

**TESTIMONY TO
JOINT LEGISLATIVE BUDGET HEARING
HEALTH & MEDICAID
FEBRUARY 3, 2014**

Submitted by: Steven Sanders, Executive Director
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Chairman DeFrancisco, Chairman Farrell, Chairman Hannon, Chairman Gottfried and Members of this Joint Budget Committee

My name is Steven Sanders. I am Executive Director of ACTS, an association of agencies that provide a majority of the Early Intervention services statewide.

Sometimes the very worst policy decisions are the decisions to do nothing. Proposing nothing is as surely a budget choice as proposing something...and that policy choice carries real consequence. Imagine for a moment a breakout of an infectious disease threatening the wellbeing of tens of thousands of toddlers, and in the face of that crisis the Governor and the Department of Health chose to recommend no action in the budget...just status quo.

Well that is exactly the policy recommendation of the Governor for the Early Intervention Program in crisis. After a year of chaos and an obviously flawed billing protocol implemented by the Department of Health last April, the Governor has proposed no change. **Agencies and individual providers are waiting long months for reimbursement of services performed, and in some cases STILL waiting since April, May and June. As a result, programs for at risk children are also in jeopardy.**

He has opted not to fix a system that continues to fail, despite the best efforts and dedication of officials at the Bureau of Early Intervention. It is not their fault. Like providers they too are overwhelmed by difficulties that defy solutions, and insurers who defy their responsibilities. The fault lies in the poorly conceived plan. The Legislature was only given sparse details of that plan in the 2012 budget.

Providers and Legislators were promised and voted for a system of billing that bypassed the counties, and would be managed by a State Fiscal Agent. A system which the Department promised that payments would be processed promptly and that commercial insurance would be paying more of their fair share.

None of that has happened. Providers large and small have been put at great financial risk, some operating on the edge of insolvency, undermining services. In recent months reimbursements have actually slowed, not accelerated. **And while counties have been relieved of much of their tasks and expenses, it has largely been the providers, and NOT the Fiscal Agent, who have absorbed enormous additional work to process claims.** This has added dozens of hours of additional administrative work each week, uncompensated. In contrast counties WERE paid for much of their tasks of processing E.I. claims, to the tune of nearly \$13 million each year statewide. Providers got the work but not the compensation.

As for payment by commercial insurance, according to the Department's figures, after 10 months that payment is half of what historically was remitted. And contrary to the data given to you this morning by Commissioner Shah, providers have NOT been paid 91% of what they billed since April. The actual number is closer to 85% for nearly the whole year. That is because the Department does not include all claims submitted by providers in their calculation. That translates into over forty million dollars still owed providers, some of those unpaid claims actually going back eight, nine and even ten months!

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This is not a success story by any metric or measurement. Put simply, it is a failure. It is threatening the viability of hundreds of providers and more importantly threatening the continuity of services for our most vulnerable toddlers. It degrades a program that for over 20 years has saved the state countless tens of millions of dollars EACH YEAR in avoided far more expensive special education costs. In the Executive's view nothing is wrong, nothing needs fixing. I am here to tell you the Executive is wrong.

What is desperately needed is for the Legislature to repair what the Governor stubbornly refuses to acknowledge.

The prescription to restore the Early Intervention Program to good health has already been written. It is embodied in the legislation that has been introduced by Senator Hannon (S.6002), and Assemblyman Gottfried (A.8316). The measure would do what the Legislature THOUGHT it was doing two years ago: **Require the State Fiscal Agent to act as the true intermediary between providers and third party payors. The Fiscal Agent would replace the functions administered by the counties prior to April 1. Isn't that really the job of the Fiscal Agent? Isn't that what the State is paying it \$45 million to do?**

Second and importantly, the bill would assure that providers are reimbursed, in whole, for their services within a specified period of time. The Department boasts that providers have been paid for "most" of their services. Really? Is this how the State operates?

After nearly a year providers are still waiting and waiting for reimbursements, uncertain when they might be paid. What other business would accept being paid for "most" of their contract or services? What lender or landlord would be satisfied with being paid for "most" of their bill? Would the State be content with taxpayers paying "most" of their tax obligation each year?

The commitments made by the Governor and the Department have not been kept because ~~the~~ the problems are systemic. Making providers wait until commercial insurance gets around to adjudicating a claim, if ever, in order to be paid by anyone has been, and continues to be, a losing proposition.

In summary: Commercial insurance payments have declined not improved; Providers are not being paid promptly, and in some cases not at all. The Fiscal Agent is not doing most of the billing tasks. That work has fallen on providers increasing their time and expense all of which is uncompensated. A loss of time means less time for services. There are only so many hours in a week.

The Early Intervention Program continues in crisis. Parents and providers have pleaded with the Governor to do something. He refuses to respond or to act. Worse still, he asserts that nothing is wrong.

Now we beseech the Legislature to act and to correct the Governor's poor policy choice of inaction in this budget.

THANK YOU for always listening and for being the champion for the Early Intervention community.

ACTS conducted a survey of its Members during the time period of between January 20, 2014 –January 30, 2014

The results of the ACTS survey are as follows:

ACTS, whose Member Agencies provide about 60% of the E.I services statewide, responded to the survey with a 55% sampling of our Membership.

- 1) On average from April 1 through the present ACTS agencies have been paid 85.6% of what has been billed during that period of time.
- 2) In the aggregate ACTS agencies are owed ON AVERAGE about \$650,000 with four of our agencies reporting monies owed to them in excess of \$1.4M each
- 3) If you extrapolate these numbers to the entire ACTS membership, it is statistically safe to calculate that ACTS members alone are owed about \$21M for claims billed since April 1.
- 4) Over 50% of ACTS agencies report that they are still waiting to receive some reimbursements on claims submitted between April – June of this year.
- 5) 100% responded that they were required to either add hours to current employees responsibilities, or add on new staff (FTE) to handle the new administrative and billing tasks.
- 6) The amount of time for new work attributed to the new billing tasks ranged from 15 hours per week to 80 hours per week. This new work is uncompensated by the Early Intervention rates.
- 7) Without some relief in the new billing and administrative tasks 89% of respondents indicated they would either be forced to reduce or eliminate Early Intervention services in the near future.

A footnote...The difference between DOH-BEI's and PCG's assertion that about 91% of all claims since April 1 have been paid and the 85.6% that ACTS agencies have reported (see #1) is a considerable difference. What accounts for this variance is that NOT all claims that have been billed fall into the PCG metric. Only those claims that show up on their EI billing system are calculated. The more accurate data which reflects actual services performed and billing submitted are the figures submitted by Providers.