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COVID-19 State Resource Guide:

Leveraging Federal and State Authorities to Ensure Access to Long-Term Services and Supports for High-Risk Individuals

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About The SCAN Foundation

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Introduction

This resource guide[1] is a tool to help state officials and other stakeholders understand how temporary federal and state Medicaid flexibilities are being deployed during COVID-19 to help ensure access to LTSS.[2] Populations who use LTSS are particularly vulnerable to contracting COVID-19 and experiencing severe cases due to their age or because they often live with one or more chronic conditions. Roughly 2.5 million older adults and other individuals with complex care needs receive care in nursing homes and other congregate care settings, which have been particularly susceptible to COVID-19 outbreaks. Another 10 million individuals receive assistance at home or in their communities, which in many cases has been disrupted due to caregivers being subject to stay-at-home orders, having no access to childcare as schools shut down, not having adequate access to PPE needed to provide care safely, and, in some cases, caregivers entering isolation after becoming sick or being exposed to COVID-19.

The tables below highlight state policy goals in implementing regulatory flexibilities and administrative actions available during the COVID-19 public health emergency, as well as specific examples of how states are ensuring continued access to LTSS by expanding the types of settings in which services can be delivered, bolstering pay and other supports for LTSS providers, and addressing barriers to care created by the COVID-19 pandemic. Several states are turning their attention to considering which flexibilities they want to be able to "toggle on and off" during future COVID-19 outbreaks or other public health emergencies, such as the ability to quickly establish alternate care sites, and which flexibilities they want to retain permanently to strengthen and improve LTSS care delivery, such as expanded use of telehealth.

1 For additional federal flexibilities that address all Medicaid populations, as well as flexibilities available for CHIP populations, the Centers for Medicare and Medicaid Services (CMS) has made available a comprehensive catalogue that states can reference in the event of a disaster or public health emergency. This new resource guide provides updated resources to supplement the CMS catalogue, including links to COVID-specific templates developed by CMS.

2 **Abbreviations Key**
HCBS: home- and community-based services
I/DD: intellectual or developmental disability
LTSS: long-term services and supports
MAGI: modified adjusted gross income
PPE: personal protective equipment
SPA: state plan amendment

Eligibility and Enrollment

These flexibilities seek to expedite or expand access to LTSS for beneficiaries by easing financial and clinical eligibility requirements for LTSS and removing barriers that could jeopardize beneficiaries' eligibility for services.

Policy Goal	Available Flexibility or Action	State Implementation Example	Authority
Increase the availability of HCBS in order to prevent a beneficiary from losing access to services or minimize the number of individuals receiving care in acute or institutional settings	Increase the limit on an individual's expected cost of HCBS for eligibility to enroll in a 1915(c) waiver	**Colorado** is allowing participants of its I/DD and children waivers to receive more services than would typically be allowed if the participant is impacted by COVID-19.	1915(c) Appendix K: Template and Instructions
	Modify or expand the population a 1915(c) waiver targets	**Kansas** suspended the requirement that HCBS waiver participants receive at least one service every 30 days, so that participants who can't receive services due to COVID-19-related disruptions beyond their control (e.g., stay-at-home orders) are not at risk of being disenrolled from the waiver.	1915(c) Appendix K: Template and Instructions
Modify Medicaid eligibility verifications to reduce the number of uninsured individuals and expand access to HCBS	Use less-restrictive income or asset counting methodologies for state plan LTSS	Unemployment compensation will not be counted in an eligibility determination resoure test for certain Medicaid applicants in **Washington**, including those who may be eligible based on their age or disability.	Disaster Relief SPA
	Allow for self-attestation or alternative verification of an individual's income or assets and level of care to qualify for state plan LTSS	Individuals in **Washington** seeking eligibility to receive state plan personal care services can self-attest to their income or assets and level of care to determine eligibility. If individuals are determined to be eligible, they will remain eligible until it can be verified otherwise.	1115 Waiver
	Reduce or eliminate the post-eligibility treatment-of-income (PETI) calculations for institutionalized individuals	**Rhode Island** residents in institutional settings will continue to receive a Home Maintenance of Need Allowance beyond the typical six-month limit if the residents (1) demonstrate a greater need due to COVID-19, (2) have been institutionalized for less than six months as of March 1, 2020, and (3) are unable to return home due to COVID-19-related restrictions (e.g., availability of HCBS, facility quarantines).	Disaster Relief SPA

Benefits and Care Management

These flexibilities seek to ensure beneficiaries can easily access services during the pandemic by expanding self-direction opportunities, covering new services, removing prior authorization requirements, or easing administrative requirements related to care management assessments and person-centered care plan development.

