

# 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): Community HealthChoices  
OBRA

C. Control Number(s):

#0386.R04.13  
#0235.R06.05

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

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

E. **Brief Description of Emergency.** *In no more than one paragraph each*, briefly describe the: 1) nature of emergency; 2) number of individuals affected and the state's mechanism to identify individuals at risk; 3) roles of state, local and other entities involved in approved waiver operations; and 4) expected changes needed to service delivery methods, if applicable. The state should provide this information for each emergency checked if those emergencies affect different geographic areas and require different changes to the waiver.

COVID-19 pandemic. This amendment will apply waiver-wide for each waiver included in this Appendix, to all individuals impacted by the virus or the response to the virus (e.g. closure of day programs, etc.) This amendment adjusts the end date to May 11, 2023. Effective May 11, 2023, the Office of Long-Term Living (OLTL) will return to normal, pre-COVID, pre-emergency operations as approved in the Community HealthChoices (CHC) and OBRA base waivers, ending all flexibilities previously approved through Appendix K amendments.

**F. Proposed Effective Date: Start Date:** March 6, 2020 **Anticipated End Date:** **May 11, 2023**

**G. Description of Transition Plan.**

Effective May 11, 2023, OLTL will return to normal, pre-COVID, pre-emergency operations as approved in the CHC and OBRA base waivers. 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.

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 Person-Centered Service Plan (PCSP) are provided in a modified manner to address COVID-19-related needs, participants will be notified that services will revert to service 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 PCSP once the Commonwealth resumes standard program rules and policies approved in the CHC and OBRA 1915(c) HCBS base waiver applications.

**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.]

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#### ii. \_\_\_ Temporarily modify additional targeting criteria.

[Explanation of changes]

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### b. \_\_\_ Services

#### i. X Temporarily modify service scope or coverage.

See below.

#### 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]

Effective May 11, 2023, OLTL will return to normal, pre-COVID, pre-emergency operations as approved in the CHC and OBRA base waivers. Therefore, the following flexibilities will no longer be available after May 11, 2023. Service Coordinators must notify participants that services will revert to service modalities that were in place prior to being impacted by COVID-19.

- 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.
- Personal Protective Equipment (PPE) may no longer be provided as Specialized Medical Equipment and Supplies under the Appendix K authority. PPE is covered by the Medicaid State Plan.

The following flexibility applies to the CHC waiver only:

- Respite: Respite in a licensed facility may be extended beyond 29 consecutive days without prior approval of the CHC-MCO 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]:

Effective May 11, 2023, OLTL will return to normal, pre-COVID, pre-emergency operations as approved in the CHC and OBRA base waivers. Therefore, the following flexibilities will no longer be available after May 11, 2023. Service Coordinators must notify participants that services will revert to service modalities that were in place prior to being impacted by COVID-19.

- 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.
- Behavior Therapy and Counseling Services may be provided remotely using phone or video conferencing.
- Adult Daily Living Services may be provided in the participant's home.
- Adult Daily Living Services may be provided remotely.
- Waiver services may be provided in alternate settings, such as hotels, when it's necessary to relocate participants due to widespread COVID-19 in a setting. These situations will be reviewed on a case-by-case basis and will be subject to approval by OLTL.

**v. \_\_\_ Temporarily provide services in out of state settings (if not already permitted in the state's approved waiver). [Explanation of changes]**

**c. X 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.

Effective May 11, 2023, OLTL will return to normal, pre-COVID, pre-emergency operations as approved in the CHC and OBRA base waivers. Spouses, legal guardians, and persons with power of attorney may no longer serve as paid direct care workers after May 11, 2023. Service Coordinators must notify participants that services will revert to service modalities that were in place prior to being impacted by COVID-19.

OLTL has identified less than 25 participants who are using this flexibility and can assure that discontinuing the use of spouses, POA, and legal guardians as direct care workers will have no impact on participant's services. OLTL has identified that there is an adequate provider network to meet the needs of these participants.

**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.]

Effective May 11, 2023, OLTL will return to normal, pre-COVID, pre-emergency operations as approved in the CHC and OBRA base waivers. Therefore, the following flexibilities will no longer be available after May 11, 2023. Service Coordinators must notify participants that services will revert to service modalities that were in place prior to being impacted by COVID-19.

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.

**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.]

Effective May 11, 2023, OLTL will return to normal, pre-COVID, pre-emergency operations as approved in the CHC and OBRA base waivers. Therefore, the following flexibilities will no longer be available after May 11, 2023.

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 PCSP may be exceeded due to staffing shortages.

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

Effective May 11, 2023, OLTL will return to normal, pre-COVID, pre-emergency operations as approved in the CHC and OBRA base waivers. Therefore, the following flexibilities will no longer be available after May 11, 2023. Service Coordinators must notify participants that services will revert to service modalities that were in place prior to being impacted by COVID-19.

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.

**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.]

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**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.]

Effective May 11, 2023, OLTL will return to normal, pre-COVID, pre-emergency operations as approved in the CHC and OBRA base waivers. Therefore, the following flexibilities will no longer be available after May 11, 2023. Service Coordinators must notify participants that services will revert to service modalities that were in place prior to being impacted by COVID-19.

**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 PCSPs 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 PCSP.

**Person Centered Service Plans:**

- PCSPs 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 PCSP assessment and service, including providers, remain acceptable and approvable for the upcoming year. The CHC-MCO will verify by obtaining electronic signatures in accordance with the state's HIPAA requirements. If requested and/or necessary, modifications to a PCSP 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 CHC-MCO will ensure the PCSP 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 PCSP 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]**



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**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. \_\_\_ 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.]

Effective May 11, 2023, OLTL will return to normal, pre-COVID, pre-emergency operations as approved in the CHC and OBRA base waivers. Therefore, retainer payments to direct care workers providing Personal Assistance Services in both the agency and participant-directed models may no longer be made.

**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]

Effective May 11, 2023, OLTL will return to normal, pre-COVID, pre-emergency operations as approved in the CHC and OBRA base waivers. Therefore, the following flexibility will no longer be available after May 11, 2023.

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 PSCP changes in HCSIS on in the MCO's system, documentation of verbal approval or email approval of changes and additions to PCSPs 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.

## 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]*:

Effective May 11, 2023, OLTL is discontinuing the flexibility to provide electronic methods of service delivery for the CHC and OBRA waivers.

- 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. ☐

Effective May 11, 2023, OLTL will return to normal, pre-COVID, pre-emergency operations as approved in the CHC and OBRA base waivers. Spouses, legal guardians, and persons with power of attorney may no longer serve as paid direct care workers. Service Coordinators must notify participants that services will revert to service modalities that were in place prior to being impacted by COVID-19. OLTL has identified less than 25 participants who are using this flexibility and can assure that discontinuing the use of spouses, POA, and legal guardians as direct care workers will have no impact on participant's services. OLTL has identified that there is an adequate provider network to meet the needs of participants.

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:** /S/

**Date:** 2/24/2023

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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:					
<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) (check one or both):	<input type="checkbox"/>	Individual. List types:	<input type="checkbox"/>	Agency. List the types of agencies:	
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)		
Verification of Provider Qualifications					
Provider Type:	Entity Responsible for Verification:		Frequency of Verification		
Service Delivery Method					
Service Delivery Method (check each that applies):	<input type="checkbox"/>	Participant-directed as specified in Appendix E	<input type="checkbox"/>	Provider managed	



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<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.