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Sequence Number: 11-16-20
Notice ID(s): 3211
File Date: 11/18/2020

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Tennessee Department of Finance and Administration
Division:	Division of TennCare
Contact Person:	George Woods
Address:	Division of TennCare 310 Great Circle Road Nashville, TN 37243
Phone:	(615) 507-6446
Email:	george.woods@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Talley A. Olson, Director TennCare Office of Civil Rights Compliance
Address:	Division of TennCare 310 Great Circle Road Nashville, TN 37243
Phone:	(855) 857-1673 TTY dial 711 and ask for 855-857-1673
Email:	hcfa.fairtreatment@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Division of TennCare 310 Great Circle Road, Conference Room 1 East A		
City:	Nashville, TN		
Zip:	37243		
Hearing Date:	January 11, 2021		
Hearing Time:	5:00 pm	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Additional Hearing Information:

Members of the public may submit written comments for consideration at the hearing until 5:00 p.m. Central Time on January 11, 2021. Written comments should be sent via email to george.woods@tn.gov.

If attending in-person, please bring identification so that you may be checked into the building.

COVID Building Entry Protocols:

As part of the Tennessee Pledge, TennCare observes and is compliant with the following building entry protocols:

- At this time, all persons working or meeting in the TennCare building are required to wear a face mask.
- We recommend meeting attendees bring their own mask, however, if an attendee does not have one, a mask will be provided to any attendee upon entry.

- Additional personal protection equipment (PPE) such as a face shield are permitted but are not a replacement for a face mask.
- Upon entry, persons are required to complete a health screening by answering the following questions:
 1. Have you been in close contact with a confirmed case of COVID-19 in the past 14 days? (Note: This does not apply to medical personnel, first responders, or other individuals who encounter COVID-19 as part of their professional or caregiving duties while wearing appropriate PPE.)
 2. Are you experiencing a cough, shortness of breath or sore throat?
 3. Have you had a fever in the last 48 hours?
 4. Have you had new loss of taste or smell?
 5. Have you had vomiting or diarrhea in the last 24 hours?
- Persons working or meeting in the TennCare building are also required to submit to a temperature screening; persons with temperatures 100.4 degrees or higher will not be permitted to enter the building. However, an opportunity will be provided to submit comments in writing instead of in-person.

*****NOTICE*****

Currently, Governor Lee's Emergency Order pertaining to COVID-19 that allows State Boards to hold their meetings electronically is set to expire December 27, 2020. If it does expire on that date, then this hearing will be an in-person hearing at the location and time denoted just above. If the Emergency Order is extended beyond the scheduled date of this hearing, then this hearing will be held electronically via WebEx.

In the event of an electronic hearing, members of the public may join the WebEx at the following link:

<https://tngov.webex.com/tngov/onstage/g.php?MTID=ea1e97ba5f50619e309c0a4653afebcd3>

The link above should take users directly to the rulemaking hearing. If prompted for a meeting number or password, use:

Event number: 178 828 1866

Event password: tenncare

It is recommended that interested persons join the WebEx several minutes early to ensure adequate time to install any mandatory plugins in order to attend the electronic rulemaking hearing.

Revision Type (check all that apply):

- Amendments
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1200-13-20	TennCare Technical and Financial Eligibility
Rule Number	Rule Title
1200-13-20-.02	Definitions and Acronyms
1200-13-20-.08	Aged, Blind, or Disabled Categories
1200-13-20-.09	Redetermination and Termination

Place substance of rules and other info here. 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>.

Rule 1200-13-20-.02 Definitions and Acronyms 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:

- (#) Continued Eligibility Group Part C. See definition in Rule 1200-13-01-.02.
- (#) Katie Beckett Group Part A. See definition in Rule 1200-13-01-.02.
- (#) Katie Beckett Program. See definition in Rule 1200-13-01-.02.
- (#) Medicaid Diversion Group Part B. See definition in Rule 1200-13-01-.02.

