

# TennCare Quarterly Report

## Submitted to the TennCare Oversight Committee and the Fiscal Review Committee

October 15, 2003

### Status of TennCare Reforms and Improvements

#### New pharmacy program

On July 1, 2003, TennCare began the process of designing a new, single preferred drug list (PDL) for TennCare. The State also moved to a single pharmacy benefits manager (PBM) for processing of pharmacy claims: ACS (Consultec). These measures, designed to help streamline the pharmacy program for doctors and pharmacists and reduce spiraling pharmacy costs, are just one aspect of a broad effort to make TennCare work more efficiently and cost-effectively while maintaining the quality of care for TennCare enrollees.

While we are confident that the PDL will make things much easier for providers and enrollees in the long-term, we are very cognizant of the difficulties it could cause if not designed and implemented correctly and in close consultation with physicians, pharmacists and other health care providers. As a result, we have taken several steps to insure a smooth transition.

1. We have chosen to implement the new PDL in phases over the course of the next several months—tackling 10 drug classes each month, starting on October 15, 2003. As drug classes are defined, they are posted on the TennCare website at [www.tn.gov/tenncare/](http://www.tn.gov/tenncare/). Until a particular drug class is defined, all normally covered therapeutic categories will continue to be covered as medically necessary without prior authorization. Certain types of drugs, such as those for the treatment of behavioral health conditions and those for the treatment of HIV/AIDS and cancer, will not be among the first 30 or so classes of drugs defined and will continue to be covered in accordance with current policy.
2. Each time additional classes of drugs are defined for the PDL, there will be an approximately 30-day education period for pharmacists, physicians and other health care providers before the classes are implemented. Initial provider training sessions have been provided at regional locations throughout the State, including Johnson City, Knoxville, Chattanooga, Nashville, Jackson and Memphis. Additionally, TennCare worked with UT Memphis to digitally record the training presentation and post it on the website in streaming video format. If the drug is in a normally covered therapeutic category, the member will receive a

three-day emergency supply while the pharmacist and prescribing professional confer regarding preferred alternatives.

3. Throughout the course of the implementation period, we will have a special team designated to work with physicians and pharmacists to transition smoothly into the new PDL. TennCare will do everything possible to assure a smooth transition to the new PDL and moreover, TennCare is committed to working with representatives of the provider community to design it and manage it in the future. As a first step in this regard, Governor Phil Bredesen named a TennCare Pharmacy Advisory Board composed of representatives of key provider associations. Recommendations regarding the PDL will go before this group for approval and discussion. This way, we assure that the best decisions are made in terms of patient care. These individuals represent a diverse group of medical professionals that insures comprehensive representation from those involved in the delivery of health services. The members include:

- Quinn Caper, IV, M.D. (cardiologist, Page-Campbell Cardiology Group, Nashville)
- Lisa D'Souza (attorney, Tennessee Justice Center, Nashville)
- Peter Frizzell, M.D. (assistant professor psychiatry, East Tennessee State University, Johnson City)
- James King, M.D. (family physician in private practice, Selmer)
- Diane Todd Pace, Ph.D., R.N., F.N.P. (nurse, Shelby County HealthCare Network, Cordova)
- James Powers, M.D. (geriatrician, Nashville VA Hospital & Vanderbilt Hospital, Nashville)
- Terry Shea, Pharm. D., (pharmacist, Blue Cross/Blue Shield, Chattanooga)
- Sheila Spates, Pharm. D., (pharmacist, CVS, Knoxville)
- William Terrell, M.D. (pediatrician, Memphis and Shelby County Pediatric Group, Memphis)

In addition to the Governor's appointments, Lieutenant Governor Wilder and Speaker Naifeh also each named members to the board. Their appointments were:

- Stanley Dowell, M.D. (internist, Eastmoreland Internal Medicine, Memphis)
- Lynn Knott, Pharm.D., C.G.P., F.A.S.C.P. (pharmacist, National HealthCare Corp, Brentwood)
- Edward Capparelli, M.D. (family physician in private practice, Newport)
- Alan Corley, Pharm D., (pharmacist, Corley's Pharmacy, Greeneville)

