

**Nassau County
Office of the Comptroller
Field Audit Bureau**



**Nassau County Department of Health
Limited Scope Financial and Operational Review
of the Early Intervention Program**

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OFFICE OF THE COMPTROLLER

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Executive Summary

Background

The county's Early Intervention Program (EIP) is an entitlement program under the federal Individuals with Disabilities Education Act, created in 1986, which New York State has delegated to municipalities to run and maintain. Early intervention services are mandated under Title II-A of Article 25 of the New York State Public Health Law. Pursuant to state law, no out-of-pocket costs to parents can be incurred for any child participating in the early intervention program. The Nassau County Department of Health's (the "department's") Division of Community & Maternal Child Health Services administers the EIP.

The EIP's mission is to identify and evaluate as early as possible those infants and toddlers whose healthy development are compromised and provide for appropriate intervention to improve child and family development.¹ The goals of the program include:

- minimizing the severity of developmental disabilities in affected children;
- helping parents meet the needs of their disabled children;
- providing services to previously underserved populations, and reducing the future cost of special education services for developmentally disabled children.

Eligible children include infants and toddlers with developmental delays or disabilities from birth to three years of age. Children can be referred to the program in a number of ways: by parents, social workers, day care providers, or doctors. The department assigns an initial service coordinator to arrange for any evaluation to determine eligibility and assist eligible children and their families in gaining access to necessary services. Each child is evaluated and found to be eligible or ineligible for services. The evaluation includes multidisciplinary services such as a health assessment and hearing and vision screening.

Individualized Family Service Plans (IFSPs) set forth services to be provided. Services may include physical therapy, occupational therapy, and speech therapy, and can be provided at either the child's home (or a relative's home or day care center), at a center, or through a community-based developmental group.

Because the state recommends a natural environment to the maximum extent appropriate for infants and toddlers receiving early intervention services, most children in Nassau's program receive services at home. Program services are delivered by authorized service providers as well as by department employees. The county's outside service providers are paid for services provided according to the state's fee-for-service reimbursement methodology. The IFSP is reviewed at six-month intervals and evaluated annually by the child's ongoing service coordinator, the parent or guardian, and the service provider(s).

¹ Early Intervention Coordinating Council Annual Report for program year July 1, 1999 – June 30, 2000.

Executive Summary

The EIP utilizes federal funds, under Part C (formerly Part H) of the Federal Individuals with Disabilities Education Act,² for the costs of developing IFSPs and for service coordination. The county reimburses outside service providers, and is in turn reimbursed by Medicaid, third-party payers, and New York State. The New York State Department of Health (NYSDOH) reimburses the county for 50 percent of reimbursable costs (after third-party payers and Medicaid reimburse the county).

The following schedule summarizes Nassau County's EIP related expenses and revenues over a four-year period:

Children's Early Intervention Services

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Contractual Expenses	\$31,604,218	\$37,470,951	\$39,471,771	\$40,986,540
Other Expenses	3,571,618	4,217,115	5,201,888	5,777,562
Total Expenditures	35,175,836	41,688,066	44,673,659	46,764,102
Total Revenues	18,210,074	21,170,965	26,602,899	30,420,727
County's Share of Expenditures	\$16,965,762	\$20,517,101	\$18,070,760	\$16,343,375
Children Served	5,720	6,182	6,471	6,573
County Expenditure per Child Served	\$2,966	\$3,319	\$2,792	\$2,486

In 2003, 6,573 children received services, a participation increase of more than 330 percent since the program's inception nine years earlier. Over the period 2000-2003, as shown in the above schedule, contractual expenses increased by \$9.4 million, an increase of almost 30 percent.

In 2001 the department developed a Quality Assurance Unit dedicated to the EIP. The unit monitors contract service providers and verifies the eligibility of each child referred to the EIP. Service provider claim vouchers and supporting documentation are reviewed by the unit's employees. As can be seen by the above chart, it appears that the unit's activities have been beneficial in controlling costs. While overall costs have increased, the county share of expenditures and the county expenditure per child served declined by 20% and 25%, respectively, between 2001 and 2003.

Audit Scope, Objectives and Methodology

Our audit scope included a financial and operational review of the department's administration of the EIP, assessing the efficacy of the program, and determining how efficiently the department controlled program costs. We did not examine the department's expenditures for contract service providers, since the Island Peer Review

² 20 U.S.C. §1471 et seq.

Executive Summary

Organization is examining EIP service providers in Nassau County under an agreement with NYSDOH.

The audit, covering the period January 1, 2001 through December 31, 2003, also included a review of the department's compliance with state regulations. We reviewed professional qualifications of EIP program staff and tested the department's compliance with NYSDOH's eligibility, IFSP, and termination guidelines. We verified on a test basis that services provided were in compliance with the children's individual IFSP. We obtained an understanding of the department's internal controls, policies, and procedures for the billing, collection, and reconciliation of third-party insurance, Medicaid, and NYSDOH EIP reimbursement. Individual services, requests for reimbursement, and reconciliations were reviewed and tested. We also reviewed contractual agreements and payments for transportation of children participating in the EIP, which are administered by the Department of Mental Health.

