

Rulemaking Hearing Rules
of
The Tennessee Department of Human Services
Division of Medical Services

Chapter 1240-03-03
Technical and Financial Eligibility Requirements for Medicaid

Amendments

Rule 1240-03-03-.02, Technical Eligibility Factors, is amended by deleting paragraph (9) in its entirety and by substituting instead the following language so that, as amended, paragraph (9) shall read as follows:

- (9) Institutionalized individuals in a medical institution (i.e., one organized to provide medical care, including nursing and convalescent care) must be continuously confined for thirty (30) consecutive days prior to attaining Medicaid eligibility based on institutionalization. Medicaid eligibility is retroactive to the later of: a) the date of admission; or b) the date of application when thirty (30) consecutive days of institutionalization is met. Coverage of Home and Community Based Services (HCBS) requires a determination that the individual needs, and is likely to receive, HCBS services for thirty (30) consecutive days going forward.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 71-1-105(12), 71-5-102, 71-5-106, 71-5-107 and 71-5-109; 42 U.S.C. § 1315, 42 USC §§ 1382c(a)(3) and (4), 42 U.S.C. §§ 1396 et seq., 42 U.S.C. § 1396a(a)(10)(A)(ii)(I), (V) and (VI); 42 U.S.C. § 1396d and 42 U.S.C. 1396n(c); 42 C.F.R. §§ 435.210, 217, 435.300, 435.301, 435.403, 435.406, 435.407, 435.530, 435.540, 435.622 and 42 C.F.R. 435.914(c); and TennCare Medicaid Section 1115 Demonstration Waiver.

The Tennessee Department of Human Services
Family Assistance Division

Chapter 1240-01-06
Medicaid Coverage AFDC Only

Amendments

Rule 1240-01-06-.02, Authorizing Medical Benefits, is amended by deleting the rule in its entirety and by substituting instead the following language, so that, as amended, 1240-1-6-.02 shall read as follows:

1240-01-06-.02 Authorizing Medical Benefits. Medicaid eligibility begins the later of the date the signed application was received at DHS or the date the applicant is otherwise determined eligible or the date of birth of the newborn. The newborn is deemed to have applied for Medicaid and to be eligible on the date of birth if the mother is eligible for and receiving Medical Assistance at the time. Medicaid benefits continue for the newborn until the child attains age one (1).

Authority: TCA §§ 4-5-201 et seq., 4-5-202, 71-1-105(12), 71-5-102, 71-5-106, 71-5-107, and 71-5-109; 42 U.S.C. § 1315, 42 U.S.C. §§ 1396 et seq., 42 U.S.C. 1396(a)(10)(A)(i)(III) and (IV), 42 U.S.C. § 1396a(e)(4), and 42 U.S.C. 1396a(l)(1), 45 CFR § 206.10, PL 97-35, PL 98-369 §2362; TennCare Medicaid Section 1115 Demonstration Waiver.

Rule 1240-01-06-.06, Extended Medicaid Coverage, is amended by deleting the rule in its entirety and by substituting instead the following language, so that, as amended, 1240-1-6-.06 shall read as follows:

1240-01-06-.06 Extended Medicaid Coverage. The extended Medicaid coverage provisions are set out in Department of Human Services State Medicaid Rules at 1240-3-2-.02(2)(a)(1)(i) and (ii).

Authority: TCA §§ 4-5-201 et seq., 4-5-202, 71-1-105(12), 71-5-102, 71-5-106, 71-5-107, and 71-5-109; 42 U.S. C. § 608(a)(11), 42 U.S.C. § 1315, 42 U.S.C. §§ 1396 et seq., 42 U.S.C. § 1396u-1 and 42 U.S.C. § 1396a(e)(1); and TennCare Medicaid Section 1115 Demonstration Waiver.

The Tennessee Department of Human Services
Family Assistance Division

Chapter 1240-01-06
Medicaid Coverage AFDC Only

Repeals

Rule 1240-01-06-.03, Retroactive Medicaid Coverage, is repealed.

Authority: TCA §§ 4-5-201 et seq., 4-5-202, 71-1-105(12), 71-5-102; 42 U.S.C. § 1315, 42 U.S.C. §§ 1396 et seq.; and TennCare Medicaid Section 1115 Demonstration Waiver.

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 11th day of December, 2007 and will become effective on the 24th day of February, 2008. (FS 12-09-07; DBID 2787 through 2789)

The Tennessee Department of Human Services
Division of Medical Services

Chapter 1240-03-03
Technical and Financial Eligibility Requirements for Medicaid

And

Family Assistance Division

Chapter 1240-1-6
Medicaid Coverage AFDC Only

Regulatory Flexibility Act Statement

TennCare's Demonstration waiver of 1994 eliminated retroactive Medicaid for all Medicaid groups with the exception of applicants for long-term care coverage. Tennessee received an amendment to their Demonstration waiver in 2002 which eliminated retroactive coverage for all Medicaid categories including long-term care. Effective June 28, 2007, the Department of Human Services clarified the thirty (30) days continuous confinement requirement as it relates to the Home and Community Based Services (HCBS) waiver based on the direction from the Bureau of TennCare. In accordance with section 1915(e) of the Social Security Act, 42 U.S.C. § 1315(e), individuals who are enrolled in the HCBS waiver and are likely to remain for thirty (30) days, benefits may begin, if otherwise eligible, without requiring the applicant to actually be enrolled for thirty (30) days.

For purposes of Acts 2007, Chapter 464, the Regulatory Flexibility Act, the Department of Human Services certifies that these rulemaking hearing rules substantially codify existing federal law pursuant to 42 U.S.C. § 1315 and the TennCare Medicaid Section 1115 Demonstration Waiver, such that, pursuant to Section 6 of the Regulatory Flexibility Act, the Regulatory Flexibility Act's provisions do not apply to these rules, and, in addition while Medicaid applicants or recipients may be unemployed or employed by small businesses, the rules themselves have no direct impact on the operation of those businesses as defined in the Act.

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