

## Consolidated, Community Living and P/FDS Waiver Amendments

**Effective Date: November 22, 2021**

### **KEY**

**Black Bold** = Language added as proposed with no changes from public comment

**Red Bold** = Language added as a result of public comment

**Purple Bold** = Language added as a result of CMS review.

**Strikethrough** = Language removed

**Blue Rows** = Changes were made as a result of CMS review

<b>Waivers Impacted</b>	<b>Appendix</b>	<b>Waiver Section</b>	<b>Recommended Revised Language</b>	<b>Reason for Change</b>
Consolidated, Community Living and P/FDS Waivers	B-3-e	Participants Access and Eligibility	Participants may choose to receive services from a qualified and willing provider anywhere in Pennsylvania or a state contiguous to Pennsylvania as permitted in Appendix C of this Waiver. Consolidated Waiver services are accessible statewide <b>for participants who are eligible for Medical Assistance in Pennsylvania.</b> If a participant is enrolled in the Waiver and chooses to relocate to a different county, the county where the participant resides has two options: 1) the county may choose to continue to provide administrative services to the participant in accordance with the AE Operating Agreement; or 2) the county may choose to transfer this responsibility and corresponding waiver capacity to the county where the participant is moving. If the second option is chosen the receiving county must accept the participant's transfer. The participant's service plan and Waiver effective date will not be affected by the transfer.	Aligning waivers with current policy that participants need to be eligible for Medical Assistance in Pennsylvania to receive ODP Waiver services.
Consolidated, Community Living, and P/FDS Waivers	C-1/C-3	In-Home and Community Support	Staff providing the In-Home and Community Support must be awake during overnight hours for the purpose of performing tasks that require continual assistance as identified in the service plan to ensure medical or behavioral stability and that are able to be performed by a trained non-medically-licensed individual. These tasks include the following: <ul style="list-style-type: none"><li>• Taking vital statistics when monitoring has been prescribed by a licensed professional, such as post-surgical care,</li><li>• Positioning,</li><li>• Performing range of motion exercises as directed by a licensed professional,</li></ul>	Monitoring activities for individuals with Diabetes Mellitus have been added as allowable overnight tasks that can be performed based on public comment.

			<ul style="list-style-type: none"> <li>• Administering prescribed medications (other than over the counter medications),</li> <li>• Applying prescribed treatments,</li> <li>• Monitoring for seizure activity for a participant with convulsive (grand mal) epilepsy that is not able to be controlled by medication,</li> <li><b>• Monitoring individuals with Diabetes Mellitus for signs of hyperglycemia and hypoglycemia and administering treatment as indicated in the service plan,</b></li> <li>• Maintaining the functioning of devices whose malfunction would put the participant at risk of hospitalization, and</li> <li>• Crisis intervention in accordance with the participant's behavior support plan.</li> </ul>	
Consolidated, Community Living, and P/FDS Waivers	C-1/C-3	Behavioral Supports	<p>1. During initial behavioral support plan development the Behavioral Specialist must:</p> <ul style="list-style-type: none"> <li>• Conduct a <del>comprehensive assessment of behavior and its causes and</del> <b>Functional Behavioral Assessment</b> and an analysis of assessment findings of the behavior(s) to be targeted so that an appropriate behavioral support plan may be designed;</li> <li>• Collaborate with the participant, his or her family, and his or her service plan team for the purpose of developing a behavior support plan that must include positive practices and least restrictive interventions. The behavior support plan may not include physical, chemical or mechanical restraints.<del>as support strategies;</del> <b>The behavior support plan may not include physical restraints as behavioral interventions. Physical restraints may only be utilized in accordance with 55 Pa. Code §§6100.348 and 6100.349 in the case of an emergency or crisis to prevent an individual from immediate physical harm to the individual or others. Behavior support plans that include restrictive procedures must be approved by a human rights team prior to implementation. ODP expects that, regardless of the number of providers supporting a person, continuity of care will be maintained through ongoing team communication and collaboration. Ideally, there should be one behavior support plan for the participant that is integrated and comprehensive and incorporates support strategies for all environments. If there is more than one Behavioral Specialist working with the participant, the behavior support plan can reflect joint authorship.</b></li> </ul>	<p>This change is being made to update waiver language to align with practice standards.</p> <p>Clarification was added as a result of public comment regarding when physical restraints are included in behavior support plans to align with regulatory requirements.</p>
Consolidated, Community	C-1/C-3	Supports Coordination	<i>Provider Qualification Standards</i> Minimum Qualifications for SC Supervisors:	

