

## 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.<sup>i</sup> 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: Montana

B. Waiver Title(s):

- Montana Big Sky Home and Community Based Waiver
- Montana Home and Community Based Waiver for Individuals with Developmental Disabilities
- Montana Behavioral Health Severe Disabling Mental Illness Home and Community Based Services

C. Control Number(s):

MT-0148.R06.15, MT-0208.R06.13, MT 0455 R03.13

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.

On March 13, 2020, as authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the “Stafford Act”), President Donald J. Trump declared a state of emergency resulting from the ongoing Coronavirus Disease 2019 (COVID-19) pandemic. On January 31, 2020, pursuant to the Public Health Services Act, Secretary of Health and Human Services (HHS) Alex Azar declared a public health emergency. On March 12, 2020, Governor Steve Bullock issued an [executive order](#) declaring a state of emergency related to the continued spread of COVID-19 to allow the governor to direct a coordinated response to the outbreak of communicable disease. This includes mobilizing all available state resources, such as emergency funds or personnel from the National Guard. It also allows the governor to take additional steps to ease regulatory requirements, continue federal and multi-state coordination, and ensure continued access to critical services for the State’s most vulnerable.

The novel COVID-19 pandemic has already begun to place unprecedented burdens on Montana’s health care programs and systems. Per the [Centers for Disease Control and Prevention \(CDC\)](#), as of March 31, 2020, there are 177 reported COVID-19 cases; this number is expected to grow as more people become tested and the virus spreads to other communities in Montana, increasing the risk of exposure for the State’s residents. Montana has three approved 1915(c) waivers with 5400 participants, many of which are among the most vulnerable and susceptible to COVID-19. Health care workers caring for patients with COVID-19, individuals who have had close contact with persons with COVID-19, and travelers returning from affected international locations where community spread is occurring are all at elevated risk of exposure. Montana’s knowledge of COVID-19 is still rapidly evolving.

Montana has received approval to waive certain Medicaid and the Children's Health Insurance Program (CHIP) requirements to ensure sufficient health care items and services are available to meet the needs of individuals under 1135 of the Social Security Act. A number of requirements Montana has committed to in its Medicaid state plan and waiver applications are dependent on staff and provider ability to perform tasks. Due to the evolving nature of this crisis, we may reach a point where we must adjust service delivery methods, suspend home visits, and shift workload priorities due to staff shortages to in order to meet immediate health and safety needs.

This appendix K is additive to the previously approved Appendix K. The rates are being adjusted from the previously approved Appendix K to the actual rates approved by the Legislature and signed by the Governor.

With this amendment, the state has included rate increases for the identified services beginning July 1, 2023. The State understands that its ability to make payments as approved under the Appendix K authority will end following six months after the conclusion of the Federal Public Health Emergency. The State will be responsible to seek other authority, such as amending the 1915(c) HCBS waivers, for the continuation of these payments beyond the termination date of the Appendix K for all three of Montana’s Home and Community Service waivers:

- Montana Big Sky Home and Community Based Waiver
- Montana Home and Community Based Waiver for Individuals with Developmental Disabilities
- Montana Behavioral Health Severe Disabling Mental Illness Home and Community Based Services

F. **Proposed Effective Date: Start Date:** 1/27/2020 **Anticipated End Date:** six months after the end of the PHE

G. **Description of Transition Plan.**

N/A-NO CHANGE

H. **Geographic Areas Affected:**

Statewide

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

N/A-NO CHANGE

**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.]

N/A-NO CHANGE

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

[Explanation of changes]

N/A-NO CHANGE

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]

N/A-NO CHANGE

**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).**

N/A-NO CHANGE

**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]:

N/A-NO CHANGE

**v. \_\_\_ Temporarily provide services in out of state settings (if not already permitted in the state's approved waiver). [Explanation of changes]**

N/A-NO CHANGE

**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.**

N/A-NO CHANGE

**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.]

N/A-NO CHANGE

**ii. \_\_\_ Temporarily modify provider types.**

[Provide explanation of changes, list each service affected, and the changes in the provider type for each service].

N/A-NO CHANGE

**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.]

N/A-NO CHANGE

**e. \_\_\_ Temporarily modify processes for level of care evaluations or re-evaluations (within regulatory requirements). [Describe]**

N/A-NO CHANGE

**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.]

## Provider Rate Increases

The department contracted with Guidehouse to conduct a comprehensive rate review of home and community based services provided in Adult Behavioral Health, Developmental Disabilities and Senior and Long Term Care programs. The focus of the rate study was to address legislative requirements issued in 2021 through HB 632. Specifically, HB 632 authorized a provider rate study to determine the need for adjusting service rates to address the financial and service delivery impacts of COVID-19.

