



**New York State Speech-Language-Hearing Association, Inc.**

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**Testimony**  
**New York State Speech-Language-Hearing Association**

**Presented to:**  
**Health/Medicaid**  
**Joint Legislative Budget Hearing**  
**Monday, February 3, 2014**  
**10:00am**  
**Legislative Office Building**  
**Albany New York**

## **Introduction**

I would like to thank Senator DeFransico, Senator Hannon, Assemblyman Farrell, Assemblyman Gottfried and the other distinguished members of this panel for the opportunity to testify today on the 2014-15 State Executive Budget proposal. My name is Kathy Febraio. I am the Executive Director of the New York State Speech-Language-Hearing Association (NYSSLHA). NYSSLHA is a statewide professional association representing over 18,000 speech-language-pathologists (SLPs) and audiologists.

I would like to direct my remarks today to a new payment model for the Early Intervention (EI) program that was proposed by the Executive Branch and enacted into law as part of the 2012-13 State Budget. Many of NYSSLHA's members provide EI services as independent providers and agency owners and employees. Under the new payment system, EI providers are experiencing devastating payment delays and crushing administrative burdens which are causing many providers to flee the program.

Effective April 1, 2013, the responsibility for EI billing was transferred from county governments to a State Fiscal Agent (SFA) under contract with the New York State Department of Health (NYS DOH). The Department of Health contracted with an interim SFA, James McGuinness & Associates, for the period April 1, 2013 to October 1, 2013. On October 1, 2013, Public Consulting Group (PCG) became the SFA.

**The original intent of the new system was to provide mandate relief to county governments and to increase commercial insurance coverage for EI services by contracting with a State Fiscal Agent to process and manage payment claims. However, when NYS DOH implemented the system on April 1, 2013, they placed the burden of tracking claims and filing and appealing denial of claims directly on EI providers.** NYSSLHA is hearing from all types of EI providers including independent practitioners as well as large, small and midsize agencies that they do not have the resources, infrastructure, and staff to navigate the complexities of commercial insurance and Medicaid payment systems. Providers received no payment for this increased work load. In fact, EI has not experienced a rate increase in 16 years, but has had reimbursement rate cuts by 5% across the board in 2010 and 10% on average for community based services in 2011.

NYSSLHA is deeply concerned about access to services for infants and children who rely on the EI program for critical services and therapies. The original purpose of the EI program was to address the needs of children living with disabilities during the earliest stages of life (ages 0-3) to allow each child to reach their maximum potential and to reduce the costs of special education and institutional care later in life. **Rather than saving State and local governments money, this new payment model will increase long term costs for special education and others services due to the lack of preventive services early in life.**

**NYSSLHA strongly supports legislation sponsored by Senator Hannon and Assemblyman Gottfried (S6002/A8316) to require the State Fiscal Agent to pay EI providers directly within 30 days of the receipt of an initial claim from a provider. The State Fiscal Agent would also be**

**responsible for tracking all claims.** We believe that enactment of this bill is necessary to save the Early Intervention Program. We thank Senator Hannon and Assemblyman Gottfried for introducing it. We urge the Senate and Assembly to advocate for the inclusion of the provisions of this bill in the final State Budget.

### **Payment Issues**

The devastating delays in commercial insurance payments have **made the EI program fiscally unsustainable.** Providers are not able to make payroll, make routine business decisions about the number of employees, employee salary and benefits, or caseload size because it is impossible to predict the level and timeliness of revenue from insurance companies. Many providers are unable to pay their personal bills and are maxing out credit limits to support themselves and their agencies. Others are experiencing limits to their business' line of credit and increased interest rates because the problems have continued for months and the creditors do not see a solution in sight.

NYSSLHA continues to get reports on payment delays from independent providers, and small, medium and large agencies. At the end of last year, two agencies reported that they have outstanding commercial claims since April 1, 2013 of 82% and 83%. Two weeks ago we heard from one small agency that they had over \$158,000 in commercial insurance claims pending.

While we acknowledge that the New York State Department of Health has made efforts and progress in eliminating payment delays for the Medicaid program and some individual insurance companies, **the myriad of problems contributing to payment delays from commercial insurers under this new model are intractable and unsolvable.**

The new payment model is fundamentally flawed because it is contrary to common commercial insurance company practices in New York State. The transactional systems of commercial insurers are currently set up to **pay the biller- which in this case is the SFA.** However, under the new payment model insurers are required to **pay the provider often resulting in a manual claiming process for the insurer.** This causes widespread confusion and delays and makes it impossible for providers to trace claims, reconcile what they are owed from the SFA and commercial insurers, and adjudicate claims directly with insurers as required by the Department of Health. Some of the most significant problems include that:

- there is no consistent process for providers to check the status of a claim which forces the provider to reconcile claims manually;
- insurers receive claims from the SFA that they can't identify as Early Intervention resulting in the claim going through an insurer's automated system only to be bounced out to the manual system and starting the claims process all over again;
- checks that should have gone to providers or agencies are misdirected to families and rendering therapists with no clear guidance on how to rectify the situation;
- claims must be billed manually instead of electronically because the provider is not in the insurer's network, and therefore, not in the system; and

- providers are unable to adjudicate claim denials because the information that is needed is with the SFA.

