

Accessing Home & 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 a 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 Do Spend Down Trusts Work?

The income limit for home and community-based services (HCBS) Waivers and the LIFE Program is \$2,982 in 2026. 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.

The nonprofit trustee spends the money deposited into the trust to benefit the applicant. The trustee may pay for items and services directly or it may reimburse someone who purchases an item or service for the applicant. However, the applicant cannot be reimbursed by the trust.

How the nonprofit trustee spends the money placed in the trust and how frequently depends on the age of the applicant and whether they are in a Waiver or LIFE Program.

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. 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 or the LIFE Program 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 sends 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 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 fees. Contact the trusts directly to learn about their fees and any potential waivers of those fees.

Who Can Use an Income Spend Down Trust?

To use an Income Spend Down Trust to qualify for an HCBS Waiver or LIFE program, an applicant must meet all of the following requirements:

1. **Income at or below the limit** – The applicant's total (gross) monthly income must be \$3,482 or less in 2026. This is \$500 above the standard monthly income limit of \$2,982 and may increase in 2027. Only the applicant's own income counts — not a spouse's or other household member's income.

When calculating total income, add back any amounts deducted from Social Security or other income sources, such as the \$202.90 Medicare Part B premium.

2. **Resources (assets) at or below the HCBS Waiver limit** – Countable resources, such as bank accounts, must be at or below \$8,000 for a single applicant. The limit is higher for married couples. There is no resource limit for applicants who are under 21 or who live with a child under 21.

A few important notes about resources:

- Some resources are not counted, such as the applicant's home and one car.
- Applicants already in a nursing home paid for by Medicaid are considered to be under the resource limit.
- An Income Spend Down Trust cannot be used to address excess resources. Applicants whose resources are too high should contact a private elder law attorney for guidance.
- Unless the applicant is in a Medicaid-funded nursing home, the County Assistance Office will require up to five years of bank statements to check whether resources were transferred or given away without fair payment.

3. **Clinical eligibility** – The applicant must be determined clinically eligible for the waiver. For CHC and OBRA Waivers and the LIFE program, this assessment is arranged by the Independent Enrollment Broker (IEB) as part of the application process. For HCBS Waivers overseen by the Office of Developmental Programs (ODP), that office conducts the assessment.
4. **Ability to understand and sign legal documents** – The applicant must be able to understand and sign legal documents — or have a power of attorney or court-appointed guardian who can do so on their behalf. A signed copy of the power of attorney (showing specific authority to create an irrevocable trust) or the guardianship order is required.

- 5. Additional requirement for applicants age 65 and older** – Applicants age 65 or older applying for an HCBS Waiver must have regular monthly medical or care expenses that they are 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 (01/31/2026 - Not currently accepting new income trusts)
- Legacy Enhancement: Call 888-988-5503 (01/31/2026 - Not currently accepting new income trusts)

New Applicants for Waiver or LIFE

Legal assistance opening an income 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/.

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.