



Pennsylvania
Department of Human Services
Office of Developmental Programs

Medical Assistance Advisory Committee

Office of Developmental Programs Update

May 28, 2026

ODP Limitations on Overtime, Paid Relative Caregiving and Travel



ODP has long standing policy allowing certain services to be rendered by relative caregivers within **reasonable limitations**.

- Limitations included restricting overtime to emergency circumstances
- Paid relative caregiving can be provided by any combination of legally responsible persons (LRPs), relatives, and legal guardians for In-Home and Community Services (IHCS) and Companion services up to 60 hours per week.
- For individuals seeking more than 60 hours of paid care rendered by a relative, the Life Sharing service model (24/7) is an available service.
- ODP policy also allowed service provision during out-of-state travel for a maximum of 90 days.

ODP's policy balances flexibilities for travel and allows family caregivers to be paid through the state's Medicaid program with reasonable limitations.



Necessity of Reasonable Limitations

- DHS identified these limitations as necessary due to:
 - health and safety issues
 - potential for conflicts of interest
 - individual choice
 - caregiver burnout
 - potential for isolation
 - assurances that individuals have opportunities for relationships with non-relatives
 - fiscal and program integrity considerations



PA Commonwealth Court Decision

- On February 17, 2026, in *Dunkelberger v Department of Human Services* (PA DHS), the Court determined that limitations on provider model services were not promulgated as regulations by PA DHS in accordance with the procedures required in the Commonwealth Documents Law, the Regulatory Review Act, and the Commonwealth Attorneys Act
- Limitations were included in the CMS approved ODP Waivers and Individual Support Plan Manual
- Court decision considered limitations (40-60 and 90 day maximum travel) as null and void.



PA Commonwealth Court Decision (cont.2)

- The Dunkelberger decision was about *process*, not the validity of the *policy*.
- The Court did not say that ODP's policy establishing reasonable limitations was improper policy; rather the decision was that the procedures that ODP relied on for that policy were improper.
- ODP's policies balance important flexibilities for travel, relative caregivers and health, safety, and program integrity concerns.

Next Steps



To ensure this balanced approach continues:

1. ODP will amend regulations to provide the authority to establish appropriate limits related to services and service delivery that support the health, safety, and welfare of individuals and program integrity.
2. ODP modified the agreements signed by individuals using self-directed models to clarify the limitations on the use of overtime; the limits on combined relative service provision; and restrict service provision during travel to Pennsylvania and contiguous states.
3. For individuals seeking more than 60 hours of paid care rendered by a relative, the Life Sharing service model remains available.

Next Steps



4. ODP will seek Consolidated, Person/Family Directed Support (P/FDS), Community Living, and Adult Autism Waiver (AAW) waiver changes to include additional qualifications for providers to strengthen program integrity measures.
 - Agencies providing IHCS and Companion services will have new requirements related to having a process for disclosing a direct support professional's relationship to participants and ensuring proper programmatic oversight.
 - Given the inability to effectively and timely monitor out-of-state services for extended periods of time, service provision will be limited to Pennsylvania and contiguous states.

Public comment period for these proposed changes in ODP home and community-based waivers is anticipated in January 2027.



Questions