



Bureau of TennCare

Policy Manual

Policy No: EED 06-001 (rev 2)	
Subject: Eligibility of Incarcerated Individuals	
Approved by: <i>D-G. Be</i>	Date: <i>6/12/2009</i>

PURPOSE:

The purpose of this policy is to clarify the meaning of the term "incarcerated" as it applies to persons who are eligible or who might be eligible for TennCare.

POLICY:

Persons who are considered "incarcerated" are not eligible for TennCare. See TennCare rules 1200-13-13-.10 and 1200-13-14-.10. See also Tennessee Attorney General's Opinion No. 97-010 (February 4, 1997) and Tenn. Atty. Gen. Op. No. 02-088 (August 20, 2002). In these opinions, the Attorney General's office determined "that the TennCare program may properly deny coverage of medical charges incurred by an incarcerated TennCare enrollee, either before or after he or she is convicted of criminal charges" (see p. 3 of Tenn. Atty. Gen. Op. No. 02-088).

Persons who are eligible for TennCare at the time they become incarcerated will have their eligibility terminated at such time as TennCare learns of the incarceration and verifies that the individual is in fact incarcerated. TennCare eligibles who become incarcerated and who are removed from the TennCare program will have to reapply for TennCare at the time their period of incarceration ends, with their eligibility for TennCare being determined after incarceration according to the criteria in effect at the time they re-apply. Eligibility of individuals who are disenrolled from TennCare because they are incarcerated is not "suspended" for the period of the incarceration.

There is one exception to the policy that enrollees lose eligibility for TennCare when TennCare verifies that they are incarcerated. TennCare-eligible children in Department of Children's Services (DCS) custody remain on TennCare during periods when they are residing in Youth Development Centers (YDCs). Using authority permitted by the Health Care Financing Administration (HCFA)¹ Program Issuance Transmittal Notice MCD-05-

¹ HCFA was renamed the Centers for Medicare and Medicaid Services (CMS) in 2001.

98 dated March 6, 1998, TennCare pays for covered services provided to TennCare-eligible DCS children who are residing in YDCs when these services are delivered in inpatient medical facilities outside the YDCs.

The following table includes a variety of different types of facilities or correctional circumstances which may be considered to provide “incarceration.” It should be noted that in order for people to be eligible for TennCare in any of the circumstances indicated below, they must meet the criteria for an open TennCare eligibility category.

“Incarceration”-Type Facilities and Circumstances

Type of Facility or Incarceration Circumstance	Can Persons in these Types of Facilities be Eligible for TennCare?	Comment
Federal prison or jail	No	
State prison or jail	No	
County or local prison or jail	No, unless the person is a minor child being held awaiting hearing or trial for a criminal/delinquent offense. Adults who are charged with a criminal offense, confined to a county jail, and held as a pre-trial detainee are not eligible.	Pre-trial and pre-hearing transportation are the responsibility of the agency operating the jail or detention center.
Youth Development Centers (DCS)	Yes, but only for covered services delivered to already enrolled TennCare members in inpatient medical facilities outside the YDC and for services delivered pursuant to <i>Grier</i> .	Special provisions for service appeals for children in YDCs are contained in the <i>Grier Order Amending Consent Decree (Modified)</i> , Section C.15(f). These provisions permit appeals related to adverse actions that occurred prior to the child entering the YDC and appeals related to denial or delay of medically necessary services the child will need upon discharge from the YDC.
Juvenile detention centers (DCS)	Yes	Pre-trial and pre-hearing transportation are the responsibility of the agency operating the jail or detention center.
Person is on “furlough” (meaning, a brief release	No	The individual who is on “furlough” from jail is still

Type of Facility or Incarceration Circumstance	Can Persons in these Types of Facilities be Eligible for TennCare?	Comment
from prison before returning to prison)		considered to be incarcerated.

