

Flash EVV Compliance Reporting

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Electronic Visit Verification Compliance Expenditure Reporting

The Centers for Medicare & Medicaid Services (CMS) recently issued guidance to states regarding revisions to the CMS-64 reporting that requires reporting of expenditures for personal care services (PCS) subject to Electronic Visit Verification (EVV). Information contained within the CMS 64.9 base form will be used to leverage penalties against states who are non-compliant with EVV requirements. This Flash describes expectations for states on the new reporting requirements. **Mercer has received subsequent guidance from CMS that EVV compliant managed care states do not need to separately report PCS expenditures.**



Background

The 21st Century Cures Act signed into law on December 13, 2016 added section 1903(l) to the Social Security Act that requires states to implement EVV for Medicaid PCS by January 1, 2020, and for home health care services by January 1, 2023. States had the opportunity to request a one-year extension if they made good faith efforts towards implementation, which all states but Tennessee

received. If the remaining states were not compliant by January 1, 2021, the Federal Medical Assistance Percentage (FMAP) would be reduced on a quarterly basis. States that did not implement EVV for PCS by this date are subject to a 0.5% FMAP reduction beginning in the second Federal fiscal year (FFY) quarter.

EVV is mandatory for any PCS requiring an in-home visit, in a fee-for-service (FFS) or managed care delivery system, under sections 1905(a), 1915(c), 1915(i), 1915(j), 1915(k) or 1115 authorities. PCS are services supporting activities of daily living or instrumental activities of daily living and may go by many names, including but not limited to, personal care aide, attendant services, or personal attendant services.

In order to be considered in compliance, states must have an electronic means for collecting the following data elements at the time of service provision:

- Type of service
- Individual receiving the service
- Date of service
- Location of service
- Individual providing the service
- Time the service begins and ends

Delays in EVV implementation occur for a variety of reasons including challenges with interfaces between EVV vendors and other IT systems, provider capacity, complexities of implementation in self-directed programs and state budget issues.



Operationalizing Penalty

Late in calendar year 2020, states were required to complete a CMS survey where they reported their status with EVV requirements across all authorities. CMS used this information to determine states' compliance with requirements. CMS will utilize the CMS 64.9 to apply penalties against non-compliant states. Beginning with the FFY 2021 second quarter (Q2) expenditure reporting period, the CMS 64.9 series of forms will include updates that will enable states to report compliant and non-compliant PCS expenditures.

Updates to the CMS 64.9 Base Expenditure Reporting

FFS Reporting

States determined to be compliant are required to report the Total Computable amount of PCS expenditures on the PCS EVV Required Compliant category line of the new feeder form. States that are determined to be non-compliant with the requirements for the use of EVV systems will be required to report all PCS expenditures in the appropriate category line of the new feeder form. The new feeder form category lines are:

- PCS EVV Required Compliant
- PCS EVV Required Not Compliant
- PCS EVV Not Required

Applicable lines within the CMS 69.4 will be viewable based on a state's compliance status. The FMAP reduction percentage penalty will ONLY apply to expenditures claimed on the PCS EVV Required Not Compliant line. Prior period adjustments for these new line items will be added to the expenditure forms listed above beginning with the fiscal year (FY) 2021 Q3 reporting period.



Managed Care Reporting

Beginning with FY 2021 Q2 expenditure reporting period, the CMS 64.9 series of forms, including the CMS 64.9 Waiver, CMS 64.9VIII, CMS 64.9VIII Waiver, CMS 64.9T, and CMS 64.9I forms, will contain the following new managed care organization (MCO) PCS category of service lines and will require states and territories to report all MCO PCS expenditures that require the use of EVV systems on the appropriate new MCO category of service lines below:

- 18A6: Medicaid MCO, services subject to EVV requirements
- 18B1f: MCO Prepaid Ambulatory Health Plan, services subject to EVV requirements
- 18B2f: MCO Prepaid Inpatient Health Plan, services subject To EVV requirements

Each new category of service line above will have a new feeder form POP-UP entry.

Mercer sought clarification from CMS about the need for fully compliant states and territories to separately report PCS expenditures. Below is the response received from CMS:

“States and territories that are fully compliant do not have to develop a claiming methodology to break out the PCS portion of the capitation payment. Therefore, the first sentence of the second paragraph refers to states and territories that are fully compliant with the EVV requirements not having to break out the PCS portion of the capitation rate and report expenditures for the PCS portion separately. They should report the entire capitation payment as described in the second sentence.

... [EVV] compliant states and territories should report the entire capitation payment on the “EVV Required Compliant” line of the feeder form.”

States determined to be non-compliant with EVV requirements will be required to report all PCS expenditures in the appropriate category line of the new feeder form. The new feeder form category lines are:

- PCS EVV Required Compliant
- PCS EVV Required Not Compliant
- PCS EVV Not Required

Non-compliant states are required to develop a methodology to identify the portion of the managed care capitation rate that is attributable to non-compliant PCS. This methodology must be submitted to CMS. CMS will review and approve the state’s claiming methodology for each managed care program providing non-compliant PCS. CMS will review the claiming methodology to:

- Determine reasonableness and appropriateness for the enrolled population and benefit structure of the program and of the assumptions and adjustments used in determining the claiming methodology
- Evaluate the completeness and sufficiency of the underlying justifications, evidence, and documentation to reasonably support the claiming methodology

Submissions must include adequate detail to allow CMS to determine compliance including the data, assumptions, and methodologies used are consistent with agency-recognized standards. CMS will be issuing further guidance on the process for submitting methodologies.

CMS recognizes the time it will take states to develop and obtain approval for their methodology. States should not wait to submit their FFY 2021 Q2 CMS 64.9 forms. They have two options for this periods reporting:

- Provide an estimate of the amount on the appropriate lines

- Not reporting on non-compliant expenditures

States will then be expected to submit an amended CMS 64.9 for FFY 2021 Q2.



What is Next for States?

Mercer can help states determine the personal care expenditure amounts. Specifically, we can assist non-compliant states with managed care programs in determining the portion of the capitation payment that can be attributed to PCS, documenting the methodology for making that determination, as well as support with the submission, review, and approval of the methodology by CMS.

We continue to monitor the evolving guidance from CMS and will provide additional updates as new information is received. CMS has indicated a willingness to hold 1:1 technical assistance calls with states and we strongly urge states to take advantage of this. Questions can also be submitted to the CMS EVV mailbox at EVV@cms.hhs.gov or please reach out to your Mercer contact for additional information or support.

Is your state ready to analyze the impact and develop a plan of action? Your Mercer Government consultants are available to assist in analysis, planning and implementation.

Our website has additional information and resources important to states
www.mercer-government.mercer.com
