

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1850



Disabled and Elderly Health Programs Group

April 15, 2020

Suzanne Bierman, Administrator
Division of Health Care Financing and Policy
1210 South Valley View Blvd.
Las Vegas, NV 89102

Dear Ms. Bierman,

We are writing to inform you that the Centers for Medicare & Medicaid Services (CMS) is approving Nevada's request to amend the following 1915(c) Home and Community-Based Services (HCBS) waivers with the Emergency Preparedness and Response Appendix K in order to respond to the COVID-19 pandemic:

WAIVER TITLE	CMS AMENDMENT CONTROL NUMBER
Individuals with Intellectual and Developmental Disabilities waiver	NV.0125.R07.01
Frail Elderly waiver	NV.0152.R06.03
Persons with Physical Disabilities waiver	NV.4150.R06.03

The amendments that the state has requested in the Appendix K are effective for the waivers from January 27, 2020 through January 26, 2021 and apply in all locations served by the individual waivers for anyone impacted by COVID-19.

For each waiver, we have included the approved Appendix K pages with this correspondence. Please utilize the waiver management system for HCBS waivers for any further amendments to these waiver programs other than Appendix K.

If you need assistance, feel free to contact Daphne Hicks of my staff at 214-767-6471 or by e-mail at daphne.hicks@cms.hhs.gov or Mary Marchioni at 303-844-7094 or by e-mail at mary.marchioni@cms.hhs.gov.

Sincerely,

Alissa M.
Deboy -S

Digitally signed by Alissa
M. Deboy -S
Date: 2020.04.15
15:52:43 -04'00'

Alissa Mooney DeBoy
Director

Enclosure

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:** Nevada

B. **Waiver Title(s):**

HCBS Waiver for Individuals with Intellectual and Developmental Disabilities
 HCBS Waiver for the Frail Elderly
 HCBS Waiver for Persons with Physical Disabilities

C. **Control Number(s):**

NV.0125.R07.01
 NV.0152.R06.03
 NV.4150.R06.03

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

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

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: 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 waiver to all individuals impacted by the COVID-19 virus.

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

Not applicable.

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. X 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]

For NV 0125.R07.01

- The \$100/month Non-Medical Transportation limitation will be temporarily increased to \$150/month to allow transportation flexibility for the provider and individual served because public transportation may not be readily available or safe for vulnerable populations.
- Increase the current \$5,200/year limit on Behavioral Consultation, Training and Intervention to \$7,800/year for those individuals that may require more intensive behavioral supports due to COVID-19.

iii. X 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]:

For NV 0125.R07.01
To be delivered in any non-facility-based settings such as the individuals' home.

- Day Habilitation
- Pre-vocational Services
- Career Planning
- Supported Employment

For NV 0152.R06.03
To be delivered in any non-facility-based settings such as the individuals' home.

- Adult Day Care

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.

For NV.0125.R07.01

- Residential Support Services- allow Legally Responsible Individuals (LRI's) to provide services. Safeguards will include the service coordinator discussing potential risks associated with allowing LRI's to provide services.

For NV.4150.R06.03

- Attendant Care & Chore Services - allow LRI's to provide services. Safeguards will include the case manager discussing potential risks associated with allowing LRI's to provide services.

For NV.0152.R06.03 (Attendant Care new service added under Section A)

- Attendant Care, Homemaker & Chore - allow LRI's to provide services. Safeguards will include the case manager discussing potential risks associated with allowing LRI's to provide services.

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.]

In an effort to streamline hiring of staff to fill in gaps in service delivery, change the following provider qualification. All providers brought on under this Appendix K will be enrolled in Nevada Medicaid and ensured they are not on the Office of Inspector General excluded provider list.

For NV 0125.R07.01

- Residential Support Services, Day Habilitation, Pre-Vocational Services & Supported Employment- waive Developmental Services Certification requirements for staff training and background checks. Allow staff that have already completed training and background check requirements for one certified provider to be hired by another certified provider without the need to complete orientation training and another background check. For employees who were not previously employed by another certified provider: 1) Extend background check timelines to having fingerprints submitted within 60 days of hire with the completion of a self-declaration form of no disqualifying criminal convictions; 2) Accept proof of other recent background checks completed such as a valid Sheriff's card or background checks completed for healthcare workers; and 3) Full orientation training must still occur within 90 days, but initial training requirements prior to working with individuals are condensed. Requirements for background checks and training are waived for Legally Responsible Individuals (LRI's) and other family members hired to work with their family member, ward, spouse, etc.

For NV 4150.R06.03

- Attendant Care, Respite & Chore Services - waive requirement to be a licensed with the Bureau of Health Care Quality and Compliance. Allow cleaning companies with Nevada business licenses to perform chore services if needed to sanitize home after COVID-19 exposure.

For NV 0152.R06.03

- Homemaker Services, Respite & Chore – waive requirement to be licensed with the Bureau of Health Care Quality and Compliance. Allow cleaning companies with Nevada business licenses to perform Chore services if needed to sanitize home after COVID-19 exposure.

ii. ___ Temporarily modify provider types.

[Provide explanation of changes, list each service affected, and the changes in the provider type for each service].

iii. ___X_ 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.]

For NV.0125.R07.01

Waive Developmental Services Certification requirements to allow services to be delivered in a non-facility-based setting such as the individuals' home.

- Day Habilitation
- Pre-vocational Services
- Career Planning
- Supported Employment

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

For NV 0125.R07.01, NV 0152.R06.03 and NV 4150.R06.03

- Waive the Face-to-Face requirement for completing the level of care evaluations and re-evaluations to allow completion via phone or other electronic communications as to not cause spread of COVID-19. Extend level of care re-evaluations for up to 12 months past the due date to reduce risk of infection. Allow electronic signatures on evaluation and re-evaluation paperwork.

