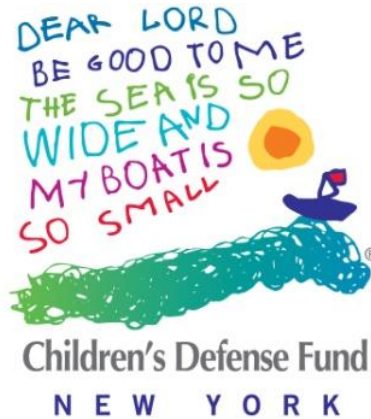


Joint Legislative Hearing on the Health/Medicaid 2019 Budget

February 12, 2018



Testimony of The Children's Defense Fund – New York

Ben Anderson, JD
Director of Health Policy
banderson@childrensdefense.org
(212) 697-0942

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Submitted by: Ben Anderson, JD
Children's Defense Fund – New York

The Children's Defense Fund – New York (CDFNY) thanks the chairs of the Assembly Ways and Means Committee and the Senate Finance Committee for the opportunity to submit testimony on the proposed 2018-19 New York State Executive Budget.

CDFNY works statewide to ensure every child in New York has a Healthy Start, a Head Start, a Fair Start, a Safe Start, and a Moral Start in life. We provide a strong and independent voice for children because they cannot vote, lobby, or speak for themselves. We pay particular attention to the needs of poor children, children of color, and children with disabilities. CDFNY provides education about the needs of children and advocates for investing in services that prevent children from getting sick, dropping out of school, getting into trouble, or suffering a family breakdown. For more information about CDFNY, please visit us on the web at www.cdfny.org.

This year we also want to use this opportunity to applaud the Legislature's and Governor's leadership in reaching historic coverage gains for children. Ninety-eight percent of New York children currently have health insurance—an all-time high. New York achieved these historic gains through Medicaid, Child Health Plus (CHP), and implementation of the Affordable Care Act. These are all worthy investments, particularly when it comes to children's coverage, which yields the following returns:

- Children enrolled in Medicaid perform better in school than their non-eligible peers from other states;
- Children enrolled in Medicaid have higher lifetime earnings than their non-eligible peers from other states; and
- Every \$1 spent on prenatal care saves \$7.96 in associated costs over a child's life—\$3.33 of which are saved immediately after birth.

This testimony addresses several provisions in the proposed 2018-19 Executive Budget. Generally, CDFNY supports proposals that improve health coverage, increase access to necessary care and services, improve health outcomes, and eliminate health disparities.

1. CDFNY supports funding for health insurance navigators and urges the Legislature to increase the total appropriation to \$32 million.

Funding for New York's health insurance navigator program ends in 2018. Navigators are local, in-person assistors that help consumers and small businesses shop for and enroll in health insurance through New York's health insurance marketplace. Since 2013, navigators have helped enroll more than 300,000 New Yorkers in health insurance coverage. Many of these consumers are disproportionately people of color and are more likely to enroll in coverage with the help of an in-person assistor. Having health insurance helps increase access to primary care and avoid costly hospitalizations.

New York's navigator program has not received a cost of living adjustment in more than 5 years. We are grateful that the Executive Budget proposes to continue the Navigator program at \$27.2 million. We urge the Legislature to allocate an additional \$4.8 million annually to ensure that Navigators are provided adequate funds for cost of living increases in order to continue to provide high quality and reliable in-person enrollment assistance to New Yorkers.

2. CDFNY supports \$17 million in non-Medicaid grant funding for school-based health centers (SBHCs), and urges restoration of \$4 million in funding for SBHCs that was cut in last year's budget.

The FY2018 budget cut public health grant funding for school-based health centers by 20%. Rather than reducing grant funding for all SBHCs, subsequent administrative action allocated these cuts to 16 SBHC sponsors, reducing grant funding for those sponsors by 25% to 70%. SBHCs provide primary care, dental, mental health, and reproductive health services in medically underserved neighborhoods. Services are provided on-site in schools to every student regardless of whether the students have health insurance. SBHCs prevent unnecessary hospitalizations, reduce emergency room visits, improve school attendance, and avoid lost workdays for parents. Studies show SBHCs improve child health outcomes and save the state money.

