

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES

NOTICE OF PROPOSED POLICY

Public Act 280 of 1939, as amended, and consultation guidelines for Medicaid policy provide an opportunity to review proposed changes in Medicaid policies and procedures.

Please review the policy summary and the attached materials that describe the specific changes being proposed. Let us know why you support the change or oppose the change.

Submit your comments to the analyst by the due date specified. Your comments must be received by the due date to be considered for the final policy bulletin.

Thank you for participating in the consultation process.



Director, Program Policy Division
Bureau of Medicaid Policy, Operations, and Actuarial Services

Project Number: 2438-EVV **Comments Due:** October 9, 2024 **Proposed Effective Date:** October 1, 2024

Mail Comments to: Emily Frankman, PhD

Telephone Number:

Fax Number:

E-mail Address: frankmane@michigan.gov

Policy Subject: Electronic Visit Verification (EVV) Personal Care Services Updates

Affected Programs: Medicaid, Behavioral Health, Home Help, MI Choice, MI Health Link

Distribution: MI Choice Waiver Agencies, Integrated Care Organizations (ICOs), Home Help Agency Providers and Individual Caregivers, Prepaid Inpatient Health Plans (PIHPs), Community Mental Health Services Programs (CMHSPs)

Policy Summary: This policy provides updates to EVV policy related to personal care services.

Purpose: To update policy language for clarity and additional information.

Bulletin Number: MMP 24-34

Distribution: MI Choice Waiver Agencies, Integrated Care Organizations (ICOs), Home Help Agency Providers and Individual Caregivers, Prepaid Inpatient Health Plans (PIHPs), Community Mental Health Services Programs (CMHSPs)

Issued: September 4, 2024

Subject: Electronic Visit Verification (EVV) Personal Care Services Updates

Effective: October 1, 2024

Programs Affected: Medicaid, Behavioral Health, Home Help, MI Choice, MI Health Link

BULLETIN MMP 24-21 POLICY UPDATES

The 21st Century Cures Act (the Cures Act), enacted by the U.S. Congress in December 2016, added Section 1903(l) to the Social Security Act to require all states to use Electronic Visit Verification (EVV) for personal care services (PCS) and home health care services (HHCS) provided under a Medicaid State Plan of the Social Security Act or under a waiver of the plan.

The purpose of this bulletin is to provide the following updates to [MMP 24-21](#):

- Addition of a service code for Home Help;
- Updated language of Home Help and Behavioral Health services exemptions;
- Updated language of congregate living settings;
- Addition of an exception to the live-in caregiver exemptions;
- Addition of information and requirements of the Approving Entity for live-in caregiver exemptions;
- Addition of a Notification of Upcoming End Date letter for Approving Entities to use; and
- Updated Live-in Caregiver Attestation Form BPHASA-2421.

PCS Service Codes

In Bulletin MMP 24-21, the PCS Service Codes chart has the following change: Home Help will use procedure code T1019:CG, Personal Care Services, per one minute.

EVV PCS Exclusions

The following sections contain information on congregate living settings, live-in caregivers, and beneficiaries who receive PCS through Home Help and Behavioral Health during the same visit. PCS provided to beneficiaries who live in these settings, live with their caregiver(s), or

receive Home Help and Behavioral Health services, as described below, are exempt from EVV for their PCS.

NOTE: Home Help providers who are eligible for these exemptions must document Home Help services using an alternate service verification designated by MDHHS. Additional information will be provided prior to Home Help payments being tied to EVV data.

Beneficiaries Receiving Home Help and Behavioral Health Services

Beneficiaries who receive PCS through both Home Help and Behavioral Health in the same visit rendered by the same caregiver are excluded from EVV at this time. When only one of these program's (Home Help OR Behavioral Health) services is rendered during a visit, EVV must be used.

Congregate Living

Congregate residential settings that provide PCS that do not require EVV include:

- Adult Foster Care Homes;
- Child Foster Care Homes;
- Homes for the Aged;
- Licensed Respite; and
- Residential settings (including unlicensed provider-owned and/or -operated and privately-owned/-leased settings) with 24 hours per day/7 days per week service availability to two or more unrelated individuals throughout a shift.
 - Home Help services provided in room and board settings do not qualify for the congregate living exemption.