This audit was conducted in accordance with generally accepted government auditing standards. These standards require that the audit be planned and performed to obtain reasonable assurance that the audited information is free of material misstatements. An audit includes examining documents and other available evidence that would substantiate the accuracy of the information tested, including all relevant records and contracts. It includes testing for compliance with applicable laws and regulations, and any other auditing procedures necessary to complete the examination. We believe that the audit provides a reasonable basis for the audit findings and recommendations.

Summary of Significant Audit Findings

During the four-year period of 2000 through 2003, the administrative, operational, contractual, and service-related costs of the Early Intervention Program have totaled \$168 million. After insurance reimbursement and state aid, the county has borne \$72 million of these costs. While the EIP is a mandated program, we are concerned that services may not always be provided in a cost-effective manner, and neither the state nor the department have performed any analyses of the program's effectiveness. Also, evaluators may act as service providers, raising a conflict-of-interest issue that NYSDOH should address. Under such circumstances, there is a risk that the evaluator may recommend unnecessary services, and then perform those services, resulting in excess costs to the state and county. The state's sole review of EIP reimbursement methodology, covering the period July 1, 1993 through December 31, 1995, did not address this issue.

The ability to monitor the program's administration is diminished because of the antiquated, inadequate software system, the Kids Integrated Data System (KIDS), provided by the state. It "collects data but doesn't manage it," in the words of a senior fiscal staff member. KIDS has a history of program and technical problems. Moreover, it has none of the following important features:

- archive capability;

Executive Summary

- longitudinal tracking to monitor children’s progress;
- information retrieval and report writing features;
- ability to produce account receivable agings;
- ability to upgrade hardware.

Frequent system “crashes” have hampered the department’s administration of this vital program. Although the state plans to replace KIDS, requests for proposals have only recently been issued. According to senior EIP staff, implementation of a new system is “at least two years down the road.”

This obsolete system results in an over-reliance on manual tasks. These inefficiencies and staff shortages impede the department’s efforts to comply with state regulations, and hinder its efforts to maximize revenues from third-party insurance, Medicaid, and New York State.

The department has not met the state’s recommended workload of 25-60 children per Service Coordinator; rather, it has assigned a caseload of 85-94 children per coordinator. This workload may have contributed to the finding that more than 50 percent of IFSPs tested were not completed within the 45-day window established under NYSDOH regulations.

The department does not comply with state guidance regarding timely follow-up for nonpayment of third-party insurance. It has indicated that, due to staff shortages, it cannot always comply promptly with its own written procedures for issuing second and third insurance payment requests. We also noted that reconciliations of revenues received to KIDS and the Nassau Integrated Financial System (NIFS) records were sometimes not performed in a timely manner, or were documented manually and informally. NIFS is the general ledger system used to record and maintain the county’s financial records. The lack of reconciliation, follow-up and use of available avenues for collection, such as complaints to the New York State Insurance Department, may result in failure to collect revenues.

The department should seek assistance from the Department of Information Technology in automating the reconciliation process. Technologically advanced software solutions may allow the department’s staff to reduce reconciliation time, while maximizing revenue, as it awaits implementation of the New York Early Intervention System (NEIS), the eventual replacement for KIDS.

Departmental staff also failed to document some key information in children’s EIP files, contrary to state regulations and guidance. Evidence that the department performed a periodic evaluation of the child’s Medicaid and third-party insurance status was not documented in the individual files. Additionally, we noted that the department did not maintain copies of explanations of benefits forms or insurance rejection notices in the children’s file records.

Executive Summary

Department's Response

On December 20, 2004, we submitted a draft report to department officials with a request for comments. The matters covered in this report have been discussed with officials of the department during the audit, and in an exit conference held on January 25, 2005. The department's comments, received in a memorandum from the Commissioner, and two supplemental memorandums from the Director of the EIP and the department's Fiscal Office dated January 25 and January 27, 2005, and our response to those comments, are included as an addendum to this report (Appendix 1).

Table of Contents

<u>Findings and Recommendations</u>	<u>Page</u>
Lack of Cost/Benefit Analysis (1)	1
EIP Evaluation Process (2)	3
Kids Integrated Data System (KIDS) (3)	5
Service Coordinator Caseload (4)	7
Program Records (5)	8
Medicaid and Third-party Insurance: Periodic Status Review (6)	9
Third-party Insurance Reimbursement (7)	10
Third-party Insurance: Prompt Payment Complaints (8)	13
Reconciliation of Medicaid, Third-party Insurance, and State Reimbursement (9)	14
Appendix 1 – Department’s Response and Auditor’s Follow-Up	16

Findings and Recommendations

Lack of Cost/Benefit Analysis

Audit Finding (1):

Despite the material costs Nassau County incurs under the Early Intervention Program, there has been a serious lack of measurement of the program's costs and benefits. The administrative, operational, contractual, and service-related costs of this program have totaled \$168 million over the past four years (2000-2003). After insurance reimbursement and state aid, the county has borne \$72 million of these costs.

As can be seen on the following table, the number of children participating in the program and gross program costs for the services listed have grown significantly between 1997/1998 and 2002.

