

Tennessee Department of Finance and Administration

Bureau of TennCare

Chapter 1200-13-13  
TennCare Medicaid

Statement of Necessity Requiring Public Necessity Rules

I am herewith submitting amendments to the rules of the Tennessee Department of Finance and Administration, Bureau of TennCare, for promulgation pursuant to the public necessity provisions of the Uniform Administrative Procedures Act, T.C.A. § 4-5-209.

I have made a finding that these amendments are required to assure that enrollees are provided appropriate access to non-emergency transportation for the receipt of covered medical services.

Pursuant to T.C.A. § 4-5-209(a)(3), the Commissioner is authorized to promulgate public necessity rules when required by an agency of the federal government and adoption of the rules through ordinary rulemaking procedures might jeopardize the loss of a federal program or funds.

In order to prevent the loss of federal funds, the Bureau of TennCare hereby proceeds pursuant to T.C.A §§ 71-5-105, 71-5-134 and 4-5-209(a)(3) to adopt these public necessity rules. Consistent with 42 U.S.C. § 1396(a), 42 CFR § 431.53, 42 CFR § 440.170 and Executive Order 13330 of February 24, 2004 by the President of the United States of America, the Bureau of TennCare hereby clarifies its covered services in the area of transportation services. Further, the Bureau of TennCare clarifies the circumstances in which an enrollee may be accompanied by a third person or "escort" in order to receive a medically necessary service.

For a copy of this public necessity 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.

Darin J. Gordon  
Deputy Commissioner  
Tennessee Department of Finance  
and Administration

Public Necessity Rules  
of  
Tennessee Department of Finance and Administration

Bureau of TennCare

Chapter 1200-13-13  
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Amendments

Rule 1200-13-13-.01 Definitions is amended by adding a new paragraph (34) and the current paragraph (34) is renumbered as paragraph (35) and subsequent paragraphs renumbered accordingly so as amended the new paragraph (34) shall read as follows:

- (34) ESCORT shall mean an individual who accompanies an enrollee to receive a medically necessary service. For the purpose of determining whether an individual may qualify as an escort who may be transported without cost to the enrollee as a covered TennCare benefit, the following criteria apply:
- (a) Any person over the age of twelve (12) selected by the enrollee;
  - (b) Any person under the age of twelve (12) is presumed to be too young to serve as an escort. At the time of request for transportation, this presumption can be overcome by specific facts provided by the enrollee, which would demonstrate to a reasonable person that the proposed escort could in fact be of assistance to the enrollee; and
  - (c) Any person under the age of six (6) is excluded in all cases from the role of escort.

Part 21. of subparagraph (b) of paragraph (1) of rule 1200-13-13-.04 Covered Services is deleted in its entirety and replaced with a new part 21. which shall read as follows:

SERVICE	BENEFIT FOR PERSONS UNDER AGE 21	BENEFIT FOR PERSONS AGE 21 AND OVER
<p>21. Non-Emergency Transportation [defined at 42 CFR §440.170(a)(1) and (3)].</p>	<p>Covered as necessary for enrollees lacking accessible transportation for covered services. Emphasis shall be placed on the utilization of fixed route and/or public transportation where appropriate and available.</p> <p>The travel to access primary care and dental services must meet the requirements of the TennCare demonstration project terms and conditions. The availability of specialty services as related to travel distance should meet the usual and customary standards for the community. However, in the event the MCC is unable to negotiate such an arrangement for an enrollee, transportation must be provided regardless of whether the enrollee has access to transportation.</p> <p>If the enrollee is a minor child, transportation must be provided for the child and an accompanying adult. However, transportation for a minor child shall not be denied pursuant to any policy which poses a blanket restriction due to enrollee's age or lack of parental accompaniment. Any decision to deny transportation of a minor child due to an enrollee's age or lack of parental accompaniment must be made on a case-by-case basis and must be based on the individual facts surrounding the request. As with any denial, all notices and actions must be in accordance with the appeals process.</p> <p>Tennessee recognizes the "mature minor exception" to permission for medical treatment.</p> <p>The provision of transportation to and from covered dental services is the responsibility of the MCO.</p>	<p>Covered as necessary for enrollees lacking accessible transportation for covered services. Emphasis shall be placed on the utilization of fixed route and/or public transportation where appropriate and available.</p> <p>The travel to access primary care and dental services must meet the requirements of the TennCare demonstration project terms and conditions. The availability of specialty services as related to travel distance should meet the usual and customary standards for the community. However, in the event the MCC is unable to negotiate such an arrangement for an enrollee, transportation must be provided regardless of whether the enrollee has access to transportation.</p> <p>For persons dually eligible for Medicare and Medicaid, non-emergency transportation to access medical services covered by Medicare and delivered by Medicare providers is covered by TennCare within the same access standards as those applicable for enrollees who are eligible for Medicaid only.</p> <p>One escort is allowed per enrollee if the enrollee requires assistance. Assistance is defined for purposes of this rule as help provided to the enrollee that enables the enrollee to receive a medically necessary service. Examples of assistance are: physical assistance such as holding</p>

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Statutory Authority: T.C.A. 4-5-209, 71-5-105, 71-5-109, Executive Order No. 23.

The Public Necessity rules set out herein were properly filed in the Department of State on the 11th day of October, 2007, and will be effective from the date of filing for a period of 165 days. The Public Necessity rules remain in effect through the 24th day of March, 2007. (FS 10-05-07; DBID 2720)