The TennCare PBM, the TennCare Pharmacy Advisory Board and TennCare have reviewed and made final decisions related to the first phase of the PDL. These drugs were chosen from the following therapeutic categories and will be implemented on October 15, 2003:

- Gastric Acid Secretion Reducers
- Lipotropics—Cholesterol lowering agents
- Non-steroidals, Cox 2 Inhibitors
- Angiotensin converting enzyme inhibitors (with and without diuretics)

- Angiotensin II Receptor Blockers (with and without diuretics)
- Calcium Channel Blockers
- Antihistamines—non-sedating
- Beta-blockers
- Alpha/Beta adrenergic blocking agents

On September 5, 2003, TennCare issued a request for proposals to secure a contract for a state-of-the-art, online Point-of-Sale (POS) pharmacy claims processing system with prospective drug utilization review (Pro-DUR), retrospective drug utilization review (Retro-DUR), reporting and adjudication capabilities as described later in the RFP for the entire TennCare member population. The Contractor must also develop, maintain and manage a preferred drug list (PDL). The management of a PDL must include presentation of the PDL and any subsequent changes or additions to the TennCare Pharmacy Advisory Committee, incorporation of any changes or additions to the PDL required by TennCare, negotiations of supplemental rebates with the pharmaceutical manufacturers, invoicing of supplemental rebates, collection and dispute resolution of supplemental rebates, development of criteria, including step-therapy, and administration of a prior authorization process for drugs not listed on the PDL. The State will enter into this contract with pharmaceutical manufacturers based on the negotiations performed under this RFP. The Contractor will process, adjudicate and pay all TennCare pharmacy claims via an online, real-time point-of-sale (POS) system including voids and adjustments. The Contractor will furnish a claims processing system which will, based on pharmacy claims history, provide drug and drug disease (condition) information in a prospective manner for the dispensing pharmacist so that potentially dangerous and costly interactions may be avoided.

The Contractor will furnish a claims processing system which will provide pharmacists with weekly payment for their services and the TennCare Bureau with accurate weekly encounter (pharmacy claims) data which details all claims and is easily matched and reconciled to weekly provider payments.

At no additional cost to the State, the Contractor must be able to provide ad hoc reports for the TennCare Bureau which will assist the Bureau in managing the pharmacy benefits for all TennCare members. Ad hoc reports will be provided to the TennCare Bureau in a format described by TennCare and on a reasonable timetable. The Contractor shall furnish the TennCare Bureau a decision support system (DSS) that addresses the managerial concerns of the TennCare Bureau but the DSS would not replace or relieve the Contractor from ad hoc reporting requirements. This online, DSS system must also be available to the appropriate pharmacy and utilization review staff at each TennCare managed care organization (MCO) in a secure manner for their respective enrollees.

The interface between the Contractor and pharmacy providers will be in accordance with current, national, uniform standards (NCPDP format) for POS and batch claims processing and prospective drug utilization review (Pro-DUR) and will be HIPAA compliant.

The Contractor will pay pharmacy claims and send remittance advice messages to pharmacy providers each week.

The Contractor will interface with the TennCare Bureau's Management Information Services system (TCMIS) to provide encounter data and other information to the state (as required) that assures proper and timely payment of pharmacy claims as well as pharmacy utilization data.

TennCare may require proposers to deliver an onsite presentation to explain their proposal and answer questions specific to their proposal from TennCare evaluators or other appropriate staff and professionals.

The contract will be executed on November 10, 2003 and the contract term will begin on January 1, 2004.

### **New TCMIS**

TennCare is working with the Office for Information Resources (OIR) to develop and implement a new TennCare Management Information System (TCMIS). OIR is leading this effort in their role as project manager. Over 80 TennCare staff representing all business areas have been involved in daily testing of this system. The main testing center is located on the 3<sup>rd</sup> floor of the William Snodgrass Building. Testing for the core TCMIS functions began on July 16<sup>th</sup> with a kickoff that exceeded all expectations; nearly 200 people attended. The time commitment on the part of TennCare staff has been intense and will continue to be so as we get closer to implementation. This may result in some delays in processing requests for various Ad Hoc Reports.

