TennCare Quarterly and Annual Report

Submitted to the TennCare Oversight Committee and the Fiscal Review Committee

July 15, 2009

Status of TennCare Reforms and Improvements

A. Waiver Issues

Waiver Amendment #6. TennCare Waiver Amendment #6 was approved by CMS on July 22, 2008. This amendment, which was submitted to CMS on February 29, 2008, was designed to address the dramatic growth in spending on home health and private duty nursing services for adults in the TennCare program. Total spending on these two services had grown from $54 million in FY 04 to $243 million in FY 07 and was projected to grow to $320 million in FY 08.

The Amendment was implemented on September 8, 2009, following a 30-day advance notice to beneficiaries. The following limits were introduced for adults. Children under age 21 continue to receive these services as medically necessary, in accordance with TennCare rules.

- **Home health.** Adult enrollees can receive as much as one nursing visit and two home health aide visits per day as medically necessary, as long as the combined total number of hours involved in these visits does not exceed 8 hours per day and 35 hours per week, with up to 40 hours per week allowed for enrollees who meet the criteria for a Level 2 Nursing Facility placement.

- **Private duty nursing.** This service is provided for adults requiring more than 8 hours of continuous care per day as medically necessary to support the use of ventilator equipment or other life-sustaining medical technology when constant nursing supervision, visual assessment, and monitoring of both equipment and patient are required.

Even with these new limits, the home health and private duty nursing benefits offered by TennCare are among the most generous in the country for state Medicaid programs.

Waiver Amendment #7. TennCare Waiver Amendment #7 was prepared to implement the portions of the Long-Term Care and Community Choices Act of 2008 that require federal approval. This Act calls for a transformation of the long-term care system in Tennessee, with the goal being to expand the availability of home and community-based services that could be used to prevent or forestall the need for Nursing Facility care.

A concept paper describing the proposed amendment was submitted to CMS on July 11, 2008. On August 19, 2008, three TennCare representatives traveled to Baltimore to discuss

Amendment #7 with CMS officials and to ask for their assistance in completing the approval process by December 31, 2008, so that the program, which is being called "CHOICES," could be implemented by July 1, 2009.

On August 28, 2008, a draft of Amendment #7 was submitted to the TennCare Oversight Committee, the members appointed as of that date to the Select Oversight Committee on Long-Term Care, and the Tennessee Justice Center for a 30-day review period. The draft was also posted on the TennCare website. Weekly phone conferences began taking place with CMS staff in an effort to identify issues early and work through them quickly.

The actual amendment was submitted to CMS on October 2, 2008. CMS followed up the submission with three sets of written questions. The first set was sent on October 24, 2008; the second set was sent on November 19, 2008, and the third set was sent on December 3, 2008. There were over 120 questions and subparts of questions contained in these three documents. The state responded to the questions and also continued to have weekly phone conferences with CMS.

On January 13, 2009, four TennCare staff persons traveled to Baltimore to meet with CMS staff in an attempt to get resolution on what the outstanding issues were and how they could be resolved. Drafts of waiver approval materials were circulated back and forth between CMS and the state over the next three months, as CMS continued to raise new questions and issues. Finally, at the end of April 2009, it appeared that the questions had been answered and the approval package was ready for federal approval. The state received a handful of small clarification questions from CMS staff in May; these were quickly answered.

As of June 30, 2009, the end of the state's fiscal year, Amendment #7 had not yet been approved.

Waiver extension. Demonstration programs such as TennCare are approved for time-limited periods. The current demonstration is known as "TennCare II," and it expires on June 30, 2010.

According to the Special Terms and Conditions of the waiver, the state must apply for an extension one year in advance of the expiration date. On June 15, 2009, the Governor sent a letter to CMS requesting a three-year extension of the TennCare demonstration, beginning on July 1, 2010.

B. Delivery System Issues

Completion of move to fully integrated, at risk, MCOs. Two newly configured MCOs, AmeriChoice and BlueCare, began operations in East Tennessee and West Tennessee during this fiscal year. Both MCOs are operating at full risk, and both incorporate behavioral health services into their integrated care model.

The two MCOs began work in West Tennessee on November 1, 2008, and in East Tennessee on January 1, 2009. (Two MCOs—AmeriChoice and Amerigroup—began operating full-risk, comprehensive care models in Middle Tennessee on April 1, 2007.)

New Pharmacy Benefits Manager. On October 1, 2008, SXC Health Solutions Corporation began work as the new Pharmacy Benefits Manager (PBM). The PBM is responsible for providing a state-of-the-art online Point of Sale (POS) pharmacy claims processing system with

prospective drug utilization review (Pro-DUR) and retrospective drug utilization review (Retro-DUR) capabilities, along with a 24-hour, 7 days a week call center to handle prior authorization requests, pharmacy technical assistance questions, etc. Some key differences in the new PBM contract are that SXC is responsible for managing the pharmacy network and also assumes some financial risk for supplemental rebates.

The pharmacy network now consists of a specialty pharmacy network in addition to a retail/ambulatory pharmacy network. The specialty pharmacy network agrees to accept more favorable reimbursement rates on designated specialty products and must possess unique clinical monitoring and distribution capabilities. In addition, specialty pharmacy services may be provided through the mail.

With respect to supplemental rebates, SXC guaranteed a certain percentage of supplemental rebates to the state. If they exceed this savings number by over 1%, they receive a financial reward of up to $1.2 million. If they fall short of this expected savings number by more than 1%, they owe the state up to the guaranteed amount.

C. Daniels

The state has been under an injunction for over 20 years in a case known as *Daniels.* The case involved redetermination of Medicaid eligibility for individuals who had originally qualified for Medicaid because they received Supplemental Security Income (SSI) cash assistance, but who had since had their SSI benefits terminated by the Social Security Administration.

