

Appendix K Transition Webinar

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CABINET FOR HEALTH
AND FAMILY SERVICES

Implementing Long-Term Appendix K Flexibilities for 1915(c) HCBS Waivers

September 25, 2023

Webinar Agenda



CABINET FOR HEALTH
AND FAMILY SERVICES

01

Appendix K Timeline

02

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03

Questions and Answers

Appendix K Transition Webinar

Question and Answer Session Information

All participants are **muted**. To ask a question, please submit your question through the chat box.

You can submit your question at any point in the webinar, however, **questions will be answered after the webinar via a Frequently Asked Questions (FAQ) document.**

If you are having technical difficulties or have a question about the meeting, use the **Chat** button to contact the host and panelists.

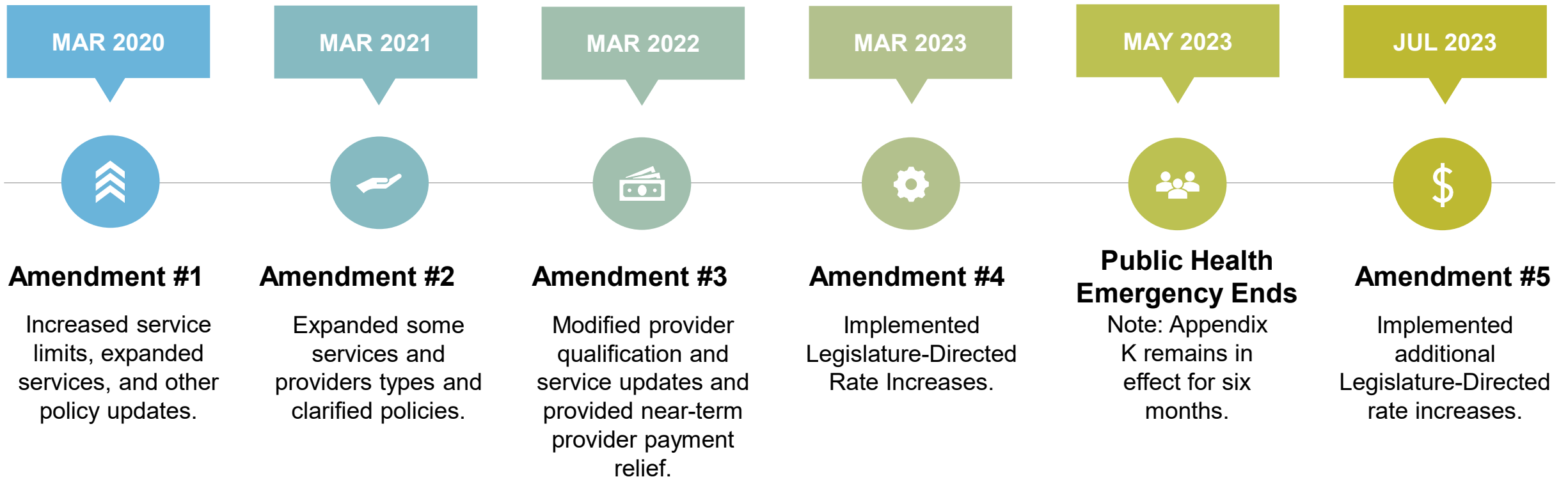
Appendix K Timeline

Appendix K Policies Impact All Six 1915(c) HCBS Waivers

Kentucky's 1915(c) Home and Community Based Waivers
Acute Brain Injury (ABI) Waiver
Acute Brain Injury Long-Term Care (ABI LTC) Waiver
Home and Community Based (HCB) Waiver
Michelle P. Waiver (MPW)
Model II Waiver (MIIW)
Supports for Community Living (SCL) Waiver

Appendix K Timeline To Date

From the start of the pandemic-related public health emergency (PHE) to present day, Kentucky has used the Appendix K emergency appendix as a policy vehicle to drive needed changes that stabilized HCBS. These changes were broad and included changes to service definitions, caps, provider qualifications, emergency payments, and rate updates.



CMS Requirements for Making Appendix K Flexibilities Permanent

CMS released a [State Medicaid Director Letter](#) to indicate that “COVID-19 Appendix K flexibilities currently approved to end six months after the expiration of the PHE may be extended if the state takes action by November 11, 2023, to incorporate desired Appendix K provisions into underlying HCBS programs.”

The Centers for Medicare and Medicaid Services (CMS) has advised DMS that in order to make any flexibilities from Appendix K permanent, **DMS must amend the relevant waivers to reflect these flexibilities** and submit amendments to CMS by November 11, 2023.

These waiver changes require a 30-day public comment period.

DMS has taken the following actions to comply with CMS requirements:

- Stopped the public comment process on the Michelle P. Waiver in order to incorporate Appendix K changes
- Incorporated changes into all six waivers
- Prepared all six waivers for public comment

All Appendix K flexibilities will remain in place until the effective date of the updated waivers. Upon the effective date of the updated waivers, only the select Appendix K flexibilities written into those waivers and approved by CMS will continue.

Appendix K Timeline Going Forward

We will be working diligently over the next six weeks to prepare waiver amendments across all six waivers that are focused on inserting Appendix K policy changes that the State seeks to make permanent policy. This includes HB 1 related rate adjustments to maintain implemented rate increases.



Proposed Policy Decisions

What Guided Proposed Policy Decisions?

- ▶ The Cabinet carefully considered the Appendix K policy changes to keep vs. sunset.
- ▶ Some of the factors that guided proposed policy decisions include:
 - Health, safety, and well-being of program participants
 - Where it was best to return to in-person service delivery
 - When it was necessary to sunset a policy to revert to standing federal requirements
 - Where emergency-based allowances are no longer needed
 - Continued efforts to sustain and maintain the existing HCBS provider network

Which Appendix K Flexibilities Will Be Permanent?

