



NEW YORK STATE SENATOR

Cecilia Tkaczyk

## Tkaczyk measure would save critical programs for infants with disabilities

CECILIA TKACZYK October 8, 2013

| ISSUE: **DEVELOPMENTAL DISABILITIES**



State Senator Cecilia Tkaczyk and Assemblymember Pat Fahy joined colleagues, families and advocates to announce legislation to help ensure that thousands of infants and toddlers with disabilities receive the early intervention services they need to live normal, fulfilling lives.

As a result of legislative changes and bureaucratic snafus, many early intervention specialists -- who provide speech, physical and educational therapies to more than 70,000 young children -- have not been paid since April 1. Many are either closing their doors or are declining to take new children into the program.

**Senator Tkaczyk** said, “Thousands of infants and toddlers with disabilities and their families rely on services from Early Intervention providers. But those services are now jeopardized by a convoluted and onerous billing process. My legislation would help providers – many of which are small businesses -- by eliminating an unfunded mandate and ensuring they receive prompt payment for the services they provide.”

The problem arose in April, when New York State implemented plans to remove the responsibility for collecting third-party insurance from counties and added “fiscal agents” to the process.

The result is a complicated system for providers and the failure to reimburse service providers in a timely fashion. According to a recent survey by United New York Early Intervention Providers (UNYEIP) providers are still owed up to 80 percent of payment for services they’ve supplied since April 1, 2013. The lack of reimbursement is forcing numerous providers, many of whom are small businesses and sole proprietorships, to either stop their operations or refuse to take in new children.

### **BILLING BURDEN PASSED TO PROVIDERS**

Making matters worse, therapists and other providers in the program are now required to bill insurers directly, and then get the balance of their compensation through the fiscal agent contracted by the New York State Department of Health (NYSDOH).

Previously, counties paid the providers and then billed insurance companies and Medicaid

for reimbursement. The new, convoluted billing process has caused problems for the healthcare providers, who were not trained or prepared for the additional paperwork, negotiating with insurance companies and other billing requirements.

Providers complain they are spending many hours filing paperwork and calling insurance companies – time that could be spent providing therapy to infants. And despite filing the required paperwork, they are still seeing delays in payment.

**Assemblymember Patricia Fahy** (D-Albany) lead sponsor in the State Assembly, said, "New York's caregivers - especially early intervention specialists - deserve better and this legislation will ensure that thousands of our state's young children will get the help they need. Service providers cannot continue to pick up the burden and the state must do its part and provide timely payments to these providers."

**State Senator George Latimer** (D-Rye) "This bill will solve the key problem that is keeping providers from getting paid," said "More importantly, this bill will keep EI providers in the business and will keep our children receiving these critical services. It should be taken up immediately."

**Assemblyman Phil Steck** (D-Colonie) said, "The payment delays to Early Intervention providers in my district have been disastrous on many levels; not only to the providers and their families, who have not had an income in many months, but also to the most vulnerable of our citizens - infants and children who require early intervention and have lost their providers to this catastrophic blunder by the State. This legislation is a priority because infants and children with developmental and other challenges are proven to have dramatically increased positive outcomes in their development if they are on a consistent track with Early Intervention providers at the earliest point possible".

Senator Tkaczyk said, “The State takeover was meant to help local governments, and it was a step in the right direction. But we have taken the burden of billing and placed it on the service providers, who don’t have the staffing or the training to handle it. We need a different approach”

Senator Tkaczyk’s measure would require the state, or its fiscal agent, to remove the unfunded mandate from EI providers. Under the measure, the State and counties would provide timely payment of claims to the early intervention service providers. The State’s fiscal agent would then obtain reimbursement for the State and counties from insurance companies and Medicaid.

The legislation also maintains the requirement that the providers and counties assist the state or the fiscal agent with the efforts to recoup the funds from the third party payers.

#### **EI PROVIDERS SUPPORT TKACZYK MEASURE**

**Kelly Fagan**, speech pathologist and executive member of **United New York Early Intervention Providers** (UNYEIP) said, “I feel like a violinist on the Titanic, but I cannot step off this ship until I do my best to try and help save the program that means so much to me and means so much to the infants and families I serve. I have been working with Senator Tkaczyk this past month to find a solution for the infants & toddlers diagnosed with a developmental disability. Her EI bill is a great step forward, and I hope it is supported by every member of the State Legislature and Governor Cuomo.”

**Leslie Grubler**, Speech-Language Pathologist and Founding Director of UNYEIP, said "The health insurance industry in NYS appears to be plagued by inertia -- unable to abide by public health and prompt pay laws. Despite provider complaints of a burdensome and broken billing system, despite DFS censure, there remains significant impediments to provider reimbursement which has left providers without predictable and meaningful

income since April 1st and parents with a dwindling pool of providers to meet their children's special needs. Providers cannot be subject to a bill and chase methodology to maintain their livelihood."

**Marc Brandt**, NYSARC, Inc. Executive Director, said "We applaud Senator Tkaczyk for raising public awareness and developing legislation to ensure that services to so many thousands of children and families in need are not subject to the whims of a faulty payment system. That system is creating enormous problems and senseless delays for Early Intervention services. It is placing at risk the well-being of our most vulnerable children. They and their families deserve better. Again, we applaud Senator Tkaczyk for her efforts and look forward to working with her in the months ahead."

**Susan Constantino**, President/CEO, Cerebral Palsy Associations of NYS, said "We appreciate Senator Tkaczyk's efforts to resolve the current fiscal problems facing providers of Early Intervention services. The state fiscal agent should assume responsibility for claiming third party insurance payments which will allow providers to once again focus their energies on providing quality services to children and families."

**Bree Pisacane**, Physical Therapist and executive member of UNYEIP said, "The current system places a tremendous burden on providers, driving them out of business and limiting access to services. Senator Tkaczyk's bill is encouraging and provides a sense of hope."

**Peter Pierri**, executive director of InterAgency Council of Developmental Disabilities Agencies, Inc. said, "The great thing about this bill is that it provides a mechanism for insurance companies to pay their fair share of Early Intervention expenses but not at the expense of providers. This will allow providers to focus their energies on the children."

**Traci Harris**, a speech-language pathologist and small agency owner in Jefferson County, said, "I used to spend my days evaluating/treating children and counseling families on ways to help their child in all areas of development but I am presently spending the majority of my day attempting to correspond with the state fiscal agent and insurance companies with little or nothing resolved. I am heart broken that I have had to stop treating children and have to learn a burdensome system that the municipalities - with all of their billing expertise and accountants - could not efficiently perform.

### **STATE DOH OFFERS LOANS FOR SERVICES ALREADY RENDERED**

In an effort to address the problem and help cash-strapped providers, The NYS Department of Health offered a one-time loan, equal to seventy-five percent of the value of claims submitted from April 1 through July 29, 2013. However, many providers have criticized that plan because it is a loan for money that is already owed to them, and in the meantime, they continue to accumulate debt

However many providers have compared the loan program to a band-aid on a massive wound, because, they say, it doesn't fix the bigger problem or address how payment issues will be resolved going forward.