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Sequence Number: 09-41-13
Rule ID(s): 5577
File Date: 9/26/13
Effective Date: 12/25/13

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 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):

_X_ Amendments
___ New
___ Repeal

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/Rule Title per row)

Chapter Number	**Chapter Title**
1200-13-01	TennCare Long-Term Care Programs
Rule Number	**Rule Title**
1200-13-01-.01	Purpose
1200-13-01-.02	Definitions
1200-13-01-.05	TennCare CHOICES Program

(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)

Subparagraph (a) of Paragraph (3) of Rule 1200-13-01-.01 Purpose is amended by deleting the phrase "or persons approved for Immediate Eligibility pursuant to these rules" after the phrase "PACE Program" so as amended Subparagraph (a) shall read as follows:

(a) Individuals receiving TennCare-reimbursed LTSS, other than those enrolled in the PACE Program, are also enrolled in a TennCare MCO for primary care, behavioral health services, and acute care services.

Subparagraph (b) of Paragraph (3) of Rule 1200-13-01-.01 Purpose is amended by deleting the phrase "or persons approved for Immediate Eligibility pursuant to these rules" after the phrase "PACE Program" so as amended Subparagraph (b) shall read as follows:

(b) In addition to enrollment in an MCO, the following LTSS Enrollees, other than those enrolled in the PACE Program, are enrolled with the TennCare Pharmacy Benefits Manager for coverage of prescription drugs:

1. Children under the age of twenty-one (21); and

2. Adults aged twenty-one (21) and older who are not Medicare beneficiaries.

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

Rule 1200-13-01-.02 Definitions is amended by deleting the following definitions and alphabetically ordering all the definitions and numbering them appropriately.

( ) Immediate Eligibility.

( ) Specified CHOICES HCBS.

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

Subparagraph (g) Immediate Eligibility of Paragraph (3) of Rule 1200-13-01-.05 TennCare CHOICES Program is deleted in its entirety.

Part 3. of Subparagraph (b) of Paragraph (4) of Rule 1200-13-01-.05 TennCare CHOICES Program is amended by deleting the phrase "or be approved by the Bureau for Immediate Eligibility for CHOICES Group 2, subject to determination of categorical and financial eligibility by DHS" at the end of the part so as amended Part 3. shall read as follows:

3. An Applicant must be approved by DHS for TennCare reimbursement of LTSS as an SSI recipient, in the CHOICES 217-Like Group, or in the CHOICES 1 and 2 Carryover Group. To be eligible in the CHOICES 217-Like Group, an Applicant must be approved by TennCare to enroll in CHOICES Group 2;

The fourth column (Benefits for Immediate Eligibles ("Specified HCBS")) of the "CHOICES HCBS covered under TennCare CHOICES" tables of Subparagraph (l) of Paragraph (8) of Rule 1200-13-01-.05 TennCare CHOICES Program is deleted in its entirety so as amended Subparagraph (l) shall read as follows:

(l) CHOICES HCBS covered under TennCare CHOICES and applicable limits are specified below. The benefit limits are applied across all services received by the Member regardless of whether the services are received through CD and/or a traditional provider agency. Corresponding limitations regarding the scope of each service are defined in Rule 1200-13-01-.02 and in Subparagraphs (a) through (k) above.

Service	Benefits for CHOICES 2 Members	Benefits for Consumer Direction ("Eligible HCBS")
1. Adult Day Care	Covered with a limit of 2080 hours per calendar year, per CHOICES Member.	No
2. Assistive Technology	Covered with a limit of $900 per calendar year, per Member.	No
3. Attendant Care	Covered only for persons who require hands-on assistance with ADLs when needed for more than 4 hours per occasion or visits at intervals of less than 4 hours between visits. For Members who do not require Homemaker Services as defined in Rule 1200-13-01-.02 in addition to hands on assistance with ADLs, covered with a limit of 1080 hours per calendar year, per Member. For Members who require Homemaker Services as defined in Rule 1200-13-01-.02 in addition to hands on assistance with ADLs, covered with a limit of 1240 hours for calendar year 2012, per Member. For Members who require Homemaker Services as defined in Rule 1200-13-01-.02 in addition to hands on assistance with ADLs, beginning January 1, 2013, covered with a limit of 1400 hours per calendar year, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving any of the following HCBS: Adult Day Care, CBRA services (including Companion Care), or Short-Term NF Care.	Yes
4. CBRA	Companion Care. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving any of the following HCBS: Adult Day Care, CBRA facility services, or Short-Term NF Care.	Yes
	CBRA facility services (e.g., ACLFs, Adult Care Homes).	No
5. Home-Delivered Meals	Covered with a limit of 1 meal per day, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	No

