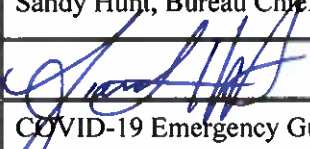


NH Department of Health and Human Services (DHHS)
Division of Long Term Supports and Services
Bureau of Developmental Services

105 Pleasant St.
Concord, NH 03301

STATE OF NEW HAMPSHIRE BDS GENERAL MEMORANDUM (GM)	
DATE:	March 16, 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 #1 March 16, 2020
GM NUMBER:	01-20 GM
EFFECTIVE DATE:	March 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.

The Bureau of Developmental Services (BDS) is working with its federal and state partners, as well as other divisions within the Department of Health and Human Services, to ensure that families and individuals continue to receive developmental supports and services during the COVID-19 Emergency. The health and safety of the people that receive support and the direct support professionals who provide that care are at the center of the Bureau's emergency preparedness planning priorities.

In an effort to allow for greater flexibility to Area Agencies and private provider agencies to deliver services safely and efficiently while implementing precautions around COVID-19, and in accordance with the Governor's Executive Order 2020-04 dated March 13, 2020, and Appendix K approved by CMS, BDS has identified a number of areas which will be adjusted on a temporary basis. These areas include modifications in policy, practice, and regulatory guidelines. Input from the Area Agencies and Private Provider Network (PPN) is valued and has informed the guidance outlined in this memorandum.

The Division of Long Term Support and Services (DLTSS) activated its Continuity of Operations Plan effective Friday, March 13, 2020. The Bureau extends its sincere gratitude to those who are working to ensure the health and safety of the people we support while also supporting their own loved ones.

Timeline

COVID-19 Emergency guidance will be in place on a 30 day basis effective Friday, March 13, 2020. The Bureau will provide, modify and extend guidance to the Area Agencies as needed based on the emerging COVID-19 Emergency.

Considerations of Health, Safety, Privacy Protection, and Human Rights

The Bureau has considered allowing for flexibility while ensuring health and safety in developing the following COVID-19 Emergency Guidance. The Bureau is, as are the Area Agencies and providers, mindful of human rights considerations for those we serve during the COVID-19 Emergency.

Following are specific considerations that have informed this guidance:

- Fire Safety and ability to evacuate in a fire is a priority in all settings.
- HIPAA requirements remain in place and must be followed.
- Medication Administration guidelines will be maintained in certified programs.
- Changes in policy and practice that occur during the COVID-19 emergency response time frame must be included in documentation. Attendance records must be completed as required.
- To support the CDC recommendations of social distancing, any meetings such as committee meetings, service agreements, team meetings and/or site visits are permitted to be held remotely through audio, video conferencing or telephonically.

COVID-19 Response and Guidance

Medication Administration:

- Managed Care Organizations are providing for medication and supplies. Please continue to consult the nh.gov web site at <https://www.nh.gov/index.htm> for updates and other important information. Also see <https://www.cdc.gov/coronavirus/2019-ncov/index.html> for more detailed information.
- It is recommended that medication administration remains a priority for agencies. Traveling nurses or med trained staff who administer medications to multiple individuals is an option. BDS recommends that Service Coordinators and other agency staff become med trained. BDS will offer a virtual med training for staff to ensure compliance. Information on date and time for the virtual training will be emailed to Area Agencies shortly.

Personal Protective Equipment (PPE) and Supplies:

- PPE includes masks, gowns, gloves, eye protection, hand sanitizer and cleaning wipes. With the assistance of an Area Agency representative, the BDS Bureau Chief will submit a request Tuesday to the Department of Health and Human Services (DHHS) Incident Management Team, Emergency Services Unit on behalf of the developmental services system. There are a number of providers, including first responders, hospitals, and other medical providers across the state that are requesting PPE and supplies which necessitates a prioritization process for the distribution of supplies.

Access to COVID-19 Testing:

- BDS, in the same request for PPE and supplies, will elevate a request for access to COVID-19 testing for front line agency staff to Public Health Services (PHS). PHS is working with our Federal partners to ensure that testing is available to all NH citizens. See nh.gov (link above) for testing information.

Staffing Ratios:

- **Community Participation Services (CPS):** Agencies are permitted to bill for providing CPS services in the residential setting and in the family home to comply with recommendations of social distancing. This will be a waiver of He-M 507.03(b), which indicates community participation services shall be primarily provided in community settings outside of the home where the individual lives.

