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Proposed Regulation
Agency Background Document

Agency name	DEPT OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation(s)	12 VAC 30-60; 12 VAC 30-50; 12 VAC 30-120; 12 VAC 30-122
Regulation title(s)	Standards Established and Methods Used to Assure High Quality of Care; Amount, Duration, and Scope of Services: EPSDT; Waiver Services
Action title	Electronic Visit Verification
Date this document prepared	

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations.*

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This action conforms the requirements of the Virginia Medicaid program with the *21st Century Cures Act*, section 12006(a) and Public Law 115-222 section 1 as applicable to Title XIX concerning electronic visit verification. The *Cures Act* was signed into law on December 13, 2016, and added § 1903(l) to the *Social Security Act* (SSA). This new SSA section originally mandated that states require the use of electronic visit verification (EVV) for personal care services by January 1, 2019, and for home health services by January 1, 2023. The *Cures Act* also provided for fiscal penalties, applicable to the Federal Medical Assistance Percentage (FMAP rate) (the federal funding rate for Medicaid), applicable to states that failed to implement the federal EVV requirements.

Subsequent to the *Cures Act*, Congress enacted H.R. 6042 to delay for one year the FMAP penalties applicable to personal care services if rendered in the absence of electronic visit verification and the onset of EVV requirements. This delay was signed into law on July 30, 2018, to become Public Law 115-222.

Absent the adoption of the federal EVV mandate as provided in the *Cures Act*, the Department of Medical Assistance Services (DMAS) will be subject to incremental reductions in its Federal Medical Assistance Percentage (FMAP rate) for personal care expenditures. For the period SFY 2017, DMAS expended $438,541,636 for consumer-directed personal care services and $430,148,860 for agency directed personal care services. FMAP reductions via the *Cures Act* penalty would be expected to exceed several million dollars.

DMAS covers personal care, companion care, and respite services under the authority of § 1915 (b) and (c) via several of its managed care and home and community based care waivers. DMAS covers home health services under the authority of § 1907(a)(7) of the *SSA* via the State Plan for Medical Assistance.

Pursuant to the authority of Chapter 2 of the *2018 Acts of Assembly*, Item 303 LLL, the Commonwealth is also applying the EVV requirements to covered companion services and respite care since these two services are very similar to personal care services. Both respite and companion services help the Medicaid individual with his Activities of Daily Living but under slightly different circumstances.

This requirement also applies to both fee-for-service services via the Early and Periodic Screening, Diagnosis, and Treatment service (12 VAC 30-50-130) as well as waiver services via the Commonwealth Coordinated Care Plus (12 VAC 30-120-630), Commonwealth Coordinated Care Plus Waiver (12 VAC 30-120 30-120-900), Developmental Disabilities (12 VAC 30-122-10), and Medallion 4.0 waivers (12 VAC 30-120-380).

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

'CMS' means Centers for Medicare & Medicaid Services.

'CSBs' means community services boards.

'Cures Act' means the *21st Century Cures Act* (P.L. 114-255 (2016).

'DBHDS' means Department of Behavioral Health and Developmental Services.

'DMAS' means Department of Medical Assistance Services.

'EVV' means Electronic Visit Verification and is a system under which visits conducted as part of personal care and home health services are electronically verified with respect to several specified aspects.

'IADL' means Instrumental Activities of Daily Living.

'MCO' means Managed Care Organization.

'SSA' means Social Security Act.

Mandate and Impetus

Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, board decision, etc.). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

Public Law 114-255, § 12006, mandated the adoption of EVV technology applicable to personal care services (effective 1/1/2019) and home health care services (effective 1/1/2023) as provided by Medicaid without regard to whether they are covered via a waiver or the State Plan. Public Law 115-222, § 1 delayed the onset of fiscal penalties and the adoption of EVV technologies for one year (1/1/2020) from the original statute.

Pursuant to the authority of Chapter 2 of the *2018 Acts of Assembly*, Item 303 LLL, the Commonwealth is also applying the EVV requirements to covered companion services and respite care since these two services are very similar to personal care services. Both respite and companion services help the Medicaid individual with his Activities of Daily Living but under slightly different circumstances.

