

**RULES  
OF  
TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION  
DIVISION OF TENNCARE**

**CHAPTER 1200-13-11  
PUBLIC RECORDS ACCESS**

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**1200-13-11-.01 SCOPE AND AUTHORITY.** The Tennessee Public Records Act (TPRA), T.C.A. §§ 10-7-501, et seq., requires each state agency to provide public access to agency records, unless exempted by the TPRA. This chapter establishes the process and procedure through which the Division of TennCare shall provide access to public records, pursuant to T.C.A. § 10-7-503.

- (1) TennCare shall provide economical and efficient access to public records.
- (2) TennCare public records shall, at all times during business hours, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by law.
- (3) Personnel of TennCare shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records.
- (4) The integrity and organization of public records, as well as the efficient and safe operation of TennCare, its programs and the individuals they support, shall be protected as provided by law.
- (5) TennCare is not required to sort through files to compile information or to create or recreate a record that does not exist in order to satisfy a records request.

**Authority:** T.C.A. §§ 4-5-202, 10-7-503, 71-5-105, 71-5-109, and Public Chapter 358 of the Acts of 1993.  
**Administrative History:** Original rule filed March 16, 1992; effective April 30, 1992. Amendment filed March 18, 1994; effective June 1, 1994. Amendment filed June 9, 1994; effective August 23, 1994. Repeal and new rule filed January 3, 2019; effective April 3, 2019.

**1200-13-11-.02 DEFINITIONS.**

- (1) Division of TennCare (TennCare). A state governmental agency administratively located within the Tennessee Department of Finance and Administration; includes references to all employees and subdivisions of the agency.
- (2) Media. This term includes reporters, editors and journalists working with radio, television, online or any other news organizations, and serving the general public.
- (3) Media Inquiries. Inquiries not related to the use or disclosure of public records, made by or on behalf of members of the media.

(Rule 1200-13-11-.02, continued)

- (4) Protected Health Information (PHI). Health information that identifies or may be used to identify an individual and that meets the following criteria:
  - (a) Information that is:
    1. Transmitted by electronic media; or,
    2. Maintained in electronic media; or,
    3. Transmitted or maintained in any other form or medium, including demographic information that identifies or may be used to identify an individual; and,
  - (b) Is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and,
  - (c) Relates to the physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual. See 45 C.F.R. § 160.103.
- (5) Public Records. All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.
- (6) Public Records Request Coordinator (PRRC). The individual, or individuals, designated in Rule .03, who has, or have, the responsibility to ensure public records requests are routed to the appropriate records custodian and are fulfilled according to the TPRA. The PRRC may also be a records custodian.
- (7) Records Custodian. The office, official or employee lawfully responsible for the direct custody and care of a public record. The records custodian is not necessarily the original preparer or receiver of the record.
- (8) Requestor. A person seeking access to a public record, whether it is for inspection or duplication.
- (9) TennCare Public Records Request Form (Request Form). The form utilized by TennCare for processing a public records request, available on the TennCare website at <https://www.tn.gov/tenncare/> or in Rule .09.

**Authority:** T.C.A. §§ 4-5-202, 10-7-503, and 71-5-105. **Administrative History:** Original rules filed January 3, 2019; effective April 3, 2019.

#### **1200-13-11-.03 REQUESTING ACCESS TO PUBLIC RECORDS.**

- (1) Public records requests shall be made to the PRRC or designee in order to ensure that public records requests are routed to the appropriate records custodian and fulfilled in a timely manner. The TennCare designated PRRC is the Privacy and Public Records Officer, in the Office of General Counsel, whose contact information is available in the Request Form and as follows:

TennCare Public Records Request Coordinator  
 Department of Finance and Administration  
 Division of TennCare  
 310 Great Circle Road  
 Nashville, TN 37243

(Rule 1200-13-11-.03, continued)

