

TennCare Quarterly Report

Submitted to the TennCare Oversight Committee and the Fiscal Review Committee

April 15, 2003

Status of TennCare Reforms and Improvements

The TennCare benefit and copay changes that were scheduled to go into effect on January 1, 2003, did not go into effect due to litigation surrounding the *Rosen* lawsuit. These changes were re-scheduled for implementation on April 1, 2003, but were postponed indefinitely because of efforts underway to reach new agreements with the Tennessee Justice Center. The trial for the *Newberry* lawsuit, which was scheduled to start on March 31, was continued.

Reverification Status

As of March 23, 2003, only 122,440 of the 582,178 waiver-eligible individuals to whom notice letters were mailed are still in process of eligibility redetermination. Other cases were resolved as follows:

- 271,682 individuals have been approved for continued TennCare coverage. (This includes individuals eligible for TennCare Medicaid as well as individuals eligible for TennCare Standard.)
- 28,892 individuals were found by DHS to be no longer eligible and coverage has been terminated.
- 146,584 individuals have lost coverage because they did not respond to redetermination notice letters.
- An additional 12,580 individuals lost coverage for no response, but have subsequently appealed and have had coverage reinstated pending resolution of appeal.

On March 17, 2003, the Governor announced a "Grace Period" for individuals who lost coverage because they did not respond to redetermination notice letters. The grace period gives only the aforementioned group until March 31, 2004, to apply again for TennCare at DHS under redetermination eligibility guidelines. Uninsured individuals who meet poverty guidelines (under 100% for adults or 200% for children) do not have to prove medical eligibility. Individuals who prove medical eligibility can continue their enrollment in TennCare regardless of income. All must complete the application process at DHS including an interview and documentation of technical eligibility, e.g., U.S. citizenship or resident alien status, Tennessee residency, etc. As of April 10, 2003, 2,296 appointments have been scheduled at DHS for individuals eligible to apply under the grace period.

Status of Filling Top Leadership Positions in the Bureau

Two key appointments were made during this quarter. Gene Grasser, formerly regional administrator for the U.S. Centers for Medicare and Medicaid Services (CMS) in Atlanta, began work as Director of Operations for TennCare. Jim Shulman, formerly chief of staff to Tennessee House Speaker Jimmy Naifeh and a private businessman, was named Director of Member Services.

Number of Recipients on TennCare and Costs to the State

As of the end of the quarter, there were 1,339,159 enrollees on TennCare: 974,053 Medicaid eligibles and 365,206 Uninsureds and Uninsurables.

During the second quarter of FY 2003, TennCare spent \$ 1,064,806,613 (net projected drug rebates) for managed care services. These expenditures included: payments to the managed care organizations, payments to the behavioral health organizations, payments to the dental benefits manager, and payments for pharmacy services for the dual eligibles and behavioral health pharmacy carve-outs.

Viability of MCOs in the TennCare Program

Claims Payment Analysis for Medical Services

The prompt pay requirements of T.C.A. § 56-32-226(b) mandate that each health maintenance organization and behavioral health organization ensure that 90% of claims for payment for services delivered to a TennCare enrollee are paid within 30 days of the receipt of such claims and 99.5% of all provider claims are processed within 60 days of receipt.

In January 2003, TDCI requested data files of all TennCare processed medical claims from TennCare MCOs and BHOs for the month of January 2003. TDCI also requested data files of pending TennCare claims as of January 31, 2003, and a paid claims triangle from January 1, 2002, through January 31, 2003.

The request also included data files of all TennCare processed pharmacy benefits claims from TennCare MCOs and/or subcontracted pharmacy benefits managers (PBMs) for the month of January 2003, data files of pending TennCare pharmacy claims at January 31, 2003, and a paid claims triangle from January 1, 2002, through January 31, 2003. The behavioral health organizations, Premier and Tennessee Behavioral Health, were not part of this analysis because TennCare Partners Program pharmacy benefits are delivered by the TennCare Bureau through its contract with Consultec. The BHOs are not required to provide pharmacy benefits because these benefits are provided directly by the state.

Preferred Health Partnership and Victory Health Plan were not in compliance with prompt pay requirements for January pharmacy claims. Preferred Health Partnership

did not follow TDCI guidelines for submitting its pharmacy data. TDCI has requested PHP to resubmit January data files for pharmacy benefits in the appropriate file format. Victory Health Plan's pharmacy benefits manager has refused to provide claims data files for July 2002, October 2002 and January 2003. As a result of this refusal, TDCI has taken an administrative action to assess a penalty of \$30,000 against Victory Health Plan.

As part of TDCI's cycle of analyzing claims data for the first month in each quarter, the division will review claims data for all MCOs and BHOs for April 2003.

