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Rule ID(s): 6222
File Date (effective date): 7/1/16
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Emergency Rule Filing Form

Emergency rules are effective from date of filing for a period of up to 180 days.

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

Rule Type:

Emergency Rule

Revision Type (check all that apply):

Amendments
 New
 Repeal

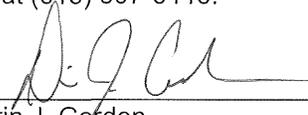
Statement of Necessity:

The Appropriations Act, Public Chapter Number 758, Section 48, Item 8, effective April 21, 2016, authorizes the Commissioner to mandate standardized reimbursement levels in the TennCare Program as necessary to control program expenditures in the fiscal years ending June 30, 2016, and June 30, 2017. Item 7 authorizes the promulgation of emergency rules for the state to fiscally function within the appropriations provided for the TennCare program. This emergency rule amendment clarifies the requirements which must be met by providers of services as well as the payment methodology for reimbursement for Enhanced Respiratory Care services provided through the TennCare Long Term Services and Supports program.

T.C.A. § 4-5-208 permits an agency to adopt an emergency rule when it is required by enactment of the general assembly to implement rules within a prescribed period of time that precludes utilization of rulemaking procedures for promulgation of permanent rules.

Based upon the above information, I have made the finding that the emergency adoptions of these rules are required in order to achieve immediate implementation.

For a copy of this emergency rule contact: George Woods at the Bureau of TennCare by mail at 310 Great Circle Road, Nashville, Tennessee 37243 or by telephone at (615) 507-6446.



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

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE** Rule Number/RuleTitle per row)

Chapter Number	Chapter Title
1200-13-01	TennCare Long-Term Care Programs
Rule Number	Rule Title
1200-13-01-.02	Definitions
1200-13-01-.03	Nursing Facility (NF) Provider Reimbursement
1200-13-01-.05	TennCare CHOICES Program
1200-13-01-.10	Medical (LOC) Eligibility Criteria for TennCare Reimbursement of Care in Nursing Facilities, CHOICES HCBS, and PACE

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Paragraph (45) Enhanced Respiratory Care Reimbursement of Rule 1200-13-01-.02 Definitions is deleted in its entirety and replaced with a new Paragraph (45) which shall read as follows:

- (45) Enhanced Respiratory Care Reimbursement. Specified levels of reimbursement (i.e., Ventilator Weaning, Chronic Ventilator Care, and Tracheal Suctioning, including Sub-Acute and Secretion Management) provided for NF services delivered by a dual certified NF/SNF that meets the requirements set forth in Rule 1200-13-01-.03(5) to persons determined by the Bureau or an MCO, as applicable, to meet specified medical eligibility or medical necessity criteria, as applicable, for such level of reimbursement.

Paragraph (145) Tracheal Suctioning Reimbursement of Rule 1200-13-01-.02 Definitions is deleted in its entirety and replaced with a new Paragraph (145) which shall read as follows:

- (145) Tracheal Suctioning Reimbursement. The rate of reimbursement provided for NF services, including enhanced respiratory care assistance, delivered by a dual certified NF/SNF that meets the requirements set forth in Rule 1200-13-01-.03(5), to residents determined by the Bureau to meet the medical eligibility criteria set forth in Rule 1200-13-01-.10(5)(e) or determined by their TennCare MCO to require short-term intensive respiratory intervention during the post-weaning period, which shall include documented progress in weaning from the tracheostomy. Tracheal Suctioning Reimbursement shall include two (2) distinct levels of reimbursement as follows:

- (a) Secretion Management Tracheal Suctioning Reimbursement for services delivered by a dual certified NF/SNF to persons who meet the medical eligibility criteria set forth in Rule 1200-13-01-.10(5)(e) and have an approved PAE for such level of reimbursement; and
- (b) Sub-Acute Tracheal Suctioning Reimbursement for short-term intensive respiratory intervention delivered by a dual certified NF/SNF and determined by the person's TennCare MCO to be medically necessary during the post-weaning period, which shall include documented progress in weaning from the tracheostomy.

Statutory Authority: T.C.A. §§ 4-5-208, 71-5-105 and 71-5-109.

Subparagraph (a) of Paragraph (2) of Rule 1200-13-01-.03 Nursing Facility (NF) Provider Reimbursement is amended adding the word "member" after the phrase "Medicaid Eligible" so that as amended Subparagraph (a) shall read as follows:

- (a) Reimbursement for NF services provided to a Medicaid Eligible member enrolled in the TennCare Program shall be categorized according to the needs of the individual and the level of skilled and/or rehabilitative services required as specified in Rule 1200-13-01-.10.

Subparagraph (b) of Paragraph (2) of Rule 1200-13-01-.03 Nursing Facility (NF) Provider Reimbursement is amended by deleting the lower case letter "r" in the word "reimbursement" and inserting in its place a capital "R", and by deleting the phrase "SNF (Level 2) care" and inserting in its place the phrase "NF/SNF care", so that as amended Subparagraph (b) shall read as follows:

- (b) Level 2 or Enhanced Respiratory Care NF Reimbursement shall be provided only for beds that are certified for both Medicaid and Medicare for the provision of NF/SNF care.

Paragraph (2) of Rule 1200-13-01-.03 Nursing Facility (NF) Provider Reimbursement is amended by adding new Subparagraphs (c), (d), and (e) which shall read as follows:

- (c) Effective July 1, 2016, each level of Enhanced Respiratory Care Reimbursement shall be an add-on payment to the NF's established Level 2 per diem rate (or the NF's blended per diem rate, when established). The amount of the NF's add-on payment to the NF's established Level 2 per diem rate (or the NF's blended per diem rate, when established) for each of the specified levels of reimbursement (i.e., Ventilator Weaning, Chronic Ventilator Care, and Tracheal Suctioning, including Sub-Acute and Secretion Management) shall be based on the facility's performance on quality outcome and technology measures pursuant to a methodology established by TennCare. Quality outcome and technology measures, performance benchmarks, and the methodology to apply such measures and benchmarks to each of the specified levels of Enhanced Respiratory Care Reimbursement (i.e., Ventilator Weaning, Chronic Ventilator Care, and Tracheal Suctioning, including Sub-Acute and Secretion Management) may be adjusted during FY 2016-2017 to ensure compliance with the Appropriations Act, Public Chapter 758, and no more frequently than annually thereafter in order to continuously improve the quality of care and quality of life outcomes experienced by individuals receiving Enhanced Respiratory Care in a NF.
- (d) Enhanced Respiratory Care Reimbursement shall be provided only for services authorized and delivered in a facility operating in compliance with conditions of reimbursement for Enhanced Respiratory Care specified in 1200-13-01-.03(5), and in a bed specifically licensed for such purpose, as applicable. A NF shall not be eligible for Enhanced Respiratory Care Reimbursement if it does not meet the conditions for reimbursement specified in 1200-13-01-.03(5), or for any Enhanced Respiratory Care services provided in excess of the facility's licensed capacity to provide such services, regardless of payer source.
- (e) A NF shall be eligible for Enhanced Respiratory Care Reimbursement only if such facility has submitted complete, accurate and timely quality measurement data as required by TennCare in order to determine the NF's quality performance.
 1. Quality measurement data shall be submitted by the NF on a monthly basis.
 2. A NF's add-on per diem payment for each specified level of Enhanced Respiratory Care Reimbursement (i.e., Ventilator Weaning, Chronic Ventilator Care, and Tracheal Suctioning, including Sub-Acute and Secretion Management) provided for NF services shall be adjusted based on the NF's quality performance no more frequently than semi-annually.
 3. A NF shall not be entitled to Enhanced Respiratory Care Reimbursement for any NF services provided if the facility has not complied with quality performance reporting requirements, or if any such data is determined (including upon post-payment audit or review) to be inaccurate or incomplete.
 4. Any facility submitting false (including inaccurate or incomplete) quality performance data for purposes of Medicaid payment shall be subject to all applicable federal and state laws pertaining to the submission of false claims.

Paragraph (5) Conditions for Reimbursement of Enhanced Respiratory Care of Rule 1200-13-01-.03 Nursing Facility (NF) Provider Reimbursement is deleted in its entirety and replaced with a new Paragraph (5) which shall read as follows:

- (5) Conditions for Enhanced Respiratory Care Reimbursement.

- (a) The Level 2 NF must enter into a provider agreement with one or more TennCare MCOs for the provision and reimbursement of Ventilator Weaning, Chronic Ventilator Care services and/or Tracheal Suctioning including Sub-Acute and Secretion Management, in a dual certified and licensed NF/SNF.
1. A TennCare MCO shall, pursuant to T.C.A. § 71-5-1412, as amended, contract with any nursing facility for the provision of Medicaid NF services, but shall not be obligated to contract with any NF for Enhanced Respiratory Care Reimbursement specifically.
 2. Unless an exception is granted, a TennCare MCO shall not contract with any NF for Enhanced Respiratory Care Reimbursement unless such NF was contracted by the MCO for Enhanced Respiratory Care Reimbursement prior to July 1, 2016. An MCO may request an exception from TennCare to the moratorium on new contracts with a NF for Enhanced Respiratory Care Reimbursement upon the MCO's demonstration of the need for additional capacity in the geographic area in which the NF is located, and the NF's compliance with all applicable conditions of Enhanced Respiratory Care Reimbursement specified in Rule 1200-13-01-.03(5).
- (b) NFs providing Enhanced Respiratory Care services must be dual certified for the provision of Medicare SNF and Medicaid NF services, showing they have met the federal certification standards. Any of these NFs participating in the TennCare Program shall be terminated by all TennCare MCOs as a TennCare provider if certification or licensure is canceled by CMS or the State.
- (c) NFs providing Ventilator Weaning or Chronic Ventilator Care services and NFs receiving short-term reimbursement at the Sub-Acute Tracheal Suctioning rate for a person who has just been weaned from the ventilator, but who still requires short-term intensive respiratory intervention, shall also meet or exceed the following minimum standards:
1. The NF shall ensure that medical direction of all Ventilator Weaning, Chronic Ventilator Care, and Sub-Acute Tracheal Suctioning services is provided by a physician licensed to practice in the State of Tennessee and board certified in pulmonary disease or critical care medicine as recognized by either the American Board of Medical Specialties or American Osteopathic Association, as applicable.
 2. A licensed respiratory care practitioner as defined by T.C.A. § 63-27-102(7), shall be on site in the ventilator care unit twenty four (24) hours per day, seven (7) days per week to provide:
 - (i) Ventilator care;
 - (ii) Administration of medical gases;
 - (iii) Administration of aerosol medications; and
 - (iv) Diagnostic testing and monitoring of life support systems.
 3. The NF shall ensure that an appropriate individualized POC is prepared for each resident receiving Ventilator Weaning, Chronic Ventilator Care, or Sub-Acute Tracheal Suctioning. The POC shall be developed with input and participation from the medical director of the NF's Enhanced Respiratory Care program as described in (c)(1) above.
 4. The NF shall establish admissions criteria to ensure the medical stability of ventilator-dependent residents prior to transfer from an acute care setting. The NF shall maintain documentation regarding the clinical evaluation of each resident who will receive Enhanced Respiratory Care for appropriateness of placement in the facility prior to admission.
 5. End tidal carbon dioxide (etCO₂) or transcutaneous monitoring of carbon dioxide and oxygen (tcCO₂) and continuous pulse oximetry measurements shall be available for all residents receiving Chronic Ventilator Care and provided based on the needs of each resident. For residents receiving Ventilator Weaning or Sub-Acute Tracheal Suctioning, end tidal Carbon Dioxide (etCO₂) and pulse oximetry measurements shall be provided no less than every four (4) hours, and within one (1) hour following all vent parameter changes.