Under this injunction, the state was prohibited from terminating the eligibility of individuals in the *Daniels* class until the court approved a process for determining whether a class member might be eligible under a different Medicaid eligibility category. As a result, individuals in the *Daniels* class continued to receive TennCare benefits without regard to whether or not they continued to meet Medicaid eligibility criteria. There are approximately 157,000 class members.

As part of an amendment to TennCare II in 2005, the Centers for Medicare and Medicaid Services (CMS) approved TennCare's redetermination process. The Sixth Circuit Court of Appeals also approved the process. When the demonstration project was renewed in 2007, CMS again approved the process.

On February 1, 2008, the state filed a motion with the U.S. District Court seeking to have the injunction in the *Daniels* case lifted so that the state could implement the CMS-approved redetermination process with the *Daniels* class members. CMS fully supported the state in this request.

On January 8, 2009, the District Court granted the state's motion and lifted the injunction. As a result of this action, the state initiated the approved redetermination process for *Daniels* class members.

The process began with an *ex parte* review to identify class members who, based on available information, are eligible for TennCare in another category. For those individuals not determined eligible through the *ex parte* review process, the next step was an extensive outreach and notification process whereby enrollees were encouraged to respond to a Request for Information (RFI) by providing any additional information that could be used to determine their

eligibility in another category. Mailings of RFIs are done in groups, since not all potential responses to RFIs could be handled within the timeframes required by federal law.

As of the end of June, almost 31,000 class members were determined to continue to be eligible for TennCare. Individuals who are not found to be eligible for TennCare will go through the disenrollment process. The RFI process for this class will continue into the 2009-2010 state fiscal year.

D. Quality of Care

HEDIS/CAHPS report. In October 2008 TennCare published the annual report of HEDIS/CAHPS data. The full name for HEDIS is Healthcare Effectiveness Data Information Set, and the full name for CAHPS is Consumer Assessment of Health Plans Surveys.

In 2006 Tennessee became the first state in the nation to require that all of its Managed Care Organizations (MCOs) be accredited by NCQA (the National Committee for Quality Assurance). This report provides data that enables the state to compare the performance of its managed care organizations (MCOs) against national norms and benchmarks and also to compare performance among MCOs. TennCare has completed three full years of HEDIS/CAHPS reporting by MCO. This report is shared with CMS each year and also posted on the TennCare website.

In 2005, seven TennCare MCOs in the East and West regions of the state submitted HEDIS results for six measures to NCQA. In subsequent years, the MCOs continued to submit results for these measures. To determine whether significant improvement had occurred during the four years beginning with HEDIS 2005 and ending with HEDIS 2008, the percentage point change between 2005 and 2008 was calculated.

Significant improvement occurred if the percentage point change between results for a measure met the NCQA determined minimum effect size. The NCQA pre-calculated effect sizes are statistically based and consistent with HEDIS specifications. Four of the MCOs demonstrated significant improvement for HbA1c Testing Rate; three showed significant improvement for Childhood Immunization Status Combo 2 and Breast Cancer Screening; and two had significant improvement in Timeliness of Prenatal Care and Postpartum Care. In addition, one MCO had significant improvement for all of the six measures.

The CAHPS surveys, developed by NCQA, include separate surveys for adults, children, and children with special health care needs. The 2008 Adult CAHPS results for four global rating questions and three composite scores were compared with the results submitted for 2007. The comparison showed that increases for the most positive responses occurred in two to five results, the highest increase being 8.24 percentage points for UAHC for the composite score of "Getting Care Quickly."

The 2008 Child CAHPS results for four global rating questions and four composite scores were compared with the results submitted for 2007. The comparison showed that increases for the most positive responses occurred in three to six results, the highest increase being 12.53 percentage points for AmeriChoice East for the global rating of "Rating of Health Plan." The 2008 Children with Chronic Conditions (CCC) CAHPS results for six CCC composite scores were compared with the results submitted for 2007. The comparison showed that increases for the most positive responses occurred in one to five results, the highest increase being 6.36

percentage points for BlueCare for the composite score of “Family-Centered Care: Getting Needed Information.”

E. Long Term Care

A number of steps were taken during the year to move toward implementation of the Long-Term Care Community Choices Act of 2008. A great deal of time and attention was devoted to securing an amendment to the TennCare waiver that would provide the authority for the provisions of the Act that required federal approval. (See Part A of this section.)

Highlights of other actions include the following:

Expansion of the current HCBS waiver. We sought approval from CMS to expand the enrollment cap for the Home and Community Based Services (HCBS) waiver serving persons who are elderly and disabled. At the beginning of the year, the cap was set at 3,700 persons. We requested an amendment to the HCBS waiver to be able to add 2,300 more people, for a total of 6,000, and in September 2008 we were notified that our request had been approved. As of the end of June, applicants are in process who will fill all remaining slots, such that 6,000 persons will have been served during the current program year. Once the CHOICES program is underway (see Part A of this section), these persons will be moved into that program.

Streamlining eligibility. TennCare has been working with the Department of Human Services to streamline the process for applying for TennCare-reimbursed long-term care. This process involves two components: financial eligibility and medical eligibility. Criteria must be met in both areas in order for an individual to qualify for TennCare-reimbursed long-term care.

One step that has been taken is to stop requesting financial information from SSI eligibles seeking long-term care, since these persons, in order to qualify for SSI, have demonstrated that they have income levels that are below the maximum levels required by TennCare for long-term care. Now, if SSI eligibles meet the medical criteria for long-term care, they can be enrolled almost immediately.

