

Transition Plan to Phase Out Temporary Changes to the OBRA 1915(c) Waiver

The issuance of this document makes the following documents obsolete as of May 11, 2023:

- [2021 Temporary Changes to the OBRA 1915\(c\) Waiver- \(Revised\) Guidance](#), issued March 25, 2021, and
- [Guidance for Adult Daily Living Providers Delivering Telephonic or Remote Services During the COVID-19 Public Health Emergency- Revised](#), issued January 13, 2021.

Since March 6, 2020, the Office of Long-Term Living (OLTL) has been operating under the Appendix K, Emergency Preparedness and Response amendment approved by the Centers for Medicare & Medicaid Services (CMS). Appendix K allowed temporary changes to the OBRA 1915(c) waiver in response to the COVID-19 global pandemic.

After receiving feedback from stakeholders on the importance of returning to face-to-face assessments and service delivery, OLTL is discontinuing the emergency flexibilities noted below and is returning to pre-emergency operations as outlined in the approved OBRA waiver. Providers should make any changes that are necessary to resume normal operations and be in compliance with the 1915(c) waiver by May 11, 2023. Service Coordinators should work with participants and providers to ensure a seamless transition to normal operations.

In accordance with the CMS approved OBRA Waiver Appendix K amendment, Participants will transition back to pre-emergency service modalities by May 11, 2023. As all changes in this Appendix K are specific to COVID-19 impacts, once the emergency has abated, there will no longer be a need for participants to maintain service changes allowable through Appendix K. In the event services on the Individual Service Plan (ISP) are provided in a modified manner to address COVID-19-related needs, Service Coordinators must notify participants that services will revert to service modalities that were in place prior to being impacted by COVID-19.

The following flexibilities will no longer be in effect after May 11, 2023.

Appendix K Flexibility	Guidance
Service Limitations	Adult Daily Living – Long-Term or Continuous Nursing may no longer be provided temporarily as a separate service at the same time that Adult Daily Living Services are provided.
	Residential Habilitation – Long-Term or Continuous Nursing may no longer be provided temporarily as a separate service at the same time that Residential Habilitation is provided.
Personal Assistance Services (Agency and Participant-Directed)	<p>Spouses, legal guardians, representative payees and persons with power of attorney may no longer serve as paid direct care workers. Those previously approved as direct care workers will not be paid for hours worked after May 11, 2023.</p> <p>Service Coordinators should work with participants to hire additional workers or transition to agency model services.</p>
Expanded Settings Where Services May Be Provided	<p>Residential Habilitation and Structured Day Habilitation Services may no longer be provided to participants by Residential Habilitation and Structured Day Habilitation staff in private homes.</p> <p>When services are provided in the Residential Habilitation or Structured Day setting, providers are required to evaluate the setting’s space considerations, participant and staff numbers, workflow and develop a plan to support social distancing, arrivals and departures, lunch, activities space, and any other considerations unique to the space or program activities for individuals and staff at all times when present at the setting. Based on the evaluation, providers must develop a plan for transitioning participants back to Residential Habilitation and Structured Day Habilitation settings. Examples of the elements to be included in the plan are as follows:</p> <ul style="list-style-type: none"> • Alternating days for participants. • Alternating arrival and departure times. • Reducing the number of participants. • Rearranging program space so participants are at a minimum 6 feet apart. • Erecting barriers, tape, or other visual indicators to support social distancing measures.

