

Aged, Blind, and Disabled Manual;  
Section: Institutional Medicaid;  
Policy Manual Number: 125.005;  
Chapter: **INSTITUTIONAL STATUS**

**Legal Authority:** 42 CFR 435.1009; 42 CFR 435.1010; 42 CFR 435.236; 42 CFR 435.622; Tenn. Comp. R. & Regs. 1200-13-20-.08

## **1. Policy Statement**

An individual must be institutionalized in order to receive benefits in the Institutional Medicaid category.

An individual is considered institutionalized when he has:

- a. Been admitted to a medical institution (i.e. hospital, Nursing Facility (NF) or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)), and has been continuously confined for at least 30 days or admitted to a medical institution for hospice services;
- b. Been admitted to a Nursing Facility (NF) or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) and has been or determined by TennCare to be likely to be continuously confined for at least 30 days going forward;
- c. Applied to enroll in the Home and Community-Based Services (HCBS) waiver program, and has been determined to need and likely to receive services for a continuous period of at least 30 days going forward as demonstrated by an approved PAE in an applicable Level of Care; or
- d. Died while in long-term care nursing facility prior to meeting the 30 days continuous confinement requirement.

## **2. Continuous Confinement**

### **a. Individuals with a Pre-Admission Evaluation (PAE)**

An individual with a PAE is considered continuously confined when she has:

- i. Been admitted to a NF or ICF/IID and has been determined by TennCare to be likely to be continuously confined for at least 30 days going forward, demonstrated by an approved PAE which is effective for at least 30 days
- ii. Been admitted to a NF or ICF/IID and the period of time spent in a medical institution combined with the period of time for which an approved PAE is effective exceeds 30 days; or
- iii. Been determined to need and likely to receive HCBS for a continuous period of at least 30 days going forward, demonstrated by an approved PAE and a CHOICES Enrollment form.

Aged, Blind and Disabled Manual Policy Manual Number: 125.005	Section: Institutional Medicaid Chapter: Institutional Status
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**b. Individuals without a PAE**

An individual without a PAE is considered continuously confined when he:

- i. Has been admitted to a medical institution and is continuously confined in a medical institution (i.e. hospital, NF or ICF/IID) for at least 30 days;
- ii. Is dually-eligible for Medicare and Medicaid, and is receiving Level 2 Skilled Nursing Facility (SNF) care paid by Medicare. Medicare pays for the first 100 days of Level 2 SNF care; or
- iii. Has been admitted to a NF to receive hospice services for any length of time.

Note: A dual-eligible individual receiving SNF care paid for by Medicare does not need to be in an Institutional Medicaid category for TennCare to pay the Medicare co-pay. She must receive QMB, but may be eligible as a Supplemental Security Income (SSI) recipient or in another TennCare Medicaid category.

Note: If the dual-eligible individual continues to need Long-Term Services and Supports (LTSS) after his Medicare-covered stay in the SNF, then he must apply for CHOICES. If the individual is applying for HCBS services, he will need a PAE. If the individual applies for nursing facility care, he will need a PAE or may be approved based on continuous confinement.

**3. Institution Types**

An institution is an establishment that provides food, shelter, treatment and services to four or more individuals. Types of institutions include:

**a. Medical Institution**

An institution authorized by state law and organized to provide medical care, including nursing and convalescent care. Examples of medical institutions include: hospitals, convalescent or progressive care centers, and Long-Term Care Facilities (LTCFs), providing skilled and intermediate care and hospice services.

**b. Institution for the Intellectually and Developmentally Disabled**

An institution organized primarily for the diagnosis, treatment or rehabilitation of the intellectually and developmentally disabled. It provides a protected residential setting for the evaluation, rehabilitation and 24-hour supervision of the patient.

**c. Institution for Mental Disease (IMD)**

An institution licensed to provide diagnosis, treatment or care for persons with mental diseases.

TennCare Medicaid reimbursement is limited to care provided for an eligible individual who is at least 65 years of age and confined to an approved ward.

Confinement in an IMD does satisfy and establish institutional status for individuals under age 65 and those confined to unapproved wards; therefore, when subsequently admitted to a medical institution these individuals may already meet confinement.

**d. Public Institution**

A public institution is an institution serving more than 16 residents that is the responsibility of or controlled by a governmental unit. A public institution does not include:

- i. A medical institution; or
- ii. An intermediate care facility (ICF), including those providing services to individuals age 65 and older in institutions for tuberculosis or mental disease.