1-866-797-9469

fax: (615) 734-5289

email: Privacy.Records.TennCare@tn.gov

- (2) Requests for inspection may be made orally or in writing using the Request Form, at the PRRC's mailing address, email address, fax or phone number. The PRRC shall request contact information from the requestor for providing any written communication required under the TPRA.
- (3) Requests for copies, or requests for inspection and copies, shall be made to the PRRC in writing using the Request Form at the mail or email address or fax number provided.
- (4) Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license (or at TennCare discretion an alternative acceptable form of ID) is required as a condition to inspect or receive copies of public records.
- (5) Requests by journalists, media organizations, outlets, agencies and their representatives may be treated as Media Inquiries and responded to based on the procedures of the TennCare Communications Office. It is the policy of TennCare to respond only to public record requests by journalists who are Tennessee citizens. Interstate journalist and media organization requests shall be treated as Media Inquiries rather than as records requests and such requests will be responded to at the discretion of the TennCare Deputy Director of Communications and Employee Relations. Contact information for the Communications Office is available on the TennCare website.

**Authority:** T.C.A. §§ 4-5-202, 10-7-503, and 71-5-105. **Administrative History:** Original rules filed January 3, 2019; effective April 3, 2019.

#### **1200-13-11-.04 RESPONDING TO PUBLIC RECORDS REQUESTS.**

- (1) Public Records Request Coordinator.
  - (a) The PRRC shall review public records requests and make an initial determination of the following:
    1. If the requestor provided evidence of Tennessee citizenship;
    2. If the records requested are described with sufficient specificity to identify them; and
    3. If TennCare is the custodian of the records.
  - (b) The PRRC shall acknowledge receipt of the request and take any of the following appropriate actions:
    1. Advise the requestor of this rule chapter and the decisions made regarding:
      - (i) Proof of Tennessee citizenship;
      - (ii) Any forms required for copies;
      - (iii) Fees; or,
      - (iv) Aggregation of multiple or frequent requests.

(Rule 1200-13-11-.04, continued)

2. If appropriate, deny the request in writing, using the TennCare Public Records Request Response Form (Response Form) providing the appropriate ground for denial such as:
    - (i) The requestor is not, or has not presented evidence of being, a Tennessee citizen;
    - (ii) The request lacks specificity;
    - (iii) An exemption makes the record not subject to disclosure under the TPRA;
    - (iv) TennCare is not the custodian of the requested records; or,
    - (v) The records requested do not exist.
  3. If appropriate, contact the requestor to see if the request can be narrowed or otherwise clarified.
  4. Forward the records request to the appropriate records custodian within TennCare.
  5. If requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, advise the requestor of the correct governmental entity.
- (2) Records Custodian.
- (a) Upon receiving a public records request, a TennCare records custodian in collaboration with the PRRC shall promptly make requested public records available using the Response Form. If the records custodian is uncertain that an applicable TPRA exemption applies, the custodian may consult with the PRRC or the Office of General Counsel.
  - (b) If not practicable to promptly provide requested records, a records custodian in collaboration with the PRRC shall, within seven (7) business days from the records custodian's receipt of the request, send the requestor a completed Response Form indicating the reason for the delay and an estimate of the time necessary to produce the records or determine the proper response to the request because additional time is necessary:
    1. To determine whether the requested records exist;
    2. To search for, retrieve, or otherwise gain access to records;
    3. To determine whether the records are open;
    4. To redact records; or
    5. For other similar reasons.
  - (c) If a records custodian in collaboration with the PRRC denies a public records request, he or she shall deny the request in writing as provided above using the Response Form.
  - (d) If a records custodian in collaboration with the PRRC reasonably determines production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the

(Rule 1200-13-11-.04, continued)

Response Form should be used to notify the requestor that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable. If appropriate, the records custodian or PRRC should contact the requestor to see if the request can be narrowed.

