

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 2004 amendments to the Medical Assistance Act, T.C.A. §§ 71-5-101, *et seq.*

In 1994 Tennessee converted its Medicaid program from fee-for-service to managed care and named it TennCare. TennCare is funded jointly by the federal and state governments pursuant to Title XIX of the Social Security Act, also known as the Medicaid Act, 42 U.S.C. Section 1396 *et seq.* The State administers the program under the terms of a special demonstration waiver granted by the federal government as authorized by Section 1115 of the same Act, 42 U.S.C. Section 1315, and under those provisions of the Medicaid Act which have not been waived and remain in full force and effect. In 1998 the State entered into a Consent Decree in a lawsuit, *John B. v. Menke*, which provided specific initiatives for ensuring compliance with the requirements of Medicaid-based Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services. The Consent Decree requires that TennCare continually monitor and update its rules, policies and procedures to reflect TennCare's compliance with EPSDT and the Consent Decree. The enclosed rules reflect changes to the TennCare program relating to EPSDT compliance with the *John B. v. Menke* Consent Decree.

I have made a finding that these amendments are necessary to conform the Bureau of TennCare's rules to comply with state and federal statutory requirements and to comport with the requirements of *John B. v. Menke*.

For a copy of this public necessity rule, contact George Woods at the Bureau of TennCare by mail at 310 Great Circle Road, Nashville, Tennessee 37243 or by telephone at (615) 507-6446.

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

Part 6. of subparagraph (b) of paragraph (1) of rule 1200-13-13-.04 Covered Services is deleted in its entirety and replaced with a new part 6. which shall read as follows:

SERVICE	BENEFIT FOR PERSONS UNDER AGE 21	BENEFIT FOR PERSONS AGED 21 AND OLDER
<p>6. Dental Services [defined at 42 CFR §440.100].</p>	<p>Preventive, diagnostic, and treatment services covered as medically necessary.</p> <p>Dental services under EPSDT, including dental screens, are provided in accordance with the state's periodicity schedule as determined after consultation with recognized dental organizations and at other intervals as medically necessary.</p> <p>Orthodontic services must be prior approved and are limited to individuals under age 21 requiring these services for one of the following reasons:</p> <p>(1) because of a handicapping malocclusion or another developmental anomaly or injury resulting in severe misalignment or handicapping malocclusion of teeth. The Salzmann Index will be used to measure the severity of the malocclusion. A Salzmann score of 28 will be used as the threshold value for making orthodontic determinations of</p>	<p>Not covered, except for orthodontic treatment when an orthodontic treatment plan was approved prior to the enrollee's attaining 20 ½ years of age, and treatment was initiated prior to the enrollee's attaining 21 years of age; such treatment may continue as long as the enrollee remains eligible for TennCare.</p>

SERVICE	BENEFIT FOR PERSONS UNDER AGE 21	BENEFIT FOR PERSONS AGED 21 AND OLDER
	<p>medical necessity. In addition, individual consideration will be applied for those unique orthodontic cases that may not be accounted for solely by the Salzmann Index;</p> <p>(2) following repair of an enrollee's cleft palate.</p> <p>Orthodontic treatment will not be authorized for cosmetic purposes. Orthodontic treatment will be paid for by TennCare only as long as the individual remains eligible for TennCare.</p> <p>If the orthodontic treatment plan is approved prior to the enrollee's attaining 20 ½ years of age, and treatment is initiated prior to the enrollee's attaining 21 years of age, such treatment may continue as long as the enrollee remains eligible for TennCare.</p> <p>The MCO is responsible for the provision of transportation to and from covered dental services, as well as the medical and anesthesia services related to the covered dental services.</p>	

Part 13. of subparagraph (b) of paragraph (1) of rule 1200-13-13-.04 Covered Services is deleted in its entirety and replaced with a new part 13. which shall read as follows:

SERVICE	BENEFIT FOR PERSONS UNDER AGE 21	BENEFIT FOR PERSONS AGED 21 AND OLDER
13. Inpatient Hospital Services [defined at 42 CFR §440.10].	<p>Covered as medically necessary.</p> <p>Preadmission and concurrent reviews allowed.</p>	<p>Covered as medically necessary.</p> <p>Preadmission and concurrent reviews allowed.</p>

Part 14. of subparagraph (b) of paragraph (1) of rule 1200-13-13-.04 Covered Services is deleted in its entirety and replaced with a new part 14. which shall read as follows:

SERVICE	BENEFIT FOR PERSONS UNDER AGE 21	BENEFIT FOR PERSONS AGED 21 AND OLDER
14. Inpatient Rehabilitation Facility Services.	See "Inpatient Hospital Services."	Not covered.

Part 23. of subparagraph (b) of paragraph (1) of rule 1200-13-13-.04 Covered Services is deleted in its entirety and replaced with a new part 23. which shall read as follows:

SERVICE	BENEFIT FOR PERSONS UNDER AGE 21	BENEFIT FOR PERSONS AGED 21 AND OLDER
23. Organ and Tissue Transplant Services and Donor Organ/Tissue Procurement Services [defined as the transfer of an organ or tissue from an individual to a TennCare enrollee].	Covered as medically necessary. Experimental or investigational transplants are not covered.	Covered as medically necessary when coverable by Medicare. Experimental or investigational transplants are not covered.

Part 38. of subparagraph (b) of paragraph (1) of rule 1200-13-13-.04 Covered Services is deleted in its entirety and replaced with a new part 38. which shall read as follows:

SERVICE	BENEFIT FOR PERSONS UNDER AGE 21	BENEFIT FOR PERSONS AGED 21 AND OLDER
38. Rehabilitation services	See "Occupational Therapy," "Physical Therapy," and "Speech Therapy," and "Inpatient Rehabilitation Facility Services."	See "Occupational Therapy," "Physical Therapy," and "Speech Therapy."

Rule 1200-13-13-.10 Exclusions is deleted in its entirety and replaced with a new rule 1200-13-13-.10 which shall read as follows:

1200-13-13-.10 EXCLUSIONS.

- (1) General exclusions. The following items and services shall not be considered covered services by TennCare:
 - (a) Provision of medical assistance which is outside the scope of benefits as defined in these rules.
 - (b) Provision of services to persons who are not enrolled in TennCare, either on the date the services are delivered or retroactively to the date the services are delivered, except for limited special appeal provisions pertaining to children who are placed in Youth Development Centers as defined in the Grier Revised

Consent Decree, Section C.15.f. and pursuant to the DCS Interagency Agreement.

- (c) Services for which there is no Federal Financial Participation (FFP).
- (d) Services provided outside the United States or its territories.
- (e) Services provided outside the geographic borders of Tennessee, including transportation to return to Tennessee to receive medical care except in the following circumstances:
 - 1. Emergency medical services are needed because of an emergency medical condition;
 - 2. Non-emergency urgent care services are requested because the recipient's health would be endangered if he were required to travel, but only upon the explicit prior authorization of the MCC;
 - 3. The covered medical service would not be readily available within Tennessee if the enrollee was physically located in Tennessee at the time of need and the covered service is explicitly prior authorized by the enrollee's TennCare MCC; or
 - 4. The out-of-state provider is participating in the enrollee's MCC network.
- (f) Investigative or experimental services or procedures including, but not limited to:
 - 1. Drug or device that lacks FDA approval except when medically necessary as defined by TennCare;
 - 2. Drug or device that lacks approval of facility's Institutional Review Board;
 - 3. Requested treatment that is the subject of Phase I or Phase II clinical trials or the investigational arm of Phase III clinical trials; or
 - 4. A requested service about which prevailing opinion among experts is that further study is required to determine safety, efficacy, or long-term clinical outcomes of requested service.
- (g) Services which are delivered in connection with, or required by, an item or service not covered by TennCare, including the transportation to receive such non-covered services, except that treatment of conditions resulting from the provision of non-covered services may be covered if medically necessary, notwithstanding the exclusions set out herein.
- (h) Items or services furnished to provide a safe surrounding, including the charges for providing a surrounding free from exposure that can worsen the disease or injury.

