
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 499 Session of
2024

INTRODUCED BY CERRATO, M. BROWN, HOHENSTEIN, D. MILLER, KHAN,
GIRAL, PROBST, HANBIDGE, SANCHEZ, OTTEN, HILL-EVANS, KAZEEM,
CEPEDA-FREYTIZ, McNEILL, HOWARD, BOYD, GALLAGHER, WAXMAN,
KENYATTA, BOROWSKI, SHUSTERMAN, PIELLI, GUENST, WEBSTER,
MERSKI, D. WILLIAMS, CIRESI AND DALEY, JULY 17, 2024

REFERRED TO COMMITTEE ON HUMAN SERVICES, JULY 17, 2024

A RESOLUTION

1 Directing the Joint State Government Commission to conduct a
2 study of how Home and Community-Based Services waivers can be
3 improved to meet the needs of individuals with disabilities,
4 including programs administered by the Office of Long-Term
5 Living and Office of Developmental Programs.

6 WHEREAS, More than 2 million Pennsylvanians have a
7 disability, or approximately one-fourth of Pennsylvanians, which
8 includes mobility and cognitive disabilities; and

9 WHEREAS, Adults with disabilities are more likely to
10 experience other health issues, such as obesity, diabetes and
11 heart disease, than the average adult and they face barriers to
12 independent living and employment; and

13 WHEREAS, Home and Community-Based Services waivers offer
14 resources through a variety of Medical Assistance waivers which
15 support the particular needs of residents of this Commonwealth
16 in community settings, enabling recipients to live in their
17 communities rather than seeking care in an institutional
18 setting, such as an intermediate care facility for individuals

1 with intellectual disabilities or a nursing facility; and

2 WHEREAS, Home and Community-Based Services waivers were first
3 created by an act of Congress in 1981 that amended the Social
4 Security Act to address a bias in the structure of Medicaid
5 towards providing benefits in institutional settings; and

6 WHEREAS, Congress created the waiver program to allow states
7 to apply for waivers that enable the state to target services to
8 areas of need and particular populations, especially to help
9 recipients remain in their community, rather than residing in an
10 institution; and

11 WHEREAS, Home and Community-Based Services waivers are
12 required to be cost-neutral and, by providing care equivalent to
13 Medicaid but by offering care in the community, costs are often
14 lower than under standard Medicaid; and

15 WHEREAS, There are multiple waivers available for home and
16 community-based services in this Commonwealth that vary in their
17 target population and the benefits provided, with waivers
18 available for residents with conditions, including autism and
19 developmental physical disabilities, and older Pennsylvanians;
20 and

21 WHEREAS, Home and Community-Based Services waivers are
22 administered by the Department of Human Services, and some of
23 the programs, like the Community HealthChoices Waiver and the
24 OBRA Waiver, are administered by the Office of Long-Term Living
25 (OLTL), and other programs, like the Community Living Waiver and
26 the Adult Autism Waiver, are administered by the Office of
27 Developmental Programs (ODP); and

28 WHEREAS, Home and Community-Based Services waivers give the
29 Commonwealth the flexibility to offer care that is not typically
30 available under Medicaid so that vulnerable individuals can

1 continue to live in the community rather than an institution;
2 and

3 WHEREAS, In 1978, the Congress of the United States defined
4 developmental disability as a severe, chronic disability due to
5 a physical or mental impairment, manifesting before 22 years of
6 age, likely to continue indefinitely, and resulting in
7 substantial functional limitations in three or more major life
8 activities; and

9 WHEREAS, This definition was updated in 2000 by the
10 Developmental Disabilities and Bill of Rights Act of 2000,
11 emphasizing the need for lifelong, individualized support; and

12 WHEREAS, Pennsylvania has adopted eligibility criteria for
13 Home and Community-Based Services waivers that exclude some
14 individuals who meet the Federal definition of developmental
15 disability, thus preventing them from receiving the necessary
16 services; and

17 WHEREAS, Inadequate service availability and provision can
18 detrimentally affect an individual's health, ability to live
19 independently, work and have self-determined lives; and

20 WHEREAS, Data submitted by the Department of Human Services
21 to the Employment First Oversight Commission shows that in 2022,
22 16% of ODP's Home and Community-Based Services waiver
23 participants 18 to 64 years of age are employed in an integrated
24 setting and earning a minimum wage or higher; and

25 WHEREAS, Supporting access to Home and Community-Based
26 Services waivers, medical assistance and other public assistance
27 is important to the Commonwealth's commitment to health equality
28 and equal participation in our communities; and

29 WHEREAS, The concerns and needs of the individuals who use
30 these programs should be the foremost priority for legislators

1 in delivering assistance to those individuals; therefore be it
2 RESOLVED, That the House of Representatives direct the Joint
3 State Government Commission to conduct a study and issue a
4 report on the programs administered by the Office of Long-Term
5 Living and the Office of Developmental Programs focused on how
6 to improve the experience of individuals with disabilities that
7 receive a Home and Community-Based Services waiver; and be it
8 further

9 RESOLVED, That the study:

10 (1) Report on whether Home and Community-Based Services
11 waivers meet the medical needs of recipients who have a
12 disability, and ways in which care under waivers can be
13 improved to better meet the medical needs of individuals with
14 disabilities, taking into consideration those differences in
15 the needs of individuals with physical disabilities and
16 developmental disabilities.

17 (2) Examine and compare the rates being paid by the
18 OLTL's waivers and programs such as Community HealthChoices,
19 OBRA and Act 150 Services, and ODP's waivers for caregiver
20 services, employment support services and participant-driven
21 services.

