

Electronic Visit Verification Audit



A2021-03

November 18, 2022



Utah Office of
Inspector General

Gene Cottrell
Inspector General

November 18, 2022

To: Utah Department of Health and Human Services

Please see the attached report, Electronic Visit Verification Survey, (Report 2021-03). An Executive Summary is included at the inception of this report. The objectives and scope of the audit are explained on page 3 of this report.

Sincerely,

Gene D. Cottrell

Gene Cottrell
Inspector General
Utah Office of Inspector General

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TABLE OF CONTENTS

Executive Summary	1
Introduction.....	4
Background.....	4
Reduction in Federal Medical Assistance Percentage (FMAP).....	6
FMAP Reduction Actual	6
EVV Basic Reporting Requirements 21 Century Cures Act.....	6
Other EVV Requirements and Recommendations.....	7
CMS EVV Training for States	8
UOIG/Medicaid Discussions and Discovery.....	11
Provider Training on EVV usage	13
Exception Rate.....	13
Post-Payment Provider Audits.....	14
Legacy MMIS system, PRISM.....	15
Exempt EVV claims.....	16
EVV data submission requirements.....	16
Tracking EVV systems used by Providers	17
Funding Source	18
Scope Limitation.....	18
Audit Objectives.....	19
Audit Scope.....	19
Methodology.....	19
Conclusion.....	20

Finding 1) Medicaid did not meet EVV rollout deadline for PCS resulting in FMAP loss	21
Recommendations	21
Finding 2) Medicaid did not reach out to MFCU or UOIG during EEV development.....	22
Recommendations	22
Finding 3) Medicaid EVV webpage for training had outdated information.....	23
Recommendations	23
Finding 4) Medicaid is not tracking EVV systems used by PCS Providers	24
Recommendations	24
Finding 5) Utah Medicaid needs to align the EVV Administrative Rule with the Cures Act.....	25
Recommendation	25
Finding 6) Medicaid does not have EVV exempt qualifiers for data warehouse claims	26
Recommendation	26
Finding 7) Medicaid needs Policy for Edits and Exceptions for Manual submissions.....	27
Recommendation	27
Finding 8) Medicaid has not developed policy/procedures for frequency of data submission	28
Recommendation	28
Finding 9) Medicaid uses post-payment reviews that delay discovery of invalid EVV claims..	29
Recommendations	29
Finding 10) Medicaid did not start EVV post-payment Review Audits as reported.....	30
Recommendation	30
Glossary	31
Management Response.....	33
Evaluation of Management Response.....	34
Contact and Staff Acknowledgement	35

PREFIX

Near the conclusion of the Utah Office of Inspector General (UOIG) Audits A2021-03, House Bill 365 (2021) passed. The Bill directed the Utah Department of Health (DOH) and Utah Department of Human Services (DHS) to merge into a single state agency called The Department of Health and Human Services (DHHS). DOH and DHS each worked to facilitate an effective merge into DHHS. The Utah Legislature scheduled the realignment of agencies to commence on July 1, 2022, after the conclusion of this Audit. Consequently, throughout this report the UOIG references DOH, DHS, and DHHS, as appropriate.

EXECUTIVE SUMMARY

On December 13, 2016, the United States Congress passed public law 114-255, the 21st Century Cures Act section 12006 (Cures Act). The law-mandated implementation and use of Electronic Visit Verification (EVV) for the reduction of fraud, waste and abuse (FWA) in patient care for Medicaid home visit services. The law required EVV for personal care services (PCS) be implemented by January 1, 2019, this date was later extended to January 1, 2020. Utah Medicaid received a one-time good faith extension to January 1, 2021. The law requires a reduction in Federal Medical Assistance Percentage (FMAP) for states that have not fully complied by the deadline.

In March of 2019, Utah Medicaid discussed and approved, in the Policy and Operations meeting, implementation of EVV for Personal Care and Home Health Services. The requirements extend to include services delivered through Home & Community-Based Services (HCBS) waiver programs. The intention of Utah Medicaid is to reduce FWA of Medicaid funds and improve the quality of Personal Care/Home Health Services.

The Centers for Medicare & Medicaid Services (CMS) encourages the change from post-payment review to pre-payment review of claims. Pre-payment is a process where the attachment of EVV records occurs prior to payment of the Medicaid claim. Utah Medicaid stated that the Division Policy and Operations Committee would reassess the use of post-payment review at a future time. The primary reason for Utah Medicaid's decision to stay with post-payment review is that the current Medicaid Management Information system (MMIS) does not allow for electronic records attachment, or would require extensive upgrading. Utah Medicaid must wait for the roll out of the Provider Reimbursement Information System for Medicaid (PRISM), which will allow electronic records attachment and will require programming changes before electronic record attachment is possible.

Utah Medicaid told the auditors it would start using an audit process after October 1, 2021, as stated in the Advanced Planning Document dated August 1, 2020. Auditing did not start on October 1, this delay in auditing continues to the audit report date.

Section 1903(1) of the Social Security Act requires states to gather stakeholder input about EVV development. In the CMS/Center for Medicaid & Children's Health Insurance Program (CHIP) Services (CMCS) recommendation, states are encouraged to contact "State Attorney General/Inspector General with knowledge of Medicaid programs, program integrity and other issues that pertain to appropriate delivery of services and payments for those services."¹ Contacting should have included an invitation for the development of the EVV system to the recommended stakeholders prior to development of the EVV system. Utah Medicaid contacted various stakeholders through open meeting, trainings, conferences, etc. but they did not include Medicaid Fraud Control Unit (MFCU) or Utah Office of Inspector General (UOIG) who review EVV cases to identify fraud, waste and abuse per the Cures Act.

¹ Centers for Medicare and Medicaid Services. (2018, May 16). CIB: Cures Act for Electronic Verification. Retrieved October 7, 2021, from www.medicaid.gov website: <https://medicaid/home-community-based-services/guidance/electronic-visit-verification-evv/index.html>.

These actions if taken would have helped form a better understanding of MFCU and UOIG needs and knowledge to make the EVV system work for identifying fraud, waste, and abuse.

As noted above, the Cures Act imposes a reduction in the FMAP if a state is not in compliance by specific dates. Utah Medicaid did not meet the original date requirement of implementation, nor did they meet the extended requirement date. CMS imposed an FMAP reduction for the first two quarters of 2021. UOIG requested EVV certification from Utah Medicaid. On April 12, 2022, Utah Medicaid provided UOIG a compliance letter dated July 30, 2021, with an attached attestation of "EVV Compliance Survey Submission", dated July 1, 2021. This letter states, "(CMS) has reviewed your state's Electronic Visit Verification (EVV) Compliance Survey submission from 7/1/2021, and determined, based on information you provided, that Utah meets the requirements specified in section 1903(1) of the Social Security Act, as added by section 12006(a) of the 21st (Century) Cures Act (the Cures Act), for personal care services rendered as of July 1, 2021, in all applicable authorities available within your state...Because your state has attested to compliance with EVV requirement, CMS will not apply federal medical assistance percentage (FMAP) reductions to personal care services expenditures for services rendered as of July 1, 2021."

Utah Medicaid stated that the delay in EVV implementation is due to not receiving guidance from CMS. CMS allows states to develop the EVV system that best works for the state with basic standards set by Congress. Utah Medicaid expressed frustration with the lack of guidance from CMS on EVV development.

CMS provided information starting around 2017 regarding best practices through training on EVV over the five-year period from August 2017 to March 2021. Utah Medicaid states they reached out during group discussions and to outside organizations for added guidance. Documentation from the National Association of States United for Aging and Disabilities (NASUAD) in 2018 identified other states that used EVV for 10 years. This same report, posted on the Utah Medicaid website, gives an overview of the benefits of EVV as well as a recap of the variety of systems available. It recaps the role of CMS and the requirements of the Cures act. The documents also include a schedule of the FMAP reduction for non-compliance. The report gives several summaries of states that used EVV and reports issues and successes they achieved.

Utah Medicaid references a letter, post discovery period, sent by the NAMD (National Association of Medicaid Directors) to Congress requesting additional time for EVV implementation "Over the past several years, states have worked diligently to implement EVV despite unclear requirements and shifting federal guidance. Due to these challenges, much work remains before the systems become operational."² Utah Medicaid participated in group discussions/information sharing sessions with NASUAD who organized several national and regional calls. Utah Medicaid did not reach out to any of the states specifically for guidance. Utah Medicaid did express that 49 states received the Good Faith extension in their EVV development process.

² National Association of Medicaid Directors. (2020, March 20): Congress Letter EVV Implementation. Retrieved May 19, 2022, website: https://medicaiddirectors.org/wp-content/uploads/2022/02/NAMD-and-Sister-State-Associations-Send-Letters-to-Congress-Requesting-Extensions-on-Electronic-Visit-Verification-and-Settings-Rule-EVV-Letter_pdf-1.pdf

Audit Objectives:

- Review Utah Medicaid implementation of EVV use with Medicaid Claims for personal care services (PCS) as required in the Cures Act.
- Review Utah Medicaid's use of EVV in combating Medicaid FWA for PCS claims as stated in the Cures Act.
- Review reported reduction of Utah Medicaid FMAP for non-compliance to the Cures Act in rollout of EVV for PCS Medicaid claims.
- Review Utah Medicaid's ability to use EVV in Medicaid claims processing systems for the reduction of FWA.

Audit Scope:

The scope of this audit covers the rollout of PCS with an implementation date of January 1, 2019, later amended to January 1, 2020. Evaluation of EVV data and rollout progress through November of 2021. Covering a period of five years of development.

Audit Findings:

- Utah Medicaid did not meet EVV rollout deadline for PCS resulting in FMAP reduction.
- Utah Medicaid did not include MFCU or OIG during EVV development.
- Utah Medicaid EVV webpage for provider training had outdated information.
- Utah Medicaid is not tracking the EVV systems used by PCS Providers.
- Utah Medicaid needs to align the EVV administrative rule with the Cures Act.
- Utah Medicaid does not have EVV exempt qualifiers for data warehouse exempt claims.
- Utah Medicaid needs policy for edits and exceptions for Manual Submissions.
- Utah Medicaid has not developed a policy/procedure for submission frequency of EVV documentation.
- Utah Medicaid uses post-payment reviews that delay discovery of invalid EVV claims.
- Utah Medicaid did not start EVV post-payment audits as reported.

INTRODUCTION

BACKGROUND

On December 13, 2016, the United States Congress passed public law 114-255, the 21st Century Cures Act section 12006 (Cures Act). The law-mandated implementation and use of Electronic Visit Verification (EVV) for the reduction of Fraud, Waste, and Abuse (FWA) in Medicaid home health care services (HHCS), and personal care services (PCS).

Implementation of EVV was originally required to start on January 1, 2019, later changed to January 1, 2020, for PCS. HHCS will follow with implementation by January 1, 2023. A one-time good faith exemption was available to states that could show unavoidable reasons for non-compliance with the required implementation date. The Cures Act states, a reduction in the Federal Medical Assistance Percentage (FMAP) for claims of PCS if not in compliance by the set date.

