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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
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Revision Type (check all that apply):
X Amendments
X 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 Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below.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**
1200-13-01	TennCare Long-Term Care Programs
Rule Number	**Rule Title**
1200-13-01-.02	Definitions
1200-13-01-.05	TennCare CHOICES Program
1200-13-01-.10	Medical (Level of Care) Eligibility Criteria for TennCare Reimbursement of Care in Nursing Facilities, CHOICES HCBS and PACE
1200-13-01-.25	Tennessee's Home and Community Based Services Waiver for the Mentally Retarded and Developmentally Disabled Under Section 1915(c) of the Social Security Act (Statewide MR Waiver)
1200-13-01-.28	Home and Community Based Services Waiver for Persons with Mental Retardation Under Section 1915(c) of the Social Security Act (Arlington MR Waiver)
1200-13-01-.29	Tennessee's Self-determination Waiver Under Section 1915(c) of the Social Security Act (Self-determination MR Waiver Program)
1200-13-01-.31	TennCare Employment and Community First CHOICES (ECF CHOICES) Program
1200-13-01-.33	Temporary Benefits Under the American Rescue Plan Act Enhanced HCBS FMAP Spending Plan

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 https://sos.tn.gov/products/division-publications/rulemaking-guidelines.

Chapter 1200-13-01 TennCare Long-Term Care Programs Table of Contents is amended by adding a new Rule 1200-13-.01-.33 and title which shall read as follows:

1200-13-01-.33 Temporary Benefits Under the American Rescue Plan Act Enhanced HCBS FMAP Spending Plan

Rule 1200-13-01-.02 Definitions is amended by inserting in alphabetical order the following new paragraphs, with all paragraphs numbered appropriately so that the new paragraphs shall read as follows:

(#) Enabling Technology.

(a) For purposes of CHOICES and ECF CHOICES, equipment, devices, items, and/or their deployments, innovations, or methodologies, that, alone or in combination with associated technologies, provide the means to support individuals' increased independence in their homes, communities, and/or workplaces. When utilized in a person-centered manner, these technologies have a substantial influence on how Long-Term Services and Supports (LTSS) supports people with intellectual and developmental disabilities in a more natural, non-segregated environment in order to promote independence, personal development, and additional opportunities for self-determination.

1. The Enabling Technology service covers purchases, leasing, shipping costs, training, maintenance, and, as necessary, repair of equipment required by the Member to increase, maintain and/or improve his/her functional capacity to perform daily tasks that would not be possible otherwise. All items must meet applicable standards of manufacture, design, and installation.

2. Examples of Enabling Technology include, but are not limited to, motion sensors; smoke and carbon monoxide alarms; bed and/or chair sensors; live or on demand audio and/or video technologies; pressure sensors; stove guards; automated medication dispenser systems; mobile software applications using digital pictures, audio and video to guide, teach, or remind; GPS guidance devices; wearable and virtual technologies; and software to operate devices for environmental control or to communicate with other smart devices of paid or natural supports at home, work, or any other place of personal import.

3. Enabling Technology includes remote support technology systems in which remote support staff and/or coaches and/or natural supports can interact, coordinate supports, or actively respond to needs in person when needed. Remote support systems are real-time support systems which often include two-way communication.

   (i) These systems use wireless technology, and/or phone lines, to link an individual's home to a person off site to provide up to 24/7 support.

   (ii) These systems include the use of remote sensor technology to send "real-time" data to remote staff or family who can then immediately assess the situation and provide assistance according to a Person-Centered Support Plan (PCSP).

4. In CHOICES Groups 2 and 3, Enabling Technology shall be limited to $5,000 per person per calendar year through March 31, 2025. Enabling Technology is a time-limited benefit and shall no longer be available after March 31, 2025.

5. In ECF CHOICES Groups 4, 5, 6, 7, and 8, Enabling Technology combined with Assistive Technology, shall be limited to $5,000 per person per calendar year.

6. An MCO may authorize services in excess of the benefit limit as a cost-effective alternative to institutional placement or other medically necessary covered benefits.

(b) For purposes of 1915(c) Waivers, equipment, devices, items, and/or their deployments, innovations, or methodologies, that, alone or in combination with associated technologies, provides the means to support an individual's increased independence in the home or community.

1. The Enabling Technology service covers purchases, leasing, shipping costs, training, maintenance, and, as necessary, repair of equipment required by the Enrollee to increase, maintain and/or improve his/her functional capacity to perform daily tasks that would not be possible otherwise. All items must meet applicable standards of manufacture, design, and installation.

2. Examples of Enabling Technology include, but are not limited to, motion sensors; smoke and carbon monoxide alarms; bed and/or chair sensors; live or on demand audio and/or video technologies; pressure sensors; stove guards; automated medication dispenser systems; mobile software applications using digital pictures, audio and video to guide, teach, or remind; GPS guidance devices; wearable and virtual technologies; and software to operate devices for environmental control or to communicate with other smart devices, of paid or natural supports at home, work, or any other place of personal import.

3. Enabling Technology includes remote support technology systems in which remote support staff, coaches, natural supports, or caregivers can interact, coordinate supports, or actively respond to needs in person when needed. Remote support systems are real-time support systems which include two-way communication.

(i) These systems use wireless technology, and/or phone lines, to link an individual's home to a person off site to provide up to 24/7 support.

(ii) These systems include the use of remote sensor technology to send real-time data to remote staff or family who can then immediately assess the situation and provide assistance according to an Individual Support Plan (ISP) as defined by Rule 1200-13-01.-25(1)(p).

4. Enabling Technology combined with Specialized Medical Equipment and Supplies and Assistive Technology, per Rule 1200-13-01-.25(1)(jj), shall be limited to a combined maximum benefit of $10,000 per person supported per two (2) consecutive calendar years.

(c) Enabling Technology is not a covered benefit in the Katie Beckett program.

(#) Family Caregiver Supports ("FCS") are additional one-time increases in specified HCBS provided for a time-limited period pursuant to Section 9817 of the American Rescue Plan Act of 2021 ("ARP") (Pub. L. 117-2) and Tennessee's conditionally approved HCBS Spending Plan. FCS shall expire March 31, 2025.

(#) Individual Cost Limit. A Section 1915(c) waiver Enrollee's expenditure limit.

Paragraph (11) Assistive Technology of Rule 1200-13-01-.02 Definitions is deleted in its entirety and replaced with the following:

(11) Assistive Technology.

(a) For purposes of CHOICES:

Assistive devices, adaptive aids, controls, or appliances that enable an Enrollee to increase his/her ability to perform ADLs or to perceive or control his environment. Examples include, but are not limited to, "grabbers" to pick objects off the floor, a strobe light to signify the smoke alarm has been activated, etc. Assistive Technology shall be limited to $900 per person per calendar year. An MCO may authorize services in excess of the benefit limit as a cost-effective alternative to institutional placement or other medically necessary covered benefits.

(b) For purposes of ECF CHOICES and for purposes of the Katie Beckett Program and limited to children enrolled in Katie Beckett Group Part A or Medicaid Diversion Group Part B, Assistive Technology shall have the same definition as "Assistive Technology, Adaptive Equipment and Supplies" in the TennCare III waiver. The service known as "Assistive Technology, Adaptive Equipment and Supplies," outlined in 1200-13-01-.31, shall be as defined within this subparagraph (b).

1. For ECF CHOICES and the Katie Beckett program limited to children enrolled in Katie Beckett Group Part A or Medicaid Diversion Group Part B, Assistive Technology shall mean:

   An item, piece of equipment or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities and to support the individual's increased independence in the home, community living and participation, and individualized integrated employment or self-employment. The service covers purchases, leasing, shipping costs, and as necessary, repair of equipment required by the person to increase, maintain, or improve his/her functional capacity to perform daily tasks in the community and in employment that would not be possible otherwise. All items must meet applicable standards of manufacture, design and installation. The person-centered support plan must include strategies for training the individual and any others who the individual will or may rely on in effectively using the assistive technology or adaptive equipment (e.g. his/her support staff; co-workers and supervisors in the place of employment; natural supports).

2. Assistive Technology for this subparagraph (b), also referred to as "Assistive Technology, Adaptive Equipment and Supplies," covers the following:

   (i) Purchases, leasing, shipping costs, and as necessary, repair of Assistive Technology equipment required by the person to increase, maintain, or improve his/her functional capacity to perform daily tasks in the community and in employment that would not be possible otherwise;

   (ii) Evaluation and assessment of the assistive technology and adaptive equipment needs of the individual by an appropriate professional, including a functional evaluation of the impact of the provision of appropriate assistive technology and adaptive equipment through equipment trials and appropriate services to him/her in all environments with which the person interacts over the course of any 24 hour day, including the home, integrated employment setting(s) and community integration locations;

   (iii) Services consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, updating, repairing, or replacing assistive technology devices and adaptive equipment;

   (iv) Adaptive equipment to enable the individual to feed him/herself and/or complete oral hygiene as indicated while at home, work or in the community (e.g. utensils, gripping aid for utensils, adjustable universal utensil cuff, utensil holder, scooper trays, cups, bowls, plates, plate guards, non-skid pads for plates/bowls, wheelchair cup holders, adaptive cups that are specifically designed to allow a person to feed him/herself or for someone to safely assist a person to eat and drink, and adaptive toothbrushes);

   (v) Coordination and use of necessary therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with other services in the person-centered support plan;

   (vi) Training, programming, demonstrations or technical assistance for the individual and for his/her providers of support (whether paid or unpaid) to facilitate the person's use of the assistive technology and adaptive equipment;

   (vii) Adaptive switches and attachments;

   (viii) Adaptive toileting equipment;

(ix) Communication devices and aids that enable the person to perceive, control, or communicate with the environment, including a variety of devices for augmentative communication;

(x) Assistive devices for persons with hearing and vision loss (e.g. assistive listening devices, TDD, large visual display services, Braille screen communicators, FM systems, volume control telephones, large print telephones and teletouch systems and long white canes with appropriate tips to identify footpath information for people with visual impairment;

(xi) Computer equipment, adaptive peripherals and adaptive workstations to accommodate active participation in the workplace and in the community;

(xii) Software also is approved when required to operate accessories included for environmental control;

(xiii) Pre-paid, pre-programmed cellular phones that allow an individual who is participating in employment or community integration activities without paid or natural supports and who may need assistance due to an accident, injury or inability to find the way home. The person's PCSP outlines a protocol that is followed if the individual has an urgent need to request help while in the community;

(xiv) Such other durable and non-durable medical equipment not available under the State Plan that is necessary to address functional limitations in the community, in the workplace, and in the home; and

(xv) Repair of equipment is covered for items purchased through this Waiver or purchased prior to Waiver participation, as long as the item is identified within this service definition and the cost of the repair does not exceed the cost of purchasing a replacement piece of equipment. The individual or legal guardian must own any piece of equipment that is repaired.

