



UNYEIP PINK & BLUE BOOK

RESPONSE TO THE GOVERNOR'S 2013/2014 BUDGET PROPOSALS *from the United New York Early Intervention Providers and Parents As Partners*

As a state-wide organization of 2500 provider and parent members, that accepts no membership dues or fees of any kind, that utilizes neither lobbyists nor paid consultations, that is managed by a handful of front-line volunteer clinicians with the close consultation of parents, UNYEIP is in the unique position to provide a meaningful clinical and caregiver, hands-on perspective of the impact of the Governor's 2013/2014 Budget Proposals on the "finest EI Program in the nation" and assurances to our legislators.

HISTORICAL FACTS and UNYEIP CONSIDERATIONS IN OUR PROCESS:

Over at least the last 15 years, the NYS DOH BEI through the Executive Budget Proposals has proposed legislation to increase funding sources for the NYS Early Intervention Program. We recognize that *"maximizing third party payments, including Medicaid and commercial insurance, is an important founding principle of both IDEA and NYSPHL requirements governing the Early Intervention Program. IDEA requires the state lead agency for the EIP to identify and coordinate all available resources for early intervention services within the state, including those from federal, state, local, and private resources (provisions at Section 2543, 2552, and 2559 of Title II-A of Article 25 of Public Health Law."* The effort is, therefore, not without good cause. Municipalities are demanding mandate relief. Real Estate taxes, a source of funding for municipalities to support the Early Intervention Mandate, have been capped. Municipalities are struggling financially and this ultimately affects each of us reading this document. Federal mandates through the development of the Affordable Care Act promise an increase in Managed Care Programs where quality of patient care is said to improve.

Yet, UNYEIP is certain from its conversations with ALL stakeholders including providers, families, legislators, and the NYS DOH BEI, that no one wants to see NYS Early Intervention implode on itself as a result of excessive demands/changes imposed upon its system in haste without due diligence, without reflecting and without recovering from changes only recently implemented and, without acknowledging and accounting for any fiscal efficiencies.

All parties have the awareness that **NYS Early Intervention is a program that has far-reaching societal implications and is a significant, life-changing program for a child with special needs and his/her family.**

While UNYEIP has conducted a thorough and meaningful review of all data available, all NYS DOH regulations, other state's policies and procedures on commercial insurance and screenings, and through extensive conferences with both parent and provider members, phone conferences with the NYS DOH BEI, and considered all testimony relevant to Early Intervention presented at the Joint Budget Hearings, at the present time, UNYEIP has not received adequate assurances that the implementation and process selected by the State

is in the best interests of the children, the parents, the providers, and the NYS Early Intervention Program particularly in light of the **NINE SIGNIFICANT CHANGES** that the NYS DOH BEI has instituted over the last three years that have impacted providers, caregivers, and the children served:

