

# The Home Care **Fair Billing** Coalition

Banning Alien Billing Mandates: Ensuring EVV  
Accuracy, Medicaid Compliant Billings

**Testimony for the  
Joint Legislative Budget Health Hearing**

**January 23, 2024  
9:30AM**

Honorable Chairs and Members of the Senate and Assembly Health Committees, Senate Finance Committee and Assembly Ways & Means Committee on behalf of the Home Care Fair Billing Coalition (HCFBC), thank you for the opportunity to submit testimony related to our priorities for the SFY 2024-25 State Budget.

## **HCFBC**

The HCFBC was formed last year by home care agencies and management IT companies that ensure compliance with billing and Electronic Visit Verification in New York's Medicaid program.

***The Coalition seeks to ensure Medicaid and EVV compliance by home care agencies and oppose efforts by MLTC (Medicaid Long Term Care) insurers to mandate billing by alien billers or billers not selected or affiliated with a care agency. As proposed by legislation sponsored by Senator Rivera and Assemblyperson Paulin(A5750/S6123).***

**As proposed in the Budget OMIG audit penalties and recoupments would be imposed on home care agencies who have alien billing entities mandated by MLTC insurers. We seek with passage of the A5750/S6123 or imposition of any fines and recoupments on the mandating MLTC insurer.**

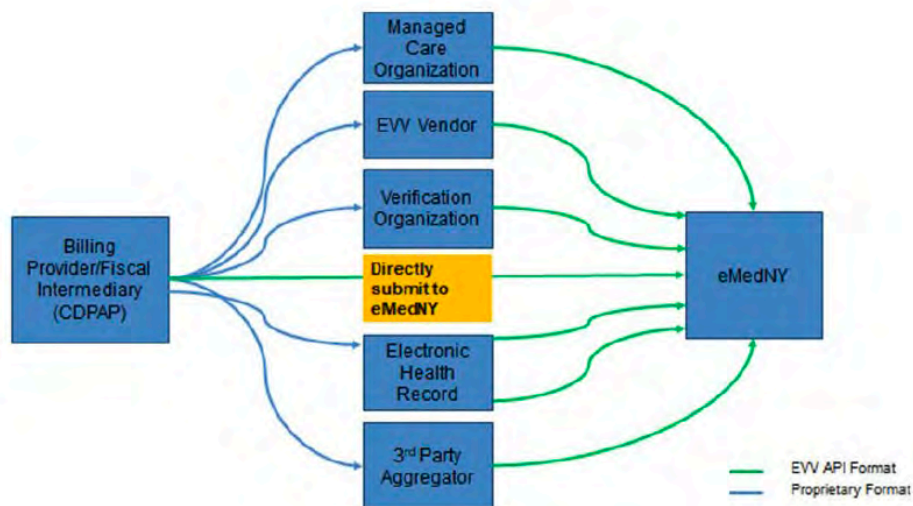
## **EVV and OMIG Billing Audits**

Included in administrative reforms is a new proposal by audit Electronic Visit Verification (EVV) for home care providers under the Medicaid law by the Office of the Medicaid Inspector General providing anticipated recoupments by the OMIG of \$25 million or more in the SFY 25 fiscal year.

Prior to any actions by the OMIG, we ask that you include in any final budget language that clarifies that home care agencies may bill directly or select a billing entity of their choice to submit an invoice to an insurer under the Medicaid plan. Billing under federal and state law together with EVV information is under this proposal and current Medicaid guidelines is the responsibility of a home care agency. As stated above ***insurers have sought mandate billing by alien billers or billers not selected or affiliated with a home care agency*** creating payment delays and inaccuracy in billing Medicaid claims. This has caused both compliance issue together with significant costs to home care agencies who have had to hire and allocate significant staff to address these issues. **As home care agencies will be responsible under any OMIG audits and subsequent penalties it is incumbent on the law to ensure they can select a billing entity accountable to their home care agency and not an insurer unless the insurer will be responsible for the payment of any OMIG audits.**

We ask the Legislature to include the provisions of legislation sponsored by Senator Rivera and Assemblyperson Paulin(A5750/S6123).

