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For Department of State Use Only

Sequence Number: 08-13-13
Rule ID(s): 5517
File Date: 8/15/13
Effective Date: 11/13/13

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
Contact Person:	George Woods
Address:	310 Great Circle Road
Zip:	37243
Phone:	(615) 507-6446
Email:	george.woods@tn.gov

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**
1200-13-17	TennCare Crossover Payments for Medicare Deductibles and Coinsurance
Rule Number	**Rule Title**
1200-13-17-.01	Definitions
1200-13-17-.04	Medicare Crossover Payment Methodology

(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)

Rule 1200-13-17-.01 Definitions is amended by deleting and replacing the following terms and definitions with the following language, alphabetically ordering all the definitions and numbering them appropriately.

ENHANCED PAYMENT RATE shall mean the payment rate referred to in 42 U.S.C. § 1396a(a)(13)(C). Enhanced payment rates are made only to primary care providers and to providers of vaccine administration services, as defined in these rules. These rates are applicable only for dates of service between January 1, 2013, and December 31, 2014.

PRIMARY CARE PROVIDERS shall mean, for purposes of the enhanced payment rate, as defined in these rules, primary care providers practicing in family medicine, general internal medicine, pediatric medicine, and related subspecialists who meet requirements as described in 42 C.F.R. § 447.400(a). In accordance with policies set forth by the Bureau of TennCare, these providers must adequately demonstrate to an MCO or the Bureau of TennCare that they meet the minimum board certification requirements and/or that 60 percent of the services they provide represent the eligible codes identified in these rules as primary care or vaccine administration services.

PRIMARY CARE SERVICES are services for which enhanced payment rates, as defined in these rules, will be paid for dates of service between January 1, 2013, and December 31, 2014. The procedure codes for these services, as published in the American Medical Association's Current Procedural Terminology (2013 edition), are Evaluation and Management Codes 99201 through 99499, or their successor codes.

TENNCARE MAXIMUM FEE shall mean the maximum amount considered by TennCare for reimbursement of a particular Medicare-covered service. The TennCare maximum fee is 85% of the Cigna Medicare fee schedule amount for participating providers that was in effect on January 1, 2008. For Medicare-covered services that were introduced after January 1, 2008, and that therefore had no Medicare fee schedule amount in effect on that date, the TennCare maximum fee is 85% of the Medicare fee schedule amount for the participating providers that was in effect on the date the service was introduced.

TENNCARE PRIMARY CARE ALLOWABLE shall mean 100% of the designated Medicare Cost-Sharing amounts for primary care services provided by primary care providers as defined in these rules during Calendar Years (CY) 2013 and 2014.

TENNCARE VACCINATION ADMINISTRATION ALLOWABLE shall mean 100% of the designated Medicare Cost-Sharing amounts for vaccine administration services provided by primary care providers as defined in these rules during Calendar Years (CY) 2013 and 2014.

VACCINE ADMINISTRATION SERVICES are services for which enhanced payment rates, as defined in these rules, will be paid for dates of service between January 1, 2013, and December 31, 2014. The procedure codes for these services, as published in the American Medical Association's Current Procedural Terminology (2013 edition), are Vaccine Administration Codes 90460, 90461, 90471, 90472, 90473, and 90474 or their successor codes.

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

Rule 1200-13-17-.04 Medicare Crossover Payment Methodology is amended by deleting the rule in its entirety and replacing it with the following:

(1) On crossover claims for professional services and procedures with dates of service on or after July 1, 2008, TennCare will pay the lesser of (a) billed charges or (b) the TennCare allowable, as defined in these rules, less the Medicare paid amount, less any third party liability.

(2) On crossover claims for Medicare Part B pharmacy services provided by pharmacy providers, as defined in these rules, to non-FBDEs with dates of service on or after July 1, 2009, TennCare will pay the lesser of (a) billed charges or (b) the TennCare allowable, as defined in these rules, less the Medicare paid amount, less any third party liability.

(3) On crossover claims for Medicare Part B pharmacy services provided by pharmacy providers, as defined in these rules, to FBDEs with dates of service on or after July 1, 2009, TennCare will pay the lesser of (a) billed charges or (b) the TennCare pharmacy allowable, as defined in these rules, less the Medicare paid amount, less any third party liability.

(4) On crossover claims for primary care services, as defined in these rules, TennCare will pay an enhanced payment rate for dates of service between January 1, 2013, and December 31, 2014. The enhanced payment rate will be the lesser of (a) billed charges or (b) the TennCare primary care allowable, as defined in these rules, less the Medicare paid amount, less any third party liability.

(5) On crossover claims for vaccine administration services, as defined in these rules, TennCare will pay an enhanced payment rate for services between January 1, 2013, and December 31, 2014. The enhanced payment rate will be the lesser of (a) billed charges or (b) the TennCare vaccination administration allowable, as defined in these rules, less the Medicare paid amount, less any third party liability.

(6) In no circumstance will the TennCare payment exceed the enrollee's liability on the Medicare crossover claim.

