

MEDICAID SERVICES MANUAL  
TRANSMITTAL LETTER

September 24, 2019

TO: CUSTODIANS OF MEDICAID SERVICES MANUAL

FROM: TAMMY MOFFITT, CHIEF OF OPERATIONS

SUBJECT: MEDICAID SERVICES MANUAL CHANGES  
CHAPTER 2200 – HOME AND COMMUNITY BASED WAIVER  
(HCBW) FOR THE FRAIL ELDERLY

**BACKGROUND AND EXPLANATION**

Revisions to Medicaid Services Manual (MSM) Chapter 2200 – Home and Community Based Waiver (HCBW) for the Frail Elderly are being proposed to include mandate as per the 21st Century Cures Act.

In December 2016, Congress passed H.R. 34 – 21st Century Cures Act, mandating that all states require the use of an Electronic Visit Verification (EVV) System for all Medicaid funded personal care services that are provided under a state plan or a waiver of the plan, including services provided under Section 1915(c).

Throughout the chapter, grammar, punctuation and capitalization changes were made, duplications removed, acronyms used and standardized, and language reworded for clarity. Renumbering and re-arranging of sections was necessary.

Entities Financially Affected: Entities Financially Affected: This proposed change affects all Medicaid-enrolled providers delivering specific waiver services. Those provider types include, but are not limited to: Waiver for the Frail Elderly (PT48).

Financial Impact on Local Government: Unknown at the time.

These changes are effective September 25, 2019.

<b>MATERIAL TRANSMITTED</b>
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CL N/A MSM Ch 2200 – Home and Community Based Waiver (HCBW) for the Frail Elderly
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<b>MATERIAL SUPERSEDED</b>
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MTL 38/11, 31/10 MSM Ch 2200 – Home and Community Based Waiver (HCBW) for the Frail Elderly
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<b>Manual Section</b>	<b>Section Title</b>	<b>Background and Explanation of Policy Changes, Clarifications and Updates</b>
<b>2201</b>	<b>Authority</b>	Added new authorities as per the new policy mandate.
<b>2203.2B(2)</b>	<b>Provider Responsibilities</b>	Added information regarding Electronic Visit Verification policy.
<b>2203.5B</b>	<b>Provider Responsibilities</b>	Added provider responsibility related to EVV policy and further clarification regarding requirement, expectations and documentation.
<b>2203.5C</b>	<b>Recipients Responsibilities</b>	Created new section for recipient's responsibilities under Homemaker Service and added two new recipient responsibilities related to EVV policy.
<b>2203.6B</b>	<b>Provider Responsibilities</b>	Added provider responsibility related to EVV policy and further clarification regarding requirement, expectations and documentation.
<b>2203.6C</b>	<b>Recipients Responsibilities</b>	Created new section for recipient's responsibilities under Chore Service and added two new recipient responsibilities related to EVV policy.
<b>2203.7B</b>	<b>Provider Responsibilities</b>	Added provider responsibility related to EVV policy and further clarification regarding requirement, expectations and documentation.
<b>2203.7C</b>	<b>Recipients Responsibilities</b>	Created new section for recipient's responsibilities under Respite Service and added two new recipient responsibilities related to EVV policy.
<b>2203.10B</b>	<b>Provider Responsibilities</b>	Added provider responsibility related to EVV policy and further clarification regarding requirement, expectations and documentation.
<b>2203.10C</b>	<b>Recipients Responsibilities</b>	Created new section for recipient's responsibilities under Adult Companion Service and added two new recipient responsibilities related to EVV policy.

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2201 AUTHORITY

Section 1915(c) of the Social Security Act permits states the option to waive certain Medicaid statutory requirements in order to offer an array of home and community-based services to eligible individuals who may require such services in order to remain in their communities and avoid institutionalization. The DHCFP Home and Community-Based Waiver (HCBW) for the Frail Elderly is an optional service program approved by the Centers for Medicare and Medicaid Services (CMS). This waiver is designed to provide eligible Medicaid waiver recipients access to both state plan services as well as certain extended Medicaid covered services unique to this waiver. The goal is to allow recipients to live in their own homes, or community settings, when appropriate.

The DHCFP has the flexibility to design this waiver and select the mix of waiver services that best meet the goals of the program. This flexibility is predicated on administrative and legislative support, as well as federal approval.

