DBID 647
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Notice of Rulemaking Hearing
The Tennessee Department of Human Services
Division of Medical Services

There will be a hearing before the Tennessee Department of Human Services to consider the promulgation of amendments to rules pursuant to Tennessee Code Annotated §§ 4-5-201 et seq. and 71-1-105(12). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, § 4-5-204 and will take place in the 2nd Floor Board Room, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee 37248 at 1:30 p.m. CDT on Wednesday, July 18, 2007.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Human Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Human Services' ADA Coordinator, Anneita Dunbar, Citizens Plaza Building, 400 Deaderick Street, 3rd Floor, Nashville, Tennessee 37248, telephone number (615) 313-5563 (TTY)-(800) 270-1349.

For a copy the proposed rule contact: Phyllis Simpson, Assistant General Counsel, Department of Human Services, Citizens Plaza Building, 400 Deaderick Street, 15th Floor, Nashville, TN 37248-0006, telephone number (615) 313-4731.

Substance of Proposed Rules
of
The Tennessee Department of Human Services
Division of Medical Services

Chapter 1240-3-2
Coverage Groups Under Medicaid

Amendments

Rule 1240-3-2-.02 Coverage of the Categorically Needy, is amended by deleting subparagraph (p) of paragraph (2) in its entirety and by substituting instead the following language so that, as amended, subparagraph (p) of paragraph (2) shall read as follows:

(p) Legal aliens; immigrants who are not age sixty-five (65) or older, blind, disabled, or under age eighteen (18); undocumented aliens; and other aliens who do not have permanent resident status, including illegal aliens as specified under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and the Deficit Reduction Act of 2005 (DRA), if otherwise eligible, may qualify for emergency medical services where the individual has a medical condition, including emergency labor and delivery, manifested by acute symptoms of sufficient severity which, if not attended to immediately, could reasonably be expected to result in placing the patient's health in serious jeopardy, severe impairment to bodily functions, or serious dysfunction of any bodily organ or part.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-209, 71-1-105(12), 71-5-102, 71-5-106, 71-5-109; 8 U.S.C. §§ 1611, 1612, 1613 and 1641, 42 U.S.C. § 423 note, 42 U.S.C. § 608(a)(2), 42 U.SC. § 608(a)(11), 42 U.S.C. § 1315, 42 U.S.C. §§ 1396 et seq., 42 U.S.C. § 1396a(a)(10)(A)(i), 42 U.S.C. § 1396a(a)10(A)(i)(IV), 42 U.S.C. § 1396a(a)(10)(E); 42 U.S.C. § 1396a(e)(1)(A), 42 U.S.C. § 1396a(e)(4)(5) and (6), 42 U.S.C. § 1396a(l)(1)(D), 42 U.S.C. § 1396a(aa), 42 U.S.C. 1396b(v)(1), 42 U.S.C. § 1396n(c), 42 U.S.C. § 1396r, 42 U.S.C. § 1396r-6, 42 U.S.C.§ 1396u-1; 42 C.F.R. §§ 435.4, 435.100, 42 C.F.R. 435.200, and 42 C.F.R. 435.831; PL 94-566 §503; PL 98-21 §134; PL 99-509 §9401; PL 100-203 §9116; PL 101-508 §5103(e), PL 104-193 § 431 and PL 109-171 § 6036; and 71 FR 39214 (July 6, 2006).

The Tennessee Department of Human Services
Division of Medical Services

Chapter 1240-3-3
Technical And Financial Eligibility
Requirements For Medicaid

Amendments

Rule 1240-3-3-.02 Technical Eligibility Factors, is amended by deleting paragraph (5) in its entirety and by substituting instead the following language so that, as amended, paragraph (5) shall read as follows:

(5) An individual must be a citizen of the United States, a naturalized citizen, certain American Indians born outside of the United States, or a qualified alien, unless applying for emergency medical services assistance as an illegal or undocumented alien or one lawfully admitted for residence who is not aged, blind, disabled, or under age eighteen (18).

(a) Each applicant/recipient is required to provide documentary evidence of citizenship and identity when applying for medical assistance.

