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Sequence Number: 08-16-12  
 Notice ID(s): 1885  
 File Date: 8/21/12

# 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:** Bureau of TennCare  
**Contact Person:** George Woods  
**Address:** Bureau 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:** ADA Coordinator  
**Address:** Bureau of TennCare  
 310 Great Circle Road  
 Nashville, TN 37243  
**Phone:** (615) 507-6474  
**Email:** helen.moore@tn.gov

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

Address 1:	Legislative Plaza, Room 16 301 6 <sup>th</sup> Avenue North
Address 2:	
City:	Nashville
Zip:	37243
Hearing Date:	10/10/2012
Hearing Time:	10:00 a.m. <input checked="" type="checkbox"/> CST/CDT <input type="checkbox"/> EST/EDT

Additional Hearing Information:

Revision Type (check all that apply):

- Amendments
- 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
1200-13-14	TennCare Standard
Rule Number	Rule Title
1200-13-14-.01	Definitions
1200-13-14-.05	Enrollee Cost Sharing

(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>)

Rule 1200-13-14-.01 Definitions is amended by adding a new Paragraph (5) and renumbering the current Paragraph (5) as (6) and subsequent paragraphs renumbered accordingly so as amended the new Paragraph (5) shall read as follows:

- (5) Aggregate Cost-Sharing Cap. The maximum amount a family may pay out-of-pocket for TennCare covered services during a calendar quarter (January 1 through March 31, April 1 through June 30, July 1 through September 30, October 1 through December 31). Amounts paid for non-covered services, including payments for services that exceed a benefit limit, are not counted in the aggregate cost-sharing cap. Amounts paid by the family for third party insurance are not counted in the aggregate cost-sharing cap.

Rule 1200-13-14-.01 Definitions is amended by adding new Paragraphs (15) and (16) and renumbering the current renumbered Paragraph (15) as (17) with subsequent paragraphs being renumbered accordingly so as amended new Paragraphs (15) and (16) shall read as follows:

- (15) CHOICES 1 and 2 Carryover Group. See definition in Rule 1200-13-01-.02.

- (16) CHOICES At-Risk Demonstration Group. See definition in Rule 1200-13-01-.02.

Rule 1200-13-14-.01 Definitions is amended by adding a new Paragraph (31) and renumbering the current renumbered Paragraph (31) as (32) with subsequent paragraphs renumbered accordingly so as amended the new Paragraph (31) shall read as follows:

- (31) Copay. A fixed fee that is charged to certain TennCare enrollees for certain TennCare services.

Rule 1200-13-14-.01 Definitions is amended by adding a new Paragraph (38) and renumbering the current renumbered Paragraph (38) as (39) with subsequent paragraphs renumbered accordingly so as amended the new Paragraph (38) shall read as follows:

- (38) Deductible. A specified amount of money paid each year by an insured person for benefits before his health plan starts paying claims.

Rule 1200-13-14-.01 Definitions is amended by adding a new Paragraph (95) and renumbering the current renumbered Paragraph (95) as (96) with subsequent paragraphs renumbered accordingly so as amended the new Paragraph (95) shall read as follows:

- (95) Pace Carryover Group. See definition in Rule 1200-13-01-.02.

Rule 1200-13-14-.01 Definitions is amended by adding a new Paragraph (101) and renumbering the current renumbered Paragraph (101) as (102) with subsequent paragraphs renumbered accordingly so as amended the new Paragraph (101) shall read as follows:

- (101) Premium. A specified amount of money that an insured person is required to pay on a regular basis in order to participate in a health plan.

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

Rule 1200-13-14-.05 Enrollee Cost Sharing is deleted in its entirety and replaced with a new Rule 1200-13-14-.05 Enrollee Cost Sharing which shall read as follows:

1200-13-14-.05 Enrollee Cost Sharing.

(1) Premiums and deductibles.

- (a) Enrollees are not required to pay premiums for TennCare.
- (b) There are no TennCare deductibles.

(2) Copays.

(a) The following TennCare Standard enrollees are exempt from TennCare copays:

- 1. Enrollees who are receiving hospice services and who provide verbal notification of such to the provider at the point of service.
- 2. Enrollees who are pregnant and who provide verbal notification of such to the provider at the point of service.
- 3. Enrollees who are enrolled in any of the following CHOICES groups:
  - (i) The CHOICES 217-Like Group
  - (ii) The CHOICES 1 and 2 Carryover Group
  - (iii) The PACE Carryover Group
- 4. Children who are enrolled in TennCare Standard and who have family incomes below 100% of poverty.

(b) The following TennCare services are exempt from TennCare copays for all enrollees:

- 1. Emergency services, including the seventy-two (72) hour emergency supply of a medication in an emergency situation, as described in Rule 1200-13-14-.11.
- 2. Family planning services and supplies.
- 3. Preventive services as identified in Rule 1200-13-14-.04.

