

Health Care Finance and Administration	Section: Institutional Medicaid
Policy Manual Number: 125.005	Chapter: Institutional Status

INSTITUTIONAL STATUS

Legal Authority: 42 CFR 435.1009; 42 CFR 435.1010

1. Policy Statement

An individual must be institutionalized in order to receive benefits in the Institutional Medicaid category.

An individual is considered institutionalized when he or she has:

- Been admitted to a Nursing Facility (NF) or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID), and has been determined by HCFA to be likely to be continuously confined for at least 30 days going forward; or
- Applied to enroll in the HCBS waiver program, and has been determined to need and likely to receive services for a continuous period of at least 30 days going forward; or
- Died while in long-term care nursing facility prior to meeting the 30 days continuous confinement requirement.

2. Continuous Confinement

a. Individuals with a Pre-Admission Evaluation (PAE)

An individual with a PAE is considered continuously confined when:

- The individual has been admitted to a NF and was continuously in a medical institution (i.e., hospital, NF or ICF/IID) for at least 30 days prior to admission; or
- The individual has been admitted to a NF or ICF/IID and has been determined by HCFA to be likely to be continuously confined for at least 30 days going forward, demonstrated by an approved PAE which is effective for at least 30 days; or
- The person has been admitted to a NF or ICF/IID and the period of time spent in a medical institution combined with the period of time for which an approved PAE is effective exceeds 30 days; or
- The individual has been determined to need and likely to receive HCBS for a continuous period of at least 30 days going forward, demonstrated by an approved PAE and a CHOICES Enrollment form or 2350 form, as applicable. If a 2350 form is used, the form must be received from the Department of Intellectual and Developmental Disability (DIDDS) for enrollment into an IID waiver program.

b. Individuals without a Pre-Admission Evaluation

An individual without a PAE is considered continuously confined when:

- The individual has been admitted to a NF and was continuously in a medical institution (i.e. hospital, NF or ICF/IID) for at least 30 days prior to admission; or
- The individual is dually-eligible for Medicare and Medicaid, and is receiving Level 2 Skilled Nursing Facility (SNF) care paid by Medicare. Medicare pays for the first 100 days of Level 2 SNF care.

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NOTE: A dual-eligible individual receiving SNF care paid for by Medicare does not need to be in an Institutional Medicaid category for HCFA to pay the Medicare co-pay. He or she must receive QMB, but may be eligible as a Supplemental Security Income (SSI) recipient or in another TennCare Medicaid category.

NOTE: If the dual-eligible individual continues to need Long-Term Services and Supports (LTSS) after his or her Medicare-covered stay in the SNF, then he or she must apply for CHOICES. If the individual is applying for HCBS services, he or she will need a PAE. If the individual applies for nursing facility care, he or she will need a PAE or may be approved based on continuous confinement.

3. Institution Types

An institution is an establishment that provides food, shelter, treatment and services to four or more individuals. Types of institutions include:

a. Medical Institution

An institution authorized by state law and organized to provide medical care, including nursing and convalescent care. Examples of medical institutions include: hospitals, convalescent or progressive care centers, and Long-Term Care Facilities (LTCFs), providing both skilled and intermediate care.

b. Institution for the Intellectually and Developmentally Disabled

An institution organized primarily for the diagnosis, treatment or rehabilitation of the intellectually and developmentally disabled. It provides a protected residential setting for the evaluation, rehabilitation and 24-hour supervision of the patient.

c. Institution for Mental Disease (IMD)

An institution licensed to provide diagnosis, treatment or care for persons with mental diseases.

TennCare Medicaid reimbursement is limited to care provided for an eligible individual who is at least 65 years of age and confined to an approved ward.

Confinement in an IMD does satisfy and establish institutional status for individuals under age 65 and those confined to unapproved wards; therefore, when subsequently admitted to a medical institution these individuals may already meet confinement.

d. Public Institution

A public institution is an institution serving more than 16 residents that is the responsibility of or controlled by a governmental unit. A public institution does not include:

- A medical institution; or
- An intermediate care facility (ICF), including those providing services to individuals age 65 and older in institutions for tuberculosis or mental disease.

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e. Institution for Tuberculosis

A facility established and maintained primarily for the care and treatment of tuberculosis. Tennessee does not have any chest disease or tuberculosis hospitals. Reimbursement is available to an out-of-state hospital for a Tennessee resident who requires such care.

4. Inmate of a Public Institution

a. Inmate Status

Inmate means any person living in a public institution who was committed under the penal system with NO exceptions. Inmate status suspends receipt of Medicaid benefits, but is no longer considered a factor when looking at non-financial eligibility criteria.

The following would not be considered inmates:

- Individuals in public educational or vocational institutions designed for the primary purposes of educational or vocational training designed to prepare him or her for gainful employment; or
- Individuals temporarily confined pending other arrangements appropriate to his or her needs; or
- Individuals receiving medical treatment in a ward approved by HCFA, such as patients in certified wards of State Developmental Centers for Intellectual and Developmental Disabilities, including certified ICF/IID wards and certified SNF, as well as patients in certified wards of State Mental Health Hospitals and Private Certified Mental Health Hospitals.

b. Termination of Inmate Status

Inmate status is interrupted or terminated when an individual is admitted as an inpatient to a medical institution, except for those committed under the penal system. Inmate status for those committed under the penal system terminates upon release from custody. Release means:

- Parole;
- Pardon;
- Bail; or
- Dismissal of charges.

