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Sequence Number: 07-30-16
 Rule ID(s): 6267
 File Date: 7/20/16
 Effective Date: 10/18/16

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Department of Finance and Administration
Division:	Bureau of TennCare
Contact Person:	George Woods
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Revision Type (check all that apply):

- Amendments
 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
0620-05-01	Cover Kids Rules
Rule Number	Rule Title
0620-05-01-.01	Definitions
0620-05-01-.02	Eligibility

(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 0620-05-01-.01 Definitions, paragraph (1), subparagraph (l) "PE Entity" or "FTE Entity", is amended by deleting the subparagraph in its entirety and renumbering subsequent subparagraphs appropriately.

Statutory Authority: T.C.A. §§ 4-5-202, 71-3-1104 and 71-3-1110.

Rule 0620-05-01-.02 Eligibility, paragraph (11) Fast Track Eligibility (FTE), is amended by deleting the paragraph in its entirety and renumbering subsequent paragraphs appropriately.

Statutory Authority: T.C.A. §§ 4-5-202, 71-3-1104 and 71-3-1110.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Finance and Administration (board/commission/ other authority) on _____ (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 04/14/2016 *slw*
~~04/16/2016~~

Rulemaking Hearing(s) Conducted on: (add more dates). 05/31/2016

Date: 6/20/2016

Signature: *D. J. Gordon*

Name of Officer: Darin J. Gordon

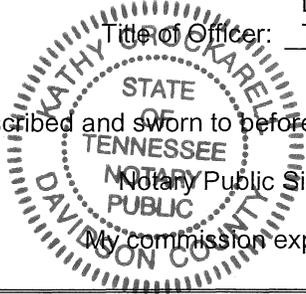
Director, Bureau of TennCare

Title of Officer: Tennessee Department of Finance and Administration

Subscribed and sworn to before me on: 6/20/2016

Notary Public Signature: *Kathy Crookwell*

My commission expires on: 1/08/2019



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.

Herbert H. Slatery III
Herbert H. Slatery III

Attorney General and Reporter

7/18/2016 Date

Department of State Use Only

Filed with the Department of State on: 7/20/16

Effective on: 10/18/16

Tre Hargett

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.

There were no public comments received on these rules.

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.

The rules are not anticipated to have an effect on small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule 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)

The rules are not anticipated to have an 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 T.C.A. § 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;

These rules are being promulgated to delete language concerning "Presumptive Eligibility (PE)" and "Fast Track Eligibility (FTE)" from the CoverKids rules. This eligibility process was never implemented.

- (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;

The rules are lawfully adopted by the Bureau of TennCare in accordance with §§ 4-5-202, 71-3-1104 and 71-3-1110.

- (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;

The persons and entities most directly affected by these rules are the CoverKids enrollees and providers. The governmental entity most directly affected by these rules is the Division of Health Care Finance and Administration of the Tennessee Department of Finance and Administration.

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

The rules were approved by the Tennessee Attorney General. No additional opinion was given or requested.

- (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;

The promulgation of these rules is not anticipated to have a fiscal impact on state and local government revenues and expenditures.

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

John G. (Gabe) Roberts
General Counsel

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

John G. (Gabe) Roberts
General Counsel

- (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

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Nashville, TN 37243
(615) 507-6936
gabe.roberts@tn.gov

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

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GW10116141

RULES
OF
DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF INSURANCE ADMINISTRATION

CHAPTER 0620-05-01
COVER KIDS RULES

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0620-05-01-.01 DEFINITIONS.

- (1) Unless otherwise specifically defined in these rules, these terms will have the following meaning:
- (a) "Administrative Contractor" or "AC" is the entity responsible for determining eligibility of applicants to CoverKids. This may be a private contractor, government agency, or Departmental entity.
 - (b) "Budget Group" means for each applicant, the following family members living with the applicant: the applicant's spouse, the applicant's minor unmarried children, the siblings of children in the home when the applicant child and siblings do not have income of their own, and each of the applicant's financially responsible adults as indicated by the family including natural, adoptive, and step-parents. Children with SSI or Families First are not included in a budget group.
 - (c) "Commissioner" is the executive officer in charge of the Tennessee Department of Finance and Administration.
 - (d) "Commissioner's Designee" means a person or group of persons appointed by the Commissioner to perform a particular function under these rules.
 - (e) "CoverKids" is the program created by Tennessee Code Annotated Section 71-3-1101 et seq. and includes its authorized employees and agents as the context of the rules requires.
 - (f) "Days" means calendar days rather than business days.
 - (g) "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.

- (h) "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.

- (i) "Meaningful Access" is insurance coverage that includes a network of providers within a reasonable distance from the area in which the covered individual lives.
- (j) "Parent" means a natural or appointed guardian of minor children as defined by Title 34, Part 1 of Tennessee Code Annotated subject to court orders entered or recognized by the courts of the state of Tennessee.
- (k) "Plan Administrator" or "PA" is the entity responsible for providing health care services to CoverKids enrollees. This may be a private contractor, government agency, or Departmental entity.
- ~~(l) "PE Entity" or "FTE Entity" refers to Cover Kids Contractors or designated providers authorized by CoverKids to determine that a newborn baby or pregnant woman is eligible for CoverKids under the presumptive eligibility or fast track eligibility rules and procedures.~~
- (m) "SSI" means Supplemental Security Income benefits provided by the Social Security Administration.

