



State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

November 20, 2020

Rep. Larry Bagley, Chair
House Health and Welfare Committee
671 Hwy. 171 Suite E
Stonewall, LA 71078

Senator Fred Mills, Chair
Senate Health and Welfare Committee
1019 Periou Street
Parks, LA 70582

Senator Mack "Bodi" White, Chair
Senate Finance Committee
11103 Park Place
Baton Rouge, LA 70818

Rep. Jerome "Zee" Zeringue, Chair
House Committee on Appropriations
423 Goode Street
Houma, LA 70360

RE: Medicaid Appendix K submission per HCR 21 (2020 Second Extraordinary Session)

Dear Honorable Chairs:

In accordance with House Concurrent Resolution 21 of the 2020 Second Extraordinary Session, please see the enclosed Appendix K documentation submitted to the Centers for Medicare and Medicaid Services (CMS) regarding retainer payments to Adult Day Center (ADC) providers. This request is seeking to obtain CMS approval for a reimbursement policy that will maximize federal financial participation on retainer payments to ADC providers under home and community-based service (HCBS) waivers for people with developmental disabilities.

If you have any questions, please do not hesitate to contact me at (225) 219-7810 or Tara.LebLANC@la.gov.

Respectfully,

A handwritten signature in black ink that reads "Tara A. LeBlanc".

Tara A. LeBlanc
Interim Medicaid Executive Director

Enclosure

Cc: David R. Poynter Legislative Research Library
Rep. William "Bill" Wheat, Jr.



State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

November 16, 2020

David Meacham
Director, HCBS Operation and Oversight
Center for Medicare and Medicaid Services
701 Fifth Ave Suite 160
Seattle, WA 98104

Dear Mr. Meacham,

Re: Appendix K Amendment Requests (COVID-19)

The Louisiana Department of Health is requesting Appendix K amendments to the following 1915(c) waivers in response to the COVID-19 outbreak: New Opportunities Waiver (LA.0401), Supports Waiver (LA.0453) and Residential Options Waiver (LA.0472). The attached amendments were submitted alongside this cover letter to the Region 6 SPA/Waivers mailbox.

Should you have any question regarding this letter or the Appendix K amendment requests, please contact Brian Bennett at (225) 342-9846 or Brian.Bennett@la.gov.

Sincerely,

A handwritten signature in black ink, reading "Tara A. LeBlanc".

Tara A. LeBlanc
Interim Medicaid Executive Director

Attachments (2)

RJ/BB/TTB

cc: Janice Arceneaux, CMS Dallas Regional Office
Jen Katzman, Medicaid Deputy Director

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

Appendix K-1: General Information

General Information:

A. State: Louisiana

B. Waiver Title: New Opportunities Waiver, Residential Options Waiver, Supports Waiver

C. Control Number:

LA.0401.R03.11
LA.0472.R02.08
LA.0453.R03.07

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):

D. **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.)
The changes addressed in this amendment will be added/adjusted to the currently approved

New Opportunities Waiver (NOW) (LA.0401.R03.09) Supports Waiver (LA.0453.R03.05)
Residential Options Waiver (ROW) (LA.0472.R02.06).

If the COVID19 pandemic ends sooner than the anticipated end date, the State may elect to rollback some or all items listed in this Appendix K request.

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:**

These actions will apply across the waivers 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. ___ 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]:

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. ___ 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]

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. 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.]

LA.0401, 0453, and 0472:

The state will make two additional rounds of retainer payments for its Adult Day Habilitation and Adult Day Health Care Center (LA.0472 only) providers. Each round will cover 22 consecutive days of billing which is consistent with the state's non-mutually exclusive nursing home bed hold periods of 15 days for home leave and 7 days for hospital leave. Each 22-day period will immediately follow the first round of retainer payments and will cover dates of service 4/23/20-5/22/20 and 5/25/20-6/23/20. Retainer payments will be made based on the number of participants authorized to receive services for each provider at 75% of the current rate.

The state will impose the following guardrails to ensure that the federal share on retainer payments are reduced accordingly for provider staff reductions including lay-offs, furloughs, and COVID-related terminations. Providers will be surveyed to determine whether any staff were laid off during the period of the retainer payments. As part of the survey, each provider will also acknowledge that retainer payments may be subject to recoupment if inappropriate billing or duplicative payments for services occur or if receipt of retainer payments in addition to prior sources of funding results in revenues exceeding that of the quarter prior to the COVID-19 public health emergency.

A response from each provider will be required before federal financial participation (FFP) is claimed. The state will analyze the provider survey data to calculate the average reduction in staffing levels due to COVID-related lay-offs and will adjust the FFP accordingly (i.e. if providers report on average a 15% reduction in staffing levels during the COVID-19 event, the total retainer payment amount that the state reports for FFP claiming will reflect a 15% overall reduction).

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: Brian
Last Name Bennett
Title: Section Chief
Agency: Medicaid Program Support and Waivers
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 Click or tap here to enter text.

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

First Name: Julie
Last Name Hagan
Title: Assistant Secretary

Agency: Office for Citizens with Developmental Disabilities
Address 1: 628 North 4th St
Address 2: Click or tap here to enter text.
City Baton Rouge
State LA
Zip Code 70821
Telephone: 225-342-0095
E-mail Julie.Hagan@la.gov
Fax Number Click or tap here to enter text.

8. Authorizing Signature

Signature: 

Date:

State Medicaid Director or Designee

First Name: Tara A.
Last Name LeBlanc
Title: Interim Medicaid Executive Director
Agency: Bureau of Health Services Financing
Address 1: 628 North Fourth St.
Address 2: Click or tap here to enter text.
City Baton Rouge
State LA
Zip Code 70821
Telephone: 225-342-9808
E-mail Tara.LeBlanc@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 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:							
<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 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 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.

