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Sequence Number: 09-39-16
Rule ID(s): 6324
File Date: 9/30/16
Effective Date: 12/29/16

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Department of Finance and Administration
Division:	Bureau of TennCare
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Revision Type (check all that apply):

- Amendments
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. 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-.02	Eligibility
1200-13-14-.03	Enrollment, Reassignment, and Disenrollment with Managed Care Contractors (MCCS)
1200-13-14-.04	Covered Services
1200-13-14-.05	Enrollee Cost Sharing
1200-13-14-.08	Providers
1200-13-14-.10	Exclusions

(Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to http://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

Paragraph (7) Benefits of Rule 1200-13-14-.01 Definitions is deleted in its entirety and replaced with a new Paragraph (7) which shall read as follows:

- (7) BENEFITS shall mean the health care package of services developed by the Bureau of TennCare and which define the covered services available to TennCare enrollees. Additional benefits are available through the TennCare CHOICES program, as described in Rule 1200-13-01-.05, and the ECF CHOICES program, as described in Rule 1200-13-01-.31. CHOICES benefits are available only to persons who qualify for and are enrolled in the CHOICES program. ECF CHOICES benefits are available only to persons who qualify for and are enrolled in the ECF CHOICES program.

Rule 1200-13-14-.01 Definitions is amended by adding a definition of "Employment and Community First (ECF) CHOICES" to be appropriately numbered in alphabetical order, to read as follows:

- (#) Employment and Community First (ECF) CHOICES shall mean the program defined in Rule 1200-13-01-.02 and described in Rule 1200-13-01-.31.

Part 4 of Subparagraph (b) of Paragraph (62) Home Health Services shall mean of Rule 1200-13-14-.01 Definitions is amended by adding the phrase "requiring adult care or supervision" after the word "children" and before the word "shall" so as amended Part 4 shall read as follows:

4. No other children requiring adult care or supervision shall be present in the home during the time the home health provider is present in the home without the presence of another responsible adult, unless these children meet all the criteria stated above and are also receiving TennCare-reimbursed home health services.

Subparagraph (b) of Paragraph (1) of Rule 1200-13-14-.02 Eligibility is amended by adding a new Part 3 which shall read as follows:

3. With respect to the eligibility of individuals applying for the ECF CHOICES program, the Bureau is responsible for determining that the individual meets all applicable eligibility and enrollment criteria, including target population, medical or level of care eligibility, categorical and financial eligibility, the state's ability to provide appropriate ECF HCBS (as defined in Rule 1200-13-01-.02) as determined by the availability of slots under the established enrollment target for each ECF CHOICES Group in accordance with Rule 1200-13-01-.31 and pursuant to intake and enrollment policies and processes described in 1200-13-01-.31 and in TennCare policies and protocols, and for confirming a determination by a TennCare Managed Care Organization that the individual can be safely and appropriately served in the community and at a cost that does not exceed the individual's expenditure cap pursuant to Rule 1200-13-01-.31.

Subparagraph (b) of Paragraph (3) of Rule 1200-13-14-.02 Eligibility is deleted in its entirety and replaced with a new Subparagraph (b) which shall read as follows:

- (b) Provide a statement from his employer, if employed, concerning the availability of group health insurance. (Access to insurance is not considered in determining eligibility in the Standard Spend Down category or any CHOICES or ECF CHOICES demonstration category.)

Subparagraph (g) of Paragraph (3) of Rule 1200-13-14-.02 Eligibility is amended by deleting the last sentence of the Subparagraph and replacing it with a new sentence, so as amended Subparagraph (g) shall read as follows:

- (g) Not be eligible for or have purchased other health insurance as defined at Rule 1200-13-14-.01, except for persons in the category of uninsured children under the age of nineteen (19) whose family income is below two hundred percent (200%) of poverty and who have been continuously enrolled in TennCare Standard since at least December 31, 2001. (Access to insurance is not considered in determining eligibility in the Standard Spend Down category or any CHOICES or ECF CHOICES demonstration category.)

Subparagraph (h) of Paragraph (3) of Rule 1200-13-14-.02 Eligibility is deleted in its entirety and replaced with a

new Subparagraph (h) which shall read as follows:

- (h) Not be enrolled in, or eligible for participation in, Medicare. (Access to insurance is not considered in determining eligibility in the Standard Spend Down category or any CHOICES or ECF CHOICES demonstration category.)

Rule 1200-13-14-.02 Eligibility is amended by adding new Paragraphs (8) and (9) and the current Paragraph (8) is renumbered as (10) and subsequent Paragraphs renumbered appropriately, the new Paragraphs (8) and (9) shall read as follows:

(8) TennCare Standard: ECF CHOICES 217-Like Group.

- (a) Coverage group. Individuals with I/DD of all ages who meet the NF LOC criteria who need and are receiving HCBS, and who would be eligible in the same manner as specified under Section 1902(a) of the Social Security Act and 42 C.F.R. § 435.217, if the HCBS were provided under a Section 1915(c) waiver. Enrollment in this group shall be subject to the enrollment targets established for each applicable ECF CHOICES benefit group. An Applicant may qualify in the ECF CHOICES 217-Like Group only when there is an available slot for enrollment into an ECF CHOICES benefit group for which the Applicant meets all eligibility and enrollment criteria, including prioritization criteria for enrollment into ECF CHOICES as established in these Rules, and when the Applicant upon approval of financial eligibility, will be enrolled by TennCare into such ECF CHOICES group.

(b) Eligibility criteria:

1. Must have an intellectual or developmental disability as defined in Rule 1200-13-01-.02;
2. Must meet the Nursing Facility level of care requirements;
3. Must have a current determination by the TennCare MCO to which the individual is assigned, that he is able to be safely and appropriately served in the community and within his expenditure cap as defined in Rule 1200-13-01-.31, except in instances where the Applicant is not eligible for TennCare at the time of ECF CHOICES application, in which case, such determination shall be made by the MCO upon enrollment into ECF CHOICES;
4. May be enrolled in accordance with requirements pertaining to the enrollment target for each ECF CHOICES Group, including prioritization criteria for enrollment into ECF CHOICES, as described in Rule 1200-13-01-.31;
5. Will be enrolled and begin receiving Home and Community Based Services (HCBS) upon determination of financial eligibility by TennCare and continue to receive HCBS as an ECF CHOICES participant. Qualifying for enrollment into ECF CHOICES is not sufficient to establish eligibility in the ECF CHOICES 217-Like Group if the person will not actually be enrolled and receiving HCBS; and
6. Would be eligible in the same manner as specified under Section 1902(a) of the Social Security Act and 42 C.F.R. § 435.217, if the Home and Community Based Services (HCBS) were provided under a section 1915(c) waiver.

