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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Tennessee Department of Human Services
Division:	Family Assistance
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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 to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1240-01-08	Definitions and Abbreviations
Rule Number	Rule Title
1240-01-08-.01	Definitions

Chapter Number	Chapter Title
1240-03-01	General Rules
Rule Number	Rule Title
1240-03-01-.02	Definitions

Chapter 1240-01-08
Definitions and Abbreviations

Amendments

Rule 1240-01-08-.01, Definitions, is amended by adding a new paragraph (74), and renumbering all subsequent paragraphs accordingly, so that the new paragraph (74) shall read as follows:

- (74) Services. In addition to services related to eligibility for program benefits, services to applicants and recipients shall also include the release of information from program files that is deemed necessary to protect the safety and / or well-being of the applicant / recipient, in the event that the applicant / recipient is reasonably considered to be a danger to him / herself or others based on information provided by the applicant / recipient or his / her household or assistance group. The release of information in these circumstances shall be considered integral to the administration of the program.

Authority: T.C.A. §§ 4-5-201 et seq., 71-1-105 and 71-3-157; 45 C.F.R. § 205.50(a)(1)(i); 7 C.F.R. § 272.1(c)(1)(i).

Chapter 1240-03-01
General Rules

Amendments

Rule 1240-03-01-.02, Definitions, is amended by adding to paragraph (1) a new subparagraph (jj), and relettering all subsequent subparagraphs accordingly, so that the new subparagraph (jj) under paragraph (1) shall read as follows:

- (jj) Services. In addition to services related to eligibility for program benefits, services to applicants and recipients shall also include the release of information from program files that is deemed necessary to protect the safety and / or well-being of the applicant / recipient, in the event that the applicant / recipient is reasonably considered to be a danger to him / herself or others based on information provided by the applicant / recipient or his / her household or assistance group. The release of information in these circumstances shall be considered integral to the administration of the program.

Authority: T.C.A. §§ 4-5-201 et seq. and 71-1-105; 42 C.F.R. § 431.302.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Department of Human Services (board/commission/ other authority) on 06/08/2010, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 03/31/10

Rulemaking Hearing(s) Conducted on: (add more dates). 05/25/10 and 05/27/10

Date: 6/8/10

Signature: [Handwritten Signature]

Name of Officer: Kim Summers

Title of Officer: Deputy General Counsel



Subscribed and sworn to before me on: June 8, 2010

Notary Public Signature: [Handwritten Signature]

My commission expires on: May 8, 2012

All rulemaking hearing 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
7-20-10

Date

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Filed with the Department of State on: 7/21/10

Effective on: 10/19/10 10-21-10

[Handwritten Signature]
Tre Hargett
Secretary of State

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PUBLICATIONS

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Date(s), Time(s) and Place(s) of Public Hearing(s): May 25, 2010, 6:30 p.m. Central Time, Department of Human Services, 2nd Floor Conference Room #1, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee 37243; May 25, 2010, 6:30 p.m. Eastern Time, Conference Room A, 7th Floor, 531 Henley Street, Knoxville, Tennessee 37902; and May 27, 2010, 6:30 p.m. Central Time, Donnelley J. Hill State Office Building, 2nd Floor Auditorium, 170 North Main Street, Memphis, Tennessee 38103.

Public hearings were held on the dates, times and places noted above by the Department of Human Services to receive comments regarding amendments to the above referenced rules. No comments were received.

Regulatory Flexibility Addendum

Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

For purposes of Acts 2007, Chapter 464, the Regulatory Flexibility Act, the Department of Human Services certifies that these rulemaking hearing rules do not appear to affect small businesses as defined in the Act. These rules do not regulate or attempt to regulate businesses.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule to proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

These rules have no projected financial impact on local governments.

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 rulemaking has created two new rules to define "services" – one rule to be used in the context of Medicaid and the other in the context of other Family Assistance programs. The rules define "services" to include the release of information from program files when necessary to prevent harm to or cause by an individual receiving or applying for services.

- (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;

These rules are not required by any state or federal law but are consistent with the federal laws governing the applicable Family Assistance programs as well as the HIPAA regulations which permit the release of otherwise confidential health information under the circumstances described without the express permission of the applicant / recipient.

- (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 specifically impact clients of the Department who may threaten violence against themselves or others. No client has urged either adoption or rejection of these rules.

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

N/A

- (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;

These rules are not expected to have any fiscal impact.

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

Kim Summers, Deputy General Counsel, Department of Human Services

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

Kim Summers, Deputy General Counsel, Department of Human Services

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

Kim Summers, Deputy General Counsel
Department of Human Services, Citizens Plaza, 15th Floor
400 Deaderick Street
Nashville, Tennessee 37243
(615) 313-4731
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(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

“REDLINE VERSION-RULE 1240-01-08-.01 DATED APRIL 5, 2010”

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
FAMILY ASSISTANCE DIVISION**

**CHAPTER 1240-1-8
DEFINITIONS AND ABBREVIATIONS**

TABLE OF CONTENTS

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1240-1-8-.01 DEFINITIONS. Listed below are definitions of some terms frequently used by the Tennessee Department of Human Services. These definitions are specific for the Food Stamps/AFDC Programs. Other terms unique to the two programs may not be defined here, but should be read in the context of the instructions/policies given in the various volumes of the Family Assistance Manual.

- (1) **Aid Group.** The aid group is composed of all the people whose needs are included in one AFDC budget. For the purposes of budgeting one person may be an aid group.
- (2) **Allotment Or Coupon Allotment.** Allotment or Coupon Allotment is the total value of food coupons a household is authorized to receive during each month or other time period.
- (3) **Alternate Payee**
 - (a) An alternate payee is a person who is temporarily designated to receive and expend an AFDC check when the grantee-payee relative is not available to do so.
 - (b) The alternate payee is expected to act for the grantee-payee relative in relation to the child. That is, he/she is expected to see to it that the child has shelter, food, clothing, and adequate supervision during the emergency period.
 - (c) The alternate payee may be related or unrelated to the child. He/she may be living in the same home with the child or apart from the child if he/she is carrying out his/her responsibilities of acting for the grantee-payee relative.
 - (d) Since the alternate payee must act for the grantee-payee relative he/she must be someone who can fulfill this requirement, such as a relative, concerned neighbor, or friend. Therefore, employees of the Department and Institutions may not be designated alternate payee.
- (4) **Applicant**
 - (a) An applicant is a person who has submitted a completed and signed document prescribed by DHS requesting AFDC for children in his/her care, and/or a form approved by FNS containing at least a legible name, address, and a signature to request Food Stamps for the household of which he/she is a member.
 - (b) An authorized representative or designated agent may actually file the application provided they have been authorized to do so by the head of the household, spouse, or other responsible household member.
- (5) **Applicant Relative.** An applicant relative is a specified relative who applies for AFDC for a child or children in his/her care.

