

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: Michigan

B. Waiver Title(s):

Habilitation Supports Waiver (HSW) Children's Waiver Program (CWP) Waiver for Children with Serious Emotional Disturbances (SEDW)

C. Control Number(s):

MI 0167.06.01 - Habilitation Supports Waiver MI 4119.06.01 - Children's Waiver Program MI 0438.03.01 - Waiver for Children with Serious Emotional Disturbances
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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.)

F. Proposed Effective Date: Start Date: March 1, 2020 **Anticipated End Date:** February 28, 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:

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.]

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]

HSW Service Limits in Appendix C-1/C-3

Out-of-Home Non-Vocational Habilitation:

- Temporarily allow for in home non-vocational habilitation.
- Temporarily remove the frequency of one or more days per week.

Private Duty Nursing:

- Temporarily suspend 16 hour/day limit on Private Duty Nursing services when increased hours are medically necessary.
- Temporarily allow private duty nursing services to be provided without the individual receiving at least one of the habilitative services through the waiver.

Non-family training: Temporarily suspend the limit of up to four sessions per day, but no more than 12 sessions per 90-day period when increased sessions are needed in training new providers to provide CLS and respite services.

CWP Service Limits in Appendix C-1/C-3

Respite: Temporarily suspend the 1152 hours limit on respite service per fiscal year when increased hours are medically necessary.

Enhanced Transportation: Temporarily suspend the requirement of transportation being limited to local distances, where local is defined as within the child's county or a bordering county.

Home Care Training, Family: Temporarily suspend the limit of up to four sessions per day, and no more than 12 sessions per 90-day period when increased sessions are needed in training the family.

Home Care Training, Non-Family: Temporarily suspend the limit of up to four sessions per day, and no more than 12 sessions per 90-day period when increased sessions are needed in training new providers.

SEDW Service Limits in Appendix C-1/C-3

Respite: Temporarily suspend the limit of 1248 units per month on respite service when increased units are medically necessary.

Community Living Supports: Temporarily suspend the limit of 744 units per month when increased units are medically necessary.

Family Home Care Training: Temporarily suspend the limit of up to four sessions per month when increased sessions are needed in training the family.

Home Care Training, Non-Family: Temporarily suspend the limit of up to four sessions per calendar month when increased sessions are needed in training the new providers.

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]:

Expand settings to allow services to be provided in the provider's home or other alternate settings such as temporary hospitals/shelters/hotels/churches when the enrollee is displaced from their home because of quarantine or hospitalization or when providers are unavailable due to illness or business closure. Respite services may be provided in the enrollee's home, in the home of another, in licensed Adult Foster Care or Home for the Aged facilities, or other State-approved facilities. Respite does not include the cost of room and board in instances when the service is provided in the enrollee's home or in the home of another person.

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. 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.]

CWP/SEDW/HSW: MDHHS will extend the timelines of provider training requirements during the pandemic. Providers are still required to be aged 18 or older, trained in universal precautions, competency for completing required tasks, and the ability to effectively communicate with the individual for direct support professionals (DSP). All required training would be completed as soon as possible once the state of emergency is over, but not to exceed the end date of the Appendix K, February 28, 2021.

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]

CWP/SEDW/HSW: MDHHS will extend annual level of care determinations that will expire during the effective period by one year past the original due date or for the duration of the approved Appendix K. Additionally, MDHHS will extend acceptance of waiver services in place of services in a ICF/IID setting beyond the typical 36 months if the consent expires during the effective period of the pandemic. The state will allow for verbal or email approval in order to authorize and commence services, while awaiting the written or electronic signed document due to COVID-19 emergency in accordance with HIPAA. An updated consent would be completed as soon as possible once the effective period ends. MDHHS temporarily extends the timeline requirements for some of the additional supporting documentation (i.e. individual educational plans (IEP) from schools, or medical reports for health care office, etc.) required for evaluation of level of care when the documents are unable to be acquired due to the COVID emergency. Following the termination COVID-19 emergency period, but not to exceed the end date of the appendix k, this supporting documentations should be obtained as soon as feasible to validate information, as appropriate.

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.]

CWP/SEDW/HSW: MDHHS will temporarily require the flexibility to account for increased risk factors associated with COVID-19 in the rates paid to providers. This flexibility will apply to authorized services billable to Community Living Supports, Personal Care, Overnight Health and Safety, Respite, Out of Home Non-Vocational Habilitation, and Prevocational services in which face to face contact is essential for beneficiary health and safety. The amount of the increase in payment rates to providers and the effective time periods will be determined by MDHHS and paid to the PIHPs for these populations. The rate increase will not exceed 50% of the currently approved rates.

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.]