Living, and P/FDS Waivers		<p><b>3. Have criminal history clearances per 35 P.S. §10225.101 et seq. and 6 Pa. Code Chapter 15.</b></p> <p><b>must have a Pennsylvania State Police criminal history record check prior to the date of hire. If the prospective employee is not a resident of the Commonwealth of Pennsylvania or has not been a resident of the Commonwealth of Pennsylvania for at least two years prior to the date of employment, a Federal Bureau of Investigation criminal history record check must be obtained prior to the date of hire.</b></p> <p><b>If a criminal history clearance and/or the criminal history record check identifies a criminal record, providers must make a case-by-case decision about whether to hire the person that includes consideration of the following factors:</b></p> <ul style="list-style-type: none"> <li>• <b>The nature of the crime;</b></li> <li>• <b>Facts surrounding the conviction;</b></li> <li>• <b>Time elapsed since the conviction;</b></li> <li>• <b>The evidence of the individual's rehabilitation; and</b></li> <li>• <b>The nature and requirements of the job.</b></li> </ul> <p><b>Documentation of the review must be maintained for any staff that were hired whose criminal history clearance results or criminal history check identified a criminal record.</b></p>	<p>***</p> <p>This change clarifies the requirements for criminal history clearances to promote the safety of participants while supporting quality services from qualified staff.</p> <p>The performance of individualized risk assessments was removed as a factor as recommended by public comment. Consideration of all applicable factors constitutes the performance of the individualized risk assessment which was duplicative.</p>
Consolidated, Community Living, and P/FDS Waivers	C-1/C-3	<p>Housing Transition and Tenancy Sustaining Services</p> <p>Housing Transition services are direct and indirect services provided to participants. Indirect activities that cannot be billed include driving to appointments, completing service notes and progress notes, and exploring resources and developing relationships that are not specific to a participant's needs as these activities are included in the rate. The following direct and indirect activities are billable under Housing Transition:</p> <p style="text-align: center;">* * *</p> <ul style="list-style-type: none"> <li>○ Assisting with the housing search process <b>of searching for a home that is located in an integrated setting that is dispersed in the community in a noncontiguous location not located on a campus setting. Housing Transition cannot be used to find homes that are located in any development or building</b></li> </ul>	<p>This change is being made to clarify that the Housing Transition service is intended to support individuals to find homes in integrated settings in alignment with the CMS Home and Community Based Settings regulations and 55 Pa Code Chapter 6100. All other Housing Transition activities remain in the waiver unchanged.</p>

			<b>where more than 25% of the apartments, condominiums or townhouses have ODP waiver funded participants residing.</b>	
Consolidated, Community Living, and P/FDS Waivers	C-1/C-3	Assistive Technology	<p><b>Independent living technology Remote supports</b> is included for participants age 16 and older <b>during periods of time that direct services are not required</b>. <b>Remote supports</b> involve the use of <b>technology that uses two-way real time communication in the participant's home or community that allows someone from an agency who is offsite to monitor and respond to the participant's safety needs</b>. <b>Interaction with a professional occurs as needed as part of remote supports but is not the main function of the service</b>. The purpose of <b>independent living technology remote supports</b> is to assist participants in obtaining and or maintaining their independence and safety within their home and community and decreasing their need for assistance from others. <b>Independent living technology monitoring services and/or equipment in conjunction with additional technological support and services</b>. Examples of technology <b>include</b>: medication dispensers, door sensors, window sensors, stove sensors, water sensors, pressure pads, GPS Tracking Watches, and panic pendants. <b>Remote supports also include</b> <del>and the remote monitoring equipment necessary to operate the independent living technology and</del>. This service includes the costs for delivery, installation, adjustments, monthly testing, monitoring, maintenance and repairs to the independent living technology equipment. <del>Internet service may be provided when the remote supports provider indicates internet service is required for the remote supports equipment to function and approves the internet service prior to purchase to ensure it meets the needs for the delivery of remote supports. The remote supports provider is responsible for including and paying for the internet service along with remote supports as part of the remote supports service package offered to participants.</del></p> <p><b>Independent living technology Remote supports</b> are fully integrated into the participant's overall system of support. Prior to <del>the</del> purchase and installation of remote monitoring <b>supports</b> equipment, the <b>service plan team, in conjunction with the potential independent living technology remote supports</b> provider is responsible for the completion of the following:</p> <ul style="list-style-type: none"> <li>• An evaluation plan that, at a minimum, includes: the need(s) of the participant that will be met by the <b>remote supports technology</b>; how the <b>remote supports technology</b> will ensure the participant's health, welfare and independence;</li> </ul>	<p>This change is being made to support participants' ability to receive remote supports. The terminology independent living technology is being removed to reflect the more commonly used terminology remote supports. Clarification regarding what remote supports encompasses has been added based on public comment. Technology that is needed to support participants' independence but does not require two-way real-time communication that allows someone from an agency to interact and monitor the participant's safety needs continues to be covered under the Assistive Technology service which does not have as many requirements as remote supports.</p> <p>CMS has provided clarification that internet service is covered under room and board. For this reason, waiver funds cannot be used to pay for internet.</p> <p>CMS required additional clarification be added regarding the control participant's and unpaid supports have over the technology/equipment and the training they receive.</p>

		<p>the training needed to successfully utilize the technology and the back-up plan that will be implemented should there be a problem with the <b>remote supports technology</b>.</p> <ul style="list-style-type: none"><li>• A cost benefit analysis for all options. If the participant is receiving waiver services prior to receiving <b>remote supports independent living technology</b>, the cost benefit analysis must show how <b>the technology remote supports</b> will substitute for at least an equivalent amount of waiver services within 60 calendar days after installation, training and full use by the participant has begun. If the participant is not receiving waiver services prior to receiving <b>remote supports independent living technology</b>, the cost benefit analysis must show how <b>remote supports</b> the <b>technology</b> is more cost effective than waiver services.</li><li>• An outcome monitoring plan that outlines the outcomes the participant is to achieve by using <b>remote supports independent living technology</b>, how the outcomes will be measured and the frequency that the monitoring will be completed which must be at least quarterly and more frequently if needed.</li><li>• Informing the participant, <b>service plan team</b>, and anyone identified by the participant, of what impact the <b>independent living technology remote supports</b> will have on the participant's privacy. <b>This includes information about whether the participant can turn off the remote supports device or equipment if they choose to do so and what will happen if they turn off the remote supports device or equipment.</b> This information must be provided in a form of communication that is understood by the participant. <del>After this has been completed, The independent living technology provider must then obtain either the participant's consent in writing or the written consent of a legally responsible party for the participant. This process must be completed prior to the utilization of independent living technology and any time there is a change to the independent living devices or services.</del></li></ul> <p>Once the remote supports has been approved on the service plan, the remote supports provider is responsible for the following:</p> <ul style="list-style-type: none"><li>• Training the participant, family, natural supports and any support professionals that will assist the participant in the use of the equipment initially and ongoing as needed. <b>This includes training on how to turn off the remote supports device or equipment if they choose to do so.</b></li></ul>	
--	--	---	--