Statutes and Regulations:

- Social Security Act: 1915(c) (HCBW)
- Social Security Act: 1916(e) (Cost Sharing – Patient Liability)
- Social Security Act: 1902(w) (State Plan for Medical Assistance)
- Omnibus Budget Reconciliation Act of 1987
- Balanced Budget Act of 1997
- Health Insurance Portability and Accountability Act of 1996 (HIPAA)
- 42 CFR Part 441, Subparts G and H (Home and Community-Based Services (HCBS): Waiver Requirements; HCBS Waivers for Individuals Age 65 or Older: Waiver Requirements)
- 42 CFR Part 418 (Hospice Care)
- 42 CFR Part 431, Subparts B and E (General Administrative Requirements; Fair Hearing for Applicants and Recipients)
- 42 CFR Part 440 (Services: General Provisions)
- 42 CFR Part 489, Subpart I (Advanced Directives)

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- State Medicaid Manual, Section 4440 (HCBW, Basis, Scope and Purpose)
- Nevada’s Home and Community Based Waiver for the Frail Elderly Control Number
- Nevada Revised Statutes (NRS) Chapters 200 (Crimes Against the Person), 426 (Persons with Disabilities), 427A (Services to Aging Persons and Persons with Disabilities), 422 (Health Care Financing and Policy), 449 (Medical and Other Related Facilities), 616 (Industrial Insurance), 629 (Healing and Arts Generally)
- Nevada Administrative Code (NAC) Chapters 427A (Services to Aging Persons), 441A (Communicable Diseases), 449 (Medical and Other Related Facilities)
- 21<sup>st</sup> Century Cures Act, H.R. 34, Sec. 12006 – 114<sup>th</sup> Congress
- H.R. 6042 – 115<sup>th</sup> Congress

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- b. Services for the HCBW for the Frail Elderly shall not be provided and will not be reimbursed until the applicant is found eligible for benefit plan services, full Medicaid eligibility, and prior authorization as required.
- c. Medicaid recipients in the HCBW for the Frail Elderly may have to pay for part of the cost of the waiver services. The amount they are required to pay is called patient liability.
- 4. If an applicant is determined eligible for more than one HCBW program, the individual cannot receive services under two or more such programs at the same time. The applicant must choose one HCBW program and receive services provided by that program.
- 5. Recipients of the HCBW for the Frail Elderly who are enrolled or elect to enroll in a hospice program may be eligible to remain on the waiver if they require waiver services to remain in the community. Close coordination between the hospice agency and the waiver case manager is required to prevent any duplication of services. Refer to Medicaid Services Manual (MSM) Chapter 3200 for additional information on hospice services.

2203.2B PROVIDER RESPONSIBILITIES

1. Providers are responsible for confirming the recipient’s Medicaid eligibility each month prior to rendering waiver services.

~~2. Providers are responsible for assuring prior authorization is established before services are provided.~~

2. ELECTRONIC VISIT VERIFICATION (EVV):

The 21<sup>st</sup> Century Cures Act requires the use of an of an EVV system to document services that are provided for all personal care services under a Medicaid state plan or waiver program. This mandate requires provider agencies to use an EVV system to record service delivery visit information. Nevada Medicaid utilizes the open-system model, procuring a vendor but also allows agencies to utilize their own if it meets the 21<sup>st</sup> Century Cures Act requirements for documentation.

All service information must be recorded in an electronic system that interfaces with either a telephone or an electronic device that generates a timestamp. The provider agency must verify the EVV record, including any visit maintenance, prior to submitting a claim associated with the EVV record. All claims must be supported by an EVV entry into an EVV system prior to claim submission.

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Agencies must ensure each personal care attendant has a unique identifier (National Provider Identification – NPI) associated with their worker profile in the EVV system.

**A. STATE OPTION:**

1. The EVV system electronically captures:
  - a. The type of service performed, based on procedure code;
  - b. The individual receiving the service;
  - c. The date of the service;
  - d. The location where service is provided;
  - e. The individual providing the service;
  - f. The time the service begins and ends.
2. The EVV system must utilize one or more of the following:
  - a. The agency/personal care attendant’s smartphone;
  - b. The agency/personal care attendant’s tablet;
  - c. The recipient’s landline telephone;
  - d. The recipient’s cellular phone (for Interactive Voice Response (IVR) purposes only);
  - e. Other GPS-based device as approved by the DHCFP.

