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Sequence
 Number: 02-10-09
 Rule ID(s): 4117
 File Date: 02/18/2009
 Effective Date: 05/02/2009

Rulemaking Hearing Rule(s) Filing Form

Agency/Board/Commission:	Tennessee Department of Finance and Administration
Division:	Bureau of TennCare
Contact Person:	George Woods
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Revision Type (check all that apply):

- Amendments
 New
 Repeal

Chapter Number	Chapter Title
1200-13-13	TennCare Medicaid
1200-13-13-.01	Definitions
1200-13-13-.09	Third Party Resources

Chapter 1200-13-13
 TennCare Medicaid

Amendments

Rule 1200-13-13-.01 Definitions is amended by adding a new paragraph (93) and the current paragraph (93) is renumbered as paragraph (94) and subsequent paragraphs renumbered accordingly so as amended the new paragraph (93) shall read as follows:

- (93) Qualified Long Term Care Insurance Policy shall mean a long-term care insurance policy issued on or after October 1, 2008, that has been pre-certified by the Tennessee Department of Commerce and Insurance pursuant to Rule 0780-1-61 as:
- (a) A policy that meets all applicable Tennessee Long Term Care Partnership requirements;
or
 - (b) A policy that has been issued in another Partnership state and which is covered under a reciprocal agreement between such other state and the State of Tennessee.

- (a) A policy that meets all applicable Tennessee Long Term Care Partnership requirements;
or
- (b) A policy that has been issued in another Partnership state and which is covered under a reciprocal agreement between such other state and the State of Tennessee.

Statutory Authority: T.C.A. §§4-5-202, 71-5-105 and 71-5-109.

Rule 1200-13-13-.09 Third Party Resources is amended by adding a new paragraph (7) which shall read as follows:

- (7) Asset Disregards for Qualifying Long Term Care Insurance Policies:
 - (a) Individuals who purchase a qualified long term care insurance policy may have certain assets disregarded in the determination of eligibility for TennCare Medicaid. The Department of Human Services (DHS) shall disregard an individual's assets up to the amount of payments made by the individual's qualifying long-term care insurance policy for services covered under the policy at the time of TennCare application.
 - (b) The amount of the individual's assets properly disregarded under these provisions shall continue to be disregarded through the lifetime of the individual.
 - (c) Assets which were disregarded for purposes of Medicaid eligibility determination during the person's lifetime are also protected from estate recovery. When the amount of assets disregarded during the person's lifetime was less than total benefits paid by the qualified long term care insurance policy, additional assets may be protected in the estate recovery process up to the amount of payments made by the individual's qualifying long term care policy for services covered under the policy. If no assets were disregarded during the person's lifetime, the personal representative may designate assets to protect from estate recovery up to the lesser of the two options specified above, even if a qualified long term care policy's benefits were not completely exhausted.

Statutory Authority: T.C.A. §§4-5-202, 71-5-105 and 71-5-109.

GW1018350

Signature of the agency officer or officers directly responsible for proposing and/or drafting these rules.

Darin J. Gordon / DK
Darin J. Gordon
Director, Bureau of TennCare
Tennessee Department of Finance and Administration

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Finance and Administration on 1/2/09 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/31/08

Notice published in the Tennessee Administrative Register on: 11/14/08

Rulemaking Hearing(s) Conducted on: (add more dates). 12/16/08

Date: 1/2/09

Signature: [Handwritten Signature]

Name of Officer: M. D. Goetz Jr.

Title of Officer: Commissioner

Subscribed and sworn to before me on: 1-2-09

Notary Public Signature: Pat Pentecost

My commission expires on: 1-3-2011



All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Handwritten Signature]
Robert E. Cooper, Jr.
Attorney General and Reporter
2-16-09
Date

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Filed with the Department of State on: 2/18/09

Effective on: 5/4/09

[Handwritten Signature]
Tre Hargett
Secretary of State

Statement of Economic Impact to Small Businesses

1. Name of Bureau: Bureau of TennCare
2. Rulemaking hearing date: December 16, 2008
3. Types of small businesses that will be directly affected by, bear the cost of, and/or directly benefit from the proposed rules: Long term care insurance sales may increase.
4. A description of how small businesses will be adversely impacted: Not applicable
5. Whether, and to what extent, alternative means exist for accomplishing the objectives of the proposed rule that might be less burdensome to small businesses, and why such alternatives are not being proposed: Not applicable
6. A comparison of the proposed rule with federal or state counterparts: Section 6021 of Public Law 109-171 of the Deficit Reduction Act of 2005 gave States the authority to provide asset disregards and related estate recovery offsets for Medicaid applicants who receive benefits under qualified long term care insurance policies. TennCare submitted a Medicaid State Plan Amendment to take advantage of this legislative change to the Centers for Medicare and Medicaid Services (CMS) in March 2008. This amendment to the TennCare program was approved in May 2008. Qualified long term care policies can be sold in the State of Tennessee on or after October 1, 2008. The proposed rule gives further notice to potential TennCare applicants who may be recipients of long term care services of how a private qualified long term care insurance policy may afford the asset disregards and estate recovery offsets with the TennCare program.

GW1028280

Agency Rule Review

Rule 1200-13-13-.01(93) Definitions; 1200-13-13-.09(7) Third Party Resources.

1. The rules are being promulgated to give notice to potential TennCare applicants who may be recipients of long term care services of how a private qualified long term care insurance policy may afford the asset disregards and estate recovery offsets with the TennCare program.
2. Rules 1200-13-13-.01(93); 1200-13-13-.09(7) are lawfully promulgated and adopted by the Department of Finance and Administration in accordance with Tennessee Code Annotated §§4-5-202, 71-5-105 and 71-5-109.
3. The persons or entities most directly affected by these rules are the recipient, the provider, The Tennessee Department of Human Services, the Tennessee Department of Commerce and Insurance, and the Tennessee Department of Finance and Administration.
4. Rules 1200-13-13-.01(93); 1200-13-13-.09(7) were reviewed and approved by the Tennessee Attorney General. No additional opinion was given or requested.
5. The promulgation of these rules is not anticipated to have an affect on state and local government revenues and expenditures.
6. Agency representative shall be:

Name: Darin J. Gordon
Director, Bureau of TennCare
310 Great Circle Road
Nashville, TN 37243
Phone (615) 507-6443
7. Person explaining rule at GOC:

Name: Darin J. Gordon
Director, Bureau of TennCare
310 Great Circle Road
Nashville, TN 37243
Phone (615) 507-6443
8. None.

GW1028350

Summary of Public Comments
Rules 1200-13-13-.01(93) and 1200-13-13-.09(7)

There were no public comments on these rules.