STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE

TENNCARE LONG TERM SERVICES & SUPPORTS

OPERATIONAL PROTOCOL

Protocol Title	CHOICES Transitions from HCBS to NF
Effective Date	July 1, 2012

Background

CHOICES is made up of three (3) groups, each with distinct eligibility/enrollment requirements and benefits.

CHOICES Group 1 consists of persons who are ***receiving*** Medicaid-reimbursed long term services and supports (LTSS) in a Nursing Facility (NF). This includes persons who are eligible for Medicaid in any eligibility category regardless of age or condition, so long as such persons meet NF level of care.

CHOICES Group 2 consists ***only*** of persons age 65 and older and adults age 21 and older with physical disabilities who meet the NF level of care, and who qualify either as SSI recipients or in an Institutional category (i.e., as members of the 217-Like demonstration population which includes persons who could have been eligible under 42 CFR 435.217 had the state continued its 1915(c) HCBS waiver for elders and/or persons with physical disabilities), and who need and are ***receiving*** HCBS as an alternative to NF care.

CHOICES Group 3, upon implementation will consist ***only*** of persons age 65 and older and adults age 21 and older with physical disabilities who do not meet the NF LOC, but who, in the absence of HCBS, are "at risk" for NF care, and who qualify for TennCare as SSI recipients (please refer to Interim CHOICES Group 3 definition for alternate TennCare eligibility criteria that will be in place from the date of Group 3 implementation through December 31, 2013). CHOICES Group 3 recipients will receive a more limited package of HCBS services to help meet their needs, maintain their lifestyle in the community, and to prevent or delay the need for institutional care. Please note that except individuals with conditional Group 3 enrollment, all individuals enrolled into CHOICES Group 3 between the date of implementation and December 31, 2013 will be enrolled into the Interim CHOICES Group 3.

Interim Group

CHOICES Group 3, upon implementation will consist ***only*** of persons age 65 and older and adults age 21 and older with physical disabilities who do not meet the NF LOC, but who, in the absence of HCBS, are "at risk" for NF care, and who qualify for TennCare as SSI recipients (please refer to Interim CHOICES Group 3 definition for alternate TennCare eligibility criteria that will be in place from the date of Group 3 implementation through December 31, 2013). CHOICES Group 3 recipients will receive a more limited package of HCBS services to help meet their needs, maintain their lifestyle in the

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OPERATIONAL PROTOCOL

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community, and to prevent or delay the need for institutional care. Please note that except individuals with conditional Group 3 enrollment, all individuals enrolled into CHOICES Group 3 between the date of implementation and December 31, 2013 will be enrolled into the Interim CHOICES Group 3.

A member's enrollment into Group 1 or Group 2/3 is determined in part by a member's decision regarding freedom of choice of institutional versus home and community-based services. Members are presented with such choice upon entering the CHOICES program. The member will be asked if they are interested in receiving needed services in their home or other community setting or if they wish to receive services in a nursing facility. The care coordinator will assist the member in making this choice by answering the member's questions and educating the member about services that are available to them in the community.

Freedom of choice does not end at the member's initial decision, however. To enroll in a particular CHOICES group and to thus receive the institutional or HCBS benefits available for group participants, a person must satisfy all applicable eligibility and enrollment criteria for the group. To remain enrolled in the group, the person must continue to satisfy all applicable eligibility and enrollment criteria. If a member is enrolled in a CHOICES group and subsequently no longer meets eligibility and/or enrollment criteria to remain enrolled in that group, a member may ***elect*** to transition to another CHOICES group if s/he qualifies to enroll in that group, thereby exercising his/her freedom of choice to receive long-term care services in a different service delivery setting. Further, a member may elect to transition between CHOICES groups based on his or her preferences, or changes in needs and/or circumstances.

Transitioning between CHOICES groups is not merely the act of moving from one care setting to another; it is a process that includes eligibility, enrollment and care coordination functions; occurs over time; and ensures that the CHOICES member receives needed LTSS in the appropriate setting with no gaps in service.

Requirements

Applicable CRA references include:

2.9.6.5 Needs Assessment
2.9.6.6 Plan of Care
2.9.6. 9 On-going Care Coordination

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In addition to requirements specified in the Contractor Risk Agreement (CRA), CHOICES eligibility and enrollment criteria are set forth in federal and state law and regulation and the approved Section 1115 Waiver application.

It is the responsibility of the MCO to monitor whether CHOICES members continue to meet certain CHOICES eligibility and enrollment criteria, namely requirements pertaining to target population; safety and/or cost neutrality/expenditure cap; and payment of patient liability, and to take action to resolve issues when they are identified so that a member may continue to qualify for and remain enrolled in CHOICES, which may involve transition to a different service delivery setting, and/or transition to a different CHOICES group.

Finally, an MCO is obligated to honor a member's right to exercise his/her freedom of choice regarding receipt of institutional versus HCBS, so long as s/he satisfies all applicable eligibility/enrollment criteria for receipt of services in the applicable setting and for enrollment in that CHOICES group.

Protocol

This protocol establishes specific expectations regarding the responsibilities of the MCO regarding the transition of members between CHOICES Groups 2 or 3 to Group 1.

