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: **Nebraska**

B. Waiver Title: Traumatic Brain Injury

C. Control Number: NE.40199.R04.01

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

X	**Pandemic or Epidemic**
O	**Natural Disaster**
O	**National Security Emergency**
O	**Environmental**
O	**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.

1) Nature of emergency
In December 2019, an outbreak of COVID-19 caused by a novel coronavirus began in Wuhan, China. As of March 2020, cases of COVID-19 have been detected in 90 locations internationally, including the US. On January 30, 2020, the World Health Organization (WHO) declared the outbreak a public health emergency of international concern, and on January 31, 2020, the US Health and Human Services Secretary declared a public health emergency in the US and on March 11, 2020, the World Health Organization has declared the coronavirus outbreak a pandemic. On March 6, 2020, the first confirmed case of COVID-19 was identified in Nebraska. People who are aged or disable are at higher risk of serious illness if they contract this virus, and the CDC has recommended that

those at higher risk of serious illness take action to avoid contracting the virus, including avoiding crowds and staying home as much as possible.

2) Participants, providers, and their families are affected. As of March 6, 2020, Nebraska DHHS Division of Public Health and local public health departments have advised those who contacted the first person diagnosed with the virus to self-quarantine or follow the CDC guidelines for those who are aged or have disabilities for 14 calendar days. This waiver amendment is applicable to all participants at risk of exposure. Participants of the TBI waiver are at high risk of serious illness.
3) As of March 19, 2020 the 23rd case of COVID-19 was reported to DHHS. The second case through community contact was confirmed. Many assisted living facilities have closed their doors to visitors, schools have canceled classes, and the University of Nebraska will move to on-line education for the remainder of the semester.
4) Roles of state, local, and other entities involved in approved waiver operations are defined in Appendix A in section A-1 and 2.
5) Expected changes needed to the service delivery methods:
   For anyone affected by the potential outbreak of COVID-19, recommended closures, and quarantines due to potential exposure, or for those following the CDC guidelines for those who are aged or disabled, the Nebraska Department of Health and Human Services Division of Medicaid and Long Term Care will:
   - Allow the services in alternative sites to be authorized and delivered prior to updating the participant's service plan;
   - Allow modifications to person-centered service planning;
   - Allow Assisted Living services to be provided in another Skilled Nursing Facility or Assisted Living Facility during a relocation while seeking a new residence, or waiting to return to their Assisted Living;
   - Provide for flexibility to raise rates.
   - Level of Care (LOC) assessments may be conducted by the telephone or by electronic means in accordance with HIPPA requirements.
   - Delay the annual Level of Care (LOC) re-assessment requirement, when the Service Coordinator cannot complete the re-assessment by phone or by electronic means in accordance with HIPPA requirements;
   - Allow for monthly contact to occur via telephone or other electronic means in accordance with HIPPA requirements;
   - Remove the requirement for quarterly face-to-face contact;
   - A reduction in non-essential transportation and community inclusion for participants residing at Assisted Living Facilities;
   - If AD Waiver services are not used during the time of the COVID-19 community response, the Service Coordination will continue and the individual will remain eligible for the TBI waiver unless the participant dies, moves, or request the case to close.

   The state is requesting immediate implementation to avoid any adverse effect on participants' health and safety and providers' capacity to deliver services. Affected participants will be allowed to receive waiver services modified as defined below until the need to close day sites, quarantine, or follow the CDC guidelines for people who are aged or disabled has passed. The projected timeline is from 3/6/2020 through 9/6/2020.

F. Proposed Effective Date: Start Date: 03/06/2020 Anticipated End Date: 09/06/2020

G. Description of Transition Plan.

H. Geographic Areas Affected:

Community spread is expected to become statewide

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

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]

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. _x_ 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]:

Assisted Living Facilities, services may be provided in another Skilled Nursing Facility or Assisted Living Facility during a relocation.

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. _x_ 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.]

Staffing for Assisted Living Facilities that relocated to another facility may be provided by the temporary location to allow participant to receive services in a safe and accessible environment, as long as the participant's needs are still being met. Allowed temporary locations include hotels, shelters, schools, churches, or local health department designated areas for displaced families. A reduction in non-essential transportation, community inclusion, and visitors will occur if the individual Assisted Living Facilities chose to limit these services to avoid risk of exposure to viruses.