Policy Goal	Available Flexibility or Action	State Implementation Example	Authority
Provide beneficiaries with flexibility in how they access services to prevent gaps in services if the traditional workforce is diminished	Institute or expand opportunities for self-directed waiver services	HCBS waiver participants in **Florida** will be allowed to self-direct personal support and transportation services. Currently, self-direction is only available to individuals receiving 1915(j) HCBS.	1915(c) Appendix K: Template and Instructions
Expand available services to ensure individuals can remain in their homes during the public health emergency and stay-at-home orders	Modify 1915(c) service, scope or coverage, or add or expand services to a 1915(c) waiver	All HCBS waiver participants in **Tennessee** have access to specialized medical equipment and supplies; assistive technology; semi-independent living; residential habilitation; support coordination; nutrition services; occupational therapy; physical therapy; speech, language and hearing services; behavior services; family-model residential support; medical residential services; nonresidential homebound support services; orientation and mobility services for impaired vision; personal assistance; and supported living.	1915(c) Appendix K: Template and Instructions
	Exceed service limitations or requirements for amount and duration of a waiver service	HCBS waiver participants in the **District of Columbia** can receive supported employment, periodic supported living, and in-home supports via telephone or other technology up to 100% of the time. Typically, those services must be provided in person at least 80% of the time.	1915(c) Appendix K: Template and Instructions
Suspend or modify administrative requirements to access care to prevent gaps in services when in-person visits are not possible due to stay-at-home orders or other social distancing requirements	Suspend prior authorization requirements or extend existing authorizations for fee-for-service and 1915(c) services	**Colorado** HCBS waiver participants won't need to obtain prior authorization for fee-for-service services deemed "necessary and appropriate" by the state. For services reduced in duration or scope, the state will notify beneficiaries.	1135 Waiver (for fee-for-service) 1915(c) Appendix K: Template and Instructions
	Suspend face-to-face requirements in HCBS settings and programs	HCBS waiver participants in **South Carolina** can be evaluated for services and attend person-centered service planning meetings virtually.	1915(c) Appendix K: Template and Instructions *If state plan imposes relevant parameters, a SPA will be needed*
	Modify level-of-care or medical necessity evaluation requirements, including allowing remote assessments	**Alaska** residents seeking to enroll in an HCBS waiver can receive an initial level-of-care evaluation via telephone or other technological platform.	1135 Waiver 1915(c) Appendix K: Template and Instructions

Alternate Care Sites

These flexibilities seek to protect high-risk beneficiaries and workers from contracting COVID-19, or mitigating the spread of COVID-19, by authorizing states to cohort COVID-19-positive beneficiaries in separate care sites from beneficiaries without COVID-19, and authorizing expanding allowable settings where HCBS may be provided.

Policy Goal	Available Flexibility or Action	State Implementation Example	Authority
Segregate individuals with confirmed COVID-19 to minimize spread in nursing homes	Establish COVID-19-only facilities for nursing home residents and hospital discharges requiring a nursing home level of care	**Michigan** helped congregate care facilities to separate or cohort COVID-19-positive residents from other residents by designating "regional hubs" to treat COVID-19-positive residents who do not require hospitalization.	Executive Order or Other State Administrative Action
Ensure individuals receiving care in the community continue to do so when certain HCBS settings are inaccessible	Expand allowable HCBS settings where services may be provided	HCBS recipients in **Iowa** who are in an institutional setting (including an intermediate care facility) due to quarantine or because their community-based providers can't safely deliver services during the pandemic, can receive HCBS in the facility in which they are residing. Direct care providers can also provide HCBS in their homes or direct care providers may move into the care recipient's home, though both changes are subject to state approval.	1915(c) Appendix K: Template and Instructions 1135 Waiver (for state plan services)

Telehealth

These flexibilities seek to protect beneficiaries from contracting COVID-19 by expanding and supporting the use of telehealth, in place of in-person visits, for care management and care delivery activities.

