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Sequence Number: 07-03-15
 Notice ID(s): 2335
 File Date: 7-2-15

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Tennessee Department of Finance and Administration
Division:	Bureau of TennCare
Contact Person:	George Woods
Address:	Bureau of TennCare 310 Great Circle Road Nashville, TN 37243
Phone:	(615) 507-6446
Email:	george.woods@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	ADA Coordinator
Address:	Bureau of TennCare 310 Great Circle Road Nashville, TN 37243
Phone:	(615) 507-6474 For TTY dial 711 and ask for 855-286-9085
Email:	hcfa.fairtreatment@tn.gov helen.moore@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	310 Great Circle Road, Conference Room 1 East A		
City:	Nashville, TN		
Zip:	37243		
Hearing Date :	August 26, 2015		
Hearing Time:	9:00 a.m.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Additional Hearing Information:

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Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1200-13-5	Hospitalization Program
Rule Number	Rule Title
1200-13-5-.01	Definitions
1200-13-5-.02	Determination of Reimbursable Cost
1200-13-5-.03	Approval of the Department Required for Participants Cost Report Required
1200-13-5-.04	Cost Report Required
1200-13-5-.05	Billing Procedure
1200-13-5-.06	Application of Prospective Payment Method
1200-13-5-.07	Provider Exempted from Prospective Payment System
1200-13-5-.08	Prospective Payment Methodology
1200-13-5-.09	Minimum Occupancy Adjustment
1200-13-5-.10	Resident and Intern Adjustment
1200-13-5-.11	High Medicaid Volume Incentive
1200-13-5-.12	Other Adjustment to the Prospective Rate
1200-13-5-.13	New Providers
1200-13-5-.14	Lower of Cost or Charges Limit
1200-13-5-.15	Rate Notification and Effective Date
1200-13-5-.16	Method for Paying Providers which are Exempt from Prospective System
1200-13-5-.17	Audit
1200-13-5-.18	Termination of Medicaid Hospitalization Program

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Rule Chapter 1200-13-5 Hospitalization Program is deleted in its entirety and replaced with a new Rule Chapter 1200-13-05 which shall read as follows:

Chapter 1200-13-05
Hospital Rate Variation Corridors

Table of Contents

1200-13-05-.01	Definitions
1200-13-05-.02	Implementation of Contract Amendments for Existing Contracts between Hospitals and MCOs
1200-13-05-.03	Implementation of New Contracts between Hospitals and MCOs Entered into After July 1, 2013
1200-13-05-.04	Exclusion of Any Hospital from TennCare Networks
1200-13-05-.05	Out-of-Network Reimbursement
1200-13-05-.06	Agreements between Hospitals and MCOs for Limited Services
1200-13-05-.07	Changes to Hospitals Rates Negotiated Between MCOs and Hospitals after September 30, 2015
1200-13-05-.08	Categorization of New Services Added after July 1, 2015

1200-13-05-.01 Definitions.

- (1) Bureau of TennCare (Bureau). The administrative unit of TennCare which is responsible for the administration of TennCare as defined elsewhere in these rules.
- (2) Existing Contracts. The contracts that were in place between a Tennessee hospital and a TennCare MCO as of July 1, 2013.
- (3) Hospital. A general or specialty acute care facility licensed as a hospital by the Tennessee Department of Health pursuant to T.C.A. § 68-11-206, excluding hospitals that are categorized as Rehabilitation, Research, Long Term Acute or Psychiatric on the 2013 Joint Annual Report of Hospitals.
- (4) Inpatient Services. Routine, nonspecialized services that are provided at many or most hospitals in the state to patients admitted to the hospital as inpatients.
- (5) MCO (Managed Care Organization). An appropriately licensed Health Maintenance Organization (HMO)

contracted with the Bureau of TennCare to manage the delivery, provide for access, contain the cost, and ensure the quality of specified covered medical and behavioral benefits to TennCare enrollee-members through a network of qualified providers.

