

**Department of State
Division of Publications**

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For Department of State Use Only

Sequence Number: 02-20-09
Rule ID(s): 4127
File Date: 02/25/2009
Effective Date: 06/26/2009

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §4-5-205 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

Agency/Board/Commission: Department of Finance and Administration
Division: Benefits Administration
Contact Person: April Mayambu
Address: Suite 2100, 312 Rosa L. Parks Avenue, Nashville, Tennessee
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Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables.)

Chapter Number	Chapter Title
0620-05-01	CoverKids Rules
Rule Number	Rule Title
0620-05-01-.01	Definitions
0620-05-01-.02	Eligibility
0620-05-01-.04	Disenrollment

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Agency/Board/Commission:	Department of Finance and Administration
Division:	Benefits Administration
Contact Person:	April Mayambu
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Zip:	37243
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Chapter Number	Chapter Title
0620-05-01	CoverKids Rules
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0620-05-01-.01	Definitions
0620-05-01-.02	Eligibility
0620-05-01-.04	Disenrollment

Chapter 0620-05-01
CoverKids Rules

Amendments

Paragraph (1) of Rule 0620-05-01-.01, Definitions, is amended by adding the following as new subparagraph (g) and renumbering the remaining subparagraphs accordingly:

"Health insurance" shall include but not be limited to basic medical coverage (hospitalization plans), major medical insurance, comprehensive medical insurance, short-term medical policies, limited-benefit plans, mini-medical plans and high deductible health plans with health savings accounts. Health insurance shall not include the following:

1. CoverTN;
2. AccessTN;
3. catastrophic health insurance plans that only provide medical services after satisfying a deductible in excess of \$3,000 (or the maximum allowed deductible for a health savings account plan);
4. dental-only plans;
5. vision-only plans;
6. coverage through the State of Tennessee's Children's Special Services (CSS) program; or
7. medical insurance that is available to an enrollee pursuant either to the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1986 (Pub. L. No. 99-272, codified at 29 U.S.C. § 1161 *et seq.*) and which the individual declined, or to § 56-7-2312 *et seq.* and which the individual declined.

Consistent with 42 U.S.C. § 1397jj(b)(2)(B) and 42 C.F.R. 457.301 and 310(c)(1)(ii), health insurance shall also not include state-administered or other medical coverage offered by means of a family member's employment with a local education agency (LEA) if the LEA does not make more than a nominal contribution (as defined at 42 CFR 457.310(c)(1)(ii)) to the premium for the dependent who is applying (or re-applying) for coverage through CoverKids.

Authority: T.C.A. §§ 71-3-1106, 71-3-1110.

Paragraph (1) of Rule 0620-05-01-.01, Definitions, is amended by adding the following as new subparagraph (h) and renumbering the remaining subparagraphs accordingly:

"Involuntary loss of coverage" means the loss of health benefits coverage arising from (but not limited to) the following circumstances:

1. a separation from employment (voluntary or involuntary);
2. a health insurance carrier's cancellation of group or individual health benefits coverage for reasons other than premium non-payment, fraud, or misrepresentation;
3. a health insurance carrier's decision to no longer sell small group health benefits coverage; or
4. the loss of eligibility for TennCare Medicaid or TennCare Standard.

Involuntary loss of coverage shall not include situations in which the primary insured dropped dependent spouse and/or dependent child(ren) from the health benefits coverage policy.

Authority: T.C.A. §§ 71-3-1106, 71-3-1110.

Paragraph (5) of Rule 0620-05-01-.02, Eligibility, is amended by deleting the existing language and replacing it with the following:

- (5) Health Insurance.
 - (a) Factors in Determining Current Health Insurance.
 - 1. The applicant must not be currently covered by health insurance, as defined in rule 0620-05-01-.01(1)(g); and
 - 2. The applicant must not have had health insurance in the past three months unless the applicant experienced an involuntary loss of insurance, as defined in rule 0620-05-01-.01(1)(h).
 - (b) If the applicant is a pregnant woman with health insurance, as defined in rule 0620-05-01-.01(1)(g), she may be enrolled in CoverKids if her health insurance does not cover prenatal/maternity care. The AC will use the information on the application, the copy of the insurance card and information obtained by contacting the insurance company to determine if prenatal/maternity care is covered by her health insurance.
 - (c) Information on the CoverKids application is sufficient verification of an applicant being uninsured. The State reserves the right to investigate the insurance status of applicants. If the State determines that the applicant has other insurance or has not been without comprehensive health insurance for at least three (3) months, the State has the right to cancel coverage. The CoverKids application must be submitted with a copy of the front and back side of the insurance card for any applicants who indicate there is other insurance coverage.

Authority: T.C.A. §§ 71-3-1106, 71-3-1110.