It is our goal to assist OIR in making the core functions of this system operational by the deadline of January 1, 2004, per Section 71-5-192 of the TennCare Reform Act.

### **Settlement agreement**

Over the course of the past few months, negotiations have taken place with plaintiffs' counsel in four TennCare class actions pending in the U.S. District Court for the Middle District of Tennessee. At issue in each of the cases are different aspects of the operation of TennCare. Those negotiations resulted in an omnibus settlement that includes agreements in each of the four cases. Those cases, and the general terms and status of the agreement in each, are:

*Grier, et al. v. Goetz, et al.*, No. 79-3107 (Judge Nixon), which involves due process protections for enrollees regarding TennCare-covered medical services. The principal feature of the agreement is a time-limited modification of the pharmacy provisions of the Revised Consent Decree (RCD) entered on July 31, 2000. The agreement shortens from two weeks to three days the minimum amount of prescribed medication that must be dispensed on an interim basis, whenever an enrollee's prescription lacks required prior authorization or is for a medication that is not on TennCare's preferred drug list. Under the terms of the agreement, the interim supply provision will revert to two weeks at the end of 2005, unless the Court in that case takes additional action. Other changes to the RCD add protections for certain children in state custody; limit the circumstances in which the State can delay for "good cause" the implementation of appeal decisions in favor of the enrollee; and strengthen monitoring of compliance. The terms of the agreed-upon modifications to the *Grier* Revised

Consent Decree were approved by the Court in an Order entered on September 25, 2003.

*Rosen, et al. v. Commissioner of Finance and Administration*, No. 3:98-627, which involves due process in the determination of eligibility for TennCare applicants and enrollees who are waiver-eligible. The parties' agreement affords a grace period of one year in which certain former enrollees whose coverage was terminated during the redetermination process in the second half of 2002 may reapply and have their eligibility for prospective TennCare coverage determined under the criteria in effect during the redetermination period. A number of TennCare benefit reductions were to have taken effect January 1, 2003, but were delayed by the Court's December 18, 2002 injunction in this case. As part of the settlement in this case, as well as under the terms of the omnibus settlement, the State is withdrawing those proposed reductions, without prejudice to its right to seek to implement benefit reductions in the future. The benefits in question include a proposed reduction in the home health care benefit, the elimination of private duty nursing, and the elimination of EPSDT coverage for waiver-eligible enrollees under the age of 21. The plaintiffs' counsel have agreed to ask the Court to set aside its December 2002 Order. If that occurs, the State has agreed that it will dismiss its appeal of that Order, currently pending in the Court of Appeals for the Sixth Circuit. This matter is now pending before the District Court.

*Newberry, et al. v. Goetz*, No. 3:98-1127 (Judge Echols), which involves TennCare enrollees' access to home health care. The parties agreed to the entry of an Agreed Order that enjoins the State to ensure that enrollees receive home health care as medically necessary. The State also agreed to withdraw the proposed reduction in the home health care benefit, which would have limited the benefit for an enrollee to 125 visits per year, and to withdraw the proposed elimination of private duty nursing. As noted above, this is without prejudice to the State's ability to seek to implement future benefit reductions. The Agreed Order was approved by Judge Echols on October 6, 2003. In addition, while it is not part of the judicially enforceable agreement, the State committed to develop budget neutral home and community-based alternatives to nursing home placement.

*John B., et al., v. Goetz, et al*, No. 3:98-0168 (Judge Nixon), which involves early and periodic screening, diagnosis and treatment (EPSDT) for TennCare enrollees up to age 21. Under the parties' agreement, the proposed benefit reduction eliminating EPSDT coverage for waiver-eligible children has been withdrawn.

### **Reverification Status**

The following numbers reflect activity from July 2003 through October 10, 2003:

Individuals Noticed	582,178	
Individuals Approved	306,425	
Individuals Denied		52,876
Individuals termed for no response		152,081

Deceased	4,476
Individuals in re-determination process	66,320

### **Status of Filling Top Leadership Positions in the Bureau**

Michael Drescher was named Director of Communications during this quarter. He came to TennCare from The Ingram Group, where he had been a member of their health care practice for nearly two years. Prior to joining The Ingram Group, Mr. Drescher spent more than eight years in public relations, public affairs, and health care technology developments.