6. An audible, redundant external alarm system shall be connected to emergency power and/or battery back-up and located outside the room of each resident who is ventilator-dependent for the purpose of alerting staff of resident ventilator circuit disconnection or ventilator failure.
 7. Ventilator equipment (and ideally physiologic monitoring equipment) shall be connected to back-up generator power via clearly marked wall outlets.
 8. Ventilators shall be equipped with adequate back-up provisions, including:
 - (i) Internal and/or external battery back-up systems to provide a minimum of eight (8) hours of power;
 - (ii) Sufficient emergency oxygen delivery devices (i.e., compressed gas or battery operated concentrators);
 - (iii) At least one (1) battery operated suction device available per every eight (8) residents on mechanical ventilator or with a tracheostomy; and
 - (iv) A minimum of one (1) patient-ready back-up ventilator which shall be available in the facility at all times.
 9. The NF shall be equipped with current ventilator technology to encourage and enable maximum mobility and comfort, ideally weighing less than fifteen (15) pounds with various mounting options for portability (e.g., wheelchair, bedside table, or backpack).
 10. The facility shall have an emergency preparedness plan specific to residents receiving Enhanced Respiratory Care which shall specifically address total power failures (loss of power and generator), as well as other emergency circumstances.
 11. The facility shall have a written training program, including an annual demonstration of competencies, for all staff caring for residents receiving Enhanced Respiratory Care (i.e., Ventilator Weaning, Chronic Ventilator Care, or Sub-Acute Tracheal Suctioning).
- (d) A NF contracted with one or more TennCare MCOs to receive Enhanced Respiratory Care (i.e., Ventilator Weaning, Chronic Ventilator Care, or Sub-Acute Tracheal Suctioning) Reimbursement must be operating in compliance with Department of Health rule 1200-08-06-.06(12) in order to be eligible for Enhanced Respiratory Care (i.e., Ventilator Weaning, Chronic Ventilator Care, or Sub-Acute Tracheal Suctioning) Reimbursement. In addition, the NF shall provide attestation of its compliance with each of the requirements specified in Subparagraph (c) or shall submit a plan of correction regarding how it will achieve compliance with any condition not currently specified in 1200-08-06-.06(12) no later than January 1, 2017, and as of January 1, 2017, must be operating in compliance with all of the conditions specified in Subparagraph (c) in order to be eligible for Enhanced Respiratory Care (i.e., Ventilator Weaning, Chronic Ventilator Care, or Sub-Acute Tracheal Suctioning) Reimbursement.
- (e) The standards set forth in Subparagraph (c) are not applicable for Secretion Management Tracheal Suctioning Reimbursement; however, the NF must meet standards specified in Subparagraph (f) below for Secretion Management Tracheal Suctioning Reimbursement.
- (f) NFs receiving Secretion Management Tracheal Suctioning Reimbursement shall meet or exceed the following minimum standards:
1. A licensed respiratory care practitioner as defined by T.C.A. § 63-27-102(7), shall be on site a minimum of weekly to provide:
 - (i) Clinical Assessment of each resident receiving Secretion Management Tracheal Suctioning (including Pulse Oximetry measurements);
 - (ii) Evaluation of appropriate humidification;

- (iii) Tracheostomy site and neck skin assessment;
 - (iv) Care plan updates; and
 - (v) Ongoing education and training on patient assessment, equipment and treatment.
2. The NF shall ensure that an appropriate individualized POC is prepared for each resident receiving Secretion Management Tracheal Suctioning. The POC shall be developed with input and participation from a licensed respiratory care practitioner as defined by T.C.A. § 63-27-102(7). (Medical direction, including POC development and oversight for persons receiving Sub-Acute Tracheal Suctioning shall be conducted in accordance with Subparagraph (c) above.)
 3. The NF shall establish admissions criteria which meet the standard of care to ensure the medical stability of residents who will receive Secretion Management Tracheal Suctioning prior to transfer from an acute care setting. The NF shall maintain documentation regarding the clinical evaluation of each resident who will receive Secretion Management Tracheal Suctioning for appropriateness of placement in the facility prior to admission.
 4. Pulse oximetry measurements shall be provided at least daily with continuous monitoring available, based on the needs of each resident. For any resident being weaned from the tracheostomy, the following shall be provided:
 - (i) Continuous pulse oximetry monitoring; and
 - (ii) End tidal Carbon Dioxide (etCO₂) measurements at least every 12 hours. Transcutaneous (tcCO₂) shall not be appropriate for intermittent monitoring.
 5. Mechanical airway clearance devices and/or heated high flow molecular humidification via the tracheostomy shall also be available for secretion management, as appropriate for the needs of each resident.
 6. Oxygen equipment shall be connected to back-up generator power via clearly marked wall outlets.
 7. Adequate back-up provisions shall be in place including:
 - (i) Sufficient emergency oxygen delivery devices (i.e. compressed gas or battery operated concentrators); and
 - (ii) At least one (1) battery operated suction device available per every eight (8) residents on mechanical ventilation or with a tracheostomy.
 8. The facility shall have an emergency preparedness plan specific to residents receiving Secretion Management Tracheal Suctioning which shall specifically address total power failures (loss of power and generator), as well as other emergency circumstances.
 9. The facility shall have a written training program, including an annual demonstration of competencies, for all staff caring for residents receiving Secretion Management Tracheal Suctioning which shall include (at a minimum) alarm response, positioning and transfers, care within licensure scope, and rescue breathing.
 10. When a facility establishes a "Tracheostomy Unit" (i.e., accepts Tracheal Suctioning Reimbursement, including Sub-Acute and Secretion Management, for more than three (3) residents on the same day, the licensed respiratory care practitioner described in Section (e)(1) above shall be on site a minimum of daily for assessment, care management, and care planning of residents receiving Tracheal Suctioning.
- (g) A NF contracted with one or more TennCare MCOs to receive Secretion Management Tracheal Suctioning Reimbursement shall provide attestation of its compliance with each of the requirements

specified in Subparagraph (f) above, or shall submit a plan of correction regarding how it will achieve compliance no later than January 1, 2017, and shall maintain compliance on a continuous basis thereafter. As of January 1, 2017, a NF must be operating in compliance with all of the conditions specified in Subparagraph (f) in order to be eligible for Secretion Management Tracheal Suctioning Reimbursement.

Paragraph (8) of Rule 1200-13-01-.03 Nursing Facility (NF) Provider Reimbursement is deleted in its entirety and replaced with a new Paragraph (8) which shall read as follows:

- (8) Enhanced Respiratory Care Reimbursement in a dual certified and licensed NF/SNF shall be made only by TennCare MCOs in accordance with this Chapter and rates established by the Bureau. Effective July 1, 2016, each level of Enhanced Respiratory Care Reimbursement shall be an add-on payment to the NF's established Level 2 per diem rate (or the NF's blended per diem rate, when established). The amount of the NF's add-on payment to the NF's established Level 2 per diem rate (or the NF's blended per diem rate, when established) for each of the specified levels of reimbursement (i.e., Ventilator Weaning, Chronic Ventilator Care, and Tracheal Suctioning, including Sub-Acute and Secretion Management) shall be based on the facility's performance on quality outcome and technology measures pursuant to a methodology established by TennCare. Quality outcome and technology measures, performance benchmarks, and the methodology to apply such measures and benchmarks to each of the specified levels of Enhanced Respiratory Care Reimbursement (i.e., Ventilator Weaning, Chronic Ventilator Care, and Tracheal Suctioning, including Sub-Acute and Secretion Management) may be adjusted during FY 2016-2017 to ensure compliance with the Appropriations Act, Public Chapter 758, and no more frequently than annually thereafter in order to continuously improve the quality of care and quality of life outcomes experienced by individuals receiving Enhanced Respiratory Care in a NF.

Statutory Authority: T.C.A. §§ 4-5-208, 71-5-105 and 71-5-109.

