

ANNOUNCEMENT

CMS Approval of COVID-19 State of Emergency Appendix K for Children's Waiver

August 6, 2020

TO: Children's Waiver Home and Community Based Providers, Health Home Care Managers, and Medicaid Managed Care Plans

The Center for Medicare and Medicaid Services (CMS) has approved the NYS Department of Health (NYSDOH) request for an Appendix K for the Children's Waiver due to the COVID-19 State of Emergency. The Appendix K approval is for the period of March 1, 2020 through February 28, 2021. The approved Appendix K can be found on the NYSDOH website here:

https://www.health.ny.gov/health_care/medicaid/covid19/docs/2020-06-18_appendix_k_amendment.pdf

Guidance has been previously issued regarding changes to Children's Waiver requirements during the State of Emergency and links have been provided throughout this document. Additional guidance will be issued as needed or as the end date of the Appendix K gets closer.

The Appendix K approves the following measures:

Previously announced changes:

- Issued on March 29, 2020, COVID-19 Guidance regarding 1915(c) HCBS Children's Waiver for Health Homes Serving Children, C-YES, Home and Community Based Services (HCBS) providers, and MMCP/HIV SNP:
https://www.health.ny.gov/health_care/medicaid/covid19/docs/2020-03-29_1915c_hcbs_guide.pdf
- **Service Coordination –**
 - If the care manager is using telephonic or telehealth capabilities in lieu of a face-to-face visit, the care manager should respond to all communication from the participant within 24 hours.
 - All care managers are advised to update and revise, as necessary, Participant Waiver Contact lists, Crisis Plans, and complaint protocols when contacting the participant.
- **Initial HCBS/LOC Eligibility Determination –**
 - The HCBS/LOC assessment may be conducted by telephone or permitted telehealth methods until the end date of the Appendix K of February 28, 2021 unless otherwise directed.



- The delay in documents being sent due to this emergency should not delay the completion of the HCBS/LOC Eligibility Determination tool.
 - HHCMs and C-YES evaluators must document the information, and how it was obtained, in the child's/youth's case record.
 - The HHCM or C-YES evaluator must follow up within no more than 90 days to ensure the documentation is obtained for the case record.
- **License Practitioner of the Healing Arts (LPHA) Attestation Form for Initial HCBS/LOC eligibility determinations:**
 - The LPHA Attestation form is **not needed** for the initial HCBS/LOC eligibility determination when the child/youth is being discharged from a higher level of care **OR** referred for an HCBS/LOC eligibility determination by a Licensed Practitioner of the Healing Arts (as outlined on the HCBS LPHA form <https://www.health.ny.gov/forms/doh-5275.pdf>)
 - **Annual Re-assessment HCBS/LOC Eligibility Determination:**
 - The annual HCBS/LOC eligibility determination reassessment requirement is **suspended**. Any annual re-assessment HCBS/LOC Eligibility Determination that is due and cannot be completed, is waived and will be extended up to one year past the due date of the re-evaluation.
 - HHCM and C-YES evaluators must continue to monitor the participant's needs and their Plan of Care services to ensure appropriate continuation in the HCBS Children's Waiver and should document all updates and reviews in the participant's case record/file.
 - **Plans of Care Process and Delivery of HCBS**
 - Health Home and C-YES care managers need to continue to collaborate with HCBS providers to obtain Frequency, Scope, and Duration to update the Plans of Care.
 - Each HCBS eligible and enrolled child/youth must receive at least one monthly Waiver service, as documented in the service plan.
 - This monthly HCB Service requirement is waived, should the HCBS provider be unable to reach the participant/their family or if it is demonstrated that the need for services is less than monthly. This monthly service requirement can only be waived for two (2) consecutive months.
 - HCBS providers must collaborate with the HHCM or C-YES, as the participant requires regular monthly monitoring when an HCB Service is not provided monthly.
- COVID-19 Guidance for 1915(c) Children's Wavier Home and Community Based Services Regarding Respite Services:
https://www.health.ny.gov/health_care/medicaid/covid19/docs/2020-04-08_respite_update_6-26-20.pdf
 - Respite services may be delivered via telehealth when medically necessary and hands-on assistance is not required



- Respite services may be delivered telephonically only when meeting the above and when the provider/family does not have the appropriate technological equipment to provide the service through telehealth
- COVID-19 Guidance for Children's Waiver Service Providers:
https://www.health.ny.gov/health_care/medicaid/covid19/docs/2020-06-10_guide_hcbs.pdf
 - HCBS Billing – Soft Limits Reminder
 - HCBS Billing – Rounding of Service Time

Additional Measure Approved in the Appendix K

HCBS Setting Rule:

- With appropriate justification, waiver providers may provide HCBS to enrolled waiver participants who may be displaced and living in a shelter or hotel due to the COVID-19 emergency. HCBS staff will continue to provide services to the person in the same scope, frequency, and duration as described in the person's POC.

Annual Re-assessment HCBS/LOC Eligibility Determination:

- Re-evaluations will be extended up to one year past the due date of the re-evaluation

Consent and Signature:

- Verbal consent from the participant is only used to initiate services while awaiting the signed document dated the day of the meeting during the State of Emergency.
- Original signature dated the day of the meeting can be secured by mail or other means.

Plan of Care (POC):

- Each HCBS participant must have a POC on file with an HCB Service or Health Home care manage HCBS (*for Family of One Medicaid*).

Reportable Incidents:

- Health Home and HCBS providers must continue to report and follow up on incidents in accordance with existing requirements. The report may not be delayed past 90 days after the end of the emergency period.

Retainer Payment for Day and Community Habilitation Providers:

- Follow up and guidance is being given to these designated provider types.

Please utilize and reference all COVID-19 and Telehealth (telephonic) guidance available at https://health.ny.gov/health_care/medicaid/covid19/index.htm. Please send questions to BH.Transition@health.ny.gov