

DATE: May 7, 2020

TO: Home and Community-Based Services Providers of Residential, Personal Care, Adult Day Care, Employment, and Community Integration Support Services in CHOICES and Employment and Community First CHOICES
TennCare Health Plans

FROM: Patti Killingsworth, Chief of LTSS

CC: William Aaron, Chief Financial Officer
Keith Gaither, Director of Managed Care Operations

SUBJECT: **UPDATED COVID-19 Payment Flexibilities**

The purpose of this memo is to **provide clarifications regarding** several new *temporary* COVID-related payment flexibilities **announced earlier this week** that TennCare plans to implement in the CHOICES and Employment and Community First CHOICES programs (some only upon approval by the Centers for Medicare and Medicaid Services or CMS). **All changes are in red.**

These payments will help to offset some of the lost Medicaid revenues and the increased costs certain providers have incurred as a result of the COVID-19 public health emergency, such as staffing, overtime and personal protective equipment (PPE), keeping these providers financially viable and able to continue providing these important services. These are frontline HCBS providers who have been most significantly impacted by the public health emergency due to the nature of services they provide.

It includes specific funding to target higher wages to staff when they are providing care for someone who is confirmed COVID-19 positive, so that people can remain at home, when appropriate, and lessen the burden on hospitals.

TennCare has worked closely with the Department of Intellectual and Developmental Disabilities (DIDD), aligning temporary payment flexibilities across Medicaid programs, populations, and authorities, where appropriate. Federal authority for comparable rate increases is also being requested in the 1915(c) waivers operated by DIDD.

In addition to payment flexibilities, TennCare will request formal CMS approval of a number of changes that have already been implemented by TennCare and DIDD working together in a quick and direct effort to ensure continued access to care and relieve administrative and financial burden on providers during the COVID-19 emergency. Previous memos have described these changes.

There are three different types of payment flexibilities:

1. The first is a *temporary* rate increase for home and community-based residential and personal care services in the CHOICES and Employment and Community First CHOICES programs. These increases will be effective for a two-month period beginning with dates of service March 13, 2020 (the date of Governor Lee's emergency declaration) through May 12, 2020. The specific services and percent increases are provided in Attachment A to this memo. **These temporary rate increases do not apply to services delivered through Consumer Direction. The vast majority of additional COVID-related costs (higher wages and overtime) that provider agencies have experienced are not**

experienced in the same way by Employers of Record in Consumer Direction. Further, Consumer Direction already provides flexibility for Employers of Record to pay higher wages to staff than are often paid by an agency and to increase those wages when needed, subject to the ranges established by the state and the limitations of a person's Expenditure Cap. Please note that Companion Care was inadvertently listed as a residential service eligible for rate increases in the May 4, 2020 memo. It has been deleted from Attached A for purposes of temporary rate increases.

MCOs will automatically adjust payment rates for all eligible claims for the two-month period to account for these changes. If claims have already been billed and paid at the current rate, MCOs will automatically adjust these claims to provide payment at the increased rate. **Providers will not have to resubmit these claims.** MCOs are in process of making necessary system modifications to implement these changes. We expect that the new temporary rates will be in the MCOs' claims systems within a few weeks, and all adjustments will be completed as expeditiously as possible (no later than the end of June 2020). Regular rates of reimbursement will resume beginning with May 13, 2020 dates of service forward.

As a condition of payment, providers of these services must agree to continue to pay staff at current wage/salary levels (they can choose to use funds to pay staff more) and commit to continuing service delivery both during and beyond the COVID-19 public health emergency. For ECF CHOICES providers, this includes a commitment to expanding capacity to serve additional members as such services are needed by ECF CHOICES members and as funds are available to serve additional members beginning July 1, 2020. The rate increases are subject to audit and recoupment if these conditions are not met.

2. In addition to these temporary rate increases, TennCare is submitting an 1115 waiver amendment to request CMS approval to offer retainer payments to Adult Day Care (ADC) providers in CHOICES and Job Coaching, Supported Employment - Small Group (SE-SG), Integrated Employment Path (IEP), and Community Integration Support Services (CISS) providers in Employment and Community First CHOICES. Retainer payments will provide partial payment to help offset the financial impact of significant reductions in Medicaid revenue when a service is not currently being delivered or has been substantially reduced—in this case, because of social distancing and stay-at-home orders related to the pandemic.

We are hopeful that CMS will approve this request quickly. Because these services for the most part have not been delivered, claims have not been submitted and would be required for the retainer payments to be paid once federal approval is received. Upon CMS approval and MCO notification to providers, retainer payments could be billed for any ADC, Job Coaching, SE-SG, IEP, and CISS authorized to be provided between March 13, 2020 through May 12, 2020, using a unique modifier to distinguish it as a retainer payment (rather than payment for a service actually delivered). The retainer payment is billable only for dates of service when the actual benefit was not provided and billed, and when alternative services were not authorized and billed by the provider (for example, additional Personal Care Visits or Attendant Care in lieu of ADC). MCOs will provide specific detail regarding the billing process once it can commence.

