



MASSACHUSETTS ADVOCATES *for* CHILDREN

May 2, 2020

Marylou Sudders, COVID-19 Response Command Center Director
Executive Office of Health and Human Services
One Ashburton Place
11th Floor
Boston, MA 02108

RE: The Urgent Need to Maintain Early Intervention Services for Children with Disabilities Turning Age 3 during the COVID-19 Emergency

Dear Secretary Sudders:

Board of Directors

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Thank you for your steadfast leadership during this time of immense hardship and uncertainty facing the Commonwealth due to the COVID-19 pandemic. We applaud your and the Governor's swift and comprehensive efforts, coordinating stakeholders across multiple agencies and industries in order to protect the health and safety of Massachusetts residents while taking steps to mitigate the social, economic, and human impacts of this crisis.

We are writing to address the urgent needs of approximately 1900 young children with disabilities who have been receiving services through Early Intervention (EI) but are turning age three and facing abrupt, and in some cases dangerous disruption of essential services. These children are unable to effectively transition from the Department of Public Health (DPH) Early Intervention programs to school-based special education programs due to school closures. These toddlers are stuck between two systems—virtually unable to access vital services without government intervention.

We are respectfully requesting that the Baker Administration issue an emergency executive order or other immediate mechanism to authorize Early Intervention programs to continue providing services to all children deemed potentially eligible for special education services who turn three and are unable to transition to the school district due to the COVID-19 pandemic. We believe the order should include children who have been recommended for special education services by Early Intervention, and request that the order remain in effect until such time as schools re-open and children effectively transition to school-based special education services.

During the COVID-19 crisis, many low-income parents—disproportionately parents of color—are struggling as they face job loss, food insecurity, COVID-19 exposure and illness, and other stressors, all while attempting to care for their children at home. The

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situation is particularly challenging for families of children with disabilities turning three who are experiencing the major disruption and abrupt cessation of the services they need to move through their daily lives. Many of these children are not only falling behind, but are also exhibiting increased behavioral challenges, loss of vital communication skills, and in some cases dangerous behaviors such as bolting, self-harm, or harm toward others. In particular, children with complex medical needs and disabilities such as autism are highly vulnerable and require critical and continuous services during this crisis.

Federal and state law require the Commonwealth to ensure a smooth and effective transition for young children with disabilities, avoiding any disruption in services as children turn three and move from DPH Early Intervention to school district special education programs. 20 USC §1412(a)(9); 34 C.F.R. § 300.124; 603 CMR 28.04(1)(d). Under the current emergency circumstances, smooth and effective transitions are virtually impossible. The individualized transition process required will result in lengthy delays, disruption of services, and widening inequities based on families' race, income, and primary language.

Under normal circumstances, the transition from Early Intervention to the special education system is a process which involves obtaining parental consent, comprehensive in-person assessments, the convening of an IEP team meeting, and the development of an IEP (which must be sent to the parent in their primary language). During the COVID-19 emergency, in most instances it will not be possible to effectively complete all of these steps remotely in a timely manner. Under the present circumstances, each family and school district are required to attempt to negotiate this lengthy transition process remotely resulting in undue and harmful delays and disruption of service. Moreover, it is extremely unlikely that school-based providers, who have never met the pre-schooler or parents in-person, would be able to effectively provide remote special education services that meet the requirements of federal and state special education law.

Furthermore, if families are required to attempt to navigate the transition process on a case-by-case basis remotely while schools are closed, inequities and racial disparities will widen. Early data shows that the COVID-19 epidemic is disproportionately impacting communities of color, including immigrant communities. Families in these communities who are struggling to meet their basic needs during this crisis will have limited, if any, capacity to follow-through with a transition process that is replete with obstacles because of the system's inability to conduct in-person evaluations and IEP meetings in a timely manner. This is particularly true for immigrant parents who face additional language barriers. Implementing the emergency order (or other immediate action) will help to address the inequities of this crisis, ensuring that low-income children of color are not left behind.

We recognize that the executive order (or other immediate action) would need to address the requirement for MassHealth and commercial insurance to continue to provide coverage for

medically necessary Early Intervention services delivered by certified EI specialists beyond the age of three during this emergency. We believe this order would result in long-term cost savings for MassHealth and commercial insurance companies. Without such an order, many children will be without any services for months, resulting in significant regression. To address this regression, many of these children would later require MassHealth and commercial insurance to provide coverage for more intensive medically necessary services. In addition, insurance providers are already experiencing cost-savings attributed to several factors including: barriers to accessing Early Intervention services via telehealth; declining utilization overall due to family stress and acceptance of remote services versus traditional in-person services; and a reduction in length of services/total service hours delivered via telehealth. There is also a significant reduction in referrals to Early Intervention due to postponement of pediatrician well-visits and closure of childcare facilities, two of the major referral sources that identify delays in child development requiring evaluation and intervention.

The cessation of services for three-year-old children with disabilities also has long-term cost implications for school districts. Without appropriate services during this crisis, many children will require more intensive, restrictive, and expensive special education services by the time schools re-open, including services which are reimbursed by MassHealth such as speech therapy, ABA therapy and physical therapy services.

Allowing children turning three to remain in Early Intervention and continue to receive essential services while schools are closed is essential and feasible. The issuance of an emergency executive order or other immediate action would avoid disruption of vital services during a critical stage in child development. The action would allow for the continued provision of essential services and parent training necessary to ensure the safety of children and prevention of harmful regression, while addressing the widening inequities, including racial disparities, resulting from this crisis.

Sincerely,



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