PCS covered by this audit are defined in the Medicaid Provider Manual as “Supportive care to members in their place of residence, to maximize independence and to prevent or delay premature or inappropriate institutionalization through providing a range of human assistance that enables persons with disabilities and chronic conditions to accomplish tasks they would normally perform themselves if they did not have a disability”.

On March 26, 2019, Utah Medicaid discussed and approved in the Policy and Operations (P&O) meeting, implementation of EVV for Personal Care and Home Health Services. The requirements discussed and approved in the P&O meeting extend to include services delivered through HCBS waiver programs as well as Managed Care providers. The attendees determined the purpose of EVV implementation was to reduce FWA of Medicaid funds and improve the quality of Personal Care/Home Health Care Services. During the same P&O meeting Utah Medicaid agreed to use a Provider Choice Model, which requires Department of Medicaid Health and Finance (DMHF), now called Integrated Healthcare to conduct annual post-payment audits of EVV-related services, provider claims, and encounters. The attestation to CMS of “EVV Compliance Survey Submission” states that post-payment auditing would begin in “spring of 2021”. UOIG learned in a meeting with Utah Medicaid on May 10, 2022 that the audit process is still in development. The Provider Choice Model adopts EVV requirements per the recommendations of a workgroup created within Medicaid for EVV development and rollout. The committee also agreed to add a “date of creation” for the EVV record as part of the required data submitted. They also agreed to amend the Accountable Care Organization (ACO) contracts to require EVV and update the Provider Manual to include EVV guidelines. Additionally, they agreed to submit an Advanced Planning Document (APD) outline for EVV development strategies to CMS.³

³ Minutes of Policy and Operations Meeting, Division of Medicaid and Health Financing. March 26, 2019.

EVV technology has been available and used by other states for over two decades as outlined in the NASUAD report⁴:

- Oklahoma has used EVV since 2009 as part of their HCBS Medicaid waiver. It is part of their state mandated vendor system. Oklahoma has changed state vendors several times. EVV allowed Oklahoma a greater degree of accountability for service delivery. The one vendor system allows them to train providers and to conduct billing and claims resolution.
- Tennessee has used EVV since 2010 as part of their managed long-term health services. They originally directed implementation of a specific system, but had challenges with the provider implementation and are now moving to a provider choice model.
- Connecticut has used EVV since 2017 for in-home services. They use a single state contract with an external vendor. They are fully compliant with Cures Act requirements. They did a soft launch to allow providers to get used to the EVV system.
- Florida, Miami-Dade County has had EVV in service since 2010 for in-home services. In 2016, the state expanded the program to other counties in the state. Their current system uses Global Position System (GPS) applications. The application automatically uploads information to the states contracted EVV system, enables seamless verification of the services and provider billing. It allows for real time scheduling and rescheduling with the reduction of human error. The system lowers the burden on providers by reducing steps required to verify services.

The above-mentioned states recognized early, based on the dates of implementation, the need for EVV in the prevention of FWA in the home health care offerings provided by their Medicaid systems. A majority of the states requested Good Faith extensions. From the examples above, all but Tennessee requested and received a Good Faith extension to implement Cures Act requirements.⁵ The Good Faith extension extended the due date to January 1, 2021. Utah did not meet the extended deadline. When UOIG asked why Utah Medicaid did not meet the extended date, they stated that they did not have enough guidance from CMS to implement EVV.

Utah Medicaid allows providers to choose their own vendor and system for EVV or the “Providers Choice Option”. They can choose transmission types such as an “Application Programming Interface” (API) or “Comma Separated Values” (CSV) methodology. Utah Medicaid supplied technical direction for EVV, implementation, in a document dated February 2021. Many private vendors are available that supply EVV services to providers. During a presentation to MFCU and UOIG, Utah Medicaid states that when they reached out to home health care agencies and human services providers for development feedback, the resounding answer was that they already had existing systems that they wanted to continue using to meet the new Medicaid EVV requirements. Many of the providers already have

⁴ Utah Medicaid Webpage retrieved October 7, 2021
(<https://www.medicaid.utah.gov/evv/Documents/pdfs/evv/2018%20NASUAD%20report.pdf>) .

⁵ <https://www.medicaid.gov/medicaid/home-community-based-services/guidance/electronic-visit-verification/good-faith-effort-exemption-requests-state-requests/index.html>

contracts with EVV vendors. Those providers preferred to adapt their current systems to the EVV requirements of the Cures Act.

REDUCTION IN FEDERAL MEDICAL ASSISTANCE PERCENTAGE (FMAP)

Utah Office of Inspector General (UOIG) learned of the reduction in FMAP for Utah Medicaid and implemented an audit of Utah Medicaid's progress toward compliance with the Cures Act requirements. Utah Medicaid had a goal of compliance for July 1, 2021 for PCS claims; six months after the CMS imposed compliance date.

Utah Medicaid received a one-time good faith extension to comply with EVV requirements. "The extension given to states that encounter unavoidable system delays". The extension moved the deadline for compliance to January 1, 2021. Utah Medicaid missed the extended deadline for compliance. As stated in the law, a reduction in the FMAP for claims of PCS took place for the first and second quarters of 2021 causing Utah to use more state tax money to fund the program. The percentage of reduction for both first and second quarter of 2021 is 0.50% for all PCS claims.

FMAP REDUCTION ACTUAL

UOIG reached out to the Bureau of Financial Services (BFS) of Utah Medicaid to determine the actual amount of FMAP dollar reduction. The bureau told UOIG that the actual amount of reduction is determined in the next following quarter; they were awaiting instructions from management on how to determine the total reduction.

UOIG obtained information from Utah Medicaid BFS on the total FMAP reduction for both first and second quarters of 2021. The total dollar amount from the FMAP reduction for first quarter 2021 was \$112,562. The total dollar amount from the FMAP reduction for the second quarter 2021 was \$99,422. Utah Medicaid states that because of their stance of not paying claims from providers that did not respond to surveys, that they would be in compliance after July 1, 2021. Utah Medicaid submitted to UOIG, after the audit discovery period, a letter of compliance with an attestation from CMS dated July 30, 2021 with effective compliance as of July 1, 2021. This letter from CMS states that Utah Medicaid is in compliance as of July 1, 2021 with no further loss to the FMAP for the remaining quarters. CMS's decision on EVV compliance requiring no further loss to FMAP was based on the responses in the Utah Medicaid's attestation.

EVV BASIC REPORTING REQUIREMENTS 21st CENTURY CURES ACT, SECTION 12006

The basic reporting requirements for an EVV system as stated in the 21st Century Cures act, Section 12006 part (5)(A) for both PCS and HHCS.

Utah Medicaid notified Providers of the EVV requirement in a Medicaid Information Bulletin (MIB) in July of 2018. This notice was as follows:

18-81 Electronic Visit Verification Requirements for all Personal Care and Home Health Providers

Electronic visit verification (EVV) requirements, defined in Section 12006 of the 21st Century Cures Act

EVV requirements apply to all personal care services or home health services provided under the State Plan or a 1915(C) Home and Community Based Waiver which require an in-home visit by a provider. The requirements are effective beginning January 1, 2019, for personal care services, and January 1, 2023, for home health services.

Providers must select their own EVV service provider and have records available for review upon request. All systems must be compliant with the Cures Act requirements including:

- (i) the type of service performed;
- (ii) the individual receiving the service;
- (iii) the date of the service;
- (iv) the location of service delivery;
- (v) the individual providing the service; and
- (vi) the time the service begins and ends.

The State intends to implement an administrative rule outlining its process of evaluating ongoing provider compliance with EVV requirements. The State will take into account stakeholder input from beneficiaries, family caregivers, individuals who furnish personal care services or home health care services, and other stakeholders in rule development.

OTHER EVV REQUIREMENTS AND RECOMMENDATIONS

CMS reports in 2018, Section 1903(1) of the Social Security Act, requires states to gather stakeholder input about EVV development and implementation. In the CMS/CMCS recommendation, states are encouraged to contact "State Attorney General/Inspector General with knowledge of Medicaid programs, program integrity and other issues that pertain to appropriate delivery of services and payments for those services."⁶

CMS encourages, as stated in the Social Security Act, Medicaid programs to utilize and understand the needs and usage of all stakeholders in the development and implementation of EVV. As noted below a well-constructed program with input from all types of stakeholders using EVV can have many benefits and reduce FWA by validating home visits from PCS and HHCS providers, if done with the use of prepaid claims processing. Medicaid contacted the various stakeholders through open meeting trainings, conferences, etc. (The MIB article is not an invitation for development; it is just an announcement for providers on changes in programs and policies.)

⁶ Centers for Medicare and Medicaid Services. (2018, May 16). CIB: Cures Act for Electronic Verification. Retrieved October 7, 2021, from [www.medicare.gov website: https://www.medicare.gov/medicaid/home-community-based-services/guidance/electronic-visit-verification-evv/index.html](https://www.medicare.gov/medicaid/home-community-based-services/guidance/electronic-visit-verification-evv/index.html)

CMS reports in 2018, in recommending the best practice, "Aggregating data from providers' EVV vendors would provide states the ability to validate the provision of PCS and HHCS and monitor accuracy of payments to providers, thereby offering states another tool to detect and address instances of FWA." "States that integrate their EVV systems with other state Medicaid data systems are better equipped to oversee and monitor the delivery of PCS and HHCS. Integration of EVV data with other Medicaid state data systems, including the MMIS, Eligibility and Enrollment (E&E) system, prior authorization system and Financial Management Systems (FMS) employed for self-direction strengthens the oversight capabilities of EVV. In addition, integration with these systems allows data to flow through the EVV system more efficiently and provides updated information to the caregiver. Data integration can also help in efforts to increase program integrity."⁷ Utah Medicaid has not met all PRISM system implementation dates and is currently incapable of operating an aggregated data system for EVV with the use of the current MMIS system.

CMS EVV TRAINING FOR STATES

CMS in recommending best practices, "If a personal care or home health care service is provided both in the home and in the community during the same visit, is that service subject to EVV requirements?" CMS answered that "EVV is only required for the portion of the service rendered in the home; however, states may choose to require more information to control FWA." CMS also states, the importance of controlling FWA is a primary reason for requiring EVV for home visits.⁸

UOIG observed that a full 2 years passed between the passage of the law and the meeting to approve the process to implement EVV. This meeting took place nine months before the extended deadline date of January 1, 2020 for PCS implementation. Utah Medicaid asserted they did not meet the deadline, as well as other states, for following reason:

Medicaid agencies across the nation, both through the National Association of State Medicaid Directors (NAMD), and directly to CMS, continued to express concern about the lack of CMS guidance provided to states. In response, through legislation, in July 2018, the initial PCS implementation date was pushed back to January 1, 2020. State Medicaid agencies continued to express concerns about lack of guidance, and in May 2019, CMS published an update that they would accept states' requests for good faith exemptions to allow states to delay implementation for one additional year. With the exception of Tennessee, all states in the country requested this one year exception. Even as late as March 2020, NAMD submitted a letter to Congress requesting additional time for EVV implementation and specifically describes "Over the past several years, states have worked diligently to implement EVV despite unclear requirements and shifting federal guidance. Due to these challenges, much work remains before the systems become operational."⁹

⁷ Centers for Medicare and Medicaid Services. (2018, May 16). CIB: Cures Act for Electronic Verification. Retrieved October 7, 2021, from [www.medicare.gov website: https://www.medicare.gov/medicaid/home-community-based-services/guidance/electronic-visit-verification-evv/index.html](https://www.medicare.gov/medicaid/home-community-based-services/guidance/electronic-visit-verification-evv/index.html)

⁸ Centers for Medicare and Medicaid Services. Center for Medicaid and Chip. (2019, August 8) CIB: CMCS information Bulletin, Additional EVV Guidance, Retrieved October 7, 2021, from [www.medicare.gov website: https://www.medicare.gov/federal-policy-guidance/downloads/cib080819-2.pdf](https://www.medicare.gov/federal-policy-guidance/downloads/cib080819-2.pdf).