Steve Hopper was named Director of Long-Term Care during the quarter. His most recent position was Assistant Director of the Bureau of Health Services, where he served for almost four years. Mr. Hopper has 22 years of experience working in Medicaid and TennCare. During his tenure at Medicaid and TennCare, he worked in virtually every part of the program, serving most recently as Director of Policy.

Two positions were added to the Office of the Medical Director during the quarter. Judy Black was named Director of Disease Management, and Leigh Binkley was appointed to the position of Director of Provider Services.

Judy Black, RN, was formerly the Program Manager for CIGNA HealthCare of Tennessee. She implemented and managed four disease programs for three states.

Ms. Binkley has over 30 years experience in health care. Her recent positions have included Provider Relations Manager at Health Net, Provider Relations and Managed Care Director for a large multispecialty providers' office, and Director of Provider Services at Xantus.

### **Number of Recipients on TennCare and Costs to the State**

As of the end of the quarter, there were 1,299,235 enrollees on TennCare: 1,037,340 Medicaid eligibles and 261,895 Uninsureds and Uninsurables. These numbers reflect an increase of about 25,500 since June. The proportion of enrollees enrolled in Medicaid continues to grow as compared to previous periods. This is primarily the result of the new reverification process that requires enrollees to first be tested for Medicaid eligibility prior to being checked for waiver eligibility. As a result, many of the enrollees who were previously classified as an Uninsured or Uninsurable have since been reverified as Medicaid. It should also be noted that new eligibility is only open to Medicaid eligibles and Uninsurables below 100% of the Federal Poverty Level (FPL).

During the first quarter of FY 2004, TennCare spent \$1,124,642,655.91 (net projected drug rebates) for managed care services. These expenditures included: payments to the managed care organizations (MCO), payments to the behavioral health organizations, payments to the dental benefits manager, and payments for pharmacy services for dual eligibles, behavioral health pharmacy and the MCO pharmacy carve-out (which began July 1, 2003).

## **Viability of MCOs in the TennCare Program**

### **Claims Payment Analysis**

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.

TDCI requested data files of all TennCare processed medical claims from TennCare MCOs, BHOs and the Dental Benefit Manager (DBM) for the month of July 2003. TDCI also requested data files of pended TennCare claims as of July 31, 2003, and a paid claims triangle from July 1, 2002, through July 31, 2003.

TDCI's analyses of these data files indicated that John Deere, Memphis Managed Care and Preferred Health Partnership were not in compliance with the prompt pay requirements. Each of these TennCare MCOs was required to submit claims data files for August 2003. John Deere remained out of compliance in August, thus TDCI has given John Deere notice of its intent to levy an administrative penalty. Preferred Health Partnership was in compliance in August, thus no additional action will be taken. Memphis Managed Care must resubmit the data files due to some data being omitted.

As noted in last quarter's report, Victory Health Plan's pharmacy benefits manager, Caremark, had refused to provide claims data files for July 2002, October 2002, January 2003 and April 2003. An Agreed Order was executed on August 13, 2003 between Victory, Caremark and TDCI in which Caremark agreed to provide the data files for these four months and Victory agreed to pay an administrative penalty of \$20,000. The analysis of these data files found that Caremark did not pay 90% of TennCare pharmacy claims within 30 calendar days of receipt; therefore, Victory was out of compliance with the prompt pay act for July 2002, October 2002, January 2003 and April 2003.

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, BHOs and the DBM for October 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 September 1, 2003, National Association of Insurance Commissioners (NAIC) 2003 first quarter financial statements with the Tennessee Department of Commerce and Insurance, TennCare Division.

Listed below is each MCO's and BHO's net worth requirement compared to net worth reported at June 30, 2003, on the NAIC quarterly financial statement. TDCI has not adjusted the net worth reported on the NAIC quarterly 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."

