

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

Frequently Asked Questions for Agency Providers

FAQ for COVID-19 Appendix K for the Medicaid Home and Community-Based Services (HCBS) Developmental Disabilities Adult Day (DDAD) Waiver and the Comprehensive Developmental Disabilities (CDD) Waiver

September 14, 2020, updates are **highlighted**.

This FAQ has been updated to reflect an extension of the COVID-19 Appendix K for the Medicaid HCBS DDAD and CDD Waivers

Q. What is the effective date of the COVID-19 Appendix K extensions?

A. The end date of the current Appendix K was September 6, 2020, and the Appendix K extension picks up September 7, 2020, so there will be no gap in the flexibilities allowed under Appendix K. The end date has been extended to December 31, 2020. The DDAD and CDD Appendix K documents are posted on the DHHS-DD website at: <http://dhhs.ne.gov/Pages/DD-Regulations-and-Waivers.aspx>.

Q. What does the COVID-19 Appendix K do to help participants and providers?

- A.** For participants affected by the outbreak of COVID-19, recommended closures, isolation, quarantines, or following the Centers for Disease Control and Prevention (CDC) guidelines for those with developmental disabilities, the Appendix K temporarily:
- Allows certain services to be delivered in alternative settings
 - Modifies service scope and coverage
 - Allows caps on certain services to be exceeded
 - Allows electronic methods of service delivery
 - Changes enrollment requirements for providers
 - Modifies the person-centered service plan development process
 - Increases certain payment rates
 - Allows retainer payments when certain services are not available to the participant

Q. Which services may continue to be temporarily delivered in alternative settings?

A. For anyone affected by the outbreak of COVID-19, recommended closures, isolation, quarantines, or following the CDC guidelines for those with disabilities, the Nebraska Department of Health and Human Services Division of Developmental Disabilities (DHHS-DD) allows residential (Shared Living, Host Home, Continuous (group) Home, Independent Living, Supported Family Living) and day (Adult Day,

Habilitative Community Inclusion, and Habilitative Workshop) services to be delivered in alternative settings.

Q. Are services delivered by agency providers in alternative settings authorized differently?

A. Yes. Service authorized for delivery in an alternative setting is authorized with a description that includes "Appendix K (COVID-19) – Alternative Setting." These services may be authorized retroactively to March 6, 2020. Authorization and billing for these services is described in the *COVID-19 Service Authorization and Billing Procedure* document provided by the Department.

Q. What are some examples of residential services delivered by agency providers in alternative settings?

A. The following are examples of agency-provided residential services delivered in alternative sites:

- Shared Living or Host Home in a Continuous (group) Home
- Shared Living or Host Home in another Shared Living or Host Home
- Continuous Home in a Shared Living or Host Home
- Independent Living in the participant's family home, an employee's home, or in any continuous residential setting option
- Supported Family Living in an employee's home or any continuous residential setting options

Q. What are some examples of day/vocational services delivered by agency providers in alternative settings?

A. For previously authorized services that would otherwise be received by the participant, the following are examples of day/vocational services delivered in alternative settings by agency providers:

- Habilitative Community Inclusion (HCI) in an employee's home or any residential service setting (Please note Appendix K waives the current limitation so the majority of the time billed for the service may be in the residential setting)
 - The participant's private home;
 - A provider owned or leased, operated or controlled shared living, host home, or congregate residential setting;
 - An employee's home; or
 - Other residential setting, such as a hotel or shelter.
- Habilitative Workshop or Adult Day in any residential service setting
 - The participant's private home;
 - A provider owned or leased, operated or controlled shared living, host home, or congregate residential setting;
 - An employee's home; or
 - Other residential setting, such as a hotel or shelter.

Q. What services cannot be delivered in an alternative setting?

A. The following services cannot be delivered in an alternative setting:

- Enclave within a company or business cannot be delivered at an alternative setting. The participant may choose HCI, Adult Day, or Habilitative Workshop.
- Enclave mobile crews cannot be delivered in an alternative setting. Enclave mobile crews may continue at the service delivery setting as determined by the provider and/or participant, however, the participant may choose HCI, Adult Day, or Habilitative Workshop.
- Prevocational cannot be delivered at an alternative setting. The participant may choose HCI, Adult Day, or Habilitative Workshop.
- Supported Employment – Individual cannot be delivered at an alternative setting. In the event the participant’s competitive employment ends due to the employer closing temporarily or laying off employees, the participant may choose HCI, Adult Day, or Habilitative Workshop.
- Supported Employment – Follow-Along can continue only when the participant remains employed.

Q. Does a separate habilitation program need to be developed when day services are being provided in an alternative setting?

- A. No. A separate habilitation program doesn’t need to be developed, however, all habilitation programs agreed to by the team should be implemented as written or modified to ensure *habilitative waiver services continue*. When possible, the already developed day habilitation program should be implemented at the alternative residential setting. The day services habilitation program procedures can be modified to be implemented in the alternative setting. When the long-term goal needs to be modified, then a new habilitation program is needed.

Q. When day services are provided in an alternative setting, do background checks need to be completed?

- A. Yes. Background checks are still required to be completed prior to the delivery of the service in the alternative setting.

Q. Can service limitations be exceeded temporarily?

- A. Yes. However, there is still a need for discussion with the participant’s ISP team and Service Coordinator for agreement and documentation of what will be provided. The following service limitations are temporarily waived under the approved Appendix K:
- The cap of 360 hours on use of back-up staff in Residential Habilitation – Shared Living and Residential Habilitation – Host Home is waived.
 - The requirement for prior approval by the DHHS-DD Central Office clinical team for use of Medical In-Home is waived.
 - The Respite caps of 360 hours on CDD waiver or 240 hours on DDAD waiver may be exceeded.
 - The cap of 70 hours per week for Independent Living under the CDD waiver or 25 hours per week under the DDAD waiver is waived.
 - The cap of 70 hours per week for Supported Family Living under the CDD waiver or 25 hours per week under the DDAD waiver is waived.
 - Groups of three participants in a Shared Living, Supported Family Living or Independent Living residence do not need prior approval by DD Central Office.
 - Habilitative Community Inclusion may be delivered temporarily in a residential setting for the majority of the time billed for the service.

Q. What service authorizations are not changing?

A. The following service authorizations have not changed:

- Services authorized through April 15, 2020, for the following services are not changed for the purposes of adjusting service rates or indicating an alternative setting. They may be modified to add additional units to the authorizations:
 - Continuous Residential Habilitation (service code 3992)
 - Shared Living (service code 1472)
 - Host Home (service code 9293)
 - Independent Living (service code 2693)
 - Supported Family Living (service code 7494)
 - Habilitative Community Inclusion (6845)
 - Habilitative Workshop (5416)
- For respite services where only the annual cap is being waived and the rate is not changed, a separate authorization does not need to be created and units can be added to the existing authorization.

Q. If a participant chooses not to receive services due to the COVID-19 outbreak, will they lose their waiver eligibility after 90 days?

A. No. This requirement has been waived while Appendix K is in effect. Once the Appendix K ends December 31, 2020, this requirement will be reinstated and the 90-day 'clock' will begin.

Q. If a day service such as Habilitative Workshop is already authorized, can a participant get a different residential service such as Supported Family Living authorized in its place?

A. No. The services determined in the ISP based on the participant's assessed needs won't change; only the settings and limitations on the services are being waived.

Q. Can Nebraska's Medicaid HCBS waiver service be delivered in another state?

A. Yes. When the only temporary, safe, and accessible setting for a participant is outside of Nebraska, the participant may receive any waiver services in another state from an agency DD provider, until it is safe to return to their residence. Other than the location/setting requirements, the services provided in another state must still be provided in accordance with the waiver service definition.

Service Coordination staff will monitor the services through a minimum of monthly contacts via telephone.

Agency providers certified in the state of Nebraska need to accompany the participants to the other state to provide services. The state does not allow providers in other states who are not enrolled in Nebraska Medicaid and certified as Nebraska DD service providers to provide services.