(c) Application procedures:

1. To be eligible for the ECF CHOICES 217-Like Group, each individual must meet all technical and financial requirements applicable to this category as described in Rule Chapter 1200-13-20.
2. The effective date of eligibility in the ECF CHOICES 217-Like Group shall be the date the application is approved by TennCare. In no instance shall the effective date of eligibility precede the date the application was filed with TennCare.

(9) TennCare Standard: Interim ECF CHOICES At-Risk Group.

- (a) Coverage group. Individuals who have an intellectual or developmental disability as defined in Rule

1200-13-01-.02 who meet the financial eligibility standards for the ECF CHOICES 217-Like Group; do not meet the Nursing Facility (NF) level of care criteria, but in the absence of ECF CHOICES HCBS, are At Risk for Institutionalization as defined in Rule 1200-13-01-.02; and who need and are receiving ECF CHOICES HCBS. The Interim ECF CHOICES At-Risk Demonstration Group will open to new enrollment only until such time that the Employment and Community First CHOICES At-Risk Demonstration Group (with income up to one hundred and fifty percent (150%) of the FPL) and the Employment and Community First CHOICES Working Disabled Demonstration Groups can be established. Persons enrolled in the Interim ECF CHOICES At-Risk Demonstration Group as of the date new enrollment into the group closes may continue to qualify in the group as long as they continue to meet nursing facility financial eligibility standards and are At-Risk for Institutionalization as defined in Rule 1200-13-01-.02, and remain continuously eligible and enrolled in the Interim ECF CHOICES At-Risk Demonstration Group. Enrollment in this group shall be subject to the enrollment targets established for each applicable ECF CHOICES benefit group. An Applicant may qualify in the Interim ECF CHOICES At-Risk Group only when there is an available slot for enrollment into an ECF CHOICES benefit group for which the Applicant meets all eligibility and enrollment criteria, including prioritization criteria for enrollment into ECF CHOICES as established in Rule 1200-13-01-.31, and when the Applicant, upon approval of financial eligibility, will be enrolled by TennCare into such ECF CHOICES group.

(b) Eligibility criteria:

1. Must have an intellectual or developmental disability as defined in Rule 1200-13-01-.02;
2. Must meet the financial eligibility standards for the ECF CHOICES 217-Like Group;
3. Do not meet the Nursing Facility level of care, but in the absence of ECF CHOICES HCBS, are At Risk for Institutionalization as defined in Rule 1200-13-01-.02;
4. Must have a current determination by the TennCare MCO to which the individual is assigned, that he is able to be safely and appropriately served in the community and within his expenditure cap as defined in Rule 1200-13-01-.31, except in instances where the Applicant is not eligible for TennCare at the time of ECF CHOICES application, in which case, such determination shall be made by the MCO upon enrollment into ECF CHOICES; and
5. May be enrolled in accordance with requirements pertaining to the enrollment target for each ECF CHOICES Group, including prioritization criteria for enrollment into ECF CHOICES as described in Rule 1200-13-01-.31; and
6. Will be enrolled and begin receiving Home and Community Based Services (HCBS) upon determination of financial eligibility by TennCare and continue to receive HCBS as an ECF CHOICES participant. Qualifying for enrollment into ECF CHOICES is not sufficient to establish eligibility in the Interim ECF CHOICES At-Risk Group if the person will not actually be enrolled and receiving ECF CHOICES HCBS.

(c) Application procedures:

1. To be eligible for the Interim ECF CHOICES At-Risk Group, each individual must meet all technical and financial requirements applicable to this category as described in Rule Chapter 1200-13-20.
2. The effective date of eligibility in the Interim ECF CHOICES At-Risk Group shall be the date the application is approved by TennCare. In no instance shall the effective date of eligibility precede the date the application was filed with TennCare.

Introductory paragraph to Paragraph (8) to be renumbered as Paragraph (10) of Rule 1200-13-14-.02 Eligibility is deleted in its entirety and replaced by a new introductory paragraph which shall read as follows:

- (10) Redetermination of eligibility in TennCare Standard (other than CHOICES 217-Like Group, ECF CHOICES 217-Like Group, and Interim ECF CHOICES At-Risk Group).

Parts 1, 2, 3, 4, and 15 of Subparagraph (a) of Paragraph (10) to be renumbered as Paragraph (12) of Rule 1200-

13-14-.02 Eligibility are deleted in their entirety and replaced with new Parts 1, 2, 3, 4 and 15 which shall read as follows:

1. The enrollee becomes eligible for participation in a group health insurance plan, as defined in this Chapter, either directly or indirectly through a family member. (Access to insurance is not considered in determining eligibility in the Standard Spend Down category or any CHOICES or ECF CHOICES demonstration category);
2. The enrollee becomes eligible for Medicare. (Access to insurance is not considered in determining eligibility in the Standard Spend Down category or any CHOICES or ECF CHOICES demonstration category);
3. The enrollee is determined eligible for Medicaid (this does not apply to the CHOICES 1 and 2 Carryover Group or the PACE Carryover Group; does not apply to the CHOICES 217-Like Group, CHOICES At-Risk Demonstration Group or any ECF CHOICES demonstration category unless the enrollee begins receiving SSI);
4. The enrollee purchases an individual health insurance plan as defined by this Chapter. (Access to insurance is not considered in determining eligibility in the Standard Spend Down category or any CHOICES or ECF CHOICES demonstration category);
15. An enrollee in any CHOICES or ECF CHOICES demonstration category no longer satisfies one or more of the eligibility criteria applicable for the category as specified in this Rule.

Subparagraph (b) of Paragraph (10) to be renumbered as Paragraph (12) of Rule 1200-13-14-.02 Eligibility is deleted in its entirety and replaced with new Subparagraph (b) which shall read as follows:

- (b) TennCare Standard enrollees who are disenrolled from TennCare pursuant to this Rule shall be allowed to re-enroll in the TennCare program at any time if they become TennCare Medicaid-eligible or eligible in a CHOICES or ECF CHOICES demonstration category for which enrollment remains open, in accordance with this Rule, and shall not be required to pay arrearages as a condition of re-enrollment. However, nothing in this provision shall eliminate the enrollee's responsibility for unpaid premiums or copayments incurred under any previous period of eligibility.

