



NYSAC

NEW YORK STATE
ASSOCIATION OF COUNTIES

**2016 NYSAC Fall Seminar
Niagara County, New York**

**Standing Committee on
Children with Special Needs**

**Lisa Mell (Schenectady County) – Chair
Barbara Pellegrino (Oneida County) – Vice Chair**

**2016 NYSAC Fall Seminar
Standing Committee on Children with Special Needs
Resolution #1**

Resolution Urging the Department of Health and the Division of Budget to Identify All Outstanding Claims and Prioritize Reimbursing County Costs for Early Intervention Services That Were Provided and Paid for by Counties Prior to the State Fiscal Agent Administrative Takeover and Remain Unreimbursed

WHEREAS, prior to 2013, counties funded 100% of the cost of the state's Early Intervention Program and then sought reimbursement beginning in the following county fiscal year as required under state law; and

WHEREAS, the state implemented a State Fiscal Agent administrative model in April 2013 that centralized billing and contracting at the state level, rather than at the county level; and

WHEREAS, due to limitations of the New York State Department of Health's (NYSDOH's) New York Early Intervention System (NYEIS) system, and inaccuracies in reporting and data that continue since its launch in 2010, counties have sought to settle these outstanding reimbursements for almost three years, but are reliant on the NYSDOH to provide data to identify the exact claims outstanding; and

WHEREAS, NYSDOH and a special work group of counties that has been in place for over two years has made minimal progress due to a lack of dedicating resources and prioritization by NYSDOH; and

WHEREAS, this initial work is finding that up to 20% of claims submitted by counties for state share reimbursement remain outstanding after several years for a variety of NYEIS computer system technical problems; and

WHEREAS, some of these unreimbursed claims are nearly five years old; and

WHEREAS, counties estimate that tens of millions of dollars remain unreimbursed by the state as a result; and

WHEREAS, counties cannot afford to wait any longer for reimbursement from the state, while also trying to maintain the state imposed property tax cap.

NOW, THEREFORE BE IT RESOLVED, the New York State Association of Counties calls on the Department of Health and the Division of Budget to dedicate the resources to ensure the repayment of these outstanding claims to all counties including New York City a top priority with payments issued in the first quarter of the 2017-18 State Fiscal Year; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the 62 counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to Governor Andrew M. Cuomo, the New York State Legislature and all others deemed necessary and proper.

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Resolution #2**

**Resolution Urging the Department of Health and the Division of Budget to
Require Providers to Maximize Reimbursement from All Third-Party
Payers**

WHEREAS, prior to 2013, counties funded 100% of the cost of the state's Early Intervention Program and then sought reimbursement beginning in the following county fiscal year as required under state law; and

WHEREAS, the state implemented a State Fiscal Agent administrative model in April 2013 that centralized billing and contracting at the state level, rather than at the county level; and

WHEREAS, the State Fiscal Agent used their own administrative and reimbursement information technology system to collect funds from counties and make payments to providers due to limitations with the New York State Department of Health's Early Intervention System (NYEIS); and

WHEREAS, recent problems have arisen under the State Fiscal Agent platform related to service providers filing for payment from insurance companies in the first instance as the law requires and a lack of follow through by providers when insurers ask for more information; and

WHEREAS, any extensive delay in providing such information to insurance companies can result in a denial by the insurance company due to untimely filing, causing these claims to fall to the state and counties to pay; and

WHEREAS, we commend the Governor on his 2016/2017 state budget proposals for prioritizing and requiring providers to enforce current insurance regulations regarding payment of Early Intervention service claims and attempt to increase commercial insurance collections; and

WHEREAS, the Governor's proposal was rejected in the final 2016/2017 enacted budget, and we encourage the Governor to again include the requirement of timely provider claims again in the upcoming 2017/2018 state budget; and

WHEREAS, we also ask that as part of these systems enhancement proposals, Medicaid revisit the Retro Re-Billing Process where the State identifies all claims that the cities and state pay including, but not limited to, waived services, and resubmit those to Medicaid to identify if a child's coverage changed. We ask that Medicaid instead pay the claims in first instance, so that counties don't have to pay upfront and then receive these monies many years later.

NOW, THEREFORE BE IT RESOLVED, the New York State Association of Counties (NYSAC) calls on the Governor and the State of New York to implement policies and procedures to ensure that provider claims are filed in a timely manner to commercial insurance providers and Medicaid; and

BE IT FURTHER RESOLVED, that the Governor's 2017/2018 budget again include a requirement for all providers to enroll in 835 electronic remits and a timely filing requirement; and

BE IT FURTHER RESOLVED, the State Fiscal Agent must implement systematic changes to the billing system to track claims and, as outlined in the state Early Intervention reform proposal, ensure providers exhaust all appeals in a timely manner before moving on to the next payer of record; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the 62 counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, NYSAC shall forward copies of this resolution to the Governor, the New York State Legislature and all others deemed necessary and proper.

