

PUBLICATION

Electronic Visit Verification: What Personal Care Services and Home Health Care Services Providers Need to Know

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In April 2022, the HHS Office of Inspector General (OIG) announced in an [OIG Work Plan update](#) that the Centers for Medicare and Medicaid Services (CMS) will be auditing how states implement their electronic visit verification (EVV) systems for personal care services (PCS) and home health care services (HHCS). The results of the audit are slated to be published this FY 2023. What do providers of PCS and HHCS need to know about how EVV is regulated? What specific types of services require the use of EVV? What guidance is there regarding how best to implement EVV and ensure claims for visits using EVV are paid? This alert addresses these questions below.

In 2006, Congress enacted the 21st Century Cures Act (Cures Act) which aimed to use innovation and advancement to make the provision of health care services more efficient. Under the Cures Act, CMS requires all states to implement an EVV system for PCS and HHCS to electronically track whether important in-home services for beneficiaries are actually being provided.

States were required to implement EVV for HHCS by January 1, 2023 and implement EVV for PCS by January 1, 2021. Thus, EVV requirements across the states are in place and currently being audited by CMS. CMS' audit will be evaluating whether your state (1) has implemented an EVV system in accordance with federal and state requirements, and (2) has developed policies and procedures when using EVV to ensure that Medicaid beneficiaries receive their required in-home services.

What is EVV?

EVV uses specific technology to record the date, time, and details of services provided to beneficiaries in their homes. The Cures Act requires a PCS or HHCS provider's EVV system to record the Who, What, When, and Where of the services provided:

- Who: Beneficiary receiving the service and individual providing the service
- What: Type of service provided
- When: Date of service provided and time the service begins and ends
- Where: Location of service delivery

While this is the minimum information required, your state may choose to require more information as a factor to control fraud, waste, and abuse. The technology used to capture the EVV can also vary (e.g., smartphone apps that use GPS, interactive voice response by phone, or fobs that remain in the beneficiaries' homes) but you will want to ensure it is an approved method in your state.

What Specific Services Require the Use of EVV?

EVV is required for HHCS and PCS that necessitate an in-home visit **and** that the state has opted to cover either under the state plan or a waiver, such as a Section 1915(c) waiver or Section 1115 demonstration waiver.

The definition of "personal care services" may vary under each state's Medicaid program, but PCS usually involves supporting Activities of Daily Living (ADL), such as movement, bathing, dressing, toileting, and personal hygiene. The reference to "in-home visit" excludes PCS services provided in congregate residential settings such as adult care homes, licensed residential facilities, assisted living facilities, or group homes. Thus, EVV is **not required** for PCS provided in those settings.

Additionally, "in-home visits" exclude PCS or HHCS rendered by an individual living in the residence and the delivery, set-up, and/or instruction on the use of medical supplies, equipment, or appliances. Therefore, these services alone are not subject to the EVV requirement.

What should providers be doing to properly use EVV and ensure claims for visits using EVV are paid?

Given that CMS will be auditing the implementation of EVV programs across states, your state will be carefully monitoring whether providers are appropriately using EVV for PCS and HHCS. Here are some recommended tips to increase compliance with the EVV requirement and avoid claim denials:

- Before submitting your claims, confirm the required information has been properly submitted into your EVV system and that it is consistent with the claims billed.
- Submit prior authorization information along with EVV data to demonstrate that EVV data is based on authorized services.
- Establish written policies and procedures that address EVV for your employees to follow (i.e., what devices you are using and how they should be used).
- Conduct routine training on the use of EVV.
- Seek out consultants or vendors who can advise your agency on how to ensure that neither employees nor beneficiaries have tampered with the technology used to record EVV data.
- Establish a monitoring system that verifies the EVV information entered is accurate. This can be done by comparing EVV data with plans of care schedules and conducting routine supervisory visits.
- If there are deviations from the service schedules in service plans, clearly document the reason for those deviations that as would be required by licensure requirements and clinical coverage policy requirements. Be sure to inform all beneficiaries of your use of EVV and have them sign a document confirming that they received the information. State surveyors will be looking for this attestation to confirm your clients have been informed.

If you have questions about the use of EVV or compliance, please contact [Bahati Mutisya](#) or any member of Baker Donelson's [Health Law team](#).