

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:** Indiana
- B. **Waiver Title(s):** Aged & Disabled Waiver (A&D) and Traumatic Brain Injury Waiver (TBI)
- C. **Control Number(s):**
IN.0210.R06.07 & IN.4197.R04.05

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
<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 amendment is additive to the previously approved Appendix K and includes the following:

Attendant Care Waiver Services Providing Transportation

F. Proposed Effective Date: Start Date: March 1, 2020 Anticipated End Date: six months after conclusion of the federal PHE

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 waivers to all individuals impacted by the COVID-19 virus.

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

Indiana's State Emergency Operations Plan can be found at:

<https://www.in.gov/isdh/28470.htm>

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. X 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. 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).

[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. ___ 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: BreAnn
Last Name: Teague
Title: Senior Manager, Program Administration
Agency: Indiana Family & Social Services Administration, Office of Medicaid Policy & Planning
Address 1: 402 West Washington Street, Room W374 (MS07)
Address 2: Click or tap here to enter text.
City: Indianapolis
State: Indiana
Zip Code: 46204
Telephone: 317-232-7294
E-mail: breann.teague@fssa.in.gov
Fax Number: 317-232-7382

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

First Name: Jesse
Last Name Wyatt
Title: Deputy Director of Division of Aging
Agency: Indiana Family & Social Services Administration, Division of Aging
Address 1: 402 West Washington Street, Room W454
Address 2: Click or tap here to enter text.
City Indianapolis
State Indiana
Zip Code 46204
Telephone: 317-232-0604
E-mail jesse.wyatt@fssa.in.gov
Fax Number 317-232-2182

8. Authorizing Signature

Signature:

Date: 02/19/2021

_____/S/_____
State Medicaid Director or Designee

First Name: Allison
Last Name Taylor
Title: Medicaid Director
Agency: Office of Medicaid Planning and Policy
Address 1: 402 W. Washington St.
Address 2: Click or tap here to enter text.
City Indianapolis
State IN
Zip Code 46204
Telephone: 317-232-4354
E-mail allison.taylor@fssa.in.gov
Fax Number 317-234-5076

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: Attendant Care Services (ATTC)

Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:

Service Definition (Scope):

Attendant Care services (ATTC) are provided to participants with nursing facility level of care needs. ATTC provides direct, hands-on care to participants for the functional needs with ADLs. The participant is the employer for Participant Directed ATTC, or appoints a representative to be the employer on their behalf.

ALLOWABLE ACTIVITIES

All non-skilled ADL care as identified in the PCA that includes but is not limited to the following:

Provides assistance with personal care, which includes:

- Bathing, partial bathing
- Oral hygiene
- Hair care including clipping of hair
- Shaving
- Hand and foot care
- Intact skin care
- Application of cosmetics
- Dressing

Provides assistance with mobility, which includes:

- Proper body mechanics
- Transfers
- Ambulation
- Use of assistive devices

Provides assistance with elimination, which includes:

- Assists with bedpan, bedside commode, toilet
- Incontinent or involuntary care
- Emptying urine collection and colostomy bags

Provides assistance with nutrition, which includes:

- Meal planning, preparation, clean-up

Provides assistance with safety, which includes:

- Use of the principles of health and safety in relation to self and individual
- Identify and eliminate safety hazards
- Practice health protection and cleanliness by appropriate techniques of hand washing
- Waste disposal, and household tasks
- Reminds individual to self-administer medications

Provides assistance with correspondence and bill paying

- Transportation of individuals to non-medical community activities. Out of State transportation is limited to 50 miles of State geographic limits. Escorting of participants does not include mileage or other costs that are not associated with the provision of personal care.

- Accompanying and transporting the individual to medical appointments. ATTC services to accompany members to medical appointments includes assistance to ensure individual has a complete understanding of information shared by physician or medical personnel. This activity is offered in addition to medical transportation available under the State Plan and does not replace it. Whenever possible, other sources will be utilized. Providers will be able to bill for the time they provide services during trips and appointment visits.

