

**TESTIMONY TO  
JOINT LEGISLATIVE BUDGET HEARING  
HEALTH  
February 25, 2021**

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Thank You for the opportunity to provide testimony regarding the Governor's budget proposals for Fiscal Year 2021-22. My name is Steven Sanders. I am Executive Director of ACTS (Agencies for Children's Therapy Services). The agencies that belong to ACTS provide the majority of services in the Early Intervention Program statewide, as well as preschool special education programs.

This has been a very unusual and extremely difficult year for everyone, not the least of whom are Early Intervention providers who serve infants and toddlers oftentimes in their homes. The families of those small fragile children have cried out for help even as in-home services were almost impossible. Agencies did their best to answer the call by reconfiguring services to teletherapy. But as you can imagine, when dealing with children under the age of three, that has been a real challenge.

As a result of COVID and the difficulty for parents to access evaluations or services, the Early Intervention Program enrollment significantly dropped this year and services provided was way less than was projected in last year's budget. The savings to the State and Counties evenly split from the previous year will be about \$100 million. But that also translates into *a loss of revenue of \$100 million for providers of Early Intervention*. Those losses have caused some agencies to contract or to close, and therapists unable to derive sufficient income unable to continue in the Early Intervention Program. Of course, it's the families that have lost vital services for their children who have suffered the most.

The State Budget now being negotiated offers us an opportunity to make the situation better. However, if we are not careful it could compound the problems going forward.

Without including Article VII language, the Executive none the less proposes to make changes to simply save money (\$11.9 million)... but omits the single most responsible cost saving measure:

1. The Executive wishes to expand on the use of teletherapy in the Early Intervention Program. That is a good thing because through this technology areas of the State can be served that for years have been underserved for one reason or the other. However, the Executive proposes to include a DISINCENTIVE to provide teletherapy by reducing the rate which is CURRENTLY in affect. This stands in contrast to many other states that have embraced teletherapy and kept the rate identical to in person services. They have made that decision because they recognize that serving toddlers and infants via teletherapy is MUCH HARDER than doing that in person. Also, since children have often moved in and out of teletherapy based on conditions, a dual rate will cause confusion and unnecessary administrative headaches. Just as a school teacher will tell you that instructing classes on line is harder and more stressful than in person, services to very small children are much more difficult through remote devices. The simple fact is that most therapists will opt to do services in person if the teletherapy rate is significantly reduced. That will drive more therapists away from such services and underserved populations, which is the opposite of what the Executive says that they wish to promote. The Executive also fails to acknowledge that there are costs to providers to significantly ramp up teletherapy as a service modality. New software, hardware and bandwidth will be needed in order to reach parts of the State previously unserved. For all these reasons **ACTS SUPPORTS expanding the use of teletherapy where appropriate, but OPPOSES any lowering of the rate. We are NOT asking reimbursement for any new costs, just NO REDUCTION to the current rate.**
2. (A) The Executive proposes to "limit" Back to Back Extended Sessions. This recommendation will unjustifiably restrict services to autistic children in the Early Intervention program who are receiving vital ABA services CONTRARY to what clinicians have determined is necessary through

the Individualized Family Service Plan (IFSP). Best practices in the industry agree that for most children on the spectrum somewhere between 10 to 20 hours of ABA services is required to have the positive impact on that child's behavior. The Executive would make it virtually impossible for even the minimum of 10 hours to be provided. **ACTS STRONGLY BELIEVES** that the clinical experts and evaluators who formulate the IFSP must continue to be the ones who determine what level of services an autistic child, or any child, should receive.

**(B) The Executive also proposes to limit the size of group sessions in center based programs to no more than six children in a group. While this might appear to be a useful proposal, in reality it will deprive children of services. During the past year the Early Intervention Program has experienced a contraction of rendering therapists by over 20%...a loss of 3,400 skilled professionals. As a consequence, if the number of children in groups is limited to six, many hundreds if not thousands of children will be left without adequate services due to the lack of capacity. As such ACTS MUST OPPOSE this recommendation as a deprivation of services to children.**

- 3. Ever since the inception of the Early Intervention Program over 25 years ago commercial insurers have failed to pay their fair share of the cost of the program. They consistently REJECT about 85% of the claims that they receive every year. By contrast Medicaid reimburses claims at about 70% for the same services. Consequently, commercial insurance pays only 2% of the total services. This metric has remained constant for over two decades in spite of efforts by multiple Governors to increase the financial responsibility of commercial insurance. The answer is "COVERED LIVES". That policy if expanded to include the Early Intervention Program would save the State and Counties millions of dollars each year by no longer having to unfairly pay for the portion of claims that commercial insurance arbitrarily refuses to remit to providers. If commercial insurance were assumed to be responsible for only 50% of the claims it receives each year, the savings to both the State and to Counties would be nearly \$15 million each year. The NYS Association of Counties (NYSAC) joins EI associations in calling for this policy. The State and Counties have been subsidizing commercial insurance for their refusal to pay their fair share. Last year both houses of the Legislature proposed Covered Lives only to be rebuffed by the Executive. But this year is different and the Governor is listening carefully. ACTS EMPHATICALLY SUPPORTS the proposition that commercial insurance MUST finally contribute their fair proportionate share of the Early Intervention Program costs. COVERED LIVES is the only way to accomplish that.**

ACTS recognizes that all sectors of the State must bear some involvement for addressing the State's dire fiscal deficit. But the Early Intervention Program and its agency providers have already suffered a loss of \$100 million as this State fiscal year comes to a close. Providers revamped their service models to meet the needs of tens of thousands of families across the State. They have incurred costs, and in some situations risked their own health in serving hard to reach at risk children. The suggestions I have made will both help to stabilize the Early Intervention Program going forward and create recurring savings to the State and Counties. By so doing, maybe a tiny modicum of good can come out of the dreadful last year.

Thank you for your consideration.