

## 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.<sup>i</sup> 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.R06.03  
KY0314.R04.04  
KY0333.R04.03  
KY0475.R02.03  
KY0477.R02.03  
KY40146.R06.03

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) On March 6, 2020, Governor Andy Beshear declared a state of emergency in Kentucky related to COVID-19 (also known publicly as "coronavirus"). The virus spreads quickly and can cause mild to severe symptoms. The spread of the virus poses a threat to health

and safety of our 1915(c) HCBS waiver participants and necessitates changes in service delivery methods and approaches.

- 2) As of February 12, 2021, Kentucky has had 300,366 confirmed cases, 1,063 currently hospitalized and 4,253 fatalities. The population served by the waivers includes individuals with acquired brain injuries, intellectual and developmental disabilities, the aged and physically disabled and individuals who are ventilator dependent. 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](http://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 HCBS waivers to continue to address staffing shortages, 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.
- 5) Kentucky is making the following additions to Appendix K
  - a. K2 b – clarified the language that the requests for overtime or increased services was related to COVID and only applied to situations where there was no alternative caregiver or natural support available. Added additional language around the allowance for an extra CM unit to assist with accessing and obtaining the vaccine
  - b. K2 d – added additional language around home delivered meals
  - c. K2 l – added language about allowing support for waiver participants in a hospital setting when necessary to meet the participant's needs and ensure health, safety and welfare are met
  - d. K2 j – removed language related to retainer payments as congregate settings have been allowed to reopen

**F. Proposed Effective Date: Start Date:** 3/6/2020      **Anticipated End Date:** six months after the end of the federal PHE

**G. Description of Transition Plan.**

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**H. Geographic Areas Affected:**

Statewide

**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]

The Department will permit a temporary increase beyond the currently defined waiver service caps and limitations including overtime to allow the needed amount, duration or change in scope within the waiver, as necessary, to effectively address emergent health, safety and welfare-related needs of program participants during the COVID-19 pandemic.

Added for Clarification:

Approvals for overtime are limited to situations when a participant needs support but lacks alternative caregivers or natural supports are not available to provide support or services due to the pandemic. Requests for increase in services not directly related to the pandemic will need to follow established limitations and exception processes if applicable.

Added for Clarification:

Participants accessing residential services through a family home provider or adult foster care provider will be allowed to receive respite and personal assistance services from another provider paid through the waiver.

Added for Clarification:

The Case Manager can also assist with participant's timely access to the COVID vaccine by reviewing information to determine eligibility, facilitate discussions with healthcare providers regarding any concern or potential contraindications, waitlist, access to transportation and vaccine appointments.

**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.]

Added for Clarification:

The Participant Directed Coordinator role which supports Case Management and Financial Management Agency activities in the Home and the Community Based (HCB) waiver will be expanded to allow Community Mental Health Centers to enroll and provide services to HCB participants who have a desire to access participant directed services in the waiver, in addition to the waivers they already serve.

ii. ☒ **Temporarily modify provider types.**

[Provide explanation of changes, list each service affected, and the changes in the provider type for each service].

Added for Clarification:

Home delivered meals must follow the requirements listed in regulation and Section A of this appendix. Meals must be delivered to the participant's place of residence and do not include the purchase of bulk groceries.

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.]

**Added Language**

Allow waiver services to be provided to waiver participants in acute hospital settings when necessary to meet the participant's immediate health, safety, and welfare needs. For example, an individual who is unable to communicate or does not have a communication device allowing him or her to express needs such as pain, hunger, toileting etc.

Waiver services may be delivered in acute hospital settings when:

(A) identified in an individual's person-centered service plan (or comparable plan of care);

(B) provided to meet needs of the individual that are not met through the provision of hospital services;

(C) not a substitute for services that the hospital is obligated to provide through its conditions of participation or under Federal or State law, or under another applicable requirement; and

(D) designed to ensure smooth transitions between acute care settings and home and community-based settings, and to preserve the individual's functional abilities."

**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.]

**Added for Clarification**

Adult Day Health Centers and Adult Day training providers who met criteria were eligible for retainer payments while closure was mandated by the Governor. Providers were allowed to reopen in June. Retainer payments are discontinued as of 3/5/2021.

**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]

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<b>Contact Person(s)</b>
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A. The Medicaid agency representative with whom CMS should communicate regarding the request:

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

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



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

## 8. Authorizing Signature

Signature: Lisa Lee

**Date:** 02/16/2021

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State Medicaid Director or Designee

<b>First Name:</b>	Lisa
<b>Last Name</b>	Lee
<b>Title:</b>	Commissioner
<b>Agency:</b>	Department for Medicaid Services
<b>Address 1:</b>	275 E Main St
<b>Address 2:</b>	6W-A
<b>City</b>	Frankfort
<b>State</b>	KY
<b>Zip Code</b>	40621
<b>Telephone:</b>	502-564-4321
<b>E-mail</b>	<a href="mailto:Lisa.Lee@ky.gov">Lisa.Lee@ky.gov</a>
<b>Fax Number</b>	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:	Home Delivered Meals			
Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:				
Service Definition (Scope):				
<p>Home Delivered Meal Service is defined as the provision of meals to a waiver participant who has a need for a home delivered meal based on a deficit in an activity of daily living or an instrumental activity of daily living identified during the assessment process. The service includes the preparation, packaging and delivery of safe and nutritious meals to a consumer at his or her home. A participant may be authorized to receive one home delivered meal per day. Also, for the purposes of this service, reheating a prepared home delivered meal is not the same as preparing a meal.</p> <p>Home delivered meals:</p> <p>1) Shall be provided to participants who are unable to prepare their own meals and for whom there are no other persons available to do so.</p> <p>2) Shall take into consideration the participant's medical restrictions</p> <p>4) Shall be individually packaged if they are heated meals.</p> <p>5) May include frozen meals</p> <p>5) May be individually packaged if they are unheated, shelf-stable meals, or may have components separately packaged.</p> <p>Added for Clarification</p> <p>Meals must be delivered to the participant's place of residence and do not include the purchase of bulk groceries.</p>				
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) (check one or both):				
	Certified Waiver Provider			
Specify whether the service may be provided by (check each that applies):	<input type="checkbox"/>	Legally Responsible Person	<input type="checkbox"/>	Relative/
<b>Provider Qualifications</b> (provide the following information for each type of provider):				
Provider Type:	License (specify)	Certificate (specify)	Other Standard (specify)	
Certified Waiver Provider			•	
			•	
<b>Verification of Provider Qualifications</b>				

Provider Type:	Entity Responsible for Verification:		Frequency of Verification	
Service Delivery Method				
Service Delivery Method (check each that applies):		Participant-directed as specified in Appendix E	✓	Provider managed




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<sup>i</sup> 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.