

Rulemaking Hearing Rules
of
Tennessee Department of Finance and Administration

Bureau of TennCare

Chapter 1200-13-01
General Rules

Amendment

Rule 1200-13-01-.27 Home And Community Based Services Waiver For The Elderly And Disabled In Shelby County is deleted in its entirety.

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

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 27th day of March, 2008 and will become effective on the 10th dya of June, 2008. (FS 03-18-08; DBID 2848)

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

1. Name of Bureau: Bureau of TennCare

2. Rulemaking hearing date: February 19, 2008

3. Types of small businesses that will be directly affected by, bear the cost of, and/or directly benefit from the proposed rules: Small businesses that will potentially be impacted include businesses providing Home and Community Based Services (HCBS) waiver services to elderly and disabled individuals. This includes businesses currently enrolled as providers in the Shelby County HCBS Waiver Program for the Elderly and Disabled, as well as qualified providers that might choose to enroll in the Statewide HCBS Waiver Program. The Statewide HCBS Waiver Program enrolls all willing, qualified providers specified in the approved Waiver application, including: Home Health Agencies; Home Care Organizations; Personal Care Services and Personal Care Assistance/Attendant Service Agencies; Respite Service Agencies; Nursing Facilities; Assisted-Care Living Facilities; Case Management Service Agencies; Homemaker Service Agencies; Home Delivered Meals Service Agencies; Minor Home Modifications Service Agencies; including Building Suppliers, Local Contractors, Carpenters, and Craftsmen; Personal Emergency Response System (PERS) Service Agencies; Durable Medical Equipment Suppliers; Other Retail or Wholesale Businesses; and Pest Control Operators, who now have the opportunity to participate in the provision of HCBS waiver services to affected enrollees.

4. A description of how small businesses will be adversely impacted: There is the potential that there will be an adverse impact to small businesses which provided services under the Shelby County HCBS Waiver. However, such businesses that meet specified provider qualifications set forth in the approved Waiver application for the Statewide HCBS Waiver Program may enroll as providers in the Statewide HCBS Waiver which enrolls all willing, qualified providers of either case management or any/all other direct services.

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: Corrective action plans that would have enabled the State to continue provision of Shelby County HCBS

Waiver services utilizing a single contracted Medicaid provider were rejected by the Centers for Medicare and Medicaid Services.

6. A comparison of the proposed rule with federal or state counterparts: This rule is being deleted because CMS determined that the waiver program it regulates was non-compliant with federal Freedom of Choice requirements set forth at Section 1902(a)(23) of the Social Security Act which resulted in the termination of the Shelby County Home and Community Based Services (HCBS) Waiver. The enrollees have been transitioned to the Statewide HCBS Waiver to ensure continuity of care. There is no comparable federal or state rule.