Electronic Visit Verification: New to Medicaid In-Home Services

You may have started to hear about Electronic Visit Verification or EVV. EVV will impact all Georgians with disabilities receiving any type of Medicaid-funded in-home services, including waiver programs like **NOW, COMP, ICWP, SOURCE, and CCSP**. This paper explains what EVV is, the privacy and civil rights concerns people with disabilities and their families have raised, and how you can get involved.

What is Electronic Visit Verification (EVV)?

EVV is an electronic web or phone tracking system that verifies the time, location and paid caregiver providing Medicaid-funded personal care services or home health care services to a Medicaid recipient. Congress passed EVV in the 21st Century Cures Act, in an effort to reduce Medicaid fraud, as well as increase the accuracy and quality of service delivery. State Medicaid programs must implement EVV by January 1, 2020 or lose some federal Medicaid funding (called federal medical assistance percentage or FMAP).

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How does EVV work?

The law requires that EVV systems verify the type of service performed, the person receiving the service, the date, location, person providing the service, and the time the service begins and ends. States have a lot of flexibility about how they design their EVV systems to do this. Generally, EVV relies on a telephone or web-based device to electronically verify the information. Options for EVV include telephone timekeeping with caller-ID, web or phone-based applications using Global Positioning System (GPS), or a one-time password generator or other device. Georgia has significant challenges for EVV because many rural counties have limited internet service and sporadic cell phone access.

What services are covered by EVV?

The Cures Act requires EVV for Medicaid-funded personal care and home health services "requiring an in-home visit." The law left open many questions about exactly which services it was intended to cover. The federal agency that oversees Medicaid, the Centers for Medicare & Medicaid Services or CMS, issued guidance in May 2018 to clarify how states should apply EVV. CMS interprets the services covered by EVV broadly to include any service provided to an individual in their home to assist with "Activities of Daily Living" (ADLs), such as movement, bathing, dressing, toileting, and personal hygiene or "Instrumental Activities of Daily Living" (IADLs), such as meal preparation, money management, shopping, and telephone use." The name of the service does not matter; it includes services that may go by other names, such as personal attendant services, personal assistance services, or attendant care services.

It also includes assistance with ADLs and IADLs that are part of other community-based services, like in-home supports or respite. CMS similarly interprets home health care services broadly. EVV applies whether the services are provided by an agency or through self-direction. **CMS' broad interpretation means that virtually any home and community-based service, provided in any part in an individual's home, including many services provided through Georgia's waivers, will be covered by EVV.**

Several types of services are not covered by the EVV requirement. These include personal care services provided in institutions (i.e., a hospital, nursing facility, or intermediate care facility - ICF); in congregate residential settings where 24-hour service is available such as group homes and assisted living; and in the Program of All-Inclusive Care for the Elderly (PACE). CMS also said that services that do not "require an in-home visit" – meaning they are provided completely outside of the home, such as at a workplace or at school – are not covered.

CMS' guidance still leaves a lot of questions unanswered. For example, if a person is picked up from his or her home by a personal care attendant, but the service happens elsewhere in the community, it's still not clear whether EVV is required. Similarly, if the services are provided in-part in the home and in-part in the community, it's not clear whether the visit needs to be verified. There are still questions about how and whether EVV requirements apply to family caregivers who live with the person receiving services, such as in shared living or host homes since the provider is already on-site and will not be doing a separate "in-home visit." In addition, CMS said states can choose to apply EVV to more services than the law requires.

Why does this matter?

Invasion of Privacy

Supporters of EVV believe that real-time information will improve billing accuracy, quality of service delivery, and reduce fraud, waste, and abuse in the Medicaid system. They suggest it will allow providers to know when a service provider doesn't arrive, and the consumer is left without help, so that the agency can arrange for substitute help quickly.

On the other hand, people receiving services and service providers often see EVV as a serious intrusion into their privacy. Some devices raise specific privacy concerns, such as those equipped with microphones or cameras. Other EVV systems use Global Positioning System (GPS) data to verify service locations. Consumers are concerned about the privacy intrusion of being tracked as they go from location to location throughout their daily life in the community. This is perceived as particularly intrusive on the privacy and civil rights of people with disabilities.

In response to privacy concerns, CMS clarified that states are not *required* to include GPS in their EVV systems. However, CMS said they *may* use GPS if they wish, heightening the concerns of stakeholders in states where GPS is being used or considered.

CMS said that capturing the location at which an in-home service starts or stops is enough and that states are not required to track each location as a person moves through the community. However, CMS makes clear that "states may choose to require more information" and "have a good deal of discretion in selecting EVV systems."

It will be difficult for provider agencies to create different timekeeping systems for services covered by EVV and those not, so states or provider agencies may end up requiring the use of EVV to track locations beyond where it is required. The fact that states can design their EVV systems to be broader than required by the law increases concerns about how EVV may impact the privacy and autonomy of people with disabilities, their family members, and service providers.

Limits on Independence, Community Integration and Consumer-Direction

Many disability stakeholders are concerned that EVV will limit their independence, decrease their ability to participate in community activities, undermine consumer-direction, and may even lead to a loss of services. For example, if an EVV system requires a device to be physically located in a service recipient's home (like a landline phone or a device installed in the home), people with disabilities may feel trapped at home and limited in their ability to move around the community.

