



**Consumer Directed Attendant Support Services  
Electronic Visit Verification Compliance Protocol Policy**

Effective February 1, 2022

I. Purpose & Authority

A. Purpose

The purpose of this policy is to establish policies and procedures for employers/members or authorized representatives (ARs), Financial Management Service (FMS) vendors, and case managers on the Consumer Directed Attendant Support Services (CDASS) Electronic Visit Verification (EVV) compliance protocol to ensure EVV is being performed correctly, appropriately, and in compliance with Centers for Medicare & Medicaid Services (CMS) and Department of Health Care Policy and Financing (The Department) requirements.

B. Authority

Consumer Directed Attendant Support Services, 10 CCR 2505-10 8.510  
Electronic Visit Verification, 10 CCR 2505-10 8.001

Questions about the application or enforcement of this protocol can be directed to the Colorado CDASS Training and Operations vendor or the Department.

II. Definitions

- A. Authorized Representative (AR) - means an individual designated by the employer/member or the member's legal guardian, if applicable, who has the judgment and ability to direct CDASS on an employer/member's behalf and meets the qualifications contained in 8.510.6 and 8.510.7.
- B. Case Management Agency (CMA) - means a public or private entity that meets all applicable state and federal requirements and is certified by the Department to provide case management services for Home and Community Based Services waivers pursuant to §§ 25.5-10-209.5 and 25.5-6-106, C.R.S., and has a current provider participation agreement with the Department.
- C. Case Manager - means an individual employed by a Case Management Agency who is qualified to perform the following case management activities: determination of an individual employer's/member's functional eligibility for one or more Home and Community Based Services (HCBS) waivers, development and implementation



of an individualized and person-centered care plan for the employer/member, coordination and monitoring of HCBS waiver service delivery, evaluation of service effectiveness, and periodic reassessment of employer/member needs.

- D. Consumer Directed Attendant Support Services (CDASS) - means the service delivery option that empowers employers/members to direct their care and services to assist them in accomplishing activities of daily living when included as a waiver benefit. CDASS benefits may include health maintenance, personal care and homemaker services. In addition, if the employer/member is on the SLS waiver their services may include Enhanced Homemaker.
- E. CDASS Training - means the required CDASS training and comprehensive assessment provided by the Training and Operations Vendor to an employer/member or AR.
- F. Department - means the Colorado Department of Health Care Policy and Financing, the Single State Medicaid Agency.
- G. Electronic Visit Verification (EVV) - EVV means the use of technology, including mobile device, telephony, or web-based portal, to verify the required data elements related to the delivery of Health First Colorado Services as mandated by the 21st Century Cures Act and CCR 2505-10 Section 8.001.
- H. Financial Management Services (FMS) - FMS vendor means an entity contracted with the Department and chosen by the employer/member or AR to complete employment-related functions for CDASS attendants and to track and report on individual employer/member CDASS allocations.
- I. Incomplete Visit - An EVV visit is considered incomplete if it requires manual intervention before it can be considered closed, completed, or verified.
- J. Manual Entry - A manual EVV entry is when all verification points of data of an EVV record are manually entered through the web-based portal after the time of service.
- K. Match Rate - Monthly rate at which claims are matched to EVV records. This rate will be used to determine compliance.
- L. Matched Visit - A matched visit is an EVV record that has matched to a billed and paid claim. A matched visit requires a verified EVV record and a billed claim that has no other claim errors. Incomplete EVV records will not match. For a claim to

match, it must have a verified EVV record logged at least the day before the FMS vendor submits claims.

- M. Performance Improvement Plan (PIP) - A voluntary Department-developed process and form completed by the member/employer to outline plan of action to improve EVV compliance and demonstrate understanding of the EVV requirements in CDASS.
- N. Strike - A strike is received by an employer/member when their monthly match rate is 79% or lower. Match rates are negatively impacted, and strikes may be produced by either no EVV records being documented or EVV records being incomplete.
- O. The 21st Century Cures Act - Also known as the Cures Act, is Federal statute that mandates State Medicaid agencies to utilize EVV for select services, per Section 12006.

### III. Policy Overview

The purpose of this policy is to provide guidance to employers/members or ARs, FMS vendors, and case managers on the CDASS EVV Compliance Protocol. This policy overview does not provide guidance for every situation, but rather provides standards for use by employers/members, FMS vendors, and case managers.

EVV is a technology used to verify that home or community-based service visits occur. The purpose of EVV is to ensure that services are delivered to members and that providers only bill for services rendered. EVV verifies visit information through a mobile application on a smart phone or tablet, a toll-free telephone number, or a web-based portal.

