



## **MEDICAID WAIVERS FOR PEOPLE WITH INTELLECTUAL DISABILITIES OR AUTISM**

Pennsylvania's Medical Assistance ("Medicaid") program includes home and community-based services waivers ("HCBS Waivers") that fund a variety of services enabling eligible individuals with intellectual disabilities (ID) and/or autism to live in their own homes and communities. The purpose of this Fact Sheet is to provide an overview of Medicaid HCBS Waivers generally and the HCBS Waivers in Pennsylvania that offer services to people with ID and/or autism.

### **What are Medicaid HCBS Waivers?**

Many people with disabilities, including those with ID and autism, are eligible for Medicaid. Under traditional Medicaid, a state can only cover certain types of services specified in the federal law (such as physician and hospital visits, some home health services, and prescription medications) for eligible individuals. For adults, states may also set limits on the amount, duration, and scope of those Medicaid services (such as limiting the number of therapy or home health visits), which may not meet all of their needs.

While the traditional Medicaid system allows states to cover institutional services in intermediate care facilities for people with intellectual disabilities (ICFs/IID), intermediate care facilities for people with other related conditions (ICFs/ORC), and nursing facilities, it does not typically cover many types of home and community-based services that people with disabilities need to avoid institutionalization. To address that institutional bias, Congress allows states to use Medicaid funds to provide home and community-based services to people with disabilities through HCBS Waivers.

In developing an HCBS Waiver, the federal Medicaid law allows states broad discretion to:

- establish eligibility criteria for the Waiver based on type of disability, age, and other factors;
- limit the number of people who can receive services under the Waiver;
- cap the amount of money that may be spent on any Waiver participant's services;
- limit the geographic areas where the Waiver will apply in the state; and
- determine what services will be provided and any limits on those services, though it is important to note that HCBS Waivers permit states to cover many services that would not otherwise be covered by Medicaid (such as residential supports, vocational services, home and vehicle modifications) and also to provide traditional Medicaid services in greater amounts than the state otherwise allows.

### **Are there HCBS Waivers in Pennsylvania for people with ID and/or autism?**

Yes. Pennsylvania has received federal approval to administer many HCBS Waivers for people with different types of disabilities. There are five HCBS Waivers in Pennsylvania that offer services to individuals with ID and/or autism. Three of those Waivers – the Consolidated Waiver, the Community Living Waiver, the Person/Family Directed Support (PFDS) Waiver, and the Adult Autism Waiver are administered by the Office of Developmental Programs (ODP) of the Pennsylvania Department of Human Services (DHS). The fifth Waiver – the OBRA Waiver – is administered by DHS's Office of Long Term Living (OLTL).

### **What are the eligibility requirements for Pennsylvania's HCBS Waivers for people with ID and/or autism?**

Anyone seeking HCBS Waiver services must meet certain financial eligibility criteria. Typically, this means that his or her income cannot exceed 300% of the SSI standard per month (currently \$2,250 per month) and his or her countable resources cannot exceed \$8,000.

In addition, each HCBS Waiver has non-financial eligibility requirements. The following chart describes the non-financial eligibility criteria for those HCBS Waivers applicable to individuals with ID and/or autism:

HCBS Waiver	Key Non-Financial Eligibility Criteria	Exclusions
Consolidated Waiver	<p>A person of any age who has a diagnosis of ID or autism that onset before age 22 if he or she has substantial adaptive skill deficits in three or more of the following major life activities: self-care; understanding and use of language; learning; mobility; self-direction; and capacity for independent living</p> <p>A child age 8 or younger who has a diagnosis of developmental disability if there is a high probability it will result in ID or autism and if he or she has substantial adaptive skill deficits in three or more of the following major life activities: self-care; understanding and use of language; learning; mobility; self-direction; and capacity for independent living</p>	A participant cannot reside in a personal care home
Community Living Waiver	Same as Consolidated Waiver	<p>A participant cannot reside in licensed or unlicensed residential habilitation settings.</p> <p>A participant cannot reside in a personal care home or domiciliary care home</p>
PFDS Waiver	Same as Consolidated Waiver	A participant cannot reside in a personal care home with more than 8 residents (if

