



## MEMORANDUM

**To:** DDA Stakeholders  
**From:** Bernard Simons, Deputy Secretary   
**Re:** DDA Appendix K #9- Site Capacity (Exceed License Maximum)  
**Release Date:** November 4, 2021\* (revised)  
**Release Date:** April 29, 2020 (original)  
**Effective:** March 13, 2020

*\*All text in red indicates added/revised language since the prior release date*

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**NOTE:** Please inform appropriate staff members of the contents of this memorandum.

### BACKGROUND

On March 5, 2020, Governor Lawrence J. Hogan, Jr., declared a state of emergency due to disease (“COVID-19”) caused by the novel coronavirus. The COVID-19 outbreak was declared a national emergency on March 13, 2020 and was previously declared a nationwide public health emergency on January 31, 2020 (retroactive to January 27, 2020). **On July 1, 2021, Governor Hogan announced the end of the COVID-19 state of emergency in the State of Maryland.**

The purpose of this guidance is to inform Developmental Disabilities Administration (DDA) stakeholders of temporary changes to the DDA’s Home and Community-Based Services (HCBS) Waiver programs (i.e. Community Pathways Waiver, Community Supports Waiver, and Family Supports Waiver) and State funded services and operations in response to health and safety concerns related to the COVID-19 pandemic.

This guidance implements temporary modifications to DDA’s Waiver programs in Appendix K, submitted to and approved by the Centers for Medicare and Medicaid Services, and DDA State Funded services to address the state of emergency.

**This guidance was updated to reflect the unwinding of the temporary modifications to the DDA’s operated programs with the goal of reopening and best supporting people in their communities.**

### OVERVIEW

The provider’s licensed capacity (i.e., maximum number of individuals who can be served in a licensed service location) may be exceeded to address staffing shortages or accommodate use of other sites to isolate people who have a COVID-19, separate people who have been exposed, separate people due to behavior challenges, or other circumstances associated with the COVID-19 State of Emergency.

This guidance applies to the traditional service delivery models for service noted below.

Meaningful Day Services		Residential Services		Support Services and Waiver Supports) (CCS		
	Employment Services	X	Community Living – Group Home		Assistive Tech & Services	Nurse Health Case Management
	Supported Employment		Supported Living		Behavioral Support Services	Nurse CM & Delegation Svs
	Employment Discovery & Customization	X	Shared Living		Coordination of Community Services	Participant Ed, Training & Advocacy
	Career Exploration				Environmental Assessment	Personal Supports
	Community Development Svs				Environmental Modification	Respite Services
	Day Habilitation				Family & Peer Mentoring Supports	Remote Support Services
					Family Caregiver Training & Empow	Support Broker
					Housing Support	Transportation Services
					Ind & Family Directed Goods and Services	Vehicle Mods
					Nurse Consultation	

**Unwinding Appendix K and Executive Orders Flexibilities**

**Standards and Requirements:**

- 1) Appendix K related flexibility for exceeding licensed site capacity will **end on October 14, 2021.**
- 2) Service Utilization and Audits
  - a) The State may conduct:
    - i) Service utilization reviews; and
    - ii) Audits.

- b) CMS stated its intent to audit Appendix K expenditures.

**Appendix K and Executive Orders Flexibilities**

**Standards and Requirements:**

1. Providers may temporarily relocate participants based on health and safety needs without pre-authorization from the DDA. (Reference: DDA Appendix K #8 - Service Delivery in Alternative Settings and Out of State)

**Note:**

- Appendix K flexibility to provide services in a short term institutional stay, neighboring states, alternative facility-based settings, staff or direct care worker home, schools, hotels, churches, and other excluded settings **ended on August 15, 2021.**
  - Ability to provide services during an acute care hospital stay is permitted as per [Memo #4 - DDA Amendment #3 - Acute Care Hospital Supports - February 16, 2021](#)
2. Providers may exceed the current licensed site capacity without pre-authorization from the DDA **will end on October 14, 2021.**
  3. Licensed site capacity will not be adjusted in the PCIS2 or LTSSMaryland systems.
  4. Providers must notify the DDA when the licensed site capacity will be exceeded.

**Process:**

1. Provider that exceed their licensed capacity for the number of people being supported in the licensed site must:
  - a. Complete the DDA COVID-19 Site Notification form (DDACOVIDForm#2).
  - b. Send secure email to the DDA Regional Office dedicated email account noted below with copy to the Office of Health Care Quality at [dd.siteinspections@maryland.gov](mailto:dd.siteinspections@maryland.gov).

CMRO.COVID@maryland.gov	SMRO.COVID@maryland.gov
ESRO.COVID@maryland.gov	WMRO.COVID@maryland.gov

- c. The email subject line shall read: *(Insert Provide Name) - COVID-19 Site Form - (insert date)*
2. DDA shall:
    - a. Acknowledge receipt of email from the providers with the following message: *“The DDA acknowledges receipt of this email.”;*
    - b. Log information into COVID-19 tracking sheet under the DDA Site/Ratio Tracking tab.
      - i. Enter date email received, Region, and provider name in corresponding rows A to C.
      - ii. Copy from the provider form data from rows A through K and paste in rows D through N in the DDA tracking sheet.
    - c. Send the following email to the participant’s Coordinator of Community Services (CCS):

- i. The email subject line shall read: *(Insert Person's LTSS ID#) - COVID-19 Service Site- (insert date)*
  - ii. Message: *(Insert name of participant)* services are being provided at *(insert new service site address from tracking sheet)* for *(insert purpose)* effective *(insert effective date)*.
3. Coordinate of Community Services (CCS) shall:
  - a. Enter progress notes into LTSSMaryland with the details contained in the email;
  - b. Monitor the provision of DDA services;
  - c. Document contact within LTSSMaryland monitoring and follow up forms and health check progress notes;
  - d. Inform the DDA Regional Office of any discrepancies; and
  - e. File incident reports as applicable.

**Applicable Resources:**

[DDA Waivers - Appendix K Webpage Memo—](#)

[Appendix K Flexibilities Update – August 13, 2021](#)