

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 Adults with Other Related Conditions (ME 0995),
Home and Community Based Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder (ME 0159), and
Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder (ME0467)

C. Control Number:

ME.0995.R01.09
ME.0159.R07.05
ME.0467.R02.08

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

<input 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):

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 three of the 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.

The pandemic has impacted the delivery of Community Support Services to MaineCare participants. In this additive submission, effective July 1, 2021, Maine seeks to enhance Community Support Services and add a newly developed service, *Community Membership*, in ME 0467, ME 0995, and ME.0159 to support individualized needs and expand the use of Community Supports during the Public Health Emergency more broadly. These changes relate to disaster relief to alleviate beneficiaries' fears of returning to congregate settings and provide more options of service delivery to aid reintegration into the community with rate increases to address the smaller ratios for community integration.

F. Proposed Effective Date: Start Date: March 1, 2020 with 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. 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]

Effective July 1, 2021:

ME.0467

The state is expanding the service description and scope of Community Supports through the addition of Community Membership services.

To expand the provision of and access to Community Supports and Community Membership in the immediate, the state is adding two new service tiers as standalone services during the Public Health Emergency. The two community-only options with ratios of either 1:1 or 1:2, collectively called “Community Membership” Services, are being offered to support individualized needs more broadly during the pandemic and offer immediate relief for participants who have experienced feeling isolated as a direct result of social distancing mandates and/or workforce shortages due to the pandemic. Community Membership services occur only in community settings and not in a provider owned or controlled setting.

The end date for Community Membership within ME.0467 is the end of the approved Appendix K federal authority period, or upon promulgation of the MaineCare Benefits Manual Section 29 (<https://www.maine.gov/sos/cec/rules/10/ch101.htm>) rule through the state's prescribed APA rulemaking process as outlined in the state’s approved 1915(c) waiver application, whichever comes sooner.

The end date for Community Membership within ME.0159 and ME.0995 is the end of the approved Appendix K federal authority period, or upon CMS approval of a separate 1915(c) waiver amendment involving these specific services followed by promulgation of the applicable MaineCare Benefits Manual rule through the state's prescribed APA rulemaking process as outlined in the state’s approved 1915(c) waiver application, whichever comes sooner.

iii. X **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).**

Effective July 1, 2021:

ME 0995, ME 0159, and ME 0467

The state is adding a new opportunity for expansion of and access to community settings:

Community Membership. Community Membership includes two delivery options; Individual and Group with 1:1 and 1:2 staffing ratios respectively.

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].

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. X 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]

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 timeframe in ensuing reports due to the circumstances of the pandemic.

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 Thomast.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:

_____/S/_____
State Medicaid Director or Designee

5/25/2021

First Name: *Michelle*
Last Name *Probert*
Title: Director
Agency: Office of MaineCare Services
Address 1: Click or tap here to enter text.
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 Title:	Community Membership
<i>Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:</i>	
Service Definition (Scope):	

Community Membership promotes community inclusion and may support a participant on the pathway to employment. Community inclusion is the intentional process of connecting HCBS waiver participants to their families and other members of their community of choice; identifying natural supports; and promoting relationship development, contribution and reciprocity such that participants can be actively engaged in and valued members of their community of choice.

The purpose of the service is to increase or maintain a participant's ability to successfully engage in inclusive social and community relationships in their own community and to maintain and develop skills that support their health and well-being. While the focus of the service is community inclusion, the participant may also receive support to increase personal development and daily living skills if necessary.

Community Membership offers two methods of service delivery: Community-Only Individual and Community-Only Group, to support individualized needs more broadly within and from the community in which participants live. Through the Person-Centered Planning process, a participant will request prior authorization for Community Membership (Individual or Group as defined below). The service plan must clearly identify the amount, frequency, and type of service (Community Membership, 1:1 or Community Membership, 1:2). Participants will retain options for center-based services at times when they are not receiving this service as currently outlined in rule and waiver.

Community Membership service options are as follows:

- a. Individual – services provided by one staff to one participant at a time (1:1)
- b. Group – services provided by one staff to two participants at a time (1:2)

The participant selects the specific days/week that they want to receive Community Support/Community Membership. The chosen provider completes an individualized weekly schedule reflective of the participant's desires, in which the participant receives no more than one option for Community Support/Community Membership each day. The case manager must submit this individualized weekly schedule as part of the authorization process. The Department will ensure that the tool is made available to all providers of Community Support.

Standards/Expectations for Community Membership

1) Community Membership is intended to be flexible, responsive, and reflective of the participant's choices and needs, including access to non-disability-specific community settings, as documented in the member's person-centered plan.

2) Community Membership must have a community component that is individualized and based upon informed choice of each participant. Services are provided to develop positive social roles in the participant's own community. Participation in activities could include volunteering, learning new skills, accessing community events and businesses, increasing health and wellness, developing and enhancing relationships with others, and developing citizenship skills. This service will be based on a process where the participant explores and discovers their interests and finds places in their community where they can become involved, which leads to the development of new natural supports, relationships and connections in that community. The activities the participant selects shall support the acquisition of new skills, self-determination, the development of relationships, community integration, employment exploration, and community contribution in the participant's own community.

