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LD 2055, An Act to Prohibit the Department of Health and Human Services from Implementing Electronic Visit Verification for Hospice Providers Within the MaineCare Program Unless Mandated by the Federal Government
~Sponsored by Rep. Kristen Cloutier of Lewiston
January 9, 2024

Senator Baldacci, Representative Meyer, and members of the Joint Standing Committee on Health and Human Services, my name is Kenneth Albert, and I am a resident of Lewiston. Professionally, I am licensed in Maine as both a Registered Nurse and Attorney. I serve as the President and Chief Executive Officer of Androscoggin Home Healthcare & Hospice. We navigate health care at home, including hospice, for roughly 4000 patients per day across Maine. I also testify officially today as the Chairman of the Board of Directors for the National Association for Home Care & Hospice located in Washington D.C., which represents America's thirty-three thousand home health and hospice providers.

I'm here today to testify in support of LD 2055, and I wish to thank Rep. Cloutier for sponsoring this important bill.

"As Maine goes so goes the nation": A bellwether state for presidential elections, Maine held this distinction and reputation throughout the 1800s and early 1900s. Maine again attempts bellwether status by leading the way as the first state in the nation to require electronic visit verification (EVV) for hospice services in the manner that it has chosen. There are very good reasons that no other state requires EVV for hospice care like Maine would like, but despite being well informed, this administration remains resolute on implementing bad policy.

The 21st Century Cures Act, signed into law in 2016, requires that States implement EVV to verify Medicaid-funded personal care (by January 2020) and home health services (by January 2023) requiring an in-home visit by a provider.¹ States are authorized by the law to implement their own EVV design (electronic platforms and methodologies), however the systems employed must verify the following:

- Type of service being performed
- Individual receiving the service
- Date of service
- Location of service delivery
- Individual providing the service
- Time the service begins and ends

The primary intent behind EVV laws and regulations is to prevent fraud, waste and abuse (FWA). Based on how personal care and home health services are provided and paid, this approach makes perfect sense. Hospice care, however, is very unique among all health care services in the U.S. in the scope and breadth of care delivery design, and the mechanism for reimbursement. In fact, it is so unique and misaligned with EVV technology that Colorado, the

¹ Subsection I of Section 1903 of the Social Security Act (42 U.S.C. 1396b).

only other state to implement EVV for hospice (very different approach than Maine's intent), advises its providers as follows: "Due to the unique federally-mandated payment structure for hospice services, they are exempt from Pre-Payment Claim Adjudication, meaning EVV records do not have to be on file prior to billing in order [for Colorado] to pay. Hospice services are subject to compliance monitoring for over-payment review only."² Further, Colorado only uses this method for monitoring in-home hospice, waiving all other locations of care. Maine, however, will require EVV for payment, not for retroactive compliance like Colorado, and in all care locations.

Such policy makes no sense!

- It is not federally required, because the federal government – and every other state government – understands that EVV just doesn't work for hospice given how the hospice benefit is designed, and how it is reimbursed.
- Hospice providers use any number of electronic health records (EHR) on the market to assist in planning, delivering, documenting and billing for services. Not one of these technology platforms included EVV within their product: Why spend the money on research and development for something that is not required? As a result, Maine hospice providers have had to pay their technology providers to build EVV into their hospice platforms --- at high cost and with low investment. In fact, some EHR vendors still have not invested the engineering resources necessary.
- Maine does not have an issue for fraud, waster or abuse in general, and could not produce evidence in the realm of hospice when I asked.
- Hospice providers – unlike any other clinical service in America's health care delivery system - pay the total cost of all healthcare (direct care; pharmaceuticals; ambulance; emergency department; etc.). In return, they are reimbursed a daily rate, which is in no way related to the statutory elements of EVV.

Please vote in favor of LD 2055, requiring EVV in Maine for hospice services only in the event that it becomes federally required. Let's reverse the axiom in this instance: "As the nation goes so goes Maine".



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² <https://hcpf.colorado.gov/electronic-visit-verification-program-manual#hospice>