



State Demonstrations Group

October 9, 2020

Ms. Jacey Cooper
Chief Deputy Director, Health Care Programs
California Department of Health Care Services
1501 Capitol Avenue, 6th Floor, MS 0000
Sacramento, CA 95814

Dear Ms. Cooper:

The Centers for Medicare & Medicaid Services (CMS) is approving a modification to the state's Special Terms and Conditions (STC) for California's section 1115(a) demonstration titled, "Medi-Cal 2020" (project no. 11-W-00193/9).

On April 6, 2020, California submitted an application to amend its Medi-Cal 2020 section 1115(a) demonstration to address the COVID-19 public health emergency (PHE). The state's application requested temporary programmatic modifications to the Medi-Cal Organized Delivery Systems (DMC-ODS) and the Community-Based Adult Services (CBAS) programs. Modifications detailed below are necessary to assist the state in delivering the most effective care to its beneficiaries in light of the COVID-19 PHE.

CMS determined that the state could effectuate the requested changes to the outlined programs through technical revisions to the state's STCs for the Drug Medi-Cal Program and through an Attachment K for the CBAS program. In accordance with this determination, CMS hereby approves the following program modifications:

- Drug Medi-Cal Organized Delivery Systems (DMC-ODS) Modifications:
 - Modification to the settings in which services may be provided to include locations recognized by the state as temporary extensions of qualified residential settings where covered rehabilitative services may be provided.
 - Suspend the minimal clinical service hour and disallowance requirements for intensive outpatient and residential SUD treatment, as long as care is consistent with the individual care plan.
- Community-Based Adult Services (CBAS) Modifications described in the attached Attachment K:
 - Add Temporary Alternative Services to allow certified CBAS providers to provide limited individual in-center activities, as well as telephonic, telehealth and in-home services.

- Expand settings where CBAS may be provided.
- Modify the person-centered plan development process to allow assessments to be conducted telephonically using self-reported information by participants and/or caregivers.

The authorities that the state has requested in the Attachment K for the CBAS services are effective from March 13, 2020, through March 12, 2021, and apply in all locations served by the demonstration for anyone impacted by COVID-19 who receives home and community-based services through the demonstration. We have included the approved Attachment K pages with this correspondence. The modifications requested for the Drug Medi-Cal program are hereby authorized from March 1, 2020, through the date that is 60 days after the end of the PHE (including any renewal of the PHE).

The temporary technical modifications and Attachment K will support California to ensure that sufficient health care services are available to meet the needs of individuals enrolled in the respective programs and to ensure that health care providers are able to adapt services to continue to provide essential services to program participants during the COVID-19 PHE. With the approval of these program modifications, these flexibilities requested by the state in its April 3, 2020 COVID-19 application have been addressed.

We appreciate your state's commitment to addressing the significant challenges posed by the COVID-19 pandemic, and we look forward to our continued partnership on the Medi-Cal 2020 section 1115(a) demonstration. If you have any questions regarding this correspondence, please contact your CMS project officer, Ms. Lorraine Nawara, at Lorraine.nawara1@cms.hhs.gov or at (410) 786-4252.

Sincerely,

10/9/2020

X Jennifer Kostasich for

Jennifer Kostasich

Signed by: Jennifer L. Kostasich -A

Andrea J. Casart
Director
Division of Eligibility and Coverage
Demonstrations

Enclosure

cc: Cheryl Young, State Monitoring Lead, Medicaid and CHIP Operations Group

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: California _____

B. Waiver Title(s):

C. Control Number(s):

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

<input checked="" type="radio"/>	Pandemic or Epidemic
<input type="radio"/>	Natural Disaster
<input type="radio"/>	National Security Emergency
<input type="radio"/>	Environmental
<input type="radio"/>	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 enrolled in the CBAS and impacted by the virus or the response to the virus.

F. Proposed Effective Date: Start Date: March 13, 2020 **Anticipated End Date:** March 12, 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. ___ 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. X Temporarily add services to the waiver to address the emergency situation (for example, emergency counseling; heightened case management to address emergency needs; emergency medical supplies and equipment; individually directed goods and services; ancillary services to establish temporary residences for dislocated waiver enrollees; necessary technology; emergency evacuation transportation outside of the scope of non-emergency transportation or transportation already provided through the waiver).

