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Sequence Number: 12-26-15  
 Rule ID(s): 6097  
 File Date: 12/30/15  
 Effective Date: 3/29/16

# 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).*

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

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

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

Chapter Number	Chapter Title
1200-13-13	TennCare Medicaid
Rule Number	Rule Title
1200-13-13-.10	Exclusions

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Subparagraph (a) of Paragraph (3) of Rule 1200-13-13-.10 Exclusions is amended by adding a new Part 9 and the current Part 9 (Food supplements and substitutes including formulas) is renumbered as Part 10 and subsequent parts renumbered accordingly, the new Part 9 shall read as follows:

9. Floor standers, meaning stationary devices not attached to a wheelchair base and not built into the operating system of a power wheelchair that are designed to hold in an upright position an Enrollee who uses a wheelchair and who has limited or no ability to stand on his own

Part 30 (Floor standers, meaning stationary devices not attached to a wheelchair base and not built into the operating system of a power wheelchair that are designed to hold in an upright position an Enrollee who uses a wheelchair and who has limited or no ability to stand on his own) of Subparagraph (b) of Paragraph (3) of Rule 1200-13-13-.10 Exclusions is deleted in its entirety and subsequent parts renumbered accordingly.

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

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Finance and Administration (board/commission/ other authority) on 12/09/2015 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

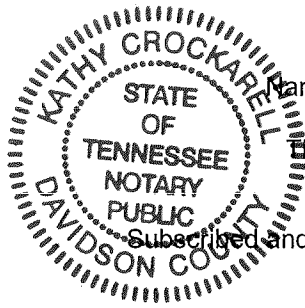
I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/05/15

Rulemaking Hearing(s) Conducted on: (add more dates). 11/30/15

Date: 12/9/2015

Signature: D. J. Gordon



Name of Officer: Darin J. Gordon

Director, Bureau of TennCare

Title of Officer: Tennessee Department of Finance and Administration

Subscribed and sworn to before me on: December 9, 2015

Notary Public Signature: Kathy Crockarell

My commission expires on: January 8, 2019

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Stately III  
Herbert H. Stately III  
Attorney General and Reporter

12/22/2015 Date

**Department of State Use Only**

Filed with the Department of State on: 12/30/15

Effective on: 3/29/16

Tre Hargett  
Tre Hargett  
Secretary of State

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2015 DEC 30 AM 10:11  
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PUBLICATIONS

## Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no public comments on these rules.

**Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

The rules are not anticipated to have an effect on small businesses.

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rules are not anticipated to have an impact on local governments.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These Rules are being promulgated to allow for TennCare coverage of medically necessary floor standers for children under age 21. Floor standers continue to be excluded for adults age 21 and older.

- (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 Bureau of TennCare in accordance with §§ 4-5-202, 71-5-105 and 71-5-109.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The persons and entities most directly affected by these Rules are the TennCare enrollees, providers, and managed care contractors. The governmental entity most directly affected by these Rules is the Bureau of TennCare, Tennessee Department of Finance and Administration.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to 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 adoption of the TennCare Medicaid and the TennCare Standard rules is anticipated to produce a minimal increase in state annual expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

John G. (Gabe) Roberts  
General Counsel

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

John G. (Gabe) Roberts  
General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

310 Great Circle Road  
Nashville, TN 37243  
(615) 507-6936  
gabe.roberts@tn.gov

(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

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GW10115317



**RULES  
OF  
TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION  
BUREAU OF TENNCARE**

**CHAPTER 1200-13-13  
TENNCARE MEDICAID**

**1200-13-13-.10 EXCLUSIONS.**

(3) Specific exclusions. The following services, products, and supplies are specifically excluded from coverage under the TennCare Section 1115 waiver program unless excepted by paragraph (2) herein. Some of these services may be covered under the CHOICES program or outside TennCare under a Section 1915(c) Home and Community Based Services waiver when provided as part of an approved plan of care, in accordance with the appropriate TennCare Home and Community Based Services rule.

(a) Services, products, and supplies that are specifically excluded from coverage except as medically necessary for children under the age of 21

1. Audiological therapy or training

2. Augmentative communication devices

3. Beds and bedding equipment as follows:

(i) Powered air flotation beds, air fluidized beds (including Clinitron beds), water pressure mattress, or gel mattress

For persons age 21 and older: Not covered unless a member has both severely impaired mobility (i.e., unable to make independent changes in body position to alleviate pain or pressure) and any stage pressure ulcer on the trunk or pelvis combined with at least one of the following: impaired nutritional status, fecal or urinary incontinence, altered sensory perception, or compromised circulatory status.

(ii) Bead beds, or similar devices

(iii) Bed boards

(iv) Bedding and bed casings

(v) Ortho-prone beds

(vi) Oscillating beds

(vii) Springbase beds

(xiii) Vail beds, or similar bed

4. Biofeedback

5. Chiropractor's services

6. Cushions, pads, and mattresses as follows:

- (i) Aquamatic K Pads
- (ii) Elbow protectors
- (iii) Heat and massage foam cushion pads
- (iv) Heating pads
- (v) Heel protectors
- (vi) Lamb's wool pads
- (vii) Steam packs

7. Diagnostic tests conducted solely for the purpose of evaluating the need for a service which is excluded from coverage under these rules.

8. Ear plugs

9. Floor standers, meaning stationary devices not attached to a wheelchair base and not built into the operating system of a power wheelchair that are designed to hold in an upright position an Enrollee who uses a wheelchair and who has limited or no ability to stand on his own

109. Food supplements and substitutes including formulas

For persons 21 years of age and older: Not covered, except that Parenteral Nutrition formulas, Enteral Nutrition formulas for tube feedings and phenylalanine-free formulas (not foods) used to treat PKU, as required by T.C.A. §56-7-2505, are covered for adults. In addition, oral liquid nutrition may be covered when medically necessary for adults with swallowing or breathing disorders who are severely underweight ( $BMI < 15 \text{ kg/m}^2$ ) and physically incapable of otherwise consuming a sufficient intake of food to meet basic nutritional requirements.

1140. Hearing services, including the prescribing, fitting, or changing of hearing aids

1244. Humidifiers (central or room) and dehumidifiers

ETC.

(b) Services, products, and supplies that are specifically excluded from coverage under the TennCare program.

29. Food and food products (distinct from food supplements or substitutes, as defined in rule 1200-13-13-.10(3)(a)12. including but not limited to specialty food items for use in diets such as:

- (i) Low-phenylalanine or phenylalanine-free
- (ii) Gluten-free
- (iii) Casein-free

(iv) Ketogenic

~~30. Floor standers, meaning stationary devices not attached to a wheelchair base and not built into the operating system of a power wheelchair that are designed to hold in an upright position an Enrollee who uses a wheelchair and who has limited or no ability to stand on his own~~

3034. Generators and auxiliary power equipment that may be used to provide power for covered medical equipment or for any purpose

3132. Grooming services including, but not limited to:

- (i) Barber services
- (ii) Beauty services
- (iii) Electrolysis
- (iv) Hairpieces or wigs
- (v) Manicures
- (vi) Pedicures

3233. Hair analysis

ETC.

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