



# **EVV REQUIREMENTS IN THE 21<sup>ST</sup> CENTURY CURES ACT**

**Division of Long Term Services and Supports  
Disabled and Elderly Health Programs Group  
Center for Medicaid and CHIP Services**

# Training Objectives

- Introduce the purpose, federal guidance, and functions of electronic visit verification (EVV) solutions.
- Review how states use EVV to verify delivery of personal care services (PCS) and home health care services (HHCS) under the 21<sup>st</sup> Century Cures Act.
- Discuss how EVV can improve existing fiscal integrity processes for home and community-based services (HCBS).
- Review specific strategies and recommendations for incorporating EVV data and processes into states' HCBS program integrity efforts.
- Discuss promising practices for implementing an effective EVV solution.
- Provide an EVV policy update.

# Introduction to Electronic Visit Verification

# What is Electronic Visit Verification?

## **Electronic Visit Verification (EVV).**

- A technological solution used to electronically verify whether service providers delivered or rendered services as billed.

## **EVV systems must verify the:**

- **Type** of service performed.
- **Individual receiving** the service.
- **Date** of service.
- **Location** of service delivery.
- **Individual providing** the service.
- **Time** the service begins and ends.

# Federal Guidance

**Section 12006(a) of the 21<sup>st</sup> Century Cures Act** (the Cures Act) requires that states implement EVV for all Medicaid PCS and HHCS requiring an in-home visit by a provider.

- States must implement EVV for personal care services by January 1, 2020 (as amended by [legislative action](#) in 2018) and for home health care services by January 1, 2023.
- Noncompliance may result in incremental federal match reductions up to 1 percent unless the state has made a “good faith effort” to comply but has encountered “unavoidable delays.” States with good faith effort exemptions will not be subject to federal match reductions in 2020.

# Federal Guidance

## Personal Care Services (PCS) Definition.

- Definitions of “personal care services” and “self-directed personal assistance services” at 42 CFR §§440.167 and 441.450 apply, as do any state-specific definitions of the term or similar terms (e.g., personal attendant services, personal assistance services, attendant care services, etc.).
- The definition of “personal care services” is not uniform across all the authorities under which it can be covered as a Medicaid benefit, but in general, it consists of services supporting Activities of Daily Living (ADL), such as movement, bathing, dressing, toileting, transferring, and personal hygiene.
- Personal care services can also offer support for Instrumental Activities of Daily Living (IADL), such as meal preparation, money management, shopping, and telephone use.

# Federal Guidance

## **Personal Care Services (PCS) Definition – Continued.**

- Note that the Cures Act is not limited to services explicitly titled PCS or HHCS in the state's waiver or state plan.
- If the service includes PCS or HHCS, even if it has a different name or also includes other services, it is subject to EVV.
  - All services requiring an in-home visit that are included in claims under the home health category or PCS categories on the CMS-64 form are subject to the EVV requirement.

# Federal Guidance

## Personal Care Services (PCS) Definition – Continued.

- The following services are not considered PCS for the purposes of EVV implementation and therefore are not subject to Section 12006 of the Cures Act:
  - PCS provided in settings offering 24-hour service availability
    - CMS interprets the reference in the statute to an “in-home visit” to **exclude** PCS provided in congregate residential settings where 24 hour service is available.
  - PCS provided to inpatients or residents of hospitals, nursing facilities, or intermediate care facilities (ICFs) for individuals with intellectual disabilities, or an institution for mental diseases (IMD)
  - PCS that do not require an in-home visit.
  - Services consisting of only IADLs (e.g., chore and homemaker services), as long as they are not billed as PCS.
  - PCS provided by caregivers that live with the beneficiary.



