

Department of State
Division of Publications
312 Rosa L. Parks, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 09-05-10
Rule ID(s): 4822
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

Rule Type:

☒ Emergency Rule

Revision Type (check all that apply):

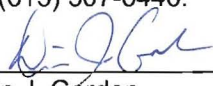
☒ Amendment
☐ New
☐ Repeal

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
1200-13-14	TennCare Standard

Rule Number	Rule Title
1200-13-14-.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 1200-13-14
TennCare Standard

Paragraph (2) of Rule 1200-13-14-.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: [Signature]



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.

[Signature]

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.

[Signature]

Tre Hargett
Secretary of State

RECEIVED
2010 SEP -3 PM 12:43
SECRETARY OF STATE
PUBLICATIONS

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

GW10110230

Department of State
Division of Publications
312 Rosa L. Parks, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
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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.

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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.

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

Date: _____

Signature: _____

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: _____

Notary Public Signature: _____

My commission expires on: _____

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

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective for: _____ *days

Effective through: _____

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

Tre Hargett
Secretary of State

Impact on Local Governments

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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

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Director, Bureau of TennCare

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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

GW10110230R

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



Center for Medicaid, CHIP, and Survey & Certification

Received

JUN 28 2010

Bureau of Tenn Care

JUN 17 2010

(original)
(by received
6/18/10)

Mr. Darin J. Gordon
Deputy Commissioner
State of Tennessee
Department of Finance and Administration
Bureau of TennCare
310 Great Circle Road
Nashville, Tennessee 37243

RE: State Plan Amendment 10-003


Dear Mr. Gordon:

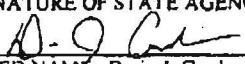
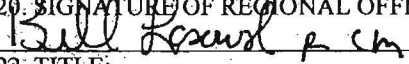
We have reviewed the proposed amendment to Attachment 4.19-A of your Medicaid State plan submitted under transmittal number 10-003. Effective March 17, 2010 this amendment modifies the State's reimbursement methodology for setting payment rates for inpatient hospital services. Specifically, the State proposes to establish the payment methodology for payment of inpatient hospital services admissions required as a result of emergency outpatient services, when provided by non-contract hospitals. The rates will be established at 57% of the Medicare DRG rates in effect in 2008 or any new Medicare DRG rates established after 2008.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(13), 1902(a)(30), 1903(a), 1923, and 1932(b)(2)(C) of the Social Security Act and the implementing Federal regulations at 42 CFR Part 447. We have found that the proposed changes in payment methodology comply with applicable requirements and therefore have approved them with an effective date of March 17, 2010. We are enclosing the CMS-179 and the amended approved plan pages.

If you have any questions, please call Stanley Fields at (502) 223-5332 or Venesa Day at 410-786-8281.

Sincerely


Cindy Mann
Director, CMCS

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION		1. TRANSMITTAL NUMBER: 10-003	2. STATE TENNESSEE
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
5. TYPE OF PLAN MATERIAL (Check One): <input type="checkbox"/> NEW STATE PLAN <input checked="" type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT		4. PROPOSED EFFECTIVE DATE March 17, 2010	
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR 447		7. FEDERAL BUDGET IMPACT: a. FFY 2010 \$0 b. FFY 2011 \$0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19A, page 1 of 1.		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):	
10. SUBJECT OF AMENDMENT: Methods and Standards for Establishing Payment Rates for Inpatient Hospital Services - Emergency Services Furnished by Non-contract Providers for Medicaid Managed Care Enrollees.			
11. GOVERNOR'S REVIEW (Check One): <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: Tennessee Department of Finance and Administration Bureau of TennCare 310 Great Circle Road Nashville, Tennessee 37243 Attention: George Woods	
13. TYPED NAME: Darin J. Gordon		17. DATE RECEIVED:	
14. TITLE: Director, Bureau of TennCare		18. DATE APPROVED: 6-17-10	
15. DATE SUBMITTED: 3/23/10		FOR REGIONAL OFFICE USE ONLY	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: MAR 17 2010		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: William Lasowski		22. TITLE: Deputy Director, CMCS	
23. REMARKS:			

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE TENNESSEE

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES FOR INPATIENT
HOSPITAL SERVICES

**EMERGENCY SERVICES FURNISHED BY NON-CONTRACT PROVIDERS FOR MEDICAID
MANAGED CARE ENROLLEES.**

Covered medically necessary 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, shall be reimbursed at 57 percent of the 2008 Medicare Diagnostic Related Groups (DRG) rates determined in accordance with 42 CFR 412 for those services. For DRG codes that are adopted after 2008, 57% 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. This methodology does not apply to Medicare crossover claims, which are paid in accordance with Attachment 4.19B, Section 24.

TN No. 10-003

Supersedes

TN No. NEW

JUN 17 2010

Approval Date _____

Effective Date 03/17/10