**e. Institution for Tuberculosis**

A facility established and maintained primarily for the care and treatment of tuberculosis.

Tennessee does not have any chest disease or tuberculosis hospitals. Reimbursement is available to an out-of-state hospital for a Tennessee resident who requires such care.

**4. Special Low-Income Group**

The following individuals are considered to be institutionalized when confined to a medical institution (i.e. hospital) for at least 30 days and are not eligible in another TennCare Medicaid Category of Eligibility (COE):

- a. Children (under 18 years of age or under 22 years of age if a student regularly attending school);
- b. Pregnant women;
- c. Aged individuals as defined in the *Institutional Medicaid* policy;
- d. Blind individuals as defined in the *Institutional Medicaid* policy; or
- e. Disabled individuals as defined in the *Institutional Medicaid* policy.

Note: Institutionalized individuals cannot be considered caretaker relatives as individuals confined to a medical institution for 30 days or more no longer meet the Caretaker Relative Status criteria as defined in the *Caretaker Relative MAGI* policy.

## 5. Inmate of a Public Institution

### a. Inmate Status

Inmate means any person living in a public institution who was committed under the penal system with no exception. Inmate status suspends receipt of Medicaid benefits, but is no longer considered a factor when looking at non-financial eligibility criteria.

The following would not be considered inmates:

- i. Individuals in public educational or vocational institutions designed for the primary purposes of educational or vocational training designed to prepare her for gainful employment;
- ii. Individuals temporarily confined pending other arrangements appropriate to his needs; or
- iii. Individuals receiving medical treatment in a ward approved by TennCare, such as patients in certified wards of State Developmental Centers for Intellectual and Developmental Disabilities, including certified ICF/IID wards and certified SNF, as well as patients in certified wards of State Mental Health Hospitals and Private Certified Mental Health Hospitals.

### b. Termination of Inmate Status

Inmate status is interrupted or terminated when an individual is admitted as an inpatient to a medical institution for more than 24 hours, except for those committed under the penal system. Inmate status for those committed under the penal system terminates upon release from custody. Release means:

- i. Parole;
- ii. Pardon;
- iii. Bail; or
- iv. Dismissal of charges.

## 6. Verification of Institutional Status

Establish the individual's institutional status using any one of the following methods or evidence as appropriate.

### a. Continuous Confinement to a Medical Institution for 30 Days (Hospital or Similar Institution)

Verify that the individual has been continuously confined in a medical institution for a period of at least 30 days. Check with the hospital admission office either by phone or written correspondence to verify admission and discharge dates. Review the individual's bill for hospital charges as it may include an admission and a discharge date.

**b. LTCF**

Evidence of an individual's institutional status includes:

- i. An approved PAE in the appropriate TennCare Pre-Admission Evaluation System (TPAES) queue; or
- ii. A completed Form 2350, a form submitted by entities such as hospitals and nursing homes to notify TennCare of the applicant's admission to the facility. The form includes the admission date and other pertinent information regarding the individual's confinement, states where the individual is located and/or how long the individual was confined.

**c. Confinement to an IMD**

Form 2350 from a Tennessee Department of Mental Health and Substance Abuse Services (TDMHSAS) facility is sufficient evidence that the unit to which the individual was admitted is one qualified for TennCare Medicaid reimbursement. The voluntary admission form the individual signed prior to admission to substantiate that the individual is not an inmate.

**d. Enrollment in HCBS**

The individual must have an approved PAE to be eligible to receive HCBS. An approved PAE is verification of institutionalized status.

**7. Patient in an IMD**

Patient includes an individual receiving professional services in an IMD, but does not include an individual on conditional release or convalescent leave from such an institution.

**8. Coverage for Former Patients and Inmates of IMDs**

**a. Overview**

A qualifying individual who is no longer a patient in an IMD or has had his inmate status interrupted may be eligible for TennCare Medicaid benefits upon his admission to a medical institution that is a Title XIX facility. Interruption of IMD patient status occurs when the individual is released, transferred from or receives convalescent leave from an IMD. Inmate status is interrupted when an individual is admitted to a medical institution unless he was admitted under the penal system, which requires release from the institution, i.e., parole, pardon, bail or dismissal of charges.

