

DATE: June 24, 2020

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

FROM: Patti Killingsworth, Chief of LTSS

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

SUBJECT: Implementation of COVID-19 Related Retainer Payments

The purpose of this memo is to notify you that CMS has approved Tennessee's 1115 emergency amendment to the TennCare II demonstration, including authority to offer retainer payments to the following providers:

- 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 was not delivered or was substantially reduced—in this case, because of social distancing and stay-at-home orders related to the pandemic.

Retainer payments may now be billed for any ADC, Job Coaching, SE-SG, IEP, and CISS authorized to be provided between March 13, 2020 through May 12, 2020. Providers must include the “DR” (Disaster Related) condition code on each claim for a retainer payment to denote that the claim is impacted by these temporary COVID-related payment flexibilities and conditions (rather than payment for a service actually delivered) as provided in the attached. 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).

Conditions of payment are reiterated in the attached. **Please review this information carefully. Note in particular that submission of claims and/or acceptance of payment for these COVID-related payment flexibilities constitutes the provider's attestation that all applicable conditions of payment will be met.** It is your responsibility to not present for payment (or allow to be presented for payment) any claims for which conditions of payment will not be met, as described in the attachment.

All COVID-related payments are subject to audit and recoupment if it is determined that conditions of payment were not met. TennCare intends to work with our partners to design audit processes that will help to safeguard fiscal accountability while also minimizing administrative burden for your agency.

While we had hoped that CMS approval would have been received more quickly, we hope these payments 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.

Payment Flexibility	Conditions of Billing/Payment	Condition Terms	Attestation/Validation Process
<p>Retainer payments for Adult Day Care (ADC) in CHOICES and Job Coaching, Supported Employment - Small Group (SE-SG), Integrated Employment Path (IEP), and Community Integration Support Services (CISS) in ECF CHOICES effective 3/13-5/12/20</p>	<ul style="list-style-type: none"> • 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 • Agree to continue to pay all ADC, Job Coaching, SE-SG, IEP, and CISS staff at current wage/salary levels 	<p>A retainer payment may be billed for services that had been approved in the PCSP and were authorized to be delivered by the provider even if service authorizations have been reduced or placed on hold since the PHE commenced. The alternative services “exclusion” does not prohibit the provider from delivering other HCBS— authorized either before or after the PHE commenced. However, the provider may not bill a retainer payment if 1) the provider actually delivered the benefit and has sought or will seek payment for such service; OR 2) the provider is authorized to provide and has sought or will seek payment for the delivery of alternative HCBS on the same date of service for which the retainer payment is billed.</p> <p>Because the <i>temporary</i> rate increases are applied retrospectively (effective 3/13/20), staffing changes may have occurred as a result of the public health emergency (PHE) <i>before</i> rate increases (and conditions of payment) were announced. Accordingly, this condition will be applied as follows.</p> <p>If a provider has reduced wage/salary levels: By June 1, 2020, the provider must restore wage/salary levels of currently employed staff to <i>at least</i> the amount they were paid prior to March 13, 2020 (the wage/salary can be higher, but not lower than the wage/salary rate as of March 12, 2020). Payroll records shall be provided if requested to validate this condition.</p>	<p>MCOs will verify that the provider has not submitted a claim for the same service (without a DR condition code) for the date of service for which a retainer payment is made. MCOs will also verify that the provider has not submitted a claim for alternative HCBS (i.e., authorized in lieu of the service for which the retainer payment is billed) for the date of service for which the retainer payment is billed.</p> <p>Providers were notified of the conditions of payment via memo on May 4, 2020, May7, 2020, and May 13, 2020. Providers may begin submitting claims for retainer payments upon notification by MCOs once the emergency 1115 waiver amendment is approved by CMS. Providers must include the “DR” (Disaster Related) condition code on each claim for a retainer payment to denote that the claim is impacted by these temporary COVID-related payment flexibilities and conditions.</p> <p>A provider’s submission of a claim for a retainer payment with the “DR” condition code constitutes the provider’s attestation that all applicable conditions of payment will be met. A provider who is not able to comply with the wage/salary condition of payment and is therefore not eligible for the payments must not submit claims for retainer payments. If a provider falls out of compliance with the terms of these conditions after receiving payment, the provider must promptly return the payments to the MCO.</p> <p>Payments are subject to audit and recoupment if it is determined that conditions of payment were not met. Audit processes may include (but are not limited to) review of provider payroll records, return to employment offers/responses, PCSPs, MCO authorizations (including reductions or holds on such authorizations), claims, referrals, and gaps in care data.</p>