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.[i] 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 (IFS) Waiver

C. Control Number(s):

DC.0307.R04.06
DC.1766.R00.02

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

X	**Pandemic or Epidemic**
○	**Natural Disaster**
○	**National Security Emergency**
○	**Environmental**
○	**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 makes available an additional supplemental payment to eligible waiver providers employing DSPs and authorizes an additional three 30-day episodes of retainer payments retroactively effective to January 1, 2021. The District intends to use ARP 9817 funds for the supplemental payment to eligible waiver providers employing DSPs; the supplemental payment will be made on or before September 30, 2021, but no earlier than April 1, 2021.

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.___ 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.]

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

<u>*IDD and IFS Waivers*</u>

DSP Supplemental Payment #2

The District makes available, an additional 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. This additional one-time supplemental payment will be made on or before September 30, 2021, but no earlier than April 1, 2021. The District intends to use ARP 9817 funds for the supplemental payment to waiver providers employing DSPs

This 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 additional 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. Any funds not expended will be redirected to activities in the CMS approved State Spending Plan.
- Provider must be in good standing with DHCF.

These supplemental payments are based on the acuity level of beneficiaries and DSP staffing patterns and are 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 and IFS Waivers.
    - 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. These 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.

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. _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.]

The District authorizes up to three additional 30-day episodes of retainer payments for the IDD waiver during the period of the COVID-19 PHE, retroactive to January 1, 2021 and ending December 31, 2021. Retainer payments for the IFS waiver are the original three 30-day episodes for the COVID-19 PHE described in the June 30, 2020 FAQs.

Retainer payments will be made in accordance with the limitations and requirements set forth in the COVID-19 FAQs for State Medicaid and Children's Health Insurance Program Agencies (January 6, 2021 and June 30, 2020). Retainer payments may only be provided for services categorized as habilitation or personal care services.

Retainer payments for IFS and IDD Waiver providers does not include reimbursement for staff costs of direct care workers.

- The District will collect an attestation from providers acknowledging 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. Note that "duplicate uses of available funding streams" means using more than one funding stream for the same purpose.
- The District will require an attestation from providers that it will not lay off staff and will maintain wages at existing levels.
- The District will require an attestation from providers 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 revenue for the last full quarter prior to the PHE, or that the retainer payments at the level provided by the District would not result in their revenue exceeding that of the quarter prior to the PHE.

o 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.
o If a provider had already received revenues in excess of the pre-PHE level, retainer payments are not available.

Temporarily allow retainer payments for authorized day program services providers if a participant was unable to attend day program services as a result of the public health emergency, and the participant instead received natural supports, companion services, or in-home supports, not provided by the day program. Retainer payments are available to authorized day program service providers that also provide other types of services to the participant such as residential services, in-home supports, or companion services and will not be excluded from receiving retainer payments when such services are not being provided by the day program. Retainer payments are intended to permit the day program provider to recover a percentage of its costs in order to stay viable and therefore able to provide day program services after the public health emergency has ended. Retainer payments are made only to day program or habilitation service providers. Reimbursement for the provision of other services is separate and includes costs for staff rendering other services.

Authorized day program providers may submit claims for retainer payments for up to 30 consecutive days. Reimbursement is available for multiple consecutive day periods (up to 3 episodes).

A day program provider seeking a retainer payment must document that the individual was unable to attend the day program as a result of the public health emergency and immediately notify the DDA Service Coordinator. Retainer payments will not be authorized when a provider is providing

one of the six identified day program services below, whether that be in person or remote. Authorized day program service providers are eligible for retainer payments as follows:

- **Day Habilitation – 33% of standard rate**
- **Day Habilitation 1:1 – 43% of standard rate**
- **Day Habilitation Small Group –46% of standard rate**
- **Individualized Day Supports – 30% of standard rate**
- **Individualized Day Supports 1:1 – 52% of standard rate**
- **Supported Employment – 33% to 35% of standard rate**

Day Program Service Providers that have stopped or reduced services in response to the COVID-19 public health emergency may bill for retainer payments. Retainer payments are received by billing for units authorized in an individual's service plan that were not provided due to the COVID-19 public health emergency. Units billed shall not exceed the amount, scope, and duration otherwise authorized for the Day Program Service provider. Retainer payments may not be billed when the individual chooses to receive day program services through a different provider. Retainer payments for day services are limited to 5 days per week (Mon-Sun).

Effective July 1, 2021, retainer payment rates may be adjusted based on any increase to the District of Columbia Living Wage.

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]

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]:*

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
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:** **9/8/2021**

______________________/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 Specification					
Service Title:					
Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:					
Service Definition (Scope)**:**					
Specify applicable (if any) limits on the amount, frequency, or duration of this service:					

Provider Specifications				
Provider Category(s) *(check one or both)***:**	☐	Individual. List types:	☐	Agency. List the types of agencies:
Specify whether the service may be provided by *(check each that applies)*:	☐	Legally Responsible Person	☐	Relative/Legal Guardian

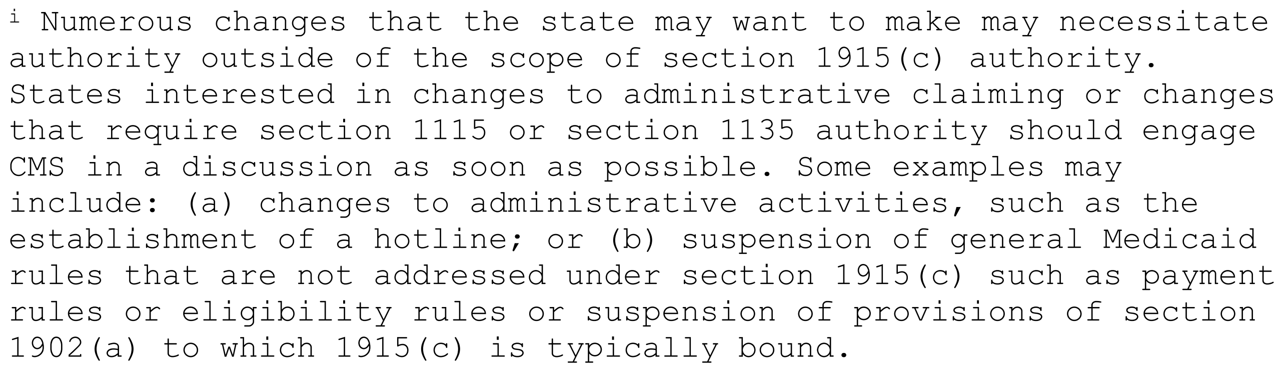
Provider Qualifications (*provide the following information for each type of provider*):

Provider Type:	License *(specify)*	Certificate *(specify)*	Other Standard *(specify)*

Verification of Provider Qualifications

Provider Type:	Entity Responsible for Verification:	Frequency of Verification

Service Delivery Method				
Service Delivery Method *(check each that applies)*:	☐	Participant-directed as specified in Appendix E	☐	Provider managed



[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.