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Sequence Number: 09-40-09
Rule ID(s): 4480
File Date: 09/30/2009
Effective Date: 12/29/2009

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
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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/Rule Title per row)

Chapter Number	Chapter Title
1200-13-13	TennCare Medicaid
Rule Number	Rule Title
1200-13-13-.04	Covered Services
1200-13-13-.11	Appeal of Adverse Actions Affecting TennCare Services or Benefits

(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

Amendments

Content of "Benefit for Persons Aged 21 and Older" column of part 12. of subparagraph (b) of paragraph (1) of rule 1200-13-13-.04 Covered Services is deleted in its entirety and replaced with new content so as amended part 12. shall read as follows:

SERVICE	BENEFIT FOR PERSONS UNDER AGE 21	BENEFIT FOR PERSONS AGED 21 AND OLDER
12. Inpatient and Outpatient Substance Abuse Benefits [defined as services for the treatment of substance abuse that are provided (a) in an inpatient hospital (as defined at 42 CFR §440.10) or (b) as outpatient hospital services (see 42 CFR §440.20(a))].	Covered as medically necessary.	Covered as medically necessary.

Paragraph (3) Maximum Lifetime Limitations of rule 1200-13-13-.04 Covered Services is deleted in its entirety and subsequent paragraphs are renumbered accordingly.

Part 6. of subparagraph (a) of paragraph (1) of rule 1200-13-13-.11 Appeal of Adverse Actions Affecting TennCare Services or Benefits is amended by deleting subpart (iii) in its entirety so as amended part 6. shall read as follows:

6. Appropriate notice shall be given to an enrollee by a provider when an enrollee exceeds a non-pharmacy benefit limit in the following circumstances:
 - (i) The provider denies the request for a non-pharmacy service because an enrollee has exceeded the applicable benefit limit; or
 - (ii) The provider informs an enrollee that the non-pharmacy service will not be covered by TennCare because he/she has exceeded the applicable benefit limit and the enrollee chooses not to receive the service.

During the applicable time period for each non-pharmacy benefit limit, providers shall only be required to issue this notice the first time an enrollee does not receive a non-pharmacy service from the provider because he/she has exceeded the applicable benefit limit. Such notice shall not be subject to the requirements of rule 1200-13-13-.11(1)(c)1. Providers will not be required to issue any notice when an enrollee is approaching or reaches a non-pharmacy benefit limit.

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 09/17/2009 (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: 07/17/09

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

Date: 9/17/09

Signature: [Signature]

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

Title of Officer: Commissioner

Subscribed and sworn to before me on: 9-17-09

Notary Public Signature: [Signature]

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.

[Signature]
Robert E. Cooper, Jr.
Attorney General and Reporter
9-27-09
Date

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Effective on: 10/29/09

[Signature]
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 1200-13-13-.04(1)(b)12., .04(3) Covered Services; 1200-13-13-.11(1)(a)6. Appeal of Adverse Actions Affecting TennCare Services or Benefits – TennCare Medicaid.

Statement of Economic Impact to Small Businesses

1. Name of Bureau: Bureau of TennCare

2. Rulemaking Hearing Date: September 8, 2009

3. Types of small Businesses that will be directly affected by, bear cost of, and/or directly benefit from the proposed rules:

Inpatient and Outpatient Substance Abuse providers which have the potential to receive additional revenue.

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: None

6. A comparison of the proposed rule with federal or state counterparts:

These rules are being promulgated to bring the Bureau of TennCare rules into compliance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 which seeks to end health insurance benefits inequity between mental health/substance use disorders and medical/surgical benefits for group health plans with more than 50 employees.

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 bring the Bureau of TennCare rules into compliance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 which seeks to end health insurance benefit inequity between mental health/substance use disorders and medical/surgical benefits for group health plans with more than 50 employees.

- (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 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 entities most directly affected by these rules are the recipients, the 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 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 anticipated to have minimal fiscal impact 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;

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- (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

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

None.

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