Live-in Caregivers

Live-in caregivers employed through a provider agency (i.e., home care agency, fiscal intermediary, etc.) may be required to use an EVV system for business purposes, such as service verification and payroll. The live-in caregiver exemption does not prevent an agency from requiring their caregivers to use EVV for business purposes.

Approving entities are defined as follows:

Program	Approving Entity
MI Choice Waiver	MI Choice Waiver Agencies
Behavioral Health Services	Prepaid Inpatient Health Plan (PIHP) or Community Mental Health Services Program (CMHSP) designee
MI Health Link	Integrated Care Organization (ICO) or designee
Home Help	MDHHS Adult Services Worker

The live-in caregiver must complete the Live-in Caregiver Attestation form (BPHASA-2421) and submit it to the correct Approving Entity. A completed BPHASA-2421 may be submitted directly to the Approving Entity, or it may be submitted to the provider agency employer or fiscal intermediary (FI) who will forward it to the Approving Entity according to their records.

Each program's Approving Entity must establish a standard process for submission and review of the BPHASA-2421 and documentation. This process must include a secure process for receiving the documentation if email is used so that personal identifying/health information is not shared publicly.

The Approving Entity is required to have at least two designated approvers (a primary approver and a backup approver) so that review of the form is not delayed if an approver is unavailable. The Approving Entity must review BPHASA-2421 and attached documents and make the decision to approve or deny the exemption request within ten (10) calendar days of receipt of the documentation. If the request is denied, the Approving Entity must indicate a Reason for Denial on BPHASA-2421. The reason for denial must be detailed so the caregiver understands why it is denied.

The Approving Entity must share the approved or denied BPHASA-2421 with the provider agency or FI, live-in caregiver, and the beneficiary. Caregivers must use EVV until an approval is received. **NOTE:** Home Help caregivers who have submitted the BPHASA-2421 to their Home Help client's MDHHS adult services worker (ASW) are exempt from using EVV until a determination is made.

Provider agencies are required to complete initial set-up within the HHAeXchange system that reflects the beneficiary has an approved live-in caregiver exemption. This requires the provider agency, FI, or Approving Entity (depending on system access allowed) to enter the live-in caregiver as a "Residing Caregiver" in the appropriate field in the HHAeXchange system. This step will support pre- and post-payment reconciliation needs.

The Approving Entity is required to ensure that documentation is maintained and must be shared with MDHHS upon request for audit or monitoring purposes.

BPHASA-2421 includes space for the caregiver to enter their CHAMPS Provider ID Number. For programs other than Home Help, caregivers may not have a CHAMPS Provider ID. Caregivers without a CHAMPS Provider ID may leave this field blank or write "N/A" in the field.

Renewal of Live-in Caregiver Status for Managed Care Programs

As stated in MMP 24-21, renewal of live-in status must be done annually. Using the attached Notification of Upcoming End Date for Electronic Visit Verification Live-In Caregiver Attestation Documentation letter template, the Approving Entity must notify the caregiver of the upcoming end date of their approved BPHASA-2421 so the caregiver can timely submit the annual renewal documentation. This notifying letter should be sent to the caregiver, provider agency or FI, and beneficiary. The Approving Entity may send BPHASA-2421 with this letter for the caregiver to use for their renewal. The Managed Care Program Approving Entity must send notification at least thirty (30) calendar days prior to the end date of the existing Attestation.

If the caregiver fails to submit renewal documentation, this must not delay services. The caregiver would no longer be exempt from using EVV and would have thirty (30) days to get set-up with EVV. If EVV is not used after the thirty (30) day grace period, the Approving Entity is held responsible for non-compliance and potential recoupment of funds.

