

# 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:** 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.R07.02 (IDDW) WV.0134.R07.02 (ADW) WV.0876.R02.02 (TBIW) WV.1646.R00.05(CSEDW)
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**D. Type of Emergency (The state may check more than one box):**

<input checked="" type="radio"/>	<b>Pandemic or Epidemic</b>
<input type="radio"/>	<b>Natural Disaster</b>
<input type="radio"/>	<b>National Security Emergency</b>
<input type="radio"/>	<b>Environmental</b>
<input type="radio"/>	<b>Other (specify):</b>

**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 8.7 million cases and over 225,000 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 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. IDDW provider agencies are required to be licensed through the West Virginia Office of Health Facility Licensure and Certification (OHFLAC). 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 were mandated to close on March 23, 2020 but were allowed to reopen on August 1, 2020 under program-specific guidelines provided by the WV Bureau for Public Health (BPH). IDDW members that are authorized to receive day services have the option of attending day programs in person or virtually. The BPH guidelines include requirements for social distancing that result in some day programs requiring members to attend on a rotating schedule.

**This Appendix K amendment is additive to the Appendix K approved on July 21, 2020. This amendment will allow beginning October 1, 2020, temporarily increase the rate of the ADW Personal Attendant service and the TBIW Personal Attendant service as a measure to improve recruitment and retention of these direct-care workers. COVID-19 has exacerbated the**

workforce shortage that existed for the ADW and TBIW traditional workers prior to the public health emergency. In addition, this amendment is to temporarily increase the rates of the IDDW day services due to the increased costs and attendance restrictions associated with implementing the WV BPH guidelines for COVID-19.

**F. Proposed Effective Date: Start Date: 03/12/2020 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.]

[Empty text box for explanation of changes and temporary cost limit]

**ii. \_\_\_ Temporarily modify additional targeting criteria.**

[Explanation of changes]

[Empty text box for 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. \_\_\_ 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].

Effective October 1, 2020, In coordination with the state’s recent initiative to divert nursing home residents and individuals considering nursing home placement to the AD Waiver program, the rate of the Personal Attendant service (S5130) will be increased by \$0.25 per 15-minute unit. (From \$17.00 to \$18.00 per hour which is a 5.8% increase.) This increase is not based upon the standard rate setting methodology. Instead, the one-dollar increase is specifically targeted to increase the wage of Personal Attendant workers in an effort to improve recruitment and retention as needed to provide support to all current ADW members as well as potential members from nursing homes. Traditional ADW provider agencies continue to experience workforce shortages due to COVID-19.

The TBIW rate for the Personal Attendant service (S5125 UB) will also be increased by \$0.25 per 15-minute unit. (From \$17.00 to \$18.00 per hour which is a 5.8% increase.) This increase is also specifically targeted to increase the wage of Personal Attendant workers in an effort to improve workforce recruitment and retention.

The rates of the following IDWW day services will be temporarily increased by 50% to allow for increased costs and attendance restrictions associated with implementing the WV BPH guidelines for COVID-19. The 50% rate increase will be available to providers operating day programs that are no longer collecting retainer payments.

Service Code	Service	Unit	Current Rate	Temporary Rate Increase – Effective 10/1/2020 to 3/31/2021
T2021 U5	Facility Day Habilitation 1:1-2	15 min	\$4.98	\$7.47
T2021 U6	Facility Day Habilitation 1:3-4	15 min	\$2.13	\$3.20
T2021 U7	Facility Day Habilitation 1:5-6	15 min	\$1.35	\$2.03
T2021 U1	Prevocational Training 1:1-2	15 min	\$4.98	\$7.47
T2021 U2	Prevocational Training 1:3-4	15 min	\$2.13	\$3.20
T2021 U3	Prevocational Training 1:5-6	15 min	\$1.35	\$2.03
T1019 HB	Job Development 1:1	15 min	\$5.01	\$7.52
T2019	Supported Employment 1:1	15 min	\$5.01	\$7.52
T2019HQ	Supported Employment 1:2+	15 min	\$2.01	\$3.02

**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.   X   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 until October 31, 2020 but will not exceed the authorized three episodes of up to 30 consecutive days. 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. Agencies that did experience staff reductions due to COVID-19, will be allowed to bill retainer payments at 70% of the standard rate. BMS will implement a process to monitor payments to avoid duplication in billing.

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 bill the standard service rate for retainer payments unless all pre-PHE staff have been retained at their pre-PHE wages and schedules 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 pre-public health emergency revenue based upon the 1<sup>st</sup> quarter of SFY20, (July, August and September), or that the retainer payments at the level provided by the state would not result in their revenue exceeding that of the 1<sup>st</sup> quarter of SFY20. 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]

**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:** 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:**

**Date:** 9/25/2020

\_\_\_\_\_/S/\_\_\_\_\_  
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](mailto: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
<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
<b>Service Delivery Method</b>			
<b>Service Delivery Method</b> <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.