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Sequence Number: 07-24-14  
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Effective Date: 10/26/14

# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205*

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

- Amendments  
 New  
 Repeal

**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/Rule Title 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-.05	TennCare CHOICES Program

(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>)

Subparagraph (b) of Paragraph (21) of Rule 1200-13-01-.02 Definitions is amended by deleting "December 31, 2013" wherever it appears and replacing it with "June 30, 2015" so as amended Subparagraph (b) shall read as follows:

- (b) Members eligible for TennCare in the CHOICES At-Risk Demonstration Group on June 30, 2015, may continue to qualify in this group after June 30, 2015, so long as they continue to meet NF financial eligibility, continue to be At Risk for Institutionalization as defined in these rules, and remain continuously enrolled in the CHOICES At-Risk Demonstration Group and in CHOICES Group 3.

Paragraph (70) of Rule 1200-13-01-.02 Definitions is amended by deleting "December 31, 2013" wherever it appears and replacing it with "June 30, 2015" so as amended Paragraph (70) shall read as follows:

(70) Interim CHOICES Group 3 (open only between July 1, 2012, and June 30, 2015).

- (a) Individuals age sixty-five (65) and older and adults age twenty-one (21) and older with Physical Disabilities who qualify for TennCare as SSI recipients or as Members of the CHOICES At-Risk Demonstration Group, and who are At Risk for Institutionalization as defined in these rules. There will be no Enrollment Target applied to Interim CHOICES Group 3.
- (b) Members enrolled in Interim CHOICES Group 3 on June 30, 2015, may continue to qualify in this group after June 30, 2015, so long as they continue to meet NF financial eligibility, continue to be At Risk for Institutionalization, can be safely served in Interim CHOICES Group 3, and remain continuously enrolled in the CHOICES At-Risk Demonstration Group and in CHOICES Group 3.

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

Item (II) of Subpart (iii) of Part 3. of Subparagraph (a) of Paragraph (3) of Rule 1200-13-01-.05 TennCare CHOICES Program is amended by deleting "December 31, 2013" wherever it appears and replacing it with "June 30, 2015" and by deleting "DHS" in the second sentence and replacing it with "the State" so as amended Item (II) shall read as follows:

- (II) For Interim CHOICES Group 3 only, the CHOICES At-Risk Demonstration Group, as defined in Rule 1200-13-01-.02. Financial and categorical eligibility are determined by the State. Persons who qualify in the CHOICES At-Risk Demonstration Group will be enrolled in TennCare Standard. This eligibility category is only open for enrollment between July 1, 2012 and June 30, 2015. Members enrolled in Interim CHOICES Group 3 on June 30, 2015, may continue to qualify in this group after June 30, 2015, so long as they continue to meet NF financial eligibility criteria and the LOC criteria in place at the time of enrollment into Interim CHOICES Group 3, and remain continuously enrolled in the CHOICES At-Risk Demonstration Group, Interim CHOICES Group 3, and TennCare.

Part 2. of Subparagraph (g) of Paragraph (4) of Rule 1200-13-01-.05 TennCare CHOICES Program is amended by deleting "December 31, 2013" and replacing it with "June 30, 2015" so as amended Part 2. shall read as follows:

- 2. Notwithstanding any Enrollment Target established for CHOICES Group 3 as described in this subparagraph, Interim CHOICES Group 3 which is open for enrollment between July 1, 2012, and June 30, 2015, shall not be subject to an Enrollment Target.

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

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Finance and Administration (board/commission/ other authority) on 07/17/2014 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 05/08/14

Rulemaking Hearing(s) Conducted on: (add more dates). 07/02/14



Date: 7/17/2014

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: 7/17/14

Notary Public Signature: [Handwritten Signature]

**AUG 28 2016**

My commission expires on: \_\_\_\_\_

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

[Handwritten Signature]

Robert E. Cooper, Jr.  
Attorney General and Reporter

7-25-14

Date

**Department of State Use Only**

Filed with the Department of State on: 7/28/14

Effective on: 01/20/14

[Handwritten Signature]

Tre Hargett  
Secretary of State

RECEIVED  
2014 JUL 28 PM 3:00  
OFFICE OF  
SECRETARY OF STATE

## **Public Hearing Comments**

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no public comments on these rules.

