

# 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: Oregon

B. Waiver Title:

Children's HCBS Waiver, Adults' HCBS Waiver, Medically Involved Children's Waiver (MICW), Medically Fragile (Hospital) Model, Behavioral (ICF/IDD) Model Waiver

C. Control Number:

- OR.0117.R06.05
- OR.0375.R04.04
- OR-0565.R02.06
- OR-40193.R04.04
- OR-40194.R04.04

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.

This is an addition to a prior Appendix K submission approved on 5/22/2020. Adding retainer payment guardrails and specifying number of retainer payment episodes.

1) nature of emergency; The Oregon Health Authority has identified several counties in Oregon with presumptive positive cases of COVID-19. COVID-19 is spread from person-to-person through droplets in the air and on surfaces that people touch. This situation is unfolding quickly and the risks for people with intellectual and developmental disabilities are high. ODDS is committed to ensuring the health and safety of the people we serve.

2) number of individuals affected and the state's mechanism to identify individuals at risk; All participants in the Office of Developmental Disabilities Services 5 1915 (c) waivers are at risk of exposure or contracting COVID-19.

3) roles of state, local and other entities involved in approved waiver operations; and  
The roles of state, local, and other entities involved in approved waiver operations are defined in Appendix A in section A-1 and 2.

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.

See Below

**F. Proposed Effective Start Date: March 11, 2020 Anticipated End Date: March 10, 2021**

**G. Description of Transition Plan.**

Individuals will transition to pre-emergency service status as directed by ODDS.

**H. Geographic Areas Affected:**

Statewide

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

The Office of the Governor State of Oregon Executive Order NO. 20-03 can be found at the following web page -  
<https://drive.google.com/file/d/1AcKOePvbmBpuNuaBQq7yZ37E2Sog4tUe/view>

## 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.]

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##### ii. \_\_\_ Temporarily modify additional targeting criteria.

[Explanation of changes]

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#### 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]

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##### 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. \_X\_ 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.]

Retainer payments [for 2 - 30 consecutive day periods](#), for services that include Personal Care - including Direct Nursing Waiver services, agency provided Employment Path Services (facility and community based), Supported Employment - Individual Employment Support (Job Coaching), Supported Employment - Small Group Employment Support and Discovery/Career Exploration Services shall be provided in response to the impact of the COVID-19 pandemic.

- Retainer payments may be provided in circumstances in which facility closures are necessary due to COVID19 containment efforts.
- Retainer payments attributable to each individual will be provided in circumstances in which attendance and utilization for the service drops to below 75% of the monthly average for the period of 10/01/19 through 12/31/2019. [For providers who started a new program that served waiver participants from 1/1/2020 – 2/29/2020, or increased enrollment in a program after 1/1/2020, a monthly average of 1/1/2020 – 2/29/2020 will be utilized.](#)
- Retainer payments will not exceed the anticipated 75% of monthly average of total billing and will be attributable to individuals and not paid to agencies as a lump sum
- When an individual receiving Individual Employment Support (Job Coaching) experiences reduced work hours, due to COVID-19 pandemic retainer payments for the Individual Employment Support provider will be paid equal to the difference between provider payments based on actual hours worked by the individual and the anticipated monthly average of hours worked by the individual. This type of retainer payment is due to the ODDS rate methodology for Individual Employment Support – Job Coaching being based on the number of hours the **individual** works.

ODDS will:

- [Require an attestation from the provider acknowledging that retainer payments will be subject to recoupment if inappropriate billing or duplicate payments for services occurred as identified in a state or federal audit or any other authorized third-party review.](#)
- [Require an attestation from the provider that it will not lay off staff and will maintain wages at existing levels.](#)
- [Require an attestation from the provider that they had not received 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.](#)
- [If a provider has 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 will be recouped.](#)
- [If a provider had already received revenues in excess of the pre-PHE level, retainer payments are not available.](#)

Through billing procedures, ODDS will ensure that there will be no duplicative

payments.

The retainer time limit may not exceed the lesser of 30 consecutive days or the number of days for which the State authorizes a payment for “bed-hold” in nursing facilities.

**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]

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**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]

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**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]**

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## Contact Person(s)

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

<b>First Name:</b>	Dana
<b>Last Name</b>	Hittle
<b>Title:</b>	Deputy Medicaid Director
<b>Agency:</b>	Oregon Health Authority
<b>Address 1:</b>	500 Summer St. NE
<b>Address 2:</b>	
<b>City</b>	Salem
<b>State</b>	Oregon
<b>Zip Code</b>	97301
<b>Telephone:</b>	(503) 945-6491
<b>E-mail</b>	dana.hittle@state.or.us
<b>Fax Number</b>	(503) 945-5872

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

<b>First Name:</b>	Lilia
<b>Last Name</b>	Teninty
<b>Title:</b>	Director - Office of Developmental Disabilities Services
<b>Agency:</b>	Oregon Department of Human Services
<b>Address 1:</b>	500 Summer St. NE
<b>Address 2:</b>	
<b>City</b>	Salem
<b>State</b>	Oregon
<b>Zip Code</b>	97301
<b>Telephone:</b>	(503) 945-6918
<b>E-mail</b>	LILIA.TENINTY@.state.or.us
<b>Fax Number</b>	(503) 373-7823

## 8. Authorizing Signature

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

<b>Date:</b>	7/17/2020
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<b>First Name:</b>	Lori
<b>Last Name</b>	Coyner
<b>Title:</b>	State Medicaid Director
<b>Agency:</b>	Oregon Health Authority
<b>Address 1:</b>	500 Summer St NE
<b>Address 2:</b>	
<b>City</b>	Salem
<b>State</b>	Oregon
<b>Zip Code</b>	97301
<b>Telephone:</b>	(503) 947-2340
<b>E-mail</b>	lori.a.coyner@dhsosha.state.or.us
<b>Fax Number</b>	(503) 373-7327



## 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:					
Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:					
Service Definition (Scope):					
Specify applicable (if any) limits on the amount, frequency, or duration of this service:					
Provider Specifications					
Provider Category(s) (check one or both):	<input type="checkbox"/>	Individual. List types:		<input type="checkbox"/>	Agency. List the types of agencies:
Specify whether the service may be provided by (check each that applies):		<input type="checkbox"/>	Legally Responsible Person	<input type="checkbox"/>	Relative/Legal Guardian
Provider Qualifications (provide the following information for each type of provider):					
Provider Type:	License (specify)		Certificate (specify)		Other Standard (specify)
Verification of Provider Qualifications					
Provider Type:	Entity Responsible for Verification:			Frequency of Verification	
Service Delivery Method					
Service Delivery Method (check each that applies):	<input type="checkbox"/>	Participant-directed as specified in Appendix E			<input type="checkbox"/> Provider managed
Service Specification					
Service Title:					
Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:					
Service Definition (Scope):					
Specify applicable (if any) limits on the amount, frequency, or duration of this service:					
Provider Specifications					
Provider Category(s)	<input type="checkbox"/>	Individual. List types:		<input type="checkbox"/>	Agency. List the types of agencies:

(check one or both):					
Specify whether the service may be provided by (check each that applies):	<input type="checkbox"/>	Legally Responsible Person	<input type="checkbox"/>	Relative/Legal Guardian	
<b>Provider Qualifications</b> (provide the following information for each type of provider):					
Provider Type:	License (specify)	Certificate (specify)	Other Standard (specify)		
<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> (check each that applies):	<input type="checkbox"/>	Participant-directed as specified in Appendix E	<input type="checkbox"/>	Provider managed	

<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.