Another step has been to work on developing a new online system that will allow applications for medical eligibility for long-term care to be processed and approved more quickly.

Nursing facility diversification. In recognition of the fact that there will be more emphasis on home and community based services in the future, TennCare awarded over $2.7 million to 26 Nursing Facilities for projects that will enable them to deliver more home and community based services. These services include adult day care, personal care, and homemaker services.

Long Term Care Partnership insurance policies. TennCare requested approval from CMS to begin a long-term care partnership program effective October 1, 2008. Long-term care partnership insurance policies are policies that certain individuals can purchase that may enable them to preserve all or a portion of their assets for their heirs, should they require long-term care in the future. The Tennessee Department of Commerce and Insurance published rules to describe the program, as well as Agent Training Guidelines to ensure that agents selling the policies are well aware of how the policies affect TennCare eligibility.

F. Other Activities

National MMIS conference. Each year the national Medicaid Management Information Systems (MMIS) Conference brings together persons from the public and private sectors to share ideas and information about Medicaid systems and initiatives. This year the conference was held in Nashville, from September 14 to September 18. It was the largest to date, with over 850 attendees from all over the country. Tennessee presenters included Commissioner Dave Goetz, TennCare Chief Medical Officer Dr. Wendy Long, and TennCare Director of Information Systems Brent Antony.

Appointment of TennCare director to chair Quality Technical Assistance Group (TAG). In December, TennCare Director Darin Gordon was appointed as the chair of the Quality Assistance Technical Group (TAG) by the National Association of State Medicaid Directors (NASMD), a group on which he serves as an executive committee member. The first meeting that he chaired was held on December 10, 2008.

Appointment of TennCare Chief Medical Officer to the Medicaid Accreditation Advisory Committee of the National Committee for Quality Assurance (NCQA). In April TennCare Chief Medical Officer Dr. Wendy Long was appointed to serve on NCQA's Medicaid Accreditation Advisory Committee, which is organized to provide expert and industry advice on developing quality standards, metrics, and scoring guidelines. This Committee acts as a sounding board for NCQA in reviewing proposed standards and its general approach to evaluation and is assisting NCQA in evaluating the existing Health Plan Accreditation process for adaptations that focus on the Medicaid population's special needs.

Audit findings. Audit findings from the Office of the Comptroller's annual TennCare audit have substantially decreased, from 39 audit findings in SFY 2002 to 3 audit findings in SFY 2007. This year TennCare was notified that there were no audit findings for SFY 08. This milestone is the result of a great deal of work that has been done to address past audit findings and to improve administrative processes. TennCare continues to monitor the prior audit findings since SFY 02, since these could reoccur, and also monitors potential audit findings that have been identified to ensure that these do not become future audit findings.

Essential Access Hospital (EAH) payments. The TennCare Bureau continued to make Essential Access Hospital payments during this period. Essential Access Hospital payments are payments from a pool of $100 million ($36,265,000 in state dollars) appropriated by the General Assembly.

The methodology for distributing these funds specifically considers each hospital's relative contribution to providing services to TennCare members, while also acknowledging differences in payer mix and hospitals' relative ability to make up TennCare losses. Data from the Hospital Joint Annual Report is used to determine hospitals' eligibility for these payments. Eligibility is determined each quarter based on each hospital's participation in TennCare. In order to receive a payment for the quarter, a hospital must be a contracted provider with TennCare Select and at least one other Managed Care Organization (MCO), and it must have contracted with TennCare Select for the entire quarter that the payment represents. Excluded from the Essential Access Hospital payments are Critical Access Hospitals, which receive cost-based reimbursement from the TennCare program and therefore do not have unreimbursed TennCare costs, and the five state mental health institutes.

The projected Essential Access Hospital payments for the fourth quarter of State Fiscal Year 2009 are shown in the Table 1.

Table 1
Essential Access Hospital Payments for the Quarter and the Year

Name	EAH Fourth Quarter FY 2009	EAH FY 2009 Payments YTD
Methodist Medical Center of Oak Ridge	$108,714.00	$433,614.00
Ridgeview Psychiatric Hospital and Center	$127,595.00	$560,246.00
Bedford County Medical Center	$59,410.00	$236,962.00
Blount Memorial Hospital	$136,892.00	$546,008.00
Bradley Memorial Hospital	$135,975.00	$542,349.00
Cleveland Community Hospital	$97,746.00	$389,871.00
St. Mary's Medical Center of Campbell County	$91,337.00	$364,307.00
Jellico Community Hospital	$80,163.00	$319,740.00
Baptist Memorial Hospital - Huntingdon	$32,160.00	$128,274.00
McKenzie Regional Hospital	$47,833.00	$190,786.00
Sycamore Shoals Hospital	$79,478.00	$317,006.00
Claiborne County Hospital	$108,811.00	$434,005.00
Cumberland River Hospital	$36,330.00	$144,906.00
Baptist Hospital of Cocke County	$178,704.00	$712,776.00
United Regional Medical Center	$48,613.00	$193,897.00
Cumberland Medical Center	$116,213.00	$463,529.00
Southern Hills Medical Center	$111,520.00	$444,808.00
Tennessee Christian Medical Center	$211,243.00	$842,563.00
Metro Nashville General Hospital	$900,988.00	$3,603,952.00
Baptist Hospital	$174,646.00	$696,592.00
Vanderbilt University Hospital	$3,572,753.00	$14,291,012.00
Centennial Medical Center	$256,556.00	$1,023,296.00
Skyline Medical Center	$94,717.00	$377,788.00
Summit Medical Center	$117,959.00	$470,492.00
Baptist Women's Treatment Center	$0.00	$6,660.00
Decatur County General Hospital	$28,132.00	$112,210.00
Baptist Dekalb Hospital	$29,302.00	$116,875.00
Horizon Medical Center	$85,591.00	$341,386.00
Dyersburg Regional Medical Center	$159,189.00	$634,941.00
Methodist Healthcare - Fayette	$44,492.00	$177,461.00
Jamestown Regional Medical Center	$101,516.00	$404,906.00
Emerald Hodgson Hospital	$19,851.00	$79,176.00
Southern Tennessee Medical Center	$76,586.00	$305,471.00
Gibson General Hospital	$27,882.00	$111,210.00
Humboldt General Hospital	$98,604.00	$393,291.00
Hillside Hospital	$65,113.00	$259,708.00
Laughlin Memorial Hospital	$68,882.00	$274,742.00
Takoma Adventist Hospital	$56,008.00	$223,393.00
Morristown Hamblen Healthcare System	$153,984.00	$614,181.00

