

# 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.<sup>i</sup> This appendix may be completed retroactively as needed by the state.

## Appendix K-1: General Information

**General Information:**

A. State:      **KY**                     

B. Waiver Title: Acquired Brain Injury/ Acquired Brain Injury Long Term Care/Supports for Community Living/Michelle P Waiver/Home and Community Based Waiver

C. Control Number: KY.0144.R07.05  
KY.0314.R04.10  
KY.0333.R04.09  
KY.0475.R02.09  
KY.0477.R02.09

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.

- 1) On March 6, 2020, Governor Andy Beshear declared a state of emergency in Kentucky related to COVID-19 (also known publicly as “coronavirus”). The virus spreads quickly and can cause mild to severe symptoms. The spread of the virus poses a threat to health and safety of our 1915(c) HCBS waiver participants and necessitates changes in service delivery methods and approaches.
- 2) As of January 23, 2023, Kentucky has had 1,685,679 confirmed cases and 17,838 fatalities. The population served by the waivers includes individuals with acquired brain injuries, intellectual and developmental disabilities, the aged and physically disabled and individuals who are ventilator dependent. These populations are not only at a higher risk of contracting the virus, but are more likely to suffer complications up to, and including, death. At the same time, participants actively rely on waiver-funded support with activities of daily living, instrumental activities of daily living, supervision and oversight of care, and overall well-being. Many receive services in congregate settings, including adult day health cares. There are approximately 30,000 individuals currently enrolled in Kentucky’s 1915(c) HCBS waivers.
- 3) The Department for Medicaid Services is working with our sister agencies, the Department for Behavioral Health, Developmental and Intellectual Disabilities and the Department for Aging and Independent Living to provide direction and technical assistance to providers and participants. The Departments are following guidance provided by the Department of Public Health (DPH) and key federal agencies, including the Centers for Medicare and Medicaid and the Centers for Disease Control. Kentucky has created a website ([kycovid19.ky.gov](http://kycovid19.ky.gov)) that is being continually updated with information related to COVID-19. In addition, DPH is manning a hotline Monday to Friday, 8 a.m. to 5 p.m. Eastern for inquiries related to COVID-19 at 1-800-722-5725.
- 4) Kentucky seeks temporary changes to the HCBS waivers to continue to address staffing shortages, access to care issues and need for service provision beyond the terms of approved service descriptions to address participant health, safety and welfare for the duration of the emergency.
- 5) Kentucky is making the following additions to Appendix K effective July 1, 2023:
  - a. Temporary rate increase of 10% as directed in the state budget bill for state fiscal year 2024 beginning July 1 2023- June 30,2024 or until ARP funds are exhausted whichever is earliest.
  - b. Modify provider qualifications to allow additional certified providers to provide support broker services to individuals who chose to self direct services.

The state intends to use section 9817 of the American Rescue Plan funds as outlined within the state’s ARP spending plan. The state acknowledges it will need to amend the base waivers to include the identified rate increases beyond the Appendix K approval period that ends November 11, 2023.

F. **Proposed Effective Date: Start Date: \_\_03/06/20\_\_\_\_\_Anticipated End Date: \_\_six months after end of PHE\_\_\_\_\_**

**G. Description of Transition Plan.**

Individuals will transition back to pre-emergency service status once federal and/or state health officials have determined that the virus outbreak is adequately contained and possesses minimal risks to revert to existing waiver practices. This transition will be implemented no sooner than 48 hours after the public has been made aware of pandemic containment and Medicaid providers have been notified of the intent to repeal emergency-based standards described herein. Providers will be given a period of 60 days to transition all participants' plans of care back to normal limits and operations within the approval time of the Appendix K

In keeping with existing practices, individualized needs will be re-assessed on a case-by-case basis, as indicated, if any long-term changes are required to an individual's person-centered service plan once the Commonwealth resumes standard program rules and policies approved in the active 1915(c) HCBS waiver applications.