- (i) Non-emergency services that are ordered or furnished by an out-of-network provider and that have not been approved by the enrollee's MCC for out-of-network care.
 - (j) Services that are free to the public, with the exception of services delivered in the schools pursuant to the Individuals with Disabilities in Education Act (IDEA).
 - (k) Items or services ordered, prescribed, administered, supplied, or provided by an individual or entity that has been excluded from participation in the Medicaid program under the authority of the United States Department of Health and Human Services or the Bureau of TennCare.
 - (l) Items or services ordered, prescribed, administered, supplied, or provided by an individual or entity that is not licensed by the appropriate licensing board.
 - (m) Items or services outside the scope and/or authority of a provider's specialty and/or area of practice.
 - (n) Items or services to the extent that Medicare or a third party payer is legally responsible to pay or would have been legally responsible to pay except for the enrollee's or the treating provider's failure to comply with the requirements for coverage of such services.
 - (o) Medical services for inmates confined in a local, state, or federal prison, jail, or other penal or correctional facility, including a furlough from such facility.
- (2) Exception to General and Specific Exclusions: COST EFFECTIVE ALTERNATIVE. As approved by CMS and/or authorized by TSOP 032, each MCC has sole discretionary authority to provide certain cost effective alternatives when providing appropriate medically necessary care. These services are otherwise excluded and are not covered services unless the MCC has followed the procedures set forth in TSOP 032 and opts at its sole discretion to provide such requested item or service.
- (3) Specific exclusions. The following services, products, and supplies are specifically excluded from coverage under the TennCare Section 1115(a) waiver program unless excepted by paragraph (2) herein. Some of these services may be covered outside TennCare under a 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. Air cleaners, purifiers, or HEPA filters
 - 2. Audiological therapy or training
 - 3. Augmentative communication devices
 - 4. 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) Pillows, hypoallergenic

- (viii) Springbase beds

- (ix) Vail beds, or similar bed

5. Bed baths and Sitz baths

6. Chiropractor's services

7. Convalescent care

8. 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

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

10. Ear plugs
11. Floor standers
12. 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 TCA 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 kg/m²) and physically incapable of otherwise consuming a sufficient intake of food to meet basic nutritional requirements.
13. Hearing aids, including the prescribing, fitting, or changing of hearing aids
14. Humidifiers (central or room) and dehumidifiers
15. Inpatient rehabilitation facility services
16. Medical supplies, over-the-counter, as follows:
 - (i) Alcohol, rubbing
 - (ii) Band-aids
 - (iii) Cotton balls
 - (iv) Eyewash
 - (v) Peroxide
 - (vi) Q-tips or cotton swabs
17. Methadone clinic services
18. Nutritional supplements and vitamins, over-the-counter, except that prenatal vitamins for pregnant women and folic acid for women of childbearing age are covered
19. Orthodontic services, except as defined in Rule 1200-13-13-.04(1)(b)6. or 1200-13-14-.04(1)(b)6.
20. Certain pharmacy items as follows:
 - (i) Agents when used for anorexia or weight loss
 - (ii) Agents when used to promote fertility

- (iii) Agents when used for cosmetic purposes or hair growth
 - (iv) Agents when used for the symptomatic relief of cough and colds
 - (v) Agents when use to promote smoking cessation
 - (vi) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee
 - (vii) Nonprescription drugs
 - (viii) Barbiturates
 - (ix) Benzodiazepines
21. Purchase, repair, or replacement of materials or equipment when the reason for the purchase, repair, or replacement is the result of enrollee abuse
22. Purchase, repair, or replacement of materials or equipment that has been stolen or destroyed except when the following documentation is provided:
- (i) Explanation of continuing medical necessity for the item, and
 - (ii) Explanation that the item was stolen or destroyed, and
 - (iii) Copy of police, fire department, or insurance report if applicable
23. Radial keratotomy
24. Reimbursement to a provider or enrollee for the replacement of a rented durable medical equipment (DME) item that is stolen or destroyed
25. Repair of DME items not covered by TennCare
26. Repair of DME items covered under the provider's or manufacturer's warranty
27. Repair of a rented DME item
28. Sitter services
29. Speech, language, and hearing services to address speech problems caused by mental, psychoneurotic, or personality disorders
30. Standing tables

