



Disabled and Elderly Health Programs Group

November 7, 2022

Jacey Cooper
State Medicaid Director
Director's Office, MS 0000
P.O. Box 997413
Sacramento, CA 95899-7413

Dear Director Cooper:

We are writing to inform you that the Centers for Medicare & Medicaid Services (CMS) is approving California'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
HCBS Waiver for Californians with Developmental Disabilities	CA.0336.R04.21

The state's approved Appendix K is effective February 4, 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. The purpose of the amendment is to add the option for internships for Supported Employment services and include incentive payments for service providers of Supported Employment (Individual) and Prevocational Services effective July 1, 2021.

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.

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.



Alissa Mooney DeBoy
Director, DEHPG

Enclosure



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.ⁱ 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: CA

B. Waiver Title(s): HCBS Waiver for Californians with Developmental Disabilities

C. Control Number(s): CA.0336.R04.21

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. 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.)

This Appendix K is additive to the Appendix K approved April 2, 2020, and reauthorized on March 10, 2021, to extend the end date. The proposed changes are effective July 1, 2021. This amendment:

- Revises the definition for Supported Employment (Individual) to include internships
- Amends the rate methodology for Supported Employment (Individual) and Prevocational Services to include increased incentive payments for service providers who assist individuals in obtaining and maintaining competitive integrated paid employment,
- Amends the rate methodology for Supported Employment (Individual) to include incentive payments for service providers who assist individuals in obtaining and maintaining an internship.

F. Proposed Effective Date: Start Date: February 4, 2020 **Anticipated End Date:** Six months after the end of the PHE.

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 to all individuals eligible for the HCBS Waiver for Californians with Developmental Disabilities impacted by the COVID-19 virus pandemic.

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

[State of California Emergency Plan October 2017](#) (p. 116)

14.4.4 DEPARTMENT OF DEVELOPMENTAL SERVICES (DDS)

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. ___ 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.]

The state is modifying the Supported Employment – Individual service definition to include internships.

Effective as of July 1, 2021, until six months after the end of the PHE payments will be increased for Supported Employment (Individual) and Prevocational Services as follows:

Supported Employment (Individual)

The reimbursement for Supported Employment (Individual), except for services provided to individuals working through an internship:

- 1) a one-time payment of \$2000 (increased from \$1,000) made to a provider when an individual obtains competitive integrated employment and is still employed after 30 consecutive days.
- 2) An additional one-time payment of \$2,500 (increased from \$1,250) made to a provider when an individual obtains competitive integrated employment and is still employed after six consecutive months.
- 3) An additional one-time payment of \$3,000 (increased from \$1,500) made to a provider when an individual has been employed consecutively for one year.

The reimbursement for Supported Employment (Individual) provided to individuals working through an internship includes the following incentive payments:

- 1) A one-time payment of \$750 made to a provider when an individual obtains employment through an internship and is still employed after 30 consecutive days.
- 2) An additional one-time payment of \$1,000 when an individual remains in an internship for 60 consecutive days.

Prevocational Services

- 1) A one-time payment of \$2000 (increased from \$1000) made to a provider when an individual obtains competitive integrated employment and is still employed after 30 consecutive days.
- 2) A one-time payment of \$2,500 (increased from \$1,250) made to a provider when an individual obtains competitive integrated employment and is still employed after six consecutive months.
- 3) A one-time payment of \$3,000 (increased from \$1,500) made to a provider when an individual has been employed consecutively for one year.

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: Joseph
Last Name Billingsley
Title: Program Policy and Operations Branch Chief
Agency: Department of Health Care Services
Address 1: 1501 Capitol Avenue, MS 4502
Address 2: P.O. Box 997437
City Sacramento
State CA
Zip Code 95899-7437
Telephone: 916-713-8389
E-mail Joseph.Billingsley@dhcs.ca.gov
Fax Number n/a

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

First Name: Jonathan
Last Name Hill
Title: Chief, Federal Programs Operations Section
Agency: Department of Developmental Services
Address 1: 1215 O Street, MS 7-40
Address 2:
City Sacramento
State CA
Zip Code 95814
Telephone: 916-653-4541
E-mail Jonathan.Hill@dds.ca.gov

8. Authorizing Signature

Date: 7/05/2022



State Medicaid Director or Designee

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.

