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.[i] 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

C. Control Number(s):

PA.0147.R06.06
PA.1486.R00.05
PA.0354.R04.06

D. Type of Emergency (The state may check more than one box):

X	**Pandemic or Epidemic**
O	**Natural Disaster**
O	**National Security Emergency**
O	**Environmental**
O	**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 is additive to the March 18, 2020 approved Appendix K. This amendment adds the coverage of personal protective equipment, additional flexibilities regarding where services can be rendered and additional services that can be rendered remotely, expands service limits for additional services, provides additional flexibilities in regard to Individual Support Plans (ISPs), provider qualifications and training requirements, provides clarifications for retainer payments, and includes delays in waiver reporting requirements.

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

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:***

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.__X_ 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]

Modify Service Scope or Coverage

- Expand Specialized Supplies to cover personal protective equipment for participants. Personal protective equipment is also covered for Service Support Professionals in the Vendor Fiscal/Employer Agent participant directed services model. The fiscal year limit is increased from $500 to $1500 to cover needed personal protective equipment.
- Expand Supported Employment to include assisting participants in applying for unemployment benefits when they have lost their jobs.

Exceed Service Limitations or Requirements for Amount, Duration and Prior Authorization

In-Home and Community Support and Companion

- 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. Allow multiple relatives or legal guardians to provide more than 60 hours per week of In-Home and Community Support and/or Companion to meet the identified needs of a participant. Relatives or legal guardians must be paid in accordance with Department of Labor requirements for overtime, as applicable.

Respite

- Consolidated Waiver Only - Respite limits may be exceeded beyond 480 15-minute units annually without requesting a variance in order to meet the immediate health and safety needs of a participant.

- Community Living and P/FDS Waivers Only – Respite limits may be exceeded beyond 1440 15-minute units annually without requesting a variance in order to meet the immediate health and safety needs of a participant.

- Consolidated, Community Living and P/FDS Waivers - A Respite Camp must comply with all applicable Centers for Disease Control (CDC) and Department of Health (DOH) guidelines and, for camps in Pennsylvania, operate in accordance with the Wolf Administration's Summer Camp and Recreation Guidance, including the Pennsylvania DOH Frequently Asked Questions. Respite Camps must develop a written health and safety plan that follows the CDC guidance for Youth and Summer Camps and post the plan on the camp's publicly available website prior to providing services. The OHCDS, AWC and/or AE are responsible for reviewing the plan prior to including or authorizing the service on the ISP to ensure the Respite Camp has met all CDC and DOH guidelines.

Supports Broker

- Supports Broker limit of 1040 15-minute units may be exceeded up to 2080 15-minute units per participant per fiscal year.

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]:

Allow Residential Habilitation to be temporarily 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 individual(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 an individual is required to be quarantined as outlined in the most current guidance from the Department of Health.
- 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.

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.]

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.]

Expand locations where Residential Habilitation can be temporarily provided to include the following:

- 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 individual(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 an individual is required to be quarantined as outlined in the most current guidance from the Department of Health.
- Unlicensed private home of Residential Habilitation staff. The current authorized Residential Habilitation provider is responsible ensuring the service is delivered and billed in accordance with the ISP.

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._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.]

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.

Consent with the ISP will be verified by electronic signatures or electronic verification via secure email consent from the participant, his or her designee if applicable, and service providers, in accordance with HIPAA requirements. Services may start once they are authorized by the AE while waiting for signatures to be returned to the Supports Coordinator, whether electronically or by mail. Signatures will include a date reflecting the ISP meeting date.

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]

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._X__ 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.]

Payment will only be made on or after July 1, 2020, when a participant who is enrolled in a waiver receives waiver services while hospitalized for a diagnosis other than COVID-19.

Waiver services provided while a participant is hospitalized for any diagnosis (including COVID-19) must:

- Be included in the ISP;
- Be provided to meet needs of the individual that are not met through the provision of hospital services;
- Be designed to ensure smooth transitions between acute care settings and home and community-based settings, and to preserve the individual's functional abilities;
- Not be a substitute for services that the hospital is obligated to provide through its conditions of participation or under Federal or state law, or under another applicable requirement. Services can assist participants with communication, intensive personal care, and/or behavioral support as enumerated in the behavior support plan.

