TENNCARE CHOICES IN LONG-TERM SERVICES AND SUPPORTS

Legal Authority: Social Security Act § 1915(c); 42 CFR 435.217; TennCare 1115 Medicaid Demonstration; Tenn. Comp. R. & Regs. 1200-13-01; Tenn. Comp. R. & Regs. 1200-13-20

1. Overview

The TennCare CHOICES in Long-Term Services and Supports (LTSS) program was established in 2008 with the dual purpose of expanding Home and Community-Based Services (HCBS) in the TennCare program and improving access to HCBS and other long-term care services to those who qualify. The CHOICES program allows the State of Tennessee to integrate all Nursing Facility (NF) care and HCBS into the existing managed care system. Individuals who are eligible for CHOICES are approved under different groups based on the setting in which they receive services, and their own Level of Care (LOC) needs.

CHOICES enrollees have their care in the Long-Term Care Facility (LTCF) or HCBS program paid for by TennCare Medicaid. These payments, called LTSS payments, are separate from the regular TennCare Medicaid benefit. An applicant/enrollee must have an approved Pre-Admission Evaluation (PAE) and be enrolled in CHOICES in order to be eligible for LTSS payments.

Within TennCare, the LTSS Unit is responsible for administering the CHOICES program. The LTSS Unit is responsible for determining whether a CHOICES applicant meets the LOC requirements (also known as medical eligibility) and manages enrollment into long-term care programs and the LTSS database. The Member Services Unit is responsible for determining Medicaid eligibility for a CHOICES applicant. In order to receive CHOICES HCBS, an individual must be eligible in an Institutional Medicaid category or be a Supplemental Security Income (SSI) cash recipient. An individual may not receive CHOICES HCBS without being eligible for Institutional Medicaid or SSI.

2. Definitions

a. Group 1 Individuals who are receiving Medicaid-reimbursed LTSS in a NF. Individuals must be eligible for Medicaid and meet NF Level of Care (LOC) criteria.

b. Group 2 Individuals age 65 and older, and adults age 21 and older with physical disabilities as defined in TennCare Rule 1200-13-01-.02, who meet the NF LOC criteria, who are eligible for Medicaid either as SSI cash recipients or in an Institutional category and who need and are receiving HCBS instead of NF care.

c. Group 3 Individuals age 65 and older, and adults age 21 and older with physical disabilities as defined in TennCare Rule 1200-13-01-.02, as SSI recipients or members of the CHOICES At-Risk Demonstration

Group, who do not meet the NF LOC criteria but who, in the absence of HCBS, are "At Risk" for institutionalization. Group 3 enrollees are eligible for payment of HCBS. For individuals who are not SSI cash recipients, there must be an available slot for the individual to be enrolled.

New enrollment in Group 3 was limited to SSI cash recipients from July 1, 2015, to September 30, 2022.

d. Inactive SSI Enrollee

Individuals whose SSI cash benefits have been terminated by the Social Security Administration (SSA) and who remain eligible for TennCare until they have been reviewed for coverage in other eligibility categories. Inactive SSI enrollees are not eligible for CHOICES.

e. LTSS Payments

For purposes of this policy, benefits paid to cover the cost of long-term care in a NF or payments for HCBS for CHOICES-eligible institutionalized individuals.

f. Personal Needs Allowance (PNA)

Deduction from the institutionalized individual's total income (as calculated for patient liability) to cover personal needs and incidentals. Currently amounts are:

- **i.** $50 per month for individuals in a NF or an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID);
- **ii.** 300% of the Supplemental Security Income – Federal Benefit Rate (SSI-FBR) for HCBS enrollees, PACE, and Self-Determination Waiver; and
- **iii.** 200% of the SSI-FBR for the Comprehensive Aggregate Cap (CAC) and Statewide Waivers.

g. Pre-Admission Evaluation (PAE)

Evaluation of an individual's LOC, or medical need, for LTSS. The PAE is completed by the Area Agency on Aging and Disability (AAAD), discharging hospital, Managed Care Organization (MCO), or NF, and is reviewed by the TennCare LTSS Unit. For Medicaid eligible individuals, the PAE is submitted by the MCO, discharging hospital, or NF.

h. Pre-Admission Screening/Resident Review (PASRR)

The process by which the State determines whether an individual who resides in or seeks admission to a Medicaid-certified Nursing Facility has, or is suspected of having, a mental illness or an intellectual disability. If so, the PASRR then allows the State to determine

whether the individual requires specialized services and is appropriate for NF placement. See TennCare Rule 1200-13-01-.02.

