



TENNCARE POLICY MANUAL

Policy No:	EED 06-001 (Rev 4)	
Subject:	Eligibility of Inmates of a Public Institution	
Approval:	<i>Tracy Farrell</i>	Date: 4/7/2016

FOR ADDITIONAL INFORMATION PLEASE REFER TO: Eligibility Policy, Administrative Manual, Policy Manual Number: 200.112

INTRODUCTORY NOTE ABOUT TERMINOLOGY:

This policy deals with a very small subset of the TennCare population referred to as “inmates of public institutions.” In the context of Medicaid and TennCare, inmates of public institutions are people who are incarcerated in jails, prisons, or detention centers. This narrow definition stems from the term “inmates,” which—according to federal guidance on the subject—comprises individuals (adults and/or children) serving time or otherwise involuntarily confined in penal facilities.¹

The phrase “public institution” refers to an establishment that is governmentally controlled and that provides food, shelter, and other services to its residents.² State and federal prisons, jails, and detention centers fit within this definition, but there are many public institutions in which participation is voluntary and, therefore, residents are not considered inmates. Examples include state universities, public vocational training programs, Veterans Administration hospitals, and public emergency shelters for persons who are homeless. People residing in such settings are not the subject of this policy.

In addition, the terms “penal facility” and “correctional facility” are used interchangeably in this document to refer to jails, prisons, and/or detention centers.

¹ See letter dated December 12, 1997, from Robert Streimer, Director of Disabled and Elderly Health Programs Group, Department of Health and Human Services, to Associate Regional Administrators in the Division for Medicaid and State Operations.

² 42 CFR § 435.1010. To qualify as an institution, the facility must have at least four residents who are not related to the proprietor.

BACKGROUND:

Federal law³ and regulation⁴ prohibit federal financial participation (FFP) for Medicaid services provided to inmates of public institutions. There is, however, an exception to this rule: FFP is available when an inmate otherwise eligible for Medicaid is removed from the penal facility and admitted as an inpatient at any of the following four types of settings:

- Hospital;
- Nursing facility;
- Juvenile psychiatric facility; or
- Intermediate care facility.⁵

According to federal regulation, to qualify as an “inpatient,” the individual must receive—or be expected to receive—care in one of these four settings for a minimum of 24 hours.⁶

The fact that FFP is usually unavailable for inmate care has prompted many states to terminate the eligibility of enrollees determined to be incarcerated. Federal law and regulation do not impose this obligation; in fact, multiple federal guidance documents suggest suspending eligibility and reinstating it upon the individual’s return to the community.⁷

For several years, Tennessee was one of the states that terminated the eligibility of Medicaid enrollees found to be serving time in a correctional facility. In 2014, however, the Tennessee General Assembly passed legislation to suspend—rather than terminate—TennCare eligibility during periods of incarceration and, furthermore, to have TennCare cover inpatient care received by an otherwise eligible inmate outside the correctional facility for more than 24 hours. This law, codified at TCA § 71-5-106(r), went into effect on April 1, 2015.

POLICY:

This policy describes the manner in which the Bureau of TennCare complies with TCA § 71-5-106(r). The TennCare benefits of an enrollee who becomes an inmate of a public institution shall be suspended for the duration of the incarceration.⁸ Temporary reinstatement of benefits during this period of incarceration shall be limited to inpatient care that lasts more than 24 hours and is received outside the public institution.

³ 42 USC § 1396d(a)(29)(A).

⁴ 42 CFR § 435.1009(a)(1).

⁵ Streimer letter, p. 2. With regard to inpatient facilities that provide long-term services and supports, the inmate would have to satisfy additional eligibility criteria (e.g., Level of Care requirements).

⁶ 42 CFR § 435.1010.

⁷ See, for example, the letter dated May 25, 2004, from Glenn Stanton, Acting Director of the Disabled and Elderly Health Programs Group, CMS, to State Medicaid Directors and CMS Associate Regional Administrators for Medicaid.

⁸ Benefits shall not be suspended for an individual who is an inmate of a jail for 90 days or less.

PROCEDURES:

1. Identification of TennCare enrollees who are inmates. Each month, the Tennessee Department of Corrections (DOC) and a TennCare contractor provide the Bureau data about individuals held in Tennessee prisons and jails. This data includes demographic information (e.g., name, Social Security number, date of birth, etc.) that the Bureau matches with information stored in the TennCare Management Information System (interChange) to determine which inmates are TennCare enrollees.
2. Suspension status. TennCare enrollees determined to be inmates of prisons or jails are flagged in interChange with suspension status and are reassigned from their current managed care organizations (MCO) to TennCare Select. Suspension status applies not to TennCare eligibility but to payment of claims. Although most types of claims will not be paid for the duration of the enrollee's incarceration, a mechanism within interChange exists to allow payment of claims for inpatient care (i.e., care lasting longer than 24 hours) when furnished outside the correctional facility.
3. Inmate notification. Placement of an incarcerated enrollee in suspension status triggers the creation and mailing of a notification letter from TennCare. The purpose of the letter is to inform the enrollee that—
 - TennCare benefits will be suspended for the period of incarceration;
 - The enrollee should notify TennCare of address updates and/or changes to the manner in which TennCare communicates with the enrollee; and
 - An enrollee who is not incarcerated may contact TennCare to request removal from suspension status.