Program Year	Children	Evaluations	Service Coordination	Early Intervention Services	Transportation	Total
1997/1998	4,251	\$1,029,800	\$1,053,756	\$21,892,409	\$873,708	\$24,849,673
2002	6,471	1,422,000	1,972,328	38,853,945	1,048,301	43,296,631
Avg. Annual Growth Rate	7.25%	5.52%	11.01%	10.03%	3.08%	9.70%

One of the legislative objectives of the EIP was to "Reduce the educational costs to our society, including our state's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age."³ The tools to measure whether this objective is being accomplished are not in place. We contacted NYSDOH to determine if any EIP cost/benefit analysis data were available and whether comparative analysis between the various counties in New York State was being performed. No such current information was available. Additionally, the Nassau County Department of Health does not have a system in place to measure its progress toward EIP goals.

In 1997 the Office of the State Comptroller (OSC) issued an audit report on the state-wide EIP that evaluated program results. The report noted that NYSDOH had not established a system for measuring the extent to which program goals had been achieved. The auditors noted that it was essential that such a system be established. More recently, Cynthia B. Green, a member of the Governmental Accounting Standards Board, writing in the *New York Times*, noted, "the State of New York does not regularly measure and report on the performance of its programs, a system known as managing for results. In other words, no one in charge knows where our money is making a difference and where it isn't."⁴

³ Early Intervention Program for Infants and Toddlers with Disabilities and their Families, 1992 N.Y. Laws 428, at §1.

⁴ *The New York Times*, Op-Ed by Cynthia B. Green, "The Way to a Better Budget," August 4, 2003.

Findings and Recommendations

Audit Recommendation:

New York State law requires that a LEICC be established in each municipality,⁵ to advise local authorities about the planning, delivery, and assessment of EIP services. The department should work closely with the Nassau County Local Early Intervention Coordinating Council (LEICC), and with other New York State counties, to develop EIP monitoring approaches on the county level. The department should seek the support and cooperation of the other entities in developing cost-benefit assessment tools and a program evaluation system as soon as possible.

⁵ N.Y.S.P.H.L., Tit.II-A, Art.25, §2554 (McKinney 2003).

Findings and Recommendations

EIP Evaluation Process

Audit Finding (2):

After a child has been referred to the department for EIP services, an evaluation of the child is performed to:

- determine eligibility;
- perform a family assessment (at the discretion of the parent or guardian);
- gather information for the IFSP;
- prepare a summary and report prior to the IFSP meeting.

The evaluation is performed by a multi-disciplinary evaluation team chosen by the child's parents. The evaluation team includes a professional who can evaluate the child's overall development, and professional(s) with special knowledge about the child's problems, such as a motor therapist for a child delayed in walking abilities.

Under NYSDOH regulations and guidance, there is no prohibition against the same person or company providing the child's evaluation and other EIP services. This presents a potential conflict of interest. NYSDOH uses a fee-for-service reimbursement method for EIP, i.e., providers receive a specific pre-determined rate for each unit of service they offer. Since providers receive a fee for each such service they provide, self-interest might influence the provider to recommend unnecessary services. As a result, NYSDOH and the county Health Department could be paying too much.

In 1998 the Office of the State Comptroller presented a report on NYSDOH Early Intervention Program Reimbursement Methodology.⁶ The report analyzed various reimbursement methods, including fee-for-service, capitated (fixed-dollar amount per enrollee), and partially-capitated (combines features from fee-for-service and capitated methods) methods. The report analyzed the strengths and weaknesses of each method. While the issue presented in our audit finding above was not addressed in the state's report, some of its observations are relevant to this finding.

The report noted that while the fee-for-service system allows for good accountability for each service unit delivered, it contains conflicting incentives for providers and counties. Providers have an incentive to deliver additional and potentially unnecessary services to increase revenues, while counties have an incentive to contain costs and access to services. One factor that somewhat mitigates the risk of unnecessary services inflating costs is that county representatives, as well as the child's parent and the evaluator, participate in the IFSP process to set authorized service levels. The report notes that EIP

⁶ State of New York Office of the State Comptroller Division of Management Audit and State Financial Services, Department of Health: Early Intervention Program Reimbursement Methodology, Report 95-D-37, June 26, 1998.

Findings and Recommendations

officials are developing clinical practice guidelines to ensure children receive the proper services. Guidelines on autism and communication disorders have been issued, and additional guidelines and revisions will be developed on an ongoing basis.

Audit Recommendation:

The administration should encourage state policy makers to consider whether evaluations should be performed by professionals who are independent of service providers. NYSDOH assumed operation of the EIP on July 1, 1993, and now has more than 10 years of administrative experience. The State Comptroller's report covered the period July 1, 1993 through December 31, 1995, and it is appropriate that the state DOH re-examine EIP reimbursement methods, evaluation guidelines and similar issues in light of the benefit of this experience. The LEICC should also be apprised of this issue, and their guidance sought to effect corrective action.

Findings and Recommendations

Kids Integrated Data System (KIDS)

Audit Finding (3):

The Kids Integrated Data System (KIDS) is computer software provided by New York State to manage the EIP. It provides program administration, quality assurance and fiscal management data. KIDS collects basic information on each child participating in the EIP, including name, address, birth date, Medicaid status, insurance coverage, evaluation results, and service plan. The system generates certain types of reports to facilitate EIP administration, and produces letters to families and service providers, used for notification of service authorizations and cancellations. The fiscal management section of KIDS interfaces with the county's Nassau Integrated Financial System (NIFS) for payment information. It automates the payments of service provider claims and tracks reimbursement by private insurance, Medicaid, and NYSDOH.