If a beneficiary moves with a caregiver, and the caregiver does not notify the Approving Entity within ten (10) calendar days, the Approving Entity must provide notice that the current BPHASA-2421 form will end and on what date. The caregiver will have thirty (30) calendar days to submit a new BPHASA-2421 and documentation to maintain the live-in caregiver exemption. If documentation is not provided, the caregiver must begin using EVV. The EVV set-up will occur within that thirty (30) day period after the Approving Entity is notified of the move. During the transition/move, a United States Postal Service (USPS)-issued Change of Address form or Michigan Secretary of State issued temporary State ID are acceptable forms of documentation.

If a provider has recurring issues with non-compliance, the Approving Entity must address the issues with the provider. The Approving Entity must allow time for the provider to make corrections.

Renewal of Live-in Caregiver Status for the Home Help Program

Renewal of live-in status must be done every six months to remain exempt from EVV. ASWs will work with caregivers to complete a renewal of BPHASA-2421 during each six-month review.

Public Comment

The public comment portion of the policy promulgation process is being conducted concurrently with the implementation of the change noted in this bulletin. Any interested party wishing to comment on the change may do so by submitting comments to Emily Frankman at FrankmanE@michigan.gov.

Please include "EVV Personal Care Services Updates" in the subject line.

Comments received will be considered for revisions to the change implemented by this bulletin.

Manual Maintenance

Retain this bulletin until the information is incorporated into the MDHHS Medicaid Provider Manual.

Questions

Any questions regarding this bulletin should be directed to Provider Inquiry, Department of Health and Human Services, P.O. Box 30731, Lansing, Michigan 48909-8231, or e-mailed to ProviderSupport@michigan.gov. When you submit an e-mail, be sure to include your name, affiliation, NPI number, and phone number so you may be contacted if necessary. Typical Providers may phone toll-free 800-292-2550. Atypical Providers may phone toll-free 800-979-4662.

An electronic copy of this document is available at www.michigan.gov/medicaidproviders >> Policy, Letters & Forms.

Approved

A handwritten signature in black ink that reads "Meghan E. Groen". The signature is written in a cursive style with a large initial "M" and "G".

Meghan E. Groen, Director
Behavioral and Physical Health and Aging Services Administration

SAMPLE

Notification of Upcoming End Date for Electronic Visit Verification Live-In Caregiver Attestation Documentation Letter

Dear <live-in caregiver's first and last name>

You are receiving this letter because your live-in caregiver exemption is set to end on <end date>. According to Michigan Medicaid policy for electronic visit verification (EVV), the live-in status must be renewed at least annually.

If you are still living with <enter beneficiary's first and last name> and want to keep the exemption from electronic visit verification (EVV), you must complete and submit another Live-In Caregiver Attestation form, BPHASA-2421, no later than <enter due date (the end date of the existing Attestation)>. In the "Purpose of Attestation" area on the form, check the box for "Renewal." If there has not been a change of address from the approved Attestation form on file, no additional documentation for proof of address is needed for the renewal.

If there has been a change in the existing address on file, new proof of address documentation is needed (see BPHASA-2421 instructions page for a list of acceptable documentations).

Once the BPHASA-2421 Attestation form is complete with documentation (if needed), submit it to:

<enter Approving Entity's information>

Sincerely,

<enter Approving Entity signature>

LIVE-IN CAREGIVER ATTESTATION

Michigan Department of Health and Human Services

Live-in caregivers employed by beneficiaries or agency providers are exempt from using Electronic Visit Verification (EVV). Exemptions must be approved by MDHHS or an Approving Entity. An "Approving Entity" is designated by MDHHS but is not an agency provider. The following criteria must be met for the caregiver to qualify for the EVV live-in caregiver exemption:

- The caregiver must live in the same home as the beneficiary; and
- The home must be the caregiver's permanent and primary residence.

Live-in caregivers who do not meet the above criteria must use EVV to document personal care services.

INSTRUCTIONS

1. Use **two** of the following proofs of residency to verify the caregiver and beneficiary live at the same permanent, primary residence. Documents must include the live-in caregiver's name and current home address. Electronic copies are acceptable. For annual renewals if the caregiver and beneficiary reside in the same address, these proofs of residency are not required.