Like rate increases, as a condition of payment, the provider must agree to continue to pay all ADC, Job Coaching, SE-SG, IEP, and CISS staff at current wage/salary levels and commit to resuming service delivery once the quarantine period has concluded. For ECF CHOICES providers, this includes a commitment to expanding capacity to serve additional members as such services are needed by ECF CHOICES members and as funds are available to serve additional members

beginning July 1, 2020. These retainer payments are subject to audit and recoupment if it is determined that the authorized ADC, Job Coaching, SE-SG, IEP, or CISS (or alternative services) were in fact provided and billed, resulting in duplicate payment.

3. Finally and importantly, TennCare plans to offer tiered (or “add-on”) payments when services are being provided to a person at home who is COVID-19 positive, which provide for higher wages for the staff providing that care, as well as the additional overtime and PPE costs a provider will incur. This will include a COVID+ Residential¹ Special Needs Adjustment (RSNA)—a per diem add-on payment to the existing residential rate, and a Personal Care² Rate Differential (PCRD)—a per unit add-on to the existing unit rate. The purpose of both types of tiered payments is to directly reimburse a \$5/hour hazard pay increase to direct support staff for services provided to a person confirmed COVID-19+, as well as related staff overtime and PPE costs.

The RSNA and PCRD do apply to applicable services when delivered through Consumer Direction, including Companion Care. Consumer-directed workers delivering the services specified in this memo will be eligible for hazard pay increases when the person they are supporting is confirmed COVID-19 positive, as well as overtime pay, when applicable. TennCare will work with MCOs and with Public Partnerships, Limited, the state’s contracted fiscal employer agent, to operationalize these payments when appropriate.

The RSNA or PCRD, as applicable may be billed *only* for services provided during the period that the person requires isolation due to the COVID-19 diagnosis, and for which hazard pay is made to the staff providing the service. Providers should follow CDC guidelines regarding when a person who was COVID-19 positive no longer requires isolation (as they are updated). At the conclusion of that period or when staffing at a hazard pay rate is no longer required or provided, the RSNA or PCRD may no longer be billed. This is generally expected to be no more than 21 days. Billing for the RSNA or PCRD beyond 21 days for any person will require physician orders to continue at-home isolation, up to a total maximum of no more than 30 days per member. MCOs will provide specific detail regarding the billing process once it can commence.

To bill these payments, the person for whom residential or personal care services are provided must be confirmed COVID-19 positive, and the \$5/hour hazard pay must have been paid to direct support staff, as supported by payroll records. HCBS providers are required to report when a person they are serving is COVID-19+. TennCare and MCOs will use this information for validation purposes and may request supporting documentation. Payments are subject to audit and adjustment or recoupment if it is determined that the \$5/hour hazard pay was not paid to direct support staff, or the person for which such RSNA or PCRD, as applicable, was billed and paid was not confirmed COVID-19 positive.

The RSNA and PCRD payments are effective beginning March 13, 2020. These are *tentatively* set to continue through July 24, 2020 (the current effective date of the public health emergency as declared by the U.S. Secretary of Health and Human Services). These could be extended if the

¹ “Residential” encompasses all services listed as such in the respective program sections of Attachment A. **For purposes of the RSNA only, “Residential” also includes Companion Care.**

² “Personal Care” includes Personal Care Visits and Attendant Care in the CHOICES program and Personal Assistance in ECF CHOICES.



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public health emergency declaration is extended, subject to the availability of funds set aside for this purpose.

To ensure there is no negative impact on people receiving services, *none* of these payment flexibilities (rate increases, retainer payments, RSNA or PCRD payments) will be counted against a person's expenditure cap.

We hope these payments will signal how much the State values the critical services you provide to Tennesseans and their families. We are grateful for your continued commitment to this important work.

Attachment A

Program	Provider/Service Type	Payment basis/description	CMS approval required?
CHOICES	Residential , including Assisted Care Living Facility, Adult Care Homes, Community Living Supports, and Community Living Supports – Family Model	A 10% temporary rate increase for a 2-month period (3/13/-5/12/20)	No
CHOICES	Personal Care Visits	A 10% temporary rate increase for a 2-month period (3/13/-5/12/20)	No
CHOICES	Attendant Care	A 30% temporary rate increase for a 2-month period ¹ (3/13/-5/12/20)	No
CHOICES	Adult Day Care	A retainer payment for services authorized but not provided between 3/13-5/12/20 equal to 75% of the expected Medicaid payment ²	Yes
ECF CHOICES	Residential , including Community Living Supports, Community Living Supports – Family Model, and Intensive Behavioral Community Transition and Stabilization Services	A 10% temporary rate increase for a 2-month period (3/13/-5/12/20)	No
ECF CHOICES	Personal Assistance and Intensive Behavioral Family-Centered Treatment & Stabilization Services	A 10% temporary rate increase for a 2-month period (3/13/-5/12/20)	No
ECF CHOICES	Specified Employment,³ Integrated Employment Path, and Community Integration Support Services	A retainer payment for services authorized but not provided between 3/13-5/12/20 equal to 75% of the expected Medicaid payment ⁴	Yes

¹ The 30% *temporary* rate increase for Attendant Care will more closely align reimbursement for these services with reimbursement for CHOICES Personal Care Visits and ECF CHOICES Personal Assistance in light of limited staff resources during the pandemic.

