

# TennCare Quarterly Report

April – June 2022

## Submitted to the Members of the General Assembly

### Status of TennCare Reforms and Improvements

**CMS Letter and Upcoming TennCare Amendment.** On June 30, 2022, TennCare received a letter from the Centers for Medicare and Medicaid Services (CMS) regarding the TennCare III demonstration. The CMS letter noted a limited number of “concerns” with the demonstration and requested that TennCare submit a demonstration amendment to address these issues.

TennCare continues to be encouraged that CMS continues to support the major goals and key principles of the TennCare demonstration, which are expected to result in additional federal funding for TennCare over the life of the demonstration. In response to the CMS letter, TennCare is preparing a demonstration amendment that will address the areas identified by CMS. These are:

1. Determining budget neutrality for the TennCare demonstration using a per member per month (PMPM) cap arrangement;
2. Revising the demonstration expenditure authorities while continuing to recognize savings produced to the federal government by the state as a mechanism for reinvestments in the TennCare program; and
3. Removing the expenditure authority for pharmacy and associated pharmacy flexibilities from the demonstration.

This proposed demonstration amendment will be submitted to CMS in the upcoming quarter. TennCare believes these modifications will address the areas identified by CMS while maintaining the core goals and key principles of the TennCare III demonstration.

**Coverage of Children Adopted from State Custody.** The budget approved by the General Assembly for State Fiscal Year 2022 included funding for a number of modifications to the TennCare program. One of these changes involves expanding TennCare’s coverage of children adopted from state custody. TennCare’s coverage already included children adopted from state custody for whom a Title IV-E adoption assistance agreement is in effect, as well as children with special needs receiving non-IV-E adoption assistance from the state. However, there are a number of children in foster care in Tennessee each year who do not qualify for either form of adoption assistance (federal or state). Beginning in State Fiscal Year 2022, TennCare covers children adopted from state custody who do not qualify for federal or state

adoption assistance. Extending TennCare coverage to this group of children will remove a potential barrier to adoption, as well as promote greater continuity of care for these children as they transition from foster care to permanent homes.

In order to formalize this arrangement within the TennCare demonstration, TennCare submitted a demonstration amendment (known as “Amendment 2”) to the Centers for Medicare and Medicaid Services (CMS) on April 7, 2022. As of the end of the April-June 2022 quarter, CMS was still reviewing the amendment. (Note that while TennCare works with CMS to secure approval to add these children to the TennCare demonstration, TennCare is currently using state funds appropriated by the General Assembly for State Fiscal Year 2022 to ensure that no children lose their TennCare coverage after being adopted.)

**Re-opening of CHOICES At Risk Demonstration Group.** Another change to the TennCare program contained in the budget for State Fiscal Year 2022 entails re-opening enrollment in a demonstration population within the CHOICES program. CHOICES, which provides managed long-term services and supports (MLTSS) for persons who are elderly or who have physical disabilities, consists of three benefit groups. CHOICES Groups 1 and 2 consist of individuals who meet TennCare’s level of care criteria for nursing facility care and receive either LTSS in a nursing facility (Group 1) or home- and community-based services (HCBS) in lieu of nursing facility care (Group 2). CHOICES Group 3, by contrast, consists of adults who do not meet TennCare’s level of care criteria for nursing facility care but who, absent additional supports, are considered at risk of needing institutional care. These individuals receive a targeted package of HCBS intended to prevent or delay the need for nursing facility care.

Under the terms of the TennCare demonstration, CHOICES Group 3 is open to individuals who are eligible for Medicaid as SSI recipients and to non-Medicaid-eligible individuals who qualify in the CHOICES At Risk Demonstration Group. The CHOICES At Risk Demonstration Group provides a pathway for individuals who are not otherwise eligible for Medicaid to be eligible for TennCare and to receive CHOICES Group 3 HCBS. The CHOICES At Risk Demonstration has been closed to new enrollment since June 30, 2015. On June 8, 2022, TennCare announced its intent to re-open the group to 1,750 new enrollees beginning on October 1, 2022. A public notice and comment period was held on the planned changes from June 8 through July 8, 2022. Formal notification to CMS is expected to take place during the July-September 2022 quarter.

