TennCare Quarterly Report

Submitted to the TennCare Oversight Committee and the Fiscal Review Committee

July 15, 2004

Status of TennCare Reforms and Improvements

Governor's Reform Efforts

Planning continued on implementation of the reform efforts announced by the Governor in February.

Two legislative acts were passed during the quarter to provide statutory authority for the reforms being sought. One (Public Chapter 673) dealt with programmatic details such as cost controls, care management, and the TennCare Advisory Commission. The second (Public Chapter 784) dealt with fraud and abuse. It created a Office of TennCare Inspector General, and it also added new penalties for fraud committed by both providers and enrollees. The program bill was passed by the General Assembly on May 6, 2004, and approved by the Governor on May 17, 2004. The fraud and abuse bill was passed by the General Assembly on May 13, 2004, and approved by the Governor on May 28, 2004.

Source of information for this section: Susie Baird, Director of Program Development, Bureau of TennCare.

Pharmacy Program Update

The pharmacy program remains on track to achieve the $150 million in projected savings for the state fiscal year ending June 30. Thus far supplemental rebates YTD (year-to-date) are around $60 million dollars and the Medicaid OBRA (Omnibus Budget Reconciliation Act) rebates are around $90 million. While we will achieve the goal of savings for the fiscal year, overall pharmacy utilization remains well above projections. Compliance with the PDL (preferred drug list) remains more than 90% for 23 of the 34 classes and above 80% for all except two classes of the remaining classes. However, generic utilization remains lower than desired at 56%.

Opportunities for continued improvement include the following:

- Continue efforts to increase the use of generics and encourage compliance with the PDL; future efforts should include further strengthening of the PDL to encourage appropriate use of lower-cost alternatives;

- New edits to enhance efforts to prevent fraud and abuse.
- Increased DUR (Drug Utilization Review) committee actions to address potential overutilization.
- Continue reform efforts to develop a new pharmacy benefit.

Source of information for this section: Dr. David Hollis, Chief Medical Officer, Bureau of TennCare.

Dental Program Recognition

On June 10, 2004, it was announced that the upcoming edition of the American Dental Association's (ADA) national publication, *ADA News*, would include a profile of the TennCare dental program, calling it "a model for other states to follow" in their Medicaid dental programs.

Dr. Jackson Brown, associate executive director for the ADA Health Policy Resources Center, called the TennCare dental program a "resounding success" that "has markedly improved access to dental care among the state's low-income children and dramatically increased participation by Tennessee dentists."

ADA President, Dr. Eugene Sekiguchi, stated in the article that "the TennCare model is an example of how to do things right."

The TennCare Bureau, on October 1, 2002, moved the administration of TennCare dental services from 10 managed care organizations to a single dental benefits manager (DBM), Doral Dental USA. As the DBM for TennCare, Doral is responsible for maintaining an adequate dental provider network, paying provider claims, and providing member and outreach services.

Source of information for this section: Marilyn Elam, Communications Manager, Bureau of TennCare.

Renewal Status

TennCare started the annual "renewal" process in January, with the following results:

- Initial notices sent, January through June 2004:
  92,071 individuals (72,761 cases)

- 30-day notices sent, February through June 2004:
  58,383 individuals (45,110 cases)

- 70-day notices sent, April through July 2, 2004:
  27,662 individuals (20,822 cases)

- Number termed as of July 2, 2004, for no response after 90 days:
  10,576 individuals (8,166 cases)

Sources of information for this section: Ken Barker, Director of Information Services, Bureau of TennCare; Tracy Purcell, Inter-Departmental Coordinator, Bureau of TennCare; Patti Killingsworth, Director of Policy/Advocacy Liaison, Bureau of TennCare.

Status of Filling Top Leadership Positions in the Bureau

There were no top leadership positions filled during this quarter, although several, including the Pharmacy Director, remain vacant.

Number of Recipients on TennCare and Costs to the State

As of the end of the quarter, there were 1,338,187 enrollees on TennCare: 1,075,872 Medicaid eligibles and 262,315 Uninsureds and Uninsurables.

During the fourth quarter of SFY 04, TennCare spent $1,187,442,728.44 (net projected drug rebates) for managed care services. These expenditures included: payments to the managed care organizations (MCOs), payments to the behavioral health organizations (BHOs), payments to the dental benefits manager, and payments to the pharmacy benefits manager (PBM).

Source of information for this section: Carolyn Johnson, Administrative Services Unit, Bureau of TennCare.

Viability of MCOs in the TennCare Program

Claims Payment Analysis

The prompt pay requirements of T.C.A. § 56-32-226(b) mandate that each health maintenance organization and behavioral health organization ensure that 90% of clean claims for payment for services delivered to a TennCare enrollee are paid within 30 days of the receipt of such claims and 99.5% of all provider claims are processed within 60 days of receipt.

