

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services
and
Office for Citizens with Developmental Disabilities**

Programs and Services Amendments

Due to the Coronavirus Disease 2019 (COVID-19)
Public Health Emergency—Home and Community-Based
Services Waivers and Long-Term Personal Care Services

On January 30, 2020, the World Health Organization declared a public health emergency of international concern and on January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States, effective as of January 27, 2020, in response to the recent coronavirus disease 2019 (hereafter referred to as COVID-19) outbreak. On March 11, 2020, Governor John Bel Edwards declared a statewide public health emergency to exist in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by COVID-19. Likewise, the presidential declaration of a national emergency due to COVID-19 has an effective date of March 1, 2020.

In response to these public health emergency declarations and the rapid advancement of COVID-19 throughout Louisiana, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services (OAAS), the Office of Behavioral Health (OBH), and the Office for Citizens with Developmental Disabilities (OCDD) promulgated Emergency Rules which amended the provisions of Title 50 of the *Louisiana Administrative Code* in order to adopt temporary measures to provide for the continuation of essential programs and services to ensure the health and welfare of the citizens of Louisiana in accordance with the provisions of the Administrative Procedure Act (*Louisiana Register*, Volume 46, Number 4 and *Louisiana Register*, Volume 46, Number 7).

The department promulgated an Emergency Rule, adopted on August 25, 2020, to further amend the Adult Day Health Care (ADHC) Waiver and the Community Choices Waiver (CCW), and to amend the provisions governing long term-personal care services (LT-PCS) in order to ensure that these services continue uninterrupted throughout the COVID-19 public health emergency declaration. This Emergency Rule also clarified that the home and community-based services (HCBS) waiver provisions of the Emergency Rules published in the April 20, 2020 edition of the *Louisiana Register* which correspond to Louisiana's section 1915(c) Appendix K waiver will remain in effect for the duration of the Emergency Rules published in April 2020 or until the Appendix K waiver termination date of January 26, 2021, whichever is later (*Louisiana Register*, Volume 46, Number 9). This Emergency Rule is being promulgated in order to continue the provisions of the Emergency Rule adopted on August 25, 2020.

This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or the duration of the COVID-19 public health emergency declaration, whichever is shorter.

Effective February 17, 2023, the Department of Health, Bureau of Health Services Financing, OAAS and OCDD hereby amend the provisions governing the ADHC Waiver, the CCW, and LT-PCS throughout the COVID-19 public health emergency declaration, and clarify that the HCBS waiver provisions which correspond to Louisiana's section 1915(c) Appendix K waiver will remain in effect for the duration of the Emergency Rules published in the April 20, 2020 *Louisiana Register* or until the Appendix K waiver termination date of January 26, 2021, whichever is later, in order to continue the provisions of the Emergency Rule adopted on August 25, 2020.

Services for Special Populations—Personal Care Services (LAC 50:XV.Subpart 9)

Due to the COVID-19 public health emergency declaration, the Office of Aging and Adult Services (OAAS) may also utilize the level of care eligibility tool (LOCET) to determine if an individual meets eligibility qualifications for long term-personal care services (LT-PCS) and to determine resource allocation while identifying his/her need for support in performance of activities of daily living (ADLs) and instrumental activities of daily living (IADLs).

The LOCET may also be used to generate a score that measures the recipient's degree of self-performance of late-loss activities of daily living during the period just before the assessment. Criteria used to generate the score will be consistent with criteria on the interRAI home care assessment tool currently used. This score will correspond with the same level of support category and allocation of weekly service hours associated with that level.

OAAS may use the LOCET until such time as the applicant/recipient is able to be assessed using the uniform interRAI home care assessment tool.

Home and Community-Based Services Waiver Adult Day Health Care (LAC 50:XXI.Subpart 3)

During the COVID-19 public health emergency declaration, and with approval from the Centers for Medicare and Medicaid Services (CMS), the following options may be available through the Adult Day Health Care (ADHC) Waiver:

The State may allow ADHC providers to provide services telephonically to waiver participants that cannot attend the ADHC center to ensure continuity of services.

The State is adding the following services in the ADHC Waiver:

Home Delivered Meals. The purpose of home delivered meals is to assist in meeting the nutritional needs of an individual in support of the maintenance of self-sufficiency and enhancing the quality of life. Up to two nutritionally balanced meals per day may be delivered to the home of the participant. This service may be provided by the ADHC provider.

Assistive Devices and Medical Supplies. Assistive devices and medical supplies are specialized medical equipment and supplies that include:

Devices, controls, appliances or nutritional supplements specified in the Plan of Care that enable participants to increase their ability to perform activities of daily living (ADLs);

Devices, controls, appliances or nutritional supplements that enable participants to perceive, control or communicate with the environment in which they live or provide emergency response;

Items, supplies and services necessary for life support, ancillary supplies, and equipment necessary to the proper functioning of such items;

Supplies and services to assure participants' health and welfare;

Other durable and non-durable medical equipment and necessary medical supplies that are necessary but not available under the Medicaid State Plan;

Personal Emergency Response Systems (PERS);

Other in-home monitoring and medication management devices and technology;

Routine maintenance or repair of specialized equipment; and

Batteries, extended warranties and service contracts that are cost effective and assure health and welfare.

This includes medical equipment not available under the Medicaid State Plan that is necessary to address participant functional limitations and necessary medical supplies not available under the Medicaid State Plan.

Home and Community-Based Services Waiver

Community Choices Waiver (LAC 50:XXI.Subpart 7)

During the COVID-19 public health emergency declaration, and with approval from the Centers for Medicare and Medicaid Services (CMS), the state may allow ADHC providers to provide services telephonically to waiver participants that cannot attend the ADHC center to ensure continuity of services.

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary