public policies should align with this evidence pointing to the importance of effective interventions in the early years.²

New York State's FY23 enacted budget must contain measures to eliminate barriers to equitable and timely access to Early Intervention services. Challenges families experience throughout the process of screening, referring, determining eligibility, developing an Individualized Family Service Plan (IFSP) and receiving services, disrupt or delay the delivery of services and instruction. Approximately 17% of infants and toddlers in New York deemed eligible for EI services experienced delays in receiving services, representing approximately 11,000 children whose developmental progress was potentially compromised.³ Even more were unable to obtain an evaluation to determine eligibility, and an unacceptable number of children are receiving some but not all of the services in their ISFP.

The shortage of evaluation and service providers as well as service coordinators is a long-standing problem that is worsening, creating even more barriers to therapies and support that young children need. In 2018 there were approximately 1300 billing providers in New York State, compared to 904 billing providers in early 2020, before the pandemic. The number dropped even further during the pandemic to 852 providers in 2021 Q3. The pandemic has accelerated the trend. NYS Early Intervention Coordinating Council (EICC) data show that between 2019 Q2 and 2021 Q2, there was a loss of 2,262 rendering therapists, representing a 15% drop in a system that was already experiencing severe shortages.

Early Intervention providers are leaving the field to earn significantly more in other settings. 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.

Therefore, it is imperative that the increased resources available to the EI program through the Covered Lives assessment be used to strengthen the program by increasing reimbursement rates – not to offset spending reductions for the state and counties. Despite historic investments the State has made in child care and educational services, including COVID relief funding, EI providers have been left out of well-deserved substantial compensation increases for many years and that should stop with the SFY23 budget.

In addition to increasing the reimbursement rate for providers this year, the State should also conduct a comprehensive assessment of the methodology used to determine payment for all Early Intervention evaluations, services and service coordination to determine appropriate rates going forward. Current reimbursement rates do

¹ https://www.acf.hhs.gov/sites/default/files/documents/ecd/policy_statement_on_inclusion_of_children_with_disabilities_in_early.pdf

² https://www.acf.hhs.gov/sites/default/files/documents/occ/early_care_and_education_programs_research_508.pdf

³ Early Intervention Performance Data-New York State,

https://www.health.ny.gov/statistics/community/infants_children/early_intervention/local_program_performance/new_york_state.htm

not reflect the true cost of providing services. The state does not have an accurate current estimate of the cost of providing EI services, evaluations and service coordination in a way that is fully compliant with federal IDEA legislation. All costs have risen significantly since the last broad rate increase, and recent inflation rates are making it even harder for providers to cover costs. With the likely adoption of telehealth as a permanent option for service delivery which will require resources to guarantee internet access and devices to families, it is more important than ever to conduct a comprehensive study of the actual cost of delivering EI services (S.5676/A.6579) and to establish new rates accordingly.

Racial disparities create uneven access to EI services. In August 2021, the NYS Bureau of Early Intervention released a report on “Early Intervention Program Data on Race and Ethnicity”⁴ which found that in New York State, children of color do not have the same access to services when compared to their White peers:

- Non-Hispanic White children were more likely to be referred to the EI program at a younger age than children of most other races and ethnicities.
- Non-Hispanic Black children were less likely to receive a Multidisciplinary Evaluation for eligibility determination.
- Non-Hispanic White children were more likely to have services initiated within 30 days and were less likely to have services delayed by a discountable reason.
- Non-Hispanic White children were more likely to have an IFSP initiated within 45 days of referral and were typically less likely to have their IFSP delayed by a discountable reason.

In order to better understand and begin to address these disparities, the Bureau of Early Intervention should be required to publish an annual report with data by county, disaggregated by race/ethnicity, about referrals, assessments, enrollment, and timely receipt of services.

We urge you to prioritize investments in New York’s Early Intervention program in the SFY23 budget to bring much-needed supports to vulnerable children and families and in doing so, create a brighter future for our state.

Thank you for this opportunity to share our concerns and recommendations. If you have any questions, please feel free to contact me at bhurley@thechildrensagenda.org or (585) 489-5143.

⁴ Early Intervention Program Data: Race and Ethnicity, https://www.health.ny.gov/community/infants_children/early_intervention/docs/summary_eidata_race_ethnicity.pdf