**Enhancements to Home and Community Based Services.** The American Rescue Plan Act of 2021 provides additional federal funding to enhance, expand, and strengthen Medicaid HCBS programs. In accordance with CMS guidance and after an extensive stakeholder input process, TennCare submitted a proposed HCBS spending plan to CMS on July 12, 2021, outlining how TennCare plans to use the additional federal resources to strengthen TennCare’s HCBS programs. The major components of TennCare’s plan to enhance and strengthen HCBS are outlined below:

- 1. Improving access to HCBS for persons needing supports and family caregivers.** Notably, TennCare intends to reduce by half the number of persons on the referral list for Employment and Community First CHOICES by enrolling an additional 2,000 qualifying individuals into the program. (As of June 30, 2022, a total of 1,109 additional individuals had been enrolled.) In addition, based on significant input from stakeholders, for individuals who are already enrolled in

HCBS programs, TennCare has increased, for a limited period of time, access to flexible family caregiver benefits in order to address the additional stresses from impacts of COVID-19, and ensure the sustainability of these supports going forward. TennCare has also made available to persons enrolled in CHOICES a new benefit called Enabling Technology.

2. **Investing in the HCBS Workforce.** TennCare has also used additional federal resources to make targeted provider rate increases for services in CHOICES and in Employment and Community First CHOICES that have a direct care component. Over \$31 million in targeted rate increases was paid to providers from April 2021 through March 2022. In addition, TennCare plans to implement a quality incentive pilot program to incentivize HCBS providers to offer value-based wage increases to their frontline HCBS workers who successfully complete a competency-based training program.
3. **Investing in HCBS Provider Capacity.** TennCare has implemented a referral incentive program for specified types of HCBS to help providers recruit and retain qualified frontline staff. As of March 31, 2022, TennCare had paid over \$160,000 in referral incentives to providers.

Following CMS approval of TennCare’s proposed spending plan as well as state budget expansion approval, TennCare began implementing these initiatives during the October-December 2021 quarter. Through the additional funding, TennCare has claimed an additional \$138 million for eligible claims paid between April 2021 and March 2022.

**Katie Beckett Program.** On November 23, 2020, TennCare launched a new “Katie Beckett” program. The Katie Beckett program provides services and supports for children under age 18 with disabilities and/or complex medical needs who are not eligible for traditional Medicaid because of their parents’ income or assets. The Katie Beckett program is an outgrowth of legislation (Public Chapter No. 494) passed by the Tennessee General Assembly in the 2019 legislative session. Following enactment of Public Chapter No. 494, TennCare submitted a waiver amendment (“Amendment 40”) to the Centers for Medicare and Medicaid Services (CMS) to establish the new program. CMS ultimately approved Amendment 40 on November 2, 2020.

TennCare’s Katie Beckett program contains two principal parts:

- **Part A** – Individuals in this group receive the full TennCare benefits package, as well as essential wraparound home and community based services. These individuals are subject to monthly premiums, which are determined on a sliding scale based on the member’s household income.
- **Part B** – Individuals in this group receive a specified package of essential wraparound services and supports, including premium assistance.

In addition to Parts A and B, the Katie Beckett program provides continued TennCare eligibility for children already enrolled in TennCare, who subsequently lose TennCare eligibility, and who would qualify for enrollment in Part A but for whom no Part A program slot is available.

The Katie Beckett program began accepting self-referral forms from interested families on November 23, 2020. As of the end of the April-June 2022 quarter, there were 151 children enrolled in Part A and 1,459

children enrolled in Part B. Since the end of the April-June quarter, TennCare has continued to enroll qualifying children into the Katie Beckett program. There is no waiting list for enrollment into the Katie Beckett program, including Part A.

