

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.¹ 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: District of Columbia

B. Waiver Title(s):

- Individuals with Intellectual and Developmental Disabilities (IDD Waiver) - Individual and Family Support Waiver (IFS)

C. Control Number(s):

DC.0307.R04.05 DC.1766.R00.01

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 previously approved Appendix Ks. This Appendix K allows for the delivery of certain services via electronic methods; exceeds service limitation to allow for up to seven (7) days per week of Individualized Day Supports; modifies staffing ratios for Day Habilitation and Individualized Day Supports when provided remotely; expands settings where Day Habilitation, Individualized Day Supports, and Employment Readiness services may be provided and suspends the requirement to provide services in the community for Individualized Day Supports provided remotely; allows payment for Companion Services rendered by family caregivers or legally responsible individuals; modifies training requirements for direct support professionals (DSPs) and modifies Assistive Technology provider certification requirements; makes available a supplemental payment to eligible waiver providers employing DSPs; and authorizes a one-time payment to waiver providers for assistance with purchase of PPE.

F. Proposed Effective Date: Start Date: March 11, 2020 Anticipated End Date: Six (6) months after the conclusion of the public health emergency.

G. Description of Transition Plan.

All activities are in response to the impact of COVID-19 and occur as efficiently and effectively as possible, based upon the complexity of the change.

H. Geographic Areas Affected:

These actions apply, across both waivers, to all individuals impacted by the COVID-19 virus.

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

N/A

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. X 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]

The following information is additive to the information in the previously approved Appendix K.

IDD and IFS Waivers

This temporary modification in service scope or coverage allows the services listed below to be effectively delivered via electronic methods, in accordance with HIPAA requirements, and when the service fully meets the respective waiver service definition when provided via electronic methods. Permissible electronic methods include the use of telephone or other technology to communicate to ensure the effective provision of the service when provided via electronic methods, but only if the use of telephone or other technology is documented in the ISP, meets the individual's level of need, ensures health and safety, and is approved by the individual, the individual's support team, and the individual's clinician, where applicable. The services allowed to be delivered via electronic methods, subject to these requirements include:

- Physical Therapy (ongoing);
- Supported Employment;
- Occupational Therapy (ongoing);
- Speech Language and Hearing (ongoing);
- Creative Art Therapies;
- Day Habilitation;
- Individualized Day Supports; and
- Employment Readiness.

Individualized Day Supports:

Temporarily modify the service limitations for Individualized Day Supports to exceed the waiver limit of five (5) days per week of service delivery. Effective during the period covered by this Appendix K, Individualized Day Supports may be provided up to seven (7) days per week, but not to exceed six (6) hours per day or thirty (30) hours total per week.

Staffing Ratios for Services Provided Remotely

Staffing ratios for Day Habilitation, Day Habilitation (small group), and Individualized Day Supports, when being provided remotely, are temporarily modified as follows:

1. The requirement that no more than two (2) people can be supported at a time for Individualized Day Supports is suspended. Temporarily, staffing ratios may increase not to exceed three (1:3) people supported at a time by a single staff person.
2. The requirement that no more than four (4) people can be supported at a time for Day Habilitation is suspended. Temporarily, staffing ratios may increase not to exceed six (1:6) people supported at a time by a single staff person.
3. The requirement that no more than three (3) people can be supported at a time for Day Habilitation (small group) is suspended. Temporarily, staffing ratios may increase not to exceed six (1:6) people supported at a time by a single staff person.

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. X 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]:

The following information is additive to the information in the previously approved Appendix K.

IDD and IFS Waivers

Expanded Settings

The District temporarily expands settings where the following services may be delivered:

- Day Habilitation
- Individualized Day Supports
- Employment Readiness

Permissible alternate settings for the above services include hotels, shelters, family and friends' homes, churches, or other settings approved by the District. Permissible alternate settings may also include the participant's residential setting, which is defined as:

- The person's private (natural) home;
- A provider owned or controlled certified residential setting; or
- Other residential emergency setting, such as a hotel.

Settings for Services Provided Remotely

The District temporarily modifies the following settings limitation when being provided remotely:

- The requirement to provide services in the community is suspended for Individualized Day Supports.

Through billing procedures and post payment reviews, the District ensures that there are no duplicative payments. Duplication of billing for day services and services otherwise rendered in provider-owned or controlled residential settings is not allowed.

Companion services, as defined in the IDD and IFS waivers, may be provided concurrently with the following day support services being provided remotely during the period covered by this Appendix K: Supported Employment, Day Habilitation, Employment Readiness, and Individualized Day Support services. If a person receiving day support services remotely has a companion services provider present in the home during remote delivery of the day support services, the companion assists and supports the person in remotely accessing the day services that are not currently offering in-person services due to the ongoing COVID-19 public health emergency and provides non-medical assistance and supervision with ADLs and IADLs to support the person's goals and needs, as identified in the person's Individual Support Plan (ISP).

An individual's ability to receive day services remotely when, due to the COVID-19 public health emergency, the services are not available on-site in the community, ensures community integration by facilitating interaction with persons other than those physically present in the individual's home setting. Remote delivery of day services is limited to individuals whose service needs cannot be met on-site in the community due to a lack of availability precipitated by the COVID-19 public health emergency. At such time that on-site delivery of the services in the community becomes available, but no later than six months following the conclusion of the PHE, individuals will not be able to continue to receive the services remotely.

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

c. X **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.

The following information is additive to the information in the previously approved Appendix K.

IDD and IFS Waivers
Companion Services
The District temporarily allows payment for Companion services, as defined in the IDD and IFS waivers, rendered by the person’s relative, legal guardian, or individual who is otherwise legally responsible for the person when they have been hired by the provider agency authorized in the person's ISP.

d. X **Temporarily modify provider qualifications (for example, expand provider pool, temporarily modify or suspend licensure and certification requirements).**

i. X **Temporarily modify provider qualifications.**

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

The following information is additive to the information in the previously approved Appendix K.

IDD and IFS Waivers
Direct Support Professionals
The District is temporarily modifying qualification requirements for DSP staff as follows:

- Temporarily suspend the requirements for initial and annual training, including CPR and First Aid, pre-service and in-service training described in DDS policy, for the period covered by this Appendix K.
- Temporarily allow provider agencies to provide online training such as CPR and First Aid in lieu of in-person training. Completion of accredited online CPR and First Aid trainings is considered sufficient to satisfy the annual certification requirement for DSPs.

Assistive Technology Providers
Temporarily modifies Assistive Technology provider certification requirements to allow Certified Enabling Technologies Specialist and Accredited Technology First organizations to certify these providers.

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.]

The following information is additive to the information in the previously approved Appendix K.

IDD and IFS Waivers

DSP Supplemental Payment

The District makes available, a one-time supplemental payment available to eligible waiver providers employing Direct Support Professionals (DSPs) to ensure that DSPs continue to receive a competitive wage during the public health emergency and thereby reduce DSP staff turnover, ensure providers can appropriately staff programs, and improve quality of services provided. This supplemental payment allows the District to provide additional funding to address the staffing challenges that are particular to group home settings for the IDD waiver population during the PHE.

The supplemental payment is available to eligible providers of the following waiver services:

- Residential Habilitation (*IDD waiver only*)
- Supported Living Daily with or without Transportation (*IDD waiver only*)
- Companion Services, as defined in the IDD and IFS waivers

Eligible waiver providers receiving this one-time supplemental payment are subject to the following requirements:

- Provider must use the full supplemental payment for salaries, wages, and fringe benefits for their DSP employees.
 - A DSP is defined as an employee of an eligible waiver provider who spends at least 50% of his/her work hours providing direct services to persons with intellectual and developmental disabilities.
 - Direct services include working with a person providing support with self-care activities, behavior management, and community integration pursuant to an Individual Service Plan (ISP).
 - For the purposes of this supplemental payment, managers, administrators, and contract employees are excluded from the definition of DSP employee.
- Provider must be open for business and providing waiver services in person or remotely.
- Provider must comply with standard DHCF reporting requirements for waiver providers and also submit to DHCF a separate report on the distribution of the supplemental payment that includes:
 - Total wage and benefits paid to employees;
 - The marginal increases in wages and benefits that are covered by the supplemental payment; and
 - Any unused supplemental payment funds not distributed to DSPs during the course of the public health emergency.
- Provider must be in good standing with DHCF.