Paragraph (90) Redetermination of Rule 1200-13-20-.02 Definitions and Acronyms is amended by adding a comma “,” after “TennCare Standard” and deleting the word “and” and adding a comma “,” after “CoverKids” and by adding the phrase “Katie Beckett Group Part A, and Continued Eligibility Group Part C” in the first sentence, and is further amended by deleting the period “.” at the end of the third sentence and replacing the word “This” at the beginning of the fourth sentence with the word “and”, and is further amended by adding the following language as a new fourth sentence “The Medicaid Diversion Group Part B, including redetermination of eligibility, will be administered by the Department of Intellectual and Developmental Disabilities (DIDD).”, so as amended Paragraph (90) shall read as follows:

- (90) Redetermination. The process by which TennCare evaluates the ongoing eligibility status of TennCare Medicaid enrollees who are considered a part of the Core Medicaid Population, as well as TennCare Standard, CoverKids, Katie Beckett Group Part A, and Continued Eligibility Group Part C enrollees. This is a periodic process that is conducted at specified intervals. The process is conducted according to TennCare’s, or its designee’s, policies and procedures and is also referred to as “Renewal.” The Medicaid Diversion Group Part B, including redetermination of eligibility, will be administered by the Department of Intellectual and Developmental Disabilities (DIDD).

Statutory Authority: T.C.A. §§ 4-5-202, 4-5-203, 71-5-105, 71-5-106, 71-5-109, 71-5-110, 71-5-111, 71-5-112, 71-5-164 and TennCare II Section 1115(a) Medicaid Demonstration Waiver Extension.

Rule 1200-13-20-.08 is amended by adding a new Paragraph (8) which shall read as follows:

- (8) Katie Beckett Program-related Eligibility Groups.
 - (a) Katie Beckett Group Part A.
 - 1. Definition: See Rule .02.
 - 2. Technical Requirements: See Rule .04.
 - 3. Special Eligibility Requirements:
 - (i) Individual must be younger than eighteen (18) years of age.
 - (ii) Individual must meet the medical level of care requirements according to Rule 1200-13-01-.11.
 - (iii) Individual must not be financially eligible for any other category of TennCare Medicaid or TennCare Standard.
 - (iv) Third Party Liability (TPL).
 - (I) Katie Beckett Group Part A enrollees shall be covered by either employer-sponsored insurance or private insurance, at all times. The employer-sponsored insurance or private insurance plans must include minimum essential coverage, as defined by 45 CFR 156.110(a).
 - (II) If an eligible child attests to having TPL at the time of application, a notice requesting proof of TPL and the amount of the monthly TPL premium will be sent to the child. The child will have twenty (20) days from the date of the notice requesting proof of TPL and the amount of monthly TPL premiums to provide the requested information. If the requested information is not provided in a timely manner, the application will be denied for failure to respond.

- (III) If an eligible child does not have TPL at the time of application, the child will be enrolled in Katie Beckett Group Part A and will be required to submit proof of TPL and the amount of the monthly TPL premiums.
 - I. The timeline for submitting proof of TPL will be as follows:
 - A. Katie Beckett Group Part A enrollees who are enrolled on or before October 1 will have until January 15 of the immediately following calendar year to submit proof of TPL.
 - B. Katie Beckett Group Part A enrollees who are enrolled between October 2 and December 31 will have until January 15 of the second following calendar year to submit proof of TPL.
 - II. Failure to timely submit proof of TPL
 - A. Enrollees who fail to submit proof of TPL in accordance with the timelines provided in Subitem I will receive an ex parte review of eligibility for other categories of TennCare Medicaid.
 - B. If the ex parte review does not result in enrollment in another category of eligibility, the enrollee will be sent a questionnaire to determine if the enrollee's circumstances have changed since the last review that would result in eligibility for other categories of TennCare Medicaid. The questionnaire must be returned within twenty (20) days from the date of the questionnaire.
 - C. If the enrollee does not timely return the questionnaire or if the answers provided on the questionnaire do not result in enrollment in another category of eligibility, the enrollee will be sent a notice of termination informing the enrollee that Katie Beckett Group Part A coverage will be terminated twenty (20) days from the date of the termination notice if proof of TPL is not submitted prior to the date of termination.
- (IV) Calculating an eligible child's portion of monthly TPL premiums.
 - I. The eligible child's portion of the family's monthly TPL premium is calculated by dividing the total amount of the family's monthly TPL premium by the number of individuals covered by the TPL.
 - II. If a parent of the eligible child is required to purchase TPL in order for the eligible child to have TPL coverage, the parent's portion of the monthly TPL premium will be included in the child's portion of the TPL when calculating the Katie Beckett Group Part A premium.
- (V) Katie Beckett Group Part A enrollees must report any changes in TPL within ten (10) days of the change. Changes in TPL that must be reported include, but are not limited to:
 - I. Loss of TPL;
 - II. Change of TPL provider; or
 - III. Change in monthly TPL premium.
- (VI) Loss of TPL
 - I. If a Katie Beckett Group Part A enrollee loses TPL coverage and notifies TennCare, the enrollee will receive a notice requiring proof of new TPL. The