⁹ National Association of Medicaid Directors. (2020, March 20). : Congress Letter EVV Implementation. Retrieved May 19, 2022, website: <https://medicaiddirectors.org/wp-content/uploads/2022/02/NAMD-and-Sister-State->

...We [Utah Medicaid] believe the additional steps CMS took to allow states more time to implement EVV demonstrates that the CMS information being provided to states “starting around 2017” was not sufficient. The letter from NAMD also demonstrates that Utah’s challenges with EVV implementation were not unique, and were, in fact, consistent with the implementation challenges faced by nearly every state in the nation.

Utah Medicaid expressed, during a MFCU/UOIG update, that in-home services provided by exempted live-in relatives have the same Current Procedural Terminology (CPT) coding as services provided by out-of-home providers. The current CPT coding does not allow segregating services of exempt in-home services from services provided by an out-of-home caregiver, which is not exempt from EVV requirements. UOIG discovered through research that a flag or modifier of the CPT coding for the service to show the difference between live-in relatives and out-of-home care providers could solve the coding issue and create a clear representation of the EVV service data provided and by whom. Utah Medicaid reports Financial Management services providers are monitoring employees who would not be subject to EVV requirements due to exemptions of live-in caregivers.

Utah Medicaid deferred their oversight responsibilities of the EVV system relying on a post payment audit process that has not begun and by placing the monitoring on providers of the PCS services. This allows unverified data both for claims and EVV records to enter into the Medicaid data warehouse. Medicaid states they use audits¹⁰ for oversight which generally consist of a sample, however, MFCU and UOIG PI investigations may not use the same sample data that the Medicaid audits used therefore producing different results. For the UOIG PI investigations it creates a cumbersome situation to detect FWA. Data warehouse information should be consistent, complete, accurate and available for audits and investigations. Monitoring by the PCS providers and Medicaid’s post payment audit review leaves discovery to chance unless the audit process matches 100% of claims to 100% of EVV data.

CMS EVV training from 2017, Potential Benefits of EVV Aims to reduce potential FWA:

- Item #1 “validated services are billed according to the individual’s personalized care plan by ensuring appropriate payment based on actual service delivery.”
- Item #2 “Is part of the pre-payment validation methods that allows individuals and families to verify services rendered.”¹¹

Utah Medicaid stated that they have decided to continue with the post-payment review of Medicaid claims for EVV. The current Legacy MMIS will not allow for attached electronic records. Utah Medicaid did not want to upgrade the current MMIS system with the near-

Associations-Send-Letters-to-Congress-Requesting-Extensions-on-Electronic-Visit-Verification-and-Settings-Rule-EVV-Letter_pdf-1.pdf

¹⁰ The Medicaid audit process is not defined for UOIG to compare to GAO Government audit standards, which UOIG audit comply to.

¹¹ Centers for Medicare and Medicaid Services. (2017 December). CIB: Section 12006 of the 21st Century CURES Act Electronic Visit Verification Systems. Retrieved October 7, 2021, from [www.medicare.gov website: https://www.medicare.gov/medicaid/home-community-based-services/guidance/electronic-visit-verification-evv/index.html](https://www.medicare.gov/medicaid/home-community-based-services/guidance/electronic-visit-verification-evv/index.html)

future rollout of the PRISM system. Utah Medicaid stated that they would reconsider this decision later. The PRISM system has the capability to attach electronic records to claims but is not available for claims processing until 2023. As stated above in item #2, CMS recommends for best practices, pre-payment of claims processing with attached EVV records. Allowing for better detection of FWA.

CMS reported in 2017 that EVV “Strengthens quality assurance for PCS and HHCS by: Improving Health and Welfare of individuals by validating delivery of services.” CMS training for states in the development of EVV systems uses validation extensively.¹²

As CMS reported above, validation of delivered services with EVV also benefits the reduction of FWA.

As reported in 2017, CMS reached out to states with an initial survey requesting information about EVV usage and implementation. CMS reported findings based on their preliminary survey of states and progress of the EVV requirements from the August 7, 2017 survey. From the findings, it states that Utah Medicaid did not complete the survey nor did they report progress on EVV Implementation.¹³ This report is from CMS training the year after passage of the Cures Act. Utah Medicaid reports that they did miss the target date, but supplied the information later.

In 2017, CMS reported on an EVV national overview survey, which closed September 17, 2017, that Utah Medicaid reported no operational EVV system. The deadline for having an EVV system at that time for PCS was January 1, 2019. The original due date was two years after this survey. Legislation later moved the due date to January 1, 2020. The Cures Act provides for a one-year delay of implementation of EVV if a state can demonstrate they have made a good faith effort to comply but have encountered unavoidable delays. Utah Medicaid completed an application for and received an acceptance of a Good Faith exemption. The final due date given was January 1, 2021. Utah Medicaid did not meet the deadline for implementation.¹⁴

In 2018 CMS reported that States are required to establish clear policies and procedures on the EVV systems selected for use by providers. The state has to ensure that providers use systems that comply with the Cures Act and meet the states implementation model. “As monitoring requirement, CMS recommends states monitor and hold providers accountable for data exceptions. Examples of exceptions include missing or invalid check-in/check-out. Incorrect entry of the EVV ID by caregiver. Caregiver checked-in from unverified phone

¹² Centers for Medicare and Medicaid Services. (2017 August). CIB: Section 12006 of the 21st Century CURES Act Electronic Visit Verification Systems, Requirements, Implementations, Considerations, and Preliminary State Survey Results. Retrieved October 7, 2021, from [www.medicaid.gov website: https://www.medicaid.gov/medicaid/home-community-based-services/guidance/electronic-visit-verification-evt/index.html](https://www.medicaid.gov/medicaid/home-community-based-services/guidance/electronic-visit-verification-evt/index.html)

¹³ Centers for Medicare and Medicaid Services. (2017 August). CIB: Section 12006 of the 21st Century CURES Act Electronic Visit Verification Systems, Requirements, Implementations, Considerations, and Preliminary State Survey Results. Retrieved October 7, 2021, from [www.medicaid.gov website: https://www.medicaid.gov/medicaid/home-community-based-services/guidance/electronic-visit-verification-evt/index.html](https://www.medicaid.gov/medicaid/home-community-based-services/guidance/electronic-visit-verification-evt/index.html)

¹⁴ C Centers for Medicare and Medicaid Services. (2017 December). CIB: Section 12006 of the 21st Century CURES Act Electronic Visit Verification Systems. Retrieved October 7, 2021, from [www.medicaid.gov website: https://www.medicaid.gov/medicaid/home-community-based-services/guidance/electronic-visit-verification-evt/index.html](https://www.medicaid.gov/medicaid/home-community-based-services/guidance/electronic-visit-verification-evt/index.html)

number.”¹⁵ All of which the state should verify with edits or prepayment verification. UOIG interprets the statement to mean only complete electronic data can verify the Medicaid claim.

UOIG/MEDICAID DISCUSSIONS AND DISCOVERY

The Cures Act became law in December 2016, and required implementation of EVV in all states by January 1, 2020. Utah received an extension to January 1, 2021.

Utah Medicaid issued a Technical Specifications bulletin for providers of EVV in February 2021, one month after the extended due date of January 1, 2021 for compliance.¹⁶ Utah Medicaid services implementation was past the due date of the release of the bulletin. The bulletin gives the guidance for the Providers/vendors in order to operate their EVV systems within Utah’s requirements.

Utah Medicaid issued a “Configuring Secure Messaging Users Guide” in March 2020, three months after the original due date of January 1, 2020 for compliance and nine months before the extended due date of January 1, 2021.¹⁷ This short bulletin gives guidance on messaging and security on the client side of “certificate configuring” of EVV data exchange.

Utah Medicaid issued a “Configuring Secure Messaging through SOAPUI (Simple Object Access Protocol) Users Guide” in July 2020, six months after the original due date of January 1, 2020 for compliance and five months before the extended due date of January 1, 2021.¹⁸ SOAP is an open-source web service testing application “Simple Object Access Protocol” software. The guide outlines are required for EVV vendors. SOAP allows data uploads, testing and receiving secure messages from Utah Medicaid for EVV data uploads into Medicaid’s data warehouse. This bulletin gave more detail on configuration and data exchange.

With the passage of the Cures Act, Utah is obligated to prepare an administrative rule for the Utah Medicaid program to include EVV. Such is the purpose of Utah Administrative Code R414-522-3b Electronic Visit Verification Requirements. EVV is required for all personal care services and home health care services effective July 1, 2019. Adopted by Utah State Bulletin Number 2019-14 effective July 1, 2019. Utah Medicaid did not meet the effective date as written in the rule.¹⁹ Utah Medicaid started to enforce EVV requirements on July 1,

¹⁵ Centers for Medicare and Medicaid Services. (August 2018) CIB: EVV Requirements in the 21st Century Cures Act. Retrieved October 7, 2021, from [www.medicaid.gov website:https://www.medicaid.gov/medicaid/home-community-based-services/guidance/electronic-visit-verification-evt/index.html](https://www.medicaid.gov/medicaid/home-community-based-services/guidance/electronic-visit-verification-evt/index.html)

¹⁶ Utah Department of Health Medicaid. (February 2021): Bureau of Long Term Services and Supports Utah Electronic Visit Verifications Technical Specifications Version 1.2. Retrieved October 8, 2021, from www.medicaid.utah.gov website:

https://medicaid.utah.gov/Documents/pdfs/evv/BLTSS%20EVV_Technical_Specification_Sept_2021.pdf

¹⁷ Utah Department of Health Medicaid (July 2020): Bureau of Long Term Services and Supports, Utah Electronic Visit Verification, Configuring Secure Messaging through SOAP UI. Retrieved October 8, 2021, from www.medicaid.utah.gov website: https://medicaid.utah.gov/Documents/pdfs/evv/EVV_SecureMessaging7-20.pdf

¹⁸ Utah Department of Health Medicaid (May 2021). : Electronic Visit Verification, Web Portal and CSV file Users Guide. Retrieved October 9, 2021, from www.medicaid.utah.gov website:

https://medicaid.utah.gov/Documents/pdfs/evv/EVV%20Portal%20snf%20CSV%20User_Manual_2021r1.pdf

¹⁹ Utah Administrative Code 414-522-3 December 1, 2021. Retrieved October 15, 2021 from

<https://casetext.com/regulation/Utah-administrative-code/health/title-r414-health-care-financing-coverage-and->

2021 for PCS only, two years after the due date stated in the code. This is a violation of the Utah Administrative code.

