

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.¹ This appendix may be completed retroactively as needed by the state.

Appendix K-1: General Information

General Information:

A. State: Kentucky

B. Waiver Title:

Acquired Brain Injury Acquired Brain Injury Long Term Care Home and Community Based Model II Waiver Michelle P. Waiver Supports for Community Living

C. Control Number:

KY0144.R07.03 KY0314.R04.08 KY0333.R04.07 KY0475.R02.07 KY0477.R02.07 KY40146.R07.03

D. Type of Emergency (The state may check more than one box):

<input type="radio"/>	Pandemic or Epidemic
<input checked="" type="checkbox"/>	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.

- 1) Beginning July 26, 2022, heavy rain caused severe flooding in eastern region of Kentucky. Both the White House and the Kentucky Governor's Office have declared a state of emergency due to the flooding.
- 2) As of July 29, 2022, at least 16 people are dead and the toll is expected to rise as many remain missing and more rain is forecasted. The Department for Medicaid Services (the Department) has confirmed at least one death among 1915(c) HCBS waiver participants. Additionally, providers have reported difficulty serving participants due to flood damage.
- 3) The Department along with its sister agencies, the Department for Behavioral Health, Developmental and Intellectual Disabilities and the Department for Aging and Independent Living, have been working together to contact affected providers and participants to assess their situation and provide assistance in accordance with guidance from Kentucky Emergency Management and the Kentucky National Guard.
- 4) Kentucky seeks temporary changes to the HCBS waivers to address staffing shortages, access to care issues and need for service provision beyond the terms of approved service descriptions to address participant health, safety and welfare in the wake of the natural disaster.
- 5) Kentucky is making the following additions to Appendix K:
 - a. K-2-b-iii: Expands services offerings to help address the effects of the natural disaster on waiver participants and providers
 - b. K-2-b-iv: Expands the settings where Residential, Respite, Attendant Care, and Personal Assistance services can be provided
 - c. K-2-b-v: Allows Residential services to be temporarily provided out-of-state
 - d. K-2-e: Allows reevaluations to occur up to ninety (90) days past the due date.
- 6) These flexibilities will be utilized with the necessary flexibilities noted in Kentucky's COVID pandemic Appendix K to respond to flooding in Kentucky.

F. Proposed Effective Date: Start Date: 7/28/2022 Anticipated End Date: 1/31/2023

G. Description of Transition Plan.

Individuals will transition back to pre-emergency service status once the provider network and service availability has been restored to pre-natural disaster levels. This transition will be implemented no sooner than forty-eight (48) hours after the public has been made aware of natural disaster containment and Medicaid providers have been notified of the intent to repeal emergency-based standards described herein. Providers will be given a period of sixty (60) days to transition all participants' plans of care back to normal limits and operations.

In keeping with existing practices, individualized needs will be re-assessed on a case-by-case basis, as indicated, if any long-term changes are required to an individual's person-centered

service plan once the Commonwealth resumes standard program rules and policies approved in the active 1915(c) HCBS waiver applications.

H. Geographic Areas Affected:

The following thirteen (13) counties were impacted: Breathitt, Clay, Floyd, Johnson, Knott, Leslie, Letcher, Magoffin, Martin, Owsley, Perry, Pike and Wolfe.

I. Description of State Disaster Plan (if available) *Reference to external documents is acceptable:*

Kentucky Emergency Management Procedures and Guidance

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.]

[Empty text box for explanation of changes and temporary cost limit]

ii. ___ Temporarily modify additional targeting criteria.

[Explanation of changes]

[Empty text box for explanation of changes]

b. ___ Services

i. ___ Temporarily modify service scope or coverage.