Consolidated, Community Living, and P/FDS Waivers	C-1/C-3	Assistive Technology	Assistive Technology devices (with the exception of <b>remote supports independent living technology</b> ) costing <del>\$500</del> <b>\$750</b> or more must be recommended by an independent evaluation of the participant's assistive technology needs, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the participant on the customary environment of the participant.	This change is being made to support participants' ability to receive services using remote technology.
Consolidated, Community Living and P/FDS Waivers	C-1/C-3	Assistive Technology	Assistive Technology has the following limits: * * * <ul style="list-style-type: none"><li>○ An annual limit of \$5,000 for remote monitoring supports service completed as part of independent living technology. Intensive remote support above the annual limit of \$5,000 is allowed using the standard ODP variance process. This limit is <b>Remote support costs</b> are not included in the overall Assistive Technology lifetime limit of \$10,000.</li></ul>	This change allows increased flexibility, participant choice and independence through expanded options to receive remote support to meet the participant's needs in a cost-effective manner.
Consolidated, Community Living, and P/FDS Waivers	C-1 /C-3	Assistive Technology	Provider Qualification Standards  <del>Independent Living Remote Supports-Technology Agency</del>  To provide <b>remote supports independent living technology</b> , the agency must meet the following standards: * * * <b>1. Enroll directly with ODP to render the remote supports service;</b>  7. New providers demonstrate compliance with ODP standards through completion of a self-assessment and validation of required documentation, policies and procedures.  8. Have a participant support call center that is staffed 24 hours a day, 7 days a week, or an automated call center if identified in the assessment.	Additional qualification criteria have been added for the provision of intensive remote support to ensure the health and safety of participants and the provision of quality services. Because clarification has been added to the service definition that remote supports entails two-way real time communication that allows someone from an agency to interact and monitor the participant's safety needs, the remote supports component must be delivered by an agency that enrolls directly with ODP to render the remote supports.

			<p><b>9. When intensive remote support will be provided above \$5,000 per year, the provider must:</b></p> <ul style="list-style-type: none"> <li>• Develop and implement a quality management plan <b>in accordance with 55 Pa. Code Chapter 6100</b>;</li> <li>• Provide orientation and annual training to staff on recognizing and reporting incidents <b>in accordance with 55 Pa. Code Chapter 6100</b>; and</li> <li>• Have a professional (direct, contracted, or in a consulting capacity) available who has either a current Assistive Technology Professional certificate from Rehabilitation Engineering and Assistive Technology Society of North America (RESNA) <b>or Enabling Technology Integration Specialist SHIFT certification</b>.</li> </ul> <p>Entity Responsible for Verification: OHCDS, ODP or its Designee</p>	<p>Clarification was added, per public comment recommendation, to cite regulatory requirements regarding quality management plans and orientation and annual training requirements.</p> <p>SHIFT certification was added as an acceptable qualification certification for intensive remote support as recommended by public comment.</p>
Consolidated, Community Living, and P/FDS Waivers	C-1/C-3	Benefits Counseling	<p><i>Provider Qualification Standards</i></p> <p>Staff (direct, contracted or in a consulting capacity) who will work directly with the participant to provide Benefits Counseling services shall hold <b>a one of the following</b>:</p> <ul style="list-style-type: none"> <li>• Certified Work Incentives Counselor certification that is accepted by the Social Security Administration for its Work Incentives Planning and Assistance program, <b>or</b></li> <li>• <b>Work Incentive Practitioner credential obtained by completing the Cornell University Work incentives Planning &amp; Utilization for Benefit Practitioners Online Certificate course and satisfying the requirement to maintain the credential (sixty hours of continuing education units for training approved by Cornell University within 5 years of obtaining the full credential)</b>.</li> </ul>	Based on feedback about difficulty accessing the Certified Work Incentives Counselor certification, qualifications are being expanded to give providers the ability to qualify staff and render quality services.
Consolidated, Community Living, and P/FDS Waivers	C-1/C-3	Small Group Employment & Supported Employment	<p>Individuals must have one of the following <b>by 7/1/19 or within nine</b> six months of hire if hired after 1/1/19:</p> <ul style="list-style-type: none"> <li>• Hold a Certified Employment Support Professional (CESP) credential from the Association of People Supporting Employment First (APSE); or</li> <li>• Have been awarded a Basic Employment Services Certificate of Achievement or a Professional Certificate of Achievement in Employment Services from an Association of</li> </ul>	The deadline for when staff (individual/DSP/SSP) are required to have one of the certifications after hire has been extended based on public comment recommendation.

