



EMPLOYER OF RECORD GUIDEBOOK

**Human Services Department
Medical Assistance Division
2021**

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IMPORTANT CONTACT INFORMATION

REPORT ABUSE, NEGLECT OR EXPLOITATION

**24-HOUR ABUSE, NEGLECT & EXPLOITATION
REPORTING HOTLINE
1-800-445-6242**

NEW MEXICO CRISIS AND ACCESS LINE

If you or a loved one is experiencing any kind of emotional crisis, mental health or substance use concern, you can find help 24 hours a day, seven days a week, by calling the New Mexico Crisis and Access Line or Peer to Peer Warmline.

Toll Free 1-855-662-7474
<https://www.nmcrisisline.com/>

CONDUENT- MEDICAID FINANCIAL MANAGEMENT AGENCY (FMA)

(State contractor that provides payment for the eligible participant's service providers and tracks participant's Mi Via expenses)

Toll Free 1-800-283-4465

PARTICIPANT NAME & PHONE NUMBER:

PARTICIPANT GUARDIAN NAME & PHONE NUMBER:

CONSULTANT NAME & PHONE NUMBER:

INTRODUCTION

Welcome to Mi Via!

You have been given this Guidebook because you are an Employer of Record (EOR) for a participant that is receiving Home and Community Based Services (HCBS) through a Medicaid self-directed waiver program called Mi Via.

What is Self-Direction?

Self-direction means that the participant and their designated circle of support can:

- Identify / choose which services under the Mi Via waiver program they want to use
- Access services/supports
- Manage their services, supports and goods to meet the participant's individualized needs.

The eligible participant decides:

- When services, supports and goods will be provided;
- Where these services, supports and goods will be provided;
- How they will be provided;
- Who will provide these services; and,
- Who will assist them with the planning and managing of their services, supports and goods.



RESOURCE: What is Self-Direction Fact Sheet
<https://nmhealth.org/publication/view/help/5016/>

The EOR Guidebook should be used as a reference to answer questions you may have and will help you start your journey in becoming an Employer of Record. You will find guidance and resources to help you understand your responsibilities as an EOR.

If you have any additional questions outside of what the Guidebook offers, you may contact the participant's Consultant or the Financial Management Agency (FMA) for assistance.

EOR OVERVIEW

What is an Employer of Record?

An Employer of Record (EOR) is the individual responsible for directing the work of Mi Via employees and vendors for Mi Via participants. The EOR is not paid. An EOR is the common law employer of workers who provide waiver services.

The EOR is responsible for:

- A. Finding Qualified Employees
- B. Finding Qualified Vendors. A Vendor can be a DOH approved provider or another agency that provides the service that you are looking for.
- C. Hiring Employees
- D. Setting Employee Pay Rates
- E. Training Employees and Vendors in accordance with Mi Via Service Standards.
- F. Setting Employee Work Schedules
- G. Approving Employee Timesheets and Vendor Payments

Although the EOR is an unpaid role, the EOR plays an important role in ensuring that the Mi Via participant gets their services and goods.



RESOURCE: Review Mi Via Self-Directed Waiver “Know Your Rights Campaign”

<https://nmhealth.org/about/ddsd/pgsv/sdw/#train>

Who can be an EOR?

- A Mi Via participant may be his or her own EOR unless the eligible participant is a minor or has an authorized representative (i.e. guardian) over financial matters in place.
- If the participant is not their own EOR, the EOR must be a legal representative of the recipient
- The EOR should be someone who knows the participant, is aware of the participant’s supports needs, and has an interest in ensuring that the participant gets their services and goods.

Persons interested in becoming an EOR must complete the Employer of Record packet to establish themselves as the EOR and to use the FMA for payroll and other employment related functions.

EOR RESPONSIBILITIES

A. Finding Qualified Employees and Vendors

Finding the right employees and vendors takes time. Plan accordingly and consider the following:

- What tasks need to be performed to meet the participant's individualized needs?
- Once the task is determined, what knowledge or skills does an employee or vendor need in order to complete the identified tasks?
- Based on Mi Via's allowed rates, what rate of pay is the participant willing to pay for a specific service?
- What are the required minimum qualifications and training based on the Service Standards for Employees and Vendors.

Use all the resources available and consider whether the participant wants to hire friends, family members, or look for employees.



Keep in mind that the cost of recruiting for service providers, such as placing advertisements in a newspaper, is the sole responsibility of the EOR and/or participant and there is no reimbursement for costs associated with recruiting or training service vendors.

Finding employees is the most important step in the hiring process. It is recommended that EORs consider the following steps before making final decisions to hire an employee:

1. Screen potential employees
2. Interview candidates
3. Check references



TIP: Recruiting is an ongoing activity. As the EOR directs services, the EOR will need to recruit employees that will be regularly scheduled and employees that will be used for back up purposes.