Appendix K Flexibility	Guidance
	<p>Providers must adhere to the cleaning and disinfecting guidelines issued by the Centers for Disease Control and Prevention (CDC). In addition, Residential Habilitation providers should continue to monitor and adhere to the guidance issued by the Office of Long-Term Living (OLTL) which pertains to Personal Care Homes and Assisted Living Residences as well as the CDC guidance around congregate settings and direct service providers.</p>
	<p>Adult Daily Living Services may no longer be provided to participants by Adult Daily Living staff in private homes.</p> <p>When services are provided in the Adult Daily Living setting, providers should follow the CDC guidance for Adult Day Services Centers.</p>
	<p>Adult Daily Living Services may no longer be provided remotely. This guidance makes the Guidance for Adult Daily Living Providers Delivering Telephonic or Remote Services During the COVID-19 Public Health Emergency-Revised, issued 1/13/21, obsolete.</p>
	<p>Structured Day Habilitation may no longer be provided remotely using phone or video conferencing.</p> <p>When services are provided in the Structured Day Habilitation setting, Structured Day Habilitation providers are required to evaluate the setting's space considerations, participant and staff numbers, workflow and develop a plan to support social distancing, arrivals and departures, lunch, activities space, and any other considerations unique to the space or program activities for individuals and staff at all times when present at the setting. Based on the evaluation, providers must develop a plan for transitioning participants back to Structured Day Habilitation settings. Examples of the elements to be included in the plan are as follows:</p> <ul style="list-style-type: none"> • Alternating days for participants. • Alternating arrival and departure times. • Reducing the number of participants. • Rearranging program space so participants are at a minimum 6 feet apart. • Erecting barriers, tape, or other visual indicators to support social distancing measures.

Appendix K Flexibility	Guidance
	<p>Providers must adhere to the cleaning and disinfecting guidelines as well as the general guidelines for businesses and employers and direct service providers issued by the CDC.</p> <p>Cognitive Rehabilitation and Behavior Therapy may no longer be provided remotely using phone or video conferencing.</p> <p>Providers must follow and maintain safe behavioral practices as defined by the CDC and the Department of Health when doing so.</p> <p>Counseling Services may no longer be provided remotely using phone or video conferencing.</p> <p>Providers must follow and maintain safe behavioral practices as defined by the CDC and the Department of Health when doing so.</p>
Modification of Worker Qualifications	<p>Residential Habilitation, Structured Day Habilitation Services, Adult Daily Living, and Personal Assistance Services – Individual staff members who are qualified to provide any one of these services may no longer be reassigned to provide Residential Habilitation, Structured Day Habilitation Services, Adult Daily Living, and Personal Assistance Services.</p>
Initial Level of Care Assessments	<p>Initial level of care assessments using the FED that take place in the participant’s home must be conducted face-to-face.</p> <p>Assessors must receive education and training from the Independent Assessment Entity on how to evaluate individual risk factors and protect themselves from potential exposure according to the guidance issued by the CDC and the Department of Health.</p> <p>Assessors must follow the guidance issued by the Independent Assessment Entity for resuming face-to-face assessments and maintain safe behavioral practices as defined by the CDC and the Department of Health when doing so.</p>

Appendix K Flexibility	Guidance
	<p>Initial level of care assessments using the FED that take place in nursing facilities may no longer be conducted remotely using phone or video conferencing. Assessors should follow guidance around visitation in nursing facilities that is issued by the CDC and the Department of Health.</p>
<p>Needs Assessments/ Reassessments</p>	<p>Assessments and Reassessments, including the comprehensive needs assessment, must be conducted face-to-face. Service Coordinators should maintain safe behavioral practices as defined by the CDC and the Department of Health when doing so.</p> <p>Service Coordinators must receive education and training from the Service Coordination Entity on how to evaluate individual risk factors and protect themselves from potential exposure according to the guidance issued by the CDC and the Department of Health.</p>
<p>Individual Service Planning/Service Coordination</p>	<p>Service Coordinators must monitor participants and Individual Service Plans (ISPs) through face-to-face contacts. Service Coordinators should maintain safe behavioral practices as defined by the CDC and the Department of Health when doing so.</p> <p>Service planning team meetings and ISP development must be conducted face-to-face. Service Coordinators and any other members of the service planning team should maintain safe behavioral practices as defined by the CDC and the Department of Health when doing so.</p>
<p>Retainer Payments to Address Emergency Related Issues</p>	<p>Retainer payments to direct care workers providing Personal Assistance Services in both the agency and participant-directed models may no longer be made.</p>