

# 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>1</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): OBRA

C. Control Number(s): #0235.R05.11

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

<input checked="" type="checkbox"/>	<b>Pandemic or Epidemic</b>
<input type="checkbox"/>	<b>Natural Disaster</b>
<input type="checkbox"/>	<b>National Security Emergency</b>
<input type="checkbox"/>	<b>Environmental</b>
<input type="checkbox"/>	<b>Other (specify):</b>

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 to all individuals impacted by the virus or the response to the virus (e.g. closure of day programs, etc.)

**F. Proposed Effective Date: Start Date:** March 6, 2020 **Anticipated End Date:** June 30, 2020

**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.

Participants will transition back to pre-emergency service levels upon a date determined by the Office of Long-Term Living and in conjunction with the timeframes federal and/or state health officials have determined that the virus outbreak is adequately contained and possesses minimal risks to revert to existing, approved waiver practices. This transition will be implemented no sooner than 48 hours, but no later than 7 business days, after the public has been made aware of pandemic containment and Medicaid providers have been notified of the intent to repeal emergency-based standards described herein.

As all changes in this Appendix K are specific to COVID-19 impacts, once the emergency has abated, there will no longer be a need for participants to maintain service changes allowable through Appendix K. In the event services on the Individual Service Plan (ISP) are increased or provided in a modified manner to address COVID-19-related needs, participants will be notified that services will revert back to service levels and modalities that were in place prior to being impacted by COVID-19.

In keeping with existing practices, individualized needs will be reassessed on a case-by-case basis, as needed, if any long-term changes are required to a participant's ISP once the Commonwealth resumes standard program rules and policies approved in the active OBRA 1915(c) HCBS waiver application.

**H. Geographic Areas Affected:**

Statewide. On March 6, 2020, Pennsylvania's Governor declared a statewide emergency pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code, 35 Pa. C.S. § 7101, et seq. 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. \_ 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. \_\_\_ 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.]

**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.]

Individual Service Plans (ISPs) that are due to expire in 30 days require service coordinator contact to the participant using allowable remote contact methods to verify with the participant or representative that the current ISP assessment and service, including providers, remain acceptable and approvable for the upcoming year. The service coordinator will verify by obtaining electronic signatures in accordance with the state's HIPAA requirements. If requested and/or necessary, modifications to an ISP may be made as driven by individualized participant's needs, circumstance and consent, reviewed on an individualized basis without the input of the entire person-centered service team. The service coordinator will ensure the ISP is modified to allow for additional supports and/or services to respond to the COVID-19 pandemic. The specificity of such services including amount, duration and scope will be appended as soon as possible to ensure that the specific service is delineated accordingly to the date it began to be received. The ISP will be updated no later than 30 days from the date the service was initiated.

**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]**

The due date for the OBRA Waiver Quality Review submission that was originally due on April 30, 2020 is extended to June 30, 2020.

**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]*:

Structured Day Habilitation

- 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]*

Allow persons with powers of attorney and legal guardians to provide personal care services.

- 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:** Jennifer  
**Last Name:** Hale  
**Title:** Policy Director  
**Agency:** Department of Human Services, Office of Long-Term Living  
**Address 1:** 555 Walnut Street  
**Address 2:** 6<sup>th</sup> Floor, Forum Place  
**City:** Harrisburg  
**State:** PA  
**Zip Code:** 17101  
**Telephone:** (717) 346-0495  
**E-mail:** jehale@pa.gov  
**Fax Number:** (717) 265-7698

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

**First Name:** Click or tap here to enter text.  
**Last Name:** Click or tap here to enter text.  
**Title:** Click or tap here to enter text.  
**Agency:** Click or tap here to enter text.  
**Address 1:** Click or tap here to enter text.  
**Address 2:** Click or tap here to enter text.  
**City:** Click or tap here to enter text.  
**State:** Click or tap here to enter text.  
**Zip Code:** Click or tap here to enter text.  
**Telephone:** Click or tap here to enter text.  
**E-mail:** Click or tap here to enter text.  
**Fax Number:** Click or tap here to enter text.

## 8. Authorizing Signature

**Signature:**

**Date:** 04/28/2020

\_\_\_\_\_/S/\_\_\_\_\_  
State Medicaid Director or Designee



**First Name:** Sally  
**Last Name** Kozak  
**Title:** Medicaid Director  
**Agency:** Department of Human Services, Office of Medical Assistance Programs  
**Address 1:** 625 Forster Street  
**Address 2:** Room 515, Health and Welfare Building  
**City** Harrisburg  
**State** PA  
**Zip Code** 17120  
**Telephone:** (717) 787-1870  
**E-mail** [sakozak@pa.gov](mailto:sakozak@pa.gov)  
**Fax Number** (717) 787-4639

## 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 Medical Equipment and Supplies

*Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:*

### Service Definition (Scope):

Specialized Medical Equipment and Supplies are services or items that provide direct medical or remedial benefit to the participant and are directly related to a participant's disability. These services or items are necessary to ensure health, welfare and safety of the participant and enable the participant to function in the home and community with greater independence. This service is intended to enable participants to increase, maintain, or improve their ability to perform activities of daily living. Specialized Medical Equipment and Supplies are specified in the participant's service plan and determined necessary in accordance with the participant's assessment.

