

**Department of State  
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Tennessee 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: 09-39-09  
Rule ID(s): 4496  
File Date: 09/25/2009  
Effective Date: 12/04/2009

## Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205*

**Agency/Board/Commission:** Tennessee Department of Finance and Administration  
**Division:** Bureau of TennCare  
**Contact Person:** George Woods  
**Address:** Bureau of TennCare  
310 Great Circle Road  
Nashville, Tennessee  
**Zip:** 37243  
**Phone:** (615) 507-6446  
**Email:** George.woods@tn.gov

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

☒ Amendments  
☐ New  
☐ Repeal

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only ONE Rule Number/RuleTitle per row)**

Chapter Number	Chapter Title
1200-13-16	Medical Necessity
Rule Number	Rule Title
1200-13-16-.01	Definitions

(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 1200-13-16  
Medical Necessity

Amendments

Paragraph (2) Behavioral Health Organization of rule 1200-13-16-.01 Definitions is deleted in its entirety and subsequent paragraphs renumbered accordingly.

Subparagraph (a) of paragraph (26) MCC (Managed Care Contractor) to be renumbered as paragraph (25) of rule 1200-13-16-.01 Definitions is amended by deleting the phrase "behavioral health organization" after the words "care organization" so as amended the renumbered paragraph (25) shall read as follows:

(25) MCC (MANAGED CARE CONTRACTOR) shall mean:

- (a) A managed care organization, pharmacy benefits manager, and/or a dental benefits manager which has signed a TennCare Contract with the State and operates a provider network and provides covered health services to TennCare enrollees; or
- (b) A pharmacy benefits manager, dental benefits manager, or behavioral health organization which subcontracts with a managed care organization to provide services; or
- (c) A State government agency (i.e., Department of Children's Services and Division of Mental Retardation Services) that contracts with TennCare for the provision of services.

Paragraph (27) MCO (Managed care Organization) to be renumbered as paragraph (26) of rule 1200-13-16-.01 Definitions is amended by deleting the slant symbol and word "/or " after the words "covered medical" so as amended the renumbered paragraph (26) shall read as follows:

(26) MCO (MANAGED CARE ORGANIZATION) shall mean an appropriately licensed Health Maintenance Organization (HMO) contracted with the Bureau of TennCare to manage the delivery, provide for access, contain the cost, and ensure the quality of specified covered medical and behavioral benefits to TennCare enrollee-members through a network of qualified providers.

Statutory Authority: T.C.A. §§ 4-5-202, 71-5-105 and 71-5-109.

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

Darin J. Gordon / w2  
Darin J. Gordon  
Director, Bureau of TennCare  
Tennessee Department of Finance and Administration

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Finance and Administration (board/commission/ other authority) on 09/08/2009 (mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 06/12/09

Rulemaking Hearing(s) Conducted on: (add more dates). 08/17/09

Date: 9/8/09

Signature: M. D. Goetz, Jr.

Name of Officer: M. D. Goetz, Jr.

Title of Officer: Commissioner

Subscribed and sworn to before me on: 9/8/09

Notary Public Signature: Pat Pentecost

My commission expires on: 1-3-2011



All rulemaking hearing 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

9-25-09

Date

Department of State Use Only

RECEIVED  
2009 SEP 25 PM 4:34  
SECRETARY OF STATE  
PUBLICATIONS

Filed with the Department of State on: 9/25/09

Effective on: 12/24/09

Tre Hargett

Tre Hargett  
Secretary of State

## **Public Hearing Comments**

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no public comments on these rules.

### **Regulatory Flexibility Addendum**

Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

Rules 1200-13-16-.01(2), (25), and (26) Definitions – Medical Necessity.

### **Statement of Economic Impact to Small Businesses**

1. Name of Bureau: Bureau of TennCare
2. Rulemaking Hearing Date: August 17, 2009
3. Types of small businesses that will be directly affected by, bear cost of, and/or directly benefit from the proposed rules: None
4. A description of how small businesses will be adversely impacted: None
5. Whether, and to what extent, alternative means exist for accomplishing the objectives of the proposed rule that might be less burdensome to small businesses, and why such alternatives are not being proposed: Not Applicable
6. A comparison of the proposed rule with federal or state counterparts: These rules are being promulgated to point out that TennCare no longer has Behavioral Health Organizations (BHOs). Managed Care Organizations (MCOs) now provide both medical and behavioral services. There are no federal or state counterparts.

## **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;

The rules are being promulgated to point out that TennCare no longer has Behavioral Health Organizations (BHO). Managed Care Organizations (MCO) now provide both medical and behavioral services.

- (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;

These rules are lawfully promulgated and adopted by the Department of Finance and Administration in accordance with Tennessee Code Annotated §§ 4-5-202, 71-5-105 and 71-5-109.

- (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, organizations, corporations or governmental entities most directly affected by these rules are the recipients, MCOs, providers and the Tennessee Department of Finance and Administration. There were no objections to the promulgation of these rules.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The rules were reviewed and 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 these rules 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 and telephone number 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.

GW1019203