



MEMORANDUM IN OPPOSITION

FOR IMMEDIATE RELEASE: MARCH 9, 2011

Re: **Budget Bill – S.2809-B/A.4009-A** – Provisions related to reforms of the Early Intervention program.

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The Governor's executive budget (S.2809-B/A.4009-B) contains a proposal to reform the state's Early Intervention program. The New York Health Plan Association (HPA) opposes the proposal because it undermines health plan medical management of early intervention benefits and mandates unlimited services for certain benefits. If enacted, the result will be a significant and unacceptable increase to New York's already expensive health insurance premiums.

The unprecedented elimination of a plan's medical necessity determination is an invitation to improper utilization of services.

For health plans, medical necessity determinations are the foundation on which enrollee coverage decisions are made. This proposal would require health plans to approve a medical necessity determination by a municipal employee (Early Intervention Official) with no plan oversight. The provision even states that the official "shall remove or redact any information contained on the child's individual family service plan that is not required by the insurer for payment purposes". This unprecedented elimination of plan oversight will undermine plan operations and lead to unnecessary and perhaps inappropriate utilization of early intervention services. The "official", who is not required to have a medical degree, will, in effect, be making medical coverage determinations. This is not only bad policy, but is contrary to the Managed Care Act, which requires medical coverage decisions to be left in the hands of physicians – not non-medical personnel.

The proposal undermines health plan provider network credentialing.

The requirement that health plans accept all providers registered by the state for early intervention services presents several problems for health plans. If compelled to accept any registered provider, it will become impossible for the plan to insure the quality provided by the registered provider. Having "credentialed" quality providers is the cornerstone to effective health plan delivery and management of services. Requiring that any "registered" provider be allowed to participate in the program raises significant issues of liability and fraud exposure for health plans that will be held responsible for the treatments by providers not in their network.

Current law guarantees plan enrollees access to appropriate providers to treat all medically necessary conditions covered under the plan. The Department of Health is required to regularly review and certify the adequacy of a plan's provider network to meet the needs of the population. To ensure quality care, smooth administration and reduced costs, health plans must be provided the option of establishing a certified network of early intervention providers

Unlimited services will expose plans and the state to substantially higher costs for these services.

While this proposal arguably limits the type of services to be covered by insurers to only those early intervention services already covered in the insurance policy, it is a departure from previous reform efforts because it does not place a cap on services (unless the policy already had existing caps). Compounding the lack of service limitations with the inability of plans to exercise medical necessity oversight sets the stage for rampant inappropriate utilization and increased costs.

This provision only applies to those families who have commercial insurance, either paid for by their employer through the small group market or purchased individually through the individual market, and ignores those families that receive their health insurance through their union welfare fund or employer sponsored health insurance (self-insured). In New York almost sixty percent of families receive their health insurance through a self-insured plan and will not receive any benefit from this provision. The effect of this provision is a cost shift from the state to commercial insurance. This cost shift will act like a tax on all commercial insurance in New York and will result in higher premiums for small businesses and individuals at a time they can least afford it.

Broad reforms are necessary to make the Early Intervention program affordable.

With the enactment and ongoing implementation of federal health care reform, the Legislature needs to pay special attention to health insurance mandates. As part of federal health care reform, the federal Health and Human Services Agency will determine and define what the “essential benefit package” will be for the individual and small group markets inside the insurance Exchange. If an insurance mandate such as this on early intervention services is not included within the “essential benefit package” then the mandate will either need to be repealed or funded wholly with state dollars.

For these reasons, The New York Health Plan Association opposes the early intervention program provisions contained in S.2809-B/A.4009-B.