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To: Acquired Brain Injury (ABI) Waiver Providers
Acquired Brain Injury Long Term Care (ABI LTC) Waiver Providers
Home and Community Based (HCB) Waiver Providers
Michelle P. Waiver (MPW) Providers
Supports for Community Living (SCL) Waiver Providers

From: Pam Smith
Director, Division of Long-Term Services and Supports *Pam Smith*

Crystal Adams
Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID)
Director, Division of Developmental and Intellectual Disabilities *Crystal Adams*

Marnie Mountjoy
Department for Aging and Independent Living (DAIL)
Director, Division of Quality Living *Marnie Mountjoy*

Date: March 4, 2024

Re: Notice of Appendix K End Date

The amended 1915(c) Home and Community Based Services (HCBS) waivers submitted to the Centers for Medicare and Medicaid Services (CMS) are nearing approval. The Department for Medicaid Services (DMS) submitted all six of Kentucky's waivers to CMS the week of November 6, 2023. The submissions were in response to CMS' State Medicaid Director letter [SMD# 23-004](#), which directed states wanting to make any COVID-19 public health emergency (PHE) Appendix K flexibility permanent to submit amended waiver applications no later than November 11, 2023.

Based on a recent conversation with CMS, we anticipate the waivers will have an effective date of May 1, 2024. **This means any Appendix K flexibility not included in the amended waiver application will be discontinued on May 1, 2024.**

DMS put Appendix K in place during the COVID-19 PHE to help providers and participants cope with disruptions to waiver operations. Provider operations and participant services should largely be back to pre-PHE levels. If a provider or participant is still using an Appendix K policy that is not becoming permanent, efforts should be made to return to the pre-PHE policy within the next two months. This may include:

- Returning person-centered service plans to pre-PHE services and limits. This may require re-evaluating a participant's current services and supports and whether any need to be changed. When evaluating services and supports, available Medicaid state plan services and community resources that can meet a participant's needs should be considered in addition to waiver services.
- Confirming employee training and other hiring requirements are up to date.
- Completing employee background checks and other screenings.

DMS is currently reviewing data to identify participants who may be affected by any discontinued Appendix K policies and will contact case managers and/or providers with technical assistance as needed.

To assist providers and participants in identifying which flexibilities will continue and which will not, DMS has the following materials available:

- Appendix K Flexibilities and Policy Decisions at a Glance
<https://bit.ly/KYAppKPolicyDecisions>
- COVID-19 and Appendix K Frequently Asked Questions
<https://bit.ly/KYAppKFAQ>
- Appendix K Transition Webinar Presentation
<https://bit.ly/KYAppKSept25Webinar>
- Appendix K Transition Webinar Recording
<https://www.youtube.com/watch?v=EuKQHJg0qvM&feature=youtu.be>

DMS will also release two additional recorded webinars, one for case managers/providers and one for participants. We expect to make those available soon. The rate increases approved through Appendix K (including the 50% for certain services and the 21% legislature-directed rate increase) will remain in place until implementation of the rate methodology developed during the 1915(c) waiver rate study and subsequent budget allocation.

The following policies will also take effect when the amended waivers are approved.

- New definitions of legally responsible individuals (LRI) and an updated screening process for hiring LRIs as Participant Directed Services (PDS) employees.
- The shift of Speech and Occupational Therapy (ABI and ABI LTC) and Physical Therapy (ABI LTC) to the Medicaid state plan.

These policies will follow a longer-term implementation plan. DMS will release more information about this very soon and will work closely with providers and participants for a smooth transition.

If you have additional questions, please reach out to the appropriate contact below.

Waiver / Topic	Agency	Contact Information
ABI, ABI LTC, or MIIW	DMS	(844) 784-5614 1915cWaiverHelpDesk@ky.gov
HCB or PDS	Department for Aging and Independent Living	(877) 315-0589, option 3 HCBInquiries@ky.gov
MPW or SCL	Department for Behavioral Health, Developmental and Intellectual Disabilities	Contact your Quality Administrator
Medicaid Waiver Management Application – Technical Assistance	DMS	(844) 784-5614, option 1 MedicaidPartnerPortal.Info@ky.gov