

Notice of Change to the TennCare III Demonstration Amendment 4

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The Commissioner of the Tennessee Department of Finance & Administration is providing official notification of intent to file an amendment to the TennCare III demonstration. This amendment, which will be known as “Amendment 4,” will be filed with the Centers for Medicare & Medicaid Services (CMS). In Amendment 4, TennCare is proposing modifications to the TennCare demonstration in response to a letter from CMS on June 30, 2022, requesting that Tennessee address certain limited areas of “concern” in the current TennCare III demonstration. The proposed modifications are described in more detail below.

Description of Amendment and Affected Populations

Since 1994, Tennessee has operated its Medicaid program under the authority of an 1115 demonstration program known as TennCare. The current iteration of the TennCare demonstration, known as “TennCare III,” began operating on January 8, 2021. Since that time, Tennessee has significantly expanded the scope of coverage and benefits available under Medicaid in Tennessee, including extending Medicaid postpartum coverage from 60 days to 12 months, providing dental benefits for pregnant and postpartum beneficiaries, implementing a chiropractic benefit for adult beneficiaries, expanding the scope of home- and community-based services (HCBS) available through the demonstration, and increasing enrollment in HCBS (with the goal of eliminating all waiting lists for HCBS programs). In addition, in the past year Tennessee has submitted a demonstration amendment to CMS to expand TennCare’s coverage of adopted children in Tennessee, and Tennessee is currently working to implement a dental benefit for all adults enrolled in TennCare. Over time, these enhancements to coverage and benefits are expected to contribute to improved health outcomes for TennCare beneficiaries (a key goal of the TennCare demonstration). These investments are a confirmation and validation of the commitment the state of Tennessee made upon implementation of TennCare III and an indicator of the kinds of improvements made possible by the terms and conditions of TennCare III.

After consideration of the issues raised by CMS in its June 30, 2022, letter, Tennessee is confident these issues can be addressed while still maintaining the core goals and key principles of the TennCare III demonstration. Accordingly, Amendment 4 proposes the following modifications to the TennCare III demonstration.

1. *Financing of the Demonstration*

As with all Medicaid 1115 demonstration projects, CMS requires that the TennCare demonstration be budget neutral for the federal government (i.e., the demonstration cannot result in Medicaid costs to the federal government that are greater than what the federal government's Medicaid costs would have been absent the demonstration). Like a number of other state demonstrations, the budget neutrality framework for the TennCare III demonstration was initially calculated on an "aggregate cap" basis. In its June 30, 2022, letter, CMS requested that the demonstration's budget neutrality framework be calculated instead on a "per member per month cap" basis.

Tennessee is confident that the TennCare III demonstration is in fact budget neutral for the federal government and can be demonstrated to be so via any number of methodologies. As such, consistent with CMS' request, Amendment 4 includes a proposal to assess budget neutrality for the TennCare demonstration using a per member per month (PMPM) cap. Amendment 4 proposes no other changes to the demonstration's budget neutrality framework.

2. *Demonstration Expenditure Authorities*

Consistent with CMS' request of June 30, 2022, and the proposed change to TennCare's budget neutrality framework described above, Amendment 4 proposes corresponding changes to the framework governing the state's expenditure authorities under the demonstration. This component of the demonstration recognizes savings produced to the federal government by the state under the demonstration and provides a mechanism for the state to reinvest a portion of those savings in initiatives to improve the health of Medicaid beneficiaries. This ability to be recognized for responsible and effective Medicaid program operation through additional federal funding, which can then be reinvested into the Medicaid program, is a fundamental principle of TennCare III.

In Amendment 4, Tennessee requests federal financial participation (FFP) for designated state investment programs (DSIPs). A list of identified and approved programs is included as Attachment O of the TennCare demonstration. These programs support access to healthcare across a variety of domains, spanning mental health, public health, community services, and child health services.

In order to ensure the budget neutrality of these additional federal expenditures, the state requests that the amount of DSIP expenditure authority each year be based on the extent (if any) to which the state's expenditures for that year are below its budget neutrality cap (now calculated on a per member per month basis), up to a maximum amount equivalent to the federal share of the designated state investment programs specified in the demonstration. This arrangement recognizes the role that these programs play in improving the health of Medicaid enrollees and the communities in which they live and will support the state's efforts to make investments in improving the health of Medicaid beneficiaries over the life of the demonstration (e.g., adult dental services, expanded 12-month postpartum coverage, enhancements to home- and community-based services, etc.).

