Department of Health and Human Services

**OFFICE OF INSPECTOR GENERAL**

# KANSAS'S IMPLEMENTED ELECTRONIC VISIT VERIFICATION SYSTEM COULD BE IMPROVED

*Inquiries about this report may be addressed to the Office of Public Affairs at Public.Affairs@oig.hhs.gov.*

Amy J. Frontz
Deputy Inspector General
for Audit Services

August 2024
A-07-23-03255

# *Office of Inspector General*

https://oig.hhs.gov

The mission of the Office of Inspector General (OIG) is to provide objective oversight to promote the economy, efficiency, effectiveness, and integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of the people they serve. Established by Public Law No. 95-452, as amended, OIG carries out its mission through audits, investigations, and evaluations conducted by the following operating components:

**Office of Audit Services.** OAS provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. The audits examine the performance of HHS programs, funding recipients, and contractors in carrying out their respective responsibilities and provide independent assessments of HHS programs and operations to reduce waste, abuse, and mismanagement.

**Office of Evaluation and Inspections.** OEI's national evaluations provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. To promote impact, OEI reports also provide practical recommendations for improving program operations.

**Office of Investigations.** OI's criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs and operations often lead to criminal convictions, administrative sanctions, and civil monetary penalties. OI's nationwide network of investigators collaborates with the Department of Justice and other Federal, State, and local law enforcement authorities. OI works with public health entities to minimize adverse patient impacts following enforcement operations. OI also provides security and protection for the Secretary and other senior HHS officials.

**Office of Counsel to the Inspector General.** OCIG provides legal advice to OIG on HHS programs and OIG's internal operations. The law office also imposes exclusions and civil monetary penalties, monitors Corporate Integrity Agreements, and represents HHS's interests in False Claims Act cases. In addition, OCIG publishes advisory opinions, compliance program guidance documents, fraud alerts, and other resources regarding compliance considerations, the anti-kickback statute, and other OIG enforcement authorities.

# *Notices*

**THIS REPORT IS AVAILABLE TO THE PUBLIC**
at https://oig.hhs.gov

Section 8M of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG website.

**OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS**

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

HHS Office of Inspector General

# REPORT HIGHLIGHTS

August 2024 | A-07-23-03255

## Kansas's Implemented Electronic Visit Verification System Could Be Improved

### Why OIG Did This Audit

- As required by the 21st Century Cures Act, Kansas uses an Electronic Visit Verification (EVV) system to verify that a personal care services (PCS) service worker has arrived at a Medicaid enrollee's residence and assisted with Medicaid-approved tasks.
- EVV was developed to address weaknesses in the PCS program that contribute to improper payments, questionable quality of care, and notable amounts of fraud.
- This audit examined whether Kansas implemented an EVV system in accordance with Federal and State requirements and complied with Federal and State requirements when claiming in-home PCS.

### What OIG Found

Kansas implemented an EVV system, but it did not require all in-home PCS visits to be recorded and verified in that system and did not always comply with requirements when claiming in-home PCS.

Among other things, these errors occurred because Kansas did not:

- have procedures to prevent claimed visits from being submitted outside of the EVV system,
- have edits in its EVV system to verify that tasks performed and recorded on the in-home PCS claim matched with allowable tasks in the enrollee's approved service plan, and
- require providers to maintain adequate documentation.

### What OIG Recommends

We make four recommendations to Kansas related to its EVV system, including:

- improving its EVV system by developing and implementing procedures to verify that in-home PCS claims are recorded and verified in its EVV system,
- improving its EVV system by implementing edits to verify that tasks recorded on in-home PCS claims match allowable tasks in the enrollees' approved service plans, and
- verifying that providers are complying with the State's established policies and procedures.

The full recommendations are in the report.

Kansas agreed with all of our recommendations and described corrective actions that it had taken or planned to take to address them.

**TABLE OF CONTENTS**

INTRODUCTION ..... 1

Why We Did This Audit ..... 1

Objectives ..... 1

Background ..... 1
Medicaid Program ..... 1
Medicaid Home and Community-Based Services Waiver ..... 2
Federal Requirements for Electronic Visit Verification and Personal Care Services ..... 2
Kansas Medicaid Program ..... 3
Kansas Electronic Visit Verification System ..... 3

How We Conducted This Audit ..... 4

FINDINGS ..... 5

The State Agency Did Not Require That All In-Home Personal Care Services Visits Be Recorded and Verified in the Electronic Visit Verification System in Accordance With Federal and State Requirements ..... 6
Electronic Visit Verification Claims With Informational Exceptions Warranted Additional Review but Were Not Reviewed ..... 7
In-Home Personal Care Services Visits Submitted Through the Web Portal Could Not Be Electronically Verified ..... 8
Electronic Visit Verification System Was Not Used To Record and Verify In-Home Visit ..... 8
Additional Electronic Visit Verification-Related Issues ..... 9
The State Agency Had Not Implemented Edits To Ensure That Electronic Verification of In-Home Personal Care Services Visits Complied With the Cures Act ..... 10
Estimated Number of In-Home Personal Care Services Net Claim Lines That Did Not Comply With Federal Requirements ..... 10

The State Agency Did Not Always Comply With Federal and State Requirements When Claiming In-Home Personal Care Services ..... 10
Unallowable In-Home Personal Care Services Tasks Were Rendered ..... 11
Background Screening for Service Workers Was Not Documented ..... 11
Time Charged for In-Home Personal Care Services Tasks Was Excessive or Inaccurate ..... 12
Annual Needs Assessments Were Incomplete ..... 12

The State Agency Did Not Have Edits To Verify Allowability of Tasks and Did Not Require Providers To Maintain Adequate Documentation To Support In-Home Personal Care Services ....13
Estimated Number of Unallowable In-Home Personal Care Services Net Claim Lines....13

RECOMMENDATIONS ....13

STATE AGENCY COMMENTS ....14

Recommendation That the State Agency Improve Its Electronic Visit Verification System by Developing and Implementing Procedures and by Implementing Edits..14

Recommendation That the State Agency Improve Its Use of the Electronic Visit Verification System ....15

Recommendation That the State Agency Verify That Providers Are Complying With the State Agency's Policies and Procedures Regarding Documentation of Service Worker Background Checks....16

Recommendation That the State Agency Verify That Managed Care Organizations Are Complying With the State Agency's Established Policies and Procedures Regarding Functional Needs Assessments....16

APPENDICES

A: Audit Scope and Methodology....18

B: Statistical Sampling Methodology ....20

C: Sample Results and Estimates ....21

D: Federal and State Requirements for Electronic Visit Verification and Personal Care Services ....22

E: Summary of Electronic Visit Verification Compliance Issues for Each In-Home Personal Care Services Net Claim Line ....25

F: Summary of Errors for Each In-Home Personal Care Services Net Claim Line ....28

G: State Agency Comments ....32

# INTRODUCTION

## WHY WE DID THIS AUDIT

All States are required to implement Electronic Visit Verification (EVV) for in-home personal care services (PCS) as of January 1, 2020, in accordance with 21st Century Cures Act (Cures Act) requirements.[1] EVV is a State-implemented telephone- and computer-based technology system used to verify electronically that a PCS service worker (service worker) has arrived on the job and assisted a person in performing PCS tasks that are approved under Medicaid. Essentially, EVV requires service workers to login electronically—rather than filling out paper timesheets—to prove the time and location of their in-home visits.

EVV was developed to address weaknesses in the PCS program that contribute to improper payments, questionable quality of care, and notable amounts of fraud. As part of its oversight activities, the Office of Inspector General (OIG) is auditing EVV to determine whether States are operating their EVV systems in accordance with requirements. We selected Kansas as the first State in a series of planned EVV audits. We selected Kansas for our first EVV audit because it implemented its EVV system in 2012 and has operated that system for several years.

## OBJECTIVES

The objectives of our audit were to determine whether the Kansas Department of Health and Education (State agency): (1) implemented an EVV system in accordance with Federal and State requirements and (2) complied with Federal and State requirements when claiming in-home PCS.

## BACKGROUND

### Medicaid Program

The Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements.

---

[1] Kansas originally implemented its EVV system for some services in 2012. Although (as explained below) the originally proposed date for EVV implementation was January 1, 2020, to verify compliance with Cures Act requirements Kansas requested and was approved for a 1-year good-faith-effort extension for PCS, which extended the deadline for it to implement EVV for PCS to January 1, 2021.