3. General Eligibility Criteria

In order to be enrolled in CHOICES, an individual must be determined eligible to receive CHOICES by the LTSS Unit and be approved for Institutional Medicaid by the Member Services Unit or be eligible for Medicaid as an SSI cash recipient. It is only once both determinations are made that the individual is enrolled in the programs. An applicant must meet the following conditions to receive CHOICES:

- **a.** The individual has been determined to need and likely to receive LTCF services for a continuous period of at least 30 days going forward as evidenced by an approved CHOICES Group 1 PAE and actual admission to a NF;
- **b.** The individual has been admitted to a NF or an Intermediate Care Facility for Individuals with Intellectual Disabilities ICF/IID, and the period of continuous confinement in the institution, combined with the period of time for which a PAE is approved, exceeds 30 days;
- **c.** The individual is receiving HCBS and has been determined to need HCBS for a continuous period of at least 30 days going forward, as evidenced by an approved CHOICES Group 2 PAE; or
- **d.** The individual is age 65 or older, or an adult age 21 or older with physical disabilities, who has entered a NF and does not meet the NF LOC criteria, but in the absence of HCBS is determined to be at risk for NF care. These individuals will have an approved CHOICES Group 3 PAE and will begin receiving CHOICES benefits once they are in the home or community-based setting, and there is an open slot available; and
- **e.** The individual meets the non-financial and financial eligibility requirements of one of the following TennCare Medicaid categories:
  - **i.** SSI Cash Recipient; or
  - **ii.** Institutional Medicaid.
- **f.** The individual is not in a penalty period for an uncompensated transfer of assets, and the value of the individual's home does not exceed the home equity limit.

Note: Certain individuals who have met 30 days continuous confinement may be approved for Institutional Medicaid, but they are not enrolled in CHOICES until a PAE is submitted and approved. See Section 6 in this chapter, the *Institutional Medicaid* policy, and section 4 in the *Institutional Status* policy for groups of individuals covered.

4. CHOICES Application Process

a. Overview of Application Process

The application and enrollment process for CHOICES requires collaboration between TennCare, the local AAAD, LTCFs and the TennCare MCOs.

The AAADs serve as the Single Point of Entry (SPOE) into LTSS for the majority of elderly and physically disabled individuals. When the application process begins with the AAADs, the AAADs submit the Medicaid application to TennCare and complete the LOC assessment. When the application is received without a PAE from another entity (nursing facilities, hospitals, families, or individuals), TennCare refers the HCBS individuals to the AAAD in their area for the LOC assessment only. Enrollment through the AAAD is not mandatory.

TennCare Medicaid MCOs help facilitate enrollment into LTSS for their current members, i.e., individuals who already have TennCare Medicaid eligibility.

The TennCare Application can be used for all new applicants or enrollees who are required to submit a new application. Individuals only enrolled in a Medicare Savings Program (QMB, SLMB, QDWI or QI1) who are applying for Institutional Medicaid and CHOICES must submit a TennCare Application and work with their local AAAD or NF to apply for CHOICES. For more information on the application process, see *The Application Process* policy.

b. SSI Cash Recipients

i. Overview

SSI Cash recipients who apply for LTSS do not need to file a TennCare application and, in general, will not be moved into an Institutional Medicaid category (see exception for SSI Cash recipients with Other Income). An SSI Cash recipient who applies for LTSS must have the following documents:

