

# 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.<sup>1</sup> 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: Florida

B. Waiver Title(s): Developmental Disabilities Individual Budgeting (iBudget) Waiver

C. Control Number(s): FL.0867.R02.01

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

<input checked="" type="checkbox"/>	<b>Pandemic or Epidemic</b>
<input type="checkbox"/>	<b>Natural Disaster</b>
<input type="checkbox"/>	<b>National Security Emergency</b>
<input type="checkbox"/>	<b>Environmental</b>
<input type="checkbox"/>	<b>Other (specify):</b>

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: 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.*

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.   X   **Services**

**i. \_\_\_ Temporarily modify service scope or coverage.**

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

**ii. X 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]

The State may allow flexibilities for the following services:

- Life Skills Development Level 1- Companion, 2- Supported Employment, and 3- Adult Day Training: The State may allow service hours to be exceeded.
- Specialized Medical Equipment and Supplies: The State may allow maximum limits to be exceeded for consumable medical supplies.

The waiver support coordinators and the State Operating Agency will be responsible to ensure that all changes in the provision of services in response to the COVID-19 virus are documented in the recipient's plan of care. The waiver support coordinators and the State Operating Agency will be required to ensure that the services are being provided safely and in accordance with the waiver service definition and service limits. Additionally, the waiver support coordinators must document in the recipient's plan of care any exceptions that are granted in accordance with this request, including all actions taken to ensure recipient safety.

**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 will provide Life Skills Development Level 1, Level 2, and Level 3 in a recipient's home, a licensed facility, or any other location in the community as necessary to ensure the safety and welfare of all iBudget recipients in the event provider locations close.

**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. X 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. X 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.]

The State may allow flexibilities for the following services:

- Life Skills Development Level 3- Adult Day Training: The State may allow additional clients to be served beyond currently authorized staffing ratios, provided client and staff safety would not be compromised.
- Residential Habilitation: The State may allow additional clients to be served beyond currently authorized staffing ratios, provided client and staff safety would not be compromised.

**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. X 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]**

The State may allow the flexibility to extend the reporting timeframes for providers for critical incidents from one to 24 hours and for reportable incidents from 24 to 72 hours. The timeframe for resolution of critical incidents is extended from 90 days to 120 days.

**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 may allow the provision of personal supports, supported living coaching, and behavior assistant services in a hospital or other non-forensic institutional setting. Personal supports, supported living coaching, and behavior assistant waiver services may be rendered in an acute-care hospital or short-term institutional stay when the waiver participant is displaced from home because of COVID-19 and such supports are not otherwise available in these settings.

**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.]

The State will implement retainer payments for the following services which include personal care services:

- Residential Habilitation: Retainer payments will be offered to providers when the individuals must leave the provider setting for any reason in response to the state of emergency. Retainer payments will be made based upon the average payment amount made to the provider over a retrospective three-month period; payments will be limited to 30 consecutive days of billing or the number of days for what the State authorizes a payment for “bed-hold” in nursing facilities, which will continue during the state of emergency and not to extend past the end date of this Appendix K amendment. Multiple episodes of retainer payments may be authorized for an individual during the period of the COVID-19 pandemic.
- Personal Supports: Retainer payments will be offered to providers unable to provide services in response to the public health emergency or the individual is diagnosed with COVID or must self-quarantine (due to local or state requirements) and cannot receive services. Retainer payments will be made based upon the average payment amount made to the provider over a retrospective three-month period; payments will be limited to 30 consecutive days of billing or the number of days for what the State authorizes a payment for “bed-hold” in nursing facilities, which will continue during the state of emergency and not to extend past the end date of this Appendix K amendment. Multiple episodes of retainer payments may be authorized for an individual during the period of the COVID-19 pandemic. Retainer payments will not be available when personal support services are being provided in the home.

