

# **N.C. Innovations Waiver Service Providers**

## **COVID-19 Appendix K Retainer Payment Form**

In response to the COVID-19 pandemic State of Emergency, the federal Centers for Medicare & Medicaid Services (CMS) approved NC Medicaid's request to implement flexibilities to the NC Innovations Waiver under the Appendix K Emergency Preparedness and Response Waiver Request beginning March 13, 2020. These Appendix K flexibilities have been extended to at least July 12, 2022.

One of the temporary flexibilities permitted by CMS allows Vaya Health to provide retainer payments to Innovations Waiver service providers and Employers of Record (EORs) for their Direct Support Professionals, or DSPs, who normally provide habilitation and personal care services to a Vaya plan member if: (a) the DSP is the primary staff providing the Innovations Waiver service to the member (for relatives as direct support employees to be eligible for a retainer payment, they must have been providing services as a primary DSP on or before March 13, 2020); and (b) the DSP is currently unable to provide services to the member due to complications experienced during the COVID-19 pandemic, either because the member or relative who resides with the member is sick due to COVID-19 or is sequestered and/or quarantined based on local, state, federal, and/or medical requirements/orders or because the primary DSP is sick due to COVID-19 (the person does not have to have a positive test but does need to have COVID-19 symptoms).

Retainer payments may only be made for Innovations Waiver services as authorized in the member's approved plan of care (POC) and may not add up to more than the total number of hours per service approved in the POC. These payments are for primary staff that provide regularly scheduled Innovations Waiver Community Living and Supports (CLS), Community Networking, Day Supports, Residential Supports, Supported Living, and/or Supported Employment services. Individuals who are identified as paid or unpaid back-up staff are not eligible for retainer payments. Retainer payments, which are not for services rendered, will be paid according to the standard service reimbursement rates listed in the [Vaya Health Medicaid C Rate Schedule](#) posted on the Vaya website.

CMS allows retainer payments to be provided for no more than 30 consecutive days; however, more than one 30 consecutive day period is allowed. The ability to receive a retainer payment will end when the member is again able to receive services. Vaya will issue an authorization approval letter for retainer payment requests that identifies the member, the provider, the service code and modifiers, and the approved units. If approved, you will also receive a letter explaining for which staff persons and time periods the approved funds may be used to compensate. In order to receive approved retainer payments, providers must execute a contract amendment covering the approved request and payment and must file claims through AlphaMCS using the "CR" and "XU" modifiers.

Vaya conducts a weekly retroactive review for retainer payments. This means that you may submit a retainer payment request the day following the week for which you are seeking payment, e.g., on Jan. 31, 2022, you may submit a retainer payment request for Jan. 24 through Jan. 28, etc. Your DSPs must timely complete service grids indicating the dates and times they did not work in the prior week, and both the DSP and the Qualified Professional/ EOR must sign and date the grids. Upon request, you must provide these service grids to Vaya.

If you, as the Innovations Waiver service provider (including Agency with Choice provider or Employer of Record), believe you meet the above-referenced guidelines and can attest in good faith to the statements below, to request a retainer payment for your DSP(s) under Appendix K, please complete this COVID-19 Appendix K Retainer Payment Request Form and electronically submit it via email to: [Retainer.Payments@vayahealth.com](mailto:Retainer.Payments@vayahealth.com). **The form, including the attestation below, must be completed separately for each applicable member.**

#### **MEMBER INFORMATION**

**Member name:** \_\_\_\_\_  
**Member Vaya ID number:** \_\_\_\_\_  
**Medicaid ID number:** \_\_\_\_\_

#### **PROVIDER AGENCY/EOR INFORMATION**

**Provider agency/EOR name:** \_\_\_\_\_  
**If EOR, name of Financial Support Agency:** \_\_\_\_\_  
**Individual completing form:** \_\_\_\_\_  
**Primary email address:** \_\_\_\_\_  
**Primary phone number:** \_\_\_\_\_

#### **STAFF INFORMATION**

**Provider Staff Name:** \_\_\_\_\_  
**Staff Hire Date (specific to this member):** \_\_\_\_\_  
**Staff Pay Rate (specific to this member):** \_\_\_\_\_  
**Service Delivered:** \_\_\_\_\_  
**Regularly Scheduled Hrs/Wk for Date Range:** \_\_\_\_\_  
**Requested Date Range for Retainer Payment:** \_\_\_\_\_ (<31 consecutive days)

**Provider Staff Name:** \_\_\_\_\_  
**Staff Hire Date (specific to this member):** \_\_\_\_\_  
**Staff Pay Rate (specific to this member):** \_\_\_\_\_  
**Service Delivered:** \_\_\_\_\_  
**Regularly Scheduled Hrs/Wk for Date Range:** \_\_\_\_\_  
**Requested Date Range for Retainer Payment:** \_\_\_\_\_ (<31 consecutive days)

