



# Advocates for Children of New York

Protecting every child's right to learn

## Testimony submitted for the Joint Legislative Public Hearing on the 2024-2025 Executive Budget Proposal: Health

### Re: Early Intervention

January 23, 2024

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Advocates for Children of New York (AFC) appreciates the opportunity to submit testimony regarding the need to significantly invest in Early Intervention (EI) in the 2024-2025 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.

With respect to Early Intervention (EI), we urge the Legislature to:

1. Increase EI reimbursement rates by eleven percent for services delivered in person.
2. Ensure that the four percent modifier included in the Executive Budget to support rural and underserved areas applies only to services delivered in person.
3. Reject the removal of school psychologists as qualified EI personnel.
4. Include in the final budget a requirement for a comprehensive assessment of the methodology used to determine payment for all EI evaluations, services and service coordination.
5. Create a student loan forgiveness program to attract new EI providers.

Established under the Individuals with Disabilities Education Act (IDEA), the Early Intervention program promises critical services to infants and toddlers with developmental delays or disabilities and their families to help young children reach important developmental milestones early in life. At its inception, New York had a model Early Intervention program that worked to provide timely evaluations and services like speech therapy, physical therapy, and specialized instruction to support a child's development within legally required timelines. Up until the pandemic, evaluations and services were provided in person in the child's natural environment, such as their home or child care center. However, in recent years, 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 legally mandated services. As such, the program is now in urgent need of a significant investment to ensure that young children with developmental delays or disabilities can receive their mandated services at a time when these services can have the greatest impact on their growth and development. Failure to do so will not only result in challenges for children and their families, but will also cost the State more in the long term as it will have to provide more intensive and costly services to children as they get older.

1. Increase EI reimbursement rates by eleven percent this year for services delivered in person.

While we appreciate that the Executive Budget proposal includes a five percent increase in reimbursement rates for services delivered in person, such a modest rate increase is insufficient to meet the needs of EI service providers, make up for years of cuts to the program, and address the significant shortage of providers that is impacting young children's access to timely in-person services.

Increased investments in Early Intervention are long overdue. The State cut the EI service rate by ten percent in April 2010 and cut the reimbursement rate for all EI services by an additional five percent in April 2011. Although the State granted occupational, physical, and speech therapists a five percent increase in 2019, EI provider rates are still lower now than they were twenty years ago.

The low reimbursement rate is having a visible impact on workforce capacity. Over 2,500 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.

Unfortunately, the people most impacted by the provider shortages are the infants and toddlers with developmental delays or disabilities who are left waiting for the evaluations and developmental services they need and their families. In Fiscal Year 2022, 48% of EI-eligible children in New York City did not receive all their services within the 30-day legal timeline. 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.<sup>1</sup> Similarly, statewide, between 2017-18 and 2022-23, there has been almost a 25% decline in the number of children receiving timely mandated services—with only 54% of eligible children receiving all their mandated services on time in the first few months of 2023.<sup>2</sup>

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

<sup>2</sup> NYS Department of Health: *Annual Performance Report State Systemic Improvement Plan*, December 2023 EICC Meeting.



In addition to these delays, one of the most common concerns we hear from families who contact Advocates for Children about the Early Intervention program is that they are being told that their only option is to accept services through telehealth even when such services are not effective for their child because there are no providers available to work with the family in person. For example, we heard from an elderly foster parent who was only being offered physical therapy services for a baby through telehealth although the guardian was not physically able to participate or help the child participate in the physical therapy exercises. We've also heard from a parent who does not speak English and had significant concerns that she could not participate in telehealth sessions to support her child because she could not understand the provider's instructions.

Families across the state are facing similar dilemmas. According to data presented in December 2023 by the State's Bureau of Early Intervention, between January and March 2023, more than one in five children in New York State (21.25%) did not receive EI services in a timely manner because telehealth was unfeasible or inappropriate, but in-person services were not available.<sup>3</sup> Therefore, it is important that the increase in rates apply specifically to EI services delivered in person.