# Federal Guidance

## Home Health Care Services (HHCS) Definition.

- SSA Section 1903(l)(1) specifies that the EVV requirement applies to “Personal care services or home health care services requiring an in-home visit by a provider that are provided under a state plan under this title (or under a waiver of the plan)...”.
- Similarly, section 1903(l)(5)(B) defines home health services for purposes of the EVV requirement to mean “services described in section 1905(a)(7) provided under a state plan under this title (or under a waiver of the plan).”
- Therefore, any home health services that the state has opted to cover under the state plan or under a waiver of the plan, and that require an in-home visit, would be subject to the EVV requirement.
- EVV requirements do not apply to the component of home health services authorizing the provision of medical supplies, equipment or appliances.

# Required Medicaid Authorities per Section 12006 of the Cures Act

## **Medicaid PCS Authorities Subject to EVV Requirements.**

- 1905(a)(24) State Plan Personal Care benefit.
- 1915(c) HCBS Waivers.
- 1915(i) HCBS State Plan option.
- 1915(j) Self-directed Personal Attendant Care Services.
- 1915(k) Community First Choice State Plan option.
- 1115 Demonstration.

## **Medicaid HHCS Authorities Subject to EVV Requirements.**

- 1905(a)(7) State Plan Home Health Services.
- Home health services authorized under a waiver of the plan.

**Note:** EVV requirements do not apply to the Program of All-Inclusive Care for the Elderly (PACE).

# EVV System Models

States have flexibility in selecting an EVV model most compatible with their Medicaid program, contingent on the model meeting statutory requirements.

## **Five major models have been identified by CMS:**

- **Provider Choice:** Providers select their EVV vendor of choice and self-fund EVV implementation.
- **Managed Care Plan (MCP) Choice:** MCPs (rather than providers) select and self-fund their EVV vendor solution.
- **State Mandated In-House System:** The state develops, operates, and manages its own EVV system, allowing standardization and access to data without a need to aggregate from diverse external EVV systems.
- **State Mandated External Vendor:** The state contracts with a single EVV vendor to implement a single EVV solution.
- **Open Choice:** The state contracts with at least one EVV vendor or operates its own EVV system while still allowing providers and MCPs with existing EVV systems to continue to use those systems.

# Fiscal Integrity and EVV

# Fiscal Integrity and EVV

- EVV requirements were included in the Cures Act in response to long-standing **fraud, waste, and abuse (FWA) concerns** for Medicaid PCS and HHCS.
- More than 30 reports by the HHS OIG have uncovered systemic fraud in PCS.
  - In 2010, the OIG found that nearly one in five PCS claims were undocumented and/or there was no record for billed claims, amounting to **\$63 million in undocumented Medicaid PCS claims that year**.
  - In 2015, cases involving PCS providers accounted for nearly **12 percent of total fraud investigations** – although PCS payments comprised only two percent (about \$13 billion) of total Medicaid expenditures that fiscal year.
- In **2015** and **2017**, CMS issued additional guidance for preventing improper payments for personal care services, citing OIG findings.
- The Congressional Budget Office (CBO) anticipates that EVV will save states \$290 million over a 10-year period.

# Potential Benefits from EVV

## **Service Verification Efficiency.**

- Automation of service verification.
- Decreased reliance on maintaining and retaining paper records due to electronic service records.
- Assurance that payment is based on actual service delivery at recorded check-in and check-out times and locations.

## **Quality of Service Verification and Delivery.**

- Assurance that payment is based on appropriate service delivery as identified on the individual's person-centered service plan.
- Reinforcement of pre-payment validation methods that allow individuals and families to verify the services rendered.
- Protection of individuals' health and welfare through verification that services were delivered as identified in the service plan.

## **Return on Investment.**

- Reductions in inappropriate billings may lead to improved payment efficiency resulting in state savings and opportunities for investment in other community resources or state initiatives.

# Fiscal Integrity in HCBS

An effective EVV solution can assist states with ensuring and improving the integrity of their HCBS programs through processes including:

- **Billing Validation.**
  - Pre-Payment Review.
- **Financial Integrity and Accountability.**
  - Post-Payment Review.
- **Billing and Claims Record Maintenance.**

States may also use data gathered through their EVV system(s) to assess **Quality Improvement Strategies (QIS)** as well as other analyses of program integrity, access, and quality.

