HOME AND COMMUNITY BASED SERVICES (HCBS) WAIVER PROGRAMS:

A Manual for Consumers and Advocates in Southwestern PA
Helpline: 1-800-274-3258 and 1-866-236-6310 (TTY)  
www.phlp.org

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Introduction

Home and Community-Based Services (HCBS) Waiver Programs are available in Pennsylvania to provide supportive services to qualified individuals who wish to remain in their home and/or community rather than enter an institution (such as a nursing home or intermediate care facility). There are currently 13 programs available in Pennsylvania; 12 of these are available to people living in Southwestern PA.

The HCBS Waiver programs differ in terms of the population they serve, the number of people they can serve, the application process, the criteria that must be met in order to qualify, and the services provided. Because of all these differences, figuring out which program you qualify for, and which program may best meet your needs, can be overwhelming.

PHLP receives numerous calls to our Helpline each year from individuals who are unaware of the Waiver programs but who may benefit from the services provided by a Waiver. Furthermore, individuals call us when they have questions about the Waivers or for assistance resolving a problem related to a Waiver program.

This manual focuses on the Waiver programs currently available in Southwestern PA to adults with physical, sensory, and/or developmental disabilities; however, basic information about all the Waivers available in Southwestern PA is included. The intent of this manual is to help consumers, family members, providers, and advocates understand the various options available and help them navigate the system (from applying to the programs to actually accessing services under a Waiver).
WHAT ARE HCBS WAIVER PROGRAMS?
These are programs that provide individuals at risk for institutionalization with an alternative to receiving services in an institutional setting by providing both medical and non-medical services to the individual living in the community.

Waiver programs provide certain services to individuals in their home or in another community-based setting in order to help them remain living independently in the community (which is the preference of most individuals). The services provided under the various programs are not typically covered under Medicare and/or Medical Assistance, especially on a long-term basis. This includes services such as skilled nursing coverage, personal care assistance services, and home modifications. The services available differ depending on the Waiver program the person qualifies for and the service plan that is developed to address the individual’s needs.

Individuals who qualify for a HCBS Waiver Program also receive full benefits through Medical Assistance.

Medical Assistance (MA) is public health care coverage for low-income families, older adults, and people with disabilities. In order to qualify, individuals must fit into a “covered group” (i.e., persons with a permanent disability or persons over 65 years old) and then meet the income and resource requirements of that group. Once they qualify, individuals get a certain package of medical benefits. MA covers certain medical services for children under 21 years old that are NOT covered for adults such as eyeglasses, hearing aids, shift nursing. MA can be someone’s only health insurance or their secondary insurance (if he/she has other coverage like Medicare).
WHY ARE THESE PROGRAMS CALLED “WAIVERS”?
The state Medical Assistance (MA) program must follow certain federal requirements. Waivers allow states to ask the Federal Government to waive (not apply) certain requirements that otherwise apply to the MA program. Under Federal rules, MA Programs must:
- Make Medical Assistance coverage available throughout the state;
- Follow the same eligibility rules and criteria statewide; and
- Offer certain benefit packages based on category of eligibility (benefit packages are the same across the state).

When states apply for Waiver programs, they ask the Federal Government to waive these requirements so that they can:

- **Target a Waiver program to a particular area of the state where the need is greatest or to a certain group of people.** While most of the Waivers currently available in PA are statewide, there is one Waiver program that is only available to people living in Delaware County (the Elwyn Waiver). Also, the Long-Term Care Capitation Program (called the LIFE program in PA) is only available in Allegheny, Beaver, and Westmoreland counties in Southwestern PA. Waiver programs also target certain groups of people (such as people who are technology dependent or people who have a certain disease such as HIV/AIDS).

- **Offer individuals services through the Waiver programs that are not available to the general MA population.** Waiver programs provide services such as personal assistance services (help with bathing, dressing, etc), skilled nursing services for adults, and home/environmental modifications. These services are not available to Medical Assistance recipients who do not qualify for a Waiver.

- **Offer certain services that are targeted to the population being served by that particular waiver program.** The different waiver programs offer a distinct set of services designed to meet the needs of the population being served. For example, skilled nursing services are covered by some Waivers but not others.
The following Waiver programs are available in Southwestern PA for adults with physical, sensory, and developmental disabilities. This manual includes detailed information about these programs:

- **AGING WAIVER (PDA WAIVER)**
- **AIDS WAIVER**
- **ATTENDANT CARE WAIVER**
- **AUTISM WAIVER**
- **COMMERCIAL WAIVER**
- **INDEPENDENCE WAIVER**
- **OBRA WAIVER**
- **LONG TERM CARE CAPITATED WAIVER (LIFE)**
- **MICHAEL DALLAS WAIVER**

Other Waivers that are available to adults in PA include two Waivers for adults with Mental Retardation. This manual includes some basic information about these programs:

- Consolidated MR Waiver
- Person/Family Directed Support Waiver

The following Waiver programs are not discussed in this manual because they are not available in Southwest PA or because they only serve children. Individuals who are interested in these two programs can find information on the Department of Public Welfare’s website (www.dpw.state.pa.us) or by contacting the phone numbers listed below:

- Elwyn Waiver (available for individuals who are deaf and deaf/blind in Delaware County): 1-866-286-3636 (Long Term Living Helpline)
- Infants, Toddlers, and Families Waiver (available to children under 3 years of age): 717-346-9320 (Office of Child Development and Early Learning)
As discussed in the following pages, there is general information that applies to all the Waiver Programs; however, each of the Waiver programs serves a different population and each program offers a different set of services. Some Waivers offer a limited set of services while others include a broad range of services. All of the Waivers have specific criteria individuals must meet in order to qualify. The specific information about each Waiver program begins on page 16.

**IMPORTANT!**

Waiver services are **NOT** an entitlement. All programs have limited capacity and limited funding.

There is no guaranteed entrance into a Waiver, even if someone meets all the eligibility criteria for a particular Waiver. Some programs have waiting lists.

