APPENDIX K: Emergency Preparedness and Response

Background:

This standalone appendix may be utilized by the state during emergency situations to request amendment to its approved waiver. 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.[i] This appendix may be completed retroactively as needed by the state.

Appendix K-1: General Information

General Information:

A. State: California

B. Waiver Title: Home and Community-Based Alternatives (HCBA) Waiver

C. Control Number: CA.0139.R05.03

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

●	**Pandemic or Epidemic**
○	**Natural Disaster**
○	**National Security Emergency**
○	**Environmental**
○	**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.

1) Nature of Emergency:

Coronavirus disease 2019 (COVID-19) is a respiratory illness caused by a novel virus that has been spreading worldwide. Community-acquired cases have now been confirmed in California. The Governor's Office of Emergency Services (OES), the California Department of Public Health (CDPH), and the Department of Health Care Services (DHCS) are gaining more understanding about the spread and impact of COVID-19 as time progresses, and the situation is changing daily. The State of California has been working in close collaboration with the United States' Department of Health and Human Services and local Medi-Cal Home and Community-Based Services (HCBS) providers to monitor and plan for COVID-19.

2) Number of Individuals Affected and the State's Mechanism to Identify Individuals at Risk:

On March 4, 2020, the State of California declared a State of Emergency in response to the COVID-19 outbreak. As of March 12, 2020, there are 1,215 presumptive cases of COVID-19 in the United States, including 198 confirmed cases and four fatalities in California. Public Health officials expect the number of cases in California to increase, and while the general population is expected to experience mild flu-like symptoms, the population receiving HCBS Waiver services is at a greater risk for experiencing more severe symptoms, hospitalization, and death.

3) Roles of State, Local, and Other Entities Involved in Approved Waiver Operations:

As of March 12, there are 4,681 participants receiving HCBS through the HCBA Waiver. DHCS contracts with nine entities that administer an Organized Health Care Delivery System (OCHDS) at the local level within defined service areas. The State operates the "10th waiver agency" directly for all areas not covered by a contracted entity.

DHCS, the State Medicaid Agency, is responsible for all HCBS Waiver programs, and is directly responsible for the statewide administration of the HCBA Waiver, which includes contracting with qualified organizations to provide administrative and comprehensive care management services to HCBA Waiver applicants and participants. DHCS is also responsible for verifying the eligibility of applicants to the waiver for enrollment into the Waiver, developing policies and guidance related to federal and state statute and regulations, and monitoring the contracted HCBA Waiver Agencies for compliance.

HCBA Waiver Agencies maintain a network of Medi-Cal home and community-based service providers to ensure Waiver participants have access to authorized medically necessary HCBA Waiver services within the Waiver Agency's contracted service area.

4) Expected Changes needed to Service Delivery Methods:

To prevent Waiver Participant exposure to COVID-19, California will allow the following changes to current HCBA Waiver service delivery methods:

a) Permit payment for services rendered by family caregivers or legally responsible individuals;

b) Modify provider qualifications to permit unlicensed WPCS providers as long as they are currently IHSS providers;

c) Modify provider types to allow for Certified Nurse Assistants (CNA) to provide Private Duty Nursing (PDN), in addition to currently authorized HCBS Waiver Nurse Providers (Registered Nurses, Licensed Vocational Nurses, and Certified Home Health Aide (CHHA)) and Home Health Agencies;

d) Modify licensure or other requirements for settings where waiver services are furnished – specifically, allowing telehealth (telephonic, or virtual live video conferencing) as an alternative option to face-to-face interactions;

e) Modify processes for waiver eligibility level of care (LOC) evaluations and re-evaluations via telephonic or virtual live video conferencing as an alternative option to face-to-face interactions, in accordance with HIPAA requirements;

f) Pause waiver disenrollments of participants who are re-institutionalized, beyond the 30-day limit, because they or their caregiver(s) have contracted the virus, and/or if it is unsafe for them to return to the community because they would be exposed to the virus or without medically necessary services, through June 30, 2020; and

g) Temporarily allow forms that require participant, or legal representatives' signatures to be signed, scanned, and emailed to the Waiver Agency, or for the documents to be signed digitally, through June 30, 2020. The hard copies with wet signatures can be kept in the member's residence file until Waiver Agencies can retrieve them.

DHCS anticipates that the COVID-19 outbreak will directly impact HCBA Waiver service delivery methods for two to three months, and possibly longer. Therefore, the State reporting requirements related to performance measures data may be impacted by a decrease in face-to-face visits; however, HCBA Waiver Agencies will attempt telephonic or video assessments instead, and include documentation in the case file.

