

HEALTH CARE PLANS AT SCHOOL – Some things you want to know

I. HOW TO ASK FOR A HEALTH CARE PLAN

A. Does my child need a health care plan for school?

If your child has a health condition, he may (or may not) need a health care plan for school. There are two ways for children to have a health care plan: 1. Children who qualify for special education may have a health care plan as part of their Individualized Education Plan (IEP). 2. Children who do not qualify for special education may have a health care plan either as part of a 504 plan or simply as a separate health care plan.

The most important thing to consider when deciding if your child needs a health care plan for school is whether your child's health condition impacts her ability to be safely at school benefiting from her education. These three questions will help you decide:

First, does your child have any "physical or mental impairment"?

"Physical impairment" is any disorder of the body. "Mental impairment" is any mental OR psychological disorder.

Second, does this impairment "substantially limit" your child? This is critical – does the impairment substantially impact your child's ability to be safely in school benefiting from her education? There can be disagreement about whether something substantially limits someone but, in general, the more serious or life-threatening your child's condition is, or the more permanent is, the more likely it will be seen as a substantial limitation.

Third, does this impairment substantially limit one or more of your child's "major life activities"? Major life activities are things that allow a child to be safely in school (e.g., caring for himself, walking, or breathing) or to benefit from his education while he is there (e.g., learning, speaking, or working).

If you answered yes to these three questions, your child likely needs a health care plan for school. If you answered yes to at least one question, your child MAY need a health care plan for school. Your school and your child's health care provider can help you decide.

B. Does every child who has a physical or mental impairment need a health care plan for school?

NO. If your child's condition is successfully managed outside of school OR has no impact upon his ability to be safely in school benefiting from his education, your child probably does not need a health care plan. (However, if your child has a significant health condition that is normally addressed outside of school, your child might need an **emergency** care plan.)

C. How should I ask the school for a health care plan for my child?

Start by talking with your child's teacher. If your child receives special education services, you can also contact your child's special education coordinator. If your child does not qualify for special education, you can request a meeting with the school district's 504 coordinator.

D. What information do I need to request a health care plan for my child?

You need information about how your child's physical or mental impairment impacts her ability to be safely in school benefiting from her education. Your child's health care provider can help you gather this information. Try to give the school specific information about what your child's needs are and why the child needs a health care plan to address these needs.

II. THE HEALTH CARE PLAN

A. What services and accommodations can be included as part of a health care plan?

Health care plans can include those services and accommodations that a child needs to be safely in school benefiting from her education. Schools are obligated to provide ALL of these necessary services and accommodations with two exceptions: 1. If the service or accommodation can safely be provided to your child outside of school without impacting her ability to be safely in school benefiting from her education, the school does not have to provide that service or accommodation. 2. If the service or accommodation can ONLY be provided by a physician, the school is not obligated to provide this UNLESS it is needed to diagnose or assess your child's medically related disability.

Services and accommodations can be as simple as extra time to complete examinations or a preferred seating assignment. These can also be as involved as tracheotomy care and suctioning, or administration of medication. These must reflect your child's individual needs. The school district will very likely require that your child's health care provider agree with the services and accommodations that are part of your child's health care plan.

B. Who pays for the health care services and accommodations that my child receives at school?

The school district is responsible for paying for the services and accommodations that your child needs under his health care plan. This includes any adaptive equipment specified in his IEP or 504 plan that helps him to access his education. However, the school district does NOT have to pay for your child's medication or for his personal medical equipment (e.g., oxygen tank or suctioning device).

C. Can the school use Medicaid or our private insurance to pay for these services and accommodations?

The school is ultimately responsible for paying for the services and accommodations in your child's health care plan. However, the school may ask for your **permission** to bill either Medicaid or your private insurance for some of the services and accommodations.

If your child has Medicaid insurance, the school district may ask you if they can bill Medicaid for some of your child's services and accommodations. However, the school district can **ONLY** use your Medicaid insurance if this would **NOT**: (a) Decrease your child's overall lifetime coverage or any other insured benefit; (b) Make your family pay for services that would otherwise be covered by Medicaid and are required by the child when he is not in school; (c) Increase your premiums or lead to the discontinuation of the insurance; **OR** (d) Make your family risk losing their eligibility for other waivers based on your overall health care expenditures. **If you have any questions about this, contact Medicaid.**

If your child has private insurance, the school district may ask you if they can bill your private insurer for some of your child's services and accommodations. **BEFORE you agree to this, CHECK WITH YOUR INSURER. Make sure that paying for this service or accommodation will not change your family's insurance benefits or coverage.** **EACH TIME** the school district wants to bill your private insurer for any of your child's services and accommodations, they must obtain your permission.

D. What should I do if my child's physical or mental impairment changes?

Open communication between you and your child's school is critical to making your child's health care plan work. You need to tell your child's school about any significant change in your child's health as soon as possible because your child's health care plan may need to be changed. If your child is unable to communicate plainly with others, you need to let the school know about **any** change in your child's health, even if it is minor or temporary (e.g., a cold).

