



**Karen B. Salmon, Ph.D.**  
State Superintendent of Schools

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## Memorandum

TO: Autism Waiver Service Coordinators  
Autism Waiver Service Providers

FROM: Tiffany Noël Hiob, LCPC, EdD, *Tiffany N. Hiob*  
Section Chief, Autism Waiver and Health Related Services  
Division of Early Intervention and Special Education Services

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SUBJECT: *Autism Waiver (AW) & Coronavirus (COVID-19) Frequently Asked Questions*

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On January 19, 2021 the Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services (DEI/SES), and the Maryland Department of Health (MDH), Division of Community Long Term Care, sent correspondence regarding the AW and COVID-19 updates including the Appendix K, extension of the federal public health emergency (PHE), and vaccine distribution. On January 25, 2021, AW providers and Service Coordinators (SCs) received updated guidance that given an announcement from the United States Secretary of Health and Human Services (HHS) the PHE would likely be extended through 2021; the Appendix K flexibilities will remain in place at this time and likely through calendar year 2021. In response to this new and exciting news, we have received a number of questions from AW SCs and providers. The following guidance has been prepared by the MSDE and MDH to address frequently asked questions.

- 1. Q: What is the end date for previously granted flexibilities for the AW under the Appendix K?**  
A: The federal Centers for Medicare & Medicaid Services (CMS) approved an additional [addendum to the APPENDIX K: Emergency Preparedness and Response](#) - for Children with Autism Spectrum Disorder, Adults with Brain Injury, Home and Community Based Options, Model Waiver for Fragile Children, and Medical Day Care Services. This addendum extends the end date of Appendix K flexibilities from February 28, 2021 to no later than six months after the expiration of the recently extended PHE.
- 2. Q: What is the end date of the PHE?**  
A: On January 22, 2021 the United States Secretary of Health and Human Services (HHS) gave all governors [notice](#) that "the PHE will likely remain in place for the entirety of 2021, and when a decision is made to terminate the declaration or let it expire, HHS will provide states with 60 days' notice prior to termination". On January 7, 2021, the United States Secretary of HHS officially signed the [Renewal of Determination That a Public Health Emergency Exists](#). This renewal is a result of the continued consequences of the COVID-19 pandemic and extends COVID-19 related flexibilities implemented by the MDH to remain in place until the United States Secretary of HHS declares that the PHE no longer exists. The PHE was renewed effective January 21, 2021 and will be in effect for 90 days.

3. **Q: Does this mean nothing changes after February 28, 2021 and all flexibilities continue?**  
A: Extending the end date of the Appendix K means that the flexibilities will not end on February 28, 2021. All current flexibilities authorized by the Appendix K remain in effect until further notice.
4. **Q: Do you foresee certain flexibilities ending sooner than others?**  
A: It is possible that certain flexibilities will end before others. The federally required plan for the resumption of normal State Medicaid programs and operations upon conclusion of the PHE will address the end date of each flexibility. AW providers and SCs will receive advanced notice so they can plan accordingly. Flexibilities will not end abruptly.
5. **Q: Are AW participants able to continue receiving the additional hours approved by the Appendix K after February 28, 2021?**  
A: AW participants and their families are authorized to access additional service hours within FY2020 and FY2021 as follows:
  - 336 Respite hours;
  - 10 Family Consultation (FC) hours;
  - 15 Adult Life Planning (ALP) hours; and
  - 15 Intensive Individual Support Service (IISS) hours per week.These hours must be identified on the child's Plan of Care (POC) or addendum to the POC. AW SCs must update POCs accordingly and AW providers may only provide services as identified on the child's POC.
6. **Q: What can be done if the family has utilized the maximum service hours for FC, ALP, and respite for FY2021?**  
A: SCs should contact MSDE if a participant has utilized all of the additional hours authorized for FY2021. The State will examine on a case by case basis.
7. **Q: Will there be a new allotment of 336 additional respite hours for FY2022?**  
A: At this time, there are no additional hours for FY2022.
8. **Q: Are providers able to continue providing AW services via telehealth?**  
A: The following AW services may continue to be provided via telehealth: ALP, FC, IISS, Therapeutic Integration (TI), including Intensive Therapeutic Integration (ITI), and SC activities, throughout the remainder of the PHE.
9. **Q: Does the extension of the Appendix K allow children and students who are homeschooled to remain in the AW?**  
A: Children who are homeschooled are permitted to remain in the AW, during the PHE. As a result of the Maintenance of Effort and Continuity of Care (MOE), the AW is not disenrolling participants unless they meet certain criteria for disenrollment.
10. **Q: What is the MOE and what are the criteria for disenrolling participants in the AW?**  
A: The MOE gives Maryland Medicaid authority to maintain eligibility and 1915 (c) home and community-based waiver enrollment when the individual no longer meets technical, medical, or financial eligibility requirements. Only those individuals who meet one or more of the following criteria shall be disenrolled from a waiver during the PHE:
  - Moves out-of-state;
  - Elects to disenroll; or

- Is deceased.