Name	EAH Fourth Quarter FY 2009	EAH FY 2009 Payments YTD
Lakeway Regional Hospital	$71,610.00	$285,624.00
Erlanger Medical Center	$1,509,743.00	$6,038,972.00
Women's East Pavilion	$13,705.00	$54,664.00
Parkridge Medical Center - Revised	$667,991.00	$2,664,335.00
Parkridge East Hospital	$119,861.00	$478,076.00
Bolivar General Hospital	$59,734.00	$238,255.00
Hardin County General Hospital	$84,271.00	$336,124.00
Wellmont Hawkins County Memorial Hospital	$47,637.00	$190,005.00
Haywood Park Community Hospital	$33,750.00	$134,613.00
Henderson County Community Hospital	$24,173.00	$96,416.00
Henry County Medical Center	$87,139.00	$347,563.00
Fort Sanders Regional Medical Center	$302,757.00	$1,207,575.00
Saint Mary's Health System	$203,738.00	$812,630.00
University of Tennessee Memorial Hospital	$1,244,385.00	$4,977,540.00
East Tennessee Children's Hospital	$431,937.00	$2,545,811.00
Fort Sanders Parkwest Medical Center - Revised	$341,961.00	$1,363,944.00
Crockett Hospital	$68,258.00	$272,252.00
Lincoln Medical Center	$48,059.00	$191,687.00
Athens Regional Medical Center	$63,758.00	$254,303.00
McNairy Regional Hospital	$38,730.00	$154,479.00
Jackson Madison County General Hospital	$599,920.00	$2,392,837.00
Regional Hospital of Jackson	$96,264.00	$383,958.00
Pathways of Tennessee	$231,906.00	$1,018,257.00
Grandview Medical Center	$60,907.00	$242,932.00
Maury Regional Hospital	$151,601.00	$604,676.00
Sweetwater Hospital Association	$118,706.00	$473,471.00
Gateway Medical Center	$129,413.00	$516,176.00
Livingston Regional Hospital	$37,556.00	$149,795.00
Cookeville Regional Medical Center	$154,389.00	$615,795.00
Roane Medical Center	$41,114.00	$163,985.00
Northcrest Medical Center	$125,984.00	$502,499.00
Middle Tennessee Medical Center	$176,019.00	$702,069.00
Baptist Treatment Center of Murfreesboro	$0.00	$10,656.00
Stonecrest Medical Center	$85,661.00	$341,666.00
Scott County Hospital	$17,616.00	$175,560.00
Fort Sanders Sevier Medical Center	$114,867.00	$458,157.00
Regional Medical Center (The Med)	$4,108,572.00	$16,434,288.00
Saint Jude Children's Research	$296,313.00	$1,181,871.00
Methodist Healthcare - South	$199,799.00	$796,916.00
Methodist University Healthcare	$362,142.00	$1,444,437.00
Methodist Healthcare - North	$165,278.00	$659,225.00
Methodist Healthcare - Lebonheur	$818,063.00	$2,454,189.00
Delta Medical Center	$190,842.00	$761,193.00
Saint Francis Hospital	$312,526.00	$1,246,540.00
Community Behavioral Health	$140,499.00	$421,497.00
Baptist Memorial Hospital for Women	$155,107.00	$618,658.00
Wellmont Bristol Regional Medical Center	$213,137.00	$850,118.00

Name	EAH Fourth Quarter FY 2009	EAH FY 2009 Payments YTD
Wellmont Holston Valley Medical Center	$318,114.00	$1,268,829.00
Indian Path Medical Center - Revised	$192,988.00	$769,753.00
Tennessee Christian Medical Center - Portland	$25,158.00	$100,344.00
Sumner Regional Medical Center	$129,610.00	$516,961.00
Baptist Memorial Hospital - Tipton	$116,627.00	$465,179.00
Unicoi County Memorial Hospital	$38,603.00	$153,974.00
River Park Hospital	$60,220.00	$240,193.00
Johnson City Specialty Hospital	$13,517.00	$53,912.00
Johnson City Medical Center Hospital - Revised	$1,163,559.00	$4,654,236.00
Wayne Medical Center	$23,613.00	$94,182.00
Volunteer Community Hospital	$41,238.00	$164,484.00
White County Community Hospital	$20,801.00	$82,967.00
University Medical Center	$347,066.00	$1,384,307.00
TOTAL	***$25,000,000.00**	**$100,000,000.00**

***Proposed 4th Qtr. Payment scheduled for July 24, 2009.

Reverification Status

The primary reverification activity during this quarter was the reverification of eligibility for *Daniels* class members. As of the end of June, almost 31,000 class members were determined to continue to be eligible for TennCare. Individuals who are not found to be eligible for TennCare will go through the disenrollment process. The RFI process for this class will continue into the 2009-2010 state fiscal year.

