



**CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR MEDICAID SERVICES**

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To: 1915(c) Home and Community Based Services (HCBS) Waiver Providers

From: Pam Smith
Director, Division of Community Alternatives

Date: April 29, 2022

Subject: Appendix K Retainer Payments – Provider Attestation

The Centers for Medicare and Medicaid Services (CMS) recently approved the Commonwealth's amendment to Appendix K of the 1915(c) Home and Community Based Services (HCBS) waiver application. As a reminder, Appendix K allows states to make temporary changes to waiver policy during emergency situations to address programmatic needs and participant health, safety, and welfare for the duration of the emergency.

As discussed during the March 31, 2022, Appendix K Update Webinar, the recent Appendix K amendment modifies provider qualifications and available waiver services and includes near-term provider payment relief such as retainer payments. Retainer payments are in response to feedback from stakeholders regarding financial losses due to the COVID-19 public health emergency and are intended to maintain provider network adequacy, a viable HCBS workforce, and service quality.

The Department for Medicaid Services (DMS) may provide up to three episodes of 30 consecutive days per beneficiary of retainer payments to both adult day health care (ADHC) and adult day training (ADT) providers in addition to the initial retainer payments issued in 2020. If a provider had not already received revenues in excess of the pre-PHE level but receipt of the retainer payment in addition to those prior sources of funding results in the provider exceeding the pre-PHE level, any retainer payment amounts in excess will be recouped. If a provider had already received revenues in excess of the pre-PHE level, retainer payments are not available.

DMS will determine the rate and scope of retainer payments based on measurable declines in reimbursement as measured via a comparative claims analysis of quarter four of 2019 (the last full quarter before the federal public health emergency designation) compared to quarter four of 2021. Providers determined to have suffered or sustained a 50% or greater loss may be eligible for retainer payments. The amount of the payment will be based on census, claims data and eligibility based on the attestation below. Payment amounts are subject to final approval by Cabinet for Health and Family Services leadership.



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Please note that requesting a retainer payment is optional. DMS is facilitating this request and attestation process to streamline distribution of funds to eligible providers. At this point, DMS is not aware of federal review or audit processes and is taking proactive steps to comply with any future requirements. Please note that Appendix K retainer payments are not related to other waiver funding activities currently in progress such as the biennial budget or the ongoing HCBS waiver rate study.

If you have questions regarding these updates, rate increases, or other information in this memo, please contact the 1915(c) Waiver Help Desk at 1915cWaiverHelpDesk@ky.gov or (844) 784-5614.

Sincerely,



Pam Smith
Director, Division of Community Alternatives

**APPENDIX K RETAINER PAYMENT
REQUEST FORM**

In response to the COVID-19 state of emergency, DMS may provide up to three episodes of 30 consecutive days per beneficiary of retainer payments to both ADHC and ADT providers. Providers must request a retainer payment by completing the following form and signing the attestation.

Agency Name and Address

_Agency Provider Number(s)

1. Please provide the agency's average attendance in quarter four of 2019.

2. Please provide the agency's average attendance for quarter four of 2021.

3. Did the agency receive any COVID-19 relief funds?

- Yes, the agency received COVID-19 relief funds.
 - Please indicate which sources any COVID-19 relief funds came from.
 - Unemployment Benefits
 - Provider Relief Fund payments
 - Small Business Association Loans
 - Other. Please specify:

No, the agency did not receive COVID-19 relief funds.

4. Did the agency receive a COVID-19-related retainer payment from DMS in 2020 or 2021?

- Yes
- No

APPENDIX K RETAINER PAYMENT ATTESTATION

My signature below indicates that I have read and understand the information and requirements addressed in this memo. I understand any retainer payments received from the state will not exceed the payment for the relevant service and that payments are subject to recoupment in cases of inappropriate billing, duplicate payments for services rendered, and/or duplicate uses of available funding streams as identified by state, federal, and/or authorized third-party reviews. Further, my signature attests that:

- Retainer payments provided by the state would not result in revenue exceeding that of quarter four of 2019.
- The agency has not received funding from other sources that, in combination with retainer payments, would exceed the agency's revenue for quarter four of 2019.
- The agency will not lay off staff and will maintain wage at existing levels.
- The agency will comply with the terms and conditions of receiving said funds and will report any discrepancies to DMS.

CEO/President Printed Name

Printed Title

Signature

Date

Please return the signed document to DMS by emailing it to CHFS.HCBSWorkGroup@ky.gov.