The amount that the Federal Government reimburses to State Medicaid agencies, known as Federal financial participation (FFP) or Federal share, is determined by the Federal medical assistance percentage (FMAP), which varies based on a State's relative per capita income.

**Medicaid Home and Community-Based Services Waiver**

The Social Security Act (the Act) authorizes the Medicaid Home and Community-Based Services Waiver (HCBS waiver) program (the Act § 1915(c)). This program permits a State to furnish an array of home and community-based services that assist Medicaid enrollees to live in the community and avoid institutionalization. Waiver services complement or supplement the services that are available to enrollees through the Medicaid State plan and other Federal, State, and local public programs and the support that families and communities provide. Each State has broad discretion to design its HCBS waiver program to address the needs of the waiver's target population.

**Federal Requirements for Electronic Visit Verification and Personal Care Services**

*Electronic Visit Verification*

Section 12006(a) of the Cures Act mandates that States implement EVV by January 1, 2020, for all Medicaid PCS that require an in-home visit by a service worker.[2] This statute also provides that States that have not implemented EVV by that date are subject to incremental FMAP reductions of up to 1 percent, unless the State has both made a good-faith effort to comply and has encountered unavoidable delays. Kansas requested and was approved for a 1-year good-faith-effort extension for PCS, which extended the deadline for it to implement EVV for PCS to January 1, 2021.

Section 12006(a)(5)(A) of the Cures Act defines EVV with respect to PCS as a system under which visits conducted as part of such services are electronically verified with respect to six required data points, including the type of service performed, the individuals receiving and providing the service, the date and location of the service, and the time that the service begins and ends.

*Personal Care Services*

The Act authorizes PCS, which it defines as "services furnished to an individual . . . that are (A) authorized for the individual by a physician in accordance with a plan of treatment or (at the option of the State) otherwise authorized for the individual in accordance with a service plan approved by the State, (B) provided by an individual who is qualified to provide such services

[2] The 21st Century Cures Act, P.L. No. 114-255 (Dec. 13, 2016). The originally proposed date for EVV implementation for in-home PCS was January 1, 2019, but that date was delayed to January 1, 2020, in the finalized legislation. EVV is also required for home health care services as of January 1, 2023, but we did not evaluate EVV implementation of those services for this audit.

and who is not a member of the individual's family, and (C) furnished in a home or other location" (the Act § 1905(a)(24)). Examples of PCS include, but are not limited to, meal preparation, shopping, grooming, and bathing.

Implementing Federal regulations reiterate the Act's language and add that PCS may be provided only to individuals who are not inpatients at a hospital or residents of a nursing facility, an intermediate care facility for individuals with intellectual disabilities, or an institution for mental disease (42 CFR § 440.167(a)).

Federal regulations state that a Medicaid enrollee's person-centered service plan (PCSP) must reflect the services and supports that are important for the enrollee to meet the needs identified through an assessment of functional need, and must reflect what is important to the enrollee with regard to preferences for the delivery of such services and supports (42 CFR § 441.301(c)(2)).

Federal regulations also state that a PCSP must prevent the provision of unnecessary or inappropriate services and supports (42 CFR § 441.301(c)(2)(xii)).

**Kansas Medicaid Program**

In Kansas, the State agency and the Kansas Department for Aging and Disability Services (KDADS) administer the Medicaid program, called KanCare. Kansas contracts with three managed care organizations (MCOs) to provide services to Medicaid enrollees in the KanCare program. Each MCO makes services available to Medicaid enrollees in return for a monthly fixed payment for each enrollee, called a capitation payment. Each Medicaid enrollee is assigned to one of the KanCare health plans offered by the contracted MCOs. The MCOs then contract with PCS providers, each of which employs one or more service workers who perform the actual in-home PCS visits.

In-home PCS are available to Kansas Medicaid enrollees through its HCBS waiver program.

**Kansas Electronic Visit Verification System**

Kansas uses a single outside contractor to operate and maintain its EVV system. The EVV system is an electronic scheduling, monitoring, reporting, and claims confirmation system for in-home PCS visits. It is paperless and web-based. All in-home PCS providers and their service workers must use this EVV system to record and verify in-home PCS visits.

There are three methods available for a service worker to enter an in-home PCS visit into the EVV system: (1) GPS-enabled mobile device, (2) Interactive Voice Response (IVR), and (3) web entry (which only the provider can execute). When a service worker arrives at the home of an enrollee to render a service, the worker checks in to the EVV system by using either a GPS-enabled mobile device or the enrollee's touch-tone phone to call the IVR system number. Using GPS technology or caller ID, the EVV system identifies the enrollee and the services

authorized for that enrollee and prompts the service worker to enter their worker identification number and verify the services to be provided. The EVV system verifies the information and advises the service worker that they are "checked-in" as of the time the contact was initiated. When the service worker completes the service visit, they use the GPS-enabled mobile device or call the same IVR system phone number to check out of the EVV system. From that mobile device or IVR interaction, the EVV system creates a claim. After the provider reviews and approves the claim, it is submitted electronically for adjudication and processing for payment by the MCO.

In situations when the IVR system cannot be used (for example, the enrollee's touch-tone phone is out of order) and the service worker does not have a GPS-enabled mobile device, or in situations when the service worker makes an error (for example, they forget to check out), the service worker notifies the provider through other available means and sends the provider the required information for the service visit. The provider then enters the visit information into the EVV system via web portal, which then creates a claim for the service rendered.

## HOW WE CONDUCTED THIS AUDIT

Our audit period covered in-home PCS provided and paid during the period January 1, 2021, through April 30, 2022. We used claims data that the State agency gave us to perform our work. We developed a sampling frame of 3,524,923 in-home PCS net claim lines with a total reimbursement of $317,099,542, from which we selected a stratified random sample of 105 net claim lines.[3] We were granted access to the State agency's EVV system, from which we could review the details for each in-home PCS visit (in-home PCS net claim lines) to determine whether the visit was completed and verified electronically in accordance with Federal and State requirements.

In addition, we obtained and reviewed documentation for each in-home PCS net claim line to determine whether the services provided were allowable and adequately supported. We reviewed documentation that the State agency gave us with respect to services rendered, enrollee eligibility, and service worker qualifications to determine whether the in-home PCS visit complied with Federal and State requirements.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[3] We grouped the in-home PCS services by internal control number (ICN) and first date of service (FDOS). We refer to each result of this grouping as a "net claim line." Furthermore, a single net claim line may consist of one in-home PCS visit or multiple in-home PCS visits, based on how the provider chose to bill those services. This grouping is the basis of our sample unit, which we refer to in this report as "in-home PCS net claim lines."

Appendix A contains details of our audit scope and methodology, Appendix B contains our statistical sampling methodology, Appendix C contains our sample results and estimates, Appendix D contains details on the Federal and State requirements related to EVV and PCS, Appendix E summarizes the EVV compliance issues for each in-home PCS net claim line, and Appendix F summarizes the errors for each in-home PCS net claim line.

## FINDINGS

The State agency implemented an EVV system; however, it did not require all in-home PCS net claim lines to be recorded and verified in the EVV system in accordance with Federal and State requirements. Specifically, of the 105 in-home PCS net claim lines in our stratified random sample, we identified 9 in-home PCS net claim lines with at least 1 of the EVV compliance issues listed in Table 1 (1 in-home PCS net claim line had 2 compliance issues):

**Table 1: Summary of In-Home PCS Net Claim Lines With EVV Compliance Issues**

| Type of EVV Compliance Issue | In-home PCS Net Claim Lines With EVV Compliance Issues |
|---|---|
| Did not review informational exceptions that warrant further review | 5 |
| Not verified in EVV system in real time (web portal entry) | 4 |
| Not entered and verified in the EVV system | 1 |

On the basis of our sample results, we estimate that for 312,555 of the 3,524,923 in-home PCS net claim lines in our sampling frame (9 percent), the State agency did not comply with Federal and State requirements.[4]

Furthermore, we identified two additional issues with respect to the State agency's EVV system: (1) some in-home PCS net claim lines were submitted outside of the EVV system, and (2) the EVV system created an informational exception for all in-home PCS net claim lines as a result of the scheduling function not being used in the EVV system.[5]

The EVV compliance issues and additional EVV-related issues we identified occurred because the State agency: (1) did not require providers to review claims for in-home PCS for relevant EVV system exceptions and then to correct those exceptions; (2) did not have procedures in place to prevent in-home PCS net claim lines from being submitted outside of the EVV system;

[4] The 90-percent confidence interval for the estimated in-home PCS net claim lines with EVV compliance issues ranges from 146,483 to 478,626.

