

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.¹ 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: Utah
- B. Waiver Title(s): Limited Supports Waiver
- C. Control Number(s): UT.1886.R00.01
- D. Type of Emergency (The state may check more than one box):

¹ 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.

<input checked="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.

<p>In response to the COVID-19 pandemic: The January 1, 2022 effective date will coincide with the effective date of the approved base waiver's initial approval This Appendix K will apply waiver-wide to all individuals impacted by the virus or the response to the virus, e.g. closure of day programs, quarantine, etc.</p>

F. Proposed Amendment Effective Date: Start Date: January 1, 2022 **Anticipated End Date:** 6 months following the conclusion of the public health emergency

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.
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H. Geographic Areas Affected:

These actions will apply across the waivers 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. X Access and Eligibility:

i. X Temporarily increase the cost limits for entry into the waiver.

[Provide explanation of changes and specify the temporary cost limit.]

Effective January 1, 2022, the state will exceed the established per person cost-limit described in Appendix B-2-a. The State is will increase the cost-limit to adjust with rate increases as to not diminish the individual's ability to procure/pay for services. The state will increase Waiver Year 1 in the approved waiver to \$19,605 per person from \$16,400 per person.

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]:

Direct care services, Respite Care, Day Supports and Supported Employment, may be provided in a hotel, shelter, church, or alternative facility based setting or the home of a direct care worker when the waiver participant is displaced from their home because of quarantine or hospitalization or when providers are unavailable due to illness or business closure. When appropriate, Day Supports may be provided in the individual's home.

The Waiver offers overnight respite (with room and board) and may use settings such as Intermediate Care Facilities or Skilled Nursing Facilities.

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.

The State allows temporary payment for personal care or similar services provided by family caregivers or legally responsible individuals. Details addressed in Addendum.

i. X Temporarily modify provider qualifications.

[Provide explanation of changes, list each service affected, list the provider type, and the changes in provider qualifications.]

Temporarily allow provider enrollment or re-enrollment with modified employee risk screening elements such as onsite visits or fingerprint checks, or modify training requirements. Provider agencies may choose to provide on-line training such as CPR and First Aid in lieu of in-person training. Training may also be conducted by telephone/electronic means. If individual-specific training is provided electronically, a telehealth product or non-public facing remote communication product should be used to protect the individual's confidentiality as permitted by HIPAA and/or in accordance with HIPAA requirements

Staff will remain eligible to perform services for a 90-day window post-expiration of training for items such as CPR, First Aid and Crisis Management during this period.

ii. X Temporarily modify provider types.

[Provide explanation of changes, list each service affected, and the changes in the provider type for each service].

Non-Medical Transportation through non-enrolled providers such as drivers for Uber/Lyft may be reimbursed.

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.]

When needed, temporarily postpone provider licensing requirements (including background checks/fingerprinting) or certification for up to 90 days but not to exceed the Appendix K approval period of six months after the conclusion of the PHE when COVID 19 pandemic impacts the ability for providers to obtain license or certification due to state staff or service provider availability.

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

See Addendum

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.]

Services delivered as 'direct care' to the participant will be eligible for enhanced reimbursement to acknowledge additional risk/cost associated with providing care during the pandemic, including payment of additional employee benefits, overtime/hazard pay, etc. The amount of additional reimbursement will be subject to limitations regarding the use and appropriation of State and Federal funds in both State and Federal statute. Reimbursement will follow the State's approved rate methodology and allow up to an additional 50% of the max rate based on SMA approval.

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.]

See Addendum

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.]

Personal care and similar services may be provided in an acute hospital to support the communication, intensive personal care and behavioral support needs as identified in the person-centered plan, when the service “(A) identified in an individual’s person-centered service plan (or comparable plan of care);

“(B) provided to meet needs of the individual that are not met through the provision of hospital services;

“(C) not a substitute for services that the hospital is obligated to provide through its conditions of participation or under Federal or State law, or under another applicable requirement; and

“(D) designed to ensure smooth transitions between acute care settings and home and community-based settings, and to preserve the individual’s functional abilities.”

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]

In order to respond to the changing needs of participants due to school/employment/day activity schedules, the State will not require Notices of Agency Action to be sent when altering PCSP services to accommodate changes as a direct result of COVID-19 for these amendments. Notices of Agency Action remain required in all other instances of services being suspended, terminated or denied.

Expand provider types for environmental adaptations, specialized medical equipment, and assistive technology to include the use of a purchase card in order to purchase items from nontraditional vendors who have necessary items in stock when supply or cost impacts occur due to COVID 19 on a case by case basis. The State may act as an intermediary to process these orders when a waiver provider cannot be secured, or the time frame to supply the requested item would pose a health and safety concern for the individual.

Suspend temporarily Post Eligibility Treatment of Income for Special Income Group: Requirements related to the post eligibility treatment of income which will enable affected beneficiaries to retain funds otherwise required to be collected (42 CFR 435.217).

Items Restated from Utah's 1135 Request:

6.6.3 Electronic Visit Verification

6.10.8 Annual Redeterminations of Eligibility

6.10.12 Reasonable Standards for Eligibility Section 1902(a)(17)

6.10.13 Post-Eligibility Treatment of Income

6.22 Cost Neutrality Requirements

6.26 Timely Filing of Claims

6.29 Signature requirements

6.39.4 Availability of services 42 CFR §438.206

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.

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]

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 may be used for provision of any non-professional service under another service definition in C-1/C-3. All staff must receive training on any individuals' PCSP for whom they are providing support. Training on the PCSP must consist of basic health and safety support needs for that individual.

- 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.

Authorizing Signature

Signature: /S/ Jennifer Strohecker Director, Division of Medicaid and Health Financing	Date: June 10, 2022
State Medicaid Director or Designee	

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