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- (6) Application And Application Form
- (a) Food Stamps Only. An application is a form prescribed by DHS and/or approved by FNS containing prescribed information which is submitted to the County Office of the DHS by a person requesting assistance, or by the person's legally appointed guardian, designated agent, or authorized representative. For Food Stamp purposes, an initial application is the first time a person or persons have ever applied for Food Stamps or when a full 30 days has elapsed since the expiration of the household's last certification period.
- (b) AFDC Only. Application or Application Form. An application is a form prescribed by DHS and/or approved by FNS containing prescribed information which is submitted to the County Office of the DHS by a person requesting assistance, or by the person's legally appointed guardian, designated agent, or authorized representative.
- (7) Authorization To Participate Card (ATP). Authorization to Participate Card (ATP) is a document which is issued by the Tennessee Department of Human Services to a certified household to show the Food Stamp allotment the household is authorized to receive on presentation of such document.
- (8) Authorized Representative. An authorized representative is the person designated by the head of the household, spouse, or other responsible household member for making application for Food Stamps including participating in the interview, obtaining coupons, or using the coupons. Also, an authorized representative is an employee of a private treatment and rehabilitation program which must be certified by the designated state agency. This employee shall act in the treatment center patient's behalf by making application for Food Stamps, receiving and/or spending the coupons.
- (9) Boarders
- (a) Food Stamps. Individuals to whom a household furnishes lodging and meals for reasonable compensation.
1. Boarder status shall not be granted to a spouse as defined in paragraph 78 of 1240-1-8-.01 or a member of the household, or to children under 18 years of age under the parental control of a member of the household, or to either parents living with their natural, adopted, or stepchildren or such children living with such parents, unless at least one parent is elderly or disabled.
2. Boarder status shall not be extended to persons paying less than a reasonable monthly payment for meals. An individual furnished both meals and lodging by the household, but paying compensation less than a reasonable amount, will be considered a member of the household which provides the meals and lodging.
- (b) AFDC. A boarder is a person who lives as a member of a family, but who pays a fee for this privilege. His/her board rate covers his/her portion of mutual living expenses and his/her food. Any profit a family or HH/AG realizes from a boarder belongs to the person or the HH/AG including the person to whom he/she pays board.
- (10) Boarding House. A boarding house is an establishment which is recognized by the community as a commercial enterprise which offers meals and lodging for compensation. In counties without licensing requirements, a boarding house shall be defined as a commercial establishment which offers meals and lodging for compensation with the intention of making a profit.

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- (11) Caretaker. A caretaker for AFDC purposes is a specific relative of a child who is providing a home for the child, exercising primary responsibility for the care and control of the child, is in need according to Department standards, is not an SSI beneficiary, and wishes to be included in the AFDC aid group. A caretaker is counted statistically as an AFDC recipient and an allowance is made for the caretaker in the AFDC grant.
- (12) Certification Period. A certification period is an assigned period of time during which a household is eligible and certified to receive Food Stamp benefits.
- (13) Child Caring Institution. A child caring institution is an institution which provides twenty-four hour care to more than 12 children.
- (14) Communal Dining Facility. A communal dining facility is a public or non profit private establishment, approved by FNS, which prepares or serves meals for elderly persons or for Supplemental Security Income (SSI) recipients and their spouses.
- (15) Department. The Department is the Tennessee Department of Human Services, an office of which is located in each county in the State of Tennessee.
- (16) Dependent Child AFDC Only. "Dependent child" means a needy child under the age of eighteen (18), except as otherwise herein provided, who has been deprived of parental support or care by reason of death, continued absence from the home, or physical or mental incapacity of a parent, and whose legally responsible relatives are not able to provide adequate care and support of such child without public assistance, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home, or is living in the home of a non-relative or in a child-caring institution under the terms and conditions set forth in Title IV, Section 408, Federal Social Security Act. For purpose of assistance under this program a "dependent" shall also include any person between the ages of sixteen (16) and eighteen (18) years and is attending school in conformity with the Federal Social Security Act as amended.
- (17) Designated Agent. A person named by an individual requesting AFDC to act for him/her in filing an application, gathering required information, representing him/her at a fair hearing, etc. The designated agent acts for the applicant/recipient in such matters but cannot receive/expend the person's AFDC grant unless he/she is also the person's legally appointed guardian or has been named alternate/protective payee.
- (18) Disability.
 - (a) FS (Work Registration). A mental or physical impairment which renders a person incapable of gainful employment either permanently or temporarily.
 - (b) Food Stamps (Determining eligibility for medical deduction, excess shelter deductions, use of income standards, and separate household status for parent/child and sibling rules). An individual is considered disabled if he/she meets any of the following criteria:
 1. Receives SSI benefits under Title XVI of the Social Security Act or disability or blindness payments under Titles I, II, X, XIV or XVI of the Social Security Act.
 2. Receives federally or state administered supplemental benefits under section 212(a) of Public Law 93-66.