**Provider Staff Name:** \_\_\_\_\_  
**Staff Hire Date (specific to this member):** \_\_\_\_\_  
**Staff Pay Rate (specific to this member):** \_\_\_\_\_  
**Service Delivered:** \_\_\_\_\_  
**Regularly Scheduled Hrs/Wk for Date Range:** \_\_\_\_\_  
**Requested Date Range for Retainer Payment:** \_\_\_\_\_ (<31 consecutive days)

**Note:** If you have additional staff to list, complete the requested information on a separate sheet(s) and attach.

## PROVIDER ATTESTATION

The provider agency or EOR completing this form agrees, understands, and acknowledges that by submitting this form to Vaya Health, you are attesting that:

- ☐ The staff was/were employed by you to deliver the weekly amount of Innovations Waiver service(s) identified below to the member identified below.
- ☐ If the staff is/are a relative as direct support employee, the staff was/were employed by you as the primary staff for the member identified below and was/were delivering the weekly amount of Innovations Waiver service(s) identified below to the member identified below as of March 13, 2020.
- ☐ The staff continue(s) to be employed by you to deliver services to the member identified below.
- ☐ The staff is/are not considered or identified to be back-up staff for the member.
- ☐ The retainer payment will not include a request for any hours exceeding the type and amount of services authorized by Vaya.
- ☐ **Only select those that apply:** You are making this request because:
- ☐ The member or a relative residing with the member is sick due to COVID-19.
- ☐ There are federal, state, local, or medical requirements/orders in place requiring the member or a relative residing with the member to be sequestered or quarantined due to COVID-19.
- ☐ The staff is sick due to COVID-19.
- ☐ None of the above.
- ☐ You intend to continue to employ the staff to deliver Innovations Waiver services to the member identified below after the flexibilities and waivers in Appendix K end.
- ☐ On a weekly basis, you will conduct a reassessment of the member's ability to receive services and report information or provide supporting documentation (including a service grid) if and when requested by Vaya.
- ☐ You will continue to ensure the health, safety, and welfare of the member, to the best of your ability.
- ☐ You will continue to monitor the member's support needs.
- ☐ **The staff listed below has not applied for or received, and does not intend to apply for or receive, federal or state unemployment compensation for the dates of service and hours not worked but requested to be paid as a retainer payment herein.**
- ☐ **The employee is not receiving paid sick leave or family and medical leave allowed under the Family Medical Leave Act (FMLA) or Families First Coronavirus Response Act (FFCRA) for the dates of service and hours not worked but requested to be paid as a retainer payment herein.**
- ☐ **You will utilize the retainer payment funds for the sole and express purposes of paying wages to and overhead costs associated with, the primary DSP staff who are approved by Vaya for the services and period of time covered by such approval.** You will remit payment to the Vaya-approved staff no later than 15 calendar days, or your next pay period, whichever is later, following receipt of funds from Vaya. You will also retain appropriate documentation (e.g., payroll records, retainer agreements with staff, and service grids) following receipt of funds from Vaya.
- ☐ The staff informed you in writing that they understand, agree, and accept the funds you pay to them, or to cover their direct payroll taxes, as a retainer payment for them to begin delivering Innovations Waiver services to the

member identified below as soon as the member is able to receive services from them. Beginning June 1, 2020, staff will also be required to timely complete a service grid noting "COVID-19". Both the staff and Qualified Professional/Employer of Record or the EOR Representative must sign and date the service grid. Documentation shall be maintained by you.

- ☐ You understand that this retainer payment is not an entitlement to you or to your staff and that neither you nor your staff have a continued property or liberty interest or right in and to the retainer payment.
- ☐ If you are approved for a retainer payment for one or more of your staff, an amendment to your existing contract with Vaya, which amendment covers the retainer payment approved for this request, is required to receive these payments and this attestation will be incorporated by reference into the contract amendment *(for provider agencies, including the FSSA for EORs, only)*.
- ☐ Requesting and/or accepting payment based on inaccurate or fraudulent information is a serious violation and could result in adverse action up to and including return of funds, termination from the EOR model (EORs only), termination of your contract (provider agencies only), and/or referral to the NC Division of Health Benefits for fraud.
- ☐ You will return any retainer payment to which you or your staff were not entitled, whether due to error or change in circumstances following receipt of the payment from Vaya.
- ☐ The information submitted is truthful, accurate, and complete, to the best of your knowledge.

The individual electronically signing below certifies that they have the authority to submit this form and attest to the above-listed information on behalf of the provider, or as the EOR, listed above.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**FOR INTERNAL VAYA USE ONLY**

Internal review: ☐ Approved ☐ Partially Approved ☐ Denied

Initials: \_\_\_\_\_

Date: \_\_\_\_\_