Subparagraph (a) of paragraph (9) of Rule 0620-05-01-.02, Eligibility, is amended by deleting the existing language and replacing it with the following:

- (a) Individuals who are not eligible for CoverKids include children who:
 - 1. Are eligible for TennCare Medicaid;
 - 2. Are enrolled in TennCare Medicaid or TennCare Standard;
 - 3. Have been criminally adjudicated and are in a correctional facility, including a detention home or training school;
 - 4. Are admitted to an institution for mental disease;
 - 5. Are eligible for health insurance, as defined in rule 0620-05-01-.01(1)(g), on the basis of a responsible adult's (self, parent, spouse, etc.) employment by a state agency or local education agency (unless such person has been denied enrollment due to medical underwriting); or
 - 6. Have had health insurance, as defined in rule 0620-05-01-.01(1)(g), in the past three months and voluntarily discontinued the comprehensive insurance, regardless of the cost.

Authority: T.C.A. §§ 71-3-1106, 71-3-1110.

Subsection (11)(a)7 of Rule 0620-05-01-.02, Eligibility, is amended by deleting the existing language and replacing it with the following:

- 7. Not have access to health insurance as defined in rule 0620-05-01-.01(1)(g), by means of a family member's employment with a state agency or local education agency.

Authority: T.C.A. §§ 71-3-1106, 71-3-1110.

Subsection (11)(b)9 of Rule 0620-05-01-.02, Eligibility, is amended by deleting the existing language and replacing it with the following:

- 9. Not have access to health insurance as defined in rule 0620-05-01-.01(1)(g), by means of a family member's employment with a state agency or local education agency.

Authority: T.C.A. §§ 71-3-1106, 71-3-1110.

Subsection (1)(a)9 of Rule 0620-05-01-.04, Disenrollment, is amended by deleting the existing language and replacing it with the following:

- 9. A CoverKids enrollee gains access to health insurance, as defined in rule 0620-05-01-.01(1)(g), through a family member's employment with a state agency or local education agency.

Authority: T.C.A. §§ 71-3-1106, 71-3-1110.

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Department of Finance and Administration on 02/04/2009 (date as mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of thirty (30) days after the publication date of the issue of the Tennessee Administrative Register in which these proposed rules are published.

Date: 2/4/09

Signature: [Handwritten Signature]

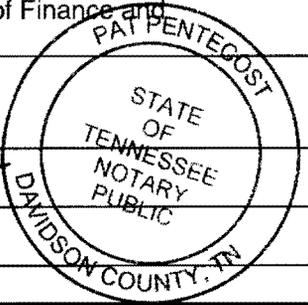
Name of Officer: M.D. Goetz, Jr.

Title of Officer: Commissioner of Department of Finance and Administration

Subscribed and sworn to before me on: 2-4-09

Notary Public Signature: [Handwritten Signature]

My commission expires on: 1-3-2011



All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Handwritten Signature]

Robert E. Cooper, Jr.
Attorney General and Reporter

2-23-09

Date

Department of State Use Only

Filed with the Department of State on: 2/25/09

Effective on: 6/26/09

Tre Hargett

Tre Hargett
Secretary of State

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PUBLICATIONS

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

1. Name of Agency: Department of Finance and Administration, Division of Benefits Administration

2. Rulemaking hearing date: None (proposed rules)

3. Types of small businesses and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the costs of, or directly benefit from the proposed rules: The main purpose of these rules is to clarify certain eligibility requirements for children. This may have a slight beneficial effect on providers of health care services since a small additional number of children may become eligible. The proposed rule does not regulate providers or change the paperwork necessary for payment by providers.

4. The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the types of professional skills necessary for preparation of the record or report: None

5. A statement of the probable effect on impacted small businesses and consumers: The main purpose of these rules is to clarify certain eligibility requirements for children. This may have a slight indirect effect on children and providers since a small number of children may become eligible.

6. A description of any less burdensome, less intrusive, or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business: None

7. A comparison of the proposed rule with any federal or state counterparts: CoverKids receives Federal funding, so these rules are consistent with and subject to 42 CFR 457.

6. Analysis of the effect of the possible exception of small businesses from all or any part of the requirements contained in the proposed rule.
Not applicable.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule explains that children of non-instructional Local Education Agency employees not provided health insurance by the LEA are not excluded from CoverKids. The rule also adds new definitions of "health insurance" and "involuntary loss of coverage" for further clarification of the rules.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. 71-3-1106 and -1110 authorize promulgation of these rules

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These rules affect the families of certain LEA employees, who would be in favor of adoption of these amendments.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

This rule is not expected to significantly increase expenditures

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Andrea D. Willis, M.D., MPH, FAAP
Director, CoverKids

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

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Director, CoverKids

- (H) Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.