

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: Louisiana

B. Waiver Title(s): Communities Choices Waiver & Adult Day Health Care Waiver

C. Control Number(s): Reference LA. 0866.R02.03 & LA.0121.R07.03

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.

The changes addressed in this amendment will be added/adjusted to the currently approved Community Choices Waiver (LA.0866.R02.02) and Adult Day Health Care Waiver (LA.0121.R07.02) COVID19 Appendix K requests approved on April 14, 2020.

If the COVID19 pandemic ends sooner than the anticipated end date, the State may elect to rollback some or all items listed in this Appendix K request.

F. Proposed Effective Date: Start Date: January 27, 2020 **Anticipated End Date:** January 26, 2021

G. Description of Transition Plan.

H. Geographic Areas Affected:

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. 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. ___ 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. X Temporarily modify provider types.

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

LA0121: Due to the closures of the ADHC centers, add Adult Day Health Care (ADHC) providers as a provider type for the following services:

- Home Delivered Meals (This service was approved in the previous ADHC Waiver Appendix K.)
- Personal Assistance Services (PAS) – In order for ADHC providers to provide and bill Medicaid for providing necessary ADHC services in the participant’s home by a licensed and/or certified ADHC staff (i.e. RN, LPN, PCA or CNA.)

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.]

Add \$3.16 per hour (\$0.79 per quarter hour) for Personal Assistance Services (PAS) for a hazard premium for Direct Service Workers who are providing services for participants that have tested positive, are presumptively positive and/or are quarantined for COVID-19. The \$0.79 per quarter hour includes a \$.50 wage increase for the Direct Service Worker and \$.29 for overhead costs for the PAS provider agency. The average wage increase is approximately 22%. These premiums will not be paid when services are provided remotely and this premium will only be paid to providers until the participant no longer has COVID-19 symptoms and/or their quarantine period has ended.

The above mentioned hazard premium pay is separate and in addition to the previous language that was approved in the Appendix K documents that discussed enhanced rates for all waiver services on a case-by-case basis.

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. 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 increase retainer payment amounts to ADHC providers that have closed in response to the public health emergency to assure their ability to resume community-based services. Retainer payments were made for 22 consecutive days of billing which corresponded to Louisiana's non-mutually exclusive Nursing Home bed hold periods of 15 days for home leave and 7 days for hospital leave. The State would at no time duplicate retainer payments with any other payment to the ADHC providers.

The retainer payments that were already made to the ADHC providers may be adjusted to pay up to 100% of the current rate instead of the previously approved 75% of the current rate. Retainer payments were based on the number of enrollees absent from the ADHC centers.

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]*:

Adult Day Health Care (ADHC)

- 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: Brian
Last Name: Bennett
Title: Medicaid Section Chief
Agency: Bureau of Health Services Financing
Address 1: P.O. Box 91030 Bin #24
Address 2: Click or tap here to enter text.
City: Baton Rouge
State: La
Zip Code: 70821
Telephone: 225-342-9846
E-mail: Brian.Bennett@la.gov
Fax Number: 225-342-9168

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

First Name: Sherlyn
Last Name: Sullivan
Title: Interim Assistant Secretary
Agency: Office of Aging and Adult Services
Address 1: P.O. Box 2031
Address 2: Click or tap here to enter text.
City: Baton Rouge
State: La
Zip Code: 70821-2031
Telephone: 225-219-0223
E-mail: Sherlyn.Sullivan@la.gov
Fax Number: 225-219-0202

8. Authorizing Signature

Signature:

Date: 7/6/2020

_____/S/_____
State Medicaid Director or Designee

First Name: *Ruth*
Last Name *Johnson*
Title: Medicaid Executive Director
Agency: Bureau of Health Services Financing
Address 1: 628 North Fourth Street
Address 2: Click or tap here to enter text.
City Baton Rouge
State LA
Zip Code 70821
Telephone: 225-342-9767
E-mail Ruth.Johnson@la.gov
Fax Number Click or tap here to enter text.

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: Adult Day Health Care

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

Service Definition (Scope):

Since all ADHC centers are closed due to the COVID-19 emergency, the State may allow ADHC providers to provide services telephonically, in accordance with HIPAA requirements, to waiver participants for the duration of the COVID-19 emergency to help ensure continuity of services.

During this mandated closure and phased-in re-opening, ADHC providers will provide services telephonically, in accordance with HIPAA requirements, to their waiver participants that are unable to attend the ADHC centers. The ADHC provider will bill Medicaid for a telephonic service day rate not to exceed 85% of their current rate. This rate will be in place until further notice by the State.

In order for ADHC providers to qualify for this day rate, ADHC providers must complete the following:

- Make telephone contacts every other day (including weekends) with waiver participants to determine if:
 - They have enough food and fluids;
 - Have access to and are taking all of their prescribed medications; and
 - Have essential supplies.
- As part of this contact, remind participants to contact their doctor, if they do not feel well.
- Follow-up on any needs identified during the telephone contact.
- Document this contact in the Electronic Visit Verification (EVV) system and provide the details in the progress notes.

