

Tennessee Department of Finance and Administration

Bureau of TennCare

Chapter 1200-13-13  
TennCare Medicaid

Statement of Necessity Requiring Public Necessity Rules

I am herewith submitting amendments to the rules of the Tennessee Department of Finance and Administration, Bureau of TennCare, for promulgation pursuant to the public necessity provisions of the Uniform Administrative Procedures Act, T.C.A. § 4-5-209 and the Medical Assistance Act, T.C.A. § 71-5-134.

The State of Tennessee must comply with the federally passed Balanced Budget Act of 2003. The Balanced Budget Act of 2003 sets forth regulations for Managed Care Organizations regarding the provision of care for Medicaid enrollees. The Centers for Medicare and Medicaid Services (CMS) require that TennCare rules reflect appeals language in 42 CFR § 438. In order to obtain approval of recent contract amendments, TennCare must demonstrate full compliance with the Balanced Budget Act, specifically the appeal requirements.

Tennessee Code Annotated, Section 71-5-134, states that in order to comply with or to implement the provisions of any federal waiver or state plan amendment obtained pursuant to the Medical Assistance Act as amended by Acts 1993, the Commissioner of Finance and Administration is authorized to promulgate public necessity rules pursuant to Tennessee Code Annotated, Section 4-5-209.

I have made a finding that these amendments are required to modify the current TennCare rules to reflect changes resulting from the Balanced Budget Act of 2003. Changes to the rules include requiring that Managed Care Corporations comply with specific BBA appeal requirements.

For a copy of this public necessity rule, contact George Woods at the Bureau of TennCare by mail at 729 Church Street, Nashville, Tennessee 37247-6501 or by telephone at (615) 741-0145.

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J. D. Hickey  
Deputy Commissioner  
Tennessee Department of Finance  
and Administration

Public Necessity Rules  
of  
Tennessee Department of Finance and Administration  
Bureau of TennCare  
Chapter 1200-13-13  
TennCare Medicaid  
Amendments

Subparagraph (b) of paragraph (27) of rule 1200-13-13-.01 Definitions (TennCare Medicaid) is deleted in its entirety and replaced with a new subparagraph (b) which shall read as follows:

- (b) An MCC's failure to provide timely prior authorization of a TennCare service. In no event shall a prior authorization decision be deemed timely unless it is granted within fourteen (14) calendar days of the MCC's receipt of a request for such authorization. A shorter period is required if a more prompt response is medically necessary in light of the enrollee's condition and the urgency of his need, as defined by a prudent lay person.

Subparagraph (d) of paragraph (105) of rule 1200-13-13-.01 Definitions (TennCare Medicaid) is amended by replacing "December 31, 2002" in the first sentence with "December 31, 2001" so as amended subparagraph (d) shall read as follows:

- (d) Had Medicare as of December 31, 2001 (but not Medicaid) and were enrolled in the TennCare Program as of December 31, 2001, and who continue to meet the definition of "uninsurable" in effect at that time. Effective January 1, 2003 these individuals are eligible only for the TennCare Standard pharmacy benefit package; or

Part 2. of subparagraph (b) of paragraph (1) of rule 1200-13-13-.11 Appeal of Adverse Actions Affecting TennCare Services or Benefits (TennCare Medicaid) is amended by deleting the word and number "twenty-one (21)" and replacing them with the word and number "fourteen (14)" so as amended part 2. shall read as follows:

- 2. Written notice of an MCC's decision in response to a request by or on behalf of an enrollee for medical or related services must be provided within fourteen (14) calendar days of receipt of the request; however, a shorter period is required if a more prompt response is medically necessary in light of the enrollee's condition and the urgency of his/her need, as defined by a prudent lay person.

Subparagraph (e) of paragraph (2) of rule 1200-13-13-.11 Appeal of Adverse Actions Affecting TennCare Services or Benefits (TennCare Medicaid) is amended by adding the sentence "Oral appeals shall be followed up with an oral filing with a written, signed appeal, however, if the enrollee does not follow up in writing, the appeal will continue for resolution or for hearing" so as amended subparagraph (e) shall read as follows:

- (e) To appeal in person, by telephone, or in writing. Reasonable accommodations shall be made for persons with disabilities who require assistance with his/her appeal, such as an appeal by TDD services or other communication device for people with disabilities. Written requests for appeals

made at county TDHS offices shall be stamped, and immediately forwarded to the TennCare Bureau for processing and entry in the central registry. Oral appeals shall be followed up with an oral filing with a written, signed appeal; however, if the enrollee does not follow up in writing, the appeal will continue for resolution or for hearing;

Subparagraph (a) of paragraph (7) of rule 1200-13-13-.11 Appeal of Adverse Actions Affecting TennCare Services or Benefits (TennCare Medicaid) is deleted in its entirety and replaced with a new subparagraph (a) which shall read as follows:

- (a) Subject to the provisions of subparagraphs (7)(e) and (f) below and to provisions relating to medical contraindication (paragraph (8)), the failure of an MCC to act upon a request for prior approval within fourteen (14) days as provided in (1)(b)2. above shall result in automatic authorization of the requested service.

Statutory Authority: T.C.A. 4-5-209, 71-5-105, 71-5-109, Executive Order No. 23.

The Public Necessity rules set out herein were properly filed in the Department of State on the 5th day of May, 2005, and will be effective from the date of filing for a period of 165 days. The Public Necessity rules remain in effect through the 17th day of October, 2005.