Legal Basis

Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

Public Law 114-255, § 12006, mandated the adoption of EVV technology applicable to personal care services (effective 1/1/2019) and home health care services (effective 1/1/2023) as provided by Medicaid without regard to whether they are covered via a waiver or the State Plan. Public Law 115-222, § 1 delayed the onset of fiscal penalties and the adoption of EVV technologies for one year (1/1/2020) over the original statute.

DMAS covers personal care, respite care and companion services under the authority of *Social Security Act* § 1915(b) and (c) managed care and home and community based care waivers. Due to the highly similar nature of waiver companion services and waiver respite services to personal

care services, DMAS is also requiring the use of EVV for these services under the authority of Chapter 2 of the *2018 Acts of the Assembly,* Item 303 LLL. Personal care, respite care and companion services are designed to provide services in support of Activities of Daily Living (bathing, dressing, toileting, transferring, and feeding) in slightly different circumstance. The Commonwealth also covers Instrumental Activities of Daily Living (IADLs) (such as meal preparation, money management, shopping, and community activities) under personal care, respite, and companion services for those individuals who require this type of assistance.

Home health care services are federally mandated services for Title XIX programs under the authority of § 1905(a)(7) of the *Act*. This service provides skilled nursing services, aide services, and medical supplies and equipment for individuals in their residences, without requiring that they be homebound, upon their physicians' orders. The application of EVV to home health services takes effect 1/1/2023 so is not reflected in this regulatory action.

Purpose

Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The purpose of this action is to implement the mandates of the *Act* § 1903(l) regarding EVV as applicable to personal care services across all the waivers and State Plan covered services. Absent the Commonwealth's adoption of this requirement, § 1903(l) also mandates the reduction of federal matching funds for expenditures for personal care services ($869 M). Reductions in Medicaid federal funds, in the absence of EVV, would be expected to exceed several millions of dollars thereby substantially affecting the health, safety, and welfare of Medicaid individuals by service reductions and loss.

Action by the General Assembly in Chapter 2 of the *2018 Acts of the Assembly*, Item 303 LLL, applies this EVV requirement also to companion services and respite.

The action that will apply EVV requirements to home health services is to be addressed in the near future in a separate regulatory action because of the January 1, 2023, effective date set out in federal law.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

The sections of the State Plan for Medical Assistance affected by this action is Standards Established and Methods Used to Assure High Quality of Care (12 VAC 30-60) with the addition of new section 12 VAC 30-60-65 Electronic Visit Verification and the Amount, Duration, and Scope of Services Early and Periodic Screening, Diagnosis and Treatment services (12 VAC 30-

50-130(B)). The state-only regulations affected by this action are: Commonwealth Coordinated Care Plus (12 VAC 30-120-623); Commonwealth Coordinated Care Plus Waiver (12 VAC 30-120-924, -120-930), and; Individuals with Developmental Disabilities Waiver (12 VAC 30-122-125).

CURRENT POLICY

Currently, there are no such requirements in either the State Plan for Medical Assistance nor any related waiver programs because electronic visit verification has not applied to Title XIX prior to the passage of the *Cures Act*.

ISSUES

The *Cures Act* was designed to improve the quality of services and supports provided to individuals through research, enhancing quality control, and strengthening mental health parity. This regulatory action addresses enhancing quality control of services provided to individuals.

One of the federal purposes of electronic visit verification is the reduction of potential fraud, waste, and abuse by means of validating that billed services comport with the individual's Plan of Care and EVV data. Such validation will ensure appropriate payment based on actual service delivery. These systems will enable greater opportunities for enhanced care coordination, data sharing, and improved payment accuracy with the concomitant reduction of billing errors. The Department of Health and Human Services Office of the Inspector General has recognized EVV as a positive step towards safeguarding individuals.

Another federal purpose is the improvement of program efficiencies by reducing the need for paper documentation to verify services, speeding up provider electronic billing and supporting individuals using self-direction services by permitting greater flexibility for appointments and services.