E. How is the privacy of my child's medical information protected?

The Health Insurance Portability and Accountability Act (HIPAA) usually protects the privacy of your child's medical records. However, when you give a copy of your child's medical records to her school, the records are no longer protected by HIPAA but are **INSTEAD** protected by the Family Education Rights and Privacy Act (FERPA). FERPA strictly limits the number of people who can see **any** of your child's educational records, including your child's medical records.

Most school personnel do **not** need to see your child's medical records. HOWEVER, people who work with your child need to know about her health care plan. Your child's teachers need to have a copy of the health care plan accessible at all times that your child is in school. Some teachers keep a copy in a locked file cabinet in their classrooms; some keep a copy in the school's office.

F. If my child has a health care plan, will he always need it?

Not necessarily. If your child's health changes, the services and accommodations in her health care plan may no longer be necessary. The decision

to change or discontinue the health care plan must be based upon your child's unique situation.

III. DISAGREEMENTS ABOUT YOUR CHILD'S HEALTH CARE PLAN

A. If I believe that my child needs a health care plan and the school district says no, what can I do?

Ask the school district to give you their reasons for saying no. Submit your request in writing, include specific information about why you think your child needs a health care plan, and ask the school district for a written response. The school district is obligated to provide this information to you. Read and consider their response carefully. If you have information about your child that you do **not** think was considered in the school's decision, let the school know what they might have missed.

If you think that the school considered all the important information about your child BUT you disagree with their decision, here are the next steps you can take:

Ask your child's health care provider whether she believes your child needs a health care plan for school. If she says yes, ask her to help you with your request. (If she says no, ask her why a health care plan for school is not necessary; you might have a misunderstanding of how your child's health should be managed.)

If your child has an IEP, request an IEP meeting to discuss your concerns. You can appeal your child's IEP if you disagree with it. The school district will provide you with information about the procedural safeguards that are in place to protect you and your child.

If your child does not qualify for an IEP and you disagree with the decision not to provide your child with a 504 plan, contact the school district's 504 coordinator to begin the due process procedure to appeal the school's decision.

B. I think my child needs a particular service or accommodation and the school says they will not include it in the health care plan. What can I do?

The first thing to do is **ask your child's health care provider** whether the service or accommodation is necessary for your child to be safely in school benefiting from his education. If the provider says yes, this does not guarantee that your child's school will include it BUT if the health care provider says no, it is much less likely that the school will include it. If the provider says yes, ask her to help you with your request. (If the provider says no, ask her why the service or accommodation is not necessary; you might have a misunderstanding of how your child's health should be managed.)

If your child has an IEP, request an IEP meeting to discuss your concerns. You can appeal your child's IEP if you disagree with it. If your child has a 504 plan, contact the school district's 504 coordinator to begin the due process procedure to appeal the school's decision.

C. Can the school make my child attend a particular school in order to receive health care services?

All children should attend their neighborhood school whenever possible. Children who qualify for special education services must be educated in a 'least restrictive environment' which may be their neighborhood school, depending on their individual needs. The decision to place a child in a particular school in order for that child to receive health care services must be made ONLY as part of a comprehensive plan that focuses on how to best educate that child. Regardless of where a child is attending school, the child's education plan must reflect the educational needs of that child.

C. What do I do if my child's teacher is not following the health care plan?

This depends on the situation. If the teacher is not following a part of the health care plan that involves a potentially life-threatening issue, contact your child's school IMMEDIATELY. Work with your child's teacher and principal to immediately resolve the issue; contact your school district superintendent or the Utah State Office of Education if you cannot reach a solution at the school level.

If the teacher is not following a more 'routine' part of your child's health care plan, start by asking your child's teacher why this is happening. This may be a misunderstanding: someone who works with your child may either not have seen the health care plan or may not understand why it is important. Problems with health care plans may be more likely in junior or senior high school when children have many teachers throughout the day. If there is a misunderstanding, your communication with the school may be sufficient to resolve the problem.

If these efforts are unsuccessful and your child has an IEP, contact your child's IEP coordinator and ask for a meeting to discuss the problem. If your child has a 504 plan, contact the school district's 504 coordinator and ask for a meeting to discuss the problem. Focus on identifying what the problem is – is it one teacher or one particular time of the day, or is it a larger problem where the whole health care plan is being ignored? If you are unsuccessful at resolving the problem at this level, contact the Utah State Office of Education to begin a formal complaint procedure.

If you believe that your child is being discriminated against because of their medically related disability, you can also contact the U.S. Education Department's Office for Civil Rights to begin a complaint at the federal level. (The website <http://www.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt> has information on how to file a complaint.)

A caveat: Before filing a complaint at either the state or federal level, you want to make sure that your child is not abusing his health care plan. This is more likely to be an issue with older children. For example, if your child has an accommodation of extra time to move between classes, make sure he is not using the time to loiter in the hallways visiting with friends.