



CABINET FOR HEALTH
AND FAMILY SERVICES

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

April 2024

Webinar Agenda



CABINET FOR HEALTH
AND FAMILY SERVICES

01

Appendix K and Wavier Update Timeline

02

1915(c) Waiver Policy Changes

03

Next Steps

Appendix K and Waiver Update Timeline

Appendix K Policies Impact All Six 1915(c) Home and Community Based Services (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

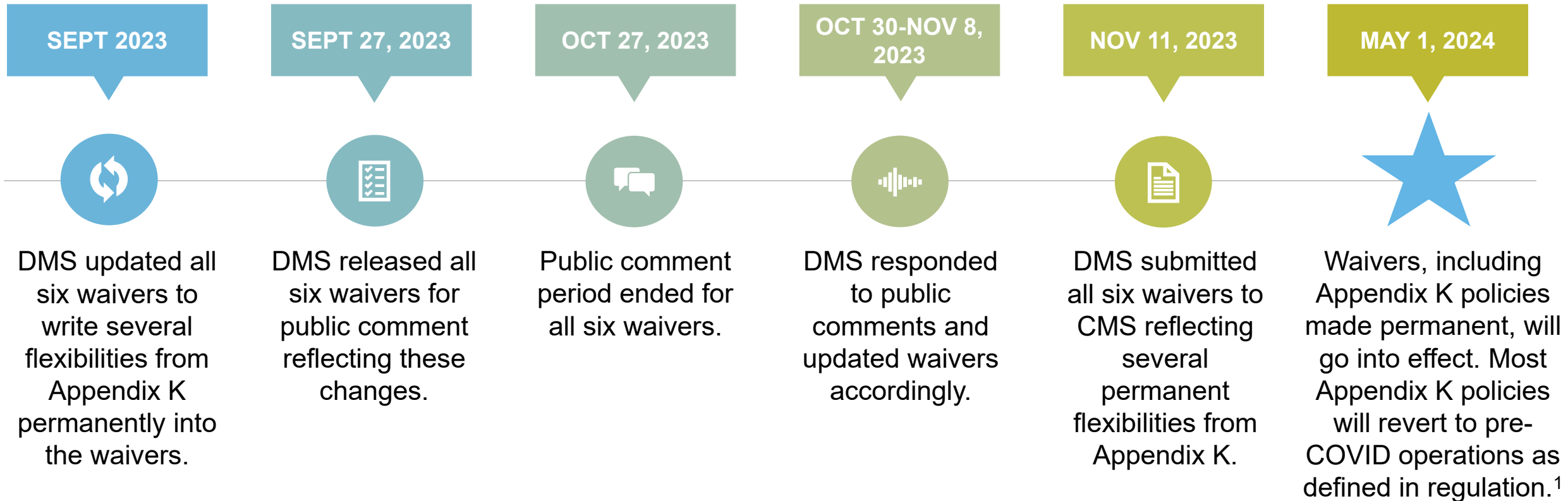
Making Appendix K Changes Permanent

The Department for Medicaid Services (DMS) made temporary updates to waivers during the COVID-19 Public Health Emergency (PHE) using Appendix K. With the COVID-19 PHE over, Appendix K expires on May 1, 2024.

DMS understands the benefits that some of these changes have had on participant outcomes and decided to make some of them permanent.

DMS received Centers for Medicare and Medicaid (CMS) approval for updates to all six of the waiver programs, including making parts of Appendix K permanent.

Waiver Update Timeline To Date



1. The effective date for MIIW changes is February 1, 2024.

Connecting the Dots: Why Does This Matter?

Staying informed about the 1915(c) waiver policy changes is crucial for participants' well-being and access to services. Participants and caregivers are encouraged to use available resources to stay updated on policy changes that will become permanent on May 1, 2024.

Access to Services



Participants should be aware of these changes to understand how their **access to services** may be expanded.