Status of Filling Top Leadership Positions in the Bureau

The following top leadership positions have been filled during the past year:

Matt Keppler was appointed December 8, 2008, to serve as the Long Term Care (LTC) Government Relations Liaison. Mr. Keppler's role is to manage communication processes pertaining to the implementation of the LTC Community Choices Act of 2008 and to be responsible for research and development regarding all new legislative proposals and initiatives pertaining to LTC programs and services, as well as facilitating collaboration with other affected state agencies. Mr. Keppler is an experienced Government Relations professional with extensive experience in developing and implementing legislative initiatives including drafting legislation, facilitating legislative and government communication processes, development and communication of public policy, and grassroots advocacy. His experience includes serving as the Legislative Director for Illinois Association of Rehabilitation Facilities (IARF), Public Policy Director for the Illinois Association of Rehabilitation Facilities (IARF) and as the Legislative Policy Analyst for Illinois House of Representatives, Research and Appropriations.

Mollie Mennell was appointed January 4, 2009, and serves as Deputy Director of Long Term Care responsible for program integrity and process improvement as well as the administration,

policy and quality oversight of all long-term care (LTC) programs and services including Nursing Facility services, the Program of All-Inclusive Care for the Elderly (PACE), the state's 1915(c) Home and Community Based Services (HCBS) Waiver for the Elderly and Disabled, Intermediate Care Facilities for persons with Mental Retardation (ICFs/MR), and the state's three 1915(c) HCBS waiver programs for persons with mental retardation (Arlington, Statewide, and Self-Determination). Ms. Mennell brings more than eight years of state service to her new position. She has a Master's degree in Public Administration and a Bachelor of Arts degree in Political Science from the University of Tennessee, Knoxville, and is a graduate of the Tennessee Government Executive Institute

Nita Mangum was appointed January 5, 2009 to serve as the Deputy Director of Long Term Care for eligibility and enrollment. She is responsible for overseeing modifications to the state's long-term care (LTC) eligibility and enrollment processes and requirements as set forth in the Governor's Long-Term Care Community Choices Act of 2008. She also serves as the primary liaison for contracted functions with the Department of Human Services pertaining to LTC categorical and financial eligibility determination and for application of post-eligibility provisions needed to establish patient liability for LTC services. Ms. Mangum has 25 years of experience in leadership, program development and operations, and change management. She has a Master of Science degree in Social Work from the University of Tennessee, Knoxville, and a Bachelor of Science degree in Sociology and Criminal Justice from the University of Tennessee, Martin, in addition to specialized training from the University of Memphis and the U.S. Department of Justice.

Kelly Gunderson was appointed January 15, 2009, to serve as Director of Public Affairs, responsible for overseeing public and internal communications at TennCare. She has a Bachelor of Arts degree in broadcasting from the University of Central Missouri and worked for four years as a consumer reporter and morning news anchor for KRCG-TV, a CBS affiliate in mid-Missouri. In June of 2007 she accepted an appointment as Director of Communications for Missouri State Treasurer Sarah Steelman, where she served as a spokesperson, speechwriter, and primary media contact, as well as planning all public relations outreach.

Terrence M. Leve was appointed March 30, 2009, to serve as General Counsel, responsible for directing and managing the legal office for the Bureau of TennCare related to compliance with the *John B.* Consent Decree, the *Grier* lawsuit, and negotiation, direction and oversight of departmental litigation in state and federal courts and administrative tribunals. Mr. Leve earned his Juris Doctorate and Bachelor of Arts degree from the University of Southern California, and possesses 17 years of progressively responsible experience serving as an executive and legal professional in an international corporate setting.

Nicole Woods was appointed May 1, 2009, as the Pharmacy Director for the Bureau of TennCare. She is responsible for the management of the TennCare pharmacy program staff, the program call center, and the state's new Provider Benefits Manager (PBM) contract. Prior to this appointment, Ms. Woods served as the Associate Director in the Division of Pharmacy. She has been "Acting" Pharmacy Director since October 2008. Dr. Woods has both a Bachelor of Science degree in Biology and a Doctor of Science degree.

Tandi Zerfoss was appointed June 1, 2009 as the Information Security Officer (ISO) for the Bureau of TennCare. She is responsible for the security of TennCare facilities and systems, including the Medicaid Management Information System (MMIS) and related systems that house sensitive and personal identity and health information of 1.2 million Tennesseans covered by the TennCare program. Ms. Zerfoss possesses professional certifications as a

Certified Information Systems Security Professional (CISSP), and a Certified Business Continuity Professional (CBCP) for disaster recovery. She has over 22 years of technical and management experience and most recently served as the Information Security Portfolio and Organizational Management Specialist with Hospital Corporation of America (HCA).

Number of Recipients on TennCare and Costs to the State

At the end of the quarter and the end of the year, there were 1,204,648 Medicaid eligibles and 31,506 uninsured/uninsurable persons enrolled in TennCare, for a total of 1,236,154 persons.

Projections of TennCare spending for the fourth quarter and the year are summarized in the table below. These are not final numbers, since the fiscal year will not close for accounting purposes until late fall 2009.