According to Health Department fiscal and EIP program staff, the system has a long history of both program and technical problems. A senior Health Department staff member stated that the KIDS system "collects data, but doesn't manage it." The state is developing a new web-based system to replace KIDS, called the New York Early Intervention System (NEIS).

Discussion with key EIP fiscal and administrative staff, and review of KIDS reports and records disclosed some significant weaknesses in the KIDS system. They include:

- No archiving capability. Department officials noted that because of the growth of the EIP and the state's inability to develop an adequate archiving system, KIDS contains 10 years of files, resulting in an "extremely fragile system."
- No unique identifier, such as social security number, for participating children. This makes it more difficult for system users to ensure that they are referring to the proper client file, especially when clients have similar or identical names.
- After a child leaves the program, there is no capacity in the KIDS system to further track the child's future, so-called "longitudinal" progress. Thus, the value and effectiveness of the EIP in resolving developmental delays cannot be assessed.
- No capability to generate customized reports such as NYSDOH uncollected receivables by processing batch, or an aging of accounts receivable, geared to the department's own needs.
- The department is unable to print copies of some key KIDS screens, such as Bill Process Data. This impairs the ability of the department to maintain paper information files for each client.

In addition, the onset of our audit was hampered by a "crash" of KIDS that took days to

Findings and Recommendations

resolve, delaying our access to needed fiscal information. The department's remedial actions are limited by a New York State directive that states: "Do not attempt to change/upgrade equipment and/or software on workstations operating the current KIDS application; refrain from any changes in the network and/or server environment."

Audit Recommendation:

Because the county is represented on two NEIS advisory committees, every effort should be made to bring the above weaknesses to the attention of NYSDOH, to ensure that NEIS will adequately resolve them when implemented.

Findings and Recommendations

Service Coordinator Caseload

Audit Finding (4):

An “initial service coordinator” is appointed to help a child’s parent or guardian with all the steps necessary to obtain services under the EIP, including evaluations and the development of an Individualized Family Service Plan (IFSP). The IFSP is a written plan for providing early intervention services to an eligible child and the child’s family. After eligibility is determined, the parent or guardian chooses an ongoing service coordinator, whose primary tasks are to ensure that the child receives the services called for in the IFSP, and to ensure that the IFSP is regularly reviewed and changed if needed. NYSDOH recommends one service coordinator per 25-60 children

The department’s service coordinators currently oversee the cases of 85 to 94 children each. Department managers noted that while this is higher than NYS standards, the county’s service coordinators have been able to complete 90 percent of all ongoing service coordination, with the remaining 10 percent being performed by outside service providers. EIP senior staff noted that the department would have to triple its staff of service coordinators to meet the state’s recommended workload. In a comparative review, we noted that Suffolk County also exceeds the state’s recommended workload, with workloads of 125-150 per service coordinator. A NYSDOH Municipal Onsite Monitoring Report of the EIP in November 2001 noted Nassau’s high EIP caseload, and recommended that the county decrease caseloads to recommended guidelines. The department was unable to do so because budgetary constraints precluded staffing increases.

Audit Recommendation:

The department has increased staffing levels in order to minimize the need to contract out for service coordinators. In 2001 and 2002 new service coordination staff were added and trained; as a result the number of cases per Service Coordinator declined below 100 for the first time in several years. Department managers informed us that internal controls are enhanced and costs better controlled when these services are provided “in-house,” thus every effort should be made to continue this process. Countywide budgetary constraints may make it difficult to impossible for the department to reach the state’s recommended staffing levels in the foreseeable future. In its EI Memorandum 94-4 on Service Coordination, NYSDOH anticipated that caseload guidelines would be refined with additional EIP experience.⁷ Almost 10 years have passed since the memorandum; Nassau and Suffolk Counties may wish to press NYSDOH to revisit the issue.

⁷ Id.

Findings and Recommendations

Program Records

Audit Finding (5):

State law provides that an Individual Family Service Plan (IFSP) be developed for each child eligible to participate in the EIP. The plan details the child's level of development, identifies the family's priorities and concerns about the child's development, and identifies specific early intervention services that will aid the child. Each child's IFSP should be prepared in a timely manner, in accordance with NYSDOH guidelines. NYSDOH EIP Final Regulations state, "If the evaluator determines that the infant or toddler is an eligible child, the early intervention official shall convene a meeting within 45 days of the receipt of the child's referral, to develop the initial IFSP, except under exceptional circumstances, including illness of the child or parent."⁸

Our review of the program records of 20 children indicated that in 11 instances, the IFSP was completed an average of seven days after the 45-day window. The reasons for the delays varied; they included exceptional circumstances such as parental scheduling problems and unresolved issues regarding the child's eligibility. In two instances, however, evaluator backlog or delay was cited as the reason for missing the deadline; in another, delayed receipt of an evaluation summary was cited.

NYSDOH guidance states, "To enable the initial service coordinator to meet their responsibilities to facilitate the parent's understanding of the results of the evaluation prior to the IFSP meeting, it is important that the evaluator submit the report to all parties expeditiously." It also states, "To ensure that eligible infants and toddlers have the full benefit of early intervention services, services should begin as soon as possible after the IFSP meeting."⁹ Therefore, timely preparation of the IFSP is critical to ensure that these important goals are met.