The State will implement retainer payments for the following services which include habilitation personal care services:

- Life Skills Development Level 1- Companion: Retainer payments will be offered to providers unable to provide services in response to the state of emergency or the individual is diagnosed with COVID or must self-quarantine (due to local or state requirements) and cannot receive services. Retainer payments will be made based upon the average payment amount made to the provider over a retrospective three-month period; payments will be limited to 30 consecutive days of billing or the number of days for what the State authorizes a payment for “bed-hold” in nursing facilities, which will continue during the state of emergency and not to extend past the end date of this Appendix K amendment. Multiple episodes of retainer payments may be authorized for an individual during the period of the COVID-19 pandemic. Retainer payments will not be available when companion services are being provided in the home.
- Life Skills Development Level 2- Supported Employment: Retainer payments will be offered to providers unable to provide services in response to the state of emergency or the individual is diagnosed with COVID or must self-quarantine (due to local or state requirements) and cannot receive services. Retainer payments will be made based upon the average payment amount made to the provider over a retrospective three-month period; payments will be limited to 30 consecutive days of billing or the number of days for what the State authorizes a payment for “bed-hold” in nursing facilities, which will continue during the state of emergency and not to extend past the end date of this Appendix K amendment. Multiple episodes of retainer payments may be authorized for an individual during the period of the COVID-19 pandemic.
- Life Skills Development Level 3- Adult Day Training: Retainer payments will be offered to providers unable to provide services in response to the state of emergency or the individual is diagnosed with COVID or must self-quarantine (due to local or

state requirements) and cannot receive services. Retainer payments will be made based upon the average payment amount made to the provider over a retrospective three-month period; payments will be limited to 30 consecutive days of billing or the number of days for what the State authorizes a payment for “bed-hold” in nursing facilities, which will continue during the state of emergency and not to extend past the end date of this Appendix K amendment. Multiple episodes of retainer payments may be authorized for an individual during the period of the COVID-19 pandemic. Retainer payments will not be available when adult day training services are being provided in the home.

The state will implement a distinguishable process to monitor payments to avoid duplication of billing and to monitor the use of retainer payments.

**k. X 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.]

Currently, self-direction is only available for individuals enrolled in the 1915(j) CDC+ program. The State may allow self-direction for the following services through the 1915(c) authority: personal supports and transportation.

The waiver support coordinators and the State Operating Agency will be responsible to ensure that all changes in the provision of services in response to the COVID-19 virus are documented in the recipient’s plan of care, including any services that will be provided by any provider type authorized in response to the public health emergency, including all actions taken to ensure recipient safety. The waiver support coordinators and the State Operating Agency will be required to ensure that the services are being provided safely and in accordance with the waiver service definition and service limits.

**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]**

The State will delay submission of the evidentiary report and the 372 report for up to six months past the end of the public health emergency, as necessary and not to extend past the end date of this Appendix K amendment. Additionally, the State may allow the following flexibilities:

- Extend the re-evaluation timeframe for a period not to exceed 12 months for the Questionnaire for Situational Information (QSI), which is to be administered every three years, for individuals scheduled for re-evaluation during the public health emergency.
- Extend timeframes for CDC+ purchasing plan reviews and quick updates from 10 days for CDC+ program staff to 30 days.
- Move the CDC+ Quality Advisory Committee meetings from quarterly to semi-annually, as well as eliminate the requirement for quorum on voting items.
- Extend the timeframe to resolve CDC+ complaints and payment issues from 48 hours to 96 hours.
- Extend the timeframe to conduct monitoring of CDC+ consultants and representatives from 3 to 10 days subsequent to document submission.
- Suspend preparation and dissemination of CDC+ monthly statements as necessary in the event of office closure until staff are permitted to return to the office.