(b) All documents must be originals or certified by the issuing agency.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-209, 71-1-105(12), 71-5-102, 71-5-109, 71-5-120 and 71-5-141; 8 U.S.C. §§ 1611, 1612, 1613, and 1641, 42 U.S.C. § 1315, 42 USC §§ 1382c(a)(3) and (4), 42 U.S.C. §§ 1396 et seq., 42 U.S.C. § 1396a(a)(10)(A)(ii)(I) and (V); 42 U.S.C. § 1396b(v)(1) and (x)(1), (2) and (3); and 42 U.S.C. 1396n(c); 42 C.F.R. §§ 435.210, 435.300, 435.301, 435.403, 435.406, 435.407, 435.530, and 435.540; PL 104-193 §§ 401, 402, 403 and 431 and PL 109-171 § 6036; and 71 FR 39214 (July 6, 2006).

Rule 1240-3-3-.03 Resource Limitations for Categorically Needy, is amended by deleting subpart (i) of paragraph (2), subparagraph (a), part 1 in its entirety and by substituting instead the following language so that, as amended, subpart (i) shall read as follows:

(i) A homestead may be exempt if used as a home by the applicant/recipient, spouse, and/or dependent/relative. If absent from the home with intent to return, an individual may retain a homestead for an unlimited period of time. Based on current market values, individuals with an equity interest in their home greater than five hundred thousand dollars ($500,000) are ineligible for Medical assistance for either institutional care or Home and Community-Based Services (HCBS). Beginning in the year 2011, the five hundred thousand dollar ($500,000) limit on home equity will increase each year. The increase will be based on the percentage increase in the Consumer Price Index (CPI) for all urban consumers, rounded to the nearest one thousand dollars ($1,000).

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-209, 71-1-105(11) and (12), 71-5-102, 71-5-111 and 71-5-121; 42 U.S.C. §§ 1396 et seq., 42 U.S.C. § 1396d(p) and (s), 42 U.S.C. § 1396p, 42 U.S.C. § 1396p(c)(1)(A), (B), (C), (D), (E)(iv), (F), (G), (H), (I) and (J), 42 U.S.C. § 1396p(c)(2)(D), 42 U.S.C. § 1396p(e), 42 U.S.C. § 1396p(f)(1), (2) and (3), 42 U.S.C. § 1396p(g) and 42 U.S.C. § 1396r-5(b), (d), (f) and (g); 42 C.F.R. §§ 435.700, 435.721(b), 435.831, 435.851, and 435.914 (b) and (c); 20 C.F.R. § 416.1205(c) and 20 C.F.R. §§ 416.1212, 416.1220 and 416.1224; PL 101-239 Omnibus Reconciliation Act (OBRA) 1989 § 8014 and OBRA 1993; and PL 97-248, PL 98-369 § 2611, PL 99-509 § 9401(a)(3), PL 100-93 § 9, PL 104-193 and PL 109-171 § 6011, 6014, 6015, and 6016.

Rule 1240-3-3-.03 Resource Limitations for Categorically Needy, is amended by inserting a new subpart (vii) under paragraph (2), subparagraph (a), part 1 and by renumbering the existing subparts (vii) and (viii) respectively as (viii) and (ix) so that, as amended, the newly designated subpart (vii) shall read as follows:

(vii) Funds used to purchase a promissory note, loan or mortgage, if the repayment terms are actuarially sound, provide for payments to be made in equal amounts during the term of the loan with no deferrals or balloon payments, and the balance is not cancelled upon the death of the lender.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-209, 71-1-105(11) and (12), 71-5-102, 71-5-111 and 71-5-121; 42 U.S.C. §§ 1396 et seq., 42 U.S.C. § 1396d(p) and (s), 42 U.S.C. § 1396p, 42 U.S.C. § 1396p(c)(1)(A), (B), (C), (D), (E)(iv), (F), (G), (H), (I) and (J), 42 U.S.C. § 1396p(c)(2)(D), 42 U.S.C. § 1396p(e), 42 U.S.C. § 1396p(f)(1), (2) and (3), 42 U.S.C. § 1396p(g) and 42 U.S.C. § 1396r-5(b), (d), (f) and (g); 42 C.F.R. §§ 435.700, 435.721(b), 435.831, 435.851, and 435.914 (b) and (c); 20 C.F.R. § 416.1205(c) and 20 C.F.R. §§ 416.1212, 416.1220 and 416.1224; Omnibus Reconciliation Act (OBRA) 1989 § 8014 and OBRA 1993; and PL 97-248, PL 98-369 § 2611, PL 99-509 § 9401(a)(3), PL 100-93 § 9, PL 104-193 and PL 109-171 § 6011, 6014, 6015, and 6016.