[Complete Section A- Services to be Added/Modified During an Emergency.]

ii. ___ 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]

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. **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]:

Residential, Respite, Attendant Care and Personal Assistance services can be provided in shelters, hotels, churches, or state park resorts. This will include coverage of room and board for Respite Services if necessary

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

Our waivers currently allow for direct patient services to be provided outside the state except for residential. Kentucky will temporarily expand services to include out-of-state residential services to provide expedited responses for emergency housing needs. Out of state providers must meet and follow the same provider qualifications and regulatory requirements as in-state providers. Out of state providers will be reimbursed utilizing the same rates as in state providers.

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

The Department will allow reevaluations up to 90 days past the due date.

f. ___ 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].

g. ___ 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.]

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. ___ 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. ___ 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]

Contact Person(s)

A. The Medicaid agency representative with whom CMS should communicate regarding the request:

First Name: Pam
Last Name Smith
Title: Division Director
Agency: Department for Medicaid Services

Address 1: 275 E. Main Street
Address 2: Mail Stop 6W-B
City Frankfort
State Kentucky
Zip Code 40621
Telephone: 502-564-7540, ext. 2105
E-mail pam.smith@ky.gov
Fax Number 502-564-0249

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

First Name: Click or tap here to enter text.
Last Name Click or tap here to enter text.
Title: Click or tap here to enter text.
Agency: Click or tap here to enter text.
Address 1: Click or tap here to enter text.
Address 2: Click or tap here to enter text.
City Click or tap here to enter text.
State Click or tap here to enter text.
Zip Code Click or tap here to enter text.
Telephone: Click or tap here to enter text.
E-mail Click or tap here to enter text.
Fax Number Click or tap here to enter text.

8. Authorizing Signature

Signature:

Date: 7/29/2022



State Medicaid Director or Designee

First Name: Lisa
Last Name Lee
Title: Commissioner
Agency: Department for Medicaid Services
Address 1: 275 E. Main Street
Address 2: Mail Stop 6W-A
City Frankfort
State Kentucky

Zip Code 40621
Telephone: 502-564-4321
E-mail lisa.lee@ky.gov
Fax Number 502-564-0509

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: Home Delivered Meals

Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:

Service Definition (Scope):

Home Delivered Meal Service is defined as the provision of meals to a waiver participant who has a need for a home delivered meal based on a deficit in an activity of daily living or an instrumental activity of daily living identified during the assessment process. The service includes the preparation, packaging and delivery of safe and nutritious meals to a consumer at his or her home. A participant may be authorized to receive one home delivered meal per day. Also, for the purposes of this service, reheating a prepared home delivered meal is not the same as preparing a meal.

Home delivered meals:

- 1) Shall be provided to participants who are unable to prepare their own meals and for whom there are no other persons available to do so.
- 2) Shall take into consideration the participant's medical restrictions
- 4) Shall be individually packaged if they are heated meals.
- 5) May include frozen meals
- 5) May be individually packaged if they are unheated, shelf-stable meals, or may have components separately packaged.

The following highlighted text indicates the changes not already approved in our current Appendix K: To ensure that all individuals continue to receive home-delivered meals, in addition to delivery to the participant's place of residence, Meals may be provided to a centralized location for providers to pick up for participant distribution and may include the purchase and delivery of bulk groceries/meals as not to exceed a total of what would constitute two meals a day.

Specify applicable (if any) limits on the amount, frequency, or duration of this service:

Up to two (2) meals per day

Provider Specifications

Provider Category(s) <i>(check one or both):</i>	<input type="checkbox"/>	Individual. List types:	<input checked="" type="checkbox"/>	Agency. List the types of agencies:
				Certified Waiver Provider

Specify whether the service may be provided by *(check each that applies)*:

	<input type="checkbox"/>	Legally Responsible Person	<input type="checkbox"/>	Relative/Legal Guardian
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Provider Qualifications *(provide the following information for each type of provider):*

Provider Type:	License <i>(specify)</i>	Certificate <i>(specify)</i>	Other Standard <i>(specify)</i>
Certified Waiver Provider			

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 checked="" 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.