

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



State Demonstrations Group

April 16, 2021

Jami Snyder
Director
Arizona Health Care Cost Containment System
801 East Jefferson Street
Phoenix, Arizona 85034

Dear Ms. Snyder:

We are writing to inform you that the Centers for Medicare & Medicaid Services (CMS) is approving Arizona's March 8, 2021 request to extend the approval period of certain previously approved Emergency Preparedness and Response Attachment K authorities, which are part of the Arizona Health Care Cost Containment System (AHCCCS) demonstration (Project Number 11-W-00275/9), to respond to the COVID-19 public health emergency (PHE). This extension has been incorporated into the demonstration's Special Terms and Conditions as Attachment K. Specifically, the state is requesting the extension of all previously approved Attachment K authorities with the following two exceptions: addendum 4(d) regarding service providers for home-delivered meals, which expired March 12, 2021, and addendum 5(a) regarding extensions for reassessments and reevaluations, which expired on March 12, 2021.

The authorities that CMS is approving in these Attachment Ks are effective from March 13, 2021 through the end of the calendar quarter after the PHE ends and will apply in all locations served by the demonstration for anyone impacted by COVID-19 who receive home and community-based services through the demonstration. We have included the approved Attachment K pages with this correspondence.

If you have any questions regarding this correspondence, please contact your CMS project officer, Ms. Kelsey Smyth, at Kelsey.Smyth@cms.hhs.gov or at (410) 786-7915.

Sincerely,

4/16/2021

A solid black rectangular box redacting the signature of Jennifer L. Kstesich.

Jennifer Kstesich

Signed by: Jennifer L. Kstesich -A

Page 2 – Ms. Jami Snyder

Andrea J. Casart
Director
Division of Eligibility and Coverage
Demonstration

Enclosure

cc: Brian Zolynas, State Monitoring Lead, Medicaid and CHIP Operations Group

APPENDIX K: Emergency Preparedness and Response and COVID-19 Addendum

Background:

This standalone appendix may be utilized by the state during emergency situations to request amendments to its approved waiver, to multiple approved waivers in the state, and/or to all approved waivers in the state. It includes actions that states can take under the existing Section 1915(c) home and community-based waiver authority in order to respond to an emergency. Other activities may require the use of various other authorities such as the Section 1115 demonstrations or the Section 1135 authorities.¹ This appendix may be applied retroactively as needed by the state. Public notice requirements normally applicable under 1915(c) do not apply to information contained in this Appendix.

Appendix K-1: General Information

General Information:

- A. State: Arizona
- B. Waiver Title(s):
- C. Control Number(s):
- D. Type of Emergency (The state may check more than one box):

<input checked="" type="checkbox"/>	Pandemic or Epidemic
<input type="checkbox"/>	Natural Disaster
<input type="checkbox"/>	National Security Emergency
<input type="checkbox"/>	Environmental

¹ Numerous changes that the state may want to make may necessitate authority outside of the scope of section 1915(c) authority. States interested in changes to administrative claiming or changes that require section 1115 or section 1135 authority should engage CMS in a discussion as soon as possible. Some examples may include: (a) changes to administrative activities, such as the establishment of a hotline; or (b) suspension of general Medicaid rules that are not addressed under section 1915(c) such as payment rules or eligibility rules or suspension of provisions of section 1902(a) to which 1915(c) is typically bound.

Other (specify):

E. Brief Description of Emergency. *In no more than one paragraph each*, briefly describe the: 1) nature of emergency; 2) number of individuals affected and the state’s mechanism to identify individuals at risk; 3) roles of state, local and other entities involved in approved waiver operations; and 4) expected changes needed to service delivery methods, if applicable. The state should provide this information for each emergency checked if those emergencies affect different geographic areas and require different changes to the waiver.

COVID-19 pandemic. This amendment will apply waiver-wide for each waiver included in this Appendix, to all individuals impacted by the virus or the response to the virus (e.g. closure of day programs, etc.)

F. Proposed Effective Date: March 13, 2020 **Anticipated End Date:** End of the calendar quarter in which the PHE ends.

G. Description of Transition Plan.

All activities will take place in response to the impact of COVID-19 as efficiently and effectively as possible based upon the complexity of the change.