[5] As explained later in this report, one type or category of exceptions within the EVV system prevents claims from being confirmed for billing and payment.

and (3) did not require that providers use the scheduling function within the EVV system or else direct the EVV contractor to remove the corresponding exception for instances when the scheduling function is not required.

For our second objective, the State agency did not always comply with Federal and State requirements when claiming in-home PCS. Specifically, 30 of the 105 in-home PCS net claim lines were at least partially unallowable because they had at least 1 of the errors (some in-home PCS net claim lines had more than 1 error), as shown in Table 2:

**Table 2: Summary of Errors Involving In-Home PCS Net Claim Lines**

| Type of Error | In-Home PCS Net Claim Lines With Errors |
|---|---|
| Some tasks performed were not allowable under the provisions of the PCSP | 20 |
| Service worker background check documentation was not provided or was incomplete | 8 |
| Time charged for tasks was excessive or inaccurate | 4 |
| Needs assessment was incomplete | 2 |

On the basis of our sample results, we estimate that 984,214 of the 3,524,923 in-home PCS net claim lines in our sampling frame (28 percent) were not claimed in accordance with Federal and State requirements and thus were unallowable.

These errors occurred primarily because the State agency did not have edits in its EVV system to verify that the tasks performed and recorded on the in-home PCS claim matched with the allowable tasks approved in the PCSP. In addition, with respect to the errors related to the incomplete background check and needs assessment documentation, the State agency had relevant policies and procedures in place but nevertheless did not require providers to maintain adequate documentation to support the in-home PCS claims.

## THE STATE AGENCY DID NOT REQUIRE THAT ALL IN-HOME PERSONAL CARE SERVICES VISITS BE RECORDED AND VERIFIED IN THE ELECTRONIC VISIT VERIFICATION SYSTEM IN ACCORDANCE WITH FEDERAL AND STATE REQUIREMENTS

The State agency implemented an EVV system; however, it did not require all in-home PCS net claim lines to be recorded and verified in the EVV system in accordance with Federal and State requirements. Specifically, of the 105 in-home PCS net claim lines in our stratified random sample, we identified 9 in-home PCS net claim lines with at least 1 of the EVV compliance issues shown earlier in Table 1 and discussed below (1 in-home PCS net claim line had 2 compliance issues).

**Electronic Visit Verification Claims With Informational Exceptions Warranted Additional Review but Were Not Reviewed**

Section 12006(a)(5)(A) of the Cures Act defines EVV with respect to PCS as a system under which visits conducted as part of such services are electronically verified with respect to:

(1) the type of service performed,
(2) the individual receiving the service,
(3) the date of the service,
(4) the location of service delivery,
(5) the individual providing the service, and
(6) the time the service began and ended.

After an in-home PCS visit has been entered into the State agency's EVV system, if the system identifies a problem with one or more of these six required data points, the EVV system notes an exception on the claim. There are two types of exceptions within the EVV system: critical exceptions and informational exceptions. A critical exception prevents a claim from being confirmed for billing and payment and must be remedied before the in-home PCS claim can be processed.[6] An informational exception does not prevent a claim from being confirmed for billing and payment, but it serves as a notice of some problem associated with the claim creation, which may warrant further investigation.[7] The State agency's EVV contractor's user manual specifies that the appropriate PCS provider is responsible for reviewing each claim for accuracy and approving the claim for billing.

For five in-home PCS net claim lines, the EVV system noted informational exceptions that warranted further review; however, the associated providers did not conduct any additional review of the in-home PCS visits that the system had noted as exceptions. Specifically, the EVV records for two in-home PCS net claim lines noted a location mismatch exception (check-in or check-out location did not match the enrollee's GPS location), EVV records for two in-home PCS net claim lines noted an unenrolled worker service exception (claims were for services that the service workers were not authorized to provide), and the EVV record for one in-home PCS net claim line noted an unauthorized phone number exception (claim was entered by a phone number that did not match an accepted phone number on file for that enrollee). These five in-home PCS net claim lines did not comply with the EVV requirements of the Cures Act and may indicate that the enrollees did not receive their required in-home PCS or even that the visits did not take place. The informational exceptions for these five in-home PCS net claim lines

---

[6] Examples of critical exceptions include: unauthorized claim (there is no authorization in the system for the enrollee to receive services), authorization exhausted (allowable units have been exhausted), and ineligible worker.

[7] Examples of informational exceptions include: unauthorized phone number (claim was filed by a phone number that does not match an accepted phone number on file for the enrollee), location mismatch (check-in or check-out location did not match the enrollee's GPS location), and unenrolled worker service (claim is for a service that the worker is not authorized to provide).

highlight problems with at least one of the six required data points for an in-home PCS claim in the EVV system and point to the possibility that at least some providers need to be trained in the proper treatment of informational exceptions.

**In-Home Personal Care Services Visits Submitted Through the Web Portal Could Not Be Electronically Verified**

The Cures Act mandates that an in-home PCS visit be electronically verified with respect to the six data points that are required to be captured, stored, and transmitted in the EVV system (section 12006(a)(5)(A)).

The State agency's EVV system allows providers to submit information on in-home PCS visits through a web portal. Information submitted in this manner, however, cannot be electronically verified with respect to the six required data points specified in section 12006(a)(5)(A) of the Cures Act. According to State agency officials, a provider makes a web portal entry when either the EVV system is not operational at the time of the visit, or the service worker could not or did not use the EVV system to enter and verify the in-home PCS visit. The State agency's EVV contractor's user manual specifies that any time a provider makes an edit to an existing visit in the EVV system, or adds information on a new visit via web portal, the provider should add notes to the text box on the claim, detailing the reason for the manual entry. However, the State agency does not have formal requirements governing providers' use of the web portal—that is, requirements covering the frequency with which a provider can use the web portal in a given period of time.

For four in-home PCS net claim lines, providers entered the in-home PCS visits into the EVV system via the web portal. Three of these in-home PCS net claim lines noted reasons, in the EVV documentation, for the use of the web portal.[8] For the in-home PCS net claim line that did not have notes detailing why the provider made the manual entry, we looked at a full month of in-home PCS visits for the enrollee and found that there were 29 EVV records created via web portal. None of those EVV records contained notes detailing the reason for manual entry. In addition, during our interviews with providers, they expressed concern that there is not a limit on the number of times a service worker can request that the provider make a manual entry. In-home PCS visits entered into the EVV system via the web portal were not real-time verifications that the in-home visits had occurred; rather, the providers entered the in-home visits into the EVV system after the fact, which increased the risk of inaccuracies in the claim.

**Electronic Visit Verification System Was Not Used To Record and Verify In-Home Visit**

Section 12006(a) of the Cures Act mandates that States implement EVV for all Medicaid PCS that require an in-home visit by a provider.

[8] Specifically, the reasons noted in the EVV documentation for these three in-home PCS net claim lines were as follows: the "checked-in" time feature was not operational, the app itself was not working, and the service worker's mobile phone was out of minutes.

Section 12006(a)(5)(A) of the Cures Act defines EVV with respect to PCS as a system under which visits conducted as part of such services are electronically verified with respect to the six data points that are required to be captured, stored, and transmitted in the EVV system.

For one in-home PCS net claim line, the service worker did not enter or verify the in-home PCS visit in the EVV system. Specifically, the service worker filled out a paper timesheet and the provider subsequently used that paper timesheet to directly enter the details of the in-home PCS visit into the billing system for payment. Accordingly, this in-home PCS visit was never recorded in the EVV system. When we asked about this circumstance, the provider responded that the EVV system was not used because service workers "really struggle" with clocking in and out of the EVV system. In light of this response, we note that practices that permit in-home PCS visits to be recorded and verified outside of the EVV system do not comply with the provisions of the Cures Act.

**Additional Electronic Visit Verification-Related Issues**

We identified additional issues with respect to the State agency's EVV system, as detailed below.

*In-Home Personal Care Services Claims Submitted Outside the Electronic Visit Verification System*

We identified two categories of EVV claims in which in-home PCS net claim lines can be submitted outside of the State agency's EVV system: corrected claims and claims that involve a single case agreement (SCA).[9] Claims submitted for billing and then rejected cannot be corrected within the State agency's EVV system. These corrected claims must be submitted outside of the EVV system through an MCO's claims portal. Claims that involved an SCA are paid at a different rate than the Medicaid floor rate.[10] The EVV system uses the Medicaid floor rate for in-home PCS claims; therefore, claims that involved SCAs were billed outside of the EVV system. For these reasons, in-home PCS claims in these two categories do not meet the requirements for use of the EVV system.