Service	Benefits for CHOICES 2 Members	Benefits for Consumer Direction ("Eligible HCBS")
6. Homemaker Services	*Covered only for Members who also need hands-on assistance with ADLs and as a component of Attendant Care or Personal Care Visits as defined in these rules. Not covered as a stand-alone benefit. Not covered for persons who do not require hands-on assistance with ADLs. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	*
7. In-Home Respite Care	Covered with a limit of 216 hours per calendar year, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	Yes
8. Inpatient Respite Care	Covered with a limit of 9 days per calendar year, per Member. PASRR approval not required. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	No
9. Minor Home Modifications	Covered with a limit of $6,000 per project, $10,000 per calendar year, and $20,000 per lifetime. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting. Not covered when the Member is receiving Short-Term NF Care, except when provided to facilitate transition from a NF to the community. See Rule 1200-13-01-.05(8)(h).	No

Service	Benefits for CHOICES 2 Members	Benefits for Consumer Direction ("Eligible HCBS")
10. Personal Care Visits	Covered with a limit of 2 intermittent visits per day, per Member; visits limited to a maximum of 4 hours per visit and there shall be at least four (4) hours between intermittent visits. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving any of the following HCBS: Adult Day Care, CBRA services (including Companion Care), or Short-Term NF Care.	Yes
11. PERS	Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	No
12. Pest Control	Covered with a limit of 9 treatment visits per calendar year, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving Short-Term NF Care.	No
13. Short-Term NF Care	Covered with a limit of 90 days per stay, per Member. Approved PASRR required. Members receiving Short-Term NF Care are not eligible to receive any other HBCS except when permitted to facilitate transition to the community. See Rule 1200-13-01-.05(8)(h).	No

Service	Benefits for CHOICES 3 Members	Benefits for Consumer Direction ("Eligible HCBS")
1. Adult Day Care	Covered with a limit of 2080 hours per calendar year, per CHOICES Member.	No
2. Assistive Technology	Covered with a limit of $900 per calendar year, per Member.	No

Service	Benefits for CHOICES 3 Members	Benefits for Consumer Direction ("Eligible HCBS")
3. Attendant Care	Covered only for persons who require hands-on assistance with ADLs when needed for more than 4 hours per occasion or visits at intervals of less than 4 hours between visits. For Members who do not require Homemaker Services as defined in Rule 1200-13-01-.02 in addition to hands on assistance with ADLs, covered with a limit of 1080 hours per calendar year, per Member. For Members who require Homemaker Services as defined in Rule 1200-13-01-.02 in addition to hands on assistance with ADLs, covered with a limit of 1240 hours for calendar year 2012, per Member. For Members who require Homemaker Services as defined in Rule 1200-13-01-.02 in addition to hands on assistance with ADLs, beginning January 1, 2013, covered with a limit of 1400 hours per calendar year, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving any of the following HCBS: Adult Day Care, CBRA services (including Companion Care), or Short-Term NF Care.	Yes
4. Home-Delivered Meals	Covered with a limit of 1 meal per day, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	No
5. Homemaker Services	*Covered only for Members who also need hands-on assistance with ADLs and as a component of Attendant Care or Personal Care Visits as defined in these rules. Not covered as a stand-alone benefit. Not covered for persons who do not require hands-on assistance with ADLs. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	*

Service	Benefits for CHOICES 3 Members	Benefits for Consumer Direction ("Eligible HCBS")
6. In-Home Respite Care	Covered with a limit of 216 hours per calendar year, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	Yes
7. Inpatient Respite Care	Covered with a limit of 9 days per calendar year, per Member. PASRR approval not required. NF LOC not required. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	No
8. Minor Home Modifications	Covered with a limit of $6,000 per project, $10,000 per calendar year, and $20,000 per lifetime. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting. Not covered when the Member is receiving Short-Term NF Care, except when provided to facilitate transition from a NF to the community. See Rule 1200-13-01-.05(8)(h).	No
9. Personal Care Visits	Covered with a limit of 2 intermittent visits per day, per Member; visits limited to a maximum of 4 hours per visit and there shall be at least four (4) hours between intermittent visits. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving any of the following HCBS: Adult Day Care, CBRA services (including Companion Care), or Short-Term NF Care.	Yes
10. PERS	Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	No