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3. Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act.
 4. Is a veteran receiving VA benefits for a service or non-service connected disability rated or paid as total, or is considered by VA standards to be need of regular aid and attendance, or considered permanently housebound.
 5. Is a disabled surviving spouse of a veteran and is considered by VA standards to be in need of regular aid and attendance or permanently housebound.
 6. Is a disabled surviving child of a veteran and is considered permanently incapable of self-support by VA standards.
 7. Is a surviving spouse or child of a veteran and entitled to VA compensation for a service connected death or VA pension benefits for a non-service connected death and has a disability considered permanent under the Social Security Act.
 8. Receives an annuity payment under section 2.(a)(1)(iv) of the Railroad Retirement Act of 1984 and is determined to be eligible to receive Medicare by the Railroad Retirement Board.
 9. Receives an annuity payment under section 2.(a)(i)(v) of the Railroad Retirement Act of 1984 and is determined to be disabled based on the criteria used under Title XVI of the Social Security Act.
- (c) Food Stamps (Determining eligibility for separate household status of elderly individuals who live with others and who do not purchase and prepare meals separately from others.). Disability for this purpose is defined as any disability considered permanent under the Social Security Act or other non-disease-related, severe, permanent disabilities which prevent individuals from purchasing and preparing their own meals.
- (d) AFDC (Eligibility). A mental and/or physical condition, total or partial, permanent or temporary, which restricts a person's occupation/activity to the extent that he/she cannot provide his/her child care and support.
- (e) WIN (Registration-AFDC). A mental and/or physical condition, total or partial, permanent or temporary, which prevents a person's participation in a manpower work or training program.
- (19) Documentation. Documents in substantiation of a client's statement about factors of eligibility - documentary evidence.
- (20) Drug Addiction And Alcoholic Treatment And Rehabilitation Center. A treatment program certified by the appropriate state agency of the State of Tennessee as a bona fide treatment program and conducted by a private, non-profit organization or institution. Residents of such programs may apply for Food Stamp Program benefits with an authorized representative employed by the treatment program acting as the authorized representative for all applicant households.
- (21) Earned Income. That total income which an A/R earns by his/her own efforts; either salary, wages or commissions paid to him/her as an employee, or profits from self-employment in an enterprise (including farming), which he/she may carry on independently or jointly with another person or persons. It includes earnings over a period of time for which settlement is made at one given time. It does not include any income such as pensions or benefits accruing as compensation or reward for service or compensation for lack of employment; for example, RSDI benefits, VA benefits, UMW

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benefits, strike benefits, Unemployment Compensation, etc., nor Military Allotments, allotments from Job Corps participants, or return from capitol investments or income provided by another agency.

- (22) Elderly Person. For Food Stamp Program purposes a person 60 years of age or older. A person who is 59 years of age but who will become 60 years of age during the application month will be treated as an elderly person from the date of application.
- (23) Eligible Foods - Food Stamp Program
- (a) Any food or food product intended for human consumption except alcoholic beverages, tobacco and hot foods, and hot food products prepared for immediate consumption.
 - (b) Seeds and plants to grow foods for the personal consumption of eligible food stamp households.
 - (c) Meals prepared and delivered by an authorized meal delivery service to households eligible to use coupons to purchase delivered meals or to households eligible to use coupons for communal dining at communal dining facilities for the elderly, for SSI households, or both.
 - (d) Meals prepared and served by an authorized drug addict or alcoholic treatment and rehabilitation center to households eligible to use coupons to purchase those meals.
 - (e) Meals prepared and served by an authorized group living arrangement facility to residents who are blind or disabled recipients of benefits under Title II or Title XVI of the Social Security Act.
 - (f) Meals prepared by and served by a shelter for battered women and children to its eligible residents.
- (24) Excluded Household Members. Ineligible aliens who are defined as individuals who do not meet the citizenship or eligible alien status; individuals who are ineligible due to failure to provide or apply for an SSN; and individuals who are disqualified because of intentional program violation or failure to comply with Food Stamp Program work requirements.
- (25) Fair Hearing. A procedure whereby an appeal may be made by persons whose applications are denied, not acted upon with reasonable promptness, or who are otherwise aggrieved by the agency's interpretation of any provision of the FS/AFDC laws and regulations as it affects their situations.
- (26) Food And Nutrition Service (FNS). The division of the United States Department of Agriculture which supervises the Food Stamp Program at the federal level.
- (27) Food Stamp Act. The Food Stamp Act of 1977 (PL 95-133), including any subsequent amendments thereto.
- (28) Foster Boarding Home. A licensed or approved home in which twenty-four hour care is provided to a person who lives as a member of the family.
- (29) Foster Care. Care provided to a person in a licensed or approved Foster Boarding Home when the person's own home is not available to him/her.
- (30) Reserved
- (31) Full-Time Employee. A person who works 30 hours per week or more or has weekly earnings equal to the Federal minimum wage times 30 hours.

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- (32) General Assistance Agency. Any agency using local funds to provide financial assistance to individuals and families.
- (33) Grantee Relative. A specified relative who receives an AFDC grant for a child or children in his/her care. This person may or may not be included in the aid group.
- (34) Group Living Arrangement. A public or private non-profit residential setting that serves no more than sixteen (16) residents and that is certified by the Department of Mental Health. To be eligible for food stamp benefits, a resident of such a group living arrangement must be blind or disabled and receiving benefits under Title II or Title XVI of the Social Security Act.
- (35) Guardian. An individual named by a court of competent jurisdiction (usually the County Court) to manage the affairs of an adult who has been adjudicated mentally incompetent or one who has been named to manage the affairs and/or person of a minor.
- (36) Homestead. The home and surrounding property which is not separated from the home by intervening property owned by others. Public rights of way, such as roads which run through the surrounding property and separate it from the home, will not affect its classification as a homestead.
- (37) Household. For Food Stamp purposes, a group of people who customarily purchase and prepare food together for home consumption. For program purposes, an individual living alone may be a household.
- (38) Identification Card (ID). A card which identifies the bearer as eligible to receive and use food coupons.
- (39) Income. A recurring gain or benefit measured in money amounts.
- (40) Inmate Of Public Institution. A person living in a public institution unless (1) he has definite plans to leave the institution within the current or succeeding month; or (2) he is free to leave on his own volition at any time. See Section 1240-1-31 for Food Stamp policies regarding persons residing in facilities for the treatment of drug addiction/alcoholism.
- (41) Inquiry. A request for information about the Family Assistance programs. Inquiries are not applications for assistance and no permanent records of inquiries are kept.
- (42) Immigration And Naturalization Service (INS). The Immigration and Naturalization Service of the United States Department of Justice which has jurisdiction over determining the alien status of all residents of the United States.
- (43) Institution Of Higher Learning. Any institution providing post-high school education, including but not limited to, colleges, universities, and vocational or technical schools at the post-high school level.
- (44) Low Income Household. For Food Stamp purposes, a household whose annual income does not exceed 125% of the Office of Management and Budget guidelines.
- (45) Mail Issuance. The method by which eligible households receive their Food Stamps by mail each month.
- (46) Mass Changes. Certain changes initiated by the State or Federal Government which may affect the entire Family Assistance case load or significant portions of the case load.
- (47) Meal Delivery Service. A non-profit meal delivery service authorized by FNS which provides prepared meals to eligible Food Stamp household members over 60 years of age and their spouses or members

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(and spouses) who are housebound, physically handicapped, or otherwise disabled to the extent that they are unable to adequately prepare all their meals.