The following waiver services may be provided when a participant is hospitalized:

- Residential Habilitation (Supplemental Habilitation only). The Residential Habilitation day rate cannot be billed when the participant is admitted to the hospital.
- Life Sharing (Supplemental Habilitation only). The Life Sharing day rate cannot be billed when the participant is admitted to the hospital.
- Supported Living (Supplemental Habilitation only). The Supported Living day rate cannot be billed when the participant is admitted to the hospital
- Supplemental Habilitation
- In-Home and Community Support
- Companion
- Behavioral Support
- Supports Coordination. This includes locating, coordinating and monitoring needed services and supports when a participant is hospitalized.
- Supports Broker can be rendered to help Managing Employers and Common Law Employers ensure that Support Service Professionals are trained and scheduled to support the participant's needs while hospitalized and to support a smooth transition of the participant from the hospital to home and community-based settings.

The rate billed for services rendered in a hospital are the same as the rates billed when services are rendered in any other allowable community setting.

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 may be provided for Community Participation Support (day habilitation) services, which includes personal care as a component of the service.

- Retainer payments may be provided in circumstances in which facility closures or operation at diminished capacity are necessary due to COVID-19 containment efforts.
- Retainer payments may be provided in circumstances in which attendance and utilization for the service location drop to below 75% of annual monthly average 7/1/19 to 2/28/2020.
- Retainer payments will not exceed 75% of monthly average of total billing under the 1915(c) waivers.

Up to three consecutive episodes of up to 30 days per beneficiary maybe made. These episodes may begin the day after the previous episode ended.

To be eligible for retainer payments under 1915(c), providers must sign an attestation acknowledging the following:

- That retainer payments will be subject to recoupment if inappropriate billing or duplicate payments for services occurred (or in periods of disaster, duplicate uses of available funding streams), as identified in a state or federal audit or any other authorized third-party review.
- The provider will not lay off staff and will maintain wages at existing levels.
- The provider has not received funding from any other sources, including but not limited to Small Business Administration loans, that would exceed their revenue for the last full quarter prior to the public health emergency (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 had 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 would be recouped.

If a provider had already received revenues in excess of the pre-PHE level, retainer payments are not available.

Through expense reporting and billing procedures, ODP will ensure that there will be no duplicative payments. Community Participation Support services rendered during the time period the retainer is provided will be deducted from any calculations for retainer payments.

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]

The Office of Developmental Programs' Quality Assurance and Improvement (QA&I) process is being modified to account for the impact of the COVID-19 pandemic on the statewide service delivery system. These changes will impact ODP's Evidence Report for the Person/Family Directed Support, Community Living and Consolidated Waivers (the ID/A waivers) and the CMS 372 reports for the ID/A waivers for Fiscal Year 2019-2020.

QA&I

An interim QA&I process for FY 20/21 will be implemented based on a random sample of waiver participants. The interim process will include a desk review to collect CMS performance measure data, telephone/remote individual interviews to ensure health and safety, and COVID-19 specific questions. ODP plans to implement the full QA&I process beginning July 1, 2021.

Evidence Report

ODP will submit the Evidence Reports 120-days after the current due date for the ID/A waivers. The Evidence Report is due in September 2020 with data included from Fiscal Years 2017-2018, 2018-2019, and 2019-2020. Due to the impact of the COVID-19 pandemic, ODP will not have access to the data for some performance measures beginning in March 2020. In addition, the data for March 2020 to June 2020 will not align with previous performance levels due to COVID-19 response and Appendix K.

372 Reports

ODP will submit CMS 372 Reports three-months after the due date for the ID/A waivers for Fiscal Year 2019-2020. This delay will allow additional time to reconcile financial and quality assurance measures impacted by Pennsylvania's response to the COVID-19 pandemic.

Report	**Currently Due By**	**Waivers Impacted**	**Requested Due Dates**
Evidence Report	September 2020	Person/Family Directed Support, Community Living and Consolidated Waivers	January 31, 2021
372 Report	December 2020	Person/Family Directed Support, and Consolidated Waivers	March 31, 2021
372 Report	June 2020	Community Living Waiver	September 30, 2020

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]:*

        The following direct services may be provided using remote/telephonic support when this type of support meets the health and safety needs of the participant:
        - Community Participation Support
        - Supported Employment
        - Therapy Services
        - Supports Broker Services
        - Communication Specialist
        - Consultative Nutritional Services
        - Music Therapy and Art Therapy
        - Small Group Employment