			Community Rehabilitation Educators (ACRE) organizational member that has ACRE-approved training.	
Consolidated, Community Living, and P/FDS Waivers	C-1/C-3	Community Participation Support	<p>On-call and remote support is covered <b>to increase independence</b> for participants for whom the provider has coordinated community activities in which the participant is supported through unpaid supports and/or as a component of the fading strategy where on-call and remote support is needed as a back-up. <b>On-call and remote support is used when a participant is engaged in a community activity that was arranged by the CPS provider but where the CPS provider staff is not physically present, and the participant is supported by unpaid supports.</b> In these circumstances, CPS staff are on-call or providing remote supports as a back-up to the unpaid support. The use of on-call support can address the health and safety of the participant to support the unpaid support in a circumstance when the unpaid support needs additional guidance to address a participant's health and safety or care needs. As outlined in Appendix D-2-a, the Supports Coordinator is responsible for verifying that remote supports are appropriate to meet the participant's needs.</p> <p>The provider may bill for on-call and remote support when all of the following conditions are met:</p> <ul style="list-style-type: none"> <li>• <b>The service is authorized in the service plan based on the service plan team determination that on-call and remote support is the most appropriate service delivery method to meet the participant's needs based on review of the following information:</b> <ul style="list-style-type: none"> <li>○ The <b>community</b> activity was coordinated by the provider of CPS services;</li> <li>○ The participant does not receive Residential Habilitation services;</li> <li>○ The participant requires on-call or remote support for health &amp; safety reasons;</li> <li>○ <b>The provider, in conjunction with the service plan team, has developed a back-up plan that will be implemented should there be a problem with the technology, or the needed unpaid support person is not available. The back-up plan must be developed in accordance with guidance in Appendix D-1-e to ensure that the health and safety needs of each participant will be met;</b></li> <li>○ <b>The participant and/or unpaid support person(s) have been trained to</b></li> </ul> </li> </ul>	CMS required additional clarification be added regarding how the on-call and remote support component of Community Participation Support complies with HIPAA, enhances or increases each participant's independence, ensures participant safety through back-up plans, and the participant's control over any technology or equipment used.

			<p><b>successfully utilize any devices or equipment necessary for the provision of on-call and remote support. This includes training on how to turn off any device(s) or equipment if they choose to do so;</b></p> <ul style="list-style-type: none"> <li>○ The provider informs the participant, <b>the service plan team</b> &amp; anyone identified by the participant, of what impact the on-call and remote support will have on the participant's privacy (if any). <b>This includes the following</b> <ul style="list-style-type: none"> <li>▪ <b>The participant must give consent for protected health information to be shared with the unpaid support person(s), when applicable;</b></li> <li>▪ <b>Any technology used must be HIPAA compliant; and</b></li> <li>▪ <b>The provider will implement reasonable HIPAA safeguards to limit incidental uses or disclosures of protected health information when the participant is in community locations. This includes using lowered voices, not using speakerphone, or recommending that the participant and/or unpaid support person(s) move to a reasonable distance from others when discussing protected health information.</b></li> </ul> </li> <li>○ Remote support is available immediately to the participant &amp; on-call staff can be available for direct service within a maximum of 30 minutes (less if agreed upon by the service plan team).</li> </ul> <p><b>The provider must ensure effective communication is must be provided, including use of any necessary auxiliary aids or services, to ensure that the participant can receive and convey information consistent with the requirements of the Americans with Disabilities Act. If there are impacts on the participant's privacy, the provider must then obtain either the participant's consent in writing or the written consent of a legally responsible party for the participant. This process must be completed prior to the utilization of on-call &amp; remote support; and</b></p>	
Consolidated, Community Living, and P/FDS Waivers	C-1/C-3	Community Participation Support	CPS services may not be provided at the same time as the direct provision of any of the following: Companion; In-Home And Community Supports; Small Group Employment; Job Finding or Development and Job Coaching and Support in Supported Employment; job acquisition and job retention in Advanced Supported Employment; Transportation; 15-minute unit Respite; Therapies; Education Support; Shift Nursing; Music, Art and	To avoid duplication of service, CMS recommended that a statement be added to clarify that Community Participation Support, including the on-call and remote support component,