**11. Q: We hired parents/family members as direct care staff, will they be able to remain employed by our agency?**

A: Parents/family members may continue to be employed by AW provider agencies to provide services, throughout the remainder of the PHE.

**12. Q: Does the Appendix K authorize the waiver of a high school diploma when hiring family members or for all staff?**

A: The Appendix K authorizes a waiver of the high school diploma requirement for family members only.

**13. Q: Is there a minimum age requirement to hire a family member of a participant as a direct care staff?**

A: Family members ages 16 and up may be hired to provide AW services.

**14. Q: May parents/legal guardians provide all AW services to their children?**

A: The Appendix K allows parents/legal guardians to be hired to provide IISS services only. Family members who are not parents/legal guardians may be hired to provide Respite, TI/ITI, and IISS.

**15. Q: What vaccine priority group do essential workers from home and community-based fall under for vaccine distribution?**

A: Please contact your local health department to determine [vaccine priority groups](#) and the procedure to acquire the vaccination when eligible. For more information on the MDH's COVID-19 vaccination and timeline please visit [covidvax.maryland.gov](https://www.maryland.gov/covidvax.maryland.gov).

**16. Q: Will FY2020 and FY2021 transitioning youth (TY) participants be able to continue receiving AW services, including service coordination?**

A: At this time, FY2020 and FY2021 TY participants have the option to continue to receive services until October 21, 2021.

**17. Q: How should SCs advise families of FY2020 TY that they may continue to be enrolled in the AW after February 28, 2021?**

A: SCs are required to contact families to communicate the extension of all Appendix K flexibilities, including the option for FY2020 AW TY to remain in the AW after February 28, 2021. SCs must record the family's choice to transition as planned or remain enrolled on the Transitioning Youth Tracking Log and update POCs accordingly.

**18. Q: If the family of a FY2020 TY has opted to remain on the AW after February 28, 2021, what date do I put on POC?**

A: POC and POC addendums must be updated to reflect the parent's decision to remain in the AW and continue receiving services. It is advised that POCs reflect an end date of October 21, 2021, at this time.

**19. Q: Will FY2020 TY continue to meet the AW's technical eligibility criteria?**

A: Due to the federal requirements of the MOE, the Appendix K acts as the temporary emergency authority to allow for the modification of eligibility so that participants can remain in the AW. TY have the option to remain enrolled because the technical eligibility requirements regarding the age of

the participant being between 1-21 and in a public, nonpublic, State-operated/State-supported special education setting have been waived under this emergency authority.

**20. Q: Have billing capabilities also been extended for TY students?**

A: MDH has made changes in the Medicaid Management Information System (MMIS) to allow continued billing for TY.

**21. Q: Does the extension include TY who are not eligible for services through the Developmental Disabilities Administration (DDA)?**

A: The extension applies to participants who are not DDA eligible. This includes all TY scheduled to exit the AW on June, 30 2020 or 2021, regardless of DDA eligibility.

**22. Q: Will the extension to the existing level of care continue for TY?**

A: LOCs for TY will be extended until the end of the PHE; SCs must continue to request extensions through the LOC system.

**23. Q: Will Autism Waiver TY who choose to remain enrolled in the AW still have the opportunity to seek the DDA TY funding?**

A: DDA has reserve slot capacity in the Community Supports and Community Pathways Waivers for TY individuals transitioning from educational services, including public school system and nonpublic school placements who meet waiver eligibility. FY2020 TY must have submitted a DDA application by September 2020 in order to be eligible for a slot.

**24. Q: Should the DDA Coordinator of Community Services (CCS) be involved with transition planning?**

A: Both the AW SC and DDA CCS should participate in team meetings and coordinate the application to the waivers operated by the DDA based on preferences from the youth and their family.

**25. Q: When should SCs complete the "Request for Exception to Monthly Receipt of Waiver Service" form for children whose families opted not to receive services during the pandemic?**

A: Parents who choose not to access AW services due to reasons related to COVID-19, including parents refusing to allow someone to work in their home and providers not being able to find staff, will be granted a waiver from MSDE for non-utilization of monthly services. SCs only need to submit one Request for Exception to Monthly Receipt of Waiver Service form per participant, which will be valid for the duration of the PHE. SCs may submit the form when the PHE is over or once the family begins using services.

**26. Q: Are TY who elect to remain in the AW preventing children on the Registry from applying to be enrolled?**

A: The State placed language in the Appendix K to temporarily increase waiver slots by 300 starting March 1, 2020 to avoid disruption in new enrollments while maintaining TY participants in the AW. As a result, the MSDE and MDH have not included TY who were expected to exit the AW in its formula to determine the number of families from the Registry invited to apply for eligibility and we continue to onboard AW participants from the AW Registry.