Screening Potential Employees

Screening potential employees will assist the EOR in finding the right people to meet the needs of the participant. Please remember that not all applicants will meet the participant's needs and should be taken off the EOR's list of potential employees if they are not a good fit.

When screening potential employees, consider the following:

- Is the individual at least 18 years of age?
- What hours is the potential employee able to work?
- What days can the potential employee work?
- Does the potential employee have a valid driver's license?
- Does the potential employee have experience providing supportive care?
- Is the potential employee prepared to complete the required online training for the service they are being considered for? (Are any accommodations necessary?)



RESOURCE: For a complete list of all requirements, visit <https://nmhealth.org/about/ddsd/pgsv/sdw/#stand>

Interviewing Candidates

Interviews are a common method of screening potential employees. Interviews are a good way to determine if potential employees are qualified for, and a good fit to provide the services needed.

Conducting an interview allows the EOR the time to assess the potential employee's ability to work with the participant. This time can be used to give the potential employees a job description and discuss the duties required in providing the service. Prepare a few interview questions in advance to allow a better flow and to keep you on task. Here are few examples:

- Tell me about your experience working with individuals with disabilities?
- What are your strengths?
- What are your weaknesses?
- Why do you want this job?

Obtain the candidate's understanding of the set rate of pay and advise that a criminal background check and fingerprinting must be completed if an offer is made and accepted.

Selecting Vendors

Interviews are an encouraged method of screening potential service vendors. EORs are encouraged to interview multiple vendors for the service that they are seeking.

Some examples of interview questions are below:

- How long has your agency been providing services?
- What feedback do you receive from individuals/families/guardians and can you provide me with references whom I may contact?
- How will the agency support my needs and what is important to me?



RESOURCE: Provider Selection Guide

<https://www.nmhealth.org/about/ddsd/pgsv/prvsel/guide/>

Reference Checks

If the EOR is unfamiliar with the work of a potential employee, the EOR may want to conduct a reference check. A reference check will provide the EOR with more information on the potential employee's work history and qualifications to perform job duties. To save time and effort during the hiring process, consider completing reference checks only for potential employees that the EOR intends to make a job offer to. Ask for references during the interview process.

Here are a few questions the EOR may use when checking references:

- Can you verify the candidate's employment, job title, and responsibilities?
- How do you know the candidate?
- What makes the candidate a good fit for this job?
- If you had the opportunity, would you re-hire this candidate?

Avoid any interview questions or reference checks related to age, gender, religion, race, ethnicity, or sexual orientation. As an employer, the EOR must abide by federal and state labor laws which protect individuals from discrimination. Questions of these sort cannot be legally asked.

B. Hiring Employees and Vendors

When the EOR is not the participant themselves, the EOR should consider how to best include the participant in the interview and final decisions. The participant's comfort level and choice must be considered when making final hiring decisions. A participant or EOR can choose to hire employees or vendors to provide services.

Once the potential employee has been chosen, the EOR will assist the potential employee with completing the paperwork that is required before the potential employee can start working for the participant. The following paperwork must be completed and submitted to the Financial Management Agency (FMA):

- ✓ Pre-hire Packet
- ✓ Employee Enrollment packet
- ✓ Fingerprint cards

Once a potential vendor has been chosen, the EOR will assist the potential vendor with completing the paperwork that is required before a potential vendor can start working for the participant. A provider is referred to as a vendor. The following paperwork must be completed and submitted to the Financial Management Agency (FMA):

- ✓ Vendor Forms

These documents are available from the FMA or the Consultant or on the New Mexico Medicaid Portal website:

<https://nmmedicaid.portal.conduent.com/static/ProviderInformation.htm#Self-DirectionForms>

Employee Packet

The Employee Packet is a set of documents that is reviewed by the FMA for all tax documents and is required to be completed by all employees that want to provide services to a participant.

What is included in the Employee Packet?

- i. Employee Information Form – This form will supply basic demographic information to the FMA to establish the employee's record in the FMA's database.
- ii. Employment Agreement – This document establishes the details agreed upon with each individual employee you have hired.

- iii. Self-Directed Provider Attestation Form – This form summarizes the Centers for Medicare and Medicaid Services (CMS) Settings Requirements for Home and Community Based Services (HCBS) Providers and your employee’s certification of its compliance.
- iv. Declaration of Relationship – Federal tax law contains exemptions from specific payroll tax withholdings based on certain familial relationships between you and the employee. Information provided on this form is used to properly apply the law.
- v. Federal W-4 Tax Withholding Form – This form notifies the FMA of the number of exemptions your employee will claim for Federal tax withholding purposes.
- vi. New Mexico State Withholding Form – This form notifies the FMA of the number of exemptions your employee will claim for State tax withholding purposes.
- vii. I-9 Employment Eligibility Verification Form – Both the participant/EOR and employee are responsible for completing this form. The employee is responsible for completing section 1. The participant is responsible for completing the information in Section 2. Both the participant/EOR and employee must sign the form. This form does not need to be returned to the FMA.
- viii. Direct Deposit Authorization (Recommended) – This form is completed if the employee prefers their checks to be deposited directly into their bank account.
- ix. Publication 797 Earned Income Credit (Optional) – Publication 797 provides the employee with information regarding the IRS Earned Income Credit. If the employee has read the publication and would like to receive earned income credit through their paycheck, the employee can contact the IRS or go to the IRS website (www.irs.gov) to receive form W-5.