			Equine Assisted Therapy and Consultative Nutritional Services. <b>The direct provision of CPS as well as the on-call and remote support component shall not be rendered on the same days and times that Remote Supports is rendered under Assistive Technology.</b>	cannot be rendered on the same days and times as Remote Supports under Assistive Technology.
Consolidated, Community Living, and P/FDS Waivers	C-1/C-3	Community Participation Support	<p>For programs providing prevocational training to participants, program specialists and supervisors of direct service professionals in facilities licensed under 55 Pa. Code Chapter 2380 must have one of the following <del>by 7/1/19 or</del> within <b>nine</b> <del>six</del> months of hire <del>if hired after 1/1/19:</del></p> <ul style="list-style-type: none"> <li>• Hold a Certified Employment Support Professional (CESP) credential from the Association of People Supporting Employment First (APSE), or</li> <li>• Have been awarded a Basic Employment Services Certificate of Achievement or a Professional Certificate of Achievement in Employment Services from an Association of Community Rehabilitation Educators (ACRE) organizational member that has ACRE-approved training.</li> </ul>	The deadline for when staff (individual/DSP/SSP) are required to have one of the certifications after hire has been extended based on public comment recommendation.
Consolidated and Community Living Waivers	C-1/C-3	Residential Habilitation, Life Sharing and Supported Living	<p><b>Remote supports involve the use of technology that uses two-way real time communication in the participant's home and/or community that allows someone from off-site to monitor and respond to the participant's safety needs. Any use of Remote Supports rendered as part of Residential Habilitation, Life Sharing or Supported Living services must enhance or increase the participant's independence, reduce the participant's need for direct support, and comply with 42 CFR 442.301(c)(4)(vi)(A) through (D) related to privacy, control of schedule and activities and access to visitors.</b></p> <p><b>Remote supports are fully integrated into the participant's overall system of support using person centered planning. Prior to implementing remote supports as part of the residential service the residential provider must discuss the following with the service plan team to determine the appropriateness of this service delivery method:</b></p> <ul style="list-style-type: none"> <li>○ An evaluation plan that, at a minimum, includes: <ul style="list-style-type: none"> <li>▪ The need(s) of the participant that will be met by the remote</li> </ul> </li> </ul>	CMS required additional clarification be added regarding how the remote supports component of Residential Habilitation, Life Sharing and Supported Living complies with HIPAA, enhances or increases each participant's independence, ensures participant safety through back-up plans, and the participant's control over any technology or equipment used.

			<p>supports;</p> <ul style="list-style-type: none"><li>▪ The equipment and/or devices that will be used and the participant's control over the equipment and/or devices. The participant's control over the equipment will be determined on a case-by-case basis depending on the device(s) /equipment used and the participant's needs;</li><li>▪ How the remote supports will ensure the participant's health, welfare and independence;</li><li>▪ The training needed to successfully utilize the technology. This includes training the participant and staff on the equipment and/or devices that will be used; and</li><li>▪ The back-up plan that will be implemented should there be a problem with the remote supports, including the technology used. The back-up plan must be developed in accordance with guidance in Appendix D- 1-e to ensure that the health and safety needs of each participant will be met.</li></ul> <ul style="list-style-type: none"><li>○ An outcome monitoring plan.</li><li>○ The impact the remote supports will have on the participant's privacy, including whether devices and/or equipment used facilitate each participant's right to privacy of person and possessions. This information must be provided to the participant in a form of communication understood by the individual. After this has been completed, the residential provider must then obtain either the participant's consent in writing or the written consent of a legally responsible party for the participant. Documentation of participant consent produced by the provider is acceptable if the person/legally responsible party is able to consent but unable to do so in writing. This process must be completed prior to the utilization of remote supports and any change that impacts the participant's privacy.</li></ul>	
--	--	--	---	--

			<p>right to privacy of person and possessions. ODP has developed an evaluation tool for the use of technology in residential homes.</p> <p>The residential provider is required via licensing and program-operational regulations to actively provide each participant the necessary support to make choices and understand their rights under the regulations, including the right to choose or decline of remote supports.</p> <p>As outlined in Appendix D-2-a, each participant's health, safety, and wellness are also monitored by their Supports Coordinator. During each monitoring, the Supports Coordinator is responsible for verifying that all services (including remote supports) are appropriate to meet the participant's needs and ensuring the participant exercises free choice of provider, including choice of the service delivery method (in-person versus the use of technology).</p> <p>The physical location where services are provided, as well as activities rendered as part of the services (including remote supports activities) are monitored through QA&amp;I and/or licensing.</p>	
Consolidated and Community Living Waivers	C-1/C-3	Residential Habilitation and Life Sharing	<p><i>Provider Qualification for Residential Habilitation or Life Sharing:</i></p> <p>Staff, consultants and contractors must have criminal history clearances per 35 P.S. §10225.101 et seq. and 6 Pa. Code Chapter 15.</p> <p><b>If the criminal history clearance results identify a criminal record, providers must make a case-by-case decision about whether to hire the person that includes consideration of the following factors:</b></p> <ul style="list-style-type: none"> <li>• The nature of the crime;</li> <li>• Facts surrounding the conviction;</li> <li>• Time elapsed since the conviction;</li> <li>• The evidence of the individual's rehabilitation; and</li> <li>• The nature and requirements of the job.</li> </ul>	<p>The performance of individualized risk assessments was removed as a factor as recommended by public comment. Consideration of all applicable factors constitutes the performance of the individualized risk assessment which was duplicative.</p>

