

APPENDIX K

Submission for IRIS 1915(c) Waiver, May 2020

Overview

In response to the COVID-19 pandemic, the Wisconsin Department of Health Services submitted an Appendix K application for the Include, Respect, I Self-Direct (IRIS) program waiver, which was approved by the Centers for Medicare & Medicaid Services on May 22, 2020. The Appendix K submission is a standalone application that states may use during emergency situations to request changes to approved applications. It includes actions states can take under the existing Section 1915(c) home and community based waiver authority to respond to an emergency. An Appendix K, sometimes referred to as a "K Waiver," is limited to changes in the state's currently approved Section 1915(c) application.

The Self-Directed Support 1915(c) Waiver that authorizes the IRIS program supports over 20,000 adults with developmental disabilities, physical disabilities, and/or frail elders. The approved waiver application includes limits and restrictions that necessitated temporary waivers during the COVID-19 pandemic. Key changes in the IRIS Appendix K submission are included below and are effective March 1, 2020, through February 28, 2021. The full [IRIS Appendix K](#) submission is attached.

IRIS Appendix K Flexibilities Granted

- Allows assessments, evaluations, administrative requirements, and individual support and service planning meetings to occur remotely
- Allows any service that can be provided with the same functional equivalency of face-to-face services to occur remotely
- Allows the use of verbal or electronic permission to authorize new services in individual support and service plans
- Allows an electronic method of signing off on required documents
- Gives extension for reassessments and reevaluations for up to one year past the due date
- Extends the continuing skills test for certified screeners from 2020 to 2021
- Suspends all involuntary disenrollments
- Allows services to be provided in out-of-state and temporary settings
- Allows providers who are certified or licensed in other states or enrolled in Medicare to perform the same or comparable services in Wisconsin

Additional Information

The IRIS Appendix K approval allows for much needed flexibilities for the program's stakeholders, and is an important piece of the Department of Health Services' response to the COVID-19 pandemic. In addition to

the IRIS Appendix K, the Department of Health Services has identified and requested additional programmatic flexibilities, including the submission of a Section 1135 Waiver and multiple Medicaid Disaster Relief State Plan Amendments. The key changes listed in this document are not an exhaustive list of the flexibilities available to program stakeholders, and additional flexibilities may be available under state or other federal authorities.

Please note that requests that were included in the original Appendix K submission may have been rejected by the Centers for Medicare & Medicaid Services or resubmitted as 1135 waiver or Medicaid Disaster Relief State Plan Amendments requests under the Centers for Medicare & Medicaid Services' guidance. Furthermore, there may be requests that were approved by the Centers for Medicare & Medicaid Services but not implemented due to either insufficient current resources to support implementation or a Department of Health Services' determination that they are not necessary at this time.

Questions regarding the IRIS Appendix K submission or other IRIS program flexibilities can be sent to the DHSDMSCOVID19@dhs.wisconsin.gov inbox with the subject line **IRIS Appendix K Flexibilities**.

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: _____ Wisconsin _____

B. Waiver Title(s): Self-Directed Support Waiver - Intellectual/Developmental Disability and Aged/Physical Disability

C. Control Number(s): WI.0484.R02.03

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.)

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

G. **Description of Transition Plan.**

All activities will take place in response to the impact of COVID-19 as efficiently and effectively as possible based upon the complexity of the change.

H. **Geographic Areas Affected:**

These actions will apply across the waiver 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]

1. **1-2 Bed Adult Family Homes:**
 - a. Remove the limitation preventing supportive home care from being provided in 1-2 bed adult family homes.
2. **3-4 Bed Adult Family Homes:**
 - a. Remove the limitation preventing supportive home care from being provided in 3-4 bed adult family homes.
3. **Adult Day Care:**
 - a. Remove the limitation to allow day services to provide services in alternate settings (also addressed in scope of service, Appendix A, and settings, b.iv., below).
4. **Home Delivered Meals:**
 - a. Remove the limitation on not constituting a “full nutritional regimen” to allow up to 3 meals per day for home delivered meals.
5. **Home Modifications:**
 - a. Remove the limitation that quotes from at least three providers must be obtained and submitted.
6. **Residential Care Apartment Complexes:**
 - a. Remove the limitation preventing supportive home care from being provided in Residential Care Apartment Complexes.
 - b. Remove the limitation preventing personal or nursing services for recipients in residential care apartment complexes.
7. **Respite:**
 - a. Remove the limitation that participants cannot receive other waiver services on the same day as receiving respite care.