- (48) Medicaid. A Federal and State funded medical insurance program administered in this state by the Tennessee Department of Public Health - Medicaid Division. Benefits are available only for certain groups of people. The federal base for the program is Title XIX of the Social Security Act as amended.
- (49) Medicare. A hospital insurance benefit and supplemental medical insurance benefit program administered by the Social Security Administration for certain individuals who receive Social Security benefits. Administered under Title XVIII of the Social Security Act as amended.
- (50) Minor. A minor is a person under 18 years of age unless his/her minority has been removed at an earlier age by court action.
- (51) Net Income. Gross income less appropriate exclusions and work allowances.
- (52) Office Of Family Assistance (OFA). The division of the US DHHS which supervises the administration of the AFDC Program.
- (53) Overissuance. The amount of food coupons issued to a household which exceeds the amount the household was eligible to receive.
- (54) Overpayment. The amount of cash assistance paid to an AFDC family which they were not eligible to receive, i.e., they were totally ineligible or received assistance greater than that to which they were entitled.
- (55) Payee. The person to whom an AFDC grant check is made payable.
- (56) Prevailing Rate Of Return. The current usual monetary yield on real/personal property of similar type and usage in the area in which the property is located.
- (57) Private Institution. A facility which provides, under private management, shelter, custodial care, personal services and, in some instances, nursing care to two or more persons unrelated to the owner or manager. It is usually entirely supported by private funds. It may, however, receive contributions from public funds and still be considered a private institution, if the governmental unit does not exercise any administrative control. Private institutions include such facilities as hospitals, nursing homes, child caring institutions, and homes for the aged. The institution may be operated by an individual, or it may be under the auspices of a church, a fraternal organization, or a private board.
- (58) Program. May refer to either the Food Stamp Program conducted under the Food Stamp Act and Regulations or the Aid to Families with Dependent Children (AFDC) Program conducted under Title IV-A of the Social Security Act and Regulations. If not specifically designated, "program" must be read as pertaining to either program depending on the context of the material.
- (59) Program Violations
 - (a) Food Stamps
 - 1. Intentional Program Violation occurs when a person intentionally has:
 - (i) Made a false or misleading statement or has misrepresented, concealed, or withheld facts related to the Food Stamp Program; or

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- (ii) Traded Food Stamp coupons for guns, ammunition, explosives, or controlled substances; or
 - (iii) Committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamp coupons or ATPs.
 - 2. Inadvertent Household Error. An inadvertent household error caused by a misunderstanding or unintended error on the part of the household.
 - 3. Administrative Error. An administrative error is an error caused by the worker or Department.
- (b) AFDC. Whoever knowingly obtains or attempts to obtain or aids or abets any person to obtain, by means of a willfully false statement or representation or by impersonation or other device, assistance for a dependent child to which such child is not entitled, or assistance greater than that to which such child is entitled, shall be guilty of a felony and punishable accordingly.
- (60) Project Area.
 - (a) A county within the State of Tennessee which has been designated as an administrative unit for Food Stamp Program operations; or
 - (b) A geographic area, usually a county, served by one WIN-ES Office.
- (61) Protective Payee. An individual (selected by the A/R when possible or by the staff of the Department when necessary) named by the Department of Human Services to receive and expend an AFDC grant for the benefit of a recipient who:
 - (a) refuses to participate in WIN.
 - (b) refuses to assign support rights/cooperate with the IV-D agency.
 - (c) because of physical/mental/emotional disorder, youth or immaturity, or demonstrated inability to manage money, is in need of the assistance of a payee. See Section 1240-1-18.
- (62) Public Institution. A facility which provides shelter, custody or care, and is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.
- (63) Recipient. A person who receives an AFDC payment is included in the aid group and is counted statistically as a caretaker, second parent, or dependent child, including a child receiving AFDC-FC.
- (64) Recertification/Redetermination Of Eligibility.
 - (a) Recertification. The processing of an application for recertification for Food Stamps prior to the end of a predefined certification period of a household.
 - (b) Redetermination of Eligibility. The periodic investigation of each AFDC case which is required in order to establish that the family continues to be eligible for assistance. The terms redetermination of eligibility, review, and periodic review are used interchangeably.
- (65) Referral

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- (a) A specific request for assistance or service to a specific individual which is received from or sent to an agency, individual, or other program within the Department of Human Services.
 - (b) Family Assistance staff will usually receive referrals in written form in relation to an application or active case. Such referrals are to be made a part of the case record.
 - (c) Referrals by Family Assistance staff may be made on applications and active cases to Social Services, Division of Vocational Rehabilitation, Services to the Blind, or an agency which provides financial aid such as the Social Security Administration, Veterans Administration, and so on. Referrals may be in written form and if so, a copy of the referral is to be made a part of the case folder.
- (66) Relative Or Specified Relative.
- (a) For AFDC purposes, any blood relative, including those of half-blood; first cousins, nephews and nieces. This includes relationships to persons of preceding generations as denoted by prefixes of grand, great, or great-great.
 - (b) Stepfather, stepmother, stepbrother, and stepsister.
 - (c) Legally adoptive parents of the child or of the child's parents, the natural and other legally adopted children of such persons, and the blood relatives of such persons, including first cousins, nephews, and nieces.
 - (d) Legal spouses of any of the persons named in the three above groups. This applies even though the marriage may have been terminated by death or divorce. There must be a legally recognized relationship existing in addition to a blood relationship in order to be considered a specified relative.
- (67) Relocation Payment. A payment to a person who is displaced from his home as a result of HUD assisted or other federally assisted program or project subject to the provisions of the Federal Uniform Relocation Assistance and Real Property Acquisition Act of 1970. The relocation payment is the amount paid to cover moving costs and for homeowners the amount of payment made as a grant over and above the amount paid to him/her for his/her equity in property, to purchase replacement housing. For Renters, the amount paid to assist in obtaining replacement housing (rented or to be purchased).
- (68) Resident. A household living in the county in which it files an application for participation. In AFDC, a person who is living in the state voluntarily and not for a temporary purpose, that is, with no intentions of presently removing therefrom; or one living in the state who has come into the state in order to seek or take employment. A child is residing in the state if he/she is making his/her home in the state. Temporary absence from the state with subsequent returns to the state, or intent to return when the purposes of the absence have been accomplished, shall not interrupt the continuity of residence.
- (69) Residents Of Institutions. For Food Stamp purposes, individuals who reside in an institution and the institution provides them with the majority of their meals as part of the institution's normal services and the institution has not been authorized to accept Food Stamp coupons. Residents of institutions are not eligible for participation in the Food Stamp Program, with the following exceptions:
- (a) Residents of federally subsidized housing for the elderly, built under Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act.
 - (b) Narcotic addicts or alcoholics who, for the purpose of regular participation in a drug or alcohol treatment and rehabilitation program, reside at a facility or treatment center. In AFDC,