Audit Recommendation:

The department should take corrective action to prevent delays of these types. Senior EIP staff should consider requiring management reports reporting on the status of IFSP plans in progress that are nearing the 45-day deadline. More attention would thus be focused on these IFSPs to ensure their completion within permitted timeframes. If staff shortages are a contributing factor, the administration's support and assistance in supplementing initial service coordination staff should be requested.

⁸ NYSDOH EIP Final Regulations, §69-4.11.

⁹ NYSDOH Early Intervention Memorandum 95-2.

Findings and Recommendations

Medicaid and Third-Party Insurance

Audit Finding (6):

New York State requires that municipalities seek payment from Medicaid and commercial insurance prior to submitting a claim for reimbursement from the state. NYSDOH has noted that “maximizing third-party payments, including both Medicaid and commercial insurance, is an important founding principle of both the Federal Individuals with Disabilities Education Act (IDEA) and New York State Public Health Law requirements governing the Early Intervention Program.”¹⁰ State law requires that “the initial service coordinator must obtain, and parents must provide, information about the status of the family’s third-party insurance coverage and Medicaid status and promptly notify the early intervention official of such status.”¹¹ Periodic reviews of the child’s status should be conducted every six months in accordance with NYSDOH guidance.¹²

The Health Department obtains Medicaid and third-party insurance information for each child participating in the EIP during the initial evaluation process. Its Quality Assurance Unit collaborates with the Department of Social Services on an ongoing basis to track the Medicaid eligibility of children in the program, by matching the Health Department and Social Services data bases to identify additional children with Medicaid.

A test of program files, however, did not disclose any written evidence that the department was periodically reviewing the Medicaid eligibility of each child participating in the EIP. Nor was there evidence in program files of periodic reviews of third-party insurance coverage. It is important for the department to maximize third-party payments, not only because it is a founding principle of the EIP, but because the reimbursement received by New York State is only 50 percent of reimbursable costs.

Audit Recommendation:

Information regarding the Medicaid eligibility of each child should be updated at least every six months when a review of each child’s IFSP is conducted. The review should be documented in writing in the child’s file. This could result in lower costs to the county if it were determined that the child obtained Medicaid coverage after entering the program. Similarly, regular reviews of the child’s insurance status should be performed, and should be documented in program files.

¹⁰ NYSDOH Early Intervention Program Memorandum 2003-2 Guidance on Claiming Commercial Insurance for Early Intervention Services.

¹¹ 10 N.Y.C.R.R., §69.4.7.

¹² NYSDOH Early Intervention Program memorandum 2003-2 Guidance on Claiming Commercial Insurance for Early Intervention Services.

Findings and Recommendations

Third-Party Insurance Reimbursement

Audit Finding (7):

The department's first step in obtaining reimbursement for EIP services is to seek payment from commercial insurance companies. This is required by both state Public Health Law¹³ and NYSDOH regulations.¹⁴ State Insurance Law requires insurance companies to pay "clean" claims within 45 days of the receipt of the claim.¹⁵ (If the insurer's obligation is not reasonably clear, or if there is a reasonable basis for review that the claim was submitted fraudulently, the 45-day time frame does not apply.) Notification of partial or complete denials should be conveyed in writing within 30 days of the claim's receipt. The department's policy on follow-up for non-response to insurance claims is to issue a second request letter after 60 days of the issuance of the original claim.

A review of individual EIP services for 15 children was performed to determine if third-party insurance, Medicaid, and NYSDOH reimbursement were claimed and collected in a timely manner. The sample was selected randomly from the 2,687 open cases listed in a July 2, 2003 KIDS "Listing Report for Active/Closed Cases." Two types of service per child were selected for testing; since some children received only one type of service, the total number of individual services tested was 23. The following insurance-related exceptions were noted:

1. In two instances the department failed to seek reimbursement from third-party insurance carriers. The department took this course because prior authorization for the service had not been obtained, and, based on prior experience with the carrier, they knew the services would be deemed non-reimbursable. Department policy did not call for the department to obtain the preauthorization documentation that the particular insurer, Oxford Plan, requires. These services totaled \$1,230, or 8.5 percent of the \$14,533 of individual services tested. The department failed to follow up to ensure that additional similar services for the children would have such authorization. In these instances department staff updated KIDS records to indicate the claims were "not billable." In effect, this prevented any future claims for the individual service type for these children to be billed to their insurance companies.
2. In eight instances where the Health Department billed a third-party insurer, the reimbursement, or explanation for the denial of reimbursement was not received in a timely manner. Reimbursement was received 60 to 123 days after the billing date for three of the transactions examined. These amounts totaled \$1,782. Reimbursement for another three transactions totaling \$1,406 was still pending, after being outstanding for 112 to 225 days. Two insurance payment rejections

¹³ N.Y.S. P.H.L., Tit. II-A, Art. 25.

¹⁴ NYSDOH The Final Regulations of the EIP.

¹⁵ NYS Insurance Law, § 3224-a (McKinney 2003).

Findings and Recommendations

were received 80 and 381 days after they were initially billed. The amounts claimed totaled \$1,066. Our review determined that the department was not following its own written policies for follow-up of insurance billings. A fiscal manager noted that staff shortages have affected the department's ability to send out KIDS generated second notices.

