

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 07/21/2023
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Chapters 10, 101, 105, 106, & 107	
4. Subject Electronic Visit Verification (EVV) Requirements	
5. Fund Sources Affected <input checked="" type="checkbox"/> GPR <input checked="" type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected N/A
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The passage of the federal Cures Act established the requirement that state Medical Assistance programs utilize an electronic visit verification (EVV) system for personal care and home health services. In order to comply with, and effectively enforce, the electronic visit verification requirements created by the Cures Act, the Wisconsin Department of Health Services ("the department") intends to establish Medical Assistance program regulations regarding electronic visit verification.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. Provider agencies, home health care agencies, nurses in independent practice, managed care organizations, advocacy organizations who receive medicaid reimbursement for providing personal care, supportive home care, or home health care services.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) There are about 2,200 providers providing in-home personal care and home health services across the state. The state provides an EVV system and comprehensive training to all provider agencies and workers at no cost. Additionally, the department's EVV Customer Care team is offering personalized support for all administrators and workers at any step of the EVV process at no charge. Administrative costs related to change management are anticipated but indeterminable. An agency may choose to purchase an alternate EVV system and would incur additional costs for the alternate EVV system. An agency that opts to use an alternative EVV system may incur costs for training staff to use the alternate EVV system and the cost of additional technology for staff to use the alternate system, as applicable.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule	

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The 21st Century Cures act requires the department to take action to maintain federal funding and compliance with federal expectations. Alternatively, the department could choose not to enforce this and face a fiscal penalty and falling out of compliance with Section 12006(a) of the 21st Century Cures Act, 42 USC 1396b. The state would be subject to incremental FMAP reductions (upon all services requiring EVV) up to 1% per year.

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**16. Long Range Implications of Implementing the Rule**

As described in our response in Box 15, the Department must implement the rule or fall out of compliance with Section 12006(a) of the 21st Century Cures Act. The state would be subject to incremental FMAP reductions (upon all services requiring EVV) up to 1% per year.

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**17. Compare With Approaches Being Used by Federal Government**

The federal government enacted the 21<sup>st</sup> Century Cures Act, directing the Department to establish a requirement that personal care and home health agencies utilize an electronic visit verification (EVV) system. This administrative rule is intended to enforce federal requirements in the state of Wisconsin.

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**18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)**

Illinois and Iowa have promulgated administrative rules to establish authority to require and enforce EVV. Minnesota's legislature passed state statute to require and enforce EVV. Michigan has not established any requirements yet.

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**19. Contact Name**

Bailey Dvorak

**20. Contact Phone Number**

608-267-5210

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This document can be made available in alternate formats to individuals with disabilities upon request.

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### ATTACHMENT A

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

There are about 2,200 providers providing in-home personal care and home health services across the state. The state provides an EVV system and comprehensive training to all provider agencies and workers at no cost. Additionally, the EVV Customer Care team is offering personalized support for all administrators and workers at any step of the EVV process at no charge. Administrative costs related to change management are anticipated but indeterminable. If an agency chooses to purchase their own alternate EVV-system, additional costs may occur, including the cost of an alternate EVV system, cost of training staff to use an the alternate EVV system, and cost of technology (devices) for staff if the agency chooses.

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

Division of Medicaid Services data was used to calculate information related to this form and attachment.

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

DHS has created policy to maximize flexibility while still complying with the federal law:

Less stringent compliance/reporting: live-in workers are exempt from EVV, accomodations for service or power outages, ability to enter manual vs electronic data, no enforcement of location requirements.

Less stringent schedules or deadlines for compliance or reporting: We have delayed hard launch for over 2 years to allow providers the time to implement EVV in the personal care space.

Consolidation or simplification of reporting requirements: streamlined record of care policy to support providers.

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5. Describe the Rule's Enforcement Provisions

Claims for services that require EVV shall be submitted with associated EVV records and information for applicable services. Claims that are not matched with requisite EVV records may be denied.

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
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