3. A written recommendation by an appropriate professional must be obtained to ensure that the equipment will meet the needs of the person. The recommendation of the Job Accommodation Networks (JAN) will meet this requirement for worksite technology. Depending upon the financial size of the employer or the public entity, those settings may be required to provide some of these items as part of their legal obligations under Title I or Title III of the ADA. Federal financial participation is not claimed for accommodations that are the legal responsibility of an employer or public entity, pursuant to Title I or Title III of the ADA.

4. Neither ECF CHOICES nor the Katie Beckett Program will cover Assistive Technology, Adaptive Equipment, and Supplies services which are otherwise available to the individual under Section 110 of the Rehabilitation Act of 1973, or the IDEA (20 U.S.C. §§ 1401, et seq.). If this service is authorized, documentation is maintained that the service is not available to the individual under a program funded under Section 110 of the Rehabilitation Act of 1973 or the IDEA (20 U.S.C. §§ 1401, et seq.).

5. For purposes of ECF CHOICES, Assistive Technology and Enabling Technology combined shall be limited to $5,000 per person per calendar year. For purposes of the Katie Beckett Program, Assistive Technology shall be limited to $5,000 per person per calendar year. An MCO may authorize services in excess of the benefit limit as a cost-effective alternative to institutional placement or other medically necessary covered benefits.

Part 1 of Subparagraph (a) of Paragraph (194) Safety Determination of Rule 1200-13-01-.02 Definitions is amended by deleting "of $15,000" after the phrase "Expenditure Cap", by replacing "65" with "sixty-five (65)" and "21" with "twenty-one (21)" so as amended Part 1 shall read as follows:

1. An Applicant age sixty-five (65) and older and is At Risk for Institutionalization as defined in Rule 1200-13-01-.02 or an Applicant age twenty-one (21) and older who has a physical

disability and is At Risk for Institutionalization as defined in Rule 1200-13-01-.02 would qualify to enroll in CHOICES Group 3 (including Interim CHOICES Group 3) or if there is sufficient evidence, as required and determined by the Bureau, to demonstrate that the necessary intervention and supervision needed by the Applicant cannot be safely provided within the array of services and supports that would be available if the Applicant was enrolled in CHOICES Group 3, including CHOICES HCBS up to the Expenditure Cap; non-CHOICES HCBS available through TennCare (e.g., home health); cost-effective alternative services (as applicable); services available through Medicare, private insurance or other funding sources; and natural supports provided by family members and other caregivers who are willing and able to provide such care, and which may impact the Applicant's NF LOC eligibility (see Rule 1200-13-01-.10(4)(b)2.(i)(II) and 1200-13-01-.10(4)(b)2.(ii)(II)).

Part 2 of Subparagraph (a) of Paragraph (194) Safety Determination of Rule 1200-13-01-.02 Definitions is by replacing "21" with "twenty-one (21)" so as amended Part 2 shall read as follows:

2. An applicant, age twenty-one (21) and older who has an intellectual or developmental disability and is At Risk for Institutionalization as defined in Rule 1200-13-01-.02 would qualify to enroll in ECF CHOICES Group 5, or if there is sufficient evidence, as required and determined by the Bureau, to demonstrate that the necessary intervention and supervision needed by the Applicant cannot be safely provided within the array of services and supports that would be available if the Applicant was enrolled within the array of services and supports that would be available if the Applicant was enrolled in ECF CHOICES Group 5, including ECF CHOICES HCBS up to the Expenditure Cap of $30,000; one-time emergency assistance up to $6,000; non-ECF CHOICES HCBS available through TennCare (e.g., home health); cost-effective alternative services (as applicable); services available through Medicare, private insurance or other funding sources; and natural supports provided by family members and other caregivers who are willing and able to provide such care, and which may impact the Applicant's NF LOC eligibility (see Rule 1200-13-01-.10(4)(b)2.(ii)(III)).

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

Subparagraph (f) of Paragraph (3) of Rule 1200-13-01-.05 TennCare Choices Program is amended by replacing "$15,000" with "$18,000" and by capitalizing the first letter of each word in the term in "minor home modifications" so as amended Subparagraph (f) shall read as follows:

(f) All Members in TennCare CHOICES Group 3 must be determined by the MCO to be able to be served safely and appropriately in the community within the array of services and supports available in CHOICES Group 3, including CHOICES HCBS up to the Expenditure Cap of $18,000 (excluding the cost of Minor Home Modifications), non-CHOICES HCBS available through TennCare (e.g., home health), services available through Medicare, private insurance or other funding sources, and unpaid supports provided by family members and other caregivers. Reasons a person cannot be served safely and appropriately in the community may include, but are not limited to, the following:

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

(iv) Notwithstanding the Expenditure Cap specified in 1200-13-01-.05(4)(c) and (f), a person enrolled in CHOICES shall not be disenrolled, nor shall currently authorized CHOICES HCBS be reduced, if the sole reason the person's Individual Cost Neutrality Cap or Expenditure Cap would be exceeded is the targeted rate increases in CHOICES HCBS provided via Tennessee's HCBS Spending Plan under Section 9817 of the American Rescue Plan Act of 2021.

Part 3 of Subparagraph (f) of Paragraph (4) of Rule 1200-13-01-.05 TennCare Choices Program is amended by replacing "$15,000 (fifteen thousand dollars)" with "$18,000 (eighteen thousand dollars)" so as amended Part 3 shall read as follows:

3. The Expenditure Cap for CHOICES HCBS provided to CHOICES Group 3 Members shall be $18,000 (eighteen thousand dollars) annually, excluding the cost of Minor Home Modifications.

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

(v) Notwithstanding the Expenditure Cap specified in 1200-13-01-.05(4)(c) and (f), a person enrolled in CHOICES shall not be disenrolled, nor shall currently authorized CHOICES HCBS be reduced, if the sole reason the person's Individual Cost Neutrality Cap or Expenditure Cap would be exceeded is the targeted rate increases in CHOICES HCBS provided via Tennessee's HCBS Spending Plan under Section 9817 of the American Rescue Plan Act of 2021.

Subparagraph (b) of Paragraph (6) of Rule 1200-13-01-.05 TennCare Choices Program is amended by deleting "of $15,000 or $30,000, as applicable" and replacing "21" with "twenty-one (21)" so as amended subparagraph (b) shall read as follows:

(b) Any of these criteria shall be sufficient to warrant review of a Safety Determination request by the Bureau; however except as provided in Subpart (f)1.(i) below, no criterion shall necessarily be sufficient, in and of itself, to justify that such Safety Determination request (and NF LOC) will be approved. The Bureau may also, at its discretion, review a Safety Determination request when none of the criteria in (a) above have been met, but other safety concerns have been submitted which the Bureau determines may impact the person's ability to be safely served in CHOICES Group 3, or ECF CHOICES Group 5, as applicable, along with sufficient medical evidence to make a safety determination. The Bureau's Safety Determination shall be based on a review of the medical evidence in its entirety, including consideration of the Applicant's medical and functional needs, and the array of services and supports that would be available if the Applicant was enrolled in CHOICES Group 3 or ECF CHOICES Group 5 (for adults age twenty-one (21) and older), as applicable for the target population in which the Applicant will be enrolled, if eligible, including CHOICES HCBS or ECF CHOICES HCBS up to the Expenditure Cap, and one-time emergency assistance up to $6,000, as applicable; non-CHOICES HCBS available through TennCare (e.g., home health); cost effective alternative services (as applicable); services available through Medicare, private insurance or other funding sources and unpaid supports provided by family members and other caregivers who are willing and able to provide such care.

Part 4 of Subparagraph (e) of Paragraph (6) of Rule 1200-13-01-.05 TennCare Choices Program is amended by deleting "of $15,000" and "of $30,000" so as amended Part 4 shall read as follows:

4. An explanation regarding why an array of covered services and supports, including CHOICES HCBS up to the Expenditure Cap, ECF CHOICES HCBS up to the Expenditure Cap, and one-time emergency assistance up to $6,000; and non-CHOICES or non-ECF CHOICES HCBS (e.g., home health); services available through Medicare, private insurance or other funding sources; and unpaid supports provided by family members and other caregivers would not be sufficient to safely meet the Applicant's needs in the community.

Part 1 of Subparagraph (f) of Paragraph (6) of Rule 1200-13-01-.05 TennCare Choices Program is amended by deleting "of $15,000 or $30,000, as applicable" so as amended Part 1 shall read as follows:

1. A Safety Determination request shall be approved if there is sufficient evidence, as required and determined by the Bureau, to demonstrate that the necessary intervention and supervision needed by the Applicant cannot be safely provided within the array of services and supports that would be available if the Applicant was enrolled in CHOICES Group 3 or ECF CHOICES Group 5, as applicable for the target population in which the Applicant will be enrolled, if eligible, including CHOICES HCBS or ECF CHOICES HCBS up to the Expenditure Cap, and one-time emergency assistance up to $6,000, as applicable; non-CHOICES HCBS available through TennCare (e.g., home health); cost-effective alternative services (as applicable); services available through Medicare, private insurance or other funding sources; and unpaid supports provided by family members and other caregivers who are willing and able to provide such care.