To begin to address these challenges, the budget must include more than the five percent increase proposed in the Executive Budget – and the increase must apply only to in-person services. Last fiscal year, Governor Hochul increased payment rates for preschool special education programs by 11%. A comparable increase should be extended to providers serving the youngest children with developmental delays and disabilities through EI. **As such, we are urging the Legislature to include an 11% increase in reimbursement rate for services delivered in person.**

2. Ensure that the four percent modifier included in the Executive Budget proposal for providers who serve rural and underserved areas applies only to services delivered in person.

We are encouraged by the Governor's proposal to include a four percent modifier to incentivize providers to support rural and underserved areas. However, to promote equity and ensure that families in these communities continue to have access to in-person services, we urge you to ensure that the modifier applies only to services delivered in person.

As noted above, in a growing number of cases, the only option offered to families is telehealth, even when everyone involved agrees that virtual services would not be effective for the young child. The State has recently issued guidance advising the field that "going forward, the expectation is that most EI services will be delivered in person."<sup>4</sup> However, this policy can only be implemented if there are therapists to provide services in person, including in underserved communities. We appreciate that the Governor's proposed budget includes a rate increase for EI services provided in person across the State. However, unless the rate modifier to support families in rural and underserved areas applies specifically to services provided in person, we are concerned that the modifier will encourage

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<sup>3</sup> NYS Department of Health: *Annual Performance Report State Systemic Improvement Plan*, December 2023 EICC Meeting.

<sup>4</sup> NYS Department of Health: *Early Intervention Program Telehealth Guidance*, December 2023.



providers to work in rural and underserved areas through telehealth and contribute to a two-tiered system: 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 rural and 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, regardless of where they live. 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 prevent perpetuating existing disparities in the program, the Legislature must incentive access to in-person services for infants and toddlers and their families who reside in rural and underserved areas by applying the four percent modifier to in-person services only.**

3. Reject the removal of school psychologists as qualified EI personnel.

The Executive Budget proposes removing school psychologists from the list of qualified Early Intervention service providers. Over the last ten years, New York has authorized and relied on certified school psychologists to conduct evaluations and provide services to infants and toddlers in the EI program. At a time when the EI program is facing a provider shortage that is depriving children of timely evaluations and services, the State should be looking for ways to increase workforce capacity and not further diminish it. Until the State has alternative providers to fulfill the mandates of children currently served by school psychologists, the State must continue to authorize school psychologists to work in the EI system. **Because removing school psychologists from the list of qualified personnel would disrupt the timely delivery of services, we urge the Legislature to reject the removal of school psychologist from the list of qualified EI personnel.**

4. Include in the final budget a requirement for a comprehensive assessment of the methodology used to determine payment for all EI evaluations, services and service coordination.

While an immediate increase in the reimbursement rate is necessary to ensure that providers can stay open and children can receive timely evaluations and services, we also recommend that the State conduct a comprehensive assessment of the existing methodology used to determine payment for all EI evaluations, services and service coordination in order to ensure that the program can properly serve infants and toddlers with developmental delays or disabilities in a timely manner going forward.

Such a study could inform new reimbursement methodologies to address ongoing financial concerns providers face as well as to address disparities in evaluations and service delivery based on race, income, geographic location and other factors. Among other things, the assessment should address the cost of services provided in rural and low-income areas, the need for bilingual and culturally competent services, areas with provider shortages, travel time reimbursement, cost of living increases, reimbursement for professional development and the rate for telehealth services and technology.



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**We urge the Legislature to ensure the final budget requires a comprehensive assessment of the methodology used to determine payment for EI evaluations and services so that the program can sustainably and properly serve all infants and toddlers with developmental delays or disabilities.**

5. Create a student loan forgiveness program to attract new EI providers.

As another long-term solution to ensure that the Early Intervention program is able to attract and sustain a workforce that can provide timely and high-quality services to infants and toddlers with developmental delays or disabilities, we also encourage the Legislature to ensure the final budget includes a student loan forgiveness program. The State should offer student loan forgiveness to graduates of institutions of higher education willing to provide in-person Early Intervention services. **We urge the Legislature to ensure the final budget includes funding for a student loan forgiveness program that will help increase the provider workforce.**

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

Respectfully submitted,

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