

Notice of

Rulemaking Hearing

Tennessee Department of Finance and Administration

Bureau of TennCare

There will be a hearing before the Commissioner to consider the promulgation of amendments of rules pursuant to Tennessee Code Annotated, 71-5-105 and 71-5-109. The 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 Nashville Public Library Auditorium, 1st Floor, 615 Church Street, Nashville, Tennessee 37219 at 9:30 a.m. C.D.T. on the 19th day September 2005.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Finance and Administration, Bureau of TennCare, to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings) to allow time for the Bureau of TennCare to determine how it may reasonably provide such aid or service. Initial contact may be made with the Bureau of TennCare's ADA Coordinator by mail at the Bureau of TennCare, 310 Great Circle Road, Nashville, Tennessee 37243 or by telephone at (615) 507-6474 or 1-800-342-3145.

For a copy of this notice of rulemaking hearing, contact George Woods at the Bureau of TennCare, 310 Great Circle Road, Nashville, Tennessee 37243 or call (615) 507-6446.

Substance of Proposed Rules

Subparagraph (d) of paragraph (1) of rule 1200-13-13-.11 Appeal of Adverse Actions Affecting TennCare Services or Benefits is amended by adding new parts 3. and 4. which shall read as follows:

3. Notwithstanding the requirements of this subsection, effective August 1, 2005, such pharmacy notice will not be provided if the enrollee does not receive the medication of the type and amount prescribed because the pharmacy services are no longer covered by TennCare, including when an enrollee has exceeded the monthly pharmacy benefit limit.
4. Notwithstanding the requirements of this subsection, effective August 1, 2005, pharmacists will verify TennCare coverage for all prescriptions presented by enrollees through the PBM. If the PBM denies coverage because an enrollee has exceeded the applicable pharmacy benefit limit, the PBM will provide appropriate notice to enrollees on behalf of the TennCare Bureau. This notice will only be provided upon the first denial of coverage of a pharmacy service sought by the enrollee that exceeds the monthly five (5) prescription limit or the monthly two (2) prescription limit on branded drugs.

Subparagraph (g) of paragraph (4) of rule 1200-13-13-.11 Appeal of Adverse Actions Affecting TennCare Services or Benefits is amended by adding a new part 6. which shall read as follows:

6. Effective August 1, 2005, notwithstanding the requirements of this subsection, enrollees are not entitled to continuation or reinstatement of services pending an appeal when the service that is the subject of the appeal, even if prescribed, prior authorized and/or initiated or ordered prior to August 1, 2005, was denied because it is no longer covered by TennCare.

This includes appeals related to denials of coverage of pharmacy services when the enrollee exceeds the monthly pharmacy benefit limit.

Subparagraph (a) of paragraph (5) of rule 1200-13-13-.11 Appeal of Adverse Actions Affecting TennCare Services or Benefits is amended by adding a new part 5. which shall read as follows:

5. Effective August 1, 2005, notwithstanding the requirements of this subsection, a three-day supply of the prescribed drug will not be provided to enrollees who present a prescription at a pharmacy and are denied coverage because the services are not covered by TennCare, including when enrollees have exceeded the monthly benefit limit.

Paragraph (5) of rule 1200-13-13-.11 Appeal of Adverse Actions Affecting TennCare Services or Benefits is amended by adding new subparagraphs (e) and (f) which shall read as follows:

- (e) The Bureau of TennCare shall establish a tolerance level for early refills of prescriptions. Such established tolerance level may be more stringent for narcotic substances. Notwithstanding the requirements of this subsection, if an enrollee requests a refill of a prescription prior to the tolerance level for early refills established by the Bureau, the pharmacy will deny this request as a service which is non-covered until the applicable tolerance period has lapsed, and will not provide a three-day supply of the prescribed drug or written notice in accordance with (1)(d) above.
- (f) Effective October 1, 2003, when providing a supply of a prescribed drug as required under this subsection, TennCare must only provide coverage of a three-day supply of the prescribed drug.

Paragraph (7) of rule 1200-13-13-.11 Appeal of Adverse Actions Affecting TennCare Services or Benefits is amended by adding a new subparagraph (h) which shall read as follows:

- (h) In no circumstance will a directive be issued by the TennCare Solutions Unit or an Administrative Law Judge to provide a service to an enrollee if, when the appeal is resolved, the service is no longer covered by TennCare for the enrollee. A directive also will not be issued by TennCare Solutions Unit if the service cannot reasonably be provided to the enrollee before the date when the service is no longer covered by TennCare for the enrollee and such appeal will proceed to a hearing.

Statutory Authority: T.C.A. 4-5-202, 4-5-203, 71-5-105, 71-5-109, Executive Order No. 23.

Legal Contact and/or party who will approve final copy for publication and disk acquisition:

(Name)	George Woods
(Address)	Bureau of TennCare 310 Great Circle Road Nashville, TN 37243
(Telephone)	(615) 507-6446

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I certify that this is an accurate complete representation of the intent and scope of rulemaking proposed by the Tennessee Department of Finance and Administration.

Darin Gordon

Darin Gordon
Chief Financial Officer
Tennessee Department of Finance and
Administration

Subscribed and sworn to me this the 29th day of July, 2005.

Eric Dutton
Notary Public

My Commission Expires on the 28th day of May, 2006.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28 day of July, 2005.

Riley C. Darnell

Riley C. Darnell
Secretary of State

BY: *M. Mudd*

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