The Cabinet is proposing that certain policy changes made during Appendix K will stay in place.

- 01 Allow telehealth as a component of some services
- 02 Expand case management provider qualifications
- 03 Reduce age requirement for Respite, Personal Assistance, Attendant Care and Residential staff from 21 to 18
- 04 Allow access to respite for participants receiving Residential Support Level II in SCL
- 05 Allow limited waiver services to be provided in acute hospital settings if the hospital cannot meet immediate health, safety, or welfare needs

- 06 Expand Residential in ABI and ABI-LTC to allow up to five participants per house
- 07 Increase rates by 50% for specific services (providers must pass through 85% to Direct Service Professionals (DSPs))
- 08 Maintain one-time rate increase of 50% for residential services (excluding Residential Support Level II in SCL)
- 09 Maintain legislature-directed rate increase for all other services

Which Appendix K Flexibilities Will End?

The Cabinet is proposing that certain policy changes made during Appendix K will sunset.

01

Increased Service Limits

02

Allowed Overtime for Participant Directed Services (PDS)

03

Allowed Extra Units for Case Management

04

Offered telehealth as the sole delivery method for some services

05

Allowed remote level of care evaluations or re-evaluations via telephone or video conference

06

Expanded allowable provider settings for Residential and Respite to Day Training or Adult Day Health Care centers

07

Expanded allowable provider settings for Adult Day Training and Adult Day Health to be provided in-home

08

Permitted Adult Day Health Care to provide Home Delivered Meals and in-home nursing services

09

Delayed First Aid/CPR/Training Requirements for PDS Employees and DSPs

10

Permitted DSPs and PDS employees to begin work while awaiting results of pre-employment background screening

Which Appendix K Flexibilities Will End? (Continued)

The Cabinet is proposing that certain policy changes made during Appendix K will sunset.

11

Suspended the approval process for parents, guardians, and legally responsible individuals applying to be PDS employees

12

Waived requirement for out of state providers to be licensed & located in Kentucky if licensed by another state Medicaid agency

13

Allowed any enrolled waiver provider to provide Home Delivered Meals

14

Allowed participants accessing Residential Support Level II in SCL to receive personal assistance

15

Required incident reports for disruption of waiver-funded services due to COVID-19 and positive COVID-19 tests

16

Required incident reports for participants who test positive for COVID-19

17

Paid retainer payments to Adult Day Healthcare and Adult Day Training providers

Ending Flexibilities: Next Steps

The Cabinet knows that some policy changes will require actions from providers, including those who self-direct. Please plan to take the following actions to align with anticipated policy changes:



CPR and Training Requirements

PDS employees and DSPs should be up to date by the effective date of the updated waivers. Please begin working toward getting employees requirements updated if they are not current.



Increased Limits or Expanded Services

Person-centered service plans need to be adjusted by the effective date of the updated waivers for any participant receiving more services than allowed under normal waiver operations or receiving services not typically offered through the waiver in which they are enrolled.



Provider Service Offerings

Providers who want to continue offering certain services that they are not authorized to provide under normal waiver operations should begin Medicaid certification processes for those services.

Maintaining Appendix K Rates

- ▶ During the COVID-19 pandemic, certain services were granted a temporary rate increase under Appendix K based on requirements from the legislatively approved House Bill 1 (HB1).
- ▶ DMS is including these increased rates as part of the waiver updates to make them long-term.
- ▶ DMS has assessed current rates and will now retain the temporary Appendix K increases until the Legislature and CMS approve a new rate methodology based upon the completed rate study (anticipated spring/summer 2024).

Recap of Rate Increases Implemented Using Appendix K

50% Rate increases for residential services, excluding Residential Support Level II in SCL

50% Rate increases for certain non-residential services where providers attest to pass through 85% of the rate to direct care workers

20% Rate increases for all other services, excluding those in the Model II Waiver

Continuing Flexibilities: Next Steps



Waiver Amendments

Continuing flexibilities will be incorporated in amended waiver applications and Kentucky Administrative Regulations (KAR).



30-Day Comment Period

We will release amended waivers for public comment on September 27, 2023. Individuals will have 30 days to submit comments.



Review and Finalize

The Cabinet will review and finalize amendments based on comments and release a summary of how we responded.



Submission

The Cabinet will submit amendments to CMS by November 11, 2023. All Appendix K flexibilities will remain in place until the effective date of the updated waivers. Upon the effective date of the updated waivers, only the select Appendix K flexibilities written into those waivers and approved by CMS will continue.

Questions?

Please submit your questions through the chat box.

Questions will be answered after the webinar via a Frequently Asked Questions (FAQ) document posted on DMS' website.

Contact Info

General Waiver Information

<https://bit.ly/KYMedicaidLTSSInfo>

Appendix K and COVID-19 Information

<https://bit.ly/KYDMSInfoCOVID19>

Waiver-Related KARs

Legislature.ky.gov or find links the waiver-specific pages listed on <https://bit.ly/KYMedicaidLTSSInfo>

Waiver Policy and Case-Specific Questions

1915cWaiverHelpDesk@ky.gov or (844) 784-5614

Medicaid Financial Eligibility

Contact the Department for Community Based Services at (855) 306-8959 or DFS.Medicaid@ky.gov

MWMA User Info

View reference guides on TRIS (tris.eku.edu/MWMA) or call

For MWMA technical issues, call (844) 784-5614, option 1.

MMIS Billing Inquiries

(800) 807-1232

To get email updates or submit a comment

MedicaidPublicComment@ky.gov

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