Transition from Group 2 to Group 1

An MCO may request to transition a member from Group 2 to Group 1 ***only*** when the member ***chooses*** to transition from HCBS to a NF including when:

- A Group 2 member chooses to receive LTSS in a NF; this choice may be based ***solely*** on member preference or may be due to a decline in the member's health or functional status or a change in natural care giving supports.
- A member is no longer eligible for enrollment in Group 2 and the member ***chooses*** to transition to the more appropriate institutional setting in order to safely meet his/her needs. This occurs when the MCO determines that the member's needs can no longer be safely met in the community and at a cost that does not exceed the average cost of NF services for which the member would qualify.

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- A member is receiving short-term, Medicaid reimbursed NF services and the MCO determines that discharge to HCBS is not anticipated, or that the NF stay is expected to exceed ninety (90) days.

Transition from Group 3 to Group 1

An MCO may find it necessary to request to transition a member from Group 3 to Group 1 when there has been a change to the member's health condition resulting in a higher service need and the member ***chooses*** to transition from HCBS to a NF. It will be necessary for the MCO to then reassess the member's level of care eligibility. Along with the transition request, a new LOC determination must be submitted and reviewed by TennCare for NF LOC.

In order to transition to CHOICES Group 1 a member must:

- have an approved, unexpired PAE for NF LOC reimbursement requested AND
- have a fully completed, appropriate PASRR determination

For members seeking NF placement, the role of the care coordinator may include providing information and education about how to select a NF and the process for admission (e.g., where to find information about NF performance, how to visit a NF, and the PASRR process). If an eligible member elects to transition into Group 1, the MCO may not refuse to transition the member even when the MCO believes that care in the community could be provided more cost-effectively than in a NF. The MCO ***may not*** deny a transition request without prior review and approval by TennCare LTSS(see subsequent section entitled ***Transition Denial***).

When a member elects to receive care in a NF, and the member appears to be eligible for enrollment into Group 1, the MCO must ***immediately*** facilitate the transition. That is, even if the member is already receiving LTSS in a NF and does not need assistance with admission, the care coordinator/care coordination team must ***immediately*** facilitate the enrollment and eligibility aspects of the transition. A CHOICES Group transition request will be created in TPAES (the TennCare PAE System) and submitted to TennCare for review and approval. TennCare will forward information to DHS to recalculate the member's patient liability based on his/her personal needs allowance.

Although an MCO may receive notification of approval of the request to transition a member between CHOICES groups via TPAES, a member's transition between groups is not "official" until the MCO

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receives notification via the 834 enrollment file which shows the member has been enrolled in a different CHOICES group. Upon receipt of such notification via the 834 enrollment file, the MCO shall issue notice of transition between CHOICES groups to the member. Because the member remains enrolled in the CHOICES program (which includes nursing facility as well as HCBS benefits) and has *chosen* to transition between CHOICES groups, such transition shall not constitute an adverse action. Thus, the notice does not include the right to appeal or to request a fair hearing regarding the member's decision.

Conditional Enrollment for Group 3

Conditional enrollment occurs for CHOICES Group 1 enrollment requests when a non-Medicaid eligible individual is admitted to a NF and has been approved for At Risk LOC. Enrollment in Group 3 is approved for a period of 30 days. Once the applicant is Medicaid eligible and enrolled in CHOICES Group 3, the MCO will receive an 834 file indicating CHOICES enrollment for a period of 30 days. The member will be indicated as a CHOICES Group 3A-c. On the 31st day the member will be enrolled in Group 3A-i on an ongoing basis as determined by the PAE effective dates. A transition request is not required to transition a member from Group3A-c to Group 3A-i.

Transition from Group 3A-c to Group 1A-r and/or 1B-r

If the CHOICES Group 3 member does not qualify for Group 3 enrollment based on safety requirements the MCO must do the following:

- Submit to TennCare a CHOICES Conditional Enrollment Transition request via TPAES before expiration of conditional enrollment;
- The request will be a transition from Group 3A-c to group 1A-r and/or 1B-r and must include comprehensive documentation demonstrating that the member's needs cannot be safely and appropriately met in the community with the array of services and supports available in Group 3;
- In order to transition to CHOICES Group 1A-r a member must:
    - have an approved, unexpired PAE for NF LOC reimbursement requested AND
    - have a fully completed, appropriate PASRR determination;
- If approved, Tenncare will history the Group 3 conditional assignment and make the Group 1 assignment effective retroactively; In addition, when a member transitions from CHOICES Group 3 to Group 1, DHS must recalculate the member's Patient Liability based on the institutional PNA.

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BUREAU OF TENNCARE

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OPERATIONAL PROTOCOL

Protocol Title	CHOICES Transitions from HCBS to NF
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Transition Denials

At any point in the transition process, if the MCO determines that a CHOICES member does not meet criteria to transition to another CHOICES group, then a request for review and approval is sent to TennCare. The request must specify the eligibility and/or enrollment criteria not met and must include supporting documentation. When a transition denial requested by the MCO is denied, then the MCO is expected to facilitate the transition as necessary. When a transition denial requested by the MCO is approved, the MCO is responsible for issuing notice to the member.

If upon review, TennCare or DHS determines that a CHOICES member does not meet criteria to transition to another CHOICES group, appropriate member notice is issued by the agency making the determination.