



**State of Tennessee**  
**PUBLIC CHAPTER NO. 971**

**SENATE BILL NO. 2929**

**By Overbey**

Substituted for: House Bill No. 2969

By Harrison, Powers

AN ACT to amend Tennessee Code Annotated, Title 71, relative to TennCare.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 71-5-1402(g), is amended by adding the following language:

The Bureau of TennCare shall report to the general assembly and shall make available to interested persons a separate accounting of long-term care expenditures for nursing facility services and home and community-based services made under the CHOICES long-term health care program including prior fiscal year actual expenditures and projected current fiscal year expenditures no later than February 1 of each year. Projected upcoming fiscal year expenditures and the percentage of nursing facility services and home and community-based services relative to total expenditures for CHOICES long-term health care program shall be provided by June 30 of each year.

SECTION 2. Tennessee Code Annotated, Section 71-5-1407, is amended by deleting subsection (a) in its entirety and by substituting the following:

(a) The commissioner shall develop level of care criteria for new nursing facility admissions that ensure that the most intensive level of long-term care services is provided to persons with the highest level of need. The Bureau of TennCare shall define the state's medical eligibility criteria for all long-term care services, including nursing facility and home and community-based waiver services and adopt such standards by rule pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5. In circumstances under which such standards are initially adopted as emergency rules, the Bureau of TennCare shall make the proposed emergency rules available through public notice or a posting on the TennCare Web site, and shall provide for a public hearing prior to the emergency rule's adoption and implementation. Any changes made to the emergency rules after the public hearing shall be posted on the TennCare Web site. The Bureau of TennCare shall develop the pre-admission evaluation (PAE) assessment tool, and shall make the determination of medical eligibility for long-term care services.

SECTION 3. Tennessee Code Annotated, Section 71-5-1412, is amended by deleting the current section in its entirety and inserting the following:

71-5-1412. Any managed care organization (MCO) shall contract with any nursing facility licensed under Tennessee Code Annotated, Title 68, Chapter 11, Part 2 and certified by the Centers for Medicare and Medicaid Services, that provides Medicaid nursing facility services pursuant to an approved pre-admission evaluation (PAE) or that provides Medicare skilled nursing facility services and is willing to contract with the MCO to provide that service under the same terms and conditions as are offered to any other participating facility contracted with an MCO to provide that service under any policy, contract or plan that is part of the TennCare managed long-term care service delivery system. Terms and conditions shall not include the rate of reimbursement. The provisions of this section shall expire on June 30, 2015. Nothing in this section shall be interpreted as preventing TennCare or an MCO from enforcing the provisions of a contract between an MCO and a nursing facility.

SECTION 4. Tennessee Code Annotated, Section 71-5-1413, is amended by adding the following as new subsections:

(d) The comptroller of the treasury shall set the Medicaid rates for nursing facility services under the existing cost-based nursing facility reimbursement system and any acuity-based reimbursement system developed pursuant to this section and adopted by the Bureau of TennCare in a rulemaking hearing in which interested persons may provide testimony under the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5. To the extent possible, any acuity-based reimbursement system shall be implemented in conjunction with the implementation of § 71-5-1407. Nothing in this section shall prevent TennCare from implementing rate adjustments as required pursuant to an act (including an annual appropriation act) of the general assembly that requires such adjustment. Nor shall TennCare be required to promulgate a rule to implement rate adjustments that are required pursuant to an act of the general assembly, unless such implementation requires a change in the underlying rate methodology.

(e) Under any TennCare dual-eligible demonstration project, skilled nursing facilities shall be reimbursed for Medicare skilled nursing facility services in an amount that is consistent with the net payment they would have received for the service absent such demonstration in a Medicare fee-for-service system, taking together the primary payment by Medicare and the secondary payment of cost sharing by Medicaid, in accordance with the institutional crossover payment methodology set forth in the Medicaid State Plan. Nursing facilities participating in any TennCare dual-eligible demonstration project shall be reimbursed for Medicaid nursing facility services in a manner that is consistent with the methodology for Medicaid nursing facility services delivered outside the demonstration. Nothing in this section shall prevent a skilled nursing facility or nursing facility from agreeing, at its own discretion, to contract with an MCO under any alternative payment methodology including, but not limited to, shared risk or savings arrangements or quality incentive payments that may be offered under such dual demonstration in order to promote evidence-based best practices and to engage the facility in key quality improvements, such as reduced avoidable hospital admissions and reduced hospital readmissions.

SECTION 5. Tennessee Code Annotated, Section 71-5-1421, is amended by deleting the current section in its entirety and inserting the following:

71-5-1421. Any managed care organization shall comply with the provisions of § 56-32-126 and any prompt pay provisions within the MCO contractor risk agreements with TennCare. In addition, the MCO shall ensure that ninety percent (90%) of clean claims for nursing facility services shall be processed and paid within fourteen (14) calendar days and ninety-nine and one-half percent (99.5%) paid within twenty-one (21) days.

SECTION 6. Section 2 of this act shall take effect upon becoming a law, the public welfare requiring it. All other sections shall take effect July 1, 2012, the public welfare requiring it.

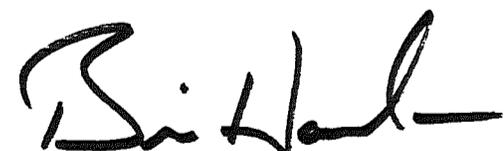
SENATE BILL NO. 2929

PASSED: April 27, 2012

  
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RON RAMSEY  
SPEAKER OF THE SENATE

  
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BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 10<sup>th</sup> day of May 2012

  
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BILL HASLAM, GOVERNOR