State settings initial and annual reviews for the HCBS Final Rule will be reviewed through a phone call with the administrator/director/owner and outcomes will be addressed via telephone, e-mail or mail. The on-site assessment will be scheduled with the setting when local or facility restrictions allow.

e. _X_ Temporarily modify processes for level of care evaluations or re-evaluations (within regulatory requirements). [Describe]

The initial Level of Care (LOC) assessments may be conducted by the telephone, or by electronic means in accordance with HIPAA requirements. The LOC will be reviewed upon the next available face to face evaluation to ensure the participant's needs are correctly documented.

The annual Level of Care (LOC) re-assessment requirements will be delayed for participants in which Service Coordinators cannot complete the re-assessment by phone, or electronic means in accordance with HIPAA requirements. The Service Coordinator will document, as applicable, the alternative method of completing the LOC re-assessment. The LOC will be reviewed upon the next face to face evaluation to ensure the participant's needs are correctly documented.

The LOC re-assessment will not be extended more than 9 months from the original due date.

Additionally, the monthly contact will be allowed to occur via telephone or other electronic means in accordance with HIPAA requirements. The requirement for quarterly face-to-face contact will be removed.

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].

During the emergency period and not to extend past the end date of this Appendix K amendment, there will be flexibility to raise rates not to exceed 15%

g. _X_ 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.]

Person-Centered Service Plans that are due to expire within the next 60 days require case management contact to the participant using allowable remote contact methods to verify with the participant or representative that the current assessment and services, including providers, remain acceptable and approvable for the upcoming year. The state will verify by obtaining electronic signatures/or electronic verifications via secure email consent from service providers and the individual or representative, in accordance with the state's HIPAA requirements.

The state will ensure the service plan is modified to allow for additional supports and or services to respond to the COVID-19 pandemic. The specificity of such services including amount, duration and scope will be appended as soon as possible to ensure that the specific service is delineated accordingly to the date it began to be received. The care coordinator must submit the request for additional supports/services no later than 30 days from the date the service begins.

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. _x_ 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.]

In a scenario where the participant had to be relocated from an assisted living facility and was placed temporarily in a Hospital or Skilled Nursing Facility, but was not formally admitted as an institutional patient, assisted living waiver services may be provided in the institutional setting. Room and board is excluded. The Assisted Living Facilities have arrangements related to delivering services and billing practices to ensure services are still provided to the individuals in the temporary setting. A reduction in assistance with bathing and transportation is expected dependent on staffing levels.

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:	Carisa
Last Name	Schweitzer Masek
Title:	Deputy Director, Division of Medicaid and Long-Term Care
Agency:	Nebraska Department of Health and Human Services
Address 1:	P.O. Box 95026
Address 2:	301 Centennial Mall South
City	Lincoln
State	NE
Zip Code	68509-8947
Telephone:	402-471-7514
E-mail	Carisa.SchweitzerMasek@Nebraska.gov
Fax Number	402-471-9092

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

First Name:	
Last Name	
Title:	
Agency:	
Address 1:	
Address 2:	
City	
State	
Zip Code	
Telephone:	
E-mail	DHHS.MedicaidSPA@nebraska.gov
Fax Number	

8. Authorizing Signature

Signature: **/S/**
State Medicaid Director or Designee

Date:	**March 31, 2020**

First Name:	Jeremy
Last Name	Brunssen
Title:	Interim Director, Division of Medicaid and Long-Term Care
Agency:	Nebraska Department of Health and Human Services
Address 1:	P.O. Box 95026
Address 2:	301 Centennial Mall South
City	Lincoln
State	NE
Zip Code	68509-5026
Telephone:	402-471-2135
E-mail	Jeremy.Brunssen@Nebraska.gov
Fax Number	402-471-9092

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:	**Assisted Living Service**

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

Service Definition (Scope)**:**

Assisted Living services are provided for participants with a medical diagnosis of a traumatic brain injury in a homelike, non-institutional setting and include personal care and supportive services. This includes 24-hour response capability to meet scheduled or unpredictable client needs and to provide supervision, safety, and security.