**Amendment 1 to the TennCare III Demonstration.** In January 2021, CMS approved the latest iteration of the TennCare demonstration, referred to as “TennCare III.” On February 22, 2021, TennCare provided public notice of its first proposed amendment to the TennCare III demonstration. The amendment (known as “Amendment 1”) would introduce the following modifications to the demonstration:

- Integration of services for members with intellectual disabilities into the TennCare managed care program<sup>1</sup>;
- Transitioning the care of children receiving Supplemental Security Income (SSI) benefits from the TennCare Select health plan to one of the other health plans that serves TennCare members; and
- Assigning to the TennCare Select health plan certain inmates of public institutions who receive inpatient services in a setting located outside the public institution.

TennCare submitted Amendment 1 to CMS on March 31, 2021. As of the end of the April-June 2022 quarter, CMS’s review of Amendment 1 was ongoing.

**Amendment 36 to the TennCare II Demonstration.**<sup>2</sup> Amendment 36 was submitted to CMS in August 2018. Amendment 36 grew out of Tennessee’s 2018 legislative session and, in particular, Public Chapter No. 682, which established that it is the policy of the state of Tennessee to favor childbirth and family planning services that do not include elective abortions within the continuum of care or services, and to avoid the direct or indirect use of state funds to promote or support elective abortions.

Amendment 36 requests authority for TennCare to establish state-specific criteria for providers of family planning services, and to exclude any providers that do not meet these criteria from participation in the TennCare program. As specified in Public Chapter No. 682, TennCare is proposing to exclude any entity that performed, or operated or maintained a facility that performed, more than 50 abortions in the previous year, including any affiliate of such an entity.

CMS held a 30-day federal public comment period on Amendment 36 during the third quarter of Calendar Year 2018. Close to 3,500 comments were received, and CMS subsequently began to review that feedback as well as the amendment itself. As of the end of the April-June 2022 quarter, CMS’s review of Amendment 36 was ongoing.

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<sup>1</sup> Specific services to be integrated are intermediate care facility services for individuals with intellectual disabilities (ICF/IID services) and 1915(c) waiver home- and community-based services (HCBS).

<sup>2</sup> Because this amendment was submitted to CMS prior to the approval of the TennCare III Demonstration, its numbering reflects the amendments that were in place during the TennCare II Demonstration.

**Update on Episodes of Care.** TennCare’s Episodes of Care program aims to transform the way specialty and acute healthcare services are delivered by incentivizing high-quality, cost-effective care, promoting evidence-based clinical pathways, encouraging care coordination, and reducing ineffective or inappropriate treatments. Episodes of Care is part of TennCare’s delivery system transformation initiative, which is changing healthcare delivery in Tennessee by moving from paying for volume to paying for value.

On May 11, 2022, TennCare hosted the 2022 Episodes of Care Annual Feedback Session. Over 100 stakeholders participated in the virtual event and were given the option to share their feedback live, either verbally or in writing. During TennCare’s presentation, several providers spoke about the Episodes program and shared their positive experiences and best practices. A memo of TennCare’s responses to each item of feedback gathered during the session is planned for release this fall.

**Public Forum on the TennCare Demonstration.** In compliance with the federal regulation at 42 CFR § 431.420(c) and the Special Terms and Conditions of the TennCare demonstration, TennCare hosted a public forum in Nashville on June 30, 2022. The purpose of the forum was to provide members of the public an opportunity to comment on the progress of the TennCare demonstration project, which has delivered Medicaid services to eligible Tennesseans under a managed care model since 1994.

The June 30 open meeting was not the only avenue through which feedback could be offered. Notice of the forum, which appeared on the TennCare website, included an email address and a physical address at which comments would be accepted. Although few comments were received through these outlets, additional opportunities to assess the TennCare Demonstration will be available, as the TennCare agency is required to convene a forum on this subject each year for the foreseeable future.

