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**Congress of the United States**  
**House of Representatives**  
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April 24, 2018

The Honorable Seema Verma  
Administrator  
Centers for Medicare and Medicaid Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20001

Dear Administrator Verma:

As a Member of the House Committee on Energy and Commerce, I applaud your agency's commitment to implementing the 21<sup>st</sup> Century Cures Act (P.L. 114-255). This law is improving care for millions of Americans, including Medicare and Medicaid beneficiaries, by expediting the development of innovative therapies.

I write to you today about Section 12006 of the 21<sup>st</sup> Century Cures Act, which directs states to require personal care services (PCS) and home health care services (HHCS) providers to use electronic visit verification (EVV) systems when providing care to Medicaid beneficiaries. This provision was included in part to address concerns raised by the Department of Health and Human Services Office of the Inspector General (HHS-OIG). Over the last decade, HHS-OIG has noted increasing Medicaid expenditures for PCS and HHCS, which has raised concerns about fraud and abuse. EVV systems help deter these activities by documenting the delivery and receipt of PCS and HHCS, which ensures Medicaid beneficiaries receive the services that they are entitled to. An effective implementation of Section 12006 will help prevent fraudulent activities and improve the efficiency of PCS and HHCS.

It has come to my attention that members of the disability rights community are concerned that EVV regulations could be applied to self-directed Medicaid programs. These Medicaid programs are alternatives to state-directed Medicaid programs that allow eligible beneficiaries to manage aspects of their care. Populations that use self-directed Medicaid programs could face additional obstacles in using EVV systems. Some of these Medicaid beneficiaries, for instance, might receive HHCS and PCS services at multiple locations. Since EVV systems frequently use global positioning system (GPS) technology or landline telephones, it is possible that EVV systems might fail to account for multiple delivery sites. I have also heard that some beneficiaries and providers might lack the skills needed to operate EVV systems. Specifically, some Medicaid enrollees in self-directed programs might not have the electronic proficiency to operate EVV systems. Similarly, some HHCS and PCS providers might lack the skills and training necessary to operate EVV systems, which could result in unwarranted financial and programmatic penalties.

Many of the Medicaid populations enrolled in these programs have highly complex HHCS and PCS needs. As a result, they rely on self-directed Medicaid programs to help them remain in the community. Any changes that lead to new barriers to care could result in serious harm to these beneficiaries.

States must implement EVV regulations by January 1, 2019, for PCS providers and January 1, 2023, for HHCS providers. As these deadlines are quickly approaching, I am seeking additional information about how the Centers for Medicare and Medicaid (CMS) plans to implement Section 12006 and mitigate the potential harm of applying EVV requirements to self-directed Medicaid programs.

1. Is CMS aware of the disability community's concerns about EVV requirements in self-directed Medicaid programs?
2. Section 12006 directs CMS to issue guidance on implementing EVV requirements. I understand that the agency has not yet issued this guidance. When will CMS issue it?
3. Will this guidance contain information on implementing EVV systems in a way that prevents harm to beneficiaries in self-directed Medicaid programs?
4. Does CMS have sufficient flexibility under current law to give states latitude in implementing Section 12006 for self-directed Medicaid programs in a way that avoids harming beneficiaries? If not, what additional authorities could Congress provide to achieve this goal?

Thank you for your attention to this matter. I look forward to working with you to ensure that Section 12006 is implemented in a manner that effectively fights fraud and provides patient protections without disrupting care for vulnerable populations.

Sincerely,



Diana DeGette  
Member of Congress