



December 29, 2021

The Honorable Frank Pallone
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Cathy McMorris Rodgers
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Diana DeGette
U.S. House of Representatives
Washington, DC 20515

The Honorable Fred Upton
U.S. House of Representatives
Washington, DC 20515

Stakeholder Comments: Cures Act 2.0, Section 409, Prohibiting the Use of Geographic Tracking Features and Biometrics Within Medicaid Electronic Visit Verification Systems.

Dear Chairman Pallone, Ranking Member Rodgers, and Representatives DeGette and Upton:

The Partnership for Medicaid Home-Based Care (PMHC) is comprised of organizations representing home care agencies, associations, technology vendors and payers who have come together to improve the quality and integrity of Medicaid funded home- and community-based services (HCBS). Recognizing the integral role of home- and community-based care in the Medicaid program, PMHC is dedicated to advancing and supporting public policies that bring accountability to and secure the Medicaid program for care recipients and taxpayers alike.

We are very concerned that the recently introduced Cures Act 2.0 includes a provision that would prohibit the use of geographic features (GPS) within EVV systems.¹

All PMHC provider members currently utilize EVV systems and many of our members have used EVV with GPS capabilities for over a decade, long before the enactment of the 21st Century Cures Act, Section 12006 that mandated states implement EVV for all Medicaid personal care services (PCS) and home health services (HHCS).² Home care agency and financial management services (FMS) providers rely on mobile GPS verification to document time and attendance, in addition to many other uses to support HCBS recipients and employee caregivers. Generally this GPS technology facilitates the capture of the location at start/stop of care delivery, it does not track caregivers or beneficiaries on an ongoing basis and that is not the intent of the technology.

Restricting the use of GPS and biometrics would be highly detrimental to the implementation and use of EVV in HCBS. By legislating the restriction of the use of GPS yet keeping the federal mandate for EVV to be utilized by Medicaid HCBS providers would be like establishing a goal of supplying internet access to all Americans but not allowing the use of Wi-Fi technology.

¹ H.R. 6000, Section 409.

² Pub. L. 114-255

PMHC comments below include the benefits of a GPS enabled EVV system over alternatives and specifically focus on the detrimental and immediate negative impacts the proposed GPS restriction will have on the states continued implementation and compliance of EVV system utilization mandated under federal law.

After considerable time, cost, and effort to implement a compliant EVV system, restricting the use of GPS would immediately put many states out of compliance with federal law. A majority of states have chosen to deploy GPS mobile solutions for EVV after receiving extensive input from state stakeholders into their system design.

The restriction on GPS is being proposed five years after enactment of the federal EVV mandate and years after states have initiated efforts to design and implement an EVV system that complies with federal law. If adopted, the restriction of the use of GPS would immediately subject states to financial penalties for non-compliance with the federal EVV mandate.

Privacy concerns regarding the use of GPS do not reflect actual use of geographic data points. Using GPS to comply with the federal requirement of establishing location at the start and end of a visit is not the equivalent to an electronic tracking system. HCBS providers have addressed this concern from caregivers from time to time. When provided the solution to elevate concerns about continuous tracking by simply shutting down the EVV application on their mobile device or disabling the location services on their phone, their concerns are immediately alleviated. Additionally, there is no reason to spend administrative or supervisory time tracking caregivers when they are not providing direct care or generally outside of the start and end time of the visit with a HCBS recipient.

Land line telephones are rapidly disappearing from the homes of all Americans, including Medicaid HCBS recipients. In 2004, more than 90% of US adults lived in households that had an operational landline phone- today it is less than 40%³. Therefore, states simply cannot fully comply with the federal EVV mandate relying solely on interactive voice response (IVR) or telephony-based systems. The use of a fixed device, such as a fob, is the only alternative and represents a clumsy and difficult technology to use for caregivers and clients alike. Additionally, a fob requires the placement of hardware in the recipient's home, which is prone to loss, damage, and subsequent replacement. Also, services that need to be confirmed without GPS typically have to be confirmed from an at-home landline, thus restricting services from being delivered in the community or other location that is not within the home.

The use of biometrics in EVV is a convenience to both clients and caregivers. Current biometrics consist primarily of voice verification as a substitute for a written client signature that is required by state and federal regulations to attest to the hours and delivery of care. Some clients have difficulty or are uncomfortable signing electronically, so voice verification is an option to alleviate this concern. Prohibiting the use of biometrics will limit how individuals can use the system according to their needs and eliminate this convenience for clients and stifle additional technology innovation for simpler and more convenient means of providing client attestations.

³ <https://www.statista.com/chart/2072/landline-phones-in-the-united-states/>

GPS enabled EVV systems provides other capabilities and conveniences that will be unachievable if GPS is restricted. Caregivers and their unions have fought hard to receive compensation for time spent travelling between clients, mileage between clients, and mileage running errands or transporting clients. GPS provides an efficient and accurate method to capture these costs incurred by caregivers and to compensate them fairly.

Mobile technology allows for simple and real-time documentation of client visits. Mobile GPS does not require a landline or cellular coverage. GPS enabled EVV systems are a straightforward application that efficiently guides caregivers through a visit documentation that would otherwise need to be completed and submitted on paper forms. Although IVR can capture some of this documentation it is not as simple or efficient and considerably increases cost.

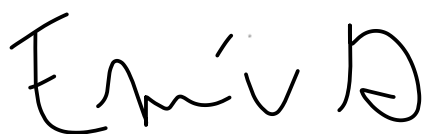
The use of GPS enabled EVV systems improve caregiver safety. With mobile GPS applications, an agency administrator or supervisor can assist caregivers when they have issues during their workday. The EVV system verifies the caregiver arrives safely and on time to their scheduled visit, and allows easier communication with agency staff in the event of an emergency.

Eliminating the use of mobile GPS would have a downstream negative impact. Alternative methods are limited in their capability, which means more administrative burden on caregivers and less information collected on each visit. If caregivers need to spend additional time documenting care, they will spend less time with each client. As a result, more caregivers will be needed at a time when HCBS providers are having significant challenges in workforce recruitment and retention.

In conclusion, it is important to emphasize that **the current federal EVV mandate does not require the use of GPS.** Federal law allows for state flexibility when designing and implementing its specific EVV system and requires extensive stakeholder input during the process. Therefore, the determination to use GPS enabled EVV systems has already been contemplated by Congress, the Centers for Medicare & Medicaid Services (CMS), the states, and HCBS stakeholders. The decision of which EVV technology should continue to be left to the states, the stakeholders, and the HCBS provider community who are experts in care delivery.

On behalf of the Partnership for Medicaid Home-Based Care please accept our thanks for this opportunity to share our comments. If we can be of any further assistance, please feel free to contact Darby Anderson at danderson@addus.com or (312) 315-1116.

Sincerely,



Esme Grewal
Chairman of the Board



Darby Anderson
Chairman, Policy Committee