

**Testimony to the SFY2024 Joint Legislative Budget Hearing on Health
Submitted by Brigit Hurley, The Children's Agenda
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Thank you for this opportunity to submit testimony regarding New York State's Early Intervention (EI) program, which serves approximately 65,000 infants and toddlers and their families every year.

The EI program exists in all 50 states to serve children from birth through two years old with developmental delays or disabilities and their families. Their right to early childhood developmental services is established in federal law through the Individuals with Disabilities Education Act (IDEA) – Part C. IDEA was originally enacted in 1975, to require and govern how states provide free appropriate public education to children with disabilities. The Education of the Handicapped Act Amendments of 1986 established the Early Intervention Program for Infants and Toddlers with Disabilities under Part H (now Part C) of IDEA.

The purpose of the Early intervention program is to identify and meet the needs of infants and toddlers in five developmental areas: physical development, cognitive development, communication development, social or emotional development, and adaptive development. The federal program is designed to support states in developing and implementing a statewide, comprehensive, coordinated, and multidisciplinary interagency system to make early intervention services available for ALL infants and toddlers with disabilities and their families.¹

In New York, the EI program is administered by and costs are shared with counties. New York State is routinely failing to comply with the IDEA law, denying vulnerable young children and their families the opportunity to receive interventions at a time when their brains are best suited to adapt and make progress toward healthy development. Harvard University's Center for the Developing Child states that "Early experiences affect the quality of [an infant's brain] architecture by establishing either a sturdy or a fragile foundation for all of the learning, health and behavior that follow. In the first few years of life, more than 1 million new neural connections are formed every second. The brain is most flexible, or "plastic," early in life . . . but as the maturing brain becomes more specialized to assume more complex functions, it is less capable of reorganizing and adapting to new or unexpected challenges."²

By operating an EI program that does not meet the needs of eligible children and families, New York State is missing out on the benefits of early investments, including reduced spending on K-12 special education programs. The FY24 enacted budget must contain measures to eliminate barriers to equitable and timely access to Early Intervention services.

The Children's Agenda strongly recommends that the FY24 state budget include:

- **An increase in Early Intervention rates by 11% across the board.**
- **Higher rates or rate add-ons to cover the higher costs of in-person service delivery to ensure all children who need in-person services have access to them.**

Children are waiting too long for critical interventions

In 2021-22, approximately 47% of infants and toddlers across New York State deemed eligible for EI services experienced delays in receiving services, waiting beyond the 30-day deadline for receipt of services after the

¹ 43rd Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act, 2021

(<https://sites.ed.gov/idea/2021-individuals-with-disabilities-education-act-annual-report-to-congress/>)

² In Brief: The Science of Early Childhood Development, <https://developingchild.harvard.edu/resources/inbrief-science-of-ecd/#:~:text=In%20the%20first%20few%20years,brain%20circuits%20become%20more%20efficient>

development of an Individualized Family Service Plan (IFSP).³ Between 2017 – 2021, there was a 27% drop in the percentage of children receiving services on-time.⁴

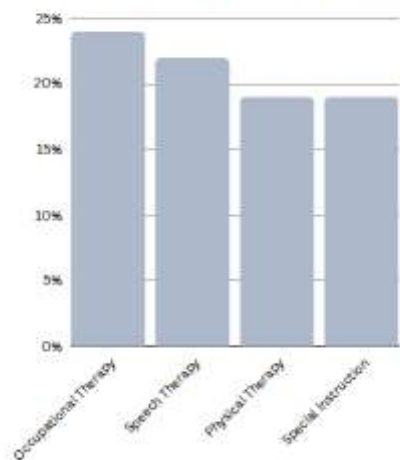
The situation is similar in New York City, where only about half of all children receive all their services in a timely manner. They are waiting longer, too – in FY22 the average time to first service was 21.6 days, compared to 15.9 days in FY21. Comparing FY20 and FY22, there was a 77% increase in the number of delayed Individualized Family Service Plan (IFSP) meetings. A delay in meeting times leads to a delay in service receipt.⁵

In a concerning trend, New York families are being offered only EI services delivered via telehealth. While telehealth service delivery provided access during the COVID-19 pandemic to many families who might have gone without services, providers are now able to safely deliver services face-to-face in most circumstances. The decision to provide in-person vs. telehealth services should be based on the effectiveness of the services, the individual needs of the child, and parent preference—not based solely on provider availability.

