

Disabled and Elderly Health Programs Group

December 5, 2019

Ms. Donna Frescatore
New York Department of Health
Empire State Plaza, Corning Tower, Room 1466
Albany, NY 12237

Dear Ms. Frescatore:

I am writing to inform you that CMS is granting approval of New York's electronic visit verification (EVV) good faith effort exemption request. CMS has determined that your state's request is in accordance with section 1903(1)(4)(B) of the Social Security Act, as added by section 12006(a) of the 21st Century Cures Act (Cures Act). Specifically, your state has made a good faith effort to comply with EVV requirements by completing an environmental scan, issuing a Request for Information, and securing funding for EVV implementation. The state has also conducted several stakeholder engagement activities, including establishing an EVV webpage and email inbox, conducting regional listening sessions, publishing a stakeholder feedback report, and posting Frequently Asked Questions.

In addition, your state has encountered unavoidable delays when implementing its EVV system, including additional time needed to ensure the state was able to obtain input from its full range of stakeholders, the need to conduct a survey and three rounds of follow-up to adequately assess providers' EVV awareness and implementation status, and the state's mandatory timeframe for seeking budget approval for EVV implementation.

Because your state has sufficiently demonstrated it has made a good faith effort to comply with EVV requirements and has encountered unavoidable delays, CMS will not apply federal medical assistance percentage (FMAP) reductions in calendar year 2020. Please be advised that the Cures Act provision on good faith effort exemptions does not provide CMS with authority to delay the FMAP reductions for more than one year. Therefore, if the state is not fully compliant by January 1, 2021, FMAP reductions will be applied beginning in the first quarter of 2021 and every quarter thereafter until the state achieves compliance. If you have any questions please email EVV@cms.hhs.gov or contact your CMS Regional Office.

Sincerely,



Ralph F. Lollar, Director
Division of Long Term Services and Supports