

NC Innovations/NC TBI Waiver and COVID-19: An Overview of Flexibilities Appendix K (2nd Submission)

I/DD Teams-NC Medicaid and NC DMH/DD/SAS

June 11, 2020

Overview

- A discussion on the 2nd Wave of **NC Innovations** and **NC TBI Waiver** flexibilities approved by the Centers for Medicare and Medicaid Services (CMS) related to COVID-19.
- Flexibilities approved through Appendix K for both waivers.
 - Appendix K allows for changes when there is a disaster.
- Retainer Payments Frequently Asked Questions

2nd Wave of Appendix K Timeframe

- The 2nd Wave Appendix K flexibilities are effective April 30, 2020 through March 12, 2021 (or when COVID-19 resolves, whichever is first).

2nd Wave of Appendix K

- 2nd Wave includes:
 - Home Delivered Meals
 - More than one 90 day period for relatives to provide services
 - Allow relatives to provide services for minor beneficiaries
 - Allow Primary AFL Staff to provide Supported Employment, Day Supports, and Community Networking
 - Assistive Technology, Equipment and Supplies: Waive requirement for the Letter of Medical Necessity or Prescription from the Physician, Nurse Practitioner or Physician's Assistant for ongoing supplies or replacement equipment for which member has an already established authorization..

Home Delivered Meals

- Consists of TWO Home Delivered Meals per day
- LME-MCOs are Building their Networks of Available Service Providers

Primary AFL Providers

- **Primary** Alternative Family Living (AFL) staff **can** provide the following services to the participant living in the AFL during times that the identified service would regularly be provided:
 - Supported Employment,
 - Day Supports or
 - Community Networking

INNOVATIONS WAIVER ONLY: Services Rendered by a Relative-Adult Beneficiaries

- Temporarily allow relatives of adult waiver beneficiaries who reside in the home and outside of the home to provide services prior to background check and training for 90 days, including Supported Living.
- The background check will be completed as soon as possible after the service begins and training will occur as soon as possible without leaving the beneficiary without necessary care.
- If the background check demonstrates the individual should not continue working with the participant, that individual will be immediately determined unqualified to render services.

“Relative” INCLUDES EOR, Managing Employer for Agency With Choice, Guardian, Legally Responsible Party, and Parents.

INNOVATIONS WAIVER ONLY: Services Rendered by a Relative-Adult Beneficiaries

- Relatives of **adult waiver beneficiaries** may provide:
 - Community Living and Supports,
 - Community Networking,
 - Day Supports,
 - Supported Employment, and
 - Supported Living.
- Services may be provided for **90 days**. **There may be more than one 90 day period.**

INNOVATIONS WAIVER ONLY: Services Rendered by a Legally Responsible Party to Minor Beneficiaries

- Clinical Coverage Policy CURRENTLY Outlines Relatives may Provide Innovations Waiver Services to Minor Beneficiaries
- Appendix K temporarily allows **Legally Responsible Persons of minor waiver beneficiaries** who reside in the home and outside of the home to provide the following services when other provider agency staff are unavailable:
 - Day Supports,
 - Supported Employment,
 - Community Living and Supports, and
 - Community Networking.

INNOVATIONS WAIVER ONLY: Services Rendered by a Legally Responsible Party to Minor Beneficiaries

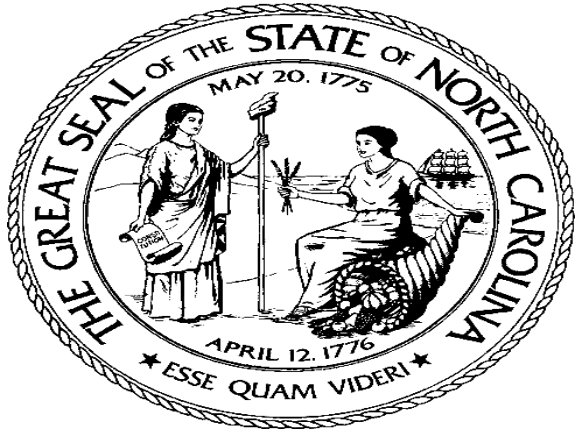
- Services may be provided for **90 days**. **There may be more than one 90 day period.**
 - The background check will be completed as soon as possible after the service begins and training will occur as soon as possible without leaving the beneficiary without necessary care.
 - If the background check demonstrates the individual should not continue working with the participant, that individual will be immediately determined unqualified to render services.
-

INNOVATIONS WAIVER ONLY: Services Rendered by a Relative-Monitoring of ALL Beneficiaries

- The LME-MCO will provide an **increased level of monitoring** for services delivered by relatives/legal guardians.
- Care Coordinators monitor through telephonic monitoring and documentation review to ensure that payment is made only for services rendered and that the services are furnished in the best interest of the individual.