Service	Benefits for CHOICES 3 Members	Benefits for Consumer Direction ("Eligible HCBS")
11. Pest Control	Covered with a limit of 9 treatment visits per calendar year, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving Short-Term NF Care.	No
12. Short-Term NF Care	Covered with a limit of 90 days per stay, per Member. Approved PASRR required. Member must meet NF LOC. Members receiving Short-Term NF Care are not eligible to receive any other HCBS except when permitted to facilitate transition to the community. See Rule 1200-13-01-.05(8)(h).	No

Subparagraph (m) of Paragraph (8) of Rule 1200-13-01-.05 TennCare CHOICES Program is deleted in its entirety and subsequent subparagraphs are re-lettered accordingly.

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

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 08/21/2013 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 06/19/13

Rulemaking Hearing(s) Conducted on: (add more dates). 08/08/13

Date: 8/21/2013

Signature:

Name of Officer: Darin J. Gordon

Title of Officer: Director, Bureau of TennCare
Tennessee Department of Finance and Administration

Subscribed and sworn to before me on: 8/21/2013

Notary Public Signature: Robin A. Page

My commission expires on: 9/23/2013

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
9-25-13
Date

Department of State Use Only

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

Effective on: 12/25/13

Tre Hargett
Secretary of State

2013 SEP 26 PM 2:08

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)

The rules are not anticipated to have an effect on small businesses.

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 rules are 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 rules are being promulgated to delete the term "Immediate Eligibility" as it relates to the CHOICES program which the Bureau of TennCare is not currently utilizing.

(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 adopted by the Bureau of TennCare in accordance with §§ 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 TennCare applicants, providers, and 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 Rules were 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;

Donna 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 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.

GW10213219

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Revision Type (check all that apply):

_X_ Amendments
____ New
____ Repeal

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/Rule Title per row)

Chapter Number	**Chapter Title**
1200-13-01	TennCare Long-Term Care Programs
Rule Number	**Rule Title**
1200-13-01-.01	Purpose
1200-13-01-.02	Definitions
1200-13-01-.05	TennCare CHOICES Program

(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)

Subparagraph (a) of Paragraph (3) of Rule 1200-13-01-.01 Purpose is amended by deleting the phrase "or persons approved for Immediate Eligibility pursuant to these rules" after the phrase "PACE Program" so as amended Subparagraph (a) shall read as follows:

(a) Individuals receiving TennCare-reimbursed LTSS, other than those enrolled in the PACE Program ~~or persons approved for immediate Eligibility pursuant to these rules~~, are also enrolled in a TennCare MCO for primary care, behavioral health services, and acute care services.

Subparagraph (b) of Paragraph (3) of Rule 1200-13-01-.01 Purpose is amended by deleting the phrase "or persons approved for Immediate Eligibility pursuant to these rules" after the phrase "PACE Program" so as amended Subparagraph (b) shall read as follows:

(b) In addition to enrollment in an MCO, the following LTSS Enrollees, other than those enrolled in the PACE Program ~~or persons approved for immediate Eligibility pursuant to these rules~~, are enrolled with the TennCare Pharmacy Benefits Manager for coverage of prescription drugs:

1. Children under the age of twenty-one (21); and

2. Adults aged twenty-one (21) and older who are not Medicare beneficiaries.

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

Rule 1200-13-01-.02 Definitions is amended by deleting the following definitions and alphabetically ordering all the definitions and numbering them appropriately.

~~(63) Immediate Eligibility.~~

~~(a) A mechanism by which the Bureau may elect, based on a preliminary determination of an individual's eligibility for the CHOICES 217-Like Group, to enroll the individual into CHOICES Group 2 and provide immediate access to a limited package of CHOICES HCBS pending a final determination of eligibility.~~

~~(b) To qualify an individual must:~~

~~1. Be applying to receive covered CHOICES HCBS;~~

~~2. Be determined by the Bureau to meet NF LOC;~~

~~3. Have submitted an application for financial eligibility determination to DHS;~~

~~4. Be expected to qualify in the CHOICES 217-Like Group based on review of the financial information provided by the applicant; and~~

~~5. Meet all other specified criteria for enrollment into CHOICES Group 2, subject to categorical and financial eligibility determination.~~

~~(c) Immediate Eligibility shall only be for Specified CHOICES HCBS (no other covered services) and for a maximum of forty five (45) days.~~