Item (III) of Subpart (i) of Part 3. of Subparagraph (c) of Paragraph (4) of Rule 1200-13-01-.05 TennCare CHOICES Program is deleted in its entirety and replaced with a new Item (III) which shall read as follows:

- (III) A Member determined by TennCare to meet the medical eligibility criteria in Rule 1200-13-01-.10(5)(c) who would qualify for Chronic Ventilator Care or a Member determined by the Bureau to meet the medical eligibility criteria in Rule 1200-13-01-.10(5)(d) who would qualify for Secretion Management Tracheal Suctioning will have a Cost Neutrality Cap that reflects the higher payment that would be made to a NF for such care. For at least FY 2016-2017, the Cost Neutrality Cap for such CHOICES Group 2 member shall be based on the annualized cost of the applicable Enhanced Respiratory Care rate in effect as of June 30, 2016. Beginning July 1, 2017, the Cost Neutrality Cap for such CHOICES Group 2 member may be established based on the average annualized cost of the applicable level of Enhanced Respiratory Care Reimbursement using payments for such level of reimbursement during the FY 2016-2017 year. The Cost Neutrality Cap for such CHOICES Group 2 member shall be adjusted no more frequently than annually thereafter. There is no Cost Neutrality Cap based on the cost of Ventilator Weaning Reimbursement or Sub-Acute Tracheal Suctioning Reimbursement, as such services are available only on a short-term basis in a SNF or acute care setting.

Statutory Authority: T.C.A. §§ 4-5-208, 71-5-105 and 71-5-109.

Subpart (iii) of Part 2. of Subparagraph (b) of Paragraph (5) of Rule 1200-13-01-.10 Medical (Level of Care) Eligibility Criteria for TennCare Reimbursement of Care in Nursing Facilities, CHOICES HCBS and PACE is amended by adding an apostrophe after the word "nurses" in the phrase "nurses aides" so that as amended Subpart (iii) shall read:

- (iii) A skilled rehabilitative service must be expected to improve the Applicant's condition. Restorative and maintenance nursing procedures (e.g., routine range of motion exercises; stand-by assistance during ambulation; applications of splints/braces by nurses and nurses' aides) shall not be considered sufficient to fulfill the requirement of (5)(b)2. Factors to be considered in the decision as to whether a rehabilitative service

meets, or continues to meet, the requirement of (5)(b)2. shall include, but not be limited to, an assessment of the type of therapy and its frequency, the remoteness of the injury or impairment, and the reasonable potential for improvement in the Applicant's functional capabilities or medical condition.

Subparagraph (c) of Paragraph (5) of Rule 1200-13-01-.10 Medical (Level of Care) Eligibility Criteria for TennCare Reimbursement of Care in Nursing Facilities, CHOICES HCBS and PACE is amended by adding a new sentence at the end of the Subparagraph so as amended Subparagraph (c) shall read as follows:

- (c) In order to be approved for TennCare-reimbursed care in a NF at the Chronic Ventilator rate of reimbursement, an Applicant must be ventilator dependent for at least 12 hours each day with an invasive patient end of the circuit (i.e., tracheostomy cannula). On a case-by-case basis, TennCare may, subject to additional medical review, authorize Chronic Ventilator Reimbursement for an Applicant who is ventilator dependent with a progressive neuromuscular disorder, spinal cord injury, or chronic respiratory failure and is ventilated using noninvasive positive pressure ventilation (NIPPV) by mask or mouthpiece for at least 12 hours each day in order to avoid or delay tracheostomy.

Subparagraph (d) of Paragraph (5) of Rule 1200-13-01-.10 Medical (Level of Care) Eligibility Criteria for TennCare Reimbursement of Care in Nursing Facilities, CHOICES HCBS and PACE is deleted in its entirety and replaced with a new Subparagraph (d) which shall read as follows:

- (d) In order to be approved by the Bureau for TennCare-reimbursed care in a NF at the Secretion Management Tracheal Suctioning rate of reimbursement:
 - 1. An Applicant must have a functioning tracheostomy and a copious volume of secretions, and require either:
 - (i) Invasive tracheal suctioning, at a minimum, once every three (3) hours with documented assessment pre- and post-suctioning; or
 - (ii) The use of mechanical airway clearance devices and/or heated high flow molecular humidification via the tracheostomy, at a minimum, three (3) times per day with documented assessment pre-and post.
 - 2. The suctioning (or airway clearance, as applicable) must be required to remove excess secretions and/or aspirate from the trachea, which cannot be removed by the Applicant's spontaneous effort. Suctioning of the nasal or oral cavity does not qualify for this higher level of reimbursement. An MCO may authorize, based on medical necessity, short-term payment at the Sub-Acute Tracheal Suctioning Enhanced Respiratory Care rate for a person who has just been weaned from the ventilator, but who still requires short-term intensive respiratory intervention during the post-weaning period which shall include documented progress in weaning from the tracheostomy.
 - 3. A PAE for Secretion Management Tracheal Suctioning Reimbursement shall be approved for no more than a period of thirty (30) days. Clinical review and approval of a new PAE shall be required for ongoing coverage, which shall include evaluation of clinical progress and the NF's efforts to improve secretion management through alternative methods.
 - 4. A NF who has an approved PAE for Tracheal Suctioning Reimbursement for any resident as of July 1, 2016 shall be entitled to continue to receive such level of reimbursement no later than July 31, 2016 (or any earlier date that may be specified in the approved PAE). The NF shall submit a new PAE for such resident no later than July 19, 2016 in order to determine whether Secretion Management Tracheal Suctioning Reimbursement will be continued, or whether a different level of NF reimbursement is appropriate.

Subparagraph (e) of Paragraph (5) of Rule 1200-13-01-.10 Medical (Level of Care) Eligibility Criteria for TennCare Reimbursement of Care in Nursing Facilities, CHOICES HCBS and PACE is deleted in its entirety and replaced with a new Subparagraph (e) which shall read as follows:

- (e) Determination of medical necessity and authorization for Ventilator Weaning Reimbursement, or short-term payment at the Sub-Acute Tracheal Suctioning Enhanced Respiratory Care rate for a person who has just been weaned from the ventilator, but who still requires short-term intensive respiratory intervention shall be managed by the Enrollee's MCO.

Statutory Authority: T.C.A. §§ 4-5-208, 71-5-105 and 71-5-109.

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

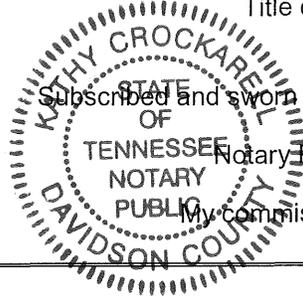
Date: 6/29/2016

Signature: [Handwritten Signature]

Name of Officer: Darin J. Gordon

Director, Bureau of TennCare

Title of Officer: Tennessee Department of Finance and Administration



Subscribed and sworn to before me on: 6/29/16

Notary Public Signature: [Handwritten Signature]

My commission expires on: 1/8/2019

All emergency 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]
Herbert H. Slatery III

Attorney General and Reporter

July 1 2016
Date

Department of State Use Only

Filed with the Department of State on: 7/1/16

Effective for: 180 *days

Effective through: 12/28/16

* Emergency rule(s) may be effective for up to 180 days from the date of filing.