TIP: One of the most common delays in employees and vendors starting work is incomplete paperwork. Ensure all required areas of the forms are completed prior to submitting the packet to the FMA. Keep a copy of the packet for your records and check with the FMA within 3-5 working days of submitting the packet to ensure they have received it.

The participant's consultant and the FMA can assist you by providing guidance on how to complete these forms.

Completed packets can be dropped off or mailed to the FMA at:

Mailing Address: Conduent
PO Box 27460
Albuquerque, NM 87125

Physical Address: 1720-A Randolph Road SE
Albuquerque, NM 87106

Email Address: docprocessing@conduent.com

Call Toll Free: 1-800-283-4465 Fax: 1-866-302-6787



CHECKPOINT: What and who is the Financial Management Agency?

The **Financial Management Agency (FMA)** is the state contractor that provides payment and completes payroll for the eligible participant's service providers and tracks participant's Mi Via expenses. The FMA is responsible for:

- Background Checks
- EOR enrollment
- Employee enrollment
- Processes employee payments
- Processes Vendor Payment
- Tracking Expenses
- Processing of tax related documents such as the W-2 and 1099.

Background Check

Before providing services, potential employees must complete a fingerprint-based background check and pass the New Mexico Consolidated On-line Registry (**NMCOR**) screening.

NMCOR Screening

NMCOR is the State's current list of individuals who have substantiated (proven)

- Abuse;
- Neglect; and,
- Exploitation cases involving a recipient of care or services from a provider.

This screening is completed by the FMA usually within 24 hours from receipt of the employee packet.



An employee may not begin working prior to the date he or she passes the NMCOR screenings and will not be paid for any services prior to this date.

Fingerprints

Potential employees must be fingerprinted and pass a criminal history background check. Below are automatic **DISQUALIFYING CONVICTIONS**.

- homicide;
- trafficking, or trafficking in controlled substances;
- kidnapping, false imprisonment, aggravated assault or aggravated battery;
- rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related felony sexual offenses;
- crimes involving adult abuse, neglect or financial exploitation;
- crimes involving child abuse or neglect;
- crimes involving robbery, larceny, extortion, burglary, fraud, forgery,
- embezzlement, credit card fraud, or receiving stolen property; or
- an attempt, solicitation, or conspiracy involving any of the felonies in this previously listed

The EOR will receive notification through email or phone from the FMA regarding the potential employee's background check. If the employee is:

✓ **CLEARED**; the potential employee may begin or continue working

OR

X DISQUALIFIED; the employee must immediately stop providing services effective the date the FMA receives notification. The FMA will notify the EOR and will unlink the employee from the budget.



TIP: If you live in a rural area, please contact the participant's consultant for fingerprinting alternatives.

C. Budget Planning

Based on the participant's identified needs, the EOR will work with the participant and their Consultant to keep the budget within the participant's approved Individual Budgetary Allotment (IBA). The IBA is the maximum budget amount established in the waiver for participant services and goods. One of these decisions is establishing pay rates to employees and vendors for services approved in the Mi Via budget.

When establishing pay rates for employees, it's helpful to:

1. Budget accordingly, and
2. Negotiate rates.

How to Budget Accordingly

Based on the participant's identified needs, the EOR will work with the participant and their Consultant to:

1. Keep rates within the Range of Rates, and
2. Keep the budget within the participant's approved Individual Budgetary Allotment (IBA). The IBA is the amount they are eligible for under the waiver program.

The participant's Consultant will assist in calculating total amounts for each service based on the participant's needs and the following:

- Frequency
- Duration
- Type of provider
- Cost
- Tax burden



REMINDER: Always consult the approved Range of Rates grid/table to ensure the rate of pay falls within the approved range.

Negotiating Rates

The EOR has the authority to negotiate rates on the behalf of the participant. The EOR can:

- Accept pay rates within the range of rates
- Decline pay rates
- Propose pay rates within the range of rates
- Negotiate pay rates for services and supports based on what the approved IBA allows and within the range of rates.

Good negotiating skills include:

- Knowing what the eligible participant's budget allows
- Understanding how hard or easy is to obtain providers for a service
- Obtaining and comparing quotes
- Taking your time to make an informed decision

When negotiating rates, arriving at a mutual agreement with the employee allows the participant to access quality services, goods and supports that are consistent with the eligible participant's identified needs. The EOR and participant are the only ones who can determine the rates.