HCBS Waiver	Key Non-Financial Eligibility Criteria	Exclusions
		<p>he or she moved in after 7/1/2008)</p> <p>A participant cannot reside in licensed or unlicensed residential settings</p>
Adult Autism Waiver	<p>A person age 21 or older who has a diagnosis of autism that onset before age 22 if he or she has substantial adaptive skill deficits in three or more of the following major life activities: self-care; understanding and use of language; learning; mobility; self-direction; and capacity for independent living</p>	None
OBRA Waiver	<p>A person between the ages of 18 and 59, inclusive, who has a diagnosis of developmental disability, including autism, that onset before age 22 if he or she has substantial adaptive skill deficits in three or more of the following major life activities: self-care; understanding and use of language; learning; mobility; self-direction; and capacity for independent living</p> <p><b>Note:</b> A person who qualifies for the OBRA Waiver prior to age 60 can continue to receive services through that Waiver after he or she turns 60</p>	<p>A participant cannot have a primary diagnosis of either ID or a major mental illness</p>

**What types of services are available under the HCBS Waivers for people with ID and/or autism?**

Each of the HCBS Waivers covers an array of home and community-based services, though the types of services covered differ from Waiver to Waiver. In addition, each Waiver includes detailed “service definitions” that describe each type of service and provider qualifications for each type of

service. The service definitions may vary among Waivers. For instance, “residential habilitation” under the OBRA Waiver is defined differently than “residential habilitation” under the Consolidated Waiver. In addition, the service definitions in each Waiver identify any limits on the amount, duration, or scope of the service. For instance, some services (such as home or vehicle modifications) may have caps on the amount of money that can be spent. Some services may not be authorized in combination with other types of services. Some services may limit the amount of hours or days that can be authorized. Some services may not be available to children and youth age 21 and under if the services are available through traditional Medicaid (such as physical therapy).

The following chart offers an overview of many (but not all) of the services available under the various HCBS Waivers for people with ID and/or autism as of February 2018. It is important, however, that a person interested in services under more than one of these Waivers review each one carefully to learn the details about available services because the types of services available and the specific service definitions are usually changed annually.

<b>Type of Service</b>	<b>Consolidated Waiver</b>	<b>Community Living Waiver</b>	<b>PFDS Waiver</b>	<b>Adult Autism Waiver</b>	<b>OBRA Waiver</b>
Residential Habilitation	x			x	x
Supported Living	x	x			
Life Sharing	x	x		x	
Housing Transition and Tenancy Sustaining Services	x	x	x		
Community Transition Services				x	x
Community Participation Support	x	x	x		
In-Home and Community Support/Community Integration	x	x	x		x

<b>Type of Service</b>	<b>Consolidated Waiver</b>	<b>Community Living Waiver</b>	<b>PFDS Waiver</b>	<b>Adult Autism Waiver</b>	<b>OBRA Waiver</b>
Day Habilitation/Services				X	
Respite	X	X	X	X	X
Homemaker/Chore	X	X	X		X
Companion	X	X	X		
Education Support Services	X	X	X		
Nursing	X	X	X		X
Personal Assistance Services					X
Specialized Supplies and/or Medical Equipment	X	X	X		X
Therapies (Physical, Occupational, and/or Speech)	X	X	X	X	X
Therapy (Music, Art, Equine)	X	X	X		
Assistive Technology	X	X	X	X	X
Home Accessibility Adaptations	X	X	X	X	X
Vehicle Modifications	X	X	X	X	X
Supported and/or Advanced Supported Employment	X	X	X	X	X
Small Group Employment	X	X	X		

Type of Service	Consolidated Waiver	Community Living Waiver	PFDS Waiver	Adult Autism Waiver	OBRA Waiver
Other Work Services/Supports					x
Communication Specialist Services	x	x	x		
Specialized Skill Development				x	
Behavioral Support/Therapy/Counseling	x	x	x	x	x
Family Caregiver Training and Support	x	x	x	x	
Transportation	x	x	x		x
Supports/Service Coordination	x	x	x	x	x

**Are there any limits on the total amount of funding a HCBS Waiver participant can receive?**

The Consolidated, Adult Autism, and OBRA Waivers do not have any overall caps on the cost of services that may be provided to participants. The Community Living and PFDS Waivers, however, do have financial caps on services. Currently, participants in the Community Living Waiver cannot receive services that exceed \$70,000 annually while participants in the PFDS Waiver cannot receive services that cost more than \$33,000 annually (though the \$33,000 cap may be increased up to \$15,000 for certain supported employment services).

