

# 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.<sup>1</sup> 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: Maryland

B. Waiver Title(s): Community Pathways Waivers

C. Control Number(s):

MD.0023.R07.10

D. Type of Emergency (The state may check more than one box):

<input checked="checked" type="radio"/>	Pandemic or Epidemic
<input type="radio"/>	Natural Disaster
<input type="radio"/>	National Security Emergency
<input type="radio"/>	Environmental
<input type="radio"/>	Other (specify):

<sup>1</sup> 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.

- 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.

This Appendix K is additive to the approved Appendix K and updates temporary authorities related to residential retainer payments. Effective January 1, 2022, providers who have not accessed Appendix K retainer payments or have exhausted Appendix K retainer payments may access retainer payments as stipulated in the base 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).

- F. Proposed Effective Date: Start Date:** March 13, 2020 **Anticipated End Date:** Six (6) months after the end of the COVID-19 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 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.*

**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.]

Maryland may allow for multiple retainer payments episodes for the following services that include personal assistance when participants are not receiving planned services under either the self-directed services delivery model or the traditional services delivery model. The retainer payments will be limited to a maximum of two episodes as defined and noted below for specific services. The State confirms that retainer payments are for direct care providers who normally provide services that include habilitation and personal care, but are currently unable to due to health and safety risk; State mandates; complications experienced during the COVID-19 pandemic because the waiver participant is sick due to COVID-19; the waiver participant is sequestered and/or quarantined based on local, State, federal and/or medical requirements/orders or is staying with family/friends due to concerns of getting the virus if they remain in the residential home.

#### Traditional Service Delivery Model

1. Employment Services, Supported Employment, Community Development Services, Career Exploration, and Day Habilitation, up to two episodes, episode 1 up to 18 days and episode 2 up to 12 days (30 days total), at 80% of the rate.
2. Personal Supports, up to a maximum of 120 hours (equal to two episodes, episode 1 up to 18 days and episode 2 up to 12 days for 30 days total) within the authorized limit, unless otherwise authorized by the DDA, at 100% of the rate.
3. Community Living - Group Home up to two episodes of 30-days (60 days total) at 100% of the rate.
4. Supported Living up to two episodes, episode 1 up to 18 days and episode 2 up to 12 days (30 days total) at 100% of the rate.

#### Self-Directed Service Delivery Model

1. Employment Services, Supported Employment, Community Development Services, Career Exploration, and Day Habilitation for a maximum of 120 hours (equal to two episodes, episode 1 up to 18 days and episode 2 up to 12 days for 30 days total) unless otherwise authorized by the DDA up to 100% of the rate.
2. Personal Supports for a maximum of 120 hours (equal to two episodes, episode 1 up to 18 days and episode 2 up to 12 days for 30 days total) up to the authorized limit, unless otherwise authorized by the DDA, up to 100% of the rate.

Retainer payments will occur on a case-by-case basis when the services are directly impacted by COVID-19. Retainer payments will not be authorized when staff or provider are providing services to the participant.

The State will implement a distinguishable process to monitor payments to avoid duplication of billing. Self-Directed participants and providers must produce supporting documentation of the participant being unable to be supported, displaced, or other circumstances related to the COVID-19 pandemic, and must notify the Coordinator of Community Services, resume habilitative services, and document when the participant is back in their services.

Effective January 1, 2022, providers who have not accessed Appendix K retainer payments or have exhausted Appendix K retainer payments may access retainer payments as stipulated in the base waiver. The state has a system in place to prevent duplicative billing of retainer payments.

The Department is utilizing retainer payments for multiple episodes and will include the following guardrails:

- Collect an attestation from the provider acknowledging that retainer payments will be subject to recoupment if inappropriate billing or duplicate payments for services occurred (or in periods of disaster, duplicate uses of available funding streams), as identified in a state or federal audit or any other authorized third party review. Note that “duplicate uses of available funding streams” means using more than one funding stream for the same purpose.
- Require an attestation from the provider that it will not lay off staff, and will maintain wages at existing levels.
- Require an attestation from the provider that they had not received funding from any other sources, including but not limited to unemployment benefits and Small Business Administration loans, that would exceed their revenue for the last full quarter prior to the PHE, or that the retainer payments at the level provided by the state would not result in their revenue exceeding that of the quarter prior to the PHE.
  - If a provider had not already received revenues in excess of the pre-PHE level but receipt of the retainer payment in addition to those prior sources of funding results in the provider exceeding the pre-PHE level, any retainer payment amounts in excess would be recouped.
  - If a provider had already received revenues in excess of the pre-PHE level, retainer payments are not available.

## Contact Person(s)

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

<b>First Name :</b>	Marlana
<b>Last Name</b>	Hutchinson
<b>Title:</b>	Director of Office of Long Term Services and Supports
<b>Agency:</b>	Maryland Department of Health (MDH)
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<b>Telephone:</b>	410-767-1443
<b>E-mail</b>	<a href="mailto:Marlana.hutchinson@maryland.gov">Marlana.hutchinson@maryland.gov</a>
<b>Fax Number</b>	410-333-6547

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

<b>First Name :</b>	Rhonda
<b>Last Name</b>	Workman
<b>Title:</b>	Director of Federal Programs and Integrity
<b>Agency:</b>	MDH Developmental Disabilities Administration
<b>Address 1:</b>	201 West Preston Street
<b>Address 2:</b>	Click or tap here to enter text.
<b>City</b>	Baltimore
<b>State</b>	Maryland
<b>Zip Code</b>	21201
<b>Telephone:</b>	443-226-1539
<b>E-mail</b>	<a href="mailto:Rhonda.workman@maryland.gov">Rhonda.workman@maryland.gov</a>
<b>Fax Number</b>	Click or tap here to enter text.

## 8. Authorized Signature

<b>Signature:</b> /S/	<b>Date:</b> 3/8/2023
State Medicaid Director or Designee	

<b>First Name:</b>	Tricia
<b>Last Name</b>	Roddy
<b>Title:</b>	Deputy Medicaid Director
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