² Billable only when alternative services (e.g., PCV/AC) were not authorized and billed by the ADC provider

³ Specified Employment services include Job Coaching, and Supported Employment – Small Group (max of 2 or 3)

⁴ Billable only when alternative services (e.g., PA, ILST) were not authorized and billed by the provider

BOTH— CHOICES, ECF CHOICES	COVID+ Residential⁵ Special Needs Adjustment (RSNA) OR Personal Care⁶ Rate Differential (PCRD)	A per diem add-on payment to the existing residential rate (RSNA) ⁷ or a per unit add-on to the existing unit rate (PCRD) ⁸ to reimburse hazard pay to direct support staff, as well as overtime and PPE costs for services provided to a person confirmed COVID-19+; effective 3/13-7/24/20, subject to HHS public health emergency declaration and availability of funds for this purpose;	No⁹
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⁵ “Residential” encompasses all services listed as such in the respective program sections of this Attachment. **For purposes of the RSNA only, “Residential” also includes Companion Care.**

⁶ “Personal Care” includes Personal Care Visits and Attendant Care in the CHOICES program and Personal Assistance in ECF CHOICES.

⁷ COVID+ RSNA add-on payment amounts are based on the applicable type and level of payment for residential services, as follows:

ECF CHOICES:

Community Living Supports (CLS), Community Living Supports – Family Model (CLS-FM) 1a \$28.57/day

CLS or CLS-FM 1b \$71.43/day

CLS or CLS-FM 2 \$200 per day

CLS or CLS-FM 3 **OR** CLS or CLS-FM 4 \$300 per day billable only when the COVID-19+ person requires dedicated 24/hour (round the clock) staffing with hazard pay; \$200 per day billable when the COVID-19+ person requires dedicated staffing for *less than* 24 hours per day with hazard pay

CHOICES:

Assisted Care Living Facility, CLS or CLS-FM 1 \$37.50/day

CLS or CLS-FM 2 \$71.43/day

Companion Care \$176/day

Adult Care Home, CLS or CLS-FM 3 \$300 per day billable only when the COVID-19+ person requires dedicated 24/hour (round the clock) staffing with hazard pay; \$200 per day billable when the COVID-19+ person requires dedicated staffing for *less than* 24 hours per day with hazard pay

If there is more than one COVID-19+ person in the same home, a provider may only bill the COVID+ RSNA for each additional person if the person requires dedicated staffing, and in accordance with the applicable residential service and the person’s staffing needs. Staffing should be shared when appropriate.

Example:

Person A is confirmed COVID-19+. He receives CLS in CHOICES at the CLS 3 reimbursement rate and requires 24/7 round the clock staffing and is isolated in the home with a one staff. A DSP is identified that agrees to live in the home and provide care. The DSP is paid his/her usual rate PLUS the \$5/hour hazard pay. The agency may bill the \$300 per diem COVID+ RSNA to cover the cost of the hazard pay, as well as overtime and PPE costs. This should continue until the person supported no longer requires in-home isolation, based on CDC guidelines.

Person B, living in the same home is confirmed COVID-19+. Person B also CLS in ECF CHOICES at the CLS 2 rate. The same staff person is able to support Person A and Person B, such that additional dedicated staffing is not required. No additional COVID+ RSNA can be billed.

Person C, also living in the same home is subsequently confirmed COVID-19+. All 3 persons are now in isolation. Person C receives CLS in ECF CHOICES at the CLS 4 rate and also requires 24/7 round the clock staffing. The provider determines that the needs of all 3 persons cannot reasonably be met without a second dedicated staff person. A second DSP agrees to remain in the home and is paid the \$5/hour hazard pay in addition to base rate. Now, a second COVID+ RSNA can be billed at the \$300 per diem rate. (If Person C instead received CLS in ECF CHOICES at the CLS 3 rate and required less than 24 hrs/day of support, RSNA could then be billed at the \$200 per diem rate. The RSNA billed depends on the applicable residential rate and the number of additional staffing hours per day required to meet the needs of person supported.)

⁸ The PCRD per unit add-on rate is \$12.50 per hour, \$3.13 per quarter hour unit (for all applicable service types).

⁹ CMS approval *is* required for RSNA and PCRD in Section 1915(c) waivers, but not in CHOICES or ECF CHOICES; it will be handed under existing directed payment authority.

		generally limited to no more than 21 days; may be extended to a total of no more than 30 days with physician's order for continued in-home isolation	
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