



POLICY MEMO

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| TITLE: | ELECTRONIC VISIT VERIFICATION (EVV) UPDATE – GOOD FAITH EFFORT EXEMPTION REQUEST |
| SUPERSEDES NUMBER: | N/A |
| EFFECTIVE DATE: | AUGUST 22, 2019 |
| DIVISION AND OFFICE: | BENEFITS & SERVICES MANAGEMENT DIVISION, OFFICE OF COMMUNITY LIVING |
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Purpose and Audience:

The purpose of this Policy Memo is to update stakeholders on Electronic Visit Verification (EVV) implementation and to inform them of the Department’s intention to formally request a Good Faith Effort Exemption to delay the EVV mandate in Colorado.

Information:

On August 8, 2019, CMS released an [informational bulletin](#) providing additional guidance on the applicability of EVV to Medicaid services provided by live-in caregivers. The new guidance permits states to exempt live-in caregivers from the EVV mandate.

August 2019 CMS Informational Bulletin Excerpt:

Do EVV requirements apply if the individual receiving personal care or home health care lives with the caregiver providing the service?

No, EVV requirements do not apply when the caregiver providing the service and the beneficiary live together. PCS or HHCS rendered by an individual living in the residence does not constitute an "in-home visit". However, states are encouraged to apply appropriate oversight to services provided in these circumstances to curb fraud, waste and abuse. Additionally, states may choose to implement EVV in

these instances, particularly when using discrete units of reimbursement, such as on an hourly basis.

Prior to the August 8th informational bulletin, CMS maintained that live-in caregivers must comply with the EVV requirements under the 21st Century Cures Act.

The Department recognizes the unique nature of live-in caregiving and supports the CMS exemption. However, due to the delayed federal exemption, Department systems cannot distinguish between live-in caregivers and visiting caregivers. Given the projected timeline

of the system launch, there is insufficient time to make system changes for an exclusion of live-in caregivers by January 1, 2020.

Colorado will formally request a Good Faith Effort Exemption from CMS to delay the implementation of the EVV mandate to allow for necessary system changes. Pending CMS approval of the delay request, providers will not be required to use EVV on January 1, 2020 but are strongly encouraged to participate. While Colorado is seeking a Good Faith Effort Exemption from CMS to delay the EVV mandate, EVV implementation will proceed on the current schedule. This will permit providers to voluntarily collect EVV data as the Department identifies methods to differentiate services provided by live-in caregivers.

More specifically, EVV system implementation, training, and vendor interfacing will proceed on the current project schedule. Again, providers are strongly encouraged to voluntarily participate in EVV beginning October 2019. Provider participation will produce valuable data for system modification and policy development. The timeframe between system launch and the EVV mandate is referred to as the Soft-Launch. Please refer to the Soft-Launch section below for additional details.

Updated EVV Implementation Timeline

September 2019: EVV system Go-Live (on schedule)

September 2019: Good Faith Effort Exemption request submitted to CMS

October 2019: Providers may begin to voluntarily use EVV system (Soft-Launch)

October 2019: Good Faith Effort Exemption request approved or denied by CMS

- Good Faith Effort Exemption granted: EVV will be mandated at a future date contingent upon system changes. The Department will provide ongoing updates to ensure providers are aware of requirements.
- Good Faith Effort Exemption denied: EVV will be mandated January 1, 2020; the Department will issue further guidance if a denial is received.

Additional Information on Soft-Launch

The State EVV Solution and Data Aggregator will launch on September 30, 2019. At this time, providers may begin to verify service provision through EVV and transmit data from the State EVV Solution and Provider Choice systems to the Department. Until EVV is mandated by Colorado Code of Regulation Rule, participation in EVV is voluntary. However, the Department strongly recommends that providers and caregivers participate in EVV beginning October 2019. The Soft-Launch is an opportunity to:

- Test and interface Provider Choice Systems.
- Familiarize providers with EVV prior to claims integration. Claims will continue to pay and EVV errors will appear on remittance advice.
- Inform policy and system development for the exclusion of live-in caregivers.
- Help the Department identify and develop supplemental training materials.
- Facilitate EVV participation by caregivers and members.

Next Steps

The Department will update stakeholders on the Good Faith Effort Exemption request response from CMS and provide further details on when EVV will be mandated in Colorado.

Attachments:

None

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<https://www.colorado.gov/pacific/hcpf/evv>