

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: New Mexico

B. Waiver Title:

Developmental Disabilities Waiver, Medically Fragile Waiver, Mi Via Waiver, Supports Waiver

C. Control Number:

NM.0173.R07.04, NM.0448.R03.04, NM.0223.R06.04, NM.1726.R00.06

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.

COVID-19 pandemic. New Mexico confirms the following assurances:

- 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, 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.

This Appendix K amendment ends the following flexibility initiatives as approved in previous Appendix K amendments, effective March 31, 2023: 1) telehealth visits for occupational therapy, physical therapy, speech and language therapy, behavior support consultation, case management, consultant, and community supports coordinator services, adult nursing, nutritional services, supported living, intensive medical living, community integrated employment, customized community supports; 2) payments to relatives and legally responsible individuals for supported living, intensive medical living, community integrated employment, and customized community supports; 3) suspension of fingerprinting required for enrollment; 4) suspension to conduct a neglect investigation; 5) provision of community customized supports and employment services in the home; and 6) exceptions for home studies and family living service coordinator monthly visits via telephonic/tele-video modalities. Effective June 30, 2023, flexibilities for level of care evaluations/re-evaluations ends and return to normal process. These initiatives are ended to return to normal operations as approved in the base waivers.

F. Proposed Effective Date: Start Date: January 27, 2020
Anticipated End Date: six months after the end of the PHE

G. Description of Transition Plan.

All activities will take place in response to the end the federal PHE.

H. Geographic Areas Affected:

Statewide

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

NA

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 tie 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. 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];

NM.0173.R06.02, NM.0448.R02.02, NM.0223.R05.02, NM.1726.R00.01

When New Mexico's Public Health Emergency executive order expires on March 31st, 2023; DDS will no longer approve any exception request for telehealth services, no matter the circumstance and including requests for telehealth visits related to COVID-19 positive cases. All services are expected to be completed in person adhering to the COVID-19 safety protocols issued by the Centers for Disease Control and Prevention (CDC) Guidance for COVID-19 | CDC

Occupational Therapy for Adults:

Required face-to-face visits are no longer allowed to be provided via telehealth or phone visits. This includes assessment, monitoring and/or follow-up. All interactions must be documented face to face, in person visits. This includes all staff training and return demonstrations/observations.

Physical Therapy for Adults:

Required face-to-face visits are no longer allowed to be provided via telehealth or phone visits. This includes assessment, monitoring and/or follow-up. All interactions must be documented face to face, in person visits. This includes all staff training and return demonstrations/observations.

Speech and Language Therapy for Adults:

Required face-to-face visits are no longer allowed to be provided via telehealth or phone visits. This includes assessment, monitoring and/or follow-up. All interactions must be documented face to face, in person visits. This includes all staff training and return demonstrations/observations.

Behavior Support Consultation:

Required face-to-face visits are no longer allowed to be provided via telehealth or phone visits. This includes assessment, monitoring and/or follow-up. All interactions must be documented face to face, in person visits. This includes all staff training and return demonstrations/observations.

Case Management, Consultant, and Community Supports Coordinator Services:

Required face-to-face visits are no longer allowed to be provided via telehealth or phone visits. This includes assessment, monitoring and/or follow-up. All interactions must be documented face-to-face, in person visits. The required monthly case management/consultant contact must be completed face to face and in person with the participant or representative. The quarterly Community Supports Coordinator contact must be completed face to face and in person with the participant or representative. All exceptions previously granted are terminated.

Adult Nursing:

Required face-to-face visits are no longer allowed to be provided via telehealth or phone visits. This includes assessment, monitoring and/or follow-up. All interactions must be documented face to face, in person visits.

Nutritional Services (Registered Dietician):

Required face-to-face visits are no longer allowed to be provided via telehealth or phone visits. This includes assessment, monitoring and/or follow-up. All interactions must be documented face to face, in person visits.

NM.0173.R06.02

Community Customized Supports/Community Integrated Employment:

Customized Community Supports and Community Integrated Employment can no longer be provided in the home with exception of limited allowable hours in home for CCS as outlined in DD Waiver service standards.

Family Living:

Exceptions for Home Studies (Initial or Annual) to be completed via telephonic/tele video modalities will not be approved. Exceptions for Family Living Service Coordinator to complete monthly home visits via telephonic/tele video modalities will not be approved. Both of these requirements must be completed face-to-face.

v. Temporarily provide services in out of state settings (if not already permitted in the state's approved waiver). [Explanation of changes]

c. X 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.

NM.0173.R06.02, NM.0223.R05.02, NM.1726.R00.01

Supported Living, Intensive Medical Living, Community Integrated Employment, and/or Customized Community Supports:

Effective March 31, 2023, ending payment to relatives or legally responsible individuals.

d. X Temporarily modify provider qualifications (for example, expand provider pool, temporarily modify or suspend licensure and certification requirements).

i. X Temporarily modify provider qualifications.

[Provide explanation of changes, list each service affected, list the provider type, and the changes in provider qualifications.]

NM.0173.R06.02, NM.0448.R02.02, NM.0223.R05.02, NM.1726.R00.01

Fingerprinting:

No longer allow provider enrollment or re-enrollment with modified risk screening elements such as suspending fingerprint checks or modifying training requirements to all service providers.

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

NM.0173.R06.02, NM.0448.R02.02, NM.0223.R05.02, NM.1726.R00.01

Level of Care Evaluations/Re-evaluations

The use of currently approved LOC assessments on file to fulfill the annual LOC requirement will cease on June 30, 2023. Initial and re-evaluation LOCs must be completed as required and must be completed in person, including in-home assessments. For initial ICF/IDD Level of Care evaluations, it is required that a physician recommend that the individual receive the level of care furnished through the waiver. A history and physical form is required from the physician.

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. ___ 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.]

NM.0173.R06.02, NM.0448.R02.02, NM.0223.R05.02, NM.1726.R00.01

Individual Service Plans and Service and Support Plans:

Effective March 31, 2023, person-centered Individual Service Plans and Service and Support Plans that are due to expire must be completed face-to-face and in-person by Case Managers or, Consultants and Community Supports Coordinators to verify with the participant or representative that the current assessment and services, including providers/employees/vendors, remain acceptable and approvable for the upcoming year.

- h. X 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]**

NM.0173.R06.02, NM.0448.R02.02, NM.0223.R05.02, NM.1726.R00.01

Abuse, Neglect, and/or Exploitation Investigations:

Effective March 31, 2023, the requirement to conduct a neglect investigation of any incident of deviation in staffing as outlined in an individual plan will no longer be suspended under any circumstance.

- 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@hsd.nm.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: Katrina
Last Name Hotrum-Lopez
Title: Acting 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: 505-476-4990
E-mail Katrina.Hotrum-Lopez@altsd.nm.gov
Fax Number

8. Authorizing Signature

Signature: /S/

Date: 2/28/2022

State Medicaid Director or Designee

First Name: Lorelei
Last Name Kellogg
Title: Acting Division 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: 505-629-2938
E-mail lorelei.kellogg@hsd.nm.gov
Fax Number 505-827-3135

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
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 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.