

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop: S2-25-26  
Baltimore, Maryland 21244-1850



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## State Demonstrations Group

September 2, 2021

Amanda Cassel Kraft  
Acting Assistant Secretary  
Executive Office of Health and Human Services  
One Ashburton Place, 11<sup>th</sup> Floor, Room 1109  
Boston, MA 02018

Dear Ms. Cassel Kraft:

On May 5, 2021, Massachusetts submitted a request to revise the Flexible Services Program Protocol (Attachment R) to offer accountable care organizations (ACOs) the flexibility of conducting the in-person needs assessment and planning through telehealth (e.g., telephone/videoconference), beyond the COVID-19 public health emergency. CMS is approving the protocol edits permitting the telehealth flexibility with the conditions that ACOs must document beneficiary consent for the use of telehealth and provide members with support to conduct the telehealth assessment and planning, including any on-site support.

We look forward to our continued partnership on the MassHealth section 1115(a) demonstration. If you have any questions, please contact your CMS project officer, Ms. Rabia Khan, at (410) 786-6276 or [Rabia.Khan1@cms.hhs.gov](mailto:Rabia.Khan1@cms.hhs.gov).

Sincerely,

Angela D. Garner  
Director  
Division of System Reform Demonstrations

cc: Marie DiMartino, State Monitoring Lead, Medicaid and CHIP Operations Group

Enclosure

## ATTACHMENT R: Flexible Services Program Protocol

In accordance with the State's Section 1115 Demonstration Waiver and Special Terms and Conditions 60(b)(ii), this protocol outlines the State's Delivery System Reform Incentive Payment (DSRIP) Program's Flexible Services Program (FSP). Under the FSP, the State will provide eligible MassHealth members with access to Flexible Services, which consist of Tenancy Preservation Services (TPS) and Nutritional Support Services (NSS). This protocol outlines the target criteria, needs based criteria, the covered flexible services, the flexible service planning process, and the payment methodology for covered flexible services under the FSP.

### I. Target Criteria

ACO-enrolled MassHealth members ages 0-64.

### II. Needs Based Criteria

Members who meet the target criteria outlined in Section I must also meet **at least one of** the health needs-based criteria outlined in Section II.A; **and at least** one of the risk factors outlined in Section II.B associated with the need for flexible services covered under the FSP as determined by the Flexible Service Assessment outlined in Section IV.

#### A. Health Needs-Based Criteria

1. The individual is assessed to have a behavioral health need (mental health or substance use disorder) requiring improvement, stabilization, or prevention of deterioration of functioning (including the ability to live independently without support)
2. The individual is assessed to have a complex physical health need, which is defined as persistent, disabling, or progressively life-threatening physical health condition(s), requiring improvement, stabilization, or prevention of deterioration of functioning (including the ability to live independently without support);
3. The individual is assessed to have a need for assistance with one or more Activities of Daily Living (ADLs) or Instrumental Activities of Daily Living (IADLs);
4. Repeated incidents of emergency department use (defined as 2 or more visits within six months, or 4 or more visits within a year); OR
5. Pregnant individuals who are experiencing high risk pregnancy or complications associated with pregnancy, including:
  - a. Individuals 60 days postpartum;
  - b. their children up to one year of age; and
  - c. their children born of the pregnancy up to one year of age.

#### B. Risk Factors

1. Risk Factor 1: The member is homeless as defined by the following:
  - a. An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
    - i. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
    - ii. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including

- congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or
- iii. An individual who is exiting an institution where they resided for 90 days or less and who experienced Risk Factor (1)(a)(i) or Risk Factor (1)(a)(ii);
- b. An individual or family who will imminently lose their primary nighttime residence, provided that:
  - i. The primary nighttime residence will be lost within 21 days of the date of Flexible Services Assessment as outlined in Section IV;
  - ii. No subsequent residence has been identified; and
  - iii. The individual or family lacks the resources or support networks, *e.g.*, family, friends, faith-based or other social networks, needed to obtain other permanent housing;
- c. Any individual or family who:
  - i. Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous, unsafe, or life-threatening conditions that relate to violence, including physical or emotional, against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to or stay in their primary nighttime residence;
  - ii. Has no other residence; and
  - iii. Lacks the resources or support networks, *e.g.*, family, friends, and faith-based or other social networks, to obtain other permanent housing.