Utah Medicaid issued a letter dated February 4, 2021, to Medicaid Providers of PCS and HHCS services using an EVV readiness survey, due back to Medicaid on February 19, 2021. The letter announced that beginning April 1, 2021 Utah Medicaid will withhold payments to providers of PCS that are not compliant with EVV. After the date of July 1, 2021, the provider will no longer be eligible to perform Medicaid PCS. Utah Medicaid issued the letter one month after the extended deadline of January 1, 2021 and one year and one month after the deadline of January 1, 2020.²⁰ Utah Medicaid, using post-payment review, would not be able to verify any of the requirements established in April or July until they matched claims and EVV data during the future audit process. Utah Medicaid was using answers from their survey to determine readiness and developing edits of EVV data to verify required data points.

UOIG downloaded EVV data from the data warehouse. The first download consisted of EVV data from January 2021 until June 2021. During a Medicaid Presentation to MFCU and UOIG, Medicaid stated that they allowed non-compliant data by vendors to continue until the end of June, because Utah Medicaid was being assessed a penalty at the time; therefore, the data for the period was non-compliant to the Cures Act.

UOIG did a second download of EVV data and examined a sampling from each day starting July 1 to August 24, 2021. Throughout the month of July, there were issues with location, which is a required data point from the Cures Act. A physical address location or a Geolocation are approved data fields. Many EVV records added to the data warehouse did not have information in the required address or geolocation fields during July. EVV records examined for the month of August did not show address deficiencies. When asked about the findings in the data, Medicaid said, "We did make alteration to the data structure for the EVV records around that time". Data submitted in July did not require re-submission as per Utah Medicaid. Providers have a year from date of service to make changes to the EVV data records, as per Utah Medicaid. July non-compliant data submitted after the cutoff date remains in the data warehouse.

The Cures Act, Section 12006 (5)(A) defines "The term 'electronic visit verification system' means, with respect to personal care services or home health care services, a system under which visits conducted as part of such services are electronically verified". This part of the act requires an electronic visit verification not a manually adjusted verification. From the presentation given to MFCU/UOIG, Utah Medicaid stated that their "original plan for Web Format submission of data was rejected by CMS because it was not captured by a software solution".

Utah Medicaid developed an "Implementation Advanced Planning document update for Utah Electronic Visit Verification" with a date of August 11, 2020, version 2.1. The document shows submission to CMS with a date of June 25, 2019. The document shows a request for Federal funds from CMS for \$2,328,580, over three federal fiscal years beginning in FFY20,

rembursement-policy/rule-r414-522-accountable-care-organization-hospital-report/section-r414-522-3-electronic-visit-verification-requirements

²⁰ Utah Medicaid EVV Web page February 4, 2021 : "EVV Final Notice Letter". Retrieved October 9, 2021, from https://medicaid.utah.gov/Documents/pdfs/evv/Final%20Notice%20Letter_Feb%204%202021.odf

for systems development. With a total of \$277,731 from state funds over the same three fiscal years. Total development funds over the three-year period will total over \$2.6 million. These are funds for both PCS and HHCS EVV programs. The document states a Go-live date of January 1, 2023 for both programs. The report has a dashboard automation Go-live date of January 1, 2021 that conflicts with the previously stated go-live date in the document. The Utah Medicaid EVV provider enforcement date is July 1, 2021 for PCS, Medicaid claims to have reached. The request for development funds are for development of the audit tool, which will not come on line until October 1, 2021. As of this report date, the audit tool is not complete. No budget of funds for development of EVV rollout or audits appears prior to 2019²¹. This appears to show that Utah Medicaid started EVV development in the year 2019, the year of the original due date.

Provider Training on EVV usage

“Under the 21st Century Cures Act, section 12006, the state Medicaid Director will receive best practice information from the Secretary of Health and Human services.” This information is for training individuals who furnish personal care services and home care services. The information as well as the provision of notice and educational materials for family caregivers and beneficiaries with respect to the use of EVV for the prevention of fraud. This gives Utah Medicaid the responsibility to train service providers on EVV.

Utah Medicaid began the process of notifying providers through the MIB first released July of 2018 with the requirement of EVV per the Cures Act. Subsequent MIBs mention EVV in 2019, 2021 and 2022. The MIB in October of 2019 directs the provider to EVV training through a web link. Also, in October of 2019, Medicaid added a seventh requirement that EVV systems must also collect “the date of creation of the electronic record.”

The Covid-19 pandemic delayed some of the training and implementation of the EVV process in 2020. The development plan also shows, “The state does not have a predetermined schedule for training”, because prior plans centered on the use of a Web-based module. Utah Medicaid is doing “on-demand” training only and relying on their website publications. The Public Health Emergency that resulted from the Covid-19 Pandemic started in March 2020, but the extension of the original due date was January 1, 2020.²² The Pandemic did cause staff reassignments and other hardships on Utah Medicaid in the development of EVV for PCS.

UOIG questioned Utah Medicaid about training information from the Utah Medicaid web page on EVV; the reply from Utah Medicaid was that the website language is outdated. The EVV web page is the location for providers training material. Training deadlines require current information.²³

Exception Rate

Utah Medicaid considered exception rates for their providers’ EVV data for services not verified electronically. The reason for this is that Utah Medicaid did not want to place undue hardship on the providers. Medicaid stated, “There has been a recognition that either due to

²¹ J Ambrenac, Advanced planning doc Attachment, June 8, 2021, 7:23 AM

²² J Ambrenac, Advanced planning doc Attachment, June 8, 2021, 7:23 AM

²³ J Ambrenac, EVV questions Email discussion, April 1, 2021, 8:00 AM

device/technological failure or 'human error' that EVV cannot realistically work 100% of the time... we have not yet developed expected thresholds [exception rate] for compliance, nor has CMS given guidance on what may be the minimum standard and for the state to still be viewed as compliant."

CMS stated "Edits and exceptions from electronic visit verification: Circumstances may arise such that services cannot be verified electronically. For example, an attendant in a rural area may have difficulty connecting to a mobile application, or an attendant may simply forget to electronically "check out" of the service. In such situations, the attendant or their provider agency may need to manually submit service information in order to populate a claim. A state that allows manual edits or exceptions should publish a written policy for providers on those exceptions. If a state allows exceptions, it should detail the policy in these sections and how it maintains oversight of claims paid for services not electronically verified."²⁴ Utah Medicaid does not have a policy at this time for edits and exceptions but is looking into formalizing the process.

Post-Payment Provider Audits

UOIG questioned Utah Medicaid about timing of post-payment provider audits. Utah Medicaid plans to audit Providers once a year. Some providers may go almost a full year before being audited or informed that something is wrong, depending on the audit start date. Utah Medicaid states "There is a fair amount of vulnerability in a once a year audit". As part of the audit process, Utah Medicaid is developing an automated system to screen data for errors, prior to the audit. This system is part of Utah Medicaid's phase 2 of EVV development. Utah Medicaid's initial pass will include a review of paid PCS claims and comparing them to the EVV records submitted. Utah Medicaid will use queries/analysis for EVV audits. Comparison of the EVV records to the claims takes place at the performance of the audit. Utah Medicaid states that they hope to have an automated system to determine compliance rates and outliers in phase 2. Under the current Utah Medicaid plan, the provider receives notification of EVV issues after almost a year of operations.²⁵

UOIG questioned Utah Medicaid about meeting the October 1, 2021 date for phase 2, post-payment audit process. Utah Medicaid's answer was the date was very ambitious. They also said that it is possible that "Medicaid will be assessed as non-compliant for third quarter 2021".²⁶ Utah Medicaid stated later that they believe they comply with the requirement for providers by the July 1, 2021 date. Utah Medicaid provided UOIG a certification letter with attached attestation dated July 30, 2021 on April 12, 2020 after the audit discovery period.

In the CMS EVV compliance survey submission, CMS asked several questions about the implementation of EVV and compliance. Utah Medicaid attested to the following questions about Post-Payment provider audits:

CMS Question:

Please provide a brief description of your State's EVV system.

²⁴ <https://www.medicaid.gov/medicaid/home-community-based-services/downloads/documenting-evv.pdf>

²⁵ J Ambrenac, EVV question on post payment audit review email discussion, June 18, 2021, 10:55AM

²⁶ J Ambrenac, EVV question on start of post payment review mail discussion, June 18, 2021, 9:27 AM

Utah Answer:

In accordance with Section 12006 of the 21st Century CURES Act, the Utah Department of Health (UDOH), Division of Medicaid and Health Financing (DMHF) designed a proposed solution to ensure providers are compliant with EVV requirements. The proposed solution will facilitate the secure transmission of EVV data compliance. Phase two *involves* creating an automated post-payment audit process to review and monitor EVV compliance. The intention is to compare submitted EVV data to claim submissions, respond to data quality issues, and resolve issues in a timelier manner with providers

CMS Question:

Pursuant to Section 12006(c) (3) of the 21st Century Cures Act, please describe how your state has ensured that its EVV system does not limit personal care services provider selection. (2500 character limit)

Utah Answer:

Beginning in the spring of 2021, the State will begin its post-payment audit process, identifying providers who may not be fully compliant with EVV requirements and establishing plans of correction to meet expectations. The State believes that its efforts on targeted outreach and individualized work with providers will lead to success in the retention of as many current providers as possible

The attestation states that post-payment auditing would begin in “spring of 2021”. UOIG learned in a meeting with Utah Medicaid on May 10, 2022 that the audit process is still in development.

Utah Medicaid states that they do not have numbers of how many providers did not meet compliance by the July 1, 2021 deadline when payment for non-compliance stopped. Utah Medicaid provided, after the audit discovery period, that “17 agencies were disenrolled” at the July 1, 2021 deadline date. Further Utah Medicaid will rely on post payment audits that did not start October of 2021 as stated, for rejection of claims payments that are not compliant to EVV.²⁷

UOIG asked Utah Medicaid if the audit process started as previously stated on October 1, 2021 in the Implementation Advanced Planning Document (IAPD). Utah Medicaid replied on October 8, 2021, “It is our intention to have our audit process developed and starting shortly.”

Legacy MMIS System. PRISM

CMS does not require, by law, EVV attachments to claims but is a best practice recommendation. Utah Medicaid stated they are trying not to have alteration to their legacy MMIS system due to their move to PRISM. The Legacy system will not work well with pre-payment of claims, nor the attachment of EVV documentation. The delay in the development of PRISM, which will have the capability to attach EVV documentation to claims prior to payment, causes Utah Medicaid to continue post-payment review of claims. This situation

²⁷ J Ambrenac, EVV start date of July 1, 2021 email discussion, June 3, 2021, 9:05AM

delays identification of FWA within the associated Medicaid programs. The reduction of FWA is the prime reason for the Cures Act recommendation for EVV attachment to claims. Utah Medicaid has committed to revisiting this issue after PRISM goes live.