Assistive Technology

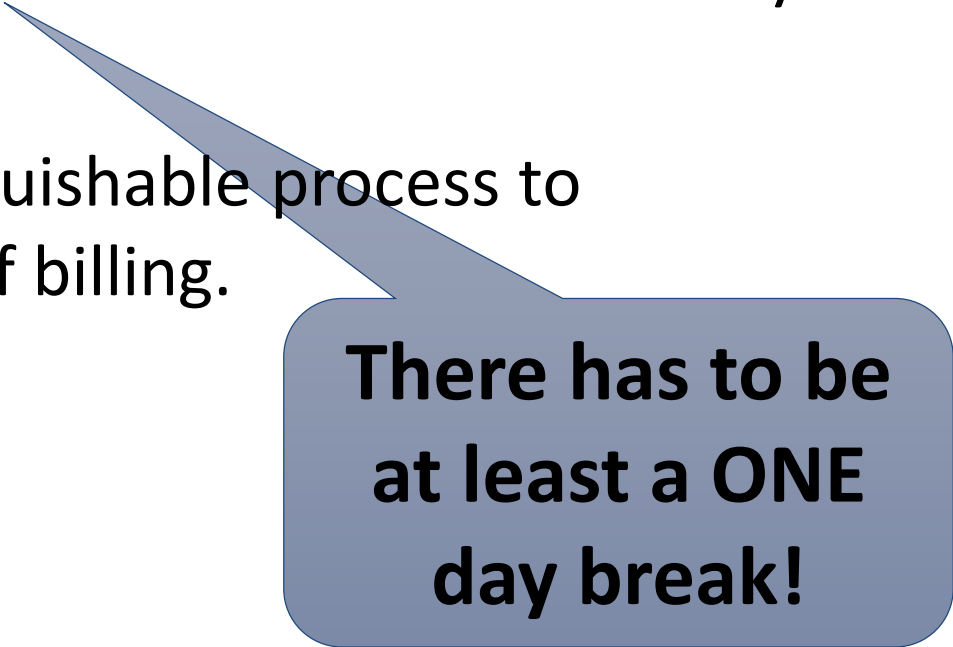
- Temporarily waive requirement for the Letter of Medical Necessity or Prescription from the Physicians, Nurse Practitioner or Physician's Assistant for ongoing supplies or replacement equipment for which the beneficiary has an already established authorization.



Retainer Payments

Temporarily Include Retainer Payments to Address Emergency Related Issues

- Include retainer payments to direct care workers to address emergency related issues.
- Retainer payments cannot be provided for more than 30 consecutive days. There may be more than one 30 consecutive day period.
- The Department will implement a distinguishable process to monitor payments to avoid duplication of billing.



**There has to be
at least a ONE
day break!**

Temporarily Include Retainer Payments to Address Emergency Related Issues

- Retainer payments are for direct care providers who normally provide services that include habilitation and personal care, but are currently unable to due to complications experienced during the COVID-19 pandemic, due to:
 - The waiver participant is sick due to COVID-19; or
 - The waiver participant is **sequestered** and/or quarantined based on local, state, federal and/or
 - The waiver participant has medical requirements/orders.
- A process to monitor retainer payments to Avoid Duplication of Billing
- Retainer payments cannot be made for Respite.

**Phased
Executive Order
=
Sequestered**

Retainer Payment FAQ Overview



- Direct Care Staff
- Residential and Supported Living
- (b)(3) Services
- LME-MCO
- Unemployment Benefits

Direct Support Staff Questions

Are Retainer Payments available to direct care staff who are not able to work due to the staff being sequestered as a result of COVID?

- Yes. If the staff is sequestered because of sickness or family member sickness they would be eligible for retainer payments.

Are Retainer Payments available to direct care staff, if another direct care staff has taken over the hours who is NOT a RAP?

- Yes. If the other staff (not RAP) is temporary and the regular staff meets all payment requirements

Can retainer payment be paid to staff because the beneficiary does not want outside people coming into the home because of risk of virus transmission?

