

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1850
Disabled & Elderly Health Programs Group



October 20, 2022

Amir Bassiri
Medicaid Director, Deputy Commissioner
New York State Department of Health
One Commerce Plaza Rm. 1605
Albany, NY 12237

Dear Director Bassiri:

The Centers for Medicare & Medicaid Services (CMS) is granting New York approval of the electronic visit verification (EVV) good faith effort exemption request for Home Health Care Services (HHCS). CMS has determined that your state's request is in accordance with [12006\(a\)\(4\)\(B\)](#) of the 21st Century Cures Act (Cures Act). Specifically, your state has made a good faith effort to comply with the HHCS EVV requirements by researching EVV in other states, analyzing Personal Care Service (PCS) implementation, conducting stakeholder engagement and implementing EVV for all HHCS providers by January 1, 2023.

In addition, your state has encountered unavoidable delays when implementing its EVV system. Delays include the state discovering that approximately 40% of the state's private duty nurses are individual contractors who do not work for an agency thus having financial, technical and administrative implications for implementing EVV. NY is currently working towards selecting a solution that will alleviate the burden for providers that will include an incentive payment, and exploring the establishment of an Independent Provider Association.

Because your state has sufficiently demonstrated a good faith effort to comply with EVV requirements and has encountered unavoidable delays, CMS will not apply federal medical assistance percentage (FMAP) reductions in calendar year 2023. Please be advised that the Cures Act provision on good faith effort exemptions does not provide CMS with authority to delay the FMAP reductions for more than one year. If you have any questions please email EVV@cms.hhs.gov or contact your CMS Regional Office.

Sincerely,

Ralph F. Lollar, Director
Division of Long-Term Services and Supports