3. A copy of the insurance rejection notice or explanation of benefits form was not kept in the child's file record, as NYSDOH guidelines require.¹⁶

When we discussed these findings with departmental officials, they implemented some remedial actions. The department discontinued its policy of prematurely designating services lacking prior authorization as "not billable" in KIDS. In addition, for instances in which insurance companies deny benefits due to lack of prior authorization, the department will now review the child's file, and send Health Status Reports that include a physician's referral to the appropriate insurance company. The department's Prior Authorization/Referral written guidelines were modified to reflect the change in procedures.

By state law, counties are provided the right of subrogation for EIP services,¹⁷ by which the county receives any rights the child and family may be entitled to for third-party reimbursement of services covered by their insurance plan. The department sends a Letter of Subrogation to the insurance carrier when a child is first enrolled in the EIP in order to advise them of this right. Department fiscal staff indicated they were revising the Letter of Subrogation to request that insurance carriers advise the department beforehand of the types of EIP services covered and the documentation required. They believe this will reduce the number of claims that are submitted for non-covered services and the number of claims returned due to lack of documentation.

Audit Recommendations:

The department should:

- a. issue its second and third request-for-payment letters in a timely manner;
- b. bring staff shortages affecting this function to the attention of county administrators for corrective action;
- c. follow up and document insurance payment refusals;
- d. promptly pursue the necessary insurance authorizations for the service that will be needed; and
- e. maintain copies of rejection notices and explanations of benefits in the children's file records.

¹⁶ NYSDOH Early Intervention Guidance on Claiming Commercial Insurance for Early Intervention Services, Memorandum 2003-2.

¹⁷ NYSPHL, § 2559 (d) and 10 NYCRR 69-4.22(b).

Findings and Recommendations

Insurance refusals should not be entered in KIDS as “not billable” until this process is complete and documented.

EIP staff noted that a bill filed in the State Assembly would allow the IFSP to serve as proof of pre-authorization of services. A senior staff member noted that many counties are lobbying for the bill. Because this bill would significantly ease the billing process, the department should request the assistance of county administrators in urging our state legislators to support this legislation.

Findings and Recommendations

Third-party Insurance: Prompt Payment Complaints

Audit Finding (8):

In 2003, NYSDOH issued Memorandum 2003-2, EIP Guidance on Claiming Commercial Insurance for Early Intervention Services. The department is not in compliance with its guidelines for claiming insurance for early intervention services. We found eight instances (referred to in Audit Finding 6) in which the department billed a third-party insurer, and the reimbursement, or explanation for the denial of reimbursement, was not received within the 45-day period prescribed by state insurance law. The department did not file Prompt Payment complaints with the New York State Insurance Department when insurance companies failed to pay these EIP claims, as NYSDOH's guidance recommends. Prompt payment complaints may result in the insurance companies paying claims on a timely basis. State guidance on this topic says:

Section 3224-a of the Insurance Law requires insurance companies to pay clean claims within 45 days of receipt. If no response is received within 45 days, the state recommends that the municipality should contact the insurer to verify that the claim has been received, and that the insurer does not require additional documentation. The municipality should file a Prompt Payment complaint with the New York State Insurance Department if the insurer has not paid the claim after all required documentation has been provided. The state indicates that such complaints are generally resolved within four months. Insurers are required to provide an explanation of benefits (EOB) that includes a specific explanation of denials or reductions.¹⁸

At the outset of our audit the department's practice was to issue a second request-for-payment letter after 90 days of non-response from third-party insurance companies. However, the department subsequently developed written procedures providing for the issuance of a second request-for-payment letter after 60 days of non-response.

Audit Recommendation:

The department should comply with the NYS Early Intervention Program Guidance on Claiming Commercial Insurance for Early Intervention Services by filing a Prompt Payment complaint after 45 days of non-response by the insurance carrier. If staff shortages are hampering this effort, county administrators should be advised and their assistance in remedying the shortage should be requested.

¹⁸ NYSDOH Early Intervention Guidance on Claiming Commercial Insurance for Early Intervention Services, Memorandum 2003-2.

Findings and Recommendations

Reconciliation of Medicaid, Third-party Insurance, and State Reimbursement

Audit Finding (9):

Authorized service providers submit claims to the department on a monthly basis. The department reviews the claims for mathematical accuracy, contract claim deadlines, services provided and amounts billed. In KIDS, payment reports are produced in groups or “batches,” with a new “batch” including all new service provider payment entries ready for processing in a given time period.

The expenses incurred are recoverable through reimbursement in the following sequential order: private insurance, Medicaid and NYSDOH.

For the years 2000-2002, payments to EIP service providers increased from \$36.3 to \$42.8 million. Nassau County recovered approximately 55 percent of this cost from third parties, as follows:

Insurance	4.3%
Medicaid	9.0%
NYSDOH	<u>41.5%</u>
Total	<u>54.8%</u>

Effective accounting controls require that all provider billing and payment amounts be periodically reviewed and reconciled. Additionally, since Nassau County recovers approximately 55 percent of the amounts paid to service providers, it is important that accounts receivable be tracked and recoupments maximized.