- (6) Medicare. A hospital's fee-for-service reimbursement under Title XVIII including that hospital's adjustment for DSH, wage index, etc., and excluding only IME, pass through payments, and any Medicare payment adjustments for Sequestration, Value Based Purchasing, Readmissions and Hospital Acquired Conditions.
- (7) Medicare Severity Diagnosis Related Groups (MS-DRG). The Medicare statistical system of classifying any inpatient stay into groups for the purpose of payment.
- (8) New Contract. Any initial contract between an MCO and a hospital that did not exist on July 1, 2013. Contracts in place on July 1, 2013, that have been materially altered since July 1, 2013, are not new contracts.
- (9) Outpatient Services. Services that are provided by a hospital to patients in the outpatient department of the hospital and patients receiving outpatient observation services.
- (10) Rate Corridors. Upper and lower limits established by the state's actuary and approved by the Bureau, in consultation with the Tennessee Hospital Association (THA), for payments by MCOs to hospitals for services provided to TennCare enrollees. The Rate Corridors are based on a hospital's Medicare reimbursement that existed in FFY 2011 and used to determine the parameters of TennCare rates for contracts between Tennessee hospitals and TennCare MCOs after July 1, 2013. The determination of whether a hospital's TennCare rates are within the prescribed Rate Corridors shall be made on the basis of reimbursement from all TennCare MCOs with which the hospital has a contract. The Rate Corridors, which were calculated by the State's actuary as the budget neutral corridors, are as follows:
 - (a) For inpatient services, the minimum level is 53.8% and the maximum level is 80% of the hospital's Medicare for 2011.
 - (b) For outpatient services, the minimum level is 93.2% and the maximum level is 104% of the hospital's Medicare for 2011.
 - (c) For cardiac surgery, the minimum level is 32% and the maximum level is 83% of the hospital's Medicare for 2011.
 - (d) For specialized neonatal services the minimum is 4% and the maximum level is 174% of the hospital's Medicare for 2011.
 - (e) For other specialized services the minimum level is 49% and the maximum level is 164% of the hospital's Medicare for 2011.
- (11) Specialized Services. Services that are typically provided in a small subset of hospitals, such as transplants, neonatal intensive care and level 1 trauma.
- (12) TennCare. The TennCare waiver demonstration program(s) and/or Tennessee's traditional Medicaid program.
- (13) TennCare Actuary. The actuarial firm selected by the Bureau to assist the Bureau in establishing the capitation rates for TennCare MCOs each year.
- (14) Total TennCare Rates. Payment rates for each hospital in the aggregate from all MCOs with which the hospital has network contracts.
- (15) Year 1 Corridors. The initial upper and lower limits established by the Bureau in consultation with THA based on a hospital's Medicare reimbursement that existed in FFY 2011 and that were used to implement rate variation limitations in contracts between Tennessee hospitals and TennCare MCOs from July 1, 2012 until July 1, 2013. The Year 1 Corridors are as follows:
 - (a) For inpatient services, the minimum level was 40% and the maximum level was 90% of the

hospital's Medicare for 2011.

- (b) For outpatient services, the minimum level was 90% and the maximum level was 125% of the hospital's Medicare for 2011.
- (c) For cardiac surgery, the minimum level was 30% and the maximum level was 80% of the hospital's Medicare for 2011.
- (d) For specialized neonatal services the minimum was 4% and the maximum level was 180% of the hospital's Medicare for 2011.
- (e) For other specialized services the minimum level was 30% and the maximum level was 160% of the hospital's Medicare for 2011.

1200-13-05-.02 Implementation of Contract Amendments for Existing Contracts between Hospitals and MCOs.

These contracts set rates for a period of two years effective July 1, 2013, and provided for rate amendments to be negotiated and implemented on July 1, 2015.

