



**COLORADO
CROSS-DISABILITY
COALITION**

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RE: MSB 19-01-03-A EVV

To: Medical Services Board

From: Julie Reiskin, Executive Director, CCDC

I want to start by thanking the Department for working with us to address most of our concerns. Because of the commitment to address our concerns we withdrew our request for legislation and agreed to work on addressing our issues through the more flexible rules process.

I also want to acknowledge that this burden is not the department's doing. It continues to be a great disappointment that this unfunded mandate that will disproportionately hurt elders, the disabled, and workers who are largely women of color was perpetrated upon us by Congressional District One Representative Diana DeGette. She is supposedly mitigating a tiny bit of the damage in a CURES 2.0 bill but that damage has been mitigated already by HCPF.

We want to support the comments of CCLP and agree that we should only do the bare minimum mandated by the federal government, especially during this crisis when we have so many other things going on.

I know the CDASS participants have not even seen the EVV platforms of the vendors that do financial management and we are supposed to choose which company we want to use by June 01. We can only enroll quarterly so that is quite concerning. One FMS, Acumen, does not even have a portal that allows us to track our budgets, even though they promised that this would be done by March. I do not see how a start in July is feasible since no one has been given any information and implementation questions abound.

As far as the rule our comments are:

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- 1) We strongly disagree that clients will benefit from this, particularly consumer directed clients. We have accountability because we approve timesheets. We think this will hurt clients because once this is connected to payroll and workers are not paid they will quit or the clients will feel obligated to do what they have to do to make the worker whole. Many workers will forget to clock in and we expect technology errors given our experience with other IT projects. We understand this is a federal mandate. We have also seen workers from agencies that already use this system still bypass it by clocking in and out without doing the work so this is not going to combat fraud. We are also concerned about small agencies, especially those run by and for communities of color who have less access to information and infrastructure.
- 2) Definitions:
 - a. We hope that the Department will hold agencies, FMS and the state EVV vendor responsible for security of the attendant ID. Using the SSN seems very risky. If there is a breach will the responsible entity be required to do all of the work to repair credit, and address identity theft? A lot of time and expertise is required and neither are plentiful in our worker population. A different ID should be considered.
 - b. We appreciate that HCPF is not allowing or collecting Geo-Fencing, Geo-Tracking or Biometrics and wonder why only Geo-Fencing is in the definitions?
 - c. Live-In Caregiver: Please add “or FMS” at the end of the definition.
- 3) Provider applicability 8.001.2: Again we agree with CCLP. We would suggest you clarify item 2 and make sure it is clear that the FMS must provide the systems support. CDASS is not a traditional service model and the “provider” could be seen as the actual worker. The Medicaid client or a volunteer representative is the employer. This is particularly important given 8.100.3 provider responsibilities.
- 4) Provider responsibilities: Is it true that all providers can use the state system? We were told the FMS agencies had to use their own system.
 - a. 8.100.3.A.1.b.vi Regarding location: We thought the commitment was that the location would be either “home” or

“community” and no additional information would be collected. Please clarify.

- b. If FMS agencies do not use the state system please require that the costs cannot be passed onto clients. This would include provision of a device for workers to use if they do not have a smartphone or refuse to allow their personal device to be used for this purpose.
 - c. We also request that providers be required to destroy data as soon as possible to minimize risk of breaches. We do not think anyone will be deliberately careless but breaches will happen.
- 5) We request that all live-in caregivers are exempt. We are willing to give some time for this to be phased in and could accept a deadline of 12/31/21. Since all FMS agencies said they will exempt live-in caregivers we would like this in the rule, since we have had problems with at least one current FMS vendor keeping verbal promises (Acumen promised last Summer they would fix their website to make it usable by clients and in late March claimed they could not do it due to COVID 19). In the meantime all clients with live-in caregivers that use agencies must be given a list of agencies that have agreed to that exemption. We also request that any change of policy by a provider require a 90-day advance written notice and that they may not stop services until the client has found a new provider.
- a. We are concerned about the falsification language. This is an IRS status and lying about that is more serious than just saying the caregiver will not be exempt any longer. While HCPF cannot control anything the IRS does perhaps the rule should indicate that this is tax fraud.
- 6) Restrictions: THANK YOU. We appreciate this language as it addresses much of our privacy concerns. We do request on B that it is clear that the location can be anywhere in or out of Colorado, it just has to be recorded.
- 7) 8.001.3.D(3)e Clients should not have to give other addresses where they may or may not choose to get services in the community. For example if someone regularly gets services mid-day at work but their job requires them to be at various places in the community would have a hard time with this. Someone experiencing homelessness may not have a primary address and may go between shelters, staying with friends, etc. They are still entitled to services.

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We recommend striking language requiring addresses. You can and should have one mailing address per client or at least an email address.

- 8) Providers should assure that the client verifies that a live-in relationship is valid.
- 9) Providers requirement to complete all EVV training cannot apply to CDASS caregivers. Only clients or authorized representatives can be trained and we train our workers. The FMS vendors must be required to make training modules available to us so we can train our workers. Training must be available in multiple languages and must be made accessible to workers with disabilities including learning and language disabilities.
- 10) We also need a requirement that all EVV systems are accessible to people with multiple types of disabilities as many workers have disabilities. We need assurance that accommodations will be made for people with disabilities and that there will be a usable process. We have not been given this assurance, just told that the Department will make decisions on a case-by-case basis. Currently it can take a very long time to get an approved ADA accommodation. There is only one employee. We need a system that is usable, not leaving a client to find an advocate that knows who the ADA officer is.
- 11) We would like assurance that unannounced home visits cannot be done by any entity in connection with EVV and that EVV cannot be used to restrict the right of individuals to receive services in the community and location of their choice.

Overall we appreciate the many changes HCPF has made and the efforts to not make this much more onerous than necessary. We remain quite concerned about readiness but absent another federal delay understand we have no choices. We would like the changes noted herein incorporated for the final rule and any questions answered. We also would like HCPF to mandate the FMS agencies to show us their EVV systems before June 01 when we all have to make a choice of FMS vendor.

We would like to know what HCPF plans to do if the FMS vendor who does not yet have basic functionalities on their website does not have functions to do EVV?

Thank you for your attention.