# Billing Validation



# Billing Validation

## Overview of Billing Validation.

- Billing validation involves **pre-payment reviews** and other processes designed to ensure that only valid billings are paid to providers and included in the state's claim for federal financial participation.
- Generally, providers' billing for HCBS must meet **four essential tests** for validity:
  - 1) The individual was eligible to receive Medicaid services on the date of service.
  - 2) The service billed was included in the individual's approved service plan (if applicable).
  - 3) The services were provided.
  - 4) The provider was qualified to render the service.

# Billing Validation – First Essential Test

**The individual was eligible to receive Medicaid services on the date of service.**

- The EVV system is required to capture the **individual receiving** the service and the **date of service delivery**.
  - Integration between an EVV solution and the state's MMIS can automatically compare the individual's eligibility dates with the date of the service.
  - While an EVV solution is not required to assess or determine individual eligibility, the captured date of service can serve as a data source for enforcing service eligibility requirements.

# Billing Validation – Second Essential Test

**The service billed was included in the individual’s approved service plan (if applicable).**

- The EVV system is required to capture the **type of service** delivered.
- Integration between an EVV solution and the individual’s service plan and/or prior authorizations can ensure the service billed was both delivered and included in the individual’s service plan.
  - Implementing EVV can supplement and/or improve existing processes that determine whether a service was included in the individual’s approved service plan.
  - States can also implement pre-payment controls into an EVV solution to prevent time entry for services not authorized by the individual’s person-centered service plan or for entries beyond the scope, duration, and/or frequency identified by the service plan.

# Billing Validation – Third Essential Test

## The service was actually provided.

- The EVV system is required to capture the **individual receiving** the service, the **individual providing** the service, the **time** the service begins and ends, and the **location** of the service.
  - These elements inform the third essential test for validating a claim.
  - The state can compare EVV records, provider billings, and scheduling information to confirm whether billed services were rendered:
    - For the duration identified on the claim.
    - At the appropriate location.

# Billing Validation – Fourth Essential Test

## **The provider was qualified to render the service.**

- States are required to:
  - Ensure beneficiaries have free choice of providers.
  - Establish provider qualifications.
  - Enroll all willing and qualified providers and establish payment for services.
- EVV systems are required to capture the **individual providing the service** and can therefore help states ensure that services are only rendered by qualified providers (e.g., by only allowing qualified providers access to the system).

# Improving Billing Validation

## Opportunity for EVV to Improve Billing Validation.

- The six required data elements collected by an EVV solution can satisfy the four essential tests for billing validation.
  - Through **regular and automatic collection of relevant information**, EVV solutions can assist with confirming that providers' billings are for appropriate service delivery.
  - EVV provides data that a state can use to compare with MMIS records.
- A number of states that have implemented EVV integrate EVV data with their state's MMIS to conduct more robust or reliable pre-payment reviews.

# Fiscal Integrity and Financial Accountability

# Fiscal Integrity and Financial Accountability

## Overview of Financial Accountability.

- Financial accountability necessitates a **post-payment review program** to ensure the integrity of provider billings for Medicaid payment.
- A post-payment review is conducted *after* a provider has been paid for rendering services. While pre-payment reviews are critical for discovering and preventing fraudulent claims from being paid, post-payment reviews assist with:
  - Recoupment of inappropriate payments.
  - Discovery of additional cases of FWA.
  - Prevention of future incidents of FWA.