- (e) If a records custodian discovers records responsive to a records request were omitted, the records custodian in collaboration with the PRRC should contact the requestor concerning the omission and produce the records as quickly as practicable.
- (3) Confidential Records and Redaction.
- (a) If the PRRC determines that the requested records are considered confidential or privileged records under federal or state law and are not available for public inspection, the PRRC shall communicate the determination to the requester in writing. However, nothing in this rule chapter shall be construed to require TennCare to generate a detailed description of each confidential record withheld from inspection, such as may be required with respect to the production of documents in discovery under the Tennessee Rules of Civil Procedure.
  - (b) Individually identifying information and Protected Health Information (PHI) is generally not subject to public records requests. PHI and other sensitive information are confidential except as use or disclosure is permitted by The Privacy Act, HIPAA and other federal and state privacy rules.
  - (c) If a TennCare record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing access or copies. If questions arise concerning redaction, the records custodian should coordinate with the PRRC or counsel or other appropriate parties regarding review and redaction of records. The records custodian, the PRRC, and the Office of General Counsel may also consult with the Comptroller of the Treasury's Office of Open Records Counsel (OORC) or with the Office of the Attorney General and Reporter regarding this topic or others regarding open records requests.
  - (d) Whenever a redacted record is provided, a records custodian shall provide the requestor with the basis for redaction. The basis given for redaction shall be general in nature and not disclose confidential information.

**Authority:** T.C.A. §§ 4-5-202, 10-7-503, and 71-5-105. **Administrative History:** Original rules filed January 3, 2019; effective April 3, 2019.

#### **1200-13-11-.05 INSPECTION OF RECORDS.**

- (1) There shall be no charge for inspection of open public records. Charges may be assessed for reasonable costs incurred in producing requested materials in accordance with T.C.A. §§ 10-7-503(a)(5) and 10-7-503(a)(7)(C)(i).
- (2) The location for inspection of records shall be reasonably determined by the PRRC or the records custodian.
- (3) Under reasonable circumstances, the PRRC or a records custodian may require an appointment for inspection or may require inspection of records at an alternate location.

**Authority:** T.C.A. §§ 4-5-202, 10-7-503, and 71-5-105. **Administrative History:** Original rules filed January 3, 2019; effective April 3, 2019.

**1200-13-11-.06 COPIES OF RECORDS.**

- (1) The PRRC or records custodian shall promptly respond to a public records request for copies in the most economic and efficient manner practicable.
- (2) Copies will be available for pickup at a location specified by the PRRC or records custodian.
- (3) Upon payment for postage and fees for copies and labor, copies will be delivered to the requestor's home address via the United States Postal Service. Additional permitted means of delivery may be agreed upon with the requestor, including email, electronic transfer or via disk, upon payment of fees for copies and labor and in the case of use of devices such as flash drives, the agency's cost for procuring such a device.
- (4) Except for the use of a cell phone or handheld camera, a requestor will not be allowed to make copies of records with their personal equipment during the inspection of such records.

**Authority:** T.C.A. §§ 4-5-202, 10-7-503, and 71-5-105. **Administrative History:** Original rules filed January 3, 2019; effective April 3, 2019.

**1200-13-11-.07 FEES AND CHARGES AND PROCEDURES FOR BILLING AND PAYMENT.**

- (1) Excessive fees and charges for copies of public records shall not be used to hinder access to public records.
- (2) Records custodians in collaboration with the PRRC shall provide requestors with an itemized estimate of the charges prior to producing copies of records and shall require pre-payment of such charges before producing requested records.
- (3) When fees for copies and labor do not exceed \$50.00, the fees will be waived. Requests for waivers for fees above \$50.00 must be presented to the PRRC, who is authorized to determine if such waiver is in the best interest of TennCare and for the public good. Fees associated with aggregated records requests will not be waived.
- (4) Fees and charges for copies are as follows:
  - (a) \$0.15 per page for letter- and legal-size black and white copies.
  - (b) \$0.50 per page for letter- and legal-size color copies.
  - (c) Shipping or mailing costs in excess of \$15.00.
  - (d) Labor when time exceeds 1 hour for time reasonably necessary to produce requested records, including the time spent locating, retrieving, reviewing, reproducing, redacting or scanning records. The cost will vary depending on the hourly rates of the employee(s) doing the work and may include the time of an attorney reasonably necessary to review records and redactions to ensure compliance with confidentiality requirements of state and federal law.
  - (e) If an outside vendor is used, the actual costs assessed by the vendor.
  - (f) If transfer is performed via disk, such as a flash drive, the agency's cost for procuring such a device.
- (5) No duplication costs will be charged for requests for less than 10 pages.

