

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 to 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.*

On August 3 and August 9, 2005, a federal district court issued Orders in which the Court approved modifications of certain provisions of the *Grier Revised Consent Decree*. The *Grier Revised Consent Decree* imposes obligations upon the Bureau of TennCare with respect to ensuring the rights of individuals enrolled in TennCare, a managed care program for both the Medicaid and expansion populations, including timelines for the prior authorization of certain services by the managed care contractors. On December 29, 2005, the State promulgated public necessity rules implementing the approved modifications. Subsequently, on January 31, 2006, the federal district court issued a ruling which clarified certain of its earlier Orders, including that failure by an MCC to act upon a request for a prior authorization within twenty-one (21) days shall still result in automatic authorization of the requested service. This public necessity rule is required in order to bring the TennCare rules into compliance with the federal court's January 31, 2006 ruling.

Tennessee Code Annotated, Section 4-5-209, provides that a state agency is authorized to promulgate public necessity rules when the modifications to the rules are required by a court order. 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 this amendment is required to conform the current TennCare Medicaid rules to reflect changes resulting from court orders.

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.

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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

Amendment

Subparagraph (a) of paragraph (7) of Rule 1200-13-13-.11 APPEAL OF ADVERSE ACTIONS AFFECTING TENNCARE SERVICES OR BENEFITS is deleted in its entirety and replaced with a new subparagraph (a) which shall read as follows:

- (a) MCCs must act upon a request for prior authorization within fourteen (14) days as provided in rule 1200-13-13-.11(1)(b)2. Failure by an MCC to act upon a request for a prior authorization within twenty-one (21) days shall result in automatic authorization of the requested service, subject to the provision of (7)(e) below, and to provisions relating to medical contraindication at rule 1200-13-13-.11(8).

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

Legal Contact and/or party who will approve final copy for publication and disk acquisition:

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|-------------|--|
| (Name)      | George Woods   |
| (Address)   | Bureau of TennCare<br>310 Great Circle Road<br>Nashville, TN 37243 |
| (Telephone) | (615) 507-6446   |

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.

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Paul G. Summers  
Attorney General and Reporter

The Public Necessity rules set out herein were properly filed in the Department of State on the 17th 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 29th day of October, 2006.