2. Risk Factor 2: The member is at risk of homelessness as defined by the following:

- a. Does not have sufficient resources or support networks, *e.g.*, family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place not meant for human habitation or a safe haven; and
- b. Meets one of the following conditions:
  - i. Has moved because of economic reasons two or more times during the 60 days immediately preceding the Flexible Service Assessment as outlined in Section IV;
  - ii. Is living in the home of another because of economic hardship;
  - iii. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;
  - iv. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons, or lives in a larger housing unit in which there reside more than 1.5 people per room;
  - v. Has a past history of receiving services in a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
  - vi. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness.
    - a. Characteristics are defined as:

- i. **Living in housing that is unhealthy** (e.g., the presence of any characteristics that might negatively affect the health of its occupants, including, but not limited to, evidence of rodents, water leaks, peeling paint in homes built before 1978, and absence of a working smoke detector, poor air quality from mold or radon).
  - ii. **Living in housing that is inadequate** as defined as an occupied housing unit that has moderate or severe physical problems (e.g., deficiencies in plumbing, heating, electricity, hallways, and upkeep). Examples of moderate physical problems in a unit include, but are not limited to, two or more breakdowns of the toilets that lasted more than 6 months, unvented primary heating equipment, or lack of a complete kitchen facility in the unit. Severe physical problems include, but are not limited to, lack of running hot or cold water, lack of a working toilet, and exposed wiring.
  - iii. **Rent Arrears (1 or more):** Missing one or more monthly rent payment as well as situations such as receiving a Notice to Quit, being referred to Housing Court, receiving complaints from a property manager/landlord, or failure to have one’s lease recertified or renewed
  
- 3. **Risk Factor 3:** The member is at risk for nutritional deficiency or nutritional imbalance due to food insecurity, defined as having limited or uncertain availability of nutritionally adequate, medically appropriate, and/or safe foods, or limited or uncertain ability to acquire or prepare acceptable foods in socially acceptable ways.
  - a. Limited or uncertain is defined as reports of:
    - i. Reduced quality, variety, or desirability of diet with little or no indication of reduced food intake; or
    - ii. Multiple indications of disrupted eating patterns and reduced food intake.

### III. **Flexible Services**

The FSP program consists of two services, Tenancy Preservation Supports (TPS) and Nutrition Sustaining Supports (NSS). These services are covered for FSP eligible members when determined necessary through the flexible service planning process described in **Section IV**. ACOs may decide which specific services within TPS and NSS they will make available to members based on needs criteria or funding availability.

In the context of Tenancy Preservation Supports and Nutrition Sustaining Supports “assisting” is defined as: (1) helping a member to locate services; and/or (2) providing support, education, and/or coaching directly to the member in regards to a particular service(s).

#### A. **Tenancy Preservation Supports**

Tenancy Preservation Supports consists of Pre-tenancy Supports, Tenancy Sustaining Supports, and Home Modifications, and as described below.

## 1. **Pre-tenancy Supports**

Pre-tenancy Supports include one or more of the following:

### a. Individual Supports

- i. Assessing and documenting the member's preferences related to the tenancy the member seeks, including the type of rental sought, the member's preferred location, the member's roommate preference (and, if applicable, the identification of one or more roommates), and the accommodations needed by the member.
- ii. Assisting the member with budgeting for tenancy/living expenses, and assisting the member with obtaining discretionary or entitlement benefits and credit (e.g., completing, filing, and monitoring applications to obtain discretionary or entitlement benefits and credit as well as obtaining or correcting the documentation needed to complete such applications).
- iii. Assisting the member with obtaining completing, and filing, applications for community-based tenancy.
- iv. Assisting the member with understanding their rights and obligations as a tenant.
- v. Assisting the member with locating and obtaining services needed to establish a safe and healthy living environment.
- vi. Assisting or providing the member with transportation to any of the approved pre-tenancy supports when needed.

