



CAN A CHILD WITH A CHRONIC HEALTH IMPAIRMENT OR SERIOUS ILLNESS GET HELP TO ATTEND SCHOOL OR TO LEARN AT HOME?

IMPORTANT: ELC's publications are intended to give you a general idea of the law. However, each situation is different. If, after reading our publications, you have questions about how the law applies to your particular situation, contact us for a referral, or contact an attorney of your choice.

When is my child entitled to help from her school district?

There are two routes to establishing that your child with a chronic illness is entitled to special supports from the district. One is the "special education" route. If you and the district agree that your child has a disability and as a result needs specialized instruction, she is entitled to special education services under a federal law called the Individuals with Disabilities Education Act (IDEA) and state regulations called Chapter 14.

The other route is for children who have a chronic illness or disability and need some help or accommodation in school or at home, but who do not need special instruction. These children have protections under a federal law called Section 504 of the Rehabilitation Act and Chapter 15 of the state regulations.

Children eligible for "special education" under the IDEA and Chapter 14

School districts must provide special education services, including therapies and other services, to children with physical, cognitive, and emotional disabilities who because of their disability need to be instructed differently. Children with

chronic health impairments or serious illnesses who need this type of help are usually considered "other health impaired." A child is "other health impaired" if she has a severe or on-going health problem that limits her strength or alertness in school, or raises her sensitivity to the school environment - *and affects her ability to learn*. Examples of serious health problems that may qualify your child for special education if they affect your child's ability to learn are: *asthma, attention deficit disorder ("ADD"), attention deficit hyperactivity disorder ("ADHD"), diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia*.

If you think your child may be eligible for special education, write to your school principal and ask for an evaluation of your child. If the school agrees that your child is eligible for special education, you and the district will develop an Individualized Education Program (IEP) that lists the special education and other services your child needs. (For more information on the special education process, see ELC's manual *The Right to Special Education in PA - A Guide for Parents* and other publications that can be obtained from ELC's website or from the telephone numbers listed below.

In addition to special education and therapies, your child can be entitled to a related service called "school health services." School health services include medical services that are not provided by a doctor and are necessary during the school day. One example is "clean intermittent catheterization" for a child with spina bifida. Another is a nurse to monitor the child's health condition during the school day and to accompany the child on the school bus. The service should be listed on the student's IEP and the school district must make sure that it is provided. This doesn't mean that another system - usually the Medical Assistance system - can't provide or fund the service. But it does mean that the school district is responsible for making sure this happens without charge to the family.

Sometimes a child with a chronic health problem who is eligible for special education cannot attend school regularly, or misses school for long periods. Parents and the school district should determine how the student will receive her assignments and how much in-home teaching the student needs (the minimum is five hours, but if more is appropriate for the child the child should receive more) and include the decisions in the student's IEP. Specially designed instruction can also be provided while your child is in the hospital if the child is not too ill to learn.

Children who are eligible for accommodations and supports under Chapter 15

If your child has a health problem that affects a "major life activity" and needs help - but not specialized instruction - to participate in and benefit from the school district's education or extra-curricular program, she is entitled to special accommodations from her school district. These students' rights are protected by federal and state law. *Major life activities* include *learning, walking, seeing, hearing, speaking, breathing, and caring for oneself*.

If you think your child needs special supports or accommodations to participate fully in school, **but the child does not need specialized instruction**, write to your school principal. In your letter, explain the type of help you believe your child needs. You can include copies of evaluations, records, or prescriptions. The school district must evaluate your child (or accept the private evaluations) and determine whether your child qualifies for a "service agreement" (also called a Section 504 Plan). A 504 Plan lists the services and accommodations your child needs. Examples of Chapter 15 accommodations are: permitting a child with a seizure disorder to stay indoors during recess when it is hot outside; dispensing medication for a student with asthma; and having a child with a vision impairment sit close to the blackboard.

What if the school district and I don't agree on whether my child is eligible for an IEP or service agreement, or the type, amount, or location of services needed?

If you disagree with your school district over the child's eligibility , or type, amount, or location of services provided in your child's IEP or service agreement, you can:

- Request mediation from the Special Education Mediation System operated by the Pennsylvania Department of Education.
- Request a *Pre-Hearing Conference* (called an *Informal Conference* for children with Chapter 15 service agreements) with district officials by sending a written request to the principal or superintendent. Within 10 *school* days of receiving your request, the district must hold the conference

to try to resolve the disagreement (for a child eligible for special education, either the parent or the school district can skip the Pre-Hearing Conference).

- If the problems are not fixed at the Pre-Hearing or Informal Conference, you can request a formal *Special Education Hearing*. For more information on mediation, the hearing system, and other options for resolving disputes, see ELC's Fact Sheet entitled, "Resolving Special Education Disputes."

Can I get help for my child from any other source?

Medical Assistance or Medicaid ("MA") is the federal/state insurance program that pays for health screens and treatment services for low-income children and adults. In Pennsylvania, children with disabilities sufficiently severe to qualify for federal Social Security Income benefits are eligible for MA unless they have income in their own name (for example, a trust fund in the child's name). *Thus, virtually all children with severe physical or behavioral disabilities in Pennsylvania qualify for MA coverage.* Eligible children have the right to all "medically necessary" physical and behavioral health services. This includes routine medical care (such as immunizations or treatment for ordinary illness), but it can also include quite specialized and costly services.

Children who qualify for MA get an "ACCESS" card, which they can use to buy a wide range of prevention and treatment services. If families also have private health insurance, MA will require them to use their private insurance first. However, MA services must be free and promptly provided, and no co-pays or additional payments can be charged to families.

Some key behavioral health services covered by MA are: *residential treatment facilities, behavioral health rehabilitation services (the most common of which is Therapeutic Staff Support or "TSS," that is, staff who provide one-on-one support to children with serious behavioral problems), medication for behavioral problems (such as Ritalin for children with Attention Deficit Disorder), and partial hospitalization programs.* On the physical health side, MA pays for, among other things: *therapies, shift and intermittent skilled nursing, communication devices and other durable medical equipment, and personal care services for children who need assistance with basic activities of daily living*

(eating, dressing, hygiene, etc.). MA must provide eligible children with the medical services necessary to meet the child's physical and behavioral needs during the school day, and provide services in the child's home, community, or in the school setting.

Remember, even if your child is receiving a service during the school day through MA (such as a nurse or TSS support) that is needed for her to learn or attend school safely, it is important that the service also be listed on her IEP. That way, if your child is no longer eligible or there are other problems with Medical Assistance, you can be certain that your child will have the help needed to continue in school.

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