

Home and Community Based Services (HCBS)

What are “Waivers?”

Medicaid’s Home and Community Based Services (HCBS) Waiver program is commonly referred to as “Waivers” because it allows states to ‘waive’ certain Medicaid rules in order to provide services to people who would otherwise be in an institution, nursing home or hospital in order to get care in the community.

Waiver programs may pay for services and things, such as home modifications, that aren’t normally paid for by Medicaid [known as Medical Assistance (MA) in PA].

Who Can Get a Waiver?

Since Waivers are a Federal **Medicaid** program they are available only to someone eligible for Medical Assistance (PA’s Medicaid). Each waiver has eligibility criteria.

While PH-95 (a category of MA) covers many youth with disabilities in PA, that category ends when the young person turns 18. To continue to receive Medical Assistance, 18 year-olds that had been on MA under PH-95 must now qualify for Medicaid in another way. Many youth on PH-95 will qualify for Supplemental Security Income (SSI)* when they turn 18; they will need to apply shortly before their birthday, but too far in advance will make them ineligible (plan this the month before their birthday). If found eligible, MA will continue. It is not uncommon for a child to lose SS benefits after he or she turns 18 years old, SSI for adults has to do with employability, not strictly disability.

*The Supplemental Security Income (SSI) program provides payments to adults and children with a disability or blindness who meet income and resource limits.

How to get Medical Assistance

Remember that MA is federally funded health care for people with limited or no income and resources, those with a disability, and the elderly. Apply for MA at your County Assistance Office or online at compass.state.pa.us or by phone at 1-866-550-4355. You can also download or request a paper copy.

Typical Ways Young People with Disabilities Qualify for Medical Assistance

- A. Those on SSI automatically receive MA. Non-Social Security income must be below the SSI limits and a young adult must meet the SSA disability criteria as a “disabled adult” child. If denied SSI because SSA says you don’t meet ADULT disability criteria, consider appealing. (Parental income and assets no longer count for SSI once the young person

turns 18, even when they live with their parents although this could impact the amount they receive in SSI.)

- B. Income eligible: Modified Adjusted Gross Income (MAGI) is the income method used for determining MA eligibility for those age 19-64 with incomes at or below 133% of the Federal Income Poverty Guidelines (FPIG)
- C. Those who are denied because of income may be eligible under a type of coverage called Healthy Horizons. the MA available to individuals with disabilities is known as Healthy Horizons. You don't need to have SSI or SSDI to get Healthy Horizons, though. If your health care professional certifies that you have a disability that will last at least 12 months, you can qualify for Healthy Horizons if you meet the income and resource requirements.
- D. If working or if your income is over the limit, the disabled individual may qualify for MA under Medical Assistance for Workers with Disabilities (MAWD). MAWD gives you insurance if you have a disability, but your income or resources are too high for you to qualify for MA. The income and resource limits are higher for MAWD than for MA, but you have to pay a premium to get MAWD. The premium will be 5% of your countable income,
- E. Young person was in foster care at 18 and had MA then.

There are other ways to qualify, see resources and PHLP documents below.

NOTE: There **are** income/asset limits to receive waiver services. Financial eligibility for waiver programs require countable income below \$2,022*/month *and* countable resources below \$8,000* (includes savings accounts and investments)

*Figures usually increase slightly from year to year

See PA Health Law Project's (PHLP) "Getting Medical Assistance for a Child with a Disability" at <https://www.phlp.org/uploads/attachments/ck70i90ve0007x8u8d07hx2ok-ph-95-guide-update-april-2019.pdf>

See also PHLP's "Medical Assistance Eligibility Manual" at <https://www.phlp.org/uploads/attachments/ckbb01l9k000jrhu8tzcvtl1-ma-eligibility-manual-rev-2020.pdf>

Why Would I Want a Waiver?

Waivers are the primary source of support services when youth with disabilities turn 21 and are no longer eligible for MA EPSDT benefits nor school services.

So, What's the Big Deal with getting a Waiver?

Waivers are not entitlements – while a person may meet the eligibility criteria, to get waiver funding there must be openings, called “slots” based on available funding. Many waivers do not have open slots and an individual may have to wait a very long time to get one.

What Waivers are Available in Pennsylvania?

The Office of Developmental Programs (ODP) administers waivers for adults with Intellectual Disabilities and/or Autism. ODP waivers include the Person/Family Directed Support (PFDS) Waiver, the Community Living Waiver, the Consolidated Waiver, and the Adult Autism Waiver. Each waiver has its own unique set of eligibility requirements and services based on the recipient's needs.

The Office of Long-Term Living (OLTL) administers waivers for adults generally with physical disabilities and older adults. OLTL waivers include the Community HealthChoices (CHC) Waiver and the OBRA Waiver.

What Steps Do I Need to Take?