**How can a person apply for the HCBS Waivers for people with ID and/or autism?**

- **Consolidated, Community Living, and PFDS Waivers** – ODP uses local Administrative Entities (“AEs”) throughout the state to help implement these three Waivers. AEs typically are the county

programs for people with mental illness and intellectual disabilities. A listing with contact information for those county programs can be found at <https://www.hcsis.state.pa.us/hcsis-ssd/pgm/asp/PRCNT.ASP>. A person interested in applying for the Consolidated, Community Living, or PFDS Waivers should contact his or her county program. Staff in these programs should help individuals to apply for services in the Consolidated, Community Living, and PFDS Waivers and can also provide information on non-Waiver, state-funded services that may be available (such as supports coordination). Individuals interested in those Waivers can also call DHS's Intellectual Disabilities Customer Service Line at 888-565-9435 (voice) or 866-388-1114 (TTY) to get more information. Individuals applying for services in the Consolidated, Community Living, and PFDS Waivers will be required to have a Prioritization and Urgency of Need for Services (PUNS) assessment. As a result of the PUNS assessment, the individual will be placed in one of the following categories: (1) "emergency" (meaning the person needs services within the next 6 months); (2) "critical" (meaning the person needs services in more than 6 months but less than two years); and (3) "planning" meaning the person needs services in the next two to five years. For more information about the PUNS process, see ODP Bulletin 00-06-15 at <http://www.dhs.pa.gov/publications/bulletinsearch/bulletinselected/index.htm?bn=00-06-15&o=N&po=ODP&id=12/22/2006>

- **Adult Autism Waiver** – The Adult Autism Waiver is administered by ODP's Bureau of Autism Services (BAS). To seek services under this Waiver, call 866-539-7689 (voice) and follow the prompts to select the Adult Autism Waiver and then leave a message with the name and contact information of the person wishing to apply and (if different) the name and contact information of the caller. An enrollment coordinator from BAS will be in contact within 14 days to get more information. BAS will send a Status Letter notifying the person seeking services that she or he has been placed in one of two categories: (1) "Priority 1" (meaning individuals are not in Priority 2); or (2) "Priority 2" (meaning individuals who currently live in state-funded or Waiver-funded residential settings, such as ICFs/IID, state hospitals, nursing homes, residential treatment facilities, or mental health residential programs, and individuals enrolled in other HCBS Waiver programs).

- **OBRA Waiver** – OLTL uses an Independent Enrollment Broker (IEB), which currently is a company called MAXIMUS, to coordinate applications for the OBRA Waiver and the other Waivers it administers for older people and those with physical disabilities. To apply for the OBRA Waiver, an individual should contact the IEB by calling 877-550-4227 (voice) or 877-824-9346 (TTY). The IEB will begin the process, letting the individual know what forms need to be completed and arranging for a home visit by the county Area Agency on Aging (“AAA”) to evaluate eligibility.

### **Are there any limits on the number of people who can receive services under the HCBS Waivers and, if so, are there waiting lists?**

Each HCBS Waiver establishes an annual cap on the number of participants, though DHS can increase those limits with approval from the federal government. Currently, the Consolidated, PFDS, and Adult Autism Waivers are serving the maximum number of participants and have waiting lists. The Community Living Waiver, which began January 1, 2018, will likely be filled in its first year and have a waiting list as well. The OBRA Waiver does not currently have a waiting list.

### **How does a person get off the waiting list for the Consolidated, PFDS, or Adult Autism Waiver?**

- **Consolidated, Community Living, and PFDS Waivers** – For the Consolidated, Community Living, and the PFDS Waivers, ODP divides and distributes the number of available slots to the various AEs annually. This is known as Waiver “capacity.” An AE may have available slots to serve new people from the waiting list either when individuals are disenrolled from the Waiver (for instance, if they move or die) or when Pennsylvania adds more capacity. When an AE has available capacity to serve one or more new people from the waiting list, it consults the PUNS assessments for the individuals waiting for services in the AE’s county. The AE will generally select Individuals with the highest need in the emergency category. Once an individual is selected for an open slot in the Consolidated, Community Living, or PFDS Waiver, the AE will provide the necessary forms that will need to be completed to assure all eligibility requirements, including financial eligibility, are satisfied.

- **Adult Autism Waiver** – BAS, which administers the Adult Autism Waiver, refers to the waiting list for that Waiver as an “Interest List,” which consists of those in both Priority 1 and Priority 2 categories (as described above). BAS distributes capacity (i.e., slots) for the Adult Autism Waiver among its four Regional Offices. When capacity becomes available in one of the Regions (because someone in the Waiver has disenrolled or because Pennsylvania adds more capacity), BAS offers the available slot to the person in the Region in Priority 1 who enrolled earliest. In other words, people are taken off the waiting list from Priority 1 on a first-come, first-served basis. BAS will not offer available capacity to people in Priority 2 until all persons in Priority 1 have been offered services. After a person is selected from the waiting list, they are allowed to apply for services. BAS will send the person the necessary forms that will need to be completed to assure that financial and non-financial eligibility requirements are satisfied.

