

CMS Questions #3 January 13, 2021

Virtual Supports Service Delivery Method

1. Community Integration

Please amend the following bullet to ensure that the other Waiver programs will also not be provided via virtual supports: *The participant has other opportunities for integration in the community via the other Waiver program services which the participant receives and are provided in community settings.*

Response: The portal has been updated to include the requested language.

2. Ensuring individual's rights to privacy

Thank you ensuring that the state will comply with HIPAA and all federal and State requirements, policies, guidance, and regulations. CMS requests further information about how the state will ensure an individual's right to privacy in accordance with the Home and Community-Based settings requirement at 42 CFR 441.301(c)(4)-(5) when virtual supports are utilized in the home. Please provide these details in each of the applicable service definitions.

Response: The State added additional details to each of the applicable service definitions and the portal has been updated. The information added is similar to the privacy related requirements noted under our Remote Support Service as noted below.

- The virtual supports ensure the participant's rights of privacy, dignity and respect, and freedom from coercion and restraint
- The provider must develop, maintain, and enforce written policies, approved by the DDA, which address:
 - How the provider will ensure the participant's rights of privacy, dignity and respect, and freedom from coercion and restraint;
 - How the provider will ensure the virtual supports used meets applicable information security standards; and
 - How the provider will ensure its provision of virtual supports complies with applicable laws governing individuals' right to privacy.

3. Effective Dates

CMS understands the state's concern with a prospective date. Per 42 CFR 441.304(d)(2), waiver amendments that include changes that are substantive may take effect only on or after the date of CMS approval. Substantive changes include changes in rate methodology. Please update the effective dates of the amendments to a prospective date or indicate if the state would like the amendments to be effective upon CMS approval

Response: The State asks that the effective date be the date that CMS approves.