

Disabled and Elderly Health Programs Group

March 25, 2021

Stephen Groff, Director
Division of Medicaid and Medical Assistance
1901 North DuPont Highway
Lewis Building
New Castle, DE 19720

Dear Mr. Groff:

I am writing to inform you that the Centers for Medicare & Medicaid Services (CMS) has reviewed your state's Electronic Visit Verification (EVV) Compliance Survey submission from January 22, 2021, and determined, based on the updated information you provided, that Delaware does not meet the requirements specified in section 1903(l) of the Social Security Act (the Act), as added by Section 12006(a) of the 21st Century Cures Act, for personal care services rendered in some or all applicable authorities available within your state. This determination supersedes the prior determination set forth in the letter issued by CMS to the state on January 19, 2021.

The non-compliant programs include the following:

- Section 1915(c) home and community based services waivers
- Section 1915(i) home and community based services state plan option
- Section 1115 demonstration projects

Your state reported to CMS that it is experiencing delays implementing its state-operated EVV system, which is intended to be used by providers that do not currently operate their own EVV systems. The state anticipates achieving full compliance by July 1, 2021.

Because your state has not demonstrated that it complies with all EVV requirements as specified by the statute, CMS must apply federal medical assistance percentage (FMAP) reductions to personal care service expenditures for the authorities and/or programs listed above, beginning in the first calendar quarter of 2021, consistent with the requirements of 1903(l)(1)(A) of the Act. For each quarter during which the state is not compliant, FMAP will be reduced by 0.5 percentage points for calendar quarters in 2021; by 0.75 percentage points for calendar quarters in 2022; and by 1 percentage point for calendar quarters in 2023 and each year thereafter.

It is important to note that FMAP reductions will only be applied to personal care service expenditures for non-compliant authorities. Based on the state's survey response, the state's section 1905(a)(24) state plan personal care benefit is compliant and will not incur FMAP reductions.

Because FMAP reductions are assigned each quarter, you are encouraged to review your survey information on a quarterly basis and update your response when you achieve compliance in any

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or all authorities to ensure FMAP reductions are lifted in a timely manner. Should the state deliver personal care services in any additional Medicaid authorities other than listed above at a point in the future, the state is also responsible for updating its compliance survey.

I have included the state's current EVV Compliance Survey submission with this letter. If you need assistance, please feel free to contact the CMS EVV mailbox at evv@cms.hhs.gov.

Sincerely,

Alissa Mooney DeBoy
Director, DEHPG