

Joint Legislative Public Hearing on the 2026 Executive Budget Proposal

Topic: Health / Medicaid

Testimony of Cameron Brown, father of Amelia Brown, a 2015 MIF enrollee

The 2026 budget proposal seeks to undo a **unanimous 2016 vote** of both the New York State Assembly and Senate, which was subsequently signed into law by the Governor and established the current reimbursement rate framework for the New York State Medical Indemnity Fund (MIF). Eliminating this statutory reimbursement framework would have a **devastating impact on medically fragile MIF enrollees and their families**, many of whom rely on consistent and predictable reimbursement to access essential, life-sustaining care

There are, however, several **viable and responsible alternatives** to improve the long-term financial sustainability of the MIF **without dismantling the reimbursement structure** that enables enrollees to obtain critical services.

Policy Options to Improve MIF Financial Viability

1. Primary Insurance Acquisition

The MIF should explore purchasing primary health insurance for enrollees through a New York State exchange when no other primary coverage exists. Under such a structure, the MIF would function primarily as a **secondary payer**, rather than the sole source of coverage.

According to the most recent MIF actuarial report, approximately **50% of MIF enrollees lack any form of primary insurance**, significantly increasing costs borne directly by the Fund. The actuarial data clearly demonstrate the cost disparity between insured and uninsured participants, indicating that securing primary insurance coverage could materially reduce MIF expenditures while preserving enrollee access to care.

As demonstrated in the table below, the MIF expenditures **are 70% higher based on Total Severity** and nearly **500% higher based on Paid Benefits** (see table 1).

Table 1

	<u>Participant Years</u>	<u>Paid Benefits</u>	<u>Total Severity</u>
With Insurance	1,796.25	89,555,878	49,857
Without Insurance	5,253.50	441,297,402	84,001
Unknown	223.25	63,043,044	282,388

2. Funding Transparency and Adequacy

Since its inception, the funding mechanism of the MIF has been unclear. Public Health Law § 2807-d-1 provides for the Hospital Quality Contribution Tax; however, it has never been clear whether that tax was intended to fund the MIF, either in whole or in part. Moreover, since the inception of the MIF, it remains unclear whether the tax has been consistently collected from hospitals.

What is clear is that certain hospitals, particularly those in New York City and Long Island, have saved up to **one billion dollars** since the MIF's inception.

The hospitals that have benefited most financially from the MIF should be required to pay their **fair share** to ensure the MIF remains adequately funded and can maintain its current reimbursement framework.

There should also be full transparency regarding both the savings realized by hospitals and the funding of the MIF.

3. Enrollment Criteria Modification

The MIF should adopt revised enrollment criteria designed to improve financial predictability and sustainability. Approximately **30% of current enrollees exhibit very low utilization**, defined as annual costs below \$25,000 (see table 2 and chart 1).

This includes many enrollees who are admitted into the MIF based on Erb's or Klumpke palsy, without any additional neurological injury such as brain damage. These enrollees do not require extensive medical care and do not present the potential for extraordinary care requirements that were used to justify the creation of the MIF.

However, because the MIF is required to pay for their health care costs regardless of whether they are related to their birth injuries, they impose a significant financial burden. Therefore, these injuries should be excluded as basis for admission into the MIF.

Table 2

<u>Time in Fund</u>	<u>Number of Participants</u>	<u>Number of Participants With >\$25K Paid</u>	<u>Percentage of Participants With >\$25K Paid</u>
5 years or longer	698	499	71.5%
3 years or longer	877	612	69.8%
Longer than 1 year	1013	684	67.5%

