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Sequence Number: 03-18-21
Notice ID(s): 3268
File Date: 3/9/2021

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Tennessee Department of Finance and Administration
Division:	Division of TennCare
Contact Person:	George Woods
Address:	Division of TennCare 310 Great Circle Road Nashville, TN 37243
Phone:	(615) 507-6446
Email:	george.woods@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Talley A. Olson, Director TennCare, Office of Civil Rights Compliance
Address:	Division of TennCare 310 Great Circle Road Nashville, TN 37243
Phone:	(855) 857-1673 TTY dial 711 and ask for 855-857-1673
Email:	hcfa.fairtreatment@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Division of TennCare 310 Great Circle Road, Conference Room 1 East A		
City:	Nashville, TN		
Zip:	37243		
Hearing Date:	May 3, 2021		
Hearing Time:	5:00 pm	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Additional Hearing Information:

Members of the public may submit written comments for consideration at the hearing until 5:00 p.m. Central Time on May 3, 2021. Written comments should be sent via email to george.woods@tn.gov.

If attending in-person, please bring identification so that you may be checked into the building.

COVID Building Entry Protocols:

As part of the Tennessee Pledge, TennCare observes and is compliant with the following building entry protocols:

- At this time, all persons working or meeting in the TennCare building are required to wear a face mask.
- We recommend meeting attendees bring their own mask, however, if an attendee does not have one, a mask will be provided to any attendee upon entry.
- Additional personal protection equipment (PPE) such as a face shield are permitted but are not a

replacement for a face mask.

- Upon entry, persons are required to complete a health screening by answering the following questions:
 1. Have you been in close contact with a confirmed case of COVID-19 in the past 14 days? (Note: This does not apply to medical personnel, first responders, or other individuals who encounter COVID-19 as part of their professional or caregiving duties while wearing appropriate PPE.)
 2. Are you experiencing a cough, shortness of breath or sore throat?
 3. Have you had a fever in the last 48 hours?
 4. Have you had new loss of taste or smell?
 5. Have you had vomiting or diarrhea in the last 24 hours?
- Persons working or meeting in the TennCare building are also required to submit to a temperature screening; persons with temperatures 100.4 degrees or higher will not be permitted to enter the building. However, an opportunity will be provided to submit comments in writing instead of in-person.

*****NOTICE*****

Currently, Governor Lee's Emergency Order pertaining to COVID-19 that allows State Boards to hold their meetings electronically is set to expire April 28, 2021. If it does expire on that date, then this hearing will be an in-person hearing at the location and time denoted just above. If the Emergency Order is extended beyond the scheduled date of this hearing, then this hearing will be held electronically via WebEx.

In the event of an electronic hearing, members of the public may join the WebEx at the following link:

<https://tngov.webex.com/meet/JReeve>

It is recommended that interested persons join the WebEx several minutes early to ensure adequate time to install any mandatory plugins in order to attend the electronic rulemaking hearing.

Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only ONE Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1200-13-13	TennCare Medicaid
Rule Number	Rule Title
1200-13-13-.01	Definitions
1200-13-13-.15	BESMART

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 1200-13-13 TennCare Medicaid Table of Contents is amended by adding a new rule number and title "1200-13-13-.15 BESMART" at the end of the Table.

Rule 1200-13-13-.01 Definitions is amended by inserting in alphabetical order the following new paragraph, with all paragraphs numbered appropriately so that the new paragraph shall read as follows:

- (#) Buprenorphine Enhanced Supportive Medication-Assisted Recovery and Treatment ("BESMART"). A treatment model comprised of comprehensive treatment and recovery related supports for adult (21 and older) enrollees with opioid use disorder (OUD) ("participants").

Statutory Authority: T.C.A. §§ 4-5-202, 4-5-203, 4-5-204, 71-5-105, 71-5-107 and 71-5-109.

Chapter 1200-13-13 is amended by inserting a new Rule .15 BESMART which shall read as follows:

1200-13-13-.15 BESMART. This rule supersedes any other rules related to the use of buprenorphine products for treatment of opioid use disorder (OUD) in office based opioid treatment (OBOT) or an opioid treatment program (OTP) by a treating provider participating in an MCO's network of BESMART providers.

- (1) BESMART treatment is a component of covered outpatient substance abuse benefits and consists of a set of coordinated medically necessary covered services which includes:
 - (a) Psychosocial assessment and development of a treatment plan;
 - (b) Individual or group counseling;
 - (c) Peer recovery services;
 - (d) Care coordination;
 - (e) Opioid-agonist therapy consisting of buprenorphine products that have been FDA approved for OUD treatment and may be prescribed in excess of the limits described in rules .04 and .10, when determined to be medically necessary by a treating provider in an MCO's network of BESMART providers and under the participant's plan of care.
 - 1. Participants may receive up to sixteen (16) mg of buprenorphine containing products daily; however, providers shall initiate and lead a discussion regarding a participant's readiness to taper down or off treatment at any time upon a participant's request, but no later than one (1) year after initiating treatment and every six (6) months thereafter.
 - 2. Under the best practices for treatment of OUD, the BESMART provider shall utilize the lowest effective dose of Medication-Assisted Treatment (MAT).
 - 3. The following adult populations shall be eligible to receive a maximum daily dosage of twenty-four (24) mg of buprenorphine, not to exceed one (1) year in duration:
 - (i) Pregnant participants confirmed by provider attestation.
 - (ii) Postpartum participants for a period of twelve (12) months from delivery date as shown by medical records or insurance claim.
 - (iii) Recent intravenous (IV) drug users confirmed by prescriber attestation and a positive urine drug screen.
 - (iv) Current users receiving greater than fifty (50) mg of methadone for OUD treatment transitioning to buprenorphine agonist therapy demonstrated by paid claims data from the participant's health insurer, provider attestation, or medical records.

- (v) Current users of sixteen (16) mg to twenty-four (24) mg per day of buprenorphine demonstrated by paid claims data from the participant's previous health insurer.
 - (vi) For one (1) year from the effective date of this rule, a member who does not qualify under the criteria of this part but receives greater than sixteen (16) mg per day of buprenorphine as demonstrated by the controlled substance monitoring database shall be eligible to receive a maximum daily dose of twenty-four (24) mg.
- (2) BESMART treatment requires physician office visits at least weekly for participants in the induction and stabilization phase of treatment; at least every two (2) to four (4) weeks for participants in the maintenance phase of treatment; and at least every two (2) months for participants who have been in the maintenance phase of treatment for one (1) year or longer.
 - (3) To be reimbursed for a BESMART covered service, treating providers must demonstrate an ability to provide all BESMART services in a coordinated, person-centric way, including the ability to facilitate access to all related treatment modalities and provider types, and must participate in at least one (1) MCO's network of BESMART providers.
 - (4) Nurse practitioners and physician assistants must participate in at least one (1) MCO's network of BESMART providers in order to be reimbursed for the prescription of buprenorphine containing products to TennCare enrollees.

Statutory Authority: T.C.A. §§ 4-5-202, 4-5-203, 4-5-204, 71-5-105, 71-5-107 and 71-5-109.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: March 9, 2021

Signature: 

Name of Officer: Stephen Smith

Director, Division of TennCare

Title of Officer: Tennessee Department of Finance and Administration

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Filed with the Department of State on: 3/9/2021



Tre Hargett
Secretary of State

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