



## Department of Health

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Executive Deputy Commissioner

September 8, 2017

**DAL: DHCBS 17-03**

**Subject: Guidance on Implementation of  
Face-to-Face Encounter Requirements**

Dear Administrator:

The purpose of this letter is to provide clarification and guidance related to Section 6407 of the Affordable Care Act which requires a face to face (F2F) encounter with the Medicaid beneficiary for the initial authorization of home health services provided by a Certified Home Health Agency (CHHA), and for certain medical equipment authorized under the home health benefit for Medicaid patients. Physician and agency compliance with F2F for Medicaid home health cases is federally required by July 1, 2017.

Attached is a copy of an article published in the July issue of the *Medicaid Update*. This resource is provided to describe for home health agencies the terms of the F2F rule as applied to Medicaid and to provide guidance to assist with compliance.

As with Medicare home health cases, along with the F2F encounters, Medicaid requires that the patient be certified as medically needing home health care services.

In contrast to Medicare, Medicaid requires a basic determination of medical necessity (only) for home health services; medical eligibility under Medicaid **is not** contingent on a patient being homebound, requiring nursing or therapy services, or requiring that the services be provided in the home. Under Medicaid, medically needed home care services can be provided in any setting where normal life activities take place, such as in the Medicaid beneficiary's workplace.

Please note that these rules apply only to Medicaid Fee-for-Service covered services by CHHAs they do not apply to Managed Care cases.

If you have any questions regarding this information, please send an email to [homecare@health.ny.gov](mailto:homecare@health.ny.gov) with a subject line of "F2F encounters" or contact staff at 518-408-1638.

Sincerely,

Rebecca Fuller Gray, Director  
Division of Home and Community Based Services

**Guidance on Implementation of Face-to-Face Encounter Requirements  
For Medicaid Coverage of Home Care Services & Medical Equipment  
Under Federal Rule 42 CFR Section 440.70 Home Health Services**

Section 6407 of the Affordable Care Act requires a face to face (F2F) encounter with Medicaid members for the initial authorization for home health services provided by a Certified Home Health Agency (CHHA), and certain durable medical equipment (DME) ordered in conjunction with these services. Compliance with F2F encounter requirements is mandated by July 1, 2017.

The purpose of this document is to describe for physicians, authorized non-physician practitioners (NPPs), home health agencies and durable medical equipment providers, the terms of the F2F rule as applied to Medicaid, and to provide guidance for compliance.

The F2F encounter rules for Medicaid home health cases only ***applies to Medicaid fee-for-service coverage*** serviced by CHHAs. The CHHA must maintain a copy of the F2F documentation in the clinical record.

F2F rules ***are not applied*** to managed care cases, or to cases that are personal care service-only. The managed care exclusion encompasses cases served under Mainstream Medicaid managed care plans and Managed Long Term Care plans.

**42 CFR § 440.70 Face-to-Face Home Health Services Requirements:**

F2F encounters for Medicaid home health cases require:

- Physicians to document a F2F encounter related to the primary reason the Medicaid member requires home health services;
- A F2F encounter for the ***initial ordering*** of home health services ***only***; the F2F encounter is ***not*** required for recertification, and;
- The F2F encounter occurs within the **90 days before** or the **30 days after** the CHHA start of services.

A F2F performed for a dually eligible Medicare-Medicaid member is performed once and solely for the initial ordering of services. If the member is discharged and care is subsequently restarted, the F2F encounter must be completed at the start of the new episode of care. If a Medicaid or dually eligible Medicare-Medicaid member is receiving home health services under managed care and transitions to FFS home care services, the face-to-face exemption under managed care would continue for as long as the member continues receiving home care services under FFS (unless there is a discharge and restart of care under FFS).

**Who can provide the F2F encounter:**

F2F encounters for Medicaid home health services may be performed by either a physician or certain non-physician practitioners (NPPs). Practitioners include:

- A nurse practitioner as authorized by New York State law,
- A licensed midwife as authorized by New York State law,
- A physician assistant, under the supervision of a physician, or;
- The attending acute or post-acute physician, for members admitted to home health immediately after an acute or post-acute stay.

The F2F provider must be enrolled in the NYS Medicaid Program. Physicians and NPPs can complete the necessary F2F documentation, but the ordering physician must sign off as the practitioner responsible for ordering home health services. The ordering physician remains the sole authorized practitioner for home health services covered by Medicaid. The ordering physician (who establishes the written plan of care) must document that the F2F encounter requirements were met even if he or she did not performed the encounter directly.

If an attending acute or post-acute care physician or NPP conducts the F2F encounter, the attending or NPP is required to communicate the clinical findings of the encounter to the member’s ordering physician so that the ordering physician may document the F2F encounter in the plan of care or any applicable attestation. This is intended to ensure that the ordering physician has sufficient information to determine the need for home health services in the absence of personally conducting the F2F encounter.

**Certification of patient eligibility for Medicaid home health services:**

Medicaid requires that the member be certified as medically needing home health care services. Medicaid requires a basic determination of medical necessity for home health services and allows medically needed home care services to be provided in any setting where normal life activities take place.

**42 CFR § 440.70 Medicaid Face-to-Face Requirements for Durable Medical Equipment (DME)**

A F2F encounter is required for the ordering and dispensing of DME under home care services and must be related to the primary reason the individual requires the medical equipment. The encounter may be performed by the member’s ordering physician or by one of the NPPs listed above, except a licensed midwife. The encounter must occur no more than **6 months prior** to the dispensing of medically necessary equipment.

The Medicaid F2F requirement for DME applies to items that would be subject to the Medicare F2F requirement for DME and are covered items on the New York State DME Fee schedule found at [www.emedny.org](http://www.emedny.org)

**Payment for F2F encounter Services and Durable Medical Equipment**

The F2F encounter is reimbursed when provided by licensed practitioners enrolled in the Medicaid Program. Reimbursement should be submitted by the practitioner performing the F2F encounter using the current evaluation and management codes found in the Physician Provider Manual.

DME providers should verify that a F2F encounter with the Medicaid member was performed and documented prior to dispensing equipment being ordered through home health services and maintain this information as part of their records to support payment.

CMS Fact Sheet: <https://www.medicaid.gov/medicaid/benefits/downloads/health-home-factsheet.pdf>

Medicaid program questions: Please contact the Office of Health Insurance Programs, Division of Program Development and Management at 518-473-2160

Medicaid billing questions: Please contact eMedNY Provider Services at (800)-343-9000

General questions: Please contact the Office of Primary Care and Health Systems Management, Division of Home and Community Based Services at 518-408-1638 or [homecare@health.ny.gov](mailto:homecare@health.ny.gov)