**B. DATA AGGREGATOR OPTION:**

1. All Personal Care Agencies that utilize a different EVV system (as approved by the DHCFP) must comply with all documentation requirements of this chapter and must utilize the data aggregator to report encounter or claim data.
  - a. Appropriate form must be approved by the DHCFP before use of system to ensure all data requirements are being collected to meet the 21<sup>st</sup> Century Cures Act.

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**a.b. At a minimum, data uploads must be completed monthly into data aggregator.**

**2203.2C RECIPIENT RESPONSIBILITIES**

Applicants/recipients must meet and maintain all eligibility criteria to become eligible and to remain on the HCBW for the Frail Elderly.

**2203.2D MEDICAID EARLY AND PERIODIC SCREENING, DIAGNOSTIC AND TREATMENT (EPSDT)**

Recipients of this waiver are not eligible for EPSDT.

**2203.3 WAIVER SERVICES**

The DHCFP determines which services will be offered under the HCBW for the Frail Elderly. Providers and recipients must agree to comply with all program requirements for service provision.

**2203.3A COVERAGE AND LIMITATIONS**

Under this waiver, the following services are covered if identified in the POC as necessary to avoid institutionalization.

1. Direct Service Case Management.
2. Homemaker Services.
3. Chore Services.
4. Respite Care Services.
5. Personal Emergency Response System (PERS).
6. Adult Day Care Services.
7. Adult Companion Services.
8. Augmented Personal Care (provided in a residential facility for groups).

**2203.3B PROVIDER RESPONSIBILITIES**

1. All Service Providers:

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- a. transporting the recipient in a private car;
- b. cooking and cleaning for the recipient’s guests, other household members or for the purposes of entertaining;
- c. repairing electrical equipment;
- d. ironing and mending;
- e. giving permanents, dyeing or cutting hair;
- f. accompanying the recipient to appointments, social events or in home socialization;
- g. washing walls and windows;
- h. moving heavy furniture, climbing on chairs or ladders;
- i. purchasing alcoholic beverages that were not prescribed by the recipient’s physician;
- j. doing yard work such as weeding or mowing lawns, trimming trees, shoveling non-essential snow covered areas, and vehicle maintenance; or
- k. care of pets except in cases where the animal is a certified service animal.

**2203.5B PROVIDER RESPONSIBILITIES**

In addition to the provider responsibilities listed in Section 2203.3B, Homemaker Providers must:

- 1. arrange and receive training related to household care, including good nutrition, special diets, meal planning and preparation, shopping information, housekeeping techniques, and maintenance of a clean, safe and healthy environment; and
- 2. inform recipients that the DHCFP or its QIO-like vendor is not responsible for replacement of goods damaged in the provision of service.

**Providers are responsible to ensure that EVV requirements and expectations are met, including the documentation of all services in approved EVV System.**

**Service must be prior authorized and documented in an approved Electronic Verification (EVV) System.**



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**2203.5C RECIPIENTS RESPONSIBILITIES**

1. Agree to utilize an approved EVV system for the waiver services being received from the provider agency.
2. Confirm services were provided by electronically signing or initialing, as appropriate per service plan, the EVV record that reflects the service rendered. If IVR is utilized, a vocal confirmation is required.

**2203.6 CHORE SERVICES**

**2203.6A COVERAGE AND LIMITATIONS**

1. This service includes heavy household chores in the private residence such as:
  - a. cleaning windows and walls;
  - b. shampooing carpets;
  - c. tacking down loose rugs and tiles;
  - d. moving heavy items of furniture in order to provide safe access;
  - e. packing and unpacking for the purpose of relocation;
  - f. minor home repairs; or
  - g. removing trash and debris from the yard.
2. Chore services are intermittent in nature and may be authorized as a need arises for the completion of a specific task which otherwise left undone poses a home safety issue. These services are provided only in cases where neither the recipient, nor anyone else in the household, is capable of performing or financially providing for them, and where no other relative, caretaker, landlord, community volunteer/agency or third party payer is capable of, or responsible for, their provision and without these services the recipient would be at risk of institutionalization. This is not a skilled, professional service.
3. In the case of rental property, the responsibility of the landlord pursuant to the lease agreement, must be examined and confirmed prior to any authorization of service. The legal responsibility of the landlord to maintain and ensure safety on the rental property shall supersede any waiver program covered services.