enrollee will have sixty (60) days from the date of notice to submit proof of the new TPL.

- II. If the enrollee does not submit proof of TPL within 60 days of the date of the notice, the enrollee will be sent a questionnaire to determine if the enrollee's circumstances have changed since the last review that would result in eligibility for other categories of TennCare Medicaid. The questionnaire must be returned within twenty (20) days from the date of the questionnaire.
 - III. If the enrollee does not timely return the questionnaire or if the answers provided on the questionnaire do not result in enrollment in another category of eligibility, the enrollee will be sent a notice of termination informing the enrollee that Katie Beckett Group Part A benefits will be terminated twenty (20) days from the date of the termination notice if proof of the new TPL is not submitted prior to the date of termination.
- (VII) A Katie Beckett Group Part A enrollee who did not have TPL at the time of application and is disenrolled from Katie Beckett Group Part A for failing to timely submit proof of TPL will be eligible to transition to Medicaid Diversion Group Part B if a Medicaid Diversion Group Part B slot is available.
- (VIII) Katie Beckett Group Part A Hardship Exception for Assistance with Premium Payments.
- I. If an eligible child applying for Katie Beckett Group Part A does not have TPL at the time of enrollment, the child may request assistance with premium payments through a hardship exception if the following hardship exception requirements are met:
 - A. The cost of the eligible child's portion of all available employer-sponsored or private insurance exceeds five percent (5%) of the family's household income according to MAGI methodology; or
 - B. The child's household income is less than four hundred percent (400%) of the FPL according to MAGI methodology and neither of the child's parents have access to employer-sponsored insurance.
 - II. A hardship exception for assistance with premium payments shall not be available for an eligible child who has TPL at the time of enrollment, even if such coverage is later lost and new TPL coverage must be obtained.
 - III. Assistance with premium payments is limited to the amount by which the child's portion of the family's monthly TPL premium exceeds the child's Katie Beckett Group Part A premium, as detailed below. The amount of TPL premium assistance may be appealed within forty (40) days of the date of the notice.
 - IV. The denial of a request for a hardship exception for assistance with premium payments may be appealed within forty (40) days of the date of the denial notice.
 - V. The loss of assistance with premium payments resulting from a change in an enrollee's TPL may be appealed within forty (40) days of the date of the assistance with premium payments termination notice. If the termination of assistance with premium payments is timely appealed, the assistance with premium payments will continue until the conclusion of the appeal process.
- (v) Katie Beckett Group Part A Premiums.
- (I) Households with income above one hundred fifty percent (150%) of the FPL according to MAGI methodology will be required to pay a monthly premium through

automatic electronic bank drafts. The amount of the premium will be based on a sliding scale. As set out in the table below, the family's FPL percentage is determined based on their household income and household size according to MAGI methodology, and the amount of the monthly premium for each applicable FPL range is set to the percentage of the income of a household size of two.

Household Income (MAGI)	Premium % of income for a household size of two	Monthly Premium
> 150% - 250% FPL	1.5%	\$25
> 250% - 300% FPL	2.5%	\$75
> 300% - 400% FPL	3%	\$125
> 400% - 500 % FPL	4%	\$225
> 500% FPL – No limit	5%	\$350 + \$70 for every 100% above 500% FPL

