

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

An Explainer



People with income **no more than \$500 over** the monthly income limit for the Community HealthChoices (CHC) Waiver, other home and community-based services waivers, or LIFE program may be eligible for a Waiver or LIFE program using a qualified **Income Spend Down Trust**.

This fact sheet explains how to use an Income Spend Down Trust to qualify for a Waiver or LIFE program, even if income is above the program income limit.

How Does It Work?

The income limit for home and community-based services (HCBS) Waivers and the LIFE Program is \$2,901 in 2025. Only the applicant's income is counted. If the applicant's income is no more than \$500 above the income limit, each month they deposit this "excess" income into an "income spend down trust." The trust is managed by a 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.

Important Note: Individuals under age 65 with a disability who are working or can do some work may be able to access HCBS Waivers through the [Medical Assistance for Workers with Disability](#) (MAWD) program, instead of an Income Spend Down Trust. MAWD has higher resource and income limits than the Waivers. MAWD only counts less than 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 Waiver

The nonprofit trustee will use the money deposited into the trust 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 and assistance above what the waiver covers
- Pay old medical bills if there is a repayment agreement signed by the provider.
- Pay for medically necessary equipment or supplies, like medically necessary nutritional supplements, the waiver is not covering.

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 Aged 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 certain LIFE Program services that were received.

Who Can Be a Trustee?

Only nonprofit pooled trust companies can serve as the trustee of an income spend down trust. There are three nonprofits serving Pennsylvania that currently handle income spend down trusts. They are [Achieva Family Trust](#), [Legacy Enhancement Trust](#), and [SCS Trust Services](#).

Each nonprofit sets its own fees for using its trust. These fees may include an enrollment fee, a minimum opening deposit, monthly fees and/or annual renewal fees. Contact the trusts directly to learn about their fees and any potential waivers of those fees.

Who is Eligible to Use an Income Spend Down Trust?

People who wish to use an Income Spend Down Trust to qualify for an HCBS Waiver or LIFE program must meet the following criteria:

1. Total (gross) income of **\$3,401** or less in 2025. That is \$500 over the usual income limit of \$2,901. That amount may increase in 2026. Only the HCBS 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 \$185 Medicare Part B premium.
2. Under the resource limit for the HCBS Waiver/LIFE Program.
 - 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 is under 21 or lives with their child who is under age 21. Not all resources are counted. For example, an individual's home and one car are not counted as resources.
 - Unless the applicant is in a nursing home paid for by Medicaid, they must provide copies of up to 5 years of bank statements to the County Assistance Office so it can determine if resources were 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.
 - An Income Spend Down 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.
 3. Determined to be clinically eligible for the waiver. An assessment to make this determination is arranged by the Independent Enrollment Broker as part of the CHC and OBRA Waivers/LIFE application process. The Office of Developmental Programs assesses clinical eligibility for the HCBS Waivers it oversees.
 4. 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 showing specific authority to create an irrevocable trust or guardianship order is required.
 5. Additional Requirement for People Age 65+ applying for an HCBS Waiver: Have regular monthly medical or care expenses that the applicant is or will be responsible for paying.

For More Help

People interested in learning more about opening an income spend down trust may contact the trusts companies directly. Note that trusts companies do not provide legal advice on the use of trusts or Medicaid eligibility.

- [SCS Trust Services](#): Call 800-540-6732
- [Achieva Family Trust](#): Email ISDTrust@achieva.info (10/21/2025 - Not currently accepting new income trusts)
- [Legacy Enhancement](#): Call 888-988-5503 (10/21/2025 - Not currently accepting new income trusts)

Help for New Applicants for Waiver or LIFE

Legal assistance opening a spend down trust may be obtained from a private elder law attorney specializing in Medicaid eligibility. Search for an attorney specializing in Medicaid at www.paela.info/resources-links/find-an-attorney/.

Help for People Losing Waiver or Trying to Leave a Nursing Home with Waiver Services

The Pennsylvania Health Law Project (PHLP) can provide free legal help to people losing Waiver because their income is too high. PHLP can help people decide if an Income Spend Down Trust is right for them. PHLP also helps people who are in a nursing home paid for by Medicaid when their income is too high for Waiver. Contact PHLP's Helpline at 1-800-274-3258 or email staff@phlp.org to apply for assistance.

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 situation, please call PHLP's Helpline at 1-800-274-3258.