1. *Eligibility standards increased in 2010. Fewer children are now deemed eligible. More of these children deemed ineligible who may have fallen through the cracks of a system-seeking-cost-savings will seek services later in life at a higher cost to NYS and insurers.*
2. *The structure of small and large agencies was changed in 2010 at a significant cost to each agency to improve Quality Assurance.*
3. *The rates of providers was reduced in 2010 and then again in 2011 due to rate reimbursement reductions averaging 15% in addition to travel reductions on the average of 5% across the state. Providers are now making less than they did at the inception of EI in NYS in 1993 under another Governor Cuomo. Seasoned professionals have sought other employment venues to support the needs of their own families.*
4. *The search for a **Fiscal Agent**, initiated via legislation on 4/1/12 was opened on 1/31/13. The search will close in March for implementation in April. Please See the Appendix for the Fiscal Agent Schema to fully comprehend the **ambitious** scope of this endeavor.*
5. *Effective 4/1/13 with the initiation of the **Fiscal Agent and as per legislation initiated last April 2012**, providers will be billing insurance companies directly **for the first time**, submitting and resubmitting billing **for the first time**, and awaiting and coordinating payment from insurers and Medicaid **for the first time** before a check is issued directly by the State Department of Health through the fiscal agent at the regulatory expectancy of 90 days, **for the first time**. Over the past three years, municipalities have made payment to providers repeatedly in excess of 90 day which has deleteriously impacted our providers. The development of the fiscal agent is an ambitious one, a new process for the state – we must allow this entity the time necessary to produce and successfully accomplish its preliminary goals.*
6. *Executive Compensation Order 38 scheduled to be implemented 4/1/13 promises that 75 to 85% of state funds will go directly to the children within three years of implementation. This will impact the over 1700 not for profit and for profit agencies that provide early intervention services in NYS and ensure streamlining, efficiency and reduce waste. The system of oversight to monitor this has not been developed and/or shared.*
7. *As per 4/2012 legislation and for the first time in the history of NYS, ALL providers are entering agreements **directly** with the state effective 4/1/13. The state has indicated that this opportunity will enable them to standardize, streamline, and appropriately train in the name of cost-effectiveness. Municipalities will no longer be able to interpret policies and regulations at will. This new-found efficiency when established will enable increased communications and rigorous adherences to state-defined not municipality-defined regulations.*
8. *As per 1/1/13, the Conflict of Interest Regulation was imposed limiting a parent's choice to have his/her child evaluated and treated by the same provider and increasing the complexity, dynamic and intimacy inherent in the nature of the therapeutic relationship. Because this regulation has been temporarily postponed by a court action, it is unclear at the present moment as to whether our parents and providers and the system itself will have to endure the learning process, paperwork process, and waiver process with its limitations and necessary approvals that is built in to this new regulation.*
9. *The New York Early Intervention System (NYEIS) initiated operation in 2010. "NYEIS is a centralized, Web-based, system that electronically manages EIP administrative tasks and provides for the exchange of information among municipalities, EIP providers, and State administrators. The system is designed to support the EIP's service delivery, financial, administration and management activities at both the local and State levels. These activities include initial intake, evaluation, eligibility determination, IFSP development, service provision, and all financial aspects including provider claiming to municipalities and municipality claiming to commercial insurers and Medicaid." At present, according to data posted in the*

Fiscal Agent RFP, NYEIS is presently managing data for approximately 70% of children currently in NYS Early Intervention. Westchester County and Suffolk County just joined NYEIS in December of 2012. The performance of the system according to numerous reports from across the state has not achieved its expected outcomes. This is the system that must integrate with the Fiscal Agent.

CURRENT COST-SAVINGS DATA IN MEDICAID/COMMERCIAL INSURANCE

taken from EI SFA RFP Services Project RFP# 1212051104:

1. Fifty-six percent of children in NYS EI are covered by Medicaid. Federal Medicaid reimbursements are expected to increase this year as per MRT reports.
2. Medicaid pays the full cost of service coordination, evaluation, and treatment for eligible children.
3. Medicaid denials and rejections have reflected a significant downward trend beginning in 2010 with a 3% reduction. It is anticipated that with the inception of NYEIS and the successful implementation of the fiscal agent, there will be additional decreases in Medicaid and Commercial Insurance rejections.
4. Forty-four percent of children in NYS EI are covered by other third party insurance. However, because Early Intervention IS a developmental model and NOT a medical model, only 3% of claims are typically reimbursed.
5. Approximately 45% of those noted in number 4 are covered by state funded insurance plans – roughly equivalent to 22% of children.
6. While data is incomplete for the 2011/2012 program years as of this writing, it is anticipated that EI Claims will increase for the program years 2011-2012 (partially due to Autism Legislation effective November 2012) with a decrease in rejected claims by Medicaid and commercial insurers for this same period given the successful joint efforts of NYEIS and the Fiscal Agent.

EARLY INTERVENTION PROPOSALS TO REJECT

REJECT THE PRESENCE OF INSURER REPRESENTATIVE AT IFSP MEETINGS

WHY?