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individuals who reside in an institution. A resident of a public institution is not eligible for assistance unless he/she is a patient in a public medical institution. A resident in a private institution may be eligible if he/she is temporarily absent from home or meets requirements for AFDC-FC.

- (c) Disabled or blind individuals who are residents of group living arrangements (as defined in the definitions section, 1240-1-8-.11(34) and who receive benefits under Title II (RSDI) or Title XVI (SSI) of the Social Security Act.
 - (d) Residents of shelters for battered women and children as defined in 1240-1-8-.01(75). Such persons shall be considered individual household units for the purpose of applying for and participating in the program.
- (70) Retail Food Store
- (a) An establishment or recognized department of an establishment or a house-to-house trade route, whose eligible food sales volume is more than 50 percent staple food items for home preparation and consumption;
 - (b) Public or private communal dining facilities and meal delivery services and drug addict or alcoholic treatment and rehabilitation programs and public or private non-profit group living arrangements or public or private non-profit shelters for battered women and children;
 - (c) Any private non-profit cooperative food purchasing venture, including and those whose members pay for food prior to receipt of the food; and
 - (d) A farmers market.
- (71) Roomer. Individual to whom a household furnishes lodging, but not meals, for compensation.
- (72) Second Parent. A parent who meets the following conditions:
- (a) Both parents are in the home with the eligible child and are married to each other. This applies only in AFDC cases in which a disabled natural or adoptive parent is living in the home with the eligible child. If the disabled parent is designated caretaker, the other parent may be designated second parent. A stepparent can qualify as second parent but only if the child's natural or adoptive parent is disabled and in the home.
 - (b) The second parent is not receiving SSI.
 - (c) The second parent is included in the aid group.
- (73) Secretary. The Secretary of the United States Department of Agriculture or, if so used, the Secretary of the United States Department of Health and Human Services.
- (74) Services. In addition to services related to eligibility for program benefits, services to applicants and recipients shall also include the release of information from program files that is deemed necessary to protect the safety and / or well-being of the applicant / recipient, in the event that the applicant / recipient is reasonably considered to be a danger to him / herself or others based on information provided by the applicant / recipient or his / her household or assistance group. The release of information in these circumstances shall be considered integral to the administration of the program.

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- | (745) Set Of Children. A "set" of children is defined as one child, or two or more children who are full brothers and/or sisters, or half-brothers and/or sisters, i.e. having;
- (a) The same father and mother; or
 - (b) The same mother but different fathers; or
 - (c) The same father but different mothers.
- | (756) Shelter For Battered Women And Children. Public or private non-profit residential facility that serves battered women and their children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children. The shelter must also be a residence which serves meals to its residents to qualify for the special provisions.
- | (767) Special Action. A purposeful contact between a Family Assistance staff member and a family which is made between recertification/redeterminations of eligibility in order to explore a particular event which was anticipated or reported to the worker and which would have some effect on an individual's (or family's) continued eligibility for benefits.
- | (778) Special Care. Nursing Care, personal care, and/or household services which are medically required by and being purchased by a person receiving FS/AFDC.
- | (789) Special Review. A limited review of selected factors of eligibility in a selected sample of FS/AFDC cases when this is required based on Quality Control findings.
- | (7980) Spouse. For Food Stamp purposes either of two individuals;
- (a) Who would be defined as married to each other under applicable state laws; or
 - (b) Who are living together and are holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or tradespeople. For AFDC purposes a legal husband or wife.
- | (801) State. The State of Tennessee.
- | (812) State Agency. The agency of State Government which has the responsibility for the administration of the Food Stamp and Public Assistance Programs within the state. In Tennessee, this is the Tennessee Department of Human Services.
- | (823) Student. An individual attending at least half time, as defined by the institution, any kindergarten, pre-school, grade school, high school, vocational or technical school, training program, college, or university. Enrollment in a mail, self-study, or correspondence course does not qualify such person as a student. Participation in the Job Corps qualifies a person as a student. for AFDC purposes only. A student remains a student during official school vacation periods if he has definite plans to enroll at the beginning of the next school term.
- | (834) Full-Time Student. A child must have a schedule equal to a full-time curriculum for the school he is attending.
- | (845) Part-Time Student. A child must have a schedule equal to a one-half of a full-time curriculum in the school he is attending. See sections regarding Work Registration, WIN Registration, and Exclusion of Income.

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- | (856) Supplemental Security Income (SSI). Monthly cash payments made under the authority of Title XVI of the Social Security Act, as amended, to eligible aged, blind, and disabled persons.
- | (867) Thrifty Food Plan. The diet required to feed a family of four persons consisting of a man and a woman 20 through 54, a child 6 through 8 and a child 9 through 11 years of age, determined in accordance with the Secretary's calculations. The cost of such a diet shall be the basis of uniform allotments for all households regardless of their actual composition, except that the Secretary shall make household size adjustments in the thrifty food plan taking into account economies of scale.
- | (878) Underissuance/Underpayment. The amount by which Food Stamp coupons or AFDC payments provided to a HH/AG are less than the amount they were eligible to receive.
- | (889) Unearned Income. Any payments received without the current work efforts of the person, such as but not limited to, unemployment benefits, SSA and SSI benefits, workmen's compensation payments, gifts and contributions, etc.
- | (~~899~~0) United States Department Of Agriculture. The agency of the Federal Government authorized by the United States Congress to administer the Food Stamp Program.
- | (901) United States Department Of Health And Human Services. The agency of the Federal Government authorized to administer the federally aided public assistance programs.
- | (9+2) Vendor. A person or organization which provides goods and/or services to an individual or family.
- | (923) Vendor Payment.
- (a) A payment made in money on behalf of a HH/AG to a third party; or
- (b) A payment made by the agency directly to a provider of goods/services as in AFDC-FC, Medicaid payments to a hospital or nursing home, etc.

