Know When to Go Home: The Role of the IEP Team in Home/Hospital Instruction
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Special education includes home/hospital instruction

Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings... 34 CFR 300.39

A continuum of placements must be available

Each district must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. The continuum must include regular classes, special classes, special schools, home instruction and instruction in hospitals and institutions. 34 CFR 300.115
Least Restrictive Environment Requirement

Each district must ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled and that removal of children with disabilities from the regular education environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 34 CFR 300.114

Placement is an IEP team decision

In determining the educational placement of a child with a disability, the district must ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about (a) the child, (b) the meaning of the evaluation data, and (c) the placement options. 34 CFR 30.116(a)

Public Act 097-0123 (effective July 14, 2011)

• A child qualifies for home or hospital instruction if it is anticipated that, due to a medical condition, the child will be unable to attend school, and instead must be instructed at home or in the hospital, for a period of two or more consecutive weeks or on an ongoing intermittent basis.
Public Act 097-0123 (effective July 14, 2011)

• “Ongoing intermittent basis” means that the child’s medical condition is of such a nature or severity that it is anticipated that the child will be absent from school due to a medical condition for periods of at least two days at a time multiple times during the school year, totaling at least 10 days or more of absences. There shall be no requirement that a child be absent a certain number of days before the child qualifies for home or hospital instruction.

Public Act 097-0123 (effective July 14, 2011)

• To establish eligibility for home or hospital services, a student’s parent must submit to the district of residence a written statement from a physician licensed to practice medicine in all of its branches stating the existence of such medical condition, the impact on the child’s ability to participate in education, and the anticipated duration or nature of the child’s absence from school.

Public Act 097-0123 (effective July 14, 2011)

• Home or hospital instruction may commence upon receipt of a written physician’s statement, in accordance with this section, but instruction shall commence not later than 5 school days after the district receives the physician’s statement.
Public Act 097-0123 (effective July 14, 2011)

- Special education and related services required by the child’s IEP or services and accommodations required by the child’s 504 plan must be implemented as part of the child’s home or hospital instruction, unless the IEP team or 504 plan team determines that modifications are necessary during the home or hospital instruction due to the child’s condition.

Legislative History - Public Act 097-0123

- Gabel: “The purpose of House Bill 1706 is to create clarity and consistency across school districts about who qualifies for home and hospital instruction and when home and hospital instruction services must start and what home and hospital services must include. This will improve education available to children with temporary or extended illnesses.

Legislative History - Public Act 097-0123

- Eddy: I support this because there’s an issue related to when schools begin to provide homebound instruction. And your intention is to place a trigger in the law that requires instruction to start within a certain period of time. What’s that period?
- Gabel: Five days
Legislative History- Public Act 097-0123

• Eddy: Now, your intent for [ongoing intermittent basis type of homebound instruction] is for those absences that are for two days at a time or more, multiple times during the year, to create a trigger prior to any accumulation up to ten days. You want the services to begin if we know the student has a problem.

• Gabel: Correct. It would be for students who have cancer and know that they’re going in for treatments over a period of time. We would like the physician’s note to say that and to then trigger the home care.

Legislative History- Public Act 097-0123

• Gabel: I had promised I would mention Aaron Sims, the 17 year old who is one of the reasons that this bill was put forward. He fought for home and hospital services and was given a very hard time about it and I just wanted to have this Bill in his honor. He did pass away last week.

ILLINOIS DUE PROCESS HEARING DECISIONS

In re: J.S. v. City of Chicago District 299, No. 004526 (2005): During the hearing, CPS Manager of Homebound and Hospital Instruction explained the criteria for receiving homebound: physiologically based needs must be referred by a physician and psychologically based needs by a psychiatrist. There are two different forms distributed to schools. If the form based on a psychiatric need is submitted, a contractual psychiatrist reviews it...
ILLINOIS DUE PROCESS HEARING DECISIONS

In re City of Chicago Pub. Sch. Dist., 109 LRP 72740 (2009): District violated requirement that IEP team determines homebound placement when CPS Home/Hospital Dept. denied homebound on the basis of a single form. Parent completed form, and then a revised form to request homebound after school nurse told her that her son may be eligible. Homebound coordinator called parent and stated that student was not eligible for homebound. When parent requested homebound at the next IEP meeting, she was told that the home/hospital department had denied the request because the form was not legible. The home/hospital Dept. usually takes three to five days to review the request and make an eligibility determination.

