

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.ⁱ 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: _____ Louisiana _____

B. Waiver Title(s):

C. Control Number(s):

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.

On March 11, 2020, the World Health Organization declared COVID-19 a global pandemic. The same day Louisiana declared a public health emergency. The virus affected 6 individuals on March 10, 2020 and 13 by March 11, 2020. The Louisiana Department of Health discovered the first case was not travel related but spread through community interaction.

The Louisiana Department of Health is engaged in the following priority public health actions:

1. Working with healthcare facilities with presumptive patients to identify exposed healthcare workers and make appropriate recommendations;
2. Ensuring that all recommended infection control precautions are implemented in the healthcare facilities until we determine that the patient is no longer infectious;
3. Notifying and monitoring close contacts;
4. Notifying CDC;
5. Updating the public by website and television twice daily; and
6. Maintaining an information line

As many of the individuals we serve in the Home and Community-Based Services (HCBS) waiver programs are medically compromised and/or elderly, we would like to request some exceptions to our current waiver application in order to minimize the risk to them while still serving them and meeting their needs.

F. Proposed Effective Date: Start Date: January 27, 2020 **Anticipated End Date:** January 26, 2021

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.

H. Geographic Areas Affected:

As per the community transfer risk of the COVID-19, we expect this virus to affect all parts of the state.

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. ___ 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]

The State may allow a participant to receive a higher annual budget than what is assigned according to his/her level of support category.

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]:

Allow participants to receive necessary ADHC services in their home by licensed and/or certified ADHC staff (i.e. RN, LPN, PCA or CNA).

Allow participants to receive Personal Assistance Services (PAS) while living in a home or property owned, operated, or controlled by a provider of services who is not related by blood or marriage to the participant.

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

PAS can be provided in another state without prior written approval of OAAS or its designee, through the POC or otherwise.

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 may allow the following individuals to provide PAS, Self-Direction and Monitored In-Home Caregiving (MIHC) services to the participant:

- the participant's spouse;
- the participant's curator;
- the participant's tutor;
- the participant's legal guardian;
- the participant's responsible representative; or
- the person to whom the participant has given representative and mandate authority (also known as power of attorney).

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

For annual re-evaluations, allow an extension of the current following criteria not to extend beyond 12 additional months past when the level of care is due:

- Re-evaluation of level of care is conducted no less than every twelve (12) months.
- The support coordinator approves/submits the participant's approved re-evaluation packet, including the re-assessment, to the data contractor within 14-90 days prior to the current POC expiration date.

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.]

To respond effectively to the COVID-19 emergency, the State requires flexibility to adjust providers' rates up to 50% of their current rates to ensure that sufficient providers are available for participants. The State may reimburse providers at an enhanced rate. This applies to all services available under the approved CCW, on a case-by-case basis, when an increased rate is required to maintain paid staff due to COVID-19 related circumstances. These increased rates will be based on current market factors and additional costs incurred by the providers.

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.]

Person-Centered Service Plans that are due to expire within the next 60 calendar days require support coordination contact to the participant using allowable remote contact methods to verify with the participant or responsible representative that the current assessment and services, including providers, remain acceptable and approvable for the upcoming year. The State will verify by obtaining electronic signatures/or electronic verification via secure email consent from providers and the participant and/or responsible representative, in accordance with the State's HIPAA requirements.

The State will ensure that the service plan 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 support coordinator must submit the request for additional supports/services no later than 30 calendar days from the date the service begins.

These participants will continue to be monitored through monthly telephone contacts. Participants will be contacted via phone; computer face time or skype in accordance with HIPAA requirements in lieu of face-to-face home visits for individuals that are afraid of exposure or who are medically fragile or elderly or who have medically fragile or elderly caregivers.

h. ___ 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]

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.]

The State will make retainer payments to ADHC providers who provide personal care services that have closed in response to the public health emergency to assure their ability to resume community-based services. Retainer payments will be made for 22 consecutive days of billing which corresponds to Louisiana's non-mutually exclusive Nursing Home bed hold periods of 15 days for home leave and 7 days for hospital leave. The State will at no time duplicate retainer payments with any other payment to the ADHC providers.

Retainer payments will be made based on the number of enrollees absent from the ADHC at 75% of the current rate.

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]*:

Monitored In-Home Caregiving

- 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. ☐ 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: Brian
Last Name Bennett
Title: Medicaid Section Chief
Agency: Bureau of Health Services Financing
Address 1: P.O. Box 91030 Bin #24
Address 2: Click or tap here to enter text.
City Baton Rouge
State La
Zip Code 70821
Telephone: 225-342-9846
E-mail Brian.Bennett@la.gov
Fax Number 225-342-9168

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

First Name: Sherlyn
Last Name Sullivan
Title: Interim Assistant Secretary
Agency: Office of Aging and Adult Services
Address 1: P.O. Box 2031
Address 2: Click or tap here to enter text.
City Baton Rouge
State La
Zip Code 70821-2031
Telephone: 225-219-0223
E-mail Sherlyn.Sullivan@la.gov
Fax Number 225-219-0202

8. Authorizing Signature

Signature:

Date: 3/16/2020

_____/S/_____
State Medicaid Director or Designee

First Name: *Erin*
Last Name *Campbell*
Title: Interim Medicaid Director
Agency: Bureau of Health Services Financing
Address 1: 628 North Fourth Street
Address 2: Click or tap here to enter text.
City Baton Rouge
State LA
Zip Code 70821
Telephone: 225-342-9767
E-mail Erin.Campbell@la.gov
Fax Number Click or tap here to enter text.

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 checked="" 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 | |
| Provider Qualifications (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 checked="" type="checkbox"/> | Provider managed |
| | | | | | | |
| | | | | | | |

ⁱ 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.