

1       nished by the provider of the services described in  
 2       such subparagraph”.

3       (b) *EFFECTIVE DATE.*—The amendments made by sub-  
 4       section (a) shall apply with respect to items and services  
 5       furnished in calendar quarters beginning on or after Janu-  
 6       ary 1, 2019.

7       **SEC. 12006. ELECTRONIC VISIT VERIFICATION SYSTEM RE-**  
 8                               **QUIRED FOR PERSONAL CARE SERVICES AND**  
 9                               **HOME HEALTH CARE SERVICES UNDER MED-**  
 10                              **ICAID.**

11       (a) *IN GENERAL.*—Section 1903 of the Social Security  
 12       Act (42 U.S.C. 1396b) is amended by inserting after sub-  
 13       section (k) the following new subsection:

14       “(l)(1) Subject to paragraphs (3) and (4), with respect  
 15       to any amount expended for personal care services or home  
 16       health care services requiring an in-home visit by a pro-  
 17       vider that are provided under a State plan under this title  
 18       (or under a waiver of the plan) and furnished in a calendar  
 19       quarter beginning on or after January 1, 2019 (or, in the  
 20       case of home health care services, on or after January 1,  
 21       2023), unless a State requires the use of an electronic visit  
 22       verification system for such services furnished in such quar-  
 23       ter under the plan or such waiver, the Federal medical as-  
 24       sistance percentage shall be reduced—

25               “(A) in the case of personal care services—

1           “(i) for calendar quarters in 2019 and  
2           2020, by .25 percentage points;

3           “(ii) for calendar quarters in 2021, by .5  
4           percentage points;

5           “(iii) for calendar quarters in 2022, by .75  
6           percentage points; and

7           “(iv) for calendar quarters in 2023 and  
8           each year thereafter, by 1 percentage point; and

9           “(B) in the case of home health care services—

10          “(i) for calendar quarters in 2023 and  
11          2024, by .25 percentage points;

12          “(ii) for calendar quarters in 2025, by .5  
13          percentage points;

14          “(iii) for calendar quarters in 2026, by .75  
15          percentage points; and

16          “(iv) for calendar quarters in 2027 and  
17          each year thereafter, by 1 percentage point.

18          “(2) Subject to paragraphs (3) and (4), in imple-  
19          menting the requirement for the use of an electronic visit  
20          verification system under paragraph (1), a State shall—

21               “(A) consult with agencies and entities that pro-  
22               vide personal care services, home health care services,  
23               or both under the State plan (or under a waiver of  
24               the plan) to ensure that such system—

25               “(i) is minimally burdensome;

1           “(ii) takes into account existing best prac-  
2           tices and electronic visit verification systems in  
3           use in the State; and

4           “(iii) is conducted in accordance with the  
5           requirements of HIPAA privacy and security  
6           law (as defined in section 3009 of the Public  
7           Health Service Act);

8           “(B) take into account a stakeholder process that  
9           includes input from beneficiaries, family caregivers,  
10          individuals who furnish personal care services or  
11          home health care services, and other stakeholders, as  
12          determined by the State in accordance with guidance  
13          from the Secretary; and

14          “(C) ensure that individuals who furnish per-  
15          sonal care services, home health care services, or both  
16          under the State plan (or under a waiver of the plan)  
17          are provided the opportunity for training on the use  
18          of such system.

19          “(3) Paragraphs (1) and (2) shall not apply in the  
20          case of a State that, as of the date of the enactment of this  
21          subsection, requires the use of any system for the electronic  
22          verification of visits conducted as part of both personal care  
23          services and home health care services, so long as the State  
24          continues to require the use of such system with respect to  
25          the electronic verification of such visits.

1       “(4)(A) *In the case of a State described in subpara-*  
2 *graph (B), the reduction under paragraph (1) shall not*  
3 *apply—*

4               “(i) *in the case of personal care services, for cal-*  
5 *endar quarters in 2019; and*

6               “(ii) *in the case of home health care services, for*  
7 *calendar quarters in 2023.*

8       “(B) *For purposes of subparagraph (A), a State de-*  
9 *scribed in this subparagraph is a State that demonstrates*  
10 *to the Secretary that the State—*

11               “(i) *has made a good faith effort to comply with*  
12 *the requirements of paragraphs (1) and (2) (includ-*  
13 *ing by taking steps to adopt the technology used for*  
14 *an electronic visit verification system); and*

15               “(ii) *in implementing such a system, has en-*  
16 *countered unavoidable system delays.*

17       “(5) *In this subsection:*

18               “(A) *The term ‘electronic visit verification sys-*  
19 *tem’ means, with respect to personal care services or*  
20 *home health care services, a system under which visits*  
21 *conducted as part of such services are electronically*  
22 *verified with respect to—*

23                       “(i) *the type of service performed;*

24                       “(ii) *the individual receiving the service;*

25                       “(iii) *the date of the service;*

1                   “(iv) the location of service delivery;

2                   “(v) the individual providing the service;

3                   and

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

5                   “(B) The term ‘home health care services’ means  
6                   services described in section 1905(a)(7) provided  
7                   under a State plan under this title (or under a waiv-  
8                   er of the plan).