	Net Worth Requirement	Reported Net Worth	Excess/ (Deficiency)
Better Health Plan (A)	2,956,800	3,762,710	805,910
John Deere	13,606,149	74,992,328	61,386,179
Memphis Managed Care	8,952,071	11,085,429	2,133,358
OmniCare Health Plan	6,527,113	7,871,953	1,344,840
Preferred Health Partnership	6,883,135	12,511,056	5,627,921
Universal Care of Tennessee (B)			
Victory Health Plan	2,255,629	4,579,617	2,323,988
Volunteer (BlueCare & Select)	20,347,984	36,951,467	16,603,483
Xantus Healthplan (C)			
Premier Behavioral Systems (D)	7,847,828	2,799,370	(5,048,458)
Tennessee Behavioral Health (E)	5,759,670	6,097,860	(338,190)

Notes:

- (A) 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.
- (B) Universal's reported net worth at March 31, 2003 was \$6,451,709 which included a \$54,436,971 receivable from the TennCare Program which the State of Tennessee disputes. As a result, this receivable was considered non-admitted for the purpose of calculating net worth. Universal's adjusted statutory net worth at March 31, 2003, was (\$47,985,262). TDCI filed a petition to liquidate Universal Care of Tennessee, Inc., with the Davidson County Chancery Court on June 5, 2003. Chancellor McCoy granted the petition and the order was signed July 2, 2003. Furthermore, Universal's TennCare contract was terminated effective June 1, 2003. Universal did not file a 2003 second quarter financial statement with TDCI.
- (C) Xantus' reported net worth at March 31, 2003 was (\$89,378,710) and its minimum net worth requirement is \$8,820,978, resulting in a net worth deficiency of \$98,199,688. As of October 9, 2003, Xantus had not filed its 2003 second quarter financial statement with TDCI.
- (D) 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 December 31, 2003.
- (E) Per the First Amended Agreed Notice of Administrative Supervision, TBH is required to maintain an enhanced net worth of \$2 million in excess of statutory requirements. The net worth requirement here is the enhanced requirement. At June 30, 2003, TBH did not meet the enhanced net worth requirement by \$338,190. Magellan made a capital contribution of \$345,000 on July 18, 2003 to correct the enhanced net worth deficiency.

## **FINANCIAL ISSUES:**

### **Xantus Healthplan of Tennessee, Inc. (Xantus)**

#### **Current Regulatory Status**

Chris Burton is the 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.

Effective July 31, 2003, the TennCare Bureau terminated its contract with Xantus. On June 2, 2003, TDCI filed a petition to liquidate Xantus with the Davidson County Chancery Court. A hearing date has been set for January 8, 2004. After July 31, 2003, Amendment 4 to the Contractor Risk Agreement will provide for the TennCare Bureau to fund reasonable and necessary administrative costs for processing claims with dates of service after March 31, 1999, through July 31, 2003 (the “run-out claims”).

### **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 was filed in Chancery Court. The Creditors Committee for the management company filed a motion to modify the Bankruptcy Court's order. The Special Deputy Liquidator filed papers in opposition to the Creditors Committee's motion. The hearing in Bankruptcy Court was scheduled for February 11, 2003.

Chancellor Lyle found for the liquidation that the \$5.7 million had been wrongfully transferred from TCCN accounts and that such action created a constructive trust for the funds while in the hands of Access. Chancellor Lyle ordered the \$5.7 million returned to TCCN accounts. Various creditors of Access and the Access bankruptcy estate are seeking an appeal of Chancellor Lyle's ruling in the Tennessee Court of Appeals.

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)**

On September 13, 2002, Universal was placed under the Administrative Supervision of the Commissioner of Commerce and Insurance as a result of the company's financial and claims processing operations problems. On December 31, 2002, Universal was again placed under an Agreed Order of Supervision through June 30, 2003. Under the new order, TennCare Examination Manager John Mattingly replaced TennCare Examiner Paul Greene as the Administrative Supervisor.

At March 31, 2003, Universal reported net worth of \$6,451,709, a deficiency of \$1,216,126 below the statutory net worth requirement. Universal's reported net worth includes a \$54,436,971 receivable from the TennCare Program which the state disputes. As a result, this receivable is considered non-admitted for the purpose of calculating net worth. Universal's adjusted statutory net worth at March 31, 2003, is (\$47,985,262), a statutory net worth deficiency of \$55,653,097 below the net worth requirement.

