

## APPENDIX K: Emergency Preparedness and Response

### Background:

This standalone appendix may be utilized by the state during emergency situations to request amendment to its approved waiver. It includes actions that states can take under the existing Section 1915(c) home and community-based waiver authority in order to respond to an emergency. Other activities may require the use of various other authorities such as the Section 1115 demonstrations or the Section 1135 authorities.<sup>i</sup> This appendix may be completed retroactively as needed by the state.

### Appendix K-1: General Information

#### General Information:

A. State: Pennsylvania

B. Waiver Title:

C. Control Number:

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.

As of March 12, 2020, Pennsylvania has 22 presumptive positive cases and 6 confirmed cases of COVID-19 and anticipates this number to increase. The population served through Pennsylvania's Office of Long-Term Living (OLTL) may be particularly vulnerable to infection and resulting illness due to: (1) underlying health conditions such as higher levels of hypertension, diabetes and cardiovascular disease than the general public; (2) reliance on support from others for Activities of Daily Living; (3) deficits in adaptive functioning that inhibit ability to follow infection control procedures; and (4) receipt of care in congregate settings. OLTL currently has approximately 484 individuals enrolled in the OBRA 1915(c)

waiver. Pennsylvania seeks temporary changes to the 1915(c) waiver to accommodate potential issues with staffing shortages and need for service provision outside of approved service descriptions to ensure participant health and safety needs can be accommodated for the duration of the emergency.

**F. Proposed Effective Date: Start Date: 3/6/2020      Anticipated End Date: 6/30/2020**

**G. Description of Transition Plan.**

**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.

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

**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]

Upon the date the Department has declared that the statewide emergency has ended, services will resume automatically, without further action by the Participant or the by the Service Planning Team, to the amount, frequency and duration approved in the participant's Individual Service Plan (ISP) prior to implementation of Appendix K changes.

- Adult Daily Living Services
  - Long-term or continuous nursing may be provided as a discrete service during the provision Adult Daily Living Services to ensure participant health and safety needs can be met.
  
- Residential Habilitation:
  - Service definition limitations on the number of people served in each licensed home may be exceeded, provided that the number of participants can be safely served in the setting
  - Long-term or continuous nursing may be provided as a discrete service during the provision of Residential Habilitation to ensure participant health and safety needs can be met.
  
- Respite:
  - Respite in a licensed facility may be extended beyond 29 consecutive days without prior approval in order to meet the immediate health and safety needs of program participants.

**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]:

- Residential Habilitation and Structured Day Habilitation Services may be provided to participants by Residential Habilitation and Structured Day Habilitation staff in private homes.
- Cognitive Rehabilitation Therapy may be provided remotely using phone or video conferencing during this time period only to participants who are currently receiving these services.
- Behavior Therapy and Counseling Services may be provided remotely using phone or video conferencing.

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.]

Staff who are qualified to provide services under any service definition in the 1915(c) waiver may be reassigned to provide Residential Habilitation, Structured Day Habilitation Services, Adult Daily Living, and Personal Assistance Services.

All staff should receive training on the participant’s ISP for whom they are providing support. Training on the ISP must consist of basic health and safety support needs for that individual.

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.]

Residential Habilitation, Structured Day Habilitation Services and Adult Daily Living:

1. Maximum number of individuals served in a service location may be exceeded to address staffing shortages or accommodating use of other sites as quarantine sites.
2. Minimum staffing ratios as required by licensure, service definition or the participant's ISP may be exceeded due to staffing shortages.

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

1. Face-to-face initial level of care assessments may be conducted remotely using phone or video conferencing.
2. Annual level of care reassessments may be conducted remotely using phone or video conferencing.
3. Comprehensive needs assessments may be conducted remotely using phone or video conferencing when a participant's needs change or when the participant requests a reassessment.
4. Comprehensive needs reassessments following trigger events may be conducted remotely using phone or video conferencing.

The qualifications for the individuals conducting these assessments will not change.

**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.]

Modifications to Service Coordination

1. Allow remote/telephone individual monitoring by Service Coordinators where face-to-face contacts are currently required.
2. Service Planning Team meetings and plan development may be conducted entirely using telecommunications. Members of the Service Planning Team may also participate remotely using phone or video conferencing and are determined at the discretion of the participant.
3. As noted in K-2-m below, verbal or email approval of changes to ISPs will serve as authorization for services.

Participant Rights

- Suspend requirements for allowing visitors in provider owned and operated settings (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 ISP.

**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]**

Incident Management Changes:

- Providers must submit critical incident reports for Service Interruptions even if the reason for the Service Interruption is due to insufficient staff to provide care due to COVID-19.
- Providers will not need to conduct an investigation for Service Interruptions when the Service Interruption is due to insufficient staff to provide care due to COVID-19. Providers must ensure that participants at highest risk continue to receive services.

**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.]

**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.]

Personal Assistance Services retainer payments, as described in Olmstead Letter #3, Attachment 3-c, may be made when the participant is hospitalized or absent from their home due to COVID-19. Personal Assistance Services retainer payments may not exceed 15 days – the number of days for which OLTL authorizes a payment for "bed-hold" in nursing facilities.

**k. \_\_\_ Temporarily institute or expand opportunities for self-direction.**

[Provide an overview and any expansion of self-direction opportunities including a list of services that may be self-directed and an overview of participant safeguards]

**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]**

Given the rapid response that will be necessary to ensure participant health and safety and to avoid delays while waiting for approval and authorization of ISP changes in HCSIS, documentation of verbal approval or email approval of changes and additions to ISPs will suffice as authorization. Upon validation that a verbal or email approval was provided for requested changes, providers may backdate authorizations for waiver services provided during the period specified in Appendix K-F.

**Contact Person(s)**

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

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

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

<b>First Name:</b>	
<b>Last Name</b>	
<b>Title:</b>	
<b>Agency:</b>	
<b>Address 1:</b>	
<b>Address 2:</b>	
<b>City</b>	
<b>State</b>	
<b>Zip Code</b>	
<b>Telephone:</b>	
<b>E-mail</b>	
<b>Fax Number</b>	

**8. Authorizing Signature**



**Signature:**  
\_\_\_\_\_/s/\_\_\_\_\_  
State Medicaid Director or Designee


<b>Date:</b>	<b>03-18-2020</b>
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<b>First Name:</b>	Sally
<b>Last Name</b>	Kozak
<b>Title:</b>	Medicaid Director
<b>Agency:</b>	Department of Human Services, Office of Medical Assistance Programs
<b>Address 1:</b>	625 Forster Street
<b>Address 2:</b>	Room 515, Health and Welfare Building
<b>City</b>	Harrisburg
<b>State</b>	PA
<b>Zip Code</b>	17120
<b>Telephone:</b>	(717) 787-1870
<b>E-mail</b>	<a href="mailto:sakozak@pa.gov">sakozak@pa.gov</a>
<b>Fax Number</b>	(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 which the state is temporarily modifying, enter the entire service definition and highlight the change. State laws, regulations and policies referenced in the specification are readily available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

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



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<sup>i</sup> Numerous changes that the state may want to make necessitate authority outside of the scope of section 1915(c) authority. States interested in changes to administrative claiming or changes that require section 1115 or section 1135 authority should engage CMS in a discussion as soon as possible. Some examples may include: (a) changes to administrative activities, such as the establishment of a hotline; (b) suspension of general Medicaid rules that are not addressed under section 1915(c) such as payment rules or eligibility rules or suspension of provisions of section 1902(a) to which 1915(c) is typically bound.