

TennCare Policy Manual	Section: Organization
Policy No: ORG 06-004 (Rev. 5)	Date: February 18, 2021

## **TennCare Rules**

### **Purpose**

The purpose of this policy is to outline the expectations for persons with the Division of TennCare who are responsible for writing and promulgating TennCare rules.

### **Policy**

TennCare rules will be filed timely and kept updated in order to provide appropriate regulatory support for all operations of the TennCare program.

#### **Section 1: Discussion**

State rules provide the authority for many of the activities that TennCare undertakes. It is therefore important that rules are filed and updated when appropriate. TennCare’s rules are available on the website of the Tennessee Secretary of State. (A link is furnished below in the “References” section.)

The administrative requirements for writing and promulgating rules are detailed in state law (TCA Title 4, Chapter 5, Part 2) and in state rules (Official Compilation of the Rules and Regulations of the State of Tennessee at 1360-01). It is not the intent of this policy to restate those requirements.

Generally, the rulemaking process involves publishing a notice with the text of the rule being proposed, holding a public rulemaking hearing to receive public input on the rule being proposed, and then filing the final rule with the Secretary of State. Proposed amendments to TennCare’s rules must be approved by the TennCare Director, the Governor’s office, and the Attorney General. In order to ensure adequate time to secure these approvals and to comply with other rulemaking timeframes specified in statute, no less than eight months should be allowed for the completion of the rulemaking process before changes will become effective.

Note that in limited circumstances, agencies may promulgate emergency rules, which are authorized by law in specific situations that require immediate adoption of rules. The circumstances in which state agencies are authorized to adopt emergency rules are specified at TCA § 4-5-208. Individuals with questions about emergency rules should seek guidance from the Policy Office or Office of the General Counsel.

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## **Section 2: Procedures**

- 2.1** Each program manager at TennCare is responsible for being aware of all of the rules that affect his program area. The program manager is responsible for ensuring that the rules are appropriate and adequate to support the operations of his area. The program manager is responsible for identifying areas where rules or amendments to rules are required and for notifying the Policy Office when new rules or rule changes are needed.
- 2.2** The Policy Office is responsible for preparing and processing rules. Preparation of a rule requires conducting research, preparing content, and circulating drafts for internal review before arriving at a final version to submit for hearing or for consideration as an emergency rule. Program managers should provide as much time as possible to the Policy Office for completion of these tasks.
- 2.3** Emergency rules require a written statement of justification. They also require a fiscal impact statement. The originator of the rule is generally the person responsible for providing an explanation as to how the proposed rule meets the criteria for “emergency” status. (See TCA § 4-5-208(a) for the criteria.) The Policy Office will seek information for the fiscal impact statement from appropriate staff persons within TennCare.
- 2.4** When a rulemaking hearing is held on a rule, the program manager requesting the rule should plan to attend the hearing or have someone present in his place. The purpose of the hearing is to receive public comments rather than to discuss the rules. Nevertheless, it is important that there be program representation. The hearing will be organized and conducted by the Policy Office.
- 2.5** After a rulemaking hearing has been held on a rule, all persons submitting comments in writing on the rule must receive written responses to their comments. It is the responsibility of the program manager requesting the rule to draft these responses and provide them to the Policy Office.
- 2.6** The Office of General Counsel is responsible for reviewing all rules and approving them as to form and legality prior to their being sent to the Attorney General and then to the Secretary of State.

## **Offices of Primary Responsibility**

Policy Office

Office of General Counsel

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## References

Tennessee Code Annotated Title 4, Chapter 5, Part 2

<https://advance.lexis.com/container?config=014CJAA5ZGVhZjA3NS02MmMzLTRIZWQtOGJjNC00YzQ1MmZlNzc2YWYKAFBvZENhdGFsb2e9zYpNUjTRalWVfyfyrur9ud&crd=2e34ae61-5fae-4b28-9420-454a08e5fc35&prid=e6aed6f9-587e-4311-ad6e-0ce89a66dbaa>

Official Compilation of the Rules and Regulations of the State of Tennessee at 1360-01

<https://publications.tnsosfiles.com/rules/1360/1360.htm>

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<https://publications.tnsosfiles.com/rules/1200/1200-13/1200-13.htm>

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