F. Proposed Effective Date: Start Date: February 4, 2020
Anticipated End Date: June 30, 2020

G. Description of Transition Plan: The HCBA Waiver Agency Care Management Teams (CMTs) will inform participants via telephone of the plan provide telephonic or video conferencing contact and conduct desk/virtual assessments in lieu of, or as an option for, face-to-face visits. The CMTs will also provide resources to participants and family members about the COVID-19 virus as more information becomes available.

H. Geographic Areas Affected: The State of California

I. Description of State Disaster Plan (if available) ***Reference to external documents is acceptable*****:**

State of California Emergency Plan October 2017 (Page 117)

14.4.5. DEPARTMENT OF HEALTH CARE SERVICES (DHCS)

Care and Shelter: Provides coordination to meet mental health and substance use requirements for shelters, as requested. May provide staff for Functional Assessment Service Team (FAST).

Public Health and Medical: Ensures that Medi-Cal, Children's Health Insurance Program (CHIP), and Major Risk Medical Insurance Program (MRMIP) enrollees continue to receive medical care in the event of a disaster. Assesses whether there is a need to modify or waive Medi-Cal, CHIP, and MRMIP eligibility requirements in the affected area. Assists impacted mental health and substance use disorders facilities to secure approval to provide services and to claim for Medi-Cal reimbursement. Facilitates payments to Medi-Cal, CHIP, and MRMIP providers/plans and rural primary care clinics to ensure their continued ability to provide care. Provides information on bed availability of skilled nursing facilities, mental health, and substance use disorders facilities in respective areas. Assists, as needed, to coordinate community mental health disaster response services and activities, and to organize and coordinate communications with county mental health departments related to local mental health disaster response. Coordinates available State

agency resources to support organizations providing emergency health and behavioral health services.

Law Enforcement: May supply limited number of sworn peace officers and unmarked vehicles.

Volunteer and Donation Management: Assists in coordination of mental health volunteers.

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. ☒ **Services**

i. ☒ **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. ☐ **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. ☐ **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]

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.]

Temporarily allow spouses/parents of minor children to be allowed to provide Waiver Personal Care Services (WPCS) when authorized WPCS providers are prevented from providing services because of COVID-19. By temporarily allowing participants to receive personal care services from their spouse or parent living with them, participants reduce their potential for exposure to the virus.

Family caregivers or legally responsible individuals, shall only be authorized to provide WPCS in accordance with the Plan of Treatment (POT), for the number of hours that are not provided by other direct service providers within a 24-hour period. Spouses/parents of minor children providing WPCS hours must document the number of hours they provide WPCS in time sheets that are submitted to the State's Case Management Information and Payrolling System (CMIPS) II for payment.

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.]

In the event existing direct care service providers (licensed and unlicensed) test positive for the virus, an expansion of the pool of service providers would help Waiver agencies find backup caregivers during the emergency.

Unlicensed Providers

Temporarily allow Waiver Personal Care Service (WPCS) Providers to provide WPCS to waiver participants enrolled in and receiving personal care services through the federally funded State Plan Personal Care program (In Home Supportive Services (IHSS)), when the provider is not enrolled as an IHSS provider. In cases in which a participant's WPCS provider is unable to provide care, the State would allow WPCS to be provided by an individual who is not enrolled as an IHSS provider through the County Public Authority,

by way of temporary approval by the Waiver Agency. The expectation would be that the individual would be required to enroll as an IHSS provider within 60 days of Waiver Agency approval to receive retro payments for services provided during the emergency.

ii. ☒ **Temporarily modify provider types.** [Provide explanation of changes, list each service affected, and the changes in the provider type for each service].

Use of Certified Nurse Assistant (CNA) in addition to currently authorized HCBS Waiver Nurse Providers (Registered Nurses, Licensed Vocational Nurses, and Certified Home Health Aide (CHHA)) and Home Health Agencies, as this will open up the pool of caregivers who can provide custodial type care in the home. Many health plans and others allow CNAs to provide this level of care in lieu of a CHHA. PDN is the only service that would be affected by the provider type modification.

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

The HCBA Waiver population is one of the highest risk populations for exposure to the COVID-19 because eligibility is based on the need for nursing level of care services. Although extensive education and outreach is being provided at the local, state, and federal levels, the most effective preventative measure for reducing contagion is limiting participants' exposure to people in the community. Waiver Agencies' CMT provide waiver case management, and practice Universal Precautions while visiting participants at homes, Congregate Living Health Facilities (CLHF), Skilled Nursing Facilities, and Hospitals; however, they would still increase the potential for spreading COVID-19 when visiting multiple participants at different locations.

