



pennsylvania

DEPARTMENT OF HUMAN SERVICES

**Questions and Answers Regarding Appendices A through H of the
Proposed Consolidated and Person/Family Direct Support (P/FDS)
Waiver Renewals Effective July 1, 2017**

ODP has received many questions from individuals and family members regarding Appendices A through H of the proposed renewals of the Consolidated and P/FDS waivers. ODP has developed and published this question and answer document to assist interested persons in reviewing the waiver renewals and providing public comment during the review period from December 3, 2016 through January 17, 2017.

**Office of Developmental Programs' Proposed Changes Related to
Employment and Day Services**

Background

The Office of Developmental Programs (ODP) primarily provides services to people with intellectual disabilities and autism through Medicaid Home and Community-Based Services "waivers." The federal Centers for Medicare and Medicaid Services (CMS) require that states renew their waiver applications every five years. ODP's Consolidated and P/FDS waivers are due for renewal on July 1, 2017. These two waivers serve 32,000 Pennsylvanians with intellectual disabilities.

In renewing the two waivers, ODP is aligning services with: the recommendations from our advisory committee - the Information Sharing and Advisory Committee (ISAC); the Governor's Executive Order "Employment First"; the Workforce Innovation and Opportunity Act (WIOA); the Americans with Disabilities Act; and with the federal regulations for home and community-based services (HCBS) which govern waiver services.

ODP engaged more than 250 stakeholders in a Futures Planning process and conducted 10 public sessions beginning in the fall of 2015 to solicit public input on changes to the waivers. ODP also conducted extensive policy research and data analysis to inform the proposed changes. The draft applications for the Consolidated and P/FDS waivers were published for a 45-day public comment period on December 3, 2016.

In addition to the renewal of the two waivers, ODP is promulgating new regulations – 55 Pa. Code, Chapter 6100 – to implement the waiver programs.

Why is ODP Making Changes?

ODP is moving the service system to promote employment, inclusion, and community participation for many reasons including:

- The *Everyday Lives* recommendations adopted by ODP in September 2016 which include increasing employment and community participation.
- ODP is obligated to meet the requirements in the federal Home and Community-Based Settings rule, as well as the Americans with Disabilities Act.
- The Governor's "Employment First" Executive Order states that "competitive integrated employment is the first consideration and preferred outcome of publicly-funded education, training, employment and related services, and long-term supports and services for working-age Pennsylvanians with a disability..."
- Expectations of young people leaving school and their families have changed. People want jobs in community businesses making competitive wages.

Through the waivers, ODP is working to curtail expansion of services that are not inclusive and build capacity of providers to help people find and keep jobs making competitive wages and serve people in increasingly inclusive settings.

What is ODP Proposing to Change?

New Employment Services

ODP is proposing to add new services to support people to find and keep jobs. The new services are:

- Benefits Counseling (support so that people understand how employment may affect their medical and Social Security Benefits).
- Advanced Supported Employment (intensive job assessment and customized employment services for people who have not been able to secure employment through other services from the Office of Vocational Rehabilitation (OVR) in the Department of Labor and Industry or ODP's typical Supported Employment service).

New Community Participation Support Service

For those not directly engaged in work, ODP is proposing a new service definition that will encompass current adult day centers and sheltered workshops but will offer individuals more opportunities for activities in the community. The types of activities under this service include:

- Prevocational skill development.
- Building and maintaining relationships and social networks.
- Volunteer activities in organizations and the community.
- Participation in community groups and associations.
- Developing hobbies or leisure/cultural interests.
- Participating in faith-based organizations and activities.

- Engaging in activities to promote personal health and wellness.
- Training and education for self-determination and self-advocacy.
- Learning to navigate the local community, including using transportation.

While this new service will allow continued use of existing adult day centers and sheltered workshops, the amount of time in community activities must grow over time.

Limits on Size and Future Growth

ODP is proposing that:

- New facility-based adult training facilities and prevocational facilities that enroll beginning July 1, 2017, will be limited to a maximum of 15 people in one location.
- Existing programs may continue but those that serve more than 100 people in an existing facility will need to downsize to a maximum of 100 people at a facility by January of 2019.
- Existing programs that need to relocate in the future may do so and may serve more than 15 people but no more than the number of people they were approved to serve before relocation which cannot exceed 100 people.

Is ODP closing workshops?

ODP is not closing workshops. ODP has proposed changes to the waivers that will allow providers to modify their service models over time to support people in integrated community settings in alignment with the CMS Home and Community-Based Settings rule.

ODP is proposing the following phase-in of the changes from July 1, 2017 to January 1, 2019:

- From 1/1/18 to 6/30/18, a person may not receive Community Participation Support services in a licensed adult training facility or a licensed vocational facility for more than 75 percent of his or her support time, on average, per week.
- From 7/1/18 to 12/31/18, a person may not receive Community Participation Support services in a licensed adult training facility or a licensed vocational facility for more than 50 percent of his or her support time, on average, per week.
- Starting 1/1/19, a person may not receive Community Participation Support services in a licensed adult training facility or a licensed vocational facility for more than 25 percent of his or her support time, on average, per week.

When the Individual Support Plan team believes a person's medical, mental health or behavioral needs or condition affects his or her ability to participate at the standards specified or impacts the person's health and safety, an independent review shall be conducted by ODP or an ODP designee. The exception request shall include a plan to achieve the standard or documentation that the participant's condition or circumstance is not expected to change or improve. In situations where an exception has been granted, ODP or ODP's designee will conduct at least an annual review of the participant's condition and service needs to determine whether he or she continues to need the exception.

Is ODP making everyone get a job?

ODP is not making everyone get a job, but ODP is working to make it possible for everyone who wants a job to get a job. Pennsylvania is an Employment First state so, as stated in the Governor's Executive Order, "competitive integrated employment is the first consideration and preferred outcome of publicly-funded education, training, employment and related services, and long-term supports and services for working-age Pennsylvanians with a disability." ODP is proposing new employment services and the community participation support service to increase the potential for individuals to become employed.

Overview of the CMS Home and Community-Based Settings Rule

The CMS Home and Community-Based Settings rule requires that all waiver settings meet certain qualifications. These include:

- The setting is integrated in and supports full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving waiver services;
- Is selected by the individual from among setting options;
- Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint;
- Optimizes autonomy and independence in making life choices; and
- Facilitates choice regarding services and who provides them.

The rule also includes additional requirements for provider-owned or controlled home and community-based residential settings. These requirements include:

- The individual has a lease or other legally enforceable agreement providing similar protections;
- The individual has privacy in their unit including lockable doors, choice of roommates, and freedom to furnish or decorate the unit;
- The individual controls his/her own schedule including access to food at any time;
- The individual can have visitors at any time; and
- The setting is physically accessible.

Any modification to these requirements for provider-owned home and community-based residential settings must be supported by a specific assessed need and justified in the Individual Support Plan. The final rule excludes certain settings as permissible settings for the provision of waiver services. These excluded settings include nursing facilities, institutions for mental disease, intermediate care facilities for individuals with intellectual disabilities, and hospitals. Other Medicaid funding authorities support services provided in these institutional settings.

The rule identifies other settings that are presumed to have institutional qualities, and do not meet the threshold for home and community-based settings. These settings include those in a publicly- or privately-owned facility that provides inpatient treatment; on the grounds of, or immediately adjacent to, a public institution; or that have the *effect of isolating individuals* receiving waiver services from the broader community of individuals not receiving waiver services.

Settings that Isolate

Settings that have the following two characteristics alone might, but will not necessarily, meet the criteria for having the effect of isolating individuals:

- The setting is designed specifically for people with disabilities, and often even for people with a certain type of disability.
- The individuals in the setting are primarily or exclusively people with disabilities and on-site staff provides many services to them.