WHAT MUST THE IEP TEAM CONSIDER FOR HOMEBOUND PLACEMENT?

1. Whether the student satisfies eligibility requirements for homebound
2. What special education and related services will be provided on homebound
3. The amount of special education and related services to be provided on homebound

If home or hospital services are medically necessary, the team shall develop or revise the child’s IEP.

ELIGIBILITY FOR HOMEBOUND
ELIGIBILITY FOR HOMEBOUND

• Child is unable to attend school due to a medical condition
• Child's medical condition will cause absence for two or more consecutive weeks or ongoing intermittent absences
• Parent produces written physician statement that specifies
  – The child's medical condition;
  – The impact on the child's ability to participate in education (child's physical and mental level of tolerance for receiving educational services), and
  – The anticipated duration or nature of the child's absence from school.

23 IAC 226.300(a),(b)

CERTIFICATION SERVES AS NOTICE

If no doctor’s statement is provided before hospital instruction, the District is under no obligation to pay. The District must have an opportunity to direct the student’s instruction before it is responsible for the cost. District may choose to provide its own instructors rather than use hospital staff.

ISBE Home/Hospital Instruction and Reimbursement Questions and Answers (Nov. 2011)

PHYSICIAN’S CERTIFICATION FOR HOME/HOSPITAL INSTRUCTION

• Student name and date of birth:
• Physician’s name and contact info:
• To be completed by a physician licensed to practice medicine in all its branches:
• Specify Student’s current medical condition:
• Describe the impact of Student’s medical condition on his/her ability to participate in education (including physical and mental level of tolerance for school):
• State anticipated duration or nature of Student’s absence from school:
• State whether there is any reason Student cannot receive 5 or more hours of home instruction per week, and if so, why:
• Physician signature and date:
• Date received and by whom:
ELIGIBILITY FOR HOMEBOUND

Marshall Joint Sch. Dist. No. 2 v. C.D., 616 F.3d 632 (7th Cir. 2010):
“A physician’s diagnosis and input on a child’s medical condition is important and bears on the team’s informed decision on a student’s needs. But a physician cannot simply prescribe special education; rather the IDEA dictates a full review by an IEP team composed of parents, regular education teachers, special education teachers and a representative of the school district.”
See also, M.B. v. Hamilton Southeastern Sch., 668 F.3d 851 (7th Cir. 2011).

ELIGIBILITY FOR HOMEBOUND

In re Rockford Sch. Dist. 205, 108 LRP 42815 (SEA IL 2008)
Parent kept son out of school for four months and requested due process hearing when District denied homebound. IHO found that doctor’s letter that referred to student’s autism, depression, discomfort and an unidentified “current illness” and recommended homebound services for the remainder of the year was insufficient. Student had autism for a long time and it did not prevent him from attending school. Depression and discomfort were merely descriptive of the student’s mood and none of the illnesses documented required student to be absent from school. District would deny FAPE in the LRE if it accepted the letter and placed the student on homebound.

ELIGIBILITY FOR HOMEBOUND

In re Poway Unified School District, 53 IDELR 208 (SEA Ca. 2009):
Parent insisted that student with autism and intellectual disability had leaky gut syndrome and immune deficiencies. She produced a physician’s letter written to whom it may concern, that because of the child’s medical condition, current evaluation and therapeutic intervention for immune dysfunctions as well as other related medical issues, student needs to remain at home. The District disputed the letter and obtained an independent medical evaluation. The independent doctor indicated that although the student had allergies, he was at no greater risk for infection than any other student with allergies. Furthermore, restrictive homebound placement limited student’s behavioral and social progress and his opportunities to develop communication skills.
In re Wilson County Board of Education, 54 IDELR 268 (SEA Tn. 2010):

Pediatrician’s letter stated that child requires constant supervision because she is very active and can climb anything. The letter also stated that the child might try to eat anything she touches because she has a diagnosis of pica, often found in children with autism. She is medically fragile due to her pica and requires constant supervision to avoid injury.