The following controls are in place to ensure the health and safety of the participants:

- ADHC providers are required to contact the participants every other day and assess the health and safety of the participants and follow-up accordingly.
- Record their contacts in the EVV system and the details in the progress notes.
- ADHC providers must still comply with required Critical Incident Reporting requirements.

Services furnished as specified in the plan of care at an ADHC center, in a non-institutional, community-based setting encompassing both health/medical and social services needed to ensure the optimal functioning of the participant. All ADHCs shall be compliant with the HCBS Settings Rule and will incorporate appropriate non-residential qualities of a home and community-based setting as described in 42 CFR §441.301(c)(4)(5).

Adult Day Health Care (ADHC) Services include:

- One nutritionally-balanced hot meal and a minimum of two snacks served each day;
- Transportation between the participant's place of residence and the ADHC center, in accordance with licensing standards;
- Assistance with activities of daily living;
- Health and nutrition counseling;
- Individualized daily exercise program;
- Individualized goal-directed recreation program;
- Daily health education;
- Medical care management;
- Transportation to and from medical and social activities if the participant is accompanied by the ADHC center staff; and
- Individualized health/nursing services.

Nurses are involved in the participant's service delivery, as specified in the plan of care or as needed. Each participant has a plan of care from which the ADHC provider develops an individualized service plan. If the individualized service plan calls for certain health and nursing services, the nurse on staff ensures that said services are delivered while the participant is at the ADHC center.

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

Services are furnished on a regularly scheduled basis, not to exceed 10 hours a day and no more than 50 hours a week.

Provider Specifications

Provider Category(s) (check one or both):	<input type="checkbox"/>	Individual. List types:	<input checked="" type="checkbox"/>	Agency. List the types of agencies:
				Adult Day Health Care

Specify whether the service may be provided by (check each that applies):	<input type="checkbox"/>	Legally Responsible Person	<input checked="" type="checkbox"/>	Relative/Legal Guardian
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Provider Qualifications (provide the following information for each type of provider):

Provider Type:	License (specify)	Certificate (specify)	Other Standard (specify)
Adult Day Health Care	Must be licensed according to the Louisiana Revised Statutes (R.S. 40:2120.41 through 2120.47).		Must be enrolled as an ADHC Medicaid provider, except for those providers who choose to sub-contract with an OHCDs that is an enrolled Medicaid provider Qualifications for ADHC center staff are set forth in the Louisiana Administrative Code (LAC).

Verification of Provider Qualifications

Provider Type:	Entity Responsible for Verification:	Frequency of Verification
Adult Day Health Care	Health Standards Section	Initial and as deemed necessary

Service Delivery Method

Service Delivery Method (check each that applies):	<input type="checkbox"/>	Participant-directed as specified in Appendix E	<input checked="" type="checkbox"/>	Provider managed



Service Specification

Service Title: Personal Assistance Services (PAS)

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

Service Definition (Scope):

Since all ADHC centers are closed due to the COVID-19 emergency, the State may allow ADHC providers to provide in-home services by licensed and/or certified ADHC staff (i.e. RN, LPN, PCA or CNA) to ADHC waiver participants for the duration of the COVID-19 emergency to help ensure continuity of services.

During this mandated closure and phased-in re-opening, ADHC providers may provide the following Personal Assistance Services (PAS) supports and services to participants that cannot attend the ADHC centers:

- Supervision or assistance in performing activities of daily living (ADLs);
- Supervision or assistance in performing instrumental activities of daily living (IADLs);
- Protective supervision provided solely to assure the health and welfare of a participant;
- Supervision or assistance with health related tasks (any health related procedures governed under the Nurse Practice Act) in accordance with applicable laws governing the delegation of medical tasks/medication administration); and/or
- Supervision or assistance while escorting/accompanying the participant outside of the home to perform tasks including instrumental activities of daily living, health maintenance or other needs as identified in the Plan of Care and to provide the same supervision or assistance as would be rendered in the home.

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

ADHC Waiver participants that are receiving Long Term-Personal Care Services (LT-PCS) cannot receive PAS.

Provider Specifications

Provider Category(s) <i>(check one or both):</i>	<input type="checkbox"/>	Individual. List types:	<input checked="" type="checkbox"/>	Agency. List the types of agencies:
				Adult Day Health Care

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
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Provider Qualifications *(provide the following information for each type of provider):*

Provider Type:	License <i>(specify)</i>	Certificate <i>(specify)</i>	Other Standard <i>(specify)</i>
Adult Day Health Care	Must be licensed according to the Louisiana Revised Statutes (R.S. 40:2120.41 through 2120.47).		Must be enrolled as an ADHC Medicaid provider, except for those providers who choose to sub-contract with an OHCDs that is an enrolled Medicaid provider Qualifications for ADHC center staff are set forth in the Louisiana Administrative Code (LAC).

Verification of Provider Qualifications			
Provider Type:	Entity Responsible for Verification:		Frequency of Verification
Adult Day Health Care	Health Standards Section		Initial and as deemed necessary
Service Delivery Method			
Service Delivery Method <i>(check each that applies):</i>	<input type="checkbox"/>	Participant-directed as specified in Appendix E	<input checked="" type="checkbox"/> Provider managed

ⁱNumerous 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.