Enrollment LOCs are required to be completed in person; however, to prevent spread of COVID-19, they may be completed by record review and by phone or via video conferencing. The in-person visit may be delayed until the COVID-19 has been contained. California will temporarily allow HCBA CMTs to perform re-assessments and provide monthly case management telephonically or by virtual video conferencing with participants to continue to monitor the health and safety of the population.

California requires affected Waiver Agencies to document the reasons for the delayed in-person visits and that any late requirements will be completed the following month, or as soon as possible, no later than June 30, 2020.

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.]

The CMT will conduct telephonic or live virtual video conferencing for initial assessments and ongoing home visits as an option for, or in lieu of, face-to-face required visits. In addition, California will temporarily allow forms that require participant or legal representatives' signatures to be signed, scanned, and emailed to the Waiver Agency, or for the documents to be signed digitally, through June 30, 2020. The hard copies with wet signatures can be kept in the member's residence file until Waiver Agencies can retrieve them.

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. ☒ **Imminent needs of individuals in the waiver program.** [Explanation of changes]

Temporarily pause waiver dis-enrollments of participants who are re-institutionalized beyond the 30-day limit, because they or their caregiver(s) have contracted the virus, and/or if it is unsafe for them to return to the community because they would be exposed to the virus or without medically necessary services, through June 30, 2020.

Contact Person(s)

A. The Medicaid agency representative with whom CMS should communicate regarding the request:

First Name:	Joseph
Last Name	Billingsley
Title:	Program Policy and Operations Branch Chief
Agency:	Department of Health Care Services
Address 1:	1501 Capitol Avenue, MS 4502
Address 2:	P.O. Box 997437
City	Sacramento
State	CA
Zip Code	95899-7437
Telephone:	(916) 713-8389
E-mail	Joseph.Billingsley@dhcs.ca.gov
Fax Number	N/A

B. If applicable, the State operating agency representative with whom CMS should communicate regarding the waiver is:

First Name:	
Last Name	
Title:	
Agency:	
Address 1:	
Address 2:	
City	
State	
Zip Code	
Telephone:	
E-mail	
Fax Number	

8. Authorizing Signature

Signature: /S/

Date: March 14, 2020

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	CA
Zip Code	95899-7413
Telephone:	(916) 449-7400
E-mail	Jacey.Cooper@dhcs.ca.gov
Fax Number	(916) 449-7404

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 which the state is temporarily modifying, enter the entire service definition and highlight the change. State laws, regulations and policies referenced in the specification are readily available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

Service Specification	
Service Title:	Comprehensive Care Management
Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:	
Service Definition (Scope)**:**	

Comprehensive Care Management is a collaborative and interdisciplinary approach to providing intensive and comprehensive care management services to individuals enrolled in the HCBA Waiver by responding to a participant's multiple and changing needs, and playing a pivotal role in coordinating required services from across multiple delivery systems.

Comprehensive Care Management is only provided to HCBA Waiver participants by a qualified CMT (Care Management Team) comprised of an RN and MSW, who are either directly employed or contracted by the Waiver Agency. The CMT works with the participant, legal representative/legally responsible adult and/or circle of support to identify and coordinate State Plan and waiver services, and other resources necessary to enable the participant to transition to the community and/or remain in his or her own home.

Comprehensive Care Management ensures access to services, regardless of the funding source. The Waiver Agency receives a flat rate payment per member each month for the provision of the Comprehensive Care Management services, which is based upon the tiered acuity level of the participant. Only Waiver Agencies are able to bill for and provide the Comprehensive Care Management waiver service.

The CMT works with the participant, his or her legal representative/legally responsible adult and/or circle of support, and primary care physician in developing goals and identifying a course of action to respond to the assessed needs and individual circumstances and desires of the participant, and in the development of the participant's current primary care physician-signed POT. In signing the POT, the participant's current primary care physician is attesting to the medical necessity of the waiver services scope, frequency and duration as identified in the POT.

Comprehensive Care Management services will ensure stabilization and access to Home and Community-Based Services (HCBS). Services will include but are not limited to, an initial face-to-face ***telephonic or live virtual video conferencing***, comprehensive nursing and psychosocial assessment, monthly service plan monitoring through face-to-face or telephonic contact by the CMT, coordination of both waiver and state plan services, integration within the local community, and ongoing comprehensive reassessments at least every 365 days that provide information about each participant's service needs. The CMT is also responsible for the development, implementation, and periodic evaluations of the written participant centered service plans.

