

Health and Human Services Commission

Electronic Visit Verification

Proprietary Systems Policy

Revision 20-0; Effective Feb. 1, 2020

Overview

The Health and Human Services Commission (HHSC) Electronic Visit Verification (EVV) Proprietary Systems Policy explains the selection and use of an EVV proprietary system by a program provider or financial management services agency (FMSA) and is an addendum to the EVV Policy Handbook. Section 531.024172 of the Texas Government Code provides the authority for HHSC to recognize a program provider or FMSA's EVV proprietary system to comply with Texas EVV requirements. Program providers or FMSAs authorized by HHSC to operate an EVV proprietary system must comply fully with the EVV Policy Handbook, except where noted in this addendum, including all specific EVV proprietary system policies.

A program provider or FMSA may opt to use an EVV proprietary system for the electronic collection and documentation of service visits under Medicaid programs required to use EVV instead of selecting an EVV vendor from the EVV vendor pool managed by the Texas Medicaid & Healthcare Partnership (TMHP).

An EVV proprietary system is an HHSC-approved EVV system that a program provider or FMSA may opt to use, instead of an EVV vendor system from the state vendor pool, that:

- Is purchased or developed by the program provider or FMSA;
- Is used to exchange EVV information with the EVV Aggregator;
- Complies with the requirements of Texas Government Code §531.024172; and
- Complies with all HHSC EVV standards, rules and reporting requirements.

An EVV proprietary system operator (PSO) is a program provider or FMSA that selects to use an EVV system to meet HHSC EVV requirements and completes the EVV Proprietary System Request Form to initiate the proprietary system onboarding process.

The program provider or FMSA who chooses to use their own EVV proprietary system:

- Agrees to forego use of one of the cost-free EVV systems provided by the state as part of the EVV vendor pool;
- Assumes full responsibility for the design, development, operation and performance of the EVV proprietary system;
- Is responsible for all costs to develop, implement, operate and maintain the EVV proprietary system;

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- Is responsible for the accuracy of EVV data collected, submitted, exchanged or reported by the EVV proprietary system;
- Assumes all liability and risk for the use of the EVV proprietary system; and,
- Must maintain all system data, backup data, and historical data to comply with and support all legal, regulatory and business needs.

The program provider or FMSA seeking HHSC approval to become a PSO must meet applicable rules and follow all HHSC EVV standards and requirements including, but not limited to:

- State and federal rules governing EVV;
- Health Insurance Portability and Accountability Act (HIPAA) and the American Disabilities Act (ADA);
- HHSC EVV Policy Handbook;
- HHSC EVV Policies posted on the HHSC EVV website;
- HHSC EVV Business Rules for Proprietary Systems; and, the
- EVV Proprietary System Operator Onboarding Process document.

The PSO must continue to adhere to all requirements specified through HHSC or managed care organization (MCO) program provider or FMSA contracts and will be subject to the HHSC and MCO EVV Compliance Oversight Reviews and other compliance monitoring under the program provider or FMSA contract(s). The PSO must inform the state if the EVV proprietary system is not compliant with state-defined EVV standards and requirements and may be subject to periodic verification, system testing, and audit as specified by HHSC.

Eligibility to Use an EVV Proprietary System

Program providers and FMSAs under contract with HHSC and/or an MCO and required to use EVV may be eligible to operate and use an EVV proprietary system to comply with EVV requirements.

Program providers or FMSAs currently using an EVV vendor from the state vendor pool must continue to use their current EVV vendor until successfully completing the EVV Proprietary System Onboarding process and receiving HHSC written approval.

Program providers or FMSAs not currently using EVV but required to begin using EVV under the Cures Act EVV Expansion, must successfully complete the EVV proprietary system onboarding process and receive HHSC approval within the appropriate timeline to meet EVV requirements.

EVV Proprietary System Operator Responsibilities

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The PSO will build or modify their EVV proprietary system as needed to meet all the rules governing the use of EVV proprietary systems.

The PSO will assume responsibility for the following:

- Operation, management and cost of the EVV proprietary system;
- Training of all users of the EVV proprietary system to include:
 - PSO staff and service attendants
 - CDS employers and employees, if applicable
 - HHSC and other state staff
 - TMHP staff
 - Staff from MCOs with which the PSO has a contractual relationship, if applicable;
- Providing system access to state staff, TMHP staff, MCO staff (if applicable) and other state and federal entities as required; and,
- Provision and management of HHSC-approved electronic verification methods and devices for visit data collection by service attendants.

