

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: West Virginia

B. Waiver Title:

Intellectual/Developmental Disability 1915 (c) Waiver (IDDW) Aged and Disabled 1915 (c) Waiver (ADW) Traumatic Brain Injury 1915 (c) Waiver (TBIW) Children with Serious Emotional Disorder 1915 Waiver (CSEDW)
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C. Control Number:

WV.0133.R07.01 (IDDW) WV.0134.R07.01 (ADW) WV.0876.R02.01 (TBIW) WV.1646.R00.03 (CSEDW)
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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.

1. Nature of the Emergency: Coronavirus Disease 2019 (COVID-19) is a respiratory illness caused by a novel (new) coronavirus designated SARS-CoV-2. The outbreak of COVID-19 originated in Wuhan City, Hubei Province, China in December 2019. On January 31, 2020, Health and Human Services Secretary Alex M. Azar II declared a public health emergency (PHE) for the United States, and on March 11, 2020 the World Health Organization characterized COVID-19 as a pandemic. Millions of confirmed cases have now been reported worldwide including over two million cases and over one hundred thousand deaths in the in the United States.

2. Number of individuals affected and the state's mechanism to identify individuals at risk: The West Virginia waiver programs serve a total of 13,580 individuals (IDDW 5,964; ADW 7,026; TBIW 90 and CSEDW up to 500). All individuals on the waiver programs are at vulnerable to COVID-19 due to advanced age, disabilities and/or the increased risk of exposure from receiving necessary supports and services from in-home direct-care workers and in congregate facility day programs.

3. Roles of state, local and other entities involved in the approved waiver operations: The West Virginia waiver programs are overseen by the Bureau for Medical Services (BMS), the state's single Medicaid Agency. BMS contracts with KEPRO to provide Utilization and Management services for the IDDW and TBIW programs. The West Virginia Bureau of Senior Services (BoSS) is the contracted Operating Agency for the ADW program. Aetna Better Health WV is the contracted MCO for the CSEDW program. Psychological Consultation and Assessment, Inc. is the contracted vendor for determining program medical eligibility and Public Partnerships, LLC is contracted to provide Fiscal Management Services and Support Brokerage services for all waiver members that choose to self-direct their services. BMS monitors the performance of each contracted entity through routine and ad hoc data reports, monthly meetings and frequent communications.

4. Expected Changes to Service Delivery Methods: WV foresees that most service delivery in all programs will continue as planned, with appropriate precautions, for necessary services and supports provided by in-home direct-care workers. To decrease risk of exposure to COVID 19, program members that have access to unpaid, natural supports may choose to temporarily decrease or suspend their direct-care services without losing program eligibility. Policy mandated face-to-face meetings with members (team meetings, monthly home visits by Case Managers and assessments conducted by nursing and clinical staff) may instead be conducted electronically through secure software or by phone. This will be strongly encouraged.

The IDDW facility-based day programs will continue to be closed for the month of July, 2020 but in accordance with the West Virginia Governor's current reopening plan (The Comeback), IDDW day program participants will have the option to resume attending day programs on August 1, 2020 unless the rate of COVID 19 infection increases or guidance from state or federal authorities indicate the need for day programs to remain closed.

This Appendix K amendment is additive to Appendix K approved March 18, 2020. This amendment extends the effective end date from June 30, 2020 to March 31, 2021 and includes the following:

- Reinstates training requirements for provider agency staff with the allowance to complete training remotely instead of face-to-face
- Allows IDDW day services to be provided in public community settings as well as licensed facilities
- Allows for the submission of the CMS 372s and the evidentiary package(s) to be extended as needed pursuant to the pandemic.
- Allows for the temporary suspension of the collection of data for performance measures other than those identified for the Health and Welfare assurance and notes that as a result, the data will be unavailable for this time frame in ensuing reports due to the circumstances of the pandemic.
- Extends the retainer payments for IDDW day services to three episodes and incorporates the required guardrails for multiple episodes for retainer payments.

F. Proposed Effective Date: Start Date: 7/1/2020 Anticipated End Date: 3/31/2021

G. Description of Transition Plan.

Members will transition back to pre-emergency status by 3/31/2021. If the pandemic is still active in West Virginia, the state will file for an extension. If a member has extenuating circumstances that would delay the transition back to pre-emergency status by 3/31/2021, the state will review and approve these exceptions on a case-by-case basis.

H. Geographic Areas Affected:

The entire state of West Virginia.

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

<https://dhsem.wv.gov/Resources/Pages/WV-Emergency-Operations-Plan.aspx>

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]

N/A

b. X Services

i. ___ 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]

IDDW

Members will be allowed to exceed the following service limits as needed due to the closing of day programs and public schools when the primary caregiver is unavailable to provide unpaid/natural supports.