**EMCF v. TennCare Lawsuit.** In September 2018, Emergency Medical Care Facilities, P.C., filed a complaint for declaratory judgment and injunctive relief against TennCare in Davidson County Chancery Court. The suit relates to a \$50 cap imposed by TennCare on payment for emergency room physician services determined to be non-emergent. The parties filed cross-motions for summary judgment, and, on September 1, 2020, the Chancellor granted summary judgment to EMCF on their claim that the \$50 cap was void. EMCF then voluntarily dismissed their remaining claims pertaining to the determination of payment for the services in question. TennCare filed an appeal, and, on October 7, 2021, the Court of Appeals ruled in TennCare’s favor and reversed the trial court’s ruling. The Court of Appeals found that the reimbursement limit fell within the internal management exception of a rule and was not subject to rulemaking requirements. EMCF then filed an application for permission to appeal to the Tennessee Supreme Court, and this application was accepted. Briefing on the appeal has been completed, and—as of the end of the April-June 2022 quarter—the parties were awaiting the scheduling of oral arguments.

**M.A.C., et al. v. Smith Lawsuit.** On July 2, 2021, five TennCare members filed a federal lawsuit against TennCare alleging that the Home- and Community-Based Services they received through the State’s 1915(c) waiver programs are not being fully staffed, resulting in a denial of necessary care and sufficient alternatives to institutionalization. On September 27, 2021, the Tennessee Attorney General’s office

acting on behalf of TennCare filed a timely motion to dismiss the suit. This motion was denied on December 20, 2021, and the parties are currently engaged in extensive discovery.

**Supplemental Payments to Tennessee Hospitals.** The Division of TennCare makes supplemental payments to qualifying Tennessee hospitals each quarter to help offset the costs these facilities incur in providing uncompensated care. The supplemental payments made during the fourth quarter of State Fiscal Year 2022 are shown in the table below.

**Supplemental Hospital Payments for the Quarter**

Hospital Name	County	Fourth Quarter Payments – FY 2022
Methodist Medical Center of Oak Ridge	Anderson County	\$1,746,828
Ridgeview Psychiatric Hospital and Center	Anderson County	\$1,074,632
Behavioral Health of Rocky Top	Anderson County	\$2,070
Vanderbilt Bedford Hospital	Bedford County	\$49,933
West Tennessee Healthcare Camden Hospital	Benton County	\$184,038
Erlanger Bledsoe Hospital	Bledsoe County	\$219,373
Blount Memorial Hospital	Blount County	\$1,574,001
Tennova Healthcare – Cleveland	Bradley County	\$1,182,603
Tennova Healthcare – LaFollette Medical Center	Campbell County	\$489,949
Ascension Saint Thomas Stones River Hospital	Cannon County	\$185,780
Baptist Memorial Hospital – Carroll County	Carroll County	\$117,975
Sycamore Shoals Hospital	Carter County	\$477,615
TriStar Ashland City Medical Center	Cheatham County	\$469,292
Claiborne Medical Center	Claiborne County	\$171,299
Tennova Healthcare – Newport Medical Center	Cocke County	\$729,103
Vanderbilt Tullahoma-Harton Hospital	Coffee County	\$207,980
Unity Medical Center	Coffee County	\$323,768
Cumberland Medical Center	Cumberland County	\$654,952
Ascension Saint Thomas Behavioral Health Hospital	Davidson County	\$38,458
Ascension Saint Thomas Hospital	Davidson County	\$7,378,924
Nashville General Hospital	Davidson County	\$983,420
Select Specialty Hospital – Nashville	Davidson County	\$2,850
TriStar Centennial Medical Center	Davidson County	\$9,505,336
TriStar Skyline Medical Center	Davidson County	\$6,333,450
TriStar Southern Hills Medical Center	Davidson County	\$2,867,096
TriStar Summit Medical Center	Davidson County	\$3,662,999
Vanderbilt Stallworth Rehabilitation Hospital	Davidson County	\$489
Vanderbilt University Medical Center	Davidson County	\$23,966,335
Ascension Saint Thomas DeKalb Hospital	DeKalb County	\$221,608
TriStar Horizon Medical Center	Dickson County	\$2,139,692
West Tennessee Healthcare Dyersburg Hospital	Dyer County	\$330,108