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

The introductory paragraph of Paragraph (1) Enrollment of Rule 1200-13-14-.03 Enrollment, Reassignment, and Disenrollment with Managed Care Contractors (MCCS) is amended by adding a sentence at the end of the introductory paragraph so as amended the introductory paragraph shall read as follows:

There are three (3) different types of managed care entities that provide services to TennCare enrollees. Enrollment procedures differ according to the type of managed care entity, the geographic area, and the number of managed care entities operating in each geographic area. Enrollment procedures also differ for ECF CHOICES, as described in subparagraph (c) below.

Part 1 of Subparagraph (a) of Paragraph (1) of Rule 1200-13-14-.03 Enrollment, Reassignment, and Disenrollment with Managed Care Contractors (MCCS) is amended by adding the phrase and comma "Subject to Subparagraph (c) below," and by deleting the capital "I" and replacing it with "i" so as amended Part 1 shall read as follows:

1. Except as provided in subparagraph (c), individuals or families determined eligible for TennCare shall select a health plan (Managed Care Organization/MCO) at the time of application. The health plan must be available in the Grand Division of the State in which the enrollee lives. All family members living in the same household and enrolled in TennCare must be assigned to the same MCO except children determined by the Bureau to be eligible to enroll in TennCare Select. An enrollee is given his choice of MCOs when possible. If the requested MCO cannot accept new enrollees, the Bureau will assign each enrollee to an MCO that is accepting new enrollees. If no MCO is available to enroll new members in the enrollee's Grand Division, the enrollee will be assigned to TennCare Select until such time as another MCO becomes available. The Bureau may also assign TennCare children with special health care needs to TennCare Select.

Part 2 of Subparagraph (a) of Paragraph (1) of Rule 1200-13-14-.03 Enrollment, Reassignment, and Disenrollment with Managed Care Contractors (MCCS) is amended by adding the phrase, comma and word “a” “Subject to Subparagraph (c) below, a” and deleting “A” so as amended Part 2 shall read as follows:

2. Except as provided in subparagraph (c), a TennCare enrollee may change MCOs one (1) time within the initial forty-five (45) calendar days (inclusive of mail time) from the date of the letter informing him of his MCO assignment, if there is another MCO in the enrollee’s Grand Division that is currently permitted by the Bureau to accept new enrollees. No additional changes will be allowed except as otherwise specified in these rules. An enrollee shall remain a member of the designated plan until he is given an opportunity to change once each year during an annual change period. The annual change period will occur each year in March for enrollees in West Tennessee, in May for enrollees in Middle Tennessee, and in July for enrollees in East Tennessee. Thereafter, an MCO change is permitted only during an annual change period, unless the Bureau authorizes a change as the result of the resolution of an appeal requesting a “hardship” reassignment as specified in paragraph (2)(b) below. When an enrollee changes MCOs, the enrollee’s medical care will be the responsibility of the current MCO until he is enrolled in the requested MCO.

Paragraph (1) of Rule 1200-13-14-.03 Enrollment, Reassignment, and Disenrollment with Managed Care Contractors (MCCS) is amended by adding a new Subparagraph (c) and re-lettering the current Subparagraph (c) as (d) the re-lettered (c) shall read as follows:

- (c) TennCare Managed Care Organizations (MCOs) for ECF CHOICES. Individuals enrolled in ECF CHOICES may select from only the MCOs participating in ECF CHOICES.
 1. If an individual enrolled in an MCO other than an ECF CHOICES participating MCO wants to enroll in the ECF CHOICES program, the individual must choose to enroll in an ECF CHOICES participating MCO in order to enroll in ECF CHOICES.
 2. If an individual enrolled in the ECF CHOICES program elects to transition to an MCO that is not participating in ECF CHOICES, the individual is choosing to voluntarily disenroll from ECF CHOICES. Because this is a voluntary decision, advance notice and the right to a fair hearing shall not be provided. However, the individual may elect to transition back to an ECF CHOICES participating MCO in order to resume enrollment in ECF CHOICES.

Subparagraph (c) TennCare Dental Benefits Manager (DBM) re-lettered as (d) of Paragraph (1) of Rule 1200-13-14-.03 Enrollment, Reassignment, and Disenrollment with Managed Care Contractors (MCCS) is amended by adding a sentence at the end of the Subparagraph and subsequent subparagraph re-lettered as appropriately so as amended Subparagraph (d) shall read as follows:

- (d) TennCare Dental Benefits Manager (DBM).

TennCare children shall be assigned to the Dental Benefits Manager (DBM) under contract with the Bureau to provide dental benefits through the TennCare Program. TennCare adults age 21 and older enrolled in ECF CHOICES shall be assigned to the DBM under contract with the Bureau to provide Adult Dental Services through the ECF CHOICES program as defined in 1200-13-01-.02.

Subparagraph (a) of Paragraph (3) of Rule 1200-13-14-.03 Enrollment, Reassignment, and Disenrollment with Managed Care Contractors (MCCS) is deleted in its entirety and replaced with a new Subparagraph (a) which shall read as follows:

- (a) When it has been determined that an individual no longer meets the criteria for TennCare eligibility, that individual shall be disenrolled from the TennCare Program, including the CHOICES and ECF CHOICES program, as applicable. Services provided by the TennCare MCO in which the individual has been enrolled, as well as the PBM and DBM, if applicable, shall be terminated upon disenrollment. Such disenrollment action will be accompanied by appropriate due process procedures as described elsewhere in this Chapter. Disenrollment from the CHOICES program shall proceed as described in Rule 1200-13-01-.05. Disenrollment from the ECF CHOICES program shall proceed as described in Rule 1200-13-01-.31.

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

Subparagraph (a) of Paragraph (1) of Rule 1200-13-14-.04 Covered Services is deleted in its entirety and replaced with a new (a) which shall read as follows:

- (a) TennCare MCCs shall cover the following services and benefits subject to any applicable limitations described in this Chapter. TennCare MCCs shall cover TennCare CHOICES services and benefits for individuals enrolled in the TennCare CHOICES program in accordance with Rule 1200-13-01-.05 and ECF CHOICES services and benefits for individuals enrolled in the ECF CHOICES program in accordance with Rule 1200-13-01-.31.

