



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

June 1, 2018

Rep. Jim Langevin
2077 Rayburn House Office Building
Washington, DC 20515

Rep. Steve Stivers
1022 Longworth House Office Building
Washington, DC 20515

Rep. Diana DeGette
2111 Rayburn House Office Building
Washington, DC 20515

Rep. Don Young
2314 Rayburn House Office Building
Washington, DC 20515

Dear Representatives Langevin, Stivers, DeGette and Young:

The thirty undersigned members of the Consortium for Citizens (CCD) are writing to express our support for H.R. 5912 that would delay the implementation of Electronic Visit Verification (EVV) by one year to January 1, 2020 and require the Center for Medicare and Medicaid Services (CMS) to engage in formal rulemaking with notice and comment.

CCD is a coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration, and inclusion of the approximately 57 million children and adults with disabilities in all aspects of society.

Designing and implementing an effective and thoughtful EVV program takes careful planning. States must design the EVV system, make changes to Medicaid documents and protocols, seek funding from their legislatures, purchase technology, engage stakeholders (as required by the statute), and educate and train consumers in using the EVV system, among other necessary steps to put a system in place. All of that should occur before EVV implementation begins. That is why, as part of the 21st Century Cures Act of 2016, Congress directed the CMS to issue guidance at least a year in advance of the implementation deadline of January 1, 2019.

Even with the recently released subregulatory guidance on May 16, 2018, there is still an alarming lack of clarity on a number of basic requirements of the EVV program less than eight months before the implementation deadline. A significant delay in implementation is needed to ensure that the privacy and civil rights of consumers are protected; that the administrative and financial burdens on service providers is neither onerous nor duplicative; and that states

are able to design and implement their EVV programs in a thoughtful, deliberative manner. Many states have been holding off on making key decisions about their EVV programs, awaiting the CMS subregulatory guidance. At this point, states simply do not have enough time before January 1, 2019 to implement effectively their EVV systems, particularly in light of the fact that many states have already missed their legislative cycles to seek funding for the upcoming budget year.

Rushed implementation of EVV to comply with the unrealistic January 1, 2019 deadline for personal care services ultimately hurts consumers. In the handful of states that have begun to implement EVV programs, serious consumer and worker privacy concerns have come to light. Such a delay with notice and comment would allow states to:

- work with CMS to resolve questions about EVV implementation and negotiate any necessary approvals to their Medicaid plans and waivers;
- work with their state legislatures to secure funding for the costs not covered by the federal match;
- allow for adequate participation by stakeholder groups as required by the 21st Century Cures Act;
- ensure that all consumers and direct support professionals understand how to use the EVV system that will be implemented;
- protect direct support professionals from having to change the systems and equipment they are using to implement EVV;
- design pilot programs and/or phased roll-outs of implementation; and
- assure that important education on fraud prevention is included in training and education.

Due to the time needed for states to appropriately design programs that meet the requirements and also respect the privacy rights of individuals being served, the undersigned members of CCD strongly support H.R. 5912. Given the time it will take to finalize regulations, we believe the bill could be improved if the delay were extended until one year after regulations are finalized. We look forward to working with you to secure its passage.

For questions or to discuss further, please contact Sarah Meek, Co-Chair of the Long-Term Services and Supports Task Force, at smeek@ancor.org.

Sincerely,

ACCSES
Allies for Independence
American Association of People with Disabilities

American Association on Health and Disability
American Civil Liberties Union
American Network of Community Options & Resources (ANCOR)
Association of Assistive Technology Act Programs
Association of University Centers on Disability
Autism Speaks
Autistic Self Advocacy Network
Bazelon Center for Mental Health Law
Brain Injury Association of America
Center for Public Representation
Disability Rights Education and Defense Fund (DREDF)
Easterseals
Epilepsy Foundation
Justice in Aging
Lutheran Services in America – Disability Network
National Association of Councils on Developmental Disabilities
National Association of State Directors of Developmental Disabilities Services
National Academy of Elder Law Attorneys
National Council on Aging
National Disability Institute
National Disability Rights Network
National Down Syndrome Congress
National Health Law Program
National Multiple Sclerosis Society
TASH
The Arc of the United States
The National Council on Independent Living (NCIL)

Cc: House Energy & Commerce Chair Walden
House Energy & Commerce Ranking Member Pallone
Speaker Ryan
Minority Leader Pelosi