H. Geographic Areas Affected:

These actions will apply across the waiver to all individuals impacted by the COVID-19 virus

I. Description of State Disaster Plan (if available) Reference to external documents is acceptable:

N/A

Appendix K-2: Temporary or Emergency-Specific Amendment to Approved Waiver

Temporary or Emergency-Specific Amendment to Approved Waiver:

These are changes that, while directly related to the state’s response to an emergency situation, require amendment to the approved waiver document. These changes are time limited and tied specifically to individuals impacted by the emergency. Permanent or long-ranging changes will need to be incorporated into the main appendices of the waiver, via an amendment request in the waiver management system (WMS) upon advice from CMS.

a. Access and Eligibility:

i. Temporarily increase the cost limits for entry into the waiver.

[Provide explanation of changes and specify the temporary cost limit.]

N/A

ii. ___ Temporarily modify additional targeting criteria.

[Explanation of changes]

N/A

b. ___ Services

i. ___ Temporarily modify service scope or coverage.

[Complete Section A- Services to be Added/Modified During an Emergency.]

ii. ___ Temporarily exceed service limitations (including limits on sets of services as described in Appendix C-4) or requirements for amount, duration, and prior authorization to address health and welfare issues presented by the emergency.

[Explanation of changes]

N/A

iii. ___ Temporarily add services to the waiver to address the emergency situation (for example, emergency counseling; heightened case management to address emergency needs; emergency medical supplies and equipment; individually directed goods and services; ancillary services to establish temporary residences for dislocated waiver enrollees; necessary technology; emergency evacuation transportation outside of the scope of non-emergency transportation or transportation already provided through the waiver).

[Complete Section A-Services to be Added/Modified During an Emergency]

iv. X Temporarily expand setting(s) where services may be provided (e.g. hotels, shelters, schools, churches). Note for respite services only, the state should indicate any facility-based settings and indicate whether room and board is included:

[Explanation of modification, and advisement if room and board is included in the respite rate]:

The state requests the flexibility to allow providers, in consultation with the state's licensing agency, to provide services in alternative settings including settings that are licensed for other purposes (i.e. residential providing using a day program facility) or unlicensed settings (i.e. hotels, schools, churches and/or permanent or temporary shelters) for residential or day programming in an effort to mitigate COVID-19 spread.

v. ___ Temporarily provide services in out of state settings (if not already permitted in the state's approved waiver). [Explanation of changes]

c. ___ Temporarily permit payment for services rendered by family caregivers or legally responsible individuals if not already permitted under the waiver. Indicate the services to which this will apply and the safeguards to ensure that individuals receive necessary services as authorized in the plan of care, and the procedures that are used to ensure that payments are made for services rendered.

d. ___ Temporarily modify provider qualifications (for example, expand provider pool, temporarily modify or suspend licensure and certification requirements).

i. ___ Temporarily modify provider qualifications.

[Provide explanation of changes, list each service affected, list the provider type, and the changes in provider qualifications.]

ii. ___ Temporarily modify provider types.

[Provide explanation of changes, list each service affected, and the changes in the provider type for each service].

iii. ___ Temporarily modify licensure or other requirements for settings where waiver services are furnished.

[Provide explanation of changes, description of facilities to be utilized and list each service provided in each facility utilized.]

e. ___ Temporarily modify processes for level of care evaluations or re-evaluations (within regulatory requirements). [Describe]

f. ___ Temporarily increase payment rates.

[Provide an explanation for the increase. List the provider types, rates by service, and specify whether this change is based on a rate development method that is different from the current approved waiver (and if different, specify and explain the rate development method). If the rate varies by provider, list the rate by service and by provider.]

g. X Temporarily modify person-centered service plan development process and individual(s) responsible for person-centered service plan development, including qualifications.

[Describe any modifications including qualifications of individuals responsible for service plan development, and address Participant Safeguards. Also include strategies to ensure that services are received as authorized.]

For Person-Centered Service Plans that are due to expire within the next 60 days, case managers will be required to make contact with members/Health Care Decision Makers, using allowable remote contact methods in order to verify with the members/Health Care Decision Makers that the current assessed needs, services and supports, including service providers, are still appropriate and should continue to be authorized through the next review period. Additionally, the state will ensure that member service plans are modified to allow for additional supports and/or services to respond to the COVID-19 pandemic. The state will verify by obtaining electronic signatures, electronic verification via secure email from the member/Health Care Decision Maker and service providers, in accordance with the state's HIPAA requirements, and must be documented in the member's case management file.

The specificity of such services including amount, duration and scope will be appended in the member's service plan as soon as possible to ensure that the specific services are delineated accordingly to include the date the services were received/rendered, but no later than 30 days from the date the services began.