The supplemental payments are based on the acuity level of beneficiaries and DSP staffing pattern and calculated as follows:

- To calculate a DSP supplemental payment per hour, the total available supplemental payment amount is divided by the number of total annual DSP hours required to provide Residential Habilitation, Supported Living Daily with or without Transportation, and Companion Services to all District Medicaid beneficiaries receiving these services during the prior fiscal year.
- The total annual DSP hours and the individual waiver providers' total annual DSP hours are calculated as follows:

- *Residential Habilitation:* The total annual DSP hours and individual Residential Habilitation provider annual DSP hours are based on beneficiary acuity levels and staffing ratios described in the rate methodology section of the District's approved 1915(c) IDD Waiver.
- *Supported Living Daily with or without Transportation:* The total annual DSP hours and individual Supported Living Daily provider annual DSP hours are based on beneficiary acuity levels and staffing ratios described in the rate methodology section of the District's approved 1915(c) IDD Waiver.
- *Companion Services:* The total annual DSP hours and individual Companion Services provider annual DSP hours are based on the staffing ratios described in the District's approved 1915(c) IDD Waiver.
- The Medicaid beneficiary utilization and acuity levels in the above calculations are based on the most recent complete claims data available from the prior fiscal year. No adjustments are made due to subsequent beneficiary utilization or acuity level changes that may occur.

- The amount of the supplemental payment received by an eligible waiver provider is equal to their individual provider annual DSP hours multiplied by the DSP supplemental payment per hour. The supplemental payments are made as one-time, lump-sum disbursements. The increased payment rates will not exceed 42% of the base rates specified in the IDD and IFS waivers.

Additional reporting and rate-related criteria for this supplemental payment will be published in a transmittal, available on the DHCF website at <https://dhcf.dc.gov>.

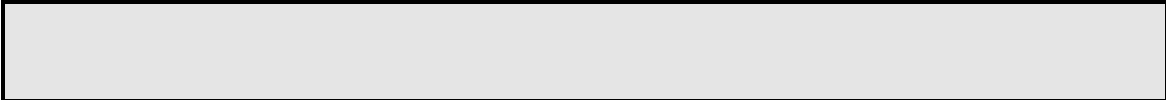
One-Time Payment for PPE
The District reimburses IDD and IFS waiver providers up to a one-time payment of \$250 per person supported, per provider to assist in the purchase of personal protective equipment (PPE) during the public health emergency. The funds are paid to providers per year on a cost reimbursable basis.

The total of all rate increases authorized within COVID-19 Appendix Ks will not exceed 50% of the base rate specified in the IDD and IFS waivers.

Companion Services are subject to all requirements of the Fair Labor Standards Act (FLSA).

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]

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]:

- Physical Therapy (ongoing);
 - Supported Employment;
 - Occupational Therapy (ongoing);
 - Speech Language and Hearing (ongoing);
 - Creative Art Therapies;
 - Day Habilitation;
 - Individualized Day Supports; and
 - Employment Readiness.

- 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]*



- 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: Katherine
Last Name: Rogers
Title: Acting Director, Long Term Care Administration
Agency: Department of Health Care Finance
Address 1: 441 4th Street NW
Address 2: Suite 900
City: Washington
State: District of Columbia
Zip Code: 20001
Telephone: 202-724-8926
E-mail: katherine.rogers@dc.gov
Fax Number: 202-422-4790

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

First Name: Winslow
Last Name Woodland
Title: Deputy Director, Developmental Disabilities Administration
Agency: Department on Disability Services
Address 1: 250 E Street SW
Address 2: Click or tap here to enter text.
City Washington
State District of Columbia
Zip Code 20024
Telephone: 202-730-1618
E-mail winslow.woodland@dc.gov
Fax Number 202-730-1842

8. Authorizing Signature

Signature: _____ **Date:** _____
/S/

State Medicaid Director or Designee

First Name: *Melisa*
Last Name *Byrd*
Title: Senior Deputy Director / State Medicaid Director
Agency: Department of Health Care Finance
Address 1: 441 4th Street NW
Address 2: Suite 900
City Washington
State District of Columbia
Zip Code 20001
Telephone: 202-442-9075
E-mail melisa.byrd@dc.gov
Fax Number 202-442-4790