31. Vision services for persons 21 years of age and older that are not needed to treat a systemic disease process including, but not limited to:
 - (i) Eyeglasses, sunglasses, and/or contact lenses for persons aged 21 and older, including eye examinations for the purpose of prescribing, fitting, or changing eyeglasses, sunglasses, and/or contact lenses; procedures performed to determine the refractive state of the eye(s); one pair of cataract glasses or lenses is covered for adults following cataract surgery
 - (ii) LASIK
 - (iii) Orthoptics
 - (iv) Vision perception training
 - (v) Vision therapy
- (b) Services, products, and supplies that are specifically excluded from coverage under the TennCare program.
 1. Alcoholic beverages
 2. Animal therapy including, but not limited to:
 - (i) Dolphin therapy
 - (ii) Equine therapy
 - (iii) Hippo therapy
 - (iv) Pet therapy
 3. Art therapy
 4. Autopsy
 5. Bathtub equipment and supplies as follows:
 - (i) Paraffin baths
 - (ii) Sauna baths
 6. Beds and bedding equipment as follows:
 - (i) Adjust-a-Beds, lounge beds, or similar devices
 - (ii) Waterbeds
 7. Bioenergetic therapy

8. Biofeedback
9. Body adornment and enhancement services including, but not limited to:
 - (i) Body piercing
 - (ii) Breast augmentation
 - (iii) Breast capsulectomy
 - (iv) Breast implant removal
 - (v) Ear piercing
 - (vi) Hair transplantation, and agents for hair growth
 - (vii) Tattoos or removal of tattoos
 - (viii) Tongue splitting or repair of tongue splitting
 - (ix) Wigs or hairpieces
10. Breathing equipment as follows:
 - (i) Intrapulmonary Percussive Ventilators (IPVs)
 - (ii) Spirometers, except for peak flow meters for medical management of asthma
 - (iii) Vaporizers
11. Carbon dioxide therapy
12. Care facilities or services, the primary purpose of which is non-medical, including, but not limited to:
 - (i) Day care
 - (ii) Evening care centers
 - (iii) Respite care, with the exception of crisis respite offered as a component of mental health crisis services
 - (iv) Rest cures
 - (v) Social or diversion services related to the judicial system
13. Carotid body tumor, excision of, as treatment for asthma
14. Chelation therapy, except for the treatment of heavy metal poisoning or secondary hemochromatosis in selected settings. Chelation therapy for

treatment of arteriosclerosis or autism is not covered. Chelation therapy for asymptomatic individuals is not covered. In the case of lead poisoning, the lead levels must be extremely high. For children, a minimum level of 45 ug/dl is recommended. Because chelation therapy and its after-effects must be continuously monitored for possible adverse reactions, chelation therapy is covered only in inpatient or outpatient hospital settings, renal dialysis facilities, and skilled nursing facilities. It is not covered in an office setting, an ambulatory surgical center, or a home setting.

15. Clothing, including adaptive clothing
16. Cold therapy devices
17. Comfort and convenience items including, but not limited to:
 - (i) Corn plasters
 - (ii) Garter belts
 - (iii) Incontinence products (diapers/liners/underpads) for persons younger than 3 years of age
 - (iv) Support stockings, when light or medium weight or prescribed for relief of tired or aching legs or treatment of spider/varicose veins. Surgical weight stockings prescribed by a doctor or other qualified licensed health care practitioner for the treatment of chronic foot/ankle swelling, venous insufficiencies, or other medical conditions and thrombo-embolic deterrent support stockings for pre- and post-surgical procedures are covered as medically necessary.
18. Computers, personal, and peripherals including, but not limited to printers, modems, monitors, scanners, and software, including their use in conjunction with an Augmentative Communication Device
19. Cosmetic dentistry, cosmetic oral surgery, and cosmetic orthodontic services
20. Cosmetic prosthetic devices
21. Cosmetic surgery or surgical procedures primarily for the purpose of changing the appearance of any part of the body to improve appearance or self-esteem, including scar revision. The following services are not considered cosmetic services:
 - (i) Reconstructive surgery to correct the results of an injury or disease
 - (ii) Surgery to treat congenital defects (such as cleft lip and cleft palate) to restore normal bodily function