1. An approved, unexpired PAE; and
2. An *MCO-LTSS Eligibility Checklist (if PAE is submitted by the MCO)*.

When approving an SSI Cash recipient for LTSS, and at subsequent renewals, TennCare will rely on resource eligibility as determined by SSA and income information from the State Data Exchange (SDX) as reported to and verified by SSA. A new TennCare application or additional verification of resource and income eligibility is not permitted unless there is reason to believe that the individual has additional income or resources beyond what is known to SSA.

ii. SSI Cash Recipients Applying for HCBS

The MCOs facilitate the application process for SSI Cash recipients applying for HCBS. The MCO will submit a PAE to the TennCare LTSS Unit for review.

At the time of PAE application, the MCO representative will act as a contact with the individual and her family or other authorized representative and will notify them of their obligation to report any changes in income to the SSA and to TennCare within 10 days.

iii. SSI Cash Recipients in Long-Term Care Facilities

When an SSI Cash recipient enters an institution, such as a NF, the SSA reduces the SSI cash benefit. The individual's benefit is typically lowered to $30 a month.

1. SSI Cash Recipients with no other income

When an SSI Cash recipient who has no other income (or less than $50 in other income) enters a LTCF, his SSI cash benefit will be reduced, but he will retain SSI eligibility. SSI Cash recipients in a LTCF do not have a patient liability.

An SSI Cash recipient is eligible for CHOICES when she has the following documents:

a. An approved, unexpired PAE; and
b. *MCO-LTSS Eligibility Checklist*.

2. SSI Cash Recipients with at least $50 of other income

SSI Cash recipients who enter an institution, and who have at least $50 in other income, will lose their SSI cash benefit eligibility at some point in the future. Once the individual's SSI cash benefit terminates, she will also lose her SSI Medicaid eligibility. Once the SSA terminates the SSI cash benefit, the individual will be reviewed for Institutional Medicaid.

Note**:** TennCare will rely on resource eligibility as determined by SSA and income information from the SDX as reported to and verified by SSA. A new TennCare application or additional verification of resource and income eligibility is not required, unless there is reason to believe that the individual has additional income or resources beyond what is known to SSA.

c. Inactive SSI Enrollees

Individuals who are eligible as Inactive SSI Enrollees must have eligibility established in an Institutional Medicaid category before CHOICES, an HCBS waiver, or Program of All-Inclusive Care (PACE) can be approved. Inactive SSI Enrollees must have:

i. An approved, unexpired PAE; and
ii. A completed TennCare Application.

5. Institutional Medicaid Eligibility and CHOICES Enrollment Dates

a. Institutional Medicaid

i. If approved for Institutional Medicaid and CHOICES Group 1 (NF), the Medicaid approval date is the latter of the date of application or the date of NF admission.

ii. If approved for Institutional Medicaid and CHOICES Group 2 (HCBS), the Medicaid approval date is the date the case is approved/authorized in the eligibility determination system.

iii. If approved for Institutional Medicaid and CHOICES Group 3 (At Risk HCBS), the Medicaid approval date is the date the case is approved/authorized in the eligibility determination system.

Note: If an applicant requires a QIT or is required to spend down resources to establish eligibility for Institutional Medicaid, then the approval date is the first day of the month in which the QIT is established or resources are at or below the resource limit, but not before the application date or date of NF admission.

b. CHOICES Enrollment

CHOICES enrollment cannot begin until both financial eligibility and medical eligibility have been determined.

6. Institutional Medicaid Approval based on 30 Days Continuous Confinement

An applicant in a medical institution who has met 30 days continuous confinement may be determined eligible for Institutional Medicaid. Categorically eligible individuals approved for Institutional Medicaid based on 30 days continuous confinement are not eligible for payment of NF services but are eligible for TennCare Medicaid benefits. Eligibility will be established in an Institutional Medicaid category based on the special income standard (300% of the SSI-FBR) if:

a. The applicant is categorically eligible (i.e., aged, blind, disabled, a child under age 21, or pregnant);
b. The applicant has been admitted to a medical institution and has been continuously in a medical institution (i.e., hospital, NF, ICF, SNF or ICF/IID) for at least 30 days; and
c. Has met all financial and non-financial eligibility criteria for Institutional Medicaid.