Analysis conducted by the Centers for Medicare and Medicaid Services determined that the following system models exist:

- Provider choice model: major providers currently use different EVV systems which are *Cures Act* compliant
- MCO choice model: managed care organizations currently use different EVV systems which are *Cures Act* compliant;
- State mandated in-house model: providers not widely using EVV or EVV systems in use do not meet state's needs; state intends to develop its own EVV system
- State mandated external vendor model: providers not widely using EVV or EVV systems in use do not meet state's needs; state intends to use external vendor
- Open vendor model: smaller providers not widely using EVV but may have one or more larger providers using *Cures Act* compliant EVV system

The *Cures Act* design of EVV requirements allows the states to select their design and implement quality control measures of their choosing. The states are required to consult with other affected

entities: (i) other state agencies providing personal care or home health care services, and; (ii) other stakeholders such as family caregivers, individuals receiving and furnishing personal care and home health services, and providers of these services. EVV systems must be minimally burdensome and compliant with HIPAA privacy mandates. EVV systems are not intended to limit the services provided or provider selection, constrain individuals' caregiver choices, or impede the way care is rendered. EVV systems should accommodate personal care and home health care service delivery locations with limited or no internet access. EVV systems should allow individuals to schedule their services directly with their providers, allowing for last-minute changes based on individual needs. EVV systems should accommodate services at multiple approved locations (not just the individual's home) and allow for multiple service delivery locations in a single visit.

DMAS conducted a comprehensive review of the CMS' alternatives permitted to meet the federal requirements and concluded that the open vendor model afforded the most provider flexibility for Virginia. It allows providers that currently use EVV systems to maintain a working relationship with their claims processing vendors as well as permitting all providers to select a system that meets their business needs while being cost effective. In October 2017, DMAS issued a Request for Information (RFI) to learn more about EVV systems available in the marketplace. Several EVV vendors responded, providing information on their systems' capabilities. This was useful in identifying some of the system requirements included in these regulations.

RECOMMENDATIONS

DMAS' recommended adoption of the open vendor model will enable providers, either large or small, to select the EVV system that best suits their business models and operational practices. Affected providers are expected to opt for EVV systems that will smoothly and efficiently link with the electronic billing systems they currently use in order to facilitate a quick, effective electronic billing process. DMAS is currently designing a computerized aggregator system that will accept incoming data from multiple EVV systems and compile it into service utilization data in support of claims adjudication and payments processing.

DMAS' EVV system regulatory requirements comport with § 12006(a)(5) and do not exceed the minimum requirements contained in federal law.

Issues

Please identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

Providers are expected to experience faster claims processing with fewer denied claims and reduced numbers of post-payment review audit recoveries. The primary advantage to the agency and the Commonwealth is avoiding the reduction of Federal matching funds for failure to comply. The advantage to Medicaid individuals is that the personal care services, respite care and

companion care services that they receive will comport with their identified needs in their plans of care with few, if any, disruptions.

There are no disadvantages to the agency or the Commonwealth in this action. There are no advantages or disadvantages of this action to individual private citizens.

Implementing this system now for personal care services, respite care and companion services, as required by federal law, will facilitate the implementation of EVV applicable to home health services by 2023.

Requirements More Restrictive than Federal

Please identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no requirements more restrictive than the federal requirements implemented by the *Cures Act* as discussed above.

Agencies, Localities, and Other Entities Particularly Affected

Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

Several community services boards (CSBs), administered by the Department of Behavioral Health and Developmental Services, will be required to comply with the EVV requirements for the services that they provide.

Localities Particularly Affected

There are no localities uniquely affected by this action as it applies statewide.

Other Entities Particularly Affected

There are numerous public and private agency-directed providers that will be affected. Some of the nonprofit public agencies include the ARCs, disability support organizations, area agencies on aging, and religious affiliated organizations that provide personal care services.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, please identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Please keep in mind that this is change versus the status quo.