### **Should a person with autism use the OBRA Waiver since it has no waiting list?**

Although the OBRA Waiver does not have a waiting list and does serve people with autism who do not also have primary diagnoses of ID or a major mental illness, an individual should carefully assess whether to pursue services under that Waiver. The individual should consider: the services available, including any limits, under the OBRA Waiver (for instance, the OBRA Waiver offers only limited habilitation services) and whether they can meet the individual’s needs; the availability of providers familiar with serving individuals with autism; and the fact that once enrolled in the OBRA Waiver it will be difficult, if not impossible, to access services under one of the other HCBS Waivers. This is not to suggest that the OBRA Waiver may not be a good option for a person with autism, but only that the pros and cons of choosing that Waiver need to be carefully weighed.

### **What happens after a person is enrolled in one of the HCBS Waivers?**

Once a person is determined to be eligible and is enrolled in the Consolidated, Community Living, PFDS, Adult Autism, or OBRA Waiver, he or she will work with his or her Supports Coordinator (called a Service Coordinator in the OBRA Waiver) and other involved persons to develop an

Individual Support Plan (called an Individual Service Plan in the OBRA Waiver) or “ISP.”

The ISP will set out the person’s needs, desires, and goals. The ISP will also identify the types of services that the individual will receive, the amount of services, and the provider for each service. The individual has a right to choose among qualified and willing providers and can ask for a list of such providers. The individual also has the right to ask that the Supports/Service Coordinator include in his or her ISP those services he or she wants in the amount that he or she wants, even if the Supports/Service Coordinator does not agree with the request.

The ISP must be submitted to the appropriate state agency for review and approval. If the services are not approved, or are approved in a lesser amount than requested, the person should receive a written notice of that decision and can file an administrative appeal with DHS’s Bureau of Hearings and Appeals.

Once approved, the individual should receive the services as they are listed in the ISP. If the individual has problems with his services or providers, he or she should discuss the issue with his or her Supports/Service Coordinator or contact the following:

- **Consolidated, Community Living, and PFDS Waivers** – ODP Customer Service Line at 888-565-9435 (voice) or 866-388-1114 (TTY).
- **Adult Autism Waiver** – Bureau of Autism Services at 866-539-7689.
- **OBRA Waiver** – OLTL Helpline at 800-753-8827.

### **What appeal rights are available to a person seeking or enrolled in an HCBS Waiver?**

People who are seeking to enroll or who are enrolled in an HCBS Waiver have the right to file appeals with DHS’s Bureau of Hearings and Appeals when they are not satisfied with certain decisions. Among other things, an individual can appeal the following decisions:

- An applicant for ID services is determined not to meet the criteria for having an intellectual disability.

- An applicant is told that he or she does not meet the required level of care for the relevant HCBS Waiver (ICF/IID or ICF/ORC).
- An applicant is determined not to meet one of the other relevant criteria for the HCBS Waiver for which she or he applied (e.g., the person is determined not to have substantial limits in three of the six specified major life activities or the person is determined not to be financially eligible).
- An applicant for the Adult Autism Waiver is placed in Priority 2 and thinks she or he should be in Priority 1 or an applicant for the Consolidated or PFDS Waiver thinks he or she was placed in the wrong PUNS category.
- After enrollment in an HCBS Waiver, the person is denied the waiver service or services of his or her choice, including the amount, duration, or scope of service.
- After enrollment in an HCBS Waiver and approval of a particular service, a decision is made to suspend, reduce, or terminate the service.
- After enrollment in an HCBS Waiver, the person is denied the choice of willing and qualified providers to provide his or her Waiver services.
- After enrollment in an HCBS Waiver, the person's services are not provided with reasonable promptness.
- After enrollment in an HCBS Waiver, the person is notified that he or she is being terminated or disenrolled from that Waiver.

An individual does not have a right to file an appeal when his or her HCBS Waiver services are eliminated or changed due to a waiver amendment approved by the federal government or due to a change in federal or state laws or regulations.

The individual must receive a written notice of an adverse or negative decision, including the reasons for the decision and instructions on how to file an appeal. Appeals must be filed within 30 calendar days of the date on the notice. If a person is enrolled in an HCBS Waiver and received notice that his or her current services have been reduced, suspended or

terminated, he or she has the right to continue to receive those services if he or she files an appeal within 10 calendar days of the date on the notice. For more information on filing an appeal, see Disability Rights Pennsylvania's publication titled "Medical Assistance and Medicaid Waivers: Appeals, Grievances, and Complaints" available on our website.

## **Contact Information**

If you need more information or need help, please contact Disability Rights Pennsylvania (DRP) at 800-692-7443 (voice) or 877-375-7139 (TDD). The email address is: [intake@disabilityrightspa.org](mailto:intake@disabilityrightspa.org).

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