- (II) Katie Beckett Group Part A premiums, as described in the above table, will be reduced by the costs associated with the eligible child's portion of the family's monthly TPL premiums. If the total amount of the eligible child's portion of the family's TPL premium is more than the eligible child's monthly Katie Beckett Group Part A premium, the child will not have Katie Beckett Group Part A premium obligations. See Subpart (iv) above for calculating the eligible child's portion of the family's monthly TPL premium payment.
- (III) Initial enrollment shall not occur until the first month's Katie Beckett Group Part A premium has been paid in full and electronic automatic bank draft arrangements have been made for subsequent months unless the eligible child is not required to pay the monthly Katie Beckett Group Part A premium.
- (IV) If the first month's Katie Beckett Group Part A premium is not paid in full within sixty (60) days of the date of the notice detailing the amount of the monthly premium obligation, the application will be denied.
 - I. If a timely appeal is filed, the Katie Beckett Group Part A program slot will be held until the conclusion of the appeal process.
 - II. If a timely appeal is not filed, the Katie Beckett Group Part A program slot will be released and a new application for Katie Beckett Group Part A will be required.
- (V) Continuous enrollment in Katie Beckett Group Part A is contingent on timely payments of the monthly Katie Beckett Group Part A premium unless the eligible child does not have Katie Beckett Group Part A premium obligations.
- (VI) If a Katie Beckett Group Part A enrollee is required to pay Katie Beckett Group Part A premiums after previously not having Katie Beckett Group Part A premium obligations, the enrollee will have sixty (60) days from the date of the notice detailing the amount of the monthly premium obligation to pay the first month's Katie Beckett Group Part A premium in full and set up electronic automatic bank draft arrangements.
- (VII) Once enrolled, if the Katie Beckett Group Part A premium payment is more than thirty (30) days in arrears, enrollees will be sent a notice of suspension informing the enrollee that Katie Beckett Group Part A benefits will be suspended twenty (20) days from the date of the suspension notice if premium payments are not paid in full prior to the date of suspension. If suspended, Katie Beckett Group Part A program benefits will return to active status retroactive to the date they were suspended if:
 - I. Past due premium payments are paid in full while the enrollee is in suspended status; or

II. Benefits were suspended as the result of administrative error.

(VIII) If any part of a Katie Beckett Group Part A premium payment is more than sixty (60) days in arrears, enrollees will be sent a notice of termination informing the enrollee that Katie Beckett Group Part A benefits will be terminated twenty (20) days from the date of the termination notice if past due Katie Beckett Group Part A premium payments are not paid in full prior to the date of termination. If the outstanding premium amounts owed are paid in full at any point prior to the effective date of termination, program benefits will return to active status retroactive to the date they were suspended. A Katie Beckett Group Part A enrollee who is terminated from Katie Beckett Group Part A for failing to pay the monthly Katie Beckett Group Part A premium will be eligible to transition to Medicaid Diversion Group Part B if a Medicaid Diversion Group Part B slot is available.

(IX) Once enrolled in Katie Beckett Group Part A, increases in the household income of an enrollee for Katie Beckett Group Part A premium purposes will not need to be reported until the annual renewal process in accordance with Rule .09. Enrollee income changes must be reported within ten (10) days of the occurrence in accordance with Rule .03(2)(a).

(X) If a Katie Beckett Group Part A enrollee reports a change in the household income that results in a change in the Katie Beckett Group Part A premium, the enrollee will receive a notice informing the enrollee of the new Katie Beckett Group Part A premium payment amount.

(vi) Eligibility and enrollment into Katie Beckett Group Part A is contingent upon a slot being available in accordance with Chapter 1200-13-01.

4. Eligibility will be based upon a household size of one (1).
5. Income Limitations: Income shall not exceed three hundred percent (300%) of the SSI Federal Benefit Rate for an individual. Parent-to-child deeming rules shall not apply.
6. Resource Limitations: Resources shall not exceed two thousand dollars (\$2,000.00) for an individual. Parent-to-child deeming rules shall not apply.
7. Effective Date of Eligibility: Eligibility begins on the date that the first month's Katie Beckett Group Part A premium is paid in full and electronic automatic bank draft arrangements have been made for subsequent months. If an eligible child is not required to pay Katie Beckett Group Part A premiums, eligibility begins on the date the individual is determined to be eligible.
8. Upon turning age eighteen (18), individuals enrolled in Katie Beckett Group Part A may remain enrolled in Katie Beckett Group Part A for up to twelve (12) months following the enrollee's eighteenth (18th) birthday if an application for SSI is pending or in appeal status.

