

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

December 13, 2022

Judy Mohr Peterson, PhD
Med-Quest Division Administrator
State of Hawaii, Department of Human Services
601 Kamokila Blvd, Suite 506A
Kapolei, Hawaii 96707

Dear Dr. Mohr Peterson:

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

WAIVER TITLE	CMS AMENDMENT CONTROL NUMBER
Home and Community Based Services for People with Intellectual and Developmental Disabilities (I/DD) Waiver	HI.0013.R08.04

The state's approved Appendix K is effective March 1, 2020 through six months after the end of the federal public health emergency (PHE) for COVID-19. The amendment that the state has requested in the Appendix K is additive to those previously approved; it applies in all locations served by the individual waiver for anyone impacted by COVID-19. This amendment will increase provider payment rates for the specified waiver services within the Appendix K for the period from October 1, 2022, through June 30, 2023 or six months after the conclusion of the public health emergency, whichever occurs first. Additionally, the state is increasing individual support budgets to align with the rate increases.

CMS reminds the state that the state must have an approved spending plan in order to use the money realized from section 9817 of the American Rescue Plan (ARP). Approval of this action does not constitute approval of the state's spending plan.

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

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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 Marge Sciulli at 410-786-0691 or by e-mail at Margherita.Sciulli@cms.hhs.gov.

Sincerely,

Alissa Mooney DeBoy
Director, DEHPG

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: Hawaii

B. Waiver Title(s): Hawaii 1915(c) Home and Community Based Services for People with Intellectual and Developmental Disabilities (I/DD Waiver)

C. Control Number(s): HI.0013.R08.04

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):

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. The state is using existing state appropriations to increase provider payment rates for specific waiver services for the period from October 1, 2022, through June 30, 2023, or six (6) months after the conclusion of the public health emergency, whichever occurs first. Additionally, the state is increasing individual support budgets to align with the rate increases. This Appendix K is additive to the previously approved Appendix K and applies to the services listed in section K-2 below for waiver HI.0013.

F. Proposed Effective Date: Start Date: March 1, 2020. Anticipated End Date: six (6) months after the conclusion of the public health emergency.

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 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:*

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. ___ 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.

The individual supports budgets described in Appendix C-4 of the approved base waiver are adjusted to reflect the higher rates described in K-2-f to ensure that participants are able to receive the same amounts of services.

The range of individual supports budgets are increased as follows:

LIVING IN LICENSED OR CERTIFIED SETTING

- Level 1: \$20,565 - \$27,420 (\$23,663 - \$31,550 on the Big Island)
- Level 2: \$21,879 - \$29,172 (\$25,149 - \$33,532 on the Big Island)
- Level 3: \$27,242 - \$36,322 (\$31,166 - \$41,554 on the Big Island)
- Level 4: \$27,242 - \$36,322 (\$31,166 - \$41,554 on the Big Island)
- Level 5: \$31,070 - \$41,426 (\$35,373 - \$47,164 on the Big Island)
- Level 6: \$32,129 - \$42,838 (\$36,366 - \$48,488 on the Big Island)
- Level 7: \$33,084 - \$44,112 (\$37,629 - \$50,172 on the Big Island)

LIVING IN A FAMILY SETTING

- Level 1: \$38,399 - \$51,198 (\$43,650 - \$58,200 on the Big Island)
- Level 2: \$52,183 - \$69,578 (\$59,489 - \$79,319 on the Big Island)
- Level 3: \$63,096 - \$84,128 (\$71,818 - \$95,757 on the Big Island)
- Level 4: \$70,131 - \$93,508 (\$79,933 - \$106,577 on the Big Island)
- Level 5: \$94,082 - \$125,442 (\$107,258 - \$143,011 on the Big Island)
- Level 6: \$109,092 - \$145,456 (\$123,419 - \$164,558 on the Big Island)
- Level 7: \$109,908 - \$146,544 (\$124,868 - \$166,490 on the Big Island)

LIVING IN OWN HOME

- Level 1: \$44,043 - \$58,724 (\$51,269 - \$68,358 on the Big Island)
- Level 2: \$55,206 - \$73,608 (\$64,116 - \$85,488 on the Big Island)
- Level 3: \$64,241 - \$85,654 (\$74,501 - \$99,334 on the Big Island)

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. X 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.]

The rate increases are funded through existing state appropriations. The temporary rate increase recognizes ongoing pandemic-related pressures and providers' increased costs, including the impact of an October 2022 increase in the state of Hawaii's minimum wage. The temporary rate increase also includes consumer-directed (CD) services to maintain the stability of this workforce.

The rate increases are based on the provider rate study conducted in 2020, which is described in Appendix I-2-a of the approved waiver, and which has been updated to reflect the impact of the increased minimum wage. The following services were included in the rate study and received a rate increase: Personal Assistance/Habilitation, Residential Habilitation, Additional Residential Supports, Adult Day Health, Community Learning Service, Discovery and Career Planning, Benefits Planning, Individual Employment Support, Respite, Chore, Non-Medical Transportation, Waiver Emergency Services, Private Duty Nursing, and Training and Consultation.

This rate increase applies to services provided between October 1, 2022 and June 30, 2023, or six (6) months after the conclusion of the public health emergency, whichever occurs first. The size of the rate increase varies by service based on the results of the 2020 rate study and the extent to which the staff that delivers the service is expected to be affected by the increase in Hawaii's minimum wage. For services provided by direct support professionals, the rate increases are generally between 10 and 15 percent. For services provided by other staff, such as job coaches or nurses, the rate increases are generally less than 10 percent.

The individual supports budgets described in Appendix C-4 of the approved waiver are adjusted to reflect the higher rates to ensure that participants are able to receive the same amounts of services. Please see section K-2-b-ii for additional information.

Since a primary purpose of the rate increase is to support the recruitment and retention of DSPs, the state requires providers to report on wages and benefits for its workforce to monitor how the increases are being implemented by providers.

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]

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]*:

- 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: Judy
Last Name: Mohr Peterson, PhD
Title: Administrator
Agency: Hawaii Department of Human Services, Med-QUEST Division
Address 1: 601 Kamokila Blvd.
Address 2: Suite 506A
City: Kapolei
State: Hawaii
Zip Code: 96707
Telephone: 808-692-8085
E-mail: jmohrpeterson@dhs.hawaii.gov
Fax Number: 808-692-8155

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

Last Name: Brogan
Title: Administrator
Agency: Hawaii State Department of Health, Developmental Disabilities Division
Address 1: 1250 Punchbowl Street
Address 2: Room 463
City: Honolulu
State: Hawaii
Zip Code: 95813
Telephone: 808-586-5840
E-mail: Mary.brogan@doh.hawaii.gov
Fax Number: 808-586-5844

8. Authorizing Signature

Signature:

/s/

State Medicaid Director or Designee

Date:

Nov 22, 2022

First Name: Cathy
Last Name Betts
Title: Director
Agency: Hawaii Department of Human Services
Address 1: 1390 Miller Street
Address 2: Room 209
City Honolulu
State Hawaii
Zip Code 96813
Telephone: 808-586-4999
E-mail cbetts@dhs.hawaii.gov
Fax Number 808-586-4890



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.