Rule 1240-3-3-.03 Resource Limitations for Categorically Needy, is amended by deleting paragraph (3) in its entirety and by substituting instead the following language so that, as amended, paragraph (3) shall read as follows:

(3) Transfer of Assets.

(a) Countable assets under this paragraph (3) include all real and personal property except a home and title transferred to the individual's--

(i) Spouse;

(ii) Minor child under age twenty-one (21) or adult disabled or blind child;

(iii) Sibling who has equity interest in the property and has resided in the home for at least one (1) year prior to the individual's institutionalization;

(iv) Child [other than those in subpart (ii) above] who resided in the home at least two (2) years immediately preceding the individual's institutionalization and who provided care that permitted the individual to stay in the home rather than a medical or nursing facility; or

(v) To another for the sole benefit of the community spouse or the individual's child who is blind or permanently and totally disabled, or under age twenty-one (21).

(b) The period of ineligibility for nursing home vendor or waivered services under HCBS for assets transferred within sixty (60) months of application for long term care nursing services or HCBS will be determined by dividing the uncompensated value of the transferred asset by the average monthly nursing home private pay rate. In determining the penalty for a transfer a State may not round down or disregard any fractional period of ineligibility. There is no limit on the maximum months of ineligibility. The penalty continues until expired unless hardship is considered to exist and the institutionalized individual has no available resources (other than the uncompensated value) in excess of the resource limitations and the application of the penalty will result in loss of essential nursing care, which is not available from any other source.

(c) If an asset has been found to be transferred for less than fair market value within the sixty (60) month look-back period, the penalty period begins the month the individual becomes eligible for institutional care or Home and Community Based Services

(HCBS) or the month of the transfer, whichever is later. The penalty period runs consecutively even if the individual leaves the nursing home for a period of time and later returns. If a penalty period is imposed for new applicants, Medicaid requires a denial notice. If a penalty period is imposed on an individual who is already receiving Medicaid, a ten (10) day adverse action notice is required.

(d) Any multiple transfers made within the look-back period will be treated as a single transfer and calculated as a single period of ineligibility, which would begin on the date the individual is eligible for medical assistance and would otherwise be receiving institutional level care if not for the imposition of the penalty period, or the date of transfer, whichever is later. For example, if an individual's spouse makes an uncompensated transfer of assets of one thousand dollars ($1,000) in each of the sixty (60) months of the look-back period, the State would add the transfers together to arrive at a total amount of sixty thousand dollars ($60,000), divide that by the average private pay rate, and impose one continuous period of ineligibility. The penalty period would start with the earliest date specified under Tennessee's Medicaid plan.

(e) The transfers indicated below, if occurring on or after February 8, 2006, may be considered a transfer of assets for less than fair market value with respect to an individual applying for Medicaid based on institutionalization:

1. If the transfer of assets occurs within sixty (60) months of application for institutional care.

2. If the institutionalized individual, his/her spouse, or any person, court or administrative body with authority to act on behalf of, or at the direction or request of, the individual or his/her spouse, establishes a trust or similar device, which includes the individual's assets and cannot be used by or for the individual's benefit, if it occurred within sixty (60) months of application for institutional care.

3. If an asset is held jointly by the institutionalized individual with another person and the individual or other owner reduces or eliminates the institutionalized individual's ownership or control of the asset.

4. Penalty.

(i) The institutionalized individual may be subject to penalty if the transfer was completed by himself/herself; the individual's spouse; a person (including a court) or administrative body with legal authority to act in place of, or on behalf of, or at the direction or request of the institutionalized individual or his/her spouse.

(ii) The transfer of assets will be subject to a penalty period of ineligibility for nursing home vendor or waivered services under HCBS (Medicaid eligibility continues for other services) determined by dividing uncompensated value of the transferred asset by the average monthly nursing home charge at the private pay rate unless satisfactory proof is provided that the individual intended to dispose of assets for fair market value; or assets were transferred exclusively for a purpose other than to qualify for Medicaid; or transferred assets have been returned to the individual; or if it is determined that the penalty period would work an undue hardship as defined in (3)(b) above.