22 (3) Examine the service menus in the OLTL versus those
23 in ODP, recognizing that the needs of individuals in both
24 programs may be the same or similar.

25 (4) Examine challenges faced by waiver participants to
26 avoid institutionalization and to be supported to remain
27 actively engaged in their community.

28 (5) Examine the root causes of the percentages of OLTL
29 participants in competitive integrated employment being one-
30 tenth of those served by ODP's waivers.

1 (6) Compare pay rates, benefits, training, recruitment
2 and retention policies and career advancement opportunities
3 for direct care workers in OLTL's OBRA waiver and the
4 Attendant Care Services Act (Act 150) to those for direct
5 support professionals in the ODP's waivers.

6 (7) Report on ways in which Home and Community-Based
7 Services waivers administrative processes could be improved
8 to address the challenges facing individuals with
9 disabilities to access Home and Community-Based Services
10 waivers.

11 (8) Provide recommendations on how the administrative
12 processes may be improved, including the application process
13 and eligibility determinations.

14 (9) Evaluate ways in which other states have
15 accommodated the diverse needs of individuals with
16 disabilities and altered their public assistance programs as
17 a result, including the utilization of the Federal definition
18 of "developmental disabilities."

19 (10) Report on access to primary, secondary and tertiary
20 prevention health care for individuals with disabilities on
21 Home and Community-Based Services waivers and whether the
22 access adequately meets the needs of individuals with
23 disabilities.

24 (11) Report on barriers and facilitators to obtaining
25 medical supplies for individuals with disabilities on Home
26 and Community-Based Services waivers and the effect this has
27 on health outcomes.

28 (12) Report on barriers and facilitators to accessing
29 nursing services for individuals with disabilities on Home
30 and Community-Based Services waivers, including the differing

1 standards for authorizing nursing services among different
2 waivers.

3 (13) Report on barriers and facilitators to accessing
4 direct care services for individuals with disabilities on
5 Home and Community-Based Services waivers, including the
6 differing standards for authorizing direct care services
7 among different waivers.

8 (14) Report on barriers and facilitators to individuals
9 with disabilities on Home and Community-Based Services
10 waivers receiving medically related supports, such as tube
11 feedings or catheter changing and the social determinants of
12 health.

13 (15) Report on the barriers and facilitators to hiring
14 an attendant or direct care worker to be able to provide
15 these supports when a nurse is not available under these
16 waivers.

17 (16) Report on cases where health or administrative
18 challenges with waivers lead an individual with a disability
19 to seek care in an institution instead.

20 (17) Report on any quality-of-life differences for Home
21 and Community-Based Services waiver recipients living in the
22 community compared to individuals with comparable
23 disabilities who are in an institution.

24 (18) Report on the circumstances of dual eligibility for
25 Medicare and Medicaid for an individual with disabilities,
26 and any issues that this raises for the recipient in
27 coordinating provider networks and benefits.

28 (19) Evaluate possible cost savings associated with
29 changes to waivers, including the costs of changes that would
30 address barriers to access.

1 (20) Make recommendations on actions that the Department
2 of Human Services, Department of Health or other State
3 agencies could take to better meet the needs of people
4 receiving waivers.

5 (21) Make legislative recommendations on actions that
6 the General Assembly could take to improve access to Home and
7 Community-Based Services waivers.

8 (22) Collect and evaluate data, including satisfaction
9 surveys, interviews with waiver recipients and interviews
10 with staff who administer Home and Community-Based Services
11 waivers;

12 and be it further

13 RESOLVED, That the Joint State Government Commission convene
14 an advisory committee which contains the following members:

15 (1) The Secretary of Health or a designee.

16 (2) The Secretary of Human Services or a designee.

17 (3) A representative from the Office of Medical
18 Assistance Programs.

19 (4) A representative from ODP.

20 (5) A representative from OLTL.

21 (6) A representative of a county assistance office or a
22 designee.

23 (7) A representative of an association of community
24 providers of long-term care living services in this
25 Commonwealth.

26 (8) A representative from two separate disability
27 advocacy groups in this Commonwealth.

28 (9) A representative of an organization representing
29 members of a union that provide services to individuals
30 receiving a Home and Community-Based Services waiver.

1 (10) A representative of a health plan.

2 (11) A representative of a hospital.

3 (12) A member of the Statewide Independent Living
4 Council.

5 (13) A consumer representative from the Long-Term
6 Services and Supports subcommittee of the Medical Assistance
7 Advisory Committee.

8 (14) A representative of the Long-Term Care Council.

9 (15) A family member of an individual who receives a
10 Home and Community-Based Services waiver.

11 (16) An individual receiving services from a Home and
12 Community-Based Services waiver administered by ODP.

13 (17) An individual receiving services from home and
14 community-based services administered by OLTL.

15 (18) A representative of the Employment First Oversight
16 Commission.

17 (19) A representative of an organization that offers
18 personal assistance services or attendant care.

19 (20) A representative who is a service coordinator who
20 serves the OBRA waiver population.

21 (21) A representative who is a service coordinator who
22 serves the Community HealthChoices Waiver population.

23 (22) Any other representatives who are deemed
24 appropriate by the Joint State Government Commission;

25 and be it further

26 RESOLVED, That the advisory committee be dissolved no later
27 than six months after the reporting of findings concludes; and
28 be it further

29 RESOLVED, That the Joint State Government Commission report
30 its findings and recommendations to the House of Representatives

1 no later than 24 months after the adoption of this resolution.