Agencies are permitted to modify staffing ratios to allow for CPS to be provided in a congregate setting to ensure supervision and safety. The requirements of He-M 507.08(b)(2)a-b relative to fire safety and evacuation must continue to be followed.

If individuals live at home with a home care provider that is willing/able to provide care and oversight to the individual, it is permitted to allow that individual to receive CPS from the home care provider. The Home Care Provider will also be allowed to provide CPS to other people that do not live in the home. The home care provider will submit CPS attendance to the Area Agency. In these cases, a CPS certification will not be required on the residential certification for CPS billing. This will be a waiver of He-M 507.06(a), which indicates to be eligible for reimbursement by the Bureau or by Medicaid for CPS services provided to individuals, community participation services shall be certified by the Department.

The Direct Support Professional is permitted to provide CPS in their personal home, provided the employer and legal guardian are comfortable with this arrangement. Please ensure that this permission is documented and attributed to the COVID-19 Emergency.

To allow for flexibility in the types of activities that may be billed as CPS, home based activities, to include caring for the individual when s/he is sick and in recovery are allowed to be billed under CPS. BDS' priority is safety, supervision, and basic needs are being met. This will be a waiver of He-M 507.05(a)(1), which indicates that "custodial care programs provided only to maintain an individual's basic welfare" shall not be a billable under CPS.

Any changes to staffing ratios shall require signed or emailed approval from the individual or guardian.

- **Community Support Services (CSS):** Agencies may increase CSS services for people who receive CSS hours to assist them to be successful with any quarantine or social distancing requirements. If additional funding is needed, please work with the Bureau Liaison for assistance.
- **Residential:** If a Direct Support Professional would like to take an individual to their personal home to provide residential support this is allowable up to 14 days at a time with signed or emailed approval from the employer and legal guardian as required by He-M 1001.02(a)(b).
- **Visitation to Residential Settings:** Please see the [Governor's Executive Order 2020-04](#) relating to the visitation requirements of all facilities providing care to older adults. This guidance applies to all certified and licensed settings. Specifically:

Beginning at 11:59 p.m. on Sunday, March 15th, all assisted living facilities, long term care facilities, nursing facilities, residential care facilities . . . or any other similar facilities providing residential care to elderly or infirm patients, shall prohibit visitor access to reduce facility based transmission of COVID-19. This prohibition shall not apply to medically necessary personnel, visitors for residents receiving end of life care, or visitors necessary to provide for a residents [sic] psychosocial needs as determined by a licensed medical care provider.

Please continue to stay informed with the frequent updates about this evolving outbreak at our DHHS webpage: <https://www.dhhs.nh.gov/dphs/cdcs/2019-ncov.htm>. You may get current situation updates and technical guidance on the CDC's website: <https://www.cdc.gov/coronavirus/2019-ncov/index.html> and <https://www.cdc.gov/coronavirus/2019-ncov/faq.html>

- **Emergency Room and Hospitalization:** Billing for direct support hours provided in a hospital setting may be allowable by our Federal oversight agency through the utilization of an Appendix K in the Home and Community Based Care (HCBS) Developmental Disability waiver in Appendix K – 2 – I; if this is approved. BDS is working with federal partners to determine scope and timing to submit an Appendix K application to Centers for Medicaid and Medicare Services (CMS). Further guidance will be issued on this matter.

Temporary Expansion of Settings:

- Agencies may temporarily expand settings where services may be provided (e.g. hotels, shelters, schools, churches, offices, etc.)

Documentation:

- Documentation includes attendance, progress notes, Health Risk Screening Tool and other recurring documentation. A 30 day extension for the submission of these items is allowed.
- In the event that a service agreement is due, the service agreement is allowed to be extended through September, 2020 with an email approval from the legal guardian(s).
- Incident reports, sentinel events and mortality reports will not be allowed an extension in submission, and must continue to be submitted according to policy requirements. BDS may be developing a streamlined process to address incident reports, sentinel event and mortality reports.
- The 5 day and 30 day nurse and service coordinator reviews are still required but they do not need to be an in person/in home visit. Conference call, face time and skype are all acceptable forms of communication. This is a waiver of He-M 1001.06(p)(q). The timelines for the nurse and service coordinator reviews may be further relaxed if needed.
- Individualized Service Agreement (ISA) goals that cannot be carried out due to the COVID-19 Emergency may be suspended. Daily notes must document alternative activities that were provided and the reason (COVID-19 Emergency) that they were provided.
- Timelines for annual physicals will be extended (with team approval) to reduce the burden on the health care system and reduce exposure of healthy individuals to potentially contaminated environments. Any

delay in annual physicals must be documented and attributed to the COVID-19 Emergency. Prior to the next certification review this should be self-reported and referenced as a COVID-19 Emergency Safety plan.