[Complete Section A-Services to be Added/Modified During an Emergency]

iv. X Temporarily expand setting(s) where services may be provided (e.g. hotels, shelters, schools, churches). Note for respite services only, the state should indicate any facility-based settings and indicate whether room and board is included:

[Explanation of modification, and advisement if room and board is included in the respite rate]:

The services authorized in STC 49 CBAS Benefit and Individual Plan of Care (IPC) and the CBAS Temporary Alternative Services (TAS) may be provided in alternate locations (e.g., the participant’s home, hotels, family homes, and other community settings) if needed, and agreed to by the participant. CBAS centers are granted time-limited flexibility to reduce day-center activities and to provide CBAS TAS, as appropriate, telephonically, via telehealth, live virtual video conferencing, or in the home (if proper safety precautions are taken and if no other option for providing services is able to meet the participant’s needs). Specifically, the following services may be provided remotely in alternative locations and/or, as appropriate, telephonically, via telehealth, live virtual video conferencing, or in the home: professional nursing care; personal care services; social services; behavioral health services; speech therapy; therapeutic activities; registered dietician-nutrition counseling; physical therapy; occupational therapy; meals; and, the CBAS TAS services described in Section A- Services to be Added/Modified During an Emergency. Professional nursing services provided remotely align with STC 49(a)(i) and include observation, assessment, and monitoring of the beneficiary’s general health status: monitoring and assessment of medication regimen; communication with the beneficiary’s personal health care provider; supervision of personal care services; and provision of skilled nursing care and interventions.

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

STC 48(e)(i) requires the initial eligibility determination for the CBAS benefit to be performed through a face-to-face review by a registered nurse with level of care determination experience. However, for the duration of the PHE, the initial eligibility determination for the CBAS benefit may be conducted via telephone or live video conferencing, in lieu of the face-to-face review.

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. ___ Temporarily modify person-centered service plan development process and individual(s) responsible for person-centered service plan development, including qualifications.

[Describe any modifications including qualifications of individuals responsible for service plan development, and address Participant Safeguards. Also include strategies to ensure that services are received as authorized.]

h. ___ Temporarily modify incident reporting requirements, medication management or other participant safeguards to ensure individual health and welfare, and to account for emergency circumstances. [Explanation of changes]

i. ___ Temporarily allow for payment for services for the purpose of supporting waiver participants in an acute care hospital or short-term institutional stay when necessary supports (including communication and intensive personal care) are not available in that setting, or when the individual requires those services for communication and behavioral stabilization, and such services are not covered in such settings.

[Specify the services.]

j. ___ Temporarily include retainer payments to address emergency related issues.

[Describe the circumstances under which such payments are authorized and applicable limits on their duration. Retainer payments are available for habilitation and personal care only.]

k. Temporarily institute or expand opportunities for self-direction.

[Provide an overview and any expansion of self-direction opportunities including a list of services that may be self-directed and an overview of participant safeguards.]

l. Increase Factor C.

[Explain the reason for the increase and list the current approved Factor C as well as the proposed revised Factor C]

m. Other Changes Necessary [For example, any changes to billing processes, use of contracted entities or any other changes needed by the State to address imminent needs of individuals in the waiver program]. [Explanation of changes]

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]:

CBAS services, as described in K-2-b-iv and CBAS Temporary Alternative Services, see Section A

- 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: Angeli
Last Name Lee
Title:
Agency: California Department of Health Care Services
Address 1: 1501 Capitol Avenue
Address 2: 6th Floor
City Sacramento
State California
Zip Code 95814
Telephone: (916) 345-8540
E-mail Angeli.Lee@dhcs.ca.gov
Fax Number

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: Jacey
Last Name Cooper
Title: State Medicaid Director
Agency: California Department of Health Care Services
Address 1: 1501 Capitol Avenue
Address 2: PO Box 997413, MS 0000
City Sacramento
State California
Zip Code 95899-7413
Telephone: (916) 449-7400
E-mail Jacey.Cooper@dhcs.ca.gov
Fax Number

