

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: MAINE

B. Waiver Title:

Home and Community Based Services for Members with Brain Injury (ME 1082), the Elderly and for Adults with Disabilities (ME 0276), the Home and Community Based Services for Adults with Other Related Conditions (ME 0995), the Home and Community Based Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder (ME 0159), and the Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder (ME0467)

C. Control Number:

ME.1082.R01.08
ME.0276.R05.08
ME.0995.R01.10
ME.0159.R06.05
ME.0467.R02.09

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.

On March 13, 2020, the President of the United States declared the 2019 coronavirus (COVID-19) a nationwide emergency pursuant to Sec 501(b) of the Stafford Act. On March 15, 2020 Governor Janet Mills declared a civil state of emergency in Maine. The five approved 1915(c) waivers serve some of the most vulnerable individuals within the State of Maine. Several conditions/factors/variables present increased risk to this population including underlying health conditions, congregate housing within residential settings, and difficulty engaging in social distancing mandates due to reliance on support from staff and others for basic needs and to follow infection control procedures. Potential increased workforce shortages resulting from illness of frontline care staff and/or family caregivers will surely lead to greater crisis for the served population. Maine seeks temporary changes to the five aforementioned waivers to mitigate the current risks, to allow flexibility in service delivery systems, and to ultimately ensure that participant health and safety needs are accommodated throughout the state of emergency.

Maine is experiencing a significant shortage of direct support workers (DSWs) across all of its Medicaid HCBS programs. In this additive submission, Maine seeks to improve an HCBS system that has been tested and strained by the pandemic by stabilizing the workforce through immediate allocation of authorized funds under section 9817 of the American Rescue Plan Act of 2021 (ARP) for supplemental payments to providers to fund recruitment and retention bonuses to new and existing HCBS DSWs and their immediate supervisors. Additionally, Maine seeks approval in order to implement rate adjustments associated with its investment in certain Home Support services under ME.1082 and ME.0995 and Community Support Center-Based Service under ME.0995. In addition, Maine seeks funding to increase the rate for Community Support Center-Based Service under ME.0995 to equal the rate for the same service delivered to members under ME.0159 and ME.0467.

F. Proposed Effective Date: Start Date: March 1, 2020 Anticipated End Date: Six months after the conclusion the federal Public Health Emergency.

G. Description of Transition Plan.

All transition 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 waivers to all individuals impacted by the COVID-19 virus.

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

Maine's State Disaster Plan (called the State Comprehensive Emergency Management Plan) is maintained by the Maine Emergency Management Agency and can be found here:
<https://www.maine.gov/mema/maine-prepares/plans-trainings-exercises/planning>

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]

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].

Section 9817 of the ARP funding enables funding of temporary increases to certain reimbursement rates, as described in Section E, above. The rates for certain Home Support services (in ME.0995 and ME.1082) are increased retroactive to April 1, 2021 to reflect the Section 18, Home and Community-Based Services for Adults with Brain Injury and Section 20, Home and Community Based Services for Adults with Other Related Conditions rate models prepared by Burns & Associates in 2020. The reimbursement rates are increased by the percentage increases outlined in the table below to ensure that rates are adequate to support appropriate service delivery during the Public Health Emergency.

SERVICE TITLE	TEMPORARILY INCREASED RATE	UNIT	Waiver	% Increase
Home Support Per Diem (2-4 Beds)	\$410.48	Day	ME.0995	42.6%
Home Support Per Diem (5-6 Beds)	\$372.51	Day	ME.0995	29.4%
Home Support Level II (2-4 Beds)	\$381.96	Day	ME.1082	26.7%
Home Support Level II (5-8 Beds)	\$306.94	Day	ME.1082	1.8%
Home Support Level III (2-4 Beds)	\$527.84	Day	ME.1082	7.8%

The additional investment with 9817 funds also enables a temporary 22.5% increase to Community Support Services within ME.0995 to match the rate for the same services delivered to Members in ME.1059 and ME.0467, as outlined below, effective July 1, 2021. This temporary increase ensures consistency and equity in the reimbursement for Community Support (Day Habilitation) across waivers and provides additional support in this time of direct care worker shortage due to the Public Health Emergency.