To allow for a holistic rate determination process, Guidehouse conducted a comprehensive cost and wage survey to gather data from providers across programs as the basis for the rate studies. Guidehouse also reviewed the State's Medicaid claims data, and other extensive state, regional, and national benchmark metrics, basing assumptions on industry data when provider-reported data was unavailable or insufficient for rate setting. The approach used to establish the Department's benchmark rates is an "independent rate build-up" methodology commonly applied by states for setting rates for similar populations. It is an approach recognized as compliant with specific Centers for Medicare and Medicaid (CMS) regulations and guidelines and congruent with Medicaid rate setting principles more generally. The study identified appropriate cost assumptions for each value component used in the rate models, allowing rates to be built from the bottom up and calculated according to the relevant unit of service for each service included in the rate study. The objectives of the study were to determine benchmark rates based on resources required to promote access to quality services going forward. As such, cost assumptions in the report frequently rely on recent costs reported by providers as well as national and regional standards that reflect wider labor markets and costs typical of broader industries to respond to changing wage expectations.

The study results found that coming out of the COVID pandemic, many of the Department's rates for home and community-based services are currently well below the calculated benchmark rates. For all studied rates, current rates are on average at approximately 76% of the Guidehouse benchmark. These current rates are impacting providing staffing and overall service delivery to Montana's Medicaid population.

The Department has had to wait to address this issue until the Montana legislature convened and appropriated funding for provider rate increases. The legislature began in January and has included numerous hearings where the provider community has voiced how the COVID pandemic has had a severe economic impact on their industry and directly impacted their ability to provide services to Medicaid members. Based on this information, the legislature has allocated an historic amount of funding to stabilize providers and ensure vulnerable Montanans receive critical services.

Funding is being applied across all studied rates using the same methodology. To reduce existing disparities in rates, this methodology increases rates by a percentage of the difference between current and benchmark rates. The department is able to fund about 69.5% of the "gap" between the current rate and the benchmark rate. See the table below for examples of how this methodology is applied:

Service	Current Rate	Guidehouse Benchmark Rate	Current Rate % of Benchmark	SFY 2024 Proposed Rate	SFY24 Rate % of benchmark	FY24 % rate increase
Assisted Living Facility	\$104.31	\$124.75	83.62%	\$118.50	94.99%	13.61%
Behavioral Intervention Assistant	\$7.96	\$12.54	63.50%	\$11.14	88.85%	39.91%

Respite	\$18.50	\$24.08	76.83%	\$22.37	92.92%	20.94%
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These rate increases will bring studied rates up to an average of nearly 94% of the Guidehouse benchmark on July 1, 2023. This translates to an average increase in these rates of 18%.

The provider rate increases for these studied rates for SFY 2024 by Waiver is listed below:

Big Sky Home and Community Based Waiver: \$9,891,447.  
Home and Community Based Waiver for Individuals with Developmental Disabilities \$24,585,260  
Behavioral Health Severe Disabling Mental Illness Home and Community Based Services: \$2,696,692.

**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.]

N/A-NO CHANGE

**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]

N/A-NO CHANGE

**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.]

N/A-NO CHANGE

**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]

N/A-NO CHANGE

**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]**

N/A-NO CHANGE

**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]:

N/A-NO CHANGE

- 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]*

N/A-NO CHANGE

- 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:** Michael  
**Last Name:** Randol  
**Title:** State Medicaid Director  
**Agency:** MT Department of Public Health and Human Services  
**Address 1:** PO Box 4210  
**Address 2:** 111 N Sanders  
**City:** Helena  
**State:** Mt  
**Zip Code:** 59620  
**Telephone:** 406-444-6533  
**E-mail:** Michael.randol@mt.gov

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

Same as above.

## 8. Authorizing Signature

**Signature:**

/S/

**Date Submitted:** 6/21/2023

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State Medicaid Director or Designee

**First Name:** *Michael*  
**Last Name:** *Randol*  
**Title:** State Medicaid Director  
**Agency:** MT Department of Public Health and Human Services  
**Address 1:** PO Box 4210  
**Address 2:** 111 N Sanders  
**City:** Helena  
**State:** Mt  
**Zip Code:** 59620  
**Telephone:** 406-444-6533  
**E-mail:** Michael.randol@mt.gov  
**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).

<b>Service Title:</b>					
<i>Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:</i>					
<b>Service Definition (Scope):</b>					
<b>Specify applicable (if any) limits on the amount, frequency, or duration of this service:</b>					
<b>Provider Category(s)</b> <i>(check one or both):</i>		<b>Individual. List types:</b>		<b>Agency. List the types of agencies:</b>	
<b>Specify whether the service may be provided by</b> <i>(check each that applies):</i>			<b>Legally Responsible Person</b>		<b>Relative/Legal Guardian</b>
<b>Provider Qualifications</b> <i>(provide the following information for each type of provider):</i>					
<b>Provider Type:</b>	<b>License</b> <i>(specify)</i>	<b>Certificate</b> <i>(specify)</i>	<b>Other Standard</b> <i>(specify)</i>		
<b>Verification of Provider Qualifications</b>					
<b>Provider Type:</b>	<b>Entity Responsible for Verification:</b>		<b>Frequency of Verification</b>		
<b>Service Delivery Method</b> <i>(check each that applies):</i>		<b>Participant-directed as specified in Appendix E</b>		<b>Provider managed</b>	

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<sup>i</sup> 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.