

To: Home and Community Based Providers in CHOICES and Employment and Community First CHOICES that are Required to Use an Electronic Visit Verification (EVV) system  
From: Jamie O'Neal, Assistant Deputy Chief of Policy, Programs, Contracts, and Compliance  
Date: November 1, 2019  
Subject: **Electronic Visit Verification Compliance**

As you may recall, on March 31, 2019, TennCare issued a memo <sup>1</sup> clarifying requirements and expectations regarding Home and Community Based Service (HCBS) Providers' compliance with use of an Electronic Visit Verification (EVV) system for checking in and out of authorized visits for specified services. Since the inception of the CHOICES program in March 2010 and the Employment and Community First CHOICES program in July 2016, providers have been obligated pursuant to their provider agreement with one or more Managed Care Organizations (MCOs) to comply with TennCare requirements regarding the use of an EVV system for these visits.

The memo reminded providers of these contractual obligations, reiterated the acceptable methods by which electronic confirmation of visits may occur, and set clear expectations that **all providers come into and maintain compliance with federal requirements no later than January 1, 2020**. Our efforts to step up communication and actions to ensure compliance with these requirements results both from the impending implementation of the 21<sup>st</sup> Century Cures Act EVV requirements on January 1, 2020 and from findings and recommendations by the Tennessee Comptroller of the Treasury's December 2018 TennCare Performance Audit.

The March 31, 2019 memo further advised providers that "MCOs have implemented action steps that will be taken when compliance is not obtained. These actions include corrective action plans, suspension of new referrals, up to termination of contract for providers who cannot demonstrate compliance by the federal deadline."

As part of an upcoming amendment to TennCare's Contractor Risk Agreement with Managed Care Organizations (Amendment #11, to be effective January 1, 2020), TennCare modified previously existing EVV requirements for MCOs to specifically address manually confirmed visits, and to take action to eliminate manual confirmations to ensure compliance with 21<sup>st</sup> Century Cures Act EVV system requirements by January 1, 2020, and on an ongoing basis. The amendment also modifies previously existing liquidated damages (financial sanctions) that TennCare may assess **against an MCO** for failure to assure its network's compliance. These include a per provider assessment when determined by TennCare to be appropriate in order to address areas of non-compliance by the MCO as it relates to network management.

To be clear, **nothing in Amendment 11 or in the Contractor Risk Agreement broadly either requires or prohibits MCOs from assessing financial sanctions against providers**—as part of ongoing compliance related to 21 Century Cures Act EVV requirements or any other contractual requirement. Any MCO authority to assess financial sanctions would flow from the MCO's existing provider agreements with its contracted providers. Any decision to assess sanctions (or to take other actions related to non-compliance) pursuant to that provider agreement are at the sole discretion of the MCO.

While we hope that the clear focus will remain on actions necessary to come into compliance with these requirements, we hope this clarification as it relates to Amendment 11 is helpful.

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<sup>1</sup> Previous memo <https://www.tn.gov/tenncare/long-term-services-supports/partners-program-updates.html>



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<p><b>TennCare, Office of Civil Rights Compliance</b> 310 Great Circle Road, 3W; Nashville, Tennessee 37243 Email: <a href="mailto:HCFA.Fairtreatment@tn.gov">HCFA.Fairtreatment@tn.gov</a> Phone: 1-855-857-1673 (TRS 711) You can get a complaint form online at <a href="https://www.tn.gov/content/dam/tn/tenncare/documents/complaintform.pdf">https://www.tn.gov/content/dam/tn/tenncare/documents/complaintform.pdf</a></p>
<p><b>U.S. Department of Health &amp; Human Services, Office for Civil Rights</b> 200 Independence Ave SW, Rm 509F, HHH Bldg.; Washington, DC 20201 Phone: 1-800-368-1019 (TDD): 1-800-537-7697 You can get a complaint form online at: <a href="http://www.hhs.gov/ocr/office/file/index.html">http://www.hhs.gov/ocr/office/file/index.html</a> Or you can file a complaint online at: <a href="https://ocrportal.hhs.gov/ocr/portal/lobby.jsf">https://ocrportal.hhs.gov/ocr/portal/lobby.jsf</a></p>