~~(d) Immediate Eligibility is not available for individuals who are already enrolled in TennCare or for persons who may qualify in the CHOICES At-Risk Demonstration Group.~~

~~(137) Specified CHOICES HCBS. The CHOICES HCBS that are available to persons who qualify for and are granted Immediate Eligibility by the Bureau. Specified CHOICES HCBS are limited to Adult Day Care, Attendant Care, Home-Delivered Meals, Personal Care Visits, and PERS.~~

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

Subparagraph (g) Immediate Eligibility of Paragraph (3) of Rule 1200-13-01-.05 TennCare CHOICES Program is deleted in its entirety.

~~(g) Immediate Eligibility. See definition in Rule 1200-13-01-.02.~~

~~1. The Bureau may elect, based on information provided in a TennCare application that has been submitted to DHS for determination, to grant a forty-five (45) day period of Immediate Eligibility for a person who meets the following criteria:~~

~~(i) Is deemed likely to qualify for TennCare in the CHOICES 217-Like eligibility category;~~

~~(ii) Has an approved CHOICES PAE; and~~

~~(iii) Meets all other specified criteria for enrollment into CHOICES Group 2, subject to categorical and financial eligibility determination.~~

~~2. Members admitted to CHOICES Group 2 under the Immediate Eligibility option are persons who are not already eligible for TennCare.~~

~~3. Immediate Eligibility is not a covered eligibility category in the Medicaid State Plan or the TennCare Section 1115 Waiver. There is no entitlement to apply or qualify for Immediate Eligibility. Should the Bureau not elect to provide a period of Immediate Eligibility, no notice shall be issued.~~

~~4. If eligibility in the CHOICES 217-Like Group is denied by DHS, the Applicant shall receive notice and the right to request a fair hearing regarding the DHS eligibility decision. Continuation of Specified CHOICES HCBS benefits or Immediate Eligibility shall not be granted during the fair hearing process once the forty-five (45) day Immediate Eligibility period has expired. A fair hearing shall not be granted regarding either of the following:~~

~~(i) A decision by the Bureau to not grant the optional forty-five (45) day period of Immediate Eligibility; or~~

~~(ii) The end of a forty-five (45) day period of Immediate Eligibility granted by the Bureau.~~

~~5. During a period of Immediate Eligibility, persons are eligible only for Specified CHOICES HCBS, as defined in Rule 1200-13-01-.02. They are not eligible for any other TennCare services, including other LTSS.~~

~~6. During a period of Immediate Eligibility, persons who are also Medicare beneficiaries are not entitled to Medicare crossover payments on their Medicare benefits. They cannot be considered "dual eligibles" since they are not yet Medicaid-eligible.~~

Part 3. of Subparagraph (b) of Paragraph (4) of Rule 1200-13-01-.05 TennCare CHOICES Program is amended by deleting the phrase "or be approved by the Bureau for Immediate Eligibility for CHOICES Group 2, subject to determination of categorical and financial eligibility by DHS" at the end of the part so as amended Part 3. shall read as follows:

3. An Applicant must be approved by DHS for TennCare reimbursement of LTSS as an SSI recipient, in the CHOICES 217-Like Group, or in the CHOICES 1 and 2 Carryover Group. To be eligible in the CHOICES 217-Like Group, an Applicant must be approved by TennCare to enroll in CHOICES Group 2 ~~or be approved by the Bureau for Immediate Eligibility for CHOICES Group 2, subject to determination of categorical and financial eligibility by DHS~~;

The fourth column (Benefits for Immediate Eligibles ("Specified HCBS")) of the "CHOICES HCBS covered under TennCare CHOICES" tables of Subparagraph (l) of Paragraph (8) of Rule 1200-13-01-.05 TennCare CHOICES Program is deleted in its entirety so as amended Subparagraph (l) shall read as follows:

(l) CHOICES HCBS covered under TennCare CHOICES and applicable limits are specified below. The benefit limits are applied across all services received by the Member regardless of whether the services are received through CD and/or a traditional provider agency. Corresponding limitations regarding the scope of each service are defined in Rule 1200-13-01-.02 and in Subparagraphs (a) through (k) above.