Comprehensive Care Management services under the waiver differ from the scope and nature of case management services under the State Plan and in areas without a Waiver Agency. Comprehensive Care Management services are concentrated on the coordination and monitoring of cost-effective, quality direct care services for the waiver participant, while in areas without a Waiver Agency, case management services are concentrated on referring and coordinating services.

Under the Comprehensive Care Management service, the CMT establishes a care coordination schedule based upon the needs and acuity of the participant as determined by their initial LOC Assessment and subsequent reassessments.

The CMT will coordinate all services by providers involved in the participants' care by providing the following components of Care Management:

• Assess medical needs including diagnosis, functional and cognitive abilities, and

environmental and social needs;
• Care planning to mitigate risk and assist in adjusting care plans as appropriate;
• Service plan implementation, coordination and monitoring delivery and quality of services;
• Ongoing Waiver participant contact (including a monthly face-to-face or telephonic visit) to monitor for changes
in health, social, functional and environmental status; and
• Annual face-to-face visits, reassessment and care plan updates.

Comprehensive Care Management also includes the provision of Transitional Case Management and the coordination of any Community Transition services needed. In areas where there is a Waiver Agency, the provision of Transitional Case Management and the coordination of Community Transition services are only available through the CMT.

Comprehensive Care Management is intensive case management as described above. Transitional Case Management supports participants in transitioning from an inpatient setting to a community setting and may include coordinating services such as housing, equipment, supplies or transportation that may be necessary to leave a health care facility. Transitional Case Management services may be provided up to 89 days prior to discharge from a health care facility. Coordination of Community Transition Services is organizing and prioritizing non-recurring set-up expenses for individuals who are transitioning from a licensed health care facility to a living arrangement in a private residence where the person is directly responsible for his or her own living expenses.
Comprehensive Care Management, Transitional Case Management, and the coordination of Community Transition expenses are included in the flat rate payment received by the Waiver Agency for the provision of Comprehensive Care Management services to each member every month. The rate for Comprehensive Care Management is based on the tiered acuity level of the participant. Actual Community Transition expenses are billable by the CMT as a separate service.

HCBA Waiver participants may choose to be involved in all aspects of the design, delivery, and modification of their services and be able to determine when, where and how they receive services. Participants may request a review of their service plan at any time.

A Waiver Agency's LOC determination should not differ from a DHCS LOC determination.

Specify applicable (if any) limits on the amount, frequency, or duration of this service:
Comprehensive Care Management services are authorized only where an HCBA Waiver Agency is present and is only provided to HCBA participants by a qualified CMT comprised of an RN and MSW, who are either directly employed or contracted by a Waiver Agency.

Provider Specifications				
Provider Category(s) *(check one or both)*:	✖	Individual. List types:	✖	Agency. List the types of agencies:
	HCBS Waiver Nurse Prov – RN		Non-Profit Agency	
			Professional Corporation	
			Home Health Agency (HHA)	

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 *(specify)*	Certificate *(specify)*	Other Standard *(specify)*

Non-Profit Agency	Business, as applicable	N/A	HCBA Waiver Standards of Participation
Professional Corp	CC §13401(b)	N/A	HCBA Waiver Standards of Participation
Home Health Agency	HHA CCR Title 22 §§74659 et seq. CCR Title 22, §51067; CCR Title 16, §§1409-1419.4	N/A	HCBA Waiver Standards of Participation
HBCS Waiver Nurse Provider - RN	BPC §§ 2725 et seq. CCR Title 22, §51067; CCR Title 16, §§1409-1419.4	N/A	HCBA Waiver Standards of Participation

Verification of Provider Qualifications

Provider Type:	Entity Responsible for Verification:	Frequency of Verification
Non-Profit Agency	California Attorney General's Registry of Charitable Trusts DHCS and/or Waiver Agency	Biennially
Professional Corp	DHCS and/or Waiver Agency	Biennially
Home Health Agency	CDPH Licensing and Certification	Annually
HBCS Waiver Nurse Provider - RN	California Board of Registered Nursing DHCS and/or Waiver Agency	Annually

Service Delivery Method

Service Delivery Method *(check each that applies)*:	☐	Participant-directed as specified in Appendix E	✖	Provider managed

[1]Numerous changes that the state may want to make 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; (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.