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:	Community-Based Adult Services (CBAS)
<i>Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:</i>	
Service Definition (Scope):	
<p>CBAS Temporary Alternative Services (TAS) is a short-term, modified service delivery approach that allows certified CBAS providers to deliver essential services to participants most at risk during the COVID-19 outbreak. CBAS providers who are approved for CBAS TAS provide limited individual in-center activities, as well as telephonic, telehealth and in-home services to CBAS participants, consistent with a participant's individual plan of care (IPC) and assessed needs. Providers must consider the participants' most urgent needs and deliver them in the safest possible manner.</p> <p>In addition to CBAS benefits defined in the 1115 Waiver Special Terms and Conditions, for the duration of the public health emergency, CBAS providers, under the CBAS TAS model, must:</p> <ol style="list-style-type: none"> 1. Maintain phone and email access for participant and family support, to be staffed a minimum of six hours daily, during provider-defined hours of services, Monday through Friday. 2. Conduct a COVID-19 wellness check and risk assessment for COVID-19 at least once a week, with greater frequency as needed. 3. Assess participants' and caregivers' current needs related to known health status and conditions, as well as emerging needs that the participant or caregiver is reporting. 4. Respond to needs and outcomes through targeted interventions and evaluate outcomes. 5. Communicate and coordinate with participants' networks of care supports based on identified and assessed need. 6. Arrange for delivery or deliver supplies based on assessed need, including, but not limited to, food items, hygiene products, and medical supplies. If needs cannot be addressed, staff will document efforts and reasons why needs could not be addressed. Note: Meals are limited to no more than two meals per day. <p>The primary modification is related to where services are provided, not the actual scope of services. The services can be provided in a beneficiary's home, or via telehealth, telephone, or live video conferencing. Under the CBAS TAS model, CBAS providers may also provide "door step" wellness checks and delivery of food, medicine, activity packets, etc. As with traditional CBAS, providers deliver services needed on a daily basis and those daily services and needs may vary.</p> <p>Centers may provide limited in-center activities (e.g., pick up supplies, wound care, showering); however, in-center services should only be provided to participants as clinically appropriate, delivered in the shortest amount of time necessary to provide the needed service and minimize time the participant is outside the home, and delivered only by providers that have the resources to safely provide such care. Services provided to groups in the center, as in traditional CBAS, is not currently allowed.</p>	

Service Specification

Service Title: Community-Based Adult Services (CBAS)

Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:

As with traditional CBAS, services may be delivered individually, based on the participant's needs and abilities. Social connection is very beneficial at this time when participants are unable to gather in the congregate setting so some individual and group services are being adapted to online platforms as appropriate. Also, as with traditional CBAS, providers are required to ensure that services are person-centered and part of a care plan, and that the services are documented in each participant's health record.

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

CBAS TAS providers must conduct assessments of participants' needs on an ongoing basis. CBAS TAS is designed to be responsive to participant needs in the current environment, where participants are served at home and have different and emerging needs. CBAS TAS providers must deliver services as described above, under "Service Definition", including to conduct a COVID wellness check/risk assessment at least one time per week, arrange for or deliver supplies, and be available for addressing participant emergent and care coordination needs Monday - Friday, six hours per day. One service contact per day is the minimum for a billable day; however, providers are required to work to address the assessed needs of their participants, which may require multiple service contacts per billable day, and to document each participant's ongoing needs.

CBAS centers are eligible to receive their existing per diem rate for the provision of CBAS TAS as described below:

- Providers will receive, from their contracting managed care plan (MCP), not less than their existing per diem rate for each participant with a current, or new, authorization for CBAS services. Reimbursement for CBAS TAS is retroactive to March 16, 2020.
- Providers must provide a minimum of one service to the participant or their caregiver for each authorized day billed. This service could include a telehealth direct contact (e.g., telephone, live video conferencing, written communication via text or email), an in-person "door-step" well check conducted when the provider is delivering food, medicine, activity packets, etc., or care coordination on behalf of the participant.
- The required CBAS center staff must be available to all CBAS participants during the specified hours for phone and/or email contacts initiated by CBAS participants and caregivers.
- If a participant or caregiver requests to be disenrolled from the program or refuses all services after attempts to reengage them in CBAS TAS during this period, they may be considered "on hold" until the return of traditional CBAS or discharged, as appropriate based on existing discharge requirements. The provider may not bill for those individuals unless services are provided.
- Delivery of CBAS TAS services must be based on a CBAS TAS Plan of Operation approved by CDA.
- The claims format, information contained therein, coding, and submission process will remain the same.