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:	Supported Employment Individual
<i>Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:</i>	
Service Definition (Scope):	
<p>Supported employment is paid work at competitive wages, including through an internship as defined in Welfare and Institutions Code §4870, that is integrated in the community for individuals with developmental disabilities. Supported Employment - Individual services means job coaching and other services for regional center-funded consumers in a supported employment placement at a job coach-to-consumer ratio of one-to-one, and that decrease over time until stabilization is achieved. Individualized services may be provided on or off the jobsite. These services are received by eligible adults who are employed in integrated settings in the community. These individuals are unable to maintain this employment without an appropriate level of ongoing employment support services. Transportation services are not included under supported employment individual services.</p> <p>Supported Employment- Individual Services include:</p> <ul style="list-style-type: none"> • Training and supervision in addition to the training and supervision the employer normally provides to employees. • Support services to ensure job adjustment and retention, provided on an individual basis in the community, as defined in California Welfare and Institutions Code §4851(q): <ul style="list-style-type: none"> ○ Job development – The process of working with a consumer, based on the individuals interests and abilities to identify potential jobs, meet with the hiring business, and assist the consumer to apply for and compete for the job. ○ Job analysis Classifying each of the required duties of a job to identify the support needed by the consumer. ○ Training in adaptive functional skills ○ Social skill training ○ Ongoing support services -Services that are provided, typically off the job, to assist a consumer with concerns or issues that could affect his or her ability to maintain employment. ○ Family counseling necessary to support the individual’s employment ○ Advocacy related to the employment, such as assisting individuals in understanding their benefits ○ Advocacy or intervention to resolve problems affecting the consumer's work adjustment or retention. <p>Recipients receiving individual services normally earn minimum wage or above and are on the employer’s payroll. Individuals receiving these services usually receive supervision 5-20% of the time by the program. The remainder of the time, the employer provides all supervision and training. The above described services are not available under a program funded under section 110 of the Rehabilitation Act of 1973 (29 USC Section 730) or section 602(16) and (17) of the Individuals with Disabilities Education Act (20 USC 1401(16 and 17)).</p>	

Service Specification			
Service Title:	Supported Employment Individual		
<i>Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:</i>			
<p>The reimbursement for Supported Employment (Individual Services), except for services provided to individuals working through an internship), includes incentive payments for measurable milestones identified below:</p> <ol style="list-style-type: none"> 1. A one-time payment made to a provider when an individual obtains competitive integrated employment and is still employed after 30 consecutive days. 2. An additional one-time payment made to a provider when an individual obtains competitive integrated employment and is still employed after six consecutive months. 3. An additional one-time payment made to a provider when an individual has been employed consecutively for one year. <p>The reimbursement for Supported Employment (Individual Services) provided to individuals working through an internship includes the following incentive payments:</p> <ol style="list-style-type: none"> 1. A one-time payment made to a provider when and individual obtains employment through an internship and is still employed after 30 consecutive days. 2. An additional one-time payment when an individual remains in an internship for 60 consecutive days. <p>Federal financial participation is not claimed for incentive payments, subsidies, or unrelated vocational training expenses such as the following:</p> <ol style="list-style-type: none"> 1. Incentive payments made to an employer to encourage or subsidize the employer's participation in supported employment; or 2. Payments that are passed through to users of supported employment services 			
Specify applicable (if any) limits on the amount, frequency, or duration of this service:			
N/A			
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:
			Supported employment programs
Specify whether the service may be provided by <i>(check each that applies):</i>	<input type="checkbox"/>	Legally Responsible Person	<input checked="" 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>

Service Specification			
Service Title:	Supported Employment Individual		
<i>Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:</i>			
Verification of Provider Qualifications			
Provider Type:	Entity Responsible for Verification:		Frequency of Verification
Supported Employment Programs	Regional centers, through the vendorization process, verify providers meet requirements/qualifications outlined in Title 17, CCR, § 54310 including the following, as applicable: any license, credential, registration, certificate, permit, or academic degree required for the performance or operation of the service; the staff qualifications and duty statements; and service design.		Verified upon application for vendorization and ongoing thereafter through oversight and monitoring activities.
Supported Employment Programs	Commission on Accreditation of Rehabilitation Facilities (CARF)		Within four years at start- up; every one-to-three years thereafter
Service Delivery Method			
Service Delivery Method (check each that applies):	<input type="checkbox"/>	Participant-directed as specified in Appendix E	<input checked="" type="checkbox"/> Provider managed



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.