### Specialized Medical Equipment and Supplies includes:

- Devices, controls or appliances, specified in the service plan, that enable participants to increase, maintain or improve their ability to perform activities of daily living
- Equipment repair and maintenance, unless covered by the manufacturer warranty
- Items that exceed the limits set for Medicaid State plan covered services
- Rental Equipment. In certain circumstances, needs for equipment or supplies may be time-limited. The Service Coordinator must initially verify that the rental costs cannot be covered by the State Plan. If the State Plan does not cover the rental for the particular piece of equipment needed, then the cost of the rental can be funded through Specialized Medical Equipment and Supplies
- Personal Protective Equipment (PPE) for participants such as gloves, gowns and masks can be obtained under Specialized Medical Equipment and Supplies. PPE may be added to a participant's ISP without the need for a comprehensive needs assessment or a physician's prescription.

### Non-Covered Items:

- All prescription and over-the-counter medications, compounds and solutions (except wipes and barrier cream)
- Items covered under third party payer liability
- Items that do not provide direct medical or remedial benefit to the participant and/or are not directly related to a participant's disability
- Food, food supplements, food substitutes (including formulas), and thickening agents;
- Eyeglasses, frames, and lenses;
- Dentures
- Any item labeled as experimental that has been denied by Medicare and/or Medicaid
- Recreational or exercise equipment and adaptive devices for such

All items shall meet applicable standards of manufacture, design and installation.

If the participant receives Speech, Occupational, or Physical Therapy or Behavior Support services that may relate to, or are impacted by, the use of the Specialized Medical Equipment and Supplies, the Specialized Medical Equipment and Supplies must be consistent with the participant's behavior support plan or Speech, Occupational or Physical Therapy service.

Specify applicable (if any) limits on the amount, frequency, or duration of this service:

Specialized Medical Equipment and Supplies services are provided when the limits of the State Plan service under the approved State Plan are exhausted and the scope/nature of these service do not otherwise differ from the services furnished under the state plan. The approved State Plan includes requirements for prior authorization on items above a specific cost and includes limitations for oxygen and related equipment. The provider qualifications in the waiver differ from the qualifications specified in the State Plan. The waiver includes additional provider types not specified in the State Plan.

In addition, Specialized Medical Equipment and Supplies may only be funded through the waiver when the services are not covered by a responsible third-party, such as Medicare or private insurance. Service Coordinators must assure that coverage of services provided under the State Plan or a responsible third-party continues until the State Plan limitations have been reached or a determination of non-coverage has been established prior to this service's inclusion in the service plan. Documentation in accordance with Department requirements must be maintained in the participant's file by the Service Coordinator and updated with each reauthorization, as applicable.

This service does not include, but requires, an independent evaluation and a physician's prescription. The independent evaluation must be conducted by an occupational therapist; a speech, hearing or language therapist; or physical therapist meeting all applicable Department standards, including regulations, policies and procedures relating to provider qualifications. Such assessments may be covered through one of the following services offered through the waiver; Physical Therapy, Occupational Therapy, or Speech Therapy, or the State Plan as appropriate.

Hearing Aids require, but this service does not cover, an evaluation conducted by a physician certified by the American Board of Otolaryngology (ear, nose, and throat physician). Hearing aids must be purchased and fitted by a Pennsylvania registered hearing aid fitter, licensed audiologist, or licensed physician associated with a registered hearing aid dealer.

Hearing aid purchases are limited to once every three years.

Specialized Medical Equipment and Supplies exclude Assistive Technology.

Except as permitted in accordance with requirements contained in Department guidance, policy and regulations, this service may not be provided on the same day and at the same time as services that contain elements integral to the delivery of this service.

#### Provider Specifications

Provider Category(s) (check one or both):	<input checked="" type="checkbox"/>	Individual. List types:	<input checked="" type="checkbox"/>	Agency. List the types of agencies:
	Hearing Aide Dealer		Durable Medical Equipment	
			Pharmacy	
			Hearing Aid Dealer	
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)	

<p>Durable Medical Equipment</p>		<p>Drug and Device Registration with the PA Department of Health as required by the Controlled Substance, Drug, Device and Cosmetic Act and 28 PA Code Chapter 25</p>	<ul style="list-style-type: none"> <li>• Comply with 55 PA Code 1101 and have a waiver provider agreement</li> <li>• Comply with Department standards, including regulations, policies and procedures relating to provider qualifications</li> <li>• Have a waiver service location in Pennsylvania or a state contiguous to Pennsylvania</li> <li>• Have Worker’s Compensation insurance in accordance with State statute and in accordance with Department policies</li> <li>• Have Commercial General Liability insurance</li> <li>• Ensure that employees (direct, contracted or in a consulting capacity) have been trained to meet the unique needs of the participant; for example, communication, mobility and behavioral needs</li> <li>• Meet enrolled provider participation requirements as described in Chapter 1101 Medical Assistance Provider participation requirement</li> <li>• Meet State regulations under 55 PA Code 1123 regarding participation for medical supplies.</li> </ul> <p>Individuals working for or contracted with agencies must meet the following standards:</p> <ul style="list-style-type: none"> <li>• Be at least 18 years of age</li> <li>• Comply with Department standards, including regulations, policies and procedures relating to provider qualifications</li> <li>• Complete Department required training, including training on the participant’s service plan and the participant’s unique needs, which may include, but is not limited to, communication, mobility, and behavioral needs</li> <li>• Have criminal clearances as per 35 P.S. §10225.101 et seq. and 6 PA Code Chapter 15</li> <li>• Have a child abuse clearance as required in Appendix C-2-b</li> <li>• Have a valid driver's license from Pennsylvania or a contiguous state if the</li> </ul>
----------------------------------	--	---	--

