

Notice of
Rulemaking Hearing
Tennessee Department of Finance and Administration
Bureau of TennCare

There will be a hearing before the Commissioner to consider the promulgation of amendments of rules pursuant to Tennessee Code Annotated, 71-5-105 and 71-5-109. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act Tennessee Code Annotated, Section 4-5-204 and will take place in the Bureau of TennCare, 1st Floor East Conference Room, 310 Great Circle Road, Nashville, Tennessee 37243 at 9:00 a.m. C.S.T on the 16th day December 2008.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Finance and Administration, Bureau of TennCare, to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings) to allow time for the Bureau of TennCare to determine how it may reasonably provide such aid or service. Initial contact may be made with the Bureau of TennCare's ADA Coordinator by mail at the Bureau of - TennCare, 310 Great Circle Road, Nashville, Tennessee 37243 or by telephone at (615) 507-6474 or 1-800-342-3145.

For a copy of this notice of rulemaking hearing, contact George Woods at the Bureau of TennCare, 310 Great Circle Road, Nashville, Tennessee 37243 or call (615) 507-6446.

Substance of Proposed Rules

Chapter 1200-13-13
TennCare Medicaid

Rule 1200-13-13-.01 Definitions is amended by adding a new paragraph (93) and the current paragraph (93) is renumbered as paragraph (94) and subsequent paragraphs renumbered accordingly so amended the new paragraph (93) shall read as follows:

- (93) Qualified Long Term Care Insurance Policy shall mean a long-term care insurance policy issued on or after October 1, 2008, that has been pre-certified by the Tennessee Department of Commerce and Insurance pursuant to Rule 0780-1-61 as:
 - (a) A policy that meets all applicable Tennessee Long Term Care Partnership requirements; or
 - (b) A policy that has been issued in another Partnership state and which is covered under a reciprocal agreement between such other state and the State of Tennessee.

Rule 1200-13-13-.09 Third Party Resources is amended by adding a new paragraph (7) which shall read as follows:

- (7) Asset Disregards for Qualifying Long Term Care Insurance Policies:
 - (a) Individuals who purchase a qualified long term care insurance policy may have certain assets disregarded in the determination of eligibility for TennCare Medicaid. The Department of Human Services (DHS) shall disregard an individual's assets up to the amount of payments made by the individual's qualifying long-term care insurance policy for services covered under the policy at the time of TennCare application.

- (b) The amount of the individual's assets properly disregarded under these provisions shall continue to be disregarded through the lifetime of the individual.
- (c) Assets which were disregarded for purposes of Medicaid eligibility determination during the person's lifetime are also protected from estate recovery. When the amount of assets disregarded during the person's lifetime was less than total benefits paid by the qualified long term care insurance policy, additional assets may be protected in the estate recovery process up to the amount of payments made by the individual's qualifying long term care policy for services covered under the policy. If no assets were disregarded during the person's lifetime, the personal representative may designate assets to protect from estate recovery up to the lesser of the two options specified above, even if a qualified long term care policy's benefits were not completely exhausted.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of October, 2008. (FS 10-23-08; DBID 938)