### b. Transitional Assistance

Assisting the member with locating, obtaining, and/or providing the member with one-time household set-up costs and move-in expenses, including but not limited to, first month's rent, security deposit, costs for filing applications and obtaining and correcting needed documentation, and/or purchase of household furnishings needed to establish community-based tenancy.

## 2. **Tenancy Sustaining Supports**

Tenancy sustaining supports include one or more of the following supports:

- a. Assisting the member with communicating with the landlord and/or property manager regarding the member's disability, and detailing the accommodations needed by the member.
- b. Assisting with the review, update, and modification of the member's tenancy support needs, as documented in the member's Flexible Service Plan, on a regular basis to reflect current needs and address existing or recurring barriers to retaining community tenancy.
- c. Assisting the member with obtaining and maintaining discretionary or entitlement benefits and establishing credit, including, but not limited to obtaining, completing, filing, and monitoring applications.
- d. Assisting the member with obtaining appropriate sources of, tenancy training, including trainings regarding lease compliance and household management.

- e. Assisting the member in all aspects of the tenancy, including, when needed, legal advocacy (in the form of coaching, supporting, and educating the member) during negotiations with a landlord, and directing a member to appropriate sources of legal services.
- f. Assisting or providing the member with transportation to any of the tenancy sustaining supports when needed.
- g. Assisting the member with obtaining or improving the adaptive skills needed to function and live independently and safely in the community and/or family home, including advising the member of the availability of community resources.

### 3. **Home Modifications**

Home Modifications consist of limited physical adaptations to the member's community-based dwelling, when necessary to ensure the member's health, welfare, and safety, or to enable the member to function independently in a community-based setting (e.g., installation of grab bars and hand showers, doorway modifications, in-home environmental risk assessments, refrigerators for medicine such as insulin, HEPA filters, vacuum cleaners, pest management supplies and services, air conditioner units, hypoallergenic mattress and pillow covers, traction or non-skid strips, night lights, and training to use such supplies and modifications correctly). The State will establish limits within this category, such as:

- a. Excluding those adaptations to the dwelling that are of general utility, and are not of direct medical or remedial benefit to the member.
- b. Excluding adaptations that add to the total square footage of the dwelling except when necessary to complete an adaptation (e.g., in order to improve entrance/egress to a residence or to configure a bathroom to accommodate a wheelchair).
- c. Excluding adaptations which would normally be considered the responsibility of the landlord.

### B. **Nutrition Sustaining Supports**

Nutrition Sustaining Supports (NSS) include one or more of the following services:

1. The provision of healthy, well-balanced, home-delivered meals for the member.
2. Assisting the member with obtaining discretionary or entitlement benefits and credit, including but not limited to, completing, filing, and monitoring applications as well as obtaining and correcting the documentation needed to complete such applications.
3. Providing, or assisting with locating nutrition education and skills development.
4. Assisting or providing the member with transportation to any of the nutrition sustaining support services or supporting the member's ability to meet nutritional and dietary needs.

5. Assisting the member with locating, obtaining, and/or providing the member with purchase of household supplies needed to meet nutritional and dietary need.
6. Assisting or providing the member with access to foods that meet nutritional and dietary need that cannot otherwise be obtained through existing discretionary or entitlement programs.
7. Assisting the member in maintaining access to nutrition benefits including, when needed, legal advocacy (in the form of coaching, supporting, and educating the member) during appeals of benefit actions (e.g., denial, reduction, or termination) and directing a member to appropriate sources of legal services.