Exempt EVV Claims

Utah Medicaid stated that some types of services provided to recipients are exempt from EVV requirements. For example, a live-in relative of a Medicaid patient performs this type of service, and does not require EVV documentation. The current CPT/DSPD coding used does not allow them to know which claim would be exempt and which is not. Utah Medicaid states that they did not have coding in place to identify exemptions. They did identify that additional discussion needs to be made to identify exemptions. The UOIG research found that the use of a CPT/DSPD code modifier or the use of a flag in CPT/DSPD coding to address or correct the problem is a possible solution.²⁸

Utah Medicaid provided to UOIG, after the audit discovery period, information that “Financial Management services providers are monitoring employees who would not be subject to EVV requirements due to exemptions of live-in caregivers.” They also state that the information is available upon request. This type of monitoring leaves FWA detection to chance. The data claims will appear all in one bucket, separating these exempt data claims with an edit will narrow data analysis searches to detect outliers, fraudulent claims, or abuse. Currently, Utah Medicaid will do discovery through a request of documentation and placing the responsibility of monitoring upon the provider. Requesting documentation gives the provider the opportunity to alter, create, or destroy the documentation. Utah Medicaid abdicated their oversight responsibility of exempt claims and EVV data of these claims in the Medicaid program and shifted it to Financial Management services of PCS providers.

Utah Medicaid stated:

Utah Medicaid has committed to revisiting this issue after PRISM go-live. Other factors, such as the upfront cost to add extra EVV functionality and the corresponding need to seek additional legislative appropriation will be part of future consideration of whether or not to incur the expense to change PRISM to include this functionality, that is not mandated by CMS. Impact to each of the Accountable Care Organizations will also be a factor in this discussion as they would be expected to implement prepayment controls and do not have access to the EVV records in the data warehouse currently.

The UOIG strongly suggests that Utah Medicaid consider exempt claims in the next phase of development for EVV after the go-live date of PRISM’s January 1, 2023 date.

EVV Data Submission Requirements

During an EVV, presentation to MFCU and UOIG, Utah Medicaid mentioned that the providers could have up to 365 days to submit the EVV data from date of service, which would match the required timing of other claims submission. In a communication with Utah Medicaid, UOIG questioned a statement made by Utah Medicaid about requesting a

²⁸ J Ambrenac, EVV attachment from Utah Medicaid presentation to MFCU and OIG on May 4, 2021.

submission of EVV data from the providers on a monthly or quarterly basis. Utah Medicaid answered, "We have not yet included in policy any kind of requirement for providers to periodically send their information". The Cures Act Sec. 12006(I)(1) states:

...with respect to any amount expended for personal care services or home health care services requiring an in-home visit by a provider that are provided under a State plan under the title (or under a waiver of the plan) and furnished in a calendar quarter beginning on or after January 1 ~~2019~~ 2020 (or, in the case of home health care services, on or after January 1, 2023), unless a State requires the use of an electronic visit verification system for such services furnished in such quarter under the plan or such waiver, the Federal medical assistance percentage shall be reduced...

The UOIG and Utah Attorney General Council interprets this as the Cures Act requiring a quarterly submission by PCS providers to match claims and EVV data submitted to CMS on a quarterly basis for FMAP documentation. Utah Medicaid stated, it is Utah Medicaid's intention to include policy on the frequency of EVV data submissions but none exists at this time. UOIG requested an update on this policy May 13, 2022 in which Utah Medicaid states "timing complicates auditing of this data" making any FWA investigation challenging for up to a year.

The purpose of EVV is to provide information to allow for better verification of visits. Utah Medicaid expressed a future interest in having data that would allow for analysis at a "moment's glance". In order to have this data at a moment's glance it is necessary to have EVV attached to the claim before payment occurs. Although this is not a requirement of the law, it is an encouraged best practice by CMS. Utah Medicaid proposed a solution of having data submitted monthly or quarterly, however, this solution still allows for delays from the time of claim submission until the receipt of EVV data from the provider. This delay in submission causes a delay in FWA prevention and investigation, the primary goal of EVV implementation.

The MIB issued October of 2019 lists the EVV data requirements with respect to the elements needed. Utah Medicaid does not identify how often to submit the EVV data. Utah Medicaid should develop a policy for the providers to clarify the submission time requirements for the EVV data.

Tracking EVV systems used by Providers

Utah Medicaid is not tracking the type of EVV software service or EVV systems that each PCS provider is using. Knowing which software the provider uses is not a requirement of the Cures Act but without knowing the service, it makes it difficult to retrieve EVV records directly from the provider's EVV software service. This allows the UOIG and MFCU the ability to request, subpoena, or warrant records to confirm an allegation of FWA without the need of going to the PCS provider, which alerts the PCS provider of an investigation and will make this information vulnerable to alterations. This information helps to reduce time in the discovery and legal process. After the attachment of EVV data for EVV claims is implemented this will reduce the time needed to request records for investigations. Utah Medicaid discussed the need for more information to support FWA investigations and concluded, "A deeper dive would be necessary". Medicaid did supply to the UOIG an incomplete list of EVV software used by some PCS providers. In their recent MIB article for the HHCS provider roll

out, Medicaid requested a survey form completion that asks for this information. Although Medicaid stated there is no need for this information for FWA and they are not fully tracking the different EVV systems for providers, they have begun the process of collecting the information and could easily complete the list.

FUNDING SOURCE

The FMAP percentage of federal versus state funding is updated every Federal Fiscal Year (FFY) for Medicaid and both the federal government and the state share the cost. UOIG needed current data to compare FMAP information and was unable to find a published Medicaid and Chip Annual report with the data for independent verification since it was last published for 2018. CMS publishes the FMAP yearly, the percentage stated in the 2018 Medicaid and Chip Annual report did not match the CMS published percentage for the year 2018. This is possibly explained by the differences between state and federal fiscal years and therefore, the modified reported percentage from the state. The Federal fiscal year is October 1 to September 30 and the State Fiscal year is from July 1 to June 30. With this difference in fiscal years, the UOIG could not verify the difference in the reported percentages.

Based on the three-year-old report, UOIG requested the published report from Utah Medicaid to find any expenditures for EVV and compare the FMAP to the current year published percentage. In the 2018, Annual Medicaid and Chip report UOIG found no identified expenditures. FMAP from 2018 was approximately 70% federal share, with state taxpayers paying the remaining 30%.

UOIG contacted Utah Medicaid, Division of Medicaid and Health Finance, who explained to the UOIG, "The work we did on EVV is all under staff time". UOIG asked Medicaid about a published Medicaid and Chip Annual Report, Utah Medicaid stated, "We are converting to an online dashboard style report", but Medicaid still has not published reports for three years. UOIG requested the expenditures for EVV development and current FMAP rate used by Utah Medicaid. UOIG never received the requested documentation.

Scope Limitation

The UOIG requested EVV development expenses and FMAP information but received incomplete data that could not be verified by the UOIG independently due to the fact that there was simply not enough information to confirm numbers received from Division of Medicaid and Health Financing. Information on total EVV development spending is not available from Utah Medicaid for any type of verification for the audit. UOIG was unable to make comparisons for the audit without needed current information. The UOIG requests the Publication of the Medicaid and Chip annual report to continue in tandem with the current Medicaid dashboard.

OBJECTIVES AND SCOPE

Audit Objectives:

- Review Utah Medicaid implementation of EVV use with Medicaid Claims for personal care services (PCS) as required in the Cures Act.
- Review Utah Medicaid's use of EVV in combating Medicaid FWA for PCS claims as stated in the Cures Act.
- Review reported reduction of Utah Medicaid FMAP for non-compliance to the Cures Act in rollout of EVV for PCS Medicaid claims.
- Review Utah Medicaid's ability to use EVV in Medicaid claims processing systems.

Audit Scope:

The Cures Act passed by the US congress on December 13, 2016 with implementation dates for EVV rollout for PCS and HHCS to reduce FWA. The law covers requirements for Federal funding with extensive explanation to meet compliance and loss of FMAP when compliance not achieved. The scope of this audit covers the rollout of PCS with an implementation date of January 1, 2019, later amended to January 1, 2020. Evaluation of EVV data and rollout progress through November of 2021. Covering a period of five years of development.

METHODOLOGY

To evaluate the process and controls of Utah Medicaid roll out of the EVV requirements stated in the Cures Act UOIG performed the following:

- (A) Determined the requirements of the Cures Act by obtaining a copy of the Act and reading it for content. Determined whom in Medicaid to contact for EVV development and roll out.
- (B) UOIG obtained the following information:
 - Reviewed EVV usage by other states.
 - Reviewed the stages of EVV development by Utah Medicaid.
 - Identifying the type of system Utah Medicaid is using for EVV.
 - Researched the funding for development of the EVV rollout.
 - Researched FMAP reduction possibilities.
 - Identified Medicaid Training of providers.
 - Researched the limits of MMIS system in use.
 - Researched the abilities of the new PRISM system of EVV document attachment.
 - Identified Medicaid plans using the current post-payment review.
 - Researched Medicaid Managed Care requirements for EVV.
 - Identified Medicaid's choice to continue using post-payment review.
 - Researched the advantage of pre-payment of Medicaid claims for EVV.
 - Identified the use of EVV in prevention of FWA of Medicaid funds.
 - Reviewed Medicaid Policy and Operations Committee minutes.
 - Reviewed Medicaid Advanced Planning Document (APD) for EVV development.
 - Identified DSPD codes and CPT codes for PCS and HHCS.

- Compared EVV records from Medicaid data warehouse.
- Research and discussed Medicaid post-payment review audits and rollout.
- Identified the needs of MFCU and UOIG in prevention of FWA of Medicaid funds and the use of EVV.
- Identified the next phase of EVV rollout for HHCS Medicaid claims.
- Requested and analyzed the dollar amount of FMAP reduction.
- Researched, Identified and discussed the non-compliant status of Medicaid in EVV rollout for PCS claims.
- Reviewed Medicaid's effort to obtain compliant status of EVV rollout for PCS claims from CMS.
- Researched EVV usage by Medicaid providers.
- Reviewed the one-time good faith extension of the EVV deadline.
- Researched the ability of the MMIS system and PRISM to allow EVV data attachments to Medicaid claims.
- Consulted with the Attorney General Council concerning Cures Act legal terms and regulations.

CONCLUSION

Utah Medicaid received two extensions with the final due date being January 1, 2021. Utah and other states requested the second extension as a good faith to developing the EVV program. Utah Medicaid believed that they did not receive enough direction from CMS for EVV development and their compliance to the Cures Act. Utah Medicaid missed these deadlines and FMAP reduction took place for PCS claims paid for the first two quarters of 2021.

The approval for EVV development took place in the Utah Medicaid Policy and Operations meeting of March 2019. Medicaid choose to implement a Provider's choice option for EVV reporting. This allowed providers to choose an approved software for EVV development that was less burdensome to the individual entities. Providers needed to complete a survey by July 1, 2021 that they were compliant or would not receive any further Medicaid payments for PPC services.

Utah Medicaid's post-payment audit process is still in development and did not start on the stated dates. The UOIG and Utah Attorney General Council interprets this as the Cures Act requiring a quarterly submission by PCS providers to match claims and EVV data submitted to CMS on a quarterly basis for FMAP documentation. Utah Medicaid has not developed a timeline for submitting EVV data before the 365 days after the service date, causing delay in FWA investigations of paid claims. Because the PRISM system is not currently available in full function, Utah Medicaid must use the Legacy MMIS system that will not allow attachment of electronic records to Medicaid claims, thus causing delays for investigation of FWA. The purpose of the EVV section of the Cures Act is the prevention of FWA by use of EVV to verify that the services provided to Medicaid recipients did, in fact, take place.