*Informational Exceptions Created Because the Scheduling Function in the Electronic Visit Verification System Was Not Used*

We found that the EVV record for every net claim line in our sample included an informational exception for event matching (i.e., the in-home PCS visit recorded did not match to a visit scheduled in the EVV system). Informational exceptions were thus created because the State

[9] An SCA is a one-time contract between an insurance company and an out-of-network provider to enable an enrollee to see that provider using their in-network benefits.

[10] In Medicaid managed care, a State agency establishes a rate schedule that identifies the floor rate for each type of service. The Medicaid floor rates are the minimum amounts that MCOs must pay to each service provider for each type of service.

agency did not require providers to use the scheduling function within the EVV system.[11] Because providers were not required to review or remedy informational exceptions before billing the MCOs for these services, many providers (as they confirmed to us) approved claims in bulk as long as there were no critical exceptions that required review. Because the EVV record for every in-home PCS net claim line would have had an informational exception, there was thus a risk that providers did not review any informational exceptions that may have needed to be addressed and remedied before the net claim lines were submitted to MCOs for payment.[12]

### The State Agency Had Not Implemented Edits To Ensure That Electronic Verification of In-Home Personal Care Services Visits Complied With the Cures Act

The EVV compliance issues and additional EVV-related issues we identified in implementation of the EVV system occurred because the State agency: (1) did not require providers to review claims for in-home PCS for relevant EVV system exceptions and then to correct those exceptions; (2) did not have procedures in place to prevent in-home PCS net claim lines from being submitted outside of the EVV system; and (3) did not require that providers use the scheduling function within the EVV system or else direct the EVV contractor to remove the corresponding exception for instances when the scheduling function is not required.

### Estimated Number of In-Home Personal Care Services Net Claim Lines That Did Not Comply With Federal Requirements

On the basis of our sample results, we estimate that for our audit period, 312,555 of the 3,524,923 in-home PCS net claim lines in our sampling frame (9 percent) did not comply with Federal and State EVV requirements (footnote 4).

## THE STATE AGENCY DID NOT ALWAYS COMPLY WITH FEDERAL AND STATE REQUIREMENTS WHEN CLAIMING IN-HOME PERSONAL CARE SERVICES

With respect to our second objective, the State agency did not always comply with Federal and State requirements when claiming in-home PCS. Specifically, 30 of the 105 in-home PCS net claim lines were at least partially unallowable because they had at least 1 of the errors shown earlier in Table 2 and discussed below (some in-home PCS net claim lines had more than 1 error).

---

[11] Event matching means that the EVV system matched a scheduled visit to an actual in-home PCS visit when it occurred.

[12] We discuss the relevant informational exceptions that we identified in “Electronic Visit Verification Claims With Informational Exceptions Warranted Additional Review but Were Not Reviewed” earlier in this report.

**Unallowable In-Home Personal Care Services Tasks Were Rendered**

Federal regulations state that a PSCP must reflect the services and supports that are important for the individual to meet the needs identified through an assessment of functional need, and must reflect what is important to the individual with regard to preferences for the delivery of such services and supports (42 CFR § 441.301(c)(2)).

For 20 in-home PCS net claim lines, the in-home PCS net claim line in each case listed at least 1 task that was not allowable under the provisions of the enrollee's PCSP. A PCSP typically lists specific approved tasks, the number of approved days per week for each task, and the time allotted for each task each day. We compared the tasks entered on the in-home PCS net claim line details to the tasks and time allowed under the provisions of each enrollee's PCSP to determine whether the services provided were allowable, and found that for these 20 in-home PCS net claim lines, at least 1 task was not allowable based on the PCSP. For example, one in-home PCS net claim line identified meal preparation as one of the two tasks performed. However, neither meal preparation nor eating/feeding was an allowable task according to the enrollee's PCSP.

**Background Screening for Service Workers Was Not Documented**

The State agency's HCBS waivers for PCS state: "All staff must be in compliance with the KDADS background check policy" (Application for 1915(c) HCBS Waiver: KS.4165.R06.00, Appendix C).

KDADS policy states that an individual who has applied to work as a service worker shall not render services to an HCBS waiver participant before receiving a clear background check (KDADS Standard Policy E2019-010(A)).

KDADS policy states that no Medicaid funds shall be used to pay a person before confirmation of a clear background check in accordance with the approved 1915(c) HCBS waivers (KDADS Standard Policy E2019-010(E)).

KDADS Standard Policy E2019-010(II)(B) states that the employer shall complete all of the following requirements for each prospective service worked before that individual begins their provisional employment:

- request a criminal record check through KDADS Health Occupations Credentialing,
- request a Child Abuse, Neglect, and Exploitation (ANE) check and an Adult ANE check through the Kansas Department for Children and Families,
- complete a license verification status check to the applicable credentialing entity,
- complete a driver's license check through the Kansas Department of Revenue, and

- complete an online database search for excluded individuals through the OIG.

This policy also states that the employer shall retain documentation, in the paid or unpaid service worker's file, showing that the background check has been requested or completed, before provisional employment can begin.

For eight in-home PCS net claim lines, the State agency either could not provide documentation that the background check had been completed, or provided incomplete background check documentation, for the associated service workers. Specifically, for six in-home PCS net claim lines, the State agency was unable to obtain from providers the supporting documentation showing that a background screening was completed. For the remaining two in-home PCS net claim lines, the providers furnished documentation of completed criminal background checks for the service workers but could not furnish the other documentation required by KDADS policy.

**Time Charged for In-Home Personal Care Services Tasks Was Excessive or Inaccurate**

Federal regulations state that a PCSP must prevent the provision of unnecessary or inappropriate services and supports (42 CFR § 441.301(c)(2)(xii)).

For four in-home PCS net claim lines, at least one task performed on the in-home PCS claim was allowable, but the time charged was either excessive or inaccurate. For example, one in-home PCS net claim line covering a 12-hour period identified shopping and laundry as the two tasks performed; however, the enrollee's PCSP allowed only 2 hours total per week for each of these tasks. Another in-home PCS net claim line covering a 5-hour 48-minute period identified bathing as the only task performed; however, according to the enrollee's PCSP, the time allowed for bathing was 15 minutes per day.

**Annual Needs Assessments Were Incomplete**

Federal regulations require that a PCSP be reviewed and revised upon reassessment of functional need as required, at least every 12 months, when the individual's circumstances or needs change significantly, or at the request of the individual (42 CFR § 441.301(c)(3)).

Functional assessments are tools that States, providers, and managed care plans use to collect information on persons applying for, and participants in, Medicaid HCBS programs. Functional assessments most commonly include addressing activities of daily living, instrumental activities of daily living, memory and cognition, psychosocial and behavioral issues, functional health (e.g., vision, hearing, communication), and health status.[13]

---

[13] We have drawn this descriptive information from "Functional Assessments and Quality Improvement," available online at https://www.medicaid.gov/medicaid/home-community-based-services/home-community-based-services-quality/functional-assessments-quality-improvement/index.html (accessed May 17, 2024).

As part of the functional assessment for an enrollee, the MCO completes a needs evaluation tool, which describes the specific in-home PCS tasks approved. This tool also details how many days each week each task should be completed and how many minutes are allowed per day for each individual task. The needs evaluation tool, as part of the functional assessment, must be completed before in-home PCS can be approved (42 CFR § 441.720(a)).

For two in-home PCS net claim lines, the State agency could not give us the required needs evaluation tool for the enrollee. The State agency said that the tool was not available because the documentation had not been uploaded into the care management system for retention. Therefore, the provider was unable to give the MCO or the State agency the applicable needs evaluation tool for these two in-home PCS net claim lines.

Without a needs evaluation tool that describes the specific required tasks to be completed for an enrollee, there is a risk that either an enrollee will not receive their required in-home PCS or that unallowable services are provided to the enrollee.

