



Education Law Center

Making sure that all of Pennsylvania's children
have access to quality public schools

WHEN IS YOUR CHILD ENTITLED TO THERAPIES OR OTHER "RELATED SERVICES" FROM YOUR SCHOOL DISTRICT OR EARLY INTERVENTION PROVIDER?

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.

WHAT ARE RELATED SERVICES?

Related services are services that are needed *to help a child with a disability benefit from her special education or early intervention program* (for children under three, they are called early intervention services). Examples of related services include: interpreting services for children who are deaf; transportation to, from, and around the school; speech and language pathology and audiology services; psychological services; physical and occupational therapy; recreation (including therapeutic recreation); social work services; and counseling services. Children with disabilities under age three can also get nutrition and service coordination (intensive case management).

A medical device (such as a cochlear implant) that is surgically implanted, and the replacement of such a device, does not have to be provided by a school district. However, the school district is required to routinely check a hearing aide or the external part of a cochlear implant to make sure that it is functioning properly. *Related services must be provided at no cost to the child's family, and cannot be limited or denied because of inconvenience or cost to a school district, a public charter school, or an early intervention agency.*

CAN RELATED SERVICES INCLUDE MEDICAL SERVICES OR SERVICES FROM A NURSE?

"Medical services" - that is, services that must be provided by a licensed physician - are related services only to the extent that they are needed to determine whether the child has a

disability and the kind of special services the child needs. But school nurse or school health services (called health services for the youngest children) that are needed for the child to benefit from her Individualized Education Program (IEP) are "related services" that a school district must provide if needed for a child to attend school safely. Examples include maintenance of a child's tracheostomy and feeding tubes, the administration of medication or clean intermittent catheterization during the school day. Even private duty nurses can be a related service for a child who needs that help to benefit from her IEP.

IF I THINK MY CHILD NEEDS A RELATED SERVICE, HOW DO I GO ABOUT GETTING IT?

You should ask the school district or early intervention agency, *in writing*, to evaluate your child to determine if she needs the service to benefit from her special education or early intervention program. If you are dissatisfied with the evaluation results, you can ask your district or early intervention agency to pay for an independent or "outside" evaluation (one conducted by someone who is not employed by those agencies). You can contest a school district's refusal to pay for an independent evaluation by proving that the school district's evaluation was insufficient or otherwise inappropriate at a special education hearing. Whether funded by you or by the school district, an independent evaluation must be "considered" (but not necessarily accepted) by the district or early intervention agency. For more information on independent evaluations, see ELC's fact sheet, "Getting Your Child an Independent Educational Evaluation" at our website listed below.

WHAT TYPE OF INFORMATION SHOULD BE COVERED IN ANY OUTSIDE EVALUATION I OBTAIN?

The evaluator should specifically address why the related service is needed to help the child progress in the goals in the child's IEP or Individualized Family Service Plan (IFSP) for a child under age three (3). *The report should make specific recommendations as to the type and amount of service needed.* Keep in mind that the law only requires a school district or a pre-school early intervention agency to provide a child with the type and amount of related services necessary for her to benefit from the special education or early intervention program. For children under three, the child should receive the amount and type of related services that are "appropriate." A child who is eligible for Medical Assistance may be entitled to additional services - such as therapies - through that system. Medical Assistance owes an eligible child all medical services that are "medically necessary."

DOES THE LAW REQUIRE THAT RELATED SERVICES BE LISTED ON A CHILD'S IEP OR IFSP?

Yes! Each child's IEP or IFSP must set forth each related service that will be provided to the child. The IEP or IFSP should list the service, how frequently the service is to be delivered, when the service will begin, and how long the session will last (for example, physical therapy, three 45-minute sessions per week, to begin immediately and to continue until the end of the School Year).

CAN YOUR SCHOOL DISTRICT OR EARLY INTERVENTION (EI) AGENCY ASK YOU TO USE YOUR MEDICAL ASSISTANCE (MA) COVERAGE OR YOUR PRIVATE INSURANCE TO PAY FOR RELATED SERVICES?

