

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.