- a. This proposal does not define or limit or offer a meaningful role to the insurer at an IFSP meeting. To have an insurer present at an IFSP meeting in an undefined role is a danger to the provision of appropriate services to a child in need.
- b. The insurer would not be in a position to determine the adequacy or inadequacy of services. The insurer is a representative of a business entity that seeks to limit expenses not necessarily acting in the best interests of the patient, in this case a child between the ages of 0 and 3, at the most significant biologically and neurologically critical period of his/her life.
- c. The insurer, an unfamiliar face at the IFSP table, one who potentially determines whether a service is covered or not, would function as another intimidating force at a critical point in a child's and parent's life. A governmental official, the EIOD, is already present, and represents the state's interests as a checks and balances.

REJECT THE NECESSITY OF IN-NETWORK PROVIDERS

WHY?

- a. Commercial insurance carriers/HMOs have established quotas for providers in each geographical area. Most current early intervention providers are not contracted with a commercial insurance carrier(s)/HMO. Current contract holders with commercial insurance carriers/HMOs may not have the experience or qualifications to provide adequate home or center based service provision to

infants and toddlers with disabilities. However, it is likely that the insurance carrier will NOT make this distinction. Pediatric early intervention care needs to be an established entity in the insurer's mindset. It presently is not.

- b. The state would be unable to maintain capacity as seasoned professionals leave the field, in some cases through no fault of their own via insurance quotas. Eligible children will not be served.
- c. The implementation date of this proposal is 2014. The insurance landscape as a result of the Affordable Care Act to be implemented in 2014 is **uncertain** at best. **Let us NOT prioritize our state's most vulnerable children at the inception as guinea pigs.**
- d. This proposal would enable NYS in 2014, when all NYS children will be required to have insurance, to give control of NYS EI to insurers and therefore change the program's orientation to solely a medical model. **EI is a developmental model.**
- e. Parents would be unable to make the choices of evaluators because there is a chance that their evaluator would not be part of a network due to insurer's quotas.
- f. It would foster discrepancies for those providers, who are already network providers through private insurance, in billing for EI services versus Private Pay services.
- g. Providers would be required to join numerous health plans which requires time to allow for training on the billing policies of each insurer.

- **REJECT THE NECESSITY OF PROVIDERS TO NEGOTIATE RATES WITH INSURERS**
WHY?

- a. Providers, whose skill set is in early intervention therapy and special education, would be required to negotiate rates without any leverage and with a large well-funded entity, commercial insurers, businessmen (who know nothing of Early Intervention and have little motivation to understand it). The state is offering providers NO protections in this endeavor. Provider rates may radically decline and already historically have. Providers (as noted in the Significant Nine Section above) **CANNOT ENDURE ANOTHER RATE REIMBURSEMENT REDUCTION.**
- b. Providers would be asked to negotiate with insurers and not insurers to negotiate with providers.

- **REJECT CO-PAYS FOR PARENTS FOR EARLY INTERVENTION**
WHY?

- a. NYS Early Intervention has always been a program that is NOT based on a parent's ability to pay. The NYS Legislature has always understood that NYS Early Intervention should NOT charge a fee of any kind to parents who are already struggling with raising a child with special needs. Historically, the NYS Legislature has voted against parent copays whenever proposed
- b. **NOTE:** it is our understanding that the inclusion of this piece is unintentional and that regulation MUST be returned to its original form.

- **REJECT CHANGES TO EVALUATIONS/SCREENINGS**
WHY?

- a. Screenings cost money. Evaluations cost money. Screenings and evaluations cost more money.

- b. The changes proposed would diminish the meaningfulness of evaluations, the process of which is necessary and cost-effective.
- **REJECT FURTHER LIMITING A PARENT'S RIGHT TO SELECT AN EVALUATOR ONLY FROM HIS/HER INSURANCE PLAN.**

WHY?

a. As per IDEA Part C, parents have the right to select their evaluator period. This proposal would require parents to choose evaluators who are ONLY in their insurance plan. Evaluators of the families' choice may NOT be part of the insurance plan due to Insurer quotas as previously noted.