3. CDFNY supports the Governor's proposal to develop the First 1000 Days of Medicaid initiative.

CDFNY applauds the Governor's budget proposal to develop the First 1000 Days of Medicaid initiative. This proposal recognizes the critical developmental milestones that occur in the first three years of a child's life, and strategically targets funding for programs to help our youngest New Yorkers remain healthy and ready to learn when they arrive in kindergarten. The initiative will leverage Medicaid funding to achieve its goals, which is a smart use of Medicaid dollars, since Medicaid covers 60% of all children aged 0-3 in the state. Specific programs that are a part of the initiative include a new pediatric clinical advisory group, group-based models of prenatal care to support pregnant women living in neighborhoods with the poorest birth outcomes in the State, home visiting services in three high-risk communities, new peer-navigator

services in non-healthcare settings to ensure at-risk families get needed services recommended by a health care provider, and evidence-based parent-child therapy models.

4. CDFNY urges the Legislature to allocate \$83 million to expand Child Health Plus coverage to all New Yorkers up to age 29 earning incomes up to 400% of the federal poverty level, regardless of immigration status.

Currently, Child Health Plus (CHP) provides affordable coverage for anyone below the age of 19, regardless of immigration status. However, many of the young adults, including many “Dreamers,” who age out of CHP find themselves without coverage if their immigration status prevents coverage through Medicaid or the marketplace, even though their peers may remain covered through a variety of programs up to age 29. Recent analysis indicates that raising the upper age limit for CHP would increase eligibility for 90,000 New Yorkers, and slightly less than one-third of those eligible would enroll, for a total cost of \$83 million.

The benefits of increased coverage for both the individuals gaining coverage and society at large are well documented. People without insurance coverage are more likely than their insured counterparts to delay seeking care, incur medical debt or file for bankruptcy, and experience high rates of morbidity and mortality because of their inability to access preventive care or services needed to manage serious and chronic health conditions. Some people without coverage will fall ill or need health services. When this happens, the losses experienced by the health care system are offset through higher prices for everyone, and ever-increasing indigent care funding.

5. CDFNY opposes the public health programs consolidation proposal which will cut a variety of public health programs by 20%, and are particularly concerned about the programs that address child asthma, and maternal and infant health.

The Executive Budget proposal eliminates funding lines for 30 discrete programs, consolidating them into 4 competitive pools and cutting the funding for each pool by 20%—a total reduction of nearly \$9.2 million. This puts many entire line items at risk. Key programs include those that relate to childhood asthma, as well as maternal and infant health. The asthma programs have been particularly prolific, reducing the asthma death rate by 43% and reducing asthma hospitalizations by 13%.

Similarly, the Healthy Neighborhoods program has also yielded significant achievements in health outcomes and cost reduction. The New York State Department of Health’s own website touts many of these benefits. See https://www.health.ny.gov/press/releases/2017/2017-01-27_healthy_neighborhoods_program.htm. On the website, Commissioner Zucker comments on evaluations performed by the National Center for Healthy Housing, stating “this research provides clear and compelling evidence that our Healthy Neighborhoods Program is making a significant impact on health and health care costs.” The evaluation was published in the Journal

of Public Health Management and Practice in 2017. The evaluation found that for every \$1 invested, the program yielded \$3.58 in cost savings, including savings in Medicaid managed care costs. This is the type of program that New York should be investing more in, rather than subjecting it to potential future cuts.

Investments in prenatal care yield similar benefits. Accordingly, CDFNY urges the Legislature to carefully consider the proposed cuts to maternal and infant health programs. The Governor has not publicly stated why cuts to these programs are justified, and studies show that in some instances, every \$1 spent on prenatal care can save \$7.96 in associated costs over a child's life—\$3.33 of which can be saved immediately after birth.

6. CDFNY urges the Legislature to reject the Executive Budget proposal to restructure the Early Intervention (EI) referral, eligibility determination, screening and evaluation process.

The proposed screening process may violate federal law and cost New York more.

The Executive Budget proposes that evaluators perform a screening on each child who is referred to EI because of a suspected disability prior to evaluating the child. This proposal fails to include federally required protections for children and families, would likely disproportionately harm children from low-income backgrounds, and may not yield any cost savings.

