



**CONSORTIUM FOR CITIZENS  
WITH DISABILITIES**

June 1, 2018

Sen. Lisa Murkowski  
522 Hart Senate Office Building  
Washington, DC 20510

Sen. Sherrod Brown  
713 Hart Senate Office Building  
Washington, DC 20510

Sen. Dianne Feinstein  
331 Hart Senate Office Building  
Washington, DC 20510

Sen. Amy Klobuchar  
302 Hart Senate Office Building  
Washington, DC 20510

Sen. Patty Murray  
154 Russell Senate Office Building  
Washington, DC 20510

Sen. Rob Portman  
448 Russell Senate Office Building  
Washington, DC 20510

Sen. Tina Smith  
309 Hart Senate Office Building  
Washington, DC 20510

Sen. Dan Sullivan  
702 Hart Senate Office Building  
Washington, DC 20510

Dear Senators Murkowski, Brown, Feinstein, Klobuchar, Murray, Portman, Smith and Sullivan:

The thirty undersigned members of the Consortium for Citizens (CCD) are writing to express our support for S. 2897 that would delay the implementation of Electronic Visit Verification (EVV) by one year 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 21<sup>st</sup> 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 21<sup>st</sup> 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 S. 2897. 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](mailto: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 Academy of Elder Law Attorneys

National Association of Councils on Developmental Disabilities

National Association of State Directors of Developmental Disabilities Services

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: Senate Finance Chair Orrin Hatch

Senate Finance Ranking Member Ron Wyden

Senate Majority Leader Mitch McConnell

Senate Minority Leader Chuck Schumer