Section 12006 of the 21st Century Cures Act requires all state Medicaid agencies implement an EVV solution for all Personal Care and Home Health Services. CDASS is federally required to collect EVV records. The Department has expanded the scope of EVV in Colorado to other services similar in nature and service. Due to the unique structure of the CDASS service delivery option the CDASS EVV Compliance Protocol was developed to meet federal requirements, demonstrate compliance to avoid reductions in federal funding, and maintain key elements of CDASS for employers/members to manage services. The compliance protocol was developed collaboratively with direct input from employers/members, attendants, FMS vendors, and the Training and Operations vendor (Consumer Direct of Colorado or CDCO). This protocol outlines EVV compliance expectations, roles, and responsibilities for all parties involved in the CDASS EVV Compliance Protocol.

#### IV. PROTOCOL ROLES AND RESPONSIBILITIES

##### **Employer/Member**

Employer/member compliance will be evaluated and determined based on monthly match rates. Compliance rates are calculated by comparing the total number of claims submitted and paid for EVV-required services that matched to EVV visits in a given month to the total number of claims submitted for EVV-required services that did not match to EVV visits for that respective month.

The employer/member may record EVV through mobile application, telephony, or a web-based portal. At this time, recording visits through the web portal by manually entering or modifying visits is acceptable and will not result in a strike. Manual entries meet the requirements set by CMS and there are no thresholds set for manual or modified entries. If guidance from CMS changes in the future, this protocol will be updated to reflect how the Department perceives manual or modified entries and/or thresholds. While entering visits through the web portal is acceptable, it should only be used in rare circumstances and not as the sole method for recording EVV. For example, the application not recording the visit properly or an attendant forgetting to clock-out are both acceptable reasons to utilize the web portal.

Every employer/member is responsible for reviewing notices and fulfilling the requirements outlined in each notice, when applicable. Employers/members are responsible for notifying the Department of issues they experience when recording EVV, by completing the [Participant Directed Programs Unit Feedback Form](#) or by contacting the Department by phone using the number listed in the protocol. The form can be used to report issues specific to the recording of EVV that may have impacts on employer/member monthly match rates. If a system issue occurs that impacts the employer's/member's ability to record EVV, they must report the issue through the proper channel and be able to verify through some form of documentation, when applicable. System issues that are reported and can be verified will not contribute towards, or count as, a strike.

##### **Participant Directed Program Unit/EVV Team (the Department)**

The Department will oversee the CDASS EVV Dashboard and EVV Strike Report (strike data) on a monthly basis to obtain the percentage of employer/member monthly EVV compliance and/or strikes that the employer/member has received for the month. The Strike Report will be sent to the related FMS vendor to ensure current employer/member contact information (contact data). The Department strike

communications will be sent by the Department's contracted Training and Operations vendor notifying the employer/member of EVV non-compliance, which is defined as a

less than 80% compliance rate. Employer/member strikes will reset annually on January 1<sup>st</sup>.

The Department's responsibilities include monitoring, tracking, and coordinating employer/member EVV non-compliance (strikes data/member roster) to applicable vendors, such as FMS vendors and case management agencies; collaboration with vendors on EVV content, materials, and alternative training options; oversight of employer/member PIPs; oversight and coordination of technology issue findings with FMS vendors; and oversight of EVV exemptions policy related to live-in caregivers and the Americans with Disabilities Act of 1990 (ADA).

### **Financial Management Services (FMS) vendors**

The FMS vendors are responsible for providing EVV orientation materials to the employer/member during their onboarding to the CDASS program. The FMS vendor is responsible for providing contact data to the Training and Operations vendor within three (3) business days for the employers/members receiving Department strike communications. The contact data will be provided in a timely manner through a contact data report. The contact data report shall include: member name, Medicaid ID, phone number, email address, physical address, mailing address, and strike data. If the member has an AR, the report shall include the AR name, phone number, email address, and physical address. In addition, The FMS vendor will offer monthly EVV training and provide reports to the Department of employer/member attendance.

### **Training and Operations vendor**

The Training and Operations vendor is responsible to provide standard Departmental communications to the employer/member within three (3) business days upon receipt of the FMS vendor-provided contact information. The Department or other relevant parties may provide communications in the event the Training and Operations vendor is unable. Communications include but are not limited to Department communications, strike notifications; and notice of failure to comply with mandatory EVV training requirements. In addition, the Training and Operations vendor will offer monthly EVV training and provide reports of employer/member attendance to the Department.

### **Case Management**

Case managers are expected to discuss overall CDASS management, including EVV, during scheduled member contacts. Case managers will document any pertinent notes in the Case Management system log notes. Case managers will provide notice of termination by completing the Notice of Action (803) in the Case Management system and mailing the 803 to the employer/member. If a employer/member appeals a

Notice of Action, the case manager is responsible for notifying the Department and requesting their attendance and/or supporting documentation related to the appeal.