FINDING 1**Utah Medicaid did not meet EVV rollout deadline for PCS resulting in FMAP reduction**

The Cures Act calls for a reduction in FMAP reimbursement for states that do not require the use of Electronic Visit Verification systems for personal care services by January 1, 2020. Utah Medicaid received a one-time Good Faith Extension to January 1, 2021. Utah Medicaid did not meet the extended deadline, resulting in the reduction in FMAP for the first and second quarters of 2021.

CMS requires submission of EVV data from PCS providers on a quarterly basis to determine FMAP possible reduction. Cures Act compliance requires that systems are minimally burdensome to the providers, make consideration of existing best practices, include HIPAA compliance for EVV data, consider the needs of stakeholders, and include electronic verification of all PCS and HHCS claims furnished and paid by Utah Medicaid on a quarterly basis.

Compliance to CMS IAPD corrective action calls for a functioning post- payment audit process. In addition to the corrective action plan, the UOIG reviewed the attestation of “EVV Compliance Survey Submission”, dated July 1, 2021, which states, “Beginning in the spring of 2021, the state will begin its post-payment audit process”. Medicaid stated that this was part of phase 2 development. This process is still in development as of the UOIG meeting with Utah Medicaid on May 10, 2022.

Recommendations

- 1.1 UOIG recommends completion of the post-payment audit process to identify providers who are not fully compliant with EVV requirements. Publish an SOP (Standard Operating Procedure) outlining the post-payment audit process.
- 1.2 UOIG recommends that Utah Medicaid ensure compliance before the roll out of HHCS and its EVV requirements on January 1, 2023 unless a good faith extension is granted by CMS that will extend HHCS implementation to January 1, 2024²⁹.
- 1.3 Utah Medicaid should troubleshoot data transmission and verify correct submissions before the need for compliance on January 1, 2023 unless a good faith extension is granted by CMS that will extend HHCS implementation to January 1, 2024.
- 1.4 Utah Medicaid should provide education to providers and MCE (Managed Care Entity) Special Investigations Units that were not part of the PCS rollout. This could be done during the quarterly MFCU/ACO/UOIG Quarterly meeting.

²⁹ At the time of the issuance of this audit, Utah Medicaid has submitted a good faith extension for HHCS implementation.

FINDING 2**Utah Medicaid did not include MFCU or UOIG during EVV development.**

Section 1903(1) of the Social Security Act requires states to gather stakeholder input for EVV development and implementation. In the CMS/CMCS recommendation, States are encouraged to contact “State Attorney General/Inspector General with knowledge of Medicaid programs, program integrity and other issues that pertain to appropriate delivery of services and payments for those services.” Although Medicaid expressed that they did reach out to many stakeholders, they did not include Utah MFCU or UOIG for developmental input to include the needs of the two organizations within EVV. Utah Medicaid had many opportunities to reach out to UOIG for development help on EVV within the context of meetings as far back as 2017 when the Inspector General informed Medicaid many times of the need for EVV as a deterrent of FWA. Utah Medicaid did not request EVV developmental help or input during the four-year period. A review of the MIBs issued shows no type of EVV development invitation for any stakeholders. The MIB would not be an appropriate place for an invitation to the stakeholders.

Recommendation

- 2.1 UOIG recommends Utah Medicaid consult MFCU and UOIG in the development and rollout of the EVV requirement for HHCS claims with the deadline of January 1, 2023. The EVV rollout should have an emphasis on reduction of FWA for patient in-home care as stated in section 1903. MFCU and UOIG can advise with issues of FWA in Medicaid claims.
- 2.2 UOIG recommends the utilization of Program Integrity Committee (PIC) meetings to further discuss the current PCS EVV implementations and its improvements. In addition to the future implementations of HHCS rollout.

FINDING 3**Utah Medicaid EVV webpage for training had outdated information**

Under the Cures Act, the state Medicaid Director will receive best practice information from the Secretary of Health and Human services. This information is for training individuals who furnish personal care services and home care services. The information as well as the provision of notice and educational materials for family caregivers and beneficiaries with respect to the use of EVV for the prevention of fraud. This gives Utah Medicaid the responsibility to train service providers in EVV. UOIG questioned Utah Medicaid about information from the Utah Medicaid web page on EVV; the reply from Utah Medicaid was that the website language is outdated. The EVV web page is the sole location for providers training information. Training responsibilities require current information be available to service providers and the public.

Recommendation

- 3.1 Utah Medicaid is providing training on a requested basis. It is the responsibility of Utah Medicaid to provide EVV training. UOIG recommends Utah Medicaid keep the EVV provider training webpage current with all training issues updated. UOIG recommends Utah Medicaid include EVV training in the upcoming Statewide Provider Training.
- 3.2 Utah Medicaid must be prepared with EVV training for Medicaid Managed Care service providers and Special Investigation Units of Managed Care providers with the rollout of EVV for PCS and HHCS on January 1, 2023, to detect FWA. This could be done during the quarterly MFCU/ACO/UOIG Quarterly meeting.

FINDING 4**Utah Medicaid is not tracking EVV systems used by PCS Providers**

Utah Medicaid stated in the MFCU/VOIG presentation that they do not track the EVV systems used by PCS Providers. The ability to determine the type of EVV system used without confronting or requesting from the providers helps in FWA investigations. Knowing the type of EVV system can reduce time with the issuance of subpoenas for investigation and records requests (see "Tracking EVV Systems Used by Provider" above). The primary reason for EVV is the deterrence of FWA in Medicaid claims and for the investigation of such actions. After the audit discovery period, Utah Medicaid provided a partial list of providers and systems, but was not complete nor adequate for investigation purposes. A recent survey sent by Utah Medicaid for the HHCS rollout requested the type of system used.

Recommendations

- 4.1 Utah Medicaid provided VOIG an incomplete list of vendors used by PCS Medicaid providers obtained by a previous survey. VOIG recommends follow-up to complete the list for missing information, include the type of system used, and have it available to MFCU and VOIG upon request.
- 4.2 In the Interim May 2022 MIB, Utah Medicaid requested HHCS providers' answer through an EVV readiness survey, due back June 6, 2022, the type of EVV vendor used by HHCS Medicaid providers. VOIG recommends Utah Medicaid create a list of vendors used by the HHCS providers then request the type of EVV system used and have the information available to MFCU and VOIG upon request before the rollout of January 1, 2023 unless a good faith extension is granted by CMS that will extend HHCS implementation to January 1, 2024.

FINDING 5**Utah Medicaid needs to align the EVV Administrative Rule with the Cures Act.**

Utah Administrative Code R414-522-3 governs EVV for personal care (PCS) and home health services (HHS) in Utah. In accordance with the Rule, providers in Utah were required to begin capturing EVV data for PCS and HHS effective July 1, 2019. The Rule was adopted by Utah State Bulletin Number 2019-14, and became effective July 1, 2019. Utah Medicaid did not meet the effective date as written in the code.³⁰ Utah Medicaid began enforcing EVV requirements on July 1, 2021, two years after the required date identified in the Rule.

Recommendation

- 5.1 The UOIG recommends that Utah Medicaid update the Rule to reflect required PCS and HHS implementation dates identified in the Cures Act.

³⁰ Utah Administrative Code 414-522-3 December 1, 2021. Retrieved October 15, 2021 from <https://casetext.com/regulation/Utah-administrative-code/health/title-r414-health-care-financing-coverage-and-rembursement-policy/rule-r414-522-accountable-care-organization-hospital-report/section-r414-522-3-electronic-visit-verification-requirements>

FINDING 6**Utah Medicaid does not have EVV exempt qualifiers for data warehouse exempt claims.**

Utah Medicaid cited the difficulty of isolating PCS and HHCS exempt CPT/DSPD codes in claim processing within the current MMIS system. Medicaid stated, "As far as altering coding/using new modifiers, it may be possible that a viable solution could be identified. Research would need to be done to see if CMS has defined a modifier already, or if we may be able to define our own. One impediment, however, may be procedure codes that have already exhausted all the available Data Warehouse procedure code modifier slots. Most EVV procedures are waiver codes, so the first modifier slot will be occupied by a U modifier and the second may frequently have a TN, TU, HR, EY, etc. modifier as well." The UOIG recognizes that making these changes in the current MMIS system may not be cost effective. This is especially true with the PRISM system going live on January of 2023 and would not be feasible for only six months under the old system.

CPT/DSPD coding exemptions are correctable with the use of a CPT/DSPD Code Modifier or a CPT/DSPD coding Flag allowing for isolation of claims requiring EVV. A flag or modifier of the CPT coding for the service to show the difference between live-in relatives and out-of-home care providers could solve the coding issue and create a clear representation of the EVV service data provided and by whom.

Utah Medicaid provided, after the audit discovery period, information that they are having Financial Management Service (FMS) providers monitor employees who would not be subject to EVV requirements due to exemptions of live-in caregivers. Medicaid reported that exempt caregivers is limited to four FMS providers. The FMS agencies have been asked to maintain a list of all individuals who have an exemption in place, therefore Medicaid may be able to produce a list upon request from the FMS agencies. Comparing claim recipients to this list would at least give a probability that a particular claim without EVV submission is exempt. This type of policy abdicates Medicaid's oversight responsibility to manage exempt claims and the EVV Data of these claims under the Medicaid system and places it on the FMS providers.

The use of a modifier or a flag creates cleaner data to identify exempt claims for stakeholders to rely on. It is best to detect or identify FWA information as incorrect before the need to go directly to the source. MFCU and the UOIG find in their experience that detection through a source other than direct contact with the provider helps to establish a credible allegation for FWA.

Creating the edit now will also help identifying these claims as exempt and deny the claims if Utah Medicaid chooses to require electronic attachments to claims later with the go-live of PRISM. This should be something to consider in the next stage of the EVV development.

Recommendation

- 6.1 UOIG recommends that Utah Medicaid develop a system and process for identification of exempt EVV claims that appear in the data warehouse.

FINDING 7**Utah Medicaid needs Policy for Edits and Exceptions for Manual Submissions**

Utah Medicaid is discussing the need for an exception rate for EVV providers for services not verified electronically but have not implemented a policy on how to submit EVV data manually. The intent of Utah Medicaid is to update or correct administrative rule R414-522-3 to recognize the need for manual submissions for exceptions to the rule for EVV data. They want to emulate what other states have done in setting an initial amount for exceptions, for example, 70% of total matches, and increase over time. Research will help them understand a baseline as not to set limits too high or low. Further research is required to determine this per Utah Medicaid and to address CMS's requirement that states should publish a written policy for providers.

Although CMS is not requiring a written policy, CMS recommends one. UOIG suggests that Utah Medicaid implement the change to the rule and create a policy sooner than later, as this should have been available with the deadline of January 1, 2021. This needed guidance for providers establishes expectations for manually submitted exceptions that are available to make corrections to EVV submissions.

Recommendation

- 7.1 UOIG recommends Utah Medicaid publish a written policy to establish guidance for providers who may need to submit manual corrections to EVV data when exceptions exist.