<b>Hospital Name</b>	<b>County</b>	<b>Fourth Quarter Payments – FY 2022</b>
Southern Tennessee Regional Health System – Winchester	Franklin County	\$635,980
West Tennessee Healthcare Milan Hospital	Gibson County	\$139,905
Southern Tennessee Regional Health System – Pulaski	Giles County	\$254,583
Greeneville Community Hospital	Greene County	\$143,729
Morristown – Hamblen Healthcare System	Hamblen County	\$1,585,198
CHI Memorial Hospital Chattanooga	Hamilton County	\$2,849,840
Erlanger Behavioral Health Hospital	Hamilton County	\$130,250
Erlanger Medical Center – Baroness Hospital	Hamilton County	\$8,015,290
Kindred Hospital Chattanooga	Hamilton County	\$66,356
Parkridge Medical Center	Hamilton County	\$8,004,028
Encompass Health Rehabilitation Hospital of Chattanooga	Hamilton County	\$7,249
Siskin Hospital for Physical Rehabilitation	Hamilton County	\$137,557
Hancock County Hospital	Hancock County	\$168,221
West Tennessee Healthcare Bolivar Hospital	Hardeman County	\$298,946
Hardin Medical Center	Hardin County	\$381,348
Hawkins County Memorial Hospital	Hawkins County	\$296,096
Henderson County Community Hospital	Henderson County	\$95,183
Henry County Medical Center	Henry County	\$939,906
Ascension Saint Thomas Hickman Hospital	Hickman County	\$121,326
Houston County Community Hospital	Houston County	\$216,004
Three Rivers Hospital	Humphreys County	\$52,346
Tennova Healthcare – Jefferson Memorial Hospital	Jefferson County	\$458,069
Johnson County Community Hospital	Johnson County	\$178,519
Parkwest Medical Center	Knox County	\$2,812,700
Tennova Healthcare – North Knoxville Medical Center	Knox County	\$1,515,139
East Tennessee Children’s Hospital	Knox County	\$3,350,067
Fort Sanders Regional Medical Center	Knox County	\$3,979,856
Select Specialty Hospital – North Knoxville	Knox County	\$4,982
University of Tennessee Medical Center	Knox County	\$7,079,348
Lauderdale Community Hospital	Lauderdale County	\$128,408
Southern Tennessee Regional Health System – Lawrenceburg	Lawrence County	\$455,887
Lincoln Medical Center	Lincoln County	\$830,581
Fort Loudoun Medical Center	Loudon County	\$378,423
Macon Community Hospital	Macon County	\$264,257
Jackson – Madison County General Hospital	Madison County	\$6,301,769
Pathways of Tennessee	Madison County	\$104,250
West Tennessee Healthcare Rehabilitation Hospital Jackson	Madison County	\$9,069

