

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

May 9, 2023

Stephanie Stephens  
State Medicaid Director  
Texas Health and Human Services Commission  
4900 Lamar Boulevard  
MC: H100  
P.O. Box 13247  
Austin, TX 78751

Dear Ms. Stephens:

The Centers for Medicare & Medicaid Services (CMS) is approving Texas' request to update the section 1115(a) demonstration, titled "Texas Healthcare Transformation and Quality Improvement Program (THTQIP)" (Project Number 11-W-00278/6), with the "Emergency Preparedness and Response Attachment K" in order to respond to the COVID-19 pandemic. This attachment has been incorporated into the demonstration's Special Terms and Conditions as Attachment X. The authorities that the state has requested in Attachment X are effective from March 13, 2020 through August 31, 2023, and apply in all locations served by the demonstration for anyone impacted by COVID-19 who receives home and community-based services through the demonstration.

We have included the approved Attachment X pages with this correspondence. If you need assistance, feel free to contact your CMS project officer, Ms. Diona Kristian, by e-mail at [diona.kristian@cms.hhs.gov](mailto:diona.kristian@cms.hhs.gov).

Sincerely,

Angela D. Garner -S

Digitally signed by  
Angela D. Garner -S  
Date: 2023.05.09  
12:19:46 -04'00'

Angela D. Garner  
Director  
Division of System Reform Demonstrations

Enclosure

cc: Ford Blunt, State Monitoring Lead, CMS Medicaid and CHIP Operations Group

# APPENDIX K: Emergency Preparedness and Response

## Background:

This standalone appendix may be utilized by the state during emergency situations to request amendment to its approved waiver. 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.<sup>i</sup> This appendix may be completed retroactively as needed by the state.

## Appendix K-1: General Information

### General Information:

A. State: Texas

B. Waiver Title: Texas Healthcare Transformation and Quality Improvement Program 1115

C. Control Number:

11-W-00278/6

D. Type of Emergency (The state may check more than one box):

<input checked="" type="radio"/>	Pandemic or Epidemic
<input type="radio"/>	Natural Disaster
<input type="radio"/>	National Security Emergency
<input type="radio"/>	Environmental
<input type="radio"/>	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 requests flexibility for STAR+PLUS HCBS members with Medical Assistance Only (MAO) (described as 217-like in Texas's 1115 waiver) who left a nursing facility without community eligibility (STAR+PLUS HCBS) in place, due to concerns about COVID-19 or in accordance with local orders during the early stages of the public health emergency (PHE), to bypass the interest list and apply for STAR+PLUS HCBS.

F. **Proposed Effective Date:** Start Date: March 13, 2020 \_Anticipated End Date: \_August 31, 2023 \_

G. **Description of Transition Plan.**

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

H. **Geographic Areas Affected:**

These actions apply statewide.

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.]

ii. \_\_\_ **Temporarily modify additional targeting criteria.**

[Explanation of changes]

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]

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. \_\_\_ 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]:

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. \_\_\_ 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.]

**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. \_\_\_ 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.]

**j. \_\_\_ 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.]

**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]

**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]

**m. X 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]

Pursuant to STC 28(b)(i)(1), HHSC operates an interest list for the STAR+PLUS 217-Like HCBS population who are not in the STAR+PLUS mandatory eligibility categories.

HHSC requests a flexibility to STC 28(b)(i)(1) to allow STAR+PLUS members with Medical Assistance Only (MAO) (described as 217-like in Texas's 1115 waiver) who left a nursing facility without community eligibility (STAR+PLUS HCBS) in place, due to concerns about COVID-19 or in accordance with local orders during the early stages of the PHE, to bypass the interest list and apply for STAR+PLUS HCBS.

**Contact Person(s)**

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

**First Name:** Kathi  
**Last Name** Montalbano  
**Title:** Director, Federal Coordination, Rules and Committees  
**Agency:** Health and Human Services Commission  
  
**Address 1:** 701 W. 51<sup>st</sup> Street  
**Address 2:** Click or tap here to enter text.  
**City** Austin  
**State** Texas  
**Zip Code** 78751  
**Telephone:** (512) 771-3503  
**E-mail** Kathi.Montalbano@hhs.texas.gov  
**Fax Number** Click or tap here to enter text.

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

**First Name:** Click or tap here to enter text.  
**Last Name** Click or tap here to enter text.  
**Title:** Click or tap here to enter text.  
**Agency:** Click or tap here to enter text.  
**Address 1:** Click or tap here to enter text.  
**Address 2:** Click or tap here to enter text.  
**City** Click or tap here to enter text.  
**State** Click or tap here to enter text.  
**Zip Code** Click or tap here to enter text.  
**Telephone:** Click or tap here to enter text.  
**E-mail** Click or tap here to enter text.  
**Fax Number** Click or tap here to enter text.

## 8. Authorizing Signature

**Signature:**

Emily

Zalkovsky

Digitally signed by  
Emily Zalkovsky  
Date: 2023.04.05  
16:56:39 -05'00'

**Date:**

Emily Zalkovsky, Deputy State Medicaid Director  
(Signing on behalf of Stephanie Stephens, State Medicaid Director)

**First Name:** Emily  
**Last Name:** Zalkovsky  
**Title:** Deputy State Medicaid Director  
**Agency:** Health and Human Services Commission

**Address 1:** 4601 W. Guadalupe Street  
**Address 2:** Click or tap here to enter text.  
**City** Austin  
**State** Texas  
**Zip Code** 78751  
**Telephone:** (512) 424-6767  
**E-mail** [Emily.Zalkovsky@hhs.texas.gov](mailto:Emily.Zalkovsky@hhs.texas.gov)  
**Fax Number** Click or tap here to enter text.



## 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 which the state is temporarily modifying, enter the entire service definition and highlight the change. State laws, regulations and policies referenced in the specification are readily available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

Service Specification				
Service Title:				
<i>Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:</i>				
Service Definition (Scope):				
Specify applicable (if any) limits on the amount, frequency, or duration of this service:				
Provider Specifications				
Provider Category(s) (check one or both):	<input type="checkbox"/>	Individual. List types:	<input type="checkbox"/>	Agency. List the types of agencies:
Specify whether the service may be provided by (check each that applies):		<input type="checkbox"/>	Legally Responsible Person	
		<input type="checkbox"/>	Relative/Legal Guardian	
<b>Provider Qualifications</b> (provide the following information for each type of provider):				
Provider Type:	License (specify)	Certificate (specify)	Other Standard (specify)	
<b>Verification of Provider Qualifications</b>				
Provider Type:	Entity Responsible for Verification:		Frequency of Verification	
Service Delivery Method				
Service Delivery Method (check each that applies):	<input type="checkbox"/>	Participant-directed as specified in Appendix E	<input type="checkbox"/>	Provider managed



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<sup>i</sup> Numerous changes that the state may want to make 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; (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.