			<b>Documentation of review must be maintained for any staff that were hired whose criminal history clearance results identified a criminal record.</b>	
Consolidated and Community Living Waivers	C-1/C-3	Residential Habilitation and Life Sharing	<p><i>Provider Qualification for Residential Habilitation, Life Sharing, and Supported Living:</i></p> <p>In the case of an entity newly enrolled to provide Residential Habilitation/Life Sharing/Supported Living services, or a current provider hiring new executive level staff, one of the following positions: <del>must have a minimum of five years' experience as a manager with responsibility for providing residential services for individuals with an intellectual disability, developmental disability, autism and/or serious mental illness and a bachelor's degree.</del></p> <ul style="list-style-type: none"> <li>• Executive Director,</li> <li>• Chief Executive Officer,</li> <li>• Chief Operations Officer, or</li> <li>• Director, Assistant or Associate Director</li> </ul> <p>must have a bachelor's degree and a minimum of five years' experience <b>in an executive-level position relating to the provision of residential services</b> to individuals with an intellectual disability, developmental disability, autism and/or serious mental illness, <b>with responsibility for all of the following:</b></p> <ul style="list-style-type: none"> <li>• Day-to-day residential agency operations;</li> <li>• Oversight of the development and implementation of residential agency-wide policies and procedures;</li> <li>• Supervision of management-level staff; and</li> <li>• Compliance with applicable state and federal regulations.</li> </ul>	Based on requests for clarification, additional detail has been added regarding professional experience required for at least one executive level staff in Residential Habilitation, Life Sharing and Supported Living.
Consolidated and Community Living Waivers	C-1/C-3	Residential Habilitation, Life Sharing and Supported Living	<p><i>Provider Qualification for Residential Habilitation, Life Sharing and Supported Living:</i></p> <p><i>Certificate:</i></p> <p>BEHAVIORAL SPECIALIST</p>	There have been no changes to the requirements for Program Specialists. The qualification criteria listed in the proposed side-by-side was for unlicensed providers.

		<p>When serving participants with behavior support needs, the Residential Habilitation provider must have behavioral specialists (direct, contracted or in a consulting capacity) available who, as part of the Residential Habilitation service, complete assessments, develop and update Behavior Support Plans and Crisis Intervention Plans and train other agency staff. The behavioral specialist ensures behavior support provided to the participant includes positive practices and least restrictive interventions. <del>and does not include physical, chemical or mechanical restraints as support strategies</del>. Behavior support plans may not include chemical or mechanical restraints. <b>The behavior support plan may not include physical restraints as behavioral interventions. Physical restraints may only be utilized in accordance with 55 Pa. Code §§6100.348 and 6100.349 in the case of an emergency or crisis to prevent an individual from immediate physical harm to the individual or others. Behavior support plans that include restrictive procedures must be approved by a human rights team prior to implementation.</b> ODP expects that, regardless of the number of providers supporting a person, continuity of care will be maintained through ongoing team communication and collaboration. Ideally, there should be one behavior support plan for the participant that is integrated and comprehensive and incorporates support strategies for all environments. If there is more than one Behavioral Specialist working with the participant, the behavior support plan can reflect joint authorship.</p> <p>Behavioral specialists must meet the professional education or licensure criteria in one of the following three sets of requirements:</p> <ol style="list-style-type: none"> <li>1. Master's Degree or higher in Psychology, Special Education, Counseling, Social Work, Education, Applied Behavior Analysis or Gerontology.</li> <li>2. A Pennsylvania Behavior Specialist License.</li> <li>3. Must have a Bachelor's Degree and work under the supervision of a professional who has a Master's Degree in Psychology, Special Education, Counseling, Social Work, Education, Applied Behavior Analysis or Gerontology, or who is a licensed psychiatrist, psychologist, professional counselor, social worker (master's level or higher) or who has a Pennsylvania Behavior Specialist License.</li> </ol> <p>In addition to the education and licensing criteria above, behavioral specialists must also meet the following standards:</p> <ol style="list-style-type: none"> <li>1. Complete training in conducting and using a Functional Behavioral Assessment.</li> <li>2. Complete training in positive behavioral support.</li> </ol>	Clarification was added because of public comment regarding when physical restraints are included in behavior support plans.
--	--	--	--

Consolidated and Community Living Waivers	C-1/C-3	Residential Habilitation, Life Sharing, and Supported Living	<p><i>Provider Qualification for Residential Habilitation, Life Sharing, and Supported Living:</i></p> <p><i>Certificate:</i></p> <p><b>SUPPORTIVE TECHNOLOGY PROFESSIONAL</b></p> <p>Effective June 30, 2022 when rendering remote support services to participants, the Residential Habilitation/Life Sharing/Supported Living provider must have a <b>supportive</b> technology professional (direct, contracted, or in a consulting capacity) available who has either a current Assistive Technology Professional certificate from Rehabilitation Engineering and Assistive Technology Society of North America (RESNA) or Enabling Technology Integration Specialist SHIFT certification. The <b>supportive</b> technology professional is responsible for:</p> <ol style="list-style-type: none"> <li>1. Completion of evaluations of participants' assistive technology needs, including a functional evaluation of the impact of appropriate assistive technology and remote support.</li> <li>2. Completion of an evaluation plan that includes the needs of the participant that will be met by the remote support technology and remote support, how the technology and remote support will ensure the participant's health, welfare and independence, the training needed to utilize the technology and the back-up plan that will be implemented if there is a problem with the technology and/or remote support.</li> <li>3. Informing the participant, and anyone designated by the participant, of what impact the remote support technology and remote support will have on the participant's privacy. This information must be provided to the participant in a form of communication understood by the participant. The Residential Habilitation/Life Sharing/Supported Living provider must obtain either the participant's consent in writing or the written consent of a legally responsible party for the participant. This process must be completed prior to the utilization of remote support technology and remote support, and any time there is a change to the remote support technology devices or remote support.</li> <li>4. Ensuring that the remote support technology is in working order.</li> </ol>	The requirement for a Supportive Technology Professional has been added to ensure that remote support provided as part of the Residential Habilitation, Life Sharing, or Supported Living service meets the needs of participants.