**The State Agency Did Not Have Edits To Verify Allowability of Tasks and Did Not Require Providers To Maintain Adequate Documentation To Support In-Home Personal Care Services**

The errors related to the unallowable in-home PCS tasks occurred primarily because the State agency did not have edits in its EVV system to verify that the tasks performed and recorded on the in-home PCS claim matched with the allowable tasks approved in the PCSP. In addition, with respect to the errors related to the incomplete background check and needs assessment documentation, the State agency had relevant policies and procedures in place but nevertheless did not require providers to maintain adequate documentation to support the in-home PCS claims.

**Estimated Number of Unallowable In-Home Personal Care Services Net Claim Lines**

On the basis of our sample results, we estimate that 984,214 of the 3,524,923 in-home PCS net claim lines in our sampling frame (28 percent) were not claimed in accordance with Federal and State requirements and thus were unallowable.

## RECOMMENDATIONS

We recommend that the Kansas Department of Health and Education:

- improve its EVV system by:
    - developing and implementing procedures to verify that in-home PCS claims are recorded and verified in its EVV system, and
    - implementing edits to verify that tasks recorded on in-home PCS claims match allowable tasks approved in the PCSP;

- improve its use of the EVV system by:
    - verifying that exceptions are reviewed and remedied,
    - requiring that providers use the scheduling function within the EVV system or else directing the EVV contractor to remove the corresponding exception for instances when the scheduling function is not used,
    - training providers on how to address and minimize the occurrence of informational exceptions, and
    - establishing formal requirements governing service workers' use of the web portal;
- verify that providers are complying with the State agency's established policies and procedures to maintain documentation showing that service workers are registered, screened, and employable pursuant to background check requirements; and
- verify that MCOs are complying with the State agency's established policies and procedures to complete and reassess functional needs assessments, including the needs evaluation tool, every 12 months, and upload these documents into the care management system for retention.

## STATE AGENCY COMMENTS

In written comments on our draft report, the State agency agreed with all of our recommendations and described corrective actions that it had taken or planned to take to address them.

The State agency's comments appear as Appendix G. The State agency also provided supporting documentation, to which we refer below but which we are not including in this final report because of the level of technical detail contained in that documentation.

### RECOMMENDATION THAT THE STATE AGENCY IMPROVE ITS ELECTRONIC VISIT VERIFICATION SYSTEM BY DEVELOPING AND IMPLEMENTING PROCEDURES AND BY IMPLEMENTING EDITS

The State agency agreed with the first part of our first recommendation and said that beginning in December 2023, it began matching paid claims for PCS services to visits captured in the EVV system. Currently, according to the State agency, this is a "manual ad hoc process conducted monthly," and providers that are "missing [a] minimum percentage of visits matching their claims transactions" are notified of noncompliance. The State agency also said that it was "working towards a January 2025 implementation date for claims processing in the EVV system." The State agency added that upon implementation, it would require all claims for services, under the EVV requirements identified in State policy, to be submitted through the

EVV system. "Any claim submitted for services covered under EVV policy that is not submitted through the EVV system will be denied. . . ."

The State agency agreed with the second part of our first recommendation and described steps it had taken to resolve it. The State agency said that "as part of the system updates that occurred at the end of calendar year 2023, tasks were reviewed and in place for all appropriate services. Provider training occurred in the use of activity lists and emphasizing the importance of the caregivers documenting at check-out the activities that were provided." The State agency added that service workers must select activity codes (in instances when those codes are required) or they will not be able to complete their check-out.

**RECOMMENDATION THAT THE STATE AGENCY IMPROVE ITS USE OF THE ELECTRONIC VISIT VERIFICATION SYSTEM**

The State agency agreed with the first part of our second recommendation, which dealt with verification that exceptions are reviewed and remedied. The State agency clarified in its comments that there are three (not two) types of exceptions in the EVV system: critical exceptions, informational exceptions, and noncompliant informational exceptions. This third type, according to the State agency, involves "exceptions that while they will not block a claim from being filed, will identify a non-compliant visit."[14] The State agency cited, as an example, an instance in which a service worker forgets their mobile phone at home and the provider administrator then has to manually enter the visit information. The State agency said that in such cases, it "does not want to prevent care from being delivered or the provider getting paid."

The State agency added that its goal, after the provider has attested to the visit, is "to track the number and type of non-compliant visits to determine if the provider exceeds the allowable threshold of non-compliant visits. If the provider exceeds the allowable threshold of non-compliant visits, the provider is notified and put on a corrective action plan."

The State agency agreed with the second part of our second recommendation, which dealt with providers' use of the scheduling function within the EVV system. The State agency added, though, that it has found that "it is not practical to expect the providers to use the scheduling system in the EVV system as they use their own scheduling tools. The state has an expectation of ongoing training with providers with the goal of teaching the process of clearing exceptions."

The State agency agreed with the third part of our second recommendation, which dealt with training providers on how to address and minimize the occurrence of informational exceptions,

[14] **Office of Inspector General Note**—In our draft report, we identified two types of exceptions in the EVV system: critical exceptions and informational exceptions. The EVV contractor's user manual identified and defined critical and informational exceptions, but it did not identify noncompliant informational exceptions as a type of exception. Additionally, in our review of the EVV system and the in-home PCS net claim lines in our sample, we identified only two types of exceptions: critical and informational. Accordingly, for this final report we continue to identify those two types of exceptions in our findings.

and said that it "has an expectation of ongoing training with providers to teach them the process of clearing exceptions." Furthermore, the State agency said that it "is evaluating the exceptions to determine if any of them need to move from being informational to [c]ritical exceptions." In addition, the State agency stated that "[d]espite provider pushback," it is tracking and reporting on noncompliant informational exceptions.

The State agency agreed with the fourth part of our second recommendation, which dealt with the establishment of formal requirements governing service workers' use of the web portal. The State agency said that service workers should not be users of the web portal and that "[t]he state can document this expectation in a policy." The State agency also stated that "providers should not establish user accounts capable of posting visit information for anyone who also has the expectation of providing care."[15]

### RECOMMENDATION THAT THE STATE AGENCY VERIFY THAT PROVIDERS ARE COMPLYING WITH THE STATE AGENCY'S POLICIES AND PROCEDURES REGARDING DOCUMENTATION OF SERVICE WORKER BACKGROUND CHECKS

The State agency agreed with our third recommendation and described steps it had taken or planned to take to address it. The State agency said that "[e]xpanding the EVV system caregiver [i.e., service worker] database is thought to be the most efficient way to address the qualifications issue in that it will create a robust database . . . [that] would allow caregivers to leverage their acceptance across providers should they choose to change providers or work for multiple providers." The State agency added that these data "could be added to the Data Warehouse extract and repository that is being [created] for EVV information," with a projected implementation (or "go-live") timeframe of December [2024].

### RECOMMENDATION THAT THE STATE AGENCY VERIFY THAT MANAGED CARE ORGANIZATIONS ARE COMPLYING WITH THE STATE AGENCY'S ESTABLISHED POLICIES AND PROCEDURES REGARDING FUNCTIONAL NEEDS ASSESSMENTS

The State agency agreed with our fourth recommendation and described steps it had taken or planned to take to address it. The State agency stated: "Authorizations are required for all services covered under EVV. Beginning in November [2024], authorizations . . . will include diagnosis codes in addition to the fundamentals of an authorization identifying the services, number of units, [enrollee], provider, and start and end dates."

[15] **Office of Inspector General Note**—For clarification, we did not identify any in-home PCS net claim lines in which the service worker was a user of the web portal and entered the EVV visit into the web portal themselves. Rather, for the four in-home PCS net claim lines we identified, the providers entered the EVV visit for the service workers, after the fact, into the web portal. Our recommendation related to providers establishing formal requirements governing service workers' use of the web portal, such as limiting the number of times per month a service worker can use the web portal (which was a provider concern that we addressed in the relevant finding) and requiring notes in the EVV claim documentation explaining why the web portal had been used.

In addition, according to the State agency, “[a]ssessments can be entered as an authorization and captured as a visit in the EVV system,” and “[o]nce the EVV data warehouse is established in December [2024], reporting can be created to identify any [enrollee] that has not had an assessment visit completed within a 12-month cycle.”

## APPENDIX A: AUDIT SCOPE AND METHODOLOGY

### SCOPE

Our audit period covered in-home PCS provided and paid during the period January 1, 2021, through April 30, 2022. We used claims data that the State agency gave us to perform our work.

We developed a sampling frame of 3,524,923 in-home PCS net claim lines with a total reimbursement of $317,099,542, from which we selected a stratified random sample of 105 net claim lines (footnote 3). We were granted access to the State agency's EVV system, from which we could review the details for in-home PCS net claim lines to determine whether the visit was completed and verified electronically in accordance with Federal and State requirements. In addition, we obtained and reviewed documentation for each in-home PCS net claim line to determine whether the services provided were allowable and adequately supported.

