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Sequence Number: 11-08-09
 Rule ID(s): 4529
 File Date: 11/09/2009
 Effective Date: 02/07/2010

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 Finance and Administration
Division:	Bureau of TennCare
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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. Please enter only ONE Rule Number/RuleTitle per row)

Chapter Number	Chapter Title
1200-13-14	TennCare Standard
Rule Number	Rule Title
1200-13-14-.10	Exclusions

(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>)

Chapter 1200-13-14
TennCare Standard

Amendment

Paragraph (1) of rule 1200-13-14-.10 Exclusions is amended by adding a new subparagraph (q) which shall read as follows:

- (q) Items or services that are not covered by Medicare or a third party payer for an individual enrollee because the item or service is essentially equivalent to a Medicare or third party payer service that is being covered (e.g., home health services for individuals receiving hospice care).

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

Signature of the agency officer or officers directly responsible for proposing and/or drafting these rules.

Darin J. Gordon ^{W2}
Darin J. Gordon
Director, Bureau of TennCare
Tennessee Department of Finance and Administration

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 09/08/2009 (mm/dd/yyyy), 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: 06/30/09

Rulemaking Hearing(s) Conducted on: (add more dates). 08/17/09

Date: 9/8/09

Signature: [Handwritten Signature]

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

Title of Officer: Commissioner



Subscribed and sworn to before me on: 9/8/09

Notary Public Signature: Pat Pentecost

My commission expires on: 1-2-2011

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

11-6-09 Date

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Filed with the Department of State on: 11/9/09

Effective on: 2/7/10

[Handwritten Signature]
Tre Hargett
Secretary of State

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 on this rule.

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.

(If applicable, insert Regulatory Flexibility Addendum here)

Rules 1200-13-14-.10(1)(q) Exclusions – TennCare Standard.

Statement of Economic Impact to Small Businesses

1. Name of Bureau: Bureau of TennCare
2. Rulemaking Hearing Date: August 17, 2009
3. Types of small businesses that will be directly affected by, bear cost of, and/or directly benefit from the proposed rules: None
4. A description of how small businesses will be adversely impacted: Not Applicable
5. Whether, and to what extent, alternative means exist for accomplishing the objectives of the proposed rule that might be less burdensome to small businesses, and why such alternatives are not being proposed: Not Applicable
6. A comparison of the proposed rule with federal or state counterparts: This rule is being promulgated to point out that TennCare does not cover items or services that are not covered by Medicare or a third party payer for an individual enrollee because the item or service is essentially equivalent to a Medicare or third party payer service that is being covered. There are no federal or state counterparts.

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 is being promulgated to point out that TennCare does not cover items or services that are not covered by Medicare or a third party payer for an individual enrollee because the item or service is essentially equivalent to a Medicare or third party payer service that is being covered.

- (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;

This rule is lawfully promulgated and adopted by the Department of Finance and Administration in accordance with Tennessee Code Annotated §§ 4-5-202, 71-5-105 and 71-5-109.

- (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, organizations, corporations or governmental entities most directly affected by this rule are the recipients, MCOs, providers and the Tennessee Department of Finance and Administration. There were no objections to the promulgation of this rule.

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

The rules were reviewed and 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 an effect 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;

Darin J. Gordon
Director, Bureau of TennCare

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

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

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

None.

GW1029204