

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1090
98TH GENERAL ASSEMBLY

2401H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 208.909 and 660.023, RSMo, and to enact in lieu thereof two new sections relating to an electronic tracking system for certain home- and community-based providers, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 208.909 and 660.023, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 208.909 and 660.023, to read as follows:

208.909. 1. Consumers receiving personal care assistance services shall be responsible for:

(1) Supervising their personal care attendant;

(2) Verifying wages to be paid to the personal care attendant;

(3) Preparing and submitting time sheets, signed by both the consumer and personal care attendant, to the vendor on a biweekly basis;

(4) **Allowing the personal care attendant to use his or her telephone for the purpose of electronic visit verification (EVV) if such use does not add cost to the consumer;**

(5) Promptly notifying the department within ten days of any changes in circumstances affecting the personal care assistance services plan or in the consumer's place of residence;

~~[(5)]~~ (6) Reporting any problems resulting from the quality of services rendered by the personal care attendant to the vendor. If the consumer is unable to resolve any problems resulting from the quality of service rendered by the personal care attendant with the vendor, the consumer shall report the situation to the department; and

~~[(6)]~~ (7) Providing the vendor with all necessary information to complete required paperwork for establishing the employer identification number.

2. Participating vendors shall be responsible for:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (1) Collecting time sheets or reviewing reports of delivered services and certifying the
19 accuracy thereof;

20 (2) The Medicaid reimbursement process, including the filing of claims and reporting
21 data to the department as required by rule;

22 (3) Transmitting the individual payment directly to the personal care attendant on behalf
23 of the consumer;

24 (4) Monitoring the performance of the personal care assistance services plan.

25 3. No state or federal financial assistance shall be authorized or expended to pay for
26 services provided to a consumer under sections 208.900 to 208.927, if the primary benefit of the
27 services is to the household unit, or is a household task that the members of the consumer's
28 household may reasonably be expected to share or do for one another when they live in the same
29 household, unless such service is above and beyond typical activities household members may
30 reasonably provide for another household member without a disability.

31 4. No state or federal financial assistance shall be authorized or expended to pay for
32 personal care assistance services provided by a personal care attendant who is listed on any of
33 the background check lists in the family care safety registry under sections 210.900 to 210.937,
34 unless a good cause waiver is first obtained from the department in accordance with section
35 192.2495.

36 5. (1) All vendors shall, by July 1, [2015] **2016**, have, maintain, and use [a telephone
37 tracking] **an EVV** system for the purpose of reporting and verifying the delivery of
38 consumer-directed services as authorized by the department of health and senior services or its
39 designee. Use of such a system prior to July 1, [2015] **2016**, shall be voluntary. The [telephone
40 tracking] **EVV** system shall be used [to process payroll for employees and] for submitting claims
41 for reimbursement to the MO HealthNet division. At a minimum, the [telephone tracking] **EVV**
42 system shall:

43 (a) Record the exact date services are delivered;

44 (b) Record the exact time the services begin and exact time the services end;

45 (c) Verify [the telephone number from which the services are registered] **that the**
46 **services are being delivered at the location where the consumer resides;**

47 (d) [Verify that the number from which the call is placed is a telephone number unique
48 to the client;

49 (e)] Require a personal identification number unique to each personal care attendant;

50 [(f)] **(e)** Be capable of producing reports [of services delivered, tasks performed, client]
51 **that at a minimum capture the consumer** identity, beginning and ending times of service and
52 date of service in summary fashion that constitute adequate documentation of service[; and

53 (g) Be capable of producing reimbursement requests for consumer approval that assures
54 accuracy and compliance with program expectations for both the consumer and vendor.

55 (2) The department of health and senior services, in collaboration with other appropriate
56 agencies, including centers for independent living, shall establish telephone tracking system pilot
57 projects, implemented in two regions of the state, with one in an urban area and one in a rural
58 area. Each pilot project shall meet the requirements of this section and section 208.918. The
59 department of health and senior services shall, by December 31, 2013, submit a report to the
60 governor and general assembly detailing the outcomes of these pilot projects. The report shall
61 take into consideration the impact of a telephone tracking system on the quality of the services
62 delivered to the consumer and the principles of self-directed care.

