

**RULES
OF THE
TENNESSEE DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES DIVISION**

**CHAPTER 1200-37-01
PRIMARY CARE SERVICES**

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1200-37-01-.01 DEFINITIONS.

- (1) For the purpose of these regulations the terms used herein are defined as follows:
- (a) "Adult" means an individual aged eighteen or over.
 - (b) "Applicant" means an individual seeking primary care services.
 - (c) "Citizen" means a citizen of the United States, whether native-born or naturalized.
 - (d) "Clinic" means a site under the control of the Department or a county health department at which primary care services are offered to the public and which is not a federally qualified health center (FQHC).
 - (e) "Department" means the Tennessee Department of Health.
 - (f) "Emergency" means a medical or dental condition manifesting itself by acute systems of sufficient severity (including pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part.
 - (g) "Exempt Services" means those services which are not subject to eligibility verification under the Eligibility Verification for Entitlements Act, T.C.A. §§ 4-58-101 et seq.
 - (h) "Federal public benefit"
 - 1. Has the same meaning as provided in 8 U.S.C § 1611; and
 - 2. Does not mean a benefit listed in 8 U.S.C. § 1611 (b).
 - (i) "Primary Care Services" means the basic level of health care generally rendered by general practitioners, family practitioners, internists, obstetricians, and pediatricians and advanced practice nurses and is offered at clinics.
 - (j) "Program Director" means the Department employee responsible for the overall supervision of primary care services for the Department.
 - (k) "Provider" means a health care professional working in a clinic.
 - (l) "Qualified alien" means: an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is:

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1. Lawfully admitted for permanent residence under the Immigration and Nationality Act [8 U.S.C. §§ 1101 et seq.];
2. Granted asylum under section 208 of such Act [8 U.S.C. § 1158];
3. Admitted to the United States under section 207 of such Act [8 U.S.C. § 1157];
4. Paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. § 1182 (d)(5)] for a period of at least 1 year;
5. One whose deportation is being withheld under section 243(h) of such Act [8 U.S.C. § 1253] (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208) or section 241(b)(3) of such Act [8 U.S.C. § 1231(b)(3)] (as amended by section 305(a) of division C of Public Law 104–208);
6. Granted conditional entry pursuant to section 203(a)(7) of such Act [8 U.S.C. § 1153(a)(7)] as in effect prior to April 1, 1980; or
7. A Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980); or
8. An alien:
 - (i) who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and
 - (ii) who has been approved or has a petition pending which sets forth a prima facie case for:
 - (I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act [8 U.S.C. § 1154(a)(1)(A)(ii), (iii), (iv)],
 - (II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act [8 U.S.C. § 1154(a)(1)(B)(ii), (iii)],
 - (III) suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act [8 U.S.C. § 1254(a)(3)] (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996),
 - (IV) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act [8 U.S.C. § 1154(a)(1)(A)(i)], or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act [8 U.S.C. § 1154(a)(1)(B)(i)]; or
 - (V) cancellation of removal pursuant to section 240A(b)(2) of such Act [8 U.S.C. § 1229b(b)(2)]; or
 - (iii) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active

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participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

- (iv) who meets the requirements of subpart (ii) of this part; or
- (v) who has been granted nonimmigrant status under section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. §1101(a)(15)(T)) or who has a pending application that sets forth a prima facie case for eligibility for such nonimmigrant status.
- (m) "SAVE program" means the systematic alien verification for entitlements program created pursuant to the federal Immigration Reform and Control Act of 1986, compiled in 8 U.S.C. §§ 1101 et seq., and operated by the United States department of homeland security, or any successor program thereto.
- (n) "SEVIS system" means the student and exchange visitor information system created pursuant to section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104-208 (as amended), and operated by the United States department of homeland security, or any successor program thereto.
- (o) "State or local public benefit"
 - 1. Means any public benefit as defined in 8 U.S.C. § 1621, that is provided or administered by a state governmental entity or a local health department; and
 - 2. Does not mean a benefit listed in 8 U.S.C. § 1621(b).

Authority: T.C.A. §§ 4-58-102, 68-1-103, 68-1-106, 68-2-603, 8 U.S.C. § 1641(b), and 2013 Acts, Pub. Chap. 120. **Administrative History:** Emergency rule filed July 19, 2013; effective through January 15, 2014. Original rule filed July 25, 2013; effective December 29, 2013.

