

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.¹ 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: New Hampshire (NH)

B. Waiver Title(s):

Developmental Disabilities (DD) Waiver Acquired Brain Disorder (ABD) Waiver In Home Supports (IHS) Waiver for Children with Developmental Disabilities
--

C. Control Number(s):

NH.0053.R07.03 – Developmental Disabilities Waiver NH.4177.R06.03 – Acquired Brain Disorder Waiver NH.0397.R04.02 – In Home Supports Waiver for Children with Developmental Disabilities
--

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.

The purpose of this amendment is to add an additional service code to allow for the distribution of authorized funds (under section 9817 of the American Rescue Plan Act of 2021 (ARP) for supplemental payments to providers via the NH Home and Community Based Services (HCBS) Supplemental Recruitment, Retention & Training Payments for HCBS) to providers of DD, ABD and IHS Waiver *Service Coordination* services. This submission is additive to those service codes previously approved.

This amendment will apply Waiver-wide for each waiver included in this Appendix.

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. The four approved 1915(c) waivers serve some of the most vulnerable individuals within the State of New Hampshire. Several conditions/factors/variables present increased risk to this population including underlying health conditions, shared 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. New Hampshire seeks temporary changes to the four aforementioned waivers to mitigate the current risks, to allow flexibility in service delivery systems and to ensure ultimately that participant health and safety needs are accommodated throughout the state of emergency.

New Hampshire is experiencing a significant shortage of direct support workers (DSWs) across all of its Medicaid HCBS programs. The State seeks to improve the 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) to provide directed payments to providers to fund recruitment, retention and training payments to new and existing HCBS DSWs and their immediate supervisors.

F. Proposed Effective Date: Start Date: March 1, 2020 **Anticipated End Date:** No later than six (6) months after the expiration of the Public Health Emergency (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:*

New Hampshire's State Emergency Plan and COVID-19 Interactive Dashboard can be found at:
<https://www.nh.gov/covid19/>

New Hampshire's Declaration of State of Emergency:
<https://www.governor.nh.gov/news-media/orders-2020/documents/2020-04.pdf>

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. ___ 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]

New Hampshire (NH) operationalizes the allocation of authorized funds under section 9817 of the American Rescue Plan Act of 2021 (ARP) for additional payments to providers via the New Hampshire Home and Community Based Services (HCBS) Recruitment, Retention & Training Payment Program (RRTPP).

Bureau of Developmental Services, Developmental Disabilities (DD), Acquired Brain Disorder (ABD) and In Home Supports (IHS) Waivers:

1. NH HCBS RRTPP funds will be allocated and paid to the Developmental Services system by 6/30/22, upon approval of the Appendix K and the Disaster State Plan Amendment. The Disaster State Plan Amendment is required for the DLTSS State Plan Targeted Case Management providers, some of which are the same providers as the Appendix K. NH will pay them all at the same time. Distribution of funds to providers of DD, ABD and IHS HCBS was determined as follows:
 - The Bureau of Developmental Services (BDS) reviewed the Medicaid Management and Information System to determine estimated actual expenditures trended through March 31, 2022, for eligible codes.
 - Distribution of funds to providers was determined by identifying providers of the following service codes:
 - i. DD Waiver:
 - T2022 – Service Coordination
 - ii. ABD Waiver:
 - T2022 – Service Coordination
 - iii. IHS Waiver:
 - T2025 SE UC U3 - Service Coordination

2. Provider payments are based on a uniform add-on payment per service unit for each of the respective codes enumerated above, to arrive at a one-time lump sum payment per provider. Lump sum payments were determined using the following analysis:
 - Projected expenditures were broken out for the chosen services listed above, by service unit: Per Diem, per visit, per month and per 15 min, for the three waivers combined.
 - A percentage of total BDS projected expenditures for each service unit was calculated to total overall BDS projected expenditures.
 - The calculated percentages were used to break out the allocated ARP dollar amount available to BDS in order to calculate an add-on to each service unit.
 - The add-on amount was determined for each unit to keep the dollars within the projected amounts by service unit. Please see worksheet below:

Summary of Bureau of Developmental Services (BDS) Selected HCBS Services												
1915 (c) Waiver	Procedure Code	Code Description	Service Unit	Projected Distinct # of Service Units 4-1-21 to 3-3-22 (11 Mo)	Projected Distinct # of Service Units Trended through 3/31/22	Projected Claims Reimbursed/Expenditures 4-1-21 to 3-3-22 (11 Mo)	Projected Claims Reimbursed/Expenditures Trended through 3/31/22	% of Projected Trend Expenditures to total Expenditures by Service Unit	Distribute Projected ARP by Projected Trend Expenditures per Service Unit	Proposed Uniform Service Unit Add On	Proposed Lump Sum Payment by Procedure Code	Projected Lump Sum by Service Unit
A	B	C	D	E	F = (E/11)*12	G	H = (G/11)*12	I = (H)/H12	J = I * J12	K = roundup((J)/(F),2)	L = K*F	M
DD	T2022	Service Coordination	Per Month	31,744	34,630	\$ 8,561,548.32	\$ 9,339,870.89	84%	\$ 448,256.72	\$ 13.00	\$ 450,190.00	\$ 450,190.00
ABD	T2022	Service Coordination	Per Month	2,053	2,240	\$ 543,921.24	\$ 593,368.63	5%	\$ 28,478.07	\$ 13.00	\$ 29,120.00	\$ 29,120.00
IHS	T2025 SE UC U3	Service Coordination	Per Month	3,743	4,082	\$ 1,062,727.87	\$ 1,159,339.50	10%	\$ 55,641.21	\$ 13.00	\$ 53,066.00	\$ 53,066.00
						\$ 10,168,197.43	\$ 11,092,579.02	100%	\$ 532,376.00	Total	\$ 532,376.00	\$ 532,376.00

3. At least 80% of the RRTPP funds will be spent on:
 - Existing direct support workers (DSWs), including direct support professionals (DSPs), and existing immediate supervisors.
 - New DSWs, including DSPs and new immediate supervisors.
 - Existing service coordinators and existing immediate supervisors.

