

Hearing Date: 11/17/2017

Today's Date: 12/6/2017

Agency: Ohio Department of Medicaid

Rule Number(s): 5160-1-40, 5160-12-04, 5160-12-08, 5160-45-10.

If no comments at the hearing, please check the box. ☐

List organizations or individuals giving or submitting testimony before, during or after the public hearing and indicate the rule number(s) in question.

1. Andrea Stillion, Interim HealthCare of Bridgeport/Moundsville
2. Ann Shelly, Leading Age Ohio
3. Barbara Dixon, Loving Care Hospice and Home Health
4. Cheryl Meister, Home Care Network
5. Debra A. Studer, Interim HealthCare
6. Frances L. Baby, Interim HealthCare
7. Jennifer Jordan, Home Care Network
8. Jenny Sand, Home Care by Black Stone
9. Joe Russell, Ohio Council for Home Care & Hospice
10. John Stacy, Ohio Council for Home Care & Hospice
11. Joyce Zivcsak, Cleveland Clinic Home Care
12. Karen Marshall Thompson, SOMC Home Health Services
13. Karyn Ku, WellsBrooke Premium Home Health Care
14. Kim Bowyer, National Church Residences
15. Laura Czuba, Interim HealthCare
16. Lori DeStefano, Addus HomeCare

Hearing Report and Summary

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1. Maria De La Muniz, Pro Health Care Services
2. Michael Vallee, Your Choice Health Care Group, LLC.
3. Michelle Brough, Interim HealthCare
4. Molly Place, Sunrise Home Health, LLC
5. Rebbecca Jones, Interim Healthcare
6. Sue Shadle, Ashtabula Regional Home Health
7. Thomas J DiMarco, Interim HealthCare
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Consolidated Summary of Comments Received

Please review all comments received and complete a consolidated summary paragraph of the comments and indicate the rule number(s).

The Ohio Department of Medicaid received 23 comments representing 14 agencies regarding rule 5160-1-40, Electronic Visit Verification. Agency and non-agency providers gave testimony citing specific concerns with the Electronic Visit Verification rule.

Providers are concerned that the EVV rule does not comply with federal law. The 21st Century CURES ACT outlines requirements for EVV, mandating that a state's EVV system (1) "be minimally burdensome" and (2) "take into account existing best practices already being used in the state." These concerns included the lack of EVV systems flexibility, and unnecessary costly administrative burden to comply with requirements. Agencies are concerned that care providers will need to spend large amounts of time during home care visits tending to the needs of the EVV system, rather than caring for the individual needing services. Additionally, the agency must match service delivery times directly to the EVV system and with the times billed by the agency. There is concern that this will be cumbersome and difficult for many service providers thus the rule will reduce quality of service provisions, and access for those recipients needing home health services. Agencies want to continue to use their own, established telephony system as primary visit verification in place of the state Sandata GPS system.

Providers are skeptical that ODM can require recertification of alternative systems to the EVV Sandata system at any time. The rule allows ODM to require an agency to recertify their certified system if ODM changes their data requirements or if a company fails to maintain department requirements. Given the department is also allowed to change EVV system requirements, this may be a struggle for some providers. However, ODM has agreed to identify within the rule, specific data requirements required for individuals and care workers for the EVV system. Agencies were worried that because the rule allows ODM to terminate a Medicaid provider agreement for not maintaining data elements that ODM can change at any time, there may be negative consequences for non-compliance for any reason.

Providers and consumers alike are concerned with the GPS component of the EVV system. Cell phone service can be unpredictable in rural parts of Ohio, and it will be difficult to obtain the necessary GPS coordinates of service provision. Consumers are concerned that the government is tracking them, and are suspicious of having the EVV device in their homes.

Hearing Report and Summary

Incorporated Comments into Rule(s)

Indicate how comments received during the hearing process were incorporated into the rule(s). If no comments were incorporated, explain why not.

Following the public hearing, the Department made the following changes in the rule in response to testimony.

- (1) The language stating that claims would not be paid if the times reported on claims did not match times recorded for verified visits was removed. This change was in response to testimony regarding the administrative effort required by agency providers to ensure that the times on claims matched the times on visits. ODM will continue to work with stakeholders to identify a solution that utilizes EVV data in the claims adjudication process in a manner that is administratively practical for providers. When identified, this approach will be incorporated into a subsequent version of the rule.
- (2) The requirements for alternate data collection systems was revised to allow the use of telephony as the primary method of data collection until January 1, 2019. This will give providers who currently use telephony based EVV systems an additional 12 months to incorporate GPS data collection into their systems or to transition to the system provided at no cost by the Department. Telephony and manual entry will remain as alternative data collection methods after January 1, 2019.
- (3) Specific data elements required in the EVV system for individuals receiving home and community services and direct care workers providing those services are now specified in the rule, replacing those references to the ODM website. As a result of those changes, definitions of the "Medicaid ID" and "Personal Identification Number" were added to the rule. These changes are in response to stakeholder concerns regarding references to the ODM website.

The department is committed to working with both agency and non-agency providers throughout the EVV implementation to resolve issues in a manner that achieves program objectives and is not overly burdensome for providers.