

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid
Services 601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

November 27, 2024

Jay Ludlam, Deputy Secretary
North Carolina Medicaid
NC Department of Health and Human Services
Division of Health Benefits
1985 Umstead Drive, Kirby Building
Raleigh, NC 27603

RE: Hurricane Helene Appendix K Amendments & 1135 Tribal Consultation Modification

Dear Deputy Secretary Ludlam:

The Centers for Medicare and Medicaid Services (CMS) approves North Carolina's request to amend the following 1915(c) Home and Community-Based Services (HCBS) waivers with the Emergency Preparedness and Response Appendix K in order to respond to the Hurricane Helene emergency.

WAIVER TITLE	CMS CONTROL NUMBER
Community Alternatives Program for Children (CAP/C)	NC.4141.R07.02
Community Alternatives Program for Disabled Adults (CAP/DA)	NC.0132.R07.09
NC Innovations Waiver	NC.0423.R04.01

Effective September 25, 2024, through September 24, 2025, these amendments make changes in service delivery methods that include waiving certain service limitations, amending waiver criteria for participants that do not use services (NC.0423.R04.01), allowing provision of services in alternate settings, permitting services to be provided out of state, approving payment for services rendered by family caregivers or legally responsible individuals (NC.0423.R04.01), revising provider qualifications, modifying processes for level of care evaluations or re-evaluations, adjusting the person-centered service plan development process (NC.0423.R04.01), authorizing provider retainer payments, adding service specification for Individual Goods and Services (NC.0132.R07.09) and allowing opportunity for self-direction (0423.R04.01)

On September 26, 2024, the President of the United States issued a proclamation that 2024 Hurricane Helene constitutes an emergency by the authorities vested in the President by the Constitution and the laws of the United States, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 et seq.), and consistent with section 1135 of the Social


Security Act (the Act). On September 30, 2024, pursuant to section 1135(b) of the Act, the Secretary of the United States Department of Health and Human Services (HHS) declared a public health emergency (PHE), invoking the authority to waive or modify certain requirements of titles XVIII, XIX, and XXI of the Act. During a PHE, the CMS may approve the use of section 1135 authority to help ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in Medicaid programs and to ensure that health care providers that furnish such items and services in good faith, but are unable to comply with one or more of such requirements, may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse. This authority took effect as of September 30, 2024, with a retroactive effective date of September 25, 2024. The emergency period will terminate, and section 1135 waivers will no longer be available, upon termination of the PHE, including any extensions.

The State of North Carolina requested a waiver to modify the tribal consultation timeline applicable to the 1915(c) waiver Appendix K amendment submission process. Pursuant to section 1135(b)(5) of the Act, CMS approves the state's request to modify the timeframes associated with tribal consultation required under section 1902(a)(73) of the Act, including conducting consultation after submission of the Appendix K amendments.

We have included the approved Appendix K pages for this waiver with this correspondence. Please utilize the waiver management system for HCBS waivers for any further amendments to these waiver programs other than Appendix K.

Thank you for your cooperation during the review process. If you have any questions concerning this information, please contact George Failla, Director for the Division of HCBS Operations and Oversight, at (410) 786-7561. You may also contact Carshena Harvin at Carshena.Harvin@cms.hhs.gov or (206) 886- 2568.

Sincerely,



Jackie Glaze, Deputy Director
Medicaid Operations & Oversight

cc:

Kathryn Horneffer, NC Medicaid
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