

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.ⁱ 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: Massachusetts

B. Waiver Title(s):

- Frail Elder Waiver (FEW)
- Traumatic Brain Injury (TBI) Waiver
- MFP – Community Living (MFP-CL) Waiver
- MFP – Residential Supports (MFP-RS) Waiver
- Acquired Brain Injury with Residential Habilitation (ABI-RH) Waiver
- Acquired Brain Injury Non-residential Habilitation (ABI-N) Waiver
- Community Living Waiver (DDS-CL)
- Intensive Supports Waiver (DDS-IS)
- Adult Supports Waiver (DDS-AS)
- Children’s Autism Spectrum Disorder Waiver

C. Control Number(s):

- MA.0059.R07.04
- MA.0359.R04.04
- MA.1027.R01.05
- MA.1028.R01.04
- MA.40701.R02.05
- MA.40702.R02.04
- MA.0826.R02.04
- MA.0827.R02.04
- MA.0828.R02.04
- MA.40207.R03.03

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.

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 application is additive to the previously approved combined Appendix K amendments. All changes from the originally approved document will be effective as of 3/1/2020.

F. Proposed Effective Date: Start Date: March 1, 2020 Anticipated End Date: Six months after the expiration of the COVID-19 public health emergency.

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]

Revising part of the language in this subsection as it relates to the MFP-CL and ABI-N waivers, to read as follows:

MFP-CL (MA.1027) and ABI-N (MA.40702) Waivers – expand eligibility to include: (1) individuals discharged to the community from qualifying long-stay facilities prior to reaching a continuous 90-day stay due to COVID-19 who apply while in the facility or immediately following discharge; and (2) individuals who have resided in a qualifying long-stay facility for at least 90 consecutive days who apply immediately following discharge to the community due to COVID-19.

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]

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.]

Adding to this subsection the following:

In the Community Living Waiver (MA.0826), Intensive Supports Waiver (MA.0827), and Adult Supports Waiver (MA.0828), for Day Habilitation Supplement services, rate enhancements of specified percentages above the rates currently established in 101 CMR 424.00: *Rates for Certain Developmental and Support Services* for certain dates of service, as follows:

- August 1 – September 30, 2020, an increase of 40% to the base rate; and
- October 1 – November 30, 2020, an increase of 25% to the base rate.

In the Acquired Brain Injury Non-residential Habilitation (ABI-N) Waiver (MA.40702), Acquired Brain Injury Residential Habilitation (ABI-RH) Waiver (MA.40701), Moving Forward Plan Community Living (MFP-CL) Waiver (MA.1027), and Moving Forward Plan Residential Supports (MFP-RS) Waiver (MA.1028), rate enhancements of specified percentages above the rates currently established in 101 CMR 359.00: *Rates for Home and Community Based Services Waivers* for certain dates of service for the waiver services specified, as follows:

- August 1 – September 30, 2020, an increase of 40% to the base rate for Day Services, Community-Based Day Supports, Prevocational Services, and Supported Employment.
- October 1 – November 30, 2020, an increase of 25% to the base rate for Day Services, Community-Based Day Supports, Prevocational Services, and Supported Employment.
- December 1, 2020 – February 28, 2021, an increase of 40% to the base rate for Day Services, Prevocational Services, and Supported Employment.
- March 1 – May 31, 2021, an increase of 25% to the base rate for Day Services, Prevocational Services, and Supported Employment.

These rates specific to the COVID-19 emergency seek to ensure continued operation of these providers and account for reduced member utilization of day program services, increases in staffing, infection control, and other expenses as a result of the COVID-19 emergency. These rates were authorized in rate regulations (101 CMR 445.00: COVID-19 payment rates for certain day programs) through an emergency rate promulgation process.

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]

Strike the following language from this section, and replace it with new language in section K-2-m to align with CMS COVID-19 FAQ guidance:

~~Allow six month delay of submission of all HCBS waiver reports due during COVID-19 emergency, including CMS 372 reports.~~

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.]

Adding the following language to the end of this subsection:

The state will authorize such retainer payments for the period July 1 – July 31, 2020.

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]

Adding to this subsection the following language, to replace language being struck from section K-2-h:

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.

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: Amy
Last Name: Bernstein
Title: Director, Home and Community Based Services Waiver Administration
Agency: MassHealth
Address 1: One Ashburton Place
Address 2: 5th Floor
City: Boston
State: MA
Zip Code: 02108
Telephone: (617) 573-1751
E-mail: Amy.Bernstein@mass.gov
Fax Number: Click or tap here to enter text.

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:
Daniel Tsai
State Medicaid Director or Designee

Date:
1/29/2021

First Name: Daniel
Last Name Tsai
Title: Medicaid Director
Agency: MassHealth
Address 1: One Ashburton Place
Address 2: 11th Floor, Suite 1109
City Boston
State MA
Zip Code 02108
Telephone: (617) 573-1600
E-mail Daniel.Tsai@mass.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: Transitional Assistance/Transitional Assistance Services/Transitional Assistance-RH

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

Service Definition (Scope):

In the waivers that already include the waiver service, Transitional Assistance/ Transitional Assistance Services/ Transitional Assistance-RH:

- Frail Elder Waiver (MA.0059)
- Traumatic Brain Injury Waiver (MA.0359)
- MFP Community Living Waiver (MA.1027)
- MFP Residential Supports Waiver (MA.1028)
- ABI-Residential Habilitation Waiver (MA.40701)
- ABI-Nonresidential Habilitation Waiver (MA.40702)
- Intensive Supports Waiver (MA.0827)

Expand the scope of this service to cover assistive technology devices that enable the individual to participate in planning their transition remotely/via telehealth if necessary.

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

Phone cards and minutes will not be funded as part of these services.

Provider Specifications

Provider Category(s) <i>(check one or both):</i>	Individual. List types:	Agency. List the types of agencies:
	As specified in the approved waiver applications.	As specified in the approved waiver applications.

Specify whether the service may be provided by <i>(check each that applies):</i> As specified in the approved waiver applications.	<input type="checkbox"/>	Legally Responsible Person	<input type="checkbox"/>	Relative/Legal Guardian
---	--------------------------	----------------------------	--------------------------	-------------------------

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

As specified in the approved waiver applications.

Provider Type:	License <i>(specify)</i>	Certificate <i>(specify)</i>	Other Standard <i>(specify)</i>

Verification of Provider Qualifications As specified in the approved waiver applications.

Provider Type:	Entity Responsible for Verification:	Frequency of Verification

Service Delivery Method

Service Delivery Method <i>(check each that applies):</i>		As specified in the approved waiver applications.		



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.