The state will ensure the person-centered 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, but no later than 30 days to ensure that the specific service is delineated accordingly to the date it began to be received. The care coordinator must submit the request for additional supports/services no later than 30 days from the date the service begins. PIHP/CMH may contact beneficiaries or their authorized representatives telephonically, using telehealth or other available technology as appropriate. Providers must ensure the privacy of the beneficiary and the security of any information shared via telephonic, telehealth and video technology, in accordance with HIPAA. For required in-person visits for case management/supports coordination and provider assessment/monitoring activities, MDHHS will expand telehealth options: Telephonic, telehealth and video technology commonly available on smart phones are acceptable options for program functions that require in-person communication and the beneficiary or legal representative consents to the method. This includes care planning meetings, home visits, case management, and provider initial and annual assessment and monitoring. The use of this option must be documented as a comment on the provider claim and in the beneficiary record, as appropriate. Providers must ensure the privacy of the beneficiary and the security of any information shared via telephonic, telehealth, and video technology, in accordance with HIPAA. If a beneficiary is unable to communicate over the phone, these activities may be completed with a guardian or other representative of the beneficiary that is familiar with their needs. For initial assessments, it is recommended that the supports coordinator/case manager initiates contacts with individuals in addition to the beneficiary, such as family members, guardians, caregivers, and friends. It is also recommended that the supports coordinator request two pieces of identifying information such as DOB and first or last four numbers of the Social Security Number. Following the termination of the COVID-19 emergency, in-person contacts should be made as soon as feasible to validate information gathered telephonically or through telehealth and to reassess as appropriate and may not exceed the duration of the approved Appendix K. In accordance with HIPAA, the state will allow for verbal or email approval in order to authorize and commence services, while awaiting the written or electronic signed document dated the day of the meeting due to COVID-19 emergency. There will be no penalties for delayed contacts. For individuals who are unable to receive the services on the person-centered service plan because of the social distancing recommendations, MDHHS will allow services to be furnished on a less than monthly basis in lieu of requiring the provision of at least one waiver service monthly. This includes individuals who cannot find a replacement caregiver when their usual caregiver is unable to deliver services as well as individuals who may normally attend a non-residential service and that service is temporarily closed.

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]

CWP/SEDW/HSW: Temporarily allow for entry of incidents into the Incident Reporting System outside of typical timeframes, by 7 days in instances, other than abuse or neglect, in which administrative staff shortages due to COVID-19 for the duration of the approved Appendix K. Physical abuse and neglect resulting in injury must be reported immediately and response to incidents will not be impacted.

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.]

HSW/CWP/SEDW: Temporarily allow payment for personal, community living, behavioral and communication supports (e.g., services to promote ADLs and IADLs), not otherwise provided in that setting, to support waiver individuals in an acute care hospital or short-term institutional setting, when MDHHS identifies that no other alternatives are available, and an institution or hospital is the only setting that service may be offered to meet an individual's health and safety needs. Waiver services provided will not be duplicative of hospital or short-term institutional services provided in those settings.

j. _ 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.]

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]

CWP/SEDW/HSW: The timeframes for the submission of the CMS 372s and the evidentiary package(s) will be extended as needed pursuant to the emergency. In addition, the state may suspend the collection of data for performance measures other than those identified for the Health and Welfare assurance and notes that as a result the data will be unavailable for this time frame in ensuing reports due to the circumstances of the pandemic.

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.
- b. And to implement the following measures designed to limit the spread of COVID-19:
 - i. Allow providers in these settings to isolate individuals with COVID-19 symptoms from other residents.
 - ii. Allow providers in these settings to limit community participation activities for residents who are at high risk of severe illness.
 - iii. Allow providers to implement social distancing measures as feasible.

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]*:

Out of Home Non-Vocational Habilitation, Supported/Integrated Employment, Family Home-Care Training, and Home-Care Training Non-Family Services

- 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: Jacqueline
Last Name Coleman
Title: Waiver Specialist
Agency: Medical Services Administration
Address 1: 400 S. Pine, 7th Floor
Address 2: Click or tap here to enter text.
City Lansing
State Michigan
Zip Code 48909-7979
Telephone: 517.284.1190
E-mail ColemanJ@Michigan.gov
Fax Number 517.241.5112

8. Authorizing Signature

Signature:

Date: June 18, 2020

_____/S/_____
State Medicaid Director or Designee

First Name: Kate
Last Name Massey
Title: Director
Agency: Medical Services Administration
Address 1: 400 S. Pine Street, 7th Floor
Address 2: Click or tap here to enter text.
City Lansing
State Michigan
Zip Code 48909-7979
Telephone: 517.241.7882
E-mail MasseyK4@michigan.gov
Fax Number 517-335-5007

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) <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 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.