The PSO must identify and assign key personnel to administer the EVV proprietary system. This must include an EVV system administrator that will serve as the primary contact for HHSC and TMHP. The EVV system administrator will perform, or assign a staff member to perform, all activities related to the onboarding and readiness of the EVV proprietary system.

Prior to HHSC approval, the PSO must communicate in writing procedures and contact information to HHSC, indicating how users will gain system access, receive system training and access technical and user support.

The PSO must provide electronic verification methods at no cost to the member, HHSC, MCO or TMHP. The PSO is solely responsible for the functionality and accuracy of all electronic verification methods, and if applicable, the performance and reliability of any alternative devices.

The PSO must ensure that use of the EVV proprietary system will not conflict with any provisions of the EVV Member Rights and Responsibilities or any other EVV policy, requirement or rule.

Onboarding of the Proprietary System

Once a program provider or FMSA makes the decision to pursue operation of an EVV proprietary system, the program provider or FMSA must follow the EVV Proprietary System Onboarding Process to become a PSO. To initiate the process, the program provider or FMSA must complete an EVV Proprietary System Request Form signed by the program provider or

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FMSA signature authority and submit the form to TMHP. TMHP will process the EVV Proprietary System Request Form and schedule an initial appointment for orientation.

HHSC, TMHP and the PSO will review the requirements for the onboarding process to establish an implementation plan and timeline. The PSO will provide monthly status reports to HHSC and TMHP on the PSO's progress toward completion of the onboarding process. The PSO must notify HHSC of any deviations from the agreed upon project implementation timeline. If the HHSC, TMHP and PSO determine that the completion of the project implementation within the established timeline is at risk, HHSC may require the program provider or FMSA to onboard with an EVV vendor from the state vendor pool to meet EVV requirements.

The PSO may choose to implement the EVV proprietary system for one or more NPIs or API/TIN combinations when onboarding if the PSO intends to use the same EVV proprietary system for each NPI or API/TIN combination.

EVV Proprietary System Readiness Review

To determine whether to grant approval for a PSO to operate their own system, HHSC and TMHP will conduct a validation process referred to as the Readiness Review.

During the Readiness Review, the PSO must accomplish all required steps in the written, agreed upon implementation plan within the established timeline. As part of the implementation, HHSC will require the PSO to:

- Attest to adherence with the Texas Administrative Code and HHSC EVV Policy;
- Attest to adherence to specific HHSC EVV Business Rules for Proprietary Systems;
- Provide documentation of compliance with the HHSC EVV Business Rules for Proprietary Systems, where appropriate;
- Demonstrate functionality that complies with the HHSC EVV Business Rules for Proprietary Systems, where appropriate; and,
- Participate in Trading Partner Testing with TMHP to include system set up, review of testing and technical documentation, and demonstrations of scenario-based system functionality.

HHSC may require the program provider or FMSA to complete an HHSC or TMHP Data Use Agreement, or update an existing agreement if applicable, prior to beginning the Readiness Review process.

HHSC Approval or Disapproval of the EVV Proprietary System

The PSO must successfully complete the Readiness Review prior to EVV proprietary system approval by HHSC. HHSC will determine the success or failure of the EVV proprietary system Readiness Review based on the established criteria.

HHSC will notify the PSO in writing of the Readiness Review outcome. If approved, the PSO will move to the system deployment phase and complete the remaining onboarding tasks.

If the PSO does not pass the Readiness Review process, the program provider or FMSA must then select an EVV vendor from the state pool per the EVV Vendor Selection policy and onboard with the EVV vendor to comply with HHSC EVV requirements.

EVV Proprietary System General Operations

EVV Proprietary System Training

The PSO assumes full responsibility for training all users on the proper use of the EVV proprietary system including electronic verification methods. The PSO will provide training to all system users including:

- PSO staff and service attendants;
- CDS employers and employees, if applicable;
- State staff;
- TMHP staff; and,
- Staff from MCOs with which the PSO has a contractual relationship, if any.

Electronic Verification Methods

The PSO must obtain written approval from HHSC for all electronic verification methods during the Readiness Review. The PSO must select one or more electronic verification methods from the three HHSC-approved methods described in the *Electronic Verification Methods Policy*.

