

2024 -- S 2359

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LC004585
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO HEALTH AND SAFETY -- MATERNAL AND CHILD HEALTH SERVICES
FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

Introduced By: Senators Valverde, Murray, DiPalma, Pearson, Lawson, Lauria, DiMario,
Mack, Cano, and Bell

Date Introduced: February 12, 2024

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. The General Assembly hereby finds and declares the following:

2 (1) The Rhode Island early intervention program, a program established under part C of
3 the federal Individuals with Disabilities Education Act and overseen and managed by the executive
4 office of health and human services, is a core component of the state's commitment to ensuring
5 that families with infants and toddlers with or at substantial risk for developmental delays and
6 disabilities receive high-quality services as early as possible in order that children can develop to
7 their fullest potential and succeed in school and life.

8 (2) According to the Center on the Developing Child at Harvard University, healthy
9 development in the early years (particularly birth to age three (3)) provides the building blocks for
10 educational achievement, economic productivity, responsible citizenship, and lifelong health.
11 Effective early intervention services help infants and toddlers make developmental progress and
12 can help them catch up with their peers. Research has shown that about one-third (1/3) of children
13 who receive early intervention services no longer had a developmental delay or special education
14 need in kindergarten.

15 (3) In state fiscal year 2023, the Medicaid rates for early intervention were increased by
16 forty five percent (45%), the first rate increase since 2002. From 2002 through 2022, the average
17 Consumer Price Index for the Northeast increased by sixty one percent (61%).

18 (4) Once a state participates in the early intervention program, it must assure that early

1 intervention will be available to every eligible child and its family.

2 (5) Due to the twenty (20) year Medicaid rate freeze and a Medicaid rate cut in 2009, state-
3 certified early intervention programs experienced significant difficulties paying competitive wages
4 and benefits to attract and retain qualified staff. These staffing challenges became so severe that in
5 November 2021, the state established a waiting list for early intervention.

6 (6) The Medicaid rate increase in state fiscal year 2023 has not been sufficient to attract
7 and retain enough qualified staff to meet federal timelines. Between June 2019 and June 2022, the
8 number of children receiving early intervention services in Rhode Island declined by nineteen
9 percent (19%). As of November 2023, there were seven hundred, sixteen (716) infants and toddlers
10 who had been waiting more than forty five (45) days for an evaluation, which is about thirty percent
11 (30%) of children enrolled in early intervention on a given day in 2019.

12 SECTION 2. Section 23-13-22 of the General Laws in Chapter 23-13 entitled "Maternal
13 and Child Health Services for Children with Special Health Care Needs" is hereby amended to read
14 as follows:

15 ~~23-13-22. Early intervention program for developmentally disabled infants. Early~~
16 ~~intervention program for infants and toddlers with developmental delays and/or disabilities.~~

17 (a) ~~The director of the department of human services shall ensure that all developmentally~~
18 ~~disabled infants from birth to three (3) years of age shall be enrolled in the early intervention~~
19 ~~program. The secretary of the executive office of health and human services (EOHHS) shall ensure~~
20 ~~that all infants and toddlers with developmental delays and/or disabilities who are under the age of~~
21 ~~three (3) are provided with early intervention services as required under Part C of the federal~~
22 ~~Individuals with Disabilities Education Act (IDEA). Regulations governing the delivery of services~~
23 ~~under this program, including eligibility criteria, shall be promulgated by the department of human~~
24 ~~services executive office of health and human services, with the advice of the interagency~~
25 ~~coordinating council; provided, however, that all regulations promulgated by the department of~~
26 ~~health shall remain in full force and effect until the time they are replaced by regulations~~
27 ~~promulgated by the department of human services.~~ The regulations shall stipulate, at a minimum,
28 the following provisions that are consistent with the intent of this chapter:

29 (1) The ~~director~~ secretary shall develop and maintain a procedure for the earliest possible
30 identification and efficient referral and evaluation of all children under age three (3) who may be
31 eligible for services under part C of IDEA and shall ensure Individualized Family Service Plans
32 are developed and IDEA services are provided in a timely fashion for eligible children
33 ~~developmentally disabled infants;~~

34 ~~(2) The director shall ensure that every infant identified and referred to this program is~~

1 ~~enrolled as soon as possible after birth; and further, that for infants placed on a waiting list for~~
2 ~~facility-based group programming, an early intervention program shall be made available within a~~
3 ~~thirty (30) day period from the time a need is identified in the individual program plan;~~

