

Department of State
Division of Publications
312 Rosa L. Parks, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 09-15-11
Rule ID(s): 5018
File Date (effective date): 09/23/2011
End Effective Date: 03/21/2012

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: | 310 Great Circle Road Nashville, Tennessee |
| Zip: | 37243 |
| Phone: | (615) 507-6446 |
| Email: | George.Woods@tn.gov |

Rule Type:

Emergency Rule

Revision Type (check all that apply):

Amendment
 New
 Repeal

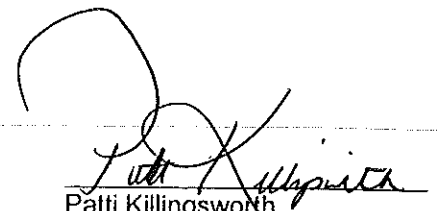
Statement of Necessity:

The Long-Term Care Community Choices Act of 2008, T.C.A. §§ 71-5-1401, et seq., established the CHOICES program, which permits certain persons who are eligible for long term care in a nursing facility to receive certain services and remain in their homes (CHOICES Group 2). The Act required the Commissioner to apply for a Medicaid waiver in order to obtain federal financial participation (FFP) for the program. The CHOICES waiver permits the Bureau of TennCare to establish enrollment targets for CHOICES Group 2, but sets a maximum target of 11,000 enrollees for which FFP will be paid in this fiscal year. The current rule established an enrollment target of 9,500 for CHOICES Group 2. Increased interest in the program has resulted in enrollment rapidly approaching this target. The Bureau anticipates that the additional available federally approved enrollment capacity will be needed effective September 30, 2011. If the CHOICES Group 2 enrollment target established by rule is not increased, the additional FFP already approved for enrolling an additional 1,500 persons into CHOICES Group 2 will not be available. The Bureau will not receive FFP for any persons eligible for enrollment into CHOICES Group 2 after the target of 9,500 is reached unless the potential enrollees are placed in CHOICES Group 1, which is higher cost institutional care.

Pursuant to T.C.A. § 4-5-208, the Bureau of TennCare is authorized to adopt an emergency rule if it is required by an agency of the federal government and adoption of the rule through ordinary rulemaking procedures might jeopardize the loss of a federal program or funds.

I have made the finding that the attached amendment is required to prevent the loss of federal funds and the timely implementation of this amendment precludes promulgation through ordinary rulemaking procedures.

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.



Patti Killingsworth
 Assistant Commissioner
 Chief of Long Term Care
 Bureau of TennCare

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-.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>)

Part 1. of Subparagraph (d) of Paragraph (4) of Rule 1200-13-01-.05 TennCare CHOICES Program is amended by adding a new Subpart (iii) which shall read as follows:

- (iii) Effective September 30, 2011, the Enrollment Target for CHOICES Group 2 will be eleven thousand (11,000).

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

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

Date: 9/15/11

Signature: Patti Killingsworth

Name of Officer: Patti Killingsworth
Assistant Commissioner

Title of Officer: Chief of Long Term Care
Bureau of TennCare



Subscribed and sworn to before me on: September 15, 2011

Notary Public Signature: Robin A. Page

My commission expires on: September 23, 2013

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.

Robert E. Cooper, Jr.
Robert E. Cooper, Jr.
Attorney General and Reporter
9-22-11
Date

Department of State Use Only

Filed with the Department of State on: 9/23/11

Effective for: 180 *days

Effective through: 3/21/12

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

Tre Hargett
Tre Hargett
Secretary of State

RECEIVED
2011 SEP 23 AM 11:00
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)

There is no projected 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 TCA 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 this rule increases TennCare Enrollment Target for CHOICES Group 2 from 9,500 to 11,000.

- (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 Rule is 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 this Rule are TennCare enrollees, providers and the managed care contractors. The governmental entity most directly affected by this Rule 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;

This Rule was 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 this rule is anticipated to decrease state FY 2012 expenditures by \$ 9,771,034.

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

Darin J. Gordon
Director, Bureau of TennCare

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

Darin J. Gordon
Director, Bureau of TennCare

- (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) 507-6443
Darin.J.Gordon@tn.gov

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

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Part 1. of Subparagraph (d) of Paragraph (4) of Rule 1200-13-01-.05 TennCare CHOICES Program is amended by adding a new Subpart (iii) which shall read as follows:

(d) Enrollment Target for CHOICES Group 2.

1. There shall be an Enrollment Target for CHOICES Group 2. The Enrollment Target functions as a cap on the total number of individuals who can be enrolled into CHOICES Group 2 at any given time.
 - (i) Effective March 1, 2010, the Enrollment Target for CHOICES Group 2 will be seven thousand five hundred (7,500).
 - (ii) Effective July 1, 2010, the Enrollment Target for CHOICES Group 2 will be nine thousand five hundred (9,500).
 - (iii) Effective September 30, 2011, the Enrollment Target for CHOICES Group 2 will be eleven thousand (11,000).

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

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

Date: _____

Signature: _____

Name of Officer: Patti Killingsworth

Assistant Commissioner
Chief of Long Term Care

Title of Officer: Bureau of TennCare

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective for: _____ *days

Effective through: _____

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Tre Hargett
Secretary of State

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This Rule was 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;

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

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