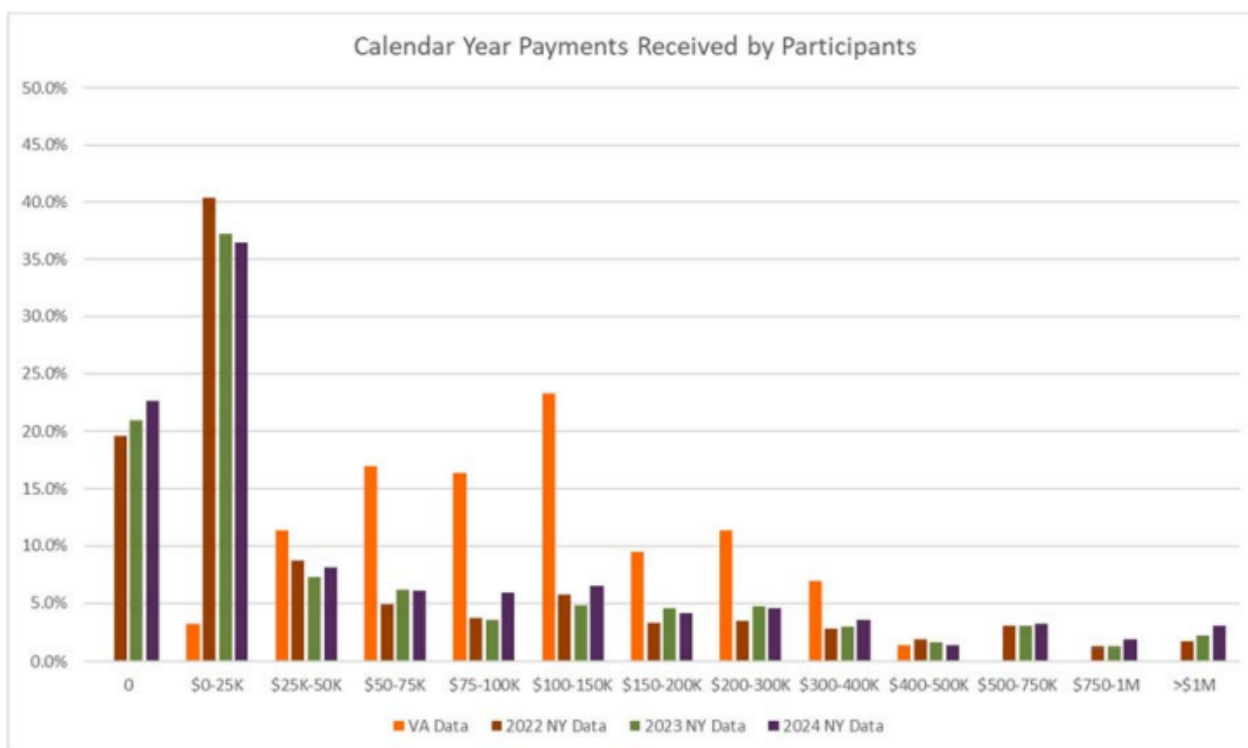


Chart 1: Calendar Year Payments Received by Participants

4. Close the MIF to New Enrollees

Unless an appropriate and reliable funding mechanism and cost-savings plan is implemented that does not undermine the current reimbursement framework or eliminate critical access to medical providers, the MIF should be closed to new enrollees.

If the MIF were closed to new enrollees, all subsequent cases of this nature should revert to the pre-MIF system. This approach would minimize long-term liabilities and help ensure the viability of the current reimbursement framework. Continuing to enroll medically fragile

children into the MIF under the proposed budget reimbursement framework would generate savings only at the expense of current and future enrollees, **who would see their access to medical providers eliminated.**

Conclusion

All participants in the Medical Indemnity Fund are victims of medical malpractice who were required to forgo half of their court-awarded settlements in exchange for lifetime medical coverage through the MIF. Any proposal that undermines the reimbursement framework would have devastating consequences for current and future enrollees and is not a viable option.

There are multiple solutions available to place the MIF on a sound financial footing without jeopardizing access to care for medically fragile enrollees. These alternatives should be fully evaluated before pursuing statutory changes that would irreparably harm enrollees and their families.

Link to Q4 2024 Actuarial Report

https://www.health.ny.gov/regulations/medical_indemnity_fund/reports/2024/docs/q4_actuarial_analysis.pdf