(b) Medicaid Diversion Group Part B.

1. Definition: See Rule .02
2. Technical Requirements: See Rule .04
3. Special Eligibility Requirements:
 - (i) Individual must be younger than eighteen (18) years of age.
 - (ii) Individual must meet the medical level of care requirements according to Rule 1200-13-01-.11.
 - (iii) Individual must not be financially eligible for any other category of TennCare Medicaid or TennCare Standard.

- (iv) Eligibility and enrollment into Medicaid Diversion Group Part B is contingent upon a slot being available in accordance with Chapter 1200-13-01.
4. Eligibility will be based upon a household size of one (1).
 5. Income Limitations: Income shall not exceed three hundred percent (300%) of the SSI Federal Benefit Rate for an individual. Parent-to-child deeming rules shall not apply.
 6. Resource Limitations: Resources shall not exceed two thousand dollars (\$2,000.00) for an individual. Parent-to-child deeming rules shall not apply.
 7. Effective Date of Eligibility: Eligibility begins on the Application File Date, according to Rule .05, or the date all eligibility requirements are met, whichever is later.
 8. Medicaid Diversion Group Part B will be administered by the Department of Intellectual and Developmental Disabilities (DIDD). DIDD will also administer Medicaid Diversion Group Part B redeterminations.
- (c) Continued Eligibility Group Part C.
1. Definition: See Rule .02
 2. Technical Requirements: See Rule .04
 3. Special Eligibility Requirements:
 - (i) Individual who is losing eligibility for TennCare Medicaid and who is younger than eighteen (18) years of age.
 - (ii) Individual must meet the medical level of care requirements according to Rule 1200-13-01-.11.
 - (iii) Individual would be eligible to enroll in Katie Beckett Group Part A if a Katie Beckett Group Part A slot was available.
 - (iv) No Katie Beckett Group Part A slots are available.
 4. Eligibility will be based upon a household size of one (1).
 5. Income Limitations: Income shall not exceed three hundred percent (300%) of the SSI Federal Benefit Rate for an individual. Parent-to-child deeming rules shall not apply.
 6. Resource Limitations: Resources shall not exceed \$2,000.00 for an individual. Parent-to-child deeming rules shall not apply.
 7. If an enrollee is terminated from the Continued Eligibility Group Part C, the individual will have to reapply for Katie Beckett Group Part A with enrollment in Katie Beckett Group Part A being limited to slot availability.
 8. If an enrollee is terminated from the Continued Eligibility Group Part C because of an administrative error, the individual will be eligible to re-enroll in the Continued Eligibility Group Part C.
 9. Upon turning age eighteen (18), Continued Eligibility Group Part C enrollees may remain enrolled in the Continued Eligibility Group Part C for up to twelve (12) months following the eighteenth (18th) birthday if an application for SSI is pending or in appeal status.

Statutory Authority: T.C.A. §§ 4-5-202, 4-5-203, 71-5-105, 71-5-106, 71-5-109, 71-5-110, 71-5-111, 71-5-112, 71-5-164 and TennCare II Section 1115(a) Medicaid Demonstration Waiver Extension.

Paragraph (1) of Rule 1200-13-20-.09 Redetermination and Termination is amended by adding Subparagraph (f) which shall read as follows:

- (f) An individual who has been determined eligible for TennCare Medicaid under the rules for Katie Beckett Group Part A or Continued Eligibility Group Part C will be required to verify continued eligibility annually. If the individual is found to no longer be eligible through this review, the individual will be reviewed using the redetermination process set forth in this paragraph.

Statutory Authority: T.C.A. §§ 4-5-202, 4-5-203, 71-5-105, 71-5-106, 71-5-109, 71-5-110, 71-5-111, 71-5-112, 71-5-164 and TennCare II Section 1115(a) Medicaid Demonstration Waiver Extension.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: November 18, 2020

Signature: 

Name of Officer: Stephen Smith

Director, Division of TennCare

Title of Officer: Tennessee Department of Finance and Administration

Department of State Use Only

Filed with the Department of State on: 11/18/2020



Tre Hargett
Secretary of State

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