Settings that isolate people receiving waiver services from the broader community may have any of the following characteristics:

- The setting is designed to provide people with disabilities multiple types of services and activities on-site, including housing, day services, medical, behavioral and therapeutic services, and/or social and recreational activities.
- People in the setting have limited, if any, interaction with the broader community.
- The setting uses or authorizes interventions and restrictions used in institutional settings or are deemed unacceptable in Medicaid institutional settings (e.g. seclusion).

Is ODP taking away a person's choice to work and receive services in a workshop?

Starting in 2019, to comply with the CMS HCBS Settings rule, Medicaid waivers such as the Consolidated and P/FDS waivers can only pay for services in integrated community settings. ODP is not reducing options but are expanding and broadening opportunities to give people more time in the community. ODP is changing the service definitions to better support providers to provide integrated activities and to offer individuals more choice.

My family member is unable to work in a competitive integrated job. This is why he receives prevocational services in a workshop. What will happen to my family member?

ODP supports many people with a wide range of abilities and disabilities who work in competitive integrated jobs. ODP is responsible to support people enrolled in the waivers who want to work. As such, ODP is proposing a robust array of services in the waiver renewals to assist people to develop employment skills, find competitive employment and be supported in maintaining their competitive integrated employment:

- Supported Employment services include activities such as training and additional supports including worksite orientation, job aide development, coordination of accommodations and ensuring assistive technology that may be needed by the person to obtain and sustain competitive integrated employment is utilized as specified in the plan. Supported Employment consists of three components: career assessment, job finding or development, and job coaching and support.
- Advanced Supported Employment services include discovery, job development, systematic instruction to learn the key tasks and responsibilities of the position and intensive job coaching and supports that lead to job stabilization and retention.
- Community Participation Support provides opportunities and support for community inclusion and building interest in and developing skills and potential for competitive integrated employment. Services should result in active, valued participation in a broad range of integrated activities that build on the person's interests, preferences, gifts, and strengths while reflecting his or her desired outcomes related to employment, community involvement and membership. Community Participation Support can be used to help people learn job skills through volunteering in the community. This service can also be used to "wrap-around" other services and supports like employment so that a person has needed support during the day.
- Benefits Counseling services are designed to inform, and answer questions from, a person about competitive integrated employment and how and whether it will result in increased economic self-sufficiency and/or net financial benefit through the use of various work incentives.
- Transitional Work services consist of supporting people in transitioning to competitive integrated employment. Work that people perform during the provision of Transitional Work services must be paid at least minimum wage and the compensation must be similar to compensation earned by workers without disabilities performing the same work. Transitional Work service options include mobile work force, work station in industry, affirmative industry, and enclave.
- Education Support covers tuition for adult education classes offered by colleges, community colleges, technical schools or universities. Education Support also covers on campus peer support to assist the person to learn roles and tasks that are related to the campus environment.
- In-Home and Community support can be used to help people learn job skills through volunteering and can be used to provide on campus peer support when it is not offered by the postsecondary education institution.
- Companion services may be used to support the person's personal care needs while working in a job that meets the definition of competitive integrated employment.
- Behavioral Support services may also be used to help a person implement activities and strategies to assist him or her in their job as well as educate the person and his or her employer regarding the underlying causes/functions of behavior and modeling and/or coaching of supporters to carry out interventions.

How can individuals, families and providers prepare?

The number of individuals in facility-based adult day programs and sheltered workshops has been declining in recent years as individuals and families choose more integrated models of service.

Once the Consolidated and P/FDS waivers are approved, informational materials will be developed for dissemination through Administrative Entities, supports coordinators, providers, the PA Family Network, and through statewide self-advocacy organizations.

A number of providers have already announced that they are transforming their day and prevocational facilities to be 100% community-based services.