Table 2
TennCare Spending for the Quarter and the Year

	4th Quarter*	Total*
Spending on MCO services**	$825,651,400	$3,195,060,100
Spending on BHO services***	$12,223,300	$160,707,400
Spending on dental services	$31,765,700	$151,750,900
Spending on pharmacy services	$177,247,900	$729,628,600
Medicare "clawback"	$42,343,200	$238,716,500

**These figures are cash basis as of June 30 and are unaudited.*
***This figure includes Integrated Managed Care MCO expenditures.*
****Since BHO expenditures are now integrated into MCOs, this amount will continue to decline to zero.*

Viability of MCCs in the TennCare Program

Claims Payment Analysis

The prompt pay requirements of T.C.A. § 56-32-226(b) mandate that each managed care organization ("MCO") and behavioral health organization ("BHO") ensure that 90% of clean claims for payment for services delivered to a TennCare enrollee are paid within 30 calendar days of the receipt of such claims and 99.5% of all provider claims are processed within 60 calendar days of receipt. TennCare's contract with its Dental Benefit Manager requires the DBM to also process claims in accordance with this statutory standard. TennCare's contract with its Pharmacy Benefits Manager ("PBM") requires the PBM to pay 100% of all clean claims submitted by pharmacy providers within 10 calendar days of receipt.

The MCOs, BHOs, the DBM and the PBM are required to submit monthly claims data files of all TennCare claims processed to TDCI for verification of prompt pay compliance. The plans are required to separate their claims data by TennCare Contract (i.e. East, Middle or West Grand Region) and by subcontractor (i.e. claims processed by a vision benefits manager). Furthermore, the MCOs and BHOs are required to separately identify non-emergency

transportation ("NEMT") claims in the data files. TDCI then performs and reports the results of the prompt pay analyses by NEMT claim type, by subcontractor, by TennCare contract and by total claims processed for the month.

If an MCO or BHO does not comply with the prompt pay requirements based on the total claims processed in a month, TDCI has the statutory authority to levy an administrative penalty of $10,000 for each month of non-compliance after the first instance of non-compliance was reported to the plan. The TennCare Bureau can also assess liquidated damages pursuant to the terms of the TennCare Contract. If the DBM and PBM do not meet their contractual prompt pay requirements, only the TennCare Bureau can assess applicable liquidated damages against these entities.

Net Worth Requirement

By statute, the minimum net worth requirement for each TennCare MCO and BHO is calculated based on premium revenue for the most recent calendar year. TDCI's calculations for the net worth requirement reflect payments made for the calendar year ended December 31, 2008, including payments made under the "stabilization plan." On June 1, 2009, the MCOs and BHOs submitted their NAIC Quarterly Financial Statement for the quarter ended March 31, 2009. As of December 31, 2008, TennCare MCOs/BHOs reported net worth as indicated in the table below.

Table 3
Net Worth of TennCare MCOs and BHOs as of December 31, 2008

	Net Worth Requirement	Reported Net Worth	Excess/ Deficiency)
AMERIGROUP Tennessee	18,170,414	63,601,046	45,430,632
UnitedHealthcare Plan of the River Valley (AmeriChoice)	41,501,178	231,425,925	189,924,747
Preferred Health Partnership	6,715,961	46,002,502	39,286,541
UAHC Health Plan	7,159,013	10,404,353	3,245,340
Unison Health Plan	6,120,722	10,541,494	4,420,772
Volunteer (BlueCare & Select)	25,326,692	38,424,101	13,097,409
Premier Behavioral Systems	3,437,659	7,496,611	4,058,952
Tennessee Behavioral Health	6,735,554	18,401,676	11,666,122

All TennCare MCOs and BHOs met their minimum net worth requirements as of March 31, 2009.

FINANCIAL ISSUES:

Tennessee Coordinated Care Network d/b/a Access MedPlus (TCCN)

The Motion for Final Order of Termination of the Liquidation and Discharge of the Liquidator was filed with the Davidson County Chancery Court. No objects were filed against this motion. The TCCN Liquidation will be submitting an order to the Chancellor to sign.

Success of Fraud Detection and Prevention

The Office of Inspector General (OIG) was established five years ago (July 1, 2004). The mission of the OIG is: *To identify, investigate, and prosecute persons who commit fraud or abuse against the TennCare program.*

The OIG staff receives case information from a variety of sources including: local law enforcement, the TennCare Bureau, Health Related Boards (HRB), the Department of Human Services (DHS), other state agencies, health care providers, Managed Care Contractors (MCCs), and the general public via the OIG web site, fax, written correspondence, and phone calls to the OIG hotline.

The statistics for the fourth quarter of the 2008 - 2009 fiscal year are presented in Tables 4-11.

Table 4
Summary of Enrollee Cases for the Quarter, the Fiscal Year, and the Five Years Since the OIG was Created (July 2004)

	Quarter	Fiscal Year Total	Grand Total for the Past Five Years
Cases Received	**3,060**	**20,670**	**120,988**
Cases Closed[1]	**3,046**	**19,896**	**118,352**

Table 5
Summary of Enrollee Abuse Cases for the Quarter and the Last 36 Months

	Quarter	Grand Total for the Last 36 Months
Abuse Cases Received	**2,901**	**52,773**
Abuse Cases Closed	**1,159**	**14,558**
Abuse Cases Referred[2]	**1,742**	**39,062**

[1]Cases are closed when there is inadequate information provided to investigate the complaint, the information has been researched and determined to be unfounded, the case was referred to another agency (as per appropriate jurisdiction), or prosecuted by the OIG and closed.

[2] Abuse cases may be referred to the appropriate Managed Care Contractor (MCC), the TennCare Bureau, or DHS for further review.