Depending on how it is done, EVV could be burdensome and time-consuming. It could disrupt routines, with consumers and service providers potentially having to put aside other more important tasks or activities to accommodate the system. The expense of EVV equipment could create a disincentive for providers to serve Medicaid participants. A difficult or expensive system would also aggravate the shortage of home care workers in Georgia, leading to a loss of services that are crucial for the independence and community integration of people with disabilities. Advocates are also concerned about the potential direct and indirect financial costs of EVV to consumers and direct-care workers. Neither consumers nor direct-care workers should bear the costs for EVV equipment. States also should not assume that all consumers or direct-care workers have or can afford to purchase a cell phone, cellular data or internet service plan, or a landline.

Disability advocates have also raised major concerns about how EVV will be implemented in consumer-directed programs, where the Medicaid participant (not a provider agency) is the employer because flexibility is needed in scheduling and in choice of the person providing services.

To accommodate consumer-direction, an EVV system must be able to reflect last-minute changes based on individuals' needs, build in options beyond a limited number of pre-scheduled locations, and allow verification of multiple service delivery locations in a single visit.

Practical Challenges

States may face technical obstacles as they design and implement an EVV system. For example, states will have to figure out how to document services in rural areas with limited internet access or cell phone reception, or where the consumer does not have a landline. States also need to ensure that the EVV system interfaces with existing Medicaid state data systems, including the financial management systems used for consumer-direction. States must ensure that technology systems are accessible, including to people with visual, hearing or physical accommodation needs.

Need for Thoughtful Implementation and Stakeholder Engagement

States need time to design their EVV systems to minimize burdens on consumers and providers, to protect consumer privacy, and to build in flexibility and accommodations. In the Cures Act, Congress directed CMS to issue guidance explaining the requirements and models of EVV systems. Many states held off on beginning their system design until CMS issues this guidance, which did not occur until May 2018. The delayed guidance meant that most states would have been scrambling, without opportunities for public input, to meet the January 2019 deadline in the statute. The disability community successfully advocated for Congress to pass a bill extending the implementation deadline by a year (to January 2020) and increase the requirements for public input. This bill was signed into law by the President in August 2018.

Georgia has begun initial implementation steps. The past two years have seen over $9 million of state and federal funds invested in developing Georgia's new EVV system. The State's focus has been on lining up an EVV vendor. Although the procurement process is underway, contracts will likely not be signed until the fall of 2018.

Once an EVV vendor is selected, Georgia will begin to develop policies about how EVV will be implemented. It is critical that stakeholders work with the State to ensure that policies will protect consumers' privacy and their freedom to move about in the community, as well as accommodate consumers who self-direct. This is a very important step, as it will formalize the verbal assurances the State has made at public meetings to do so.

What you can do?

Engage in the Stakeholder Input Process

Consumers voices are critical to Georgia's implementation of EVV. The Cures Act requires that states seek stakeholder input in designing their EVV systems, including service recipients, family caregivers, and providers. Congress reiterated and strengthened the stakeholder input requirements in the recently passed EVV delay bill.

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Because many important choices are left to states, stakeholder involvement is vital to ensure that the EVV system minimizes the intrusion on privacy, does not limit community participation, accommodates consumer-direction, and does not cause the loss of services.

Be a part of the process by raising your voice at the public forums being held by the Department of Community Health (DCH) for those who would like to learn more about EVV in Georgia. Visit DCH's EVV page for the schedule, and plan to attend! These regional forums are a critical opportunity for consumers and their families to learn more about the State's plans, share their concerns, and understand how and when they will be impacted. It is especially important that Medicaid consumers like you attend. Georgia needs all voices at the table in order to make good decisions. EVV Policy will only reflect consumer concerns if consumers raise their voices at the forums.

Advocate for Robust Outreach and Training

It is critical that stakeholders urge Georgia to educate and provide training to people receiving services (including people who self-direct), not just to providers. Consumers need to know how to use Georgia's EVV system, what to do if they face any problems, and how to seek any necessary accommodations. To date, Georgia's EVV initiative has focused on educating providers about EVV. We know providers have a lot on their plate already. It is important that Georgia educate consumers directly.

Next Steps

Thoughtful design and implementation of an EVV system requires a robust stakeholder input process, education and training of providers, and engagement and education of people receiving services before (and after) the EVV process starts. GCDD is communicating regularly with our state Medicaid program to advocate for each of these critical steps. Now that Georgia has until January 2020 to implement EVV, GCDD has requested that the State hold additional public forums this fall and winter. GCDD will continue our outreach to stakeholders. We have planned an EVV webinar for September 14 from noon to 1PM and will share information about best practices as other states are designing and implementing their EVV systems. We are committed to collaborating with others in the disability and aging community who are impacted by EVV.

Advocacy Steps:

1. **Find a public forum to attend by visiting the** Georgia Department of Community Health's EVV webpage.
2. **Attend GCDD's educational webinar on Friday, September 14 from 12:00 p.m. to 1:00 p.m. Visit** GCDD's website **to learn more.**
3. **Learn more by visiting the** Georgia's Department of Community Health's Facebook page **and** The Center for Public Representation's EVV webpage.
4. Email your questions and concerns **about EVV to the Georgia Department of Community Health.**