

Summary of Public Comments and SDS Responses
Flexibilities Made Permanent Proposed Regulations

The following contains SDS' responses to topics of concern that were raised in public comment received on proposed changes to proposed Flexibilities Made Permanent regulations. Comments that are substantially similar have been grouped.

COMMENTS: Highly in favor of making the COVID-19 flexibilities permanent and appreciate the work of SDS in preparing this package. Suggest an increase in the 10% limit on distance delivery and day habilitation in a residential setting.

RESPONSE: In order to safeguard against social isolation and in consideration of health and safety, SDS, in consultation with CMS, has determined that 10% is a good starting place for the implementation of distance delivery day habilitation in residential settings. Depending on several factors, including stakeholder input, adjustments may be made in future regulation packages.

COMMENTS: Many comments in support of distance delivery for direct care services and Care Coordination. Several requested a change in the proposed definition of "distance delivery" to include phone-only communication to accommodate rural areas.

RESPONSE: SDS has determined that distance delivery must have both audio and visual components so that issues of health and safety can be fully identified and acted upon. Amendments in this regulation package do not limit the number of phone calls that service providers may make at their discretion and as needed. Phone calls may add to but do not replace the required in-person or distance delivery detailed in the amendments.

COMMENTS: Comments in favor of the reduction in the number of in-person visits required of Care Coordinators. There is an objection to the decrease in in-person visits by Care Coordinators.

RESPONSE: The in-person visit requirement for Care Coordinators is the minimum requirement to ensure health and safety. Care Coordinators may conduct any number of in person visits as determined by the needs of their recipient.

COMMENTS: Several comments in favor of the amendment to the training requirement for Cardiopulmonary Resuscitation (CPR)/First Aid (FA). There is an objection to American Heart Association (AHA) and American Red Cross (ARC) as only "vendors" for CPR/FA.

RESPONSE: The amendment does not indicate or require a specific vendor; the intent was that the training meets the standards of the AHA or the ARC. SDS will revise the amendment so that it is understood that the training for CPR/FA must meet the standards of the AHA or ARC.

COMMENTS: Consistently positive comments about the amendment allowing unpaid primary care givers to use Respite services while at work.

RESPONSE: SDS concurs.

COMMENTS: Consistently positive comments about the amendment allowing for e-signatures.

RESPONSE: SDS concurs.

COMMENTS UNRELATED TO THE FLEXIBILITIES MADE PERMANENT REGULATIONS PACKAGE:

Comments objecting to the educational requirements for DSP of employment services.

Comment on the current delay in establishing level of care for eligibility for waiver services.

RESPONSE: SDS acknowledges receipt of these concerns, but will not consider them as this regulations package moves forward because they do not relate to the topics of the proposed regulations