

# 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.<sup>i</sup> This appendix may be completed retroactively as needed by the state.

### Appendix K-1: General Information

#### General Information:

- A. State: New Mexico
- B. Waiver Title: 

Developmental Disabilities Waiver, Medically Fragile Waiver, Mi Via Waiver, Supports Waiver
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- C. Control Number: 

NM.0173.R07.03, NM.0223.R06.03, NM.0448.R03.03, NM.1726.R00.05
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- 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.

<p>COVID-19 pandemic. This Appendix K changes the following sections to waivers listed above in an effort to use funding available under the American Rescue Plan Act (ARPA) of 2021, Section 9817: (bii) Services, Temporarily exceed service limitations; and (f) Temporarily increase payment rates. In addition, New Mexico provides the following assurances in accordance with ARPA requirements and activities:</p> <ul style="list-style-type: none"><li>• The state is using the federal funds attributable to the increased federal medical assistance percentage (FMAP) to supplement and not supplant existing state funds expended for Medicaid HCBS in effect as of April 1,</li></ul>
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2021;

- The state is using the state funds equivalent to the amount of federal funds attributable to the increased FMAP to implement or supplement the implementation of one or more activities to enhance, expand, or strengthen HCBS under the Medicaid program;
- The state is not imposing stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021;
- The state is preserving covered HCBS, including the services themselves and the amount, duration, and scope of those services, in effect as of April 1, 2021; and
- The state is maintaining HCBS provider payments at a rate no less than those in place as of April 1, 2021.

The state's activities to enhance, expand, or strengthen HCBS under ARP Section 9817 are not focused on services other than those listed in Appendix B of the State Medicaid Director Letter (SMDL) or that could be listed in Appendix B (e.g., behavioral health services that are covered under another benefit but could be covered under the rehabilitative services benefit). Providers are not delivering institutional Long-Term Services and Supports, or other medical or behavioral health services not listed in Appendix B (e.g., acute care hospital, primary care) of the SMDL.

Additionally, this Appendix K changes the following sections to waivers listed above to increase payment rates to support providers during the public health emergency (PHE) and until the applicable rates are approved through base waivers: (f) Temporarily Increase Payment Rates. The state intends to amend the base waivers prior to the expiration of the Appendix K to provide the rate increases through the expiration of the 9817 funding.

**F. Proposed Effective Date: Start Date: January 27, 2020**

**G. Anticipated End Date: 6 months after the end of the PHE**

**H. 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.

**I. Geographic Areas Affected:**

Statewide

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

NA

## 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]

Effective July 1, 2022:

Under NM.0173.R07.03: Temporarily increase Assistive Technology benefit limits from \$500 to \$750 through March 2024 or until ARPA funds are fully expended, whichever comes first. Increase can be used for tablets and applications to support activities of daily living, therapy services, and access to the community. Section 9817 of ARP funds will only be used for the \$250 increase.

Under NM.0173.R07.03, NM.0223.R06.03, NM.0448.R03.03, and NM.1726.R00.05: Increase HCBS environmental modifications benefit limits from \$5,000 to \$6,000 every 5 years until ARPA funds are fully expended then increases will be sustained through current base waivers. Section 9817 of ARP funds will only be used for the \$1,000 increase.

#### 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].

Under NM.0173.R07.03, NM.0223.R06.03, NM.0448.R03.3 and NM.1726.R00.05:

Implement add-on economic recovery payments through a temporary percentage increase in payments made to HCBS providers utilizing available ARPA funds for all direct services for the identified waivers. An incremental decrease to the add-on to the approved rates using section 9817 of ARP funding will be applied. The recovery payments can be used for retention, personal protective equipment (PPE), hazard pay, training, infrastructure, and technology improvements to enhance current HCBS delivery.

Payments will also be used to offset costs related to the Public Health Emergency (PHE), including hiring and retention of direct service providers, increased wages, training, and support. The payments will provide funding to support the current HCBS waiver system. A temporary 15% reimbursement increase has been applied May 1, 2021 to June 30, 2022 in accordance with CMS' Appendix K approval on March 16, 2022. Through this Appendix K, a temporary 10% reimbursement increase will be applied for July 1, 2022 to June 30, 2023, and a temporary 5% reimbursement increase will be applied for July 1, 2023 to June 30, 2024. Under waivers with Appendix E for self-direction options, the cost of the temporary rate increases will be paid outside of participants budgets; budget limits remain the same. HCBS provider rates will return to base waiver levels effective July 1, 2024 or until section 9817 of the ARP funds are fully expended, whichever comes first. If the Appendix K is to expire prior to section 9817 of ARP funding being exhausted for these activities, the state will apply to extend these activities in the base waivers.

The temporary increases will be operationalized and remain in effect as long as there is available ARP funding.

In addition to the temporary rate increases above, effective July 1, 2022, New Mexico will implement rate increases to the following services to offset the continued long-term financial and workforce hardship experienced by providers due to the COVID-19 pandemic. These rate increases will be made permanent via amendments to the base waivers:

- NM.0173 Developmental Disabilities Waiver: Behavioral Support Consultation Standard, Behavioral Support Consultation Incentive, Customized Community Supports Individual, Community Inclusion Aide; Customized In-Home Support Living with Family or Natural Supports, Customized In-Home Support Living Independently, Family Living, Family Living Jackson Class, Adult Nursing RN, Adult Nursing LPN, Respite, Occupational Therapy, Occupational Therapy Assistant; Physical Therapy, Physical Therapy Assistant, Speech Language Pathology,
- NM.0448 Mi Via Waiver: Consultant Services and In-Home Living Support services

**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:** Melanie  
**Last Name** Buenviaje  
**Title:** Bureau Chief, Exempt Services and Programs  
**Agency:** Medical Assistance Division  
**Address 1:** 1 Plaza La Prensa  
**Address 2:**  
**City** Santa Fe  
**State** New Mexico  
**Zip Code** 87507  
**Telephone:** 505-490-2460  
**E-mail** Melanie.Buenviaje@state.nm.us  
**Fax Number** 505-827-3185

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

**First Name:** Jason  
**Last Name** Cornwell  
**Title:** Division Director, Developmental Disabilities Supports Division  
**Agency:** Department of Health  
**Address 1:** 5301 San Mateo, NE, Suite 1100  
**Address 2:**  
**City** Albuquerque  
**State** New Mexico  
**Zip Code** 87108  
**Telephone:** 505-660-3456  
**E-mail** Jason.Cornwell@state.nm.us  
**Fax Number** 505-222-6690

## 8. Authorizing Signature

**Signature:** /s/

**Date:** 8.18.2022

State Medicaid Director or Designee

**First Name:** Nicole  
**Last Name** Comeaux  
**Title:** Director, Medical Assistance Division  
**Agency:** Human Services Department  
**Address 1:** 1 Plaza La Prensa  
**Address 2:**  
**City** Santa Fe  
**State** New Mexico  
**Zip Code** 87507  
**Telephone:** 505-490-7703  
**E-mail** [Nicole.Comeaux@state.nm.us](mailto:Nicole.Comeaux@state.nm.us)  
**Fax Number** 505-827-3185



## 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) <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
<b>Provider Qualifications</b> <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>
<b>Verification of Provider Qualifications</b>			
Provider Type:	Entity Responsible for Verification:		Frequency of Verification
<b>Service Delivery Method</b>			
<b>Service Delivery Method</b> <i>(check each that applies):</i>	<input type="checkbox"/>	Participant-directed as specified in Appendix E	<input type="checkbox"/>
			Provider managed



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<sup>i</sup> 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.