Service Specification

Service Title: Community-Based Adult Services (CBAS)

Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:

MCPs must authorize and reimburse CBAS centers for the delivery or arrangement of services provided in person, telephonically, via telehealth, via live virtual video conferencing, or through other appropriate person-centered means. Delivery of services must be based on a CBAS participant's assessed needs as documented in the current Individual Plan of Care (IPC), and/or identified by subsequent assessment.

Provider Specifications

Provider Category(s) <i>(check one or both):</i>	<input checked="" type="checkbox"/>	Individual. List types:	<input checked="" type="checkbox"/>	Agency. List the types of agencies:
		Registered Nurse		CBAS Center
		Licensed Physical Therapists		
		Licensed Occupational Therapists		
		Licensed Speech Therapists		
		Licensed Behavioral Health Specialists		
		Registered Dieticians		
	Non-licensed staff (e.g., social workers, activity coordinators, program aides)			

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 <i>(specify)</i>	Certificate <i>(specify)</i>	Other Standard <i>(specify)</i>
CBAS Center	Adult Day Health Care (ADHC) center license	Medi-Cal certification	
Registered Nurse	Nursing License		
Licensed Physical Therapists	Physical Therapist License		
Licensed Occupational Therapists	Occupational Therapist License		
Licensed Speech Therapists	Speech-Language Pathologist License		
Licensed Behavioral Health Specialists	Behavioral Health Licenses (e.g., Licensed Psychiatrist, Licensed Psychologist,		

Service Specification

Service Title:	Community-Based Adult Services (CBAS)		
<i>Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:</i>			
	Licensed Marriage and Family Therapist, Licensed Clinical Social Workers, and Advanced Practice Mental Health Registered Nurse)		
Registered Dieticians			Registered Dietician Credential
Non-licensed staff (e.g., social workers, activity coordinators, program aides)	None	None	<p>Social worker shall be a person who meets one of the following:</p> <ul style="list-style-type: none"> (1) The person holds a master’s degree in social work from an accredited school of social work. (2) The person holds a master’s degree in psychology, gerontology, or counseling from an accredited school and has one year of experience providing social services in one or more of the fields of aging, health, or long-term care services. (3) The person is licensed by the California Board of Behavioral Sciences. (4) The person holds a bachelor’s degree in social work from an accredited school with two years of experience providing social services in one or more of the fields of aging, health, or long-term care services. <p>Activity coordinator shall meet at least one of the following qualifications:</p> <ul style="list-style-type: none"> (1) Have two years of experience in a social, recreational or educational program within the past five years, one year of which was full-time employment in a patient activities program in a health care setting, mental health setting or setting for the care of the handicapped. (2) Be an occupational therapist, art therapist, music therapist, dance therapist, recreation therapist, occupational therapy assistant or a qualified social worker. (3) Have completed at least 36 hours of training in a course designed specifically for this position and approved by the

Service Specification

Service Title: Community-Based Adult Services (CBAS)

Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:

			<p>Department and shall receive regular consultation from an occupational therapist, occupational therapy assistant, recreation therapist, art therapist, music therapist or dance therapist who has had one year of experience in a health care setting.</p> <p>Program aides: Aides shall evidence capacity for learning, the ability to comprehend the use of written and spoken English and shall have personal qualities conducive to good interpersonal relationships with demonstrated competence in helping others.</p>
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Verification of Provider Qualifications

Provider Type:	Entity Responsible for Verification:	Frequency of Verification
CBAS Center	DHCS/CDA	24 months
Registered Nurse	DHCS/CDA	24 months
Licensed Physical Therapists	DHCS/CDA	24 months
Licensed Occupational Therapists	DHCS/CDA	24 months
Licensed Speech Therapists	DHCS/CDA	24 months
Licensed Behavioral Health Specialists	DHCS/CDA	24 months
Registered Dieticians	DHCS/CDA	24 months
Non-licensed staff (e.g., social workers, activity coordinators, program aides)	DHCS/CDA	24 months

Service Delivery Method

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



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.