

Home and Community Based Services (HCBS) Incident Management Survey
CMS-10692, OMB 0938-1362

Response to Public Comments

The Centers for Medicare and Medicaid Services (CMS) received two comments from one respondent in response to the public comment request for the HCBS Incident Management Survey posted to the Federal Register on April 13, 2022. The comments appear to be in response to the public comment request for the Electronic Visit Verification (EVV) Compliance Survey (CMS-10680, OMB 0938-1360), which was included in the same Federal Register posting as the HCBS Incident Management survey. Both comments are specific to EVV and do not appear relevant to the HCBS Incident Management Survey. Specifically, the comments cite privacy and safety concerns regarding the use of Global Positioning Systems (GPS) in EVV, particularly for individuals who are victims of domestic violence, and requests that states allow for alternatives to GPS. In addition, the respondent requests that each state be required to form focus groups with stakeholders who have disabilities and that states conduct a cost-benefits analysis of EVV systems that use GPS, comparing agency providers versus independent providers.

CMS Response: The 21st Century Cures Act (Cures Act), which requires states to use EVV, does not require a state to use a particular or uniform EVV system. However, the Cures Act does require the state's EVV system to verify the location of service delivery. The Centers for Medicare & Medicaid Services (CMS) issued guidance to states on May 16, 2018 noting how EVV can be implemented to minimize privacy concerns. In this guidance, CMS confirmed use of GPS is not required to verify the location of service delivery and a common alternative to GPS is Interactive Voice Response, which requires the caregiver to check-in and out using a landline or fixed device located at the individual's home.

In addition, while the Cures Act requires that states have flexibility in the type of EVV model they wish to use, it does require the model or approach a state selects to meet requirements related to HIPAA privacy and security standards. The May 16, 2018 guidance also notes state EVV systems are not required to capture each location as the individual is moving throughout the community. The guidance is publicly available on the EVV landing page on Medicaid.gov at <https://www.medicaid.gov/federal-policy-guidance/downloads/faq051618.pdf>.

Regarding stakeholder involvement, the Cures Act requires states to “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” when implementing their EVV system. The EVV Compliance Survey requires states to document their stakeholder process. Additionally, with regard to the respondent's request that states conduct a cost-benefits analysis, this is considered outside the scope of the EVV Compliance Survey given that the Cures Act does not include a cost-benefits analysis requirement for states.

Action(s) Taken: CMS has and will continue to provide guidance to states on EVV implementation and is committed to following-up with states whenever concerns are identified. Please visit the [CMS EVV website](#) for guidance issued to date.