



HCBS versus State Plan Services Delivered During School/Day Time

Home and Community Based Services (HCBS) cannot be provided in K-12 educational settings including home school/virtual settings

Home and Community Based Services (HCBS) such as Community Habilitation and Respite cannot be duplicative or delivered at the same time as services otherwise available to the individual through a local educational agency for educational services in grades K-12 under the Individuals with Disabilities Education Act (IDEA) or Vocational Rehabilitation under the Rehabilitation Act of 1973.

Medicaid waiver funding may not be used to pay for special education and related services that are included in a child's Individualized Educational Plan (IEP) under the provisions of Individuals with Disabilities Education Improvement Act of 2004 (IDEA). This funding restriction applies to HCBS provided to individuals enrolled in K-12 education during scheduled time for educational instruction, even when the child is home schooled or receiving virtual instruction.

The schedule for HCB Service delivery for children and young adults who attend school in-person must be outside of regular K-12 school hours. For students who are home schooled or receiving virtual instruction, HCBS can be delivered during traditional school hours, but the services must be outside the scheduled time for educational instruction provided to the child. For individuals who participate in educational services K-12, the need for HCB Service hours should be determined based upon an individual's daily schedule and activities.

Supports for adult education outside of K-12 education may be provided under the HCBS waiver. Once a youth has graduated from high school, HCBS supports for Activities of Daily Living (ADLs), Instrumental Activities of Daily Living (IADLs), health related tasks, and socialization and recreation can be provided in a variety of community settings, which include adult education. Technical schools, colleges, and other adult education settings are approvable HCBS settings because adult education and adult education settings are not addressed/prohibited under the IDEA. Supports under HCBS are therefore available in these settings, as they would be in any other community situation.

State Plan services such as personal care may be provided in K-12 educational settings, including home school/virtual settings

Medicaid State Plan services, such as personal care or psychosocial rehabilitation, may be provided during school hours. Examples of IDEA services that can be billed to Medicaid include physical therapy, occupational therapy, personal care, psychosocial rehabilitation, and services for children with speech, hearing and language disorders. State Plan services are those covered under Section 1905(a) of the Social Security Act. See 42 C.F.R. 441.301(c)(2)(v).

HCBS limitations do not prohibit the provision of Medicaid State Plan services such as personal care, or psychosocial rehabilitation during school hours. For EPSDT State Plan services, the child may receive all medically necessary personal care and other State Plan services during the school day just not "HCBS". State Plan services are those covered under Section 1905(a) of the Social Security Act. See 42 C.F.R. 441.301(c)(2)(v).