**WHEN MIGHT SOMEONE NEED A WAIVER?**

There are a number of circumstances under which someone may want to apply for a Waiver program. Here are just some examples:

- When someone turns 21 years old and no longer qualifies for coverage of skilled nursing services under Medical Assistance but still requires that level of care to remain living independently in the community.

- When someone’s caregiver gets sick and is no longer able to provide all the care that person needs.

- When someone’s health declines and they are no longer to live independently without some supportive services.
Eligibility

To be eligible for any Waiver program, individuals must meet functional criteria and financial criteria.

Functional Criteria

In order to qualify for a particular Waiver program, individuals must require a certain level of care as specified by the individual program. Although the level of care requirements differ among the Waiver programs, individuals generally have to need the services of a Nursing Facility, Intermediate Care Facility for the Mentally Retarded (ICF/MR), or Intermediate Care Facility for Other Related Conditions (ICF/ORC) in order to qualify for a Waiver program.

An assessment is completed to determine whether the person meets the level of care requirement. As part of this assessment, a doctor completes a form (called the MA-51) to verify the level of care the individual requires.

Each Waiver program has additional functional criteria that someone must meet in order to qualify. These are specified in the description of each Waiver program beginning on page 16.

Financial Criteria

The financial eligibility criteria are identical across all Waiver programs. To qualify financially for a Waiver, an applicant may have countable income up to 300% of the federal benefit rate for SSI ($2,022/month for an individual applicant in 2009) and countable resources up to $8,000.

Since 2005, the Spousal Impoverishment Rules apply when someone is applying for a Waiver. This means that if an applicant is married, the income and resources of his or her spouse are considered when determining the applicant’s financial eligibility. There is a calculation done to determine how much income and assets of the spouse are counted toward the person applying for the Waiver. If, after this calculation, the applicant meets the income and resource limits listed above, then he or she is financially eligible for a Waiver program. This is the same process used to determine if a married individual is eligible for Medical Assistance to cover their nursing home care.
DETERMINING COUNTABLE INCOME AND RESOURCES

When the local County Assistance Office is reviewing an applicant’s financial eligibility for a Waiver program, they look at his/her countable income and resources. Certain income is disregarded (meaning that the CAO may not count all of an applicant’s income). Also, certain resources are not counted when determining financial eligibility for a Waiver. These excluded resources include: the house that someone lives in, one car, irrevocable burial accounts, and life insurance that does not accumulate a cash value.

OTHER INFORMATION ABOUT FINANCIAL ELIGIBILITY:

- There is a 5 year “lookback” period when counting resources to see if the person applying for a Waiver transferred resources for less than fair market value. For example, if someone owned a house valued at $100,000 and they sell it to their grandchild for $1, they transferred a resource for less than FMV. In situations where someone transfers resources for less than FMV, they will be ineligible for MA coverage (and for Waiver benefits) for a period of time depending on the amount of resources that were transferred for less than FMV.

- Estate Recovery—in PA, the state can attempt to recover the costs of nursing home care, home and community-based services, and related hospital and prescription costs from an MA recipient’s estate after they pass away. Please note that this only applies to individuals age 55 and older who receive HCBS care or nursing home care and it may not apply to everyone’s situation. Before pursuing estate recovery, the state will consider:
  - How much the estate is worth;
  - Whether there are dependents still living in the recipient’s house; and
  - Whether someone qualifies for a “hardship waiver”.

INDIVIDUALS WHO HAVE QUESTIONS ABOUT FINANCIAL ELIGIBILITY, THE LOOKBACK PERIOD, OR ESTATE RECOVERY CAN CALL PHLP’S HELPLINE AT 1-800-274-3258 OR 1-866-236-6310/TTY.
Applying for Waiver Programs

In general, individuals contact a local agency to start the Waiver application process. The agency differs depending on which Waiver someone is trying to access (see pages 16-36 for information about who to contact for each Waiver program).

The application process involves the following steps:

1) Determination that someone meets the level of care requirement and functional criteria: An in-person assessment is completed to determine whether someone meets the level of care requirement and other functional criteria. Sometimes, these are two different assessments done by two separate agencies. Before the assessments are completed, the individual’s physician completes paperwork to verify the level of care needed by the person applying for the Waiver program. The form that the doctor completes is called the MA-51.

2) Determination of financial eligibility: Once the above step is completed and the person appears to meet the functional criteria, then the application packet is sent to the County Assistance Office. The CAO reviews the person’s income and resources to see if they qualify financially for the Waiver program.

If a person is approved for the Waiver, then an individual service plan (or care plan) is created. The service plan outlines the types and frequency of services someone will receive under the Waiver program and how much the Waiver services will cost. See page 13 for more information.

Please see page 37 for information about Appeals and what individuals can do when their application for a Waiver program has been denied.

If a Waiver program’s application process is different from that described above, it is noted in the discussion of the specific Waivers starting on page 16.
Community Choice

The Waiver application process can be lengthy and the applicant can experience delays at each step.

In certain counties in Southwestern PA, there is a process called “Community Choice” available to individuals who are at “imminent risk” for institutionalization. If someone’s situation is such that it is likely they will need to be placed in a nursing home or other type of institution within 72 hours if home and community-based services are not provided, he/she can use this process for a quick determination of eligibility for a Waiver program. If he/she is approved, services can also be started quickly under this process.

Community Choice can also be used for individuals who currently reside in a Nursing Home (or other institution) but who wish to leave the facility. If their situation requires a quick determination of Waiver eligibility, they too can use this process.

