AFC
Advocates for Children of New York
Protecting every child's right to learn

Testimony for City Council Hearing

Oversight of Medicaid Claims for Special Education Related Services by the Department of Education

March 1, 2012
Advocates for Children of New York

My name is Maggie Moroff. I am the Special Education Policy Coordinator at Advocates for Children of New York. At AFC, we work to protect every child's right to an education. For more than 40 years, our staff have successfully helped hundreds of thousands of families by providing free legal and advocacy services, educating families about what they need to know to stand up for their children's educational rights, and working to change education policy to ensure that the public school system serves all children of New York City effectively.

We appreciate the opportunity to testify today before the City Council Committees on Education and Finance regarding the oversight of Medicaid claims for special education related services by the Department of Education. We are not Medicaid experts in our office, but we do hear from parents through our direct case work and our policy efforts, and we have come here today to relay some of their concerns.

Parents do ask us about the Medicaid waiver forms, and we are, honestly, conflicted about how to advise them. We can't promise signing the waiver will lead to better delivery of services, and we actually fear that it could lead to a further reduction of services as Early Intervention, preschool special education, and school aged special education programs will now be competing to get more out of Medicaid, while Medicaid is simultaneously working to reduce its own costs. In addition, we cannot assure parents that Medicaid will not cut their benefits. While there are statements in the law about how DOE access to Medicaid and private insurance should not reduce levels of service or result in elevated rates, it is hard to see how this will be enforced. Practically speaking, we understand that the DOE, Medicaid, and insurance companies already look at what a student might be receiving elsewhere to justify reducing services. We can envision a scenario where both the DOE and Medicaid will claim the other is responsible. Neither will take on the responsibility to cover service costs, money will be saved, but at great expense to the students involved. If the DOE is to pursue Medicaid waivers more aggressively from families of students with disabilities, we would hope that some mechanism to protect needed services will be instituted immediately. We would like to hear more from the DOE about its plans to establish such mechanisms.

Additionally, the DOE has thus far failed to communicate and educate parents around this issue, and any consent signed by parents at this point is likely to be less than informed. Without a disclaimer about the possible effects of the waiver (e.g., reduced services out of school for specialized therapies and counseling), or any mechanism to withdraw the waiver if it turns out that families do see service reductions, we will likely continue to make clear our own concerns to the parents that reach out to us.

Thank you for your time and attention. I am available to answer any questions our testimony may raise for you.