


 <p>STATE OF TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION BUREAU OF TENNCARE</p>  <p><b>TENNCARE LONG TERM SERVICES &amp; SUPPORTS OPERATIONAL PROTOCOL</b></p>	
<b>Protocol Title</b>	Use of the Electronic Visit Verification System in Consumer Direction
<b>Effective Date</b>	July 1, 2012

**Background:**

In the CHOICES program, each Managed Care Organization (MCO) is required to develop and implement an Electronic Visit Verification (EVV) system into which consumer-directed workers (as well as contracted provider agency staff) can check-in at the beginning and check-out at the end of each period of service delivery (or “visit”). This system enables the MCO to monitor member receipt of HCBS, intervene promptly to address delays or gaps in services (i.e., missed or late visits), and may also be utilized for generating claims that can be submitted to the MCO for reimbursement of services delivered.

**Requirements:**

Applicable CRA references include:

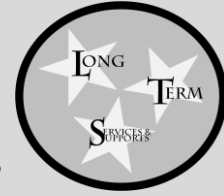
- 2.9.6.10 Additional Requirements for Care Coordination Regarding Consumer Direction of HCBS
- 2.9.6.12.4 MCO and FEA Responsibilities relating to Exceptions in the EVV System
- 2.9.7 Consumer Direction of Eligible CHOICES HCBS

Applicable MCO-FEA Contract Template references include:

- V.B Service Authorization and Initiation
- V.D Training
- V.F Monitoring, Oversight and Reporting
- V.L EVV System
- V.M Payroll Processing
- V.N Claims Submission



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### **Protocol:**

**This protocol sets forth specific expectations for members and their Representatives, MCOs, and the Fiscal Employer Agent (FEA) regarding the use of the EVV System in Consumer Direction.**

### **Scheduling and Authorization of Consumer Directed Services**

Requirements regarding scheduling of specified Home and Community Based Services (HCBS), including Eligible HCBS that may be provided under Consumer Direction, are set forth in the *CHOICES Scheduling and Timeliness Guidelines for Specified Home and Community Based Services Protocol*. That protocol states that it is the responsibility of the MCO—specifically, the care coordinator—to determine when each of the specified services is to be provided based on the needs of the member, specify such schedule at which care is needed in the member’s plan of care, and include such schedule in the service authorization. The protocol also specifies that in the case of Consumer Direction, the member or their Representative and the FEA are responsible for assigning consumer directed workers who will deliver care at the specified time(s).

The EVV system is required to have functionality to establish a schedule of services for each member, which identifies the time at which each service is needed, the amount, frequency, duration and scope of each service, and ensure adherence to the established schedule. The EVV system shall also have and maintain the ability to provide immediate (i.e., “real time”) notification to the MCO/provider/FEA if a provider or worker does not arrive as scheduled or otherwise deviates from the authorized schedule, so that service gaps and the reason the service was not provided as scheduled are immediately identified and addressed, including through the implementation of backup plans, as appropriate. Thus, the EVV system may be utilized for the purpose of service authorization, including scheduling requirements.

The member or Representative must retain authority and responsibility for Consumer Direction (i.e., being the “employer of record”), which includes the authority and responsibility to assign workers to deliver care in accordance with the established schedule at which care is needed. The Supports Broker may provide assistance to the member as needed in performing this function.



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The FEA shall promptly notify the member's care coordinator when the member's scheduling needs and/or preferences have changed so that the plan of care and service authorizations can be updated accordingly. The FEA shall also be responsible for keying worker schedules into the EVV system.



### **Worker Use of the EVV System**

All members electing to participate in Consumer Direction (or their Representatives for Consumer Direction), and all workers employed to deliver consumer directed services, must agree to use the MCO's EVV system. The FEA shall provide training to members, their representatives, and consumer directed workers on the use of the EVV related to checking-in and checking-out. The EVV vendor shall provide training on the use of the EVV system to the FEA and the FEA's Supports Brokers. Additionally, the MCO shall ensure that training materials are delivered to provider agencies and the FEA to utilize on a continuous basis thereafter in training consumer directed workers.

All workers delivering consumer directed services are obligated to check-in and check-out in accordance with the authorized schedule to be reimbursed for the services they provide. The MCO shall, in collaboration with the FEA, develop policies for addressing instances in which a worker fails to check-in or check-out appropriately in accordance with the scheduled service, and both entities shall track such instances for quality assurance and program integrity purposes. The FEA shall in turn develop protocols for members or their Representatives and workers to utilize when such instances occur which comport with the MCO's written policies. All such policies and protocols and any updates thereto shall be provided to TennCare for review and approval prior to their implementation.

### **Responding to EVV System Alerts and Implementation of the Backup Plan**

In its agreement with the EVV vendor, the MCO shall require that the EVV system include functionality to provide prompt (i.e., "real time") notification 24 hours/day, 7 days/week via Automated Email, as defined in the business rules, to the MCO and to the FEA for Consumer Direction if a consumer directed worker does not arrive as scheduled or otherwise deviates from

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the authorized schedule, so that gaps in care are immediately identified and addressed. Alerts will be provided via email, the monitoring alert dashboard, and text messaging.

The member or their Representative for Consumer Direction is primarily responsible for developing and implementing the backup plan. Upon a member’s enrollment into Consumer Direction, the Supports Broker shall assist the member as needed with developing the initial backup plan for Consumer Direction, including verifying that the individual or entities identified in the backup plan are willing and able to provide the services that the member has assigned. Upon a member’s receipt of consumer directed services, the care coordinator shall assist the member or member’s Representative with the implementation of the member’s backup plan and shall update and verify the backup plan annually and as needed, including verifying that any individual or provider included in the initial backup plan is willing and able to fulfill the role and responsibility assigned to them.