- (1) For hospitals that had existing contracts with MCOs in place on July 1, 2013, and the MCO and hospital had negotiated contract amendments to bring rates for total TennCare into the Rate Corridors and the rates in the contracts have not been adjusted since July 1, 2013, the MCOs will reissue those amendments with a new effective date of July 1, 2015.
- (2) In the case of a hospital that had contracts with MCOs in place on July 1, 2013, which contracts included amendments implementing rates within the Rate Corridors, and where the rates in the contracts have been adjusted since July 1, 2013, the Bureau shall evaluate the rates in the current contracts to determine if the total TennCare rates for the hospital are within the Rate Corridors. If the rate adjustments cause the total TennCare reimbursement for the hospital to be outside of the Rate Corridors, the affected MCOs shall implement contract amendments approved by the Bureau in consultation with the TennCare Actuary to bring the hospital rates into the Rate Corridors effective July 1, 2015.
- (3) In the case of a hospital with contracts in existence on July 1, 2013, which contracts include rates outside of the Rate Corridors, the affected MCOs shall implement contract amendments to bring total TennCare rates into the Rate Corridors with an effective date of July 1, 2015. The Bureau shall verify that the new contract rates in conjunction with contracts between the hospital and all other MCOs bring the hospital's total TennCare rates within the Rate Corridors.

1200-13-05-.03 Implementation of New Contracts between Hospitals and MCOs Entered into after July 1, 2013.

These contracts have not yet been in effect for a period of time sufficient to negotiate rate amendments for a July 1, 2015, implementation date. In the case of a hospital that entered into a contract with an MCO after July 1, 2013, including a hospital that entered into a contract with an MCO with rates within Year 1 Corridors effective January 1, 2015, the affected MCOs shall implement contract amendments that bring the hospital rates within the Rate Corridors no later than September 30, 2015.

1200-13-05-.04 Exclusion of Any Hospital from TennCare Networks.

A hospital that does not accept a contract amendment required by this Rule shall be excluded effective October 1, 2015, from participation in the TennCare MCO network to which the contract amendment applies.

1200-13-05-.05 Out-of-Network Reimbursement.

Out-of-Network payments to all hospitals shall be governed by TennCare Medicaid Rule 1200-13-13-.08(2)(a)-(c) and TennCare Standard Rule 1200-13-14-.08(2)(a)-(c).

1200-13-05-.06 Agreements between Hospitals and MCOs for Limited Services.

Rates for a single case agreement negotiated between the MCOs and hospitals that are not in network with the MCO to ensure access to services for TennCare enrollees may not exceed the ceiling or be below the floor of the Rate Corridors appropriate for those services.

1200-13-05.07 Changes to Hospital Rates Negotiated between MCOs and Hospitals after September 30, 2015.

To ensure that each hospital's total TennCare reimbursement remains within the Rate Corridors, proposed rate changes after September 30, 2015, shall be evaluated by the Bureau to determine if the proposed rate change will move the hospital's total TennCare rates outside of the Rate Corridors. If the evaluation indicates the change will put the hospital outside of the Rate Corridors, the Bureau shall provide the adjustments necessary to ensure that the contract is compliant with the limits of the Rate Corridors. TennCare rates between a hospital and an MCO may not be modified after September 30, 2015, without approval from the Bureau.

1200-13-05-.08 Categorization of New Services Added after July 1, 2015.

MS-DRG classifications serve as the basis for identifying services as inpatient or specialized. MS-DRG classifications may change and new MS-DRG classifications may be added from time to time. New or modified MS-DRG classifications shall be evaluated for assignment to appropriate inpatient or specialized categories by the Bureau in consultation with THA and the TennCare Actuary.

Statutory Authority: T.C.A. §§ 4-5-202, 4-5-203, 71-5-105 and 71-5-109.

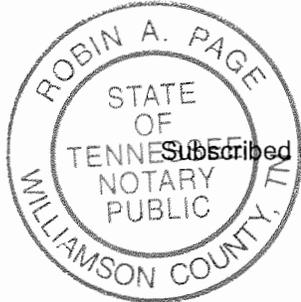
I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 6-30-15

Signature: Wendy J Long MD

Name of Officer: Wendy J. Long, M.D., M.P.H.

Title of Officer: Deputy Director/ Chief of Staff, Bureau of TennCare
Tennessee Department of Finance and Administration



Subscribed and sworn to before me on: June 30, 2015

Notary Public Signature: Rob A Page

My commission expires on: October 18, 2016

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Tre Hargett
Nancy Beth Tracy Tre Hargett
Secretary of State

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