**The requirement that providers file and exhaust all appeals with commercial insurers prior to receiving payment from the SFA has no purpose other than to significantly delay cash flow to providers.** The vast majority of appeals of commercial insurance denials will **not be overturned on appeal.** Commercial insurance companies routinely deny payment for EI services because the program is based on a developmental model of care rather than a medical model. The Department of Health reports that the most common reason for denial of an EI service is a finding by the insurer that the service is not medically necessary. Denials are also based on the location of the services (e.g. home and community based settings), the duration of the child's condition and/or the likelihood for improvement within a certain amount of time, and that the provider of services is not a participating provider in the insurer's network. **Claims can take up to 6 months to be fully adjudicated.**

Historically, county governments received two to three percent of EI costs from commercial insurers. There is no rationale for assuming that EI providers will be able to increase commercial insurance coverage of EI because the denials are based on the model of care, not a lack of effort to obtain coverage.

The end result is significant delays in cash flow to providers with **no financial offset or benefit to State and county governments.** For this reason alone providers should receive timely payment directly from the SFA.

### **Administrative Burdens**

Tracking insurance claims has become a second full time job for providers. The administrative burdens are particularly severe for small agencies and independent providers who do not have the resources, infrastructure and staff to navigate the complexities of commercial insurance payment systems. Providers receive no payment for this increased workload. In fact, EI has not experienced a rate increase in 16 years, but has had reimbursement rates cut in 2010 and again in 2011.

As previously discussed, the disconnect between the SFA as the entity that bills the insurance company, and the EI provider as the entity responsible for tracking and adjudicating claims directly with the insurer causes confusion and significant payment delays. Reconciling a provider's records with the records of the SFA through the new system is onerous, overwhelming and ever-changing. Providers receive conflicting guidance from multiple sources on how to handle claims which leads to further payment delays. Providers often cannot determine when a claim is paid or adjudicated. A joint survey conducted by NYSSLHA, the New York State Physical Therapy Association (NYPTA), and the New York State Occupational Therapy Association (NYSOTA) indicates that **thirty percent of respondents don't know if they have commercial claims outstanding, 36% don't know if they have escrow claims outstanding, and 29% don't know if they have Medicaid claims outstanding.**

In addition, the service coordinators who are the entry point in the system for all third party payer information for children and their families have no training or experience navigating the complexities of the insurance business. While we acknowledge that the State has conducted some educational webinars, this effort falls far short of bridging the enormous gap in the knowledge of individuals who were not hired to undertake these tasks. This causes inaccuracies and delays in obtaining information that is critical to processing claims. Service coordinators are not paid for the significant amount of time that they spend on these tasks. In fact, NYS DOH cut rates for service coordination in 2010 by an average of 4%.

### **Access Issues**

Continued payment delays and the overwhelming administrative burden are causing providers to leave the EI program, leading to delays and reductions in services to children. In the most recent survey conducted by NYSSLHA, NYPTA, and NYSOTA, the percentage of providers who said that they are no longer taking new EI children more than doubled from 30% to 64%. In addition, 49% of respondents reported that they are looking for employment outside of the EI program, 25% indicated that they have already found employment outside the program and over 62% reported that they cannot pay their bills.

NYSSLHA has heard from some members that infants and children are having difficulty accessing care. One example of this is access to hearing aids. Hearing aids must be paid for within a certain amount of time from the date of purchase, often within 30 days. Under the old payment system providers could afford to cover the cost of the hearing aid up front and wait for reimbursement from the county. The significant payment delays in the new system make it impossible for providers to do this.

This places children at great risk for communication disorders, and physical and other disabilities that will continue into childhood, adolescence, and adulthood. Communication disorders negatively affect academic performance, the level of attainable education, social interactions, quality of life, and employment status.

In addition, there is evidence that there is a strong correlation between communication disorders and incarceration. Children in juvenile detention centers and adults in prison have an exceptionally high incidence of communication disorders compared with the general population.

### **Conclusion**

EI providers are mandated by federal and state law to provide EI evaluations and services to infants and toddlers within specified time frames. Providers should receive timely payment for these services. We urge the Senate and Assembly to advocate for the inclusion of the provisions of S6002/A8316 in the final State Budget. We believe that this is necessary to save the Early Intervention Program.