- Contact the appropriate place to apply for a waiver to register or to get on the list.
- If you do not have MA and/or SSI, apply. For MA visit www.compass.state.pa.us and for Social Security, go to www.socialsecurity.gov.
- The individual's doctor will be asked to certify the person's “level of care.”
- A meeting will be held to assess eligibility.
- A Supports Coordinator (called a Service Coordinator in the OBRA Waiver) will work with the individual 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 and identifies the types and amounts of services the individual can receive.
- The ISP must be submitted 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 appeal.
- Once approved, the individual should receive the services as they are listed in their ISP through optional providers.

NOTE: The individual has a right to choose among qualified and willing providers and may 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 Coordinator doesn't agree with the request.

“Waiting List” – There are Actually Three Separate Lists or Divisions

Individuals are placed on the waiting list based on “urgency of need” as determined by an assessment called the PUNS (Prioritization of Urgency of Need for Services)

Three Lists/Categories:

- Emergency – Top priority: needs services within 6 months or sometimes, immediately
- Critical – 2nd priority: needs services within 2 years
- Planning – lowest priority: needs services in over 2 years

[It is not unusual to wait 7 or more years before receiving waiver services in Pennsylvania. The waivers currently require that people in the emergency category be enrolled into a waiver before those in the critical or planning categories. Approximately 60-65,000 people receiving waiver services in Pennsylvania.

There are NO services nor any assistance to people *waiting* for waiver services.

There are over 10,000 people identified as having either an "Emergency Need" or a "Critical Need" for waiver services.]

Visit <http://pa.waitinglistcampaign.org> to find state and county numbers.

Waiver List, Eligibility, and Financial caps

Intellectual Disability /Autism	Adult Autism
Waivers: P/FDS -Person/Family	Physical Disability Waivers: OBRA,
Directed Support, Community Living,	CHC
Consolidated	

ID/A Waivers Eligibility: A person of any age who has a diagnosis of ID (<70 IQ) 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

AND....

Those with Developmental Disabilities prior to age 9 with:

- Substantial developmental disability diagnosis

- Substantial adaptive skills deficit in 3 or more areas of major life activity
- A recommendation for an Intermediate Care Facility (state, or privately operated residential program) based on a medical evaluation.

ID/A Waiver Financial Caps: (amounts increase from time to time):

Person/Family Directed Support (P/FDS)- \$41,000/year service cap with some potential additional funds for supported employment services. No residential services.

Community Living - \$85,000/year with services cap. Some qualify for life sharing.

Consolidated - no financial cap. May include residential - group home or life sharing.

[Life Sharing is a residential program option where the person with a disability lives with a family in the community. The goal is for those who want the opportunity to live in a nurturing and caring environment with a family to have that option through life sharing.]

Autism Waiver

- Must have diagnosis of Autism; defined based on the results of a standardized diagnosis tool with onset prior to age 22
- Age 21 or older
- Meet required Intermediate Care Facility level of care guidelines based on a medical evaluation
(see <https://www.pchc.org/images/PDFs/Forms/Explanation-of-ICF.pdf>)
- Covers community inclusion, respite & transition, behavioral & family counseling, employment services, assistive technology, residential & more

Physical Disability Waivers

Act 150- Act 150 is like the Attendant Care Waiver but for those whose income or assets exceed waiver limits. It is not technically a “waiver” because the state gets no federal funds. Contact the Office of Long-Term Living Bureau of Participant Operations (717) 787-8091

OBRA - Age 18 & up with developmental disability occurring before age 22 other than ID

Community Health Choices (CHC) – a Managed Care Program

- Physical Disability Waiver for those adults 21 and over (may previously have been in Attendant Care, Independence, CommCare, Aging Waivers, including some OBRA participants)
- Services must be obtained from a provider having a contract with the managed care organization in which the participant is enrolled.

You have Appeal rights under a Waiver:

- When you have a waiver you can appeal denial, termination or reduction of services.
- When you appeal within 10 days from termination or reduction of current Services. The service continues for those services until the appeal is resolved. You can also file for grievance and/or a fair hearing.

Resources:

Medical Assistance For Children In Pennsylvania, An Overview

<https://www.disabilityrightspa.org/wp-content/uploads/2018/03/MAForChildrenInPAFEB2018.pdf>

A Guide for Transition Age Individuals with Disabilities and Their Families; Chapter 5 – Healthcare [https://www.disabilityrightspa.org/wp-](https://www.disabilityrightspa.org/wp-content/uploads/2018/07/TransitionToAdulthoodGuideForTransitionAgeIndividua)

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[ndFamiliesCh5MARCH2018.pdf](https://www.disabilityrightspa.org/wp-content/uploads/2018/07/TransitionToAdulthoodGuideForTransitionAgeIndividua)

(Contains definitions of terms)