John R. Ashcroft
Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

Rule Number 13 CSR 70-3.320

Use a “SEPARATE” rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:
Content Rob Tillman Phone (573) 526-0414 FAX (573) 522-6092
Email address Robert.Tillman@dss.mo.gov

Data Entry Lisa Soldan Phone (573) 522-3037 FAX (573) 522-6092
Email address Lisa.Soldan@dss.mo.gov

Interagency mailing address DLS, Broadway Bldg, 221 W High Street, Room 230

TYPE OF RULEMAKING ACTION TO BE TAKEN

- Emergency Rulemaking _ Rule _ Amendment _ Rescission _ Termination
  Effective Date for the Emergency ________________
- Proposed Rulemaking _ Rule _ Amendment _ Rescission
- Rule Action Notice _ In Addition _ Rule Under Consideration
- Request for Non-Substantive Change
- Statement of Actual Cost
- Order of Rulemaking _ Withdrawal _ Adopt _ Amendment _ Rescission
  Effective Date for the Order ________________

□ Statutory 30 days OR Specific date ________________

Does the Order of Rulemaking contain changes to the rule text? _ NO
□ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

______________________________
______________________________
______________________________

Small Business Regulatory Fairness Board (DED) Stamp

JCAR Stamp

RECEIVED
By JCAR at 4:44 pm, May 23, 2022
May 13, 2022

Rob Tillman
Special Counsel
Missouri Department of Social Services
Broadway State Office Building
Jefferson City, MO 65102

Dear Rob:

This office has received your Proposed Rulemaking for the following regulations:

- 13 CSR 70-3.320 - Electronic Visit Verification

Executive Order 17-03 requires this office's approval before state agencies release proposed regulations for notice and comment, amend existing regulations, rescind regulations, or adopt new regulations. After our review, we approve the submission to JCARR and the Secretary of State.

Sincerely,

Evan Rodriguez
Deputy Counsel
John R. Ashcroft  
Secretary of State  
Administrative Rules Division  
600 West Main Street  
Jefferson City, Missouri 65101

RE: 13 CSR 70-3.320 Electronic Visit Verification (EVV)

Dear Secretary of State Ashcroft:

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed rulemaking lawfully submitted by the MO HealthNet Division, Department of Social Services.

The MO HealthNet Division, Department of Social Services further certifies that it has conducted an analysis of whether or not there has been a taking of real property pursuant to section § 536.017, RSMo 2000, that the proposed rulemaking does not constitute a taking of real property under relevant state and federal law.

The MO HealthNet Division, Department of Social Services has determined and hereby also certifies that if the proposed rulemaking does affect small business pursuant to sections 536.300 to 536.310, RSMo, a small business impact statement has been filed as required by those sections. If no small business impact statement has been filed the proposed rulemaking either does not affect small business or the small business requirements do not apply pursuant to section 536.300.4, RSMo.

Statutory Authority: sections 208.201 and 660.017, RSMo.

If there are any questions regarding the content of this proposed rulemaking, please contact:

Sharie Hahn  
221 West High Street, Room 230  
Jefferson City, MO 65102  
573-751-3229  
Sharie.Hahn@dss.mo.gov

Sincerely,

Robert Knodell  
Acting Director  
Department of Social Services

Attachments

AUXILIARY AIDS AND SERVICES ARE AVAILABLE UPON REQUEST TO INDIVIDUALS WITH DISABILITIES  
TDD / TTY: 800-735-2966  
RELAY MISSOURI: 711
May 23, 2022

Sarah Schappe, Director
Joint Committee on Administrative Rules
Capitol Building, Room B-8
Jefferson City, MO 65101

Dear Ms. Schappe:

RE: 13 CSR 70-3.320 Electronic Visit Verification (EVV)

Attached is an accurate and complete copy of the proposed rulemaking regarding the amendment of 13 CSR 70-3.320. This proposed amendment will be filed concurrently with the Secretary of State.

Statutory authority: sections 208.201 and 660.017, RSMo.

Sincerely,

Robert Knodell
Acting Director
Department of Social Services

Attachments
I. **Department Title:** Title 13 - Social Services  
**Division Title:** Division 70 - MO HealthNet Division  
**Chapter Title:** Chapter 3 – Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

<table>
<thead>
<tr>
<th>Rule Number and Title:</th>
<th>13 CSR 70-3.320 Electronic Visit Verification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of Rulemaking:</td>
<td>Amendment</td>
</tr>
</tbody>
</table>

II. **SUMMARY OF FISCAL IMPACT**

<table>
<thead>
<tr>
<th>Estimate of the number of entities by class which would likely be affected by the adoption of the rule:</th>
<th>Classification by types of the business entities which would likely be affected:</th>
<th>Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,500</td>
<td>Personal Care Service Providers</td>
<td>$0</td>
</tr>
<tr>
<td>60</td>
<td>Electronic Visit Verification Vendors</td>
<td>$300,000</td>
</tr>
</tbody>
</table>

III. **WORKSHEET**

Any cost related to development, modification, or testing of Electronic Visit Verification (EVV) systems shall be the responsibility of the EVV vendor. Because of this, there is no anticipated cost to personal care service providers.