The following services are available to the participant: medication administration, transportation, escort services, activities, essential shopping, housekeeping services, laundry services, and personal care services. A reduction in non-essential transportation may occur during the time of quarantine and not to extend past the end date of this Appendix K amendment or following the CDC guidelines for people who are aged or disable and participants due to high risk of serious illness.

Escort service is accompanying or physically assisting a client who resides in an assisted living facility who is unable to access medical care without supervision or assistance. The social and recreational programming may be limited during the time of quarantine and not to extend past the end date of this Appendix K amendment or following the CDC guidelines for people who are aged or disable and participants due to high risk of serious illness.

Activities are social and recreational programming.

Nursing and skilled therapy services are incidental, rather than integral to the provision of assisted living services. Payment is not made for 24-hour skilled care. Federal Financial Participation is not available for room and board, items of comfort or convenience, or the costs of facility maintenance, upkeep, and improvement. The methodology by which the costs of room and board are excluded from payments for assisted living service is described in Appendix I-5.

No therapies are included in the assisted living service.

Assisted living includes the provision of personal care services and additional billing for personal care services are not allowed. This is prevented by review and approval of all waiver claims. When a client's residence is noted as Assisted Living any claims for personal care are denied.
Relatives/guardians who provide assisted living services are either employees of a licensed assisted living facility or are the owner of a licensed assisted living facility.

Assisted Living Services may be provided in alternative settings such as nursing facilities and hospitals for individuals affected in identified counties or situations where provider owned or controlled residential settings are impacted following CDC and local community guidelines for people who are aged or disabled and participants due to high risk of serious illness.

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

- The unit of service is billed at a daily rate.
- The Assisted Living Services rate includes the provision of five roundtrip medical transportation trips. If the client's service plan reflects the need for more medical transportation, it may be authorized outside of the assisted living service payment, as a state plan Medicaid service. The Assisted Living service does not include medical transportation in excess of 50 miles roundtrip. This also is authorized as a state plan Medicaid service. A reduction in non-essential transportation may occur during the time of quarantine and not to extend past the end date of this Appendix K amendment or following the CDC guidelines for people who are aged or disable and participants due to high risk of serious illness.
- The daily rate for each participant is comprehensive and not based on individual services used or not used. The rate is not adjusted and does not depend upon what the individual actually receives. Components may not be billed separately if not all are provided.
- In a scenario where the participant had to be evacuated from an assisted living facility and was placed temporarily in a Hospital or Skilled Nursing Facility, but was not formally admitted as an institutional patient, assisted living waiver services may be provided in the institutional settingwhile seeking a new residence, waiting to return to their primary residence, or waiting to return to the Assisted Living. Room and board is excluded. The Assisted Livings have arrangements related to delivering services and billing practices to ensure services are still provided to the individuals in the temporary setting. A reduction in bathing and transportation is expected dependent on staffing levels.

Provider Specifications

Provider Category(s) *(check one or both)*:	■	Individual. List types:	■	Agency. List the types of agencies:
	Assisted Living Facility			

Specify whether the service may be provided by *(check each that applies):*	☐	Legally Responsible Person	☑	Relative	☑	Legal Guardian

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

Provider Type:	License *(specify)*	Certificate *(specify)*	Other Standard *(specify)*
Assisted Living Facility	Provider must be licensed as an Assisted Living Facility by the Nebraska Department of Health and Human Services Division of Public Health. The licensure regulations are found at 175 NAC 4.	N/A	Providers must: These items required in a Assisted Living Facility are not required during the temporary stay at a Hospital or Nursing Facility: *Provide a private living unit with bath consisting of a toilet and sink *Supply normal, daily personal hygiene items including, at a minimum, soap, shampoo, toilet paper, facial tissue, laundry soap and dental hygiene products *Provide essential furniture *Ensure that Provider qualifications for persons administering medications in an assisted living facility as referenced in the Assisted Living Facility licensing regulations (175 NAC 4).

Verification of Provider Qualifications

Provider Type:	Entity Responsible for Verification:	Frequency of Verification
Assisted Living Facility	Provider qualifications are verified by contracted resource developers or DHHS staff.	Provider qualifications are verified on an annual basis.

Service Delivery Method				
Service Delivery Method *(check each that applies)*:	☐	Participant-directed as specified in Appendix E	☑	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.