(Rule 1200-13-11-.07, continued)

- (6) Payment is to be made by check or money order payable to TennCare and presented to the PRRC via mail or hand delivery, at the address provided in the Request and Response Forms.

**Authority:** T.C.A. §§ 4-5-202, 10-7-503, and 71-5-105. **Administrative History:** Original rules filed January 3, 2019; effective April 3, 2019.

**1200-13-11-.08 AGGREGATION OF FREQUENT AND MULTIPLE REQUESTS.**

- (1) TennCare will aggregate record requests according to the Frequent and Multiple Request Policy promulgated by the OORC when more than four (4) requests are received within a calendar month either from a single individual or a group of individuals deemed working in concert.
- (2) The PRRC is responsible for making the determination that a group of individuals are working in concert. The PRRC must inform the individuals that they have been deemed to be working in concert and that they have the right to appeal the decision to the OORC.
- (3) Requests for any TennCare records, regardless of the type of records requested or whether the request pertains to any office or sub-division of the agency, may be aggregated.
- (4) Once the aggregation threshold is reached, the exemption for labor charges up to one hour specified above does not apply for any ongoing and subsequent requests.

**Authority:** T.C.A. §§ 4-5-202, 10-7-503, and 71-5-105. **Administrative History:** Original rules filed January 3, 2019; effective April 3, 2019.

**1200-13-11-.09 TENNCARE PUBLIC RECORDS REQUEST FORM.** The following form is utilized by TennCare for processing a public records request. A requestor may use a copy of the form produced below or the electronic version of the form available on the TennCare website at <https://www.tn.gov/tenncare/>

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(Rule 1200-13-11-.09, continued)

TENNCARE PUBLIC RECORDS REQUEST FORM

The Tennessee Public Records Act (TPRA) grants Tennessee citizens the right to access open public records that exist at the time of the request. The TPRA does not require records custodians to compile information or create or recreate records that do not exist.

To: TennCare Public Records Request Coordinator
Department of Finance and Administration, Division of TennCare
310 Great Circle Road
Nashville, TN 37243
1-866-797-9469, fax (615) 734-5289
email the completed form to Privacy.Records.TennCare@tn.gov

From: Requestor Name:
Residence address:
Mailing or delivery information:
Phone: Email:

Is the requestor a Tennessee citizen? Yes No (A copy of a valid driver's license or other evidence showing requestor's address is required prior to access to public records.)

Request: Inspection (The TPRA does not permit copying fees or require a written request for inspection only. Fees may be assessed for redaction as appropriate.)

Copies/Duplicates (There is no fee for requests for records of less than 10 pages and labor charges of one hour or less. If fees are to be assessed, the requestor has a right to receive a good faith estimate prior to receiving the documents requested. More details as to fees and charges may be found in the TennCare Public Records Policy.)

Do you wish to waive your right to an estimate and agree to pay copying and duplication costs in an amount not to exceed \$ ? If so, initial here:

Delivery preference: On-Site Pick-Up USPS First-Class Mail
Electronic Other:

Records Requested:

Provide a detailed description of the records requested, including:

- (1) type of records;
(2) timeframe or dates for the records sought; and
(3) subject matter or key words related to the records.

Under the TPRA, records requests must be sufficiently detailed to enable a governmental entity to identify the specific records sought. As such, your records request must provide enough detail to enable the records custodian responding to the request to identify the specific records requested.

Description:



(Rule 1200-13-11-.09, continued)

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Signature of Requestor and Date Submitted

TENNCARE OFFICE USE ONLY

Received by: \_\_\_\_\_ Date and time received: \_\_\_\_\_  
Notes:

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**Authority:** T.C.A. §§ 4-5-202, 10-7-503, and 71-5-105. **Administrative History:** Original rules filed January 3, 2019; effective April 3, 2019.