**C. Non-Covered TPS and NSS**

TPS and NSS do not include:

1. Ongoing payment of rent or other room and board costs;
2. Expenses for recurring utilities or other recurring bills not specifically delineated in Section III.A or III.B;
3. Goods and services intended for leisure or recreation; and
4. Services or supports that are duplicative of those offered under other state or federal programs.

**IV. Flexible Services Assessment and Planning Process**

**A. Assessment**

An ACO or its designee will perform an assessment that (1) determines a member's eligibility for Flexible Services; and (2) identifies which Flexible Service(s) the member may receive.

1. The assessment may be completed by the ACO or designee of the ACO. Such designees may include, but are not limited to, licensed or unlicensed social workers, case managers, licensed or unlicensed providers, Community Partners staff, Community Health Workers, or an individual appropriately trained by the ACO.
2. Members determined eligible may receive planning for flexible services as described in Section IV.B.

**B. Flexible Service Planning**

A member and ACO or its designee will create a plan for a member to obtain Flexible Services specific to the member's needs regarding tenancy preservation supports and/or nutrition sustaining supports as determined through the Flexible Service planning process. The Flexible Service Plan will be in writing and agreed to by the member and approved by the ACO or its designee.

1. ACOs may have a designee complete the plan with the member. Such designees may include, but are not limited to, licensed or unlicensed social workers, case managers, licensed or unlicensed providers, Community Partners staff, Community Health Workers or an individual appropriately trained by the ACO.

2. The Flexible Service Plan will include:
  - a. The recommended flexible service(s);
  - b. The units of service(s);
  - c. The goals of the service(s);
  - d. Steps to obtaining the services;
  - e. The follow-up plan; and
  - f. The ACO representative or designee that will be responsible for managing the member's Flexible Service Plan

An ACO or its designee is required to have at least one in-person meeting with the member during the assessment and planning process. The in-person assessment and planning may include assessments and planning performed by telehealth (e.g., telephone/videoconference), in situations when the member has provided informed consent to receive assessments and planning performed by telehealth, that the informed consent is documented by the ACO, and that the member receives the support needed to have the assessment conducted via telehealth (including any on-site support needed by the member). During a state of emergency declared by the federal or state government, the State may temporarily suspend this in-person meeting requirement for the duration of the state of emergency.

#### **C. Additional Requirements for Receiving Flexible Services**

To receive Flexible Services, the ACO must confirm that the member is enrolled in MassHealth (1) on the date the Flexible Services Assessment is conducted; (2) on the first date of a Flexible Services episode of care, which is a set of related Flexible Services (e.g. tenancy sustaining supports, home modifications, nutrition sustaining supports); and (3) every subsequent 90 calendar days from the initial date of service of an episode of care until the conclusion of that episode.

#### **D. Flexible Services Service Availability**

1. The State reserves the right to roll out the services and member eligibility groups in stages, in accordance with a plan set forth by the State, as well as to set up specific requirements that the Accountable Care Organization must meet before programs and funds will be approved.
2. ACOs may elect to provide flexible services only to members with certain health needs-based criteria or with certain Risk Factors from among those listed in Section II above. ACOs may also restrict the number of members within those categories who will receive services. ACOs may also elect which flexible services they intend to offer. ACOs will be required to submit such plans to the State for approval. The State may require ACOs to maintain a waitlist.



3. ACOs will be required to estimate the number of members they expect to serve each year with the FSP as well as report to the State on the actual number of members they do serve. Due to limited funding and resources, neither the State nor ACOs will be expected to serve all eligible members.
4. A parent, guardian, or caregiver of a child assessed to need TPS and NSS services that resides with the child may receive such services on the child’s behalf when in the best interests of the child as determined through the flexible service plan.

**E. Conflict of Interest**

An entity that performs the Assessment and/or Flexible Service Planning may also provide Flexible Services provided they take appropriate steps to avoid conflict of interest as determined by the State.

