POLICY ISSUE BRIEF

The Use of National Provider Identifiers for Self-Directed Workers

Key Considerations, Challenges, and Alternatives

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What is a National Provider Identifier (NPI)?

An NPI is a unique 10-digit identifier that is used by health care providers in standard electronic health care transactions (e.g., electronic claims).[1] Since 2005, NPIs have been required for most providers covered under the Health Insurance Portability and Accountability Act (HIPAA). Eligible providers can apply for an NPI through the National Plan and Provider Enumeration System.[2]

The use of NPIs was adopted by the Centers for Medicare & Medicaid Services (CMS) to improve electronic transactions for health care billing, specifically to allow for national standards for electronic exchanges and a more efficient alternative to paper-based transactions.[3]

Are NPIs applicable to personal care attendants?

In July 2019, CMS published guidance on the allowability of NPIs for Medicaid personal care attendants (PCAs).[4] While PCAs are eligible to obtain an NPI, it is not a CMS requirement. According to the guidance:

> *CMS presently does not require states to assign identifiers to Medicaid PCAs or require Medicaid PCAs to obtain NPIs. Such a federal requirement could only be added by CMS promulgating a new regulatory requirement, which would have a public comment period.*

Furthermore, CMS directly addresses the use of NPIs for PCAs using an electronic visit verification (EVV) system, as follows:

> *While CMS is not requiring that NPIs be used to identify PCAs at this time, a unique numeric identifier, such as the NPI, would be an efficient method of electronically recording which individual PCA provided personal care services for a particular beneficiary on a particular visit.*

The 21st Century Cures Act, which requires the use of EVV for all personal care services as of January 1, 2021, also makes no specific requirement regarding NPIs. Every implemented EVV system must verify six data elements including the "individual providing the service". The method used to identify the PCA is not defined.

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[1] https://www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/NationalProvIdentStand
[2] https://nppes.cms.hhs.gov
[3] https://www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/NationalProvIdentStand/Downloads/NPIdearprovider.pdf
[4] https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/FraudAbuseforProfs/Downloads/FAQs-Using-NPIs-for-Medicaid-PCAs.pdf

Therefore, the use of NPIs for PCAs is at the discretion of states. While CMS guidance does not mention self-direction specifically, we can reasonably interpret that CMS would consider NPIs optional for self-directed workers as is the case for PCAs more broadly.

How are NPIs used in self-direction programs?

The vast majority of states do not require most workers in self-direction to apply for an NPI. However, Financial Management Services (FMS) entities will typically obtain an NPI for use in electronic health care transactions. FMS entities may use their NPI on all claims submitted either to the state's billing system, such as its Medicaid Management Information System (MMIS), or to a managed care organization (MCO) contracted by the state.

In the absence of a unique identifier for the worker on any claims submitted by the FMS entity, it may not be possible to determine which individual worker completed a shift based on claims data alone. This can make it challenging to identify overlapping shifts or overbilling at the claims level. However, FMS entities do maintain a record of individual workers by shift which can be audited as needed.

Particularly as states implement EVV, many are looking for efficient, compliant methods to track the required data elements. States have taken a variety of approaches to address this issue. As noted in the July 2019 guidance[5], CMS advises:

> *Some states may find individual NPIs to be an efficient tool for tracking PCAs, while other states may prefer to assign state-designated identifiers or employ other approaches.*

The remainder of this brief will explore the implications of using unique numeric identifiers for tracking individual self-directed workers in electronic transactions, either individual NPIs or state-designated identifiers.

Requiring NPIs for self-directed workers

A small number of states have chosen to require NPIs for self-directed workers in an effort to promote program integrity. For example, NPIs are required by Washington DC's Department of Health Care Finance for PCAs on all claims, including those working in waiver programs.[6] The

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[5] https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/FraudAbuseforProfs/Downloads/FAQs-Using-NPIs-for-Medicaid-PCAs.pdf

[6] See p. 31 for NPI Policy for PCAs, https://dccouncil.us/wp-content/uploads/2019/04/dhcf.pdf

Nevada Division of Health Care Financing and Policy requires the use of NPIs for all PCAs for documentation within the EVV system.[7]

Most states do not require workers in self-direction to obtain NPIs. In Illinois, the Department of Human Services specifies that NPIs are not required for self-directed workers, but does advise that if these workers provide other agency services they may still need to obtain one.[8]

While requiring NPIs for self-directed workers may offer efficiencies for monitoring program integrity at the claims level and tracking the worker by shift in the EVV system, complicated logistics can be a barrier to timely implementation. The wait to obtain an NPI can be lengthy. On average, applicants receive an NPI within ten business days via electronic application or within twenty business days via paper application.[9] This processing period to access an NPI can present an unreasonable wait for the participant hiring the worker and act as a barrier for the participant to receive critical services. Such administrative hurdles could deter people from enrolling in self-direction (when it would otherwise be an ideal service to enable them to remain living in the community) or dissuade prospective workers from accepting a job where the lag time between being recruited to receiving their first paycheck is prohibitively long.