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Two months later, Parent responded by tendering a doctor’s letter that stated that the student’s 7th grade year was more difficult than expected and that there had been a change in personnel, that he was experiencing PTSD and that returning him to school and requiring student or his parents to deal with these personnel would return him to trauma. The letter stated that student would require homebound until the case manager and second aide were replaced. Later, Parent provided another form requesting homebound based on Asperger’s Syndrome, but asked that the student be allowed to attend chorus at school.

**IS THE DISTRICT REQUIRED TO PROVIDE HOMEBOUND UNDER THESE CIRCUMSTANCES?**

- NO

- The first request was not properly completed without Parent’s signature and the reason provided for needing homebound, i.e. Asperger’s Syndrome, was not sufficient.
- The recommendation that student attend school for all but the last two periods was based on Parent’s disagreement with the school, rather than on a medical or psychological reason. This is not a reason for homebound under state regulations.
- Letter for homebound was insufficient where psychiatrist noted that student could attend school under certain conditions.
ELIGIBILITY FOR HOMEBOUND

In re Abington Heights Sch. Dist., 112 LRP 16163 (SEA Pa. 2012):
Student had significant medical conditions and psychologist who conducted private evaluations in 2007 and 2010 recommended that student not return to public school. District provided homebound for years based on this recommendation and parent’s request. Parent filed due process due to delay in services and district’s failure to provide all needed services. IHO found that the district denied FAPE by failing to evaluate the student, failing to provide appropriate social skills training, transition planning, academic instruction, related services and emotional support. Although the District had followed the parent’s wishes, it did not satisfy its IDEA obligations.

PHYSICIAN CERTIFICATION EXAMPLE 1

- Student Name: John Doe  DOB: 3/13/2003
- Physician Name: Dr. N. Firm
- Physician Contact Info: 600 Liberty St, Pawling, NY 12564
- Specify student’s medical condition(s): Incompletely defined organic condition with abnormal brain SPECT scan and history of acute maternal Lyme disease in utero; developmental and neurobehavioral problems from early in life.
- Describe the impact of Student’s medical condition on his/her ability to participate in education (including physical and mental level of tolerance for school): Hyperactivity, racing thoughts, intense irritability, intermittent intense headaches. He is currently experiencing heightened sensory response, particularly a hypersensitivity to auditory stimuli which impacts his ability to attend in the classroom environment. This hyper arousal has also led to his acute stress response of fleeing (fight or flight) in the school environment.
- State anticipated duration or nature of Student’s absence from school: Until treatment is initiated, duration of time recommended for home-bound instruction is currently unknown.
- State whether there is any reason Student cannot receive 5 or more hours of home instruction per week, and if so, why: At this point in time, I am recommending at least 5 hours of instruction to occur each school week.
- Physician Signature and Date: N. Firm, August 28, 2012
PHYSICIAN CERTIFICATION EXAMPLE 2

• Student Name: Jack Doe  DOB: 3/13/2003
• Physician Name: Doc Brown
• Physician Contact Info: Chicago, IL 60612
• Specify student’s medical condition(s):
  - High Functioning Autism Spectrum Disorder or PDD NOS, ADHD, Anxiety/Mood Disorder
• Describe the impact of Student’s medical condition on his/her ability to participate in education (including physical and mental level of tolerance for school):
  - The above-mentioned conditions caused Jack to present disruptive behaviors and significant emotional challenges during school. These issues led to a very negative experience in school last year, which increased his anxiety and led to school avoidance.
• State anticipated duration or nature of Student’s absence from school:
  - Jack has started pharmacologic treatment for ADHD and is in the process of adjusting his medication regimen. He will be receiving intense (2-3 hrs/week) psychotherapy to help address his emotional/mood challenges. These interventions along with the home-school services will help reduce the negative effects he experienced when he was last in school. By the end of the 4th week, it is expected that he will be able to better determine the best school placement for him.
• State whether there is any reason Student cannot receive 5 or more hours of home instruction per week, and if so, why:
  - I am recommending 1 hr/day of home instruction for the first week and 2 hrs/day for weeks 2-4 (total 4 weeks of home-based instruction). Plan to reassess response to interventions before the end of the 4th week.
• Physician Signature and Date: Doc Brown, Sept. 18, 2012