Impact on State Agencies

For your agency: projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	DMAS estimates costs of $3.1 M for the development of an EVV computerized aggregator system to accumulate all the data from the various provider-selected systems. This aggregator system will permit DMAS to assemble data on provider compliance and service utili-zation, etc., to support improved budgeting. This is a one-time cost for the computer system's development. The funding source is 90/10 federal/state funds.
For other state agencies: projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	N/A
For all agencies: Benefits the regulatory change are designed to produce.	The regulations are necessary to comply with federal law.

Impact on Localities

Projected costs, savings, fees or revenues resulting from the regulatory change.	Localities will not be directly affected by this regulation as it does not apply to local governing entities. However, several CSBs will be impacted because they are providers of personal care, respite and companion services.
Benefits the regulatory change are designed to produce.	By complying with DMAS' requirement, CSBs will comply with federal law thereby avoiding denied claims. Use of an EVV system would also help to reduce fraud.

Impact on Other Entities

Description of the individuals, **businesses,** or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	DMAS estimates that numerous small public and private entities will likely be affected as service providers of personal care, respite, and companion services. DMAS, however, does not store information about which of its providers are considered 'small businesses' so the exact numbers are not available. Some of the private entities include the ARCs, disability support organizations, area agencies on aging, and religious affiliated organizations.

Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million.	A review of the agency fee for service claims files indicates approximately 600 providers of agency-directed personal care will be affected. Although statistics are not available, DMAS estimates that 90 percent or more would fall into the small business category.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Please be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	The projected expense is providers' acquisition, staff training, and maintenance of an EVV system. The cost of these systems differ depending on their connectivity capabilities and reporting functions. Providers' costs will vary depending on the various functionalities they choose to purchase in their selected EVV systems.
Benefits the regulatory change are designed to produce.	Compliance with the federal CURES Act, thereby avoiding the statute's FMAP penalties, and the ability to prevent fraud.

DMAS provides personal care, respite, and companion services in both its fee-for-service and managed care systems. In SFY 2017, DMAS estimates that approximately 34,000 individuals in the managed care system were eligible for personal care, respite, and companion services. Because DMAS collects managed care information as encounter data, it does not have data for the number of actual users of these services as it does for the fee for services population.

In the fee-for-service system, 20,933 individuals (as of 7/31/18) have used consumer-directed personal care services. Between January and June, 2018, about 6,847 individuals have used agency-directed personal care.

Merging the potential managed care population (34,000) with the actual fee-for-service users (27,780) results in 61,780 individuals using personal care, respite, and companion care services to remain in their communities rather than the more costly nursing facilities. This total results in an average of 20 hours per week of these services (3-4 hours per day) costing about $14,075 per individual per year. Nursing facilities cost more than $20,000 per year per Medicaid individual.

Alternatives

Please describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

CMS' research identified these potential models for EVV: (i) provider choice; (ii) managed care organization choice; (iii) state mandated external vendor; (iv) state mandated in-house system, and; (v) open vendor. In consultation with its convened technical advisory committee, DMAS has determined that the open vendor option best suits the wide range of affected providers who render these affected services in the Commonwealth. The entities represented in DMAS' advisory committee are listed at this document's end.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

Consistent with the previously discussed requirements of the *Cures Act*, DMAS is not permitted to establish less stringent or exemption standards for small businesses. DMAS, by recommending the open vendor model, is affording to affected small businesses and individuals the greatest possible flexibility permitted by the new federal statute.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, please indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.

In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

This action is not the result of a Periodic Review or a Small Business Review.

Public Comment

Please summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.

DMAS filed its Notice of Intended Regulatory Action for publication in the *Virginia Register* on September 17, 2018 (VR 35:2). The comment period ended on October 17, 2018. There were no comments received.

Public Participation

Please include a statement that in addition to any other comments on the regulatory change, the agency is seeking comments on the costs and benefits of the regulatory change and the impacts of the regulated community. Also, indicate whether a public hearing will be held to receive comments.

