Supporting Statement – Part A
Electronic Visit Verification Compliance Survey
CMS-10680, OMB 0938-TBD (New)

Background

This collection entails an electronic, web-based survey that will allow states to self-report their progress in implementing electronic visit verification (EVV) for personal care services (PCS) and home health care services (HHCS), as required by section 1903(l) of the Social Security Act. The Center for Medicare and Medicaid Services (CMS) will use the survey data to assess states' compliance with section 1903(l) of the Act and levy FMAP reductions where necessary as required by 1903(l) of the Act. Data collection will begin in November, 2019 and will end when all states have fully implemented EVV systems according to the requirements specified at section 1903(l) of the Act.

The survey will be disseminated to all 51 state Medicaid agencies (including the District of Columbia) and the Medicaid agencies of five US territories. States will be required to complete the survey in order to demonstrate that they are complaint with Section 1903(l) of the Act by reporting on their EVV implementation status for PCS provided under sections 1905(a)(24), 1915(c), 1915(i), 1915(j), 1915(k), and Section 1115 of the Act; and HHCS provided under 1905(a)(7) of the Act or under a demonstration project or waiver (e.g., 1915(c) or 1115 of the Act).

The survey will be a live form, meaning states will have the ability to update their 1903(l) compliance status on a continuous basis. As FMAP reductions are assigned quarterly per 1903(l) of the Act, states who are not in compliance will be asked to review their survey information on a quarterly basis to ensure it is up-to-date and to update their survey responses as needed until they come into compliance.

A. Justification

1. Need and Legal Basis

Section 12006(a) of the 21st Century Cures Act, signed into law on December 13, 2016, added section 1903(l) to the Social Security Act[1], which mandates that states require electronic visit verification (EVV) use for Medicaid-funded personal care services and home health care services for in-home visits by a provider. States are required to implement EVV for PCS by January 1, 2020 and for HHCS by January 1, 2023. Otherwise, the state will be subject to incremental reductions in Federal Medical Assistance Percentage (FMAP) matching of PCS and HHCS expenditures quarterly over the first five years of the requirement that will eventually reach 1 percent. The 1 percent FMAP reductions will advance forward every quarter until compliance is achieved. This applies to PCS provided under sections 1905(a)(24), 1915(c), 1915(i), 1915(j), 1915(k), and Section 1115 of the Act; and HHCS provided under 1905(a)(7) of the Act or under a

1 Full text of Section 1903 of the Social Security Act

demonstration project or waiver (e.g., 1915(c) or 1115 of the Act).

CMS is responsible for ensuring that states comply with Section 1903(l) of the Act. In order to do so CMS requires a centralized structure that will enable states to notify CMS when they have implemented the provisions of Section 1903(l) for PCS and HHCS provided under the authorities listed above. The web-based survey proposed in this document will provide a mechanism for CMS to track EVV implementation nationwide and provide states a readily accessible and streamlined method for updating CMS on its EVV status. CMS will use the information provided to determine whether to apply FMAP reductions. In order for CMS to meet the statutory requirements at Section 1903(l), this survey must be active and available to states by November, 2019. The survey will allow states to update their survey response in real-time as warranted by changes in their EVV implementation status. As a result CMS will be able to both impose and/or lift the FMAP reduction in a timely (quarterly) manner, thereby avoiding any complicated payment corrections after the fact. Without this survey, CMS will not have a method for verifying states' compliance with Section 1903(l) or for reliably effectuating FMAP reductions as required by statute.

2. Information Users

The information will be used by the Disabled and Elderly and Health Programs Group, Data Systems Group, and Financial Management Group within the Centers for Medicaid and CHIP Services, as well as their contractor, Lewis and Ellis, Inc. (including Lewis and Ellis' subcontractors: Solutions by Design and Navigant Consulting), to monitor EVV implementation nationwide and assess state compliance with Section 1903(l) of the Social Security Act. The information will be accessed via an online portal that houses the survey and states' responses, which allows CMS and its contractor to view, query, and filter Section 1903(l) compliance data, and download reports based on those queries. Collected information will be accessed by CMS staff on a quarterly basis to determine states' EVV implementation status and whether to effectuate FMAP reductions (for states that are non-compliant with Section 1903(l)) or cease FMAP reductions (for states that were previously non-compliant and have demonstrated they have come into compliance).