Service	Benefits for CHOICES 2 Members	Benefits for Consumer Direction ("Eligible HCBS")	~~Benefits for Immediate Eligibles~~ ~~("Specified HCBS")~~
1. Adult Day Care	Covered with a limit of 2080 hours per calendar year, per CHOICES Member.	No	~~Yes~~
2. Assistive Technology	Covered with a limit of $900 per calendar year, per Member.	No	~~No~~
3. Attendant Care	Covered only for persons who require hands-on assistance with ADLs when needed for more than 4 hours per occasion or visits at intervals of less than 4 hours between visits. For Members who do not require Homemaker Services as defined in Rule 1200-13-01-.02 in addition to hands on assistance with ADLs, covered with a limit of 1080 hours per calendar year, per Member. For Members who require Homemaker Services as defined in Rule 1200-13-01-.02 in addition to hands on assistance with ADLs, covered with a limit of 1240 hours for calendar year 2012, per Member. For Members who require Homemaker Services as defined in Rule 1200-13-01-.02 in addition to hands on assistance with ADLs, beginning January 1, 2013, covered with a limit of 1400 hours per calendar year, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving any of the following HCBS: Adult Day Care, CBRA services (including Companion Care), or Short-Term NF Care.	Yes	~~Yes~~
4. CBRA	Companion Care. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving any of the following HCBS: Adult Day Care, CBRA facility services, or Short-Term NF Care.	Yes	~~No~~
	CBRA facility services (e.g., ACLFs, Adult Care Homes).	No	~~No~~

Service	Benefits for CHOICES 2 Members	Benefits for Consumer Direction ("Eligible HCBS")	~~Benefits for Immediate Eligibles~~ ~~("Specified HCBS")~~
5. Home-Delivered Meals	Covered with a limit of 1 meal per day, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	No	~~Yes~~
6. Homemaker Services	*Covered only for Members who also need hands-on assistance with ADLs and as a component of Attendant Care or Personal Care Visits as defined in these rules. Not covered as a stand-alone benefit. Not covered for persons who do not require hands-on assistance with ADLs. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	*	~~*~~
7. In-Home Respite Care	Covered with a limit of 216 hours per calendar year, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	Yes	~~No~~
8. Inpatient Respite Care	Covered with a limit of 9 days per calendar year, per Member. PASRR approval not required. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	No	~~No~~

Service	Benefits for CHOICES 2 Members	Benefits for Consumer Direction ("Eligible HCBS")	~~Benefits for Immediate Eligibles ("Specified HCBS")~~
9. Minor Home Modifications	Covered with a limit of $6,000 per project, $10,000 per calendar year, and $20,000 per lifetime. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting. Not covered when the Member is receiving Short-Term NF Care, except when provided to facilitate transition from a NF to the community. See Rule 1200-13-01-.05(8)(h).	No	~~No~~
10. Personal Care Visits	Covered with a limit of 2 intermittent visits per day, per Member; visits limited to a maximum of 4 hours per visit and there shall be at least four (4) hours between intermittent visits. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving any of the following HCBS: Adult Day Care, CBRA services (including Companion Care), or Short-Term NF Care.	Yes	~~Yes~~
11. PERS	Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	No	~~Yes~~
12. Pest Control	Covered with a limit of 9 treatment visits per calendar year, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving Short-Term NF Care.	No	~~No~~
13. Short-Term NF Care	Covered with a limit of 90 days per stay, per Member. Approved PASRR required. Members receiving Short-Term NF Care are not eligible to receive any other HBCS except when permitted to facilitate transition to the community. See Rule 1200-13-01-.05(8)(h).	No	~~No~~

Service	Benefits for CHOICES 3 Members	Benefits for Consumer Direction ("Eligible HCBS")	~~Benefits for Immediate Eligibles~~ ~~("Specified HCBS")~~
1. Adult Day Care	Covered with a limit of 2080 hours per calendar year, per CHOICES Member.	No	~~N/A~~
2. Assistive Technology	Covered with a limit of $900 per calendar year, per Member.	No	~~N/A~~
3. Attendant Care	Covered only for persons who require hands-on assistance with ADLs when needed for more than 4 hours per occasion or visits at intervals of less than 4 hours between visits. For Members who do not require Homemaker Services as defined in Rule 1200-13-01-.02 in addition to hands on assistance with ADLs, covered with a limit of 1080 hours per calendar year, per Member. For Members who require Homemaker Services as defined in Rule 1200-13-01-.02 in addition to hands on assistance with ADLs, covered with a limit of 1240 hours for calendar year 2012, per Member. For Members who require Homemaker Services as defined in Rule 1200-13-01-.02 in addition to hands on assistance with ADLs, beginning January 1, 2013, covered with a limit of 1400 hours per calendar year, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving any of the following HCBS: Adult Day Care, CBRA services (including Companion Care), or Short-Term NF Care.	Yes	~~N/A~~
4. Home-Delivered Meals	Covered with a limit of 1 meal per day, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	No	~~N/A~~