We assessed the control activities related to the State agency's administration of the EVV program, which included its oversight of the EVV system. Our assessment of these control activities included gaining an understanding of: (1) the responsibilities of the State agency, MCOs, providers, and PCS service workers within the EVV program; (2) the process whereby an EVV record would be created; and (3) where in the EVV system the documentation of each EVV record is maintained.

We conducted our audit work from November 2022 to June 2024.

### METHODOLOGY

To accomplish our objectives, we:

- reviewed applicable Federal and State requirements, the CMS *State Medicaid Manual*, the State agency's HCBS waivers, and the State agency's EVV program policies and procedures;

- held discussions with officials from the State agency and the EVV contractor to gain an understanding of the State's EVV program policies and procedures;

- held discussions with in-home PCS providers and MCO officials to gain an understanding of the EVV program and how in-home PCS claims are entered and processed in the EVV system;

- obtained from the State agency claims data for in-home PCS provided and paid for during the period January 1, 2021, through April 30, 2022;

- developed a sampling frame of 3,524,923 in-home PCS net claim lines with a total reimbursement of $317,099,542;

- selected a stratified random sample of 105 net claim lines and reviewed EVV system documentation and other supporting documentation for each in-home PCS net claim lines to determine whether:

    - in-home PCS net claim lines were entered and verified in the EVV system;

    - in-home PCS net claim lines included the six data points required by the Cures Act;

    - the EVV system identified exceptions for any in-home PCS net claim lines and whether those exceptions were addressed and remedied;

    - the in-home PCS rendered were allowable according to the enrollee's PCSP and whether the unit(s) charged complied with requirements;

    - each enrollee was eligible for in-home PCA services;

    - each enrollee's PCSP was supported by an assessment or annual reassessment, including a needs evaluation tool; and

    - background check documentation was maintained for service workers rendering in-home PCS services to enrollees;

- used the results of the sample to estimate (Appendix C) the number and percentage of in-home PCS net claim lines in our sampling frame for which we identified compliance issues in implementation of the EVV system;

- used the results of the sample to estimate (Appendix C) the number and percentage of in-home PCS net claim lines in our sampling frame for which we identified errors and determined that those net claim lines were not claimed in accordance with Federal and State requirements; and

- discussed the results of our audit with State agency officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## APPENDIX B: STATISTICAL SAMPLING METHODOLOGY

### SAMPLING FRAME

The sampling frame consisted of 3,524,923 in-home PCS net claim lines (footnote 3) with a total reimbursement of $317,099,542 during the period January 1, 2021, through April 30, 2022.

### SAMPLE UNIT

The sample unit was one in-home PCS net claim line.

### SAMPLE DESIGN AND SAMPLE SIZE

Our sample design was a stratified random sample containing three strata, as shown in Table 3:

**Table 3: Division of Strata for Sample Design**

| Stratum | MCO | Number of Frame Units | Frame Dollar Value (Total) | Sample Size |
|---|---|---|---|---|
| 1 | MCO-A | 859,419 | $77,910,250 | 35 |
| 2 | MCO-B | 1,296,521 | 116,148,542 | 35 |
| 3 | MCO-C | 1,368,983 | 123,040,750 | 35 |
| | **Total** | **3,524,923** | **$317,099,542** | **105** |

### SOURCE OF RANDOM NUMBERS

We generated the random numbers using the OIG, Office of Audit Services (OAS), statistical software.

### METHOD FOR SELECTING SAMPLE UNITS

We sorted items in each stratum by both ICN and FDOS fields (footnote 3) in ascending order. We then consecutively numbered the items in each stratum in the sampling frame. After generating the random numbers for each of these strata, we selected the corresponding frame items for review.

### ESTIMATION METHODOLOGY

We used the OIG, OAS, statistical software to estimate: (1) the number of in-home PCS net claim lines in the sampling frame with EVV compliance issues and (2) the number of in-home PCS net claim lines in the sampling frame that were not claimed in accordance with Federal and State requirements and thus were unallowable. For each characteristic, we calculated a point estimate and a two-sided 90-percent confidence interval (Appendix C).

## APPENDIX C: SAMPLE RESULTS AND ESTIMATES

### Table 4: Sample Results

| Stratum | Frame Size | Sample Size | Number of In-Home PCS Net Claim Lines With EVV Compliance Issues | Number of In-Home PCS Net Claim Lines With Errors (Unallowable) |
|---|---|---|---|---|
| 1 | 859,419 | 35 | 2 | 12 |
| 2 | 1,296,521 | 35 | 5 | 7 |
| 3 | 1,368,983 | 35 | 2 | 11 |
| **Total** | **3,524,923** | **105** | **9** | **30** |

### Table 5: Estimated Number of In-Home PCS Net Claim Lines in the Sampling Frame With EVV Compliance Issues and Estimated Number of In-Home PCS Net Claim Lines in the Sampling Frame With Errors (Unallowable)

(*Limits Calculated at the 90-Percent Confidence Level*)

| | Estimated Number of In-Home PCS Net Claim Lines With EVV Compliance Issues | Estimated Number of In-Home PCS Net Claim Lines With Errors (Unallowable) |
|---|---|---|
| Point estimate | 312,555 | 984,214 |
| Lower limit | 146,483 | 725,792 |
| Upper limit | 478,626 | 1,242,636 |

## APPENDIX D: FEDERAL AND STATE REQUIREMENTS FOR ELECTRONIC VISIT VERIFICATION AND PERSONAL CARE SERVICES

### FEDERAL REQUIREMENTS

#### Medicaid Home and Community-Based Services Waiver

The Act § 1915(c)(1) authorizes waivers for HCBS and states:

> The Secretary may by waiver provide that a State plan approved under this title may include as 'medical assistance' under such plan payment for part or all of the cost of home or community-based services . . . which are provided pursuant to a written plan of care to individuals with respect to whom there has been a determination that but for the provision of such services the individuals would require the level of care provided in a hospital or a nursing facility or intermediate care facility . . . the cost of which could be reimbursed under the State plan.

#### Electronic Visit Verification

Section 12006(a) of the Cures Act mandates that States implement EVV by January 1, 2020, for all Medicaid PCS that require an in-home visit by a service worker (footnote 2). This statute also provides that States that have not implemented by that date are subject to incremental FMAP reductions of up to 1 percent, unless the State has both made a good-faith effort to comply and has encountered unavoidable delays. Kansas requested and was approved for a 1-year good-faith-effort extension for PCS, which extended the deadline for it to implement EVV for PCS to January 1, 2021.

Section 12006(a)(5)(A) of the Cures Act defines EVV with respect to PCS as a system under which visits conducted as part of such services are electronically verified with respect to:

1. the type of service performed,
2. the individual receiving the service,
3. the date of the service,
4. the location of service delivery,
5. the individual providing the service, and
6. the time the service began and ended.

#### Personal Care Services

The Act authorizes PCS, which it defines as "services furnished to an individual . . . that are (A) authorized for the individual by a physician in accordance with a plan of treatment or (at the option of the State) otherwise authorized for the individual in accordance with a service plan approved by the State, (B) provided by an individual who is qualified to provide such services

and who is not a member of the individual's family, and (C) furnished in a home or other location" (the Act § 1905(a)(24)). Examples of PCS include, but are not limited to, meal preparation, shopping, grooming, and bathing.

Implementing Federal regulations state that PCS may be provided only to individuals who are not inpatients at a hospital or residents of a nursing facility, an intermediate care facility for individuals with intellectual disabilities, or an institution for mental disease (42 CFR § 440.167(a)).

Federal regulations state that a Medicaid enrollee's PCSP must reflect the services and supports that are important for the enrollee to meet the needs identified through an assessment of functional need, and must reflect what is important to the enrollee with regard to preferences for the delivery of such services and supports (42 CFR § 441.301(c)(2)).

Federal regulations state that a PCSP must prevent the provision of unnecessary or inappropriate services and supports (42 CFR § 441.301(c)(2)(xii)).

**STATE REQUIREMENTS**

The State agency's HCBS waivers for PCS state: "All staff must be in compliance with the KDADS background check policy" (Application for 1915(c) HCBS Waiver: KS.4165.R06.00, Appendix C).