(iii) Assets include all income and resources, including the home, unless transferred as indicated in (a) above, of the institutionalized individual

and his/her spouse (including income and/or resources the individual is entitled to, but does not receive because of any action by the individual or his/her spouse, or a person (including a court) or administrative body with legal authority to represent the individual, his/her spouse, or who acts at the direction or request of the individual and his/her spouse).

(f) Any contractual provision requiring the resident to deposit entrance fees must take into account the required allocation of resources or income to the community spouse before determining the resident's cost of care. In addition the entrance fee paid to the Continuing Care Retirement Community (CCRC) or life care community is treated as a resource to an individual for purposes of determining Medicaid eligibility. The following three (3) conditions must all be met in order for the entrance fee to be considered an available resource:

1. Any portion of the entrance fee is refunded or used to pay for care under the terms of the entrance contract should other resources of the individual be insufficient; and

2. The entrance fee, or any portion thereof, is refundable under the terms of the contract when the individual dies or terminates the contract and leaves the CCRC or life care community, whether or not any amount is actually refunded; and

3. The entrance fee does not confer an ownership interest in the community.

(g) Funds used to purchase a loan, mortgage or promissory must be treated as a transfer of assets unless it has a repayment term that is actuarially sound, provides for payments to be made in equal amounts during the term of the loan with no deferral or balloon payment, and prohibits cancellation of the balance upon the death of the lender. If an individual purchases a home from a nursing home applicant and the purchase agreement does not meet the criteria of this subparagraph (g), the value of the home will be the outstanding balance due as of the date of the application for Medicaid.

(h) A life estate interest purchased by a nursing home applicant in another individual's home shall be treated as a transfer of assets unless the nursing home applicant resides in the home for a period of at least one (1) year after the date of the purchase.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-209, 71-1-105(11) and (12), 71-5-102, 71-5-111 and 71-5-121; 42 U.S.C. §§ 1396 et seq., 42 U.S.C. § 1396d(p) and (s), 42 U.S.C. § 1396p, 42 U.S.C. § 1396p(c)(1)(A), (B), (C), (D), (E)(iv), (F), (G), (H), (I) and (J), 42 U.S.C. § 1396p(c)(2)(D), 42 U.S.C. § 1396p(e), 42 U.S.C. § 1396p(f)(1), (2) and (3), 42 U.S.C. § 1396p(g) and 42 U.S.C. § 1396r-5(b), (d), (f) and (g); 42 C.F.R. §§ 435.700, 435.721(b), 435.831, 435.851, and 435.914 (b) and (c); 20 C.F.R. § 416.1205(c) and 20 C.F.R. §§ 416.1212, 416.1220 and 416.1224; Omnibus Reconciliation Act (OBRA) 1989 § 8014 and OBRA 1993; and PL 97-248, PL 98-369 § 2611, PL 99-509 § 9401(a)(3), PL 100-93 § 9, PL 104-193 and PL 109-171 § 6011, 6014, 6015, and 6016.

Rule 1240-3-3-.03 Resource Limitations for Categorically Needy, is amended by deleting paragraph (6) in its entirety and by substituting instead the following language so that, as amended, paragraph (6) shall read as follows:

(6) Undue hardship shall exist when an application of a transfer of assets provision would deprive the individual of medical care such that the individual's health or life would be endangered or of loss of food, clothing, shelter, or other necessities of life.

(a) The individual, the individual's responsible party, or the facility in which an institutionalized individual resides may file an undue hardship claim on behalf of the

applicant/recipient. DHS will determine whether a hardship exists and notify the applicant/recipient within thirty (30) days of filing.

(b) If undue hardship is determined not to exist, the denial of undue hardship may be appealed within forty (40) days.

(c) While an application is pending for an undue hardship waiver and the applicant meets the criteria in 1240-3-3-.03 (6) above, the state will provide for nursing facility services in order to hold the bed for the individual at the facility, but not in excess of ten (10) days.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-209, 71-1-105(11) and (12), 71-5-102, and 71-5-111; 42 U.S.C. §§ 1396 et seq., and 42 U.S.C. § 1396p(c)(2)(D) and (f)(4); and PL 109-171 § 6011 and 6014.

Rule 1240-3-3-.03 Resource Limitations for Categorically Needy, is amended by inserting the following language as new paragraph (7) and renumbering the remaining paragraphs accordingly, so that, as amended, paragraph (7) shall read as follows:

(7) Annuities.

