

Janet T. Mills
Governor

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**Attention Section(s) 18, 21, and 29 Providers:
Section 1915(c) Waiver Appendix K Flexibility Guidance
October 31, 2023**

As previously shared in our [October 16, 2023 provider bulletin](#), certain Appendix K flexibilities for sections 18, 21, and 29 will continue beyond November 11, 2023. MaineCare expects the Centers for Medicare & Medicaid Services (CMS) to approve the corresponding 1915(c) waiver amendments necessary to make these changes permanent in the coming months.

Listed below are the Sections 18, 21, and 29 Appendix K flexibilities that MaineCare intends to continue as permanent provisions and those that are expected to expire following CMS approval of the waiver amendments.

Please reference the [MaineCare Benefits Manual \(MBM\)](#) for complete descriptions of MaineCare service policies. Following CMS approval of 1915(c) HCBS waiver amendments, the Department will engage in rulemaking to incorporate any waiver changes 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 the Department intends to continue as permanent provisions through corresponding waiver amendment currently under review by CMS:

Continuing HCBS Flexibilities Across all HCBS 1915(c) Waiver Sections:

- Reimbursement rates will remain consistent with MaineCare provider fee schedules.
- The Department will continue to allow providers to hire Direct Support Professionals (DSPs) who are 17 years or older and meet the DSP requirements. Job coaches, career planners, and employment specialists must be 18 years of age and have a diploma or GED.
- Unless otherwise noted in this guidance, providers must comply with applicable service limits, including self-direction. Please see MBM and MaineCare's 1915(c) waivers for additional limits specific to self-direction.
- For Home Support- Remote Support, the Person-Centered Service Plan (PCSP) treatment team can complete the assistive technology assessment. OADS approves all services on the PCSP.



Continuing Flexibilities for Section 18: HCBS for Adults with Brain Injury

- New services added for Self-Direction:
 1. Financial Management Service (minimum required service) – T2040 U6
 2. Support Brokerage (minimum required service) – T2041 U6
 3. Individual Directed Goods and Services (new service) – T2028 U6

Flexible Budget Services that may be self-directed include:

1. Individual Directed Goods and Services – T2028 U6
2. Home Support-Quarter Hour – T2017 U6
3. 1:1 Community Support – T2021 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 U6
2. Assistive Technology Transmission – T2035 U6
3. Home Accessibility Adaptations – S5165 U6

Continuing Flexibilities for Section 21: Home and Community Benefits for Members with Intellectual Disabilities or Autism Spectrum Disorder

- The Department allows reimbursement for services delivered by staff who remain available onsite overnight to render services but may sleep during times when service needs have been addressed in authorized circumstances.
- For Per Diem Home Support, the Department will temporarily allow a minimum staffing threshold of 85 percent in agency-owned/controlled group home settings through June 30, 2024.
- 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 UA
 2. Community Support – Community Only Group (services provided by one staff to two Members at a time, 1:2) – T2021 UB
 3. Community Support – Center Based (services provided by no less than one staff to three members at a time, 1:3) – T2021

Continuing Flexibilities for Section 29: Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder

- 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 UA
 2. Community Support – Community Only Group (services provided by one staff to two Members at a time, 1:2) – T2021 UB
 3. Community Support – Center Based (services provided by no less than one staff to three members at a time, 1:3) – T2021



- New services added for Self-Direction:
 1. Financial Management Service (minimum required service) – T2040 U6
 2. Support Brokerage (minimum required service) – T2041 U6
 3. Individual Directed Goods and Services (new service) – T2028 U6

Flexible Budget Services that may be self-directed include:

1. Individual Directed Goods and Services – T2028 U6
2. Home Support-Quarter Hour – T2017 U6
3. 1:1 Community Support – T2021 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 U6
2. Assistive Technology Transmission – T2035 U6
3. Home Accessibility Adaptations – S5165 U6

Flexibilities that will end upon CMS approval of current 1915(c) waiver amendment applications under review:

HCBS Flexibilities that will End Across all HCBS 1915(c) Waiver Sections

- The Department allowed providers to deliver services in acute settings when the service is distinct from what is usually 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 renewals, 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.

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- 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.

Flexibilities that will End for Section 18: HCBS for Adults with Brain Injury

- The Department removed Assistive Technology Transmission costs from the overall cap.
- The Department modified the limit on Care Coordination units.
- The Department allowed coverage for Attendant Services and Skills Training Services.

Flexibilities that will End for Section 21: Home and Community Benefits for Members with Intellectual Disabilities or Autism Spectrum Disorder

- The Department allowed a 30-day extension for Level of Care (LOC) renewals.
- The Department allowed 3 members to receive Shared Living in one setting.
- The Department increased service limits for Quarter Hour Home Supports up to 64 units per day.

Flexibilities that will End for Section 29: Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder

- The Department allowed a 30-day extension for LOC renewals.
- The Department allowed 3 members to receive Shared Living in one setting.
- The Department increased service limits for Quarter Hour Home Supports up to 64 units per day.
- The Department increased the limit on Respite Services.

MaineCare will issue further guidance pending action by CMS on the current waiver amendments under review. Additional resources, including Sections 19 and 20 Appendix K Flexibility Guidance, 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.