Authority: TCA §§4-5-202, 71-1-105, 71-3-157, and 71-3-158; 7 CFR 273.16. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed December 19, 1981; effective January 25, 1982. Amendment filed April 2, 1982; effective May 17, 1982. Amendment filed July 20, 1982; effective October 13, 1982. Amendment filed March 3, 1983; effective April 4, 1983. Amendment filed March 28, 1983; effective April 27, 1983. Amendment filed May 17, 1983; effective June 16, 1983. Amendment filed August 5, 1986; effective November 29, 1986. Amendment filed September 29, 1986; effective December 29, 1986. Amendment filed May 8, 1987; effective August 29, 1987. Amendment filed April 4, 1997; effective June 18, 1997.

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**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL SERVICES**

**CHAPTER 1240-03-01
GENERAL RULES**

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1240-03-01-.02 DEFINITIONS.

- (1) Definitions of terms or phrases utilized in regulations relating to the Medical Assistance Program are as follows:
 - (a) Aid to Families with Dependent Children (AFDC). Refers to the name of the cash assistance program for Families and Children prior to the passage of the Welfare Reform Act in July 1996.
 - (b) Aid to Families with Dependent Children – Medicaid Only (AFDC-MO (Section 1931)). Refers to Section 1931 of the Social Security Act [42 U.S.C. § 1396u-1] which requires that any family group that qualifies for Medicaid based on AFDC-MO regulations prior to July 16, 1996 be tested for eligibility in this group.
 - (c) Bureau of TennCare (herein referred to as “TennCare” or as “Bureau”). The division of the Tennessee Department of Finance and Administration (the single state Medicaid agency) that administers the TennCare Program. For the purposes of these rules, the Bureau of TennCare shall represent the State of Tennessee and its representatives.
 - (d) Caretaker relative. The father, mother, grandfather or grandmother of any degree, brother or sister of the whole or half-blood, stepfather, stepmother, stepbrother, stepsister, aunt or uncle of any degree, first cousin, nephew or niece, the relatives by adoption within the previously named classes of persons, and the biological relatives within the previous degrees of relationship, and the legal spouses of persons within the previously named classes of persons, even if the marriage has been terminated by death or divorce, with whom a child is living. A Caretaker relative may be included in the AFDC-MO Category if he/she is related in the previous degrees of relationship with a child in the home who is under age eighteen (18) years of age or a child who has not attained nineteen (19) years of age and who is a full-time student in a secondary school or the equivalent and who is expected to graduate by the nineteenth birthday. [TCA § 71-3-153]
 - (e) Categorically Needy. Categorically Needy individuals are entitled to the broadest scope of medical assistance benefits. All recipients of Medicaid based on Section 1931-AFDC-MO and the SSI program for the aged, blind or disabled are Categorically Needy. In addition, many adults, families, pregnant women and children who do not receive cash assistance receive the Categorically Needy level of benefits for Medicaid Only assistance.
 - (f) CHOICES 217-Like Group. Individuals age sixty-five (65) and older and adults age twenty-one (21) and older with physical disabilities who meet the Nursing Facility (NF) level of care criteria, who could have been eligible for Home and Community Based Services (HCBS) under 42 C.F.R. § 435.217 had the state continued its 1915(c) HCBS

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Waiver for persons who are elderly and/or physically disabled, and who need and are receiving HCBS as an alternative to NF care. This group exists only in the Grand Divisions of Tennessee where the CHOICES Program has been implemented, and participation is subject to the enrollment target for CHOICES Group 2.

- (g) CHOICES Group 1. Individuals of all ages who are receiving Medicaid-reimbursed care in a NF.
- (h) CHOICES Group 2. Individuals age sixty-five (65) and older and adults age twenty-one (21) and older with physical disabilities who meet the Nursing Facility level of care and who qualify for TennCare either as SSI recipients or as in an institutional category (i.e., as members of the CHOICES 217-Like demonstration population), and who need and are receiving HCBS as an alternative to NF care. TennCare has the discretion to apply an enrollment target to this group.
- (i) CHOICES Member. An individual who has been enrolled by the Bureau of TennCare into the CHOICES Program.
- (j) Code of Federal Regulations (C.F.R.). Federal regulations which transfer to regulatory form the specific requirements of Federal law.
- (k) Co-insurance. Coinsurance amounts payable by the recipient under the provisions of Title XVIII, Part B for covered medical services rendered under the Medicare Program and becoming due after satisfaction of the deductible liability. [42 U.S.C. §§ 1395j et seq.]
- (l) Deductible. Amounts payable by the recipient which fall within an aged beneficiary's deductible liability imposed by Title XVIII, Part B. Health Insurance for the Aged. [42 U.S.C. §§ 1395j et seq.]
- (m) Eligible individual. A person who has applied for medical assistance and has been found to meet all applicable conditions for eligibility pertaining to Tennessee's Medical Assistance Program.
- (n) Enrollment Target. The maximum number of individuals that can be enrolled in CHOICES Group 2 at any given time, subject to exceptions defined by the Bureau of TennCare. The enrollment target is not calculated on the basis of "unduplicated participants." Vacated slots in CHOICES Group 2 may be refilled immediately, rather than being held until the next program year, as is required in the HCBS waiver programs.
- (o) Excess income. That portion of the income of the individual or family group, which exceeds amounts allowable to the individual or family group as disregarded income or income protected for basic maintenance and which results in a determination of ineligibility.
 - 1. Excess Resources. That portion of the liquid assets or other resources of the individual or family group in excess of the amounts which may be retained for the individual or family group's security and personal use, not exempted from consideration or otherwise accounted for by special specified circumstances, and which result in a determination of ineligibility.
 - 2. Spenddown. The process by which excess income is utilized for recognized medical expenses and which, when depleted, results in a determination of eligibility if all other eligibility factors are met.