3. *Closed Formulary*

The TennCare III demonstration includes expenditure authority for pharmacy and related flexibilities that allow Tennessee to exclude certain drugs from the state's Medicaid prescription drug formulary (subject to a number of conditions and protections). This flexibility was requested by the state and approved by CMS in recognition of the growing costs of prescription drugs—an increasing number of which are accelerated approval drugs with limited or inadequate evidence of clinical efficacy—and the lack of tools available to states to meaningfully manage these costs within the existing Medicaid policy framework.

While we regard this flexibility as a permissible and reasonable use of the Secretary's authority under Section 1115 to test novel approaches to the financing and delivery of Medicaid benefits, at CMS' request, the state is proposing to remove this expenditure authority and its associated flexibilities from the TennCare demonstration. In lieu of this flexibility, the state requests that the demonstration's STCs be modified to provide for an adjustment to the demonstration's PMPM caps in instances when prescription drug costs materially affect the average per-member cost of care.

The inclusion of this proposed change in Amendment 4 is not an indication that Tennessee's concerns with the rising cost of prescription drugs or the lack of mechanisms to meaningfully control drug costs within the existing Medicaid policy framework have been alleviated. Tennessee encourages CMS to use the tools at its disposal—including both its regulatory powers under Title XIX and its authority to

waive rules and statute under Section 1115—to implement strategies to address this critical issue.

These proposed changes address the issues identified by CMS while maintaining the primary goals and objectives of the TennCare demonstration.

Expected Impact on Enrollment and Expenditures

Amendment 4 does not propose any changes to TennCare eligibility or benefits and will not result in any changes to enrollment or expenditures under the TennCare demonstration. As noted above, this amendment will result in changes to the way that the demonstration's budget neutrality is calculated.

Evaluation Impact

The state's evaluation design for the demonstration (currently under CMS review) will be modified to reflect that the expenditure authority related to pharmacy and its associated flexibilities are no longer part of the demonstration. Research questions and hypotheses related to the implementation of a closed formulary will be removed from the evaluation design.

In addition, the tools used by CMS and the state to monitor budget neutrality for the demonstration will be modified to reflect the changes to the budget neutrality framework described above (i.e., to reflect the change from an aggregate cap budget neutrality framework to a per member per month cap budget neutrality framework).

Waiver and Expenditure Authorities Requested

The state is requesting no changes to the waiver and expenditure authorities currently approved for the TennCare demonstration other than those described above. All other waiver and expenditure authorities approved for the TennCare demonstration will continue to be in effect under this amendment.

Public Notice Process

TennCare has taken a variety of steps to ensure that members of the public are notified of Amendment 4. These measures include the development and maintenance of this webpage, as well as notices published in newspapers of general circulation in Tennessee communities with 50,000 or more residents. TennCare has disseminated information about the proposed amendment via its social media accounts (e.g., Facebook, Twitter). TennCare has also notified members of the Tennessee General Assembly of its intent to submit Amendment 4.

Public Input Process

TennCare is seeking feedback on Amendment 4 prior to its submission to CMS. Members of the public are invited to offer comments regarding Amendment 4 from July 19, 2022, through August 19, 2022.

Members of the public who wish to comment on the proposed amendment may do so through either of the following options:

- Comments may be sent by email to public.notice.tennCare@tn.gov.
- Comments may be mailed to

Aaron Butler, Director of Policy
Division of TennCare
310 Great Circle Road
Nashville, TN 37243.

TennCare always appreciates input. In order to be considered for the final draft of Amendment 4, feedback must be received no later than August 19, 2022. Individuals wishing to view comments submitted by members of the public may submit their requests to the same physical address and/or email address at which comments are being accepted.

Draft of Amendment 4

A draft of TennCare's proposed demonstration amendment is located at <https://www.tn.gov/content/dam/tn/tenncare/documents2/Amendment4Draft.pdf>. Copies of the draft amendment are also available in each county office of the Tennessee Department of Health. Once comments received during the public input period have been reviewed and considered, a final draft of the amendment will be prepared. The final draft will be submitted to CMS and will then be made available through the webpage located at <https://www.tn.gov/tenncare/policy-guidelines/waiver-and-state-plan-public-notices.html>.

TennCare Page on CMS Web Site

As the federal agency with oversight authority over all Medicaid programs, CMS offers its own online resources regarding the TennCare Demonstration. Interested parties may view these materials at

https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/waivers_faceted.html.