

Notice
of
Rulemaking Hearing

Tennessee Department of Finance and Administration
Benefits Administration

There will be a hearing before the Tennessee Department of Finance and Administration to consider the amendment of rules pursuant to Tennessee Code Annotated Sections 4-5-202, 71-3-1106, 71-3-1110. This hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated Section 4-5-204 and will take place in The Davidson Room of the William Snodgrass Tennessee Tower Building located at 3rd Floor, 312 8th Avenue North, in Nashville, Tennessee at 9:00 a.m., Central Time, on the 17th day of April, 2008.

If any individual with a disability wishes to participate in this rulemaking process or review this filing of Notice of Rulemaking and may need assistance to do so, the individual should contact the Department of Finance and Administration to discuss any auxiliary aids or services that may be needed to facilitate participation or review. Such contact may be in person, by writing, telephonically or otherwise, and should be made as far in advance of the rulemaking hearing date or the date the party intends to review the filings as possible, to allow time for the Department of Finance and Administration to provide such aid or service. The Department urges that no less than fifteen (15) days notice be given. Initial contact may be made with Renee Jackson at 21st Floor, 312 8th Avenue North, Nashville, Tennessee, (615) 741-1343.

For a copy of this notice, contact April Mayambu at Suite 2100, 312 8th Avenue North, William R. Snodgrass Tennessee Tower, Nashville, Tennessee 37243, (615) 741-0320.

Substance of Proposed Amendments

Chapter 0620-05-01
CoverKids Rules

Amendments

Subparagraph (j) of paragraph (1) of Rule 0620-05-01-.01, Definitions, is amended by deleting the existing language and replacing it with the following:

- (j) "PE Entity" or "FTE Entity" refers to Cover Kids Contractors or designated providers authorized by CoverKids to determine that a newborn baby or pregnant woman is eligible for CoverKids under the presumptive eligibility or fast track eligibility rules and procedures.

Authority: T.C.A. §§ 4-5-202, 71-3-1106. 71-3-1110.

Subparagraph (a) of paragraph (1) of Rule 0620-05-01-.02, Eligibility, is amended by deleting the existing language and replacing it with the following:

- (a) Children must be citizens of the United States or persons designated as qualified aliens under 8 U.S.C. 1642 as applied to programs under Title XXI of the Social Security Act by federal law including 42 C.F.R. 457.320(b)(6). Notwithstanding any language to the contrary, CoverKids will grant eligibility to an unborn child whose mother is either an undocumented alien or a permanent resident alien who has not resided in the United States in that status for at least five years, to the extent that such coverage is mandated by the United States Department of Health and Human Services.

Authority: T.C.A. §§ 4-5-202, 71-3-1106. 71-3-1110.

All subparagraphs of paragraph (3) of Rule 0620-05-01-.02, Eligibility, are deleted in their entirety and replaced with the following:

- (a) All applicants must have a Social Security Number (SSN) or proof of application for a SSN. For newborns less than 4 months of age an application for an SSN must be filed. SSN are not required for parents and children not applying for CoverKids coverage.
- (b) Families with children under 4 months of age who were approved for CoverKids coverage without an SSN should submit the SSN to the AC as soon as received. A SSN must be received by redetermination.

Authority: T.C.A. §§ 4-5-202, 71-3-1106. 71-3-1110.

Part 2, subparagraph (a) of paragraph (5) of Rule 0620-05-01-.02, Eligibility, is amended by deleting the final sentence of that part so it reads as follows:

- 2. The applicant must not have had comprehensive individual, group or employer-based health insurance in the past three months, including Medicare, with exception allowed for non-voluntary loss of insurance. Applicants will not be eligible for coverage any earlier than the fourth month after the private coverage ends.

Authority: T.C.A. §§ 4-5-202, 71-3-1106. 71-3-1110.

Part 5, subparagraph (a) of paragraph (5) of Rule 0620-05-01-.02, Eligibility, is amended by deleting the existing language and replacing it with the following:

- 5. Information on the CoverKids application is sufficient verification of an applicant being uninsured. The State reserves the right to investigate the insurance status of applicants. If the State determines that the applicant has other insurance or has not been without comprehensive health insurance for at least three (3) months, the State has the right to cancel coverage. The CoverKids application must be submitted with a copy of the front and back side of the insurance card for any applicants who indicate there is other insurance coverage.