- (iii) Surgery to reconstruct a breast after mastectomy that was done to treat a disease, or as a continuation of a staged reconstructive procedure
 - (iv) In accordance with Tennessee law, surgery of the non-diseased breast following mastectomy and reconstruction to create symmetrical appearance
 - (v) Surgery for the improvement of the functioning of a malformed body member
 - (vi) Reduction mammoplasty, when the minimum amount of breast material to be removed is equal to or greater than the 22nd percentile of the Schnur Sliding Scale based on the individual's body surface area.
22. Dance therapy
23. Dental services for adults age 21 and older
24. Services provided solely or primarily for educational purposes, including, but not limited to:
- (i) Academic performance testing
 - (ii) Educational tests and training programs
 - (iii) Habilitation
 - (iv) Job training
 - (v) Lamaze classes
 - (vi) Lovaas therapy
 - (vii) Picture illustrations
 - (viii) Remedial education
 - (ix) Sign language instruction
 - (x) Special education
 - (xi) Tutors
25. Encounter groups or workshops
26. Environmental modifications including, but not limited to:
- (i) Air conditioners, central or unit

- (ii) Micronaire environmentals, and similar devices
 - (iii) Pollen extractors
 - (iv) Portable room heaters
 - (v) Vacuum systems for dust filtering
 - (vi) Water purifiers
 - (vii) Water softeners
27. Exercise equipment including, but not limited to:
- (i) Exercise equipment
 - (ii) Exercycles (including cardiac use)
 - (iii) Functional electrical stimulation
 - (iv) Gravitronic traction devices
 - (v) Gravity guidance inversion boots
 - (vi) Parallel bars
 - (vii) Pulse tachometers
 - (viii) Tilt tables
 - (ix) Training balls
 - (x) Treadmill exercisers
 - (xi) Weighted quad boots
28. 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
29. Grooming services including, but not limited to:

- (i) Barber services
 - (ii) Beauty services
 - (iii) Electrolysis
 - (iv) Hairpieces or wigs
 - (v) Manicures
 - (vi) Pedicures
30. Hair analysis
31. Home modifications and items for use in the home
- (i) Decks
 - (ii) Enlarged doorways
 - (iii) Environmental accessibility modifications such as grab bars and ramps
 - (iv) Fences
 - (v) Furniture, indoor or outdoor
 - (vi) Handrails
 - (vii) Meals
 - (viii) Overbed tables
 - (ix) Patios, sidewalks, driveways, and concrete slabs
 - (x) Plexiglass
 - (xi) Plumbing repairs
 - (xii) Porch gliders
 - (xiii) Rollabout chairs
 - (xiv) Room additions and room expansions
 - (xv) Telephone alert systems
 - (xvi) Telephone arms
 - (xvii) Telephone service in home

- (xviii) Televisions
- (xix) Tilt tables
- (xx) Toilet trainers and potty chairs. Positioning commodes and toilet supports are covered as medically necessary.
- (xxi) Utilities (gas, electric, water, etc.)
- 32. Homemaker services
- 33. Hospital inpatient items that are not directly related to the treatment of an injury or illness (such as radios, TVs, movies, telephones, massage, guest beds, haircuts, hair styling, guest trays, etc.)
- 34. Hotel charges, unless pre-approved in conjunction with a transplant or as part of a non-emergency transportation service
- 35. Hypnosis or hypnotherapy
- 36. Icterus index
- 37. Infant/child car seats, except that adaptive car seats may be covered for a person with disabilities such as severe cerebral palsy, spina bifida, muscular dystrophy, and similar disorders who meets all of the following conditions:
 - (i) Cannot sit upright unassisted, and
 - (ii) Infant/child care seats are too small or do not provide adequate support, and
 - (iii) Safe automobile transport is not otherwise possible.
- 38. Infertility or impotence services including, but not limited to:
 - (i) Artificial insemination services
 - (ii) Purchase of donor sperm and any charges for the storage of sperm
 - (iii) Purchase of donor eggs, and any charges associated with care of the donor required for donor egg retrievals or transfers of gestational carriers
 - (iv) Cryopreservation and storage of cryopreserved embryos
 - (v) Services associated with a gestational carrier program (surrogate parenting) for the recipient or the gestational carrier
 - (vi) Fertility drugs