PHYSICIAN CERTIFICATION EXAMPLE 3

• Lulu Jones has been under my care for the past 8 years. She has a chromosome defect where she is missing a piece of chromosome six. Lulu is exclusively G-tube fed. It is a very doubtful that Lulu's mental status and medical condition will improve in the future. Her medical condition impacts her on all levels of education. She is not able to walk, speak, or communicate in any way. She has minimal evidence of cognitive function and no meaningful interaction with others. Social interaction generates no response from Lulu. It is extremely doubtful and virtually impossible that her mental status and communication will improve with any type of therapy or educational services. It is unknown whether Lulu's immune system functions normally or not. She has very little respiratory reserve if she becomes ill. Based on her medical condition and cognitive level of dysfunction, I feel the risks outweigh the benefits of her attending school.

   --Dr. Snakeoil
HOMEBOUND SERVICES

WHAT SERVICES WILL BE PROVIDED?

Unless the IEP team determines that modifications are necessary due to the child’s condition, special education and related services required by the student’s IEP must be implemented as part of home or hospital instruction. 23 IAC 226.300(c).

WHAT AMOUNT OF SERVICES WILL BE PROVIDED

- The amount of services is to be determined in relation to the child’s educational, physical and mental health needs.
- The amount of instructional time cannot be less than five hours per week unless the child’s physician certifies in writing that the child should not receive as many as five hours per week.
- If instruction is via telephone or other technological device, the child shall receive not less than two hours per week of direct instructional service. 23 IAC 226.300
WHAT AMOUNT OF SERVICES WILL BE PROVIDED

If a student is receiving homebound instruction and, at the end of the school term, needs to continue instruction to be able to complete assignments and move into the next year with his class, ISBE recommends that the district provide homebound services over the summer, particularly if the district offers summer school and the student would meet district criteria for summer school. Instruction should be provided only on days school is in session, unless otherwise agreed by parents and school. A physician’s certificate must be on file to verify the need for home instruction.

*Home/Hospital Instruction and Reimbursement Questions and Answers (ISBE 11/11)*

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WHAT AMOUNT OF SERVICES WILL BE PROVIDED

If a referral for homebound instruction is made with less than two weeks of school left in the school year, there is no requirement to initiate home-hospital services.

*Home/Hospital Instruction and Reimbursement Questions and Answers (ISBE 11/11)*

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WHAT AMOUNT OF SERVICES WILL BE PROVIDED

This should be an individualized determination.

*Traverse City Area Pub. Sch., 59 IDELR 144 (OCR Mi. 2012)*:

- District’s practice of providing all students with disabilities a predetermined, exact same amount of home instruction services was impermissible under Section 504 regulations.
- Additionally, the District’s policy that treated students with disabilities and those without differently with regard to timeframes in which the district would provide home instruction, and its failure to modify that policy, despite requests, violated Section 504.
HOMEBOUND IEPs

In re Trico Community Unit Sc. Dist. 176, 108 LRP 42817 (IL SEA 2008):
Homebound IEP failed to provide a FAPE where IEP goals were for student with PTSD from concussion she received in school fight to successfully participate in public school setting, but the objectives did not take effect until she returned to school. Student needed more than the minimum five hours of homebound because she spent so much time completing assignments that she was teaching herself. She became frustrated and discouraged and her homebound tutor testified that he did not believe 5 hours of tutoring were sufficient to meet her needs. Additionally, the District failed to monitor her progress on IEP goals during homebound.

HOMEBOUND IEPs

Homewood-Flossmoor Community High Sch. Dist. 233, 112 LRP 57733 (SEA IL 2012):
Homebound IEP was deficient when it did not include goals and objectives for student. Without goals and objectives, homebound instructors had no focus. Homebound teachers were not provided with the student’s IEP and received no training with regard to the student’s OCD.
Southern York County Sch. Dist.: 55 IDELR 242 (SEA PA. 2010):
Middle school student had a rare genetic disorder in which he was unable to attend school for several days each month during an acute inflammatory stage. Student became overwhelmed attempting to make up work from the missed instruction and homebound tutoring could not provide sufficient instruction. School principal was resistant to remote technology, but agreed to setting up a webcam and a private room at the school. The webcam allowed the viewer to see the whiteboard, and the camera followed the teacher. The teacher wore a microphone for full audio, and an iChat feature allowed the student to instant message the teacher. However, student was too ill to access the private room. Student's team had not discussed or considered webcam arrangements outside of the school.