Net Worth Requirement

All health maintenance organizations (HMOs) and behavioral health organizations (BHOs) contracted with the State of Tennessee to provide benefits for TennCare and TennCare Partners enrollees were required to file on March 1, 2003, National Association of Insurance Commissioners (NAIC) 2002 annual financial statements with the Tennessee Department of Commerce and Insurance, TennCare Division.

Listed below is each MCO's net worth requirement compared to net worth reported at December 31, 2002, on the NAIC annual financial statement. TDCI has not adjusted the net worth reported on the NAIC annual statements. TDCI's calculations for the net worth requirement reflect payments made for the calendar year ending December 31, 2002, including payments made under the "stabilization plan." Memphis Managed Care, Xantus, and Premier reported a net worth deficiency.

MCO/BHO	REPORTED NET WORTH	NET WORTH REQUIREMENT	Note	EXCESS/(DEFICIENT) NET WORTH
Better Health Plans	3,521,561	2,956,800	(1)	564,761
John Deere	79,549,883	13,976,784		65,573,099
Memphis Managed Care	5,146,476	8,952,071		(3,805,595)
OmniCare	7,084,131	6,440,573		643,558
Preferred Health Partnership	20,866,418	7,456,266		13,410,152
Premier Behavioral Health	2,311,442	7,858,441	(2)	(5,546,999)
TN Behavioral Health	5,249,617	4,107,136		1,142,481
Universal			(3)	
Victory Health Plan	5,642,125	2,266,571		3,375,554
Volunteer (BlueCare & Select)	34,673,137	20,347,984		14,325,153
Xantus	(77,505,757)	8,820,978		(86,326,735)

(1)BHP's net worth requirement is the "enhanced" net worth requirement determined during the RFR process. The net worth requirement has been increased above the statutory minimum based on projected premium revenue. BHP's calculated statutory net

worth requirement is \$2,402,400. Because BHP's statutory net worth requirement is less than the enhanced net worth requirement, TDCI will enforce the requirement at the higher level.

(2) Premier is scheduled to terminate the TennCare Partners Program on June 30, 2003. Under the terms of its supervision notice, Premier must maintain a positive net worth until its termination. Premier is also operating on a "no-risk" basis for behavioral health expenses with dates of service from January 1, 2003, through June 30, 2003.

(3) A letter was delivered to Universal terminating the contract between Universal Care of Tennessee and TennCare, with a termination date of June 1, 2003. Universal responded by filing suit against the State in federal court.

FINANCIAL ISSUES:

Xantus Healthplan of Tennessee, Inc. (Xantus)

Current Regulatory Status

Chris Burton has replaced Paula Flowers as a Special Deputy Receiver overseeing the daily operations of Xantus. David Manning continues to hold his title and responsibilities in a limited role as a Special Deputy Receiver.

Current Financial Status

Xantus continues to be on a "no-risk" reimbursement for reasonable cost in accordance with the contract amendment between Xantus, the state TennCare Program and the Centers for Medicare and Medicaid Services.

Access MedPlus (TCCN)

Because Access MedPlus was unable to cure statutory and contractual financial and claims processing deficiencies, the state terminated its contract with Access MedPlus on October 31, 2001.

On October 18, 2001, the Chancery Court of Davidson County issued an Order of Seizure of TCCN by TDCI to take possession and control of all of the property, books, documents, assets and the premises of TCCN. The Order also set a hearing on TDCI's request for liquidation or rehabilitation of TCCN to be held on November 2, 2001. On October 20, 2001, the TennCare Bureau moved all of TCCN's TennCare enrollment to the TennCare Select plan.

On November 2, 2001, a Liquidation Order for TCCN was entered by the Chancery Court of Davidson County. The order established that all claims must be received by March 1, 2002, at 4:30 p.m., CST. Courtney Pearre, Esq., appointed Supervisor since May 10, 2001, was appointed as the Commissioner's Special Deputy for the purposes of liquidation.

All providers were required to file by no later than March 1, 2002, a proof of claim ("POC") for all outstanding debt owed by TCCN to be considered a "Class II Claimant" in

the liquidation. As of August 1, 2002, all of the liquidation advices had been mailed to providers as notification of the computed payable amount of their POCs. These providers then had until September 6, 2002, to object in writing to the computed payable amount. The TCCN liquidation staff has worked to resolve appeals by providers who disputed the computed payable amount either through agreement or by independent referee. All appeals are resolved with the exception of one provider who has appealed the referee's decision to Chancery Court.

The TennCare Bureau has transferred funds to TCCN in the amount of \$10.5 million for claims covered by the safety net period. On March 4, 2003, approximately 1,900 safety net acceptance forms were sent to providers with computed payable amounts for the safety net period. Providers were given the opportunity to appeal the safety net amount by March 28, 2003. Providers were also given the opportunity to accept the safety net amount by April 7, 2003. As acceptance forms are received, funds are disbursed to providers on the same day.