Individuals approved for Institutional Medicaid who have met 30 days continuous confinement may not have an approved, unexpired PAE. Categorically eligible individuals approved for Institutional Medicaid based on 30 days continuous confinement in a medical institution, who then later have an approved, unexpired PAE for CHOICES Group 1, will be eligible and enrolled in CHOICES.

Institutional Medicaid eligibility for individuals who have met 30 days continuous confinement in a medical institution only lasts as long as the individual is institutionalized. If the enrollee is discharged from the medical institution, his Institutional Medicaid eligibility will be terminated.

Applicants for HCBS cannot be approved for Institutional Medicaid based on 30 days continuous confinement. All HCBS applicants must have an approved, unexpired PAE.

7. Medicare Recipients Requiring Co-Pays or Cross-Over Payments for Skilled Nursing Facility Care (Medicare Cross-Over Payments)

Medicare Part A covers the first 100 days in a SNF, when the Medicare enrollee is in the SNF for the purpose of rehabilitation. Medicare typically pays 100% of the cost for the first 20 days, and 80% of the cost for days 21-100. If the Medicare enrollee is also TennCare Medicaid eligible in an Institutional Medicaid category and/or has QMB, TennCare will pay the Medicare co-pays, or cross-over payments, for days 21-100 of the SNF stay. An approved PAE is not required to establish Medicare cross-over payments. However, for Medicare recipients (who are not QMB eligible) who are approved for Institutional Medicaid based on 30 days continuous confinement, patient liability must be established to process the cross-over payment.

Note: Medicare may pay for more or less than 100 days of SNF, however, 100 days is the general rule. For the sake of this policy, the Institutional Medicaid eligibility will cover the SNF Medicare co-payment from the date of eligibility through day 100 or the last day of Medicare-approved skilled stay day.

8. Short Term Stay

A short-term stay is one of 90 or less days. HCBS-eligible enrollees who enter a NF may remain active in their HCBS case for 90 days. An enrollee cannot be moved out of HCBS if the NF stay is anticipated to be short-term and the enrollee plans to return home to receive HCBS.

During a 90-day short-term nursing facility stay for a person in HCBS, the HCBS Personal Needs Allowance (PNA) will continue to apply (300% of the SSI-FBR). This is to allow the enrollee to maintain his community residence in order to facilitate transition back home.

If the enrollee remains in the NF beyond 90 days (or such time that it is determined the enrollee needs to remain in the NF beyond 90 days), the MCO will facilitate the member's transition via the CHOICES Transition process.

9. Other Long-Term Services and Supports Programs

PACE and the DIDD HCBS waivers are not part of the CHOICES program but provide similar services to the eligible populations. More information about PACE and the DIDD HCBS waivers is available at https://www.tn.gov/tenncare/long-term-services-supports.html.

a. PACE

PACE is a community-based health and social services program whose purpose is to serve the frail elderly residents of Hamilton County. Participants must:

i. Be age 55 or older;
ii. Meet criteria for Level 1 nursing home care; and
iii. Meet financial criteria.

The PACE program also provides an adult day care center and covers all medical needs of the individual including, but not limited to, hospitalization and nursing home coverage.

b. DIDD Waivers

Although the DIDD HCBS waivers are not a part of the CHOICES program, individuals eligible for a DIDD HCBS waiver must meet the non-financial and financial eligibility requirements of an Institutionalized Medicaid category or receive SSI Cash benefits. Medical eligibility (i.e., LOC) is determined by TennCare's LTSS Unit. There are three DIDD waivers for individuals with intellectual disabilities: the Statewide Waiver, Comprehensive Aggregate Cap Waiver, and Self-Determination Waiver.