The PSO may use any one, or all three, of the electronic verification methods for attendant and/or employee clock in and clock out but must follow HHSC EVV Policy and comply with specific HHSC EVV Business Rules for Proprietary Systems related to the selected electronic verification method(s). Any rules and reports specific to an electronic verification method not chosen will not apply.

Mobile Method

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In accordance with the *EVV Mobile Application Policy*, the attendant must not use a member's mobile device to clock in and clock out of the EVV system unless the member is a CDS employers. The CDS employer may opt to allow their attendant to use their device to clock in and clock out using a mobile method.

Member's Home Phone Landline

The PSO may not require the use of a member's home phone landline in accordance with the Member's Rights and Responsibilities and must comply with all the *Electronic Verification Methods Policy* and other HHSC policy and rules regarding use of the home phone landline.

Alternative Devices

The PSO may choose to offer an alternative device for use in the home of the member or CDS employer for attendant or employee clock in and clock out of the EVV system. The PSO must demonstrate the alternative device to HHSC and gain HHSC approval prior to use of the device.

Any alternative device approved by HHSC must derive the exact clock in and clock out date and time when used by an attendant or employee, and if there is no geo-location capability within the device, the attendant or employee must only use the device in the home. HHSC may waive components of the *Electronic Verification Methods Policy* that are not applicable to a specific alternative device. HHSC and the PSO will identify and document any applicable exceptions during the EVV Proprietary System Onboarding process.

EVV Proprietary System Maintenance

The PSO is fully responsible for ongoing maintenance of the EVV proprietary system.

The PSO may not make changes to its approved EVV proprietary system that conflict with any state-defined EVV standards and requirements. In addition, the PSO must inform HHSC within two business days of discovery if the PSO is not compliant with any state-defined EVV standards and requirements.

HHSC may periodically change or update EVV standards, policies and requirements, including the HHSC EVV Business Rules for Proprietary Systems. HHSC will notify the PSO of updates to standards and requirements. The PSO assumes full responsibility to make updates to the EVV proprietary system and gain HHSC approval when HHSC publishes new standards or requirements. HHSC will generally allow the PSO 90 calendar days to make the modifications necessary to comply with updated standards and requirements unless otherwise instructed by HHSC. In the event HHSC requires an emergency system or policy change, HHSC and the PSO will mutually agree upon an earlier effective date.

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The PSO must notify HHSC of any planned system changes which alter a component of the system which the PSO tested, demonstrated or documented during the Readiness Review. Based upon the nature of the change, HHSC may require approval prior to making the change.

For any system changes HHSC requires, or changes HHSC approves, HHSC will specify Readiness Review steps that the PSO must complete prior to deployment.

TMHP will assist the PSO in resolving production problems in their EVV proprietary system related to data exchange with the EVV Aggregator as needed.

Access to the EVV Proprietary System

The PSO must provide read-only access to the EVV proprietary system to the state and any MCOs with which it has a contractual relationship at no cost to the state or MCO. In addition, the PSO must allow HHSC or an MCO with which they contract, immediate, direct, on-site access to the EVV proprietary system.

The PSO must limit MCO access to the MCO's respective member visit data only, and only for dates of service within the timeframe covered by the PSO contract with the MCO. The PSO must allow this access indefinitely after the PSO's contract with the MCO ends (in accordance with applicable law).

The PSO must provide HHSC and the MCOs access to reports and data necessary to verify EVV usage, including those standard reports identified in the HHSC EVV Business Rules for Proprietary Systems.

Access for CDS Employers

If the PSO delivers Medicaid services under the CDS option, then the PSO must provide access to the EVV proprietary system to their CDS employers. The PSO must train the CDS employers on the use of the system; including clock in and clock out methods and give the CDS employer access to the system. See the HHSC EVV website for more information on CDS policy.

Required EVV Proprietary System Standard Reports

The PSO must make standard reports available to EVV proprietary system users according to the HHSC EVV Business Rules for Proprietary Systems, however, some exceptions may apply. HHSC and the PSO will identify and document any applicable exceptions during the EVV Proprietary System Onboarding process.

