

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.ⁱ This appendix may be completed retroactively as needed by the state.

Appendix K-1: General Information

General Information:

- A. State: Pennsylvania
- B. Waiver Title:

Community Living Waiver

- C. Control Number:

PA.1486.R00.04

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.

As of March 12, 2020, Pennsylvania has 20 presumptive cases and 2 confirmed cases of COVID19 and anticipates this number to increase. The population served through Pennsylvania’s Office of Developmental Programs (ODP) may be particularly vulnerable to infection and resulting illness due to: (1) underlying health conditions such as higher levels of 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 facility-based settings. ODP currently has approximately 56,000 individuals enrolled for services with approximately 36,000 of those individuals receiving services through one of ODP's approved 1915(c) waivers. The waiting lists for the Consolidated, Community Living and Person/Family Directed Support waivers include roughly 2,400 individuals who live with family and whose primary caregivers are over age 60. Family caregivers falling ill with COVID19 may also result in an increased need for emergency services. Pennsylvania seeks temporary changes to the Community Living 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 during the emergency.

F. Proposed Effective Date: Start Date: 3/11/2020 Anticipated End Date: 3/10/2021

G. Description of Transition Plan.

H. Geographic Areas Affected:

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:*

The Commonwealth's Emergency Operations Plan can be found here:
<https://www.pema.pa.gov/Preparedness/Planning/Documents/Commonwealth-Emergency-Operations-Plan-2019.pdf>

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]

Appendix C-4:

The fiscal year limits enumerated in Appendix C-4 of the Community Living waiver may be temporarily exceeded to provide needed services for emergency care provision. When the emergency is declared to end, utilization of services for individuals must return to the frequency and duration as authorized in individual plans prior to the emergency.

Service Limits in Appendix C-1/C-3

Residential Habilitation (unlicensed), Life Sharing and Supported Living

1. Service definition limitations on the number of people served in each licensed or unlicensed home may be exceeded.
2. Shift nursing may be provided as a discrete service during the provision of residential habilitation, life sharing and supported living services to ensure participant health and safety needs can be met.
3. Supplemental Habilitation can be provided, without requesting a variance, during the provision of licensed residential habilitation, licensed life sharing and supported living services to address the increased needs of individuals affected by the epidemic/pandemic or increased number of individuals served in a service location. Supplemental habilitation may be used to supplement staffing in the residential home itself or support a participant while the participant stays in the home of friends or family.

Respite

1. Respite limits may be extended beyond 30 days annually without requesting a variance in order to meet the immediate health and safety needs of participants.

Community Participant Support, Companion and In-Home and Community Support

1. Any one of these services or a combination of these services may be provided in excess of 14 hours per day without requesting a variance in order to meet the needs of 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]:

Service Locations in Appendix C-1/C-3

Respite

1. Respite services may be provided in any setting necessary to ensure the health and safety of participants.
2. Room and board is included in the fee schedule rate for Respite in a licensed Residential Habilitation setting.
3. Room and board would be included in the fee schedule rate for settings used in response to the emergency.

Community Participation Support

1. Community Participation Support may be provided in private homes.

In-Home and Community Support, Companion and Behavioral Support

1. Direct In-Home and Community Support, Companion and Behavioral Support services may be provided using remote/tele support when this type of support meets the health and safety needs of the participant.

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.

Residential Habilitation (unlicensed), Supported Living, or Supplemental Habilitation services may be rendered by relatives or legally responsible individuals when they have been hired by the provider agency authorized on the ISP. Relatives and legally responsible individuals must receive training on the participant’s ISP for whom they are rendering these services. Training on the ISP must consist of basic health and safety support needs for that participant including but not limited to the fatal four.

When one of these services is rendered by relatives or legally responsible individuals, the provider agency authorized to render the Residential Habilitation, Supported Living or Supplemental Habilitation service, is responsible for ensuring that services are provided as authorized in the ISP and that billing occurs in accordance with ODP requirements.

Supplemental Habilitation may provided by relatives or legally responsible individuals in the Residential Habilitation home or the private home of the relative or legally responsible individual.

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.]

Provider Qualifications in Appendix C-1/C-3

To allow redeployment of direct support and clinical staff to needed service settings during the emergency, staff qualified under any service definition in the Community Living waiver may be used for provision of any non-professional service under another service definition in C-1/C-3. Professional services exempt from this include; Supports Coordination, Therapy Services, Behavioral Support, Consultative Nutritional Services, Music Therapy, Art Therapy and Equine Assisted Therapy and Shift Nursing.

All staff must receive training on any individuals' ISPs for whom they are providing support. Training on the ISP must consist of basic health and safety support needs for that individual including but not limited to the fatal four.

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 (unlicensed), Life Sharing and Supported Living

1. Maximum number of individuals served in a service location may be exceeded to address staffing shortages or accommodate use of other sites as quarantine sites.
2. Minimum staffing ratios as required by licensure, service definition and individual plan may be exceeded due to staffing shortages.

Community Participation Support

1. Minimum staffing ratios as required by licensure, service definition, and individual plan may be exceeded due to staffing shortages.
2. The requirement to provide services in community locations a minimum of 25% of participant time in service is suspended.
3. The requirement that no more than 3 people can be supported at a time in a community location is suspended.