Our review of the department’s payment and billing activity for the audit period indicated that the department was not performing such reconciliation in a complete and timely manner. For example, in a test of unresolved insurance claims, the department advised us that amounts claimed in January and March of 2003 were in batches that had not been reviewed by the department as of October 2003. Fiscal staff indicated that staff shortages have resulted in a failure to reconcile “batches” of services paid to reimbursements of said services in a complete and timely manner. Without this reconciliation, failure to obtain reimbursement may be undetected and follow-up will not be performed.

Audit Recommendations:

Since the county and state must fund costs that are not reimbursed by Medicaid or private insurance, it is essential that the department make every effort to maximize third-party reimbursement by:

1. Periodically reviewing and reconciling KIDS billing and payment reports in a complete and timely fashion. Following up and tracking outstanding accounts receivable in a timely manner.

Findings and Recommendations

2. Devoting the necessary resources to ensure that batches are reviewed in a timely manner.
3. If staff shortages are hampering these efforts, the situation should be brought to the attention of county officials for remedial action.

For guidance in implementing these procedures, you should refer to Comptroller's Control Directive 2: Internal Financial Controls and Control Directive 3: Cash Receipts. These directives are accessible from the Comptroller's web site.

Appendix 1

Department's Response and Auditor's Follow-up

Audit Finding (1): Lack of Cost/Benefit Analysis:

I fully agree with your assessment that the Early Intervention services have not been adequately evaluated either on a cost/benefit basis, or on their long-term effectiveness in raising children to their full potential. However, New York State Department of Health is responsible for overall program evaluation, and is the only agency with the resources to properly perform such a study.

Auditor's Follow-up Response:

The Office of the State Comptroller's 1997 audit report on the state-wide EIP evaluated program results. The report noted that both the NYSDOH and individual counties did not have systems in place to measure their progress toward EIP goals. The report acknowledged that it would be difficult for local EIP officials to measure long term progress. However, the report recommended that officials should begin monitoring progress toward such short-term goals as determining whether the EIP is providing equitable access to services, by monitoring the percentage of children less than three years of age that are in the program, in comparison to other counties. We recommend that department officials seek the support and input of the NYSDOH, LEICC and other New York State counties in developing and implementing short-term assessment tools.

Audit Finding (2): EIP Evaluation Process:

I agree that professionals performing evaluations should not provide services to those same children. This is a clear conflict of interest and this department, as well as the New York State Association of County Health Officers, has been recommending this policy change for many years.

Auditor's Follow-up Response:

We encourage the county's administration to lend support to the department's efforts to convince state officials that a policy change is needed.

Appendix 1

Department's Response and Auditor's Follow-up

Audit Finding (3): Kids Integrated Data System (KIDS):

Counties and the state are aware of the limits and liabilities of the KIDS system. The state is presently soliciting bids for a replacement system. In the meantime, my staff is evaluating other software that will make us more efficient and address some of your findings relating to 3rd party insurance billing.

Auditor's Follow-up Response:

We concur with the department's plan to evaluate other software.

Audit Finding (4): Service Coordinator Caseload:

The January 1, 2005 average service coordinator caseload was 71.

Auditor's Follow-up Response:

While demonstrating improvement, the caseload still exceeds the NYSDOH's recommendation of one service coordinator per 25-60 children

Audit Finding (5): Program Records:

Delay of an IFSP beyond the 45-day timeline, if for a reason that is parent generated, is deemed acceptable by NYS. There is a Quality Assurance protocol in effect to address contracted evaluator IFSP delay. The average number of late IFSP's per month is 25% and parent delay is the primary reason. A "late reason" report is available and monitored.

Auditor's Follow-up Response:

Our test of program records for 20 children receiving services in 2001 and 2002 indicated that in 11 instances, or 55%, the IFSP was completed after the 45-day window. However, our test disclosed two instances where evaluator delay was cited as the reason for missing the deadline, and one instance where delayed receipt of an evaluation summary was responsible. A December 2004 Quarterly Progress Statistics Report, provided with the department's response, listed 43 IFSP's completed late. For six of the cases evaluator backlog/delay, delayed receipt of evaluation report, and service coordinator's high caseload were provided as the "late reason"

Every effort should be made to reduce or avoid these types of delays. While the review of the "late reason report" may be a valuable tool, developing and monitoring a report that identifies IFSP plans in progress that are nearing the 45-day deadline might be more effective in preventing delays.

Appendix 1

Department's Response and Auditor's Follow-up

Audit Finding (6): Medicaid and Third Party Insurance:

Director of Early Intervention Program's Response:

The status of Medicaid and third-party insurance is reassessed at each IFSP review meeting (usually every 6 months but could occur at more frequent intervals) and documented on the Nassau County Early Intervention Program IFSP Review Plan (EI 5170.8 NCR 2/02 attached). This form passes through data entry and any insurance changes are entered into KIDS following insurance verification and initiation of the subrogation process.

Fiscal Office's Response:

Information on each child's insurance coverage (Medicaid and other Third party insurance) is updated every six months and notated on the IFSP report.

In addition, if the Fiscal Office receives an Explanation of Benefits (EOB) stating that a child's insurance policy is no longer in effect, a copy of the EOB is sent to the "insurance coordinator" to investigate.