IV. **ASSUMPTIONS**

There is a wide range of capability among EVV vendors. Some may be able to accommodate the acceptance and transfer of FCSR data at no additional expense, others may need to update coding or add a specialized field. The estimate indicated includes an aggregated average of both scenarios, with the potential cost per vendor falling anywhere between $0 - $10,000.
DECLARATION
OF PUBLIC COST

I, Robert Knodell, Acting Director of the Department of Social Services, do declare that it is my opinion that the cost of proposed amendment 13 CSR 70-3.320, is less than five hundred dollars ($500) in the aggregate to this agency, any other agency of state government, or any political subdivision thereof.

Sincerely,

Robert Knodell
Acting Director
Department of Social Services
Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

PROPOSED AMENDMENT

13 CSR 70-3.320 Electronic Visit Verification (EVV)

PURPOSE: This amendment clarifies the requirement to identify direct care workers through entry of the caregiver’s respective Family Care Safety Registrant number. This amendment also specifies the type of service performed is identified through the collection of designated procedure codes and associated modifiers.

(1) Definitions

(L) “Services” shall mean all Medicaid-funded services, as identified by procedure code, or other service required by the State to use EVV including:
1. Advanced Personal Care;
2. Chore Services;
3. Consumer-Directed/Self-Directed Personal Care;
4. Homemaker Services;
5. In-Home Respite authorized by the Department of Health and Senior Services;
6. Personal Care;
7. Any of the above services reimbursed by a managed care organization; and
8. Any services where federal or state statute or rule requires EVV, but not specifically listed above.

(2) Provider Agency Responsibilities regarding Electronic Visit Verification.

(B) Provider agencies and self-directed fiscal agents who deliver or administer services through Medicaid funding shall utilize EVV and shall use the procedure code and associated modifiers for all visits. EVV requirements are applicable to services authorized through the Department of Health and Senior Services and the Department of Mental Health.

(F) Provider agencies shall identify all direct care workers by entering the caregiver’s respective Family Care Safety Registrant number as assigned per 19 CSR chapter 80.

([F]G) Manual visit entry shall be utilized only when the EVV system is unavailable or when exigent circumstances, documented by the provider agency, make usage of the system impossible or impractical. The provider agency shall enter justification documentation into the EVV system. Information shall include the date and time of the manual entry, the reason for the entry, and the identification of the person making the entry. The provider agency must pass a manual entry indicator and reason for manual entry to the aggregator solution within documentation timeframes established by the MO Medicaid Audit and Compliance Unit.

([G]H) Any adjustment or exception requires the provider agency to enter justification documentation into the EVV system within documentation timeframe requirements established by 13 CSR 70-3.030(3)(A)38. Information must include the date and time of the entry and/or update, the reason for the entry and/or update, and the identification of the person making the entry and/or update.
(HI) Provider agencies shall report any suspected falsification of EVV data to the Missouri Medicaid Audit and Compliance Unit via the standard reporting process as defined by the Missouri Medicaid Audit and Compliance Unit within two business days of discovery.

(HJ) All provider agencies must interface EVV data with an aggregator solution designated by the Department of Social Services (DSS) in a format and at a frequency specified by DSS.

(3) Electronic Visit Verification Vendor Responsibilities upon Implementation of an Aggregator Solution.

(L) At a minimum, the EVV system shall meet the following requirements:

1. Record the type of service performed through collection of the designated procedure code and associated modifiers, including individual tasks as authorized or progress notes dependent on requirements of the authorizing program;
2. Document and verify the MO HealthNet participant’s identity, either by a unique number assigned to the MO HealthNet participant, biometric recognition, or through alternative technology;
3. Document and verify the direct care worker by the assignment of a personal identification number unique to the direct care worker or through alternative technology the collection of the Family Care Safety Registrant number as assigned per 19 CSR chapter 80;
4. Document the date of services delivered;
5. Document the time services begin to the minute;
6. Document the time services end to the minute; and
7. Document the location in which the services began and ended.


PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities between $0 and $10,000. There is a wide range of capability among EVV vendors. Some may be able to accommodate the acceptance and transfer of Family Care Safety Registry data at no additional expense, others may need to update coding or add a specialized field. The range indicated includes both scenarios, with the potential cost lying anywhere in between.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comments@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.