The table "Benefits for CHOICES 2 Members" in Subparagraph (l) of Paragraph (8) of Rule 1200-13-01-.05 TennCare Choices Program is amended by adding a new Part 5 Enabling Technology and the current Part 5 and subsequent parts are renumbered appropriately. The new Part 5 shall read as follows:

Service	Benefits for CHOICES 2 Members	Benefits for Consumer Direction ("Eligible HCBS")
5. Enabling Technology	Covered with a limit of $5,000 per calendar year, per Member through March 31, 2025.	No

The table "Benefits for CHOICES 3 Members" in Subparagraph (l) of Paragraph (8) of Rule 1200-13-01-.05 TennCare Choices Program is amended by adding a new Part 5 Enabling Technology and the current Part 5 and subsequent parts are renumbered appropriately. The new Part 5 shall read as follows:

Service	Benefits for CHOICES 3 Members	Benefits for Consumer Direction ("Eligible HCBS")
5. Enabling Technology	Covered with a limit of $5,000 per calendar year, per Member through March 31, 2025.	No

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

Item (II) of Subpart (i) of Part 2 of Subparagraph (b) of Paragraph (4) of Rule 1200-13-01-.10 Medical (Level of Care) Eligibility Criteria for TennCare Reimbursement of Care in Nursing Facilities, CHOICES HCBS and PACE is amended by deleting "of $15,000" so as amended Item (II) shall read as follows:

(II) Meet one (1) or more of the ADL or related criteria specified in 1200-13-01-.10(4)(b)2.(iii) on an ongoing basis and be determined by TennCare through approval of a Safety Determination Request to not be able to be safely served within the array of services and supports that would be available if the Applicant was enrolled in CHOICES Group 3, including CHOICES HCBS up to the Expenditure Cap, non-CHOICES HCBS available through TennCare (e.g., home health), cost-effective alternative services (as applicable), services available through Medicare, private insurance or other funding sources, and natural supports provided by family members and other caregivers who are willing and able to provide such care. An Applicant who cannot be safely served in CHOICES Group 3 does not qualify to enroll in CHOICES Group 3. An applicant who could be safely served in CHOICES Group 3 except that he does not meet Medicaid categorical and financial eligibility criteria for CHOICES Group 3 (i.e. is not an SSI recipient) shall not be eligible for CHOICES Group 1 as a result of a Safety Determination.

Item (II) of Subpart (ii) of Part 2 of Subparagraph (b) of Paragraph (4) of Rule 1200-13-01-.10 Medical (Level of Care) Eligibility Criteria for TennCare Reimbursement of Care in Nursing Facilities, CHOICES HCBS and PACE is amended by deleting "of $15,000" so as amended Item (II) shall read as follows:

(II) For a CHOICES Group 2 Applicant, meet one (1) or more of the ADL or related criteria specified in 1200-13-01-.10(4)(b)2.(iii) on an ongoing basis and be determined by TennCare through approval of a Safety Determination Request to not be able to be safely served within the array of services and supports that would be available if the Applicant was enrolled in CHOICES Group 3, including CHOICES HCBS up to the Expenditure Cap, non-CHOICES HCBS available through TennCare (e.g., home health), cost-effective alternative services (as

applicable), services available through Medicare, private insurance or other funding sources, and natural supports provided by family members and other caregivers who are willing and able to provide such care. An Applicant who cannot be safely served in CHOICES Group 3 does not qualify to enroll in CHOICES Group 3. An applicant who could be safely served in CHOICES Group 3 except that he does not meet Medicaid categorical and financial eligibility criteria for CHOICES Group 3 (i.e. is not an SSI recipient) shall not be eligible for CHOICES Group 2 as a result of a Safety Determination; or

Item (III) of Subpart (ii) of Part 2 of Subparagraph (b) of Paragraph (4) of Rule 1200-13-01-.10 Medical (Level of Care) Eligibility Criteria for TennCare Reimbursement of Care in Nursing Facilities, CHOICES HCBS and PACE is amended by deleting "of $30,000" and replacing "21" with "twenty-one (21)" so as amended Item (III) shall read as follows:

(III) For an ECF CHOICES Applicant age twenty-one (21) or older, have an intellectual or developmental disability and be determined through approval of a Safety Determination Request to not be able to be safely served within the array of services and supports that would be available if the Applicant was enrolled in ECF CHOICES Group 5, including ECF CHOICES HCBS up to the Expenditure Cap; one-time emergency assistance up to $6,000; non-ECF CHOICES HCBS available through TennCare (e.g., home health); cost-effective alternative services (as applicable); services available through Medicare, private insurance or other funding sources; and natural supports provided by family members and other caregivers who are willing and able to provide such care.

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

Part 5 of Subparagraph (r) of Paragraph (2) of Rule 1200-13-01-.25 Tennessee's Home and Community Based Services Waiver for the Mentally Retarded and Developmentally Disabled Under Section 1915(c) of the Social Security Act (Statewide MR Waiver) is amended by deleting the part in its entirety and substituting instead the following language, so that as amended, part 5 shall read as follows:

5. Specialized Medical Equipment and Supplies and Assistive Technology as defined by 1200-13-01-.25, and Enabling Technology, as defined by 1200-13-01-.02, shall be limited to a combined maximum benefit of $10,000 per person supported per two (2) consecutive calendar years.

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

Part 5 of Subparagraph (r) of Paragraph (2) of Rule 1200-13-01-.28 Home and Community Based Services Waiver for Persons with Mental Retardation Under Section 1915(c) of the Social Security Act (Arlington MR Waiver) is amended by deleting the part in its entirety and substituting instead the following language, so that as amended, part 5 shall read as follows:

5. Specialized Medical Equipment and Supplies and Assistive Technology, as defined by 1200-13-01-.28, and Enabling Technology, as defined by 1200-13-01-.02, shall be limited to a combined maximum benefit of $10,000 per person supported per two (2) consecutive calendar years.

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

Subparagraph (p) of Paragraph (3) of Rule 1200-13-01-.29 Tennessee's Self-determination Waiver Under Section 1915(c) of the Social Security Act (Self-determination MR Waiver Program) is amended by adding a new appropriately numbered part after part 3, so that the new part 4, shall read as follows:

4. Specialized Medical Equipment and Supplies and Assistive Technology, as defined by 1200-13-01-.29, and Enabling Technology, as defined by 1200-13-01-.02, shall be limited to a combined maximum benefit of $10,000 per person supported per two (2) consecutive calendar years.

Subparagraph (u) of Paragraph (3) of Rule 1200-13-01-.29 Tennessee's Self-determination Waiver Under Section 1915(c) of the Social Security Act (Self-determination MR Waiver Program) is amended by replacing "$36,000" with "$42,000", so that as amended Subparagraph (u) shall read as follows:

(u) The cost of all Covered Services, including any Emergency Assistance, shall not exceed $42,000 per year per Enrollee.

Subparagraph (a) of Paragraph (11) of Rule 1200-13-01-.29 Tennessee's Self-determination Waiver Under Section 1915(c) of the Social Security Act (Self-determination MR Waiver Program) is amended by replacing "36,000" with "$42,000", so that as amended subparagraph (a) shall read as follows:

(a) The average per capita fiscal year expenditure under the Waiver shall not exceed 100% of the average per capita expenditure that would have been made in the fiscal year if care had been provided in an ICF/MR. The total Medicaid expenditure for Waiver Services and other Medicaid services provided to Enrollees shall not exceed 100% of the amount that would have been incurred in the fiscal year if care was provided in an ICF/MR. Reimbursement for the cost of all Covered Services, including any Emergency Assistance, shall not exceed $42,000 per year per Enrollee.

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

Subpart (i) of Part 1 of Subparagraph (d) of Paragraph (4) of Rule 1200-13-01-.31 TennCare Employment and Community First CHOICES (ECF CHOICES) Program is amended by capitalizing the letter "e" and "c" in the first reference to "expenditure cap" and replacing "fifteen thousand dollars ($15,000)" with "eighteen thousand dollars ($18,000)" in the first sentence and by adding "Except as provided in 1200-13-01-.31(4)(d)4(vii)," to the beginning of the last sentence and by replacing the capital "T" with a lower case "t" in "there" in the last sentence and by capitalizing the first letter of each word in the term in "minor home modifications" so as amended Subpart (i) shall read as follows:

(i) For Members enrolled in Group 4, the Expenditure Cap shall be eighteen thousand dollars ($18,000) per person per calendar year. The Expenditure Cap shall apply to Group 4 ECF CHOICES HCBS only (not other Medicaid services). For Members enrolled in Group 4, the cost of Minor Home Modifications shall not count against the expenditure cap. Except as provided in 1200-13-01-.31(4)(d)4(vii), there shall be no exceptions to the Expenditure Cap for a Member enrolled in Group 4.

Subpart (ii) of Part 1 of Subparagraph (d) of Paragraph (4) of Rule 1200-13-01-.31 TennCare Employment and Community First CHOICES (ECF CHOICES) Program is amended by replacing "thirty thousand dollars ($30,000)" with "thirty-six thousand dollars ($36,000)" in the first sentence and by adding ", except as provided in 1200-13-01-.31(4)(d)4(vii)" to the end of the last sentence and by capitalizing the first letter of each word in the term "minor home modifications" so as amended Subpart (ii) shall read as follows:

(ii) For Members enrolled in Group 5, the Expenditure Cap shall be thirty-six thousand dollars ($36,000) per person per calendar year. The Expenditure Cap shall apply to Group 5 ECF CHOICES HCBS only (not other Medicaid services). All ECF CHOICES HCBS shall be counted against a CHOICES Group 5 Member's Expenditure Cap, including the cost of Minor Home Modifications except as provided in 1200-13-01-.31(4)(d)4(vii).

