



HCBS During School/Day Time

Home and Community Based Services (HCBS) cannot be provided in pre-K to 12 grade 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 pre-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 pre-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 pre-K-12 school hours. For non-school aged children/youth, there is no prohibition on providing HCBS during regular "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.

HCBS provided to family members/collateral contacts, such as Caregiver Family Advocacy and Support Services, can be provided during the school day to parents and other applicable collateral contacts of HCBS enrolled youth during the school day. Additionally, staff members assisting parents/caregivers in advocating for their HCBS enrolled child/youth's needs at school scheduled IEP meetings, may do so during regular school hours.

Supports for adult education outside of pre-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.

For individuals who participate in educational services pre-K-12, the need for HCBS should be determined based upon an individual's daily schedule and activities. The schedule for HCB Service delivery must be person-centered and take into consideration the other services/supports available to the child/family. The child/youth's availability, age, and needs should all be considered when determining the frequency/scope/duration of HCBS.