Finding 8**Utah Medicaid has not developed policy/procedures for submission frequency of EVV documentation**

Utah Medicaid expressed the need to require monthly or quarterly submission of EVV data on claims submitted for payment under the use of post-payment review claims processing. The 21st Century Cures Act, Section 12006 (l)(1) requires quarterly submission of EVV documentation for proof of compliance to EVV requirements and meet FMAP guidelines. (See EVV Data Submission Requirements above). Allowing for EVV data submission 365 days after the service date is in violation of the Cures act requirements. There is no written policy as of the writing of this report for the submission of EVV data on a quarterly basis for EVV providers by Utah Medicaid

Recommendations

- 8.1 UOIG recommends Utah Medicaid establish a policy to require minimum quarterly submissions of EVV data from PCS and HHCS providers, to align with the FMAP requirements as stated in the 21st Century Cures Act, Section 12006 (l)(1). With implementation of PRISM, the emphasis, based on best practice, should roll out the conversion to prepayment processing of Medicaid Claims with EVV attached to the claim prior to payment enabling curtailment of FWA for patient in-home care.

FINDING 9**Utah Medicaid uses post-payment reviews that delay discovery of invalid EVV claims**

The prime reason for the inclusion of EVV as stated in the Cures Act is to reduce possible FWA in claims submitted for PCS and HHCS. The current MMIS system used by Utah Medicaid will not allow for the attachment of EVV documentation to Medicaid claims creating post-payment review of claims causing payment to be paid and then recovered.

The in-home visit is the first item to occur in the service proceedings. Attachment of EVV data from the visit to the claim prior to submission enables near instant ability to verify services provided for investigation of FWA. The process of prepayment eliminates payments for invalid PCS and HHCS claims and reduces the review process after the payment of claims and the decreased resources used to review those claims.

Utah Medicaid signed a contract for developing the "PRISM" system. The system would allow for attachment of EVV data to Medicaid claims with programing adjustments. CMS recommends "Prepayment" of claims as "Best Practice" for all states with the roll out of EVV. Prepayment of claims is the best format for the reduction of FWA. The PRISM system is still under development and not currently available in all functions. The U.S. Congress passed the Cures act in 2016; Utah Medicaid should have considered EVV inclusion in the development of PRISM at that time. The continuation of post-payment review slows the ability to prevent and investigate FWA in claims submitted and paid. EVV is a tool to reduce FWA in Medicaid PCS and HHCS claims. PRISM's expected go-live date is January 3, 2023, Utah Medicaid has committed to revisit programming adjustments after the go live date.

Utah Medicaid also stated there are "other factors to programming, such as up-front costs to add extra EVV functionality and corresponding need to seek additional legislative appropriations will be part of future consideration of whether or not to incur the expense to change PRISM to include an aggraded data process... Impact to each of the accountable care organizations will also be a factor in this discussion as they would be expected to implement prepayment control and do not have access to EVV records in the data warehouse currently".

Recommendation

- 9.1 UOIG recommends Utah Medicaid consider moving to the prepayment system proposed by CMS with the implementation of the PRISM system.
- 9.2 UOIG recommends considering programing adjustments in the PRISM system to allow for pre-payment of Medicaid Claims for PCS and HHCS with an emphasis on prevention of FWA in patient care.
- 9.3 UOIG recommends considering the same emphasis with the Managed Care Program for the prevention of FWA in patient care as required in the Cures Act.
- 9.4 UOIG recommends establishing SOPs for providing documentation relevant to an investigation by MFCE, UOIG, or a Managed Care SIU (Special Investigation Unit) upon request.

**FINDING
10**

**Utah Medicaid did not start EVV Post-Payment
Review Audits as reported.**

As part of the IAPD submitted to CMS for EVV development, Utah Medicaid was to develop a Post-Payment review audit, which they refer to as EVV audits. The planned start date for the Audit stage was October 1, 2021. This process would compare and match Medicaid paid claims requiring EVV documentation to EVV data submitted by the Medicaid provider as well as an annual review of each provider of current PCS services and after the January 1, 2023 rollout of HHCS services.

The annual review is a validation of compliance by each PCS and HHCS provider. Utah Medicaid would use a post-payment review to assure providers are meeting criteria. The review consists of an annual sample of provider submitted claims and EVV records to validate services provided and paid. Utah Medicaid identifies this as their oversight process to assure provider compliance.

Utah Medicaid has stated, "The entirety of the audit strategy has not been deployed, efforts to review/contact provider with quality issues and work to evaluate matches between EVV records and claims has been well underway." In a meeting on May 10, 2022 with Medicaid, DTS and UOIG, DTS expressed that this is an on-going process. Utah Medicaid attested on July 1, 2021 "Beginning in the spring of 2021, the state will begin its post-payment audit process, identifying providers who may not be fully compliant with EVV requirements and establishing plans of correction to meet expectations." This oversight activity has yet to begin as of the date of this report.

Recommendation

- 10.1 UOIG recommends Utah Medicaid initiate the second half of the state's audit strategy with Post-Payment Audit Review of PCS Medicaid providers as well as after the rollout of HHCS Medicaid providers on January 1, 2023.
- 10.2 UOIG recommends establishing criteria for FWA referral to the UOIG upon identification.

GLOSSARY OF TERMS

<u>Term</u>	<u>Description</u>
ACO	Accountable Care Organization
API	Application Programming Interface
APD	Advanced Planning Document
BFS	Bureau of Financial Services
CHIP	Children's Health Insurance Program
CMCS	Center for Medicaid & Chip Services
CMS	Centers for Medicare & Medicaid Services
CPT	Current Procedural Terminology
CSV	Comma Separated Values
Cures Act	21st Century Cures Act section 12006
DHHS	Utah Department of Health and Human Services
DMHF	Department of Medicaid Health and Finance
DSPD	Division of Services for People with Disabilities
E&E	Eligibility and Enrollment
EVV	Electronic Visit Verification
FFY	Federal Fiscal Year
FMAP	Federal Medical Assistance Percentage
FMS	Financial Management System
FWA	Fraud, Waste & Abuse
GASB	Government Accounting Standards Board
GAO	[US] Government Accountability Office
GPS	Global Positioning System

HCBS	Home & community based services
HHCS	Home Health Care Services
HHS	Home Health Services
IAPD	Implementation Advanced Planning Document
ID	Identification
MCE	Managed Care Entity
MIB	Medicaid Information Bulletin
MMIS	Medicaid Management Information System
MFCU	Medicaid Fraud Control Unit
NAMD	National Association of Medicaid Directors
NASUAD	National Association of States United for Aging and Disabilities
P&O	Policy and Operations
PCS	Personal Care Services
PIC	Program Integrity Committee
PRISM	Provider Reimbursement Information System
SIU	Special Investigations Unit
SOAP	Simple Object Access Protocol
SOAPUI	SoapUI is an open-source web service testing application for Simple Object Access Protocol (SOAP) and representational state transfers (REST). Its functionality covers web service inspection, invoking, development, simulation and mocking, functional testing, load and compliance testing.
SOP	Standard Operating Procedure
UOIG	Utah Office of Inspector General

MANAGEMENT RESPONSE



State of Utah

SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

Department of Health & Human Services

TRACY S. GRUBER
Executive Director

NATE CHECKETTS
Deputy Director

DR. MICHELLE HOFMANN
Executive Medical Director

DAVID LITVACK
Deputy Director

NATE WINTERS
Deputy Director

November 17, 2022

Gene Cottrell
Inspector General
Office of the Inspector General of Medicaid Services
P.O. Box 14103
Salt Lake City, Utah 84114

Dear Mr. Cottrell:

On behalf of the Department of Health and Human Services, thank you for the opportunity to respond to the audit titled *Electronic Visit Verification (A2021-03)*. I appreciate the effort and professionalism of you and your staff in this review. The final product reflects a significant effort and time of the DHHS staff collecting information for OIG review, answering questions, and planning changes to improve the program. This audit and its responses will result in a better, more efficient program.

DHHS agrees with the recommendations in this report. DHHS is committed to the efficient and effective use of taxpayer funds and values the insight this report provides on areas that need improvement.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jennifer Strohecker".

Jennifer Strohecker (Nov 17, 2022 12:42 MST)

Jennifer Strohecker, PharmD, BCPS
Medicaid Director
Director, Division of Integrated Healthcare

Response to Recommendations

Finding 1: Utah Medicaid did not meet EVV rollout deadline for PCS resulting in FMAP reduction

Recommendation 1.1

UOIG recommends completion of the post-payment audit process to identify providers who are not fully compliant with EVV requirements. Publish an SOP (Standard Operating Procedure) outlining the post-payment audit process.

Department Response:

DHHS agrees with this recommendation.

What:

The EVV team will develop a Standard Operating Procedure to document and formalize the post-payment audit process. The SOP will include:

- Criteria used to identify providers for audits
- Criteria used for matching claims to EVV records
- Criteria used to document findings
- Criteria used to determine when to escalate a provider to OIG/MFCU

When: December 31, 2022

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports, jambrena@utah.gov

Recommendation 1.2

UOIG recommends that Utah Medicaid ensure compliance before the roll out of HHCS and its EVV requirements on January 1, 2023 unless a good faith extension is granted by CMS that will extend HHCS implementation to January 1, 2024.

Department Response:

DHHS agrees with this recommendation.

What:

Utah Medicaid will ensure provider compliance before HHCS implementation by requiring providers to respond to a survey on their method used for EVV compliance. Utah Medicaid will require this attestation in order to remain enrolled with Utah Medicaid.

When:

January 1, 2023 unless a good faith extension is granted by CMS that will extend the deadline to January 1, 2024.

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports,
jambrena@utah.gov

Recommendation 1.3

Utah Medicaid should troubleshoot data transmission and verify correct submissions before the need for compliance on January 1, 2023 unless a good faith extension is granted by CMS that will extend HHCS implementation to January 1, 2024.

Department Response:

DHHS agrees with this recommendation.

What:

Utah Medicaid will add troubleshooting guidance to its EVV Frequently Asked Questions resource. The guidance will include the correct pathway for providers to test and verify their submissions.

When:

December 31, 2022

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports,
jambrena@utah.gov

Recommendation 1.4

Utah Medicaid should provide education to providers and MCE (Managed Care Entity) Special Investigations Units that were not part of the PCS rollout. This could be done during the quarterly MFCU/ACO/VOIG Quarterly meeting.

Department Response:

DHHS agrees with this recommendation.

What:

Utah Medicaid will provide EVV education in the MFCU/ACO/VOIG Quarterly meeting.

When: March 31, 2023

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports,
jambrena@utah.gov

Finding 2: Utah Medicaid did not include MFCU or VOIG during EVV development

Recommendation 2.1

UOIG recommends Utah Medicaid consult MFCU and UOIG in the development and rollout of the EVV requirement for HHCS claims with the deadline of January 1, 2023. The EVV rollout should have an emphasis on reduction of FWA for patient in-home care as stated in section 1903. MFCU and UOIG can advise with issues of FWA in Medicaid claims.

Department Response:

DHHS agrees with this recommendation.

What:

Utah Medicaid will consult with UOIG and MFCU on the EVV process and will give UOIG and MFCU opportunities to make recommendations to reduce FWA. Utah Medicaid will consult with MFCU and UOIG in a Program Integrity Committee (PIC) meeting by January 31, 2023.