KDADS policy states that an individual who has applied to work as a service worker shall not render services to an HCBS waiver participant before receiving a clear background check (KDADS Standard Policy E2019-010(A)).

KDADS policy states that no Medicaid funds shall be used to pay a person before confirmation of a clear background check in accordance with the approved 1915(c) HCBS waivers (KDADS Standard Policy E2019-010(E)).

KDADS Standard Policy E2019-010(II)(B) states that the employer shall complete all of the following requirements for each prospective service worked before that individual begins their provisional employment:

- request a criminal record check through KDADS Health Occupations Credentialing;
- request a Child ANE check and an Adult ANE check through the Kansas Department for Children and Families;
- complete a license verification status check to the applicable credentialing entity;
- complete a driver's license check through the Kansas Department of Revenue; and
- complete an online database search for excluded individuals through the OIG.

This policy also states that the employer shall retain documentation, in the paid or unpaid service worker's file, showing that the background check has been requested or completed before provisional employment can begin.

## APPENDIX E: SUMMARY OF ELECTRONIC VISIT VERIFICATION COMPLIANCE ISSUES FOR EACH IN-HOME PERSONAL CARE SERVICES NET CLAIM LINE

### Table 6: Electronic Visit Verification Compliance Issues Identified for Each In-home PCS Net Claim Line

| Sample Number | Stratum | Not Entered and Verified in EVV System | Exceptions Needing Review | Web Portal Entry |
|---|---|---|---|---|
| 1 | 1 | | | |
| 2 | 1 | | | |
| 3 | 1 | | | |
| 4 | 1 | | | |
| 5 | 1 | | | |
| 6 | 1 | | | |
| 7 | 1 | | | |
| 8 | 1 | | | |
| 9 | 1 | | | |
| 10 | 1 | | | |
| 11 | 1 | | | |
| 12 | 1 | | | |
| 13 | 1 | | | |
| 14 | 1 | | | |
| 15 | 1 | | | |
| 16 | 1 | | | |
| 17 | 1 | | | |
| 18 | 1 | | | X |
| 19 | 1 | | | |
| 20 | 1 | | | |
| 21 | 1 | | | |
| 22 | 1 | | | |
| 23 | 1 | | | |
| 24 | 1 | | | |
| 25 | 1 | | | |
| 26 | 1 | | | |
| 27 | 1 | | X | |
| 28 | 1 | | | |
| 29 | 1 | | | |
| 30 | 1 | | | |
| 31 | 1 | | | |
| 32 | 1 | | | |

| Sample Number | Stratum | Not Entered and Verified in EVV System | Exceptions Needing Review | Web Portal Entry |
|---|---|---|---|---|
| 33 | 1 | | | |
| 34 | 1 | | | |
| 35 | 1 | | | |
| 36 | 2 | | | |
| 37 | 2 | | | |
| 38 | 2 | | | |
| 39 | 2 | | | |
| 40 | 2 | | | |
| 41 | 2 | | | |
| 42 | 2 | | | |
| 43 | 2 | | | |
| 44 | 2 | | | |
| 45 | 2 | | | |
| 46 | 2 | | | |
| 47 | 2 | | | |
| 48 | 2 | | | X |
| 49 | 2 | | | |
| 50 | 2 | | | |
| 51 | 2 | | X | |
| 52 | 2 | | | |
| 53 | 2 | | | |
| 54 | 2 | | | |
| 55 | 2 | | | |
| 56 | 2 | | X | |
| 57 | 2 | | | |
| 58 | 2 | | | |
| 59 | 2 | | | |
| 60 | 2 | | | |
| 61 | 2 | | | |
| 62 | 2 | | | |
| 63 | 2 | | X | |
| 64 | 2 | | | X |
| 65 | 2 | | | |
| 66 | 2 | | | |
| 67 | 2 | | | |
| 68 | 2 | | | |
| 69 | 2 | | | |
| 70 | 2 | | | |

| Sample Number | Stratum | Not Entered and Verified in EVV System | Exceptions Needing Review | Web Portal Entry |
|---|---|---|---|---|
| 71 | 3 | | | |
| 72 | 3 | | | |
| 73 | 3 | | | |
| 74 | 3 | | | |
| 75 | 3 | | | |
| 76 | 3 | | | |
| 77 | 3 | | | |
| 78 | 3 | | | |
| 79 | 3 | | | |
| 80 | 3 | | | |
| 81 | 3 | | | |
| 82 | 3 | | | |
| 83 | 3 | | | |
| 84 | 3 | | | |
| 85 | 3 | | | |
| 86 | 3 | | | |
| 87 | 3 | | | |
| 88 | 3 | | | |
| 89 | 3 | | | |
| 90 | 3 | | | |
| 91 | 3 | X | | |
| 92 | 3 | | | |
| 93 | 3 | | X | X |
| 94 | 3 | | | |
| 95 | 3 | | | |
| 96 | 3 | | | |
| 97 | 3 | | | |
| 98 | 3 | | | |
| 99 | 3 | | | |
| 100 | 3 | | | |
| 101 | 3 | | | |
| 102 | 3 | | | |
| 103 | 3 | | | |
| 104 | 3 | | | |
| 105 | 3 | | | |
| **Totals** | **105** | **1** | **5** | **4** |

## APPENDIX F: SUMMARY OF ERRORS FOR EACH IN-HOME PERSONAL CARE SERVICES NET CLAIM LINE

### Table 7: Errors Identified for Each In-home PCS Net Claim Line

| Sample Number | Stratum | One or More Tasks Not Allowed Under the Provisions of the PCSP | Excessive or Inaccurate Time Charged on In-Home PCS Net Claim Line | Incomplete Annual Needs Assessment | Service Worker Background Check Not Provided or Incomplete |
|---|---|---|---|---|---|
| 1 | 1 | | | | X |
| 2 | 1 | | | | |
| 3 | 1 | | | | |
| 4 | 1 | | | | |
| 5 | 1 | | | | |
| 6 | 1 | | | | X |
| 7 | 1 | X | | | |
| 8 | 1 | | | | |
| 9 | 1 | | | | |
| 10 | 1 | | | | |
| 11 | 1 | | | | X |
| 12 | 1 | | X | | |
| 13 | 1 | | X | | |
| 14 | 1 | | | | X |
| 15 | 1 | | | | |
| 16 | 1 | | | | |
| 17 | 1 | | | | |
| 18 | 1 | | | X | |
| 19 | 1 | | | | |
| 20 | 1 | | | | |
| 21 | 1 | | | X | |
| 22 | 1 | | | | |
| 23 | 1 | X | | | |
| 24 | 1 | X | | | X |
| 25 | 1 | | | | |
| 26 | 1 | | | | |
| 27 | 1 | | | | |
| 28 | 1 | | | | |
| 29 | 1 | X | | | |
| 30 | 1 | | | | |
| 31 | 1 | | | | |

| Sample Number | Stratum | One or More Tasks Not Allowed Under the Provisions of the PCSP | Excessive or Inaccurate Time Charged on In-Home PCS Net Claim Line | Incomplete Annual Needs Assessment | Service Worker Background Check Not Provided or Incomplete |
|---|---|---|---|---|---|
| 32 | 1 | | | | |
| 33 | 1 | | | | |
| 34 | 1 | | | | |
| 35 | 1 | | | | |
| 36 | 2 | | | | |
| 37 | 2 | | | | |
| 38 | 2 | | | | |
| 39 | 2 | | | | |
| 40 | 2 | | | | |
| 41 | 2 | | | | |
| 42 | 2 | | | | |
| 43 | 2 | X | | | |
| 44 | 2 | | | | |
| 45 | 2 | | | | |
| 46 | 2 | X | | | |
| 47 | 2 | | | | |
| 48 | 2 | X | | | X |
| 49 | 2 | | | | |
| 50 | 2 | | | | |
| 51 | 2 | X | | | X |
| 52 | 2 | X | | | |
| 53 | 2 | | | | |
| 54 | 2 | | | | |
| 55 | 2 | | | | |
| 56 | 2 | | | | |
| 57 | 2 | | | | |
| 58 | 2 | | | | |
| 59 | 2 | | | | |
| 60 | 2 | | | | |
| 61 | 2 | | | | |
| 62 | 2 | X | | | |
| 63 | 2 | X | | | X |
| 64 | 2 | | | | |
| 65 | 2 | | | | |
| 66 | 2 | | | | |
| 67 | 2 | | | | |

