

To: CHOICES Providers of specified HCBS
From: Patti Killingsworth, Assistant Commissioner/Chief of LTSS
Date: November 2, 2021
Subject: **Wage Increases for Frontline HCBS Workers in CHOICES**

Section 9817 of the American Rescue Plan Act of 2021 (ARP) (Pub. L. 117-2) provides qualifying states with a temporary 10 percentage point increase to the federal medical assistance percentage (FMAP) for certain Medicaid expenditures for home and community-based services (HCBS) incurred between April 1, 2021 and March 31, 2022. The enhanced funding must be spent by March 31, 2024, and must be spent *exclusively* on Medicaid HCBS.

In the Initial Plan for this funding submitted to the Centers for Medicare and Medicaid Services for approval (available at: <https://www.tn.gov/tenncare/long-term-services-supports/enhanced-hcbs-fmap.html>), TennCare prioritized \$137.5 million of this funding for *targeted* rate increases in CHOICES and Employment and Community First CHOICES HCBS that have a direct care component (\$50 million for FY 23, \$50 million for FY 24, and \$37.5 million for the first months of FY 25 ending March 31, 2024).¹ TennCare received conditional approval to move forward with implementation on September 22, 2021. State budget authority to begin receiving and expending federal funds was received today.

These ARP Enhanced HCBS FMAP funds will be used to align reimbursement for comparable services across Medicaid HCBS programs and population, in order to support equitable pay increases for the common workforce that serves them.² CHOICES services targeted for rate increases 1) have a direct care component; and 2) are currently reimbursed at a lesser rate than is effective as of July 1, 2021 for comparable services delivered through the Section 1915(c) waivers.³

The explicit purpose of these funds is to increase the wages of the frontline HCBS workforce. This significant investment specifically targeted to the frontline workforce is in response to input from these providers and other stakeholders and in light of significant investments approved by the Tennessee General Assembly targeted to wage increases for frontline HCBS workers in the Section 1915(c) waivers. Medicaid payment rates for comparable services in the 1915(c) waivers now account for a DSP hourly wage of \$12.50/hour. While TennCare does not prescribe hourly wages for frontline staff in CHOICES, by aligning rates of reimbursement in CHOICES (and ECF CHOICES) with rates for comparable services in the 1915(c) waivers, the expectation is that comparable hourly wages for frontline support staff are accounted for across Medicaid HCBS programs and populations. The belief is that by increasing the wages paid to these staff, providers will be better able to recruit and retain staff to provide these critically needed services, reducing overtime and costs associated with constant turnover. A wage factor is applied to account for provider related costs such as taxes.

¹ Once the federal funds expire (in March 2024), we hope that the wage increases can continue; TennCare has requested recurring funding for this purpose.

² In limited instances, increasing a residential rate to the amount paid for a comparable service in the 1915(c) waivers would exceed the individual cost neutrality cap for individuals enrolled in CHOICES Group 2—based on the average cost of Nursing Facility services. In these instances, a methodology was used to account for the appropriate hourly wage increase, even if full alignment in the rates could not be achieved.

³ If the CHOICES rate for the comparable service is already reimbursed at a rate higher than in the 1915(c) waivers, the rate is not increased.

Targeted CHOICES HCBS rate increases are as follows:

Service	HCPCS	Current Rate	New Rate
Attendant Care	S5125	\$4.37/qtr hour \$17.48/hour	\$5.33/qtr hour \$21.32/hour
Personal Care Visits	T1019	\$5.13/qtr hour \$20.52/hour	
Adult Day Care	S5100	\$2.50/qtr hour \$10/hour	\$3.03/qtr hour \$12.12/hour
Community Based Residential Alternatives			
Assisted Care Living Facility	T2031	\$36.17/day	\$42.89/day
	T2030	\$1,100/month	\$1,305/month
Adult Care Home – Level 1	T2033 U2	\$129/day	\$153/day
Adult Care Home – Level 2 TBI	T2033 U2	\$139/day	\$189/day
Community Living Supports (CLS)			
CLS 1	T2033 U1	\$36.16/day	\$42.89/day
	T2032 U1	\$1,100/month	\$1,305/month
CLS 2	T2033 U3	\$100/day	\$124/day
CLS 3	T2033 U4	\$165/day	\$189/day
CLS Family Model 1	T2016 U1	\$38/day	\$45.93/day

Effective Date and Conditions of Payment

CHOICES rate increases will be effective as of 7/1/21. As provided in the CMS-approved plan, the expectation that commensurate wage increases for the frontline HCBS workforce will also be retroactively effective as of that date, may be paid as a one-time retention bonus for the period, or are otherwise accounted for in the updated wages paid to staff, with new hourly wages effective prospectively beginning as soon as possible, but no later than December 6, 2021. Across all HCBS for which rates were increased, the provider must be able to document how the higher rates were used as intended—for purposes of increasing wages for frontline staff.