Administering a screening, instead of fully evaluating a child, comes with the risk that a child who is eligible for the EI program will fail to be identified. Therefore, any proposal for increased screenings must have clear provisions that protect the rights of parents and children. We are concerned that the proposed Article VII changes do not comport with the federal regulations regarding parents' rights to an evaluation. The federal regulations (34 CFR § 303.320(a)(1)) require states that choose to adopt screening procedures to provide parents with notice of the intent to screen the child and "include in that notice a description of the parent's right to request an evaluation under § 303.321 at any time during the screening process." The commentary to the federal regulations explains that this language was added "to clarify that parents have an ongoing right to request an evaluation before, during, or after their child is screened."

With regard to a parent's right to evaluations, the proposed Article VII language merely states: "If, based upon the screening, a child is not suspected of having a disability, an evaluation shall not be provided, unless requested by the parent. The early intervention official shall provide the parent with written notice of the screening results, which shall include information on the parent's right to request an evaluation." This language implies that a parent does not have the right to request an evaluation until the screening has been completed and that a parent will

not receive notice of the right to an evaluation until the screening has been completed. The current Article VII legislation fails to comport with the federal requirement that parents receive notice of the intent to screen their child and their right to request an evaluation at any time during the screening process.

While we are not opposed to the concept of screenings, it is also important to consider whether the purported benefits of mandatory screenings outweigh the costs. The Administration has explained that requiring screenings will streamline the evaluation process and save money. However, screenings also come with costs. For children who will ultimately receive an evaluation, a screening does not save any money and, assuming the State will pay evaluators to perform screenings, will cost additional money for each child who is evaluated. Given that any family can request an evaluation regardless of the outcome of the screening, it is hard to predict how many fewer evaluations the EI program will have to perform as a result of mandatory screenings. The proposal may end up costing New York more for other reasons:

- The cost of failing to identify a child who is eligible because of the inability to perform a full evaluation are significant. Not only is the child placed at significant disadvantage, but New York may end up spending more on special education in the future.
- The state will end up paying for two screenings for children who are referred to EI because they are suspected of having a disability based on the result of a prior screening.
- Referral records often contain sufficient information to justify an evaluation, without paying for an initial screening.

Placing additional administrative burdens on the referral process may result in referral sources failing to appropriately identify children in need of EI, thereby increasing future special education costs for New York.

The Executive Budget proposal would require that primary referral sources submit a referral form that “contains information sufficient to document the primary referral source’s concern or basis for suspecting the child has a disability or is at risk of having a disability, and where applicable, specifies the child’s diagnosed condition that establishes the child’s eligibility for the early intervention program.” In most cases, referral sources already submit information to substantiate the basis for their referral. New York should not be placing additional restrictions and administrative burdens that could chill referrals for screenings and evaluations. The risk is too high and the costs are simply great to justify this change.

We greatly appreciate executive and legislative interest in this important program, and stand ready to work with Governor and Legislature to strengthen EI services for children.

7. CDFNY supports the Executive Budget proposal to increase EI provider rates by 2%, but urges the Legislature to reject the insurance claim requirements and further increase EI reimbursement rates to 5%.

Since 2010, state funding for Early Intervention has decreased significantly. The State cut the EI service rate for home- and community-based services by ten percent in April 2010 and cut the reimbursement rate for all EI services by an additional five percent in April 2011. Meanwhile, the State implemented a new process for seeking reimbursement, placing significant administrative burdens on EI service coordinators and programs.

As a result, experienced, high-quality EI providers have shut their doors or stopped taking referrals, making it difficult for children to access much-needed high-quality services in a timely manner in certain areas. For example:

- In Franklin County, an established agency shut down its EI program in June 2016 due to inadequate reimbursement rates, leaving dozens of children and families without services.
- In New York City, in June 2017, an agency that was providing EI service coordination to 2,400 children ended its 24-year EI program because the program was not financially viable.

Restoring reimbursement rates is necessary to support recruitment and retention of high-quality professionals, to cover the burden of recently increased administrative costs, and to build ongoing quality improvement efforts into the program.