| Sample Number | Stratum | One or More Tasks Not Allowed Under the Provisions of the PCSP | Excessive or Inaccurate Time Charged on In-Home PCS Net Claim Line | Incomplete Annual Needs Assessment | Service Worker Background Check Not Provided or Incomplete |
|---|---|---|---|---|---|
| 68 | 2 | | | | |
| 69 | 2 | | | | |
| 70 | 2 | | | | |
| 71 | 3 | | | | |
| 72 | 3 | | | | |
| 73 | 3 | | | | |
| 74 | 3 | | | | |
| 75 | 3 | | | | |
| 76 | 3 | | | | |
| 77 | 3 | X | | | |
| 78 | 3 | X | | | |
| 79 | 3 | | | | |
| 80 | 3 | | | | |
| 81 | 3 | | | | |
| 82 | 3 | X | | | |
| 83 | 3 | | | | |
| 84 | 3 | | X | | |
| 85 | 3 | X | | | |
| 86 | 3 | | | | |
| 87 | 3 | X | | | |
| 88 | 3 | X | | | |
| 89 | 3 | | | | |
| 90 | 3 | | | | |
| 91 | 3 | | | | |
| 92 | 3 | | | | |
| 93 | 3 | | | | |
| 94 | 3 | | | | |
| 95 | 3 | | | | |
| 96 | 3 | | | | |
| 97 | 3 | | | | |
| 98 | 3 | | X | | |
| 99 | 3 | | | | |
| 100 | 3 | | | | |
| 101 | 3 | X | | | |
| 102 | 3 | | | | |
| 103 | 3 | X | | | |

| Sample Number | Stratum | One or More Tasks Not Allowed Under the Provisions of the PCSP | Excessive or Inaccurate Time Charged on In-Home PCS Net Claim Line | Incomplete Annual Needs Assessment | Service Worker Background Check Not Provided or Incomplete |
|---|---|---|---|---|---|
| 104 | 3 | | | | |
| 105 | 3 | X | | | |
| **Totals** | **105** | **20** | **4** | **2** | **8** |

Division of Health Care Finance
Landon State Office Building
900 SW Jackson, Suite 900 N
Topeka, Kansas 66612-1220

Phone: 785-296-3981
Fax: 785-296-4813
www.kdheks.gov

Janet Stanek, Secretary

Laura Kelly, Governor

July 25, 2024

Mr. James I. Korn
Regional Inspector General for Audit Services
Region VII
601 East 12th St., Room 0429
Kansas City, MO 64106

Report Number: A-07-23-03255

RE: Response to HHS OIG KS EVV Audit

Dear Mr. Korn,

By email, you requested Kansas Department of Health and Environment (KDHE) to provide written comments within 30 days to the Office of Inspector General (OIG), draft report Kansas's Implemented Electronic Visit Verification System Could Be Improved.

Below, you will find the KDHE responses to each of your recommendations containing a statement of concurrences or nonconcurrence including a description of the action that has been taken or planned to resolve future in-home Personal Care Services Visits (PCS) claimed visits from not being recorded and submitted outside of the EVV system.

**Recommendations**

Improve the Kansas Department of Health and Environment's EVV system by:

- **Developing and implementing procedures to verify that in-home PCS claims are recorded and verified in its EVV system**

  **KDHE Response:** The state agrees with the recommendation and beginning in December 2023, the state began matching paid claims for both PCS- Home and Community Based Services (HCBS) and Home Health Care Services (HHCS) services to visits captured in the EVV system. Currently, this is a manual ad hoc process conducted monthly. Providers missing minimum percentage of visits matching their claims transactions are notified of non-compliance.

  The state is working towards a January 2025 implementation date for claims processing in the EVV

system. Upon implementation the state will require all claims for services, under the EVV requirements identified in state policy to be submitted through the EVV system. Any claim submitted for services covered under EVV policy that is not submitted through the EVV system will be denied through the MCOs front end billing edits and in KMMS. The EVV system claims originate from the visit data which pass through a rules engine prior to submittal. Claims and visits must be complete for submission.

Supporting Policy: E2023-103-A7

- **Implementing edits to verify that tasks recorded on in-home PCS claims match allowable tasks approved in the PCSP**

  **KDHE Response:** The state agrees. As part of the system updates that occurred at the end of calendar year 2023, tasks were reviewed and in place for all appropriate services. Provider training occurred in the use of activity lists and emphasizing the importance of the caregivers documenting at check-out the activities that were provided. When activity codes are required, caregivers must select the activity codes, or they will not be able to complete their check-out.

- **Verifying that exceptions are reviewed and remedied**

  **KDHE Response:** The state agrees with the following clarification. There are three types of exceptions in the EVV system.

  1. Critical Exceptions- exceptions that must be cleared to complete and submit a claim in the EVV system.

  2. Non-Compliant Informational Exceptions- exceptions that while they will not block a claim from being filed, will identify a non-compliant visit. An example is the caregiver forgetting their mobile phone at home and the provider administrator having to manually enter the visit information. The state does not want to prevent care from being delivered or the provider getting paid. The state's goal is to identify a claim as a non-compliant visit, allow the provider to attest to the visit and to track the number and type of non-compliant visits to determine if the provider exceeds the allowable threshold of non-compliant visits. If the provider exceeds the allowable threshold of non-compliant visits, the provider is notified and put on a corrective action plan.

  3. Informational Exceptions- exceptions that notify the provider of something related to the visit that needs to be paid attention to. An example is the number of units available on an authorization is low and they need to contact the MCO for either an updated or new authorization.

     Supporting Policy: E2023-103-A9

- **Requiring that providers use the scheduling function within the EVV system or else directing the EVV contractor to remove the corresponding exception for instances when the scheduling function is not used**

  **KDHE Response:** The state agrees. The state found it is not practical to expect the providers to use the scheduling system in the EVV system as they use their own scheduling tools. The state has an expectation of ongoing training with providers with the goal of teaching the process of clearing exceptions.

- **Training providers on how to address and minimize the occurrence of informational exceptions**

  **KDHE Response:** The state agrees. The state has an expectation of ongoing training with providers to teach them the process of clearing exceptions. The state is evaluating the exceptions to determine if any of them need to move from being informational to Critical exceptions. The state is making the distinction between informational and non-compliant informational exceptions. Despite provider pushback- the state is tracking and reporting on non-compliant informational exceptions.

- **Establishing formal requirements governing service workers' use of the web portal**

  **KDHE Response:** The state agrees. Service workers should not be users of the web portal. The state can document this expectation in a policy and providers should not establish user accounts capable of posting visit information for anyone who also has the expectation of providing care.

- **Verify that providers are complying with the State agency's established policies and procedures to maintain documentation showing that service workers are registered, screened, and employable pursuant to background check requirements**

  **KDHE Response:** The state agrees with the recommendation. Expanding the EVV system caregiver database is thought to be the most efficient way to address the qualifications issue in that it will create a robust database under and increase efficiencies for the providers and Managed Care Organizations. The qualifications database would allow caregivers to leverage their acceptance across providers should they choose to change providers or work for multiple providers. The data could be added to the Data Warehouse extract and repository that is being creating for EVV information (December go-live) thereby providing the ability to conduct extensive reporting across all elements of HCBS-PCS and HHCS care.

- **Verify that MCOs are complying with the State agency's established policies and procedures to complete and reassess functional needs assessments, including the needs evaluation tool, every 12 months, and upload these documents into the care management system for retention**

  **KDHE Response:** The state agrees. Authorizations are required for all services covered under EVV. Beginning in November, authorizations from MCOs will include diagnosis codes in addition to the fundamentals of an authorization identifying the services, number of units, member, provider, and start and end dates. Additional attachments can be included with an authorization. Authorization end dates require MCO review and provide updates for the care to continue. Observations, visit history and visit notes are available for MCOs to assist in building/updating the care plans.

  Assessments can be entered as an authorization and captured as a visit in the EVV system. The system can report the assessment visits from the system: by member, by provider, and by MCO. Once the EVV data warehouse is established in December, reporting can be created to identify any member that has not had an assessment visit completed within a 12-month cycle.

In addition to the above responses, the state has included the new EVV policies that support the KDHE responses to the OIG recommendations.

In closing, KDHE would like to express our appreciation to the auditors. Sincerely,

/s/ Christine Osterlund

Christine Osterlund
Deputy Secretary of Agency Integration and Medicaid
Kansas Department of Health and Environment
Division of Health Care Finance