Policy Goal	Available Flexibility or Action	State Implementation Example	Authority
Provide care virtually to minimize exposure to COVID-19 for beneficiaries and providers	Expand utilization of state plan telehealth benefits	**Colorado** residents can receive services, included LTSS, via telephone or a live chat function. Typically, telemedicine requires a visual component, where the recipient can see the provider. Telemedicine visits also no longer require an initial face-to-face visit.	Disaster Relief SPA
	Reimburse for telehealth at in-person rates	**Massachusetts** providers can deliver clinically appropriate, medically necessary Medicaid-covered services via telephone or live video and receive in-person reimburse rates.	State Administrative Action *If state plan has different payment methodologies for in-person and telehealth, a SPA may be needed*
	Modify provider types who can provide services remotely	**Massachusetts** will allow all Medicaid-enrolled providers to deliver telehealth services within their scope of practice via telephone or live video.	State Administrative Action
	Conduct Pre-Admission Screening and Resident Review (PASRR) evaluations remotely	Individuals in **Illinois** entering a Medicaid-certified long-term care setting can receive a PASRR screening via telephone rather than in person. State screening agents should coordinate with hospital discharge planners and long-term care settings to ensure a staff member is available to assist the individual being screened.	State Administrative Action (only if state has existing face-to-face requirement)

Provider Capacity and Workforce

These flexibilities seek to expand the pool of and financially support LTSS providers and workers to ensure beneficiaries can receive services to which they are entitled during the COVID-19 pandemic.

Policy Goal	Available Flexibility or Action	State Implementation Example	Authority
Expand the number and types of people eligible to provide HCBS to prevent gaps in services	Allow family members or legally responsible individuals of 1915(c) waiver participants to provide waiver services	Provider agencies in **Maine** can hire a relative or spouse of a waiver participant to provide services, including personal support and attendant services.	1915(c) Appendix K: Template and Instructions
	Allow family caregivers or legally responsible individuals to provide 1905(a) personal care services	Family caregivers in **Georgia** can provide state plan personal care services if a traditional provider is not available. The state must make a "reasonable assessment" that the caregiver is capable of providing needed services.	1135 Waiver
	Allow entities that provide case management and/or are responsible for the development of a person-centered service plan to also provide HCBS; conflict of interest requirements remain in place	**Oregon** will allow case management entities to provide HCBS—such as attendant services and supports to accomplish activities of daily living, functional skills trainings and safety modifications to an individual's physical environment—that are covered through 1915(i) and 1915(k) SPAs, as well as 1915(c) waivers, in order to enable sufficient provider capacity to serve impacted beneficiaries.	1135 Waiver
	Modify 1915(c) waiver provider types, qualifications, and licensure or other requirements	Certified nurse assistants (CNAs) in **California** can provide private duty nursing services. Typically, private duty nursing must be provided by a registered nurse, licensed vocational nurse or certified home health aide.	1915(c) Appendix K: Template and Instructions
Ensure provider sustainability in light of lost revenue due to increased cost related to COVID-19	Provide retainer payments to personal care assistants when a 1915(c) participant is hospitalized or absent from their home for up to 30 days	**Arizona** providers who experience a reduction in service utilization due to COVID-19 can receive retainer payment. Eligible providers include habilitation and personal care service providers.	1915(c) Appendix K: Template and Instructions
	Temporarily increase payment rates for nursing homes and HCBS to maintain provider capacity	**New Mexico** increased rates by 30% to nursing facilities for residents who test positive for COVID-19 and need inpatient level of care in a nursing facility setting. **Maine** increased rates by 10% for certain 1915(c) waiver services to account for additional staffing needs, infection control supplies and other unanticipated costs.	Disaster Relief SPA 1915(c) Appendix K: Template and Instructions

Looking Ahead

Many states around the county have used the regulatory and administrative flexibilities described in this resource guide to ensure that vulnerable residents continue to receive critical health care services—including LTSS—during the COVID-19 pandemic. As states consider which additional or new flexibilities to implement in response to COVID-19, and which flexibilities to adopt for future COVID-19 "waves" and other public health emergencies, policymakers should engage care recipients, caregivers and providers to evaluate the impact of such changes. These evaluations will help states determine which flexibilities to "turn on" in future public health emergencies. States can also use evaluations to determine which of the flexibilities that can be authorized through mechanisms available outside of a public health emergency (e.g., state plan and waiver amendments) should be made a permanent part of broader LTSS system reform, such as expanded telehealth and increased supports for the LTSS direct care workforce.

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