Table 6
Summary of Provider Cases for the Quarter, the Fiscal Year, and the Five Years Since the OIG was Created (July 2004)

	Quarter	Fiscal Year Total	Grand Total
Cases opened	**50**	**127**	**1,315**
Cases closed	**10**	**68**	**1,062**
Cases referred to TBI[3]	**1**	**22**	**167**
Cases referred to Health Related Boards	**4**	**40**	**99**
Cases referred to Provider Fraud Task Force[4]	**4**	**4**	**4**

Table 7
Summary of Arrests and Convictions for the Quarter, the Fiscal Year, and the Period Since February 2005[5]

	Quarter	Fiscal Year Total	Grand Total
Arrests	**52**	**257**	**972**
Convictions	**22**	**146**	**462**
Diversions[6]	**8**	**41**	**169**

Table 8
Summary of Court Fines & Costs Imposed for the Quarter, the Fiscal Year, and the Five Years Since the OIG was Created (July 2004)

	Quarter	Fiscal Year Total	Grand Total
Fines	**$18,050.00**	**$92,385.00**	**$242,446.50**
Court Costs & Taxes	**$2,452.80**	**$25,729.28**	**$88,562.39**
Restitution (ordered)	**$50,893.26**	**$144,323.24**	**$1,260,084.25**
Drug Funds	**$1,028.50**	**$11,188.00**	**$39,742.50**

The OIG aggressively pursues enrollees who have apparently committed fraud or abuse against the TennCare program. The primary criminal case types are:

[3] The OIG refers **provider cases** to the TBI Medicaid Fraud Unit (as per state and federal law) and assists with these investigations as requested.

[4] The Provider Fraud Task Force is made up of representatives from the Attorney General's Office, the TennCare Bureau, the Tennessee Bureau of Investigation, and the OIG. OIG's participation began during the fourth quaryer of FY 2008-2009.

[5] Special Agents were in the field making arrests effective February 2005.

[6] There are two kinds of diversions. A **Judicial Diversion** may occur as the result of a guilty plea or verdict subject to expungement following successful completion of probation. T.C.A.§40-35-313. A **Pre-trial Diversion** may occur when prosecution was suspended. If probation is successfully completed, the charge will be dismissed. T.C.A. § 40-15-105.

- drug cases (drug diversion, drug seekers, doctor shopping, and forging prescriptions),
- reporting a false income
- access to other insurance
- ineligible individuals using a TennCare card

Table 9
Summary of Arrest Categories Since the OIG Was Created on July 1, 2004

Arrest Categories	Numbers
Drug Diversion/Forgery RX	331
Drug Diversion/Sale RX	340
Access to Insurance	55
Doctor Shopping	75
Operation Falcon III	32
Operation Falcon IV	16
False Income	45
Ineligible Person Using Card	16
Living Out Of State	13
Asset Diversion	7
Theft of Services	11
ID Theft	28
Aiding & Abetting	3
GRAND TOTAL	**972**

Table 10
Summary of TennCare Case Referrals & Recoupments for the Quarter, the Fiscal Year, and the Period Between February 15, 2005,[7] and June 30, 2009

	Quarter	Fiscal Year Total	Grand Total
Recoupments collected by the OIG and sent to the TennCare Bureau	**$24,344.26**	**231,705.54**	**$1,298,638.66**
Recommended TennCare terminations[8]	**1,666**	**14,365**	**48,662**
Potential savings[9]	**$6,091,545.70**	**$48,658,085.70**	**$171,235,306.50**

[7] On February 15, 2005, a Fiscal Manager and an attorney joined the OIG staff to facilitate and document this process.

[8] The recommendations for terminations are based on reports run from file net (e.g., Prisoner Report, State Wage Report, the Deceased Report, the Department of Human Resources Report, and the PARIS Report).

Table 11
Summary of Investigative Sources for the Quarter, the Fiscal Year, and the Five Years Since the OIG was Created

	Quarter	Fiscal Year	Grand Total
OIG Hot Line	905	3,473	20,883
OIG Mail Tips	53	205	3,355
OIG Web Site	258	1,162	7,115
OIG Email Tips	124	564	3,026

Other investigative sources for this quarter included the following:

- Internal--1,614
- Fax –104
- Cash for Tips (pending)--8

A sample of case types for the quarter included the following:

- Drug diversion—299
- Drug seeker—84
- Income/other assets—192
- Using another person's care—29
- Out of state—110
- Transfer of assets—39
- Doctor shopping—313

The Office of Inspector General participated in the following activities during the quarter:

1. **Meetings with Law Enforcement Officials and other State Agencies**

   *Various Judicial Task Forces, District Attorneys, and Sheriffs & Chiefs of Police
   *TBI Drug Diversion Task Force
   *Middle Tennessee Law Enforcement Committee (in Brentwood)
   *FBI National Academy Graduates – Regional Meeting in Nashville
   *Law Enforcement Accreditation Coalition of Tennessee (LEACT)
   *MCC Roundtable
   *Nursing Home Meeting with TennCare Bureau and Mental Health
   *Law Enforcement & Prescribers Summit – Nashville
   *Law Enforcement & Prescribers Summit – Jackson
   *Law Enforcement & Prescribers Summit – Knoxville
   *East Tennessee Drug Diversion Task Force – Chattanooga
   *Monthly TennCare Provider Fraud Task Force

2. **Media**

[9] The potential savings is calculated by multiplying the average annual cost per enrollee, or $3,656.39, times the number of recommended terminations.

*Electronic and print media throughout the State of Tennessee reported the arrests and convictions of the OIG.

3. Training

*Accounting CEU classes – Fiscal Manager
*Leadership Middle Tennessee
*POST certified training for all commissioned personnel
*OIG personnel attended various Edison classes
*CEU classes for the Legal Staff

Other OIG Activities

*Inspector General Deborah Faulkner graduated from the 2008–2009 *Leadership Middle Tennessee* class.

*Deputy Inspector General David Griswold (CID) was selected for the 2009 – 2010 *Leadership Nashville* class and the *Tennessee Government Executive Institute* (TGEI).

*Currently there are 14 OIG employee vacancies. There were 3 employees who took the Voluntary Buyout in 2008. The OIG had 4 Special Agents on light duty during this quarter.

