

**Department of State  
Division of Publications**

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**For Department of State Use Only**

Sequence Number: 12-17-13  
Rule ID(s): 5634  
File Date: 12/17/13  
Effective Date: 3/17/14

## 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*

<b>Agency/Board/Commission:</b>	Tennessee Department of Finance and Administration
<b>Division:</b>	Bureau of TennCare
<b>Contact Person:</b>	George Woods
<b>Address:</b>	310 Great Circle Road
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 507-6446
<b>Email:</b>	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 to accommodate multiple chapters. Please enter only **ONE** Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
1200-13-14	TennCare Standard
Rule Number	Rule Title
1200-13-14-.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>)

Subparagraphs (c) and (d) of Paragraph (2) of Rule 1200-13-14-.05 Enrollee Cost Sharing are deleted in their entirety and replaced with new Subparagraphs (c) and (d) which shall read as follows:

- (c) Pharmacy copays. The following TennCare Standard enrollees have pharmacy copays of \$3.00 per covered brand name prescription and \$1.50 per covered generic prescription:
1. TennCare Standard children with family incomes that are 100% of poverty or greater.
  2. Enrollees in the Standard Spend Down program.
  3. Enrollees in the CHOICES At-Risk Demonstration Group.
- (d) Copays for other TennCare services. The following copays are applicable to TennCare Standard children.

Benefit	Copay if income is 0%-99% of poverty	Copay if income is 100%-199% of poverty	Copay if income is 200% of poverty or greater
Hospital emergency room use for non-emergency services (waived if admitted)	\$0	\$10	\$50
Primary care provider services other than preventive care	\$0	\$5	\$15
Community Mental Health Agency services other than preventive care	\$0	\$5	\$15
Physician specialists and dentists	\$0	\$5	\$20
Prescription or refill	\$0	\$3 for covered branded prescriptions and \$1.50 for covered generic prescriptions	\$3 for covered branded prescriptions and \$1.50 for covered generic prescriptions
Inpatient hospital admission	\$0	\$5	\$100

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 12/04/2013 (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: 09/11/13

Rulemaking Hearing(s) Conducted on: (add more dates). 11/25/13



Date: 12/4/2013

Signature: [Handwritten 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: 12-4-13

Notary Public Signature: Cheryl D. Kline

My commission expires on: AUG 23 2016

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.

[Handwritten Signature]

Robert E. Cooper, Jr.

Attorney General and Reporter

12-16-13

Date

#### Department of State Use Only

Filed with the Department of State on: 12/17/13

Effective on: 3/17/14

[Handwritten Signature]

Tre Hargett  
Secretary of State

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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.

Copy of response to comment included with filing.

### **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 replace emergency rules that implemented a \$1.50 copay for generic prescription drugs obtained by TennCare enrollees who 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 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 and entities most directly affected by these rules are TennCare enrollees, providers and the managed care contractors. The governmental entity most directly affected by these rules 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 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 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

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(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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GW10213310



**1200-13-14-.05 ENROLLEE COST SHARING.**

(2) Copays.

(c) ~~Pharmacy copays.~~

~~1. There is no pharmacy copay for covered generic prescription drugs.~~

~~2. The following TennCare Standard enrollees have a pharmacy copay of \$3.00 per covered brand name prescription:~~

~~(i) TennCare Standard children with family incomes that are 100% of poverty or greater.~~

~~(ii) Enrollees in the Standard Spend Down program.~~

~~(iii) Enrollees in the CHOICES At-Risk Demonstration Group.~~

(c) Pharmacy copays. The following TennCare Standard enrollees have pharmacy copays of \$3.00 per covered brand name prescription and \$1.50 per covered generic prescription:

1. TennCare Standard children with family incomes that are 100% of poverty or greater.

2. Enrollees in the Standard Spend Down program.

3. Enrollees in the CHOICES At-Risk Demonstration Group.

(d) Copays for other TennCare services. The following copays are applicable to TennCare Standard children.

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Inpatient hospital admission	\$0	\$5	\$100