3. Use of Information Technology

All information will be collected using a web-based survey and is available for completion electronically. This collection does not require a signature from respondents.

4. Duplication of Efforts

This information collection does not duplicate any other effort and the information cannot be obtained from any other source.

5. Small Businesses

This collection does not impact small businesses or other small entities.

6. Less Frequent Collection

States will be required to complete the data collection at least twice (once to indicate their compliance with EVV requirements for PCS and once to indicate their compliance with EVV requirements for HHCS). As FMAP reductions are assigned quarterly per 1903(l) of the Act, states who are not in compliance will be asked to review their survey information on a quarterly basis to ensure it is up-to-date and to update their survey responses as needed until they come into compliance. If data were collected less frequently, CMS would not be able to reliably assess states' compliance with Section 1903(l) of the Act and determine whether to effectuate FMAP reductions due to non-compliance. As a result states could be unfairly or improperly subjected to FMAP reductions and CMS could be deemed out of compliance with its statutory mandate to administer Section 1903(l) of the Act.

7. Special Circumstances

There are no special circumstances that would require an information collection to be conducted in a manner that requires respondents to:

- Report information to the agency more often than quarterly;
- Prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- Submit more than an original and two copies of any document;
- Retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- Collect data in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study,
- Use a statistical data classification that has not been reviewed and approved by OMB;
- Include a pledge of confidentiality that is not supported by authority established in statute or regulation that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- Submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

8. Federal Register/Outside Consultation

The 60-day notice published in the Federal Register on October 5, 2018 (83 FR 50381). Comments were received. The comments are attached to this package along with our response and a crosswalk of changes.

The 30-day notice published in the Federal Register on February 14, 2019 (84 FR 4073). Comments were received. The comments are attached to this package along with our response and a crosswalk of changes (see March 2019 for the 30-day changes).

9. Payments/Gifts to Respondents

Payments or gifts will not be provided to respondents.

10. Confidentiality

Assurances of confidentiality will not be provided to respondents. Respondents (states) are expected to have made the information requested for this data collection public to their stakeholder communities per Section 1903(l)(2)(B) of the Act, which requires that states "take into account a stakeholder process that includes input from beneficiaries, family caregivers, individuals who furnish personal care services or home health care services, and other stakeholders, as determined by the State in accordance with guidance from the Secretary." In addition, the information being requested for this data collection is intended to be publicly available upon request. CMS also intends to share states' EVV implementation status with its stakeholder community (see #16 below). Further, as noted in #11 below, there are no sensitive questions associated with this collection.

11. Sensitive Questions

There are no sensitive questions associated with this collection. Specifically, the collection does not solicit questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

12. Burden Estimates (Hours & Wages)

Wage Estimates

To derive average costs, we are using data from the U.S. Bureau of Labor Statistics' May 2017 National Occupational Employment and Wage Estimates for all salary estimates (http://www.bls.gov/oes/current/oes_nat.htm). In this regard, the following table presents the mean hourly wage, the cost of fringe benefits (calculated at 100 percent of salary), and the adjusted hourly wage.

Occupation Title	**Occupation Code**	**Mean Hourly Wage**	**Fringe Benefits and Overhead**	**Adjusted Hourly Wage**
Social and Community Service Managers	11-9151	$33.70/ hr	$33.70/hr	$67.40/hr

As indicated, we are adjusting our employee hourly wage estimates by a factor of 100 percent. This is necessarily a rough adjustment, both because fringe benefits and overhead costs vary significantly from employer to employer, and because methods of estimating these costs vary

widely from study to study. Nonetheless, we believe that doubling the hourly wage to estimate total cost is a reasonably accurate estimation method.

Collection of Information Requirements and Associated Burden Estimates

This survey will be disseminated to all state Medicaid agencies. We estimate there will be a total of 56 respondents from (50, DC, and five territories). The state will be required to complete the survey to indicate their initial EVV implementation status for PCS by January 1, 2020 and again for HHCS by January 1, 2023. We estimate that it will take 2.5 hours for a social/community service manager to complete the survey with the state's initial EVV implementation status for PCS and an additional 2.5 hours to initially complete the survey for HHCS. We estimate this state burden at 280 hr (56 respondents x 2 responses x 2.5 hr) and $18,872 (280 hr x $67.40/hr).