Authority: T.C.A. §§ 4-5-202, 71-3-1106. 71-3-1110.

Subparagraph (c) of Paragraph (5) of Rule 0620-05-01-.02, Eligibility, is deleted.

Authority: T.C.A. §§ 4-5-202, 71-3-1106. 71-3-1110.

All subparagraphs of paragraph (7) of Rule 0620-05-01-.02, Eligibility, are deleted in their entirety and replaced with the following:

- (7) Income.
 - (a) To be eligible for CoverKids, children must have adjusted gross income above TennCare Medicaid levels but below 250% of the Federal Poverty Level. CoverKids may enroll persons above 250% of the Federal Poverty Level under the terms and conditions set forth in these Rules. This program will use the limited self declared information on the application to screen each applicant for potential TennCare Medicaid eligibility by aligning with the guidelines currently used in the Department of Human Services for determination of both budget groups and income calculation to the extent possible. Final determination of TennCare eligibility will be determined

by the Department of Human Services or TennCare. These guidelines are subject to change with changes to the Department of Human Services guidelines. Further, these guidelines are for TennCare screening purposes only and are subject to change in accordance with any mandatory regulations issued from the federal level.

- (b) The CoverKids application will request income information for adults who are parents (biological, adopted or step) and for caretaker relatives who are caring for children when neither parent lives in the home or in the event a parent lives in the house but the parent's current circumstances or conditions necessitate that a caretaker relative is the responsible adult assuming care of that child.
- (c) All family income of the budget group must be reported on the application. Self-declaration of income by the responsible adult(s) of the applicant or the applicant is sufficient verification and must include the payee's name and the gross amount of monthly income.
- (d) The financial eligibility for CoverKids will be calculated as follows:
 - 1. Depending on family relationships, a family may be comprised of one or multiple budget groups.
 - 2. If a child receives income and is applying for coverage, then that child and his income must be counted in the budget group.
 - 3. If a pregnant female is under the age of 19 and lives in the household with her parents, the pregnant female's budget group would consist of the pregnant minor and her parents.
- (e) Countable Income.
 - 1. Self-declaration of income is allowed for applicants using the CoverKids application.
 - 2. Income must be reported as a monthly amount.
- (f) Financial Factors - The AC will calculate each budget group's adjusted gross income for the month that eligibility will begin based on recent income information provided by the family on the CoverKids application. Adjusted gross income is the sum of all countable income for persons in the budget group.

Authority: T.C.A. §§ 4-5-202, 71-3-1106. 71-3-1110.

Paragraph (8) of Rule 0620-05-01-.02, Eligibility, is amended by deleting the existing language and replacing it with the following:

- (8) Non-factors.
 - (a) The following must not be a factor in determining CoverKids eligibility:
 - 1. Disability status.
 - 2. Pre-existing condition.
 - 3. Diagnosis.

Authority: T.C.A. §§ 4-5-202, 71-3-1106. 71-3-1110.

Part 5, subparagraph (a), paragraph (9) of Rule 0620-05-01-.02, Eligibility, is amended by deleting the existing language and replacing it with the following:

5. Are eligible for health insurance coverage on the basis of a responsible adult's (self, parent, spouse, etc.) employment by a state or local government agency.

Authority: T.C.A. §§ 4-5-202, 71-3-1106. 71-3-1110.

Paragraph (10) of Rule 0620-05-01-.02, Eligibility, is amended by deleting the existing language and replacing it with the following:

(10) Updated Federal Poverty Levels.

- (a) Upon release by the federal government of a new calendar year's Federal Poverty Levels (usually in late winter), the AC will update the eligibility database to reflect the update.

Authority: T.C.A. §§ 4-5-202, 71-3-1106. 71-3-1110.

All subparagraphs of paragraph (11) of Rule 0620-05-01-.02, Eligibility, are deleted in their entirety and replaced with the following:

(11) Fast Track Eligibility (FTE). The State reserves the right to discontinue the Fast Track Eligibility Process should a significant number of incorrect determinations be made.