    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: **Date: 06/22/2020**

______/S/________________
State Medicaid Director or Designee

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

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:	Specialized Supplies
Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:	
Service Definition (Scope)**:**	
Specialized Supplies consist of incontinence supplies that are medically necessary and are not a covered service through the MA State Plan, Medicare or private insurance. Supplies are limited to diapers, incontinence pads, cleansing wipes, underpads, vinyl or latex gloves. **Additional covered items for participants are: Personal protective equipment (gloves, respirators, surgical masks, gowns, goggles, alcohol-based hand rub, etc.), cloth masks, face shields, Pulseox monitors, and thermometers**. **Personal protective equipment is also covered for Support Service Professionals in the Vendor Fiscal/Employer Agent participant directed services model.** Specialized Supplies can only be provided to adult waiver participants (participants age 21 and older). All medically necessary Specialized Supplies, **including personal protective equipment,** for children under age 21 are covered in the state plan pursuant to the EPSDT benefit. Specialized Supplies, **including personal protective equipment,** may only be funded for adult participants if documentation is secured by the Supports Coordinator that shows the supplies are medically necessary and either not covered by the participant's insurance or insurance limitations have been reached. A participant's insurance includes Medical Assistance (MA), Medicare and/or private insurance. Participants authorized to receive Specialized Supplies may not be authorized to receive Residential Habilitation, Life Sharing or Supported Living services. During temporary travel, this service may be provided in Pennsylvania or other locations as per the ODP travel policy.	
Specify applicable (if any) limits on the amount, frequency, or duration of this service:	
The **total amount of Specialized Supplies purchased cannot exceed** $1500 per participant per fiscal year. **Incontinence supplies are limited to $500 per participant per fiscal year.**	

Provider Specifications				
Provider Category(s) *(check one or both)***:**	☐	Individual. List types:	X	Agency. List the types of agencies:
			Supplier	

Specify whether the service may be provided by *(check each that applies):*	☐	Legally Responsible Person	☐	Relative/Legal Guardian

Provider Qualifications (*provide the following information for each type of provider*):			
Provider Type:	License *(specify)*	Certificate *(specify)*	Other Standard *(specify)*

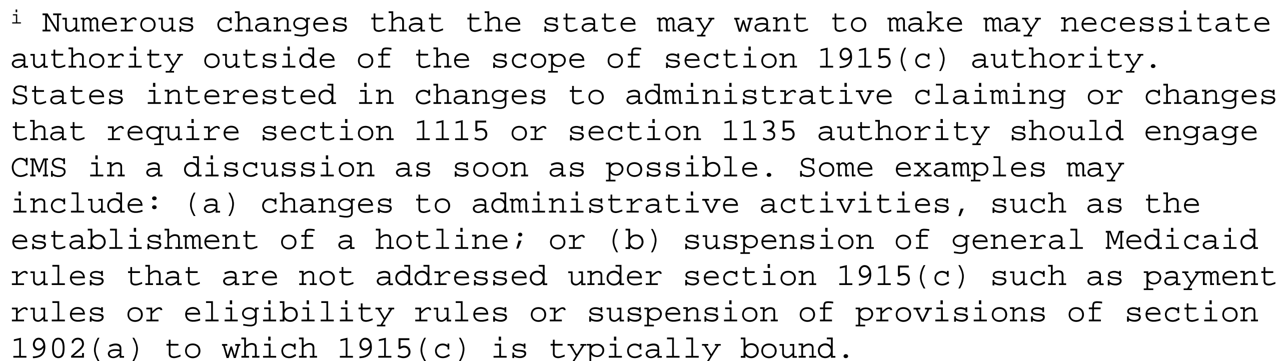
Supplier			Agencies must meet the following standards: 1. Have a waiver service location in Pennsylvania or a state contiguous to Pennsylvania. (A company that the provider secures the item(s) from can be located anywhere.) 2. Have a signed ODP Provider Agreement on file with ODP. 3. Complete standard ODP required orientation and training. 4. New providers demonstrate compliance with ODP standards through completion of a self-assessment and validation of required documentation, policies and procedures. 5. Comply with Department standards related to provider qualifications.

Verification of Provider Qualifications

Provider Type:	Entity Responsible for Verification:	Frequency of Verification
Supplier	AWC FMS, VF/EA FMS, OHCDS, ODP or its Designee	At least once during a 3-year monitoring cycle and more frequently when deemed necessary by ODP. New providers may be qualified more frequently depending on which monitoring cycle they are assigned to.

Service Delivery Method

Service Delivery Method *(check each that applies)*:	X	Participant-directed as specified in Appendix E	X	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.