SERVICE TITLE	TEMPORARILY INCREASED RATE	UNIT	Waiver	% Increase
Community Support (Day Habilitation)	\$6.53	¼ hr.	ME.0995	22.5%

The State may make supplemental payments to qualified Provider Agencies delivering services under ME.1082, ME.0995, ME.0276, ME.0159, and ME.0467. The supplemental payment will be based on 10% of CY 2019 claims, or a more recent 12 contiguous months of claims if an HCBS provider did not have 12 months of claims in CY 2019. The Provider Agencies will utilize these payments to make bonus payments to new and existing HCBS DWs and their Immediate Supervisors who provide HCBS. Provider agencies will be responsible for following the requirements set forth in Guidance to HCBS Providers Regarding Recruitment and Retention Bonuses for Direct Support Workers Under Maine's HCBS FMAP Initial Plan including ensuring that expenditures of payments meet the following requirements:

1. At least 80% of the supplemental payment must be spent on Bonus Payments to Existing DSWs and Existing Immediate Supervisors and recruitment bonus payments to New DSWs and New Immediate Supervisors. The remaining 20% must be spent or set aside for the Provider Agency's associated costs of administering Bonus Payments or on the Bonus Payments themselves;
2. The Bonus Payments must be paid to staff by Provider Agencies between July 1, 2021 and March 31, 2022;

3. Supplemental payments under this initiative may not be used to pay bonuses to or otherwise supplement the income of a Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Chief Clinical Officer, Chief Medical Officer, or equivalent Provider Agency leadership position; and

4. Each Provider Agency must adopt a brief written Bonus Payment policy that outlines the rationale and amount of Bonus Payments and disseminate the policy to their employees.

Additionally, qualified providers must submit to the State a signed attestation form including the following:

1. At least 80% of the supplemental payment will be spent on bonus payments to Existing DSWs and Existing Immediate Supervisors and recruitment bonus payments to New DSWs and New Immediate Supervisors as defined in this guidance;

2. The individuals are employees or were employees at the time the bonuses were paid;

3. The Provider Agency has paid the bonus between July 1, 2021 and March 31, 2022;

4. The average weekly hours reported for each employee is accurate and based on actual paid hours during the eligible period;

5. The Provider Agency agrees to provide a report to the Department by March 31, 2022 that provides employee-level details as specified by the Department on a form provided by the Department;

6. The Provider Agency understands that the expenditures it makes under this initiative are subject to audit at the Department's discretion or from CMS, and payments made contrary to guidance are subject to recoupment by the Department;

7. The Provider Agency acknowledges that it must retain, maintain, and make available to a state or federal audit authority, or any other authorized third-party reviewer upon request, copies of all documentation related to expenditures made under this initiative, including but not limited to personnel records, MaineCare claims data, and provider agency financial data in accordance with MBM, Ch I, Section 1, General Administrative Policies and Procedures;

8. The Provider Agency understands that misrepresentation or falsification of any information contained on the submission for payment form may be punishable by fine and/or imprisonment under state or federal law;

9. The Provider Agency certifies, to the best of its knowledge, that any information provided to the Department regarding this initiative, including the report due on 3/31/22, is a true, correct, and complete statement prepared from the books and records of the Provider Agency as of the date signed; and

10. The individual submitting this form is authorized to make these representations on behalf of the Provider Agency.

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]

Contact Person(s)

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

First Name: Thomas
Last Name Leet
Title: Long Term Services and Supports Manager
Agency: Office of MaineCare Services
Address 1: 109 Capitol St
Address 2: Click or tap here to enter text.
City Augusta
State ME
Zip Code 04333
Telephone: 207.624.4068
E-mail Thomas.leet@maine.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:

Date: 11/2/21

/S/

State Medicaid Director or Designee

First Name:	Michelle
Last Name	Probert
Title:	Director
Agency:	Office of MaineCare Services
Address 1:	109 Capitol Street
Address 2:	Click or tap here to enter text.
City	Augusta
State	ME
Zip Code	04333
Telephone:	207.287.2093
E-mail	Michelle.probert@maine.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 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:					
Provider Specifications					
Provider Category(s) (check one or both):	<input type="checkbox"/>	Individual. List types:		<input type="checkbox"/>	Agency. List the types of agencies:
Specify whether the service may be provided by (check each that applies):		<input type="checkbox"/>	Legally Responsible Person	<input type="checkbox"/>	Relative/Legal Guardian
Provider Qualifications (provide the following information for each type of provider):					
Provider Type:	License (specify)	Certificate (specify)	Other Standard (specify)		
Department approved provider agency					
Verification of Provider Qualifications					
Provider Type:	Entity Responsible for Verification:		Frequency of Verification		
Service Delivery Method					
Service Delivery Method (check each that applies):	<input type="checkbox"/>	Participant-directed as specified in Appendix E		<input type="checkbox"/>	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.