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For Department of State Use Only

Sequence Number: 10-09-09
 Rule ID(s): 4499
 File Date (effective date): 10/12/2009
 End Effective Date: 04/10/2010

Emergency Rule Filing Form

Emergency rules are effective from date of filing for a period of up to 180 days.

Agency/Board/Commission:	Department of Finance and Administration
Division:	Benefits Administration/CoverKids
Contact Person:	April Mayambu
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Rule Type:

Emergency Rule

Revision Type (check all that apply):

Amendment
 New
 Repeal

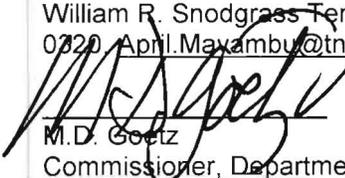
Statement of Necessity:

Tennessee Code Annotated sections 71-3-1110 and 4-5-209(a)(2) authorize the CoverKids program to promulgate public necessity rules in the event that such rules are required to comply with the Tennessee Constitution's mandate that State expenses not exceed allocated revenues. By Public Chapter 566 of 2009 public necessity rules are converted to emergency rules.

CoverKids is a Federal/State program providing services to children at certain income levels, also known as an SCHIP program. The Federal portion is governed by Title XXI of the Social Security Act and managed by the Centers for Medicare and Medicaid Services, Department of Health and Human Services (CMS). The State program is authorized by Tennessee Code Annotated Title 71, Chapter 3, Part 11.

Due to unforeseen funding issues affecting the State budget, CoverKids must cap enrollment to prevent expenditures from exceeding appropriations, which would place the program in a deficit status in violation of the Tennessee Constitution. CoverKids needs the flexibility to place enrollment caps to balance the budget. CMS approval for an enrollment cap will be obtained when required by Federal law.

For a copy of these rules, please contact April Mayambu, Department of Finance and Administration, 2100 William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, Nashville, Tennessee 37243, (615) 741-0320. April.Mayambu@tn.gov


 M.D. Goetz
 Commissioner, Department of Finance and Administration

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only ONE Rule Number/RuleTitle per row)

0620-05-01	CoverKids Rules
Rule Number	Rule Title
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>)

Emergency Rules
of
Department of Finance and Administration
Chapter 0620-05-01
CoverKids Rules

Amendments

Rule 0620-05-01-.02, Eligibility, is amended by deleting the present language of paragraph (15) in its entirety and replacing it with the following:

- (15) 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.

Authority: T.C.A. 4-5-208, 71-3-1104, 71-3-1106, 71-3-1110.

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* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows: N/A

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: 10/12/09

Signature: *M. D. Goetz Jr.*

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

Commissioner of Department of Finance and

Title of Officer: Administration



Subscribed and sworn to before me on: October 12, 2009

Notary Public Signature: *Sherry H. Buchanan*

My commission expires on: May 2, 2011

All emergency 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.

RE Cooper, Jr.

Robert E. Cooper, Jr.
Attorney General and Reporter

10-12-09

Date

Department of State Use Only

Filed with the Department of State on:

10/12/09

Effective for:

180

*days

Effective through:

4/10/10

* Emergency rule(s) may be effective for up to 180 days from the date of filing.

Tre Hargett

Tre Hargett
Secretary of State

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PUBLICATIONS

Additional Information Required by Joint Government Operations Committee

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

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

This rule revises the CoverKids enrollment cap rule to clarify that CoverKids may impose a partial or total enrollment cap whenever it determines that funds are not available to cover services to new applicants.

- (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 enrollment cap is authorized by TCA 71-3-1106 and -1110. This is consistent with Federal authorities regulating SCHIP Programs such as Title XXI of the Social Security Act and 42 CFR 457.

- (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;

This will affect persons currently not enrolled in CoverKids who may later seek enrollment.

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

None

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

Based on the CoverKids enrollment projections, the state budget will not be able to accommodate the growth expected in the program. Enrollment projections assumed a 1% monthly growth rate through June 2010 and a .5% growth rate through June 2012. Based on these projections, the CoverKids state budget will be underfunded to sustain this level of growth. For FY 2010, the state budget will be approximately \$6,300,000 short to meet the federal match needed to sustain projected growth. In fiscal years 2011 and 2012, the state budget will be approximately \$14,500,000 and \$21,700,000 underfunded to meet projected demand, respectively.

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

Laurie Lee, Executive Director, Benefits Administration

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

Laurie Lee, Executive Director, Benefits Administration

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

Laurie Lee
Executive Director, Benefits Administration
Department of Finance and Administration
26th floor, William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

(615) 253-2861

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