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: Division of TennCare
Contact Person: George Woods
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310 Great Circle Road
Nashville, TN 37243
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Email: george.woods@tn.gov

Revision Type (check all that apply):
X 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 Please make sure that ALL new rule and repealed rule numbers are listed in the chart below.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.)

<table>
<thead>
<tr>
<th>Chapter Number</th>
<th>Chapter Title</th>
<th>Rule Number</th>
<th>Rule Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>1200-13-13</td>
<td>TennCare Medicaid</td>
<td>1200-13-13-.01</td>
<td>Definitions</td>
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<tr>
<td></td>
<td></td>
<td>1200-13-13-.04</td>
<td>Covered Services</td>
</tr>
</tbody>
</table>
Rule 1200-13-13-.01 Definitions is amended by inserting in alphabetical order the following new paragraph, with all paragraphs numbered appropriately so that the new paragraph shall read as follows:

(###) Institution for Mental Diseases (IMD) shall mean a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services.


Rule 1200-13-13-.04 Covered Services Paragraph (1) Subparagraph (b) Row 11 “Inpatient and Outpatient Substance Abuse Benefits” Column one “Service” and Column three “Aged 21 and Older” of the table is amended by adding “; includes services in IMDs as provided for in 42 U.S.C. § 1396n(l)” after the phrase “(see 42 C.F.R. § 440.20(a)” and by adding “Substance abuse benefits delivered in IMDs are covered up to 30 days per year” at the end of column three so as amended row 11 shall read as follows:

<table>
<thead>
<tr>
<th>SERVICE</th>
<th>BENEFIT FOR PERSONS UNDER AGE 21</th>
<th>BENEFIT FOR PERSONS AGED 21 AND OLDER</th>
</tr>
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<tbody>
<tr>
<td>11. Inpatient and Outpatient Substance Abuse Benefits [defined as services for the treatment of substance abuse that are provided (a) in an inpatient hospital (as defined at 42 C.F.R. § 440.10) or (b) as outpatient hospital services (see 42 C.F.R. § 440.20(a); includes services in IMDs as provided for in 42 U.S.C. § 1396n(l)].</td>
<td>Covered as medically necessary.</td>
<td>Covered as medically necessary. Substance abuse benefits delivered in IMDs are covered up to 30 days per year.</td>
</tr>
</tbody>
</table>

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Division of TennCare (board/commission/other authority) on 09/27/2021 (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: 07/09/2021

Rulemaking Hearing(s) Conducted on: (add more dates) 09/01/2021

Date: September 27, 2021

Signature: 

Name of Officer: Stephen Smith
Director, Division of TennCare

Title of Officer: Tennessee Department of Finance and Administration

Agency/Board/Commission: Division of TennCare

Rule Chapter Number(s): 1200-13-13

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.

Herbert H. Slater III
Attorney General and Reporter

10/25/2021
Date

Department of State Use Only

Filed with the Department of State on: 10/26/2021
Effective on: 1/24/2022

Tre Hargett
Secretary of State

RECEIVED

Secretary of State
Division of Publications

SS-7039 (March 2020) 3 RDA 1693
Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

There were no comments on the rule amendments.
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 rule amendments are not expected to affect 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://publications.tnsosfiles.com/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;

The rules define "institutions for Mental Diseases" (IMDs) consistent with federal law (42 U.S.C § 1396d(i)) and describe TennCare coverage of inpatient substance abuse treatment services for adults in IMDs.

(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 Division of TennCare in accordance with 42 U.S.C. § 1396n(f), and T.C.A §§ 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 amendments are TennCare enrollees, providers, and managed care contractors. The governmental entity most directly affected by these rules is the Division of TennCare, Tennessee Department of Finance & 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 rules are not anticipated to have an impact on state and local government revenues and expenditures.

(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

310 Great Circle Road
Nashville, TN 37243
(615) 507-6852
donna.tidwell@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.
RULES
OF
TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE

CHAPTER 1200-13-13
TENNCARE MEDICAID

1200-13-13-.01 Definitions

(#) *Institution for Mental Diseases (IMD)* shall mean a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services.

1200-13-13-.04 Covered Services

(1) Benefits covered under the managed care program

(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 1200-13-13-.10.

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<td>Covered as medically necessary.</td>
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*Substance abuse benefits delivered in IMDs are covered up to 30 days per year.*