Informed Decision-Making



Knowing about policy changes can help participants to **make more informed decisions** about available services and support.

Planning for Future Needs



Understanding these policies can help participants to **plan for any potential changes** in services or supports.

1915(c) Waiver Policy Changes

What Guided Proposed Policy Decisions?

- ▶ The Cabinet carefully considered which Appendix K policy changes to keep.
- ▶ Factors that guided proposed policy decisions include:
 - Health, safety, and well-being of participants
 - Where it was best to return to in-person service delivery
 - When ending a policy was needed to meet existing federal requirements
 - Where emergency-based allowances are no longer needed
 - Maintaining the existing HCBS provider network

Appendix K
policies
**becoming
permanent in
all waivers**

- 1 **Telehealth** for Case Management and Therapeutic Services
- 2 **Allowing limited nonmedical waiver services** to be provided to participants **in acute hospital settings** when the hospital cannot meet the participant's immediate need (These do not replace HCBS)
- 3 **Expanded PDS case management and financial** management to any willing and qualified provider and expanded case management provider qualifications
- 4 **Reducing age requirement** from 21 to 18 to provide some services
- 5 **Retaining the temporary rate increases** implemented through Appendix K for all services

Appendix K
policies
**becoming
permanent in
specific
waivers**

ABI and ABI LTC

- **Expanding residential services** to allow up to five (5) participants per house

SCL

- Allowing participants in **Residential Support Level II to receive respite services**

HCB

- PDS Case Management and Financial Management **separated into two distinct services**
- **Allowing frozen meals** as part of the Home Delivered Meal service

The following policies will no longer be active as of May 1, 2024:

Appendix K policies being removed from all waivers

1 **Increased service limits and extra units** for Case Management

2 **Overtime** for PDS

3 **Telehealth** for non-therapies including ADHC, ADT, Community Access, Community Living Supports, and Personal Care/Assistance

4 **Level of care assessments/reassessments** via telephone or video conference

5 **Delayed First Aid, CPR and training requirements** for DSPs*

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

7 **Suspended approval process** for hiring immediate family members as PDS employees

8 **Expansion of Home Delivered Meals** to all waivers

*Effective May 1, 2024, participants can choose whether to require First Aid/CPR for PDS employees

Appendix K
policies **being
removed** in
**specific
waivers**

SCL

- Allowing participants in **Residential Support Level II** to receive **Personal Assistance**

Maintaining Appendix K Rates

- ▶ Services rates received a temporary rate increase under Appendix K.
- ▶ DMS included made the increased rates permanent as part of the waiver updates.
- ▶ Traditional providers have more money to hire and keep direct service workers.
- ▶ Participants/PDS employers have increased flexibility in PDS employee pay.

Recap of Rate Increases Implemented Using Appendix K

50% rate increases for residential services

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

10% rate increase for all other services in state fiscal year 2023 and an additional 10% state fiscal year 2024 (excluding Model II Waiver)

Service Limit Changes

Service limits were increased because of the COVID-19 pandemic. Now that the PHE has ended, service limits will return to pre-COVID limits on May 1, 2024.

- ▶ Increased limits returning to normal may make services appear reduced if participants were above the normal service limit.
- ▶ If needs exceed the normal service limit, participants may need to consider other state plan services (waiver or non-waiver) that can fill these gaps.
- ▶ Providers can continue to bill the increased service limits until the effective date of the modified waivers, May 1, 2024.
- ▶ Decisions about service limits should be person-centered and based on assessed needs.

Resuming the Legally Responsible Individual (LRI) Approval Process

Who is considered an LRI?

- An LRI refers to the **parent or guardian** of a minor child, a **spouse**, or **any individual as defined in state law**.
- In the waiver applications submitted to CMS in November 2023, DMS clarified the definition to include:
 1. **Parents, stepparents, adoptive parents, or court-appointed legal guardians** of **minor** children (under 18).
 2. **Spouses** of waiver participants or the court-appointed legal guardian of an adult

How is “extraordinary care” relevant to LRIs?

