February 11, 2025

FY 2026 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 Michael Grossfeld, and I serve as President of the Board of Agencies for Children's Therapy Services (ACTS), an association of 42 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

For many years, ACTS has been particularly concerned about the state of the Early Intervention (EI) program. In February 2023, the New York State Office of the State Comptroller (OSC) published an alarming report that documented that the ***entire state is underserved*** **with 51% of children in EI not receiving services to which they were entitled**. About 3,000 children did not receive ANY of the services that were authorized. The OSC report reviewed services provided through February 2022. There is evidence from a survey of local officials conducted by the New York State Association of County Health Officials that the provider shortage is rapidly worsening in the three years since the audit was conducted.

Meanwhile, nearly 10,000 children with disabilities and their families are languishing on waiting lists. Since 2020, there has been a 500% increase in the number of children waiting for early intervention services due to the workforce shortage. The root cause of the provider capacity crisis is inadequate reimbursement levels to providers who serve infants with disabilities.

Denial of In-Person Rate Increase

Unfortunately, the State has thus far failed to do anything to address that. To date, rates have not changed except for one minor increase in the last 29 years. In its one-house budgets for FY 2025, the Legislature proposed an 11% increase in reimbursement for in-person services effective April 1, 2024, but the final FY 2025 State Budget included only a 5% increase. And even that has been denied to EI providers to date. The Medicaid State Plan Amendment (SPA) necessary to obtain Federal financial participation for the increase was not filed until December 31, 2024, and the current plan for the 5% increase to be retroactive only to October 1, 2024.

The impacts of this failure to implement the 5% increase have 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 that they are now forced to pay those increases without the additional support from the State have pushed many of those providers to the brink of bankruptcy. And this problem is compounded by the fact that other service lines have received increases during the same period of time. Therapists are opting to spend less time in the EI program, and more time in the preschool special education program, which has received 11% and 6.25% increases in reimbursement in recent years.

Administrative Cuts

The Division of the Budget (DOB) has attributed the delay in the implementation of the 5% increase to the need to identify savings to offset the increase – effectively undercutting any actual increase. DOB initially identified administrative changes to applied behavioral analysis telehealth and group therapy services to achieve those savings, each of which would negatively impact children's access to services. And all three are unnecessary, as the State has already achieved recurring savings in the EI program by implementing other revisions to regulations and administrative policies that more than fund the rate increase. This is evidenced by expenditure data shared in public meetings of the New York State Early Intervention Coordinating Council.

Ultimately, the State is pursuing only one of the three administrative reforms, but it is a dangerous one. The same SPA that would obtain federal approval for the 5% increase includes a draconian rate reduction for services delivered via telehealth of 22% for downstate and 10% for upstate, thereby discouraging a cost-effective tool for providing access to families who might not be able to access in-person services on a regular basis. The SPA does not provide any information about the method used to calculate the 22% decrease - nor does it describe the method it used to determine the regions proposed to receive a 22% decrease as opposed to a 10% decrease.

On top of that, the State is also not disbursing the local share of the early intervention covered lives assessment that resulted from legislation enacted in 2021 (Chapter 820). Withholding these local dollars owed to counties, $10 million in each of the last three fiscal years, is putting immense financial strain on the operation of these programs in local health departments; they are understaffed and unable to process new referrals and perform other key aspects of the program, all of which contribute to children not accessing programs and service

Botched Rollout of EI-Hub

As if the situation could not get worse, the Department of Health launched a new case management and claiming software system, EI-Hub, on October 15, 2024. Regrettably, the launch has been fraught with problems, resulting in children waiting for services, long delays in every transaction and few payments being processed in the early weeks of the rollout. In recent days, ACTS has learned of multiple agencies that are either leaving the program, suspending services indefinitely, or that are unable to pay their therapists.

Conclusion

The Early Intervention Program is at a breaking point. The delayed and uncertain implementation of the 5% increase in rates of payment in the program, as well as the failed roll-out of the new case management and claiming system, EI-Hub, has greatly worsened provider capacity since October 2024. More children and families are waiting for services than at any point

in the program's history, and New York State continues to be the state with the worst record in the country for delivering timely EI services. 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.

Request

In order to address these actions that harm the EI program, and thus restrict access to vital services for children with special needs, ACTS has four requests for the Legislature. First, ACTS asks that the Legislature require the State to live up to its commitment last year and provide a 5% rate increase retroactive to April 1, 2024, regardless of the availability of a Federal share. Second, ACTS remains grateful for the Legislature's inclusion of an 11% rate increase in its one house bills last year, and asks that, consistent with that, the Legislature provide an additional rate increase of 5% above last year's 5% rate increase, to be funded by an increase in the allocation for EI from the covered lives pool. Third, ACTS requests that the State submit a modification to the pending SPA to remove the proposed decrease in rates delivered via telehealth. And fourth, ACTS asks for a 50% increase in the rate of reimbursement for core evaluations, to make it more consistent with the rates in other states with similar service delivery models.

In closing, thank you for the opportunity to discuss the challenges faced by the EI program, and 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.