			operation of a vehicle is necessary to provide the service
Pharmacy	Permit to conduct a pharmacy, under 49 PA Code, Part I, Subpart A. Chapter 27		<ul style="list-style-type: none"> <li>• Comply with 55 PA Code 1101 and have a waiver provider agreement</li> <li>• Comply with Department standards, including regulations, policies and procedures relating to provider qualifications</li> <li>• Have a waiver service location in Pennsylvania or a state contiguous to Pennsylvania</li> <li>• Have Worker’s Compensation insurance in accordance with State statute and in accordance with Department policies</li> <li>• Have Commercial General Liability insurance</li> <li>• Ensure that employees (direct, contracted or in a consulting capacity) have been trained to meet the unique needs of the participant; for example, communication, mobility and behavioral needs</li> <li>• Meet State regulations under 55 PA Code 1123 regarding participation for medical supplies</li> </ul> <p>Individuals working for or contracted with agencies must meet the following standards:</p> <ul style="list-style-type: none"> <li>• Be at least 18 years of age</li> <li>• Comply with all Department standards including regulations, policies and procedures related to provider qualifications</li> <li>• Complete Department required training, including training on the participant’s service plan and the participant’s unique needs, which may include, but is not limited to, communication, mobility and behavioral needs</li> <li>• Have criminal clearances as per 35 P.S. §10225.101 et seq. and 6 PA Code Chapter 15</li> <li>• Have a child abuse clearance as required in Appendix C-2-b</li> <li>• Have a valid driver's license from Pennsylvania or a contiguous state if the operation of a vehicle is necessary to provide the service</li> </ul>

<p>Registered Hearing Aid Dealer</p>		<p><u>Certified by the PA Department of Health under 28 Pa. Code Ch. 25, SubChapter B Hearing Aid Sales and Registration</u></p>	<ul style="list-style-type: none"> <li>• Employ a licensed physician, licensed audiologist, or registered hearing aid fitter qualified by PA Department of Health to sell and fit hearing aids</li> <li>• Comply with 55 PA Code 1101 and have a waiver provider agreement</li> <li>• Comply with Department standards, including regulations, policies and procedures relating to provider qualifications</li> <li>• Have a waiver service location in Pennsylvania or a state contiguous to Pennsylvania</li> <li>• Have Worker’s Compensation insurance in accordance with State statute and in accordance with Department policies</li> <li>• Have Commercial General Liability insurance</li> <li>• Ensure that employees (direct, contracted or in a consulting capacity) have been trained to meet the unique needs of the participant; for example, communication, mobility and behavioral needs</li> <li>• Meet enrolled provider participation requirements as described in Chapter 1101 Medical Assistance Provider participation requirement</li> <li>• Meet State regulations under 55 PA Code 1123 regarding participation for medical supplies</li> </ul> <p>Individuals working for or contracted with agencies must meet the following standards:</p> <ul style="list-style-type: none"> <li>• Be at least 18 years of age</li> <li>• Comply with Department standards, including regulations, policies and procedures relating to provider qualifications</li> <li>• Complete Department required training, including training on the participant’s service plan and the participant’s unique needs, which may include, but is not limited to, communication, mobility, and behavioral needs</li> <li>• Have criminal clearances as per 35 P.S. §10225.101 et seq. and 6 PA Code Chapter 15</li> </ul>
--------------------------------------	--	--	--

			<ul style="list-style-type: none"> <li>• Have a child abuse clearance as required in Appendix C-2-b</li> <li>• Have a valid driver's license from Pennsylvania or a contiguous state if the operation of a vehicle is necessary to provide the service</li> </ul>

**Verification of Provider Qualifications**

Provider Type:	Entity Responsible for Verification:	Frequency of Verification
Durable Medical Equipment	OLTL or its designee	At time of enrollment and revalidation or more frequently when deemed necessary by the Department.
Pharmacy	OLTL or its designee	At time of enrollment and revalidation or more frequently when deemed necessary by the Department.
Hearing Aid Dealer	OLTL or its designee	At time of enrollment and revalidation or more frequently when deemed necessary by the Department.

Service Delivery Method				
<b>Service Delivery Method</b> <i>(check each that applies):</i>	<input type="checkbox"/>	Participant-directed as specified in Appendix E	X	Provider managed
	<input type="checkbox"/>			
	<input type="checkbox"/>			



<sup>i</sup> 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.