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- (p) Families First (FF). Tennessee’s TANF program (Temporary Assistance for Needy Families) which provides cash assistance to families with dependent children. [42 U.S.C. §§ 601 et seq.]
- (q) Inpatient services. Those services rendered for any acute or chronic condition, including maternal and mental health care, which cannot be rendered on an outpatient basis.
- (r) Joint Custody. Legal custody of a child held simultaneously by two (2) or more caretaker relatives. The caretaker relatives must exercise care and control of the child.
- (s) Level 1 Nursing Facility care. The level of Medicaid reimbursement provided for nursing facility services delivered to residents eligible for Medicaid-reimbursement of NF services determined by TennCare to meet the medical eligibility criteria set forth in Rule 1200-13-01-.10(4) by a NF that meets the requirements set forth in Rule 1200-13-01-.03, and in accordance with the reimbursement methodology for Level 1 NF Care set forth in Rule 1200-13-01-.03.
- (t) Level 2 Nursing Facility care. The level of Medicaid reimbursement provided for nursing facility services delivered to residents eligible for Medicaid-reimbursement of NF services determined by TennCare to meet the medical eligibility criteria set forth in Rule 1200-13-01-.10(5) by a NF that meets the requirements set forth in Rule 1200-13-01-.03, and in accordance with the reimbursement methodology for Level 2 NF Care set forth in Rule 1200-13-01-.03.
- (u) Long-Term Care Program. One of the programs offering long-term care services to individuals enrolled in TennCare. Long-Term Care Programs include institutional programs (NFs and ICFs/MR), as well as HCBS offered either through the CHOICES Program or through a section 1915(c) HCBS waiver program.
- (v) Medicaid. The State program of medical assistance as administered by the Department in compliance with Title XIX of the Social Security Act [42 U.S.C. §§ 1396 et seq.] and which is designed to provide for the medical care needs of Tennessee’s medically indigent citizenry.
- (w) Medical assistance drug list. A listing of drugs covered under the Medical Assistance Program, which includes the drug code, description, dosage strength, covered unit form, maximum dosage covered, and per unit price.
- (x) Medically Needy. Individuals whose income or resources are under a certain limit and allows them to qualify for Medicaid by spending down their medical expenses.
- (y) Medicare. The Federal program under Title XVIII of the Social Security Act [42 U.S.C. §§ 1395 et seq.] providing medical benefits to persons receiving Social Security Retirement payments or who have received Social Security benefits based on disability for a period of twenty-four (24) consecutive months.
 - 1. Part A of Title XVIII. Hospital Insurance Benefits provides hospital care, nursing home care, and home health visits, subject to deductibles and co-insurance. [42 U.S.C. § 1395c]
 - 2. Part B of Title XVIII. Supplementary Medical Insurance provides additional medical benefits to those persons eligible for Part A or any person sixty-five (65) years of age, but only if enrolled in the program and paying the monthly premium. [42 U.S.C. § 1395j]

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- (z) Medicare Savings Program. The mechanisms by which low-income Medicare beneficiaries can get assistance from Medicaid in paying for their Medicare premiums, deductibles, and/or coinsurance. These programs include the Qualified Medicare Beneficiary (QMB) program, the Specified Low Income Medicare Beneficiary (SLMB) program, and the Qualified Individual (QI) program.
- (aa) Nursing Facility (NF). A Medicaid-certified NF approved by the Bureau of TennCare.
- (bb) Outpatient services. Services provided, in other than inpatient circumstances, for any condition detrimental to the individual recipient's physical or mental health which cannot be taken care of in the home situation.
- (cc) Patient Liability. The amount determined by DHS which a Medicaid Eligible is required to pay for covered services provided by a NF, an ICF/MR, an HCBS waiver program, or the CHOICES Program.
- (dd) Program of All-Inclusive Care for the Elderly (PACE). A program for dually eligible enrollees in need of long-term care services that is authorized under the Medicaid State Plan, Attachment 3.1-A, #26.
- (ee) Poverty Groups. Assistance groups whose gross income does not exceed various percentages of the Federal Poverty Level Income Standard.
- (ff) Qualified Disabled and Working Individual (QDWI). A person who is under age sixty-five (65) who has lost their Medicare Part A coverage because they returned to work, despite their disability, and have an option to purchase Medicare Part A for an indefinite period and for whom Medicaid pays the Medicare Part A, if income is not more than two hundred percent (200%) of the federal poverty level and resources are not more than twice the SSI limit (\$4,000 for an individual, \$6,000 for a couple) and is not otherwise eligible for Medicaid.
- (gg) Qualified Long Term Care Insurance Policy. A long term care insurance policy issued on or after October 1, 2008, that has been pre-certified by the Tennessee Department of Commerce and Insurance pursuant to State Rule 0780-01-61 as:
 - 1. A policy that meets all applicable Tennessee Long Term Care Partnership requirements; or
 - 2. A policy that has been issued in another Partnership state and which is covered under a reciprocal agreement between such other state and the State of Tennessee.
- (hh) Qualified Medicare Beneficiary (QMB). A person who is eligible for Medicare Part A and for whom Medicaid pays the Medicare premium, coinsurance and deductible for Medicare covered services and whose income is not more than one hundred percent (100%) of the federal poverty level and resources are not more than twice the SSI resource limit (\$4,000 for an individual and \$6,000 for a couple).
- (ii) Qualifying Individual 1 (QI1) (also referred to as a Specified Low-Income Beneficiary (SLIB)). A person who is eligible on a "first come, first served basis" for Medicaid to pay the Medicare Part B premium, if the individual is eligible to receive Part A Medicare, is not otherwise eligible for Medicaid and income is not more than one hundred thirty-five percent (135%) of the federal poverty level and resources are not more than twice the SSI resource limit (\$4,000 for an individual and \$6,000 for a couple).

