

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 Brain Injury (ME 1082),
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.1082.R01.06
ME.0995.R01.08
ME.0159.R07.04
ME.0467.R02.07

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 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.

In this additive submission, Maine will permit retroactive retainer payments to providers of select service within the following four waivers: ME 1082, ME 0995, ME 0159, and ME 0467. Retainer payments will be available for October, November, December 2020, to best support providers experiencing revenue loss.

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 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).

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. 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.]

ME 1082, ME 0995, ME 0159, ME 0467

The State may make retainer payments to providers of all the identified services, listed below, that are personal care services or include personal care as a service component, to provide relief and mitigate risk of agency closures due to revenue losses when identified services were not available onsite and not delivered via telehealth, limited due to decreased capacity, or due to closures and/or state directives due to COVID. The State is choosing to utilize multiple 30-day retainer payment periods, limited to three. Each episode of retainer payments may not exceed 30 days. Retainer payments will be made based upon the average monthly payment amount made to the provider over a pre-COVID, retrospective three-month period for the months of October, November, and December 2019 compared to what providers billed during those same months during calendar year 2020 of the pandemic. Providers may be eligible for three retainer payment periods based upon the comparison of each month with the corresponding month the previous year. Providers will receive up to 100% percent of the difference for each month in 2020.

Subject to specified conditions, the State will implement retainer payments for the following services which include components of personal care:

Section 18 (ME 1082)

Career Planning
Work Support
Work Ordered Day Clubhouse
Employment Specialist Services

Section 20 (ME 0995)

Community Support
Work Support
Career Planning
Employment Specialist Services

Section 21 (ME 0159)

Work Support
Career Planning
Employment Specialist Services
Community Support

Section 29 (ME 0467) Work Support

Career Planning
Employment Specialist Services
Community Support

Retainer payments are subject to several controls and providers must attest to these controls prior to submitting a claim for a retainer payment.

The providers must submit to the State a signed attestation form including the following:

- 1) The provider acknowledges that retainer payments will be subject to recoupment if inappropriate billing or duplicate payments for services occurred or duplicate uses of available funding streams, as identified in a state or federal audit or any other authorized third-party review.
- 2) The provider did not engage in any inappropriate billing or submit a claim for duplicate payments for services provided.

- 3) The retainer payment does not exceed the payment for the relevant service.
- 4) Beginning on March 1, 2020 and continuing throughout the duration of the Appendix K period, the provider did not lay off staff and maintained wages at existing levels.
- 5) The provider did not receive any 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.
- 6) The provider acknowledges that 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.
- 7) The provider acknowledges that they have already received revenues in excess of the pre-PHE level, retainer payments are not available.

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 Thomast.leet@maine.gov
Fax Number Click or tap here to enter text.

8. Authorizing Signature

Signature:

Date: 5/25/2021

_____/S/_____
State Medicaid Director or Designee

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.

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.