Introductory part of Subparagraph (b) of Paragraph (1) of Rule 1200-13-14-.04 Covered Services is deleted in its entirety and replaced with a new introductory part to Subparagraph (b) which shall read as follows:

- (b) The following physical health and mental health benefits are covered under the TennCare managed care program. Benefits offered under the TennCare CHOICES program are also covered under the TennCare managed care program, as described in Rule 1200-13-01-.05. Benefits offered under the ECF CHOICES program are also covered under the TennCare managed care program, as described in Rule 1200-13-01-.31. There are some exclusions to the benefits listed below. The exclusions are listed in this rule and in Rule 1200-13-14-.10.

(C) Pharmacy services in Row 25 of the table in Subparagraph (b) of Paragraph (1) of Rule 1200-13-14-.04 Covered Services is deleted in its entirety and replaced with a new (C) which shall read as follows:

SERVICE	BENEFIT FOR PERSONS UNDER AGE 21	BENEFIT FOR PERSONS AGED 21 AND OLDER
25. Pharmacy Services [defined at 42 CFR §440.120(a) and obtained directly from an ambulatory retail pharmacy setting, outpatient hospital pharmacy, mail order pharmacy, or those administered to a long-term care facility (nursing facility) resident].		(C) For non-Medicare enrollees in the CHOICES 217-Like Group, the CHOICES 1 and 2 Carryover Group, adults age 21 and older enrolled in ECF CHOICES who meet nursing facility level of care or transitioned from a Section 1915(c) waiver into ECF CHOICES and granted an exception by TennCare based on ICF/IID level of care, and the PACE Carryover Group, covered with no quantity limits on the number of prescriptions per month.

Part 2 of Subparagraph (a) of Paragraph (2) of Rule 1200-13-14-.04 Covered Services is deleted in its entirety and replaced with a new Part 2 which shall read as follows:

- 2. These services are provided under the CHOICES program for individuals enrolled in the CHOICES program in accordance with Rule 1200-13-01-.05 or the ECF CHOICES program for individuals enrolled in the ECF CHOICES program in accordance with Rule 1200-13-01-.31; and

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

Part 3 of Subparagraph (a) of Paragraph (2) of Rule 1200-13-14-.05 Enrollee Cost Sharing is amended by deleting the word "groups" and adding the phrase "or ECF CHOICES demonstration categories" after the word SS-7039 (June 2016)

“CHOICES” so that as amended Part 3 shall read:

3. Enrollees who are enrolled in any of the following CHOICES or ECF CHOICES demonstration categories:

Part 3 of Subparagraph (a) of Paragraph (2) of Rule 1200-13-14-.05 Enrollee Cost Sharing is amended by adding a new Subpart (iv) which shall read as follows:

- (iv) The ECF CHOICES 217-Like Group

Subparagraph (c) of Paragraph (2) of Rule 1200-13-14-.05 Enrollee Cost Sharing is amended by adding a new Part 4 which shall read as follows:

4. Adults age 21 and older in the Interim ECF CHOICES At-Risk Demonstration Group.

Introductory part of Subparagraph (d) of Paragraph (2) of Rule 1200-13-14-.05 Enrollee Cost Sharing is amended by adding the phrase “, except children enrolled in ECF CHOICES” after the word “children” so that as amended the introductory part of Subparagraph (d) shall read as follows:

- (d) Copays for other TennCare services. The following copays are applicable to TennCare Standard children, except children enrolled in ECF CHOICES.

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

Paragraph (2) of Rule 1200-13-14-.08 Providers is amended by adding a new Subparagraph (e) which shall read as follows:

- (e) Non-Participating Providers who furnish covered ECF CHOICES services are reimbursed in accordance with Rule 1200-13-01-.31.

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

Introductory paragraph to Paragraph (3) of Rule 1200-13-14-.10 Exclusions is deleted in its entirety and replaced with a new introductory paragraph to Paragraph (3) which shall read as follows:

- (3) Specific exclusions. The following services, products, and supplies are specifically excluded from coverage under the TennCare Section 1115 waiver program unless excepted by paragraph (2) herein. Some of these services may be covered under the CHOICES or ECF CHOICES programs or outside the managed care program under a Section 1915(c) Home and Community Based Services waiver when provided as part of an approved plan of care, in accordance with the appropriate approved TennCare Home and Community Based Services waiver.

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 09/28/2016 (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: 07/15/16

Rulemaking Hearing(s) Conducted on: (add more dates). 09/12/16

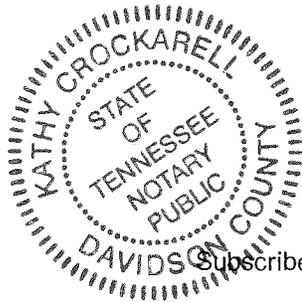
Date: 9/28/16

Signature: [Handwritten Signature]

Name of Officer: Patti Killingsworth

Assistant Commissioner and Chief of Long-Term Services and Supports, Bureau of TennCare

Title of Officer: Tennessee Department of Finance and Administration



Subscribed and sworn to before me on: 9/28/16

Notary Public Signature: [Handwritten Signature]

My commission expires on: 1/8/2019

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]

Herbert H. Slatery III
Attorney General and Reporter

9/29/2016

Date

Department of State Use Only

Filed with the Department of State on: 9/30/16

Effective on: 12/29/16

[Handwritten Signature]

Tre Hargett
Secretary of State

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PUBLICATIONS

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.

One commenter suggested that TennCare's existing pharmacy limits should not apply to participants in the ECF CHOICES program. In response, HCFA noted that pharmacy limits applicable to individuals enrolled in ECF CHOICES are set forth in the State's approved 1115 waiver, and applied consistently across all long-term care programs and services in accordance with the Medicaid State Plan. As with other adults enrolled in TennCare, adults enrolled in ECF CHOICES who meet the institutional level of care are exempt from pharmacy limits; adults who do not meet such level of care are subject to the same limits as other adults enrolled in TennCare.

One commenter requested information on the eligibility criteria for ECF CHOICES and suggested that the rule appeared to "tighten" eligibility criteria. In response, HCFA noted that the financial eligibility requirements for ECF CHOICES are the same as those applicable to the state's existing Section 1915(c) waiver programs for individuals with intellectual disabilities and that the rule does not represent a "tightening" of eligibility criteria. HCFA referred the commenter to additional information on TennCare financial eligibility criteria available in Rule Chapter 1200-13-20.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

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;

These rules are being promulgated to replace emergency rules which allowed for the implementation of the Employment and Community First (ECF) CHOICES 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 §§ 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, 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 or the necessity to promulgate 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 the TennCare Long-Term Care Programs, TennCare Medicaid and TennCare Standard rules is anticipated to increase state government expenditures by \$24,179,400.