<p><b>Spanish: Español</b> ATENCIÓN: si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. 855-259-0701 (TRS 711).</p>
<p><b>Kurdish: کوردی</b> ناگاداری: نهگهر به زمانی کوردی قهسه دهکهیت، خزمهنگوزاریهکانی یارمهتی زمان، بهخواری، بو تو بهردسته. پهیههندی به (TRS: 711)..بکه</p>
<p><b>Arabic: العربية</b> ملحوظة: إذا كنت تتحدث اذكر اللغة، فإن خدمات المساعدة اللغوية تتوافر لك بالمجان. اتصل برقم (TRS:711)(رقم هاتف الصم والبكم)</p>
<p><b>Chinese: 繁體中文</b> 注意：如果您使用繁體中文，您可以免費獲得語言援助服務。請致電 (TRS: 711).</p>
<p><b>Vietnamese: Tiếng Việt</b> CHÚ Ý: Nếu bạn nói Tiếng Việt, có các dịch vụ hỗ trợ ngôn ngữ miễn phí dành cho bạn. Gọi số (TRS: 711).</p>
<p><b>Korean: 한국어</b> 주의: 한국어를 사용하시는 경우, 언어 지원 서비스를 무료로 이용하실 수 있습니다. (TRS: 711), 번으로 전화해 주십시오.</p>



<b>French:</b>	<b>Français</b>
ATTENTION : Si vous parlez français, des services d'aide linguistique vous sont proposés gratuitement. Appelez le (TRS:711).	
<b>Amharic:</b>	<b>አማርኛ</b>
ማስታወሻ: የሚናገሩት ቋንቋ አማርኛ ከሆነ የትርጉም እርዳታ ድርጅቶች፣ በነጻ ሊያገለግሉት ተዘጋጅተዋል። ወደ ሚክላሎው ቁጥር ይደውሉ (መስማት ለተሳናቸው: TRS:711 ) .	
<b>Gujarati:</b>	<b>ગુજરાતી</b>
સુચના: જો તમે ગુજરાતી બોલતા હો, તો નિ:શુલ્ક ભાષા સહાય સેવાઓ તમારા માટે ઉપલબ્ધ છે. ફોન કરો (TRS: 711).	
<b>Laotian:</b>	<b>ພາສາລາວ</b>
ໂປດຊາບ: ຖ້າວ່າ ທ່ານເວົ້າພາສາ ລາວ, ການບໍລິການຊ່ວຍເຫຼືອດ້ານພາສາ, ໂດຍບໍ່ເສັຽຄ່າ, ຈະມີ ພ້ອມໃຫ້ທ່ານ. ໂທ (TRS:711).	
<b>German:</b>	<b>Deutsch</b>
ACHTUNG: Wenn Sie Deutsch sprechen, stehen Ihnen kostenlos sprachliche Hilfsdienstleistungen zur Verfügung. Rufnummer: (TRS:711).	
<b>Tagalog:</b>	<b>Tagalog</b>
PAUNAWA: Kung nagsasalita ka ng Tagalog, maaari kang gumamit ng mga serbisyo ng tulong sa wika nang walang bayad. Tumawag sa (TRS:711).	
<b>Hindi:</b>	<b>हिंदी</b>
ध्यान दें: यदि आप हिंदी बोलते हैं तो आपके लिए मुफ्त में भाषा सहायता सेवाएं उपलब्ध हैं। (TRS: 711). पर कॉल करें।	
<b>Serbo-Croatian:</b>	<b>Srpsko-hrvatski</b>
OBAVJEŠTENJE: Ako govorite srpsko-hrvatski, usluge jezičke pomoći dostupne su vam besplatno. Nazovite (TRS- Telefon za osobe sa oštećenim govorom ili sluhom: 711).	
<b>Russian:</b>	<b>Русский</b>
ВНИМАНИЕ: Если вы говорите на русском языке, то вам доступны бесплатные услуги перевода. Звоните (телетайп: TRS:711 ) .	
<b>Nepali:</b>	<b>नेपाली</b>
ध्यान दिनुहोस्: तपाईंले नेपाली बोल्नुहुन्छ भने तपाईंको निम्ति भाषा सहायता सेवाहरू नि:शुल्क रूपमा उपलब्ध छ । फोन गर्नुहोस् (टिटिवाइ: TRS:711 ।	
<b>Persian:</b>	<b>فارسی</b>
توجه: اگر به زبان فارسی گفتگو می کنید، تسهیلات زبانی بصورت رایگان برای شما فراهم می باشد. با تماس بگیرید. (TRS: 711)	