Figure 1 – Data Submission Pathways



## **Background**

### **Electronic Visit Verification and Medicaid Billing**

[Section 12006\(a\) of the 21st Century Cures Act](#) mandates that states implement EVV for all Medicaid personal care services (PCS) and home health services (HHCS) that require an in-home

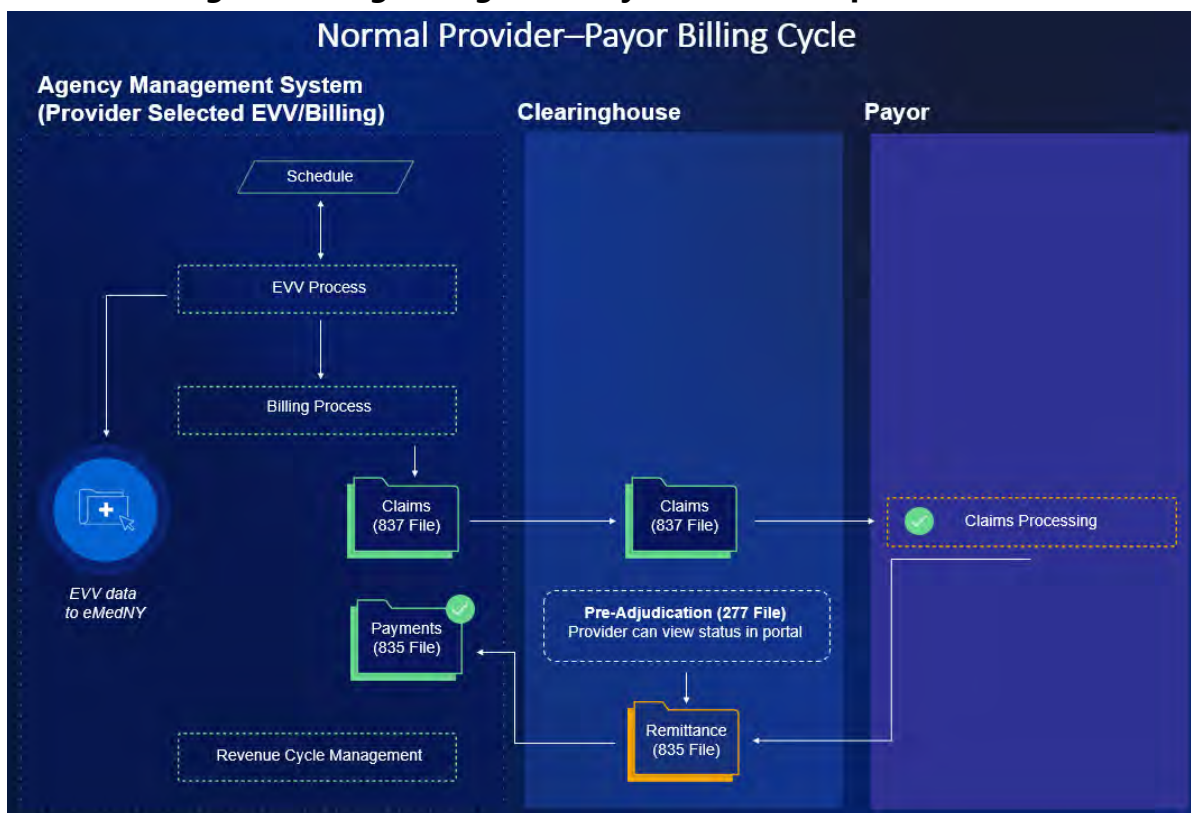
visit by a provider. This applies to PCS provided under sections 1905(a)(24), 1915(c), 1915(i), 1915(j), 1915(k), and Section 1115; and HHCS provided under 1905(a)(7) of the Social Security Act or a waiver.

EVV is a system that may include multiple point-of-care verification technologies, such as telephonic, mobile, and web-based verification inputs. The system electronically verifies the occurrence of home-or community-based service visits, identifying the time that service provision begins and ends to ensure accurate claims disbursement and safeguarding that beneficiaries who are authorized to receive services get the expected care. EVV is used to: Verify visits on a real-time basis, including date, location, type of service, individual(s) providing and receiving services, and duration of service(s); Validate hours of work for home health employees; Eliminate billing data entry mistakes; Reduce costs related to paper billing and payroll ;and Help combat fraud, waste, and abuse