EARLY INTERVENTION PROPOSALS TO ACCEPT

- **ACCEPT That the location for early intervention occurs in natural environments that could be the home.** It is critical for insurers to reimburse home-based care, the backbone of Early Intervention. This addition may increase reimbursements simply as a result of its inclusion.

RECOMMENDATIONS:

1. Enable the NYS Early Intervention Program and all its participants the time necessary to adjust to the changes initiated and/or implemented through 4/1/13 particularly in the establishment and functionality of the State Fiscal Agent with the NYEIS program, state-sponsored insurers, Medicaid, commercial insurers, and all providers inclusive of provider agencies and independent providers as noted in the Nine (9) Significant Changes noted above.
2. Evaluate the fiscal benefits noted above in those Nine Significant Changes already implemented in this program through 4/1/13 that have NOT been accounted for.
3. Encourage the NYS DOH solely through the implementation of its fiscal agent and development of an extraordinary billing team to further increase insurance reimbursement.
4. Request that prior to any future proposals in the area of Commercial Insurance reimbursement that the NYS DOH BEI do their due diligence investigating other states that have utilized insurers inclusive of West Virginia, Tennessee, Illinois, Indiana, Kentucky, Missouri many of whom have established systems on a smaller scale to facilitate payments to providers and insurers and/or that have established meaningful systems of access to services and payment for those services, and/or honored providers by maintaining their state rate. Request that the NYS DOH BEI then individualize this effort for NYS with significant and ongoing provider input.
5. Ensure that it is the NYS DOH BEI that negotiates rates on behalf of the providers and, as in this fiscal year, maintains a threshold rate for the providers based upon the current NYS Early Intervention Reimbursement Rate.
6. Ensure that MEDICAID recognizes ALL Special Educators and Service Coordinators as Medicaid Billers and that the NYEIS System is enabled to accept this service as Medicaid billable. NOTE: in January of 2013, ALL special educators and service coordinators were REQUIRED to subcontract from agencies and, thereby, incur a significant rate reduction ranging from 25 to 40%.
7. Encourage NYS DOH BEI to *establish a commission* on the development of and acquisition of increased Commercial Insurance Revenue perhaps as part of MRT that brings providers – all providers – both agency and independent, caregivers and insurers to the table to formulate a meaningful family and provider-friendly plan that

supports Early Intervention as a Developmental Model and can become incorporated SMOOTHLY into the Fiscal Agent and NYEIS system already implemented, provide meaningful service and honor providers with a reimbursement rate that is NOT less than that which the state has already established.

8. While UNYEIP recognizes that the current NYS DOH BEI data reflects that more evaluations yield ineligibility for children than eligibility at a cost to the state, this cost is NOT a cost that the state should be seeking to marginalize or minimize. Ensuring that all providers who are screeners/evaluators are properly trained to provide and write meaningful multi-disciplinary evaluations in their discipline of expertise will improve the identification of children and reduce any unanticipated consequences.

As noted above, while UNYEIP has conducted a thorough and meaningful review of all data available, all NYS DOH regulations, other state's policies and procedures on commercial insurance and screenings, and through extensive conferences with both parent and provider members, phone conferences with the NYS DOH BEI, and considered all testimony relevant to Early Intervention presented at the Joint Budget Hearings, at the present time, UNYEIP has not received adequate assurances that the implementation and process selected by the State is in the best interests of the children, the parents, the providers, and the NYS Early Intervention Program particularly in light of the **NINE SIGNIFICANT CHANGES** that have been imposed on the NYS Early Intervention Program over these last three years including the implementation of the State Fiscal Agent and implications of the Affordable Care Act.

On behalf of the Membership of UNYEIP and its Executive Committee Members, thank you for your consideration.

Sincerely,



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APPENDIX: FISCAL AGENT GRAPHIC from NYS DOH FISCAL AGENT RFP