RESOURCE: Mi Via Range of Rates and Service Codes
<https://nmhealth.org/publication/view/policy/3383/>

The employee can set up direct deposit and receive payment directly through their designated bank account.

D. Training and Managing Employees

Once the employee has completed each stage of the hiring process and everything is in place, the participant's employee can start working. The EOR will:

- Train employees;
- Recognize and Report Abuse, Neglect, & Exploitation;
- Prevent accidents in the workplace;
- Process Workers Compensation Claims; and
- Schedule Employees

Employee Pre-Service and Ongoing Training Requirements

The EOR works with the Consultant to enter themselves and employees in the DDSD training database. The database provides access to the online trainings, creates a transcript for employees and provides for the ability for EOR to track completion.

<http://www.cdd.unm.edu/other-disability-programs/disability-health-policy/index.html>

Training Employees

The EOR will work with the participant and the employee to ensure that the employee is providing services in the way that supports the participant's preferences and choices.

While training employees on required elements not provided through DDSD training database, the EOR:

- ✓ Provides detailed directions in a manner that can be easily understood;
- ✓ Explains the types of tasks that need to be performed;
- ✓ Uses helpful tools like a checklist and provides a copy to the employee;
- ✓ Makes sure the employees understand the tasks by asking them to demonstrate the task. If the task is not completed correctly, take a moment to provide clarification;
- ✓ Always sets clear expectations during initial and ongoing training. The EOR should not ask employees to do work outside of the approved SSP or outside the qualifications of the employee;
- ✓ ***Trains the employee to call 911*** in case of an emergency and provides instructions on what they should do while help arrives;

✓ Let's employee know of any health and safety concerns in the event of emergency. This is best reinforced by keeping a list of:

- Medical conditions
- Allergies
- Emergency contacts, such as doctors, specialist, and preferred hospital

Keep the list updated and readily available.



Training will occur when an employee is first hired as well as ongoing. Ongoing training will assist with setting and maintaining a routine as well as introducing changes to daily tasks. Trainings will be provided through the Department of Health and EOR or Provider Agency.

Recognizing and Reporting Abuse, Neglect and Exploitation (ANE)

Abuse, neglect and exploitation training is required for all EOR's, employees and vendors.

ABUSE is defined as knowingly, intentionally, and without justifiable cause inflicting physical pain, injury or mental anguish. This includes verbal, physical, sexual abuse, etc.

NEGLECT is defined as the failure of the caretaker to provide basic needs of a person, such as clothing, food, shelter, supervision, and care for the physical and mental health of that person. Neglect causes or is likely to cause harm to a person.

EXPLOITATION is defined as an unjust or improper use of a person's money or property for another person's profit or advantage, financial, or otherwise.

If the EOR suspects that abuse, neglect or exploitation is occurring, the EOR must ensure that the eligible participant is safe and out of harm's way. Then, the EOR must immediately report the incident.

Keep the eligible participant safe prior to reporting:

- Seek medical attention when the eligible participant has injuries or other medical needs;
- Contact law enforcement if you have reason to believe a crime was committed;
- Obtain/provide first aid;
- Protect the eligible participant from hazards in their environment and
- Make sure that accused individuals do not have contact with the eligible participant.

As soon as the EOR has ensured that immediate safety needs are addressed, the EOR is required by NM Administrative Code NMAC 7.1.14 to call the ANE Hotline.

**24-HOUR ANE REPORTING HOTLINE
1-800-445-6242**

OTHER REPORTABLE INCIDENTS:

The EOR is also responsible to report beyond abuse, neglect and exploitation:

- **DEATH:** All participant deaths, whether expected or not must be reported.
- **SUSPICIOUS INJURIES:** Unexplained serious injuries or multiple bruises, cuts, abrasions.
- **ENVIRONMENTAL HAZARD:** A condition in the physical environment which creates an immediate threat to the participant's health and safety.



When in doubt, report. You may remain anonymous if you choose.



RESOURCE: Abuse, Neglect and Exploitation Online Training

<http://www.cdd.unm.edu/other-disability-programs/disability-health-policy/ddsd-courses/index.html>



RESOURCE: Abuse, Neglect and Exploitation Online Reporting System

<https://ane.health.state.nm.us/welcome.aspx>



RESOURCE: Abuse, Neglect and Exploitation Reporting Form

<https://ane.health.state.nm.us/docs/2020ANEFORM.pdf>

E. Scheduling Employees

The EOR will establish a mutually agreeable schedule with employees. Please keep in mind that the EOR's main concern is to access the services that the eligible participant needs in order to be healthy and safe.

When scheduling employees, setting expectations of open communication will prevent employees from calling in late or not showing up to work at all. This will allow the EOR to find the gaps and fill them in with another employee.