We also estimate a burden related to survey updates. We estimate an average of four survey updates per state during their EVV implementation period and that it will take 1 hour for a social/community service manager to perform each update. We estimate a burden for survey updates of 224 hr (56 respondents x 4 responses x 1 hr) and $15,098 (224 hr x $67.40/hr).

This yields a total respondent burden of $33,970. We anticipate that survey responses (both the initial response and subsequent updates, if needed) will span two years on average (one year for PCS and one year for HHCS), therefore we anticipate an annualized burden of $16,985 each year for a period of two years for all respondents ($303 per respondent per year).

Burden Summary

Requirement	Respondents	Responses	Burden per Response	Total Annual Burden (hours)	Labor Cost ($/hr)	Total Cost ($)
Initial survey for PCS & HHCS	56	112	2.5 hours	280	67.40	18,872
Updates for PCS & HHCS	56	224	1 hour	224	67.40	15,098
TOTAL	**56**	**336**	**varies**	**504**	**67.40**	**33,970**

Collection of Information Instruments and Instruction/Guidance Documents

- EVV Home Health Care Services (HHCS) Survey
- EVV Personal Care Services (PCS) Survey
- EVV compliance survey instructions

13. Capital Costs

CMS does not anticipate that any capital costs will be required for this collection.

14. Cost to Federal Government

The table below shows estimates of the average annual cost of the project to the Federal government. Contractor costs are based on GSA labor categories[2] and account for development and maintenance of the web-based survey portal, website hosting, data analysis, report development, responding to inquiries, and general and administrative costs. CMS staff costs are based on OPM GS wage tables[3] and account for survey dissemination, quarterly review of survey data, assessing need for FMAP reductions, contract management, and comparison to Advanced Planning Documents (APDs).

The average annual cost accounts for a 2% annual inflation rate and assumes the survey will be active through federal fiscal year 2025 (8 years total), however this is subject to change based on budgetary decisions and the rate at which states come into compliance with EVV requirements.

Table of CMS Contractor Costs

Title	Rate (FFY18 Wage & Benefits)	Average Annual Hours	Average Annual Cost*
Senior Managing Actuary	$379	3	$1,275
Actuarial Technician	$129	1	$138
Senior Analyst	$135	150	$21,201
Senior Database Administrator	$135	120	$17,096
Senior Developer	$135	130	$18,473
Developer	$129	45	$5,863
Senior Consultant	$145	149	$23,336
Managing Consultant	$199	47	$8,851
Assistant Director	$250	47	$12,465
Director	$278	5	$1,598
G&A	n/a	n/a	$10,437
ODCs	n/a	n/a	$35,313

* Accounts for a 2% annual inflation rate and assumes survey will be active through FFY 2025 (8 years total)

Table of CMS Staff Costs^

Title	Rate (FFY18 Wage & Benefits)	Average Annual Hours	Average Annual Cost*

2 Sources for contractor labor categories used in this cost projection are listed below:
- GSA Text Reference File for L&E
- GSA Text Reference File for Solutions By Design
- GSA Text Reference File for Navigant Consulting

3 CMS Wage Table used to develop staff costs

Division Director (GS-15)	$147	11	$1,678
Deputy Division Director (GS-14)	$125	11	$1,427
Technical Director (GS-14)	$125	6	$773
Health Insurance Specialist (GS-13)	$106	28	$3,135
Contract Specialist (GS-13)	$106	8	$907
		Total Average Annual Cost (CMS Staff and Contractors)	**$163,966**

* Accounts for a 2% annual inflation rate and assumes survey will be active through FFY 2025 (8 years total)
^ All CMS staff costs assume a step level of 5

15. Changes to Burden

N/A, there are no changes to the burden as this is a new submission.

16. Publication/Tabulation Dates

CMS does not have plans to release any public reports at this time, however plans to present the nationwide status of EVV implementation at the NASUAD HCBS Conference held in August/September each year, starting in 2020. Responses received during the year preceding the conference will be aggregated and carried forward each year. This will entail basic descriptive statistics of the number/percentage of states that have implemented EVV and the EVV models they have selected. CMS may also include the gathered information in a future Medicaid Scorecard beginning in April, 2020. There is no predetermined end-date for the project as states may update their survey status at any time when warranted by a change in their EVV implementation status.

17. Expiration Date

The expiration date is displayed along with the PRA Disclosure Statement.

18. Certification Statement

There is no exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-1.