

256B.073 ELECTRONIC VISIT VERIFICATION.

Subdivision 1. **Documentation; establishment and operation.** The commissioner of human services shall establish and maintain the requirements and standards for the ongoing operation of electronic visit verification to comply with the 21st Century Cures Act, Public Law 114-255. Within available appropriations, the commissioner shall take steps to comply with the electronic visit verification requirements in the 21st Century Cures Act, Public Law 114-255.

Subd. 2. **Definitions.** (a) For purposes of this section, the terms in this subdivision have the meanings given.

(b) "Data aggregator" means the entity designated by the commissioner to collect, store, and transmit electronic visit verification data from providers and third-party systems to the commissioner in accordance with the standards and requirements established under this section.

(c) "Electronic visit verification" or "EVV" means the process required under this section and United States Code, title 42, section 1396b(l), used to electronically verify the:

- (1) type of service performed;
- (2) individual receiving the service;
- (3) date of the service;
- (4) location of the service delivery;
- (5) individual providing the service; and
- (6) time the service begins and ends.

(d) "Electronic visit verification data" means information collected through an electronic visit verification system, including data elements required under United States Code, title 42, section 1396b(l), and any additional data elements specified by the commissioner under this section.

(e) "Electronic visit verification system" means a system used to collect, verify, and transmit electronic visit verification data to the commissioner or the commissioner's designated data aggregator that complies with the 21st Century Cures Act, Public Law 114-255, and the requirements of subdivision 3.

(f) "Electronic visit verification vendor" means any entity that develops, provides, or supports an electronic visit verification system, including the state-provided vendor and any third-party vendor.

(g) "Financial management services provider" means an entity enrolled with the commissioner to provide financial management services under section 256B.85 or other applicable law and responsible for fiscal, payroll, and reporting functions on behalf of participant employers.

(h) "Home health agency" means a home care provider agency that is Medicare certified under Code of Federal Regulations, title 42, part 484, and licensed as a home care provider under chapter 144A.

(i) "Individual" means a person who receives services subject to electronic visit verification under the medical assistance program.

(j) "Managed care organization" means a public or private organization that contracts with the commissioner under section 256B.69 or other applicable law to deliver health care services to individuals eligible for medical assistance or MinnesotaCare.

(k) "Manual visit" means a visit:

(1) entered administratively and not by the caregiver at the time of service delivery; or

(2) where data elements are edited after the time of service delivery.

(l) "Provider" means an individual or organization that meets one or more of the following conditions:

(1) is enrolled as a Minnesota health care programs provider;

(2) provides services through a managed care organization under contract with the commissioner under section 256B.69;

(3) is a financial management services provider; or

(4) is a participant employer under section 256B.85, subdivision 7, or an employer of record that is directing services under section 256B.49, subdivision 16.

(m) "Service" means one of the following:

(1) personal care assistance services as defined in section 256B.0625, subdivision 19a, and provided according to section 256B.0659;

(2) community first services and supports under section 256B.85;

(3) home health services under section 256B.0625, subdivision 6a;

(4) adult companion services;

(5) adult day services;

(6) adult rehabilitative mental health services;

(7) assertive community treatment;

(8) early intensive developmental and behavioral intervention;

(9) integrated community supports;

(10) nonemergency medical transportation services;

(11) recovery peer support;

(12) home and community-based services reimbursed at an hourly or specified minute-based rate and provided according to a federally approved waiver plan as authorized under chapter 256S or section 256B.0913, 256B.092, or 256B.49; or

(13) other medical supplies and equipment or home and community-based services that are required to be electronically verified by the 21st Century Cures Act, Public Law 114-255.

(n) "State-provided electronic visit verification system" means the electronic visit verification system made available by the commissioner to providers at no cost for services subject to federal electronic visit verification requirements.

(o) "Third-party electronic visit verification system" means an electronic visit verification system purchased or operated by a provider or vendor other than the state-provided system designated by the commissioner.

(p) "Verification method" means the electronic process used to capture and verify visit information, including telephone, fixed visit verification devices, or mobile applications, as approved by the commissioner.

(q) "Visit" means a single occurrence of service delivery subject to electronic visit verification.