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]:

Allow for all home and community-based waiver services to be provided in temporary settings.

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

Allow payment for home and community-based waiver services provided in settings outside this state.

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. 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 service provider qualification requirement modifications apply to all services:

- a. Allow 4-year background checks to be delayed.
- b. Delay provider licensing or certification reviews.
- c. Allow providers certified or licensed in other states or enrolled in the Medicare program to perform the same or comparable services in this state.

The following provider qualification flexibilities will increase the pool of available providers:

- 2. **Consumer Education & Training – Agency & Individual Provider:**
 - a. Remove the provider qualification requirement that providers who are teachers must be certified by the WI Department of Public Instruction.
- 3. **Daily Living Skills – Agency & Individual Provider:**
 - a. Remove the provider qualification requirement that providers must have a minimum of two years’ experience working with the target population.
- 4. **Nursing Services – Agency & Individual Provider:**
 - a. Modify the provider qualifications to allow for students in accredited nursing programs to be qualified providers.
- 5. **Prevocational Services – Agency:**
 - a. Remove the provider qualification requirement that agencies must have two years’ of experience working with target population requirement.
- 6. **Respite – Individual & Agency Provider:**
 - a. Relax provider agency qualification requirements for 1-2 Bed Adult Family Home (AFH), 3-4 Bed AFH, Community Based Residential Facility, and Residential Care Apartment Complex (RCAC).
- 7. **Supportive Home Care – Agency Provider:**
 - a. Allow for agencies that are not Medicaid certified to provide services.
 - b. Relax the provider requirement that agencies must follow Wis. Admin. Code 105.17.

ii. X Temporarily modify provider types.

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

- The following services will have modified provider types:**
1. **Home Delivered Meals:** Expand to include non-traditional provider types.
 2. **Nursing Services:** Add “Nursing Student” Agency & Individual types.
 3. **Specialized Transportation (& 2):** Add “Transportation Network Companies” as an Agency type.
 4. **Training Services for Unpaid Caregiver:** Add an “Individual Worker” Individual type.

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

- See Appendix K Addendum: COVID-19 Pandemic Response below.
1. Allow the suspension of involuntary program dis-enrollments.
 2. Allow the extension of the certification period of level-of-care screeners.
 3. Allow the waiver of enrollment or eligibility changes based on a completed functional screen resulting in a change in level-of-care.

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. X 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.]

- See Appendix K Addendum: COVID-19 Pandemic Response below.
1. Allow payment for waiver services that are not documented in the participant’s person-centered plan (42 CFR §441.301(b)(1)(i)).

h. X 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]

Allow for data entry of incidents into the incident reporting system outside of typical timeframes.

i. X 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.]

Allow any necessary waiver services to be provided temporarily in an acute care hospital or during a short-term institutional stay.

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.]

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]

Administrative:

1. Allow the SMA to waive public notice requirements that would otherwise be applicable to waiver changes.
2. Allow the SMA to waive the tribal consultation timelines to allow for consultation at the next future tribal health directors meeting.
3. Allow the SMA to waive timelines for reports, required surveys, and notifications.
4. Allow the SMA to waive requirements related to home and community-based settings in order to ensure the health, safety, and welfare of affected beneficiaries under 42 C.F.R. § 441.301(c)(4).
5. Allow the SMA to waive the choice of provider requirement.
6. Allow a verbal and electronic method to signing required documents.