- (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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donna.tidwell@tn.gov

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

GW10116215

Rules
of
Tennessee Department of Finance and administration
Bureau of TennCare

Chapter 1200-13-14
TennCare Standard

1200-13-14-.01 Definitions.

(7) Benefits shall mean the health care package of services developed by the Bureau of TennCare and which define the covered services available to TennCare enrollees. Additional benefits are available through the TennCare CHOICES program, as described in Rule 1200-13-01-.05, and the ECF CHOICES program, as described in Rule 1200-13-01-.31. CHOICES benefits are available only to persons who qualify for and are enrolled in the CHOICES program. ECF CHOICES benefits are available only to persons who qualify for and are enrolled in the ECF CHOICES program.

(#) Employment and Community First (ECF) CHOICES shall mean the program defined in Rule 1200-13-01-.02 and described in Rule 1200-13-01-.31.

(62) Home Health Services shall mean:

(b) Home health providers shall only provide services to the recipient that have been ordered by the treating physician and are pursuant to a plan of care and shall not provide other services such as general child care services, cleaning services, preparation of meals, or services to other household members. Because children typically have non-medical care needs which must be met, to the extent that home health services are provided to a person under 18 years of age, a responsible adult (other than the home health care provider) must be present at all times in the home during the provision of home health services unless all of the following criteria are met:

4. No other children requiring adult care or supervision shall be present in the home during the time the home health provider is present in the home without the presence of another responsible adult, unless these children meet all the criteria stated above and are also receiving TennCare-reimbursed home health services.

1200-13-14-.02 Eligibility.

(1) Delineation of agency roles and responsibilities.

(b) The Bureau of TennCare (Bureau) is the administrative unit within F&A with the responsibility for day-to-day operations of the TennCare Program. The Bureau is responsible for establishing policy and procedural requirements and criteria for TennCare.

3. With respect to the eligibility of individuals applying for the ECF CHOICES program, the Bureau is responsible for determining that the individual meets all applicable eligibility and enrollment criteria, including target population, medical or level of care eligibility, categorical and financial eligibility, the state's ability to provide appropriate ECF HCBS (as defined in Rule 1200-13-01-.02) as determined by the availability of slots under the established enrollment target for each ECF CHOICES Group in accordance with Rule 1200-13-01-.31 and pursuant to intake and enrollment policies and processes described in 1200-13-01-.31 and in TennCare policies and protocols, and for confirming a determination by a TennCare Managed Care Organization that the individual can be safely and appropriately served in the community and at a cost that does not exceed the individual's expenditure cap pursuant to Rule 1200-13-01-.31.

(3) Technical and financial eligibility requirements for TennCare Standard.

(b) Provide a statement from his employer, if employed, concerning the availability of group health insurance. (Access to insurance is not considered in determining eligibility in the Standard Spend Down category or the ~~CHOICES 217-Like Group~~ any CHOICES or ECF CHOICES demonstration category.)

- (g) Not be eligible for or have purchased other health insurance as defined at Rule 1200-13-14-.01, except for persons in the category of uninsured children under the age of nineteen (19) whose family income is below two hundred percent (200%) of poverty and who have been continuously enrolled in TennCare Standard since at least December 31, 2001. (Access to insurance is not considered in determining eligibility in the Standard Spend Down category or the ~~CHOICES 217-Like Group~~ any CHOICES or ECF CHOICES demonstration category.)
- (h) Not be enrolled in, or eligible for participation in, Medicare. (Access to insurance is not considered in determining eligibility in the Standard Spend Down category or the ~~CHOICES 217-Like Group~~ any CHOICES or ECF CHOICES demonstration category.)

(8) TennCare Standard: ECF CHOICES 217-Like Group.

(a) Coverage group. Individuals with I/DD of all ages who meet the NF LOC criteria who need and are receiving HCBS, and who would be eligible in the same manner as specified under Section 1902(a) of the Social Security Act and 42 C.F.R. § 435.217, if the HCBS were provided under a Section 1915(c) waiver. Enrollment in this group shall be subject to the enrollment targets established for each applicable ECF CHOICES benefit group. An Applicant may qualify in the ECF CHOICES 217-Like Group only when there is an available slot for enrollment into an ECF CHOICES benefit group for which the Applicant meets all eligibility and enrollment criteria, including prioritization criteria for enrollment into ECF CHOICES as established in these Rules, and when the Applicant upon approval of financial eligibility, will be enrolled by TennCare into such ECF CHOICES group.

(b) Eligibility criteria:

1. Must have an intellectual or developmental disability as defined in Rule 1200-13-01-.02;
2. Must meet the Nursing Facility level of care requirements;
3. Must have a current determination by the TennCare MCO to which the individual is assigned, that he is able to be safely and appropriately served in the community and within his expenditure cap as defined in Rule 1200-13-01-.31, except in instances where the Applicant is not eligible for TennCare at the time of ECF CHOICES application, in which case, such determination shall be made by the MCO upon enrollment into ECF CHOICES;
4. May be enrolled in accordance with requirements pertaining to the enrollment target for each ECF CHOICES Group, including prioritization criteria for enrollment into ECF CHOICES, as described in Rule 1200-13-01-.31;
5. Will be enrolled and begin receiving Home and Community Based Services (HCBS) upon determination of financial eligibility by TennCare and continue to receive HCBS as an ECF CHOICES participant. Qualifying for enrollment into ECF CHOICES is not sufficient to establish eligibility in the ECF CHOICES 217-Like Group if the person will not actually be enrolled and receiving HCBS; and
6. Would be eligible in the same manner as specified under Section 1902(a) of the Social Security Act and 42 C.F.R. § 435.217, if the Home and Community Based Services (HCBS) were provided under a section 1915(c) waiver.

(c) Application procedures:

1. To be eligible for the ECF CHOICES 217-Like Group, each individual must meet all technical and financial requirements applicable to this category as described in Rule Chapter 1200-13-20.
2. The effective date of eligibility in the ECF CHOICES 217-Like Group shall be the date the application is approved by TennCare. In no instance shall the effective date of eligibility precede the date the application was filed with TennCare.

(9) TennCare Standard: Interim ECF CHOICES At-Risk Group.