(r) "Worker" means an individual who provides personal care assistance services, community first services and supports, home health services, consumer-directed community supports, or other services identified by the commissioner as subject to electronic visit.

Subd. 3. **Requirements.** (a) In administering electronic visit verification, the commissioner must ensure that the system and related requirements:

(1) are administratively and financially reasonable for providers of services;

(2) support continued access to services and are designed to avoid disruption to service delivery or receipt;

(3) consider existing best practices and use of electronic visit verification;

(4) are conducted according to all state and federal laws;

(5) are effective methods for preventing fraud when balanced against the requirements of clauses (1) and (2); and

(6) are consistent with the Department of Human Services' policies related to covered services, flexibility of service use, and quality assurance.

(b) The commissioner must make training and guidance available to providers of services on the electronic visit verification requirements and system use.

(c) The commissioner must establish baseline measurements related to preventing fraud and establish measures to determine the effect of electronic visit verification requirements on program integrity.

(d) The commissioner must make a state-provided electronic visit verification system available to providers of services.

(e) The commissioner must make available and publish on the agency website the name and contact information for the vendor of the state-provided electronic visit verification system and the other vendors that offer alternative electronic visit verification systems. The information provided must state that the state-provided electronic visit verification system is offered at no cost to the provider of services and that the provider of services may choose an alternative system that may be at a cost to the provider.

(f) The commissioner may establish implementation dates and implementation schedules for system functions subject to electronic visit verification under this section, including but not limited to verification methods or technical requirements.

(g) The commissioner may waive the requirements under this section for any service component or setting when the application of electronic visit verification is contrary to paragraph (a).

Subd. 4. MS 2024 [Repealed, 2026 c 121 art 10 s 12]

Subd. 4a. **Electronic visit verification system options.** (a) A provider of services must use an electronic visit verification system that complies with the requirements established by the commissioner. A provider of services may use either the state-provided system or a third-party system. All systems used for compliance must provide data to the commissioner in the format and with the frequency required by the commissioner.

(b) The commissioner must make a state-provided electronic visit verification system available at no cost to providers of services. The commissioner must provide training on the system to all providers of services.

(c) The commissioner must allow providers of services to utilize a third-party electronic visit verification system that the commissioner determines meets the requirements under this section.

(d) A provider of services using a third-party electronic visit verification system that meets all technical specifications and federal and state laws must:

(1) collect and submit all data for each visit to the commissioner, including but not limited to manual entries;

(2) maintain compliance identified by the commissioner, including but not limited to incorporating into the system any changes in data requirements that must be transmitted to the commissioner; and

(3) integrate the system with the data aggregator to accurately send data.

(e) The data aggregator must be available at no cost to a provider of services for purposes of transmitting electronic visit verification data from approved third-party systems to the commissioner. Any costs associated with the development and use of a third-party system are the responsibility of the provider.

(f) If a provider is unable to integrate a third-party system with the data aggregator, the provider of services must use the state-provided electronic visit verification system.

(g) The commissioner must provide training on reviewing and correcting imported data in the data aggregator to providers of services.

Subd. 4b. **Provider responsibilities.** A provider of services must:

(1) use an electronic visit verification system that meets all technical and data submission requirements established by the commissioner;

(2) enroll with the state-provided electronic visit verification system or the data aggregator, as applicable;

(3) provide all information requested by the commissioner for enrollment, access, and data submission and ensure that the information remains accurate and up to date;

(4) maintain records for each individual receiving services subject to electronic visit verification, including but not limited to all required data elements;

(5) maintain a current list of workers providing services subject to electronic visit verification to individuals receiving services under medical assistance;

(6) provide the commissioner and any managed care organization with immediate, direct, and on-site or remote access to the electronic visit verification system;

(7) at the request of the commissioner or a managed care organization, allow review or copying of electronic visit verification documentation at no cost;

(8) ensure that electronic visit verification systems and related processes meet accessibility and confidentiality requirements under state and federal law;

(9) comply with all policies, procedures, and technical specifications issued by the commissioner under this section; and

(10) ensure that workers, participants, and other individuals using electronic visit verification are trained and comply with all documentation and data entry requirements established by the commissioner.