Service	Benefits for CHOICES 3 Members	Benefits for Consumer Direction ("Eligible HCBS")	~~Benefits for Immediate Eligibles~~ ~~("Specified HCBS")~~
5. Homemaker Services	*Covered only for Members who also need hands-on assistance with ADLs and as a component of Attendant Care or Personal Care Visits as defined in these rules. Not covered as a stand-alone benefit. Not covered for persons who do not require hands-on assistance with ADLs. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	*	~~*~~
6. In-Home Respite Care	Covered with a limit of 216 hours per calendar year, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	Yes	~~N/A~~
7. Inpatient Respite Care	Covered with a limit of 9 days per calendar year, per Member. PASRR approval not required. NF LOC not required. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	No	~~N/A~~
8. Minor Home Modifications	Covered with a limit of $6,000 per project, $10,000 per calendar year, and $20,000 per lifetime. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting. Not covered when the Member is receiving Short-Term NF Care, except when provided to facilitate transition from a NF to the community. See Rule 1200-13-01-.05(8)(h).	No	~~N/A~~

Service	Benefits for CHOICES 3 Members	Benefits for Consumer Direction ("Eligible HCBS")	~~Benefits for Immediate Eligibles~~ ~~("Specified HCBS")~~
9. Personal Care Visits	Covered with a limit of 2 intermittent visits per day, per Member; visits limited to a maximum of 4 hours per visit and there shall be at least four (4) hours between intermittent visits. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving any of the following HCBS: Adult Day Care, CBRA services (including Companion Care), or Short-Term NF Care.	Yes	~~N/A~~
10. PERS	Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving CBRA services (including Companion Care) or Short-Term NF Care.	No	~~N/A~~
11. Pest Control	Covered with a limit of 9 treatment visits per calendar year, per Member. Not covered (regardless of payer), when the Member is living in an ACLF, Adult Care Home, Residential Home for the Aged or other group residential setting, or receiving Short-Term NF Care.	No	~~N/A~~
12. Short-Term NF Care	Covered with a limit of 90 days per stay, per Member. Approved PASRR required. Member must meet NF LOC. Members receiving Short-Term NF Care are not eligible to receive any other HCBS except when permitted to facilitate transition to the community. See Rule 1200-13-01-.05(8)(h).	No	~~N/A~~

Subparagraph (m) of Paragraph (8) of Rule 1200-13-01-.05 TennCare CHOICES Program is deleted in its entirety and subsequent subparagraphs are re-lettered accordingly.

~~(m) Applicants who qualify as "Immediate Eligibles" are eligible only for Specified CHOICES HCBS, as defined in these rules. Immediate Eligibles are not eligible for any other TennCare benefits, including other CHOICES benefits. The benefit limits are the same as those specified in Subparagraph (l) above. When the limit is an annual limit, the services used in the Immediate Eligibility period count against the annual limit if the Applicant should become eligible for TennCare. These Specified CHOICES HCBS, are listed below.~~

~~1. Personal Care Visits.~~

~~2. Attendant Care.~~

~~3. Home-Delivered Meals.~~

~~4. PERS.~~

~~5. Adult Day Care.~~

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

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 ______________ (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *06/19/13*

Rulemaking Hearing(s) Conducted on: (add more dates). *08/08/13*

Date: ______________________

Signature: ______________________

Name of Officer: Darin J. Gordon

Title of Officer: Director, Bureau of TennCare
Tennessee Department of Finance and Administration

Subscribed and sworn to before me on: ______________________

Notary Public Signature: ______________________

My commission expires on: ______________________

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

____
Date

Department of State Use Only

Filed with the Department of State on: ______________________

Effective on: ______________________

____
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)

The rules are not anticipated to have an effect on small businesses.

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 rules are 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 rules are being promulgated to delete the term "Immediate Eligibility" as it relates to the CHOICES program which the Bureau of TennCare is not currently utilizing.

(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 adopted by the Bureau of TennCare in accordance with §§ 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 TennCare applicants, providers, and 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 Rules were 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;

Donna 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 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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