Education Support Services

1. Allow all components of Education Support to be provided in accordance with any changes the university/college makes for distance/web learning.

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

When ICF/ID or ICF/ORC level of care is evaluated, it is not required that a physician recommend, certify, or verify that the individual should receive the level of care furnished through the waiver. Initial level of care evaluations will consist of: 1) confirmation of intellectual disability, autism or developmental disability diagnosis; 2) QDDP certification of impairments in adaptive functioning; and 3) Documentation substantiating that the individual has had these conditions of intellectual disability or autism and adaptive functioning deficits which manifested during the developmental period which is from birth up to the individual's 22nd birthday.

Level of care recertification can be extended from 365 days of the initial evaluations and subsequent anniversary dates to 18 months from initial evaluations

f. X 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].

The following rates may be increased to account for excess overtime of direct support professionals to cover staffing needs and to account for additional infection control supplies and service costs:

Residential Habilitation, Life Sharing, Supported Employment, In-Home and Community Support, Companion, Community Participation Support, Respite, and Shift Nursing.

The rate setting methodology is the same. Upward adjustments are made to the supply costs (additional supplies for infection control) and overtime for direct support staff. Resulting temporary rate increases are not expected to exceed 40%.

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 Supports Coordination

1. Allow remote/telephone individual monitoring by Supports Coordinators where there are currently face-to-face requirements.
2. Individual plan team meetings and plan development may be conducted entirely using telecommunications.

Participant Rights

- Suspend requirements for allowing visitors (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 individual plan.
- Suspend requirements for right to choose who to share a bedroom with. The modification of this right is not required to be justified in the individual plan.

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

- The requirement to conduct an investigation of any incident of deviation in staffing as outlined in an individual plan may be suspended.
- The requirement to submit an incident report for any deviation in staffing as outlined in an individual plan may be suspended. If this requirement is suspended, providers must report any incidents in which staffing shortages result in a failure to provide care.

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.]

Participants that require hospitalization due to a diagnosis of COVID19 may receive the following services in a hospital setting when the participant requires these services for communication, behavioral stabilization and/or intensive personal care needs:

- Residential Habilitation (unlicensed)
- Life Sharing
- Supported Living
- Supplemental Habilitation
- In Home and Community Support
- Companion

These services cannot be provided in a hospital for more than 30 consecutive days except in situations where it is medically necessary for the participant to be hospitalized for more than 30 consecutive days due to a diagnosis COVID19.

j. X__ Temporarily include retainer payments to address emergency related issues.

[Describe the circumstances under which such payments are authorized and applicable limits on their duration. Retainer payments are available for habilitation and personal care only.]

Retainer payments may be provided for Community Participation Support

- Retainer payments may be provided in circumstances in which facility closures are necessary due to COVID19 containment efforts.
- Retainer payments may be provided in circumstances in which attendance and utilization for the service location drop to below 75% of annual monthly average 7/1/19 to 2/28/2020.
- Retainer payments will not exceed 75% of monthly average of total billing under the 1915(c) waivers.

Through billing procedures, ODP will ensure that there will be no duplicative payments. Community Participation Support services rendered in private homes or other community settings to ensure participant health and safety will be deducted from any calculations for retainer payments.

k. ___ Temporarily institute or expand opportunities for self-direction.

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

l. ___ Increase Factor C.

[Explain the reason for the increase and list the current approved Factor C as well as the proposed revised Factor C]

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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]

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

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 Program
Agency:	Department of Human Services
Address 1:	625 Forster Street, Health and Welfare Building
Address 2:	
City	Harrisburg
State	PA
Zip Code	17120
Telephone:	717-705-5007
E-mail	sakozak@pa.gov
Fax Number	(717) 787-6583

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

First Name:	Julie
Last Name	Mochon
Title:	Director, Division of Policy
Agency:	Department of Human Services, Office of Developmental Programs
Address 1:	625 Forster Street, Health and Welfare Building
Address 2:	
City	Harrisburg
State	PA
Zip Code	17120
Telephone:	717-783-5771
E-mail	jmochon@pa.gov
Fax Number	(717) 787-6583

8. Authorizing Signature

Signature:

Julie Mochon

State Medicaid Director or Designee

Date:

March 13, 2020

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:	
City	Harrisburg
State	PA
Zip Code	17120
Telephone:	717-783-5771
E-mail	jmochon@pa.gov
Fax Number	(717) 787-6583

Section A---Services to be Added/Modified During an Emergency

Complete for each service added during a time of emergency. For services in the approved waiver 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>	<input type="checkbox"/>	Individual. List types:	<input type="checkbox"/>	Agency. List the types of agencies:
Specify whether the service may be provided by <i>(check each that applies):</i>	<input type="checkbox"/>	Legally Responsible Person	<input type="checkbox"/>	Relative/Legal Guardian
Provider Qualifications <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>	<input type="checkbox"/>	Participant-directed as specified in Appendix E	<input type="checkbox"/>	Provider managed



ⁱ 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.