- Per Federal rules, LRIs **can only be paid** for services deemed “**extraordinary care**” that is **above age-appropriate** care natural supports **normally** provide.
- An LRI must provide **additional care** for their loved one **based solely on their disability**.
- “Extraordinary care” is **not** related to the **quality of care** delivered, but instead the **tasks not usually performed** to care for participants.
- Because of this, **LRIs must be approved** to provide HCBS to participants.

Resuming the LRI Approval Process (Continued)

DMS understands how valuable it is to allow LRIs to be hired as PDS employees and will continue to allow this practice. Federal guidelines require certain safeguards when allowing LRIs to be hired as PDS employees.

- ▶ LRIs are allowed to be hired as paid caregivers for PDS. Going forward, there will be an approval process for all waivers to determine whether the LRI meets extraordinary care requirements.
- ▶ If an LRI was hired as a PDS employee under Appendix K, the review process will take place at the participant's annual re-certification after the updated waivers have taken effect on May 1, 2024. Hired LRIs do not need to stop work on May 1, 2024.
- ▶ LRIs will be allowed to keep working while undergoing the review process. Any individual hired as a PDS employee who is not also an LRI will not require review.

Expectations for Telehealth

DMS recognizes the value of telehealth for participants. Providers may deliver telehealth under specific circumstances. Participation in services via telehealth should be wanted by the participant, person-centered, meaningful, and advance established goals.

After May 1, 2024, providers can deliver the following services in-person or via telehealth:

- Behavioral Services, Case Management, Consultative Clinical and Therapeutic Services, Individual and Group Counseling, Occupational Therapy, Physical Therapy, and Speech therapy

Telehealth services must meet the following requirements:

- In-person services must be provided whenever possible and at a minimum, every other month
- Case management visits must occur at the participant's residence at least quarterly
- Telehealth visits may be provided every other month
- Participants have the right to request in-person services instead of telehealth
- Telehealth services must be provided using a HIPAA-compliant platform

Next Steps

Ending Flexibilities: Next Steps

The Cabinet knows that some policy changes can lead to confusion for participants. Please **plan to work with your case managers** to understand how these policy changes may impact your services.



Engage with Case Managers

Participants are encouraged to engage with case managers or support coordination to discuss the impact of policy changes on individual plans and services.



Increased Limits or Expanded Services

If you are currently receiving more or different services than allowed under usual circumstances, you may need to work with your case manager to update your Person-Centered Service Plan (PCSP) by May 1, 2024.



Explore Alternative Services or Programs

With some policies ending, you may need to work with your case manager to identify other services and programs to support your needs. For example, participants can use other community-based services or local resources for additional services not provided through a waiver.



Stay Informed about Service Delivery Changes

Participants can contact MedicaidPublicComment@ky.gov to be added to the email list for new updates.

Continuing Flexibilities: Next Steps

The Cabinet knows that some policy changes can lead to confusion for participants. Please **plan to work with your case managers** to understand how these policy changes may impact your services.



Sharing the Waivers

DMS has posted the approved waiver applications at the following link: [Kentucky Home- and Community-Based Services](#)



Stay Informed about Service Delivery

DMS will offer additional opportunities for provider training/questions. DMS has posted current FAQs at the following link: [COVID-19 and Appendix K FAQs Document](#)



Regulatory Updates

DMS is actively working to incorporate these changes into the Kentucky Administrative Regulations (KAR).

Questions?

Please send questions to MedicaidPublicComment@ky.gov

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

To get email updates or submit a comment

MedicaidPublicComment@ky.gov

Self-Subscribe Instructions: <https://bit.ly/getkywaiverupdates>

Community Resource Listing

<https://www.chfs.ky.gov/agencies/dms/dca/waivers/CommunityResourceListing.pdf>