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 Title:	Assistive Technology Services
<i>Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:</i>	
Service Definition (Scope):	
<p>Assistive technology means an item, piece of equipment, service animal or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities and can also support increased community inclusion, including in employment settings. Assistive technology are devices/supports not otherwise available through any funding source that are suitable to enable the person to function with greater independence, avoid institutionalization, and reduce the need for human assistance.</p> <p>Assistive technology service means a service that directly assists a person in the selection, acquisition, or use of an assistive technology device. A person's need for assistive technology may be determined either by a clinical evaluation, or by the recommendation of the person and/ or the person's support team and incorporated into the person's ISP, where the recommendation is aimed at increasing the person's independence and/ or community inclusion, including in an employment setting.</p> <p>Assistive technology includes: (A) the evaluation of assistive technology needs, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the person in his/her customary environment; (B) services consisting of purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices for persons served through the waiver; (C) services consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices; (D) coordination and use of necessary therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with other services in the service plan; (E) training or technical assistance for the person, or, where appropriate, his/her family members, guardians, advocates, or authorized representatives who provide unpaid support, training, companionship or supervision; or (F) training or technical assistance for professionals or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of the person served.</p> <p>Allowable Assistive Technology items include: Remotes and switches, service animals, mobile applications, smart home devices for completing activities of daily living, electronic motion sensor devices, door alarms, web cameras, telephones with modifications (e.g., large buttons, flashing lights, programmed picture buttons), fall detection alert devices that may be affixed to a wheelchair or walker, text-to-speech software, devices that enhance images for people with low vision, intercom systems and other devices to enhance mobility and assist with performing daily tasks. Services covered under the waiver are limited to services not otherwise covered under the State Plan, that are consistent with waiver objectives of avoiding institutionalization.</p> <p>Assistive technology is capped at \$10,000 per individual per approved waiver period (e.g., five (5) years). An individual may be able to exceed any service cap on a case by case basis with DDS approval. Any individuals seeking to exceed the cap to provide a prior authorization for the amount requested beyond the cap that includes supporting documentation and documentation that of the need for additional services to DDS. Assistive technology provided through the waiver supplements and does not supplant any services or benefits available under the State Plan, Rehabilitation Services Administration (RSA), or that is the obligation of the individual's employer.</p>	

Service Title:		Assistive Technology Services			
<i>Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:</i>					
Specify applicable (if any) limits on the amount, frequency, or duration of this service:					
Provider Category(s) (check one or both):	<input checked="" type="checkbox"/>	Individual. List types:		<input checked="" type="checkbox"/>	Agency. List the types of agencies:
		Licensed Therapists			
		AT Professionals			AT Professional Agency; Licensed Clinical Therapy Agency; AT Supplier
Specify whether the service may be provided by (check each that applies):		<input type="checkbox"/>	Legally Responsible Person	<input type="checkbox"/>	Relative/Legal Guardian
Provider Qualifications (provide the following information for each type of provider):					
Provider Type:	License (specify)		Certificate (specify)		Other Standard (specify)
Licensed Therapists; AT Professionals			RESNA certified AT professionals, Certified Enabling Technologies Specialist		Approved waiver provider of OT, PT, SHL services Any approved HCBS IDD PERS vendor as of 11/2017.
AT Professional Agency; Licensed Clinical Therapy Agency; AT Supplier			Accredited Technology First Organizations		RSA approved vendor; Approved waiver provider agency for OT, PT, SHL services. Any approved HCBS IDD PERS vendor as of 11/2017.
Verification of Provider Qualifications					
Provider Type:	Entity Responsible for Verification:			Frequency of Verification	
Licensed Therapists; AT Professionals	DDS			Initially and annually thereafter	
AT Professional Agency; Licensed Clinical Therapy Agency; AT Supplier	DDS			Initially and annually thereafter	
Service Delivery Method (check each that applies):					
	<input type="checkbox"/>	Participant-directed as specified in Appendix E		<input checked="" type="checkbox"/>	Provider managed

Service Title:	Assistive Technology Services			
<i>Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:</i>				



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.