

Department of State  
Division of Publications  
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Nashville, TN 37243  
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For Department of State Use Only

Sequence Number: 09-04-10  
Rule ID(s): 4821  
File Date (effective date): 09/03/2010  
End Effective Date: 03/02/2011

## Emergency Rule Filing Form

*Emergency rules are effective from date of filing for a period of up to 180 days.*

**Agency/Board/Commission:** Tennessee Department of Finance and Administration  
**Division:** Bureau of TennCare  
**Contact Person:** George Woods  
**Address:** 310 Great Circle Road  
Nashville, Tennessee  
**Zip:** 37243  
**Phone:** (615) 507-6443  
**Email:** [george.woods@tn.gov](mailto:george.woods@tn.gov)

**Rule Type:**

☒ Emergency Rule

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

☒ Amendment

☐ New

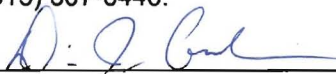
☐ Repeal

**Statement of Necessity:**

TennCare received approval from the Centers for Medicare and Medicaid Services (CMS), for State Plan Amendment (SPA) Transmittal Number 10-003, effective retroactively to March 17, 2010. The SPA establishes the payment methodology for payment of inpatient hospital services provided by non-Participating Providers. Specifically, such admissions must be required as a result of the need for and provision of emergency outpatient services provided by the non-Participating Provider hospitals to which a TennCare enrollee is admitted.

T.C.A. § 4-5-208(a)(4) permits an agency to adopt an emergency rule when it is required by an agency of the federal government and the adoption of the rule through ordinary rulemaking procedure might jeopardize the loss of federal funds.

For a copy of this emergency 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.

  
Darin J. Gordon  
Director, Bureau of TennCare

**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/RuleTitle per row)**

Chapter Number	Chapter Title
1200-13-13	TennCare Medicaid

Rule Number	Rule Title
1200-13-13-.08	Providers

(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>)

Chapter 1200-13-13  
TennCare Medicaid

Paragraph (2) of Rule 1200-13-13-.08 Providers is amended by adding a new Subparagraph (c) and relettering the current Subparagraph (c) as (d) so as amended the new Subparagraph (c) shall read as follows:

- (c) Covered medically necessary inpatient hospital admissions required as the result of emergency outpatient services, when provided to Medicaid managed care enrollees by non-contract hospitals in accordance with Section 1932(b)(2)(B) of the Social Security Act (42 U.S.C.A. § 1396u-2(b)(2)(B)), shall be reimbursed at 57 percent of the 2008 Medicare Diagnostic Related Groups (DRG) rates (excluding Medical Education and Disproportionate Share components) determined in accordance with 42 CFR 412 for those services. For DRG codes that are adopted after 2008, 57 percent of the rate from the year of adoption will apply. These inpatient stays will continue until they are no longer medically necessary or until the patient can be safely transported to a contract hospital or to another contract service, whichever comes first.

Statutory Authority: T.C.A. §§ 4-5-208 and 71-5-105.

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.



Date: 8/27/2010

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: 8/27/10

Notary Public Signature: Cheryl D. Kline

My commission expires on: 9/3/2012

All emergency 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.

Robert E. Cooper, Jr.  
Attorney General and Reporter  
9-2-10

Date

**Department of State Use Only**

Filed with the Department of State on: 9/3/10

Effective for: 180 \*days

Effective through: 3/2/11

\* Emergency rule(s) may be effective for up to 180 days from the date of filing.

RECEIVED  
2010 SEP -3 PM 12:47  
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Tre Hargett  
Tre Hargett  
Secretary of State

### **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)

There is no projected 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 TCA 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;

This rule establishes a payment methodology for payment of inpatient hospital services admissions required as a result of emergency outpatient services, when provided by non-Participating Providers.

- (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 rule is lawfully adopted by the Department of Finance and Administration to comply with CMS approved State Plan Amendment and in accordance with §§ 4-5-208 and 71-5-105.

- (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 this rule are the enrollees, TennCare providers and the 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 rule was 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 promulgation of this rule is not anticipated to have an effect on state and local government revenues and expenditures.

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

Darin J. Gordon  
Director, Bureau of TennCare

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

Darin J. Gordon  
Director, Bureau of TennCare

- (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) 507-6443  
Darin.j.Gordon@tn.gov

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

None

GW10210230



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☒ Amendment

☐ New

☐ Repeal

**Statement of Necessity:**

TennCare received approval from the Centers for Medicare and Medicaid Services (CMS), for State Plan Amendment (SPA) Transmittal Number 10-003, effective retroactively to March 17, 2010. The SPA establishes the payment methodology for payment of inpatient hospital services provided by non-Participating Providers. Specifically, such admissions must be required as a result of the need for and provision of emergency outpatient services provided by the non-Participating Provider hospitals to which a TennCare enrollee is admitted.

T.C.A. § 4-5-208(a)(4) permits an agency to adopt an emergency rule when it is required by an agency of the federal government and the adoption of the rule through ordinary rulemaking procedure might jeopardize the loss of federal funds.

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Darin J. Gordon  
Director, Bureau of TennCare

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Chapter 1200-13-13  
TennCare Medicaid

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- ~~(e)~~(d) Non-Participating Providers who furnish covered CHOICES services are reimbursed in accordance with Rule 1200-13-01-.05.

Statutory Authority: T.C.A. §§ 4-5-208 and 71-5-105.