

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-14-26  
Baltimore, Maryland 21244-1850



**Disabled and Elderly Health Programs Group**

---

December 23, 2020

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

Dear Ms. 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 state's natural disaster of statewide wildfires:

WAIVER TITLE	CMS AMENDMENT CONTROL NUMBER
HCBS Waiver for Californians with Developmental Disabilities	CA.0336.R04.15

The amendment that the state has requested in the Appendix K is effective from August 1, 2020 through February 28, 2021; it applies in Regional Centers and counties served by the individual waiver for anyone impacted by the wildfires through evacuation or loss of properties where individuals were served. The geographic impact is detailed in the attached Appendix K pages approved through this correspondence. Please utilize the waiver management system for HCBS waivers for any further amendments to these waiver programs other than 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](mailto:daphne.hicks@cms.hhs.gov) or Mary Marchioni at 303-844-7094 or by e-mail at [mary.marchioni@cms.hhs.gov](mailto:mary.marchioni@cms.hhs.gov).

Sincerely,  
Melissa L.  
Harris -S  
Melissa L. Harris  
Deputy Director, DEHPG

Digitally signed by  
Melissa L. Harris -S  
Date: 2020.12.23  
16:53:44 -05'00'

Enclosure

# 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: California

B. Waiver Title: HCBS Waiver for Californians with Developmental Disabilities

C. Control Number: CA.0336.R04.15

D. Type of Emergency (The state may check more than one box):

<input type="radio"/>	Pandemic or Epidemic
<input checked="" type="radio"/>	Natural Disaster
<input type="radio"/>	National Security Emergency
<input type="radio"/>	Environmental
<input type="radio"/>	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.

Statewide Wildfires. On August 14, 2020 California's Governor declared a statewide emergency due to the widespread fires and activated the State Operations Center to its highest level.

On Aug 22, 2020 the Governor announced that the White House approved California's request for a Presidential Major Disaster Declaration to bolster the state's emergency response to wildfires burning in California.

This Appendix K is additive to the Appendix K approved November 23, 2020. Specific to the HCBS-DD Waiver, the changes in this appendix reflect the need to provide temporary retainer payments, including allowing for up to three episodes of no more than 30 consecutive days of retainer payments and identifying corresponding guardrails for providers of specified services.

**F. Proposed Effective Date: Start Date: August 1, 2020  
Anticipated End Date: February 28, 2021**

**G. Description of Transition Plan.**

All activities will take place in response to the impact of wildfires and emergency evacuations, as efficiently and effectively as possible based upon the complexity of the change.

**H. Geographic Areas Affected:**

The following Regional Centers, along with counties served and the number of affected properties, in parentheses, include: Central Valley Regional Center (Merced, 4 homes); Far Northern Regional Center (Butte, Lassen, Plumas, Tehama, 21 homes); North Bay Regional Center (Napa, Solano, Sonoma, 57 homes); San Andreas Regional Center (Monterey, Santa Clara, Santa Cruz, 15 homes); Redwood Coast Regional Center (Lake, 2 homes);

The following Regional Centers include homes that have been lost, with the total in parentheses: Central Valley Regional Center (1); Far Northern Regional Center (11); San Andreas Regional Center (3).

The following Regional Centers are reported to have consumers evacuated, with total number of evacuees followed by identified counties in parentheses: Central Valley Regional Center (96, Merced); Far Northern Regional Center (415, Butte, Lassen, Plumas, Tehama); North Bay Regional Center (615, Napa, Solano, Sonoma); San Andreas Regional Center (243, Monterey, Santa Clara, Santa Cruz); Redwood Coast Regional Center (73, Lake); Alta California Regional Center (1, Yolo); East Los Angeles Regional Center (3, Los Angeles); Golden Gate Regional Center (4, Marin, San Mateo); Inland Regional Center (168, Riverside, San Bernardino); North Los Angeles Regional Center (16, Los Angeles); Regional Center of Orange County (149, Orange); San Diego Regional Center (1, San Diego); San Gabriel/Pomona Regional Center (3, Los Angeles); Valley Mountain Regional Center (7, San Joaquin, Stanislaus, Tuolumne).

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

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

## 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. \_\_\_ 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. \_\_\_ 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].

**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.]

Retainer payments are available for providers of the following services, which the state confirms include support for personal care and/or components of personal care:

*Habilitation*

*Behavioral Intervention Services*

*Community Living Arrangement Services*

*Day Services*

Retainer payments are available only for absences (maximum up to three episodes of no more than 30 days) in excess of the average number of absences experienced by the provider during the 12 month period prior to August 2020.

For providers impacted by wildfires, retainer payments are available for absences if specifically related to property loss such as a residential facility or other property directly required to provide the services listed above. As of October 28, 2020, 1,834 consumers were reported to have been evacuated across 14 Regional Centers. In total, 108 homes are reported to have been evacuated, to include 101 provider homes, two (2) state operated facilities, and five (5) unknown residences. In addition, 16 total homes were reported to have been lost which includes 15 occupied family homes and an unoccupied state-operated facility.

Providers receiving retainer payments must acknowledge that retainer payments will be subject to recoupment if inappropriate billing or duplicate payments for services occurred (or in periods of disaster, duplicate uses of available funding streams), as identified in a state or federal audit or any other authorized third-party review. Additionally, any provider receiving retainer payments will attest to the following:

1. It will not lay off staff and will maintain wages at existing levels.
2. It has not received funding from any other sources, including but not limited to unemployment benefits and Small Business Administration loans, that would exceed their revenue for the last full quarter prior to the public health emergency.
3. The retainer payments at the level provided by the state would not result in their revenue exceeding that of the quarter prior to the PHE. 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.
4. Retainer payments will be utilized exclusively according to the purpose for which they were authorized. If a provider is eligible for and receives a retainer payment for absences related to an identified emergency, a provider cannot receive and/or utilize retainer payment(s) for the same time period issued for another emergency purpose



**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 997436  
**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, Program Operations Branch  
**Agency:** Department of Developmental Services  
**Address 1:** 1600 9<sup>th</sup> Street  
**Address 2:** Click or tap here to enter text.  
**City** Sacramento  
**State** CA  
**Zip Code** 95814  
**Telephone:** 916 653-3749  
**E-mail** johnathan.hill@dds.ca.gov  
**Fax Number** N/A

## 8. Authorizing Signature

**Signature:**

**Date:** 12/21/2020

\_\_\_\_\_/S/\_\_\_\_\_  
State Medicaid Director or Designee

**First Name:** Jacey  
**Last Name** Cooper  
**Title:** State Medicaid Director  
**Agency:** California Department of Health Care Services  
**Address 1:** 1501 Capitol Avenue  
**Address 2:** P.O. Box 997413, MS 0000  
**City** Sacramento  
**State** California  
**Zip Code** 95899-7413  
**Telephone:** 916 449-7400  
**E-mail** [Jacey.Cooper@dhcs.ca.gov](mailto:Jacey.Cooper@dhcs.ca.gov)  
**Fax Number** 916 449-7404

## 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			
<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



---

<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.