When:

January 31, 2023

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports, jambrena@utah.gov

Recommendation 2.2

UOIG recommends the utilization of Program Integrity Committee (PIC) meetings to further discuss the current PCS EVV implementations and its improvements. In addition to the future implementations of HHCS rollout.

Department Response:

DHHS agrees with this recommendation.

What:

Utah Medicaid will utilize the PIC meeting to discuss EVV implementation and activities. By December 31, 2023, Utah Medicaid will present information on the first year of audit activities and findings.

When:

December 31, 2023

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports, jambrena@utah.gov

Finding 3: Utah Medicaid EVV webpage for training had outdated information

Recommendation 3.1

Utah Medicaid is providing training on a requested basis. It is the responsibility of Utah Medicaid to provide EVV training. UOIG recommends Utah Medicaid keep the EVV provider

training webpage current with all training issues updated. UOIG recommends Utah Medicaid include EVV training in the upcoming Statewide Provider Training.

Department Response:

DHHS agrees with this recommendation.

What:

Utah Medicaid is dedicated to providing EVV training to PCS and HHCS providers. The EVV website will be continuously updated with FAQs and pertinent information. Utah Medicaid acknowledges that each EVV vendor is different and PCS and HHCS providers have unique needs and questions based on size, capabilities and vendor chosen. Utah Medicaid sees the best value in tailored training to individual providers or small provider groups, but Utah Medicaid will also provide an EVV overview at the Statewide Provider Training which is held annually in September.

Utah Medicaid will update the EVV webpage with a summary of the EVV requirements and process and include the most recent training materials available.

When:

September 30, 2023

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports,
jambrena@utah.gov

Recommendation 3.2

Utah Medicaid must be prepared with EVV training for Medicaid Managed Care service providers and Special Investigation Units of Managed Care providers with the rollout of EVV for PCS and HHCS on January 1, 2023, to detect FWA. This could be done during the quarterly MFCU/ACO/UOIG Quarterly meeting.

Department Response:

DHHS agrees with this recommendation.

What:

Utah Medicaid will provide EVV education in the MFCU/ACO/UOIG Quarterly meeting.

When:

March 31, 2023

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports,
jambrena@utah.gov

Finding 4: Utah Medicaid is not tracking EVV systems used by PCS Providers

Recommendation 4.1

Utah Medicaid provided UOIG an incomplete list of vendors used by PCS Medicaid providers obtained by a previous survey. UOIG recommends follow-up to complete the list for missing information, include the type of system used, and have it available to MFCU and UOIG upon request.

Department Response:

DHHS agrees with this recommendation.

What:

During annual audits, Utah Medicaid will collect and retain information associated with the vendor/EVV solution adopted by the provider that can then be produced upon request. During future system enhancements/modifications a required field may also be considered during EVV record submissions to include this information.

When:

December 31, 2023

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports,
jambrena@utah.gov

Recommendation 4.2

In the Interim May 2022 MIB, Utah Medicaid requested HHCS providers' answer through an EVV readiness survey, due back June 6, 2022, the type of EVV vendor used by HHCS Medicaid providers. UOIG recommends Utah Medicaid create a list of vendors used by the HHCS providers then request the type of EVV system used and have the information available to MFCU and UOIG upon request before the rollout of January 1, 2023 unless a good faith extension is granted by CMS that will extend HHCS implementation to January 1, 2024.

Department Response:

DHHS agrees with this recommendation.

What:

Utah Medicaid conducted a survey of the HHCS providers. All but two known HHCS providers have submitted a response. Utah Medicaid will submit this information to MFCU and UOIG by November 30, 2022. If Utah Medicaid receives responses from the two remaining HHCS providers, Utah Medicaid will share those with UOIG. Otherwise, Utah Medicaid will close the nonresponsive providers.

When:

November 30, 2022

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports,
jambrena@utah.gov

Finding 5: Utah Medicaid needs to align the EVV Administrative Rule with the Cures Act.

Recommendation 5.1

The UOIG recommends that Utah Medicaid update the Rule to reflect required PCS and HHS implementation dates identified in the Cures Act.

Department Response:

DHHS agrees with this recommendation.

What:

Utah Medicaid will update the Administrative Rule to reflect the new implementation date requirements as indicated by the good faith effort exemption(s) received from CMS.

When:

January 31, 2023

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports,
jambrena@utah.gov

Finding 6: Utah Medicaid does not have EVV exempt qualifiers for data warehouse exempt claims

Recommendation 6.1

UOIG recommends that Utah Medicaid develop a system and process for identification of exempt EVV claims that appear in the data warehouse.

Department Response:

DHHS agrees with this recommendation.

What:

Utah Medicaid will explore creating a table in the data warehouse to store a list of individuals that would be exempt from EVV requirements due to their utilization of live-in caregivers. This table could be used while doing post-audit reviews and used for ongoing reporting of match EVV/Claim match rates. This implementation will need to be compliant with the new PRISM data warehouse.

When:

September 30, 2023, to allow implementation in the new PRISM data warehouse environment

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports,
jambrena@utah.gov

Finding 7: Utah Medicaid needs Policy for Edits and Exceptions for Manual Submissions

Recommendation 7.1

UOIG recommends Utah Medicaid publish a written policy to establish guidance for providers who may need to submit manual corrections to EVV data when exceptions exist.

Department Response:

DHHS agrees with this recommendation.

What:

Utah Medicaid will add language in the Administrative Rule to specify circumstances and methods for providers to submit corrected EVV records.

When:

January 31, 2023

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports,
jambrena@utah.gov

Finding 8: Utah Medicaid has not developed policy/procedures for submission frequency of EVV documentation

Recommendation 8.1

UOIG recommends Utah Medicaid establish a policy to require minimum quarterly submissions of EVV data from PCS and HHCS providers, to align with the FMAP requirements as stated in the 21st Century Cures Act, Section 12006 (l)(1). With implementation of PRISM, the emphasis, based on best practice, should roll out the conversion to prepayment processing of Medicaid Claims with EVV attached to the claim prior to payment enabling curtailment of FWA for patient in-home care.

Department Response:

DHHS agrees with this recommendation.

What:

Utah Medicaid will modify the Administrative Rule to specify that providers should submit EVV records no less frequently than on a quarterly basis.

When:

January 31, 2023

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports,
jambrena@utah.gov

Finding 9: Utah Medicaid uses post-payment reviews that delay discovery of invalid EVV claims

Recommendation 9.1

UOIG recommends Utah Medicaid consider moving to the prepayment system proposed by CMS with the implementation of the PRISM system.

Department Response:

DHHS agrees with this recommendation.

What:

While there is recognition that the prepayment requirement is not statutorily required, Utah Medicaid understands the UOIG's reasons for making this recommendation. Utah Medicaid will consider implementing a hard-edit to deny claims that require an EVV record if a matching record cannot be found. This consideration will include a review of other state practices, the impact to providers and resulting access to care, and administrative effort. As Utah Medicaid is working toward its PRISM implementation date of April 1, 2023 and a prepayment requirement will require work to scope out and prioritize, Utah Medicaid requests until the end of 2023 to complete this audit recommendation. Utah Medicaid will discuss the conclusion of its consideration with the UOIG at a future PIC meeting.

When:

December 31, 2023

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports,
jambrena@utah.gov

Recommendation 9.2

UOIG recommends considering programing adjustments in the PRISM system to allow for prepayment of Medicaid Claims for PCS and HHCS with an emphasis on prevention of FWA in patient care.

Department Response:

DHHS agrees with this recommendation.

What:

Utah Medicaid believes that this audit recommendation is substantially similar to recommendation 9.1. As Utah Medicaid is working toward its PRISM implementation date of April 1, 2023 and a prepayment requirement will require work to scope out and prioritize, Utah Medicaid requests until the end of 2023 to complete this audit recommendation. As such, Utah Medicaid agrees and will discuss the conclusion of its consideration with the UOIG at a future PIC meeting.

When:

December 31, 2023

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports,
jambrena@utah.gov

Recommendation 9.3

UOIG recommends considering the same emphasis with the Managed Care Program for the prevention of FWA in patient care as required in the Cures Act.

Department Response:

DHHS agrees with this recommendation.

What:

Utah Medicaid will consider the same pre-payment requirement as it relates to the managed care programs and will discuss the conclusion of its consideration with the UOIG at a future PIC meeting.

When:

12/31/2023

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports,
jambrena@utah.gov

Recommendation 9.4

UOIG recommends establishing SOPs for providing documentation relevant to an investigation by MFCE, UOIG, or a Managed Care SIU (Special Investigation Unit) upon request.

Department Response:

DHHS agrees with this recommendation.

What:

Utah Medicaid will include procedures for EVV documentation to MFCU, UOIG or a Managed Care SIU upon request. The SOP will include the correct pathway for requests to be made, the information that will be provided, and the timeframe for completion. Utah Medicaid will present this in the MFCU/ACO/UOIG Quarterly meeting.

When: March 31, 2023

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports,
jambrena@utah.gov

Finding 10: Utah Medicaid did not start EVV Post-Payment Review Audits as reported.

Recommendation 10.1

UOIG recommends Utah Medicaid initiate the second half of the state's audit strategy with Post-Payment Audit Review of PCS Medicaid providers as well as after the rollout of HHCS Medicaid providers on January 1, 2023.

Department Response:

DHHS agrees with this recommendation.

What:

Utah Medicaid began a post-payment audit process of PCS providers in September 2022. Utah Medicaid will audit each PCS provider annually. Auditing of HHCS provider claims will begin 12 months after the requirement to begin collecting EVV records for HHCS claims.

When:

PCS post-payment auditing has already begun. HHCS auditing will begin in January 2024.

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports,
jambrena@utah.gov

Recommendation 10.2

UOIG recommends establishing criteria for FWA referral to the UOIG upon identification.

Department Response:

DHHS agrees with this recommendation.

What:

In combination with audit recommendation 9.4, Utah Medicaid will establish an SOP that includes criteria and procedures for escalating suspected FWA to UOIG.

When:

March 31, 2023

Contact: Josip Ambrenac, Director, Office of Long Term Services and Supports,
jambrena@utah.gov

EVALUATION OF MANAGEMENT RESPONSE

UOIG appreciates the response provided by Utah Medicaid in its Management Response letter. In the response Utah Medicaid agreed to all of the recommendations presented by UOIG. UOIG looks forward to the implementation of the recommendations made. UOIG strives to partner with Utah Medicaid in the improvement of delivery of Medicaid Services to Medicaid recipients in a cost efficient manner, with a focus on reduction of Fraud, waste and abuse.

UTAH OIG CONTACTS AND STAFF ACKNOWLEDGEMENT

UTAH OIG CONTACT



Dennis Hooper
Auditor CIGA

Neil Erickson
Audit Manager MBA, CIGA, CFE

UTAH OIG MISSION STATEMENT

The Utah Office of Inspector General of Medicaid Services, on behalf of the Utah Taxpayer, will comprehensively review Medicaid policies, programs, contracts and services in order to identify root problems contributing to fraud, waste, and abuse within the system and make recommendations for improvement to Medicaid management and the provider community.

ADDRESS

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OTHER

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