Enrollment & Eligibility:

7. Allow the suspension of involuntary dis-enrollments.

Fiscal:

8. Allow the SMA to draw federal financing match for payments, such as hardship or supplemental payments, to stabilize and retain providers who suffer extreme disruptions to their standard business model and/or revenue streams as a result of the 2019 novel coronavirus.

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]*:

All other waiver services and any waiver administrative requirement that can be provided with the same functional equivalency of face-to-face services.

- 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: Click or tap here to enter text.
Last Name Click or tap here to enter text.
Title: Click or tap here to enter text.
Agency: Click or tap here to enter text.
Address 1: Click or tap here to enter text.
Address 2: Click or tap here to enter text.
City Click or tap here to enter text.
State Click or tap here to enter text.
Zip Code Click or tap here to enter text.
Telephone: Click or tap here to enter text.
E-mail Click or tap here to enter text.
Fax Number Click or tap here to enter text.

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

First Name: Click or tap here to enter text.
Last Name Click or tap here to enter text.
Title: Click or tap here to enter text.
Agency: Click or tap here to enter text.
Address 1: Click or tap here to enter text.
Address 2: Click or tap here to enter text.
City Click or tap here to enter text.
State Click or tap here to enter text.
Zip Code Click or tap here to enter text.
Telephone: Click or tap here to enter text.
E-mail Click or tap here to enter text.
Fax Number Click or tap here to enter text.

8. Authorizing Signature

Signature:

Date:

State Medicaid Director or Designee

First Name: Click or tap here to enter text.
Last Name Click or tap here to enter text.
Title: Click or tap here to enter text.
Agency: Click or tap here to enter text.
Address 1: Click or tap here to enter text.
Address 2: Click or tap here to enter text.
City Click or tap here to enter text.
State Click or tap here to enter text.
Zip Code Click or tap here to enter text.
Telephone: Click or tap here to enter text.
E-mail Click or tap here to enter text.
Fax Number Click or tap here to enter text.

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:	Adult Day Care		
<i>Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:</i>			
Service Definition (Scope):			
<p>Adult day care services include the provision of services, part of a day, in a non-residential group setting or in another SMA approved setting, to adults needing an enriched social or health-supportive experience or needing assistance with ADLs, supervision and/or protection.</p> <p>Services may include: personal care and supervision; light meals; medical care and, transportation to and from the day care site. Transportation between the individual's place of residence and the adult day care center may be provided as a component of adult day health services. The cost of transportation is included in the rate paid to providers of adult day health services.</p> <p>Meals provided as part of adult day care may not constitute a "full nutritional regimen" (three meals per day). For providers of this service, Wis. Stats. Chapter 49.45 applies.</p> <p>Special services, such as bathing, at the adult day care site may also be included in this category, if not already included in the program fee. Funding for adult day care is separate from the substitute care rate. Adult day care is permissible for up to eight hours per day.</p>			
Specify applicable (if any) limits on the amount, frequency, or duration of this service:			
<p>Adult day care services provided as part of the residential facility program cannot be paid separately as adult day care as this represents billing twice for the same service and violates Medicaid rule requiring providers accept one single payment as payment in full.</p> <p>Adult day care cannot be provided within a substitute care setting.</p> <p>Adult day care is available up to 8 hours per day.</p>			
Provider Specifications			
Provider Category(s) (check one or both):	<input type="checkbox"/>	Individual. List types:	<div style="text-align: center; font-weight: bold; font-size: 1.2em;">X</div> Agency. List the types of agencies: Adult Day Care Provider
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)

Adult Day Care Provider		<ul style="list-style-type: none"> • Persons providing these services shall comply with all relevant provisions of Chapter IV of the Medicaid Waivers Manual SPC 102 – Adult Day Care: https://www.dhs.wisconsin.gov/waivermanual/index.htm. • Adult day care must be provided in a state certified facility. Providers of services are governed by the certification standards for adult day care issued by the DHS, Division of Quality Assurance. • Certification Standards for Adult Day Care for six or fewer people can be found at: https://www.dhs.wisconsin.gov/forms1/f6/f62611.docx. • Certification Standards for adult day care for more than six people can be found at: https://www.dhs.wisconsin.gov/forms1/f6/f60947.docx. 	