- Respite Services (In-Home Respite, In-Home Respite-Personal Options and Out-of-Home Respite) has a combined service limit of 3,650 units per year.
- IDDW Person-Centered Support (PCS) Services (Home-Based PCS and Crisis Site PCS) has a combined service limit of 7,320 units annually.

ADW

- The service limit/(Level A, B, C and D) for Personal Attendant services may be exceeded should the member’s primary care provider become unable to provide unpaid/natural supports.

TBIW

- The service limit/budget for Direct-Care services may be exceeded should the member’s primary care provider become unable to provide unpaid/natural supports.

CSEDW

- N/A

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. 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]:

<p><u>IDDW</u></p> <ul style="list-style-type: none">• Out-of-Home Respite may be provided in locations other than licensed Specialized Family Care Homes. Acceptable Out-of-Home Respite service locations include the Respite provider’s home (if agreed upon by IDT), natural family homes and public settings in the member’s community. (Note: IDDW Respite services rates do not include the cost of room and board.)• Day Services may be provided in public community settings and not limited to licensed facilities. Acceptable day service locations include places of business, parks, churches and libraries.• Day Services may be provided remotely through secure electronic software to ensure compliance with HIPAA requirements to protect the member’s confidentiality.
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v. ___ Temporarily provide services in out of state settings (if not already permitted in the state’s approved waiver). [Explanation of changes]

N/A

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.

<p><u>IDDW</u></p> <ul style="list-style-type: none">• N/A – Legal representatives are allowed to be paid Person-Centered Support workers
<p><u>ADW</u></p> <ul style="list-style-type: none">• Legal representatives will be allowed to be paid Personal Attendants should the member’s primary caregiver become unable to provide unpaid/natural supports or if agency staff are unavailable due a decreased workforce caused by COVID 19.
<p><u>TBIW</u></p> <ul style="list-style-type: none">• Legal representatives will be allowed to be paid Direct-Care workers should the member’s primary caregiver become unable to provide unpaid/natural supports or if agency staff are unavailable due a decreased workforce caused by COVID 19.
<p><u>CSEDW</u></p> <ul style="list-style-type: none">• N/A

d. X Temporarily modify provider qualifications (for example, expand provider pool, temporarily modify or suspend licensure and certification requirements).

i. X Temporarily modify provider qualifications.

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

Staff qualification and certification requirements other than being 18 years of age (Initial and annual training including CPR, First Aid, Identifying and Reporting Abuse/Neglect/Exploitation, Confidentiality, Crisis Intervention, etc. will be allowed to be completed electronically or telephonically in accordance with HIPAA requirements until 3/31/2021 rather than through face-to-face training sessions. If member-specific training is provided electronically, it must be through a secure network, in accordance with HIPAA requirements to protect the member's confidentiality. Mandatory criminal background checks will require new hires to be prescreened through the WV CARES system, but fingerprinting requirements will be delayed until 3/31/2021 or until fingerprinting facilities fully reopen for business.

ii. ___ Temporarily modify provider types.

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

N/A

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.]

Initial and annual certification reviews as well as annual and six-month follow-up quality reviews of provider agencies may be conducted remotely rather than on-site until 3/31/2021.

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

Whenever possible, initial eligibility assessments and annual reassessments will be conducted by phone or electronically with the member, legal guardian (if applicable) and other respondents to avoid risk of infection by the assessor traveling to members' homes. Assessment that are completed electronically will be conducted using a secure network in accordance with HIPAA requirements.

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].

N/A

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.]

Person-centered service plans and plan updates may be developed and approved by teams that meet through secure electronic software or telephonically in accordance with HIPAA requirements rather than through face-to-face team meetings. The use of e-signatures that meet privacy and security requirements will be an acceptable method for the participant or legal guardian signing the ISP to indicate approval of the plan. Services may start while waiting for the signature to be returned to the case manager, whether electronically or by mail. Signatures will include a date reflecting the service planning meeting date.

Person-Centered Service Plans that are due to expire within the next 60 days require the Case Manager to contact to the member/representative using allowable remote contact methods to verify with the member or representative that the current assessment and services, including providers, remain acceptable and approvable for the upcoming year. The state will verify by obtaining electronic signatures/or electronic verification via secure email consent from service providers and the member or representative, in accordance with the state's HIPAA requirements.

The state will ensure the service plan is modified to allow for additional supports/and or services to respond to the COVID-19 pandemic. The specificity of such services including amount, duration and scope will be appended as soon as possible to ensure that the specific service is delineated accordingly to the date it began to be received. The Case Manager must submit the request for additional supports/services no later than 30 days from the date the service begins.

CSEDW

- Providers may submit the Initial and Master PCSPs with 7 and 30 days respectively from the day they receive the referral, instead of from the date of slot release

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]

N/A

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.]

IDDW

Allow payment for Person-Centered Support-Family, Home-Based Person-Centered Support and In-Home Respite for the purpose of supporting a member who resides in their natural family home during acute care hospital stays. Members who reside in small group settings (4 or less) are already allowed by policy to receive paid support during acute care hospital stays.