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The PSO will be responsible for generating and providing the EVV Landline Phone Verification Report only if using the member's home phone landline as an electronic verification method used by the attendant or employee in the home of the member or CDS employer.

The PSO will be responsible for generating and providing the CDS Delivery Log report and any other necessary reports to CDS employers if serving as the FMSA under the CDS option.

EVV proprietary system standard and ad hoc reports must be available on demand to HHSC and, if applicable, to MCOs and CDS employers.

Compliance Oversight Reviews

The PSO will be subject to EVV Compliance Oversight Reviews (see the *HHSC EVV Compliance Oversight Reviews Policy*) to monitor the PSO's use of the EVV proprietary system to electronically document authorized service delivery visits.

The state will use EVV visits in the EVV Aggregator as the system of record for PSO compliance oversight reviews, specifically the EVV Usage Report and the EVV Reason Code Usage and Free Text Report available in the EVV Portal. The state may perform other compliance reporting and oversight based on data in the EVV proprietary system. The PSO is responsible for transmitting all confirmed EVV visits to the EVV Aggregator and ensuring that the EVV Aggregator accepts the EVV visit transactions.

HHSC Cancellation of EVV Proprietary System Approval

The state may disapprove the use of an EVV proprietary system at any time if it deems the system is unable to ensure data accuracy or integrity, or if the PSO fails to meet HHSC EVV standards and requirements.

The state will issue a written notice to the PSO specifying the reason(s) for disapproval of the use of their EVV proprietary system. HHSC, at its discretion, may allow the PSO to submit a Root Cause Analysis and Corrective Action (RCCA) plan to the state, within a timeframe specified by HHSC, and attempt to remedy the deficiencies within the EVV proprietary system.

HHSC has the sole authority to cancel the use of an EVV proprietary system and require the program provider or FMSA to transition to an EVV vendor from the state vendor pool within a timeframe to be determined by HHSC.

Changing EVV Systems

The program provider or FMSA must follow the *HHSC EVV Vendor Transfer Policy* to transfer from one of the EVV vendor systems in the state vendor pool to an EVV proprietary system, or to transfer from an EVV proprietary system to one of the EVV vendors. The program provider or FMSA must notify the state 120 calendar days in advance of the planned transition date from one system to another. A program provider or FMSA operating an EVV proprietary system may transition to a different EVV proprietary system under the *HHSC EVV Vendor Transfer Policy*.

The PSO must not collect productional EVV visit data in more than one system at a time and must transition all EVV visit collection activities to the new EVV system (EVV vendor or EVV proprietary system) as of the onboarding effective date with the new system. The PSO must complete visit maintenance in the originating system and may transmit updates to the EVV Aggregator from the originating system for visits that occurred prior to the onboarding effective date with the new system.

In the event the PSO decides to migrate from one EVV proprietary system to another, the PSO is responsible for:

- Migrating all necessary data from one EVV proprietary system to another prior to beginning EVV visit collection activities in the new system.
- Importing existing EVV visit data into the new EVV proprietary system (if needed) prior to decommissioning the originating system.
- Completion of any necessary visit maintenance for visits captured in the originating system in accordance with the timeframe stated in the *EVV Visit Maintenance Policy*.
- Ensuring the transmission and acceptance of all visit data in to the EVV Aggregator.

In addition, during any system transition process, whether it be between EVV proprietary systems or during transfer to or from an EVV vendor, the PSO is responsible for:

- Completion of any necessary visit maintenance for visits captured in the originating system in accordance with the timeframe stated in the *EVV Visit Maintenance Policy*.
- Migration of data from the originating (if needed) prior to decommissioning the originating system.
- Ensuring access by the PSO, HHSC and MCOs, if applicable, to historical data which may reside in the originating system.

Fraud, Waste and Abuse

Non-compliance with state-defined EVV standards and requirements may result in fraud, waste and abuse investigations in accordance with Texas Government Code fraud statutes.

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Non-compliance with state-defined EVV standards and requirements may result in the recoupment of funds for any claim paid or any overpayment made based on inaccurate data.

The state may require the EVV Aggregator to reject all EVV visit transactions from an EVV proprietary system effective immediately if the state substantiates an allegation of fraud, waste or abuse related to the functioning of the EVV proprietary system. In addition, the state may cancel the approval of an EVV proprietary system and require the PSO to immediately transfer to a selected EVV vendor from the state pool.