PROCEDURES:

1. TennCare learns of incarcerations from the Department of Corrections (DOC) and the Department of Children’s Services (DCS) through file transfers.
 - a. DOC sends prisoners’ names to TennCare and/or its contractor or agent on a regular basis. These names are entered into the TennCare data system and reported in file TPL-0061-Q. Names are matched to TennCare eligibility files to identify persons who should be disenrolled because they are incarcerated. The resulting list is reviewed in order to remove names of persons for whom disenrollment is inappropriate (e.g., individuals who have left the correctional system since their names were put on the list.) The enrollees remaining on the final list are processed for disenrollment from the TennCare program.
 - b. DCS sends eligibility rosters to TennCare on a regular basis. These rosters include names of children who are in YDCs and names of children who are in detention centers. TennCare uses these rosters to ensure that services for children in these centers are not reimbursed by TennCare unless, for children in YDCs, the services are covered inpatient medical facilities services delivered outside the YDC and/or services delivered pursuant to *Grier*.
2. In other situations, TennCare learns of incarcerations when these are reported by enrollees, Managed Care Contractors (MCCs), or other sources through mechanisms such as the Fraud and Abuse Hotline. At the time it is verified that the individual is indeed incarcerated, he is disenrolled from the program.

DEFINITIONS:

1. Incarcerated. Being held in a penal facility or a related public institution which one cannot leave freely on one’s own.
2. Inmate. An individual confined in a local, state, or federal prison, jail, youth development center, or other penal or correctional facility, including a furlough from such facility. *Source: TennCare rules 1200-13-13-.01 and 1200-13-14-.01.*
3. Juvenile Detention Center. A residential facility for children who are in need of legal temporary placement, who are awaiting adjudication of a pending petition, or who are awaiting disposition and/or placement. The facility has a secure portion for children who meet certain criteria. *Source: T.C.A. § 37-5-501.*

4. Youth Development Center (YDC). One of the five state-operated, hardware-secure, residential facilities that provide treatment programs for delinquent youth between the ages of 12 and 19. The typical student at a YDC, according to DCS, “is likely to have committed a violent offense toward another person and may have mental health problems or other specialized needs.” The five YDCs in Tennessee are:
- Mountain View YDC in Dandridge,
 - Taft YDC near Pikeville,
 - Wilder YDC in Somerville,
 - Woodland Hills YDC in Nashville, and
 - New Visions (for girls only) in Nashville.

Source: DCS website: <http://www.tn.gov/youth/juvenilejustice/ydcenters.htm>

OFFICES OF PRIMARY RESPONSIBILITY:

- TennCare Division of Member Services (for verification of incarceration)
- TennCare Division of Information Services (for enrollment/disenrollment of incarcerated individuals)
- TennCare Fiscal (for processing enrollment/disenrollment information)
- Department of Children’s Services (DCS) (for providing information to TennCare with respect to entry/discharge of children at Youth Development Centers)
- Department of Corrections (DOC) (for providing information to TennCare with respect to individuals who are confined in state prisons)

REFERENCES:

- 42 C.F.R. § 435.1009(a)(1) (See <http://www.gpo.gov/fdsys/pkg/CFR-2010-title42-vol4/pdf/CFR-2010-title42-vol4-sec435-1010.pdf>)
- T.C.A. § 37-5-501
(See <http://www.lexisnexis.com/hottopic/tncode/>)
- TennCare Rules 1200-13-13-.10 and 1200-13-14-.10
(See <http://www.tn.gov/sos/rules/1200/1200-13/1200-13.htm>)
- DHS Rule 1240-03-03-.02 (See <http://www.tn.gov/sos/rules/1240/1240.htm>)
- *Grier Order Amending Revised Consent Decree (Modified)* (February 5, 2008) (See <http://www.tn.gov/tenncare/forms/grier020508.pdf>)
- Tenn. Atty. Gen. Op. No. 97-010 (February 4, 1997)
(See <http://www.tn.gov/tenncare/forms/agopinion.pdf>)
- Tenn. Atty. Gen. Op. No. 02-088 (August 20, 2002)
(See <http://www.tn.gov/attorneygeneral/op/2002/op/op88.pdf>)
- HCFA Program Issuance Transmittal Notice MCD-05-98 dated 3/6/98
(See <http://www.tn.gov/tenncare/forms/hcfa.pdf>)

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