



Advocates for Children of New York

Protecting every child's right to learn since 1971

Testimony submitted for the Joint Legislative Public Hearing on the 2023-2024 Executive Budget Proposal: Health

Re: Early Intervention

February 28, 2023

Advocates for Children of New York (AFC) appreciates the opportunity to submit testimony regarding the need for a rate increase for Early Intervention (EI) in the 2023-2024 budget. For more than 50 years, AFC has worked to ensure a high-quality education for New York students who face barriers to academic success, focusing on students from low-income backgrounds. Every year, we help thousands of New York parents navigate the Early Intervention, preschool, and school-aged education systems.

Based on this experience, we are disappointed that the Executive Budget proposal does not include any increase or cost-of-living adjustment for EI providers, whose rates today are lower than they were 20 years ago, or take any other steps to help address the State's systemic failure to provide young children with timely access to their legally mandated EI services. **We urge the Legislature to increase EI reimbursement rates by 11% this year and to institute higher rates or rate add-ons to appropriately compensate EI professionals providing in-person—rather than telehealth—services.**

The Early Intervention Program provides critical developmental services to infants and toddlers with developmental delays or disabilities and their families at a time when these services can have the most meaningful impact on the child's life. Established under the Individuals with Disabilities Education Act (IDEA), EI affords legal rights to eligible children and their family to secure critical services like speech therapy, physical therapy, and specialized instruction to support a child's development.

Providing services to children as early in life as possible is also in the State's fiscal interest: when children do not get the help they need early in life, they typically require much more intensive—and expensive—special education services later on. Yet low EI reimbursement rates have led to a severe shortage of evaluators, service coordinators, and service providers, resulting in long delays in the EI process and inequitable access to services to which children have a legal right.

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Increased investments in Early Intervention are long overdue. In fact, the reimbursement rates for EI providers are lower today than they were 20 years ago. Over 2,000 providers have left New York State's EI program since 2019, often to work in other settings that offer higher salaries, while dozens of service agencies have closed their doors due to insufficient funds. Likewise, low payment rates make it extremely difficult to attract new professionals to the field; qualified therapists who would otherwise be interested in working with infants and toddlers, including in underserved communities, are likely never joining the EI program in the first place because doing so would not be financially prudent for their own family.

At AFC, we see the consequences: families who are desperate to get services like speech or physical therapy in place but are forced to wait months for an evaluation or for the EI program to identify a service provider who can work with their child. In fact, in Fiscal Year 2022, 48% of EI-eligible children in New York City—and 57% of those in the Bronx—did not receive all their services within the 30-day legal timeline.¹ Significantly, a disproportionately higher share of Black (58%) and Latinx (52%) children failed to receive all their services within the legal timeline compared to White (40%) children.² Similarly, statewide, between 2017-18 and 2021-22, there has been a 27% decline in the number of children receiving timely mandated services³—with only 53% of eligible children receiving all their mandated services on time in the first few months of 2022.⁴

The State is facing an additional problem: in a growing number of cases, the only option offered to a family is telehealth, even when everyone involved agrees that virtual services would not be effective for the young child. In fact, according to data presented in December 2022 by the State's Bureau of Early Intervention, between January and March 2022, more than one in five children in New York State (22.5%) did not receive EI services in a timely manner because telehealth was unfeasible or inappropriate, but in-person services were not available.⁵ While teletherapy played an important role during the height of the pandemic, we are concerned that a two-tiered system is now emerging: one in which some infants and toddlers have providers willing to travel to their home, preschool, or child care setting to work with them in person, while other one- and two-year-olds—particularly those living in low-income communities of color—can only get critical therapies over a screen. The State has a legal obligation to ensure children who need in-person services have access to them; the decision whether to deliver services remotely or face-to-face should be based on the needs of the individual child and parental preference, *not* on provider availability or provider preference. To address this issue, EI professionals should be compensated for the extra costs they incur delivering in-person services, such as those for transportation and travel time.

¹ NYC Department of Health and Mental Hygiene, Bureau of Early Intervention: *Fiscal Year 2022 Annual Report*.

² Id.

³ Kids Can't Wait Campaign: *Early Intervention Report*, January 2023.

⁴ NYS Department of Health: *Annual Performance Report State Systemic Improvement Plan*, December 2023 EICC Meeting.

⁵ Id.



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We were pleased when Governor Hochul signed a bill into law in 2021 establishing a new Covered Lives assessment to help fund EI, generating \$40 million, including \$28 million in *new revenue*, by requiring state-regulated commercial insurance providers to pay a set fee for EI services, after years of watching private health insurance companies deny the majority of EI claims. We supported this legislation with the goal of generating additional revenue to improve access to timely EI services, such as by increasing the payment rates for EI providers to help address the shortage. Unfortunately, the proposed language in the 2023-24 Executive Budget Health Article VII bill making “technical corrections” to the EI covered lives statute would not invest the additional revenue in rate increases for providers or other measures to help ensure children have timely access to their mandated services. Pursuant to the intent of the law and given the State’s systemic legal violation of children’s rights, the State should use the additional revenue to increase EI payment rates—not merely to offset the current costs of EI to the State and municipalities.

We are very pleased that Governor Hochul increased payment rates for preschool special education programs by 11% this year, following advocacy and legislative efforts by the Legislature. Now, a comparable increase should be extended to providers serving the youngest children with developmental delays and disabilities through EI. Unfortunately, the Executive Budget does not include any increase in rates for EI providers.

At a time when the State is failing to meet its legal obligation to ensure access to timely evaluations and services for infants and toddlers with developmental delays and disabilities – and when revenue is available through the Covered Lives assessment, we urge the State to increase payment rates for all EI evaluators, service coordinators, and service providers.

We urge the Legislature to ensure the final budget includes an 11% increase in Early Intervention reimbursement rates and higher rates or rate add-ons for in-person services to ensure that all infants and toddlers who need in-person therapy have access, regardless of the community where they live.

Thank you for considering our testimony. If you have any questions, please contact me at 212-822-9534 or bbaez@advocatesforchildren.org.

Respectfully submitted,

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