# Using EVV to Improve Post-Payment Reviews

## Opportunity for EVV to Improve Post-Payment Reviews.

- An EVV solution can help automate post-payment review processes and allow states to expand the scope and frequency of reviews.
  - **Methods:** Post-payment reviews may require compilation and comparison of provider billings and claims, service plans, and progress notes to review billing information. The EVV system can assist with compiling all information relevant to a post-payment review.
  - **Scope:** The EVV system can quickly compare and confirm service information. As a result, states may be able to expand the scope of reviews to capture a larger sample of claims.
  - **Frequency:** Automatic, regularly scheduled audits may allow for identification of problematic billings in nearly real-time.

# Record Maintenance and Retention

# Records Maintenance and Fiscal Integrity

## **Significance of Records Maintenance for Fiscal Integrity.**

- Maintaining complete and accurate service documentation is an integral part of states' fiscal integrity and quality reporting efforts.
  - Undocumented service claims remain an issue in HCBS resulting in overpayments. CMS has identified states' payments of claims without supporting documentation as one of the five most common types of improper PCS payments.
  - Post-payment reviews rely on provider documentation to verify whether billed services were rendered. An EVV system can assist with hosting or integrating progress or service delivery notes for providers.
  - Proper record-keeping and maintenance can also assist states with proactively identifying potential quality of care issues and facilitating efficient compliance with CMS quality requirements.

# Considerations for Incorporating EVV into Existing HCBS Fiscal Integrity Efforts

# Incorporating EVV Data and Processes – Promising Practice

## Promising Practice for Expanding the Role of EVV.

- One state implemented EVV in January 2017 after a **trial period** allowing providers to gain familiarity with EVV prior to implementation.
  - The state conducted a **robust stakeholder engagement process** including publication of a dedicated website for EVV implementation to disseminate updated information.
  - Providers use EVV for **scheduling, service authorization**, and other administrative functions to **improve coordination of care**.
  - The state **integrated the EVV solution with its claims payment process** and uses EVV to improve program oversight.

# Improving Program Oversight through EVV – Promising Practice

## Promising Practices for Improving Program Oversight

- One state allows case managers and/or support coordinators to access certain information collected by its EVV system. Case managers use this information to improve program oversight and more closely monitor individual access to care.
  - EVV allows case managers to verify that individuals are receiving the services they are authorized to receive.
  - Case managers can receive alerts and be notified of late and/or missed visits.
  - The case manager is able to **review scheduling changes** using EVV if there are changes in the individual's condition. With this information, a case manager can further investigate, for example, whether there are changes in the individual's condition that may necessitate a review of their plan and the delivery of new services.

# Integrating EVV with Other Solutions

## Integrating EVV systems with other state systems and processes.

- Greater integration of EVV systems with states' other monitoring and data systems allows for better oversight and analysis.
  - **Claims and MMIS:** Systems can interface with MMIS to streamline submission of claims to the appropriate payer.
  - **Fraud, Waste, and Abuse:** Systems can interface with the processes combating FWA by providing real-time electronic data that confirms delivery of services as billed. States may subject manually-entered data for additional review.
  - **Prior Authorizations:** Systems can interface with authorizations and service plans so that providers can only bill for services at the planned time and in the specified type, scope, amount, duration, and frequency identified in the individual's approved person-centered service plan.
- States may find that integrating EVV into other technical systems and processes enhances the state's administrative and oversight effectiveness.

# Promising Practices for EVV Implementation



# Design and Implementation

## **Design systems to function in accordance with the needs of the state.**

States that have implemented EVV solutions prioritized the needs of their constituents by designing a solution best suited for the unique demands of their state.

- One state has focused on meeting **minimum compliance** with the Cures Act, designing a system that can capture the six required data elements without imposing further requirements on providers.
- Another state has opted, in collaboration with the managed care organizations (MCOs) in the state, to integrate “**value-add**” **capabilities** with its system.
  - These include a database of service plans, point-of-service capture of member satisfaction, and facilitation of real-time communication between a provider and the MCO.

# Design and Implementation

## **Leverage experience from other program implementations as well as existing relationships and capacity.**

- Lessons learned from other large-scale program implementations can provide a roadmap for states in their EVV implementation.
- States which have implemented EVV have streamlined the contracting process by working with, for example, their MMIS vendor to determine a best-fit solution.