ODP has sponsored training programs and an "Employment Bootcamp" that is currently providing technical assistance to participating providers. Employment Bootcamp helps providers transform their sheltered workshops and day programs to programs that offer competitive-integrated employment and other community inclusion services.

ODP and OVR together plan to issue transformation grants to provider applicants to assist with strategic planning to change their service models.

The new Community Participation Support service definition allows providers the time and flexibility to learn about new options and modify their service models over time. There will be no abrupt changes for individuals, families or providers.

Proposed Changes Related to Waiver Eligibility

What is ODP Proposing to Change for Eligibility for the Consolidated and P/FDS Waivers?

Individuals with a diagnosis of autism will be eligible to receive services through the Consolidated and P/FDS waivers. ODP is also proposing that the age for eligibility drop from age 3 to birth.

Is the Office of Developmental Programs (ODP) discontinuing the Adult Autism Waiver or the Adult Community Autism Program (ACAP)?

No, ODP's Bureau of Autism Services will continue to administer the Adult Autism Waiver and ACAP.

How is ODP going to serve all these new people when it can't even serve all of the people on the waiting list now?

People with a diagnosis of autism are not a new population of people to be served by ODP. ODP has been responsible for serving people with a diagnosis of an intellectual disability and people with a diagnosis of autism since 2008. ODP currently serves people who are diagnosed with both autism and intellectual disability in the Consolidated, P/FDS and Adult Autism waivers. About 30% of people in the Consolidated and P/FDS waivers also have a diagnosis of autism and about 25% of people in the Adult Autism Waiver have a co-occurring intellectual disability diagnosis. ODP has maintained a waiting list for the Consolidated and P/FDS waivers and an interest list for the Adult Autism Waiver.

The Bureau of Autism Services has tremendous experience, knowledge and resources that ODP plans to leverage to ensure high quality services for all people we serve who have an autism diagnosis. Adding people with an autism diagnosis to eligible participants in the Consolidated and P/FDS waivers is one way ODP is responding to changes in demographics and preparing for the future. The percent of students in special education with an autism diagnosis is growing while the percent with an intellectual disability diagnosis is getting smaller.

The Prioritization of Urgency of Need for Services (PUNS) will continue to be used to gather information to categorize the urgency of the needs of people who have requested services from the County/Administrative Entity. In accordance with the Consolidated and P/FDS waivers, only people who have a PUNS status of emergency or who meet the criteria for reserved capacity may be enrolled in the waivers.

Proposed Changes to Residential Services

How will the Supports Intensity Scale (SIS) be used with Residential Services? Will the SIS determine a budget?

The SIS will not determine a person's budget. Beginning January 2018, for individuals in residential services only (i.e. group homes and life sharing), the results of the SIS will be one component to determine the rate each provider is paid for the group home to assure that the person's needs can be met. The rate will also reflect how many people live in the home, whether the person attends a day program, how many staff are needed along with other cost determinants.

The SIS is a useful instrument for understanding the needs of your family member and to assure that all aspects of need are assessed and addressed in the planning process.

What are the reasons for removing Behavioral Support and Nursing as a service provided separately by an independent provider and assigning this service under the person's residential provider?

ODP proposed this change to give residential providers the flexibility to provide the Nursing and Behavioral Support services at staffing ratios, frequency and duration that will best meet the needs of the people they serve. This change also allows residential providers to build capacity within their organization by using Behavior Support and Nursing professionals to provide training to staff and consult about issues individuals may be experiencing in multiple houses where the provider renders services. Residential providers would also have the flexibility to determine whether to hire staff directly to provide these services or contract with a separate provider.

For more information:

More information on the proposed renewals of the Consolidated and P/FDS waivers can be accessed at: <http://www.dhs.pa.gov/provider/developmentalprograms/2017waiverrenewals/>

HCBS Settings Rule: <https://www.medicaid.gov/medicaid/hcbs/guidance/index.html>