If members/Health Care Decision Makers are not able to be reached via telephone or other electronic means, outreach attempts must be documented in the member's case management file.

h. ___ Temporarily modify incident reporting requirements, medication management or other participant safeguards to ensure individual health and welfare, and to account for emergency circumstances. [Explanation of changes]

i. X Temporarily allow for payment for services for the purpose of supporting waiver participants in an acute care hospital or short-term institutional stay when necessary supports (including communication and intensive personal care) are not available in that setting, or when the individual requires those services for communication and behavioral stabilization, and such services are not covered in such settings.

[Specify the services.]

The state will allow for payment for services for the purpose of supporting waiver participants in an acute care hospital or short-term institutional stay when necessary supports are not available in that setting during this emergency. *Payments may only be made for up to 30 consecutive days.*

j. X__ Temporarily include retainer payments to address emergency related issues.

[Describe the circumstances under which such payments are authorized and applicable limits on their duration. Retainer payments are available for habilitation and personal care only.]

Retainer payments will be made to providers to address reductions in utilization of services related to the COVID-19 emergency, such as missed appointments or decreased frequency of members receiving services. The payments are intended to ensure provider sustainability by helping to offset the reduction in revenue experienced by providers due to members staying home and avoiding care, or providers otherwise being unable to provide in-person or telehealth services to members.

AHCCCS currently intends to implement retainer payments as follows:

- Retainer payments will be authorized for providers of habilitation and personal care services.
 - Specific provider types and procedure codes will be identified.
- Providers will be determined by AHCCCS to be qualified to bill for retainer payments by submitting an attestation in template form that includes the following information:
 - Provider information including Tax Identification Number, Provider Name, and Provider AHCCCS ID.
 - Summary description of the decline in utilization attributable to COVID-19.
 - Summary estimate of weekly units by service code it anticipates it will bill each Health Plan for retainer payments.
 - Confirmation it understands and will follow the specific billing guidance, subject to future audit.
 - Confirmation it understands that retainer payments may be subject to recoupment if an audit determines that inappropriate billing or duplicate payments for services occurred.
- Qualifying providers will bill for specific services that would have been provided to specific members.
 - Retainer payments may only be billed for specific services authorized and documented in the member's service plan.
 - Units billed shall not exceed the amount, scope, and duration authorized for the provider.
 - Retainer payments may not be billed when the member chooses to receive services through a different provider.
 - Retainer payments will not be made if the member receives the same service from a different provider within the same time period, e.g. on the same day if a daily service, or within the same week if a weekly service.
 - AHCCCS will designate the GY modifier to be used by providers to bill for retainer payments during the emergency period.
 - Retention payments for qualifying services may not exceed 30 consecutive days.
- AHCCCS will establish additional billing, reporting, submission, and payment requirements and timelines for providers and Health Plans in order to ensure timely and

accurate payment of claims and submission of encounters.

- Retainer payments are anticipated to be made available to qualifying providers for qualifying habilitation and personal care services for the duration of the emergency period. Retainer payment may not exceed the lesser of 30 consecutive days or the number of days for which the state authorizes a payment of “bed hold” in nursing facilities.

k. ___ Temporarily institute or expand opportunities for self-direction.

[Provide an overview and any expansion of self-direction opportunities including a list of services that may be self-directed and an overview of participant safeguards.]

[Redacted area]

l. ___ Increase Factor C.

[Explain the reason for the increase and list the current approved Factor C as well as the proposed revised Factor C]

[Redacted area]

m. ___ Other Changes Necessary [For example, any changes to billing processes, use of contracted entities or any other changes needed by the State to address imminent needs of individuals in the waiver program]. [Explanation of changes]

[Redacted area]

Appendix K Addendum: COVID-19 Pandemic Response

1. HCBS Regulations

- a. Not comply with the HCBS settings requirement at 42 CFR 441.301(c)(4)(vi)(D) that individuals are able to have visitors of their choosing at any time, for settings added after March 17, 2014, to minimize the spread of infection during the COVID-19 pandemic.

2. Services

- a. Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:
 - i. Case management
 - ii. Personal care services that only require verbal cueing
 - iii. In-home habilitation

- iv. Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).
- v. Other *[Describe]*:

- b. Add home-delivered meals
- c. Add medical supplies, equipment and appliances (over and above that which is in the state plan)
- d. Add Assistive Technology

3. Conflict of Interest: The state is responding to the COVID-19 pandemic personnel crisis by authorizing case management entities to provide direct services. Therefore, the case management entity qualifies under 42 CFR 441.301(c)(1)(vi) as the only willing and qualified entity.

- a. Current safeguards authorized in the approved waiver will apply to these entities.
- b. Additional safeguards listed below will apply to these entities.