The hearing officer ordered the district to consider and put into place live streaming of the webcam through the family's internet service and to save the classroom webcam to a DVD so that the student could watch it at a later time. The District's webcam room ignored the student's unavailability for instruction during the monthly inflammatory stage and the five hours of homebound tutoring per week were ineffective to catch the student up. The District had not provided a FAPE in the IEP by utilizing (or at least considering) available technological modifications to allow the student to access direct instruction as it was delivered in the regular classroom.
In re Commack Sch. Dist., 52 IDELR 235 (OCR N.Y. 2009):
In June, Parent informed the district that student had attempted suicide. At the beginning of the school year, a doctor’s note recommended home instruction due to major depression and anxiety disorder. The district extended the student’s homebound through the first semester after receiving 3 requests from the doctor in October, November and December. The district granted student a medical excuse for her academic work for the semester. After requesting a 504 evaluation, Parent filed an OCR Complaint. OCR found that the suicide attempt and her doctor’s recommendations to extend homebound should have alerted the district that the student might need special education or related services due to a disability.

Student witnessed an incident in which parent was involved in an altercation with a police officer and was arrested and confined. Student’s psychiatrist recommended that student remain home due to illness and anxiety regarding contact with police officers and returning to school, and district approved homebound. Subsequently, the psychiatrist renewed the request for homebound and the district approved the request. IHO found that because the student had never been suspected of having a disability and because the mental illness was temporary, the district could initially have reasonably believed that the illness was not substantial enough to warrant evaluation. However, the request to extend homebound should have alerted the district to the need for evaluation.
HOSPITALIZATION AS CHLD FIND TRIGGER

In re City of Chicago Sch. Dist. 299, 110 LRP 36555 (SEA IL 2010):
Student’s behavior deteriorated and then he stopped attending school. He was subsequently hospitalized. The District violated its child find obligations by delaying an evaluation because it knew of the student’s attendance problems, emotional disturbances and hospitalizations. Additionally, the District failed to consider the psychiatric hospitalization evaluations when determining the student’s eligibility for special education.

HOMEBOUND AS BEHAVIORAL REMOVAL

HOMEBOUND FOR BEHAVIORAL EMERGENCY

Sch. Dist. Of Wisconsin Dells v. Z.S., 295 F.3d 671 (7th Cir. 2002):
Student with autism exhibited aggressive behavior that became progressively worse each year despite educational interventions and medication. He kicked, hit and bit students, teachers and aides, tore his clothes and broke furniture. When not in a rage, he was withdrawn. He could not function in a social setting and any sudden movement or change in routine set him off. He was sensitive to light and touch. At age 10, he went to residential placement. That placement transitioned him back, but he became violent in the public school, and then at a day school. Guardian did not agree to returning him to residential placement, so district provided home instruction. Court of Appeals held that the homebound instruction was reasonably calculated to provide educational benefit and that although IDEA prefers mainstreaming, the disruptive impact on other students, including antisocial behavior is relevant.
HOMEBOUND FOR BEHAVIORAL EMERGENCY

*Kaczmarski v. Wheaton CUSD 200, 2004 WL 1093348 (N.D. Ill. 2004):*

Student brought letter cutter to school and threatened two children with it. When parent refused therapeutic day school, District offered homebound as alternative. District could keep student on homebound as Interim Alternative Educational Setting.

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HOMEBOUND FOR BEHAVIORAL EMERGENCY

*Mt. Vernon Sch. Corp. v. Maier, 59 IDELR 187 (S.D. Ind. 2012):*

District denied FAPE to student with severe autism and significant behavioral issues including physical aggression, hyperactivity, sexual touching, spitting, and picking at his gums until they bled, by placing him on homebound. The student was unable to work on his IEP goals outside a school setting and the home instruction program did not address his significant behavioral issues. The hearing officer ordered residential placement and two years of compensatory education.

