NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES

GUIDANCE DOCUMENT

“This guidance document is advisory in nature but is binding
 on an agency until amended by such agency. A guidance
document does not include internal procedural documents
that only affect the internal operations of the agency and
does not impose additional requirements or penalties on
regulated parties or include confidential information or rules
and regulations made in accordance with the Nebraska
Administrative Procedure Act. If you believe that this
guidance document imposes additional requirements or
penalties on regulated parties, you may request a review of
the document.”

Pursuant to
Neb. Rev. Stat. § 84-901.03
On May 21, 2019, the Centers for Medicare and Medicaid Services (CMS) approved Nebraska’s Appendix K: Emergency Preparedness and Response waiver amendments to both Developmental Disabilities Medicaid Home and Community-Based Services (HCBS) waivers, with a March 13, 2019 effective date. Appendix K was submitted in response to record rainfalls and snowfalls leading to major flooding throughout Nebraska. Governor Pete Ricketts declared a state of emergency in 81 of 93 Nebraska counties, starting on March 13, 2019. Appendix K applies only to participants in the 81 counties with a declared state of emergency.

With the approval of Appendix K, the Nebraska Department of Health and Human Services Division of Developmental Disabilities (DHHS-DD) will approve the following allowances for any participant living in one of the affected counties. Approvals will be back-dated to March 13, 2019 and may go through until September 13, 2020, as a need exists.

**Required Timelines:**
Timelines may have been affected, which do not affect billing, but will be documented in a participant’s individual support plan (ISP).
- The annual Level of Care (LOC) assessment may be completed up to six months after due date when the DHHS-DD Service Coordinator was or continues to be unable to safely reach the participant.
- The annual physical exam may be completed up to six months after due date, when a participant was or continues to be unable to safely reach his/her doctor’s office.
- An ISP meeting may be delayed up to 60 days when the team was or continues to be unable to safely reach a meeting location.

**Retainer Payments:**
DHHS-DD may pay a retainer for up to 30 consecutive days when a participant is served by natural supports and the provider is unable to provide services due to the flooding or blizzard. The 30 days may only be consecutive and may only be approved once within the Appendix K approved timeframe, per participant.
- Requests for retainer payments are submitted electronically to DHHS.DDBillingDocs@nebraska.gov using the form specified by DHHS-DD.
- The provider must provide supporting documentation of why services could not be provided.
- The provider may not bill for days or time in which services would not normally have been provided. The amount paid in retainer payments cannot exceed the average reimbursements to the provider for waiver services provided to the participant in the last 6 months (ending 2/28/2019).
  - For example: Assume a provider delivers day services for a participant regularly on Monday and Wednesday. The provider is requesting retainer payment for the 30 consecutive days starting March 13, 2019. The provider should submit a request for a retainer payment of 8 days for the 30 day period.
- The provider must resume habilitative programs and documentation when services resume.
- Retainer payments for day services are limited to 5 days per week.
  - Reminder: A week is defined as Monday 12:00AM – Sunday 11:59PM.
- Retainer rates are:
  - Day Services Retainer Payment for Agencies: $150/day
  - Day Services Retainer Payment for Independent Providers: $105/day
  - Residential Services Retainer Payment for Agencies: $215/day
  - Residential Services Retainer Payment for Independent Providers: $100/day
Affected Services:

Adult Day
- Services may be delivered in alternative sites, such as the participant’s private home (including hotel or shelter), in a provider’s private home, or in a provided owned or controlled residential setting.
- Services may also be billed for a participant who is hospitalized, to assist with support, supervision, communication, and other supports that the hospital is unable to provide.
- Services in alternative sites can be authorized before the participant’s individual support plan (ISP) is updated, when an update occurs within 60 days.
- The amount of prior authorized services does not need to be in the participant’s approved annual budget.

Assistive Technology
- Cap will be removed in order to replace equipment that has been lost or damaged beyond repair due to flooding, regardless of date of purchase or insurance coverage.
- The amount of prior authorized services does not need to be in the participant’s approved annual budget.

Habilitative Workshop
- Services may be delivered in alternative sites, such as the participant’s private home (including hotel or shelter), in a provider’s private home, or in a provided owned or controlled residential setting.
- Services in alternative sites can be authorized before the participant’s individual support plan (ISP) is updated, when an update occurs within 60 days.
- The amount of prior authorized services does not need to be in the participant’s approved annual budget.
- Habilitation must still occur, and must still be documented. If access to Therap is unavailable at the alternate site, documentation may be kept on paper, but must be input into Therap as soon as is safely possible.

Respite
- Cap may be exceeded to allow families for clean-up, rebuilding, volunteering, and general respite.
- The amount of prior authorized services does not need to be in the participant’s approved annual budget.

Residential Habilitation, In-Home Residential Habilitation, and Adult Companion Service
- Services may be delivered in alternative sites, including outside the state of Nebraska when that is the only temporary, safe, and accessible setting for the participant.
- Services in alternative sites can be authorized before the participant’s individual support plan (ISP) is updated, when an update occurs within 60 days.
- Habilitation must still occur, and must still be documented. If access to Therap is unavailable at the alternate site, documentation may be kept on paper, but must be input into Therap as soon as is safely possible.

Transportation
- Cap may be exceeded.
- The amount of prior authorized services does not need to be in the participant’s approved annual budget.

Authorization & Billing for Appendix K Services:
A provider of Medicaid HCBS DD services may bill for services as outlined in the above allowances back-dated to March 13, 2019 and until September 13, 2020, as a need exists in order to provide safe and accessible services. In order to bill for services outlined in Appendix K and otherwise not allowed, a provider must follow the processes outlined below:
- Retainer Payments:
  o Requests for retainer payments are submitted electronically to DHSS.DDBillingDocs@nebraska.gov using the form specified by DHHS-DD.
  o Upon receipt of the request, DHHS-DD will authorize the service in Therap:
    ▪ Authorization is made under the service that would have been provided had the provider been able to serve as outlined in the ISP.
    ▪ The payments are authorized with a billing frequency of ‘daily’ and a billing modifier of ‘Retainer Payment – Appendix K.’
  o The claim must be submitted within 90 days from the date of retainer and will be processed by DHHS-DD on a monthly billing cycle.
  o Authorization for retainer payments is made in Therap:
    ▪ Authorization is made under the service that would have been provided had the provider been able to serve as outlined in the ISP.
    ▪ The payments are authorized with a billing frequency of ‘daily’ and a billing modifier of ‘Retainer Payment – Appendix K.’
    ▪ Payment will be made per the normal Therap payment process.
• Change in Service Setting or limitation:
  o Requests for changes in service settings or service limitations are submitted electronically to [DHHS.DDBillingDocs@nebraska.gov](mailto:DHHS.DDBillingDocs@nebraska.gov) using the form specified by DHHS-DD. This form requires that the provider specify:
    ▪ The allowance being requested;
    ▪ Participants receiving services in alternate settings (if applicable); and
    ▪ Planned remediation efforts for the setting (if applicable).
  o Upon receipt of the request, DHHS-DD will authorize the service in Therap:
    ▪ Authorization is made using the applicable service for which the change in service setting or limitation is approved.
    ▪ The authorization must specify a billing modifier of ‘Alternative Compliance – Appendix K.’
• For approvals lasting longer than one month, providers are required to submit a monthly report to DHHS-DD on efforts to remediate the setting, if applicable.