

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: Pennsylvania

B. Waiver Title(s):

Consolidated Waiver Community Living Waiver Person/Family Directed Support Waiver (P/FDS) Adult Autism Waiver
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C. Control Number(s):

PA.0147.R07.01 PA.1486.R01.01 PA.0354.R05.01 PA.0593.R03.04
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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.

COVID-19 pandemic. This amendment will apply waiver-wide for each waiver included in this Appendix, to all individuals impacted by the virus or the response to the virus (e.g. closure of day programs, etc.) **This amendment lists the dates that previously approved Appendix K flexibilities will end prior to November 2023 (six months after the end of the PHE).**

F. **Proposed Effective Date: Start Date:** March 11, 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 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 pandemic.

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

N/A

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. ___ Temporarily modify service scope or coverage.

[Complete Section A- Services to be Added/Modified During an Emergency.]

ii. X 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]

Consolidated, Community Living, P/FDS and Adult Autism Waivers

The following approved flexibility ended on November 1, 2020:

- Minimum staffing ratios for Community Participation Support as required by licensure, service definition, and ISP may be exceeded due to staffing shortages

Consolidated, Community Living and P/FDS Waivers

The following approved flexibilities ended on October 16, 2020:

- A variance is not required to be completed when a participant requires more than 14 hours per day of In-Home and Community Support, Companion, and/or Community Participation Support in order to meet the needs of participants. (Variances for this purpose are not a requirement in the Community Living and P/FDS waivers).
- Allow any one relative or legal guardian to provide more than 40 hours per week of In-Home and Community Support and/or Companion to meet the identified needs of a participant.

****Participants will not lose waiver services or receive a reduction in waiver services as a result of this change. Participants will still be able to select their providers from a pool of any willing and qualified providers and continue to receive services in the same amount, duration, and scope.****

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. X Temporarily modify provider qualifications.

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

Consolidated, Community Living, P/FDS and Adult Autism Waivers

The following approved flexibility ended on December 31, 2020:

- Suspend the FBI fingerprinting check for employers hiring staff. A provisional hiring template will be accepted if an FBI clearance is unable to be obtained. This provisional hiring process can only be used when service locations where FBI clearances are completed are closed in the provider’s area due to the COVID-19 emergency. FBI clearances must be completed when service locations are open.

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.]

Consolidated, Community Living, P/FDS and Adult Autism Waivers
The following approved flexibilities expire on May 11, 2023:

- Residential Habilitation can be provided in licensed vocational facilities and adult training facilities that are currently closed/not in use when needed for quarantine purposes and the provider is unable to safely quarantine the participant(s) in their home(s). Facilities must include full bathroom facilities and be appropriate to accommodate all infection control protocols. Use of licensed vocational and adult training facilities is permissible only for the length of time a participant is required to be quarantined as outlined in the most current guidance from the Department of Health (DOH) and/or the Centers for Disease Control and Prevention (CDC).
- Residential Habilitation can be provided in the unlicensed private home of Residential Habilitation staff. The current authorized Residential Habilitation provider is responsible for ensuring the service is delivered and billed in accordance with the ISP.

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

Consolidated, Community Living and P/FDS Waivers

The following approved flexibilities ended on October 16, 2020:

- When ICF/ID or ICF/ORC level of care is evaluated, it is not required that a physician recommend, certify, or verify that the individual should receive the level of care furnished through the waiver. Initial level of care evaluations will consist of: 1) confirmation of intellectual disability, autism or developmental disability diagnosis; 2) QDDP certification of impairments in adaptive functioning; and 3) Documentation substantiating that the individual has had these conditions of intellectual disability or autism and adaptive functioning deficits which manifested during the developmental period which is from birth up to the individual's 22nd birthday.

Adult Autism Waiver

The following flexibility ended on October 28, 2020:

- When ICF/ID or ICF/ORC level of care is evaluated, it is not required that a physician recommend, certify, or verify that the individual should receive the level of care furnished through the waiver.

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.]

Consolidated, Community Living, P/FDS and Adult Autism Waivers

The following approved flexibilities expire on May 11, 2023:

- Given the rapid response that will be necessary to ensure participant health and welfare and to avoid delays while waiting for approval and authorization of ISP changes in HCSIS, documentation of verbal approval of changes and additions to ISPs will suffice as authorization. Upon validation that a verbal approval was provided for requested changes, AEs may backdate authorizations in HCSIS for waiver services provided during the period of time specified in Appendix K.
- Suspend requirements for right to choose who to share a bedroom with. The modification of this right is not required to be justified in the individual plan.

The following approved flexibility ended on January 1, 2023

- Allow remote/telephone individual monitoring by Supports Coordinators where there are currently face-to-face requirements
- During the emergency period, for annual ISP purposes, the Supports Coordinators must use the weekly check-in calls with individuals, individual transition planning meetings or annual team meetings to ensure that needed services and willing and qualified providers of the individual's choice are included in the ISP and kept current with changes in need. If requested and/or necessary, modifications to the ISP may be made, as driven by individualized participant need, circumstance, and consent, and reviewed on an individualized basis without the input of the entire service planning team.

The following approved flexibility ended on April 7, 2021:

- Suspend requirements for allowing visitors (providers may prohibit/restrict visitation in-line with CMS recommendations for long term care facilities). The modification of this right is not required to be justified in the individual plan.

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]

Consolidated, Community Living, P/FDS and Adult Autism Waivers

The following approved flexibility expires on June 30, 2023:

- Allow unlicensed staff who will administer medications to successfully complete the Modified Medication Administration course and receive training from the provider on the use of the provider's medication record for documenting the administration of medication. This will be done in lieu of the current requirement that staff must successfully complete the standard DHS Medication Administration Program (MAP).

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]

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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]*:

[Empty rectangular box for describing other services]

- 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: Sally
Last Name Kozak
Title: Deputy Secretary, Office of Medical Assistance Programs
Agency: Department of Human Services
Address 1: 625 Forster Street, Health and Welfare Building
Address 2: Click or tap here to enter text.
City Harrisburg
State PA
Zip Code 17120
Telephone: 717-705-5007
E-mail sakozak@pa.gov
Fax Number 717-787-6583

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

First Name: Julie
Last Name Mochon
Title: Director, Division of Policy
Agency: Department of Human Services, Office of Developmental Programs
Address 1: 625 Forster Street, Health and Welfare Building
Address 2: Click or tap here to enter text.
City Harrisburg
State PA
Zip Code 17120
Telephone: 717-783-5771
E-mail jmochon@pa.gov
Fax Number 717-787-6583

8. Authorizing Signature

Signature: /S/

Date: 5/4/2023

State Medicaid Director or Designee

First Name: *Julie*
Last Name *Mochon*
Title: Director, Division of Policy and Innovation
Agency: Department of Human Services, Office of Developmental Programs
Address 1: 625 Forster Street, Health and Welfare Building
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