In addition to any other comments, the agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: 1) projected reporting, recordkeeping and other administrative costs; 2) probable effect of the regulation on affected small businesses; and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: https://townhall.virginia.gov. Written comments must include the name and address of the commenter. Comments may also be submitted by mail, email or fax to Tim.Catherman@dmas.virginia.gov; (804) 225-2536 phone; (804) 371-4981 (fax). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of this stage of this regulatory action.

DMAS convened a stakeholder advisory workgroup for advice and consultation in its policy implementation and design. (see attached list of represented organizations) Numerous meetings have been held to secure these providers' input for incorporation into this regulatory action as well as discussions of providers' EVV issues.

There is no rate increase for these services to offset the provider costs of this new requirement. As a result, it is anticipated that personal care provider associations and individual providers are expected to be vocal on their additional operating costs in meeting this unfunded federal mandate.

Detail of Changes

Please list all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation.

If the regulatory change will be a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory change. Delete inapplicable tables.

If the regulatory change is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below. Please include citations to the specific section(s) of the regulation that are changing.

For changes to existing regulation(s), please use the following chart:

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
12 VAC 30-50-130	Amount, Duration, and Scope of EPSDT services	Currently, there is no reference to EVV in the existing regulation.	Adds reference to the EVV requirements in the EPSDT section. Adding the Incorporation by Reference (IBR) to this reg section will clarify its applicability for providers.
12 VAC 30-120-623	CCC+ (new section for new regs)	Currently, there is no reference to EVV in the CCC+ waiver.	Adds reference to the EVV requirements in the -623 section. Adding the Incorporation by Reference (IBR) to this reg section will clarify its applicability for providers.
12 VAC 30-120-924 and -930.	CCC+ Waiver	Currently, there is no reference to EVV in the existing regulations.	Adds reference to the EVV requirements in the -924 and -930 sections. Adding the Incorporation by Reference (IBR) to this reg section will clarify its applicability for providers.
12 VAC 30-122-125	IDD Waiver	Currently, there is no reference to EVV in these new regulations.	Adds reference to the EVV requirements in the 125 section. Adding the Incorporation by Reference (IBR) to this reg section will clarify its applicability for providers.

Even though EVV does apply to managed care organizations, 12 VAC 30-120-380 is not included in this table because the opening paragraph contains a sufficiently broad reference to the State Plan for Medical Assistance that encompasses EVV.

If a new regulation is being promulgated, that is not replacing an existing regulation, please use this chart:

New chapter-section number	New requirements	Other regulations and law that apply	Intent and likely impact of new requirements

12 VAC 30-60-65	**Electronic Visit Verification**	**§ 1903 (l) of the Social Security Act**	**To conform the VAC to the requirements of federal law regarding electronic visit verification (EVV).**
-65 A	**Definitions**		**New terms defined and existing terms added.**
-65 B	**Applicable services**		**Subsection sets out the specific services subject to EVV: personal care, respite, companion and, effective 1/1/2023, home health agency services.**
-65 C	**Entities exempt from EVV**		**Schools are exempted under the authority of federal statute. DBHDS facilities are exempted under the authority of state statute.**
-65 D	**EVV system requirements**		**Subsection specifies the information to be retained; provides for which provider staff is permitted to edit the information; requires HIPAA compliance; sets out system requirements and functions; provides that individuals' care plans can be changed per changing needs and new provider orders.**
-65 E	**Agency-directed provider records, audits, reports**		**Subsection sets out provider documentation require-ments.**

AGENCY/PROVIDER MEMBERS OF EVV ADVISORY COMMITTEE

Lake Country Area Agency on Aging
Drift Woods Consulting, LLC
Virginia Network of Private Providers
The ARC of Virginia
Virginia Association of Home Care and Hospice
Endependence Centers
Virginia Association of Personal Care Providers
Virginia Community Services Boards
Bay Area on Aging

DMAS staff

Tammy Whitlock
Terry Smith
Tim Catherman
Maya Ob de Beke
Nichole Martin
Teri Morgan
Emily McClellan
Susan Puglisi
Victoria Simmons