Item (II) of Subpart (ii) of Part 1 of Subparagraph (d) of Paragraph (4) of Rule 1200-13-01-.31 TennCare Employment and Community First CHOICES (ECF CHOICES) Program is amended by replacing "$36,000" with "$42,000" so as amended Item (II) shall read as follows:

(II) Expenditures for ECF CHOICES HCBS for a Member enrolled in CHOICES Group 5 shall not exceed $42,000 per calendar year.

Subpart (iii) of Part 1 of Subparagraph (d) of Paragraph (4) of Rule 1200-13-01-.31 TennCare Employment and Community First CHOICES (ECF CHOICES) Program is amended by adding ", except as provided in 1200-13-01-.31(4)(d)4(vii)" to the end of the first sentence and by capitalizing the first letter of the terms "member" and "level of need" so as amended Subpart (iii) shall read as follows:

(iii) The Expenditure Cap for a Member enrolled in ECF CHOICES Group 6 shall depend on the Member's assessed Level of Need as defined in Rule 1200-13-01-.02, except as provided in 1200-13-01-.31(4)(d)4(vii).

Item (I) of Subpart (iii) of Part 1 of Subparagraph (d) of Paragraph (4) of Rule 1200-13-01-.31 TennCare Employment and Community First CHOICES (ECF CHOICES) Program is amended by deleting the words "or moderate" after the words "have a low" and replacing "$45,000" with "$54,000" and by capitalizing the first letter of the terms "member" and "level of need" so as amended Item (I) shall read as follows:

(I) An ECF CHOICES Group 6 Member assessed to have a low Level of Need shall have an Expenditure Cap of $54,000 per calendar year.

Subpart (iii) of Part 1 of Subparagraph (d) of Paragraph (4) of Rule 1200-13-01-.31 TennCare Employment and Community First CHOICES (ECF CHOICES) Program is amended by adding a new Item (II) and subsequent Items renumbered as appropriate so that the new Item (II) shall read as follows:

(II) An ECF CHOICES Group 6 Member assessed to have a moderate Level of Need shall have an Expenditure Cap of $82,000 per calendar year.

Item (II) of Subpart (iii) of Part 1 of Subparagraph (d) of Paragraph (4) of Rule 1200-13-01-.31 TennCare Employment and Community First CHOICES (ECF CHOICES) Program is to be renumbered as Item (III), with subsequent items being renumbered accordingly, and is amended by deleting "$60,000" and replacing it with "$108,000" and by capitalizing the first letter of the terms "member" and "level of need" so as amended the renumbered Item (III) shall read as follows:

(III) An ECF CHOICES Group 6 Member assessed to have a high Level of Need shall have an Expenditure Cap of $108,000 per calendar year.

Part 4 of Subparagraph (d) of Paragraph (4) of Rule 1200-13-01-.31 TennCare Employment and Community First CHOICES (ECF CHOICES) Program is amended by adding a new Subpart (vii) which shall read as follows:

(vii) Notwithstanding the Expenditure Caps specified herein, a person enrolled in ECF CHOICES shall not be disenrolled, nor shall currently authorized ECF CHOICES HCBS be reduced, if the sole reason the person's Expenditure Cap would be exceeded is the targeted rate increases in ECF CHOICES HCBS provided via Tennessee's HCBS Spending Plan under Section 9817 of the American Rescue Plan Act of 2021.

Column 2 "Benefits for ECF CHOICES Members" of Part 2 Assistive Technology, Adaptive Equipment and Supplies of Subparagraph (d) of Paragraph (7) of Rule 1200-13-01-.31 TennCare Employment and Community First CHOICES (ECF CHOICES) Program is amended by adding a comma and phrase ", in combination with Enabling Technology" at the end of the first sentence so as amended Part 2 shall read as follows:

Service	Benefits for ECF CHOICES Members	Benefits for Consumer Direction ("Eligible ECF CHOICES HCBS")
2. Assistive Technology, Adaptive Equipment and Supplies	Covered with a limit of five thousand dollars ($5,000) per person per calendar year, in combination with Enabling Technology. Not covered under ECF CHOICES if available under Section 110 of the Rehabilitation Act of 1973, or the IDEA (20 U.S.C. §§ 1401 et seq.).	No

Subparagraph (d) of Paragraph (7) of Rule 1200-13-01-.31 TennCare Employment and Community First CHOICES (ECF CHOICES) Program is amended by adding a new Part 8 Enabling Technology and the current Part 8 and subsequent parts are renumbered appropriately so that the new Part 8 shall read as follows:

Service	Benefits for ECF CHOICES Members	Benefits for Consumer Direction ("Eligible ECF CHOICES HCBS")
8. Enabling Technology	Covered with a limit of five thousand dollars ($5,000) per person per calendar year, in combination with Assistive Technology, Adaptive Equipment and Supplies. Not covered under ECF CHOICES if available under Section 110 of the Rehabilitation Act of 1973, or the IDEA (20 U.S.C. §§ 1401 et seq.).	No

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

Rule Chapter 1200-13-01 TennCare Long-Term Care Programs is amended by adding a new Rule 1200-13-01-.33 Temporary Benefits under the American Rescue Plan Act Enhanced HCBS FMAP Spending Plan which shall read as follows:

1200-13-01-.33 Temporary Benefits Under the American Rescue Plan Act Enhanced HCBS FMAP Spending Plan

(1) Definitions. See Rule 1200-13-01-.02, unless otherwise noted.

(2) Notwithstanding any other rule related to a benefit limit, Expenditure Cap, Individual Cost Neutrality Cap, or Individual Cost Limit, from November 2, 2021, through March 31, 2025, TennCare Enrollees receiving HCBS in CHOICES Groups 2 or 3; ECF CHOICES Groups 4, 5, 6, or 7; or a Section 1915(c) waiver who meet the criteria outlined in this rule may receive an additional one-time increase of up to $3,000 in eligible Family Caregiver Supports ("FCS"), as defined in .1200-13-01-.02.

(3) Eligibility criteria. Services in (4) below will only be approved if they further enable the individual's independence or support and sustain unpaid family caregivers. To be eligible for FCS, an individual must:

(a) Receive HCBS in CHOICES Group 2 or 3; ECF CHOICES Group 4, 5, 6, or 7; or a Section 1915(c) waiver as of July 12, 2021;

(b) Live with a family member or family members who routinely provide(s) unpaid support and assistance or have an unpaid family caregiver(s) who routinely provide(s) unpaid support and assistance; and

(c) Individuals receiving residential services are not eligible for FCS.

(4) Eligible FCS.

(a) Enrollees in CHOICES Groups 2 and 3 who meet the eligibility criteria in (3) above may utilize FCS for the following services:

1. Respite;

2. Adult Day Care;

3. Assistive Technology;

4. Enabling Technology; and

5. Minor Home Modifications.

(b) Enrollees in ECF CHOICES Groups 4, 5, 6, and 7 who meet the eligibility criteria in (3) above may utilize FCS for the following services:

1. Respite;

2. Assistive Technology;

3. Enabling Technology; and

4. Minor Home Modifications.

(c) Enrollees in one of the 1915(c) Waiver programs who meet the eligibility criteria in (3) above may utilize FCS for the following services as defined in 1200-13-01-.25, unless otherwise indicated:

1. Respite;

2. Specialized Medical Equipment and Supplies and Assistive Technology;

3. Enabling Technology as defined in 1200-13-01-.02; and

4. Environmental Accessibility Modifications.

(5) Use of FCS.

(a) For each program, the $3,000 for FCS is a one-time increase that may be utilized anytime between November 2, 2021, and March 31, 2025.

(b) An individual may elect to receive additional units of one service or multiple services; however, the overall limitation on FCS is $3,000 per person.

(c) This assistance is provided in addition to existing service limitations and without regard for an Expenditure Cap, Individual Cost Neutrality Cap, or Individual Cost Limit specified in the approved waiver. However, Enrollees must use all currently available benefits within the benefit limit or Expenditure Cap, Individual Cost Neutrality Cap, or Individual Cost Limit before accessing FCS through this rule.

(d) If an individual has already reached an Expenditure Cap, Individual Cost Neutrality Cap, or Individual Cost Limit, as applicable, these services may be utilized without respect to whether the maximum benefit has already been utilized.

(e) An individual's PCSP shall be modified to reflect any FCS requested and approved pursuant to this rule.

(6) Appeals. Appeals related to the denial, reduction, suspension, or termination of FCS are processed by the Division in accordance with Rules 1200-13-13-.11 and 1200-13-14-.11. Continuation of the FCS approved pursuant to this rule shall not be provided after the exhaustion of the $3,000 limit or after March 31, 2025, whichever comes first.

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

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Division of TennCare on 05/12/2022, 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: 03/14/2022

Rulemaking Hearing(s) Conducted on: (add more dates). 05/12/2022

Date: August 25, 2022

Signature:

Name of Officer: Stephen Smith

Title of Officer: Director, Division of TennCare
Tennessee Department of Finance and Administration

Agency/Board/Commission: Division of TennCare

Rule Chapter Number(s): 1200-13-01

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.

Jonathan Skrmetti
Attorney General and Reporter

11/6/0 Jonathan Skrmetti by delegation

Nov. 1, 2022
Date

Department of State Use Only

Filed with the Department of State on: 11/1/2022

Effective on: 1/30/2023

Tre Hargett
Secretary of State

RECEIVED
Nov 01 2022, 3:51 pm
Secretary of State
Division of Publications

Public Hearing Comments

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

We received a written comment prior to the public hearing suggesting that Enabling Technology should be made into an ongoing benefit offered in the CHOICES program instead of a time limited benefit that expires March 31, 2024.