- (a) Fast Track Eligibility for Pregnant Women (FTE-PW)-CoverKids Healthy Babies Program allows a pregnant woman to have immediate CoverKids coverage that begins on the day of the visit to a FTE entity as long as a complete, signed CoverKids application is submitted and all FTE requirements are met. The eligibility begins on date of signed application. To be eligible for FTE-PW, the applicant must:

1. Live in a family with adjusted gross income, as reported to the FTE entity, which is at or below 250% FPL.
2. Work with the FTE entity to submit a complete, signed CoverKids application.
3. Not have had FTE-PW within the last 18 months.
4. Not be currently enrolled in TennCare or CoverKids.
5. Not be currently enrolled in comprehensive health insurance coverage. (If a pregnant woman has health insurance that does not cover prenatal/delivery services, she will not be considered to have comprehensive health insurance coverage.)
6. Not have been enrolled in comprehensive health insurance coverage that was voluntarily terminated at any time within the three months prior to the visit with the PE entity. (If a pregnant woman had health insurance that did not cover prenatal/delivery services, she will not be considered to have had comprehensive health insurance coverage.)
7. Not have access to state administered health insurance by means of a family member's employment with a state or local government agency.

- (b) Fast Track Eligibility for Newborns (FTE-NB) allows a newborn to have immediate CoverKids coverage that begins on the day of the visit to a FTE entity as long as

a complete, signed CoverKids application is submitted and all FTE requirements are met. The eligibility begins on date of signed application which will also be the date the FTE entity makes the FTE determination. To be eligible for FTE-NB, the applicant must:

1. Be a newborn who is not yet 4 months old.
2. Be a citizen or, as defined in federal law, an eligible immigrant.
3. Live in a family with adjusted gross income, as reported to the FTE entity, which is above 185% FPL and at or below 250% FPL.
4. Work with the FTE entity to submit a complete, signed CoverKids application.
5. Not have had FTE-NB within the last 18 months.
6. Not be currently enrolled in TennCare or CoverKids.
7. Not be currently enrolled in comprehensive health insurance coverage.
8. Not have been enrolled in comprehensive health insurance coverage that was voluntarily terminated at any time within the three months prior to the visit with the FTE entity.
9. Not have access to state administered health insurance by means of a family member's employment with a state or local government agency.

(c) Presumptive Eligibility For Children (PE-C) Transitioning from TennCare allows certain children whose TennCare coverage is ending to have immediate CoverKids coverage that begins on the day TennCare ends as long as all PE-C requirements are met. This effort is to ensure that there are no gaps in coverage. To be eligible for CoverKids PE-C, the child must:

1. Be under 19 years of age.
2. Be a child for whom a TennCare final termination has or will be issued.
3. Not be currently enrolled in CoverKids.
4. Not be currently enrolled in comprehensive health insurance coverage.
5. Have adjusted gross family income greater than the TennCare level for which they were enrolled and less than 250% of the FPL. This income information for the purpose of CoverKids enrollment will be self-declared on the CoverKids application. Income information may not be older than forty-five (45) days old.
6. Families should apply before termination of the TennCare coverage to allow for no gaps in coverage. However, families must submit a complete CoverKids application within thirty (30) days of TennCare termination to be considered for CoverKids coverage beginning the day after TennCare coverage ends.

Authority: T.C.A. §§ 4-5-202, 71-3-1106. 71-3-1110.

Paragraph (13) of Rule 0620-05-01-.02, Eligibility, is amended by deleting the existing language and replacing it with the following:

- (13) Annual Redetermination of Eligibility.
 - (a) Eligibility determinations will be done annually. The AC will mail a CoverKids redetermination form to families within 60 calendar days of the beneficiary's last day of continuous eligibility. The family must review the renewal letter, note changes, attach documentation as appropriate, sign it and return it to AC. The AC will make an eligibility determination for each applicant on the redetermination form.
 - (b) For beneficiaries above 250% of the FPL who continue to be otherwise eligible in this category, CoverKids eligibility will continue as long as the family continues to pay premiums timely each month.