ADW

Allow payment for Personal Attendant services as needed to support a member during an acute care hospital stay.

TBIW

Allow payment for Direct-Care services as needed to support a member during an acute care hospital stay.

CSEDW

N/A

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.]

IDDW

Agencies that provide day services that contain personal care or components of personal care (Facility-Based Day Habilitation, Job Development, Pre-Vocational Training, and Supported Employment) will be eligible to receive retainer payments. Retainer payments can be billed only for members that are not receiving planned day services due to precautions to prevent COVID-19 infection and only for the amount of services that have been authorized. The reimbursement rate for retainer payments will be the standard rate for day services to allow the provider agency to fully maintain the day program facility, vehicles, and supplies and to retain day services staff. BMS will implement a process to monitor payments to avoid duplication in billing (i.e. service code modifier to distinguish retainer payments from regular payments).

The state will allow up to three episodes of up to 30 consecutive days per beneficiary for personal assistance retainer payments. The state assures a retainer payment will not exceed the payment for the relevant service. The state will collect an attestation from the provider acknowledging that retainer payments will be subject to recoupment if inappropriate billing or duplicate payments for services occurred or duplicate uses of available funding streams, as identified in a state or federal audit or any other authorized third party review. The state will require an attestation from the provider that it will not lay off staff and will maintain wages at existing levels. The state will require an attestation from the provider that they had not received funding from any other sources, including but not limited to, unemployment benefits and Small Business Administration loans, that would exceed their revenue for the last full quarter prior to the PHE, or that the retainer payments at the level provided by the state would not result in their revenue exceeding that of the quarter prior to the PHE. 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 would be recouped. If a provider had already received revenues in excess of the pre-PHE level, retainer payments are not available.

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]

N/A

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]

N/A

m. X **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]

ALL PROGRAMS

- Allow members to receive fewer than one service per month without being subject to discharge from the program. The member will receive monthly monitoring completed by telephone or other electronic means in accordance with HIPPA requirements.
- Suspend the requirement for face-to-face case management home visits with members but continue to require a monthly telephone contact with members.
- Suspend the requirement for face-to-face enrollment meetings by the Resource Consultant for those members who self-direct their services but require telephone or electronic enrollments.
- Initial, annual, 6-month, quarterly and critical juncture team meetings may be conducted by phone or through secure electronic means, in accordance with HIPAA requirements.
- The timeframes for the submission of the CMS 372s and the evidentiary package(s) will be extended as needed pursuant to the pandemic. In addition, the state may suspend the collection of data for performance measures other than those identified for the Health and Welfare assurance and notes that as a result the data will be unavailable for this time frame in ensuing reports due to the circumstances of the pandemic.
- Routine program meetings (Quarterly provider meetings, Quality Improvement Advisory Council meetings, Quality Workgroup meetings and Contract Management meetings will be conducted by webinar or phone.

IDDW

- Allow Skilled Nursing services to be billed for routine medication administration tasks usually performed by AMAP staff due to temporary shortage of certified AMAPs. This activity will be limited to a maximum of two (2) 15-minute units per occurrence.
- Behavior Support Professionals and nurses may provide services by secure electronic means, in accordance with HIPAA requirements rather than providing services in person with the member.

CSEDW

- Meetings can be held outside of timelines via the WV-BMS-CSED-12 Request to Continue Services Form,

Contact Person(s)

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

First Name: Patricia
Last Name Nisbet
Title: Office Director 3, Behavioral Health, Long-Term Care and HCBS Unit
Agency: WVDHHR Bureau for Medical Services
Address 1: 350 Capitol Street, Room 251
Address 2: Click or tap here to enter text.
City Charleston
State West Virginia
Zip Code 25301
Telephone: 304-356-4904
E-mail Patricia.S.Nisbet@wv.gov
Fax Number 304-558-4398

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:
/S/

Date: 6-24-2020

State Medicaid Director or Designee

First Name: *Cynthia*
Last Name *Beane*
Title: Commissioner
Agency: WVDHHR Bureau for Medical Services
Address 1: 350 Capitol Street, 251
Address 2: [Click or tap here to enter text.](#)
City Charleston
State West Virginia
Zip Code 25301
Telephone: 304-558-1700
E-mail Cynthia.E.Beane@wv.gov
Fax Number 304-558-4398

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) <i>(check one or both):</i>	<input type="checkbox"/>	Individual. List types:	<input type="checkbox"/>	Agency. List the types of agencies:
Specify whether the service may be provided by <i>(check each that applies):</i>	<input type="checkbox"/>	Legally Responsible Person	<input type="checkbox"/>	Relative/Legal Guardian
Provider Qualifications <i>(provide the following information for each type of provider):</i>				
Provider Type:	License <i>(specify)</i>	Certificate <i>(specify)</i>	Other Standard <i>(specify)</i>	
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 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.