Under Amendment No. 2 to the Amended and Restated Contractor Risk Agreement, Universal was no longer at risk for medical expenses incurred by its TennCare enrollees effective April 12, 2002.

During the second quarter of 2003, TDCI continued to work closely with Universal to identify and correct claims processing errors. TDCI monitored Universal's cash balances, including review and approval of disbursements prior to the release of checks for claims payments. TDCI and Universal developed procedures to facilitate issuing claims payment checks weekly.

TDCI TennCare examiners and contracted consultants were on site during the second quarter to follow up on their previous site visits to assess Universal's claims processing operations.

Pursuant to TDCI's supervision, the division discovered that Universal transferred funds to an affiliate, Universal Care, Inc., of California, without the Administrative Supervisor's approval. Directives issued by the Administrative Supervisor and the Commissioner required that funds held as investments be transferred to a Universal account in a Tennessee bank with the Administrative Supervisor as a cosignatory. Other funds received from the TennCare Program were also transferred to a UCOT bank account in Tennessee with the Administrative Supervisor as a cosignatory. Universal complied with these directives.

On April 2, 2003, the TennCare Bureau notified Universal of its intent to terminate the contractor risk agreement effective June 1, 2003. Universal filed in the United States District Court for the Middle Tennessee District an application for a preliminary injunction to stop the cancellation of the contractor risk agreement. On May 30, 2003, Judge Nixon denied Universal's application for a preliminary injunction.

Also on May 30, 2003, Universal filed with the Tennessee Claims Commission a claim of \$75,000,000 against M. D. Goetz as Commissioner of the Tennessee Department of Finance and Administration and Manny Martins, Deputy Commissioner of the Tennessee Department of Finance and Administration, Bureau of TennCare.

TDCI filed a petition to liquidate Universal with the Davidson County Chancery Court on June 5, 2003. Judge McCoy granted the petition and the signed order was received July 2, 2003. Between June 1, 2003, and the liquidation order date of July 2, 2003, Universal continued to process and pay claims for dates of services April 12, 2002, through May 31, 2003.

Mr. Paul Eggers was appointed the Special Deputy Liquidator. Mr. Eggers is currently in the process of securing the remaining assets of Universal and developing procedures for the distribution of assets.

A contract between TennCare and Universal Care of Tennessee in Liquidation for TennCare to pay the HMO in liquidation for processing Universal claims with dates of service on and after April 12, 2002 is pending approval by CMS.

### **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. At March 31, 2003, however, MMCC reported capital and surplus totaling \$9,554,550, an excess of \$602,479 above the net worth requirement.

On June 5, 2003, this division notified MMCC that its net worth deficiency had been corrected and that MMCC no longer need to submit monthly financial statements.

On September 30, 2003, the TDCI approved the release of the remaining portion of MMCC's subordinated provider payable to the Regional Medical Center ("The Med").

## **MISCELLANEOUS**

### **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 Contractor Risk Agreement to modify the payment process so that beginning February 7, 2003, funds are remitted to TBH as medical reimbursements as determined. On February 11, 2003, the First Amended Agreed Notice of Administrative Supervision was executed. This First Amended Agreed Notice of Administrative Supervision was set to expire on October 9, 2003. To ensure that there would be no lapse in supervision, TBH agreed to execute the Second Agreed Notice of Administrative Supervision to extend the supervision period to the earlier of December 31, 2003 or when Magellan successfully exited bankruptcy and TBH demonstrates it is in compliance with certain statutory and contractual requirements. On October 8, 2003, TDCI received a press release from Magellan indicating that the bankruptcy court had approved its restructuring plan. Until TDCI confirms that TBH has met all of the conditions for terminating the supervision, TDCI will continue to prior approve all disbursements.

### **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.

At 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 Premier’s parent, Magellan Behavioral Health, was entering into a planned Chapter 11 bankruptcy. As a result, TDMHDD and TBH amended the Contractor 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. On May 12, 2003, the Second Amended Agreed Notice of Administrative Supervision was executed. This agreement extended administrative supervision through December 31, 2003. Premier again has agreed to remain as a TennCare BHO until December 31, 2003, with the execution of Amendment 5 to the Contractor Risk Agreement.