Before liquidation, the management company transferred approximately \$5.7 million from the assets of TCCN to the accounts of the former management company. The Chancery Court issued an order granting injunctive relief restraining the management company from removing any of the \$5.7 million. The management company subsequently filed bankruptcy. Recently, the Bankruptcy Court entered an order that allows the Special Deputy Liquidator to proceed to recover the \$5.7 million in Chancery Court. Such a petition has now been filed in Chancery Court. The Creditors Committee for the management company has filed a motion to modify the Bankruptcy Court's order. The Special Deputy Liquidator has filed papers in opposition to the Creditors Committee's motion. The hearing in Bankruptcy Court was scheduled for February 11, 2003. Chancery Court has not scheduled a hearing date regarding the transfer of \$5.7 million to the management company.

With the resolution of these issues, the Special Deputy Receiver will petition for a distribution of the remaining assets of TCCN.

Universal Care of Tennessee (Universal)

A letter was delivered to Universal terminating the contract between Universal Care of Tennessee and TennCare, with a termination date of June 1, 2003. Universal responded by filing suit against the State in federal court.

OmniCare Health Plan (OmniCare)

For the second quarter of 2002, OmniCare reported net worth of \$5,416,133, an excess of \$871,884 above OmniCare's net worth requirement of \$4,544,249. However, as a result of the actuarial certification of the claims payable balances at June 30, 2002, OmniCare estimated that it would have a net worth deficiency of approximately \$7 to \$8 million.

On September 25, 2002, OmniCare and the TennCare Bureau executed Amendment 3 to the TennCare contract, which provided for OmniCare to operate under a risk share arrangement for the period July 1, 2001, through April 30, 2002, and on a "no-risk" basis

effective May 1, 2002. The intent of this contract was to provide OmniCare with the funding necessary to meet the statutory minimum net worth requirement.

As of December 31, 2002, OmniCare reported net worth of \$7,084,131, an excess of \$643,558 above the statutory net worth requirement of \$6,440,573. The TennCare Division has not verified the reported net worth.

Memphis Managed Care (MMCC)

TDCI's review of MMCC's March 2002 Medical Loss Ratio Report projected a possible net worth deficiency of \$126,000 at May 31, 2002. On June 12, 2002, TDCI received MMCC's revised plan of corrective action plan, which projected that MMCC would correct its net worth deficiency by December 31, 2003. Because MMCC's underlying assumptions were reasonable, the TennCare Bureau and TDCI approved the plan.

Based upon payments from the TennCare Bureau, MMCC's net worth requirement is \$8,952,071. At December 31, 2002, MMCC reported capital and surplus totaling \$5,146,476, a deficiency of \$3,805,595 below the net worth requirement.

As part of its corrective action plan, MMCC files monthly financial statements with TDCI in addition to its quarterly and annual filings. On the February 2003 unaudited financial statements, MMCC reported statutory net worth of \$6,152,788, a deficiency of \$2,799,283 below the requirement.

TDCI has requested MMCC to submit an updated plan of corrective action based on current information and requirements.

Tennessee Behavioral Health (TBH)

TBH was placed under an Order of Administrative Supervision on January 9, 2003, because TBH transferred \$7 million of capital to its parent, Magellan Health Services, Inc., on October 4, 2002, without notifying TDCI and properly disclosing this transfer on its financial statements filed with the division on December 2, 2002.

During January 2003, TDCI learned that TBH's parent, Magellan Behavioral Health, was entering into a planned Chapter 11 bankruptcy. As a result, TDMHDD and TBH amended the provider risk agreement to modify the payment process so that beginning February 7, 2003, funds are remitted to TBH as medical reimbursements are determined. On February 11, 2003, the First Amended Agreed Notice of Administrative Supervision was executed. TDCI will continue to approve all disbursements and monitor the progress of the bankruptcy proceedings.

Premier Behavioral Systems (Premier)

Premier Behavioral Systems gave notice to the TennCare Bureau that effective June 30, 2002, it would terminate its contract to deliver behavioral health care services to TennCare enrollees. On July 1, 2002, the TennCare Bureau invoked the first three-month exigency clause in the contract with Premier. Under the terms of this clause, Premier remained in the TennCare Program until September 30, 2002.

On August 27, 2002, the state invoked the second three-month exigency period described in the Contractor Risk Agreement. Under the terms of Section 6.18.5, Premier continued to provide services to TennCare enrollees through December 31, 2002. By amendment to the contractor risk agreement, the state assumed 100% of Premier's risk for the cost of delivering behavioral health services effective January 1, 2003 and Premier agreed to remain as a TennCare BHO until June 30, 2003.