Verification of Provider Qualifications

Provider Type:	Entity Responsible for Verification:	Frequency of Verification
Adult Day Care Provider	Verification of providers which require a license or certification will be validated and maintained by the Fiscal Employer Agent.	Annually

Service Delivery Method

Service Delivery Method (check each that applies):	<input checked="" type="checkbox"/>	Participant-directed as specified in Appendix E	<input type="checkbox"/>	Provider managed
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Service Specification

Service Title:	Day 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>Day services programs provide regularly scheduled, individualized skill development activities to participants. Services must be provided in a non-residential setting separate from the participant's private residence or other residential living arrangement. Program goals may include assistance with acquisitions, retention or improvement in self-help, socialization and adaptive skills that enhance social development and develop skills in performing activities of daily living and community living. Activities and environments are designed to foster the acquisition of skills, building positive social behavior and interpersonal competence, greater independence and personal choice. Services are furnished consistent with the participant's person-centered plan. Day Services focus on enabling the participant to attain or maintain his or her maximum potential and shall be coordinated with any needed therapies in the individual's participant-</p>	

centered plan. Services may occur in a single physical environment or multiple environments or in the community at large.
 Community-based services take place in the community (and not in a facility) where interaction with people without disabilities could occur. Facility-based services take place in a facility, such as a day program, a prevocational center, or a senior center.

Specify applicable (if any) limits on the amount, frequency, or duration of this service:

Services may occur in a single physical environment, multiple environments, or in the community at large as long as the setting meets setting compliance.

Day services may not provide for the payment of services that are vocational in nature (i.e., for the primary purpose of producing goods or performing services).

For participants with degenerative conditions, day services may include training and supports designed to maintain skills and functioning and to prevent slow regression, rather than acquiring new skills or improving existing skills.

Day Services may be used to provide supported retirement activities. As some participants get older they may no longer desire to work and may need supports to assist them in meaningful retirement activities in their communities. This may involve altering schedules to allow for more rest time throughout the day, support to participate in hobbies, clubs and/or other senior related activities in their communities.

Participants who receive day services may also receive educational, supported employment and prevocational services.

An individual's participant-centered plan may include two or more types of non-residential services. However, different types of non-residential services may not be billed during the same period of the day.

Service provisions typically occur four or more hours per day, up to five days per week, outside the home of the participant.

Services may occur in a single physical environment, multiple environments or in the community.

Provider Specifications

Provider Category(s) (check one or both):	<input type="checkbox"/>	Individual. List types:	X	Agency. List the types of agencies:
			Day Service program operated by agency	

Specify whether the service may be provided by (check each that applies):	<input type="checkbox"/>	Legally Responsible Person	<input type="checkbox"/>	Relative/Legal Guardian
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Provider Qualifications (provide the following information for each type of provider):

Provider Type:	License (specify)	Certificate (specify)	Other Standard (specify)
Day Service program operated by agency		The participant should ensure that only competent and qualified providers of day services, with the appropriate expertise, training and background, receive payment with IRIS funds per Wisconsin Administrative Code DHS ch. 61: https://docs.legis.wisconsin.gov/code/admin_code/dhs/030/61/II/41 . Providers certified by the Rehabilitation Accreditation Commission for Activity Services may use this certification as evidence of qualification.	

Verification of Provider Qualifications			
Provider Type:	Entity Responsible for Verification:		Frequency of Verification
Day Service program operated by agency	Verification of providers which require a license or certification will be validated and maintained by the Fiscal Employer Agent.		Annually
Service Delivery Method			
Service Delivery Method (<i>check each that applies</i>):	<input checked="" type="checkbox"/>	Participant-directed as specified in Appendix E	<input type="checkbox"/> 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.