Right now, Community Choice is only available in Allegheny, Fayette, Greene, and Washington Counties (in Southwestern PA). Individuals in these counties who are imminent risk for institutionalization and need Waiver services should contact the following number depending on where they live:

Allegheny County: 1-800-801-3070
Fayette/ Greene/ Washington: 1-800-734-9603

Community Choice has been in place since 2004. The state is planning to expand the program statewide, but the time frame for when this will happen has not yet been determined.
Accessing Waiver Services

After individuals have been determined eligible for a Waiver, a service plan (sometimes called a care plan) is developed and a budget is set in place. When developing a service plan, the Waiver recipient, along with family members and anyone else the consumer wants involved, meet with a Supports Coordinator (usually from the agency that implements the Waiver at the local level). The Supports Coordinator is supposed to provide information about all the services that are available through the Waiver. The consumer, along with all the parties involved in this meeting, determines what services will best meet his/her needs and how frequently he/she will receive those services.

This process is very important as once the service plan is developed, it is generally in place for a year and can be difficult to change. Individuals and their families need to carefully consider the services available, evaluate what services they need, and determine how frequently they need to receive those services to remain independent and safe in the community.

Too often, PHLP hears from consumers and family members about problems with the service plan development process. Problems include not being told about the array of services available under the program and feeling pressured to not ask for as many services as truly needed. *If the service coordinator does not tell individuals and families about all services available, they should request a list of services available under the particular waiver program.* Also, individuals should ask for the amount and frequency of services they believe are required to meet their needs and allow them to remain living in the community safely. If the waiver program does not approve the service plan as requested, then the individual can go through the appeal process (see page 37). Individuals can contact PHLP for advice and assistance about these situations.
Accessing Waiver Services (continued)

After the service plan is developed, the Supports Coordinator helps to find agency providers to fill the hours of service needed. Individuals must be given a choice of service providers. Individuals can contact their Service Coordinator when the services they are receiving are not meeting their needs or when a change is needed in regard to the service plan.

More and more consumers want the freedom to hire, train, and supervise their own staff and to craft and manage their own staff schedules to ensure they receive the personal assistance services they need as well as certain other services. Many of the waivers do allow for consumer or participant direction for certain services. Individuals who choose to receive services under the consumer directed model are then responsible for finding staff to fill the service plan hours as well as for supervising staff. Individuals then typically work with an agency to do payroll and other paperwork related to being an employer.

Please see the discussion of each individual Waiver program (starting on page 16) for information about whether the program provides certain services through an agency model, a consumer model, or some combination of the two.
Can Family Members Be Paid Caregivers for A Waiver Recipient?

Some Waiver programs allow certain family members to be paid caregivers. This can be helpful in situations where it is the preference of the individual receiving Waiver services and/or because it is the preference of their family. Having family members be paid caregivers can help overcome some of the challenges people face finding qualified, reliable, and continuous caregivers due to workforce shortages or other issues such as living in a rural area or other area that is not easily accessible by public transportation. When professional caregivers are unavailable, relatives often have to fill in and provide the care necessary for their family member which may cause them to miss work or other activities and could impact their job security. If the family member can be paid for their services, it can help reduce the stress and the financial burdens of the situation.

To be a paid caregiver under a Waiver program, the family member must be at least 18 years old and usually has to meet the same standards and training requirements as other paid caregivers. Generally, the state does not allow parents/step parents to be paid caregivers for their minor children (under 21 years old) in a Waiver nor can the spouse of someone on a Waiver be paid for the care they provide. Also, legal guardians, Powers of Attorney, and beneficiaries of life insurance policies are generally not allowed to be paid caregivers under these programs.

The following Waiver programs allow certain family members to be paid caregivers for certain services. The services family members can be paid to provide differ from Waiver program to Waiver program. Further information about paid family caregivers can be found in the detailed information about the specific Waiver programs in the pages that follow and by contacting the agency that administers the particular Waiver.

- **AGING** (SEE PAGE 16)
- **ATTENDANT CARE** (SEE PAGE 21)
- **OBRA** (SEE PAGE 24)
- **COMMCARE** (SEE PAGE 26)
- **INDEPENDENCE** (SEE PAGE 28)
- **PERSON/FAMILY DIRECTED SUPPORT (PFDS)** (SEE PAGE 35)
- **CONSOLIDATED** (SEE PAGE 36)
This Waiver Program offers older adults an alternative to institutional care by providing long-term care services to qualified Pennsylvanians age 60 and older living in their homes and/or communities.

The PA Office of Long Term Living (which falls under both the Department of Aging and the Department of Public Welfare) oversees this waiver at the state level but it is administered at the local level by the county Area Agencies on Aging.

**FUNCTIONAL ELIGIBILITY:**

- Age 60 or older
- Be determined Nursing Facility Clinically Eligible (see below)
- Must be able to be served in the community through available health and social services

An individual is considered Nursing Facility Clinically Eligible (NFCE) if he/she meets the following criteria:

- Has an illness, injury, disability or medical condition diagnosed by a physician,
- As a result of the diagnosis, the individual requires care and services above the level of room and board (of a nursing facility),
- A physician certifies that the individual is NFCE, and
- The care and services required are either skilled nursing or rehabilitation services as specified by the Medicare Program OR health-related care and services that may not be as inherently complex as skilled nursing or rehabilitation services but which are needed and provided on a regular basis in the context of a planned program of health care and management and were previously available only through institutional facilities.

Therefore, individuals who, on a regular (but not necessarily daily) basis, have *intermediate care needs* (such as needing help with non-medical activities like bathing, dressing, transferring) OR *skilled care needs* (primarily medical in nature like skilled nursing, physical therapy, occupational therapy) can qualify as NFCE. The recent clarification to this standard will hopefully result in fewer inappropriate denials and terminations for failing to meet the NFCE standard. Individuals who have been determined to not meet the NFCE standard can contact PHLP for assistance at 1-800-274-3258.
SERVICES AVAILABLE:

- Adult Daily Living Center
- Care Management
- Community Transition Services (for people leaving an institution)
- Companion Services
- Counseling
- Environmental Modifications
- Home Delivered Meals
- Home Health Services (Home Health Aides, Nursing, and Therapies such as Physical, Occupational and Speech)
- Homemaker Services
- Personal Assistance Services
- Personal Care services
- Personal Emergency Response System
- Respite Care
- Specialized Medical Equipment and Supplies
- Telecare*
- Transportation

- Telecare is a new service available under the waiver. This service uses in-home technology to assist and support individuals in maintaining their independence through activities such as health status measuring and monitoring, medication dispensing, and passive safety monitoring.