Specify applicable (if any) limits on the amount, frequency, or duration of this service:

ACTIVITIES NOT ALLOWED

Attendant Care services will not be provided to people with unstable medical needs as a substitute for care provided by a registered nurse, licensed practical nurse, licensed physician, or other health professional. ATTC services will not be reimbursed to a provider for a participant, with the following but not limited to items, regarding specialized feeding, (such as difficulty swallowing, refuses to eat, or does not eat enough); unless permitted under law and not duplication of State Plan services.

Hoyer lift; and weight bearing transfers assistance should be considered for State Plan HOHE or respite home health aide under the supervision of a registered nurse. ATTC services will not be reimbursed to a provider for a participant requiring management of uncontrolled seizures, infusion therapy; venipuncture; injection; wound care for, decubitus, incision; ostomy care; and tube feedings must be considered for respite nursing services unless permitted under law and not duplication of State Plan services.

- The ATTC will not be a substitute for care provided by a registered nurse, licensed practical nurse, licensed physician, or other health professional.
- ATTC will not set up and administer medications. ATTC may not assist with catheter and ostomy care,
- Attendant Care services will not be provided to household members other than to the participant.
- Attendant Care services will not be reimbursed when the owner of the agency is a parent of a minor child participant, the spouse of a participant, the attorney-in-fact (POA) of a participant, the health care representative (HCR) of a participant, or the legal guardian of a participant.
- Attendant Care services to participants receiving Adult Family Care waiver service, Structured Family Caregiving waiver service, or Assisted Living waiver service.
- **Companionship during medical transportation does not include mileage or other costs that are not associated with the provision of Attendant Care services.**

Provider Specifications

Provider Category(s) <i>(check one or both):</i>	<input checked="" type="checkbox"/>	Individual. List types:	<input checked="" type="checkbox"/>	Agency. List the types of agencies:
	DA Approved Attendant Care Individual		Licensed Home Health Agency	
			Licensed Personal Services Agency	
Specify whether the service may be provided by <i>(check each that applies):</i>	<input type="checkbox"/>	Legally Responsible Person	<input checked="" 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>	

A&D/TBI Licensed Home Health Agency	IC 16-27-1, IC 16-27-4	IC 16-27-1, IC 16-27-4	DA Approved
A&D/TBI Licensed Personal Services Agency	IC 16-27-4	IC 16-27-4	DA Approved
A&D/TBI FSSA DA- Approved Attendant Care Individual	IC 16-27-4	IC 16-27-4	FSSA DA Approved 455 IAC 2 Provider qualifications; General requirements 455 IAC 2 General requirements for direct care staff 455 IAC 2 Liability insurance 455 IAC 2 Professional qualifications and requirements 455 IAC 2 Personnel records. The division may reject any applicant with a conviction of a crime against persons or property, a conviction for fraud or abuse in any federal, state, or local government program, (42 USC §1320a-7) or a conviction for illegal drug possession. The division may reject an applicant convicted of the use, manufacture, or distribution of illegal drugs (42 USC §1320a7). The division may reject an applicant who lacks the character and fitness to render services to the dependent population or whose criminal background check shows that the applicant may pose a danger to the dependent population. The division may limit an applicant with a criminal background to caring for a family member only if the family member has been informed of the criminal background. Compliance with IC 16-27- 4, if applicable.
Verification of Provider Qualifications			
Provider Type:	Entity Responsible for Verification:	Frequency of Verification	

Home Health Agency	Division of Aging		Up to 3 years	
Personal Services Agency	Division of Aging		Up to 3 years	
Attendant Care Individual	Division of Aging		Up to 3 years	
Service Delivery Method				
Service Delivery Method <i>(check each that applies):</i>	<input checked="" type="checkbox"/>	Participant-directed as specified in Appendix E	<input checked="" type="checkbox"/>	Provider managed



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.