



February 10, 2026

FY 2027 HEALTH BUDGET TESTIMONY

Agencies for Children's Therapy Services

Thank you to Chairperson Krueger, Chairperson Pretlow, Chairperson Rivera, Chairperson Paulin, and all the members of the Joint Committee for providing this opportunity to provide comments and present recommendations on behalf of providers of services to children with special needs. My name is Scott Mesh, and I serve on the Board of Agencies for Children's Therapy Services (ACTS), an association of 43 agencies providing Early Intervention, Pre-K, Special Education, and School Age Special Education services. Member agencies collectively serve over 25,000 infants, toddlers, and preschoolers statewide.

Background

New York's Early Intervention Program (EIP) supports the state's youngest children — from birth to age three — who have developmental delays or conditions like autism, cerebral palsy, and Down syndrome. The program serves approximately 70,000 children and families each year, making it one of the largest in the nation.

We remain very concerned about the current situation in the Early Intervention Program. Nearly 10,000 children are on waiting lists for critical therapy. A 2023 report from the New York State Comptroller revealed that 51% of eligible children are not receiving services required under state and federal law. The U.S. Department of Education's Office of Special Education Programs now ranks New York 48th in the nation for the timely delivery of services. The root cause is inadequate reimbursement rates for program services. Reimbursement rates for EI providers — including physical and occupational therapists, special educators, and psychologists — have remained

largely unchanged since the program's inception. In some cases, rates have even fallen below 1994 levels, despite inflation and rising care costs.

The final FY 2025 enacted State Budget included a 5% increase in rates, but that has been denied to EI providers to date. The Medicaid State Plan Amendment necessary to obtain Federal financial participation for the increase was not filed until December 31, 2024, and, as a result, the increase has not yet been implemented nearly two years after it was scheduled to take effect on April 1, 2024. This failure to implement the 5% increase has had several negative effects. First, many providers took the State at its word and implemented raises for their staff based on that increase. To the extent they are now required to pay those increases without additional State support, many providers are on the brink of bankruptcy. This problem is compounded by the fact that other programs in the same sector have received increases during the same time. Therapists are opting to spend less time in the EI program and more time in the preschool special education program, which has seen a combined 14% increase in reimbursement over the last three years.

Out of concern about the program's issues, the New York State Legislature has twice passed a bill requiring DOH to conduct a rate adequacy review and submit a report on the findings and recommendations within one year. Unfortunately, the Governor vetoed the bill twice, further demonstrating the Executive's lack of interest in addressing the program's urgent concerns. As a result of DOH's failure to follow its own regulations and set reimbursement rates that provide for full reimbursement of EI services, EI service provider agencies are struggling to provide services to children and families across New York State, and many individual clinicians have or are at high risk of leaving the industry altogether.

Litigation

Faced with no alternative, and after many years of chronic neglect and disinvestment by the State, in October 2025, ACTS filed an Article 78 lawsuit against the New York State Department of Health, alleging that the Department is violating its own regulations by failing to provide full reimbursement for Early Intervention services for infants and toddlers with disabilities and developmental delays. The suit seeks to compel the Department to immediately set new

reimbursement rates for the program that fully cover provider costs and are reviewed annually as required by law.

Request

ACTS has three requests for members of the Legislature. First, ensure the State honors its commitment from two fiscal years ago and rapidly implements the 5% rate increase for in-person services statewide. Second, ACTS remains grateful for the Legislature's prior inclusion of a rate increase and, consistent with that, asks the Legislature to provide an additional 8% increase above the 5% rate increase that remains pending. Finally, while ACTS awaits relief from the Courts to require New York State to honor its obligation to provide full reimbursement for early intervention services in the coming months, the Legislature can move forward with demanding that the Executive determine the investment that full reimbursement would require and fully fund this investment in this year's Budget.

Conclusion Children's

The Early Intervention Program is at a breaking point. The delayed and uncertain implementation of the 5% increase in program rates of payment, as well as the failed rollout of the new case management and claiming system, EI-Hub, have significantly reduced provider capacity since October 2024. More children and families are waiting for services than at any point. The failure to successfully implement needed reforms is harming infants and toddlers with disabilities by limiting their access to EI services. This is especially harmful because there is a limited, evidence-based neurological window from birth to age five for developmentally delayed children to achieve the most progress from therapeutic and educational interventions.

The Legislature has always understood this, and in its one-house bills over the last few years has included the investments we need. But particularly this year, it is vitally important that the proposed 8% increase not be taken off the table during final budget negotiations. Please draw a line in the sand during final negotiations and demand that the rate increase be included, regardless of federal approval, to help ensure the ongoing health and safety of our Early Intervention system and the children and families it serves.

Thank you for the opportunity to discuss the challenges the EI program faces and to provide a roadmap for correction. ACTS stands ready to work with the Legislature to ensure ongoing access to needed care for children with special needs.