- All required documentation shall indicate any changes that took place in services that are permitted by this Memorandum. To the extent this memo specifically provides that a rule is waived, individual waivers do not need to be submitted to BDS for approval. Any changes in service permitted that are properly documented will not result in deficiencies on certification reviews, or service file reviews.
- Employment data entry into the Employment Database is not required for Quarter 2.

Training Requirements and Background Checks:

- To allow for the transfer and onboarding of new staff to replace those who are sick, the requirement for “An overview of developmental disabilities or acquired brain disorders, or both, as appropriate, including the local and state service delivery system” prior to delivering service to an individual is waived for up to 60 days upon hire. This is a waiver of He-M 1001.04(c)(4) which indicates that this training must be completed “prior to providing support to an individual”.
- Direct support staff training completed at one agency will be transferable to other agencies for employment requirements. This is a waiver of He-M 1001.04(e), which indicates that trainings must be completed within the first 6 months of employment. Agencies are already allowed to accept these training, so this should not be an issue.
- DSP Background checks completed within 60 days at one agency will be transferable to other agencies for employment requirements. This is a waiver of He-M 1001.03(f)(2)(3) which indicates that the provider agency must complete a BEAS registry check and a criminal record check “prior to hiring or contracting”.
- Waiver requests will be prioritized by BDS if they are elevated by the Area Agency to the Bureau Liaison. Waiver requests include any existing waivers that are waiving regulatory requirements such as criminal records. For certified residences, the waiver request is relative to He-M 1001.03(h). For day programs, the rule would be He-M 507.10(g)(1)(a) or (b), depending on the type of conviction.
- TB testing requirements will be suspended for up to 60 days to reduce the burden on the health care system and reduce exposure of new employees to environments where sick individuals are present. This is a waiver of He-M 506.03(b)(4) a-b and He-M 1001.04(b) which indicate that each applicant for employment shall present documentation of a tuberculosis (TB) test performed within the past 6 months; or undergo a TB test prior to employment.

Certification:

- An extension for emergency placements beyond two 45 day periods, allowing for delays in obtaining hard-wired smoke detectors or replacement windows may be requested on a case by case basis. The request must be sent to Peter Bacon, Community Residence Coordinator, Health Facilities Administration, Bureau of Legal and Regulatory Services by the 60th day prior to expiration. Email is peter.bacon@dhhs.nh.gov.
- If a certified bed is vacant it may be utilized for another individual. Additional certified beds may be requested on an emergency basis through Peter Bacon (see above).

- Electronic certification reviews will be allowed by the Health Facilities Administration (HFA), Bureau of Legal and Regulatory Services. HFA will be reaching out to Agencies to coordinate these reviews.

Human Rights Committees (HRC):

- If an individual is showing symptoms of COVID-19 we urge you to work with your HRC to determine what protocol will be used during the emergency period. The HRC must document the individual protocol and the agency must be able to show approval upon request.
- Teams will be allowed to consider altering some requirements outlined in Risk Management Plans (RMP) if necessary and develop safe alternatives that balance the individual's right. This must be referred back to the Agency's Human Rights Committee and again be approved by the HRC and documented.

In Home Supports and Participant Directed and Managed Services (PDMS):

- In order to assist families and support staff in caring for individuals, BDS plans to remove the respite cap for each of these services to allow for additional flexibility in meeting the needs of the individuals that are supported. These limits are identified in the Developmental Disabilities and In Home Support Waivers and the removal may be permitted by CMS through the utilization of an Appendix K to the waivers, which BDS is submitting. Further guidance will be issued on this matter once BDS receives feedback from CMS.
- In cases where an individual's overall budget is approaching the maximum, please contact your Bureau Liaison for assistance.

Family Centered Early Supports and Services:

- Please reference the separate memo provided by the Bureau of Family Centered Support. Do not hesitate to contact the Part C Office with any questions or Deirdre Dunn Tierney at Deirdre.dunn@dhhs.nh.gov.