Authority: T.C.A. §§ 4-5-202, 71-3-1106. 71-3-1110.

Paragraph (15) of Rule 0620-05-01-.02, Eligibility, is amended by deleting the existing language and replacing it with the following:

- (15) Enrollment Caps.
 - (a) Enrollment of children with income (as previously defined in this regulation) less than 250% of the Federal Poverty Limit is dependent on federal funding under the SCHIP program authorized in Title XXI of the Social Security Act, and may be limited by Federal laws and regulations governing the SCHIP program and the funding allocated to the state of Tennessee
 - (b) Enrollment of children with income greater than the 250% of the Federal Poverty Limit may be subject to enrollment caps at the discretion of CoverKids management, if CoverKids management determines that enrollment caps are required to preserve the financial stability of the program or that continued enrollment of these applicants creates risk of expenditures for the overall program exceeding appropriations.
 - (c) Enrollment of pregnant women over 250% of the Federal Poverty Limit is limited to pregnant women already enrolled and in good standing with the CoverKids program and women already enrolled in CoverTN.

Authority: T.C.A. §§ 4-5-202, 71-3-1106. 71-3-1110.

Subparagraph (e) of Paragraph (1) of Rule 0620-05-01-.03, Cost Sharing—Premiums and Co-Pays, is amended by deleting the existing language and replacing it with the following:

- (e) Pregnant women with income greater than 250% of the Federal Poverty level shall pay a lump sum in advance for maternity related services only if she is presently enrolled in CoverKids program.

Authority: T.C.A. §§ 4-5-202, 71-3-1106. 71-3-1110.

Rule 0620-05-01-.03, Cost Sharing—Premiums and Co-Pays, is amended by the addition of the following as a new paragraph (4)

- (4) All cost sharing provisions of these rules are subject to changes in Federal laws, regulations, and binding legal directives from the Federal government.

Authority: T.C.A. §§ 4-5-202, 71-3-1106. 71-3-1110.

Rule 0620-05-01-.04, Disenrollment, is amended by deleting it in its entirety and replacing it with the following language:

0620-5-1-04 Disenrollment.

(1) Grounds for Disenrollment from CoverKids.

(a) Children enrolled in CoverKids at or below 250% of the FPL are financially eligible for 12 months, except in the following situations, which will result in disenrollment from CoverKids coverage prior to the end of the 12 month period.

1. An enrollee, through an authorized family member, requests disenrollment.
2. Admission of a CoverKids enrollee into a correctional facility or an institution for mental disease.
3. A CoverKids enrollee moves from the state.
4. Death of a CoverKids enrollee.
5. A CoverKids enrollee is enrolled in TennCare.
6. A CoverKids enrollee meets a TennCare Medicaid spend-down.
7. A CoverKids enrollee turns age 19.
8. A woman 19 or older who was enrolled because of pregnancy is no longer eligible after the last day of the month in which the sixtieth post-partum day occurs.
9. A CoverKids enrollee gains access to state-sponsored health insurance through a family member's employment with a state or local education agency that has state sponsored health insurance or contributed to state sponsored health insurance as defined in 42 C.F.R. 457.301).
10. A CoverKids enrollee is enrolled into individual, group or employer-based coverage.
11. A CoverKids enrollee is discovered not to have been eligible for CoverKids at the time of enrollment. This includes, but is not limited to, enrollees whose enrollment was obtained by fraud or misrepresentations by an enrollee, parent, guardian, or representative.

(b) A child above 250% of the Federal poverty level, as defined in these rules and under Federal law, may be disenrolled for nonpayment of premiums, as described more fully in regulation 0620-05-01-.03, as well as the reasons set forth in subparagraph (1)(a).

(2) Procedures.

(a) Disenrollments shall be conducted under the procedures set forth in section 0620-05-01-.05 of these rules.

Authority: T.C.A. §§ 4-5-202, 71-3-1106. 71-3-1110..

This notice of rulemaking set out herein was properly filed in the Department of State on the 27th day of February, 2008. (FS 02-21-08; DBID825)