Q. Are there any temporary changes for certification or provider enrollment?

A. Yes. DHHS – Public Health certification survey staff are, on a case-by-case basis, postponing agency provider certification reviews for those impacted for residential and day service settings, such as Habilitative Workshops, Shared Living/Host Homes, and congregate residential habilitation settings, until the public health emergency has passed. This is for the safety of the survey staff, as well as to ensure DHHS staff are not spreading illness to those quarantined, following the CDC guidelines for people with disabilities population, or remaining at home due to risk of serious illness.

When a temporary service setting is pulled for a certification review, as long as the provider deems the setting as safe and sensible for the service being provided and there is no non-compliance with regulations which could reasonably be complied with, the setting is determined to be in compliance with certification requirements.

Annual verification of program compliance is waived during the time period of the pandemic.

Q. What service delivery methods are temporarily modified?

A. When a participant is in isolation, quarantine, or following the CDC guidelines for those with disabilities, the following modifications are allowed:

- **Habilitative Workshop: (DDAD and CDD)**

- Services may be delivered temporarily in the participant's residential setting.
- The amount of prior authorized services may be in excess of the participant's approved annual budget.
- When a participant is a student under the age of 22, and quarantined or following the CDC guidelines for people with disabilities, or the school closes, authorization of waiver services should be addressed at the local level, starting with a conversation with the service coordinator. An authorization of a waiver service is based upon the participant's unique needs, educational needs, what is documented in the IEP, and, most importantly, is based upon the educational services available in that participant's school district.

- **Adult Day Services: (DDAD and CDD)**

- Services may be delivered temporarily in the participant's residential setting.
- The amount of prior authorized services may be in excess of the participant's approved annual budget.

- **Habilitative Community Inclusion: (DDAD and CDD)**

- The majority of habilitation service in a 35-hour week is not required to occur in community integrated activities and can occur in the participant's private home or family home, the employee's home, or in any continuous residential setting option.
- The amount of prior authorized services may be in excess of the participant's approved annual budget.
- When a participant is a student under the age of 22, and quarantined or following the CDC guidelines for people with disabilities, or the school closes, authorization of waiver services should be addressed at the local level, starting with a conversation with the service coordinator. An authorization of a waiver service is based upon the participant's unique needs, educational needs, what is documented in the IEP, and, most importantly, is based upon the educational services available in that participant's school district.

- **Residential Habilitation: (CDD only)**

- Groups of three participants in Shared Living and Host Home are allowed and do not need prior approval by DD Central Office.
- The cap of 360 hours is removed on use of back-up staff in Shared Living and Host Home.
- The amount of prior authorized services, including the 360 hours of back-up staff, does not need to be in the participant's approved annual budget.
- The use of subcontractors is allowed.
- When a participant is a student under the age of 22, and quarantined or following the CDC guidelines for people with disabilities, or the school closes, authorization of waiver services should

be addressed at the local level, starting with a conversation with the service coordinator. An authorization of a waiver service is based upon the participant's unique needs, educational needs, what is documented in the IEP, and, most importantly, is based upon the educational services available in that participant's school district.

- **Independent Living: (DDAD and CDD)**

- Independent Living may be delivered in the participant's family home, the employee's home, or in any continuous residential setting option.
- Groups of three participants are allowed and do not need prior approval by DD Central Office.
- The amount of prior authorized services may be in excess of the participant's approved annual budget.
- The cap of 70 hours per week under the CDD waiver or 25 hours per week under the DDAD does not apply.
- The use of sub-contractors will be allowed.
- When a participant is a student under the age of 22, and quarantined or following the CDC guidelines for people with disabilities, or the school closes, authorization of waiver services should be addressed at the local level, starting with a conversation with the service coordinator. An authorization of a waiver service is based upon the participant's unique needs, educational needs, what is documented in the IEP, and, most importantly, is based upon the educational services available in that participant's school district.

