

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.ⁱ 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: ALABAMA

B. Waiver Title(s):

AL Home and Community -Based Waiver for the Elderly and Disabled (EDW)
AL Alabama Community Transition (ACT)
AL State of Alabama Independent Living (SAIL)
AL Technology Assisted Waiver (TA)

C. Control Number(s):

EDW 0068.R07.04
ACT 0878.R01.03
SAIL 0241.R05.02
TA 0407.R03.02

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 Appendix K is additive to the approved Appendix K and includes the following modifications

- Retroactively applies the length of retainer payments to three consecutive 30-day episodes of payments with no breaks in payment, beginning on March 15, 2020; specifies that retainer payments will be set at 100% of the full rate for the eligible services that would have otherwise been provided; and ensures the guardrails requirements are implemented.
- Temporarily adds Pest Control Services for the ACT, EDW, SAIL, and TA waivers. Pest Control Service is the chemical eradication of pests by a professional in a waiver participant's primary residence, the presence of which may limit or prevent the service providers from entering the setting to deliver other critical waiver services. This modification will be effective through the end of the month in which the PHE terminates, not to exceed the end date of the approved Appendix K.

- F. Proposed Effective Date:** **Start Date:** January 27, 2020
Anticipated End Date: January 26, 2021

- 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.

iii. X 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).

Temporarily add Pest Control Service (EDW, ACT, TA, SAIL).

During the PHE, an urgent need to cover pest control services has arisen from pest infestations (e.g., bedbugs) and the potential lack of availability of other home and community-based settings pursuant to quarantine requirements. This is evidenced by one percent of the State's NF LOC waiver population with services currently on hold due to such circumstances, which substantially increases the risk for Nursing Home placement for the populations served by these waivers. This modification will be effective through the end of the month in which the PHE terminates, not to exceed the end date of the approved Appendix K.

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.]

EDW, ACT: In response to the defined emergency, and in order to maintain a viable workforce, the state may elect to make retainer payments to waiver providers. The State confirms that retainer payments are for direct care providers who normally provide services that include habilitation that includes a component of personal care and personal care, but are currently unable to due to complications experienced during the COVID-19 pandemic because the waiver participant is sick due to COVID-19; or the waiver participant is sequestered and/or quarantined based on local, state, federal and/or medical requirements/orders. The personal assistance retainer will begin March 15, 2020, and will consist of three consecutive 30-day episodes of payments, with no break in billing, for any individual impacted, as described above, during the period of the disaster. The rate for retainer payments will be set at 100% of the full rate for the eligible services that would have otherwise been provided.

The state will implement a distinguishable process to monitor payments to avoid duplication of billing, including ensuring the requirement of the following guardrails have been met.

- Limit retainer payments to a reasonable amount and ensure their recoupment if other resources, once available, are used for the same purpose. In terms of setting a reasonable amount, a retainer payment cannot exceed the payment for the relevant service; the state may specify that a retainer payment will be made at a percentage of the current rate, or a state may specify retainer payments will not be made to a setting until attendance is below an identified percentage of the enrollment (e.g., 75 percent).
- Collect an attestation from the provider acknowledging that retainer payments will be subject to recoupment if inappropriate billing or duplicate payments for services occurred (or in periods of disaster, duplicate uses of available funding streams), as identified in a state or federal audit or any other authorized third party review. Note that “duplicate uses of available funding streams” means using more than one funding stream for the same purpose.
- Require an attestation from the provider that it will not lay off staff, and will maintain wages at existing levels.
- Require an attestation from the provider that they had not received funding from any other sources, including but not limited to unemployment benefits and Small Business Administration loans, that would exceed their revenue for the last full quarter prior to the PHE, or that the retainer payments at the level provided by the state would not result in their revenue exceeding that of the quarter prior to the PHE.
 - If a provider had not already received revenues in excess of the pre-PHE level but receipt of the retainer payment in addition to those prior sources of funding results in the provider exceeding the pre-PHE level, any retainer payment amounts in excess would be recouped.
 - If a provider had already received revenues in excess of the pre-PHE level, retainer payments are not available.

If the state determines that any provider has received retainer payments under circumstances contrary to the guardrails, the payments will be recouped

8. Authorizing Signature

Signature:

Date: 8/4/20

_____/S/_____
State Medicaid Director or Designee

First Name: *Stephanie*
Last Name *Azar*
Title: Commissioner
Agency: Alabama Medicaid Agency
Address 1: 501 Dexter Ave
Address 2: PO Box 5624
City Montgomery
State AL
Zip Code 36104
Telephone: 334-242-5600
E-mail Stephanie.azar@medicaid.alabama.gov
Fax Number 334-242-5097

ⁱ 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.

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:	Pest Control Service (EDW, ACT, TA, SAIL)		
<i>Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:</i>			
<p>Service Definition (Scope): Pest Control Service is the chemical eradication of pests by a professional in a waiver participant's primary residence, the presence of which may limit or prevent the service providers from entering the setting to deliver other critical waiver services. Pest infestations can also cause a number of health effects including skin rashes, psychological effects including anxiety, stress, insomnia and allergic symptoms that may render a waiver participant's residence uninhabitable. The cost of these treatments is likely to be unaffordable for waiver participants on SSI. During the PHE, an urgent need to cover pest control services has arisen from pest infestations (e.g., bedbugs) and the potential lack of availability of other home and community-based settings pursuant to quarantine requirements. This is evidenced by one percent of the State's NF LOC waiver population with services currently on hold due to such circumstances, which substantially increases the risk for Nursing Home placement for the populations served by these waivers.</p>			
<p>Specify applicable (if any) limits on the amount, frequency, or duration of this service: Pest control services may only be provided in a waiver participant's primary residence, which is limited to a) a participant living in his/her own private house or apartment and who is responsible for his/her own rent or mortgage; or b) a participant living with a non-relative primary caregiver. Pest Control services include only the following activities: a) assessment or inspection b) application of chemical-based pesticide c) One follow up visit Pest control services is limited to one series of treatments per lifetime by a licensed and certified pest control company and excludes lodging during the chemical eradication process, all associated preparatory housework, and the replacement of household items. Additional treatments may be approved if the lack of such treatments would jeopardize the participant's ability to live in the community. If additional treatments are needed, the State will evaluate that participant's living situation to determine if the community arrangement is appropriate and supports their health and safety.</p>			
Provider Specifications			
Provider Category(s) (check one or both):	<input type="checkbox"/>	Individual. List types:	<input checked="" type="checkbox"/> Agency. List the types of agencies:
			Licensed and Certified Pest Control Company
Specify whether the service may be provided by (check each that applies):	<input type="checkbox"/>	Legally Responsible Person	<input type="checkbox"/> Relative/Legal Guardian
Provider Qualifications (provide the following information for each type of provider):			
Provider Type:	License (specify)	Certificate (specify)	Other Standard (specify)
Pest Control Company	State of Alabama Business License		Code of Alabama, 1975, § 40-12-40

Pest Control Company	Licensed and Certified		Possess licensure and certification approved through the Alabama Department of Agriculture and Industries.	
Verification of Provider Qualifications				
Provider Type:	Entity Responsible for Verification:		Frequency of Verification	
Pest Control Company	Waiver Operating Agency		Initially; then annually	
Service Delivery Method				
Service Delivery Method <i>(check each that applies):</i>	<input type="checkbox"/>	Participant-directed as specified in Appendix E	<input checked="" type="checkbox"/>	Provider managed