- Family members (other than a spouse) may receive payment to provide Personal Assistance Services. See page 15 for more information about family members being paid caregivers under Waiver programs.

- Personal Assistance Services (help with eating, bathing, dressing, personal hygiene and other activities of daily living; also includes meal preparation, light housekeeping, health maintenance and routine wellness activities) can be received through:
  - **Consumer Directed Model**, where the consumer (or their representative) hires, trains, schedules and supervises their own workers; or
  - **Agency Directed Model**, where a provider agency takes on these activities for the consumer; or
  - **Combination** of Consumer Directed and Agency Directed Model.

Individuals who choose the Consumer Directed Model can get Financial Management Services to help with certain tasks of being employer (i.e., payroll, tax paperwork).
Aging Waiver (continued)

ACCESSING THE PROGRAM:

To apply for this program, individuals can contact the Office of Long Term Living Hotline at 1-800-757-5042 or the local Area Agency on Aging (AAA) in their county.

Allegheny County AAA: (412) 350-5460 or 1-800-344-4319
Armstrong County AAA: (724) 548-3290 or 1-800-368-1066
Beaver County AAA: (724) 847-2262
Butler County AAA: (724) 282-3008 or 1 (888) 367-2434
Fayette, Greene, and Washington Counties (Southwestern PA AAA): 1-800-734-9603
Indiana County AAA: (724) 349-4500 or 1-800-442-8016
Lawrence County AAA (Challenges: Options in Aging): (724) 658-3729
Westmoreland County AAA: (724) 830-4444 or 1-800-442-8000

AAA staff will do an in-person assessment to determine whether an individual meets the functional criteria of the Waiver and meets the NFCE standard (see page 16).

Care Managers through the local AAA help individuals eligible for the Waiver develop their care plan and access services.

NOTE: Individuals who live in a Domiciliary Care Home can qualify for this waiver.
Long-Term Care Capitation Program (LIFE Program)

This is a managed care program that provides comprehensive health care and supportive services and is designed as an alternative to nursing facility care for persons in Allegheny, Beaver, Butler and Westmoreland Counties in Southwestern PA. The program will be expanding to other counties in SW PA in the future.

Functional Eligibility:
- Age 55 or older
- Meet Nursing Facility Clinically Eligible standard (see page 16)
- Able to be safely served in community

SERVICES:

- Adult Day Health Services
- Audiology Services
- Chiropractic Services
- Dental Services
- Environmental Accessibility Adaptations
- Health Education
- Hospice Care
- Hospital and Nursing Facility Services
- Individual and Family Counseling
- In-Home Supportive Care
- Meals and Nutritional Counseling
- Medical Specialists
- Nursing Care
- Nursing & Medical Coverage 24 hrs/day
- Optometry Services and Eyeglasses
- Outpatient MH/MR Services
- Personal Care
- Pharmacy Services
- Podiatry Services
- Primary Medical Care
- Physical, Occupational, and Speech Therapy
- Recreational Therapy
- Respiratory Care
- Social Services
- Specialized Medical Equipment and Supplies
- Transportation

NOTE: Individuals in the LIFE program receive most of their services at an adult day health center or senior center (transportation is provided). This includes primary medical services. Because of this, individuals who wish to participate in the LIFE program may have to change their primary care doctor.

Individuals who do not qualify financially for this program, may be able to privately pay for LIFE program services.
ACCESSING THE PROGRAM

Individuals interested in the LIFE Program should contact the program in their county. The individual program will explain the application process.

- **Allegheny County**: LIFE Pittsburgh—(412) 388-8042
  Community Life—(412) 664-1448

- **Beaver County**: LIFE Beaver—(724) 378-5400

- **Butler County**: LIFE Butler—(724) 287-5433

- **Westmoreland County**: Senior LIFE — (814) 535-6000
  Community Life—(412) 664-1448
Attendant Care Waiver

This Waiver Program provides services to eligible persons with physical disabilities in order to prevent institutionalization and allow them to remain as independent as possible.

**FUNCTIONAL ELIGIBILITY:**

- Ages 18 - 59
- Physical impairment lasting 12 months or more
- Mentally alert and capable of directing own care (selecting, supervising attendants & managing affairs)
- Meet Nursing Facility Clinically Eligible standard (see page 16)

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Individuals who are receiving services through this Waiver before their 60th birthday can choose to remain in this Waiver once they turn 60. They also have the option of moving to the Aging/PDA Waiver (see page 16) if that program better meets their needs.

**SERVICES:**

- Personal Assistance Services (formerly called Attendant Care Services)-(i.e., bathing, dressing, cleaning, meal preparation, shopping)
- Supports Coordination
- Personal Emergency Response System
- Community Transition Services for individuals leaving an institution

- Family members (other than a spouse or parent/step-parent of minor child) may receive payment to provide Personal Assistance Services. See page 15 for more information about family members being paid caregivers under a Waiver.

- Personal Assistance Services can be received through the **Consumer Directed Model**, where the consumer hires, trains, schedules, and supervises their own attendants, or through the **Agency Directed Model**, where a provider agency takes on those activities for the consumer, or through a **combination of the two models**. Financial Management Services are available to individuals who choose the Consumer Directed Model to help with certain tasks related to being an employer.
Attendant Care Waiver (continued)

ACCESSING THE PROGRAM

The Office of Long-Term Living oversees the waiver at the state level and various agencies administer the Waiver at the local level.