Employees should call the EOR in the event of:

- Illness;
- Emergencies; and
- Any other instance that prevents them from coming to work or arriving on time

Creating a Backup Plan for Planned and Unplanned Events

A backup plan is an alternate plan to cover unforeseen circumstances as well as planned events when the employee cannot work their regular schedule for:

- Unforeseen events can be illness or emergencies.
- Planned events can be holidays, planned vacations.

The backup plan should include:

- ✓ Paid and unpaid supports that will be available to provide services when regular scheduled employees cannot work
- ✓ A list of family members, neighbors, friends, or any other paid provider

The list should include:

- The name of the individual;
- Contact number;

- The service for which they will be utilized; and
- Dates/times they are available to assist.

The Consultant will work with the participant and EOR on a backup plan.

F. Authorizing Timesheets and Payments

The EOR also has responsibility to manage employees and service records. This includes approving timesheets, signing payment request forms (PRFs), safeguarding protected health information, tracking expenses, keeping employee and vendor files, etc. Communicating with the FMA and correcting issues in a timely manner will ensure employees and vendors are paid correctly and on time.



TIP: A successful EOR is an organized EOR.

Stay organized:

- ✓ Keep a calendar with important due dates and deadlines such as when timesheets must be entered and approved, when vendor Payment Request Forms (PRFs) are due and must be approved
- ✓ Establishing a filing system for PRFs and invoices
- ✓ Keep a journal with notes related to EOR duties

Access to the FMA online system

Prior to entering and approving timesheets online, the EOR must have access to the FMA online system. To get access:

1. Send a request to the FMA for access to the FMA online system
2. Create a username and password
3. Complete the FMA online system training

The EOR will need to go through the "Charge Entry and Charge Review" training. There will be a quiz at the end that needs to be completed before the EOR is granted access to FMA online system.

After completing the required training and quiz, all FMA online system menu options for employers will become available.



RESOURCE: You will be provided with the weblink to the FMA online system, instructions on how to access and use the system including usernames and passwords.

Approving Timesheets

Timesheets: used to pay for services provided by hourly employees. **Timesheets are entered and approved in the FMA online system.**

The EOR is responsible for:

- Ensuring that employees are paid correctly and on time;
- Reviewing timesheets carefully to ensure the hours reported are the hours worked; and,
- Ensuring that the employee is not working more than the authorized hours and the time worked does not overlap or become duplicated.

Timesheets are submitted and processed on a two-week pay schedule. Reviewing and approving timesheets accordingly will prevent delay in payment.

Approving Payment Requests Forms

Payment Request Forms (PRFs): used to pay for one-time and ongoing vendor services. These services may include:

- Ongoing therapies
- One-time purchases for related goods
- Monthly fees and memberships

Vendors will submit a PRF to the EOR for review and signature. Once the EOR has reviewed, approved and signed the PRF, the EOR must submit the PRF to the FMA for processing. Payment requests cannot be submitted through the FMA online system, but they can be dropped off, mailed or faxed.

PRFs and invoices may be submitted to the FMA on any day of the week and are processed in approximately 2 weeks. The EOR will be:

- Completing;
- Signing and
- Submitting PRFs

Make sure that the service the EOR is requesting payment for has been provided. Do not sign PRFs that are blank or pre-dated.

Payment requests must:

- Fall within the approved SSP/budget year;
- Match the approved budget amount for the service/good and
- Be signed and dated accordingly

The FMA will mail the vendor check to the EOR and the EOR will forward the check to the vendor as soon as possible to ensure prompt payment. The vendor can also set up direct deposit and receive payment directly through their designated bank account.

Although PRFs and invoices are submitted to the FMA for processing, the EOR will have access in FMA online system to review payments and monitor them as they are being processed.



TIPS: A copy of the PRF and the current payroll schedule can be found in FMA online system under “Forms”- “General Materials”. Use this information to identify when pay periods start and end and when employees will get paid. The EOR may want to provide a copy of the payroll schedule to employees and add the timelines to your calendar.

Incorrect and/or Incomplete Timesheets and PRFs

If a timesheet or invoice is submitted to the FMA and it does not contain the appropriate signatures or information, the FMA will contact the EOR to notify that payment could not be made. If the FMA is not able to contact the EOR via phone call, the FMA will send an e-mail and will copy the eligible participant’s consultant. If the EOR does not have an e-mail address in FMA online system, the FMA will send an e-mail to the consultant regarding the details. The consultant will contact the EOR for further actions.

If the EOR is notified of an incorrect or incomplete timesheet or PRF, the EOR will need to:

1. Gather or correct the information requested by the FMA (example: copy of an invoice or receipt from the vendor, correct amount requested, etc.)
2. Submit the corrected PRF or requested information to the FMA by dropping it off, fax or by mail



CHECKPOINT: Who can sign timesheets and PRFs?