TDCI (the Tennessee Department of Commerce and Insurance) requested data files of all TennCare processed medical claims from TennCare MCOs, BHOs and the Dental Benefit Manager (DBM) for the month of April 2004. TDCI also requested data files of pended TennCare claims as of April 30, 2004, and a paid claims triangle from April 1, 2003, through April 30, 2004. All TennCare MCOs, BHOs and the DBM were in compliance with prompt pay requirements for the month of April 2004.

The TennCare Division of TDCI also requested data related to claims processing from the TennCare pharmacy benefits manager (PBM). Per Section A.2.2.1.c. of the TennCare contract with First Health Services Corporation, First Health must pay 95% of all clean claims within 20 calendar days of receipt and the remaining 5% of clean claims within 10 calendar days. First Health Services was in compliance with the contractual requirements for the month of April 2004.

As part of TDCI's cycle of analyzing claims data for the first month in each quarter, the division will review claims data for all TennCare MCOs, BHOs, the DBM and the PBM for July 2004.

Net Worth Requirement

All health maintenance organizations (HMOs) and behavioral health organizations (BHOs) contracted with the State of Tennessee to provide benefits for TennCare and TennCare Partners' enrollees were required to file on June 1, 2004, National Association of Insurance Commissioners (NAIC) 2004 first quarter financial statements with the Tennessee Department of Commerce and Insurance, TennCare Division.

Listed below is each MCO's and BHO's net worth requirement compared to net worth reported at March 31, 2004, on the NAIC quarterly financial statement. TDCI has not adjusted the net worth reported on the NAIC statements. TDCI's calculations for the net worth requirement reflect payments made for the calendar year ending December 31, 2003, including payments made under the "stabilization plan."

	Net Worth Requirement	Reported Net Worth	Excess/ (Deficiency)
Better Health Plan (A)	2,956,800	4,014,454	1,057,654
John Deere	15,745,967	65,429,362	49,683,395
Memphis Managed Care	9,699,983	12,967,904	3,267,921
OmniCare Health Plan	7,087,846	9,828,209	2,740,363
Preferred Health Partnership	7,694,827	17,764,907	10,070,080
Victory Health Plan	2,068,212	4,485,942	2,417,730
Volunteer (BlueCare & Select)	22,214,872	32,907,847	10,692,975
Premier Behavioral Systems	7,960,810	10,310,799	2,349,989
Tennessee Behavioral Health	4,792,323	5,902,179	1,109,856

Note: BHP's net worth requirement is the "enhanced" net worth requirement determined during the RFR process. The net worth requirement has been increased above the statutory minimum based on projected premium revenue. BHP' s calculated statutory net worth requirement is $2,636,528. Because BHP's statutory net worth requirement is less than the enhanced net worth requirement, TDCI will enforce the requirement at the higher level.

Financial Issues

1. Xantus Healthplan of Tennessee, Inc. (Xantus)

Effective July 31, 2003, the TennCare Bureau terminated its contract with Xantus. On June 2, 2003, TDCI filed a petition to liquidate Xantus with the Davidson County Chancery Court. The court heard this petition on January 8, 2004. Chancellor Carol L. McCoy granted the order converting the rehabilitation to liquidation on January 21, 2004, and Chris Burton was appointed as the Special Deputy for the liquidation. Amendment 4

to the Contractor Risk Agreement provided for the TennCare Bureau to continue funding claims with dates of service after March 31, 1999, through July 31, 2003 (the "run-out claims") and the reasonable and necessary administrative costs for processing these claims after July 31, 2003. During the period August 1, 2003, through January 20, 2004, Xantus paid approximately $26.7 million for run-out claims.

Mr. Burton is currently in the process of securing the remaining assets of Xantus and developing procedures for the distribution of assets. The deadline for the submission of Proofs of Claim against Xantus was May 14, 2004.

2. Access MedPlus (TCCN)

Because TCCN was unable to cure statutory and contractual financial and claims processing deficiencies, the state terminated its contract on October 31, 2001.

On October 18, 2001, the Chancery Court of Davidson County issued an Order of Seizure of TCCN by TDCI to take possession and control of all of the property, books, documents, assets and the premises of TCCN. The Order also set a hearing on TDCI's request for liquidation or rehabilitation of TCCN to be held on November 2, 2001. On October 20, 2001, the TennCare Bureau moved TCCN's TennCare enrollees to the TennCare Select plan.

On November 2, 2001, the Chancery Court of Davidson County entered a Liquidation Order for TCCN. The order established that all claims must be received by March 1, 2002, at 4:30 p.m., CST. Courtney Pearre, Esq., appointed Supervisor since May 10, 2001, was named the Commissioner's Special Deputy for the purposes of liquidation.