- **Supported Family Living: (DDAD and CDD)**

- Supported Family Living may be delivered in the participant's family home, the employee's home, or in any continuous residential setting option.
- Groups of three participants are allowed and do not need prior approval by DD Central Office.
- The amount of prior authorized services may be in excess of the participant's approved annual budget.
- The cap of 70 hours per week under the CDD waiver or 25 hours per week under the DDAD does not apply.
- The use of sub-contractors is allowed.
- When a participant is a student under the age of 22, and quarantined or following the CDC guidelines for people with disabilities, or the school closes, authorization of waiver services should be addressed at the local level, starting with a conversation with the service coordinator. An authorization of a waiver service is based upon the participant's unique needs, educational needs, what is documented in the IEP, and, most importantly, is based upon the educational services available in that participant's school district.

- **Medical In-Home Habilitation (DDAD and CDD)**

- The amount of prior authorized services does not need to be in the participant's approved annual budget.
- The requirement of prior clinical team approval of this service is temporarily waived. Medical In-Home Habilitation is approved for use in hospital settings.
- When a participant is a student under the age of 22, and quarantined or following the CDC guidelines for people with disabilities, or the school closes, authorization of waiver services should be addressed at the local level, starting with a conversation with the service coordinator. An authorization of a waiver service is based upon the participant's unique needs, educational needs, what is documented in the IEP, and, most importantly, is based upon the educational services available in that participant's school district.

Q. How does the SC get team approval when a new habilitation program is needed?

A. Only notification to the participant's SC using Therap SComm is needed during the pandemic. The SC will adjust the ISP and contact other team members.

Q. Is “remote tele-monitoring” for delivery of waiver services allowed temporarily?

A. Yes. For anyone affected by the potential outbreak of COVID-19, recommended closures, isolation, quarantines, or following the CDC guidelines for those with disabilities, tele-monitoring for Independent Living, Supported Family Living, Adult Day, Habilitative Community Inclusion, and Habilitative Workshop can be delivered via an electronic method of service delivery when determined appropriate by the team. This is to encourage frequent check-ins and socialization. Tele-monitoring may also be used for cueing and prompting while running habilitation programs, but is not intended for continuous supervision. A Medicaid enrolled agency provider can utilize tele-monitoring to support participants in engaging in electronic activities (such as exercise classes, bingo, social events, etc.).

Q. Will protective personal equipment (PPE) be provided by DHHS?

A. No. Agency providers are encouraged to contact their local County Public Health Department to request PPE supplies. The temporary rate increase is intended to assist providers with increased costs which may include infection control supplies.

Q. Are the increase in payment rates continuing?

- A. Using the current rate-setting methodology, DHHS-DD will take an incremental approach to reducing rate increases as the appendix K approaches its conclusion on December 31, 2020.
- o This applies to the following services: Residential Habilitation (Shared Living, Group Home, and Host Home), Independent Living, Supported Family Living, Habilitative Community Inclusion, and Habilitative Workshop.
 - o Specifically, the stepwise lowering of the rate increases paid to providers will be implemented as follows:
 - 15% above the base rate in place prior to the pandemic for services provided March 6, 2020 to September 6, 2020;
 - 10% above the base rate in place prior to the pandemic, adjusted for legislative appropriations, for services provided September 7, 2020 to October 31, 2020; and
 - 5% above the base rate in place prior to the pandemic, adjusted for legislative appropriations, for services provided November 1, 2020 to December 31, 2020.
 - o The stepwise lowering of rate increases is planned to avoid an abrupt reduction of rates at the conclusion of Appendix K.

The adjusted increase accounts for excess overtime of direct support professionals to cover staffing needs and to account for additional infection control supplies and service costs. The temporary rates are authorized in Therap effective September 7, 2020.

Beginning January 1, 2021, rates will return to regular established rates.

Q. Are temporary retainer payments still available?

A. Yes, if not previously requested. Retainer payments may be requested in circumstances in which Independent Living, Supported Family Living, Adult Day, Enclave, Habilitative Community Inclusion,

Habilitative Workshop, Prevocational, Supported Employment – Individual, and Supported Employment – Follow-Along services are not available to the participant due to COVID-19 containment efforts.

