

FIRST REGULAR SESSION

# HOUSE BILL NO. 1090

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MORRIS.

2401H.011

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.

*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Section A. Sections 208.909 and 660.023, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 208.909 and 660.023, to read as follows: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. Refusal to allow the personal care attendant use of his or her telephone for such purpose shall be grounds for termination of service;**

(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

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.

17            [(6)] (7) Providing the vendor with all necessary information to complete required  
18 paperwork for establishing the employer identification number.

19            2. Participating vendors shall be responsible for:

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

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

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

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

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

33            4. No state or federal financial assistance shall be authorized or expended to pay for  
34 personal care assistance services provided by a personal care attendant who is listed on any of  
35 the background check lists in the family care safety registry under sections 210.900 to 210.937,  
36 unless a good cause waiver is first obtained from the department in accordance with section  
37 192.2495.

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

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

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

47            (c) Verify [the telephone number from which the services are registered] **that the**  
48 **services are being delivered at the location where the client resides;**

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

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

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

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

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

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

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

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

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

84            **8. To ascertain the effectiveness of utilizing an EVV system to reduce fraud and**  
85 **abuse of the MO HealthNet program, the department of health and senior services, the**  
86 **department of social services, and the office of administration shall issue a report of**  
87 **findings to the general assembly and governor no later than June 30, 2016. If such report**

88 **of findings does not verify a reduction in fraud and abuse of the MO HealthNet program**  
89 **through the utilization of an EVV system, the requirement for an EVV system to be used**  
90 **by vendors or providers shall no longer be in effect.**

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 client 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.

46 **8. To ascertain the effectiveness of utilizing an EVV system to reduce fraud and**  
47 **abuse of the MO HealthNet program, the department of health and senior services, the**  
48 **department of social services, and the office of administration shall issue a report of**  
49 **findings to the general assembly and governor no later than June 30, 2016. If such report**  
50 **of findings does not verify a reduction in fraud and abuse of the MO HealthNet program**  
51 **through the utilization of an EVV system, the requirement for an EVV system to be used**  
52 **by vendors or providers shall no longer be in effect.**

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