

NH Department of Health and Human Services (DHHS)
Division of Long Term Supports and Services
Bureau of Developmental Services

105 Pleasant St.
Concord, NH 03301

STATE OF NEW HAMPSHIRE BDS GENERAL MEMORANDUM (GM)	
DATE:	May 13, 2020
TO:	Area Agency Executive Directors, Area Agency Business Managers, Area Agency Service Coordinator Supervisors, Provider Agencies, Bureau of Developmental Services Staff, Bureau of Family Centered Services, Office of Client and Legal Services, Christine Tappan, DHHS, Kerrin Rounds, DHHS.
FROM:	Sandy Hunt, Bureau Chief, Bureau of Developmental Services
SIGNATURE:	
SUBJECT:	COVID-19 Emergency Guidance #4
GM NUMBER:	04-20 GM
EFFECTIVE DATE:	May 13, 2020
REGULATORY GUIDANCE:	This memo is a communication tool circulated for informational purposes only. The goal is to provide information and guidance to the individuals to whom it is addressed. The contents of this memo and the information conveyed are subject to change. This communication is not intended to take the place of or alter written law, regulations or rule.

MEMORANDUM SUMMARY
<p>The purpose of this memorandum is to:</p> <ul style="list-style-type: none"> • Provide statewide guidance to state designated area agencies and private provider agencies relative to COVID-19 Emergency preparation, response, and continuity of service delivery for the developmental services system.

Timeline

Covid-19 Emergency Guidance issued by the Bureau of Developmental Services (BDS) is in effect during the Governor of New Hampshire’s State of Emergency period. To date, BDS has issued 4 guidance documents:

- <https://www.dhhs.nh.gov/dcbcs/bds/documents/bds-covid19-guidance.pdf>
- <https://www.dhhs.nh.gov/dcbcs/bds/documents/bds-covid19-guidance-1.pdf>
- <https://www.dhhs.nh.gov/dcbcs/bds/documents/bds-covid19-guidance-2.pdf>
- <https://www.dhhs.nh.gov/dcbcs/bds/documents/bds-covid19-guidance-3.pdf>

These guidance documents can be located at the following link, along with Community Support Network Inc. (CNSI) protocols for Covid-19 management: <https://www.dhhs.nh.gov/dcbcs/covid-guidance.htm>

New Hampshire’s Appendix K to the Developmental Disabilities (DD), Acquired Brain Disorder (ABD), and In Home Support (IHS) waivers, which allows changes to the waivers due to emergency preparedness and response, was approved by CMS on May 12, 2020. This guidance document reflects information related to approved changes to the DD, ABD, and IHS waivers.

Guidance for NH Developmental Disabilities (DD), Acquired Brain Disorder (ABD) and In Home Support (IHS)

Waivers:

Electronic Signatures

Guidance documents #1 and #2 provide for alternatives to physical signatures for certain documentation. In accordance with the approved Appendix K, a phone call or text approval must be followed up with an electronic signature or paper documentation dated and/or signed on the date the change is authorized. This procedure is permissible for any service related documents. An electronic signature can be physically processed through Adobe software or a typed signature followed up with an email that attests to the signature.

Electronic “Remote” Service Delivery

Electronic service delivery (e.g. telephonic) may be used in order to allow services to continue to be provided remotely in the home setting for:

- Service coordination/Case management
- Residential habilitation
- Day habilitation / Community participation
- Community support services
- Supported employment
- Participant directed and managed services
- Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).
- Allow the option to conduct evaluations, assessments, and person-centered service planning meetings virtually/remotely in lieu of face-to-face meetings to include monthly nursing reviews.
- Consultation services

Background checks

If an employee does not pass the background check once the state resumes conducting background checks, the provider agency will submit a waiver request which will be reviewed by the state and receive a waiver if appropriate, or the employee will be terminated.

Training requirements

Non-individual specific provider training requirements outlined in rules will be extended from 60 to 90 days. Staff training is also transferable between agencies.

Level of Care Re-Evaluations (LOC)

Level of Care (LOC) re-evaluation can be extended for 12 months.

Supports Intensity Scale Re-Assessments (SIS)

Support Intensity Scale Assessments (SIS) reassessment may be delayed for up to 12 months.

Health Risk Screening Tool (HRST)

Annual Health Risk Screening Tool (HRST) may be delayed for up to 30 days.

Service Coordination

Service coordination/case management planning may be conducted remotely through telephonic support or with other remote service access technology if the parties are able in accordance with HIPAA.

If requested and/or necessary, modifications to a person-centered plan may be made, as driven by individualized participant need, circumstance and consent on an individualized basis. An electronic signature will be accepted. A phone call or text may be used for individual/legal guardian approval, but it must be followed with electronic signature or paper documentation dated and/or signed on the date the change is authorized.

The process to monitor services are delivered as specified in the service agreement/plan of care will continue as required by He-M 503, with the exception of in-person contact. Remote contact may replace in person contact.

Service coordination staff will monitor the services through a minimum of monthly contact.