<b>Hospital Name</b>	<b>County</b>	<b>Fourth Quarter Payments – FY 2022</b>
Marshall Medical Center	Marshall County	\$409,242
Maury Regional Medical Center	Maury County	\$2,872,826
Pinewood Springs	Maury County	\$191,882
Starr Regional Medical Center – Athens	McMinn County	\$990,641
Sweetwater Hospital Association	Monroe County	\$973,842
Tenova Healthcare – Clarksville	Montgomery County	\$1,495,944
Unity Psychiatric Care – Clarksville	Montgomery County	\$1,424
Baptist Memorial Hospital – Union City	Obion County	\$625,976
Livingston Regional Hospital	Overton County	\$298,055
Cookeville Regional Medical Center	Putnam County	\$1,540,880
Rhea Medical Center	Rhea County	\$342,910
Roane Medical Center	Roane County	\$684,404
TriStar NorthCrest Medical Center	Robertson County	\$840,958
Ascension Saint Thomas Rutherford Hospital	Rutherford County	\$3,852,668
TriStar StoneCrest Medical Center	Rutherford County	\$2,340,503
TrustPoint Hospital	Rutherford County	\$243,351
LeConte Medical Center	Sevier County	\$1,688,141
Baptist Memorial Restorative Care Hospital	Shelby County	\$18,250
Baptist Memorial Hospital – Memphis	Shelby County	\$5,212,968
Methodist University Hospital	Shelby County	\$14,706,722
Crestwyn Behavioral Health	Shelby County	\$161,125
Delta Specialty Hospital	Shelby County	\$850,535
Encompass Health Rehabilitation Hospital of North Memphis	Shelby County	\$12,817
Encompass Health Rehabilitation Hospital of Memphis	Shelby County	\$25,284
Le Bonheur Children’s Hospital	Shelby County	\$8,369,562
Regional One Health	Shelby County	\$7,741,559
Regional One Health Extended Care Hospital	Shelby County	\$2,721
Saint Francis Hospital	Shelby County	\$2,472,114
Saint Francis Hospital – Bartlett	Shelby County	\$1,069,994
Saint Jude Children's Research Hospital	Shelby County	\$1,412,168
Riverview Regional Medical Center	Smith County	\$193,525
Bristol Regional Medical Center	Sullivan County	\$2,307,261
Creekside Behavioral Health	Sullivan County	\$96,457
Encompass Health Rehabilitation Hospital of Kingsport	Sullivan County	\$10,736
Holston Valley Medical Center	Sullivan County	\$3,229,137
Indian Path Community Hospital	Sullivan County	\$709,974
TriStar Hendersonville Medical Center	Sumner County	\$2,226,816
Sumner Regional Medical Center	Sumner County	\$1,135,359
Baptist Memorial Hospital – Tipton	Tipton County	\$743,807
Trousdale Medical Center	Trousdale County	\$136,348



<b>Hospital Name</b>	<b>County</b>	<b>Fourth Quarter Payments – FY 2022</b>
Unicoi County Hospital	Unicoi County	\$2,991
Ascension Saint Thomas River Park Hospital	Warren County	\$930,577
Johnson City Medical Center	Washington County	\$7,198,053
Franklin Woods Community Hospital	Washington County	\$832,532
Quillen Rehabilitation Hospital	Washington County	\$7,063
Wayne Medical Center	Wayne County	\$143,270
Unity Psychiatric Care – Martin	Weakley County	\$1,471
West Tennessee Healthcare Volunteer Hospital	Weakley County	\$391,712
Ascension Saint Thomas Highlands Hospital	White County	\$291,964
Williamson Medical Center	Williamson County	\$218,834
Vanderbilt Wilson County Hospital	Wilson County	\$844,325
<b>TOTAL</b>		<b>\$202,784,299</b>

## Number of Recipients on TennCare and Costs to the State

During the month of June 2022, there were 1,666,741 Medicaid eligibles and 21,132 Demonstration eligibles enrolled in TennCare, for a total of 1,687,873 persons.

Estimates of TennCare spending for the fourth quarter of State Fiscal Year 2022 are summarized in the table below.

Spending Category	Fourth Quarter FY 2022*
MCO services**	\$1,829,145,000
Dental services	\$34,951,200
Pharmacy services	\$405,243,200
Medicare "clawback"***	\$38,599,800

\*These figures are cash basis as of June 30 and are unaudited.

\*\*This figure includes Integrated Managed Care MCO expenditures.

\*\*\*The Medicare Part D clawback is money that states are required to pay to the federal government to help offset costs the federal government incurs by covering the prescription benefit for enrollees who have both Medicare and Medicaid.