(7) Medicare crossover payments are normally made by the Bureau of TennCare separately from the Managed Care Contractors. Rules 1200-13-13-.08(12)(b) and 1200-13-14-.08(12)(b) set forth the guidelines for timely filing Medicare crossover claims. However, if an MCC should choose to authorize a non-covered TennCare service as a cost-effective alternative service for a non-QMB FBDE who is age 21 or older and not an SSI recipient, the MCC will be responsible for the Medicare crossover payment on that service. The calculation of this payment should be included by the MCC in its analysis of whether or not the non-covered TennCare service is a cost-effective alternative service.

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: *04/30/13*

Rulemaking Hearing(s) Conducted on: (add more dates). *06/19/13*

Date: 7/16/2013

Signature: [signature]

Name of Officer: Darin J. Gordon

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

CHERYL D. KLINE
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY

Subscribed and sworn to before me on: 7/16/13

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.

Robert E. Cooper, Jr.
Robert E. Cooper, Jr.
Attorney General and Reporter

8-13-13
Date

Department of State Use Only

Filed with the Department of State on: 8/15/13

Effective on: 11/13/13

Tre Hargett
Tre Hargett
Secretary of State

RECEIVED
2013 AUG 15 AM 9:55
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 replace Emergency Rules that were promulgated to assure that the TennCare Crossover Payments for Medicare Deductibles and Coinsurance rules conformed to the requirements of Section 1202 of the Affordable Care Act as it relates to payment of crossover claims.

(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 the TennCare enrollees and the providers. 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 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.

GW10113193

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Revision Type (check all that apply):
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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**
1200-13-17	TennCare Crossover Payments for Medicare Deductibles and Coinsurance
Rule Number	**Rule Title**
1200-13-17-.01	Definitions
1200-13-17-.04	Medicare Crossover Payment Methodology

(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)

Rule 1200-13-17-.01 Definitions is amended by deleting and replacing the following terms and definitions with the following language, alphabetically ordering all the definitions and numbering them appropriately.

ENHANCED PAYMENT RATE shall mean the payment rate referred to in 42 U.S.C. § 1396a(a)(13)(C). Enhanced payment rates are made only to primary care providers and to providers of vaccine administration services, as defined in these rules. These rates are applicable only for dates of service between January 1, 2013, and December 31, 2014.

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

Rule 1200-13-17-.04 Medicare Crossover Payment Methodology is amended by deleting the rule in its entirety and replacing it with the following:

(1) On crossover claims for professional services and procedures with dates of service on or after July 1, 2008, TennCare will pay the lesser of (a) billed charges or (b) the TennCare allowable, as defined in these rules, less the Medicare paid amount, less any third party liability.

(2) On crossover claims for Medicare Part B pharmacy services provided by pharmacy providers, as defined in these rules, to non-FBDEs with dates of service on or after July 1, 2009, TennCare will pay the lesser of (a) billed charges or (b) the TennCare allowable, as defined in these rules, less the Medicare paid amount, less any third party liability.

(3) On crossover claims for Medicare Part B pharmacy services provided by pharmacy providers, as defined in these rules, to FBDEs with dates of service on or after July 1, 2009, TennCare will pay the lesser of (a) billed charges or (b) the TennCare pharmacy allowable, as defined in these rules, less the Medicare paid amount, less any third party liability.

(4) On crossover claims for primary care services, as defined in these rules, TennCare will pay an enhanced payment rate for dates of service between January 1, 2013, and December 31, 2014. The enhanced payment rate will be the lesser of (a) billed charges or (b) the TennCare primary care allowable, as defined in these rules, less the Medicare paid amount, less any third party liability.

(5) On crossover claims for vaccine administration services, as defined in these rules, TennCare will pay an enhanced payment rate for services between January 1, 2013, and December 31, 2014. The enhanced payment rate will be the lesser of (a) billed charges or (b) the TennCare vaccination administration allowable, as defined in these rules, less the Medicare paid amount, less any third party liability.

(6) In no circumstance will the TennCare payment exceed the enrollee's liability on the Medicare crossover claim.

(7) Medicare crossover payments are normally made by the Bureau of TennCare separately from the Managed Care Contractors. Rules 1200-13-13-.08(12)(b) and 1200-13-14-.08(12)(b) set forth the guidelines for timely filing Medicare crossover claims. However, if an MCC should choose to authorize a non-covered TennCare service as a cost-effective alternative service for a non-QMB FBDE who is age 21 or older and not an SSI recipient, the MCC will be responsible for the Medicare crossover payment on that service. The calculation of this payment should be included by the MCC in its analysis of whether or not the non-covered TennCare service is a cost-effective alternative service.

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: *04/30/13*

Rulemaking Hearing(s) Conducted on: (add more dates). *06/19/13*

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)

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Additional Information Required by Joint Government Operations Committee

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(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 were promulgated to assure that the TennCare Crossover Payments for Medicare Deductibles and Coinsurance rules conformed to the requirements of Section 1202 of the Affordable Care Act as it relates to payment of crossover claims.

(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 the TennCare enrollees and the providers. 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 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;

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

GW10113193R2