CHOICES providers will be required to sign an attestation of compliance in order to qualify for rate increases. The attestation must be fully completed and uploaded to PDMS prior to receiving increased rates. Specific instructions for this process can be found here: <https://www.tn.gov/tenncare/long-term-services-supports/partners-program-updates/ltss-protocols.html>. The attestation form required is attached hereto and may also be found here: <https://www.tn.gov/tenncare/long-term-services-supports/partners-program-updates/ltss-protocols.html>.

For all providers submitting a completed form **by November 15, 2021**, MCOs are expected to begin processing new claims at the higher rates by December 6, 2021. MCOs will also commence automatically reprocessing claims with dates of service 7/1/21 and following with the goal of completing all adjustments as expeditiously as possible, and within no more than 60 days—by February 4, 2022. Providers not submitting a completed form by November 15, 2021 will be eligible for new rates once the form is submitted. A provider that does not complete the attestation or comply with the conditions of payment is not eligible for the increased rates. Payments are subject to audit and recoupment (and review for potential False Claims Act violations) if it is determined that conditions of payment were not met, i.e., that funding was not used for its intended purpose. Audit processes may include (but are not limited to) review of provider payroll records, claims, and other documents as determined by TennCare.



**Attestation of Compliance for Eligibility to Receive Enhanced Home and Community Based Services (HCBS)
Federal Medical Assistance Percentage (FMAP) Funding**

Enhanced HCBS FMAP Funds are dollars being used within Tennessee’s Home and Community Based Services (HCBS) Programs—CHOICES, Employment Community First CHOICES (ECF), and 1915(c) Waiver Programs—to increase access to HCBS, strengthen the HCBS workforce, and build provider capacity to meet the needs of individuals receiving HCBS in these programs. The below attestation is confirmation that my agency will comply with all applicable requirements pertaining to eligibility for 1) the submission of claims or requests for payment of these federal funds, and 2) the receipt of these federal funds as prescribed by TennCare in written memos, protocols, or other communication. I further affirm that I will maintain documentation to demonstrate my agency’s compliance with TennCare requirements, and cooperate fully with all audits or other requests for documentation related to these payments.

Attestation:

- I understand that it is my responsibility to review eligibility requirements for each of the increased funding opportunities made available through federal Enhanced HCBS FMAP funding, and to only 1) submit claims or requests for payment of these federal funds; and 2) accept payment of these federal funds if eligibility requirements are met.
- I commit, as an Officer or Delegate Official, that complete documentation of compliance with these requirements will be maintained, and that records will be available upon request for auditing and validation of compliance for all ARPA FMAP payments received.
- I acknowledge that any Enhanced HCBS FMAP funding accepted by my agency for which eligibility requirements are not met is subject to recoupment, and that any such funding received, or any claims or requests for such funding for which eligibility requirements are not met, is subject to potential False Claims Act violations.
- I am a part of senior leadership within the provider agency with authority to sign on behalf of the agency.
- I understand if there are any indications that any provider agency engaging in activities to maximize incentive payments through fraudulent means will be reported to the TennCare Office of Program Integrity, the TBI, and Tennessee Attorney General’s office for an investigation related to violation of the False Claims Act.

Attestation Type	
<input type="checkbox"/> Initial	<input type="checkbox"/> Annual Renewal (<i>annual renewals are due 365 days from the date on the initial attestation</i>)
Provider Information	
Name:	Provider Medicaid Identification:
Tax Identification Number:	Date of Attestation:
Address:	
Printed name of signature:	
Title:	
Date:	
Authorized signature: ¹	

¹ A scanned, imaged, electronic, photocopy or stamp of the above signature shall have the same force and effect as an originally executed signature.