#### **b. Tennessee IMD**

An individual may qualify for TennCare Medicaid benefits as an institutionalized individual when his patient or inmate status in one of the following public institutions is interrupted:

- i.** Memphis Mental Health Institute, Memphis;
- ii.** Middle Tennessee Mental Health Institute, Nashville;
- iii.** Western Mental Health Institute, Bolivar; or
- iv.** Moccasin Bend Mental Health Institute, Chattanooga

These individuals must follow all procedures for filing an application for assistance and must meet all non-financial and financial requirements for TennCare Medicaid. As applications are processed for this group, refer to any individuals who might qualify for Supplemental Security Income (SSI) cash assistance to Social Security. Eligibility for SSI cash assistance includes TennCare Medicaid benefits.

The IMD representative will arrange for placement in a medical institution and will develop a plan with either the individual's family or the medical facility to apply for TennCare Medicaid. Because of the individual's former patient or inmate status, TennCare should be able to secure all necessary information from an IMD representative. If the IMD representative applies on behalf of the patient, she will act as the responsible person for the patient.

### **9. Children in Residential Treatment Centers**

Children in residential treatment centers are not considered to be continuously confined for the purpose of determining institutional status.

When a child is ordered by Juvenile Court or by a treating physician to undergo a psychiatric evaluation or treatment for a sex offense, alcohol and drug abuse or some other type of residential treatment, the cost of care is the responsibility of the child's family if the child remains in the custody of his parents or other caretaker relative.

#### **a. Children not Currently Receiving TennCare Medicaid**

If a child is placed in a residential treatment center and the family cannot afford to pay the cost of care, the family may apply for medical assistance. The child will be considered a member of the household whose absence from the home is temporary. This policy is applied to children who are in approved treatment centers, whether in state or out of state facilities.

Note: Residential treatment when medically necessary is a TennCare covered service for children.

### **b. Children Currently Receiving TennCare Medicaid**

TennCare Medicaid or TennCare Standard children who enter residential treatment facilities, such as those for sex offenses or alcohol and drug abuse and are in the custody of a parent or caretaker relative may be eligible in their existing COE. Children in this situation should still be considered a member of the household whose absence from the home is temporary.

As long as the child intends to return, the child will continue to be considered a member of her household and retain eligibility in the original COE received prior to placement in the treatment facility. If at any time during the absence it is determined that the child is no longer eligible for benefits, eligibility will be terminated.

## **10. HCBS**

### **a. General Description**

HCBS is provided in a home or community setting as an alternative to, or to delay the need for, LTSS in a NF or ICF/IID. HCBS is available to individuals who qualify for and are enrolled in CHOICES.

### **b. Waiver Types**

#### **i. HCBS**

The HCBS program is authorized by a waiver of TennCare Medicaid statutory requirements. In this waiver program:

1. Services are provided to individuals in their own homes, in the home of a caregiver or family member or in a facility participating in the HCBS program (such as an Assisted Living Facility) who would otherwise require the level of care (LOC) provided in an ICF;
2. Services are required to be furnished under an individual written plan of care; and
3. Individuals enrolled must meet the same eligibility criteria as if admitted to an ICF.

Note: Group homes are considered a community-based setting, so individuals living in those settings could be eligible for HCBS benefits.

#### **ii. Employment and Community First (ECF) CHOICES**

ECF CHOICES is an HCBS program designed to support individuals with intellectual and developmental disabilities (I/DD) of all ages in realizing their employment and independent

living goals. Individuals enrolled must either meet NF LOC or be at risk for NF placement in the absence of HCBS. In addition, enrollees must:

1. Have been assessed and found to have an intellectual disability manifested before eighteen (18) years of age or a developmental disability manifested before twenty-two (22) years of age, as specified in Tennessee State law (Tennessee Code Annotated, Title 33-1-101); and

Note: For children five years old or younger a “developmental disability” refers to a condition of substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disability if services and supports are not provided.

2. Be enrolled in TennCare Medicaid as an SSI recipient or through one of the demonstration groups: ECF CHOICES 217-Like Group or Interim ECF CHOICES At-Risk Group.

Eligibility for the ECF CHOICES 217-Like Group and the Interim ECF CHOICES At-Risk Group is determined based on Institutional Medicaid non-financial and financial eligibility rules.

### iii. **DDA Waivers**

The DDA waivers provide LTSS for individuals with intellectual disabilities through ICF/IIDs and HCBS.