0620-05-01-.02 ELIGIBILITY.

~~(11) Fast Track Eligibility (FTE). The State reserves the right to discontinue the Fast Track Eligibility Process should a significant number of incorrect determinations be made.~~

~~(a) Fast Track Eligibility for Pregnant Women (FTE-PW) CoverKids Healthy Babies Program allows a pregnant woman to have immediate CoverKids coverage that begins on the day of the visit to a FTE entity as long as a complete, signed CoverKids application is submitted and all FTE requirements are met. The eligibility begins on date of signed application. To be eligible for FTE-PW, the applicant must:~~

- ~~1. Live in a family with adjusted gross income, as reported to the FTE entity, which is at or below 250% FPL.~~
- ~~2. Work with the FTE entity to submit a complete, signed CoverKids application.~~
- ~~3. Not have had FTE-PW within the last 18 months.~~
- ~~4. Not be currently enrolled in TennCare or CoverKids.~~
- ~~5. Not be currently enrolled in comprehensive health insurance coverage. (If a pregnant woman has health insurance that does not cover prenatal/delivery services, she will not be considered to have comprehensive health insurance coverage.)~~
- ~~6. Not have been enrolled in comprehensive health insurance coverage that was voluntarily terminated at any time within the three months prior to the visit with the FTE entity. (If a pregnant woman had health insurance that did not cover prenatal/delivery services, she will not be considered to have had comprehensive health insurance coverage.)~~
- ~~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.~~

~~(b) Fast Track Eligibility for Newborns (FTE-NB) allows a newborn to have immediate CoverKids coverage that begins on the day of the visit to a FTE entity as long as a complete, signed CoverKids application is submitted and all FTE requirements are met. The eligibility begins on date of signed application which will also be the date the FTE entity makes the FTE determination. To be eligible for FTE-NB, the applicant must:~~

- ~~1. Be a newborn who is not yet 4 months old.~~
- ~~2. Be a citizen or, as defined in federal law, an eligible immigrant.~~
- ~~3. Live in a family with adjusted gross income, as reported to the FTE entity, which is above 185% FPL and below 250% FPL.~~
- ~~4. Work with the FTE entity to submit a complete, signed CoverKids application.~~

- ~~5. Not have had FTE-NB within the last 18 months.~~
 - ~~6. Not be currently enrolled in TennCare or CoverKids.~~
 - ~~7. Not be currently enrolled in comprehensive health insurance coverage.~~
 - ~~8. Not have been enrolled in comprehensive health insurance coverage that was voluntarily terminated at any time within the three months prior to the visit with the FTE entity.~~
 - ~~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.~~
- ~~(e) Fast Track Eligibility For Children (FTE-C) Transitioning from TennCare allows certain children whose TennCare coverage is ending to have immediate CoverKids coverage that begins on the day TennCare ends as long as all PE-C requirements are met. This effort is to ensure that there are no gaps in coverage. To be eligible for CoverKids PE-C, the child must:~~
- ~~1. Be under 19 years of age.~~
 - ~~2. Be a child for whom a TennCare final termination has or will be issued.~~
 - ~~3. Not be currently enrolled in CoverKids.~~
 - ~~4. Not be currently enrolled in comprehensive health insurance coverage.~~
 - ~~5. Have adjusted gross family income greater than the TennCare level for which they were enrolled and at or less than 250% of the FPL. This income information for the purpose of CoverKids enrollment will be self-declared on the CoverKids application. Income information may not be older than forty five (45) days old.~~
 - ~~6. Families should apply before termination of the TennCare coverage to allow for no gaps in coverage. However, families must submit a complete CoverKids application within thirty (30) days before TennCare termination to be considered for CoverKids coverage beginning the day after TennCare coverage ends.~~

~~(4211) Changes in Family Status. If the family has applied for CoverKids and coverage was denied, applicants may reapply for CoverKids any time a change occurs that may make them eligible. This could include a change in family size, pregnancy, loss of a job, or change in family income. (A change in the child's health status does not make a child eligible for CoverKids.) If a family has a change in status that makes the children newly eligible for CoverKids, the family should reapply as soon as possible.~~

~~(4312) Annual Redetermination of Eligibility.~~

- ~~(a) Eligibility determinations will be done annually. The AC will mail a CoverKids redetermination form to families within 60 calendar days of the beneficiary's last day of continuous eligibility. The family must review the renewal letter, note changes, attach documentation as appropriate, sign it and return it to AC. The AC will make an eligibility determination for each applicant on the redetermination form. The AC may present an option of renewal online.~~

- (b) For beneficiaries at or above 250% of the FPL who continue to be otherwise eligible in this category, CoverKids eligibility will continue as long as the family continues to pay premiums timely each month.

(~~44~~13) Pregnant women with income above 250% of the Federal poverty level will only be eligible for CoverKids enrollment if they are presently enrolled in the CoverTN program or presently enrolled in the CoverKids program.

(~~45~~14) Enrollment Caps. CoverKids may impose enrollment caps for the program as a whole or for any category of enrollees when, in its discretion, it determines that either

- (a) sufficient Federal funds will not be available;
- (b) sufficient appropriations from the Tennessee General Assembly will not be available; or
- (c) CoverKids expenditures will exceed the existing funds available for the program.

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