

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



JUL 10 2018

Esmé Grant Grewal, Esq.
Vice President of Government Relations
American Network of Community Options and Resources
1101 King Street, Suite 380
Alexandria, VA 22314

Dear Ms. Grewal:

Thank you for your letter to Administrator Seema Verma sharing your concerns regarding the implementation of electronic visit verification (EVV) systems as required under the 21st Century Cures Act (Cures Act). In your letter, you indicated that the American Network of Community Options and Resources (ANCOR) has concerns about the application of EVV requirements to programs serving individuals with intellectual and developmental disabilities, the timeline for EVV implementation, privacy of beneficiaries, and opportunities for public input and participation. The Administrator asked that I respond on her behalf.

You indicated that the application of EVV requirements to programs serving individuals with intellectual and developmental disabilities overextends the intent of the Cures Act and requested that the Centers for Medicare & Medicaid Services (CMS) apply a more narrow definition to the covered class to align EVV implementation with the original intent of the legislation. While CMS acknowledges these concerns, the Cures Act specifies the Medicaid authorities to which EVV requirements apply and does not grant CMS the flexibility to exempt certain populations within those authorities.

I am pleased to share that CMS recently issued an Informational Bulletin and Frequently Asked Questions document that addresses many of the concerns you have raised in your letter. This guidance is available here: <https://www.medicaid.gov/medicaid/hcbs/guidance/electronic-visit-verification/index.html>.

With regard to your members' concerns around implementation deadlines, CMS will begin accepting requests for good faith effort exemptions in July 2018, and anticipates providing guidance on requesting a good faith effort exemption via State Operations and Technical Assistance (SOTA) updates and at <https://www.medicaid.gov/medicaid/hcbs/>. Please be advised that the Cures Act provision on good faith effort exemptions does not provide CMS with authority to delay the federal medical assistance percentage (FMAP) reductions for more than one year.

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Regarding privacy, CMS will consider this as a focused topic for future trainings and guidance to help ensure states' EVV systems are responsive to stakeholder concerns. EVV systems are subject to HIPAA privacy and security protections.

EVV implementation requirements and timelines under the Cures Act did not mandate a formal input process such as developing a Notice of Proposed Rulemaking, requesting formal public comment, and developing a Final Rule. However, CMS has welcomed and continues to receive stakeholder input through other avenues and makes every effort to incorporate that feedback into guidance for states, beneficiaries, your members and other providers where possible.

Thank you again for sharing these critical issues regarding EVV implementation. Please be assured that my staff will continue to collaborate with beneficiaries, advocates, providers, and states to resolve EVV implementation issues. Should you have any further questions, please feel free to contact Ralph Lollar by email at Ralph.Lollar@cms.hhs.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Timothy B. Hill', with a large, sweeping flourish above the name.

Timothy B. Hill
Acting Director