

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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Email: register.information@tn.gov**For Department of State Use Only**Sequence Number: 09-39-13Rule ID(s): 5575File Date (effective date): 9/26/13End Effective Date: 3/25/14

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
Zip:	37243
Phone:	(615) 507-6446
Email:	George.Woods@tn.gov

Rule Type:☒ Emergency Rule**Revision Type (check all that apply):**☒ Amendment☐ New☐ Repeal**Statement of Necessity:**

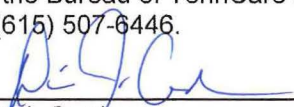
The Appropriations Act, Public Chapter 453, effective July 1, 2013, requires the Bureau of TennCare to reduce expenditures for generic prescription drugs. The reduction will be accomplished by implementing a copay of \$1.50 per generic prescription. This change to the TennCare Program required an amendment to the TennCare II section 1115 Medicaid demonstration waiver, which was approved July 16, 2013, by the Centers for Medicare and Medicaid Services (CMS) with an effective date of October 1, 2013.

The TennCare population affected by this change is currently subject to \$3.00 copays for brand name prescription drugs and consists of Medicaid adults who do not qualify for federal exemption from copays, Standard enrollees under age 21 with incomes at or above 100% of the poverty level or age 21 and older in the Spend Down program, and CHOICES 3 enrollees.

T.C.A. § 4-5-208 permits an agency to adopt an emergency rule when it is required by enactment of the general assembly to implement rules within a prescribed period of time that precludes utilization of rulemaking procedures for promulgation of permanent rules. It further permits adoption of an emergency rule when it is required by an agency of the federal government and adoption of the rule through ordinary rulemaking procedures might jeopardize the loss of federal funds.

Based upon the above information, I have made the finding that the emergency adoption of this rule is required in order to achieve implementation by October 1, 2013.

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
Tennessee Department of Finance and Administration

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-.05	Enrollee Cost Sharing

(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>)

Paragraph (1) of Rule 1200-13-13-.05 Enrollee Cost sharing is amended by deleting the paragraph and replacing it with the following:

- (1) TennCare Medicaid enrollees do not have cost sharing responsibilities for TennCare coverage and covered services, except TennCare Medicaid adults (age 21 and older) who receive pharmacy services have nominal copays for the pharmacy services. The copays are \$3.00 (three dollars) for each covered branded drug and \$1.50 (one dollar and fifty cents) for each covered generic drug. Branded drugs which exceed the limit of two (2) prescriptions or refills per enrollee per month are not covered. Generic drugs and covered branded drugs which exceed the limit of five (5) prescriptions or refills per enrollee per month are not covered. Family planning drugs and emergency services are exempt from copay. Enrollees may not be denied a service for inability to pay a copay. There is no Out-of-Pocket Maximum on copays.

Statutory Authority: T.C.A. §§ 4-5-208, 71-5-105 and 71-5-109.

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

Date: 9/10/2013

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: 9/10/13

Notary Public Signature: Cheryl D. Kline

My commission expires on: AUG 23 2016

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

9-25-13

Date

Department of State Use Only

Filed with the Department of State on: 9/26/13

Effective for: 180 *days

Effective through: 3/25/14

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Tre Hargett

Tre Hargett
Secretary of State

RECEIVED
2013 SEP 26 PM 2:06
STATE OF TENNESSEE

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)

The rule is not anticipated to have an 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 T.C.A. § 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 rule implements a \$1.50 copay for generic prescription drugs obtained by TennCare enrollees who currently have a \$3.00 copay for brand name drugs.

- (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 Bureau of TennCare as an emergency rule under T.C.A. § 4-5-208, under TennCare's rulemaking authority at TCA §§ 71-5-105 and 109, and as required by the Appropriations Act of 2013 and by amendment to the TennCare Waiver approved by CMS effective October 1, 2013.

- (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 TennCare enrollees, providers and the managed care contractors. The governmental entity most directly affected by this Rule is the Bureau of TennCare, 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 adoption of the TennCare Medicaid and TennCare Standard rules is anticipated to decrease state annual expenditures by \$2,112,300.

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

Donna K. Tidwell
Deputy General Counsel

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

Donna K. Tidwell
Deputy General Counsel

- (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) 507-6852
donna.tidwell@tn.gov

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

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GW10113149dkt

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The TennCare population affected by this change is currently subject to \$3.00 copays for brand name prescription drugs and consists of Medicaid adults who do not qualify for federal exemption from copays, Standard enrollees under age 21 with incomes at or above 100% of the poverty level or age 21 and older in the Spend Down program, and CHOICES 3 enrollees.

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Paragraph (1) of Rule 1200-13-13-.05 Enrollee Cost sharing is amended by deleting the paragraph and replacing it with the following:

- (1) ~~TennCare Medicaid enrollees do not have cost sharing responsibilities for TennCare coverage and covered services, except that effective August 1, 2005, TennCare Medicaid adults (age 21 and older) who receive pharmacy services will have nominal copays for these services. The copays will be \$3.00 (three dollars) for each branded drug and \$0 (zero dollars) for each covered generic drug. Generic drugs which exceed the limit of five (5) prescriptions or refills per enrollee per month are not covered. Family planning drugs and emergency services are exempt from copay. Enrollees may not be denied a service for inability to pay a copay. There is no Out-of-Pocket Maximum on copays.~~
- (1) TennCare Medicaid enrollees do not have cost sharing responsibilities for TennCare coverage and covered services, except TennCare Medicaid adults (age 21 and older) who receive pharmacy services have nominal copays for the pharmacy services. The copays are \$3.00 (three dollars) for each covered branded drug and \$1.50 (one dollar and fifty cents) for each covered generic drug. Branded drugs which exceed the limit of two (2) prescriptions or refills per enrollee per month are not covered. Generic drugs and covered branded drugs which exceed the limit of five (5) prescriptions or refills per enrollee per month are not covered. Family planning drugs and emergency services are exempt from copay. Enrollees may not be denied a service for inability to pay a copay. There is no Out-of-Pocket Maximum on copays.

Statutory Authority: T.C.A. §§ 4-5-208, 71-5-105 and 71-5-109.

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: _____

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Tre Hargett
Secretary of State

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The Rule is lawfully adopted by the Bureau of TennCare as an emergency rule under T.C.A. § 4-5-208, under TennCare's rulemaking authority at TCA §§ 71-5-105 and 109, and as required by the Appropriations Act of 2013 and by amendment to the TennCare Waiver approved by CMS effective October 1, 2013.

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The Rule was approved by the Tennessee Attorney General. No additional opinion was given or requested.

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