

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: Colorado

B. Waiver Title(s):

Elderly, Blind and Disabled (HCBS-EBD)
Community Mental Health Supports (HCBS-CMHS)
Brain Injury (HCBS-BI)
Spinal Cord Injury (HCBS-SCI)
Supported Living Services (HCBS-SLS)
Developmentally Disabled (HCBS-DD)
Children's Home and Community Based Services (CHCBS)
Children with Life Limiting Illness (HCBS-CLLI)
Children's Extensive Supports (HCBS-CES)
Children's Habilitation Residential Program (HCBS-CHRP)

C. Control Number(s):

HCBS-EBD: CO.0006.R08.20
HCBS-CMHS: CO.0268.R05.21
HCBS-BI: CO.0288.R05.20
HCBS-SCI: CO.0961.R02.09
HCBS-SLS: CO.0293.R05.15
CHCBS: CO.4157.R06.16
HCBS-CLLI: CO.0450.R03.08
HCBS-CES: CO.4180.R05.14
HCBS-DD: CO.0007.R08.15
HCBS-CHRP: CO.0305.R05.14

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

<input checked="checked" type="checkbox"/>	Pandemic or Epidemic
<input type="checkbox"/>	Natural Disaster
<input type="checkbox"/>	National Security Emergency
<input type="checkbox"/>	Environmental
<input type="checkbox"/>	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.). This Appendix K is additive to the previously approved Appendix K amendments. Beginning July 1, 2021, the state has included a bed limit of no more than 14 beds for out of state residential providers. Effective April 1, 2021 through March 31, 2022, this Appendix K will include a temporary 2.11% rate increase to some home and community based services due to the COVID-19 pandemic. The Department will use 9817 ARP funds for these rate increases.

F. Proposed Effective Date: Start Date: March 10, 2020 **Anticipated End Date:** 6 months after the conclusion of the public health emergency.

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.]

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

Beginning July 1, 2021, the Department of Health Care Policy and Financing (HCPF) will temporarily allow the option to provide residential services in out-of-state settings for the HCBS-DD waiver. Residential out-of-state services are only allowed when there is not a service provider within Colorado that is able to meet the waiver participant's needs due to specific, individualized health and safety concerns. The state sets a bed limit of no more than 14 beds for out of state residential placements.

The need for out-of-state services and out-of-state providers must be approved by HCPF. When services are provided out-of-state, the standard waiver requirements will be continued to be met per the Olmstead Letter #3 to State Medicaid Directors on July 25, 2000. These requirements include the following:

- There must be a written plan of care with the services. The plan of care must identify the services to be provided, the amount and type of each service, and the type of provider.
- Services must be furnished by a qualified provider. The provider must meet the standards for service provision that are set forth by the state where services are being provided. The host state in which services are received must have an equivalent licensure or certification as a Colorado provider for residential service.
- Colorado remains responsible for the assurance of the health and welfare of the waiver member. Oversight is performed directly by the case management agency via telehealth options and by the host state in which services are received.
- The provider of out-of-state residential services must be chosen just as freely as the provider of in-state services by the waiver member.
- The out-of-state provider must have a provider agreement with HCPF per section 1902(a)(27) of the Act and payment must be made directly to the provider per section 1902(a)(32) of the Act.

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. X 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.]

Effective April 1, 2021 through March 31, 2022, there will be a temporary 2.11% increase to the following home and community services to ensure continuity of operations and assurance of client health, safety, and welfare within waiver benefits due to the COVID-19 pandemic.

- Adult Day (EBD, CMHS, SCI, BI)
- Alternative Care Facility (EBD, CMHS)
- Community Connector (CES and CHRP)
- Day Habilitation (DD, SLS)
- Homemaker (EBD, CMHS, SLS, CES)
- In-Home Support Services (EBD, SCI, CHCBS)
- Mentorship (SLS)
- Non-Medical Transportation (EBD, DD, CMHS, SLS, SCI, BI)
- Personal Care (EBD, CMHS, SLS, SCI, BI)
- Prevocational Services (DD, SLS)
- Residential Habilitation (DD, CHRP)
- Respite Care (EBD, CMHS, SLS, CHRP, CLLI, SCI, BI, CES)
- Supported Community Connections (DD, SLS)
- Supported Employment (DD, SLS)
- Supported Living Program (BI)

These rate increases are in addition to the previously approved increases and the cumulative increases will not exceed 50% of the rate in the base waiver.

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. ___ 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]

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]*

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

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.

Contact Person(s)

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

First Name: Colin
Last Name Laughlin
Title: Deputy Director of the Office of Community Living
Agency: Department of Health Care Policy and Financing
Address 1: 1570 Grant Street
Address 2: Click or tap here to enter text.
City Denver
State Colorado
Zip Code 80203
Telephone: 303-866-2549
E-mail Colin.Laughlin@state.co.us
Fax Number 303-866-4411

8. Authorizing Signature

Signature:
Colin Laughlin

Date: 10-7-2021

State Medicaid Director or Designee

First Name: Tracy
Last Name Johnson
Title: Medicaid Director
Agency: Colorado Department of Health Care Policy and Financing
Address 1: 1570 Grant Street
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