

# 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.<sup>i</sup> 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.R06.14  
PA.1486.R00.14  
PA.0354.R04.13

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. 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 previously approved Appendix K amendments and allows supplemental payments using section 9817 funds of the American Rescue Plan Act (ARPA) to providers as well as increases to rates for waiver services and applicable fiscal year limits in appendix C-4.**

**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. \_\_\_ 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]

**Appendix C-4:**

The fiscal year limit enumerated in Appendix C-4 of the P/FDS waiver services will be increased to \$41,000 for Waiver Year 5. The \$41,000 per person per fiscal year total limit is established for all P/FDS waiver services with the following exceptions:

- Supports Coordination and Supports Broker services will be excluded from the limit because they are integral to ensuring the success of participants in utilizing traditional service models and participant directed service models.
- The limit can be exceeded by \$15,000 for Benefits Counseling, Advanced Supported Employment or Supported Employment services that are authorized on a participant's service plan.

The fiscal year limit enumerated in Appendix C-4 of the Community Living waiver services will be increased to \$85,000 for Waiver Year 5. The \$85,000 per person per fiscal year total limit is established for all Community Living waiver services with an exception for Supports Coordination services.

The above increases in per person per year total limit are necessary to ensure that participants are not subject to service loss due to changes in service rates that become effective January 1, 2022.

P/FDS and Community Living waivers' fiscal year limits may be temporarily exceeded to provide needed services for emergency care provision. When the public health emergency is declared to end, utilization of services for individuals must return to the established fiscal year limitations of the waiver in which the participant is enrolled within 6 months. All individuals experiencing a decrease or termination in services will receive notice 10 days prior to action being taken per Federal Regulations.

The increases to the fiscal year limits will be added permanently to the waivers through the amendment and renewal process which includes obtaining public comment on these 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. \_\_\_ 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.]

### **Rate Increases**

Using the rate methodology described in I-2 and 55 Pa. Code Chapter 6100, ODP has updated the data used in the rate setting process for all fee schedule rates.

The rate setting data refresh schedule for the Consolidated, P/FDS and Community Living waivers was accelerated due to the impact of the pandemic on staffing in all areas of HCBS provision. Universally HCBS providers are experiencing unprecedented staffing shortages which is impacting service delivery. The data update has resulted in increases to all fee schedule rates.

The changes to the fee schedule rates will be effective January 1, 2022 and will be released for public comment prior to implementation. Rate increases vary by service category, but on average reflect an increase of 10-11%. ARPA funds will be used for rate increases beginning January 1, 2022. When available ARPA funding is exhausted, state appropriations will be adjusted to ensure continued payment at the increased rates.

### **Supplemental Payments**

Supplemental payments will be made available for providers for the following:

- 1) Augmentation of Staff Training, Credentialing, and Business Associates Programs for Employment. One time funding up to \$50,000 or 1% of provider annual revenue,\* whichever is greater, for the following types of activities: agency adoption of Centers for Medicare and Medicaid Services core competency training for Direct Support Professionals, DSP National Association for Dual Diagnosis certifications, agency completion of National Association for Dual Diagnosis accreditation, establishing business associate program in industry to promote employment for people with disabilities, Lifecourse Ambassador program.
- 2) Technology that Enhances HCBS Provision for Providers. One time funding up to \$20,000 per ODP enrolled HCBS provider (excluding Supports Coordinator Organizations) for activities including: purchase of assistive and/or remote support technology; purchase and implementation of new software/technology for electronic health records, quality or risk management functions; technology professional credentialing identified in ODP provider qualifications. This initiative excludes any funding for a provider/state Electronic Visit Verification solution(s).
- 3) Technology that Enhances HCBS Provision for Supports Coordination Organizations. One time funding up to 10% of annual revenue\* or a maximum of \$150,000 for purchase of technology for Supports Coordination Organizations (excluding Providers) to improve capacity to conduct remote monitoring of individuals; improve efficiency of Supports Coordinators including maximizing time in the field; obtain or enhance secure inter-office communications or implement technology dependent quality improvement strategies.

Supplemental payments will be made as one-time payments to providers for the period of January 1, 2022, until the end of the effectiveness of Appendix K or March 31, 2024, whichever is sooner.

Providers are paid using a fee schedule rate for all services for which supplemental payments will be made. All supplemental payments will be retained by providers. The state will require providers to submit a plan that details the use of the supplemental payment, the state will approve/deny/recommend modifications, and then release payment when agency provides documentation that the plan was completed.

The state portion of the supplemental payments will be funded through savings from the enhanced Federal funds available as per Pennsylvania's Spending Plan for Section 9817 of the American Rescue Plan Act of 2021.

\* Revenue will be calculated as total claims submitted by a provider for participants in the Consolidated, P/FDS, and Community Living waivers for the services listed in C-3 of the waivers for period 7/1/19-6/30/20 or 7/1/20-6/30/21, whichever is greater.

**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]**

## 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]*:



- 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](mailto: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](mailto:jmochon@pa.gov)  
**Fax Number** 717-787-6583

## 8. Authorizing Signature

**Signature:**

/S/

State Medicaid Director or Designee

**Date:** 12/29/2021

**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.  
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**State** PA  
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