## Viability of Managed Care Contractors (MCCs) in the TennCare Program

**Claims payment analysis.** TennCare's prompt pay requirements may be summarized as shown below.

Entity	Standard	Authority
MCOs (services other than CHOICES and ECF CHOICES)	90% of clean claims for payment for services delivered to TennCare enrollees are processed and, if appropriate, paid within 30 calendar days of the receipt of such claims.  99.5% of all provider claims are processed, and, if appropriate, paid within 60 calendar days of receipt.	TennCare contract and in accordance with T.C.A. § 56-32-126(b)
MCOs (CHOICES and ECF CHOICES services)	90% of clean electronically submitted Nursing Facility and applicable Home and Community Based Services claims <sup>3</sup> are processed and paid within 14 calendar days of receipt.  99.5% of clean electronically submitted Nursing Facility and applicable Home and Community Based Services claims <sup>4</sup> are processed and paid within 21 calendar days of receipt.	TennCare contract

<sup>3</sup> Excludes Personal Emergency Response Systems (PERS), assistive technology, minor home modifications, and pest control claims. Claims for delivery of these services are handled like general MCO claims.

<sup>4</sup> Ibid.

Entity	Standard	Authority
Dental Benefits Manager (DBM)	90% of clean claims for payment for services delivered to TennCare enrollees are processed, and, if appropriate, paid within 30 calendar days of the receipt of such claims.  99.5% of all provider claims are processed, and, if appropriate, paid within 60 calendar days of receipt.	TennCare contract and in accordance with T.C.A. § 56-32-126(b)
Pharmacy Benefits Manager (PBM)	100% of all clean claims submitted by pharmacy providers are paid within 15 calendar days of receipt.	TennCare contract

The MCOs, the DBM, and the PBM are required to submit monthly claims data files of all TennCare claims processed to the Tennessee Department of Commerce and Insurance (TDCI) for verification of statutory and contractual prompt pay compliance. The plans are required to separate their claims data by claims processor (e.g., MCO, vision benefits manager, etc.). Furthermore, the MCOs are required to identify separately non-emergency transportation (NEMT) claims in the data files. Finally, the MCOs are required to submit separate claims data files representing a subset of electronically submitted Nursing Facility and applicable Home and Community Based Services claims for CHOICES and ECF CHOICES enrollees. TDCI then performs an analysis and reports the results of the prompt pay analyses by NEMT and CHOICES and ECF CHOICES claim types, by claims processor, and by total claims processed for the month.

If an MCO 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 Division of TennCare may 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 TennCare may assess applicable liquidated damages against these entities.

**Net worth and company action level requirements.** According to Tennessee’s “Health Maintenance Organization Act of 1986” statute (T.C.A. § 56-32-101 *et seq.*), the minimum net worth requirement for each TennCare MCO is calculated based on premium revenue reported on the National Association of Insurance Commissioners (NAIC) Annual Financial Statement for the most recent calendar year, as well as any TennCare payments made to the MCO that are not reported as premium revenue.

During the April-June 2022 quarter, the MCOs submitted their NAIC First Quarter 2022 Financial Statements. As of March 31, 2022, TennCare MCOs reported net worth as indicated in the table below.<sup>5</sup>

MCO	Net Worth Requirement	Reported Net Worth	Excess/ (Deficiency)
Amerigroup Tennessee	\$46,529,879	\$378,508,386	\$331,978,507

<sup>5</sup> The “Net Worth Requirement” and “Reported Net Worth” figures in the table are based on the MCOs’ company-wide operations, not merely their TennCare operations.

MCO	Net Worth Requirement	Reported Net Worth	Excess/ (Deficiency)
UnitedHealthcare Plan of the River Valley (UnitedHealthcare Community Plan)	\$61,830,168	\$422,190,911	\$360,360,743
Volunteer State Health Plan (BlueCare & TennCare Select)	\$62,513,366	\$682,854,099	\$620,340,733

During the April-June 2022 quarter, the MCOs were also required to comply with Tennessee’s “Risk-Based Capital for Health Organizations” statute (T.C.A. § 56-46-201 *et seq.*). Risk-based capital (RBC) involves a method of calculating the minimum amount of capital necessary for a health entity to support its overall business operations depending on its size and risk profile. A health entity with a higher amount of risk is required to hold a higher amount of capital. The RBC statute gives TDCI the authority and mandate to use preventive and corrective measures that vary depending on the amount of capital deficiency indicated by the RBC calculations. A “Company Action Level” deficiency (defined at T.C.A. § 56-46-203(a)) would require the submission of a plan to correct the entity’s capital deficiency.