Part C of the IDEA legislation mandates that early intervention services be provided, to the maximum extent appropriate, in settings that are considered natural environments, which could be an infant’s or toddler’s home or community settings where typically developing children are present. Receiving services and therapies over a screen is not a natural environment.

The State Early Intervention Coordinating Council recently released data on the prevalence of service delays based on the fact that in-person services were not available and the family declined telehealth services.⁶

Services Delayed Because No In-Person Provider Available and Family Declined Telehealth



In 2021-22, 23.6% of Occupational Therapy services, 22% of Speech Language services, and 19% of both Special Instruction and Physical Therapy services were delayed because of the lack of in-person service availability.

New York has a legal obligation to ensure children who need in-person services have access to them, and professionals who deliver face-to-face services should be compensated for the extra costs they incur, including transportation and travel time.

Provider Shortage: 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. New York State Early Intervention Coordinating Council data show that between 2019 Q3 and 2022 Q3, there was a net loss of 1,864 rendering providers across the state, representing a

12% 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 only slightly higher now than they were in 2011 – and when adjusted for inflation, they are much lower.

³ https://www.health.ny.gov/community/infants_children/early_intervention/eicc/docs/2022-12-15_eicc_apr_ssip_review.pdf

⁴ https://www.health.ny.gov/community/infants_children/early_intervention/eicc/docs/2022-12-15_eicc_apr_ssip_review.pdf

⁵ NYC DOHMH, Bureau of Early Intervention, City Council Early Intervention Report (FY2020, 2021, 2022); NYC Early Intervention Local Early Intervention Coordinating Council Report, FY22

⁶ https://www.health.ny.gov/community/infants_children/early_intervention/eicc/docs/2022-12-15_eicc_apr_ssip_review.pdf

New York State average rate	2011 rate ⁷ (\$)	2023 rate (after Medicaid rate increase) (\$)	2011 rate, when adjusted for inflation (\$)	Difference: 2011 Inflation-adjusted rate vs. 2023 rate = loss in value
Service coordination	14.50	14.65	19.20	-24%
Screening	165.36	167.02	218.93	-24%
Evaluation	392.05	395.97	519.06	-24%
Basic visit – not OT, PT or Speech	65.45	66.10	86.65	-24%
Basic visit – OT, PT or Speech	65.45	69.29	86.65	-20%

The stagnated rates are due not just to lack of increases, but also 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.

This is why 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. New York State created the Covered Lives assessment for Early Intervention in 2021, bringing a net increase of \$28 million into the resource-strapped program. Instead of using these additional dollars to reduce wait times for children by increasing rates to recruit and retain more providers, the funds have yet to be utilized. They should be invested in the EI program and the infants and toddlers in need of on-time therapies to help them grow and thrive.

Racial disparities create uneven access to healthy developmental progress

In August 2021, the NYS Bureau of Early Intervention released a report on “Early Intervention Program Data on Race and Ethnicity”⁸ 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.

New York City Bureau of Early Intervention data show racial disparities in nearly every step a family takes in the process of accessing EI services and therapies. Once referred, Black, Latinx and Asian infants and toddlers are more likely to never be evaluated. If evaluated and found eligible, Black children are more likely to never receive services. If services are initiated, Black and Latinx children are less likely to receive all their services within the 30-

⁷ https://www.health.ny.gov/community/infants_children/early_intervention/service_rates.htm

⁸ Early Intervention Program Data: Race and Ethnicity, https://www.health.ny.gov/community/infants_children/early_intervention/docs/summary_eidata_race_ethnicity.pdf

day timeline, with 42% of Black children and 48% of Latinx children served in a timely manner, compared to 60% of their White peers.⁹

The Children's Agenda urges you to prioritize investments in New York's Early Intervention program in the SFY24 budget. This program is vital to tens of thousands of vulnerable infants and toddlers every year yet it was left out of COLA bumps and retention bonuses. As a result, therapists and service providers have taken jobs in higher-paying settings, and children are paying the price. It's time to stop asking New York's youngest children to lose out on healthy development, sometimes with lifelong consequences. The SFY24 budget must include an 11% across-the-board rate increase for EI providers, and an enhancement for in-person service delivery. The \$28 million Covered Lives assessment can provide significant resources for this much-needed change.

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

⁹ NYC DOHMH, Bureau of Early Intervention, City Council Early Intervention Report (FY2020, 2021, 2022); NYC Early Intervention Local Early Intervention Coordinating Council Report, FY22