			<p><b>This information will be provided to the participant and service plan team for discussion and inclusion of the remote support technology and remote support in the service plan.</b></p>	
Consolidated, Community Living, and P/FDS Waivers	C-1/C-3	Community Participation Support, Residential Habilitation, Life Sharing, Supported Living, and Assistive Technology	<p><i>Provider Qualifications</i></p> <p>Have a signed ODP Provider Agreement on file with ODP <b>which requires the provider to comply with all applicable federal and state statutes, regulations, and policies, including but not limited to confidentiality and HIPAA requirements.</b> Providers are required to develop and implement written privacy policies and procedures that are consistent with the Privacy Rule. ODP reviews these policies and procedures when complaints are received regarding privacy or as part of licensing or QA&amp;I when warranted.</p>	CMS required additional clarification be added regarding provider responsibilities to comply with HIPAA, including development and implementation of written privacy policies and procedures that are consistent with the Privacy Rule.
Consolidated, Community Living, and P/FDS Waivers	C-1/C-3	Transportation	<p>Effective from 7/1/17 through 6/30/19, zones are defined as the following:</p> <ul style="list-style-type: none"> <li>• <del>Zone 1 - Greater than 0 and up to 20 miles.</del></li> <li>• <del>Zone 2 - Greater than 20 miles and up to 40 miles.</del></li> <li>• <del>Zone 3 - Greater than 40 and up to 60 miles.</del></li> </ul> <p>Effective July 1, 2019, zones are defined as follows:</p> <ul style="list-style-type: none"> <li>• Zone 1 - greater than 0 and up to 10 miles.</li> <li>• Zone 2 - greater than 10 miles and up to 30 miles.</li> </ul> <p>Zone 3 – greater than 30 miles.</p>	The change was made to delete outdated information relating to the zones for Transportation Trip.
Consolidated, Community Living, and P/FDS Waivers	C-1/C-3	Provider Qualifications for multiple services	<p><i>Provider Qualifications for all direct services except Residential Habilitation and Life Sharing:</i></p> <p><del>Have criminal history clearances per 35 P.S. §10225.101 et seq. and 6 Pa. Code Chapter 15.</del></p>	This change clarifies the requirements for criminal history clearances to promote the safety of participants while supporting quality services from qualified staff.

			<p><b>Staff, contractors, and consultants must have a Pennsylvania State Police criminal history record check prior to the date of hire. If the prospective employee is not a resident of the Commonwealth of Pennsylvania or has not been a resident of the Commonwealth of Pennsylvania for at least two years prior to the date of employment, a Federal Bureau of Investigation criminal history record check must be obtained prior to the date of hire.</b></p> <p><b>If a criminal history clearance and/or the criminal history record check identifies a criminal record, providers must make a case-by-case decision about whether to hire the person that includes consideration of the following factors:</b></p> <ul style="list-style-type: none"> <li>• The nature of the crime;</li> <li>• Facts surrounding the conviction;</li> <li>• Time elapsed since the conviction;</li> <li>• The evidence of the individual's rehabilitation; and</li> <li>• The nature and requirements of the job.</li> </ul> <p><b>Documentation of the review must be maintained for any staff that were hired whose criminal history clearance results or criminal history check identified a criminal record.</b></p>	<p>The performance of individualized risk assessments was removed as a factor as recommended by public comment. Consideration of all applicable factors constitutes the performance of the individualized risk assessment which was duplicative.</p>
Consolidated Community Living and P/FDS Waivers	C-5	Home and Community-Based Settings	<p>Waiver funding cannot be used to provide any service in any private home purchased for, developed for or promoted as serving people with an intellectual disability and/or Autism in a manner that isolates or segregates the participant from the community of individuals not receiving waiver services.</p> <p>Further, waiver funding cannot be used to provide any service in a private home that <b>has the effect of isolating the participant from the broader community of individuals not receiving waiver services as evidenced by any of the following:</b></p> <ul style="list-style-type: none"> <li>• Due to the design or model of service provision, participants have limited, if any, opportunities for interaction in and with the broader community, including with individuals not receiving waiver services;</li> <li>• The participant's choice to receive services or engage in activities outside of the home is restricted; or</li> </ul>	<p>Public comment requested that the terms farmstead and gated community be removed. Language has been added to align with current guidance from the Centers for Medicare and Medicaid Services (CMS).</p> <p>CMS requested that this information be moved to section C-5 of the waivers.</p>

			<ul style="list-style-type: none"> <li>• <b>The home is physically located separate and apart from the broader community and does not facilitate opportunities for the participant to access the broader community and participate in community services, consistent with the participant's person-centered service plan.</b></li> <li>• <del>A farmstead</del> Participants who live at the farm typically interact primarily with people with disabilities and staff who work with those individuals. Participants typically live in homes only with other people with disabilities and/or staff. Daily activities are typically designed to take place on-site so that a participant generally does not leave the farm to access services or participate in community activities. While sometimes people from the broader community may come on-site, participants from the farm do not go out into the broader community as part of their daily life.</li> <li>• <del>A gated/secured community for people with disabilities</del> Gated communities consist primarily of people with disabilities and the staff that work with them. Participants receiving services in this type of setting often do not leave the grounds of the gated community in order to access activities or services in the broader community.</li> </ul>	
Consolidated, Community Living, and P/FDS Waivers	C-2	<b>Criminal History and/or Background Investigations</b>	<p>Specific requirements for criminal background checks are included in 35 P.S. §10225.101 et seq., 6 Pa. Code Chapter 15 (Older Adult Protective Services Act, OAPSA) and 55 Pa. Code Chapter 51 or its regulatory successor, OAPSA and 55 Pa. Code Chapter 51 require that criminal background checks are requested from the Pennsylvania State Police prior to the applicant's date of hire. If the applicant has not been a resident of the Commonwealth for the two years immediately preceding the date of application, a report of Federal criminal history record must be requested from the Federal Bureau of Investigation (FBI) in addition to a criminal history record from the Pennsylvania State Police.</p> <p>Requirements for criminal background checks are specified at 55 Pa. Code § 6100.47 (relating to criminal history checks) and in the qualifications for each waiver service definition. Additionally, Residential Habilitation and Life Sharing providers are subject to the criminal history background check requirements specified in the Older Adults Protective Services Act (35 P.S. § 10225.101 et seq) and 6 Pa. Code Chapter 15 (relating to Protective Services for Older Adults).</p>	This change clarifies the requirements for criminal history clearances to promote the safety of participants while supporting quality services from qualified staff.