- (vii) Home ovulation prediction kits
 - (viii) Services for couples in which one of the partners has had a previous sterilization procedure, with or without reversal
 - (ix) Reversal of sterilization procedures
 - (x) Any other service or procedure intended to create a pregnancy
 - (xi) Testing and/or treatment, including therapy, supplies, and counseling, for frigidity or impotence
39. Lamps such as:
- (i) Heating lamps
 - (ii) Lava lamps
 - (iii) Sunlamps
 - (iv) Ultraviolet lamps
40. Lifts as follows:
- (i) Automobile van lifts
 - (ii) Electric powered recliner, elevating seats, and lift chairs
 - (iii) Elevators
 - (iv) Overhead or ceiling lifts, ceiling track system lifts, or wall mounted lifts when installation would require significant structural modification and/or renovation to the dwelling (e.g., moving walls, enlarging passageways, strengthening ceilings and supports). The request for prior authorization must include a specific breakdown of equipment and installation costs, specifying all required structural modifications (however minor) and the cost associated thereto.
 - (v) Stairway lifts, stair glides, and platform lifts, including but not limited to Wheel-O-Vators
41. Ligation of mammary arteries, unilateral or bilateral
42. Megavitamin therapy
43. Motor vehicle parts and services including, but not limited to:
- (i) Automobile controls

- (ii) Automobile repairs or modifications
- 44. Music therapy
- 45. Nail analysis
- 46. Naturopathic services
- 47. Necropsy
- 48. Nerve stimulators, except for vagus nerve stimulators after conventional therapy has failed in treating partial onset of seizures
- 49. Organ and tissue transplants that have been determined experimental or investigational
- 50. Organ and tissue donor services provided in connection with organ or tissue transplants covered pursuant to Rule 1200-13-13-.04(1)(b)23., including, but not limited to:
 - (i) Transplants from a donor who is a living TennCare enrollee and the transplant is to a non-TennCare enrollee
 - (ii) Donor services other than the direct services related to organ procurement (such as, hospitalization, physician services, anesthesia)
 - (iii) Hotels, meals, or similar items provided outside the hospital setting for the donor
 - (iv) Any costs incurred by the next of kin of the donor
 - (v) Any services provided outside of any “bundled rates” after the donor is discharged from the hospital
- 51. Oxygen, except when provided under the order of a physician and administered under the direction of a physician
- 52. Oxygen, preset system (flow rate not adjustable)
- 53. Certain pharmacy items as follows: DESI, LTE, and IRS drugs
- 54. Play therapy
- 55. Primal therapy
- 56. Psychodrama
- 57. Psychogenic sexual dysfunction or transformation services
- 58. Purging

59. Recertification of patients in Level 1 and Level II Nursing Facilities
60. Recreational therapy
61. Religious counseling
62. Retreats for mental disorders
63. Rolfing
64. Routine health services which may be required by an employer; or by a facility where an individual lives, goes to school, or works; or by the enrollee's intent to travel
 - (i) Drug screenings
 - (ii) Employment and pre-employment physicals
 - (iii) Fitness to duty examinations
 - (iv) Immunizations related to travel or work
 - (v) Insurance physicals
 - (vi) Job related illness or injury covered by workers' compensation
65. Sensitivity training or workshops
66. Sensory integration therapy and equipment used in sensory integration therapy including, but not limited to:
 - (i) Ankle weights
 - (ii) Floor mats
 - (iii) Mini-trampolines
 - (iv) Poof chairs
 - (v) Sensory balls
 - (vi) Sky chairs
 - (vii) Suspension swings
 - (viii) Trampolines
 - (ix) Therapy balls
 - (x) Weighted blankets or weighted vests