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- (j) Services. In addition to services related to eligibility for program benefits, services to applicants and recipients shall also include the release of information from program files that is deemed necessary to protect the safety and / or well-being of the applicant / recipient, in the event that the applicant / recipient is reasonably considered to be a danger to him / herself or others based on information provided by the applicant / recipient or his / her household or assistance group. The release of information in these circumstances shall be considered integral to the administration of the program.
- (jkk) Specified Low-Income Medicare Beneficiary (SLMB). A person who is eligible for Medicare Part A and for whom Medicaid pays Medicare Part B premiums, if income is not more than one hundred twenty percent (120%) of the federal poverty level and resources are not more than twice the SSI limit (\$4,000 for an individual, \$6,000 for a couple).
- (kll) Statewide E/D Waiver. The Section 1915(c) HCBS Waiver project approved for Tennessee by the Centers for Medicare and Medicaid Services (CMS) to provide services to a specified number of Medicaid-eligible adults who reside in Tennessee, who are aged or have physical disabilities, and who meet the medical eligibility (or level of care) criteria for reimbursement of Level 1 NF services.
- (lmm) Supplemental Security Income (SSI). A federal income supplement program funded by general tax revenues and is designed to help aged, blind and disabled individuals who have little or no income. Applications for SSI benefits are filed at the Social Security office. Individuals who are eligible for SSI are automatically entitled to Medicaid. [42 U.S.C. §§ 1382 et seq.]
- (mnn) Temporary Assistance for Needy Families (TANF). Program which was created by the Welfare Reform Law of 1996. TANF became effective July 1996 and replaced what was then commonly known as the AFDC program. [42 U.S.C. §§ 601 et seq.]
- (ooo) TennCare CHOICES in Long-Term Care (called "CHOICES"). The program in which NF services for TennCare eligibles and HCBS for individuals aged sixty-five (65) and older and/or adults aged twenty-one (21) and older with physical disabilities are integrated into TennCare's managed care delivery system.
- (2) Definitions of terms or phrases utilized in Medicaid Spenddown, Standard Spend Down and TennCare Standard.
- (a) Call-in Line. The toll-free telephone single point of entry used during a period of open enrollment (as announced by the Bureau of TennCare) to enroll new applicants in the Standard Spend Down Program (SSD).
- (b) Caretaker relative. The father, mother, grandfather or grandmother of any degree, brother or sister of the whole or half-blood, stepfather, stepmother, stepbrother, stepsister, aunt or uncle of any degree, first cousin, nephew or niece, the relatives by adoption within the previously named classes of persons, and the biological relatives within the previous degrees of relationship, and the legal spouses of persons within the previously named classes of persons, even if the marriage has been terminated by death or divorce, with whom a child is living. A caretaker relative may be considered for SSD if he/she is related in the previous degrees of relationship with a child in the home who is under age eighteen (18) years of age or a child who has not attained nineteen (19) years of age and who is a full-time student in a secondary school or the equivalent and who is expected to graduate by the nineteenth birthday. [TCA §71-3-153]

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- (c) Continuous eligibility. Enrollment in a Medicaid Medically Needy, Standard Spend Down or TennCare Standard eligibility category with no break in coverage.
- (d) Continuous enrollment. Certain individuals determined eligible for the TennCare Program may enroll at any time during the year. Continuous enrollment is limited to persons in the following two (2) groups:
 - 1. TennCare Medicaid enrollees; or
 - 2. Individuals who are losing their Medicaid, who are uninsured, who are under 19 years of age, and who meet the qualifications for TennCare Standard as “Medicaid Rollovers” in accordance with the provisions of these rules.
- (e) Open enrollment. A designated period of time determined by the Bureau of TennCare, during which individuals may apply for enrollment in TennCare Standard or Standard Spend Down.
 - 1. The following individuals may apply for TennCare Standard as uninsured or medically eligible persons during a period of open enrollment:
 - (i) Uninsured individuals whose incomes fall within the poverty levels established for the period of open enrollment being held;
 - (ii) Individuals qualifying as medically eligible as defined in these rules and whose incomes fall within the poverty levels established for the period of open enrollment being held.
 - 2. Individuals applying for the Standard Spend Down Program may apply during a period of open enrollment announced by the Bureau of TennCare in accordance with these rules.
- (f) Standard Spend Down. The demonstration category composed of adults aged twenty-one (21) and older who are not eligible for Medicaid but who meet the requirements for Standard Spend Down that are outlined in these rules and those of the TennCare Bureau.
- (g) TennCare Standard. That part of the TennCare program which provides coverage for Tennessee residents who are not eligible for Medicaid but who meet the requirements for TennCare Standard that are outlined in these rules and those of the TennCare Bureau.
- (h) Transition Group. Existing Medicaid Medically Needy adults age twenty-one (21) or older enrolled as of October 5, 2007, who have not yet been assessed for transition to the Standard Spend Down Demonstration population for non-pregnant adults twenty-one (21) or older.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 4-5-208, 71-1-105(12), 71-3-153, 71-3-158(d)(2)(D), 71-5-101, 71-5-103, 71-5-111, and 71-5-1401 et seq.; Acts 2007, Ch 31, § 11; Acts 2008, Chapter 1190, 42 U.S.C. § 423, 42 U.S.C. §§ 601 et seq.; 42 U.S.C. §§ 1382 et seq.; 42 U.S.C. §§ 1395 et seq.; 42 U.S.C. § 1395i-2a] 42 U.S.C. §§ 1396 et seq., 42 U.S.C. § 1396a(a)(10)(E); 42 U.S.C. § 1396a(e)(4); 42 U.S.C. § 1396d(p)(1), (2) and (3), 42 U.S.C. § 1396d(s); 42 U.S.C. § 1396p(b)(1)(C)(iii) and (b)(5), 42 U.S.C. § 1396r and 42 U.S.C. § 1396u-1; 42 C.F.R. § 435.4; 45 C.F.R. § 233.90(c); PL 101-508 § 5103(e); PL 98-21 § 134, PL 100-203 § 9116, PL 104-193, and PL 109-171 § 6021; and TennCare II Medicaid Section 1115 Demonstration Waiver. **Administrative History:** Original rule filed June 14, 1976; effective July 14, 1976. Amendment filed April 23, 1997; effective July 7, 1997. Public necessity rule filed July 2, 2007;

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effective through December 14, 2007. Amendment filed September 25, 2007; effective December 9, 2007. Public necessity rule filed January 24, 2008; effective through July 7, 2008. Amendment filed April 22, 2008; effective July 6, 2008. Amendment filed February 24, 2009; effective May 10, 2009. Amendment filed August 5, 2009; effective November 3, 2009. Emergency rule filed March 1, 2010; effective through August 28, 2010.