Only an EOR may approve employee timesheets and PRFs unless the eligible participant has vendors only and has selected to have an Authorized Signer instead of an EOR.

Timesheets and PRFs Safeguards

When the EOR approves a timesheet or signs a PRF, they are certifying that the service has been provided. A timesheet and/or PRF must only be signed by the EOR after the service has been provided.

The employees or vendors should not request that the EOR provide them with pre-signed forms.

If a vendor requests a signed PRF prior to rendering services, remind them of this requirement and do not provide a vendor with a signed, but otherwise blank PRF. This is considered **Medicaid Fraud** and can result in:

- Technical assistance;
- Fraud referral to Office of the Inspector General (OIG); and
- Termination from the program.

The Human Services Department (HSD) will refer cases related to Medicaid Fraud to the Office of Inspector General (OIG) for investigation.

Timely-Filing Requirements

All payment requests forms must be submitted within 90-days of the date the service was provided.

If timesheets or invoices are submitted more than 90 days after the service has been provided, payment will not be processed and the EOR will be notified.

Electronic Visit Verification (EVV)

EVV (Electronic Visit Verification) is a telephone and computer-based system that:

- Electronically verifies that the direct care worker visits occur; and
- Documents the time the service begins and ends.

EVV is required by the 21st Century Cures Act that was enacted by Congress in December 2016 and mandates that states require EVV use for Medicaid-funded Personal Care Services (PCS) and Home Health Care Services (HHCS) for in-home visits by a provider.

EVV data will assist both providers' and the State's efforts to protect the health and safety of Medicaid recipients who use these services.

EVV collects:

- Type of service;
- Individual receiving service;
- Date of service;
- Location of service;
- Individual providing service; and,
- Time service begins and ends.

EVV does not restrict the location in which a service is delivered.

The State of New Mexico has partnered with Fiserv, also known as Authenticare, and Palco for a comprehensive EVV platform.

Mi Via Waiver Services that require EVV are:

- **Homemaker**
- **Respite**
- **In-Home Living Supports**

Employees who provide these services, must clock in and clock out using either:

- 1) Authenticare Interactive Voice Recognition System (IVR); or
- 2) Authenticare Mobile Application

The IVR System, also called Telephony, allows employees to call in from any landline phone to clock in and clock out their time. The Mobile Application that can be downloaded on an employee's phone. Employees use this mobile app to clock in and clock out. The clock in and clock out information captured through the IVR or mobile app are transmitted to the FMA online system. The EOR then reviews, verifies, and approves the time of the employees. If employed by an agency, instead of the EOR, the agency will verify and approve the employees time.



RESOURCE: EVV INFORMATION

- HSD Medicaid Portal: <https://nmmedicaid.portal.conduent.com/static/ProviderInformation.htm#Palco-Welcome>
- Palco Website: <https://palcofirst.com/new-mexico/>

G. Monitoring Provision of Services and Expenses

On a monthly basis, whether telephonically or in person, the participant will meet with the consultant to ensure services and supports are meeting the eligible participant's needs. The consultant will review the budget, what has been spent and what funds have not been spent or "overutilized" or "underutilized."

Overutilization is when the approved services and supports are used excessively or too much resulting in the eligible participant's budget depleting or running out quicker than expected.

Underutilization is when the approved services and supports are used too little.

Both, over or underutilization, are signs of improper monitoring and implementation of funds.

Overutilization causes gaps in services by the end of the year and natural supports must be accessed to fill in these gaps. Usually, if there are funds available in other areas, a revision can be submitted to help fill in gaps.

Underutilization of services and supports can put the eligible participant at risk if the eligible participant's needs are not met. Keep in mind that funds are allocated because there are identified needs associated with health and safety. If the services are not used, needs might go unmet.



TIPS: The EOR can use FMA online system to run spending reports as often as needed. The EOR also can review claims and pending charges. Monitoring the participant's spending closely will allow the participant to plan and adjust accordingly.

When monitoring services and expenses:

- ✓ Ensure that employees are providing the services they were hired for.
- ✓ Review timesheets to ensure the right number of hours are being reported for the specific period that is being submitting.
- ✓ Ensure PRFs have the proper cost for the proper service as approved.
- ✓ Do not let employees work more hours than what has been approved.
- ✓ Do not pre-sign or pre-date PRFs for services that have not yet been provided.

PREVENTING ACCIDENTS IN THE WORKPLACE

Every employer should provide a safe environment for the individuals they support and their employees. A few things on preventing injury are listed below:

- Be aware of any dangers in the eligible participant's home that might contribute to accidents and injuries.
- This also includes providing employees with the tools needed to perform tasks in a safely manner.
- If the eligible participant uses any durable medical equipment, make sure that employees are trained in the proper use of them, as well as maintaining and properly cleaning the equipment.
- During transfers, ensure the proper number of employees are involved to complete safe transfers.
- Remove any barriers that would contribute to falls (such as small rugs, extension cords, slippery floors, etc.)
- Ensure employees wear proper clothing to complete the assigned tasks, this might include wearing non-slip shoes.
- Provide training materials in proper lifting and moving techniques.