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Resolution #3**

Resolution Urging the Governor and State Legislature to Gradually Eliminate the County Fiscal Responsibility for Preschool Special Education and Summer School Special Education Programs

WHEREAS, Chapter 23 of the Laws of 1989 established the Preschool Program for Children with Handicapping Conditions as 4410 of the Education Law; and

WHEREAS, the original law included a provision to limit the county fiscal responsibility to 25% by the 1993-94 school year; and

WHEREAS, a gubernatorial statewide task force on reforming preschool special education determined that counties should be removed completely from financing the state's preschool special education program; and

WHEREAS, that recommendation was never enacted; and

WHEREAS, we commend the Governor and New York State Legislature for the recent reimbursement reforms, including SEIS regional rates, in the preschool special education program; and

WHEREAS, the State has enacted legislation to provide universal prekindergarten for all four-year-old children in New York State to be financed 100% with state resources; and

WHEREAS, the State also requires counties to support 10% of summer school special education 4408 program costs for all children; and

WHEREAS, the fact that other states do not require county government to pay for these special education expenses and the failure of New York State to fully fund its promised share of preschool special education program costs contributes to New York's highest in the nation property tax burden; and

WHEREAS, over the last decade the failure of the state to fund these costs has shifted more than \$1.5 billion to county property taxpayers, exceeding \$250 million annually today, raising costs for homeowners and small business throughout New York.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) calls upon Governor Andrew M. Cuomo and the New York State Legislature to implement a plan to gradually remove counties from the fiscal responsibility of paying for preschool and summer school special education programs; and

BE IT FURTHER RESOLVED, the first phase should include capping county fiscal liability for preschool special education at no more than what each county paid in 2013 and then implementing a three-year plan to incrementally reduce the county fiscal liability for this program to no more than 25% as intended at the inception of the program to help reduce pressure on property taxes; and

BE IT FURTHER RESOLVED, that the state should lift the reimbursement cap for transportation costs for the program and increase the state's share; and

BE IT FURTHER RESOLVED, the second phase should gradually reduce the county fiscal responsibility to zero for both preschool and summer school special education costs; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the 62 counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to Governor Andrew M. Cuomo, the New York State Legislature and all others deemed necessary and proper.

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Resolution #4**

Resolution Calling for the Revamping of Outdated NYSED Preschool Special Education Service Program Reimbursements and Waiver Review Process for Contracted Service Agencies

WHEREAS, the New York State Education Department (NYSED) has been entrusted with designing and overseeing the implementation of vital, quality preschool special education programs, such as speech and occupational therapy, to be administered at the local level for children between 3 and 5 years of age; and

WHEREAS, county officials throughout the State of New York have both the responsibility and burden of insuring that local private and not-for-profit service agencies efficiently manage such programs and, in so doing, adhere to the strict guidelines established by NYSED; and

WHEREAS, counties throughout the State of New York are mandated to initially fund 100% of the costs of such important services for special needs children in hopes that within a two to three-year period counties will eventually be reimbursed by NYSED for 59.5% of the preschool special education program costs closed out years before; and

WHEREAS, successful monitoring of these important preschool education programs by counties requires input, support and sound direction from NYSED looking at all related aspects of these important programs in a timely, collaborative and transparent fashion to positively impact and/or respond to a myriad of issues that arise over the course of a program year; and

WHEREAS, on too many occasions NYSED has chosen not to examine all relevant facts in matters of importance and dispute at the local level with said service providers, especially in regards to its post-contract year waiver review process wherein NYSED has unilaterally altered contract terms with preschool service providers, thus forcing host counties to endure unplanned financial hardships with no defined appeals process for the county; and

WHEREAS, counties, for years, have been consistently calling for reforms to both the programming and funding of preschool special education programs for special needs children ages 3-5 years throughout the State of New York; and

WHEREAS, the New York State Comptroller's office has uncovered significant misappropriation of public dollars by local preschool special education providers across the state, highlighting the stressful conditions that continue to exist because of the lack of important reforms to the way these programs were designed long ago by the State.

NOW, THEREFORE, BE IT RESOLVED, that the New York State Association of Counties calls on the State Legislature to undertake a thorough review of how NYSED

and the State can improve transparency and accountability in the preschool special education program, including matters of retroactive rate-setting for providers, and supporting county efforts to improve accountability to local taxpayers; and

BE IT FURTHER RESOLVED, that NYSED and the State Comptroller work with counties to identify and recoup any funds owed as a result of audit findings; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the 62 counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to Governor Andrew M. Cuomo, the New York State Legislature and all others deemed necessary and proper.