(a) Coverage group. Individuals who have an intellectual or developmental disability as defined in Rule 1200-13-01-.02 who meet the financial eligibility standards for the ECF CHOICES 217-Like Group; do not meet the Nursing Facility (NF) level of care criteria, but in the absence of ECF CHOICES HCBS, are At Risk for Institutionalization as defined in Rule 1200-13-01-.02; and who need and are receiving ECF CHOICES HCBS. The Interim ECF CHOICES At-Risk Demonstration Group will open to new enrollment only until such time that the Employment and Community First CHOICES At-Risk Demonstration Group (with income up to one hundred and fifty percent (150%) of the FPL) and the Employment and Community First CHOICES Working Disabled Demonstration Groups can be established. Persons enrolled in the Interim ECF CHOICES At-Risk Demonstration Group as of the date new enrollment into the group closes may continue to qualify in the group as long as they continue to meet nursing facility financial eligibility standards and are At-Risk for Institutionalization as defined in Rule 1200-13-01-.02, and remain continuously eligible and enrolled in the Interim ECF CHOICES At-Risk Demonstration Group. Enrollment in this group shall be subject to the enrollment targets established for each applicable ECF CHOICES benefit group. An Applicant may qualify in the Interim ECF CHOICES At-Risk Group only when there is an available slot for enrollment into an ECF CHOICES benefit group for which the Applicant meets all eligibility and enrollment criteria, including prioritization criteria for enrollment into ECF CHOICES as established in Rule 1200-13-01-.31, and when the Applicant, upon approval of financial eligibility, will be enrolled by TennCare into such ECF CHOICES group.

(b) Eligibility criteria:

1. Must have an intellectual or developmental disability as defined in Rule 1200-13-01-.02;
2. Must meet the financial eligibility standards for the ECF CHOICES 217-Like Group;
3. Do not meet the Nursing Facility level of care, but in the absence of ECF CHOICES HCBS, are At Risk for Institutionalization as defined in Rule 1200-13-01-.02;
4. Must have a current determination by the TennCare MCO to which the individual is assigned, that he is able to be safely and appropriately served in the community and within his expenditure cap as defined in Rule 1200-13-01-.31, except in instances where the Applicant is not eligible for TennCare at the time of ECF CHOICES application, in which case, such determination shall be made by the MCO upon enrollment into ECF CHOICES; and
5. May be enrolled in accordance with requirements pertaining to the enrollment target for each ECF CHOICES Group, including prioritization criteria for enrollment into ECF CHOICES as described in Rule 1200-13-01-.31; and
6. Will be enrolled and begin receiving Home and Community Based Services (HCBS) upon determination of financial eligibility by TennCare and continue to receive HCBS as an ECF CHOICES participant. Qualifying for enrollment into ECF CHOICES is not sufficient to establish eligibility in the Interim ECF CHOICES At-Risk Group if the person will not actually be enrolled and receiving ECF CHOICES HCBS.

(c) Application procedures:

1. To be eligible for the Interim ECF CHOICES At-Risk Group, each individual must meet all technical and financial requirements applicable to this category as described in Rule Chapter 1200-13-20.
2. The effective date of eligibility in the Interim ECF CHOICES At-Risk Group shall be the date the application is approved by TennCare. In no instance shall the effective date of eligibility precede the date the application was filed with TennCare.

(108) Redetermination of eligibility in TennCare Standard (other than CHOICES 217-Like Group, ECF CHOICES 217-Like Group, and Interim ECF CHOICES At-Risk Group).

(1240) Losing eligibility for TennCare Standard.

- (a) Eligibility for TennCare Standard shall cease when it has been determined that the enrollee, as the result of one of the following events, no longer meets the criteria for the program. Eligibility for TennCare Standard shall end if:
1. The enrollee becomes eligible for participation in a group health insurance plan, as defined in this Chapter, either directly or indirectly through a family member. (Access to insurance is not considered in determining eligibility in the Standard Spend Down category or ~~the CHOICES 217-Like Group~~ any CHOICES or ECF CHOICES demonstration category);
 2. The enrollee becomes eligible for Medicare. (Access to insurance is not considered in determining eligibility in the Standard Spend Down category or ~~the CHOICES 217-Like Group~~ any CHOICES or ECF CHOICES demonstration category);
 3. The enrollee is determined eligible for Medicaid (this does not apply to the ~~CHOICES 217-Like Group~~ CHOICES 1 and 2 Carryover Group or the PACE Carryover Group; does not apply to the CHOICES 217-Like Group, CHOICES At-Risk Demonstration Group or any ECF CHOICES demonstration category unless the enrollee begins receiving SSI);
 4. The enrollee purchases an individual health insurance plan as defined by this Chapter. (Access to insurance is not considered in determining eligibility in the Standard Spend Down category or ~~the CHOICES 217-Like Group~~ any CHOICES or ECF CHOICES demonstration category);
 5. The enrollee fails to comply with TennCare Program requirements, subject to federal and state laws and regulations;
 6. The enrollee dies;
 7. It is determined that any of the technical eligibility requirements found in this Rule are no longer met;
 8. The enrollee has failed to respond to a redetermination process requirement, as described in this Rule, to assure that the enrollee and other family members, as appropriate, remain eligible for TennCare Standard;
 9. The enrollee sends a voluntary written request for termination of eligibility for TennCare Standard to the DHS county office in the county in which he resides;
 10. The enrollee no longer qualifies as a resident of Tennessee under federal and state law;
 11. The enrollee fails to complete the redetermination process within the timeframes specified within this Rule;
 12. The enrollee becomes incarcerated as an inmate;
 13. The Bureau determines that the enrollee does not actually have the medical condition(s) which rendered him "medically eligible" for TennCare Standard;
 14. The enrollee attains the age of nineteen (19) and has not been determined eligible in an open Medicaid category; or
 15. An enrollee in ~~the CHOICES 217-Like Group~~ any CHOICES or ECF CHOICES demonstration category no longer satisfies one or more of the eligibility criteria applicable for the category as specified in this Rule.
- (b) TennCare Standard enrollees who are disenrolled from TennCare pursuant to this Rule shall be allowed to re-enroll in the TennCare program at any time if they become TennCare Medicaid-eligible or eligible ~~for the CHOICES 217-Like Group~~ in a CHOICES or ECF CHOICES demonstration category for which enrollment remains open, in accordance with this Rule, and shall not be required

to pay arrearages as a condition of re-enrollment. However, nothing in this provision shall eliminate the enrollee's responsibility for unpaid premiums or copayments incurred under any previous period of eligibility.