Support in acute care hospital or short term institutional stays

Individuals who require hospitalization may receive temporary HCBS waiver services in a hospital setting where the individual requires these services for communication, behavioral stabilization and/or intensive personal care support needs. The services that apply include:

- Residential Habilitation
- Enhanced Personal Care

HCBS services may be delivered in an acute care hospital if:

- They are part of a plan of care;
- They meet needs of the individual that are not addressed by hospital services;
- They do not substitute services that the hospital is required to provide; and
- They are designed to provide smooth transitions to home and community-based settings and to preserve functionality.

Sentinel Events:

The 72-hour written notification requirement is waived, and is replaced by 7-calendar day timeframe for the completion and uploading of the Sentinel Event Reporting Form. The 24-hour verbal notification to the appropriate DHHS Bureau Administrator or designee remains in effect.

On the reporting form, for those events that are believed to be COVID-19 related, in Section III, Sentinel Event Details, #13a, please start the description with a header of "COVID-19 Related".

IHS Waiver only:

Waiver Cap

The maximum cap of the In Home Support Waiver (IHS) may be increased to an upper limit of \$33,000 to allow for additional Respite and Enhanced Personal Care for those participants who were at the \$30,000 cap at the time of the State of Emergency.

Family Caregivers

Payment for Enhanced Personal Care services rendered by family caregivers or legally responsible individuals when they have been hired or contracted by the service provider agency authorized on the Individual Service Agreement (ISA) is permitted during the state of emergency.

Relatives and legally responsible individuals must receive training on the participant's ISA for whom they are rendering these services. Training on the ISA must consist of basic health and safety support needs for that participant. When one of these services is rendered by relatives or legal guardians, the service provider agency authorized to render the service is responsible for ensuring that services are provided as authorized in the ISA and that billing occurs in accordance with waiver requirements

Respite

The respite cap of 15% of the total IHS budget will be removed even if it is outside of the individual's approved budget or if the individual has already met the annual cap outlined in the Individual Service Agreement (ISA) to allow a participant's family additional flexibility in obtaining supports to care for their family member during the COVID-19 crisis for emergency care provision.

DD and ABD Waivers only:

Family Caregivers

Payment for the following services rendered by family caregivers or legally responsible individuals when they have been hired or contracted by the service provider agency authorized on the Individual Service Agreement (ISA) is permitted during the state of emergency:

- Residential Habilitation
- Community Participation Services (CPS)
- Community Support Services (CSS)
- Participant Directed and Managed Services (PDMS)
- Supported Employment Services (SEP)

Relatives and legally responsible individuals must receive training on the participant's ISA for whom they are rendering these services. Training on the ISA must consist of basic health and safety support needs for that participant. When one of these services is rendered by relatives or legal guardians, the service provider agency authorized to render the service is responsible for ensuring that services are provided as authorized in the ISA and that billing occurs in accordance with waiver requirements.

Respite

The respite cap of 15% of the total Participant Directed and Managed Services (PDMS) budget will be removed to allow an individual's family additional flexibility in obtaining supports to care for their family member.

Staffing ratios

Required staffing ratios for a participant, as outlined in their Individual Service Agreement, may be modified to allow the participant to receive services in safe and accessible environments, as long as the participant's needs are still being met and individual/guardian approval is documented.

Settings

In addition to the expansion of settings provided in BDS Guidance Document #1, the services listed below may be provided in a setting necessary to ensure the health and safety of participants with approval of the individual/guardian. These

permissible settings may include hotel, motel, shelter, church, or any facility based setting which will not duplicate service regularly provided by the facility based setting.

- Specialty Services
- Residential Habilitation Services may be provided in uncertified and unlicensed homes upon the approval of the individual/guardian.
 - Consideration should be given to the number of people who are accessing the home to decrease the potential exposure or spread of infection.
- Community Participation Services
- Community Support Services
- Supported Employment Services

Residential Services

Residential providers do not need to comply with the HCBS settings requirement at 42 CFR 441.301(c)(4)(vi)(D) that individuals are able to have visitors of their choosing at any time, to minimize the spread of infection during the COVID-19 pandemic.

Certification/ Licensing

Providers will have 90 days to come into compliance with certification requirements at the end of the COVID-19 emergency for the following services:

- Residential providers
- Community participation service providers
 - The certification requirement to provide services in community locations is suspended.
 - Certification or licensing requirements will not apply to services that are delivered as an emergency alternative to the certified or licensed setting.

If a temporary service site is identified for a certification review, as long as the site is deemed safe and sensible for the service being provided and there is no non-compliance with regulations that could reasonably be complied with, the site will be determined to be in compliance with certification requirements.

Additional guidance unrelated to the Appendix K:

Environmental Modifications (EMOD)

If the area agency has a signed contract to complete the EMOD for SFY20 and has been delayed due to COVID 19, the Prior Authorization (PA) will be extended into SFY21 so the contractor has time to complete the EMOD once the public health emergency has ended. Payment for the EMOD will be out of SFY21 fiscal year only dollars. The PA will not be annualized into SFY21.

If the area agency does not have a signed contract to complete the EMOD for SFY20 and has been told that the EMOD will not be able to be completed in SFY20, the area agency will have to submit a new EMOD PA packet for SFY21. The SFY20 PA will not be extended into SFY21. SFY21 fiscal year only dollars will be used to pay for the EMOD.