Before liquidation, the management company, Medical Care Management Company ("MCMC"), a wholly-owned subsidiary of Access Health Systems ("Access"), transferred approximately $5.7 million from the assets of TCCN to the accounts of the MCMC. The Chancery Court issued an order granting injunctive relief restraining the management company from removing any of the $5.7 million. Access subsequently filed bankruptcy. Recently, the Bankruptcy Court entered an order that allows the Special Deputy Liquidator to proceed to recover the $5.7 million in Chancery Court. Such a petition was filed in Chancery Court. The Creditors Committee for the bankruptcy estate filed a motion to modify the Bankruptcy Court's order. The Special Deputy Liquidator filed papers in opposition to the Creditors Committee's motion.

Chancellor Lyle found for the liquidation that the $5.7 million had been wrongfully transferred from TCCN accounts and that such action created a constructive trust for the funds while in the hands of Access. Chancellor Lyle ordered the $5.7 million returned to TCCN accounts. Various creditors of Access and the bankruptcy estate are seeking an appeal of Chancellor Lyle's ruling in the Tennessee Court of Appeals. Briefs were submitted to the Court at the end of January 2004.

With the resolution of these issues, the Special Deputy Liquidator will petition for a distribution of the remaining assets of TCCN. As of June 21, 2004, disbursements of $39,568,193 have been made against a total debt of $76,095,315, or 52 cents of every dollar owed to providers.

3. Universal Care of Tennessee (Universal)

On September 13, 2002, Universal was placed under the Administrative Supervision of the Commissioner of Commerce and Insurance as a result of the company's financial and claims processing operations problems. On December 31, 2002, Universal was again placed under an Agreed Order of Supervision through June 30, 2003.

At March 31, 2003, Universal reported net worth of $6,451,709, a deficiency of $1,216,126 below the statutory net worth requirement. Universal's reported net worth included a $54,436,971 receivable from the TennCare Program, which the state disputes. As a result, this receivable was not included in the calculation of net worth. Universal's adjusted statutory net worth at March 31, 2003, was ($47,985,262), a statutory net worth deficiency of $55,653,097 below the net worth requirement.

On April 2, 2003, the TennCare Bureau notified Universal of its intent to terminate the contractor risk agreement effective June 1, 2003. Universal filed in the United States District Court for the Middle Tennessee District an application for a preliminary injunction to stop the cancellation of the contractor risk agreement. On May 30, 2003, Judge Nixon denied Universal's application for a preliminary injunction.

Also on May 30, 2003, Universal filed with the Tennessee Claims Commission a claim of $75,000,000 against M. D. Goetz as Commissioner of the Tennessee Department of Finance and Administration and Manny Martins, Deputy Commissioner of the Tennessee Department of Finance and Administration, Bureau of TennCare.

TDCI filed a petition to liquidate Universal with the Davidson County Chancery Court on June 5, 2003. Judge McCoy granted the petition and the signed order was received July 2, 2003. Between June 1, 2003, and the liquidation order date of July 2, 2003, Universal continued to process and pay claims for dates of service April 12, 2002, through May 31, 2003.

Mr. Paul Eggers was appointed the Special Deputy Liquidator. Mr. Eggers is currently in the process of securing the remaining assets of Universal and developing procedures for the distribution of assets. The deadline for the submission of Proofs of Claim against UCOT was June 15, 2004.

CMS approved a contract between TennCare and Universal Care of Tennessee in Liquidation for TennCare to pay the HMO in liquidation for processing Universal claims with dates of service on and after April 12, 2002. Universal Care of Tennessee in Liquidation has contracted with the company' s former vendor for use of the claims processing software. A separate vendor has been contracted to process claims received for both dates of service before and after April 12, 2002. As of May 13, 2004, approximately $5.4 million has been paid for claims with dates of service on and after April 12, 2002.

Source of information for this section: Paul Lamb, TennCare Examiner, TennCare Division, Tennessee Department of Commerce and Insurance.

Success of Fraud Detection and Prevention

1. Program Integrity continues to work cases referred by MCC's (managed care contractors), local law enforcement, TBI, FBI, state agencies and the general public via Web site, faxes, letters, and phone calls via the hotline.

   Results of Case Reviewer/Investigators are listed below:

Summary of Enrollee Cases

	Quarter	YTD
Cases closed	8,691	30,326
Recommended	3,240	10,446
terminations		
TPL added	322	779
Income adjusted	22	37

Summary Relating to Provider Cases

	Quarter	YTD
Cases closed	49	169
Cases referred to TBI*	3	7
Cases referred to HRBs*	0	2

***The Tennessee Bureau of Investigation (TBI) MFCU (Medicaid Fraud Control Unit) and the Health Related Boards (HRBs) take the lead in cases once they are referred to them. TennCare's Program Integrity Unit continues to assist as requested.*

One case was referred to Department of Health and Human Services after being returned from TBI MFCU.