Workers Compensation Claims

Workers Compensation is available for injured employees through coverage provided by the FMA. Seek assistance and guidance from the FMA as needed.

If an employee needs to file a Workers Compensation Claim:

1. The EOR or employee will first contact Cress Agency at 505-938-2424.
2. Cress Agency will send the EOR a First Report of Entry form.
3. This form will need to be filled out completely by the EOR and employee.
4. Once the First Entry form is filled out, it must be sent to New Mexico Mutual. New Mexico Mutual is the insurance company that the workers compensation claim is filed through.
5. New Mexico Mutual will assign an individual adjuster to the claim.
6. The adjuster will contact the employee and the EOR to confirm the incident.
7. If the employee has been off work for more than 2 weeks, workers compensation payments will begin.
8. Any medical bills will need to be sent to the adjuster.



RESOURCE: Workers Compensation Claims

- Cress Agency
Phone 505-938-2424 or 505-938-2416
- New Mexico Mutual
Phone: 505-345-7260 or
Fax: 505-345-0656
Email: nmmclaims@newmexicomutual.com

MEDICAID FRAUD, WASTE & ABUSE

Records, timesheets and PRFs can be reviewed and audited at any time.

EORs and the employees must adhere to the program rules and requirements to avoid suspicion of fraudulent activity.

Examples of what can be considered Medicaid Fraud, Waste and Abuse:

- Approving timesheets or PRFs for time or services not rendered.
- Utilizing FMA checks to purchase goods that are not approved in the budget.
- Altering employee/vendor payment checks.
- Paying for services or goods that violate Federal or State statues, rules or guidance.
- Paying for services or goods for someone else other than the eligible participant.
- Forging signatures in timesheets or PRFs.
- Claiming services while the eligible participant is in the hospital, nursing home, rehabilitation facility, etc.

HSD will refer cases related to Medicaid fraud to the OIG for investigation. False claims have federal and civil penalties and fines.



The EOR holds significant responsibility to prevent abuse of the eligible participant's funds.

PROPERLY STORING SERVICE RECORDS

As an EOR it is important to keep records that show that services have been provided as outlined in the SSP and Budget. The Mi Via program rules require that every EOR maintains records for a minimum of 6 years from the first date of service.

Important documents to keep include but are not limited to:

- Approved SSP and Budget;
- Copies of signed Employee and Vendor Agreements;
- Copies of invoices, PRFs, mileage sheets, or timesheets;
- Receipts for goods purchased;
- Daily progress notes; and
- Attendance logs.

These documents are needed to complete EOR responsibilities and may also be requested by the Human Services Department (HSD) or Department of Health (DOH) during program audits. In addition, the EOR must protect employee's privacy and confidentiality. The EOR must have a secure place to store paper and electronic files and keep them accessible in case they are needed.



TIPS: Making one file for each employee will help the EOR with organization.

HIPAA and Protected Health Information (PHI)

HIPAA stands for Health Insurance Portability and Accountability Act. HIPAA was passed in 1996. The purpose of HIPAA was to:

- Set national standards for the protection of health information and improve healthcare delivery
- Sets basic privacy protections for individuals.

There are two parts to HIPAA:

1. The Privacy Rule

The Privacy Rule created protections for protected health information (PHI) held by covered entities. Examples of covered entities are health care providers such as NMDOH, or healthcare plans, etc.

The Privacy Rule ensures that an individual's PHI is only shared on a need to know basis.

The Privacy Rule protects health information in all forms:

- Electronic
- Verbal
- Written

2. The Security Rule

The Security Rule is a set of guidelines protecting PHI that is created, received, maintained or transmitted electronically by covered entities.

The Security Rule includes:

- Administrative safeguards
- Physical safeguards
- Technical safeguards

These covered entities should be used to ensure the confidentiality, integrity, an availability of electronic protected health information.



CHECKPOINT: What is considered protected health information (PHI)?

PHI is information that identifies, or could be used to identify a participant, either by itself or when combined with other information. Examples of PHI include but are not limited to:

- Name
- Address
- Social Security
- Telephone number
- Email
- Dates such as date of birth, admission date, discharge date
- Medicaid record number
- Health plan account numbers

How to Protect PHI

Spoken Communication

- Watch what you say, where you say it, and to whom.
- Close doors when discussing private information.
- Do not talk about health information matters in front of others.
- If someone asks you a question involving personal information, make sure that person has a “need to know” before answering.

Telephone Communication

- Do not leave messages on answering machines or voicemail with health information.
- When talking on the phone, be aware of who can overhear your conversation.