[Handwritten Signature]

Tre Hargett
Secretary of State

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SECRETARY OF STATE
PUBLICATIONS

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

These rules are not anticipated to have an impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The promulgation of these emergency rules clarifies the requirements which must be met by providers of services as well as the payment methodology for reimbursement for Enhanced Respiratory Care services provided through the TennCare Long Term Services and Supports program.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The Rules are lawfully adopted by the Bureau of TennCare in accordance with T.C.A. §§ 4-5-208, 71-5-105 and 71-5-109.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The persons and entities most directly affected by these Rules are TennCare enrollees, providers, and managed care contractors. The governmental entity most directly affected by these Rules is the Bureau of TennCare, Tennessee Department of Finance and Administration.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Rules were approved by the Tennessee Attorney General. No additional opinion was given or requested.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The promulgation of these rules is anticipated to decrease state government expenditures by \$755,500, as reported in the Health Care Finance and Administration Fiscal Year Budget Reduction Plan and incorporated in the Appropriations Act.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Donna K. Tidwell
Deputy General Counsel

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Donna K. Tidwell
Deputy General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

310 Great Circle Road
Nashville, TN 37243
(615) 507-6852
donna.tidwell@tn.gov

(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

GW10116172dt.pk

Rules
of
Tennessee Department of Finance
and Administration
Bureau of TennCare

Chapter 1200-13-01
TennCare Long-Term Care Programs

1200-13-01-.02 Definitions.

- (45) Enhanced Respiratory Care Reimbursement. Specified levels of reimbursement (i.e., Ventilator Weaning, Chronic Ventilator Care, and Tracheal Suctioning, and ~~Ventilator Weaning including Sub-Acute and Secretion Management~~) provided for NF services delivered by a dual certified NF/SNF that meets the requirements set forth in Rule 1200-13-01-.03(5) to persons determined by the Bureau or an MCO, as applicable, to meet specified medical eligibility or medical necessity criteria, as applicable, for such level of reimbursement.
- (145) Tracheal Suctioning Reimbursement. The rate of reimbursement provided for NF services, including enhanced respiratory care assistance, delivered by a dual certified NF/SNF that meets the requirements set forth in Rule 1200-13-01-.03(5), to residents determined by the Bureau to meet the medical eligibility criteria set forth in Rule 1200-13-01-.10(5)(e) or determined by an their TennCare MCO to require short-term intensive respiratory intervention during the post-weaning period, which shall include documented progress in weaning from the tracheostomy. Tracheal Suctioning Reimbursement shall include two (2) distinct levels of reimbursement as follows:
- (a) Secretion Management Tracheal Suctioning Reimbursement for services delivered by a dual certified NF/SNF to persons who meet the medical eligibility criteria set forth in Rule 1200-13-01-.10(5)(e) and have an approved PAE for such level of reimbursement; and
- (b) Sub-Acute Tracheal Suctioning Reimbursement for short-term intensive respiratory intervention delivered by a dual certified NF/SNF and determined by the person's TennCare MCO to be medically necessary during the post-weaning period, which shall include documented progress in weaning from the tracheostomy.

1200-13-01-.03 Nursing Facility (NF) Provider Reimbursement.

- (2) Level 1, Level 2, and Enhanced Respiratory Care NF Reimbursement.
- (a) Reimbursement for NF services provided to a Medicaid Eligible member enrolled in the TennCare Program shall be categorized according to the needs of the individual and the level of skilled and/or rehabilitative services required as specified in Rule 1200-13-01-.10.
- (b) Level 2 or Enhanced Respiratory Care NF ~~Reimbursement~~ shall be provided only for beds that are certified for both Medicaid and Medicare for the provision of NF/SNF (Level-2) care.
- (c) Effective July 1, 2016, each level of Enhanced Respiratory Care Reimbursement shall be an add-on payment to the NF's established Level 2 per diem rate (or the NF's blended per diem rate, when established). The amount of the NF's add-on payment to the NF's established Level 2 per diem rate (or the NF's blended per diem rate, when established) for each of the specified levels of reimbursement (i.e., Ventilator Weaning, Chronic Ventilator Care, and Tracheal Suctioning, including Sub-Acute and Secretion Management) shall be based on the facility's performance on quality outcome and technology measures pursuant to a methodology established by TennCare. Quality outcome and technology measures, performance benchmarks, and the methodology to apply such measures and benchmarks to each of the specified levels of Enhanced Respiratory Care Reimbursement (i.e., Ventilator Weaning, Chronic Ventilator Care, and Tracheal Suctioning, including Sub-Acute and Secretion Management) may be adjusted during FY 2016-2017 to ensure compliance with the Appropriations Act, Public Chapter 758, and no more frequently than annually thereafter in order to continuously improve the quality of care and quality of life outcomes experienced by

individuals receiving Enhanced Respiratory Care in a NF.