2. Collections made from three sources—estate recovery, premiums not paid because of the enrollee's inaccurate reporting of income, and overpayments made for nursing facility residents because of under-reporting of income—are summarized below.

   Estate recovery legislation was passed and went into effect on August 29 ,2002 relating to decedents who are 55 years of age or older who have received Medicaid-reimbursed long term care. This program has been moved from the Long Term Care Unit to Program Integrity. Attorneys, executors, and/or responsible parties must now obtain a release from the state prior to the estate being probated. There are currently 1117 cases open with claims filed or pending.

   Effective July 1, 2004, the Estate Recovery function will be moved from Program Integrity to the TennCare Bureau.

Note: A match has been completed between TennCare, Department of Health and Department of Human Services to help identify recipients who have died where TennCare has paid for nursing home care.

Collections Made by Program Integrity

	Collections for Quarter Ending 6/30/04	Collections Year to Date
Estate recovery	$2,380,961	$6,845,503
Premium underpayments	0	23,007
Nursing home overpayments (PA 68's)*	366,375	964,885
Provider recoupments	164,146	463,235

**These collections resulted from the joint efforts of Program Integrity, TennCare Fiscal Services, and DHS.*

3. The Program Integrity Unit continued to reach out to the District Attorneys and local law enforcement agencies across the state to solicit their help and support in prosecuting recipients who commit fraud against the TennCare Program.

   The drug diversion and related cases summary is as follows:
   - Thirty-one new cases have been referred this quarter,
   - Three convictions received on cases worked from the previous quarter.
   - Currently working with law enforcement on 95 open cases of which 45 have been indicted.

4. The unit provided training/networking with the following organizations during this quarter:
   a. Memphis Probate Court
   b. West Tennessee Working Fraud Group
   c. Lawrence, Wayne, and Giles County Sheriff's Departments

5. Staff continue to work with the state's contractor, EDS, to develop the best TPL and fraud and abuse detection software system in the nation. This new TennCare Management Information System (TCMIS) will allow Program Integrity to initiate proactive measures for identifying fraud and abuse within the TennCare system. Program Integrity will be able to identify outliers for both providers and recipients. The ability to create ad hoc reports will greatly improve the speed and efficiencies of the investigations. Targeted queries will be generated on a routine basis; these queries have been developed to identify potential fraudulent claims submission. The goal behind these reports and queries is to promote improved work efficiencies, terminate individuals who are no longer eligible for TennCare benefits and prosecute individuals who have violated federal and/or state laws.

6. Plans for next quarter:
   a. Continue to improve working relations, networking and exchange of information with other state, federal and local government agencies.

b. Continue to provide training and assistance to the MCC staff that have the responsibility to focus on fraud and abuse violations.
c. Continue to improve and expand our collaboration efforts with federal agencies, in particular Medicare Public Safeguard Contractors, TRICARE, and DHHS-OIG.
d. Complete a match with Labor and Work Force Development to help identify TennCare recipients who are receiving, or are eligible to receive, insurance benefits through Workers Comp Program.
e. Work with a TPL contractor who will be responsible for the validation of existing health insurance coverage data, identification of additional TPL coverage, subrogation for estate recovery, casualty claims, and private health insurance coverage.
f. Continue to work with the contractor, ChoicePoint to validate eligibility information.
g. Complete analysis of report being developed by PBM, First Health, to identify TennCare providers who are outliers as related to controlled substance prescribing.
h. Participate in development of Medicaid Module in FID (Federal Investigative Database).

7. 2004 TennCare Legislation:

Recent legislation by the General Assembly created the TennCare Office of Inspector General (OIG). The OIG reports directly to the Commissioner of Finance and Administration. The OIG staff will continue to work closely with the TennCare staff, the Tennessee Bureau of Investigation, and other agencies. Other changes from the legislation include:

- Definitions of TennCare *Fraud and Abuse*;
- Defines the authority of the OIG – Investigates civil and criminal fraud and abuse of the TennCare program by enrollees/recipients, or any other violations as it relates to the mission of the OIG;
- Creates a Field Investigations Unit made up of law enforcement professionals to assist the OIG with the prosecution of fraud and abuse; also to be added to the OIG – attorneys, a pharmacist, and data analysts; and,

TennCare Office of Inspector General:
The following steps have been taken to establish this office, as per legislation

- A staffing plan has been submitted to the Department of Personnel for review;
- A staffing and equipment budget has been submitted to the Department of Finance;
- A work space needs assessment has been completed and submitted to General Services;
- Policies and Procedures are currently under review for possible revision;
- The Mission Statement and Goals have been rewritten to include performance measures;
- All documents/public information/letterheads/fax messages, etc., have been updated; and
- The web site information has been revised to represent the changes.

Source of information for this section: Deb Faulkner, Director, Office of TennCare Inspector General.