Individuals who are interested in this Waiver and want to apply can either contact the Office of Long-Term Living Waiver Hotline at 1-800-757-5042 or contact the local enrollment agency in their county:

- **Accessabilities** (Armstrong, Indiana, Westmoreland): (724) 832-8272
- **Community Care Connection, Inc.** (Butler): (724) 283-3198
- **UCP, Community Living and Support Services** (Allegheny): (412) 683-7100
- **Community Resources for Independence** (Beaver, Lawrence): (800) 530-5541
- **UCP Home and Community Services** (Fayette, Green, Washington): (724) 229-9050

Staff from the local enrollment agency do an in-person assessment to determine whether someone meets the first three functional criteria described on the previous page. Local Area Agency on Aging staff do an assessment to determine whether someone meets the Nursing Facility Clinically Eligible Standard. Once these two steps are completed, an application is sent to the County Assistance Office for a determination of financial eligibility. If the person is approved, she meets with a Supports Coordinator to determine her service plan and her budget (see pages 13 and 14 for more information about this process).
Community Services Program for People with Disabilities (CSPPPD)

There are three waiver programs that fall under the Community Services Program for People with Disabilities (CSPPPD). These programs are:

- COMMERCARE Waiver
- Independence Waiver
- OBRA Waiver

There are certain common criteria that apply to all three programs. Each individual program then has additional criteria that someone has to meet in order to qualify for that particular program. These criteria apply to all three Waivers:

- Must have a physical disability, Traumatic Brain Injury, or other related condition.

  “Other Related Condition” includes Cerebral Palsy, Spina Bifida, Spinal Cord Injury and Seizure Disorder.

- Must have substantial functional limitations in at least 3 of the following areas:
  - Mobility
  - Communication (understanding and use of language)
  - Self Care
  - Learning
  - Self-direction
  - Capacity for independent living

The CSPPPD programs are administered by the Office of Long Term Living (OLTL) at the state level and by Three Rivers Center for Independent Living (TRCIL) at the local level for all 10 counties in SW PA. Individuals interested in any of the 3 CSPPPD programs in SW PA should call TRCIL at (412)371-7700 or the OLTL Hotline at 1-800-757-5042.
CSPPPD/OBRA Waiver

This Waiver Program provides services to persons with developmental disabilities so that they can live in the community and remain as independent as possible (this includes relocating or diverting individuals from a nursing home to a community setting).

**Functional Eligibility:**

In addition to the criteria listed on the previous page, the applicant must:

- Be 18 years or older;
- Be developmentally disabled;
- Have a disability that manifests itself **before** age 22;
- Have a disability that is likely to continue indefinitely;
- Have a primary diagnosis that is **not** mental health or mental retardation; and
- Meet the Intermediate Care Facility/Other Related Condition level of care (high need for habilitation services) or be a nursing facility resident who is determined to be inappropriately placed.

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Individuals already receiving services through the OBRA Waiver can remain in this Waiver program when they turn 60. However, if someone is 60 years old at the time he is applying for this waiver program, he will be referred to the Aging Waiver.

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Individuals living in Personal Care Homes (PCHs) are eligible for this Waiver as long as the Waiver services they receive do not duplicate services provided by a PCH or that are the responsibility of the PCH.
SERVICES:

- Adult Day Services
- Assistive Technology/Specialized Medical Equipment and Supplies
- Community Integration
- Community Transition Services (for individuals leaving institutions)
- Education
- Environmental Modifications
- Habilitation Services
- Nursing—Visiting Nurses
- Personal Assistance Services
- Personal Emergency Response System
- Prevocational Services
- Respite Services
- Supports Coordination
- Supported Employment Services
- Specialized Therapy Services (Physical, Occupational, Speech, and Behavioral)
- Transportation

- Family members (other than a spouse or parent/step-parent of minor child) can be paid to provide personal assistance services and/or respite. In order for family members to be paid for providing respite services, the family member cannot live in the same household as the individual waiver recipient. See page 15 for more information about family members being paid caregivers under Waiver programs.

- Personal Assistance Services and Respite Services can be received through: the Consumer Directed Model, where the consumer (or their representative) hires, trains, schedules and supervises someone to provide these services; through the Agency Directed Model, where a provider agency does those tasks for the consumer; or through a combination of the two models. Financial Management Services (FMS) are available to help individuals who choose the Consumer Directed Model with some of the tasks of being an employer (payroll, tax filing, etc).

The Enrollment Agency (TRCIL) determines whether individuals meet all functional eligibility criteria. A physician evaluates the level of care by completing the MA-51.
CSPPPD/COMMERCARE Waiver

This Waiver Program provides services in the community to eligible persons with a traumatic brain injury in order to prevent institutionalization and allow them to remain as independent as possible.

**Functional Eligibility:**

In addition to the criteria listed on page 23, the individual must:

- Be 21 years old or older;
- Have a Traumatic Brain Injury (defined as a sudden insult or damage by an external force to the brain or its coverings, not of a degenerative, congenital, or post-operative nature, that is expected to last indefinitely and results in substantial functional limitations in 3 or more major life activities including behavior and cognitive capacity (judgment, memory and reasoning) in addition to those areas listed on page 23); and
- Require a **Special Rehabilitation Facility** (SRF) Level of Care.

**Definition of “Special Rehabilitation Facility”:**

a facility with residents more than 70% of whom have a neurological-muscular diagnosis and severe functional limitations.

**NOTE:** Individuals dependent on mechanical ventilator support are not eligible for this waiver; however, they may be eligible for the Michael Dallas Waiver for individuals who are technology-dependent—see page 34.

Persons receiving services under this waiver can reside in a licensed facility (such as a Personal Care Home) with 6 or fewer beds.
SERVICES:

- Assistive Technology/Specialized Medical Equipment and Supplies
- Behavioral Specialist Consultant
- Chore Services
- Community Integration
- Community Transition (for people leaving an institution)
- Coaching and Cueing
- Cognitive Therapy
- Counseling
- Educational Services
- Environmental Modifications
- Habilitation and Support
- Night Supervision
- Part-Time Nursing
- Personal Care Services
- Personal Emergency Response System
- Prevocational Services
- Respite Care
- Service Coordination
- Supported Employment
- Structured Day Program
- Therapies (Physical, Occupational and Speech)
- Transportation

- Family members (other than a spouse) may receive payment to provide personal care services. Family members who do not live in the consumer’s household may be paid to provide respite services. See page 15 for more information about family members being paid caregivers under Waiver programs.

