

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

August 20, 2013

Dear Health Plan CEO:

As you may be aware, Public Health law was amended in 2012 with new requirements for health plans, with respect to the services provided to enrolled families with disabled children participating in the Early Intervention Program (EIP). These new requirements were implemented on April 1, 2013, and compliance by health plans is critical in order for these children to receive essential therapies in a timely manner. The purpose of this letter is to make you aware of an urgent situation that calls for your immediate attention.

Since implementation on April 1, 2013, while 446,066 claims have been submitted to commercial insurers, only 103,528 (23%) have received a response from the insurer (either in the form of a payment, denial, or request for additional or corrected information). EIP providers and the New York State Department of Health's (Department) State fiscal agent (SFA) have informed the Department that payment to providers for claims submitted to commercial insurance has been delayed as a result of numerous issues, including insurers that have misdirected payment to families and rendering therapists, remittance information that has been sent to providers rather than the fiscal agent, and many insurers that have yet to respond to submitted claims. The Department understands from providers that delays in adjudication of commercial insurance claims have resulted in significant financial hardship for EIP providers. The Department has also been made aware that some EIP providers have, as a result of these issues, ceased participation in the EIP, which threatens service delivery for disabled children and their families.

Specific amendments to public health law are summarized below. Guidance describing these changes was issued to insurers by the New York State Department of Financial Services (DFS) on June 26, 2013 and is posted at:

http://www.dfs.ny.gov/insurance/health/EIP_reimburse.pdf.

- Claims for children in EIP are now submitted to the health plan by the provider through the SFA under contract with the Department. Previously, counties submitted claims on behalf of providers;
- Payments to providers for any non-covered services are made by counties and the State once the claim is adjudicated by the health plan;
- EIP providers are subrogated to the rights the insured has under an insurance policy or plan, pursuant to § 2559(3)(d) of the Public Health Law and § 3235-a(c) of the Insurance Law. Therefore, insurers are required to send payments to

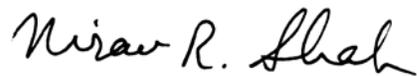
providers, and not to counties or to the insured/insured's parent(s). Insurers must send payments to providers, and remittance information must be sent to the SFA.

The Department is working closely with health plans to identify ways for health plans to identify and adjudicate Early Intervention providers' claims in a timely manner. The Department is also working closely with DFS to monitor the compliance of health plans with these requirements, and to ensure that claims submitted by EIP providers are properly adjudicated in a timely fashion, as required by State law.

Attached is information we have discussed with health plan representatives, which may be useful to your health plan to implement these new Public Health Law requirements.

Please join us to assure timely payment for Early Intervention providers to preserve this needed resource for disabled children and their families. If you have any questions about the Early Intervention Program, applicable Public Health Law, or the Department's State Fiscal Agent, please contact Donna Noyes, Ph.D. or Brenda Knudson-Chouffi, Co-Directors, Bureau of Early Intervention at (518) 473-7016. If you have any questions regarding insurers' obligations to adjudicate EIP payments under insurance law, please contact Laura Dillon, Supervising Insurance Examiner, Consumer Assistance Unit, Department of Financial Services at 518-474-4556 or by e-mail at laura.dillon@dfs.ny.gov.

Sincerely,



Nirav R. Shah, M.D., M.P.H.
Commissioner of Health

Enclosure