Requiring self-directed workers to obtain an NPI may also place an undue burden on FMS entities. In most states, FMS entities are required to submit claims to a payer as part of billing. In the intervening time while a newly hired self-directed worker awaits their NPI, FMS entities typically end up facing two suboptimal options. One approach is to hold all claims until the worker's NPI has been received. This puts the FMS entity in the position of having to continually front money to cover growing payroll expenses for which they must wait for reimbursement. While it is routine for FMS entities to pay out-of-pocket and later receive reimbursement, significant and/or unexpected delays in reimbursement can create cash flow problems for FMS entity and even jeopardize program stability.

Alternatively, FMS entities may opt or be required to suspend a worker's hiring and ability to provide paid services until an NPI is received. This unjustly places the burden on people waiting to get care and workers waiting to get paid - and may violate requirements set forth by the Olmstead decision and the Americans with Disabilities Act. Significantly, in such scenarios, FMS entities are also at risk of appearing like a joint employer (and therefore increasing their litigation risk) for purposes of the Fair Labor Standards Act (FLSA) by making decisions about

[7] http://dhcfp.nv.gov/EVV-PCA/
[8] See item 2 under "How do I become a provider?" for NPI policy for self-directed workers, https://www.dhs.state.il.us/page.aspx?item=47492
[9] https://comphealth.com/resources/national-provider-identifier-npi/

payment and when a worker is permitted to work. If FMS entities are required by the state not to allow services to be provided until the worker has received an NPI, this may also influence whether the state could be seen as a joint employer. Joint employment under the FLSA has profound implications for a program's operations, compliance obligations, and overall cost.

State-designated identifiers for self-directed workers

Some states have implemented systems to develop their own state-designated identifier system to track self-directed workers and other PCAs. One possible advantage of such an approach is the potential for a speedier process. If states determine a system for assigning a unique identifier efficiently, this approach has great promise.

Numerous states have already adopted this approach. Self-directed workers and other PCAs in Minnesota receive a 10-digit 'Unique Minnesota Provider Identifier" as part of their employee onboarding process.[10] In New York, PCAs do not typically obtain an NPI, but are instead assigned a 'Caregiver ID' for use in the EVV system.[11] The Pennsylvania Department of Human Services assigns 'Direct Care Worker Unique ID' via an online portal[12] and, in the absence of a Unique ID, PCAs may use the last five digits of their social security number.[13] Self-directed workers in Texas are assigned an 'atypical provider identifier' upon enrollment.[14]

Massachusetts previously required the inclusion of the NPI for a consumer's healthcare provider as part of personal care enrollment, but waived this requirement in 2019. The state now utilizes an alternative unique identifier for PCAs. The state contracts with three FMS entities who each follow the same unique identifier protocol via a shared website. As of 2021, the unique ID is used for tracking in multiple contexts, including union dues, paid time off, overtime and travel time calculations, and determining whether a new PCA needs a new hire orientation. These unique identifiers can be assigned within moments and do not present significant barriers during hiring.[15]

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[10] See item 3 under "Enrollment Process" for NPI policy for self-directed workers, https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=ENROLL-HOME

[11] See section 2.4 on p.9 for NPI alternatives for PCAs, https://www.emedny.org/evv/EVV_Technical_User_Guide.pdf

[12] https://www.humanservices.state.pa.us/DCW/

[13] See under 'Implementation' section for unique identifiers policy, https://www.dhs.pa.gov/providers/Billing-Info/Pages/EVV-FAQ.aspx

[14] https://hhs.texas.gov/doing-business-hhs/licensing-credentialing-regulation/long-term-care-licensing-renewals-contracts/contractor-enrollment-process-requirements

[15] Laura Fraticelli (Assistant FI Director, Tempus Unlimited) in discussion with the author, May 2021

A few states are requiring workers to provide their full social security number as a unique identifier on claims. It is important to note this is not an advisable approach due to the high risk of identity theft in the event of a security breach.

Conclusion

Careful planning is needed for states seeking to use a numeric identifier to verify the self-directed workers providing services in EVV systems and beyond. States should critically consider what program goals an NPI (or other unique identifier) might help to achieve and balance that against the operational challenges created by yet another requirement and a potential delay to accessing services. For example, if a state decides to require workers to receive NPIs prior to providing services, but the state ultimately never audits claims data or implements other program integrity initiatives using the resulting NPIs, this requirement only increases cost and creates another barrier to access services without offering programmatic benefits.

States should examine whether a state-designated unique identifier or alternative approach could achieve the same goals as an NPI with less cost, risk, and burden for participants and FMS entities.