The Enrollment Agency (TRCIL) determines whether individuals meet all functional eligibility criteria except for the level of care determination. To determine whether the individual meets the level of care required for this Waiver, a physician completes an MA-51 and AAA staff do an in-person assessment.
CSPPPD/Independence Waiver

This Waiver Program provides services to eligible persons with physical disabilities in order to prevent institutionalization and allow them to remain as independent as possible.

**FUNCTIONAL ELIGIBILITY:**

In addition to the criteria listed on page 23, the person must:

- Be 18 years old or older;
- Have a physical disability which is likely to continue indefinitely;
- Have a primary diagnosis that is not mental health or mental retardation;
- Not be ventilator dependent; and
- Meet Nursing Facility Clinically Eligible Level of Care (see page 16)

*****

Individuals who are already receiving services can remain in this Waiver program after they turn 60 years old. However, anyone applying for this Waiver at 60 years old or older will be referred to the Aging Waiver.

*****

The Enrollment Agency (TRCIL) determines whether individuals meet all functional eligibility criteria except for the level of care determination. To determine whether the individual meets the NFCE level of care required for this Waiver, a physician completes an MA-51 and AAA staff do an in-person assessment.
SERVICES:

- Assistive Technology/Specialized medical equipment and supplies
- Community Integration
- Community Transition
- Educational Services
- Environmental Modifications
- Personal Assistance Services
- Personal Emergency Response System
- Respite Care
- Supports Coordination
- Therapies (PT, OT, Speech, Behavioral)
- Transportation
- Visiting nurse

- Family members (other than a spouse or parent/step-parent of a minor child) may receive payment to provide personal assistance service and respite services if the family member does not live in the consumer’s household. See page 15 for more information about family members being paid caregivers.

- Personal Assistance Services and Respite care can be received through the Consumer Directed Model, where the consumer hires, trains, schedules, and supervises someone to provide their personal assistance services and/or respite care, or through the Agency Directed Model, where a provider agency performs those tasks for the consumer, or through a combination of the two models. Individuals who choose the Consumer Directed Model can receive Financial Management Services to help some of the tasks of being an employer (payroll, tax filing, etc).
Autism Waiver

This is Pennsylvania’s newest Waiver program (approved in May 2008) and the first of its kind in the country! This program serves adults with Autism in order to help them remain living independently in the community.

The Department of Public Welfare, Bureau of Autism Services administers this Waiver program.

**FUNCTIONAL CRITERIA:**

- Age 21 and older;
- Diagnosis of Autism Spectrum Disorder (such as Childhood Disintegrative Disorder, Pervasive Developmental Disorder-Not Otherwise Specified, Rett Disorder-as determined by a licensed psychologist or physician); and
- Have significant functional limitations in daily living skills such as communication, learning, mobility, or capacity for independent living (meet ICF level of care).

The individual’s IQ is not considered when determining eligibility for this waiver!

This program is initially funded to serve up to 200 individuals across the state and Waiver slots are allocated on a regional basis.

Priority for this Waiver is given to individuals who are not currently receiving any ongoing long-term care services through another Waiver and who are not residing in an ICF/MR or ICF/ORC, State MR Center, State MH Hospital, or Nursing Home.
Autism Waiver (continued)

SERVICES:

- Assistive Technology
- Behavioral Specialist
- Community Inclusion
- Community Transition
- Day Habilitation
- Environmental Modifications
- Family Counseling
- Family Training
- Job Assessment & Finding
- Nutritional Consultation
- Residential Habilitation
- Respite
- Supported Employment
- Temporary Crisis Services
- Therapies (Counseling, Occupational, Speech and Language)
- Transitional Work Services

Providers of these services are required to complete an Autism-specific training program approved by the Bureau of Autism Services.

The participant will choose a supports coordination agency to conduct assessments and to help the individual develop his/her Individual Support Plan (ISP).

Currently, this waiver only offers agency-managed services; however, DPW plans to add participant-directed services at a later date.
**ACCESSING THE PROGRAM**

Individuals interested in applying for this program must **contact the Bureau of Autism Services (BAS) at 1-866-539-7689** to request an application. The caller must leave a message with basic information (Name, Daytime Phone, Address, County) about the caller and about the person needing services.

BAS will do a follow-up call to determine whether the individual meets basic eligibility requirements (like age, diagnosis). BAS will also check their system to see if the individual is receiving any state or federally-funded long-term care services. If the person appears to be eligible for this Waiver program, BAS will send a Priority Status letter followed by an application. Applications will be sent out depending on someone’s priority group and the date of the initial call to BAS.

**Priority 1 Group:** Adults with ASD NOT currently receiving any ongoing long-term care services

**Priority 2 Group:** Adults with ASD who are currently receiving other ongoing long-term care services (as described on page 30).

The application process includes a level of care assessment as long as slots are available. If all the Waiver slots in a region are filled, individuals requesting services will be placed on a waiting list.
AIDS Waiver

This Waiver Program provides services that are not otherwise paid for under the Medicaid program to eligible persons with AIDS or Symptomatic HIV Disease.

**FUNCTIONAL ELIGIBILITY:**

- Age 21 and older
- Diagnosis of HIV/AIDS
- Require hospital, skilled nursing, or intermediate care facility level of care

**SERVICES:**

- Home health aide
- Homemaker
- Nutritional Consultation
- Nutritional Supplements
- Specialized Medical Equipment and Supplies (such as disposable eye shields, disposable gowns, sterile and non-sterile gloves, disposable masks, and rental of Enteral Nutritional Infusion Pump)
- Skilled Nursing

This Waiver is Administered by the Office of Long-Term Living. Individuals interested in applying for this Waiver can contact the **OLTL Hotline (1-800-757-5042)** or contact their AIDS case manager.
This Waiver Program provides services to eligible persons of any age who are technology-dependent (defined as dependent on technology to replace a vital bodily function or to sustain life).