(a) For any new application or recertification for medical assistance for long-term care services, the applicant must include a description and disclosure of any interest the applicant or the community spouse may have in an annuity.

(b) The annuity must be treated as a transfer of assets unless it is irrevocable and non-assignable, actuarially sound, and provides payments in equal amounts during the term of the annuity, with no deferral or balloon payments.

(c) The purchase of an annuity will be treated as a transfer of assets for less than fair market value unless:

1. The State of Tennessee is named as the remainder beneficiary in the first position for at least the total amount of medical assistance paid on behalf of the institutionalized individual, or

2. If there is a community spouse and/or a minor or disabled child, the State is named in the next position after those individuals.

(i) If the State has been named after a community spouse and/or a minor or disabled child, and any of those individuals or their representatives dispose of any of the remainder of the annuity for less than fair market value, the State may then be named in the first position.

(ii) A child is considered disabled if he or she meets the definition of disability found at Section 1614(a)(3) of the Social Security Act (42 U.S.C. § 1382c(a)(3)).

(d) In addition to the provisions in (c)1 or 2 above, an annuity purchased by or on behalf of the annuitant who has applied for medical assistance will not be treated as a transfer of assets if the annuity meets any of the following conditions in part 1 or part 2 or all of the conditions in part 3 below.

1. The annuity is -

(i) An individual retirement annuity (according to Section 408(b) of the Internal Revenue Code of 1986 (IRC) (26 U.S.C. § 408(b)), or

(ii) Deemed Individual Retirement Account (IRA) under a qualified employer plan according to Section 408(q) of the IRC) (26 U.S.C. § 408(q)), or

2. The annuity is purchased with proceeds from -

(i) A traditional IRA (IRC Section 408a) (26 U.S.C. § 408(a)), or

(ii) Certain accounts or trusts which are treated as traditional IRAs (IRC Section 408 § (c)) (26 U.S.C. § 408(c)), or

(iii) Simplified retirement account (IRC Section 408 § (p)) (26 U.S.C. § 408(p)), or

(iv) A simplified employee pension (IRC Section 408 § (k)) (26 U.S.C. § 408(k)), or

(v) A Roth IRA (IRC Section 408 A) (26 U.S.C. § 408(A)), or

3. The annuity meets all of the following--

(i) The annuity is irrevocable and non-assignable,

(ii) The annuity is actuarially sound, and

(iii) The annuity provides payments in equal amounts, with no deferred or balloon payments.

4. If an annuity is absent of such proof as outlined in this subparagraph (d), the purchase of the annuity will be considered a transfer for less than fair market value which is subject to a penalty. The burden is on the institutionalized individual, or his or her representative, to produce the necessary documentation.

(e) The issuer of the annuity must notify the State when there is a change in the disbursement of income or principal from the annuity.

(f) The application for assistance, including the application for recertification, must include for long-term care services the required disclosure under Section 1917(e)(1) and (2) of the Social Security Act (42 U.S.C. § 1396p(e)(1) and (2)) as provided in subparagraph (a) above. Failure to complete an application form that meets these requirements will not affect the individual's eligibility for Medicaid; however, the individual will not be eligible for coverage of long-term care services unless the appropriate form is completed and signed.

(g) If the annuity is not subject to penalty as transferred assets, it must still be evaluated as income or resources, including spousal income or resources, and in the post-eligibility calculation, as appropriate.

(h) The provisions of this paragraph (7) shall apply to all transactions occurring on or after February 8, 2006, including the purchase of an annuity and any other transaction that changes the course of payments to be made or the treatment of income and principal under an existing annuity, such as additions of principal, elective withdrawals, request to change the distribution of the annuity, elections to annuitize the contract and other similar actions.

(i) Routine changes which occur, based on the terms of an annuity which existed prior to February 8, 2006, and which do not require a decision, election, or action to take effect are not considered a transaction. Routine changes would also include an address change or death or divorce of a remainder beneficiary and other similar circumstances.

(I) For example, if an annuity purchased in June 2001 included terms which require distribution to begin five years from the date of purchase, and payouts consequently begin, as scheduled, in June 2006, this will not be considered a transaction since no action was required to initiate the change.

