

Project 5467 - NOIRA

As of August 23, 2018

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Electronic Visit Verification

#### 12VAC30-60-65. Electronic Visit Verification (EVV).

##### A. Definitions.

"Aide" or "aides" means the person that is employed by an agency to provide hands-on care.

"Agency-directed services" means a model of service delivery where an agency is responsible for providing direct support staff, for maintaining individuals' records, and for scheduling the dates and times of the direct support staff's presence in the individuals' homes for personal care services, respite care and companion services.

"Attendant" or "attendants" means the person that is hired by the individual consumer to provide hands-on care.

"Companion services" means nonmedical care, supervision, and socialization provided to an adult individual (ages 18 years and over). The provision of companion services shall not entail hands on care but shall be provided in accordance with a therapeutic goal in the Individual Support Plan and is not purely diversional in nature.

"Consumer-directed attendant" means a person who provides consumer-directed personal care services, respite care, companion services, or any combination of these three services, who is also exempt from workers' compensation.

"Consumer-directed (CD) services" means the model of service delivery for which the individual enrolled in the waiver or the individual's employer of record, as appropriate, is

responsible for hiring, training, supervising, and firing of the attendant or attendants who render the services that are reimbursed by DMAS.

"DMAS" means the Department of Medical Assistance Services.

"Electronic visit verification" or "EVV" means a system by which personal care services, companion services or respite care home visits are electronically verified with respect to (i) the type of service performed; (ii) the individual receiving the service; (iii) the date of the service; (iv) the location of service delivery; (v) the individual providing the service, and; (vi) the time the service begins and ends.

"Individual" means the person who has applied for and been approved to receive services for which EVV is required.

"Personal care services" means a range of support services that includes assistance with Activities of Daily Living and Instrumental Activities of Daily Living, access to the community, and self-administration of medication or other medical needs, and the monitoring of health status and physical condition provided through the agency-directed or consumer-directed model of service. Personal care services shall be provided by personal care attendants or aides within the scope of their licenses or certifications, as appropriate.

"Respite care" means services provided to waiver individuals who are unable to care for themselves that are furnished on a short-term basis because of the absence of or need for the relief of the unpaid primary caregiver who normally provides the care.

B. Applicable services. All of the requirements for an electronic visit verification system shall apply to all providers, both agency-directed and consumer-directed of personal care services, respite care, and companion services.

1. Agency providers shall choose the EVV system that best suits the provider business model, meets regulatory requirements, and provides reliable functionality for the geographic area in which it is to be used.

2. For consumer-directed services, the DMAS designee (the Fiscal Employer Agent) shall select and operate an EVV system to support individuals, or the employer of record, in managing these individuals' care, meeting regulatory requirements, and providing reliable functionality for the geographic area in which it is to be used.

3. Providers of consumer-directed personal care, respite care and companion services shall comply with all EVV requirements.

4. Providers of agency-directed personal care, respite care and companion services shall comply with all EVV requirements.

5. {RESERVED for home health agencies}.

6. Individuals shall not be restricted from receiving a combination of agency-directed and consumer-directed services. Nothing in these requirements shall be construed to limit personal care, respite or companion services, individuals' selection of provider attendants/aides, or impede the manner or location in which services are delivered subject to subsection C below.

C. The following entities shall be exempt from EVV requirements:

1. DBHDS-licensed provider in a DBHDS licensed program site such as a group home, sponsored residential home (12 VAC 35-105-20), supervised living, supported living or similar facility/location licensed (12 VAC 35-46 et seq.) to provide respite services;

2. The Regional Educational Assessment Crisis Response and Habilitation (REACH) Program; and

3. Schools where personal care is rendered **under the authority of an Individual Education Program (IEP)**. (I BELIEVE THIS QUALIFICATION WAS IN THE FED STATUTE.)

D. System requirements.

1. The EVV system shall be capable of capturing required data in real-time and producing such data as requested by DMAS in electronic format. The following information shall be retained:

- a. The type of the service performed;
- b. The individual who received the service;
- c. The date of the service, including month, day and year;
- d. The time the service begins and ends;
- e. The location of the service delivery at the beginning and the end of the service. EVV systems shall not restrict locations where individuals may receive services; and
- f. The attendant or aide who provided the service.

2. In the event the time of service delivery needs to be adjusted, the start or end time may be modified by someone who has the provider's authority to adjust the aide's/attendant's hours.

- a. For agency-directed providers, this may be a supervisor or the agency owner or designee who has authority to make independent verifications. In no case, shall peer workers be allowed to adjust each other's reported time.
- b. For consumer-directed attendants, the Fiscal Employer Agent shall have this authority.

3. All EVV systems shall be compliant with the requirements of the ADA (as amended, 42 USC § 12101 et seq.) and HIPAA (P.L. 104-191).

4. All EVV systems shall employ electronic devices that are capable of recording the required data described in subdivision D1, producing it upon demand, and safeguarding the data both physically and electronically.

5. All EVV systems shall be accessible for input or service delivery 24 hours per day, seven days per week.

6. All EVV systems shall provide for data backups in the event of emergencies, disasters, natural or otherwise, and system malfunctions both in the location services are being delivered and the backup server location.

7. All EVV systems shall be capable of handling:

a. Multiple work shifts per day per individual or aide/attendant combination;

b. Aides/attendants who work for multiple individuals;

c. Individuals who use multiple aides/attendants;

d. Multiple individuals and multiple aides/attendants, or both, in the same location at the same time and date. In such situations, the EVV shall be capable of separately documenting the services, as well as the other elements set out in D. 1 above, that are provided to each individual; and

e. At minimum, daily backups of the most recent data that has been entered.

8. All EVV systems shall be capable of electronically transmitting information to DMAS in the required format or electronically transferring it to the provider's billing system.

E. EVV data shall be submitted to DMAS with the provider's billing claim.

F. Agency-directed provider records, audits, and reports.

1. Providers shall select and obtain an EVV system that meets the functional requirements of DMAS or its designee.
2. All providers shall retain EVV data for at least six years from the last date of service or as provided by applicable federal and state laws, whichever period is longer. However, if an audit is initiated within the required retention period, the records shall be retained until the audit is completed and every exception is resolved. Policies regarding retention of records shall apply even if the provider discontinues operation.
  - a. In the event of a provider discontinues services, DMAS shall be notified in writing of the storage location and procedures for obtaining records for review should the need arise.
  - b. The location, agent, or trustee shall be within the Commonwealth.
3. All providers shall retain records of minor individuals for at least six years after such minor individuals have reached 18 years of age.
4. All providers shall produce their archived EVV data in a timely manner and in an electronic format when requested by DMAS or its designee.
5. In the event that a telephone or other verification option that the provider uses is not available or accessible in the individual's home or location, and delayed data input is utilized, the provider shall have information on file documenting the reason that the aide/attendant did not use EVV for the service delivered.