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HOMEBOUND AS IAES

Home instruction may not be offered as the district’s only IAES option. Whether homebound would be an appropriate IAES depends on the particular circumstances of the case, including the length of each removal, the extent to which the student has been previously removed from his or her placement, and the student’s individual needs and educational goals. *Questions and Answers on Discipline Procedures, 52 IDELR 231 (OSERS 2009).* Q. C-2.
HOMEBOUND AS IAES

- **Dunklin R-5 Sch. Dist., 51 IDELR 202 (SEA MO. 2008):** IAES placement at a different school with a structured, therapeutic program with a qualified staff capable of assisting with behavior issues was appropriate for aggressive student and was less restrictive than homebound placement parent sought.
- **Anchorage Sch. Dist., 45 IDELR 23 (AK SEA 2005):** IAES placement in a different school was inappropriate because student had a particular difficulty with transition. Instead, team should have considered homebound instruction.

HOMEBOUND AS FAPE DURING EXPULSION


Parent alleged that the district had not offered sufficient services to her son during his expulsion. After the expulsion, the district first had the student receive tutoring through a Nova Net computer program, but when the student harassed other students at the program the district began 1:1 tutoring with him. He received five hours per week of tutoring in reading, writing and math and an additional three hours of Corrective Reading tutoring.

**G.R. v. Dallas Sch. Dist. cont.:**

The court held that although the district need not provide the exact services as before the expulsion, the student was entitled to receive services to progress towards his IEP goals, albeit in an alternative education setting. The court held that the homebound tutoring services met the current IEP’s requirements.
In re Mt. Zion Unit Sch. Dist. No. 3, 111 LRP 51317 (SEA IL 2011):
Student had received services in district for an LD, but developed post concussion syndrome after a fall, which caused visual problems, headaches, memory and concentration problems, and social anxiety. Parent wanted to maintain homebound, but the district wanted 18 year old student to attend school. Physicians testified that a classroom was substantially likely to make symptoms worse. IHO found that LRE concept does not apply when disabilities are too severe and the student cannot benefit from social contact. Homebound was appropriate because there was no safe way to educate student at school. No accommodation could reduce risks to student, and needed accommodations would disrupt other students. He could not safely interact with others and classroom stimuli might cause his symptoms to worsen.

Stamps v. Gwinnett County Sch. Dist., 59 IDELR 1 (11th Cir. 2012):
Parent insisted on homebound for siblings with genetic conditions, neurological disorders and an unspecified immune deficiency. District offered school placement with intermittent homebound if students became ill. Family pediatrician stated immune issue did not require preventative treatment, that the immune systems would improve with age, and noted that the students had not been sick in several years. District’s contracted physician testified that students had same probability as others to become ill and that they should not have restrictions on socialization. School disinfected instruction area more regularly than family cleaned home. Court upheld school placement.
HOMEBOUND AND EXTRACURRICULAR ACTIVITIES

Mowery v. Logan County Bd. of Educ., 58 IDELR 192 (S.D. W.V. 2012):
Student with hereditary metabolic disorder stated a claim for disability discrimination because he was prohibited from attending a senior class party and dance and the senior graduation ceremony. Student was told that if he was “too sick” to attend school, then he was too sick to attend these events.

HOMEBOUND AND EXTRACURRICULAR ACTIVITIES

In re Georgetown Independent Sch. Dist., 45 IDELR 116 (SEA Tx. 2005):
District made reasonable efforts to include homebound student with aplastic anemia, consistent with his health and his own willingness to participate. He had the opportunity to participate in football to the extent his health allowed, the opportunity to join the National Honors Society and he regularly received announcements of school activities and events.
PRIVATE/PAROCHIAL SCHOOL STUDENTS

A private or parochial student with disabilities who has an Individual Service Plan may receive homebound services using IDEA nonpublic proportionate share funds. However, the student has no right to receive some or all of the special education and related services that the child would receive if enrolled in the district. Furthermore, there is no general state aid or home/hospital reimbursement to a district for services provided to a student not enrolled in the district.

ISBE Home/Hospital Instruction and Reimbursement Questions and Answers (Nov. 2011)