TennCare mails the notification letter to the enrollee at two addresses: the last known address recorded in interChange, and the address of the correctional facility listed in the data provided by DOC and the contractor.

4. Eligibility redetermination. A TennCare enrollee who is an inmate of a public institution is subject to the same eligibility redetermination rules and procedures as the rest of the TennCare population. An individual undergoing redetermination may not have his eligibility terminated solely because of being incarcerated, but incarceration may play a part in determining that an enrollee no longer qualifies for coverage. For example, most inmates could not maintain coverage in the "caretaker relative" category, since a caretaker relative, according to federal regulation, is "a relative of a dependent child . . . with whom the child is living, who assumes primary responsibility for the child's care."⁹ Unless the child resides with the inmate in the correctional facility, the inmate would not satisfy the eligibility criteria for this category.

⁹ 42 CFR § 435.4.

5. Reinstatement of benefits. One piece of information that DOC and the contractor provide to the Bureau in the monthly incarceration reports is the date on which an inmate's release from the correctional facility is scheduled to occur (or, in some cases, has occurred). Assuming that the inmate remains eligible for TennCare, the Bureau removes the suspension status, reassigns the individual to an MCO other than TennCare Select,¹⁰ and resumes payment of claims **on the day after release (or on the next business day, if the release occurred in the past)**. If the incarceration reports do not include an enrollee's release date but the enrollee demonstrates to TennCare that he was released, a designated team within the Bureau is authorized to remove the suspension status manually. Under such circumstances, MCO reassignment and resumption of claims payment would occur **the day after the individual's release had been verified**.
6. New applications submitted by inmates. An individual who is not enrolled in TennCare at the time he enters incarceration is, nonetheless, entitled to apply for TennCare coverage at any time.¹¹ The same principles discussed above under the heading of "Eligibility redetermination" apply to new applications for coverage submitted by inmates: an individual's application may not be denied solely because of incarceration, but incarceration may play a part in determining that the applicant does not meet eligibility criteria.

OFFICES OF PRIMARY RESPONSIBILITY:

TennCare Division of Member Services
TennCare Division of Information Systems

REFERENCES:

<http://www.gpo.gov/fdsys/pkg/USCODE-2013-title42/pdf/USCODE-2013-title42-chap7-subchapXIX-sec1396a.pdf>

42 USC § 1396a

<http://www.gpo.gov/fdsys/pkg/USCODE-2013-title42/pdf/USCODE-2013-title42-chap7-subchapXIX-sec1396d.pdf>

42 USC § 1396d

http://www.ecfr.gov/cgi-bin/text-idx?SID=c53cc2d028bb6311fd0c6269dac95128&mc=true&node=se42.4.435_14&rgn=div8

42 CFR § 435.4

¹⁰ There is no guarantee that the enrollee will return to the MCO to which he was assigned prior to incarceration.

¹¹ 42 USC § 1396a(a)(8) provides "that all individuals wishing to make application for medical assistance under the plan shall have opportunity to do so."

http://www.ecfr.gov/cgi-bin/text-idx?SID=c53cc2d028bb6311fd0c6269dac95128&mc=true&node=se42.4.435_11009&rgn=div8
42 CFR § 435.1009

http://www.ecfr.gov/cgi-bin/text-idx?SID=c53cc2d028bb6311fd0c6269dac95128&mc=true&node=se42.4.435_11010&rgn=div8
42 CFR § 435.1010

<http://www.lexisnexis.com/hottopics/tncode/>
TCA § 71-5-106(r)

<http://share.tn.gov/sos/rules/1200/1200-13/1200-13.htm>
TennCare Rules 1200-13-13-.10 and 1200-13-14-.10

<http://share.tn.gov/sos/rules/1240/1240.htm>
DHS Rule 1240-03-03-.02

APPLICABLE REFERENCES ENCOMPASSED IN THIS POLICY:

42 USC § 1396d(a)(29)(A)
42 CFR § 435.1009(a)(1)
42 CFR § 435.1010
42 CFR § 436.1005
TCA § 71-5-106(r)
Rule 1200-13-13-.01(62)
Rule 1200-13-13-.10(1)(o)
Rule 1200-13-14-.01(67)
Rule 1200-13-14-.02(3)(f)
Rule 1200-13-14-.02(10)(a)(12)
Rule 1200-13-14-.10(1)(o)
Rule 1240-03-03-.02(1)

Original: 07/26/06: SB
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Revision 2: 06/12/09: SLM
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Revision 3: 04/07/14: JTR
Revision 4: 04/07/16: JTR