



Department of Health

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April 10, 2020

Mr. Ralph Lollar
Director of Division of
Long Term Services and Supports
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

Dear Mr. Lollar:

We write to update you on the progress made by the New York State Department of Health (“NYSDOH”) toward implementing Electronic Visit Verification (“EVV”) as required by the 21st Century Cures Act (the “Cures Act”). Once again, we thank you for your prior approval of New York’s Good Faith Extension Request, which is affording us the opportunity to implement EVV in a thoughtful and orderly manner.

As you know, NYSDOH has engaged with a wide variety of stakeholders and has carefully considered input from Medicaid beneficiaries, family caregivers, providers, advocates, partner agencies and EVV solution providers, as well as others. On October 17, 2019, as required by our implementation plan, NYSDOH issued a Request for Information to learn more about the various EVV solutions in the marketplace and how those solutions would best meet the needs of consumers, providers of service, and the Medicaid program overall. We were pleased to have received a substantial number of responses to the RFI. Each response was reviewed against the feedback we received from consumers and providers through the series of public meetings held and through our EVV website.

After carefully considering all options, New York has elected to proceed with the Choice Model for implementing EVV consistent with what has been outlined in guidance from the Centers for Medicare and Medicaid Services (“CMS”). New York selected the Choice Model for the following reasons: (1) it best ensures that consumers will have EVV options from which to consider when selecting a provider; (2) it gives providers of service the flexibility to select an option that best meets their business needs and the needs of the consumers they serve; and (3) it recognizes that many providers serving New York’s Medicaid consumers have already implemented EVV systems that meet the requirements of the Cures Act, preserving the investment that has already been made, avoiding duplicative costs, and eliminating disruption to consumers and caregivers.

As recommended by CMS guidance, NYSDOH will provide statewide EVV data aggregation through New York’s Medicaid Management Information System. In keeping with the Cures Act requirement to implement EVV in a way that is “minimally burdensome,” and in response to concerns from stakeholders regarding privacy and self-direction, during its initial implementation, only the minimum set of EVV data elements necessary to meet the obligations under the Cures Act will be aggregated. To illustrate, while the Choice Model allows providers to utilize multiple methods of collecting EVV data (for example, home phone number, fob, or GPS-enabled mobile applications), New York will launch data aggregation with a limited set of data needed to meet the requirements of the Cures Act. Once the initial implementation period

is complete, NYSDOH will assess the EVV program and may, as a result, modify data aggregation to support initiatives to improve quality and access to services.

To that end, in order to help its provider community successfully select and implement an EVV solution under the New York State EVV Choice Model, NYSDOH has published EVV Program Requirements, including Considerations for Selecting an EVV system in its EVV Resource Library at https://www.health.ny.gov/health_care/medicaid/redesign/evv/repository/index.htm.

Summarized feedback received through the web-based and in-person Listening sessions was collected in an EVV Stakeholder convening report which is available at https://www.health.ny.gov/health_care/medicaid/redesign/evv/repository/docs/2019-stakeholder_conven_rpt.pdf, and a summary of the responses to the RFI conducted in 2019 is posted on the RFI website at <https://www.health.ny.gov/funding/rfi/evv/index.htm>.

NYSDOH will also be setting up a technical forum to allow for continued collaboration and communication with EVV stakeholders. The schedule for these sessions will be available on the NY Medicaid Electronic Visit Verification Program Event Calendar at https://www.health.ny.gov/health_care/medicaid/redesign/evv/calendar.htm.

Notwithstanding this progress, NYSDOH asks that CMS recognize this implementation process has been made substantially more challenging as health care providers and state agencies must turn their full attention to combating the COVID-19 pandemic. These challenges are compounding the reality that the present implementation timeline already left little margin for delays. While NYSDOH will continue making its best efforts to work with providers to implement the Choice Model for Medicaid funded Personal Care Services by January 1, 2021, and for providers of Home Health Care Services by January 1, 2023, we ask that CMS keep us informed of any implementation flexibilities it may be considering or granting to other states with regard to delays in EVV implementation as a result of the current public health emergency.

Thank you for continued support and technical guidance. Please let Lana Earle, Director of Medicaid's Division of Long Term Care, or Mike Thibdeau, Medicaid's Chief Information Officer, know if you have any questions.

Sincerely,



Donna Frescatore
Medicaid Director
Office of Health Insurance Programs

cc: Ms. Earle
Mr. Thibdeau