- (d) Enhanced Respiratory Care Reimbursement shall be provided only for services authorized and delivered in a facility operating in compliance with conditions of reimbursement for Enhanced Respiratory Care specified in 1200-13-01-.03(5), and in a bed specifically licensed for such purpose, as applicable. A NF shall not be eligible for Enhanced Respiratory Care Reimbursement if it does not meet the conditions for reimbursement specified in 1200-13-01-.03(5), or for any Enhanced Respiratory Care services provided in excess of the facility's licensed capacity to provide such services, regardless of payer source.
- (e) A NF shall be eligible for Enhanced Respiratory Care Reimbursement only if such facility has submitted complete, accurate and timely quality measurement data as required by TennCare in order to determine the NF's quality performance.
1. Quality measurement data shall be submitted by the NF on a monthly basis.
 2. A NF's add-on per diem payment for each specified level of Enhanced Respiratory Care Reimbursement (i.e., Ventilator Weaning, Chronic Ventilator Care, and Tracheal Suctioning, including Sub-Acute and Secretion Management) provided for NF services shall be adjusted based on the NF's quality performance no more frequently than semi-annually.
 3. A NF shall not be entitled to Enhanced Respiratory Care Reimbursement for any NF services provided if the facility has not complied with quality performance reporting requirements, or if any such data is determined (including upon post-payment audit or review) to be inaccurate or incomplete.
 4. Any facility submitting false (including inaccurate or incomplete) quality performance data for purposes of Medicaid payment shall be subject to all applicable federal and state laws pertaining to the submission of false claims.
- (5) Conditions for Reimbursement of Enhanced Respiratory Care Reimbursement.
- (a) The Level 2 NF must enter into a provider agreement with one or more TennCare MCOs for the provision and reimbursement of Ventilator Weaning, Chronic Ventilator Care services and/or Tracheal Suctioning including Sub-Acute and Secretion Management, in a Level-2 dual certified and licensed NF/SNF.
1. A TennCare MCO shall, pursuant to T.C.A. § 71-5-1412, as amended, contract with any nursing facility for the provision of Medicaid NF services, but shall not be obligated to contract with any NF for Enhanced Respiratory Care Reimbursement specifically.
 2. Unless an exception is granted, a TennCare MCO shall not contract with any NF for Enhanced Respiratory Care Reimbursement unless such NF was contracted by the MCO for Enhanced Respiratory Care Reimbursement prior to July 1, 2016. An MCO may request an exception from TennCare to the moratorium on new contracts with a NF for Enhanced Respiratory Care Reimbursement upon the MCO's demonstration of the need for additional capacity in the geographic area in which the NF is located, and the NF's compliance with all applicable conditions of Enhanced Respiratory Care Reimbursement specified in Rule 1200-13-01-.03(5).
- (b) NFs providing (Medicare SNFs and TennCare NFs providing enhanced respiratory care services in a Level 2 NF) must be certified by Medicare, showing they have met the federal certification standards. Enhanced Respiratory Care services must be dual certified for the provision of Medicare SNF and Medicaid NF services, showing they have met the federal certification standards. Any of these NFs participating in the TennCare Program shall be terminated by all TennCare MCOs as a TennCare provider if certification or licensure is canceled by CMS or the State.
- (c) NFs providing Ventilator Weaning or Chronic Ventilator Care services and NFs receiving short-term reimbursement at the Sub-Acute Tracheal Suctioning Rate for a person who has just been weaned from the ventilator, but who still requires short-term intensive respiratory intervention, shall also meet or exceed the following minimum standards:

1. The NF shall ensure that medical direction of all Ventilator Weaning, Chronic Ventilator Care, and Sub-Acute Tracheal Suctioning services is provided by a physician licensed to practice in the State of Tennessee and board certified in pulmonary disease or critical care medicine as recognized by either the American Board of Medical Specialties or American Osteopathic Association, as applicable.
42. A licensed respiratory care practitioner as defined by T.C.A. § 63-27-102(7), shall be on site in the ventilator care unit twenty four (24) hours per day, seven (7) days per week to provide:
 - (i) Ventilator care;
 - (ii) Administration of medical gases;
 - (iii) Administration of aerosol medications; and
 - (iv) Diagnostic testing and monitoring of life support systems.
23. The NF shall ensure that an appropriate individualized POC is prepared for each resident requiring ventilator services receiving Ventilator Weaning, Chronic Ventilator Care, or Sub-Acute Tracheal Suctioning. The POC shall be developed with input and participation from the medical director of the NF's Enhanced Respiratory Care program as described in (c)(1) above a pulmonologist or a physician with experience in ventilator care.
34. The NF shall establish admissions criteria to ensure the medical stability of ventilator-dependent residents prior to transfer from an acute care setting. The NF shall maintain documentation regarding the clinical evaluation of each resident who will receive Enhanced Respiratory Care for appropriateness of placement in the facility prior to admission.
45. End tidal carbon dioxide (etCO₂) or transcutaneous monitoring of carbon dioxide and oxygen (tcCO₂) and continuous pulse oximetry measurements shall be available for all residents receiving Chronic Ventilator Care and provided based on the needs of each resident. For residents receiving Ventilator Weaning or Sub-Acute Tracheal Suctioning, end tidal Carbon Dioxide (etCO₂) and pulse oximetry measurements shall be provided no less than every four (4) hours, and within one (1) hour following all vent parameter changes.

~~Arterial Blood Gas (ABG) shall be readily available in order to document the resident's acid base status and/or End Tidal Carbon Dioxide (etCO₂) and continuous pulse oximetry measurements should be performed in lieu of ABG studies.~~
56. An audible, redundant external alarm system shall be connected to emergency power and/or battery back-up and located outside of each the room of each resident who is ventilator-dependent resident's room for the purpose of alerting caregivers of resident disconnection- staff of resident ventilator circuit disconnection or ventilator failure.
67. Ventilator equipment (and ideally physiologic monitoring equipment) shall be connected to electrical outlets connected to back-up generator power via clearly marked wall outlets.
78. Ventilators shall be equipped with adequate back-up systems provisions, including:-
 - (i) Internal and/or external battery back-up systems to provide a minimum of eight (8) hours of power;
 - (ii) Sufficient emergency oxygen delivery devices (i.e., compressed gas or battery operated concentrators);
 - (iii) At least one (1) battery operated suction device available per every eight (8) residents on mechanical ventilator or with a tracheostomy; and
 - (iv) A minimum of one (1) patient-ready back-up ventilator which shall be available in the

facility at all times.

89. The NF shall be equipped to employ the use of current ventilator technology consistent with meeting residents' needs for mobility and comfort with current ventilator technology to encourage and enable maximum mobility and comfort, ideally weighing less than fifteen (15) pounds with various mounting options for portability (e.g., wheelchair, bedside table, or backpack).

910. The facility shall have an emergency preparedness plan specific to residents receiving Enhanced Respiratory Care which shall specifically address total power failures (loss of power and generator), as well as other emergency circumstances. A (one) back-up ventilator shall be available at all times in the facility.

11. The facility shall have a written training program, including an annual demonstration of competencies, for all staff caring for residents receiving Enhanced Respiratory Care (i.e., Ventilator Weaning, Chronic Ventilator Care, or Sub-Acute Tracheal Suctioning).

(d) A NF contracted with one or more TennCare MCOs to receive Enhanced Respiratory Care (i.e., Ventilator Weaning, Chronic Ventilator Care, or Sub-Acute Tracheal Suctioning) Reimbursement must be operating in compliance with Department of Health rule 1200-08-06-.06(12) in order to be eligible for Enhanced Respiratory Care (i.e., Ventilator Weaning, Chronic Ventilator Care, or Sub-Acute Tracheal Suctioning) Reimbursement. In addition, the NF shall provide attestation of its compliance with each of the requirements specified in Subparagraph (c) or shall submit a plan of correction regarding how it will achieve compliance with any condition not currently specified in 1200-08-06-.06(12) no later than January 1, 2017, and as of January 1, 2017, must be operating in compliance with all of the conditions specified in Subparagraph (c) in order to be eligible for Enhanced Respiratory Care (i.e., Ventilator Weaning, Chronic Ventilator Care, or Sub-Acute Tracheal Suctioning) Reimbursement.