*Training continued for OIG personnel during this quarter. The Special Agents started their annual In-Service training that includes POST required courses, instruction regarding new policies and procedures, firearm qualification, a legal and accreditation update, etc.

*All CEU training began for OIG "professional" staff members, i.e. attorneys, an accountant, registered nurses, and information technology personnel.

*The OIG Legal Division continues to assist OIG staff members by providing legal advice on issues including how to meet the requirements of various statutes and drafting and reviewing documents that have legal implications. The Legal Division facilitates the case preparation process and works closely with various District Attorneys toward a successful prosecution of OIG cases.

*The Inspector General and the Deputy Inspector General over Criminal Investigations have continued to make visits to various Tennessee counties. In each jurisdiction visited, there is a courtesy call to the Sheriff and Chief of Police. The goal is to continue to solidify the collaboration between local law enforcement and the OIG. More visits are planned for the next quarter.

*The *Doctor Shopping* legislation (approved by the Governor and the General Assembly, June 2007) has generated 75 arrests as of this writing for Doctor Shopping. The OIG continues to mail letters and posters and provide presentations to notify licensed medical providers and law enforcement agencies in the state about this new law. As a result, positive feedback has been received.

Case Narrative EXAMPLES

The following are a few examples of TennCare fraud investigations, arrests, and prosecutions conducted by the Office of Inspector General during the fourth quarter of FY 2008–2009:

Drug Seeker/Drug Diversion

A woman in ***Marshall County*** was charged with two counts of doctor shopping for the painkiller Oxycodone.

A ***Wilson County*** woman was arrested for acting under the authority of a doctor to call in a prescription to a pharmacy to obtain the addictive pain killer Hydrocodone and have TennCare pay for it.

A couple from ***Van Buren County*** was charged with fraudulently obtaining prescriptions for Tramadol and Darvocet with the intent of selling at least a portion of the medication. They used their TennCare to pay for the drugs.

A man in ***Knox County*** was arrested for altering a prescription in order to obtain Lortab. The doctor's visit was paid for by TennCare.

Three ***Marion County*** people were charged with TennCare fraud for obtaining Hydrocodone with their TennCare benefits with the intent to sell a portion of the prescription.

A woman was charged with TennCare fraud in ***Davidson County*** for selling her prescription drugs paid for by TennCare. She was charged with one count of TennCare fraud, one count of selling a controlled substance, and one count of possession of a controlled substance with the intent to sell. She apparently obtained Suboxone through Medicare Part B which is paid for in part by TennCare, then selling a portion of the prescription in a Walgreens parking lot.

A woman from Giles County was **arrested for the third time in four months** with prescription drug fraud. She has been charged in ***Lewis County***, ***Williamson County***, and ***Giles County***. The arrests stem from passing forged prescriptions for Hydrocodone and using her TennCare to pay for the drug.

Two people in ***Wilson County*** were arrested for TennCare fraud. A woman was charged with loaning her son's TennCare card to a man so he could receive medical treatment.

Four people in ***Unicoi*** and ***Cannon Counties*** were arrested for obtaining prescription medications paid for by TennCare which they intended to sell to other individuals.

Identity Theft

A ***Rutherford County*** woman was charged with unlawful use of another person's identity in order to obtain medical services using TennCare to pay for it. She was charged with two counts of Identity Theft for knowingly using the personal information of another TennCare enrollee to obtain medical services paid for by TennCare and two counts of TennCare fraud.

A ***Dyer County*** man was charged with identity theft in order to fraudulently obtain TennCare benefits. A Dyer County woman was also arrested for aiding and abetting him in his illegal conduct. They were charged with four counts of TennCare fraud. Their efforts involved the fraudulent use of TennCare to get prescriptions for Lortab, MS Cotin, Ativan, and Amoxicillin.

A ***Rutherford County*** man was arrested for TennCare fraud by filling prescriptions and using his son's TennCare to pay for it. He was charged with three counts of TennCare fraud, three counts of identity theft, and one count of criminal simulation.

A man from ***Cheatham County*** was charged with stealing the identity of a TennCare enrollee in order to obtain medical services. He was indicted on six counts of identity theft. He was also charged with three counts of Forged Prescriptions and three counts of TennCare fraud.

Round Ups

Three women in ***Clay County*** were arrested for TennCare fraud during a round up that included 27 other people charged with selling prescription drugs. The three OIG arrests stemmed from the women selling their prescription drugs (Morphine and Hydrocodone) to undercover informants.

Six people were arrested in ***Warren County*** for TennCare fraud. The charges involve individuals trying to sell their prescription drugs paid for by TennCare to an undercover informant.

Plans for next quarter:

a. Continue to exchange information with local, state, and federal government agencies.
b. Provide presentations and training for interested parties regarding TennCare fraud and the role of the OIG.
c. Continue staff training and develop best practices.
d. Continue to track the *Tips for Cash* incentive program for information that leads to a successful arrest and conviction for TennCare fraud. This program is a result of legislation from the 104th General Assembly.
e. The OIG will have a re-accreditation on-site inspection by assessors from the Commission on Accreditation for Law Enforcement Agencies (CALEA). They will conduct a thorough review and issue a report regarding the OIG's continued compliance with the standards. The OIG was originally accredited in November 2006. Following this process, the OIG will be reviewed by the full 21 member Commission at their Fall meeting.
f. Continue using the Doctor Shopping Law on investigations regarding suspected chronic abusers of the TennCare program.
g. The OIG will participate as an active member of the TennCare Provider Fraud Task Force with other members including the Attorney General's Office, the TennCare Bureau, and the Tennessee Bureau of Investigation.