



COLORADO
Department of Health Care
Policy & Financing

1570 Grant Street
Denver, CO 80203

February 13, 2020

Subject: Formal Recommendation for Electronic Visit Verification Requirement Exemption

The Department of Health Care Policy & Financing (the Department) received on February 7, 2020 the formal recommendation submitted by the Participant Directed Programs Policy Collaborative (PDPPC).

The formal recommendation from the PDPPC has requested the following regarding legislation for Electronic Visit Verification (EVV) requirement exemption:

1. The PDPPC would request the Department to request legislation in the current legislative session to give the Department authority and shall require all service agencies and Fiscal Management Services, with the implementation and operation of Electronic Visit Verification systems, not collect or retain any data beyond the minimum requirements as specified in federal law or regulation, and that all "live-in" caregivers, as defined by rule, shall be exempt from Electronic Visit Verification requirements.

The PDPPC would ask that any proposed legislation be provided to PDPPC and other disability advocates prior to introduction for review, comment or alteration.

The Department has reviewed the request from the PDPPC. The Department's published legislative agenda does not include the topics requested. The Department does not have the authority to propose legislation outside of the formal process, which requires approval from the Governor's office.

The Department recognizes the unique nature of live-in caregiving and supports the CMS guidance permitting states to exempt live-in caregivers from the EVV mandate. States are not required to exempt live-in caregivers; Colorado intends to exempt the EVV mandate for live-in caregivers. The Department will continue to work with stakeholders in the development of system and policy solutions to exempt live-in caregivers. While the Department cannot prohibit



providers from utilizing EVV for live-in caregivers, the Department recommends that providers exempt live-in caregivers from EVV. The Department recently sent a survey to providers inquiring about their intent to exempt live in caregivers. Current results indicate that most providers intend to exempt live-in caregivers from EVV. Results follow: 7 percent of providers intend to collect EVV for live-in caregivers, 72 percent of providers intend to exempt live-in caregivers from EVV, and 21 percent of providers are undecided. Additionally, all three FMS vendors have stated their intent to exempt live-in caregivers from EVV.

The Cures Act and federal guidance are written in a manner which allows for States to implement EVV in a way that makes sense within each state's unique Medicaid program. The Department is implementing EVV to the letter of the law with a few exceptions to allow for flexibility in delivery models, as requested by stakeholders. For example, EVV in Colorado will require data collection in the home and the community. HCBS and State plan services allow for flexibility of service delivery location. Only collecting information in the home would require policy updates, including in-and-out times based on location (for all services, including consumer direction), and significant system changes to the Department MMIS.

The Department is working closely with providers and vendors to ensure compliance with system requirements and policy. The Department recognizes that providers' system design may vary and encourages members to choose providers that best meet their needs. Members enrolled in Consumer Directed Attendant Support Services (CDASS) delivery option have the opportunity to transfer between FMS vendors during quarterly open enrollment periods.

Recommendations from PDPPC are instrumental in identifying concerns and opportunities for improved quality and access to services. The Department is committed to further collaboration and coordination with members of the PCPPC, and thanks the committee for their ongoing dedication and partnership.

Thank you,

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