Related services must be free to the child and family. If your child is eligible for Medical Assistance (MA), your district or early intervention agency can ask you to help them get money through MA for services in the child's program that are also covered by MA. Often families can get more of certain services or equipment from the MA system than from their special education or early intervention program, since the MA system must provide eligible children with all "medically necessary" services and equipment, not just enough services or equipment for the children to "benefit" from their special education or early intervention programs (the rule for school districts and pre-school EI agencies). Many families use MA to get, for example, extra therapies or private duty nurses during the school day. Moreover, if the family gets equipment funded by MA (for example, a communication device or a motorized wheelchair), the student and family own that device and can keep it during the summer and after the student graduates. Districts and early intervention agencies can ask parents to use private health insurance to pay for these services, *but parents do not have to agree if there is any direct cost (like a deductible) or indirect cost (like a cap on what the insurance will pay in a year or overall) involved.*

If MA pays for a service that is also a necessary part of the child's special education or early intervention program, it is important that the service be listed as a related service in the IEP or IFSP. Then, if the family has a problem getting the service through MA (for example, the child becomes ineligible), it is clear that the school district or early intervention agency must provide the service itself.

HOW CAN I BE SURE THAT MY CHILD RECEIVES ALL NEEDED RELATED SERVICES?

Be sure that all of the related services recommended by the evaluation team, and that you think are needed, are listed on your child's IEP or IFSP. Once a related service is included in a child's IEP or IFSP, the child's district or early intervention agency must ensure that it is provided to the child along with other special education or early intervention services. If your child is not receiving a related service listed on her IEP or IFSP, you should complain to your district or early intervention agency. You may be entitled to additional related services to compensate you for any missed sessions.

WHAT SHOULD I DO IF I CAN'T WORK THINGS OUT?

- **You can file a complaint with DOC:** If the school district is not providing the related services that are listed on your child's IEP, send a "Complaint" to DOC at 333 Market St., Harrisburg, PA 17126-0333. For information on how to file a complaint, including a complaint form, see http://www.pde.state.pa.us/special_edu/cwp/view.asp?A=177&Q=125191. We recommend this approach *if* it is clear that your child did not receive services that were actually listed on her IEP. We don't recommend a DOC complaint if the dispute involves how much or what type of related service your child needs. In those situations, a hearing request or mediation are better options. DOC will investigate your Complaint and send you a report within 60 calendar days. If DOC agrees with you, it will order compensatory services - but it may leave it to the IEP Team (which includes the parents) to decide specifically what services, or how much service, to provide.
- **You can request mediation:** Call the Office for Dispute Resolution (ODR), which operates the Special Education Mediation Service (800-222-3353). For more information on mediation in Pennsylvania, see <http://odr.pattan.net/mediation/default.aspx>. ODR will ask the district if it is willing to try mediation. If it is, the office will assign a trained mediator who will hold a meeting at which the mediator will try to help you and the district work out an agreement. You don't have to agree to anything, but if you reach an agreement it must be listed on the student's IEP so that the district will be required to provide it.

- **You can ask for a hearing:** If you decide not to try mediation, or if mediation is unsuccessful, the next step is to request a hearing. For more details on how to make a hearing request, see ELC's Fact Sheet, *How to Resolve Special Education Disputes*, or contact the Office of Dispute Resolution directly at <http://odr.pattan.net/dueprocess/DueProcessFactSheet.aspx>.
- **What if your child is under age three?** For information on your dispute resolution options if your child is under age three (which include mediation, a complaint process, and a hearing), see <http://www.pattan.net/files/EI/ProblemSolvingEI-ffff.pdf>. The Office of Child Development and Early Learning (OCDEL) has 60 calendar days to investigate and issue a report. Please note that different deadlines apply. For more details on the rights of children under age three, see ELC's manual, *The Right to Early Intervention for Infants and Toddlers and Their Families in Pennsylvania: A Handbook for Parents* (2008 edition).

Funding for this brochure was provided by:

Disability Rights Network of Pennsylvania (DRN), pursuant to the Developmentally Disabled Assistance and Bill of Rights Act, P.L. 101-496, and the P&A for Mentally Ill Individuals Act, P.L. 99-319. DRN is located at 1414 N. Cameron Street, Suite C, Harrisburg, PA 17103. Telephone: 800-692-7443 or 717-236-8110. Website: www.drnpa.org.

Pennsylvania Interest on Lawyers Trust Account Board (PA IOLTA)

Prepared by: *Education Law Center (Rev 4/09)*
 (215) 238-6970 (Philadelphia)
 (412) 258-2120 (Pittsburgh)
www.elc-pa.org