## Appendix K Addendum: COVID-19 Pandemic Response

### 1. HCBS Regulations

- 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

- Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:
  - Case management
  - Personal care services that only require verbal cueing
  - In-home habilitation
  - Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).
  - Other *[Describe]*:

- Add home-delivered meals
- Add medical supplies, equipment and appliances (over and above that which is in the state plan)
- 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]*

To allow redeployment of direct support and clinical staff to needed service settings during the state of emergency, provider qualifications will be modified as follows:

- Direct support staff qualified to render LSD – 3 (ADT) services may also render Personal Supports, Respite, LSD - 1 (Companion), and Residential Habilitation services.
- Direct support staff qualified to render Personal Supports services may also render LSD – 3 (ADT), Respite, LSD - 1 (Companion), and Residential Habilitation services.
- Direct support staff qualified to render Respite services may also render LSD – 3 (ADT), Personal Supports, LSD - 1 (Companion), and Residential Habilitation services.
- Direct support staff qualified to render LSD – 1 (Companion) services may also render LSD – 3 (ADT), Personal Supports, Respite, and Residential Habilitation services.
- Direct support staff qualified to render Residential Habilitation services may also render LSD- 1 (Companion), Personal Supports, LSD – 3 (ADT), and Respite services.
- Individuals qualified to render Behavior Analysis services may also render Behavior Assistant, LSD – 3 (ADT), Personal Supports, Respite, LSD - 1 (Companion), and Residential Habilitation services.
- Individuals qualified to render Behavior Assistant services may also render LSD – 3 (ADT), Personal Supports, Respite, LSD - 1 (Companion), and Residential Habilitation services.
- Individuals qualified to render LSD – 2 (Supported Employment) services may also render LSD – 3 (ADT), Personal Supports, Respite, LSD - 1 (Companion), and Residential Habilitation services.
- Individuals qualified to render Private Duty Nursing services may also render Residential Nursing, Skilled Nursing, LSD – 3 (ADT), Personal Supports, Respite, LSD - 1 (Companion), and Residential Habilitation services.
- Individuals qualified to render Residential Nursing services may also render Private Duty Nursing, Skilled Nursing, LSD – 3 (ADT), Personal Supports, Respite, LSD - 1 (Companion), and Residential Habilitation services.
- Individuals qualified to render Skilled Nursing may also render Private Duty Nursing, Residential Nursing, LSD – 3 (ADT), Personal Supports, Respite, LSD - 1 (Companion), and Residential Habilitation services.

All staff rendering services under these modified qualifications must receive training on any individual's support and person-centered plans for whom they are providing support.

- 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:** Ann  
**Last Name** Dalton  
**Title:** AHC Administrator  
**Agency:** Agency for Health Care Administrator  
**Address 1:** 2727 Mahan Drive, Mail Stop #20  
**Address 2:** Click or tap here to enter text.  
**City** Tallahassee  
**State** Florida  
**Zip Code** 32308  
**Telephone:** (850) 412-4257  
**E-mail** Ann.Dalton@ahca.myflorida.com  
**Fax Number** (850) 414-1721

### 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:**

**Date:**

Beth Kidder  
State Medicaid Director or Designee

April 8, 2020

**First Name:** Beth  
**Last Name** Kidder  
**Title:** Deputy Secretary for Medicaid  
**Agency:** Agency for Health Care Administration  
**Address 1:** 2727 Mahan Drive, Mail Stop #20  
**Address 2:**  
**City** Tallahassee  
**State** FL  
**Zip Code** 32308  
**Telephone:** (850) 412-4006  
**E-mail** Beth.Kidder@ahca.myflorida.com  
**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:					
<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) <i>(check one or both):</i>	<input type="checkbox"/>	Individual. List types:	<input type="checkbox"/>	Agency. List the types of agencies:	
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
<b>Provider Qualifications</b> <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>		
<b>Verification of Provider Qualifications</b>					
Provider Type:	Entity Responsible for Verification:		Frequency of Verification		
Service Delivery Method					
<b>Service Delivery Method</b> <i>(check each that applies):</i>	<input type="checkbox"/>	Participant-directed as specified in Appendix E	X	Provider managed	



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<sup>i</sup> 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.