**V. Provider Qualifications**

A. Contractors of Flexible Services must possess the following qualifications, as applicable.

Provider Type	Education and Experience	Skills	Services
Tenancy Preservation Services Contractors	Education (e.g., Bachelor’s degree, Associate’s degree, certificate) in a human/social services field or a relevant field, and/or at least 1 year of relevant professional experience; and/or training in the field of service.	Knowledge of principles, methods, and procedures of services included under Tenancy Preservation Services (as outlined above and applicable to the position), or comparable services meant to support a member’s ability to obtain and sustain residency in an independent community setting.	Tenancy Preservation Services, including pre-tenancy supports and tenancy sustaining supports (as outlined above)
Nutritional Support Services Contractors	Education (e.g., Bachelor’s degree, Associate’s degree, certificate) in a human/social services field or a relevant field, and/or at least 1 year of relevant professional experience; and/or training in the field of service.	Knowledge of principles, methods, and procedures of services included under Nutritional Support Services (as outlined above and applicable to the position), or comparable services meant to support a member’s ability to obtain or maintain food security.	Nutritional Support Services (as outlined above)

B. ACOs will be required to ensure that contractors of Flexible Services have and maintain the necessary qualifications as laid out in Section V.A to provide Flexible Services, as applicable.

**VI. Payment Methodology**

## A. Payment

Each ACO with an approved Participation Plan, Budget, and Budget Narrative will be allocated a per-member/per-month (PMPM) amount for the FSP that will be determined by the State. ACOs will be allowed to utilize flexible service funding for two main purposes:

- (1) **ACO administrative costs related to Flexible Services and Social Service Integration (SSI):** prospective funding, up to a certain percentage set by the State, which ACOs may utilize to build the necessary capacity and infrastructure to implement the FSP and to support ongoing administration/overhead of the FSP. This includes but is not limited to personnel for FSP and SSI, Health Information Technology, software, assessments and reporting costs surrounding FSP and SSI. ACOs or the State may also provide portions of this funding to Social Service Organizations (SSOs) to support their administrative and infrastructure costs. In addition, the State may provide up to \$4.5M of the Flexible Services funding over the demonstration period to SSOs to build infrastructure and capacity to better support ACOs in delivering services; and
- (2) **Flexible Services:** prospective funding provided to ACOs, or SSOs through ACOs, for TPS and NSS as laid out in Section III. The State anticipates disbursing funds on a quarterly basis but may choose to do so more frequently.

ACOs may also use Startup/Ongoing funding to pay for administrative costs related to the FSP, but will be required to attest to non-duplication of funding.

## VII. Reporting and Documentation

The ACOs will be required to submit a Flexible Service Program Plan as an additional portion of their Full Participation Plan as set forth in Section 3.2.2 of the DSRIP Protocol. The ACOs will also be required to add FSP spending to their DSRIP Budgets and Budget Narratives submitted in accordance with Section 3.4.4.1 of the DSRIP Protocol.

Budgets and Budget Narratives will detail specific FSP supports that the ACO intends to make available to eligible members through its FSP as well as the estimated numbers of members the ACOs expects to serve. The Budgets and Budget Narratives will also specify the ACO's administrative/infrastructure expenses related to the FSP. The State will review and approve the Budgets and Budget Narratives in accordance with the DSRIP Protocol.

The ACOs will be required to provide updated information regarding such Flexible Services expenditures their DSRIP Semiannual and Annual Progress Reports as laid out in Section 5.5.1 of the DSRIP Protocol. These reports will be used to determine whether FSP spending and activities are in line with the ACO's approved DSRIP Budget, Budget Narrative, and Participation Plan.

The ACOs will also be required to submit to the State detailed information about the flexible services provided to members to inform robust monitoring and evaluation of the Flexible Services program, in a form and format specified by the State.

The ACOs will be required to ensure that FSP contractors meet documentation standards and cooperate in any evaluation activities by the State or CMS. ACOs will be required to have processes in place to ensure that there is no duplication of federal funding or services provided to members.