1200-37-01-.02 APPLICABILITY OF THIS PART. This part shall apply to all primary care services offered in clinics, provided, however, that it shall not apply to:

- (1) Applicants under the age of eighteen;
- (2) Exempt services;
- (3) Emergency Services, including emergency dental services; or
- (4) Prenatal care.

Authority: T.C.A. §§ 4-58-102, 4-58-106, 4-58-110, 68-1-103, 68-1-106, and 68-2-603. **Administrative History:** Emergency rule filed July 19, 2013; effective through January 15, 2014. Original rule filed July 25, 2013; effective December 29, 2013.

1200-37-01-.03 APPLICATION FOR PRIMARY CARE SERVICES. Each adult applicant for services under this program shall attest to his/her status as a citizen or qualified alien and shall submit to verification of that status as follows:

- (1) Applicants claiming to be citizens shall present one of the following:

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- (a) A valid Tennessee driver license or photo identification license issued by the department of safety;
 - (b) A valid driver license or photo identification license from another state where the issuance requirements are at least as strict as those in Tennessee, as determined by the department of safety;
 - (c) An official birth certificate issued by a state, jurisdiction or territory of the United States, including Puerto Rico, United States Virgin Islands, Northern Mariana Islands, American Samoa, Swains Island, and Guam; provided, that Puerto Rican birth certificates issued before July 1, 2010, shall not be recognized under this rule;
 - (d) A United States government-issued certified birth certificate;
 - (e) A valid, unexpired United States passport;
 - (f) A United States certificate of birth abroad (DS-1350 or FS-545);
 - (g) A report of birth abroad of a citizen of the United States (FS-240);
 - (h) A certificate of citizenship (N560 or N561);
 - (i) A certificate of naturalization (N550, N570 or N578);
 - (j) A United States citizen identification card (I-197, I-179);
 - (k) Any successor document of subparagraphs (1)(e) through (1)(j) above; or
 - (l) A social security number that the entity or local health department may verify with the social security administration in accordance with federal law.
- (2) Applicants claiming to be qualified aliens shall present two forms of documentation of identity and immigration status as determined by the United States Department of Homeland Security to be acceptable for verification through the SAVE program or SEVIS system.
 - (3) Where an applicant claiming to be a qualified alien presents only one form of documentation of identity described in (2) above, the clinic shall attempt to verify the applicant's status through the SAVE program or SEVIS system.
 - (4) If an applicant who claims eligibility as a qualified alien is unable to present two (2) forms of documentation as described in paragraph (2) above, then the applicant shall present at least one (1) such document that the entity or local health department shall then verify through the SAVE program or SEVIS system.
 - (5) Any document submitted pursuant to paragraphs (1) or (2) of this rule shall be presumed to be proof of eligibility until final verification is received from the SAVE program or SEVIS system.
 - (6) If the SAVE program or SEVIS system indicates that the applicant is not a citizen or qualified alien, the clinic shall deny future primary care services and shall pursue any appropriate action under T.C.A. §§ 4-58-104 or 4-58-105.

Authority: T.C.A. §§ 4-58-102, 4-58-104, 4-58-105, 4-58-106, 4-58-107, 4-58-108, 4-58-109, 4-58-110, 68-1-103, 68-1-106, 68-2-603, and 2013 Acts, Pub. Chap. 120. **Administrative History:** Emergency

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1200-37-01-.04 RECONSIDERATION OF DENIAL.

- (1) Applicants denied or removed from primary care services may request reconsideration.
 - (a) The applicant must request reconsideration in writing, directed to the Program Director, within twenty one (21) calendar days of denial or removal. The Program Director will issue a reconsidered decision in writing within fourteen (14) days of the request for reconsideration. The Program Director's review is limited to a determination of whether or not the applicant meets eligibility criteria. The decision of the Program Director is final.

Authority: T.C.A. §§ 4-58-102, 4-58-108, 4-58-110, 68-1-103, 68-1-106, and 68-2-603. **Administrative History:** Emergency rule filed July 19, 2013; effective through January 15, 2014. Original rule filed July 25, 2013; effective December 29, 2013.