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**2203.6B PROVIDER RESPONSIBILITIES**

In addition to the provider responsibilities listed in Section 2203.3B, individuals performing chore services must:

1. be able to read, write, and follow written or oral instructions;
2. have experience and/or training in performing heavy household activities and minor home repair; and
3. maintain the home in a clean, sanitary and safe environment if performing heavy household chores and minor home repair services.

Providers are responsible to ensure that EVV requirements and expectations are met, including the documentation of all services in approved EVV System.

Service must be prior authorized and documented in an approved EVV System.

**2203.6C RECIPIENTS RESPONSIBILITIES**

1. Agree to utilize an approved EVV system for the waiver services being received from the provider agency.
2. Confirm services were provided by electronically signing or initialing, as appropriate per service plan, the EVV record that reflects the service rendered. If IVR is utilized, a vocal confirmation is required.

**2203.7 RESPITE CARE**

**2203.7A COVERAGE AND LIMITATIONS**

1. Respite care is provided on a short-term basis because of the absence or need for relief of the primary caregiver.
2. Respite care may occur in the recipient’s private home.
3. Respite care is limited to 336 hours per waiver year.

**2203.7B PROVIDER RESPONSIBILITIES**

In addition to the provider responsibilities listed in Section 2203.3B, Respite Providers must:

1. perform general assistance with ADLs and IADLs and provide supervision to functionally impaired recipients in their private home;

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2. have the ability to read and write and to follow written or oral instructions;
3. have had experience and/or training in providing for the personal care needs of people with functional impairments;
4. demonstrate the ability to perform the care tasks as prescribed;
5. be tolerant of the varied lifestyles of the people served; and
6. arrange training in personal hygiene needs and techniques for assisting with ADLs, such as bathing, grooming, skin care, transferring, ambulating, feeding, dressing and use of adaptive aids and equipment, homemaking and household care.

Providers are responsible to ensure that EVV requirements and expectations are met, including the documentation of all services in approved EVV System.

Service must be prior authorized and documented in an approved EVV System.

#### 2203.7C RECIPIENTS RESPONSIBILITIES

1. Agree to utilize an approved EVV system for the waiver services being received from the provider agency.
2. Confirm services were provided by electronically signing or initialing, as appropriate per service plan, the EVV record that reflects the service rendered. If IVR is utilized, a vocal confirmation is required.

#### 2203.8 PERSONAL EMERGENCY RESPONSE SYSTEM (PERS)

##### 2203.8A COVERAGE AND LIMITATIONS

1. PERS is an electronic device, which enables certain recipients at high risk of institutionalization to secure help in an emergency. The recipient may also wear a portable “help” button to allow for mobility. The system is connected to the recipient’s phone and programmed to signal a response center once a “help” button is activated.
2. PERS services are limited to those recipients who live alone in a private residence, or who are alone for significant parts of the day in that residence, have no regular caregiver for extended periods of time, and who would otherwise require extensive routine supervision. The recipient must be physically and cognitively capable of using the device in an appropriate and proper manner.

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4. This service is provided in accordance with a goal in the POC and is not purely diversional in nature.
5. Transportation is not a covered service.

#### 2203.10B PROVIDER RESPONSIBILITIES

In addition to the provider responsibilities listed in Section 2203.3B, Adult Companion Providers must:

1. be able to read, write and follow written or oral instructions; and
2. have experience or training in how to interact with recipients with disabling conditions.

Providers are responsible to ensure that EVV requirements and expectations are met, including the documentation of all services in approved EVV system.

Service must be prior authorized and documented in an approved EVV System.

#### 2203.10C RECIPIENTS RESPONSIBILITIES

1. Agree to utilize an approved EVV system for the waiver services being received from the provider agency.
2. Confirm services were provided by electronically signing or initialing, as appropriate per service plan, the EVV record that reflects the service rendered. If IVR is utilized, a vocal confirmation is required.

#### 2203.11 AUGMENTED PERSONAL CARE

Augmented personal care provided in a licensed residential facility for groups is a 24-hour in home service that provides assistance for functionally impaired elderly recipients with basic self-care and activities of daily living that include as part of the service:

- a. Homemaker Services;
- b. Personal Care Services;
- c. Chore Services;
- d. Companion Services;
- e. Therapeutic social and recreational programming;