All TennCare MCOs met their minimum net worth requirements and Company Action Level requirements as of March 31, 2022.

**Success of Fraud Detection and Prevention**

The mission of the Tennessee Office of Inspector General (OIG) is to identify, investigate, prosecute, and arrest persons who commit fraud or abuse against the TennCare program and to recoup money owed to the State of Tennessee. The OIG receives case information from a variety of sources, including local law enforcement, the Division of TennCare, Health Related Boards, the Department of Human Services (DHS), other State agencies, health care providers, MCCs, and the general public via the OIG website, fax, written correspondence, and phone calls to the OIG hotline. Cases adjudicated during a particular fiscal year may have no relationship to dates of arrest during the same year. Selected statistics for the fourth quarter of Fiscal Year 2022 furnished for this report by the OIG are as follows:

Fraud and Abuse Allegations	Fourth Quarter FY 2022
Fraud Allegations	185
Abuse Allegations*	1,485
Arrest/Conviction/Judicial Diversion Totals	Fourth Quarter FY 2022
Arrests	10
Convictions	6
Judicial Diversions	4

\* Abuse cases may be referred to the appropriate Managed Care Contractor (MCC), the Division of TennCare, or DHS for further review/action.

<b>Criminal Court Fines and Costs Imposed</b>	<b>Fourth Quarter FY 2022</b>
Criminal Restitution Ordered	\$145,457
Criminal Restitution Received <sup>6</sup>	\$60,906
<b>Civil Restitution/Civil Court Judgments</b>	<b>Fourth Quarter FY 2022</b>
Civil Restitution Ordered <sup>7</sup>	\$21,704
Civil Restitution Received <sup>8</sup>	\$2,405

<b>Recommendations for Review</b>	<b>Fourth Quarter FY 2022</b>
Recommended TennCare Terminations <sup>9</sup>	1,485
Potential Savings <sup>10</sup>	\$6,343,207

### **Program Totals**

The following table identifies monies ordered by the courts as a direct result of TennCare fraud investigations conducted by the OIG since its inception in 2004. Although food stamps are not part of the TennCare program, OIG occasionally discovers evidence of fraud in this area during the course of a TennCare fraud investigation.

<b>Type of Court-Ordered Payment</b>	<b>Grand Total for Period of 2004-2022</b>
Restitution to Division of TennCare	\$6,384,336
Restitution to TennCare MCOs	\$90,768
Food Stamps	\$81,337
Civil Restitution	\$3,316,956

<sup>6</sup> Restitution may have been ordered in a fiscal year other than the one in which payment was actually received.

<sup>7</sup> This total reflects dollars identified for recoupment by the OIG in such non-criminal contexts as civil cases, administrative hearings, and voluntary reimbursements to TennCare.

<sup>8</sup> Restitution may have been agreed to in a fiscal year other than the one in which payment was actually received.

<sup>9</sup> Recommendations that enrollees' TennCare coverage should be terminated are sent to the Division of TennCare for review and determination of appropriate action. These recommendations are based on information received and reviewed by the OIG. TennCare determines whether these referrals meet the criteria for termination. Reviews of these recommendations must factor in some limitations, such as the inability to disenroll individuals in certain federally protected categories.

<sup>10</sup> Potential savings are determined by multiplying the number of enrollees whose coverage would be terminated, assuming all of the State's criteria for termination are met, by the average annual cost per enrollee for MCO, pharmacy, and dental services (currently estimated by TennCare to be \$4,271.52).