Requests for retainer payments must be approved by Central Office, and can approved only for the amount of service authorized prior to the COVID-19 pandemic. Retainer payments are only available to those providers who were unable to deliver, **or substantially reduced**, services due to closures, isolation, quarantines, or following the CDC guidelines. DHHS-DD will provide a specific form for billing retainer payments. Providers have 90 days from the date for which a retainer payment is being billed to submit a claim. Claims will be processed on a monthly billing cycle. For the time period beginning September 7, 2020 and ending December 31, 2020, provider retainer payments cannot exceed 30 **consecutive calendar** days.

Q. Do shared living providers receive any of the funds the agency provider receives, such as retainer payments, increased rates, or day services delivered at the shared living home?

A. Each agency provider should follow their current agreements and determine how to disburse additional funds during the COVID-19 pandemic.

Q. Do retainer payments affect the participant’s individual budget amount (IBA)?

A. No. This does not affect the participant’s IBA. The retainer payment is available to assist in keeping providers available to resume providing services to participants in response to the potential hardships caused by the COVID-19 pandemic.

Q. How do providers bill for services provided in alternative settings?

A. This is explained in the *COVID-19 Service Authorization and Billing Procedure* created by DHHS-DD.

Q. What are some temporary changes to how service coordination performs their duties?

A. The following are some temporary changes of how service coordination operates:

- The annual Level of Care (LOC) assessment requirement is temporally waived for participants in which the DHHS-DD Service Coordinator cannot complete the assessment by phone. The DHHS-DD Service Coordinator documents, in the ISP, the phone contact attempts, as well as the projected date the LOC is expected to be completed. The LOC assessment cannot be extended more than nine months from the original due date.
- Alternative settings for HCI, Independent Living, and Supported Family Living may be authorized prior to updating the participant’s service plan. The Service Coordinator updates the service plan within 60 days following the authorization.
- The process for developing the participant’s individual support plan (ISP), including risk assessment and mitigation remain the same as outlined in the approved waiver, with the exception of timelines. ISP meetings may be delayed up to 60 days when the participant, guardian, the Service Coordinator and the participant’s providers cannot meet due to isolation, quarantine, or following the CDC guidelines for those with disabilities.
- When the development and implementation of the ISP is delayed, the current ISP remains in effect.

- The Service Coordinator documents in the ISP, the phone contact with the participant, guardian, and team to discuss the extension, as well as the projected date in which the service plan is expected to be completed. The ISP should continue to occur as required.
- Monitoring how services are delivered as specified in the service plan continues as outlined in the approved waiver, with the exception of temporary service delivery outside of Nebraska. DHHS-DD Service Coordination staff monitor the services through a minimum of monthly contacts via telephone.
- Participants who do not utilize waiver services for more than 90 days will remain on the waiver. **The 90-day time period begins January 1, 2021.**

Q. What if a participant’s annual physical is due and he/she is unable to get it completed?

- A. With many doctors’ offices closing or severely limiting who they see in person, providers should contact the participant’s Service Coordinator, document the reason for the delay past 12 months, and have the annual physical completed once the COVID-19 restrictions are lifted.

Q. Is there some clarification for providers about COVID-19 GER guidelines?

- A. Yes. Clarification can be found online. The COVID-19 GER guide is now part of the GER guide found at <http://dhhs.ne.gov/Guidance%20Docs/GER-Instructions-Guide.pdf>.

Q. How do I receive official emails from DHHS-DD?

- A. DHHS maintains a listserv for sending emails to providers, using the email address the provider entered into Maximus during enrollment. The Maximus portal is found at: www.nebraskamedicaidproviderenrollment.com.

The provider is responsible for ensuring their email address in Maximus is up-to-date. A provider should check his/her junk mail folder as official emails may have been sorted into the junk folder.

Q. What will services look like once the Appendix K and pandemic end? Will there be a transition before the end date and until services go back to normal? Or will a transition allow some exceptions to continue for a while after the end date?

- A. DHHS-DD does not have the authority to continue exceptions after Appendix K ends. At that time, services must be provided according to the approved waivers. Because the impact of COVID-19 will vary by location, some providers and participants may choose to resume services as previously provided before the end of Appendix K. Participant teams will need to help a participant decide what is needed and where he/she wants to go to receive services before and after Appendix K ends.