

To: Home and Community Based Providers in CHOICES and Employment and Community First CHOICES that are Required to Use an Electronic Visit Verification (EVV) System
From: Jamie O’Neal, Assistant Deputy Chief of Programs, Contracts, and Compliance
Date: March 31, 2019
Subject: **MANDATORY Electronic Visit Verification Compliance**

The purpose of this memorandum is to clarify requirements and expectations regarding Home and Community Based Service (HCBS) Providers’ compliance with use of an Electronic Visit Verification (EVV) system for checking in and out of authorized visits.

Pursuant to your provider agreement with one or more Managed Care Organizations for the provision of services in the CHOICES and Employment and Community First CHOICES programs, you are obligated to comply with TennCare requirements regarding the use of an EVV system for checking in and out of authorized visits for specified services.

New Federal Requirements

In addition, pursuant to Section 12006 of the 21st Century Cures Act signed into law on December 13, 2016, CMS mandates that states require EVV use for Medicaid-funded Personal Care Services and Home Health Care Services for in-home visits by a provider. 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.), including CHOICES and ECF CHOICES benefits currently subject to EVV system requirements, except that home-delivered meals are not subject to the new requirements and will continue to be handled as they are today.

The EVV system must **electronically** verify: type of service performed, individual receiving the service, date of the service, location of service delivery, individual providing the service, time the service begins and ends.

Importantly, the Cures Act Section 12006(a)(1)(A) requires that states which do not comply with the Cures Act by the applicable deadlines will have their Federal Medical Assistance Percentage (federal funding for the provision of these services) reduced. Thus, **it is critical that all providers come into and maintain compliance with federal requirements no later than the January 1, 2020 deadline.**

Actions to be taken

HCBS Providers will need to educate and/or reeducate all Direct Service Workers (DSW) on the requirement to use an approved method of checking in and out of an authorized visit. Approved methods in the order in which they are to be used are:

1. Tablet GPS Device within the Person’s home

- a. If the tablet is not available, unable to be turned on, not receiving an internet signal, or if it is broken should be reported to the MCO immediately.
Please Note: There may be certain individuals who are not eligible for a tablet, for example, individuals who have repeatedly misused the device, have had multiple stolen/lost devices, or have refused the device.
2. Bring Your Own Device (BYOD)
 - a. If the tablet is unavailable the appropriate next method is BYOD. All DSWs should be trained on using BYOD during initial employee training. This training should occur for all DSWs. For DSWs who have a Smartphone, the appropriate application should be loaded onto their phones and they should be given the time and opportunity to practice checking in and out on their phone prior to completion of training.
3. Interactive Voice Response (IVR)
 - a. If the tablet is unavailable AND the DSW does not have a Smartphone that supports the needed application of BYOD, the DSW should call into the appropriate IVR number to check in and out of an authorized visit using a telephone number that is on file in the EVV system.
Please Note: An individual must have one telephone number; however, may also have additional alternate telephone numbers on file in the EVV system.

Manual confirmation is NOT an electronic form of verification and is NOT COMPLIANT.

TennCare will be working with MCOs and with providers to determine whether there are *limited* exceptional circumstances in which a visit may be manually confirmed and remain eligible for reimbursement, and if so, the documentation that will be required in order for such payment to be provided. This will likely include only instances in which there are EVV system or device issues beyond the provider's control, and which would require documentation, review, and approval by an MCO prior to payment. Each such instance would be reported to TennCare, tracked, and subject to further review and investigation as appropriate. Further information on this topic is forthcoming.

Oversight and Compliance Guidance

MCOs and TennCare will closely monitor and track volume of manual confirmations as we work to achieve full compliance by the January 1, 2020 deadline. Each MCO will be monitoring and working closely with HCBS Providers to provide additional training and support to assist in bringing providers into compliance. MCOs will monitor and report provider compliance to TennCare monthly. In addition, MCOs have implemented action steps that will be taken when compliance is not obtained. These actions include corrective action plans, suspension of new referrals, up to termination of contract for providers who cannot demonstrate compliance by the federal deadline.

We look forward to working with you to achieve and maintain consistent compliance with EVV requirements. Please feel free to contact Jamie O'Neal at Jamie.O'Neal@tn.gov if you have any questions about this memorandum.