**Use of the EVV System for Tracking Implementation of Backup Plans**

When a scheduled worker does not provide services as scheduled, the member and/or their Representative is responsible for implementing the member’s backup plan for consumer directed assistance, with assistance from the member’s care coordinator as necessary. The backup plan may include unpaid, as well as paid workers or even contract provider staff, when the member or their Representative has made such arrangements for backup care to be provided. Neither the MCO nor FEA shall be expected or required to maintain contract providers “on standby” to serve in a backup capacity for services a member has elected to receive through Consumer Direction. The member or their Representative must make arrangements for the provision of needed care and does not have the option of going without needed care.

Paid backup care that will be reimbursed through CHOICES shall be provided **only** by the MCO’s contract providers (unless prior authorization is obtained to utilize a non-contract provider), or by another properly qualified consumer directed worker who has completed all necessary training and paperwork, and is authorized to deliver consumer directed services to the member. Persons or agencies not otherwise contracted or approved to provide CHOICES services shall not be paid as backup workers. Paid backup care that will be reimbursed through CHOICES shall be logged into the EVV system. Only persons or agencies that are in the system

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are able to provide care. Unpaid persons delivering backup care will not log into the EVV system.

The member or their Representative shall immediately notify the care coordinator that the backup plan has been implemented. The care coordinator shall address any changes or modifications to service authorizations that are needed to facilitate timely payment to the backup worker or contract provider agency and reimbursement to the FEA, as applicable.

A backup worker may be paid a different rate for the provision of backup care than would otherwise be paid to that worker for the provision of scheduled consumer directed services. However, such rate may not exceed the maximum established by the State for consumer directed services. The FEA shall be responsible for ensuring that the appropriate wage is paid to the worker and that the appropriate rate is billed to the MCO for backup care provided by a consumer directed worker. The member should be advised any time such occurrences (and the decision to pay a higher rate for the provision of backup care) could potentially impact the member's ability to have their needs safely met in the community and at a cost that does not exceed nursing home care (i.e., the member's individual cost neutrality cap).

If reliable staff cannot be maintained, and/or if the cost of care in the community is reasonably anticipated to exceed the cost of nursing facility care as a result of paying higher rates for backup care, the member may no longer be able to participate in Consumer Direction.

**Resolution of Exceptions**

When a consumer directed worker fails to check-in or check-out of a visit as required, services are delivered outside the scheduling window, or when care is delivered by an unscheduled backup worker, an exception will be created in the EVV system. It is the responsibility of the FEA to log into the system to resolve such exceptions in a timely manner. Such resolution shall occur as frequently as necessary but on at least a weekly basis to facilitate payment to the worker and generation of a claims submission file for reimbursement to the FEA. The MCO shall create business rules and processes for resolution of exceptions for consumer directed services. The FEA shall comply with the MCO's business rules and processes. When resolution of an

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exception requires modification of a service authorization, the FEA shall coordinate with the MCO pursuant to established business rules and processes to obtain such modification.

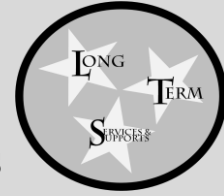
**Using Data Captured in the EVV System to Pay Consumer Directed Workers**

The FEA will rely on electronically captured visit information in the EVV to generate a timesheet, which may include resolved exceptions in the visit data. The FEA shall not pay a worker for delivery of services for which an exception remains pending, such that the claim for reimbursement is not payable by the MCO to the FEA. However, the FEA shall work to resolve exceptions as expeditiously as possible, which shall be prior to when the worker is scheduled to be paid for the services provided. If it is determined that the worker will not be paid for services that have been delivered, for example, because the services were not authorized and are therefore not covered, the FEA shall promptly notify the worker of the specific services for which they will not be paid, including a written explanation regarding why they will not be paid, and shall copy such notification to the member or their Representative. The notification shall specify that the member or their Representative shall not be responsible for payment of such services, unless such services were initiated by the member or Representative with a written commitment for private payment of such non-covered services in advance of the services being delivered. The Service Agreement shall clearly advise the member or Representative and the worker of their rights and obligations with respect to payment of unauthorized services.

While certain “business rules” will be programmed into the EVV system, these rules will pertain primarily to claims processing, and not to payroll processing by the FEA. It is the responsibility of the FEA to pay workers in accordance with business rules established by TennCare and/or the MCO regarding payment of workers, using electronically captured visit information in the EVV. This includes ensuring that a worker is not reimbursed for delivering more than forty (40) hours of consumer directed services per week per member. However, workers may deliver more than forty (40) total hours per week if care is delivered to multiple members, none of whom receive more than forty (40) hours of care per week individually. The forty (40) hour/week rule does not apply to workers who are delivering Companion Care services.



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### *Using Data Captured in the EVV System to Reimburse the FEA*

The MCO will require that its EVV vendor create and make available to provider agencies and the FEA for Consumer Direction on at least a daily basis an electronic claims submission file in the 837 format, including exceptions which have been resolved, which may be submitted to the MCO for claims processing at the appropriate frequency. The claims submission file will reflect data that has been captured based on check-in/log-check data, as well as resolution of any exceptions by the FEA. Such file may be submitted by the FEA to the MCO at the frequency mutually agreed upon by the entities, but at least weekly to accommodate timely payment to the workers. The MCO shall process and pay claims submitted by the FEA within fourteen (14) calendar days of receipt of the 837 file, pursuant to CRA Section 2.9.7.9.10.3.