In addition, case managers are responsible for completing the notification requirements for the employer's/member's final strike, enforcement of the employer's/member's termination from the CDASS program, and coordination of other services to meet the employer's/member's support needs.

## V. PROTOCOL FOR EVV NON-COMPLIANCE

### Protocol Overview

The following are the key components of the CDASS EVV Compliance Protocol. Each month 80% or more of CDASS EVV claims must have a matching EVV record. If less than 80% of EVV claims have a matching EVV record the member will receive one (1) strike. The CDASS EVV Compliance Protocol is a five (5) strike protocol with each strike resulting in a unique consequence detailed below. Strikes reset to zero (0) on January 1<sup>st</sup> of each year. Failure to complete requirements of a strike within a reasonable amount of time may result in an additional strike. If an additional strike is incurred due to requirements not being met, the applicable action steps will be taken for the additional strike.

### Formal Action Steps for EVV Non-Compliance

1. Strike One (1), EVV compliance of less than 80%:
  - a. Training and Operations vendor shall send the notification to the employer/member, within three (3) business days of receipt of the EVV strike data and contact data.
  - b. Notice to employer/member will include:
    - i. Notice of first (1<sup>st</sup>) strike
    - ii. Reminder of EVV purpose and requirements
    - iii. Notice of voluntary training available by the Training and Operations vendor
2. Strike Two (2), EVV compliance of less than 80%:
  - a. Training and Operations vendor shall send the notification to the employer/member, within three (3) business days of receipt of the EVV strike data and contact data.
  - b. Notice to employer/member will include:
    - i. Notice of second (2<sup>nd</sup>) strike
    - ii. Notice of requirement to complete mandatory FMS vendor EVV Training within 30 days of receipt of strike notification.
  - c. Employer/Member Responsibilities:



- i. Voluntary submission of a Department-approved PIP before the first (1<sup>st</sup>) day of the following month shall result in a one-time removal of a strike.
      - ii. The PIP will be available to be completed online through a link on the Department EVV website or the employer/member may contact the Department's EVV Team by phone to complete the PIP over the phone.
      - iii. Satisfactory completion of the PIP results in a one-time removal of a strike from the employer's/member's total strike count by the Department.
    - d. Case manager responsibilities:
      - i. Outreach to employer/member to discuss plan of action if employer/member is terminated from CDASS service delivery option
    - e. Department responsibilities:
      - i. Distribute employer/member strike data to case management agency directors once a month.
- 5. Strike Five (5), EVV compliance of less than 80%:
  - a. Training and Operations vendor shall send the notification to the employer/member, within three (3) business days of receipt of the EVV strike data and contact data.
  - b. Notice to employer/member will include:
    - i. Receipt of the fifth (5<sup>th</sup>) strike.
    - ii. Provide notice of impending termination from CDASS program within 30 days.
    - iii. Provide notice of ineligibility to re-enroll in CDASS program for 365 days.
  - c. Case manager responsibilities:
    - i. Contact the employer/member within five (5) business days of receipt of their Final Strike Notice to inform the employer/member that they will be terminated from the CDASS service delivery option in accordance with 8.510.14.A.8 within 30 calendar days.
    - ii. Send a Notice of Action (803) to the employer/member with appropriate details as it relates to the CDASS EVV Compliance Protocol and temporary termination from the CDASS service delivery option.
    - iii. Notify employer/member ineligibility for re-enrollment in the CDASS service delivery option for 365 days.
    - iv. Work collaboratively with the employer/member and their support system to secure agency-based waiver and/or state plan services.
      - 1. If the case manager determines that the employer/member cannot be safely served given the type or amount of services available, the Case Manager shall comply with all provisions of 8.393.3.



2. An appeal process is available to the employer/member should the final strike be contested.
  - v. Notify FMS vendor date of temporary discontinuation from CDASS to prompt FMS vendor to update employer's/member's status in the FMS portal.
  - vi. Document all activities in the Case Management system log notes.
  - vii. Notify the Department if the employer/member appeals the Notice of Action and formally request any supporting documentation or Department staff support in the form of being present as a witness during the appeal hearing.
- d. FMS vendors Responsibilities:
  - i. Update employer/member account in FMS portal to reflect change in status with relevant details.
- e. Employer/Member may request an appeal of their fifth(5<sup>th</sup>) strike
  - i. Employer/Member must notify the case manager they wish to appeal the fifth (5<sup>th</sup>)Strike within ten (10) business days of receipt of the EVV strike notice.
  - ii. Case manager will coordinate with the Department information related to the appeals.
  - iii. Case manager will follow their standard appeals process and may request Department staff to provide supporting documentation related to the appeal hearing and/or be present as a witness at the appeal hearing.