

R414. Health and Human Services, Health Care Financing, Coverage and Reimbursement Policy.

R414-522. Electronic Visit Verification Requirements for Personal Care and Home Health Care Services.

R414-522-1. Introduction and Authority.

This rule implements the electronic visit verification requirements for personal care services and home health care services in accordance with Section 12006 of the 21st Century Cures Act. Electronic visit verification requirements apply to personal care services or home health care services provided under the Medicaid State Plan or under a Medicaid waiver, which require an in-home visit by a provider. Section 26B-3-108 authorizes this rule.

R414-522-2. Definitions.

(1) "Electronic visit verification" (EVV) means the use of telephone or computer-based technology to verify the data elements related to the delivery of a Medicaid-covered service.

(2) "EVV system" means the combination of the data collection component and the aggregator component used by a provider to comply with EVV requirements established by the Department.

(3) "Home health care services" (HHCS) means services described in Subsection 1905(a)(7) of the Social Security Act, and provided under the Medicaid State Plan or under a Medicaid 1915(c) waiver.

(4) "Personal care services" (PCS) means personal care services provided under the Medicaid State Plan or under a Medicaid waiver.

(5) "EVV technical specifications" means the Department's technical specifications located at <https://medicaid.utah.gov/evv/>.

R414-522-3. Electronic Visit Verification Requirements.

An EVV record is required for personal care services (PCS) effective July 1, 2021. An EVV record is required for HHCS effective January 1, 2023. Each PCS and HHCS provider must select an EVV service vendor and submit EVV records to accompany each PCS or HHCS claim within three months of submitting the claim or payment. The provider's EVV system must comply with the 21st Century Cures Act, meet the standards of privacy set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the Health Information Technology for Economic and Clinical Health (HITECH) Act, and the EVV technical specifications. The 21st Century Cures Act requires an EVV data system to include:

- (1) the type of service performed;
- (2) the individual receiving the service;
- (3) the date of the service;
- (4) the location of service delivery;
- (5) the individual providing the service;
- (6) the time the service begins and ends; and
- (7) the date of creation of the electronic record.

R414-522-4. Corrections to Electronic Visit Verification Records.

Guidance on submission of corrected records can be found at <https://medicaid.utah.gov/evv/>.

R414-522-5. Evaluation of Provider Compliance with Electronic Visit Verification Requirements.

(1) The Department shall conduct annual post-payment reviews of claims requiring EVV for home health care service and personal care service providers to assess compliance with the requirements.

(2) At random, and for each provider, the Department selects a calendar month within the previous 12-month period and includes as part of its audit, claims for which a provider has service dates and has received reimbursement in the selected month. The Department also includes in the audit, encounters paid through contracted managed care entities within the selected month.

(3) For any claims and encounters for which an associated EVV record cannot be located, or when the EVV record may not be sufficient to meet the requirements in Section R414-522-3, the Department shall present an audit report to the provider and allow for an opportunity to refute the findings.

(4)(a) The Department may issue the provider a corrective action plan and recover funds for claims that do not comply with Section 26B-3-129. Accordingly, the Department may apply the financial penalties established in this subsection.

(b) The Department may withhold payments to a provider that misses deadlines for data submission until the provider submits the required data.

(c) The Department may issue an audit finding to a provider found to have performed PCS or HHCS without submitting EVV records by the required date of compliance. The provider is subject to recoupment of up to 25% of paid amounts for services that require EVV records for the month audited as well as up to the two months before the month audited.

(d) The Department may impose, for a provider that fails to remedy an audit finding, a recoupment of up to 100% of paid amounts for services that require EVV records for the month audited as well as up to the two months before the month audited.

(5) A provider may request an exemption from penalties if the provider makes a good faith effort, but could not implement an EVV solution in time due to circumstances beyond the provider's control. A provider must submit an exemption request to the EVV email within two weeks of being notified of the finding and recoupment. The Department reviews exemption

requests and decides within two weeks of receiving the request whether the request meets exemption requirements. Exemption requests are handled on a case-by case basis.

(6) A provider may request consideration through the fair hearing process.

KEY: Medicaid

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