- Valid Michigan driver's license
- Valid Michigan state identification
- Utility bill or credit card bill issued within the last 90 days
- Account statement from a bank or other financial institution issued within the last 90 days
- Mortgage, lease or rental agreement (Lease and rental agreements must include the landlord's telephone number)
- Pay stub or earnings statement issued within the last 90 days
- Life, health, auto or home insurance policy
- Michigan title and registration
- Federal, state or local government documents, such as receipts, licenses or assessments

2. Complete this form using the following instructions.

SECTION 1: Fill in the caregiver's first and last name, email address, phone number, CHAMPS Provider ID Number, if applicable, and home address. The address must be the caregiver's current, primary and permanent address.

SECTION 2: Fill in the beneficiary's first and last name, Medicaid ID number and home address. Check the box of the program of which the beneficiary is enrolled in and receives services. The address must be the beneficiary's current, primary and permanent address.

SECTION 3: The caregiver must provide a handwritten signature and the date of signature. The MDHHS or Approving Entity representative must review the form and attached documentation, sign and date the attestation form and check "Approved" or "Denied" with a reason for denial, if applicable.

HOW TO SUBMIT THIS FORM: Complete this form and submit it along with the documents to your program's Approving Entity or MDHHS representative. This form can be submitted in person, by email, mail, or fax. Contact your beneficiary's adult services worker, supports/care coordinator, or case manager for assistance turning this form in.

HOW TO RETAIN THIS FORM: Keep a copy of the completed form in a secure place for seven years after the approved signature date in Section 3 of the form. The MDHHS or Approving Entity representative must comply with the privacy, security, and confidentiality provisions of all applicable laws governing the use and disclosure of protected health information (PHI).

LIVE-IN CAREGIVER ATTESTATION
Michigan Department of Health and Human Services

SECTION 1 – CAREGIVER INFORMATION

Purpose of Attestation (Check One): <input type="checkbox"/> Initial Request <input type="checkbox"/> Address Change <input type="checkbox"/> Renewal			
First Name		Last Name	
Street Address		City	State
Email Address		Phone Number	CHAMPS Provider ID Number

SECTION 2 – BENEFICIARY INFORMATION

First Name		Last Name		Medicaid ID Number
Street Address		City	State	Zip Code
(Check One): <input type="checkbox"/> Behavioral Health <input type="checkbox"/> Home Help <input type="checkbox"/> MI Choice <input type="checkbox"/> MI Health Link				

SECTION 3 – ATTESTATION

<p>I attest that I live with and provide personal care services to the beneficiary named above. I have provided the required proofs of address and agree to provide updated attestation every year or upon request to maintain live-in caregiver status and be exempt from Electronic Visit Verification (EVV) requirements. I also agree to notify MDHHS, the approving entity, fiscal intermediary or home care agency within 10 calendar days if my living arrangement changes and I no longer live with the beneficiary named above. I understand that failure to provide necessary updated documentation will result in me being required to use EVV.</p>	
Live-In Caregiver Signature	Date Signed
<p>FOR MDHHS OR APPROVING ENTITY USE ONLY</p> <p>I attest that the caregiver documented above provided at least two proofs of residency listed on the instructions page of this form or is renewing their attestation at the same address as previously recorded and approved. Based on my review of the documents provided, the caregiver is:</p> <p><input type="checkbox"/> Approved for the EVV live-in caregiver exemption.</p> <p><input type="checkbox"/> Denied Reason for Denial:</p>	
Name of Organization/Program of Approving Entity	
MDHHS or Approving Entity Staff Printed Name	

MDHHS or Approving Entity Staff Signature	Date
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The Michigan Department of Health and Human Services will not exclude from participation in, deny benefits of, or discriminate against any individual or group because of race, sex, religion, age, national origin, color, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's eligibility.

AUTHORITY: Title XIX of the Social Security Act and Administrative Rule 400.1104(a)

COMPLETION: Is voluntary but is required if Medical Assistance program payment is desired.