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

15                  “(6)(A) In the case in which a State requires personal  
16                  care service and home health care service providers to utilize  
17                  an electronic visit verification system operated by the State  
18                  or a contractor on behalf of the State, the Secretary shall  
19                  pay to the State, for each quarter, an amount equal to 90  
20                  per centum of so much of the sums expended during such  
21                  quarter as are attributable to the design, development, or  
22                  installation of such system, and 75 per centum of so much  
23                  of the sums for the operation and maintenance of such sys-  
24                  tem.

1       “(B) Subparagraph (A) shall not apply in the case  
 2 in which a State requires personal care service and home  
 3 health care service providers to utilize an electronic visit  
 4 verification system that is not operated by the State or a  
 5 contractor on behalf of the State.”.

6       (b) *COLLECTION AND DISSEMINATION OF BEST PRACTICES.*—Not later than January 1, 2018, the Secretary of  
 7 Health and Human Services shall, with respect to electronic  
 8 visit verification systems (as defined in subsection (l)(5) of  
 9 section 1903 of the Social Security Act (42 U.S.C. 1396b),  
 10 as inserted by subsection (a)), collect and disseminate best  
 11 practices to State Medicaid Directors with respect to—

12           (1) training individuals who furnish personal  
 13 care services, home health care services, or both under  
 14 the State plan under title XIX of such Act (or under  
 15 a waiver of the plan) on such systems and the oper-  
 16 ation of such systems and the prevention of fraud  
 17 with respect to the provision of personal care services  
 18 or home health care services (as defined in such sub-  
 19 section (l)(5)); and  
 20

21           (2) the provision of notice and educational mate-  
 22 rials to family caregivers and beneficiaries with re-  
 23 spect to the use of such electronic visit verification  
 24 systems and other means to prevent such fraud.

25       (c) *RULES OF CONSTRUCTION.*—

1           (1) *NO EMPLOYER-EMPLOYEE RELATIONSHIP ES-*  
2           *TABLISHED.—Nothing in the amendment made by*  
3           *this section may be construed as establishing an em-*  
4           *ployer-employee relationship between the agency or*  
5           *entity that provides for personal care services or home*  
6           *health care services and the individuals who, under a*  
7           *contract with such an agency or entity, furnish such*  
8           *services for purposes of part 552 of title 29, Code of*  
9           *Federal Regulations (or any successor regulations).*

10          (2) *NO PARTICULAR OR UNIFORM ELECTRONIC*  
11          *VISIT VERIFICATION SYSTEM REQUIRED.—Nothing in*  
12          *the amendment made by this section shall be con-*  
13          *strued to require the use of a particular or uniform*  
14          *electronic visit verification system (as defined in sub-*  
15          *section (l)(5) of section 1903 of the Social Security*  
16          *Act (42 U.S.C. 1396b), as inserted by subsection (a))*  
17          *by all agencies or entities that provide personal care*  
18          *services or home health care under a State plan under*  
19          *title XIX of the Social Security Act (or under a waiv-*  
20          *er of the plan) (42 U.S.C. 1396 et seq.).*

21          (3) *NO LIMITS ON PROVISION OF CARE.—Nothing*  
22          *in the amendment made by this section may be con-*  
23          *strued to limit, with respect to personal care services*  
24          *or home health care services provided under a State*  
25          *plan under title XIX of the Social Security Act (or*

under a waiver of the plan) (42 U.S.C. 1396 et seq.), provider selection, constrain beneficiaries' selection of a caregiver, or impede the manner in which care is delivered.

(4) NO PROHIBITION ON STATE QUALITY MEASURES REQUIREMENTS.—Nothing in the amendment made by this section shall be construed as prohibiting a State, in implementing an electronic visit verification system (as defined in subsection (l)(5) of section 1903 of the Social Security Act (42 U.S.C. 1396b), as inserted by subsection (a)), from establishing requirements related to quality measures for such system.

## **TITLE XIII—MENTAL HEALTH PARITY**

### **SEC. 13001. ENHANCED COMPLIANCE WITH MENTAL HEALTH AND SUBSTANCE USE DISORDER COVERAGE REQUIREMENTS.**

(a) COMPLIANCE PROGRAM GUIDANCE DOCUMENT.—Section 2726(a) of the Public Health Service Act (42 U.S.C. 300gg–26(a)) is amended by adding at the end the following:

“(6) COMPLIANCE PROGRAM GUIDANCE DOCUMENT.—