State response:

The Enabling Technology benefit is being supported with time-limited federal funding under the American Rescue Plan Act of 2021. After receiving this written comment, TennCare received guidance from the federal government that the timeframe for states to use these federal funds has been extended to March 31, 2025 (instead of March 31, 2024). Accordingly, we modified the rule to reflect that Enabling Technology will be a covered benefit until March 31, 2025, consistent with the timeframe that this federal funding is available. Should the federal government extend the end date for the use of ARP funding even further or an alternative funding source become available, we will modify the rule accordingly at that time.

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 do not specifically affect small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

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 are being promulgated to establish a temporary increase in benefits for "Family Caregiver Supports" in order to utilize federal American Rescue Pan Act of 2021 funding for TennCare's HCBS programs; defines "Family Caregiver Supports(FCS); defines "enabling technology" and adds coverage of this service to certain programs that would benefit from it the most; clarify the definition of "assistive technology"; outline benefit limits for enabling technology and assistive technology; and adjust expenditure cap limits for certain long-term care programs.

(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 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 rule 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 promulgation of these rules is not anticipated to have an effect 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;

Andrew Wright, Associate General Counsel

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

Andrew Wright, Associate 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) 351-3776
andrew.l.wright@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 1200-13-01
TENNCARE LONG-TERM CARE PROGRAMS

Table of Contents

1200-13-01-.33 Temporary Benefits Under the American Rescue Plan Act Enhanced HCBS FMAP Spending Plan

1200-13-01-.02 DEFINITIONS.

NEW DEFINITION (#):

(#) Enabling Technology.

(a) For purposes of CHOICES and ECF CHOICES, equipment, devices, items, and/or their deployments, innovations, or methodologies that, alone or in combination with associated technologies, provide the means to support individuals' increased independence in their homes, communities, and/or workplaces. When utilized in a person-centered manner, these technologies have a substantial influence on how Long-Term Services and Supports (LTSS) supports people with intellectual and developmental disabilities in a more natural, non-segregated environment in order to promote independence, personal development, and additional opportunities for self-determination

1. The Enabling Technology service covers purchases, leasing, shipping costs, training, maintenance, and, as necessary, repair of equipment required by the Member to increase, maintain and/or improve his/her functional capacity to perform daily tasks that would not be possible otherwise. All items must meet applicable standards of manufacture, design, and installation.

2 Examples of Enabling Technology include, but are not limited to, motion sensors; smoke and carbon monoxide alarms; bed and/or chair sensors; live or on demand audio and/or video technologies; pressure sensors; stove guards; automated medication dispenser systems; mobile software applications using digital pictures, audio and video to guide, teach, or remind; GPS guidance devices; wearable and virtual technologies; and software to operate devices for environmental control or to communicate with other smart devices of paid or natural supports at home, work, or any other place of personal import.

3 Enabling Technology includes remote support technology systems in which remote support staff and/or coaches and/or natural supports can interact, coordinate supports, or actively respond to needs in person when needed. Remote support systems are real time support systems which often include two-way communication.

(i) These systems use wireless technology, and/or phone lines, to link an individual's home to a person off-site to provide up to 24/7 support.

(ii) These systems include the use of remote sensor technology to send "real time" data remote staff or family who can then immediately assess the situation and provide assistance according to a Person-Centered Support Plan (PCSP).

4. In CHOICES Groups 2 and 3, Enabling Technology shall be limited to $5,000 per person per calendar year through March 31, 2025. Enabling Technology is a time-limited benefit and shall no longer be available after March 31, 2025.

5. In ECF CHOICES Groups 4, 5, 6, 7, and 8, Enabling Technology combined with Assistive Technology, shall be limited to $5,000 per person per calendar year.

6. An MCO may authorize services in excess of the benefit limit as a cost-effective alternative to institutional placement or other medically necessary covered benefits.

(b) For purposes of 1915(c) Waivers, equipment, devices, items and/or their deployments, innovations, or methodologies that, alone or in combination with associated technologies, provides the means to support an individual's increased independence in the home or community.

1. The Enabling Technology service covers purchases, leasing, shipping costs, training, maintenance, and as necessary, repair of equipment, required by the Enrollee to increase, maintain, and/or improve his/her functional capacity to perform daily tasks that would not be possible otherwise. All items must meet applicable standards of manufacture, design, and installation.

2. Examples of Enabling Technology include, but are not limited to, motion sensors; smoke and carbon monoxide alarms; bed and/or chair sensors; live or on demand audio and/or video technologies; pressure sensors; stove guards; automated medication dispenser systems; mobile software applications using digital pictures, audio and video to guide, teach, or remind; GPS guidance devices; wearable and virtual technologies; and software to operate devices for environmental control or to communicate with other smart devices, of paid or natural supports at home, work, or any other place of personal import.

3. Enabling Technology includes remote support technology systems in which remote support staff, coaches, natural supports, or caregivers can interact, coordinate supports, or actively respond to needs in person when needed. Remote support systems are real-time support systems which include two-way communication.

(i) These systems use wireless technology, and/or phone lines, to link an individual's home to a person off site to provide up to 24/7 support.

(ii) These systems include the use of remote sensor technology to send real-time data to remote staff or family who can then immediately assess the situation and provide assistance according to an Individual Support Plan (ISP), as defined by Rule 1200-13-01.25(1)(p).

4. Enabling Technology combined with Specialized Medical Equipment and Supplies and Assistive Technology, per rule 1200-13-01-.25(1)(jj), shall be limited to a maximum of $10,000 per person supported per two (2) consecutive calendar years.

(c) Enabling Technology is not a covered benefit in the Katie Beckett program.

(#) Family Caregiver Supports ("FCS") are additional one-time increases in specified HCBS provided for a time-limited period pursuant to Section 9817 of the American Rescue Plan Act of 2021 ("ARP") (Pub. L. 117-2) and Tennessee's conditionally approved HCBS Spending Plan. FCS shall expire March 31, 2025.

(#) Individual Cost Limit. A Section 1915(c) waiver Enrollee's expenditure limit.

Amended Definitions:

(11) Assistive Technology.

~~(a) For purposes of CHOICES: Assistive devices, adaptive aids, controls or appliances that enable an Enrollee to increase his ability to perform ADLs or to perceive or control his environment. Examples include, but are not limited to, "grabbers" to pick objects off the floor, a strobe light to signify the smoke alarm has been activated, etc.~~

~~(b) For purposes of ECF CHOICES and for purposes of the Katie Beckett Program and limited to~~

children enrolled in Katie Beckett Group Part A or Medicaid Diversion Group Part B: An item, piece of equipment or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities and to support the individual's increased independence in the home, community living and participation, and individualized integrated employment or self-employment. The service covers purchases, leasing, shipping costs, and as necessary, repair of equipment required by the person to increase, maintain or improve his/her functional capacity to perform daily tasks in the community and in employment that would not be possible otherwise. All items must meet applicable standards of manufacture, design and installation. The person-centered support plan must include strategies for training the individual and any others who the individual will or may rely on in effectively using the assistive technology or adaptive equipment (e.g. his/her support staff; co-workers and supervisors in the place of employment; natural supports).

1. Assistive Technology Equipment and Supplies also covers the following:

(i) Evaluation and assessment of the assistive technology and adaptive equipment needs of the individual by an appropriate professional, including a functional evaluation of the impact of the provision of appropriate assistive technology and adaptive equipment through equipment trials and appropriate services to him/her in all environments with which the person interacts over the course of any 24 hour day, including the home, integrated employment setting(s) and community integration locations;

(ii) Services consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, updating, repairing, or replacing assistive technology devices and adaptive equipment;

(iii) Adaptive equipment to enable the individual to feed him/herself and/or complete oral hygiene as indicated while at home, work or in the community (e.g. utensils, gripping aid for utensils, adjustable universal utensil cuff, utensil holder, scooper trays, cups, bowls, plates, plate guards, non-skid pads for plates/bowls, wheelchair cup holders, adaptive cups that are specifically designed to allow a person to feed him/herself or for someone to safely assist a person to eat and drink, and adaptive toothbrushes);

(iv) Coordination and use of necessary therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with other services in the person-centered support plan;

(v) Training, programming, demonstrations or technical assistance for the individual and for his/her providers of support (whether paid or unpaid) to facilitate the person's use of the assistive technology and adaptive equipment;

(vi) Adaptive switches and attachments;

(vii) Adaptive toileting equipment;

(viii) Communication devices and aids that enable the person to perceive, control or communicate with the environment, including a variety of devices for augmentative communication;

(ix) Assistive devices for persons with hearing and vision loss (e.g. assistive listening devices, TDD, large visual display services, Braille screen communicators, FM systems, volume control telephones, large print telephones and teletouch systems and long white canes with appropriate tips to identify footpath information for people with visual impairment;

(x) Computer equipment, adaptive peripherals and adaptive workstations to accommodate active participation in the workplace and in the community;

(xi) Software also is approved when required to operate accessories included for environmental control;

(xii) Pre-paid, pre-programmed cellular phones that allow an individual who is participating in employment or community integration activities without paid or natural supports and who may need assistance due to an accident, injury or inability to find the way home. The person's PCSP outlines a protocol that is followed if the individual has an urgent need to request help while in the community;

(xiii) Such other durable and non-durable medical equipment not available under the State Plan that is necessary to address functional limitations in the community, in the workplace, and in the home;

(xiv) Repair of equipment is covered for items purchased through this Waiver or purchased prior to Waiver participation, as long as the item is identified within this service definition and the cost of the repair does not exceed the cost of purchasing a replacement piece of equipment. The individual or legal guardian must own any piece of equipment that is repaired.

2. A written recommendation by an appropriate professional must be obtained to ensure that the equipment will meet the needs of the person. The recommendation of the Job Accommodation Networks (JAN) will meet this requirement for worksite technology. Depending upon the financial size of the employer or the public entity, those settings may be required to provide some of these items as part of their legal obligations under Title I or Title III of the ADA. Federal financial participation is not claimed for accommodations that are the legal responsibility of an employer or public entity, pursuant to Title I or Title III of the ADA.

