



2021 Legislative Priorities

POLICY BRIEF

Children, Families, and Health Committees

December 28, 2020

Policy Snapshot

- A covered lives assessment on commercial health insurers that matches the Medicaid rate of reimbursement (75%) and provides 50% of the eligible claims based on the number of enrolled children up to \$100 million, providing much needed relief for taxpayers.
- Cap county fiscal liability for preschool special education.
 - Cap the county fiscal liability for preschool and summer special education at 75% of the average cost for the last three-years and implement a 5% annual county match reduction to incrementally reduce the county costs to zero.

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Background

Early Intervention

The NYS Early Intervention Program (EIP) is part of the national Early Intervention Program for infants and toddlers with disabilities and their families. Created by Congress in 1986 under the Individuals with Disabilities Education Act (IDEA), it was adopted by NYS as Article 25 of the Public Health Law and is run by the Bureau of Early Intervention out of the NYS DOH.

At the county level, all Early Intervention (EI) services are run by the local health department (LHD) or the Youth Bureau.

Pre-School Special Education

New York's Preschool Special Education program provides essential services like speech and occupational therapy to special needs children between the ages of 3 and 5 years of age. It serves as a bridge between the Early Intervention Program (from birth to 3 years old) and a formal Individualized Education Plan (IEP) in a school setting. Since 1989, counties fully fund the preschool special education program.

A child eligible for preschool special education services may show significant delays in any of the five areas of development: cognitive; communication; physical/motor; social/emotional; and adaptive/self-help. Federal and state laws govern the preschool special education program and grant the legal authority to administer the program to the State and school districts. There is no income eligibility for families with children who need preschool special education, and the services must be provided at no cost to them.

New Reforms Can Address Service Inequities, Improve Outcomes and Reduce Costs

Early Intervention (IE) Program Recommendations

- The State needs to require third party insurers cover EI healthcare services.
 - Require IE service providers file claims within 60 days of service;
 - Require all EI providers to enroll in 835 electronic remits and a timely filing arrangement;
 - Ensure providers exhaust all appeals within the required timeline of the insurer before moving on to the next payer of record (Medicaid or the county);
 - Monitor health insurance benefit changes in state-supported public health insurers such as Medicaid and CHP to ensure new costs are not shifted to counties;
 - Medicaid must pay the claims in the first instance, so that counties don't have to pay up front and then wait for Medicaid reimbursement; and
 - Cap county costs, ensuring that counties are held harmless by any increase in provider rates.
- Reform EI Program to ensure there are enough providers available for the kids who need services. This is a state responsibility. Hold counties harmless for any service delays due to a lack of providers in some communities.
- Incentive providers to provide EI services with a five percent provider rate increase in the lowest income communities, while holding counties harmless for any rate increases.
- Allow telehealth services to continue after the pandemic, as allowed by Individualized Family Service Plan (IFSP) process, to improve service availability.
- Enact a covered lives assessment on commercial health insurers that matches the 75% Medicaid rate of reimbursement and provide 50% of eligible claims based on the number of enrolled children with third party coverage, equal to \$100 million.

Pre-School Special Education Program Recommendations

- Expand Universal Prekindergarten (UPK) to include children with special needs.
- Require school districts to transport preschool children to programs and provide reimbursement through an equal cost share between the county, state, and school.
 - Increase state caps for transportation costs in the preschool programs, starting with a waiver program for counties experiencing unique circumstances such as a lack of transportation providers and/or severe caseload changes.
- Cap county fiscal liability for preschool special education.
 - First cap county costs at 75% of the average for the last three-years and then initiate a 5% annual reduction to phase out the county costs for both preschool and summer school special education.
- Increase county participation and vote on the Committee on Preschool Special Education (CPSE) committee to allow the least restrictive and cost-effective assignment.
- Allocate State funding for a 5% rate increase for services provided to children in high poverty areas and in rural areas that require service providers to travel long distances.