4. Provider Qualifications

- a. Allow spouses and parents of minor children to provide personal care services
- b. Allow a family member to be paid to render services to an individual.
- c. Allow other practitioners in lieu of approved providers within the waiver.

[Indicate the providers and their qualifications]

Afford the state additional flexibility to allow for legally responsible individuals (parents and spouses) to receive payment for direct care services. Permitting parents of minor children to receive payment for direct care services. Removing the 40 hour maximum hours per week of services a member can receive if they have a spouse serving as the paid caregiver as well as allowing the spouse to provide the total amount of attendant care the member receives. The parents and spouses must be employed/contracted by an AHCCCS Registered Direct Care Service Agency.

- d. Modify service providers for home-delivered meals to allow for additional providers, including non-traditional providers.

The state is not seeking an extension of the authority to allow for additional providers, including non-traditional providers for home delivered meals, beyond the date of expiration of the current Appendix K. This authority will be terminated effective March 12, 2021

5. Processes

- a. Allow an extension for reassessments and reevaluations for up to one year past the due date.

- b. Allow the option to conduct evaluations, assessments, and person-centered service planning meetings virtually/remotely in lieu of face-to-face meetings.
- c. Adjust prior approval/authorization elements approved in waiver.
- d. Adjust assessment requirements
- e. Add an electronic method of signing off on required documents such as the person-centered service plan.

The state is not seeking an extension of the authority to allow an extension for reassessments and reevaluations for up to one year past the due date, beyond the date of expiration of the current Appendix K. This authority will be terminated effective March 12, 2021

Contact Person(s)

A. The Medicaid agency representative with whom CMS should communicate regarding the request:

First Name:	Mohamed
Last Name	Arif
Title:	Federal Relations Administrator
Agency:	AHCCCS
Address 1:	801 E Jefferson Street
Address 2:	
City	Phoenix
State	Arizona
Zip Code	85034
Telephone:	602-417-4573
E-mail	Mohamed.arif@azahcccs.gov
Fax Number	

B. If applicable, the State operating agency representative with whom CMS should communicate regarding the waiver is:

First Name:	Shreya
Last Name	Arakere
Title:	Waiver Manager
Agency:	AHCCCS
Address 1:	801 E Jefferson Street
Address 2:	
City	Phoenix
State	Arizona
Zip Code	85034
Telephone:	602-417-4611
E-mail	Shreya.arakere@azahcccs.gov
Fax Number	

8. Authorizing Signature

Signature: 	Date: 3/8/2021
State Medicaid Director or Designee	

First Name:	Jami
Last Name	Snyder
Title:	Director
Agency:	AHCCCS
Address 1:	801 E Jefferson Street
Address 2:	
City	Phoenix
State	Arizona
Zip Code	85034
Telephone:	602-417-4458
E-mail	Jami.snyder@azahcccs.gov
Fax Number	

Section A---Services to be Added/Modified During an Emergency

Complete for each service added during a time of emergency. For services in the approved waiver that the state is temporarily modifying, enter the entire service definition and highlight the change. State laws, regulations and policies referenced in the specification should be readily available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

Service Specification					
Service Title:	Add Home Delivered Meals				
<i>Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:</i>					
Service Definition (Scope):					
Home Delivered Meals is a service that provides a nutritious meal containing at least one third of the Federal recommended daily allowance for the member, delivered to the member's own home. The scope will be expanded to include individuals with intellectual and/or developmental disabilities.					
Specify applicable (if any) limits on the amount, frequency, or duration of this service:					
Not Applicable					
Provider Specifications					
Provider Category(s) <i>(check one or both):</i>	<input type="checkbox"/>	Individual. List types:	<input type="checkbox"/>	Agency. List the types of agencies:	
			Any entity providing Home Delivered Meals including, but not limited to, senior centers, meals on wheels programs, adult day health providers and other community-based organizations.		
Specify whether the service may be provided by <i>(check each that applies):</i>		<input type="checkbox"/>	Legally Responsible Person	<input type="checkbox"/>	Relative/Legal Guardian
Provider Qualifications <i>(provide the following information for each type of provider):</i>					
Provider Type:	License <i>(specify)</i>	Certificate <i>(specify)</i>	Other Standard <i>(specify)</i>		
Verification of Provider Qualifications					
Provider Type:	Entity Responsible for Verification:		Frequency of Verification		
Home Delivered Meals					

Service Delivery Method		
Service Delivery Method <i>(check each that applies):</i>	<input type="checkbox"/>	Participant-directed as specified in Appendix E
	<input type="checkbox"/>	Provider managed
	<input type="checkbox"/>	
	<input type="checkbox"/>	