Individuals eligible for a DDA waiver must meet the non-financial and financial eligibility requirements of the Institutional Medicaid category or receive Medicaid through SSI. There are three DDA HCBS waivers for individuals with intellectual disabilities:

#### 1. **Comprehensive Aggregate Cap Waiver**

Individuals qualify for, and absent the provision of waiver services would be placed in, an ICF/IID.

To enroll in this waiver program, an individual must:

- a. Meet TennCare ICF/IID LOC criteria (TennCare Rule 1200-13-1-.15) and financial eligibility criteria and have a PAE approved by TennCare;
- b. Have been assessed and found to have an intellectual disability manifested before eighteen 18 years of age, as specified in Tennessee State law (Tennessee Code Annotated, Title 33-1-101); and

- c. Have been identified by the state as a former member of the certified class in the United States vs. State of Tennessee, et al. (Arlington Developmental Center), a current member of the certified class in the United States vs. the State of Tennessee, et al. (Clover Bottom Developmental Center), or an individual transitioned from the Statewide Waiver (#0128) upon its renewal on January 1, 2015, because he was identified by the state as receiving services in excess of the individual cost neutrality cap established for the Statewide Waiver.

## 2. State-Wide ID Waiver

The Statewide ID Waiver provides services to Tennessee children with developmental delays and adults and children with intellectual disabilities who meet the ICF/IID LOC criteria.

To enroll in this waiver program, an individual must:

- a. Meet TennCare ICF/IID LOC criteria (TennCare Rule 1200-13-1-.15) and financial eligibility criteria and have a PAE approved by TennCare; and
- b. Have been assessed and found to:
  - i. Have an intellectual disability manifested before eighteen (18) years of age, as specified in Tennessee State law (Tennessee Code Annotated, Title 33-1-101); or
  - ii. Have a developmental disability, which is defined as a condition of substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in an intellectual disability and be a child five (5) years of age or younger.

## 3. Self-Determination Waiver

The Self-Determination Waiver provides community-based services to individuals with developmental disabilities who would otherwise require the level of care provided in an ICF/IID

To enroll in this waiver program, an individual must:

- a. Meet TennCare ICF/IID LOC criteria (TennCare Rule 1200-13-1-.15) and financial eligibility criteria and have a PAE approved by TennCare;
- b. Have been assessed and found to:
  - i. Have an intellectual disability manifested before eighteen (18) years of age, as specified in Tennessee State law (Tennessee Code Annotated, Title 33-1-101); or,

- ii.** Have a developmental disability, which is defined as a condition of substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in an intellectual disability and be a child five (5) years of age or younger; and
- iii.** Not require residential waiver services (e.g., family model, residential habilitation, supported living) and have an established non-institutional place of residence where the individual lives with family, a non-related caregiver or the individual's own home.

Aged, Blind and Disabled Manual Policy Manual Number: 125.005	Section: Institutional Medicaid Chapter: Institutional Status
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### Version History

Revision Date	Section	Section Title	Page Number(s)	Reason for Revision	Reviser
04.17.2015				Publication	
07.01.2016	9.b.ii	Employment and Community First (ECF) CHOICES	6-7	Section Addition	AJ
04.01.2020	2.a.; 2.b.; 7.b.; 8.b.	Legal Authority; Individuals with a Pre-Admission Evaluation (PAE); Individuals without a PAE; Tennessee IMD; Children Currently Receiving TennCare Medicaid	1-2; 5-6	Policy Clarification	TN
05.01.2020	5.b-5.d	LTCF; Confinement to and IMD; Enrollment in HCBS	4	Non-Substantive Change	TN
05.01.2020	1; 2.a-b.; 4; 5.a	Policy Statement; Continuous Confinement, Special Income Level Group; Verification of Institutional Status	1	Policy Change	TB
08.01.2024	2.a.iii	Continuous Confinement	1	Policy Change	LW
08.01.2024	6.b.ii.	Verification of Institutional Status	5	Policy Clarification	LW
11.03.2025	1.a; 1.c; 3.a; 10.b.i.1	Policy Statement; Medical Institution; HCBS	1-2, 7	Policy Clarification	BD
11.03.2025	1.a; 3.a; 3.b.ii.	Policy Statement; Medical Institution; Self-Determination Waiver	1-2, 10	Non-Substantive Change	BP