Premier has also made a statutory filing requesting that its temporary certificate of authority that terminates on December 31, 2003 be converted to a non-temporary certificate of authority. TDCI is in the process of reviewing the filing. Before TDCI can issue a non-temporary certificate to Premier, Premier must correct its statutory net worth deficiency.

As stated above, TDCI received on October 8, 2003 a press release from Magellan indicating that the bankruptcy court had approved its restructuring plan. Because of Premier’s net worth deficiency, however, Premier will remain in supervision and TDCI will continue to prior approve all disbursements.

### **Success of Fraud Detection and Prevention**

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.

1. Results of Case Reviewer/Investigators are listed below:

A.	Summary of Enrollee Cases:	QUARTER	YTD
a.	Cases Closed	8,618	8,618
b.	Recommended Terminations	2,566	2,566
c.	TPL Added	165	165
d.	Income Adjusted	6	6
B.	Summary Relating to Provider Cases:		
a.	Cases closed	31	31
b.	Cases referred to TBI (1)	2	2
c.	Cases referred to HRB’s (1)	2	2

- (1) TBI/MFCU & HRB's takes the lead in cases once they are referred and Program Integrity continues to assist as requested.
2. 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 approximately 41 requests per work day.
  - a. Cases open - Claims filed/pending 282
  - b. Collections for the Quarter Ending 9/30/2003 \$1,204,661
3. Collections of premiums due to recipient's failure to report accurate income to the TennCare Program.
  - a. Collections for the Quarter Ending \$14,546
4. Overpayments recovered for Nursing Home Recipients - called PA68's. These overpayments are directly related to under reporting of recipient income and/or assets.
 

Collections – This Quarter \$103,286

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

Drug Diversion And Related Cases

Forty-seven cases have been referred this quarter, of which 7 have been indicted on drug diversion and/or obtaining medication under fraudulent means. 82 cases remain open from last fiscal year, which have already resulted in 21 indictments.

Recipients Convicted Of Fraudulent Offenses This Quarter

Two individuals pled guilty to medical assistance fraud on July 24, 2003 in Davidson County Criminal Court. These individuals falsified their TennCare Application address in order to receive TennCare benefits. The original application gave a friend's Tennessee address. Actual residence address was Hackelburg, Alabama. The guilty pleas were the result of a two year investigation conducted by PIU and the Davidson County Assistant Attorney General's office. Both defendants were sentenced to four years suspended sentence with six years supervised probation. As a condition of probation, they were ordered to pay restitution of \$17,738.38 to the TennCare Bureau at the rate of \$250.00 per month.

A recipient pled guilty to TennCare Fraud (TCA71-5-118) and Forgery (TCA 39-14-114) in Wilson County Criminal Court on July 28, 2003. This defendant was sentenced to two years suspended with 2 years supervised probation. The

individual was providing false letters of uninsurability using a well known insurance company's letterhead.

6. This unit provided training/networking with the following organizations during this quarter:
  - a. District Attorneys in 26<sup>th</sup> & 29<sup>th</sup> Judicial Districts
  - b. DHS Investigations
  - c. County Court Probate Clerks
  
7. Staff continue to work with the contractor, EDS, to develop the best TPL and fraud and abuse detection 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.
  
8. 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 provide training and assistance to the MCC staff who have the responsibility to focus on fraud and abuse violations.
  - c. Continue to improve and expand our collaboration efforts with federal agencies, in particular Medicare Public Safeguard Contractors, TRICARE, and DHHS-OIG.
  - d. Implement a match between TennCare, Department of Human Services, and Department of Health-Vital Statistics to help identify TennCare recipients who, on date of death, were 55 years of age or older, and who had received nursing home benefits. This process will be utilized by our Estate Recovery Team to open cases and file claims with the appropriate parties and recover dollars based on state and federal law.
  - e. Complete a match with Labor and Work Force Development to help identify TennCare recipients who are receiving, or are eligible to receive, insurance benefits through Workers Comp Program.
  - f. Develop and issue an RFP to procure a TPL contractor who will be responsible for the validation of existing health insurance coverage data, identification of additional TPL coverage, subrogation for estate recovery, casualty claims, and private health insurance coverage.