**Functional Eligibility:**

- Technology-dependent
- Doctor statement of need for mechanical device
- Meets Special Rehabilitation Facility (defined on page 26) Level of Care

Technology-dependent is generally interpreted to mean “ventilator dependent” but is not limited to this. See page 38 for an example of an individual who was technology dependent, but who did not use a ventilator, and who was found eligible for this program.

**Services:**

- Attendant Care
- Case Management
- Nutritional Supplements
- Private Duty Nursing
- Respite Care
- Specialized Medical Equipment and Supplies

This Waiver is administered by the Office of Long-Term Living. Individuals who are interested in this waiver program should contact the **Office of Long-Term Living Hotline at 1-800-757-5042.**
Person/Family Directed Support (PFDS) Waiver

This Waiver Program provides services to eligible persons with mental retardation so that they can remain in the community as an alternative to institutional care.

**FUNCTIONAL ELIGIBILITY:**
- Age 3 and older
- Mental retardation diagnosis
- Does not require Office of Mental Retardation licensed community residential services
- Require active treatment
- Be recommended for ICF/MR level of care based on medical evaluation

**SERVICES:**
- Adaptive appliances and equipment
- Licensed Day Habilitation
- Environmental accessibility adaptations
- Home and Community Habilitation*
- Homemaker/Chore services
- Personal support services*
- Prevocational services
- Respite care *
- Supports Coordination
- Supported Employment*
- Therapies (PT, OT, speech/language, visual/mobility and behavioral)
- Transitional work services
- Transportation*
- Visiting nurse

* These services can be provided by certain family members. See page 15 for more information about family members being paid caregivers under Waiver programs.

**NOTE:** Under this Waiver, there is an individual budget cap of $26,000 per year. This means that the cost of all of the services provided to an individual under this waiver during the year cannot exceed this cap. Slots are given to each county and if no slot is available, then the person is placed on a waiting list.

This Waiver Program is administered by the Department of Public Welfare’s Office of Developmental Programs. County MH/MR Offices conduct the eligibility determinations and provide service coordination. Individuals interested in applying should contact the Office of Developmental Programs at 1-888-565-9435.
Consolidated Waiver

This Waiver Program provides services to eligible persons with mental retardation so that they can remain in the community. This Waiver is similar to the PFDS Waiver with some important exceptions which are noted below.

FUNCTIONAL ELIGIBILITY:
Individuals must meet the same criteria for this waiver as for the PFDS Waiver except that the person can require Office of Mental Retardation licensed community residential services.

SERVICES:
The Consolidated waiver includes all the services available under the PFDS Waiver on the previous page plus these additional services:

- Education Support
- Home Finding
- Licensed Residential Habilitation
- Permanency planning

Family members can provide services under the Consolidated Waiver just as they can for the PFDS Waiver (see the previous page). In addition, family members can also be paid to provide Home Finding services under the Consolidated Waiver.

Unlike the PFDS Waiver, this Waiver program does not have an upper limit on an individual’s budget. For this reason, it is harder to access than the PFDS Waiver and there is a long waiting list with tiers of priority.

This Waiver Program is administered by the Department of Public Welfare’s Office of Developmental Programs. County MH/MR Offices conduct the eligibility determinations and provide service coordination. Individuals interested in applying should contact the Office of Developmental Programs at 1-888-565-9435.
Individuals have the right to appeal when any of the following occur:
- The initial application is denied either based on the functional criteria or the financial criteria;
- The Waiver is terminated;
- The Waiver services are denied, reduced or changed;
- Individuals are not given a choice of providers or denied the provider of their choice for Waiver services;
- Individuals are not given the choice between institutional care and Home and Community Based Services; or
- There is a delay on the part of the state, or the agency that administers the waiver on the local level, either in implementing the waiver after it is initially approved or after a change is requested by the consumer.

All appeals filed regarding Waiver services are heard through the DPW Fair Hearing process. Individuals should receive notice when they are denied eligibility or before their waiver services are denied, terminated, reduced or changed. This notice should include information about appeal rights and instructions for filing an appeal. Generally, appeal requests need to be made in writing and individuals must appeal within 30 days of the date of the notice.

If possible, individuals should send their appeal request via certified mail, return receipt requested, or some other way where they have proof of the mailing date should there be a problem. Individuals should also keep a copy of their appeal request.

In some cases, individuals will not receive a notice informing them of their appeal rights and instructions for filing an appeal even though they have a right to an appeal (such as when there is a delay in implementing the waiver). In these cases, individuals can call PHLP’s HELPLINE for assistance at 1-800-274-3258.
After an appeal is filed, the person will be scheduled for a DPW Fair Hearing either in person or by phone depending on the individual’s preference noted on the appeal request. During the Fair Hearing, an Administrative Law Judge will review the case and will later issue a decision to uphold or to overturn the decision being appealed.

If the ALJ upholds the original decision being appealed, an individual can request Reconsideration from the Secretary of the Department of Public Welfare. If he/she is unsuccessful at that level, he/she can appeal to Commonwealth Court.

If you would like advice and/or assistance with a waiver appeal, please contact PHLP’s HELPLINE at 1-800-274-3258.