4 ~~(3) Unless parents refuse the service, the home visiting component of the program shall~~
5 ~~commence as soon as the infant has been identified as having a possible developmental disability;~~

6 ~~(4)~~(2) Any parent(s) who is/are dissatisfied with decisions or termination of service or with
7 practices and procedures of a particular agency or the ~~department of human services~~ executive
8 office of health and human services shall notify the ~~director of the department of human services~~
9 secretary of EOHHS in writing within thirty (30) calendar days and the complaint shall be reviewed
10 in accordance with ~~department of health~~ executive office of health and human services policy and
11 procedures, as amended, and the Administrative Procedures Act, chapter 35 of title 42.

12 ~~(5)~~(3) An early intervention program for purposes of this section shall mean a
13 comprehensive array of educational, developmental, health, and social services provided on a
14 calendar year basis to eligible infants, children, and their families as specified in program
15 regulations.

16 (b) Within ninety (90) days after October 1, 2004, an evaluation plan describing outcome
17 measures that document the program's successes and shortcomings from the previous fiscal year
18 shall be submitted to the speaker of the house of representatives, the president of the senate, ~~and~~
19 the house oversight committee, ~~and~~ the governor, and the interagency coordinating council.
20 Development of the plan shall be made in consultation with the entities with expertise in this area
21 and the interagency coordinating council. The plan shall include a memorandum of understanding
22 between the department of health, department of human services, and the department of elementary
23 and secondary education that demonstrates coordination and continuity of early intervention
24 services among these departments.

25 (c) Within six (6) months after January 1, 2005 where prescribed outcomes documented in
26 the evaluation plan have not been accomplished the responsible agencies shall submit written
27 explanations for the shortfalls, together with their proposed remedies. The report shall also include
28 evaluation of the progress of the coordination efforts between the department of health and the
29 department of human services and the department of elementary and secondary education and the
30 interagency coordinating council and shall include any recommendations regarding modifications
31 of the reimbursement mechanisms of this chapter.

32 (d) Within twelve (12) months after August 1, 2005 a final report shall include the progress
33 of the coordination efforts between the department of health and the department of human services
34 and department of elementary and secondary education, interagency coordinating council and shall

1 include any recommendations regarding modifications to the comprehensive array of educational,
2 developmental, health, and social services provided on a calendar year basis to eligible infants,
3 children, and their families as specified in an early intervention system.

4 (e) All reports or documents required to be produced pursuant to 20 U.S.C. § 1471 et seq.,
5 shall be submitted to the speaker of the house, president of the senate, ~~and~~ the chairpersons of the
6 appropriate house of representatives, and senate oversight committees, and the governor and the
7 interagency coordinating council. Adherence to such plans and reporting requirements, and budgets
8 and the timely achievement of goals contained therein shall be considered by the oversight
9 committees of the house of representatives and senate, among other relevant factors, in determining
10 appropriations or other systemic changes.

11 (f) The executive office of health and human services shall:

12 (1) Pursue a Medicaid state plan amendment and allocate sufficient state general revenue
13 to increase Medicaid payment rates for early intervention services by twenty-five percent (25%) on
14 or before October 1, 2024, to ensure rates enable early intervention service providers to cover the
15 costs of adequately staffing the program with qualified service coordinators, early educators, and
16 licensed professionals to deliver all services required under Part C of the Individuals with
17 Disabilities Education Act. Staffing costs shall include competitive wages that are at or above the
18 median wage for the profession based on the most recent occupational wage estimates for Rhode
19 Island from the U.S. Bureau of Labor Statistics.

20 (2) Annually, on or before July 1 of each year beginning July 1, 2025, the Medicaid
21 payment rates for early intervention shall be adjusted to reflect increases in program operating
22 costs, based on the Consumer Price Index calculated by the U.S. Bureau of Labor Statistics.

23 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would direct the executive office of health and human services (EOHHS) to
2 increase Medicaid rates for the early intervention programs allowing for payment of competitive
3 wages for qualified professionals. This act would further change the title of the section from early
4 intervention program for developmentally disabled infants to early intervention program for infants
5 and toddlers with developmental delays and/or disabilities and update the basic program
6 requirements and name of the state agency responsible for the program to be the executive office
7 of health and human services (EOHHS) which has been overseeing the early intervention program
8 under Part C of the federal Individuals with Disabilities Act.

9 This act would take effect upon passage.

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