3. Neither ECF CHOICES nor the Katie Beckett Program will cover Assistive Technology or Adaptive Equipment and services which are otherwise available to the individual under Section 110 of the Rehabilitation Act of 1973, or the IDEA (20 U.S.C. §§ 1401, et seq.). If this service is authorized, documentation is maintained that the service is not available to the individual under a program funded under Section 110 of the Rehabilitation Act of 1973 or the IDEA (20 U.S.C. §§ 1401, et seq.).

4. Assistive Technology, Adaptive Equipment and Supplies shall be limited to $5,000 per person per calendar year.

(a) For purposes of CHOICES:

Assistive devices, adaptive aids, controls, or appliances that enable an Enrollee to increase his/her ability to perform ADLs or to perceive or control his environment. Examples include, but are not limited to, grabbers" to pick objects off the floor, a strobe light to signify the smoke alarm has been activated, etc. Assistive Technology shall be limited to $900 per person per calendar year. An MCO may authorize services in excess of the benefit limit as a cost-effective alternative to institutional placement or other medically necessary covered benefits.

(b) For purposes of ECF CHOICES and for purposes of the Katie Beckett Program and limited to children enrolled in Katie Beckett Group Part A or Medicaid Diversion Group Part B, Assistive Technology shall have the same definition as "Assistive Technology, Adaptive Equipment and Supplies" in the TennCare III waiver. The service known as "Assistive Technology, Adaptive Equipment and Supplies," outlined in 1200-13-01-.31, shall be as defined within this subparagraph (b).

1. For ECF CHOICES and the Katie Beckett program limited to children enrolled in Katie Beckett Group Part A or Medicaid Diversion Group Part B, Assistive Technology shall mean:

An item, piece of equipment or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities and to support the individual's increased independence in the home, community living and participation, and individualized integrated employment or self-employment. The service covers purchases, leasing, shipping costs, and as necessary, repair of equipment required by the person to increase, maintain, or improve his/her functional capacity to perform daily tasks in the community and in employment that would not be possible otherwise. All items must meet

applicable standards of manufacture, design and installation. The person-centered support plan must include strategies for training the individual and any others who the individual will or may rely on in effectively using the assistive technology or adaptive equipment (e.g. his/her support staff; co-workers and supervisors in the place of employment; natural supports).

2. Assistive Technology for this subparagraph (b), also referred to as "Assistive Technology, Adaptive Equipment and Supplies," covers the following:

(i) Purchases, leasing, shipping costs, and as necessary, repair of Assistive Technology equipment required by the person to increase, maintain, or improve his/her functional capacity to perform daily tasks in the community and in employment that would not be possible otherwise;

(ii) Evaluation and assessment of the assistive technology and adaptive equipment needs of the individual by an appropriate professional, including a functional evaluation of the impact of the provision of appropriate assistive technology and adaptive equipment through equipment trials and appropriate services to him/her in all environments with which the person interacts over the course of any 24 hour day, including the home, integrated employment setting(s) and community integration locations;

(iii) Services consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, updating, repairing, or replacing assistive technology devices and adaptive equipment;

(iv) Adaptive equipment to enable the individual to feed him/herself and/or complete oral hygiene as indicated while at home, work or in the community (e.g. utensils, gripping aid for utensils, adjustable universal utensil cuff, utensil holder, scooper trays, cups, bowls, plates, plate guards, non-skid pads for plates/bowls, wheelchair cup holders, adaptive cups that are specifically designed to allow a person to feed him/herself or for someone to safely assist a person to eat and drink, and adaptive toothbrushes);

(v) Coordination and use of necessary therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with other services in the person-centered support plan;

(vi) Training, programming, demonstrations or technical assistance for the individual and for his/her providers of support (whether paid or unpaid) to facilitate the person's use of the assistive technology and adaptive equipment;

(vii) Adaptive switches and attachments;

(viii) Adaptive toileting equipment;

(ix) Communication devices and aids that enable the person to perceive, control, or communicate with the environment, including a variety of devices for augmentative communication;

(x) Assistive devices for persons with hearing and vision loss (e.g. assistive listening devices, TDD, large visual display services, Braille screen communicators, FM systems, volume control telephones, large print telephones and teletouch systems and long white canes with appropriate tips to identify footpath information for people with visual impairment;

(xi) Computer equipment, adaptive peripherals and adaptive workstations to accommodate active participation in the workplace and in the community;

(xii) Software also is approved when required to operate accessories included for environmental control;

(xiii) Pre-paid, pre-programmed cellular phones that allow an individual who is participating in employment or community integration activities without paid or natural supports and who may need assistance due to an accident, injury or inability to find the way home. The person's PCSP outlines a protocol that is followed if the individual has an urgent need to request help while in the community;

(xiv) Such other durable and non-durable medical equipment not available under the State Plan that is necessary to address functional limitations in the community, in the workplace, and in the home; and

(xv) Repair of equipment is covered for items purchased through this Waiver or purchased prior to Waiver participation, as long as the item is identified within this service definition and the cost of the repair does not exceed the cost of purchasing a replacement piece of equipment. The individual or legal guardian must own any piece of equipment that is repaired.

3. A written recommendation by an appropriate professional must be obtained to ensure that the equipment will meet the needs of the person. The recommendation of the Job Accommodation Networks (JAN) will meet this requirement for worksite technology. Depending upon the financial size of the employer or the public entity, those settings may be required to provide some of these items as part of their legal obligations under Title I or Title III of the ADA. Federal financial participation is not claimed for accommodations that are the legal responsibility of an employer or public entity, pursuant to Title I or Title III of the ADA.

4. Neither ECF CHOICES nor the Katie Beckett Program will cover Assistive Technology, Adaptive Equipment, and Supplies services which are otherwise available to the individual under Section 110 of the Rehabilitation Act of 1973, or the IDEA (20 U.S.C. §§ 1401, et seq.). If this service is authorized, documentation is maintained that the service is not available to the individual under a program funded under Section 110 of the Rehabilitation Act of 1973 or the IDEA (20 U.S.C. §§ 1401, et seq.).

5. For purposes of ECF CHOICES, Assistive Technology and Enabling Technology combined shall be limited to $5,000 per person per calendar year. For purposes of the Katie Beckett Program, Assistive Technology shall be limited to $5,000 per person per calendar year. An MCO may authorize services in excess of the benefit limit as a cost-effective alternative to institutional placement or other medically necessary covered benefits.

(194) Safety Determination.

(a) A decision made by the Bureau in accordance with the process and requirements described in Rule 1200-13-01-.05(6) regarding whether:

1. An Applicant age ~~65~~ sixty-five (65) and older and is At Risk for Institutionalization as defined in Rule 1200-13-01-.02 or an Applicant age ~~21~~ twenty-one (21) and older who has a physical disability and is At Risk for Institutionalization as defined in Rule 1200-13-01-.02 would qualify to enroll in CHOICES Group 3 (including Interim CHOICES Group 3) or if there is sufficient evidence, as required and determined by the Bureau, to demonstrate that the necessary intervention and supervision needed by the Applicant cannot be safely provided within the array of services and supports that would be available if the Applicant was enrolled in CHOICES Group 3, including CHOICES HCBS up to the Expenditure Cap ~~of $15,000~~; non-CHOICES HCBS available through TennCare (e.g., home health); cost-effective alternative services (as applicable); services available through Medicare, private insurance or other funding sources; and natural supports provided by family members and other caregivers who are willing and able to provide such care, and which may impact the Applicant's NF LOC eligibility (see Rule 1200-13-01-.10(4)(b)2.(i)(II) and 1200-13-01-.10(4)(b)2.(ii)(II)).

2. An applicant, age ~~21~~ twenty-one (21) and older who has an intellectual or developmental

disability and is At Risk for Institutionalization as defined in Rule 1200-13-01-.02 would qualify to enroll in ECF CHOICES Group 5, or if there is sufficient evidence, as required and determined by the Bureau, to demonstrate that the necessary intervention and supervision needed by the Applicant cannot be safely provided within the array of services and supports that would be available if the Applicant was enrolled within the array of services and supports that would be available if the Applicant was enrolled in ECF CHOICES Group 5, including ECF CHOICES HCBS up to the Expenditure Cap of $30,000; one-time emergency assistance up to $6,000; non-ECF CHOICES HCBS available through TennCare (e.g., home health); cost-effective alternative services (as applicable); services available through Medicare, private insurance or other funding sources; and natural supports provided by family members and other caregivers who are willing and able to provide such care, and which may impact the Applicant's NF LOC eligibility (see Rule 1200-13-01-.10(4)(b)2.(ii)(III)).

1200-13-01-.05 TENNCARE CHOICES PROGRAM.

(3) Eligibility for CHOICES.

(f) All Members in TennCare CHOICES Group 3 must be determined by the MCO to be able to be served safely and appropriately in the community within the array of services and supports available in CHOICES Group 3, including CHOICES HCBS up to the Expenditure Cap of ~~$15,000~~ $18,000 (excluding the cost of ~~minor home modifications~~ Minor Home Modifications), non-CHOICES HCBS available through TennCare (e.g., home health), services available through Medicare, private insurance or other funding sources, and unpaid supports provided by family members and other caregivers. Reasons a person cannot be served safely and appropriately in the community may include, but are not limited to, the following:

(4) Enrollment in TennCare CHOICES. Enrollment into CHOICES shall be processed by the Bureau as follows:

(c) Individual Cost Neutrality Cap.

4. Application of the Individual Cost Neutrality Cap.

(iv) Notwithstanding the Expenditure Cap specified in 1200-13-01-.05(4)(c) and (f), a person enrolled in CHOICES shall not be disenrolled, nor shall currently authorized CHOICES HCBS be reduced, if the sole reason the person's Individual Cost Neutrality Cap or Expenditure Cap would be exceeded is the targeted rate increases in CHOICES HCBS provided via Tennessee's HCBS Spending Plan under Section 9817 of the American Rescue Plan Act of 2021.

