

1 **SEC. ____.** **ELECTRONIC VISIT VERIFICATION SYSTEM RE-**
2 **QUIRED FOR PERSONAL CARE SERVICES**
3 **UNDER MEDICAID.**

4 (a) IN GENERAL.—Section 1903 of the Social Secu-
5 rity Act (42 U.S.C. 1396b) is amended by inserting after
6 subsection (k) the following new subsection:

7 “(l)(1) Subject to paragraph (3), with respect to any
8 amount expended for medical assistance for home and
9 community based services provided under a State plan
10 under this title (or under a waiver of the plan) furnished
11 in a calendar quarter beginning on or after January 1,
12 2018, unless a State requires the use of an electronic visit
13 verification system for personal care services furnished in
14 such quarter, the Federal medical assistance percentage
15 shall be reduced—

16 “(A) for calendar quarters in 2018 and 2019,
17 by .25 percentage points;

18 “(B) for calendar quarters in 2020, by .5 per-
19 centage points;

20 “(C) for calendar quarters in 2021, by .75 per-
21 centage points; and

22 “(D) for calendar quarters in 2022 and each
23 year thereafter, by 1 percentage point.

1 “(2) Subject to paragraph (3), in implementing the
2 requirement for the use of an electronic visit verification
3 system under paragraph (1), a State shall consult with
4 agencies and entities that provide personal care services
5 under the State plan (or under a waiver of the plan) to
6 ensure that such system—

7 “(A) is minimally burdensome;

8 “(B) takes into account existing best practices
9 and electronic visit verification systems in use in the
10 State; and

11 “(C) is conducted in accordance with the re-
12 quirements of HIPAA privacy and security law (as
13 defined in section 3009 of the Public Health Service
14 Act).

15 “(3) Paragraphs (1) and (2) shall not apply in the
16 case of a State that—

17 “(A) as of the date of the enactment of this
18 subsection, requires the use of any system for the
19 electronic verification of visits conducted as part of
20 personal care services; or

21 “(B) does not provide under the State plan
22 under this title (or under a waiver of the plan) for
23 personal care services.

24 “(4) In this subsection:

1 “(A) The term ‘electronic visit verification sys-
2 tem’ means a system under which visits conducted
3 as part of personal care services are electronically
4 verified with respect to—

5 “(i) the type of service performed;

6 “(ii) the person receiving the service;

7 “(iii) the date of the service;

8 “(iv) the location of service delivery;

9 “(v) the person providing the service; and

10 “(vi) the time the service begins and ends.

11 “(B) The term ‘personal care services’ means
12 personal care services provided under a State plan
13 under this title (or under a waiver of the plan), in-
14 cluding services provided under section 1905(a)(24),
15 1915(c), 1915(i), 1915(j), or 1915(k) or under a
16 wavier under section 1115.”.

17 (b) RULES OF CONSTRUCTION.—

18 (1) NO EMPLOYER-EMPLOYEE RELATIONSHIP
19 ESTABLISHED.—Nothing in the amendment made by
20 this section may be construed as establishing an em-
21 ployer-employee relationship between the agency or
22 entity that provides for personal care services and
23 the individuals who, under a contract with such an
24 agency or entity, furnish such services for purposes

1 of part 552 of title 29, Code of Federal Regulations
2 (or any successor regulations).

3 (2) NO PARTICULAR OR UNIFORM ELECTRONIC
4 VISIT VERIFICATION SYSTEM REQUIRED.—Nothing
5 in the amendment made by this section may be con-
6 strued to require the use of a particular or uniform
7 electronic visit verification system (as defined in sub-
8 section (l)(4) of section 1903 of the Social Security
9 Act (42 U.S.C. 1396b), as inserted by subsection
10 (a)) by all agencies or entities that provide personal
11 care services under a State plan under title XIX of
12 the Social Security Act (or under a waiver of the
13 plan).

14 (3) NO LIMITS ON PROVISION OF CARE.—Noth-
15 ing in the amendment made by this section may be
16 construed to limit, with respect to personal care
17 services provided under a State plan under title XIX
18 of the Social Security Act (or under a waiver of the
19 plan), provider selection, constrain beneficiaries' se-
20 lection of a caregiver, or impede the manner in
21 which care is delivered.