~~Except as provided in (c) above, the standards set forth in (c) are not applicable for Tracheal Suctioning Reimbursement; however, the NF must ensure the availability of necessary equipment, supplies, and appropriately trained and licensed nurses or licensed respiratory therapists to perform the specified tasks.~~

(e) The standards set forth in Subparagraph (c) are not applicable for Secretion Management Tracheal Suctioning Reimbursement; however, the NF must meet standards specified in Subparagraph (f) below for Secretion Management Tracheal Suctioning Reimbursement.

~~If the resident has available resources to apply toward payment, including Patient Liability as determined by DHS, or TPL, which may include LTC insurance benefits, the payment made by the Bureau is the per diem rate established by the Bureau minus the resident's available resources.~~

(f) NFs receiving Secretion Management Tracheal Suctioning Reimbursement shall meet or exceed the following minimum standards:

1. A licensed respiratory care practitioner as defined by T. C. A. § 63-27-102(7), shall be on site a minimum of weekly to provide:

(i) Clinical Assessment of each resident receiving Secretion Management Tracheal Suctioning (including Pulse Oximetry measurements);

(ii) Evaluation of appropriate humidification;

(iii) Tracheostomy site and neck skin assessment;

(iv) Care plan updates; and

(v) Ongoing education and training on patient assessment, equipment and treatment.

2. The NF shall ensure that an appropriate individualized POC is prepared for each resident

receiving Secretion Management Tracheal Suctioning. The POC shall be developed with input and participation from a licensed respiratory care practitioner as defined by T.C.A. § 63-27-102(7). (Medical direction, including POC development and oversight for persons receiving Sub-Acute Tracheal Suctioning shall be conducted in accordance with Subparagraph (c) above.)

3. The NF shall establish admissions criteria which meet the standard of care to ensure the medical stability of residents who will receive Secretion Management Tracheal Suctioning prior to transfer from an acute care setting. The NF shall maintain documentation regarding the clinical evaluation of each resident who will receive Secretion Management Tracheal Suctioning for appropriateness of placement in the facility prior to admission.
 4. Pulse oximetry measurements shall be provided at least daily with continuous monitoring available, based on the needs of each resident. For any resident being weaned from the tracheostomy, the following shall be provided:
 - (i) Continuous pulse oximetry monitoring; and
 - (ii) End tidal Carbon Dioxide (etCO₂) measurements at least every 12 hours. Transcutaneous (tcCO₂) shall not be appropriate for intermittent monitoring.
 5. Mechanical airway clearance devices and/or heated high flow molecular humidification via the tracheostomy shall also be available for secretion management, as appropriate for the needs of each resident.
 6. Oxygen equipment shall be connected to back-up generator power via clearly marked wall outlets.
 7. Adequate back-up provisions shall be in place including:
 - (i) Sufficient emergency oxygen delivery devices (i.e. compressed gas or battery operated concentrators); and
 - (ii) At least one (1) battery operated suction device available per every eight (8) residents on mechanical ventilation or with a tracheostomy.
 8. The facility shall have an emergency preparedness plan specific to residents receiving Secretion Management Tracheal Suctioning which shall specifically address total power failures (loss of power and generator), as well as other emergency circumstances.
 9. The facility shall have a written training program, including an annual demonstration of competencies, for all staff caring for residents receiving Secretion Management Tracheal Suctioning which shall include (at a minimum) alarm response, positioning and transfers, care within licensure scope, and rescue breathing.
 10. When a facility establishes a "Tracheostomy Unit" (i.e., accepts Tracheal Suctioning Reimbursement, including Sub-Acute and Secretion Management, for more than three (3) residents on the same day, the licensed respiratory care practitioner described in Section (e)(1) above shall be on site a minimum of daily for assessment, care management, and care planning of residents receiving Tracheal Suctioning.
- (g) A NF contracted with one or more TennCare MCOs to receive Secretion Management Tracheal Suctioning Reimbursement shall provide attestation of its compliance with each of the requirements specified in Subparagraph (f) above, or shall submit a plan of correction regarding how it will achieve compliance no later than January 1, 2017, and shall maintain compliance on a continuous basis thereafter. As of January 1, 2017, a NF must be operating in compliance with all of the conditions specified in Subparagraph (f) in order to be eligible for Secretion Management Tracheal Suctioning Reimbursement.

Paragraph (8) of Rule 1200-13-01-.03 Nursing Facility (NF) Provider Reimbursement is deleted in its entirety and

replaced with a new Paragraph (8) which shall read as follows:

- (8) Enhanced Respiratory Care Reimbursement in a dual certified and licensed NF/SNF shall be made only by TennCare MCOs in accordance with this Chapter and rates established by the Bureau. Effective July 1, 2016, each level of Enhanced Respiratory Care Reimbursement shall be an add-on payment to the NF's established Level 2 per diem rate (or the NF's blended per diem rate, when established). The amount of the NF's add-on payment to the NF's established Level 2 per diem rate (or the NF's blended per diem rate, when established) for each of the specified levels of reimbursement (i.e., Ventilator Weaning, Chronic Ventilator Care, and Tracheal Suctioning, including Sub-Acute and Secretion Management) shall be based on the facility's performance on quality outcome and technology measures pursuant to a methodology established by TennCare. Quality outcome and technology measures, performance benchmarks, and the methodology to apply such measures and benchmarks to each of the specified levels of Enhanced Respiratory Care Reimbursement (i.e., Ventilator Weaning, Chronic Ventilator Care, and Tracheal Suctioning, including Sub-Acute and Secretion Management) may be adjusted during FY 2016-2017 to ensure compliance with the Appropriations Act, Public Chapter 758, and no more frequently than annually thereafter in order to continuously improve the quality of care and quality of life outcomes experienced by individuals receiving Enhanced Respiratory Care in a NF.

~~Reimbursement for enhanced respiratory care services in a Medicare-certified and licensed Level 2 SNF shall be made only by TennCare MCOs in accordance with this Chapter and rates established by the Bureau.~~

1200-13-01-.05 TennCare CHOICES Program.