1200-13-14-.03 Enrollment, Reassignment, and Disenrollment with Managed Care Contractors (MCCS).

(1) Enrollment.

There are three (3) different types of managed care entities that provide services to TennCare enrollees. Enrollment procedures differ according to the type of managed care entity, the geographic area, and the number of managed care entities operating in each geographic area. Enrollment procedures also differ for ECF CHOICES, as described in subparagraph (c) below.

(a) TennCare Managed Care Organizations (MCOs) other than TennCare Select.

1. Except as provided in subparagraph (c), individuals or families determined eligible for TennCare shall select a health plan (Managed Care Organization/MCO) at the time of application. The health plan must be available in the Grand Division of the State in which the enrollee lives. All family members living in the same household and enrolled in TennCare must be assigned to the same MCO except children determined by the Bureau to be eligible to enroll in TennCare Select. An enrollee is given his choice of MCOs when possible. If the requested MCO cannot accept new enrollees, the Bureau will assign each enrollee to an MCO that is accepting new enrollees. If no MCO is available to enroll new members in the enrollee's Grand Division, the enrollee will be assigned to TennCare Select until such time as another MCO becomes available. The Bureau may also assign TennCare children with special health care needs to TennCare Select.
2. Except as provided in subparagraph (c), a TennCare enrollee may change MCOs one (1) time within the initial forty-five (45) calendar days (inclusive of mail time) from the date of the letter informing him of his MCO assignment, if there is another MCO in the enrollee's Grand Division that is currently permitted by the Bureau to accept new enrollees. No additional changes will be allowed except as otherwise specified in these rules. An enrollee shall remain a member of the designated plan until he is given an opportunity to change once each year during an annual change period. The annual change period will occur each year in March for enrollees in West Tennessee, in May for enrollees in Middle Tennessee, and in July for enrollees in East Tennessee. Thereafter, an MCO change is permitted only during an annual change period, unless the Bureau authorizes a change as the result of the resolution of an appeal requesting a "hardship" reassignment as specified in paragraph (2)(b) below. When an enrollee changes MCOs, the enrollee's medical care will be the responsibility of the current MCO until he is enrolled in the requested MCO.

(c) TennCare Managed Care Organizations (MCOs) for ECF CHOICES. Individuals enrolled in ECF CHOICES may select from only the MCOs participating in ECF CHOICES.

1. If an individual enrolled in an MCO other than an ECF CHOICES participating MCO wants to enroll in the ECF CHOICES program, the individual must choose to enroll in an ECF CHOICES participating MCO in order to enroll in ECF CHOICES.
2. If an individual enrolled in the ECF CHOICES program elects to transition to an MCO that is not participating in ECF CHOICES, the individual is choosing to voluntarily disenroll from ECF CHOICES. Because this is a voluntary decision, advance notice and the right to a fair hearing shall not be provided. However, the individual may elect to transition back to an ECF CHOICES participating MCO in order to resume enrollment in ECF CHOICES.

(de) TennCare Dental Benefits Manager (DBM).

TennCare children shall be assigned to the Dental Benefits Manager (DBM) under contract with the Bureau to provide dental benefits through the TennCare Program. TennCare adults age 21 and older enrolled in ECF CHOICES shall be assigned to the DBM under contract with the Bureau to provide

Adult Dental Services through the ECF CHOICES program as defined in 1200-13-01-.02.

(3) Disenrollment.

- (a) When it has been determined that an individual no longer meets the criteria for TennCare eligibility, that individual shall be disenrolled from the TennCare Program, including the CHOICES and ECF CHOICES program, as applicable. Services provided by the TennCare MCO in which the individual has been enrolled placed, as well as the PBM and DBM, if applicable, shall be terminated upon disenrollment. Such disenrollment action will be accompanied by appropriate due process procedures as described elsewhere in this Chapter. Disenrollment from the CHOICES program shall proceed as described in Rule 1200-13-01-.05. Disenrollment from the ECF CHOICES program shall proceed as described in Rule 1200-13-01-.31.

1200-13-14-.04 Covered Services.

(1) Benefits covered under the managed care program

- (a) TennCare MCCs shall cover the following services and benefits subject to any applicable limitations described in this Chapter. TennCare MCCs shall cover TennCare CHOICES services and benefits for individuals enrolled in the TennCare CHOICES program in accordance with Rule 1200-13-01-.05 and ECF CHOICES services and benefits for individuals enrolled in the ECF CHOICES program in accordance with Rule 1200-13-01-.31.
- (b) The following physical health and mental health benefits are covered under the TennCare managed care program. Benefits offered under the TennCare CHOICES program are also covered under the TennCare managed care program, as described in Rule 1200-13-01-.05. Benefits offered under the ECF CHOICES program are also covered under the TennCare managed care program, as described in Rule 1200-13-01-.31. There are some exclusions to the benefits listed below. The exclusions are listed in this rule and in Rule 1200-13-14-.10.

SERVICE	BENEFIT FOR PERSONS UNDER AGE 21	BENEFIT FOR PERSONS AGED 21 AND OLDER
25. Pharmacy Services [defined at 42 CFR §440.120(a) and obtained directly from an ambulatory retail pharmacy setting, outpatient hospital pharmacy, mail order pharmacy, or those administered to a long-term care facility (nursing facility) resident].		(C) For non-Medicare enrollees in the CHOICES 217-Like Group, the CHOICES 1 and 2 Carryover Group, <u>adults age 21 and older enrolled in ECF CHOICES who meet nursing facility level of care or transitioned from a Section 1915(c) waiver into ECF CHOICES and granted an exception by TennCare based on ICF/IID level of care,</u> and the PACE Carryover Group, covered with no quantity limits on the number of prescriptions per month.

(2) Use of Cost Effective Alternative Services.

- (a) MCCs shall be allowed, but are not required, to use cost effective alternative services if and only if:

2. These services are provided under the CHOICES program for individuals enrolled in the

CHOICES program in accordance with Rule 1200-13-01-.05 or the ECF CHOICES program for individuals enrolled in the ECF CHOICES program in accordance with Rule 1200-13-01-.31; and

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

(2) Copays.