## **Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

The rules are not anticipated to have an effect on small businesses.

### **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)

The 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 rules are being promulgated to allow the State to continue to enroll and provide Home and Community Based Services (HCBS) to persons who have been determined financially eligible for long-term services and supports and who are at risk of institutionalization through June 30, 2015.

- (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 as a rulemaking hearing rule under T.C.A § 4-5-202, 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 the TennCare enrollees and TennCare providers. 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 increase State's annual expenditures by \$7,870,000.

- (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

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(615) 507-6852  
donna.tidwell@tn.gov

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

GW10114175



**1200-13-01-.02 DEFINITIONS.**

- (21) CHOICES At-Risk Demonstration Group.
- (b) Members eligible for TennCare in the CHOICES At-Risk Demonstration Group on ~~December 31, 2013~~June 30, 2015, may continue to qualify in this group after ~~December 31, 2013~~June 30, 2015, so long as they continue to meet NF financial eligibility, continue to be At Risk for Institutionalization as defined in these rules, and remain continuously enrolled in the CHOICES At-Risk Demonstration Group and in CHOICES Group 3.
- (70) Interim CHOICES Group 3 (open only between July 1, 2012, and ~~December 31, 2013~~June 30, 2015).
- (a) Individuals age sixty-five (65) and older and adults age twenty-one (21) and older with Physical Disabilities who qualify for TennCare as SSI recipients or as Members of the CHOICES At-Risk Demonstration Group, and who are At Risk for Institutionalization as defined in these rules. There will be no Enrollment Target applied to Interim CHOICES Group 3.
- (b) Members enrolled in Interim CHOICES Group 3 on ~~December 31, 2013~~June 30, 2015, may continue to qualify in this group after ~~December 31, 2013~~June 30, 2015, so long as they continue to meet NF financial eligibility, continue to be At Risk for Institutionalization, can be safely served in Interim CHOICES Group 3, and remain continuously enrolled in the CHOICES At-Risk Demonstration Group and in CHOICES Group 3.

**1200-13-01-.05 TENNCARE CHOICES PROGRAM.**

- (3) Eligibility for CHOICES.
- (a) There are three (3) groups in TennCare CHOICES:
3. CHOICES Group 3, including Interim CHOICES Group 3.
- (iii) Eligibility Categories served in CHOICES Group 3. Participation in CHOICES Group 3 is limited to TennCare Enrollees who qualify in one of the following eligibility categories:
- (II) For Interim CHOICES Group 3 only, the CHOICES At-Risk Demonstration Group, as defined in Rule 1200-13-01-.02. Financial and categorical eligibility are determined by DHS the State. Persons who qualify in the CHOICES At-Risk Demonstration Group will be enrolled in TennCare Standard. This eligibility category is only open for enrollment between July 1, 2012 and ~~December 31, 2013~~June 30, 2015. Members enrolled in Interim CHOICES Group 3 on ~~December 31, 2013~~June 30, 2015, may continue to qualify in this group after ~~December 31, 2013~~June 30, 2015, so long as they continue to meet NF financial eligibility criteria and the LOC criteria in place at the time of enrollment into Interim CHOICES Group 3, and remain continuously enrolled in the CHOICES At-Risk Demonstration Group, Interim CHOICES Group 3, and TennCare.
- (4) Enrollment in TennCare CHOICES. Enrollment into CHOICES shall be processed by the Bureau as follows:
- (g) Enrollment Target for CHOICES Group 3 (including Interim CHOICES Group 3).
2. Notwithstanding any Enrollment Target established for CHOICES Group 3 as described in this subparagraph, Interim CHOICES Group 3 which is open for enrollment between July 1, 2012, and ~~December 31, 2013~~June 30, 2015, shall not be subject to an Enrollment Target.