Case Example:

PHLP represented a consumer who had a tracheostomy tube (J-tube) and a feeding tube (G-tube). This individual was not on a ventilator. The individual required regular suctioning, monitoring the oxygen levels, J-tube and G-tube maintenance, and monitoring and intervention for seizures. The individual applied for the Michael Dallas Waiver and was denied because the Department of Public Welfare determined that he was not technology dependent. The person appealed and had a Fair Hearing. The Administrative Law Judge upheld the denial. PHLP represented the consumer and filed a request for Reconsideration from the Secretary because of the improper exclusion of testimony and for failing to consider testimony from two physician experts who testified that the individual was technology dependent and needed skilled nursing services. The Secretary granted the request for Reconsideration and overturned the ALJ’s decision. The person was then admitted to the Michael Dallas Waiver Program.
Other State-funded HCBS Programs

Individuals who are not eligible for a HCBS Waiver Program may be able to get non-medical support services in their home through one of the following programs.

**Act 150**

Act 150 provides the same type and amount of services as the Attendant Care Waiver, but it is not funded through Medical Assistance. As a result, some of the eligibility provisions that apply to the Attendant Care Waiver Program do not apply to the Act 150 Program. Under the Act 150 Program, there is:

- No resource limit
- No income limit (however, individuals with income above 125% of the federal poverty level pay for part of their services on a sliding scale).
- No estate recovery
- No assessment to determine whether someone meets the Nursing Facility Clinically Eligible standard

**Services:**

- Personal Assistance Services (i.e., bathing, dressing, cleaning, meal preparation, shopping)
- Supports Coordination
- Personal Emergency Response System

For Act 150 services, individuals should contact the same local agency that administers the Attendant Care Waiver Program for their county:

**Accessabilities** (Armstrong, Indiana, Westmoreland): (724) 832-8272  
**Community Care Connection, Inc.** (Butler): (724) 283-3198  
**UCP, Community Living and Support Services** (Allegheny): (412) 683-7100  
**Community Resources for Independence** (Beaver, Lawrence): (800) 530-5541  
**UCP Home and Community Services** (Fayette, Green, Washington): (724) 229-9050
Other State-funded HCBS Programs (continued)

OPTIONS

PA operates a program called OPTIONS that provides some of the same services as the Aging Waiver but is not funded through Medical Assistance. As a result, some of the eligibility provisions required by Medical Assistance do not apply.

OPTIONS is available for persons over 60 who do not qualify for the Aging Waiver. Under the OPTIONS Program, there are no income or resource limits; however, individuals with income above 125% of the federal poverty level may have to pay part of the cost of their services.

- Many of the services that are available under the Aging Waiver are available under the OPTIONS program.
- There is no assessment needed to determine whether someone meets the Nursing Facility Clinically Eligible standard.
- Unlike the Aging Waiver, OPTIONS services can be provided to persons living in a nursing home or a Personal Care Home.

Some Counties do have waiting lists for these services. Individuals who are interested in OPTIONS services should contact their local Area Agency on Aging:

- **Allegheny County AAA**: (412) 350-5460 or 1-800-344-4319
- **Armstrong County AAA**: (724) 548-3290 or 1-800-368-1066
- **Beaver County AAA**: (724) 847-2262
- **Butler County AAA**: (724) 282-3008 or 1 (888) 367-2434
- **Fayette, Greene, and Washington Counties (Southwestern PA AAA)**: 1-800-734-9603
- **Indiana County AAA**: (724) 349-4500 or 1-800-442-8016
- **Lawrence County AAA (Challenges: Options in Aging)**: (724) 658-3729
- **Westmoreland County AAA**: (724) 830-4444 or 1-800-442-8000
Long-Term Care Initiatives

In the State’s efforts to offer Home and Community Based Services as an alternative to institutional care, there are two programs that help people who are already living in a nursing home or other type of institution but who want to return to the community and receive supportive services in their home. These programs are described below and are aimed at providing consumers a choice of where they live and receive support services, as well as helping to eliminate some of the barriers consumers face when trying to access the HCBS Waiver programs.

- **Nursing Home Transition**: This program helps individuals currently living in a Nursing Home to leave the facility and receive services in their home or other community-based setting. Nursing Home Transition Coordinators target individuals who have been in nursing homes for a short time (3 months or less) to educate them about their alternatives to nursing home care. Individuals who qualify for the Aging, Attendant Care, OBRA, COMMCARE, and Independence Waivers can leave the nursing home and receive services in their home or a community-based setting through one of these Waiver programs. The nursing home transition program helps individuals with the Waiver application process as well as funding to help with set-up expenses (such as moving, security deposits, getting furniture for their home).

- **Money Follows the Person**: This program started July 1, 2008 to help certain individuals who have lived in certain institutional settings for six months or longer return to the community and receive their services and supports in a home or community-based setting. Under this initiative, the state gets additional monies from the federal government to fund several of the HCBS Waiver programs for 12 months after the qualified person transitions out of the institution and back to the community.
MONEY FOLLOWS THE PERSON (continued)

To be eligible for services under Money Follows the Person, individuals must meet all of the following:

- be residing in a nursing facility, an Intermediate Care Facility for the Mentally Retarded (ICF/MR), or a state hospital for at least six months;
- be receiving Medical Assistance benefits for at least 30 days prior to their discharge from the institution;
- be transitioning to a “qualified residence” that is:
  1. a home owned or leased by the participant or her family member;
  2. an apartment with an individual lease; or
  3. a community-based residential setting (i.e., group home) with four or fewer unrelated people living there.
- be eligible for services under one of the following waiver programs: Aging, Consolidated, Attendant Care, OBRA, COMMCARE, or Independence.

Individuals can get more information about the Nursing Home Transition Program and Money Follows the Person by contacting the Office of Long Term Living Helpline at 1(866) 286-3636 or by going to their website at www.LTLinPA.com.
Conclusion

The Pennsylvania Health Law Project provides free legal services and assistance to consumers needing to access home and community based services through HCBS Waiver and state-funded programs.

If you need further information about HCBS Waiver Programs or assistance in applying for services or receiving services once you’ve been approved, please call us on our toll-free help line at 1 (800) 274-3258 or 1 (866) 236-6310 (TTY).

Additional information about HCBS Waiver Programs can be found on our website at www.phlp.org.