Medical Records

- Make sure medical records are viewed only by those who need to see them.
- Store them in an area not easily accessible to non-essential staff/others.
- Do not leave medical records lying around unattended or in an area where others can see them.
- Don't leave files on car seats; lock them in the trunk.

Trash

- Shred all papers containing personal health information.

- Put trash cans and shredders as close as possible to fax machines and desks where personal health information is used.

Fax Transmissions

- Do not leave papers containing private information on the fax machine.
- Pre-program frequently faxed numbers into the fax machine to reduce errors.
- If possible, notify the receiver when you are sending a fax.

Computers

- Develop a personal password which is hard to guess and change it as instructed.
- Position your monitor so it is not facing where someone could view identifiable health information.
- Never leave a computer unattended without logging off.
- Double-check the address before sending any e-mail.
- Do not send confidential information via e-mail. Consider searching for a free system/software which allows secure or encrypted e-mails.

DEFINITIONS

Authorized annual budget (AAB): The total approved annual amount of the eligible participant's Mi Via services and goods.

Back Up Plan: A backup plan lists who the EOR will contact in an emergency or if a regularly scheduled employee is unable to report to work. The Emergency Back-Up Plan is mandatory and must be completed in the SSP.

Consultant Provider: The agency or an individual of the eligible participant that provides consultant and support guide services to you. The consultant agency will assist the eligible participant in arranging for, directing and managing the Mi Via services and support, as well as developing, implementing and monitoring the services and support plan.

Consultant: Consultants assist the eligible participants every aspect of the Mi Via program. The extent of assistance is based upon each individual eligible participant needs and may include (but is not limited to) EOR responsibilities, identifying resources, understanding covered supports, services, and goods, developing a comprehensive SSP/budget and submitting it to the TPA, among others.

Department of Health (DOH): Operates the Mi Via program.

Employer of Record (EOR): The assigned individual that is responsible for directing the work of the employees. The EOR is responsible for recruiting, hiring, managing and terminating all employees as appropriate. The EOR is responsible for directing the work of any vendors contracted to perform services. The EOR tracks expenditures for employee payroll, goods, and services. EORs authorize the payment of timesheets by the FMA.

Electronic Visit Verification (EVV): A telephone and computer-based system that electronically verifies that the direct care worker visits occur and documents the time the service begins and ends.

Employee: person who is employed by the EOR and provides services to the eligible participant. In order to provide services to an eligible participant and receive payment for delivered services, the employee must meet qualifications set forth in the waiver, regulations and standards; complete and sign an employee agreement and all required tax documents.

Employer Authority: The Employer of Record (EOR) is the employer of service providers and vendors. The FMA serves as the eligible participant's agent in conducting payroll and other employer-related responsibilities that are required by Federal and State law.

Financial management agency (FMA): The state contractor that provide payment for Mi Via service providers and track the expenses.

Human Services Department (HSD): Administers the Mi Via program.

Participant: The individual who meets medical and financial eligibility and is approved to receive services through the Mi Via program.

Payment Request Form (PRF): The form that an EOR completes, signs and submits to the FMA for vendor payments. These may be for one-time purchases or ongoing services.

Person-Centered Planning: A way to help the eligible participant plan their services and supports to live a full life in the community. The eligible participant's plan is written in his or her words, and says what her or her goals, preferences, and interests are. There are four steps in the person-centered thinking, person-centered planning and person-centered practice process:

1. Assessment
2. Person-centered planning meetings
3. Writing the plan
4. Reviewing the plan

Self-direction: Participants have decision-making authority over Waiver services and take direct responsibility to manage their services within a system of available supports.

Service and support plan (SSP): The plan that includes the Mi Via services that meet the eligible participant's individualized needs.

Timesheet: Reported worked hours for each employee. Timesheets lists the dates and times worked and must be approved by the EOR for payment.

Vendor: A vendor is employed by and provides services to the eligible participant. In order to provide services and receive payment for delivered services, the vendor must meet qualifications set forth in the waiver, regulations and standards and complete and sign a vendor agreement and all required tax documents.

ADDITIONAL RESOURCES



Mi Via Service Standards:

<https://nmhealth.org/about/ddsd/pgsv/sdw/#stand>



The New Mexico Administrative Code for Mi Via Home and Community-Based Services Waiver:

https://www.hsd.state.nm.us/wp-content/uploads/files/Providers/New%20Mexico%20Administrative%20Code%20Program%20Rules%20and%20Billing/NMAC%20Program%20Rules/Chapter%20314/8_314_6.pdf



Mi Via Self-Directed Waiver:

<https://nmhealth.org/about/ddsd/pgsv/sdw/#train>



Self-Direction FMA Forms (Mi Via & Self-Directed Community Benefit):

Medicaid Portal:

<https://nmmedicaid.portal.conduent.com/static/ProviderInformation.htm#Self-DirectionForms>

Palco Website: <https://palcofirst.com/new-mexico/>