As of December 31, 2002, Premier reported net worth of \$2,311,442, a deficiency of \$5,535,299 below the statutory net worth requirement of \$7,846,741. Therefore, on December 30, 2002, Premier entered into an Agreed Notice of Administrative Supervision with the Department of Commerce and Insurance.

During January 2003, TDCI learned that one of Premier's parent, Premier Holdings, Inc., (a wholly-owned subsidiary of Magellan Health Services) was entering into a planned Chapter 11 bankruptcy. As a result, TDMHDD and Premier amended the provider risk agreement to modify the payment process so that beginning February 7, 2003, funds are remitted to Premier as medical reimbursements are determined. On February 11, 2003, the First Amended Agreed Notice of Administrative Supervision was executed. TDCI will continue to approve all disbursements and monitor the progress of the bankruptcy proceedings.

Success of Fraud Detection and Prevention

1. Program Integrity continues to work cases referred by MCC's, local law enforcement, TBI, FBI, state agencies and the general public via Web site, faxes, letters, and phone calls via the hotline. Results of Case Reviewer/Investigators are listed below;

A.	Summary of Enrollee Cases:	
a.	Cases closed	5,298
b.	Recommended Terminations	1,135
B.	Summary Relating to Provider Cases:	
a.	Cases closed	66
b.	Active Cases	60
c.	Cases referred to TBI (1)	4
d.	Cases referred to HRB's	3

(1) TBI/MFCU takes the lead in cases once they are referred and Program Integrity continues to assist as requested.

2. Overpayments recovered for Nursing Home Recipients - called PA68's. These overpayments are directly related to under reporting of recipient income and/or assets.

Collections	- Quarter Ending 3/31/03	\$185,525.29
Collections	- Year to Date	\$713,088.00

Note: These collections resulted from joint efforts of Program Integrity, TennCare Fiscal Service and DHS.

3. Continuing to reach out to the District Attorneys and local law enforcement agencies across the state to solicit their help and support in prosecuting recipients who commit fraud against the TennCare Program. This outreach has been effective, as evidenced by an increase in referrals to PIU by various Drug Task Forces.
 - a. Twenty-eight cases have been referred this quarter which resulted in two recipients being convicted of felony offenses, and several are still open and being actively investigated.
 - One of the open cases relates to an individual that has been indicted by the grand jury. The investigator discovered that this individual was selling letters of un-insurability, impersonating a licensed insurance agent and completing TennCare applications for the applicant with fraudulent information. Currently waiting on the District Attorney's Office to prosecute.
 - An indictment has been handed down on a second case relating to recipients who live out of state, and are charged with falsifying their application, claiming to live in Tennessee. When the local sheriff's office went to arrest the adults, they discovered a meth lab in recipient's home.

5. This unit provided training/networking with the following organizations during this quarter;
 - a. New TBI-MFCU Agents
 - b. Dental carve out MCC, Doral Dental
 - c. TennCare Dental Advisory Board

6. Estate Recovery Legislation was passed and went into effect on 8-29-02 relating to Medicaid recipients who are 55 years of age or older and the program has paid for long term care. This program has been moved from the Long Term Care Unit to Program Integrity. Attorneys, executors, and/or responsible parties must now obtain a release from the state prior to the estate being probated. Program Integrity Unit is receiving between 40 and 50 release requests per work day.
 - a. Cases open - Claims filed/pending 268
 - b. Collections for the Quarter Ending 3/31/03 879,239.42
 - c. Collections year to date 1,444,318.00

7. Collections of premiums due to recipient's failure to report accurate income to the TennCare Program.
 - a. Collections year to date \$ 12,263.95

8. Staff continue to work with the contractor, EDS, to develop the best fraud and abuse software system in the nation. This new TennCare Management Information System (TCMIS) will allow Program Integrity to initiate proactive measures for identifying fraud and abuse within the TennCare system. Program Integrity will be able to identify outliers for both providers and recipients. The

ability to create ad hoc reports will greatly improve the speed and efficiencies of the investigations. Targeted queries will be generated on a routine basis; these queries have been developed to identify potential fraudulent claims submission. The goal behind these reports and queries is to promote improved work efficiencies, terminate individuals who are no longer eligible for TennCare benefits and prosecute individuals who have violated the federal and/or state laws.

9. Plans for next quarter:
 - a. Continue to improve working relations, networking and exchange of information with other state, federal and local government agencies.
 - b. Continue to work with PCG, the contractor for TPL, to help run matches and identify waiver population recipients who have or have access to comprehensive medical insurance. This group may not be eligible to continue participation in the TennCare Program, or if they continue to be eligible for TennCare, add the TPL data to MMIS database, which will enhance cost avoidance and subrogation efforts.
 - c. Hire staff to oversee subrogation efforts for the carve out population and to help evaluate MCC's performance.
 - d. Continue to provide training and assistance to the MCC staff who have the responsibility to focus on fraud and abuse violations.