Consolidated, Community Living and P/FDS Waivers	G-2-a-i	Safeguards Concerning the Use of Restraints	<p>ODP only permits physical restraints, defined as a manual method that restricts, immobilizes or reduces an individual's ability to move his arms, legs, head or other body parts freely.</p> <p>Physical restraints may only be used in the case of an emergency <b>or crisis</b> to prevent an individual from immediate physical harm to himself or others. A physical restraint may not be used for more than 30 cumulative minutes within a 2-hour period.</p> <p>Physical Restraints must be used only as a last resort safety measure when the participant is in immediate danger of harming oneself and/or others and other risk mitigation strategies are ineffective. A physical restraint may not be used as a behavioral intervention, consequence, retribution, punishment, for the convenience of staff persons or as a substitution for individual support.</p> <p style="text-align: center;">***</p> <p>Physical restraints must be included in the service <b>behavior support</b> plan and must be approved by a human rights team prior to implementation. The <b>behavior support plan</b> <b>and</b> service plan must be reviewed, and revisions must be made <del>to the service plan</del> when necessary, according to the time frame established by the human rights team, not to exceed 6 months. The <b>behavior support</b> service plan with <b>permitted</b> restrictive interventions, including physical restraints, must <b>be summarized in the service plan</b> <b>and</b> include: (1) The specific behavior to be addressed. (2) An assessment of the behavior including the suspected reason for the behavior. (3) The outcome desired. (4) Methods for facilitating positive behaviors such as changes in the individual's physical and social environment, changes in the individual's routine, improving communications, recognizing and treating physical and behavior health conditions, voluntary physical exercise, redirection, praise, modeling, conflict resolution, de-escalation and teaching skills. (5) Types of restrictive procedures that may be used and the circumstances under which the procedures may be used. (6) A target date to achieve the outcome. (7) The amount of time the restrictive procedure may be applied. (8) The name of the staff person responsible for monitoring and documenting progress with the individual plan.</p> <p style="text-align: center;">***</p>	Clarification was added regarding the expectation that physical restraints be included in behavior support plans in alignment with regulations per public comment recommendation.
--	---------	---	---	---

			<p>The use of a physical restraint is always a last resort emergency response to protect the participant's safety. Consequently, it is never used as a punishment, <del>therapeutic technique</del> <b>behavioral intervention</b> or for staff convenience. The participant is immediately to be released from the physical restraint as soon as it is determined that the participant is no longer a risk to himself/herself or others. Additionally, regulations specifically state "Every attempt shall be made to anticipate and de-escalate the behavior using techniques less intrusive than a restrictive procedure."</p> <p>Service <b>Behavior support</b> plans identify strategies to avoid the need for restraints. These plans identify the antecedents, thereby enhancing opportunity to intercede before the use of restraint is needed. A restrictive procedure may not be used unless less restrictive techniques and resources appropriate to the behavior have been tried but have failed.</p>	
Consolidated, Community Living, and P/FDS Waivers	G-2-b-i	Safeguards Concerning the Use of Restrictive Interventions	<p>Permitted Restrictive Interventions include:</p> <ul style="list-style-type: none"> <li>• Token economies or other reward and/or level systems as part of programming.</li> <li>• Environmental restrictions</li> <li>• Limiting access to objects or items, such as limiting access to food for participants diagnosed with Prader Willi.</li> <li>• <del>Intensive supervision such as 1:1 or 2:1 staffing levels or higher for purposes of behavior monitoring/intervention/redirection.</del></li> <li>• Anything that a person is legally mandated to follow as part of probation or a court restriction that is superseded by regulation or other ODP policy.</li> </ul>	Restrictive Interventions do not include staffing ratios; rather, they are the specific interventions that are implemented by staff that would be restrictive, not the number of staff working.
Consolidated, Community Living, and P/FDS Waivers	Appendix I-2-a	Rate Determination Methods	<p>The VF/EA and AWC wage ranges are issued by ODP prior to <del>any changes in wage ranges July 1 each year</del> in a standard ODP communication. In addition, <del>changes to the AWC MA fee schedule rates are communicated prior to July 1 each year implementation</del> through a public notice published in the Pennsylvania Bulletin. Wage ranges &amp; fee schedule rates, when applicable, are implemented prospectively.</p>	There are no federal or state requirements to publish wage ranges or MA fee schedule rates when there are no changes to the wage ranges or rates. Any changes will be communicated before they become effective.