



Session for Individuals and Families: ODP Limitations on Overtime, Paid Relative Caregiving, and Travel

July 2, 2026



DHS is committed to protecting and preserving a sustainable Medicaid Home and Community-Based Services delivery system for people with intellectual disabilities and autism.



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 and should be explored.
- 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 Decisions

- February 17, 2026 Commonwealth Court decisions determined that limitations (40-60 and 90 day maximum travel) 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



PA Commonwealth Court Decision (cont.2)

- The court decisions were 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.



ODP Actions

To ensure this balanced approach continues:

#1 ODP modified the agreements signed by individuals using participant-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.

Modifications in Agency With Choice (AWC) Agreement



Provisions included in prior agreement by reference to other documents:

- 40 and 60 hour limitations for relatives with exceptions for unforeseen circumstances (limits may only be exceeded for up to 13 weeks)
- Clarified responsibility for payment of services rendered by SSPs beyond authorizations and approved hours

New provisions in agreement:

- Complying with the Fraud and Abuse Control Act, 62 P.S. § § 1401-1418.
- Required disclosure of relationship of SSPs to participant for relatives, legal guardians and legally responsible individuals
- Travel restricted to Pennsylvania and contiguous states
- Clarification that termination of the agreement is not appealable because services have not been terminated

Clarifications in Common Law Employer (CLE) Consent Form



Provisions included in prior agreement by reference to other documents:

- 60 hour limitations for relatives with exceptions for unforeseen circumstances (limits may only be exceeded for up to 13 weeks).
- Comply with all federal and state laws, regulations, and ODP Bulletins that apply to Waiver programs
- CLE responsibility for any additional costs incurred as a result of failing to meet the CLE responsibilities/terms in Consent Form

New provisions in agreement:

- Complying with the Fraud and Abuse Control Act, 62 P.S. § § 1401-1418.
- Responsibility for CLE to participate in ISP meeting
- Required disclosure of relationship of SSPs to participant for relatives, legal guardians and legally responsible persons
- Travel restricted to Pennsylvania and contiguous states
- Responsibility to transfer records to a new CLE
- Clarification that termination of the agreement is not appealable because services have not been terminated

Action Steps (cont.)



To ensure this balanced approach continues:

#2 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.

Action Steps (cont. 2)



#3 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.

Question and Answer



Q: Is ODP continuing to limit Support Service Professional (SSP) time to 40 hours weekly for one relative and a maximum of 60 hours a week for multiple relatives?

Yes. The updated Managing Employer (ME) Agreement and Common Law Employer (CLE) Consent Form clarify expectations related to the use of overtime and scheduling relative SSPs. MEs and CLEs are responsible for scheduling SSPs in accordance with the agreements which outline:

- (a) The responsibilities for developing and managing SSP's work schedules, including that CLEs and MEs cannot schedule any one SSP to work more than 40 hours per week.
- (b) Work schedules may not include more than 60 hours per week of authorized In-Home and Community Support (IHCS), Companion, or a combination of IHCS and Companion services provided by relatives, legal guardians, or legally responsible persons when more than one relative, legal guardian, or legally responsible person is providing services.

Question and Answer



Q: Are there exceptions to the limitations for SSPs working over 40 hours per week?

Yes. ODP policy related to SSP working more than 40 hours per week due to unforeseen circumstances has not changed. Unforeseen circumstances include, but are not limited to:

- Inclement weather,
- Sudden illness,
- Unplanned extension of a medical leave for an SSP,
- Sudden loss of an unpaid caregiver who kept paid services at or below forty (40) hours a week, or
- If an SSP unexpectedly quits or is terminated and one or more SSPs must work more than 40 hours on a temporary basis.

The AWC must approve when a ME schedules SSP in excess of 40 hours.

The CLE may schedule an SSP in excess of 40 hours when it meets the criteria for unforeseen circumstances.

CLEs and MEs may not schedule SSPs for excess of 40 hours per week for more than 13 weeks

Question and Answer



Q: Does an ME or CLE who has a signed agreement need to sign the new agreement?

Yes. All CLE Consent Forms and ME Agreements signed prior to May 8, 2026, will be considered invalid effective August 6, 2026.