67. Sensory stimulation services
68. Services provided by immediate relatives, i.e., a spouse, parent, grandparent, stepparent, child, grandchild, brother, sister, half brother, half sister, a spouse's parents or stepparents, or members of the recipient's household
69. Sex change or transformation surgery
70. Sexual dysfunction or inadequacy services and medicine, including drugs for erectile dysfunctions and penile implant devices
71. Speech devices as follows:
 - (i) Phone mirror handivoice
 - (ii) Speech software
 - (iii) Speech teaching machines
72. Sphygmomanometers (blood pressure cuffs)
73. Stethoscopes
74. Supports
 - (i) Cervical pillows
 - (ii) Orthotrac pneumatic vests
75. Thermograms
76. Thermography
77. Time involved in completing necessary forms, claims, or reports
78. Tinnitus maskers
79. Toy equipment such as:

Flash switches (for toys)
80. Transportation costs as follows:
 - (i) Transportation to a provider who is outside the geographical access standards that the MCC is required to meet when a network provider is available within such geographical access standards or, in the case of Medicare beneficiaries, transportation to Medicare providers who are outside the geographical access

standards of the TennCare program when there are Medicare providers available within those standards

- (ii) Mileage reimbursement, car rental fees, or other reimbursement for use of a private vehicle unless prior authorized by the MCC in lieu of contracted transportation services
 - (iii) Transportation back to Tennessee from vacation or other travel out-of-state in order to access non-emergency covered services (unless authorized by the MCC)
81. Transsexual surgery
82. Weight loss or weight gain and physical fitness programs including, but not limited to:
- (i) Dietary programs of weight loss programs, including, but not limited to, Optifast, Nutrisystem, and other similar programs or exercise programs. Food supplements will not be authorized for use in weight loss programs or for weight gain.
 - (ii) Health clubs, membership fees (e.g., YMCA)
 - (iii) Marathons, activity and entry fees
 - (iv) Swimming pools
83. Wheelchairs as follows:
- (i) Wheelchairs defined by CMS as power operated vehicles (POVs), namely, scooters and devices with three (3) or four (4) wheels that have tiller steering and limited seat modification capabilities (i.e., provide little or no back support). Powered wheelchairs, meaning four (4) wheeled, battery operated vehicles that provide back support and that are steered by an electronic device or joystick that controls direction and turning, are covered as medically necessary.
 - (ii) Standing wheelchairs
 - (iii) Stair-climbing wheelchairs
 - (iv) Recreational wheelchairs
84. Whirlpools and whirlpool equipment such as:
- (i) Action bath hydro massage
 - (ii) Aero massage
 - (iii) Aqua whirl

- (iv) Aquasage pump, or similar devices
- (v) Hand-D-Jets, or similar devices
- (vi) Jacuzzis, or similar devices
- (vii) Turbojets
- (viii) Whirlpool bath equipment
- (ix) Whirlpool pumps

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Signature of the agency or officers directly responsible for proposing and/or drafting these rules:

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

I certify that this is an accurate and complete copy of Public Necessity rules lawfully promulgated and adopted by the Tennessee Department of Finance and Administration on the _____ day of _____, 20____.

M.D. Goetz, Jr.
Commissioner
Department of Finance and Administration

Subscribed and sworn to before me this the _____ day of _____, 20____.

Notary Public

My Commission expires on the _____ day of _____, _____.

All Public Necessity 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.

Paul G. Summers
Attorney General and Reporter

The Public Necessity rules set out herein were properly filed in the Department of State on the 3rd day of May, 2006, and will be effective from the date of filing for a period of 165 days. The Public Necessity rules remain in effect through the 15th day of October, 2006.