- Yes. Retainer payments may be paid per the approved hours staff typically were working on or before March 13, 2020

Direct Support Staff Questions

If a portion of the hours are delivered via telehealth by the primary staff, would the provider agency bill the retainer payment for only the remaining hours?

- Yes, remaining hours can be billed using the CR XU modifier

If a relative provides services normally provided by direct staff can the relative be paid for the services and the provider direct staff be paid for the same member for the retainer payment?

- Yes, if the family or another staff is providing the services, staff is eligible for retainer payment

If the primary staff cannot work but the parent bills as RADSE or another staff provide the services, can primary staff get a retainer payment?

- Yes, if the family or another staff is provided the services

Direct Support Staff Questions

Can retainer payment be used to bring back staff that have been laid off?

- Retainer payments may be paid per the approved hours staff typically were working on or before March 13, 2020.
- Retainer payments are for direct care providers who normally provide services that include habilitation and personal care, but are currently unable to due to complications experienced during the COVID-19 pandemic because the
 - **waiver participant** is sick due to COVID-19;
 - or the **waiver participant** is sequestered and/or quarantined based on local, state, federal and/or
 - the **waiver participant** has medical requirements/orders.
- Retainer payments cannot be made for Respite.

Residential Supports, Supported Living, (b)(3) Questions

Are Retainer payments for B3 services?

- No, not at this time.

Do Residential Supports and Supported Living qualify for Retainer payments?

- Residential Supports and Supported Living qualify for Retainer payments, as long as the reason meets retainer policy criteria.

LME-MCO Questions

Will families be allowed to use/choose use retainer payments through March 2021 or will this end based on the NC's state of Emergency?

- The 1st Wave Appendix K flexibilities are effective March 13, 2020 through March 12, 2021 (or when COVID-19 resolves, whichever is first).

Our LME-MCO has us billing to receive retainer payment for out of work staff, when we can still provide the service, are we double billing?

No. If the other staff (not RAP) is temporary and the regular staff meets all retainer payment requirements. Modifiers are being utilized to track services being delivered verses retainer payments. Retainer payments are paid through the provider agency. Processes for implementation may vary by LME/MCO. Providers should contact their respective LME/MCO for additional information. (4/28/2020)

Retainer Payment Examples

Individual or Family has requested no external staff work at this time.

- During Phased Executive Order-Retainer payments may be provided due to the sequestering/Phased Executive Order.
- Outside of Phased Executive Order, the waiver participant would be required to meet one of the exceptions noted in the retainer payment policy in order for staff to qualify for retainer payment (i.e. waiver participant)

The facility that staff works at is closed and staff is unable to render services.

- During Phased Executive Order-Retainer payments may be provided due to the sequestering/Phased Executive Order.
- Outside of Phased Executive Order, the waiver participant would be required to meet one of the exceptions noted in the retainer payment policy in order for staff to qualify for retainer payment

NC DHHS will ISSUE Notification of when the Retainer Payments will End due to Sequester.

Unemployment Benefits Questions

Are Retainer Payments available to direct care staff who have applied for Unemployment, but have been denied?

- Yes, as long as they fit the criteria in the retainer payment policy. The staff may not receive a retainer payment for any hours they have received unemployment benefits

Are Retainer Payments available to direct care staff who have applied for Unemployment, but there was a gap in their coverage?

- Yes the March 21-April 4th period (time staff is not receiving unemployment for), the staff could receive retainer payments for hours that qualify under the retainer payment policy.

Is a staff eligible for Retainer Payments if they are receiving Unemployment for another job they have, but not for the job they hold with the provider agency?

- Yes, they may receive retainer payments if they fit the retainer payment policy criteria. This would only be for the services they were unable to provide under the retainer payment policy (i.e. services typically provided prior to March 13, 2020)

Unemployment Benefits Questions

If staff has applied for unemployment but is on a lengthy wait time to hear back on the claim, is it possible to withdraw that claim so that staff can get retainer payments?

- Staff who receive unemployment benefits are not eligible to receive retainer payments. Direct Care Staff should contact the Division of Employment Security regarding claims and processes to make changes if desired. (4/29/2020)

Resource Slide

- Therapeutic Leave - [Special Bulletin COVID-19 #94](#)
 - Supported Living JCB – [LME-MCO Joint Communication Bulletin #J362](#)
 - [NC Innovations Waiver](#)
 - COVID-19 Flexibility Flexibilities - [Appendix K Documents](#)
 - Appendix K [Frequently Asked Questions](#)
-