63 (3) . (2) As new technology becomes available, the department [may] **shall** allow use
64 of a more advanced tracking system, **electronic or otherwise**, provided that such system is at
65 least as capable of meeting the requirements of this subsection.

66 [(4)] (3) The department of health and senior services shall promulgate by rule the
67 minimum necessary criteria of the [telephone tracking] **EVV** system. Any rule or portion of a
68 rule, as that term is defined in section 536.010, that is created under the authority delegated in
69 this section shall become effective only if it complies with and is subject to all of the provisions
70 of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable
71 and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to
72 delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional,
73 then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010,
74 shall be invalid and void.

75 6. [In the event that a consensus between centers for independent living and
76 representatives from the executive branch cannot be reached, the telephony report issued to the
77 general assembly and governor shall include a minority report which shall detail those elements
78 of substantial dissent from the main report.

79 7.] No interested party, including a center for independent living, shall be required to
80 contract with any particular vendor or provider of [telephony] **EVV** services [nor bear the full
81 cost of the pilot program].

660.023. 1. All in-home services provider agencies shall, by July 1, [2015] **2016**, have,
2 maintain, and use [a telephone tracking] **an electronic visit verification (EVV)** system for the
3 purpose of reporting and verifying the delivery of home- and community-based services as
4 authorized by the department of health and senior services or its designee. Use of such system
5 prior to July 1, [2015] **2016**, shall be voluntary. At a minimum, the [telephone tracking] **EVV**
6 system shall:

7 (1) Record the exact date services are delivered;

- 8 (2) Record the exact time the services begin and exact time the services end;
- 9 (3) Verify [the telephone number from which the services were registered] **that services**
10 **are being delivered at the location where the consumer resides;**
- 11 (4) [Verify that the number from which the call is placed is a telephone number unique
12 to the client;
- 13 (5)] Require a personal identification number unique to each personal care attendant; and
14 [(6)] **(5)** Be capable of producing reports [of services delivered, tasks performed,] **that**
15 **at a minimum capture** client identity, beginning and ending times of service and date of service
16 in summary fashion that constitute adequate documentation of service.
- 17 2. The [telephone tracking] **EVV** system shall be used [to process payroll for employees
18 and] for submitting claims for reimbursement to the MO HealthNet division.
- 19 3. The department of health and senior services shall promulgate by rule the minimum
20 necessary criteria of the [telephone tracking] **EVV** system. Any rule or portion of a rule, as that
21 term is defined in section 536.010, that is created under the authority delegated in this section
22 shall become effective only if it complies with and is subject to all of the provisions of chapter
23 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any
24 of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
25 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
26 grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be
27 invalid and void.
- 28 4. As new technology becomes available, the department [may] **shall** allow use of a more
29 advanced tracking system, **electronic or otherwise**, provided that such system is at least as
30 capable of meeting the requirements listed in subsection 1 of this section.
- 31 5. The department of health and senior services, in collaboration with other appropriate
32 agencies, including in-home services providers, shall establish telephone tracking system pilot
33 projects, implemented in two regions of the state, with one in an urban area and one in a rural
34 area. Each pilot project shall meet the requirements of this section. The department of health
35 and senior services shall, by December 31, 2013, submit a report to the governor and general
36 assembly detailing the outcomes of these pilot projects. The report shall take into consideration
37 the impact of a telephone tracking system on the quality of the services delivered to the consumer
38 and the principles of self-directed care.
- 39 6. In the event that a consensus between in-home service providers and representatives
40 from the executive branch cannot be reached, the telephony report issued to the general assembly
41 and governor shall include a minority report which will detail those elements of substantial
42 dissent from the main report.

43 7. No interested party, including in-home service providers, shall be required to contract
44 with any particular vendor or provider of [telephony] EVV services [nor bear the full cost of the
45 pilot program].

 Section B. Because immediate action is necessary to ensure that home-based MO
2 HealthNet participants receive necessary personal care assistance services, section A of this act
3 is deemed necessary for the immediate preservation of the public health, welfare, peace, and
4 safety, and is hereby declared to be an emergency act within the meaning of the constitution, and
5 section A of this act shall be in full force and effect upon its passage and approval.

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