(c) Pharmacy copays.

- 1. There is no pharmacy copay for covered generic prescription drugs.
- 2. The following TennCare Standard enrollees have a pharmacy copay of \$3.00 per covered brand name prescription:
  - (i) TennCare Standard children with family incomes that are 100% of poverty or greater.
  - (ii) Enrollees in the Standard Spend Down program.
  - (iii) Enrollees in the CHOICES At-Risk Demonstration Group.

(d) Copays for other TennCare services. The following copays are applicable to TennCare Standard children.

Benefit	Copay if income is 0%-99% of poverty	Copay if income is 100%-199% of poverty	Copay if income is 200% of poverty or greater
Hospital emergency room use for non-emergency services (waived if admitted)	\$0	\$10	\$50
Primary care provider services other than preventive care	\$0	\$5	\$15
Community Mental Health Agency services other than preventive care	\$0	\$5	\$15
Physician specialists and dentists	\$0	\$5	\$20
Prescription or refill	\$0	\$3 for covered branded prescriptions; \$0 for generic prescriptions	\$3 for covered branded prescriptions; \$0 for generic prescriptions
Inpatient hospital admission	\$0	\$5	\$100

(e) Copays for non-emergency services provided in an emergency department are not required unless the hospital has first provided the enrollee with assistance in gaining access to a non-emergency services provider (a physician's office, health care clinic, community health center, hospital outpatient department, or similar provider). This requirement on the part of the hospital can be met if, before providing non-emergency care subject to copay, the emergency room staff recommends that the enrollee or the enrollee's caretaker call the 24/7 nurse staffed call center for the enrollee's MCO to obtain help in locating an available provider in the community, and offers to assist with placing a call to the call center.

(3) Aggregate cost-sharing cap.

- (a) The aggregate cost-sharing cap is applicable only to TennCare copays incurred by TennCare Standard children with incomes at or above 100% of poverty and their TennCare family members.
- (b) The aggregate cost-sharing cap is calculated by combining the TennCare cost sharing for all TennCare family members who have TennCare cost-sharing obligations, and may not exceed 5 percent of the family's annual income, prorated to a quarterly equivalent. Family income will be calculated using the same methodology used to calculate income for the determination of eligibility, and the family will be assigned to the corresponding income band to determine the standardized aggregate cap, which is based on the lower end of the income band. The following income bands and the corresponding aggregate annual caps will be used:

Income Bands	Poverty levels	Standardized Annual Aggregate Cap
1	0% - 99%	Not applicable
2	100% - 149%	5% of the amount that corresponds to 100% FPL
3	150% - 199%	5% of the amount that corresponds to 150% FPL
4	200% - 249%	5% of the amount that corresponds to 200% FPL
5	250% - 299%	5% of the amount that corresponds to 250% FPL
6	300% - 349%	5% of the amount that corresponds to 300% FPL
7	350% - 399%	5% of the amount that corresponds to 350% FPL

8	400% - 499%	5% of the amount that corresponds to 400% FPL
7	500% - 599%	5% of the amount that corresponds to 500% FPL
8	600% and over	5% of the amount that corresponds to 600% FPL

- (c) Families of applicable TennCare Standard children are responsible for tracking their own incurred cost sharing obligations, including keeping copies of receipts and similar documentation, and notifying the Bureau of TennCare when they believe they have reached their aggregate cost-sharing cap for a particular calendar quarter.
  - (d) After receiving the information described in subparagraph (c), TennCare will notify families of applicable TennCare Standard children of the date when it has been determined that the aggregate cost-sharing cap, as prorated for the quarter, has been reached. When that occurs, there are no further TennCare cost-sharing obligations required for the remainder of the calendar quarter. Any TennCare copays that are paid by the family during the quarter after the family's aggregate cost-sharing cap, as pro-rated for that quarter, has been reached will be refunded to the family by TennCare.
- (4) This paragraph applies to all TennCare Managed Care Contractors and providers.
- (a) In accordance with 42 CFR § 447.53(e), providers may not refuse to deliver a covered service to an enrollee because of the enrollee's inability to make his copay.
  - (b) Managed care contractors participating in the TennCare program shall be specifically prohibited from waiving or discouraging TennCare enrollees from paying any applicable cost-sharing amounts.

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

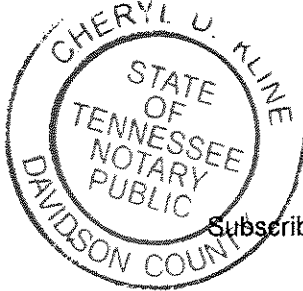
Date: 8/20/2012

Signature: *D. J. Gordon*

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: 8/20/12

Notary Public Signature: *Cheryl U. Kline*

My commission expires on: 9/31/2012

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*Tre Hargett*  
Tre Hargett  
Secretary of State