## **Ensure the EVV solution works for all areas and populations in the state.**

- Areas with limited or no internet connectivity may require additional technical support or flexibility for effective verification.
- Certain populations, including those with high-intensity needs or those who self-direct their services, may require careful consideration by the state in how to best verify their services without disrupting care.

# Design and Implementation

## **Build flexibility into the EVV solution.**

- States should consider enhancing their EVV systems with any number of supplemental capabilities including:
  - Edits and exceptions, consistent with the Cures Act.
  - Integration with other state systems.
  - Offline modes.
  - Scheduling.
  - Service notes.
  - Secondary verification.

# Design and Implementation

## **Pilot the EVV solution with “early adopter” providers.**

- Multiple states which have implemented EVV initially piloted EVV requirements in selected regions or with selected providers.
  - One state began a pilot in its largest and most populous county before expanding EVV requirements throughout the state.
  - One state leveraged service providers already experienced with using smart devices under EVV to help train less-experienced colleagues.
- Piloting or phasing-in EVV requirements gives providers flexibility and independence in onboarding and implementation, which can help acclimate them to the EVV process.

# Ongoing Operation

**Continue seeking and incorporating stakeholder feedback during system operation, remembering that EVV is a process more than a system.**

Lessons learned from ongoing operation of an EVV solution may require accommodations, enhancements, or wholesale changes at the state level.

- One state originally offered verification solely through a fixed in-home device with telephonic entry, but transitioned to an application on a provider's mobile device due to stakeholder concerns and program inefficiencies.
- EVV is a process, more than a system – changing the system to **improve the process** may be necessary and states should account for the potential need for ongoing updates as they contract with EVV vendors to accommodate changing needs.

# Ongoing Operation

## Develop a public-facing document with relevant information for interested parties.

States may find value in sharing information related to EVV, especially answers to frequently asked questions (FAQs), with the public through a public-facing website or other regular communications.

- Some states publish a “**living**” or regularly-updated document which **answers questions** about basic requirements, timelines for EVV implementation, EVV system details, rationale behind state decisions, and various other topics presented by interested stakeholders.
  - Colorado’s FAQ document is available here:  
<https://www.colorado.gov/hcpf/electronic-visit-verification-frequently-asked-questions>

# Ongoing Operation

## **Offer accessible and flexible trainings.**

- States should consider offering training opportunities that are accessible to all stakeholders to ensure relevant EVV information is adequately distributed in a timely manner.
- States can offer a **variety of trainings** including instructor-led, in-person trainings as well as training via live webinars, postings on provider portals, podcasts, and one-on-one training sessions.

## **Use captured data for quality improvement and oversight.**

- As discussed throughout this session, states have access to new data which they can use to monitor and improve program integrity.

# Electronic Visit Verification Policy Update



# 2019 Informational Bulletin

In response to concerns and questions from states and stakeholders, CMCS issued a new [Informational Bulletin](#) with the following guidance:

- EVV requirements do not apply when the caregiver providing the service and the beneficiary live together.
- EVV requirements do not apply to the component of home health services authorizing the provision of medical supplies, equipment or appliances.
- If a PCS or HHCS is provided both in the home and in the community during the same visit, EVV is only required for the portion of the service rendered in the home.
- Web-based timesheets alone are not sufficient for satisfying Cures Act requirements.

# Good Faith Effort

The Cures Act includes a provision that allows states to delay implementation of EVV for up to one year, without associated reductions in federal medical assistance percentage (FMAP), if the state can demonstrate that it has:

- Made a **good faith effort** to comply.
- Encountered **unavoidable delays** in system implementation.

## **Good Faith Effort (GFE) Exemptions**

- CMS began accepting requests for GFE exemptions in **July 2019**.
- States are encouraged to submit requests by **November 2019**.