**H. Geographic Areas Affected:**

Statewide

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

[Empty box for description of State Disaster Plan]

**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.]

[Empty box for explanation of changes and 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. 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.]

Effective July 1, 2023: KY.0144, KY.0333, KY.0475, and KY.0477:  
Enrolled certified case managers will be allowed to provide support broker services to individuals who chose to participant-direct services.  
The Participant-Directed Services Coordinator and Community Guide role, which coordinates with Case Management and Financial Management Activities in the HCBS waivers, will allow enrolled certified case managers to provide support broker services to individuals who chose to participant-direct services in addition to the Area Areas on Aging and the Community Mental Health Centers. This change will be included within modifications to the base waiver amendment applications and state regulations.

**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 Kentucky Legislature has approved an additional 10% rate increase for most services beginning with state fiscal year 2024, which runs from July 1, 2023, to June 30, 2024 or until ARP funds are exhausted whichever is sooner, in the following 1915(c) HCBS waivers. The state acknowledges it will need to amend the base waivers to include the identified rate increases beyond the Appendix K approval period that ends November 11, 2023:

- Acquired Brain Injury
- Acquired Brain Injury Long Term Care
- Home and Community Based
- Supports for Community Living
- Michelle P. Waiver

Modell II Waiver was excluded from the Legislative mandated increase.

The increase is based on current base rates that will remain in place until the end of this Appendix K amendment, or the implementation of new rates based on the outcome of Kentucky's comprehensive 1915(c) HCBS rate study currently in progress, whichever is the earlier date. New rates and payment methodology will be submitted as amendments to Kentucky's current approved 1915(c) HCBS waiver applications when the rate study has concluded, pending review by the Kentucky Legislature, prior to the expiration of this Appendix K. The state will use section 9817 ARP funds as approved by the Kentucky Legislation.

The services below are included in the temporary 10% increase. The increase applies to traditional and Participant-Directed services:

- Adult Day Health Care
- Adult Day Training
- Behavior Programming
- Behavioral Support Services
- Positive Behavior Supports
- Consultative Clinical & Therapeutic Services
- Positive Behavior Support Plan
- Case Management
- Support Broker
- PDS Coordination
- Financial Management
- Respite
- Attendant Care
- Community Access
- Community Guide
- Community Living Supports
- Companion
- Homemaker
- Person-Centered Coaching
- Personal Assistance/Care
- Occupational Therapy
- Speech Therapy
- Physical Therapy
- Counseling Individual/Group
- Residential Level II
- Technology Assisted Residential

- Shared Living
- Supported Employment
- Family Training
- Natural Supports Training
- Goods and Services
- Specialized Medical Equipment
- Environment and Minor Home Modifications
- Vehicle Adaptation
- Assessment/Reassessment
- Community Transition
- Home Delivered Meals
- Transportation
- Nursing Supports

**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]**

**Contact Person(s)**

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

**First Name:** Pam  
**Last Name:** Smith  
**Title:** Division Director  
**Agency:** Department for Medicaid Services  
**Address 1:** 275 E Main St  
**Address 2:** Mail Stop 6W-B  
**City:** Frankfort  
**State:** KY  
**Zip Code:** 40621  
**Telephone:** 502-564-9429  
**E-mail:** Pam.smith@ky.gov  
**Fax Number:** 502-564-0249

**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:** 04/20/2023

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State Medicaid Director or Designee

**First Name:** Lisa  
**Last Name** Lee  
**Title:** Commissioner  
**Agency:** Department for Medicaid Services  
**Address 1:** 275 E Main St  
**Address 2:** 6W-A  
**City** Frankfort  
**State** KY  
**Zip Code** 40621  
**Telephone:** 502-564-4321  
**E-mail** [Lisa.Lee@ky.gov](mailto:Lisa.Lee@ky.gov)  
**Fax Number** 502-564-0509

## 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
<b>Provider Qualifications</b> <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>	
<b>Verification of Provider Qualifications</b>				
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



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<sup>i</sup> 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.