- (4) Enrollment in TennCare CHOICES. Enrollment into CHOICES shall be processed by the Bureau as follows:
- (c) Individual Cost Neutrality Cap.
3. Calculating a Group 2 Member's Individual Cost Neutrality Cap.
- (i) Each Group 2 Member will have an Individual Cost Neutrality Cap that is based on the average cost of the level of NF reimbursement that would be paid if the Member were institutionalized in a NF as set forth in Items (I) through (III) below. CHOICES Group 2 does not offer an alternative to hospital level of care.
- (III) A Member determined by TennCare to meet the medical eligibility criteria in Rule 1200-13-01-.10(5)(c) who would qualify for Chronic Ventilator Care or a Member determined by the Bureau to meet the medical eligibility criteria in Rule 1200-13-01-.10(5)(d) who would qualify for Secretion Management Tracheal Suctioning will have a Cost Neutrality Cap that reflects the higher payment that would be made to a NF for such care. For at least FY 2016-2017, the Cost Neutrality Cap for such CHOICES Group 2 member shall be based on the annualized cost of the applicable Enhanced Respiratory Care rate in effect as of June 30, 2016. Beginning July 1, 2017, the Cost Neutrality Cap for such CHOICES Group 2 member may be established based on the average annualized cost of the applicable level of Enhanced Respiratory Care Reimbursement using payments for such level of reimbursement during the FY 2016-2017 year. The Cost Neutrality Cap for such CHOICES Group 2 member shall be adjusted no more frequently than annually thereafter. There is no Cost Neutrality Cap based on the cost of Ventilator Weaning Reimbursement or Sub-Acute Tracheal Suctioning Reimbursement, as such services are available only on a short-term basis in a SNF or acute care setting.

~~A Member who would qualify for the Enhanced Respiratory Care Reimbursement for persons who are chronically ventilator dependent, or for persons who have a functioning tracheostomy that requires frequent suctioning through the tracheostomy will have a Cost Neutrality Cap that reflects the higher payment that would be made to the NF for such care. There is no Cost Neutrality Cap for Ventilator Weaning Reimbursement, as such service is available only on a short-~~

~~term basis in a SNF or acute care setting.~~

1200-13-01-.10 Medical (Level of Care) Eligibility Criteria for TennCare Reimbursement of Care in Nursing Facilities, CHOICES HCBS and PACE.

(5) Criteria for Medicaid Level 2 and Enhanced Respiratory Care Reimbursement of Care in a NF.

(b) An Applicant must meet both of the following criteria in order to be approved for Medicaid Level 2 reimbursement of care in a NF:

2. Need for Inpatient Skilled Nursing or Rehabilitative Services on a Daily Basis: The Applicant must have a physical or mental condition, disability, or impairment that requires skilled nursing or rehabilitative services on a daily basis or skilled rehabilitative services at least five days per week when skilled rehabilitative services constitute the primary basis for the approval of the PAE. The Applicant must require such services at a greater frequency, duration, or intensity than, for practical purposes, would be provided through a daily home health visit. In addition, the Applicant must be mentally or physically unable to perform the needed skilled services or the Applicant must require skilled services which, in accordance with accepted medical practice, are not usually and customarily self-performed. For interpretation of this rule, the following shall apply:

(iii) A skilled rehabilitative service must be expected to improve the Applicant's condition. Restorative and maintenance nursing procedures (e.g., routine range of motion exercises; stand-by assistance during ambulation; applications of splints/braces by nurses and nurses' aides) shall not be considered sufficient to fulfill the requirement of (5)(b)2. Factors to be considered in the decision as to whether a rehabilitative service meets, or continues to meet, the requirement of (5)(b)2. shall include, but not be limited to, an assessment of the type of therapy and its frequency, the remoteness of the injury or impairment, and the reasonable potential for improvement in the Applicant's functional capabilities or medical condition.

(c) In order to be approved for TennCare-reimbursed care in a NF at the Chronic Ventilator rate of reimbursement, an Applicant must be ventilator dependent for at least 12 hours each day with an invasive patient end of the circuit (i.e., tracheostomy cannula). On a case-by-case basis, TennCare may, subject to additional medical review, authorize Chronic Ventilator Reimbursement for an Applicant who is ventilator dependent with a progressive neuromuscular disorder, spinal cord injury, or chronic respiratory failure and is ventilated using noninvasive positive pressure ventilation (NIPPV) by mask or mouthpiece for at least 12 hours each day in order to avoid or delay tracheostomy.

(d) In order to be approved by the Bureau for TennCare-reimbursed care in a NF at the Secretion Management Tracheal Suctioning rate of reimbursement:

1. An Applicant must have a functioning tracheostomy and a copious volume of secretions, and require either:

(i) Invasive tracheal suctioning, at a minimum, once every three (3) hours with documented assessment pre- and post-suctioning; or

(ii) The use of mechanical airway clearance devices and/or heated high flow molecular humidification via the tracheostomy, at a minimum, three (3) times per day with documented assessment pre-and post.

2. The suctioning (or airway clearance, as applicable) must be required to remove excess secretions and/or aspirate from the trachea, which cannot be removed by the Applicant's spontaneous effort. Suctioning of the nasal or oral cavity does not qualify for this higher level of reimbursement. An MCO may authorize, based on medical necessity, short-term payment at the Sub-Acute Tracheal Suctioning Enhanced Respiratory Care rate for a person who has just been weaned from the ventilator, but who still requires short-term intensive respiratory

intervention during the post-weaning period which shall include documented progress in weaning from the tracheostomy.

3. A PAE for Secretion Management Tracheal Suctioning Reimbursement shall be approved for no more than a period of thirty (30) days. Clinical review and approval of a new PAE shall be required for ongoing coverage, which shall include evaluation of clinical progress and the NF's efforts to improve secretion management through alternative methods.
4. A NF who has an approved PAE for Tracheal Suctioning Reimbursement for any resident as of July 1, 2016 shall be entitled to continue to receive such level of reimbursement no later than July 31, 2016 (or any earlier date that may be specified in the approved PAE). The NF shall submit a new PAE for such resident no later than July 19, 2016 in order to determine whether Secretion Management Tracheal Suctioning Reimbursement will be continued, or whether a different level of NF reimbursement is appropriate.

~~In order to be approved by the Bureau for TennCare-reimbursed care in a NF at the Tracheal Suctioning rate of reimbursement, an Applicant must have a functioning tracheostomy and require suctioning through the tracheostomy, at a minimum, multiple times per eight (8) hour shift. The suctioning must be required to remove excess secretions and/or aspirate from the trachea, which cannot be removed by the Applicant's spontaneous effort. Suctioning of the nasal or oral cavity does not qualify for this higher level of reimbursement. An MCO may authorize, based on medical necessity, short-term payment at the Tracheal Suctioning Enhanced Respiratory Care rate for a person who has just been weaned from the ventilator, but who still requires short-term intensive respiratory intervention during the post-weaning period.~~

- (e) ~~Determination of medical necessity and authorization for TennCare Reimbursement of Ventilator Weaning services Reimbursement, or short-term payment at the Sub-Acute Tracheal Suctioning Enhanced Respiratory Care rate for a person who has just been weaned from the ventilator, but who still requires short-term intensive respiratory intervention shall be managed by the Enrollee's MCO.~~

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