

# Accessing Home and Community-Based Services When Income Appears Too High

## A Factsheet for Professionals

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People whose income is **no more than \$500 over the** monthly income limit for the Community HealthChoices (CHC) Waiver, OBRA Waiver, or the LIFE Program may be eligible for a Waiver or LIFE program using a **Qualified Pooled Income Trust**.

### How Does It Work?

The income limit for the CHC Waiver, OBRA Waiver and the LIFE Program is \$2,349 in 2020. Only the applicant's income is counted. If the applicant's income is no more than \$500 above the program income limits, each month they deposit this "excess" income into a "pooled income trust." The trust is managed by a special nonprofit trust company. The nonprofit becomes the trustee of that money.

Individuals Under Age 65 → The nonprofit trustee can spend the money on supplemental items, services and expenses that solely benefit the individual. The money placed in the trust can build up so that larger purchases can be made, or it can be used on monthly expenses. For example, the trust can purchase a laptop computer, new furniture, or clothing for the applicant; or pay their monthly utility bills or rent. But the trust cannot give cash or pay back the money that is deposited.

*Note:* Individuals who are under age 65, have a disability and are working, may be able to access the CHC or OBRA Waivers through the [Medical Assistance for Workers with Disability](#) (MAWD) program, instead of a Pooled Income Trust. MAWD has higher resource and income limits than the Waivers. It only counts around half of any income from work. There is no need to set up a trust or spend income on anything special to qualify for MAWD. However, individuals do have to pay a monthly premium for MAWD. The monthly premium is equal to 5% of the countable income.

Individuals Age 65 or Over Applying for the CHC or OBRA Waiver → The nonprofit trustee will use the money to pay the individual's monthly medical or care expenses that are equal to the amount their income is over the Waiver limit. For example, the trust can:

- Pay an aide directly to provide home care until the amount the individual puts in the trust is spent each month. After that, the Waiver will pay for the home care it has approved.
- Pay old medical bills if there is a repayment agreement signed by the provider.
- Pay the monthly rental fee for medically necessary medical equipment, such as hospital beds and CPAP machines.

Medicare prescription drug costs cannot be used as an allowable expense because there are no prescription drugs costs – even copays – once someone is on the Waiver.

Individuals Age 65 or Over Applying for a LIFE Program → The nonprofit trustee must send the money to the state (Department of Human Services). After the individual's death, the money will be used to repay the state for the cost of waiver services that were received.

Only nonprofit pooled trust companies can serve as trustee of qualified pooled income trusts. There is only one trust company in Pennsylvania that currently handles them – the Achieva Family Trust. Achieva Family Trust currently requires a) an initial contribution of \$100 to open the trust; b) a \$50 annual administrative fee; and c) an amount equal to the amount monthly income exceeds the income limit for the Waiver or LIFE program.

### **Who is Eligible to Use a Pooled Income Trust?**

- Total (gross) income of **\$2,849** or less in 2020. That is \$500 over the usual income limit of \$2,349. That amount may increase in 2021. Only the Waiver/LIFE Program applicant's income counts.
  - When figuring out total income, add back in anything that is deducted from Social Security payments or other income, such as the \$144.60 Medicare Part B premium.
- Under the resource limit for the Waiver/Life Program.
  - The Pennsylvania Health Law Project (PHLP) can help applicants figure out which resources are considered and whether they meet the resource limit. An individual's home and one car are not counted. The limit for resources that are counted (such as bank accounts) is \$8,000 for someone who is single. It is higher for married couples. There is no resource limit if an applicant lives with their child who is under age 21.
  - Unless the applicant is in a nursing home, they will need to provide copies of up to 5 years of bank statements to the County Assistance Office so it can determine if money or property was transferred or given away without fair payment.
  - Applicants in a nursing home that is being paid for by Medicaid are under the resource limit for the Waiver/Life Program.
  - The Pooled Income Trust cannot be used if an applicant's resources are too high. A private elder law attorney should be contacted for advice on handling excess resources.
- Determined to be clinically eligible for the waiver. This determination is made by the Independent Enrollment Broker as part of the Waiver/LIFE Program application process.

- Able to understand and sign legal documents, or have a power of attorney or court-appointed guardian who can. A copy of the signed power of attorney or guardianship order is required.
- Additional Requirement for People Age 65+ applying for a Waiver → Have regular monthly medical or care expenses that the applicant is or will be responsible for paying.

### **Is Help Available?**

PHLP can provide free help. We evaluate individual cases and help people decide if a Pooled Income Trust is right for them.

Contact the PHLP Helpline at 1-800-274-3258 or [staff@phlp.org](mailto:staff@phlp.org).

This publication is intended to provide general legal information, not legal advice. Each person's situation is different. If you have questions about how the law applies to your particular situation, please call the Helpline at 1-800-274-3258.