- New service coordinators and new immediate supervisors.
4. BDS will use form 3785, “Provider Agency Attestation”, to ensure that the provider agency understands that:
- BDS will make payments if the provider completes the attestation form to attest that the provider agency will use the payments for the express purpose of recruitment, retention and/or training of service coordinators, DSWs and/or immediate supervisors of service coordination and/or DSWs.
 - The ten (10) area agencies, as NH’s Designated Organized Health Care Delivery System, will distribute the funds to their vendors after obtaining an attestation form from the vendors. The area agencies will retain these attestation forms with their billing records.
5. Each provider agency shall develop a written RRTPP plan that outlines:
- That 80% of funds received will be used for recruitment, retention and/or training of new and/or existing service coordinators, DSWs, including DSPs, and/or immediate supervisors of service coordinators and/or DSWs.
 - How funds will be used to support recruitment, retention and/or training of new and/or existing service coordinators, DSWs, including DSPs, and/or immediate supervisors of service coordinators and/or DSWs.
 - The rationale of how payments will be distributed to eligible service coordinators, DSWs and/or immediate supervisors of service coordinators and/or DSWs.
 - The amount of payments to be distributed to eligible service coordinators, DSWs and/or immediate supervisors of service coordinators and/or DSWs.
- The plan shall be submitted to BDS and communicated with the employees of the agency and provider agencies, if applicable.
6. RRTPP payments shall supplement and not supplant current agency practices and policies regarding planned bonuses and wage increases.

Appendix K Addendum: COVID-19 Pandemic Response

1. HCBS Regulations

- a. Not comply with the HCBS settings requirement at 42 CFR 441.301(c)(4)(vi)(D) that individuals are able to have visitors of their choosing at any time, for settings added after March 17, 2014, to minimize the spread of infection during the COVID-19 pandemic.

2. Services

- a. Add an electronic method of service delivery (e.g. telephonic) allowing services to continue to be provided remotely in the home setting for:
- i. Case management

- ii. Personal care services that only require verbal cueing
- iii. In-home habilitation
- iv. Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).
- v. Other *[Describe]*:

- b. Add home-delivered meals
- c. Add medical supplies, equipment and appliances (over and above that which is in the state plan)
- d. Add Assistive Technology

3. Conflict of Interest: The state is responding to the COVID-19 pandemic personnel crisis by authorizing case management entities to provide direct services. Therefore, the case management entity qualifies under 42 CFR 441.301(c)(1)(vi) as the only willing and qualified entity.

- a. Current safeguards authorized in the approved waiver will apply to these entities.
- b. Additional safeguards listed below will apply to these entities.

4. Provider Qualifications

- a. Allow spouses and parents of minor children to provide personal care services
- b. Allow a family member to be paid to render services to an individual.
- c. Allow other practitioners in lieu of approved providers within the waiver. *[Indicate the providers and their qualifications]*

- d. Modify service providers for home-delivered meals to allow for additional providers, including non-traditional providers.

5. Processes

- a. Allow an extension for reassessments and reevaluations for up to one year past the due date.
- b. Allow the option to conduct evaluations, assessments, and person-centered service planning meetings virtually/remotely in lieu of face-to-face meetings.
- c. Adjust prior approval/authorization elements approved in waiver.
- d. Adjust assessment requirements
- e. Add an electronic method of signing off on required documents such as the person-centered service plan.

Contact Person(s)

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

First Name: Jessica
Last Name: Gorton
Title: HCBS Waiver Administrator
Agency: Bureau of Developmental Services
Address 1: 105 Pleasant Street
Address 2: Main Building
City: Concord
State: NH
Zip Code: 03301
Telephone: 603-271-8942
E-mail: Jessica.d.gorton@dhhs.nh.gov
Fax Number: 603-271-5166

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

First Name: Melissa
Last Name: Hardy
Title: Director
Agency: Division of Long Term Supports and Services
Address 1: 105 Pleasant Street
Address 2: Main Building
City: Concord
State: NH
Zip Code: 03301
Telephone: 603-271-0643
E-mail: Melissa.A.Hardy@dhhs.nh.gov
Fax Number: 603-271-5166

8. Authorizing Signature

Signature: /S/

Date: 4/12/2022


State Medicaid Director or Designee

First Name: *Henry*
Last Name: *Lipman*
Title: State Medicaid Director
Agency: Division of Medicaid Services
Address 1: 129 Pleasant Street
Address 2: Brown Building
City: Concord
State: NH
Zip Code: 03301
Telephone: 603-271-9434
E-mail: Henry.D.Lipman@dhhs.nh.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 that the state is temporarily modifying, enter the entire service definition and highlight the change. State laws, regulations and policies referenced in the specification should be 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) <i>(check one or both):</i>	<input type="checkbox"/>	Individual. List types:	<input type="checkbox"/>	Agency. List the types of agencies:
Specify whether the service may be provided by <i>(check each that applies):</i>	<input type="checkbox"/>	Legally Responsible Person	<input type="checkbox"/>	Relative/Legal Guardian
Provider Qualifications <i>(provide the following information for each type of provider):</i>				
Provider Type:	License <i>(specify)</i>	Certificate <i>(specify)</i>	Other Standard <i>(specify)</i>	
Verification of Provider Qualifications				
Provider Type:	Entity Responsible for Verification:		Frequency of Verification	
Service Delivery Method				
Service Delivery Method <i>(check each that applies):</i>	<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 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.