

# NEW YEAR, NEW HOME CARE LAWS: MEDICAID-FUNDED HOME HEALTH CARE SERVICES MUST IMPLEMENT EVV BY JANUARY 1, 2023

*Hodgson Russ Home Care Alert*  
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The 21st Century Cures Act, a federal law passed by Congress in December 2016, mandates that states implement Electronic Visit Verification (EVV) for all Medicaid personal care services (PCS) and home health care services (HHCS) that require an in-home visit by a service provider.

NYS DOH required all service providers and fiscal intermediaries (FI) that provide or support EVV-applicable Medicaid-funded PCS to implement EVV systems by January 2021. Effective January 1, 2023, service providers that provide or support EVV-applicable Medicaid-funded HHCS must also implement EVV systems.

## What is EVV?

EVV is a system that electronically verifies the occurrence of home or community-based visits in real-time to ensure that individuals who are authorized for services get the expected care they need and to help combat fraud related to inaccurate Medicaid payments for home care visits.

In 2020, NYS DOH elected to use a Choice Model for implementing EVV in part because it gave service providers the flexibility to select an option that best met their business needs and because many service providers already implemented EVV systems that met the requirements of the Cures Act. The Cures Act (and NYSDOH) requires that EVV systems capture the following six data points:

- Service type
- Individual receiving the service
- Date of service
- Location of service delivery
- Individual providing the services
- Begin and end time of service.

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## Practices & Industries

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Under the NYS DOH's guidelines, the following technologies are compliant methods for collecting EVV data:

- Telephony: Telephone calls which can be used to capture service period and verify location
- Mobile Applications (Apps): Apps can be downloaded and used to capture service period and verify location
- Fixed Object (FOB): In-home Fixed Object devices with a unique ID to verify location

For compliance with NYS DOH EVV standards, service providers must use compliant technology methods that can record the required six data points, produce them upon demand, and implement appropriate security and privacy measures to safeguard the confidentiality of the collected data.

The NYS DOH currently uses the existing Medicaid Management Information System (MMIS) eMedNY, to act as the NYS EVV Data Aggregator, which is the statewide centralized database that collects, validates, and stores statewide EVV visit data.

NYS DOH recommends that service providers submit all EVV data to the NYS EVV Data Aggregator after the service is rendered and **before** the claim is billed since "eMedNY will not be creating claims based on EVV submission." Claims will still need to be submitted in accordance with NYS DOH policy.

Service providers can learn about other implementation requirements including applicable billing codes on the [NYS EVV website](#).

### Impacted Programs

The Cures Act does not require EVV for specific programs, but for services. Regardless of the program, if services rendered are Medicaid-funded PCS or HHCS that begin or end in the home and provide activities of daily living, the services are subject to EVV.

The PCS programs and services impacted by the Cures Act include:

- State Plan Personal Care Benefits
  - Personal Care Assistance
  - Consumer Directed Personal Assistance (CDPAP)
- Home and Community Based Services Waiver
  - Children's Waiver (CW)
  - Nursing Home Transition and Diversion Waiver (NHTD)
  - Traumatic Brain Injury (TBI)

The HHCS programs and services impacted by the Cures Act include:

- State Plan Home Health Services

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- Occupational Therapy
- Physical Therapy
- Speech Therapy
- Nursing Services

**Contact Us**

If you have any questions about EVV or the implementation process, please contact [David Stark](#) (716.848.1369) or [Roopa Chakkappan](#) (716.848.1258).