3) Community Membership allows for Supported Retirement as an activity for older participants who have identified their desire to access meaningful retirement activities in their communities as documented in their person-centered plan. This might involve altering schedules to allow for more rest time throughout the day

and/or support to participate in hobbies, clubs, or other related activities with other participants of their communities.

4) Community Membership allows for career exploration to promote the benefits of working and to facilitate discussion regarding competitive integrated employment opportunities. Activities and services related to work should be relevant to identifying a participant's employment interests, individual strengths as related to employment, employment goals, and the conditions for success. Use of Job Clubs, business tours, soft skill building curriculums, volunteer opportunities, and skill building all are allowable under Community Membership to assist the member on a path to employment.

This service is distinct from Employment Services such as Work Support, or Employment Specialist but can assist the member with the acquisition of employment related skills to explore and be prepared for employment. This service must be documented in a participant's person-centered plan. The member may also receive Work Support, Career Planning, Employment Specialist services under the waiver once employed in Competitive Integrated Employment.

Documentation is maintained in the file of each individual receiving this service that the service is not available under a program funded under section 110 of the Rehabilitation Act of 1973 or IDEA.

5) Community Membership can be provided in general community places of the participant's choosing, physically accessible to the participant, and must:

a) Meet the requirements outlined within the HCB settings rule.

6) Community Membership focuses on ensuring no barriers to full community membership and employment. It promotes the following:

a) Employment as the first and preferred service or support;

b) Community Membership promotes individual's engagement on the pathway to employment;

c) Community Membership must be integrated and support community membership; and

d) The three options for service delivery incentivize time that a member spends in integrated community spaces to support relationship building that builds social networks towards employment and increased safety and wellbeing along with other social determinates.

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

A participant may not receive Community Membership while enrolled in high school. Community Membership cannot be provided in the member's place of employment. Community Membership takes place in a non-residential setting, separate from the participant's private residence or other residential living arrangement. This service cannot originate or terminate at a provider's enrolled service location. Community Membership may not be provided in a Private Non-Medical Institution, Residential Home, Agency Group Home, or any institutional setting. The use of telehealth is not permitted in delivering this service.

The rate structure for Community Membership Services, in addition to the currently approved rate structure for Community Support services, is as follows:

- a) Community Membership - Individual \$11.20/ ¼ hr.
- b) Community Membership - Group \$7.13/ ¼ hr.

The cost of transportation related to the provision of Community Membership is a component of the rate paid for the service and is not separately billable.

The rate is based on a comprehensive rate study conducted by Burns and Associates in 2020 and assumes a minimum hourly salary for the Direct Support Professional of \$14.76.

Community Membership will be included in the pre-existing combined limit for Community Support.

Provider Category(s) (check one or both):	<input type="checkbox"/>	Individual. List types:	<input checked="" 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)		

<p>Direct Support Professional</p>		<p>All staff receive certification as a Direct Support Professional evidenced by:</p> <ol style="list-style-type: none"> 1) Assessment of prior learning prior to 7/1/2010; or 2) Successful completion of the Maine College of Direct Support. 	<p>Provider Agency must have:</p> <ul style="list-style-type: none"> *Completed the enrollment process for the "Maine Integrated Health Management System" (MIHMS). *Received additional approval from OADS for provision of waiver services as required in MIHMS. * Have developed a transportation plan that leverages public and private transportation providers, and provider-owned transportation resources <p>Provider Agency must assure the following for individual DSP's:</p> <ul style="list-style-type: none"> * Minimum age of 18 * DSP's must successfully complete the "Maine College of Direct Support" program. * Reportable Events System (14-197 C.M.R. ch 12) and Adult Protective Services System (14-197, Ch. 12) * Regulations Governing Behavioral Support, Modification and Management for People with Intellectual Disabilities or Autism in Maine (14-197, C.M.R. ch 5) * Rights and Basic Protections of a Person with an Intellectual Disability or Autism (Title 34-B M.R.S. §5605) * DSP's must receive training within 90 days on the federal HCBS Rule requirements and department-approved Community Membership training. * DSP's must have current First Aid and CPR Certification. * DSP's must have a criminal background check. * DSP's must have an adult and child protective record check. * DSP's must have a valid Driver's license. <p>Community Supports/Day Habilitation providers must also demonstrate:</p> <ul style="list-style-type: none"> •Ability and capacity to offer members regular (daily) opportunities to access the broader community. •Use of an individualized service planning process that ensures individual member goals are identified and used to guide service
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			delivery and opportunities offered both in the facility and in the broader community. •The Direct Support Professional (DSP) is trained on: (1) how to identify an individual's personal interests, strengths and goals; (2) how to identify, in a person's local and/or nearby community, opportunities for community participation and involvement that align with an individual's personal interests, strengths and goals. This includes how to identify opportunities, in a person's local and/or nearby community, to meet and engage with members of the broader community who in some way share the person's interests, strengths and goals; (3) how to provide respectful and effective support for the individual to assume valued social roles in his/her community, and for the individual to form positive relationships with members of the broader community.		
Verification of Provider Qualifications					
Provider Type:		Entity Responsible for Verification:		Frequency of Verification	
OADS approved Agency		OADS		Annual verification	
Service Delivery Method <i>(check each that applies):</i>			Participant-directed as specified in Appendix E	X	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.