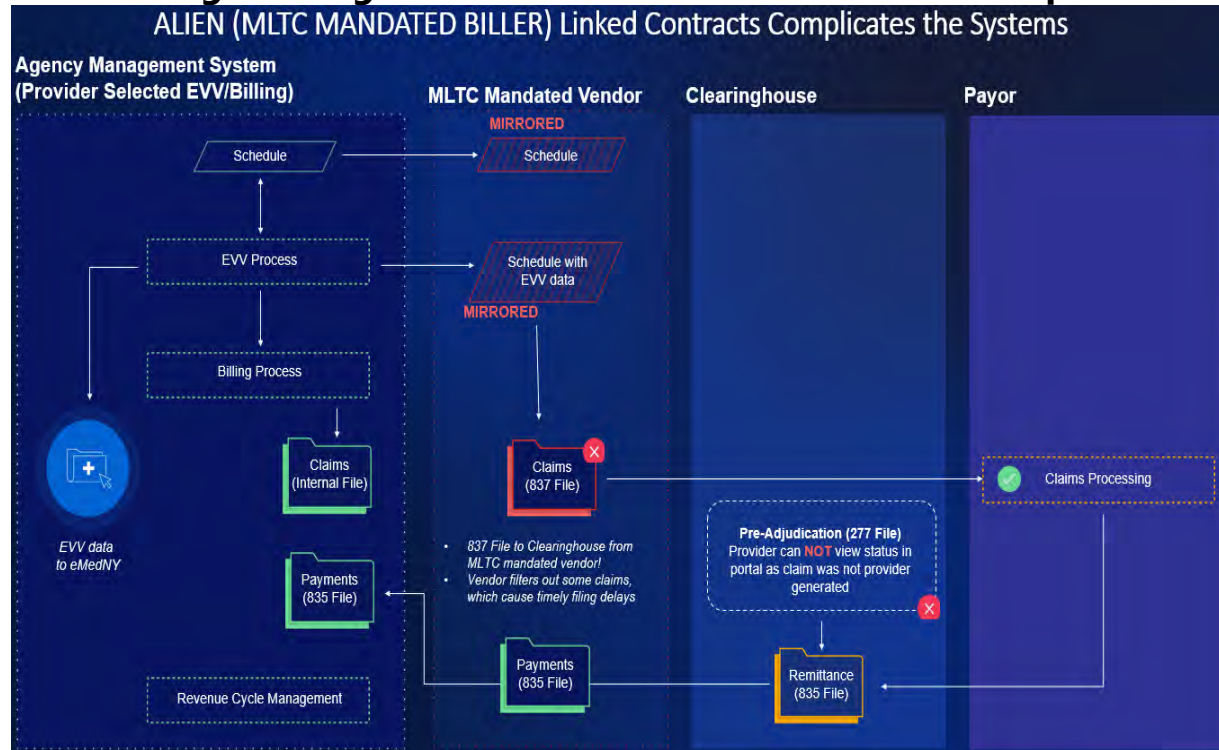
The 21st Century Cures Act gave State Medicaid Agencies the flexibility to choose from several models to support EVV implementation. In response to an outreach effort involving providers, EVV solution vendors, NY Medicaid clients, Managed Care Organizations, and New York State Department of Health (NYSDOH) staff the decision was made to implement the "Choice Model" as best suited to meet the varying needs of NY Medicaid providers. The Choice Model allows providers to select and self-fund their EVV system of choice or modify their current system to meet federal and state requirements. The "Choice Model" recognizes that many providers serving New York's Medicaid consumers have already implemented EVV systems that meet the requirements of the Cures Act, preserving the investment that has already been made, avoiding duplicative costs, and eliminating disruption to consumers and caregivers. New York State Department of Health (NYSDOH) is providing statewide EVV aggregation through the New York Medicaid Management System (MMIS) known as eMedNY(See graphic p.1). Complete details of State EVV requirements can be found here : [NYS EVV User Manual](#) .

Below are two graphics that outline the normal billing and EVV process and the Alien billing process mandated by some MLTC insurers on home care providers. As the graphic demonstrates MLTC insurer mandates create billing inaccuracies, EVV compliance issues. To address mandated alien billing home care providers have had to hire staff and in many cases face escalating accounts receivable costs.

## Normal Billing – Ensuring Billing Accuracy and EVV Compliance



## Alien Billing – Billing Inaccuracies and EVV issues with Compliance



### **Conclusion and Budget Ask:**

The HCBFC Coalition seeks to ensure Medicaid and EVV compliance by home care agencies and oppose efforts by MLTC (Medicaid Long Term Care) insurers to mandate billing by alien billers or billers not selected or affiliated with a home care agency. The audits as proposed by the OMIG either must allow home care agencies to select their own billers or any audits finding recoupments or penalties should be imposed on the MLTC that mandated the alien biller as part of any final Budget. Passage of legislation sponsored by Senator Rivera and Assemblyperson Paulin(A5750/S6123) would address the alien billing issue while maintaining transparency and compliance with the Federal Cures Act.