(f) Expenditure Cap for CHOICES Group 3.

3. The Expenditure Cap for CHOICES HCBS provided to CHOICES Group 3 Members shall be ~~$15,000 (fifteen thousand dollars)~~ $18,000 (eighteen thousand dollars) annually, excluding the cost of Minor Home Modifications.

4. Application of the Expenditure Cap.

(v) Notwithstanding the Expenditure Cap specified in 1200-13-01-.05(4)(c) and (f), a person enrolled in CHOICES shall not be disenrolled, nor shall currently authorized CHOICES HCBS be reduced, if the sole reason the person's Individual Cost Neutrality Cap or Expenditure Cap would be exceeded is the targeted rate increases in CHOICES HCBS provided via Tennessee's HCBS Spending Plan under Section 9817 of the American Rescue Plan Act of 2021.

(6) Safety Determination Requests for CHOICES and ECF CHOICES.

(b) Any of these criteria shall be sufficient to warrant review of a Safety Determination request by the Bureau; however except as provided in Subpart (f)1.(i) below, no criterion shall necessarily be

sufficient, in and of itself, to justify that such Safety Determination request (and NF LOC) will be approved. The Bureau may also, at its discretion, review a Safety Determination request when none of the criteria in (a) above have been met, but other safety concerns have been submitted which the Bureau determines may impact the person's ability to be safely served in CHOICES Group 3, or ECF CHOICES Group 5, as applicable, along with sufficient medical evidence to make a safety determination. The Bureau's Safety Determination shall be based on a review of the medical evidence in its entirety, including consideration of the Applicant's medical and functional needs, and the array of services and supports that would be available if the Applicant was enrolled in CHOICES Group 3 or ECF CHOICES Group 5 (for adults age ~~21~~ twenty-one (21) and older), as applicable for the target population in which the Applicant will be enrolled, if eligible, including CHOICES HCBS or ECF CHOICES HCBS up to the Expenditure Cap ~~of $15,000 or $30,000, as applicable~~, and one-time emergency assistance up to $6,000, as applicable; non-CHOICES HCBS available through TennCare (e.g., home health); cost effective alternative services (as applicable); services available through Medicare, private insurance or other funding sources and unpaid supports provided by family members and other caregivers who are willing and able to provide such care.

(e) Except as specified in Subpart (f)1.(i) below, documentation required to support a Safety Determination request shall include all of the following:

4. An explanation regarding why an array of covered services and supports, including CHOICES HCBS up to the Expenditure Cap ~~of $15,000~~, ECF CHOICES HCBS up to the Expenditure Cap ~~of $30,000~~ and one-time emergency assistance up to $6,000; and non-CHOICES or non-ECF CHOICES HCBS (e.g., home health); services available through Medicare, private insurance or other funding sources; and unpaid supports provided by family members and other caregivers would not be sufficient to safely meet the Applicant's needs in the community.

(f) Approval of a Safety Determination Request.

1. A Safety Determination request shall be approved if there is sufficient evidence, as required and determined by the Bureau, to demonstrate that the necessary intervention and supervision needed by the Applicant cannot be safely provided within the array of services and supports that would be available if the Applicant was enrolled in CHOICES Group 3 or ECF CHOICES Group 5, as applicable for the target population in which the Applicant will be enrolled, if eligible, including CHOICES HCBS or ECF CHOICES HCBS up to the Expenditure Cap ~~of $15,000 or $30,000, as applicable~~, and one-time emergency assistance up to $6,000, as applicable; non-CHOICES HCBS available through TennCare (e.g., home health); cost-effective alternative services (as applicable); services available through Medicare, private insurance or other funding sources; and unpaid supports provided by family members and other caregivers who are willing and able to provide such care.

(8) Benefits in the TennCare CHOICES Program.

(l) CHOICES HCBS covered under TennCare CHOICES and applicable limits are specified below. The benefit limits are applied across all services received by the Member regardless of whether the services are received through CD and/or a traditional provider agency. Corresponding limitations regarding the scope of each service are defined in Rule 1200-13-01-.02 and in Subparagraphs (a) through (k) above.

Service	Benefits for CHOICES 2 Members	Benefits for Consumer Direction ("Eligible HCBS")
5. Enabling Technology	Covered with a limit of $5000 per calendar year, per Member through March 31, 2025.	No

~~5.~~ 6 Home-Delivered Meals	Covered with a limit of 1 meal per day, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care, provided however, that an MCO may authorize Home-Delivered Meals for a CHOICES Member receiving Companion Care or Community Living Supports (not Community Living Supports-Family Model) in their own home (not a provider-controlled residence) when such service is medically necessary in order to 1) address health risks related to food insecurity; 2) support improved management of chronic health conditions; 3) reduce risk of hospital readmissions related to such chronic health conditions; 4) improve physical or mental health outcomes; or 5) delay or prevent nursing home placement.	No

Service	Benefits for CHOICES 3 Members	Benefits for Consumer Direction ("Eligible HCBS")
5. Enabling Technology	Covered with a limit of $5000 per calendar year, per Member through March 31, 2025.	No
~~5~~ 6. Home-Delivered Meals	Covered with a limit of 1 meal per day, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care, provided however, that an MCO may authorize Home-Delivered Meals for a CHOICES Member receiving Companion Care or Community Living Supports (not Community Living Supports-Family Model) in their own home (not a provider-controlled residence) when such service is medically necessary in order to 1) address health risks related to food insecurity; 2) support improved management of chronic health conditions; 3) reduce risk of hospital readmissions related to such chronic health conditions; 4) improve physical or mental health outcomes; or 5) delay or prevent nursing home placement.	No

1200-13-01-.10 MEDICAL (LEVEL OF CARE) ELIGIBILITY CRITERIA FOR TENNCARE REIMBURSEMENT OF CARE IN NURSING FACILITIES, CHOICES HCBS AND PACE.

(4) Level of Care Criteria for Medicaid Level 1 Reimbursement of Care in a Nursing Facility, CHOICES HCBS, ECF CHOICES HCBS and PACE.

(b) An Applicant must meet both of the following LOC criteria in order to be approved for TennCare-reimbursed care in a NF, CHOICES HCBS, ECF CHOICES HCBS or PACE, as applicable:

2. Need for Inpatient Nursing Care:

(i) Applicants requesting TennCare-reimbursed NF care.

(II) Meet one (1) or more of the ADL or related criteria specified in 1200-13-01-.10(4)(b)2.(iii) on an ongoing basis and be determined by TennCare through approval of a Safety Determination Request to not be able to be safely served within the array of services and supports that would be available if the Applicant was enrolled in CHOICES Group 3, including CHOICES HCBS up to the Expenditure Cap ~~of $15,000~~, non-CHOICES HCBS available through TennCare (e.g., home health), cost-effective alternative services (as applicable), services available through Medicare, private insurance or other funding sources, and natural supports provided by family members and other caregivers who are willing and able to provide such care. An Applicant who cannot be safely served in CHOICES Group 3 does not qualify to enroll in CHOICES Group 3. An applicant who could be safely served in CHOICES Group 3 except that he does not meet Medicaid categorical and financial eligibility criteria for CHOICES Group 3 (i.e. is not an SSI recipient) shall not be eligible for CHOICES Group 1 as a result of a Safety Determination.

(ii) Applicants eligible to receive care in a NF, but requesting HCBS in CHOICES Group 2, ECF CHOICES or PACE.

(II) For a CHOICES Group 2 Applicant, meet one (1) or more of the ADL or related criteria specified in 1200-13-01-.10(4)(b)2.(iii) on an ongoing basis and be determined by TennCare through approval of a Safety Determination Request to not be able to be safely served within the array of services and supports that would be available if the Applicant was enrolled in CHOICES Group 3, including CHOICES HCBS up to the Expenditure Cap ~~of $15,000~~, non-CHOICES HCBS available through TennCare (e.g., home health), cost-effective alternative services (as applicable), services available through Medicare, private insurance or other funding sources, and natural supports provided by family members and other caregivers who are willing and able to provide such care. An Applicant who cannot be safely served in CHOICES Group 3 does not qualify to enroll in CHOICES Group 3. An applicant who could be safely served in CHOICES Group 3 except that he does not meet Medicaid categorical and financial eligibility criteria for CHOICES Group 3 (i.e. is not an SSI recipient) shall not be eligible for CHOICES Group 2 as a result of a Safety Determination; or

(III) For an ECF CHOICES Applicant age ~~21~~ twenty-one (21) or older, have an intellectual or developmental disability and be determined through approval of a Safety Determination Request to not be able to be safely served within the array of services and supports that would be available if the Applicant was enrolled in ECF CHOICES Group 5, including ECF CHOICES HCBS up to the Expenditure Cap ~~of~~ ~~$30,000~~; one-time emergency assistance up to $6,000; non-ECF CHOICES HCBS available through TennCare (e.g., home health); cost-effective alternative services (as applicable); services available through Medicare, private insurance or other funding sources; and natural supports provided by family members and other caregivers who are willing and able to provide such care.

1200-13-01-.25 TENNESSEE'S HOME AND COMMUNITY BASED SERVICES WAIVER FOR THE MENTALLY RETARDED AND DEVELOPMENTALLY DISABLED UNDER SECTION 1915(c) OF THE SOCIAL SECURITY ACT (STATEWIDE MR WAIVER).

(2) Covered Services Limitations

(r) Specialized Medical Equipment and Supplies and Assistive Technology

~~5. Specialized Medical Equipment, Supplies and Assistive Technology shall be limited to a maximum of $10,000 per Enrollee per two (2) year period..~~

Specialized Medical Equipment and Supplies and Assistive Technology, as defined by 1200-13-01-.25, and Enabling Technology, as defined by 1200-13-01-.02, shall be limited to a combined maximum benefit of $10,000 per person supported per two (2) consecutive calendar years

1200-13-01-.28 HOME AND COMMUNITY BASED SERVICES WAIVER FOR PERSONS WITH MENTAL RETARDATION UNDER SECTION 1915(c) OF THE SOCIAL SECURITY ACT (ARLINGTON MR WAIVER).

