



To: TennCare MCOs and HHA Providers
From: Johnny Lai, Director of Managed Care Operations
Date: December 29, 2022
Subject: Delaying Claims Denial for HHA Noncompliance with the 21st Century Cures Act Requirements

On December 13, 2016, the 21st Century Cures Act was signed into federal law. Section 12006(a) of the 21st Century Cures Act (Cures Act) mandates that states implement electronic visit verification (EVV) for all Medicaid personal care services by January 1, 2020 and for all Medicaid home health care services by January 1, 2023, or otherwise be subject to incremental federal medical assistance percentage (FMAP) reductions. The Cures Act includes a provision that allows states to delay implementation of EVV for up to one year if they can demonstrate they have made a good faith effort to comply and have encountered unavoidable delays.

TennCare has requested a Good Faith Effort Exemption (GFE) from CMS and is awaiting CMS approval. CMS offers a website to track CMS's decision on state Medicaid agency requests for GFE:

[Good Faith Effort Exemption Requests: Home Health Care Services | Medicaid](#)

In the interim as CMS makes its decision, TennCare is delaying the denial of claims based on the home health agency (HHA) provider not complying with the EVV requirements of the 21st Century Cures Act until July 1, 2023. CMS's decision on the Good Faith Effort Exemption would extend the deadline so that TennCare would avoid receiving incremental federal medical assistance percentage (FMAP) reductions for not having EVV successfully implemented by January 1, 2023. TennCare, its managed care organizations (MCOs), and the Department of Intellectual and Development Disabilities (DIDD) will continue to work with the Tennessee Association for Home Care (TAHC), the Tennessee Hospital Association (THA), and TennCare providers to achieve the successful implementation of electronic visit verification for home health care services.

As a result of the 21st Century Cures Act, Section 1903(l)(5)(A) of the Social Security Act requires that an information system be implemented that is able to electronically verify, with respect to visits conducted as part of personal care services or home health care services, the following:

- 1) the type of service performed;
- 2) the individual receiving the service;
- 3) the date of the service;
- 4) the location of service delivery;
- 5) the individual providing the service; and
- 6) the time the service begins and ends

As a reminder, it is the responsibility of each HHA provider to comply with the EVV requirements of the 21st Century Cures Act by either implementing an EVV system and integrating the data with the EVV system of each MCO's EVV vendor; or by choosing to use the EVV system provided by each MCO's EVV vendor when delivering personal care services or home health care services to the MCO's member.