

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.ⁱ This appendix may be completed retroactively as needed by the state.*

Appendix K-1: General Information

General Information:

A. State: Kentucky

B. Waiver Title:

Acquired Brain Injury/ Acquired Brain Injury Long Term Care/Supports for Community Living/Michelle P Waiver/Home and Community Based Waiver/Model II Waiver

C. Control Number:

KY0144.R06.02
 KY0314.R04.03
 KY0333.R04.02
 KY0475.R02.02
 KY0477.R02.02
 KY40146.R06.02

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.

- 1) This Appendix K is additive to the previously approved Appendix K.
- 2) As of July 24, 2020, Kentucky has 25,931 confirmed cases and 691 fatalities. The population served by the waivers includes individuals who meet institutional level of care.

These populations are not only at a higher risk of contracting the virus, but are more likely to suffer complications up to, and including, death. At the same time, participants actively rely on waiver-funded support with activities of daily living, instrumental activities of daily living, supervision and oversight of care, and overall well-being. Many receive services in congregate settings, including adult day health cares. There are approximately 27,000 individuals currently enrolled in Kentucky's 1915(c) HCBS waivers.

- 3) The Department for Medicaid Services is working with our sister agencies, the Department for Behavioral Health and Intellectual Disabilities and the Department for Aging and Independent Living to provide direction and technical assistance to providers and participants. The Departments are following guidance provided by the Department of Public Health (DPH) and key federal agencies, including the Centers for Medicare and Medicaid and the Centers for Disease Control. Kentucky has created a website (kycovid19.ky.gov) that is being continually updated with information related to COVID-19. In addition, DPH is manning a 24-hour hotline for inquiries related to COVID-19 at 1-800-722-5725.
- 4) Kentucky seeks temporary changes to the six HCBS waivers identified above to proactively address potential staffing shortages, projected access to care issues and need for service provision beyond the terms of approved service descriptions to address participant health, safety and welfare for the duration of the emergency. Language has been added to K2-m to allow for extension of timeframes for submission of CMS 372s as well as responses to performance measures and quality report requests. This will also allow for the look back to focus only on the performance measures identified in the Health and Welfare assurance.

F. Proposed Effective Date: Start Date: 3/6/2020 Anticipated End Date: 3/05/2021

G. Description of Transition Plan.

H. Geographic Areas Affected:

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

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]

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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]

The timeframes for the submission of the CMS 372s and the evidentiary package(s) will be extended as needed pursuant to the emergency. In addition, the state may suspend the collection of data for performance measures other than those identified for the Health and Welfare assurance and notes that as a result the data will be unavailable for this time frame in ensuing reports due to the circumstances of the pandemic.

Contact Person(s)

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

First Name:	Pam
Last Name	Smith
Title:	Division Director
Agency:	Department for Medicaid Services
Address 1:	275 E Main St
Address 2:	Mail Stop 6W-B
City	Frankfort
State	KY
Zip Code	40621
Telephone:	502-564-7540 ext 2105
E-mail	Pam.smith@ky.gov
Fax Number	502-564-0249

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

First Name:	
Last Name	
Title:	
Agency:	
Address 1:	
Address 2:	
City	
State	
Zip Code	
Telephone:	
E-mail	
Fax Number	

8. Authorizing Signature

Signature: Lisa D. Lee

Date:	07/24/2020
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_____ State Medicaid Director or Designee

First Name:	Lisa
Last Name	Lee
Title:	Commissioner
Agency:	Department for Medicaid Services
Address 1:	275 E Main St
Address 2:	6W-A
City	Frankfort
State	KY
Zip Code	40621
Telephone:	502-564-4321
E-mail	Lisa.Lee@ky.gov
Fax Number	502-564-0509

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:					
Up to 2 meals per day					
Provider Specifications					
Provider Category(s) <i>(check one or both):</i>					
Specify whether the service may be provided by <i>(check each that applies):</i>	<input type="checkbox"/>	Legally Responsible Person		Relative/	
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>		
			•		
			•		
Verification of Provider Qualifications					
Provider Type:	Entity Responsible for Verification:			Frequency of Verification	
Service Delivery Method					
Service Delivery Method <i>(check each that applies):</i>		Participant-directed as specified in Appendix E			
					Provider managed



ⁱ 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.