The coordinator verifies the coverage and takes the following actions:

- Calls or accesses Insurance Co Website to determine date of termination
- Calls/writes letter to parent requesting new insurance info
- Enters new info into KIDS

Auditor's Follow-up Response:

The IFSP Review Plan includes a section where changes in insurance are listed during the six month review. Any changes in the child's insurance status must be noted and researched by the appropriate Health Department data entry/insurance coordination staff. Although the department indicated that this is done, it is not evidenced on the form or in the child's file. As changes could inadvertently be missed, we recommend that the insurance status review of the IFSP Review Plans be documented in the child's file, perhaps through a checklist or by a reviewer's signature and date.

Appendix 1

Department's Response and Auditor's Follow-up

Audit Findings (7) and (8): Third-Party Insurance Reimbursement and Third-Party Insurance Prompt Payment Complaints

In April 2004, the Department revised the Letter of Subrogation that is sent to the insurance carrier when a child is first enrolled in the EIP. The Letter now requests that the carrier advise us of all documentation that is required for referrals or for pre-authorization.

When we are notified of any requirements, we ensure that all documentation is provided. However, in some instances we are not able to provide the requested documentation (i.e. when they require "prior referral from a primary care physician to an "in-network" provider).

We have found that some insurers only provide partial information on their requirements. When we get a response, we submit the documentation that they have requested, along with the Health Status Form that includes a physician's referral. Quite often, the insurer will then send a denial indicating that we also needed to pre-certify the services. We feel this is a delaying tactic and we are reporting this to the NYS Insurance department, with a copy to the NYSDOH (EI Program).

In addition, some Insurers do not respond to our Subrogation Letter and we are not aware of any requirement that they must respond. We will investigate further.

Second Requests and Prompt Payment Complaints

The Dept now sends out the second request letters by Certified Mail; to expedite the billing process we have discontinued sending third request letters. To identify claims that require a second request, we produce reports of unreconciled claims from the KIDS. We review the reports to eliminate insurers that are self-funded (and therefore not required to pay for EI services) and to eliminate services that do not require billing (out-of-network provider, etc.). The second requests are mailed and if there is no response in a timely manner we proceed with a Prompt Payment Complaint.

We ran a report of unreconciled claims for a six-month period, sent out second requests, and then identified claims that were not responded to in a timely manner.

This resulted in Prompt Payment Complaints filed with the NYS Insurance Department for 25 children (with several claims for each child). The response has been disappointing:

2 of the 25 complaints have resulted in approximately \$750 in payments out of approximately \$15,000 billed

Appendix 1

Department's Response and Auditor's Follow-up

5 of the complaints have been acknowledged by NYS but not resolved

for the remaining 18 complaints:

- the NYS Insurance Dept forwarded our complaint to the Insurer
- the Insurer sent the State a copy of their EOB; apparently, they had processed the claim, but we never received the EOB – that is why we sent a Second Request!
- The State sent us a copy of the EOB and indicated that it appears the Insurer was in accordance with Prompt Payment guidelines.
- If the Insurer already processed the claim, they should have indicated that to us when they received our second request.

We feel this does not address our initial complaint of non-response in a timely manner and have asked NYS for clarification.

We have researched a software package that is being used in other Counties and should be of significant assistance in third party billing. We are having a “demo” of this software and hope to pursue purchasing it for the EI Program.

This software is able to produce an “open claims” report and also produce the second request letters. This should allow us to issue these requests in a more timely manner and also allow us more staff time to investigate and follow-up on the “problem” claims.

We still feel however, that second requests should not be sent out until 60 – 90 days after the first claim is sent; many times the responses “cross in the mail” and create a problem with follow-up.

Auditor's Follow-up Response:

We concur with the corrective actions being taken. We also support the department's decision to request clarification from New York State regarding the lack of response to its complaints against insurance providers. Although the response to the efforts to follow-up on 25 complaints has been discouraging to date, we encourage the department to continue to pursue the 5 complaints acknowledged by the state that have not yet been resolved.

We reiterate our recommendations that the department:

- *comply with Memorandum 2003-2, EIP Guidance on Claiming Commercial Insurance for Early Intervention Services, by contacting the insurer if no response is received within 45 days. While we understand the department's position that a 60 to 90 day period for issuing second requests to insurers' may be a more appropriate time-frame due to responses “crossing in the mail”, we recommend*

Appendix 1

Department's Response and Auditor's Follow-up

that the department comply with state guidance, while advising the state of the problems encountered as a result for possible revision or clarification.

- *Request the assistance of county administrators in urging our state legislators to support legislation to allow the IFSP to serve as proof of pre-authorization of services.*

Audit Finding (9): Reconciliation of Medicaid, Third-party, and State Reimbursement:

As indicated under the previous Audit Finding, although we still have staff limitations, we have taken some steps, and are pursuing others, that have expedited the billing process.

Sending out the second request by Certified Mail, and eliminating the need for third requests, has "speeded up" the billing of third party insurers.

The software package we hope to purchase will identify and send out second requests in a more timely manner and will free up staff to investigate and follow-up on the "problem" claims.

Streamlining third party insurance billing and reconciling, allows the claim to proceed to the next step - either Medicaid or finally to State reimbursement - in a more timely manner. We will continue to explore ways to expedite this process and are very hopeful that the new software will make a significant improvement.

Auditor's Follow-up Response:

We concur with the corrective actions being taken by the department. The county's administration should be encouraged to assist the department with its staffing needs.

We reiterate our recommendation that the department periodically review and reconcile KIDS billing and payment reports in a complete and timely manner.