



**Attention Section(s) 19 and 20 Providers:  
Section 1915(c) Waiver Appendix K Flexibility Guidance  
October 20, 2023**

As previously shared in our [October 16, 2023 provider bulletin](#), Appendix K flexibilities will end for Sections 19 and 20 on **November 11, 2023**. Maine received approval from the Centers for Medicare and Medicaid Services (CMS) for [Sections 19 and 20](#) five-year waiver renewals, effective July 1, 2023.

Appendix K flexibilities that are continuing as permanent provisions described in the corresponding approved 1915(c) waiver renewals and those that are set to expire on November 11, 2023 are listed below. This document may not address every flexibility in effect for HCBS during the PHE; there may have been additional federal flexibilities.

Please reference the [MaineCare Benefits Manual \(MBM\)](#) for complete descriptions of MaineCare service policies. The Department intends to engage in rulemaking for any changes below not yet adopted within the corresponding MBM Section. The Department will exercise enforcement discretion with respect to provisions where the rule has not yet been updated.

**HCBS flexibilities continuing as permanent provisions beyond November 11, 2023:**

**Overarching Continuing HCBS Flexibilities**

- Reimbursement rates will remain consistent with the MaineCare [provider fee schedules](#).
- General safeguards remain applicable to all services, including self-direction. Please see MaineCare's 1915(c) waivers for additional safeguards specific to self-direction.

**Section 19: HCBS for the Elderly and Adults with Disabilities**

- The Department authorizes Advanced Practice Providers (Physicians Assistants, Nurse Practitioners, and Clinical Nurse Specialists) as qualified providers to order and recertify a Plan of Care.
- With prior approval from the Office of Aging and Disability Services (OADS), providers may conduct Level of Care (LOC) assessments, including Initial LOC assessments, via telehealth as set forth in the approved waiver renewal.
- The Department has increased Assistive Technology caps for certain services as described in the provider fee schedule and removed costs from the overall cap as described in the approved waiver renewal.
- The limit on Home Delivered Meals is increased from one (1) meal per day to two (2) meals per day.

## **Section 20: HCBS for Adults with Other Related Conditions**

- The Department adds Community Support (formerly called Community Membership) services as follows:
    1. Community Support – Community Only Individual (services provided by one staff to one Member at a time, 1:1) – T2021 U8 UA
    2. Community Support – Community Only Group (services provided by one staff to two Members at a time, 1:2) – T2021 U8 UB
    3. Community Support – Center Based (services provided by no less than one staff to three members at a time, 1:3) – T2021 U8
  - Shared living services will continue for up to two (2) members per setting.
  - The Department will continue to allow providers to hire Direct Support Professionals (DSPs) who have reached the age of 17 and meet the DSP requirements as described in the approved waiver renewal.
  - New services added for self-direction:
    1. Financial Management Service (minimum required service) – T2040 U8U6
    2. Support Brokerage (minimum required service) – T2041 U8 U6
    3. Individual Directed Goods and Services (new service) – T2028 U8 U6
- Flexible Budget Services that may be self-directed include:
1. Individual Directed Goods and Services – T2028 U8 U6
  2. Home Support-Quarter Hour – T2017 U8 U6
  3. 1:1 Community Support – T2021 U8 U6

Fixed Budget Services that may be self-directed utilizing existing waiver monetary or unit caps (separate budget items as part of the member's self-directed budget):

1. Assistive Technology Devices – A9279 U8 U6
  2. Assistive Technology Transmission – T2035 U8 U6
  3. Home Accessibility Adaptations – S5165 U8 U6
- For Home Support-Remote Support, the assistive technology assessment can be completed by the Person-Centered Service Plan (PCSP) treatment team. OADS approves all services on the PCSP.

## **Flexibilities ending November 11, 2023:**

### **Overarching Ending HCBS Flexibilities**

- The Department allowed providers to deliver services in acute settings when the service is distinct from what was provided in the acute care settings.
- The Department allowed members to move among settings to meet health and safety needs.
- Relatives or spouses of waiver members were allowed to deliver services.
- The Department allowed occupancy in an unlicensed setting as well as the provision of services in such settings.
- The Department relaxed the orientation and initial training requirements for all newly hired direct care staff until such time it could be safely provided.
- The Department permitted the delivery of certain services to be conducted via telehealth.

- The Department granted service plan flexibilities, allowing an additional 12 months for renewal, planning meetings to be conducted via telehealth, and permitting electronic signatures.
- The Department allowed the delivery of habilitative and rehabilitative services in alternative approved settings (e.g. hotels, shelters, churches).
- The Department provided flexibility in the number of Members permitted to receive services in each licensed or unlicensed setting.
- The Department granted PCSP flexibilities; including modification of the PCSP within 60 days of the start date of services and delivery of services with verbal or email authorization while awaiting PCSP signed documents. Additionally, case managers were permitted to make modifications to the PCSP due to the member's needs and circumstances without input from the entire PCSP team.
- Providers of Community Support were allowed to deliver the service in alternate settings.
- The Department added Emergency Quarantine Services (T2025) for waiver members with COVID-19.
- DSPs had three months from the date of hire to become certified in Cardio-Pulmonary Resuscitation (CPR).
- The Department increased the limit on Assistive Technology Transmission.

#### **Section 19: HCBS for the Elderly and Adults with Disabilities**

- The Department increased the limit of available hours within Personal Care Services by up to 20 percent per week.
- The Department increased the limit on Respite Services by 20 percent per week.
- The Department removed Home Delivered Meal costs from the Member's monthly cap.
- The Department removed individual caps to accommodate expanded services.

#### **Section 20: HCBS for Adults with Other Related Conditions**

- The Department removed Assistive Technology Transmission costs from the overall cap.
- The Department adjusted minimum staffing requirements for Per Diem Home Support.
- The Department modified the limit on Care Coordination units.
- The Department expanded Self-Direction by adding Attendant Services and Skills Training Services.

Appendix K flexibilities impacting Sections 18, 21, and 29 will end following CMS approval of the respective waiver amendments.

MaineCare will issue further guidance as information becomes available. Additional resources are available on MaineCare's [COVID-19 and End of the PHE webpage](#).

For questions related to this document and the End of the PHE, please email [DHHSMaineCareEndofPHE@maine.gov](mailto:DHHSMaineCareEndofPHE@maine.gov).

In accordance with federal law and the MaineCare Benefits Manual, the Department must give members the opportunity for a hearing if requested 1) When their service request is denied or takes too long to be processed or 2) the member believes the Department made a mistake stopping, reducing, or suspending their medical eligibility or covered services.