Individuals who wish to continue utilizing participant-directed services must have their CLE or ME review, sign, and submit an updated agreement within 90 days of the date ODP Announcement 26- 051 was issued.

Question and Answer



Q: What happens if my ME or CLE does not sign the new agreement?

Submission of an updated CLE Consent Form or ME Agreement Form is required to continue using participant-directed services.

Individuals have the choice to participate in participant-directed services.

Participants who choose to participate in participant-directed services must comply with the requirements for participant-directed services. If an individual no longer wishes to use the participant-directed service model, they may discuss other service delivery options with their Supports Coordinator, including changing type of financial management services or transitioning to traditional agency services. CLEs or MEs that do not submit updated agreements within the required timeframe will be subject to corrective action processes and may ultimately face involuntary termination of the CLE or ME role if an updated agreement is not signed. If a CLE or ME is involuntarily terminated, a new CLE or ME must be identified and the new CLE or ME must sign and submit the applicable agreement form within 30 days or the individual must transition to a traditional provider-managed service model.

Question and Answer



Q: Can I still receive services while I am traveling?

Yes. Waiver services may be delivered in Pennsylvania and contiguous states while you are traveling provided all other waiver requirements are met.

Consistent with the updated CLE and ME agreements, CLEs and MEs may only schedule SSPs to render services in Pennsylvania and contiguous states, which are New York, New Jersey, Delaware, Maryland, West Virginia, and Ohio.

ODP will be making changes to the Consolidated, Community Living, P/FDS and Adult Autism waivers that will limit service delivery during travel for all services and service models while traveling in Pennsylvania and contiguous states. These limitations in location of travel are intended to support ODP's ability to monitor service delivery, address health and welfare concerns, maintain appropriate operational oversight, and respond to incidents or other issues involving waiver services delivered through participant-directed service models. ODP is also beginning the work to amend regulations. Until regulations are promulgated related to service delivery during travel, there is no longer a maximum number of days that waiver services may be provided during out-of-state travel and waiver service delivery during travel is limited to Pennsylvania and contiguous states.

Question and Answer



Q: Does the ISP Team need to meet every time I travel away from my home?

When waiver services will be provided during travel to an area that is a significant distance from the individual's primary residence or community, or for an extended period of time, or under circumstances that could affect the individual's health, safety, supervision, or service delivery, the ISP team should discuss the travel plans and identify any appropriate safeguards. This discussion may address anticipated travel and is not needed before every routine trip, day outing, or if the travel is part of the individual's normal activities and supports.

Question and Answer



Q: Can I travel to non-contiguous states?

The updated CLE and ME agreements require that if a participant chooses to travel to a state that is not contiguous to Pennsylvania, Medicaid waiver-funded participant-directed services may not be provided in that location.

In those situations, individuals may choose to pay for services using private funds. Individuals may also reach out to the county to discuss whether there are options for service delivery during travel to non-contiguous states.

For services provided through a traditional provider-managed service model, ODP intends to make changes to the Consolidated, Community Living, P/FDS and Adult Autism waivers to limit service delivery for all services and service models during travel in Pennsylvania and contiguous states.

Question and Answer



Q: Is there public comment for the changes in the agreements?

- No. ODP is required to collect public comment prior to making substantive changes to the 1915(c) home and community-based services waiver agreements with the federal Centers for Medicare and Medicaid Services (CMS). 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. Public comment period for these proposed changes in ODP home and community-based waivers is anticipated in January 2027.
- ODP will also 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. ODP will follow the process established in the Regulatory Review Act.

Resources



- [ODPANN 26-051 Requirements for Updated Common Law Employer and Managing Employer Agreements in ODP Participant-Directed Services](#)
- [ODPANN 26-067 – 2026 Operational Guidance as a Result of the Dunkelberger v. Department of Human Services \(DHS\) Court Decision](#)
 - [FAQ for Individuals and Families](#)
- [ODP Bulletin 00-20-04 Participant-Directed Services: Agency With Choice Financial Management Services Model](#)
- [ODP Bulletin 00-08-14 Vendor Fiscal/Employer Agent Financial Management Services \(VF/EA FMS\)](#)



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