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

3. Enrollees who are enrolled in any of the following CHOICES groups or ECF CHOICES demonstration categories:

(iv) The ECF CHOICES 217-Like Group

(c) Pharmacy copays. The following TennCare Standard enrollees have pharmacy copays of \$3.00 per covered brand name prescription and \$1.50 per covered generic prescription:

4. Adults age 21 and older in the interim ECF CHOICES AT-Risk Demonstration Group.

(d) Copays for other TennCare services. The following copays are applicable to TennCare Standard children, except children enrolled in ECF CHOICES.

1200-13-14-.08 Providers.

(2) Non-Participating Providers.

(e) Non-Participating Providers who furnish covered ECF CHOICES services are reimbursed in accordance with Rule 1200-13-01-.31.

1200-13-14-.10 Exclusions.

(3) Specific exclusions. The following services, products, and supplies are specifically excluded from coverage under the TennCare Section 1115 waiver program unless excepted by paragraph (2) herein. Some of these services may be covered under the CHOICES or ECF CHOICES programs or outside the managed care program TennCare under a Section 1915(c) Home and Community Based Services waiver when provided as part of an approved plan of care, in accordance with the appropriate approved TennCare Home and Community Based Services rule waiver.

GW10116216dkt

December 9, 2016

Mr. Cody York
Director
Division of Publications
312 Rosa L. Parks Avenue
Snodgrass Tower, 8th Floor
Nashville, Tennessee 37243

Dear Mr. York,

It has been brought to my attention that there are some typographical errors in some TennCare rule filings that become effective in December. We appreciate your help in correcting these errors.

In the rule filing with the sequence number 09-16-16 that becomes effective on December 13, 2016, rule 1200-13-20-.02, paragraph (59), subparagraph (e) states: "A full-time student for college or university is an individual who is enrolled in at least twelve (12) credit or semester hours per semester. A part-time student is an individual who in enrolled in at least six (6) but less than twelve (12) credit or semester hours per semester. T.C.A. §§ 49-4-902(18) and (29)." The word "in" should be corrected to the word "is" so that the second sentence reads: "A part-time student is an individual who is enrolled in at least six (6) but less than twelve (12) credit or semester hours per semester."

In the rule filing with the sequence number 09-16-16 that becomes effective on December 13, 2016, rule 1200-13-20-.02, paragraph (103) states: "Nursing Facility (NF). See definition in Rule 1200-13-.01-.02." The period before the "01" in the rule reference is a typographical error. The rule reference should read "1200-13-01-.02."

In the rule filing with the sequence number 09-16-16 that becomes effective on December 13, 2016, rule 1200-13-20-.06, paragraph (3), subparagraph (c), part 2 states: "Annuities are countable resources for individuals when accessible according to 20 C.F.R. § 416.1201. An annuity is a countable resource when it is revocable, assignable, or if can be sold." The word "if" in the second sentence should be corrected to the word "it" so that the second sentence reads: "An annuity is a countable resource when it is revocable, assignable, or it can be sold."

In the rule filing with the sequence number 09-37-16 that becomes effective December 29, 2016, there are two instances in Chapter 1200-13-13 where the directions list an incorrect phrase to be inserted into the text of the rule and do not match what it shown actually inserted into the rule. The following instructions are given on pages 2-3: "Part 1 of Subparagraph (a) of Paragraph (1) of Rule 1200-13-13-.03 Enrollment, Reassignment, and Disenrollment with Managed Care Contractors (MCCS) is amended by adding the phrase and comma "Subject to Subparagraph (c) below," and by deleting the capital "I" and replacing it with "i" so as amended Part 1 shall read as

Letter to Cody York

December 9, 2016

Page 2

follows:" However, the phrase "Except as provided in subparagraph (c)," is shown inserted into the rule instead. The instructions are incorrect, and the correct phrase to be inserted is "Except as provided in subparagraph (c)," as shown on page 3.

In the same filing on page 3, the directions read: "Part 2 of Subparagraph (a) of Paragraph (1) of Rule 1200-13-13-.03 Enrollment, Reassignment, and Disenrollment with Managed Care Contractors (MCCS) is amended by adding the phrase, comma and word "a" "Subject to Subparagraph (c) below, a" and deleting "A" so as amended Part 2 shall read as follows:" However, the phrase shown inserted into the text reads "Except as provided in subparagraph (c), a." The instructions are incorrect, and the correct phrase to be inserted is "Except as provided in subparagraph (c), a."

In the rule filing with the sequence number 09-39-16 that becomes effective December 29, 2016, there are two instances in Chapter 1200-13-14 where the directions list an incorrect phrase to be inserted into the text of the rule and do not match what it shown actually inserted into the rule. The following instructions are given on page 5: "Part 1 of Subparagraph (a) of Paragraph (1) of Rule 1200-13-14-.03 Enrollment, Reassignment, and Disenrollment with Managed Care Contractors (MCCS) is amended by adding the phrase and comma "Subject to Subparagraph (c) below," and by deleting the capital "I" and replacing it with "i" so as amended Part 1 shall read as follows:" However, the phrase "Except as provided in subparagraph (c)," is shown inserted into the rule instead. The instructions are incorrect, and the correct phrase to be inserted is "Except as provided in subparagraph (c)," as shown on page 5.

In the same filing on page 6, the directions read: "Part 2 of Subparagraph (a) of Paragraph (1) of Rule 1200-13-14-.03 Enrollment, Reassignment, and Disenrollment with Managed Care Contractors (MCCS) is amended by adding the phrase, comma and word "a" "Subject to Subparagraph (c) below, a" and deleting "A" so as amended Part 2 shall read as follows:" However, the phrase shown inserted into the text reads "Except as provided in subparagraph (c), a." The instructions are incorrect, and the correct phrase to be inserted is "Except as provided in subparagraph (c), a."

Thank you for your assistance with this matter. If you have any questions, please feel free to contact me.

Sincerely,



Aaron C. Butler
Director, Policy Office

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REGISTRATIONS

Tennessee Secretary of State

Tre Hargett



Publications Division
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Cody Ryan York
Director of Publications

615-253-4564
Cody.York@tn.gov

December 13, 2016

Mr. Aaron C. Butler
Director
Policy Office
Division of Health Care
Finance and Administration
310 Great Circle Road
Nashville, TN 37244

Dear Mr. Butler,

Per your letter received December 9, 2016, we have corrected the typographical errors in Rule Chapters 1200-13-20, 1200-13-13, and 1200-13-14.

If you have any questions, please feel free to contact my office at 615-741-2650.

Sincerely,

A handwritten signature in black ink, appearing to read "Cody York", written over a horizontal line.

Cody Ryan York
Director of Publications