(2) Covered Services and Limitations.

(r) Specialized Medical Equipment and Supplies and Assistive Technology.

~~5. Specialized Medical Equipment, Supplies and Assistive Technology shall be limited to a maximum of $10,000 per Enrollee per two (2) year period.~~

Specialized Medical Equipment and Supplies and Assistive Technology, as defined by 1200-13-01-.28, and Enabling Technology, as defined by 1200-13-01-.02, shall be limited to a combined maximum benefit of $10,000 per person supported per two (2) consecutive calendar years.

1200-13-01-.29 TENNESSEE'S SELF-DETERMINATION WAIVER UNDER SECTION 1915(c) OF THESOCIAL SECURITY ACT (SELF-DETERMINATION MR WAIVER PROGRAM).

(3) Covered Services and Limitations

(p) Specialized Medical Equipment and Supplies and Assistive Technology.

4. Specialized Medical Equipment and Supplies and Assistive Technology, as defined by 1200-13-01-.29, and Enabling Technology, as defined by 1200-13-01-.02, shall be limited to a combined maximum benefit of $10,000 per person supported per two (2) consecutive calendar years.

(u) The cost of all Covered Services, including any Emergency Assistance, shall not exceed ~~$36,000~~ $42,000 per year per Enrollee.

(11) Reimbursement.

(a) The average per capita fiscal year expenditure under the Waiver shall not exceed 100% of the average per capita expenditure that would have been made in the fiscal year if care had been provided in an ICF/MR. The total Medicaid expenditure for Waiver Services and other Medicaid services provided to Enrollees shall not exceed 100% of the amount that would have been incurred in the fiscal year if care was provided in an ICF/MR. Reimbursement for the cost of all Covered Services, including any Emergency Assistance, shall not exceed ~~$36,000~~ $42,000 per year per Enrollee.

1200-13-01-.31 TENNCARE EMPLOYMENT AND COMMUNITY FIRST CHOICES (ECF CHOICES) PROGRAM.

(4) Enrollment in TennCare ECF CHOICES. Enrollment into ECF CHOICES shall be processed by the Bureau as follows:

(d) Expenditure Caps for ECF CHOICES.

1. Each Member enrolling or enrolled in ECF CHOICES shall be subject to an Expenditure Cap on the benefit package assigned to that member, depending on the member's need. Each benefit package has a distinct Expenditure Cap, outlined below:

(i) For Members enrolled in Group 4, the ~~e~~Expenditure ~~c~~Cap shall be ~~fifteen thousand dollars ($15,000)~~ eighteen thousand dollars ($18,000) per person per calendar year. The Expenditure Cap shall apply to Group 4 ECF CHOICES HCBS only (not other Medicaid services). For Members enrolled in Group 4, the cost of ~~minor home modifications~~ Minor Home Modifications shall not count against the expenditure cap. Except as provided in 1200-13-01-.31(4)(d)4(vii), ~~There~~ there shall be no exceptions to the Expenditure Cap for a Member enrolled in Group 4.

(ii) For Members enrolled in Group 5, the Expenditure Cap shall be ~~thirty thousand dollars ($30,000)~~ thirty-six thousand dollars ($36,000) per person per calendar year. The Expenditure Cap shall apply to Group 5 ECF CHOICES HCBS only (not other Medicaid services). All ECF CHOICES HCBS shall be counted against a CHOICES Group 5 Member's Expenditure Cap, including the cost of ~~minor home modifications~~ Minor Home Modifications except as provided in 1200-13-01-.31(4)(d)4(vii).

(II) Expenditures for ECF CHOICES HCBS for a Member enrolled in CHOICES Group 5 shall not exceed ~~$36,000~~ $42,000 per calendar year.

(iii) The Expenditure Cap for a ~~member~~ Member enrolled in ECF CHOICES Group 6 shall depend on the Member's assessed ~~level of need~~ Level of Need as defined in Rule 1200-13-01-.02' except as provided in 1200-01-.31(4)(d)4(vii).

(I) An ECF CHOICES Group 6 ~~member~~ Member assessed to have a low ~~or moderate~~ Level of Need ~~level of need~~ shall have an Expenditure Cap of ~~$45,000~~ $54,000 per calendar year.

(II) An ECF CHOICES Group 6 Member assessed to have a moderate Level of Need shall have an Expenditure Cap of $82,000 per calendar year.

(~~II~~ III) An ECF CHOICES Group 6 ~~member~~ Member assessed to have a high ~~level of need~~ Level of Need shall have an Expenditure Cap of ~~$60,000~~ $108,000 per calendar year.

4. Application of the Expenditure Cap.

(vii) Notwithstanding the Expenditure Caps specified herein, a person enrolled in ECF CHOICES shall not be disenrolled, nor shall currently authorized ECF CHOICES HCBS be reduced, if the sole reason the person's Expenditure Cap would be exceeded is the targeted rate increases in ECF CHOICES HCBS provided via Tennessee's HCBS Spending Plan under Section 9817 of the American Rescue Plan Act of 2021.

(1) Benefits in the TennCare ECF CHOICES Program.

(a) ECF CHOICES HCBS covered under the ECF CHOICES Program and applicable limits are specified below. The benefit limits are applied across all services received by the Member regardless of whether the services are received through CD and/or a traditional provider agency. Corresponding limitations regarding the scope of each service are defined in Rule 1200-13-01-.02 and in Subparagraphs (a) through (c) above.

Service	Benefits for ECF CHOICES Members	Benefits for Consumer Direction ("Eligible ECF CHOICES HCBS")
2. Assistive Technology, Adaptive Equipment and Supplies	Covered with a limit of five thousand dollars ($5,000) per person per calendar year, in combination with Enabling Technology. Not covered under ECF CHOICES if available under Section 110 of the Rehabilitation Act of 1973, or the IDEA (20 U.S.C. §§ 1401 et seq.).	No

Service	Benefits for ECF CHOICES Members	Benefits for Consumer Direction ("Eligible ECF CHOICES HCBS")
8. Enabling Technology	Covered with a limit of five thousand dollars ($5,000) per person per calendar year, in combination with Assistive Technology, Adaptive Equipment and Supplies. Not covered under ECF CHOICES if available under Section 110 of the Rehabilitation Act of 1973, or the IDEA (20 U.S.C. §§ 1401 et seq.).	No

1200-14-01-.33 Temporary Benefits Under the American Rescue Plan Act Enhanced HCBS FMAP Spending Plan

(1) Definitions. See Rule 1200-13-01-.02, unless otherwise noted.

(2) Notwithstanding any other rule related to a benefit limit, Expenditure Cap, Individual Cost Neutrality Cap, or Individual Cost Limit, from November 2, 2021, through March 31, 2025, TennCare Enrollees receiving HCBS in CHOICES Groups 2 or 3; ECF CHOICES Groups 4, 5, 6, or 7; or a Section 1915(c) waiver who meet the criteria outlined in this rule may receive an additional one-time increase of up to $3,000 in eligible Family Caregiver Supports ("FCS"), as defined in .1200-13-01-.02.

(3) Eligibility criteria. Services in (4) below will only be approved if they further enable the individual's independence or support and sustain unpaid family caregivers. To be eligible for FCS, an individual must:

(a) Receive HCBS in CHOICES Group 2 or 3; ECF CHOICES Group 4, 5, 6, or 7; or a Section 1915(c) waiver as of July 12, 2021;

(b) Live with a family member or family members who routinely provide(s) unpaid support and assistance or have an unpaid family caregiver(s) who routinely provide(s) unpaid support and assistance; and

(c) Individuals receiving residential services are not eligible for FCS.

(4) Eligible FCS.

(b) Enrollees in CHOICES Groups 2 and 3 who meet the eligibility criteria in (3) above may utilize FCS for the following services:

1. Respite;

2. Adult Day Care;

3. Assistive Technology;

4. Enabling Technology; and

5. Minor Home Modifications.

(c) Enrollees in ECF CHOICES Groups 4, 5, 6, and 7 who meet the eligibility criteria in (3) above may utilize FCS for the following services:

1. Respite;

2. Assistive Technology;

3. Enabling Technology; and

4. Minor Home Modifications.

(d) Enrollees in one of the 1915(c) Waiver programs who meet the eligibility criteria in (3) above may utilize FCS for the following services as defined in 1200-13-01-.25, unless otherwise indicated:

1. Respite;

2. Specialized Medical Equipment and Supplies and Assistive Technology;

3. Enabling Technology as defined in 1200-13-01-.02; and

4. Environmental Accessibility Modifications.

(5) Use of FCS.

(a) For each program, the $3,000 for FCS is a one-time increase that may be utilized anytime between November 2, 2021, and March 31, 2025.

(b) An individual may elect to receive additional units of one service or multiple services; however, the overall limitation on FCS is $3,000 per person.

(c) This assistance is provided in addition to existing service limitations and without regard for an Expenditure Cap, Individual Cost Neutrality Cap, or Individual Cost Limit specified in the approved waiver. However, Enrollees must use all currently available benefits within the benefit limit or Expenditure Cap, Individual Cost Neutrality Cap, or Individual Cost Limit before accessing FCS through this rule.

(d) If an individual has already reached an Expenditure Cap, Individual Cost Neutrality Cap, or Individual Cost Limit, as applicable, these services may be utilized without respect to whether the maximum benefit has already been utilized.

(e) An individual's PCSP shall be modified to reflect any FCS requested and approved pursuant to this rule.

(6) Appeals. Appeals related to the denial, reduction, suspension, or termination of FCS are processed by the Division in accordance with Rules 1200-13-13-.11 and 1200-13-14-.11. Continuation of the FCS approved pursuant to this rule shall not be provided after the exhaustion of the $3,000 limit or after March 31, 2025, whichever comes first.