(II) Changes which are beyond the control of the individual, such as changes in law, a change in the policies of the issuer, or a change in terms based on other factors, such as the issuer's economic conditions, are not considered transactions

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-209, 71-1-105(11) and (12), 71-5-102, 71-5-106, and 71-5-111; 26 U.S.C. §§ 408 and 408A; 42 U.S.C. §§ 1396 et seq., 42 U.S.C. § 1396p, 42 U.S.C. § 1396p(c)(1)(F) and (G), 42 U.S.C. § 1396p(d)(4)(B), 42 U.S.C. § 1396p(e)(1),(2),(3) and (4); 42 C.F.R. §§ 435.725 and 735 and 42 C.F.R. § 435.832; and PL 109-171 § 6012.

Rule 1240-3-3-.03 Resource Limitations for Categorically Needy, is amended by deleting newly numbered paragraph (9) in its entirety and by substituting the following language, so that, as amended, paragraph (9) shall read as follows:

(9) Assessment of Resources and Community Spouse Resource Allowance.

(a) Resources owned by either spouse, or by both spouses together, are considered equally available to both spouses at the beginning of a continuous period of institutionalization (i.e., 30 consecutive days in nursing care) for persons institutionalized after September 30, 1989. If an assessment of resources is requested by the institutionalized or community spouse or by either spouse's authorized representative, an assessment will be made within thirty (30) days of receipt of all relevant documentation from the requesting party(ies). If either spouse is dissatisfied with the Department's assessment of the community spouse's resource allowance at the point an application for Medicaid has been filed, either spouse has a right to a fair hearing with respect to the determination, which shall be held within thirty (30) days of the date a request for hearing is made

(b) The community spouse resource allowance is equal to the greater of:

1. One-half (1/2) of the total resources owned by both spouses not to be less than twenty thousand three hundred twenty-eight dollars ($20,328) nor greater than one hundred one thousand six hundred forty dollars ($101,640);

2. The amount established after a fair hearing by the Department of Human Services; or

3. The amount transferred under a court order against the institutionalized spouse for the support of the community spouse, using Tennessee's Medicaid eligibility standards, regardless of any other state laws relating to community property or the division of marital property.

(c) The maximum amount of income of the institutionalized spouse must be allocated to the community spouse before increasing the resource allocation.

(d) Spouses must be legally married pursuant to the laws of the State of Tennessee; and

(e) The community spouse resource allowance determined by the assessment will be deducted from the value of all available resources owned by both spouses as of the first month for which assistance is requested. After the initial month of eligibility, no resources of the community spouse will be considered available to the institutionalized spouse.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-209, 71-1-105(11) and (12), 71-5-102, 71-5-111 and 71-5-121; 42 U.S.C. §§ 1396 et seq., 42 U.S.C. § 1396d(p) and (s), 42 U.S.C. § 1396p, 42 U.S.C. § 1396p(c)(1)(A), (B), (C), (D),(E), (E)(iv), (F), (G), (H), (I) and (J), 42 U.S.C. § 1396p(c)(2)(D), 42 U.S.C. § 1396p(e), 42 U.S.C. § 1396p(f)(1), (2) and (3), 42 U.S.C. § 1396p(g), 42 U.S.C. § 1396r-5(b), (d), (f) and (g), and 42 U.S.C. § 1396r-5(d)(6) and (e); 20 C.F.R. §§ 416.1205(c), 416.1212, 416.1220 and 416.1224; 42 C.F.R. §§ 435.700, 435.721(b), 435.725, 435.735, 435.831, 435.832, 435.851, and 435.914 (b) and (c); PL 97-248, PL 98-369 §2611, PL 99-509 §9401(a)(3), and PL 100-93 §9; Omnibus Reconciliation Act (OBRA) 1989 § 8014 and OBRA 1993; and PL 109-171 §§ 6011, 6012, 6013, 6014, 6015, and 6016.

Legal Contact or Party who will approve final copy:

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I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Department of Human Services.

Phyllis A. Simpson
Assistant General Counsel
Tennessee Department of Human Services

GINA D. COLEMAN
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY, TENN.
My Commission Expires JULY 25, 2009

Subscribed and sworn to before me this 31st day of May, 2007.

Notary Public

My commission expires on the _____ day of _____, _____.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31 day of May, 2007

Riley C. Darnell
Secretary of State

By: _____

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