For NV 0125.R07.01 and NV 0152.R06.03

- In order to streamline and expedite waiver eligibility determinations, change the current waiver Intake process to allow Aging and Disability Services Division to determine waiver eligibility without the pre-approval of DHCFP. DHCFP will continue to review 95/5 representative sample of intake packets monthly to ensure waiver requirements are met.

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. 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.]

For NV 0125.R07.01, NV 0152.R06.03 and NV 4150.R06.03

Modify all face-to-face requirements for the development, implementation and monitoring of the person-centered plan, as well as current timeframes for completing the person-centered plan as to not cause the spread of COVID-19:

- Allow for completion of meetings and contacts for the development, implementation and monitoring of the person-centered planning process to be completed via phone, video-conferencing or other electronic communications that enable direct contact with the recipient, recipient's representative and any contracted service providers, as needed, in accordance with HIPAA requirements.
- Allow for electronic signature of person-centered planning documents, including the support plan.
- The person-centered plan may be updated to allow for additional or modified supports to respond to individualized needs during the COVID-19 pandemic. Modifications to the person-centered plan that are needed due to recipient need and circumstance may be completed without the input of the entire person-centered planning support team. The support plan, including the amount, duration and scope of service, will be updated within 30 days from the date the service begins.
- Person-centered plans can be renewed for an additional 12 months if a meeting is held via phone, video-conferencing or other electronic communications and the recipient / recipient's representative agree that current services are appropriate and do not need to be updated, and service providers agree to continue to render continued services. Electronic signature is allowed for approval of continued person-centered planning documents.

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]

For NV 0125.R07.01, NV 0152.R06.03 and NV 4150.R06.03

- 372 Reports – extend waiver year reporting due dates through time period of the Appendix K.

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.]

For NV 0125.R07.01

- Residential Support Services and Residential Support Management - allow payment for direct care services for the purpose of supporting individuals in acute care hospital setting excluding room and board.

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.]

For NV 0125.R07.01

Allow retainer payments to providers when an individual is hospitalized, absent from their home or temporary closure due to COVID-19 for up to 30 consecutive service/billing days. Retainer payments will not be made for people who continue to receive these services in other settings, such as their home, or through electronic means.

- Day Habilitation
- Pre-Vocational Services
- Supported Employment
- Residential Support Services

The state assures that all of the service categories identified for which retainer payments may be authorized, including Pre-Vocational Services and Supported Employment, are services that include personal care.

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.]

[Redacted]

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]

[Redacted]

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]

[Redacted]

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.

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]:*

Adult Day Care

- 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: Kirsten
Last Name: Coulombe
Title: Social Services Chief III, LTSS
Agency: Division of Health Care Financing and Policy
Address 1: 1100 E. Williams St
Address 2: Suite 101
City: Carson City
State: NV
Zip Code: 89701
Telephone: (775) 684-3747
E-mail: kirsten.coulombe@dhefp.nv.gov
Fax Number: (775) 687-3893

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

First Name: Jennifer
Last Name: Frischmann
Title: Quality Assurance Manager
Agency: Nevada Aging and Disability Services Division
Address 1: 3416 Goni Rd.
Address 2: Suite D-132
City: Carson City
State: NV
Zip Code: 89706
Telephone: (775) 687-0528
E-mail: jfrischmann@adsd.nv.gov
Fax Number: (775) 687-0754

8. Authorizing Signature

Signature:

Date: 4-13-2020

Suzanne Bierman
State Medicaid Director or Designee

First Name: *Suzanne*
Last Name *Bierman*
Title: Administrator
Agency: Division of Health Care Financing and Policy
Address 1: 1210 S. Valley View Blvd
Address 2: Ste 104
City Las Vegas
State Nevada
Zip Code 89102
Telephone: (702) 668-4277
E-mail suzanne.bierman@dncfp.nv.gov
Fax Number (702) 668-4280

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: Attendant Care

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

Service Definition (Scope):

Services that are provided to individuals who require personal care services (PCS) but due to COVID-19, the individual is infected, and the regular caretaker or 1905(a) State Plan PCS provider is unable or unwilling to provide services.

The scope and nature of these services do not otherwise differ from State Plan PCS services furnished under the State plan.

Waiver Case Managers will assess the recipient’s need for attendant care based upon functional deficits.

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

NV 0125

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:
				Personal Care Services Agency

Specify whether the service may be provided by <i>(check each that applies):</i>	<input checked="" type="checkbox"/>	Legally Responsible Person	<input checked="" 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>
Personal Care Services (PCS) Provider Agency	Licensure as a PCS Agency issued by the State of Nevada Department of Health and Human Services Division of Public and Behavioral Health (DPBH).		Must maintain a Medicaid Services Provider Agreement and comply with the criteria set forth in the Medicaid Services Manual.

Intermediary Service Organization (ISO)	Licensure as a PCS Agency issued by the State of Nevada Department of Health and Human Services Division of Public and Behavioral Health (DPBH)and/or an endorsement as an ISO		Must maintain a Medicaid Services Provider Agreement and comply with the criteria set forth in the Medicaid Services Manual.
Legally Responsible Individual/Relative/Friend			Attestation from individual provider they have not been convicted of a disqualifying crime and they understand the care needs of the individual served.


Verification of Provider Qualifications

Provider Type:	Entity Responsible for Verification:	Frequency of Verification
Personal Care Services (PCS) Provider Agency	DHCFP Fiscal Agent	Upon enrollment
Intermediary Service Organization (ISO)	DHCFP Fiscal Agent	Upon Enrollment
Legally Responsible Individual/Relative/Friend	Aging and Disability Services Division Service Coordinator	Upon initiation of services and as needed

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
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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.