February 12, 2025

James V. McDonald
Commissioner
New York State Department of Health
Empire State Plaza
Corning Tower, Rm. 1
Albany, NY 12237

Dear Commissioner McDonald:

On December 31, 2024, the New York State Department of Health submitted a State Plan Amendment (SPA #24-0041) to the Centers for Medicare and Medicaid seeking federal Medicaid approval to increase certain rates in the Early Intervention Program by 5%, and to decrease rates for early intervention services delivered via telehealth. The SPA was not shared with the select number of organizations with which the Department purports to partner, neither in draft nor concept. Unfortunately, the publication of the SPA has immediately resulted in an unintended, harmful impact on children and families currently receiving services in the program via telehealth.

First, the SPA proposes to decrease the reimbursement rates for services delivered via telehealth effective January 1, 2025. If NYSDOH receives approval from CMS and opts to implement the decrease in payment for impacted services retroactive to 1/1/25, it would require a *recovery* of funding from impacted providers and therapists. Fearing a potential recovery of funding, some therapists who were actively delivering services via telehealth pursuant to an approved service authorization have opted to suspend services.

Second, the proposed reduction for services delivered via telehealth of 22% for much of downstate New York State, is draconian and not commensurate with the difference in costs to deliver services in person versus remotely. The SPA does not provide any information about the method the NYSDOH 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 (much of upstate).

The undersigned organizations representing local health departments and early intervention program providers and advocates across New York State write to request your urgent assistance to do the following:

- Submit a modification to the SPA to remove the proposed decrease in rates delivered via telehealth. These reductions will worsen the dire shortage of providers available to deliver early intervention services and threaten disruption of timely services to eligible children and their families.

In addition, in the interest of full transparency, we urge the Department to do the following:

- Conduct a comprehensive analysis of the utilization across the State of both the “in person” and virtual modalities to determine the appropriate action to be considered including the propriety of a decrease or increase in rates of reimbursement.

- Provide details on the basis on which the proposed reduction was calculated to allow stakeholders to meaningfully comment.
- Issue written guidance to stakeholders in the EI program confirming that the NYSDOH will NOT implement any rate reduction retroactively but rather will only issue it prospectively with adequate notice to providers and municipalities, so it does not negatively impact children.

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 NYSDOH's failed roll-out of the new case management and claiming system, EI-Hub, has created an environment of confusion, uncertainty and anxiety for infants, toddlers and their families, while greatly worsening provider capacity since October 2024. More children and families are waiting for services than at any point in the program's history to which multiple federal and state audits have attested.

We implore the Department to act immediately to restore confidence in this important program.

Sincerely,

Dr. Michael L. Grossfeld, SLPD, CCC
President, Agencies for Children's Therapy Services

Zhanneta Shapiro, AudD
President, New York State Speech-Language-Hearing Association

Sarah Ravenhall, MHA, CHES
Executive Director, New York State Association of County Health Officials

Pamela Madeiros
New York State Alliance for Children with Special Needs

Kate Ryan
Director, Adirondack Birth to Three Alliance at Adirondack Foundation

cc: Blake Washington, New York State Director of the Budget
Honorable Amy Paulin, Chair, New York State Assembly Health Committee
Honorable Gustavo Rivera, Chair, New York State Senate Health Committee
Angela Profeta, New York State Deputy Secretary for Health
Amir Bassiri, New York State Medicaid Director
Raymond Pierce, Director, NYSDOH Bureau of Early Intervention