The Executive Budget proposal of a 2 percent increase on the condition that providers pursue appeals of certain private health insurance claim denials is insufficient even to cover the cost of this new proposed responsibility, much less to address the shortage of high-quality EI providers.

8. CDFNY urges the Legislature to modify the Executive Budget Proposal to increase health insurance reimbursement for EI services.

One strategy for helping to fund EI is to maximize reimbursement from health insurance companies. As the EI State Fiscal Agent found, private health insurance companies often deny claims for reimbursement of EI services based on lack of documentation (despite having EI documents) or due to reasons such as services taking place in the home or the EI provider not being in the insurer's network. In fact, in FY 2017, 82 percent of claims submitted to private insurers were denied.

While we support measures to require health insurance companies to contribute their fair share to the cost of EI, we are concerned about two provisions of the Executive Budget proposal regarding health insurance reimbursement for EI services.

First, we want to ensure that children's evaluations and services are not delayed due to the proposed requirement to obtain additional medical documentation regarding EI evaluations and services. The Executive Budget proposal would require the parent to provide documentation from the child's doctor or nurse of the medical necessity of EI evaluations or IFSP services or written consent to contact the child's doctor or nurse for purposes of obtaining this documentation. Children have the right to receive EI evaluations if their parents suspect that they have a developmental delay or disability, regardless of whether or not a doctor signs off. Furthermore, if their evaluations show they have a developmental delay or disability, children have the right to receive EI services in a timely manner, whether or not their doctor signs off. Early Intervention services are part of the Individuals with Disabilities Education Act (IDEA), a federal education law. An IFSP team may determine that a child needs certain services through EI to help with the child's development, even though a doctor does not deem these services to be medically necessary.

Furthermore, particularly for children from low-income families, reaching a doctor and getting written consent for evaluations or services can be an extremely difficult, lengthy, and time consuming process. While we are not opposed to asking parents to obtain or consent to having EI providers obtain documentation of medical necessity, the law should state explicitly that children's evaluations and services may not be delayed due to lack of medical documentation.

Second, we are concerned about the proposal to require providers to submit appeals of denials of certain health insurance reimbursement claims prior to getting paid. We are worried that additional burdens on EI providers and additional delays in payment to EI providers will exacerbate the shortages of providers we are seeing in various parts of the State, resulting in children unable to access the services they need.

9. CDFNY opposes allowing the Department of Health to contract with entities in pursuit of estate recovery or other forms of financial recovery pursuant to § 104 of the social services law for services provided in the Child Health Plus (CHP) program.

Section 104 of the social services law contains a draconian 10-year look-back provision that permits estate recovery or other financial recovery in the event that it is discovered that any person financially responsible for the health care of another, such as a parent, has real or personal property in an amount up to the value of the cost of assistance or care provided. The 10-year look-back provision in the law explicitly allows the state to look-back at the services provided

during the 10 year period preceding any action, and execute recovery against the responsible party, *even if the responsible party was unable to pay for the assistance or care at the time the services were rendered.*

This provision creates an enormous disincentive for individuals to break cycles of poverty, become increasingly self-sufficient, accept pay raises and job promotions, and pay for their family's health insurance on their own. For example, take the scenario where the parents in a family of four at 200% of the federal poverty level enrolled their children in CHP. Should one of those children require several surgeries in addition to various well-care visits and prescription drugs over the years, then the cost of care could be tens of thousands of dollars, if not more. Then, if seven years after enrolling in CHP, one of the parents is offered a new job and the other parent's income has increased over the years so that the family is now at 410% of the federal poverty level, the family would no longer be eligible for CHP. This would trigger § 104, and entitle the state to seek recovery against the assets of the family up to the amount of the cost of care and services over the preceding 7 years, in this case tens of thousands of dollars or more, as it falls within the 10 year look-back period.

The operation of this section creates a disincentive for families to enroll their children in CHP initially, or if they enroll, to seek higher paying jobs or pay raises that will improve their financial well-being. Accordingly, CDFNY opposes the proposal, and urges the legislature to eliminate the 10 year look-back provision entirely so that recipients of other public assistance programs, including Medicaid, are not similarly discouraged.

Conclusion

Thank you for your time and consideration of our testimony.