# Good Faith Effort Exemption Request

## Good Faith Effort (GFE) Exemptions (cont.)

- The [Good Faith Effort Request Form – Personal Care Services](#) may be submitted by the State Medicaid Director or their designee.
  - States should email [EVV@cms.hhs.gov](mailto:EVV@cms.hhs.gov) their completed requests.
- The Cures Act provision on good faith effort exemptions does not provide CMS with authority to delay the FMAP reductions for more than one year.
- Additional guidance on the good faith effort provision and GFE exemption requests is available in a [May 2019 EVV Update](#) on the CMS website.

# Attestation of Compliance

January 1, 2020, begins the first quarter during which states may receive a reduced federal match for PCS if **not** compliant with the Cures Act and they have **not** received approval for a GFE exemption.

States must submit an **attestation of compliance** to CMS so CMS can determine whether an FMAP reduction will apply. This will include:

- An **assessment** of compliance according to multiple assurances and authorities.
- **Evidence** that the EVV solution addresses the requirements of the Cures Act.

## Attestation of Compliance

- CMS will disseminate relevant information no later than **November 2019**. The document for attestation is located here: [attestation of compliance](#).
- States can update their attestation at any time.

# Summary

- Implementing EVV for PCS and HHCS is a mandatory requirement of the Cures Act.
- States will find that beyond compliance with the Cures Act, implementation of a robust EVV solution can assist to promote fiscal integrity of their HCBS programs.
- Operation of an EVV solution can improve the accuracy, efficiency, and quality of service verification and delivery.
- States should ensure their EVV system is flexible and responsive to the needs of providers, individuals, and their families.
- States should routinely seek and incorporate stakeholder input throughout the EVV implementation process.

# Additional Resources

- Copies of the HCBS Training Series – Webinars presented during Medicaid Monthly Update calls are located at the link below:  
<https://www.medicaid.gov/medicaid/hcbs/training/index.html>
- The 1915(c) Technical Guide is located here:  
<https://www.nasdds.org/uploads/documents/Version3.6InstructionsJan2019.pdf>
- CMS offers Technical Assistance (TA) for rates and fiscal integrity topics as well as for electronic visit verification. Refer to the websites below for more information.
  - Rates TA: <https://www.medicaid.gov/medicaid/hcbs/downloads/technical-assistance/hcbs-rates-and-fiscal-integrity-ta.pdf>
  - EVV TA: <https://www.medicaid.gov/medicaid/hcbs/downloads/technical-assistance/evv-ta.pdf>
  - Note that Technical Assistance requests require State Medicaid Director approval upon submission.

# Additional Resources on EVV

- Refer below for guidance and additional information regarding electronic visit verification:
  - [Good Faith Effort Request Form](#) from May 2019.
  - [CMS Update on EVV](#) from August 2018.
  - [NASUAD Pre-Conference Intensive](#) from August 2018.
  - [NASUAD Conference Workshop](#) from August 2018.
  - [CMCS Informational Bulletin](#) from May 2018.
  - [Frequently Asked Questions](#) from May 2018.
  - [Promising Practices for States Using EVV](#) from January 2018.
  - [Requirements and Considerations](#) from December 2017.

# References

- [Combating Waste, Fraud, and Abuse in Medicaid's Personal Care Services Program](#) before the House Subcommittee on Energy and Commerce in May 2017.
- [Preventing Medicaid Improper Payments for Personal Care Services](#) from CMS in November 2017.
- [Medicaid Fraud Control Units: Investigation and Prosecution of Fraud and Beneficiary Abuse in Medicaid Personal Care Services](#) from the Health and Human Services Office of Inspector General in December 2017.
- [Electronic Visit Verification Implications for States, Providers, and Medicaid Participants](#) from the National Association of States United for Aging and Disabilities in May 2018.



**Questions?**

# For Further Information

**For further information, contact:**

[EVV@cms.hhs.gov](mailto:EVV@cms.hhs.gov)