Subd. 5. Vendor requirements. (a) The vendor of the electronic visit verification system provided by the commissioner and the vendor's affiliate must comply with the requirements of this subdivision.

(b) The vendor of the state-provided electronic visit verification system and the vendor's affiliate must:

(1) notify the provider of services that the provider may choose the state-provided electronic visit verification system at no cost to the provider;

(2) offer the state-provided electronic visit verification system to the provider of services prior to offering any fee-based electronic visit verification system;

(3) notify the provider of services that the provider may choose any fee-based electronic visit verification system prior to offering the vendor's or its affiliate's fee-based electronic visit verification system; and

(4) when offering the state-provided electronic visit verification system, clearly differentiate between the state-provided electronic visit verification system and the vendor's or its affiliate's alternative fee-based system.

(c) The vendor of the state-provided electronic visit verification system and the vendor's affiliate must not use state data that are not available to other vendors of electronic visit verification systems to promote or sell the vendor's or its affiliate's alternative electronic visit verification system.

(d) Upon request from the provider, the vendor of the state-provided electronic visit verification system must provide proof of compliance with the requirements of paragraph (b).

(e) An agreement between the vendor of the state-provided electronic visit verification system or its affiliate and a provider of services for an electronic visit verification system that is not the state-provided system entered into on or after July 1, 2023, is subject to immediate termination by the provider if the vendor violates any of the requirements of paragraph (b).

Subd. 6. Data and documentation. (a) A provider of services must submit electronic visit verification data to the commissioner or the data aggregator in accordance with the technical standards, format, and frequency established under this section. The commissioner may use integrated electronic visit verification data for oversight, quality assurance, and program integrity purposes consistent with state and federal law.

(b) The commissioner and managed care organizations must use electronic visit verification data to validate claims for payment under medical assistance. Claims that cannot be validated in accordance with electronic visit verification requirements may be subject to actions by the commissioner as authorized under state and federal law, including actions related to payment, program integrity, or provider compliance.

(c) A provider of services must record all required electronic visit verification data at the time of service delivery using an approved verification method. To be compliant with electronic visit verification requirements, a provider of services must document a visit with all required data elements recorded at the time of service delivery.

(d) A manual visit does not comply with electronic visit verification requirements. A manual visit must be confirmed and verified according to processes established by the commissioner before being used to validate or support a claim for payment.

(e) A worker providing services subject to electronic visit verification must record the start and end times of each visit at the time the service is delivered using an approved verification method. A worker must complete and verify all time documentation, including but not limited to verification of service type, date, and duration, on the date the service occurs and be consistent with documentation requirements of the service being provided. A provider of services must maintain documentation demonstrating compliance with this subdivision and make the documentation available to the commissioner or a managed care organization upon request.

Subd. 7. Third-party system responsibilities. (a) This subdivision is effective for Early Intensive Developmental and Behavioral Intervention services beginning July 1, 2027, or upon federal approval, whichever is later. This subdivision is effective for all other services subject to this subdivision beginning January 1, 2027, or upon federal approval, whichever is later.

(b) A provider of services using a third-party electronic visit verification system must ensure that the system meets all technical, functional, and data-exchange requirements established by the commissioner and transmits data to the commissioner or the data aggregator in the format and with the frequency required by the commissioner.

(c) A third-party electronic visit verification vendor must:

- (1) comply with all technical, contractual, privacy, and security standards established by the commissioner;
- (2) not use or disclose state data for any purpose other than fulfilling the requirements under this section or federal law;
- (3) provide the commissioner access to system documentation, data mapping, and audit records upon request; and
- (4) immediately report to the commissioner any data transmission failure, breach, or interruption affecting the commissioner's ability to receive required electronic visit verification data.

(d) A provider of services remains responsible for ensuring compliance with this section even when using a third-party electronic visit verification system.

(e) The third-party vendor must ensure training on the system is available to providers of services.

History: *1Sp2017 c 6 art 3 s 49; 1Sp2019 c 9 art 5 s 82,93; 2023 c 61 art 3 s 11,12; 2026 c 121 art 10 s 3-10*