The Department of Intellectual and Developmental Disabilities (DIDD) serves as the Operational Administrative Agency for the DIDD HCBS waivers which are administered under the supervision of TennCare.

i. Statewide Waiver

The Statewide waiver provides services to Tennessee children under age 6 with developmental delay and adults and children with intellectual disabilities who meet the ICF/IID LOC criteria.

ii. Comprehensive Aggregate Cap Waiver

The Comprehensive Aggregate Cap (CAC) Waiver, formerly known as the Arlington Waiver, provides services to individuals with intellectual disabilities who are former class members in the *United States vs. The State of Tennessee, et al.* (Arlington Developmental Center), former class members in the *United States vs. the State of Tennessee, et al.* (Clover Bottom Developmental Center), individuals discharged from the Harold Jordan Center following a stay of at least 90 days, and individuals transitioned from the Statewide Waiver upon its renewal on January 1, 2020. Individuals eligible under the CAC Waiver have been institutionalized in a public institution, are part of a certified class because they were determined to be at risk of placement in a public institution or require a LOC that would

otherwise require placement in an ICF/IID, if they were not receiving services provided under the waiver.

iii. Self-Determination Waiver

The Self-Determination Waiver provides community-based services to children and adults with intellectual disabilities and children under age 6 with development delay who would otherwise require the LOC provided in an ICF/IID.

To enroll in this wavier program, an individual must:

1. Be a Tennessee resident;
2. Be financially eligible for TennCare Medicaid (Institutional Medicaid or SSI Cash);
3. Meet TennCare Medicaid criteria for payment of institutional ICF/IID care; and
4. Have an adequate support system to assure health and safety while receiving services in a home and community-based setting.

10. Facility Types

TennCare Medicaid LTSS payments are available to eligible individuals receiving LTSS in the following medical institutions:

a. State Developmental Centers for the Developmentally Disabled, which include:

i. Certified Intermediate Care Facility for People with Developmental Disability wards for patients of any age; and

ii. Certified Level II nursing wards for patients of any age. Patients in non-certified wards in Level II care are not eligible for TennCare Medicaid, except when transferred to a Title XIX (TennCare Medicaid approved) facility.

b. State Mental Health Hospitals and Private Certified Mental Health Hospitals

State Mental Health Hospitals and Private Certified Mental Health Hospitals include general hospital wards for patients age 65 and older and certified Level I and Level II wards for patients age 65 and older.

Patients in non-certified wards and all patients under age 65 are not eligible for TennCare Medicaid in psychiatric facilities with the following three exceptions:

i. A patient who was already an active TennCare Medicaid recipient when admitted to the psychiatric facility will be eligible the month of admission (no LTSS payment will be authorized). Coverage cannot extend beyond the month of admission, or the earliest month action can be taken to close the case.

ii. Ineligible patients who are transferred to a Title XIX facility located off the hospital grounds may attain eligibility during their absence from the facility.

iii. Patients under age 21 may be eligible for TennCare Medicaid if they are receiving active in-patient treatment in an accredited psychiatric hospital. These cases are not defined as long-term institutional cases, as no LTSS payment is made.

c. Licensed Public and Private Nursing Homes, which include:

i. Level II, ICF, for patients of any age;

ii. Level II, SNF, for patients of any age; and

iii. Tuberculosis Care Units for patients age 65 and older.

Tennessee does not have any chest disease/tuberculosis hospitals or care units. Care is limited to Tennessee residents at least age 65 whose out-of-state care has been approved by TennCare.

Residents of unlicensed nursing homes or custodial homes are not considered to be receiving medical care and therefore do not meet the medical institutionalization technical requirement. These individuals are not eligible for TennCare Medicaid in an institutional category and are not eligible for LTSS payments.

d. Certified Institutions

LTCFs are certified by TennCare and have a TennCare Medicaid per diem rate established by the State Comptroller's Office. A list of certified facilities and their rates are furnished by the Comptroller's office. A list is also available at the Department of Health's website at: https://www.tn.gov/health.

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		Enrollees; Short Term Stay			