5. Verification of Institutional Status

Establish the individual's institutional status using any one of the following methods or evidence as appropriate. Document the verification source(s) in the case notes.

a. Confinement to a Medical Institution (Hospital or similar institution)

Check with the hospital admission office either by phone or written correspondence to verify admission and discharge dates. Review the individual's bill for hospital charges as it may include an admission and a discharge date.

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b. LTCF

Evidence of an individual's institutional status includes:

- An approved PAE in the appropriate TennCare Pre-Admission Evaluation System (TPAES) queue.
- A completed Form 2350, Notice Recipient-Patient Admitted to or Discharged from Skilled Nursing Home Care or Intermediate Care, received by HCFA Member Services.

c. Confinement to an IMD

Form 2350 from a Department of Mental Health and Substance Abuse Services (MDHDD) facility is sufficient evidence that the unit to which the individual was admitted is one qualified for TennCare Medicaid reimbursement. Review the voluntary admission form the individual signed prior to admission to substantiate that the individual is not an inmate.

d. Enrollment in HCBS

The individual must have an approved PAE in TPAES to be eligible to receive HCBS. An approved PAE in the TPAES Member Services queue is verification of institutionalized status.

6. Patient in an IMD

Patient includes an individual receiving professional service in an institution for mental diseases, but does not include an individual on conditional release or convalescent leave from such an institution.

7. Coverage for Former Patients and Inmates of Institutions for Mental Diseases (IMD)

a. Overview

A qualifying individual who is no longer a patient in an IMD or has had his inmate status interrupted may be eligible for TennCare Medicaid benefits upon his admission to a medical institution that is a Title XIX facility. Interruption of IMD patient status occurs when the individual is released, transferred from or receives convalescent leave from an IMD. Inmate status is interrupted when an individual is admitted to a medical institution unless he was admitted under the penal system, which requires release from the institution, i.e., parole, pardon, bail or dismissal of charges.

b. Tennessee IMD

An individual may qualify for TennCare Medicaid benefits as an institutionalized individual when his patient or inmate status in one of the following public institutions is interrupted:

- Memphis Mental Health Institute, Memphis;
- Middle Tennessee Mental Health Institute, Nashville;
- Western Mental Health Institute, Bolivar; or
- Moccasin Bend Mental Health Institute, Chattanooga

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These individuals must follow all procedures for filing an application for assistance and must meet all non-financial and financial requirements for TennCare Medicaid. As applications are processed for this group, refer to any individuals who might qualify for Supplemental Security Income (SSI) cash assistance to Social Security. Eligibility for SSI cash assistance includes TennCare Medicaid benefits.

The IMD representative will arrange for placement in a medical institution and will develop a plan with either the individual's family or the medical facility to apply for TennCare Medicaid. Because of the individual's former patient or inmate status, HCFA Member Services should be able to secure all necessary information from an IMD representative. If the IMD representative applies on behalf of the patient, he or she will act as the responsible person for the patient.

If an Eligibility Specialist (ES) is unable to establish eligibility due to missing information, notify the patient's IMD representative and allow 10 days for the representative to secure the necessary information or verification. If the additional 10 days causes the application to be held pending beyond the processing time limit, this is beyond the ES' control, as long as the ES has otherwise acted promptly.

8. Children in Residential Treatment Centers

Children in Residential Treatment Centers are not considered to be continuously confined for the purpose of determining institutional status.

When a child is ordered by Juvenile Court or by a treating physician to undergo a psychiatric evaluation or treatment for a sex offense, alcohol and drug abuse or some other type of residential treatment, the cost of care is the responsibility of the child's family if the child remains in the custody of his parents or other caretaker relative.

If the family cannot afford to pay the cost of care, the family may apply for medical assistance. The child will be considered a member of the household whose absence from the home is temporary. This policy is applied to children who are in approved treatment centers, whether in state or out of state facilities.

Note: Residential treatment when medically necessary is a TennCare covered service.

a. Individuals who enter residential treatment

TennCare Medicaid or TennCare Standard children who enter residential treatment facilities, such as those for sex offenses or alcohol and drug abuse, and are in the custody of a parent or caretaker relative may be eligible in their existing eligibility group. Children in this situation should still be considered a member of the household whose absence from the home is temporary.

Once it has been reported to HCFA that a child has been placed in a treatment facility the Eligibility Specialist should document the expected discharge date in case notes. Follow up with the individual should occur within ten business days of the anticipated date of return. The ES should continue to monitor and document changes in the child's anticipated date of return. If a renewal is required during the period of absence, follow renewal procedures and secure assistance from another state if necessary.

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As long as the steps listed above are taken and documented in case notes, the child will continue to be considered a member of his or her household and retain eligibility in his or her original category (the category the child was eligible in prior to placement in the treatment facility).

If at any time during the absence it is determined that the child is no longer eligible for benefits, terminate eligibility.

9. Treatment Facilities

Examples of treatment facilities that provide these types of services:

- Parkwood Behavioral Health System – located in Mississippi
- Hermitage Hall – located in Tennessee

10. Home and Community Based Services (HCBS)

a. General Description

HCBS are provided in a home or community setting as an alternative to, or to delay the need for, LTSS in a NF or ICF/IID. HCBS are available to individuals who qualify for and are enrolled in CHOICES.

b. Waiver Types

i. HCBS

The HCBS program is authorized by a waiver of TennCare Medicaid statutory requirements. In this waiver program:

- Services are provided to individuals in their own homes or in a facility participating in the HCBS program who would otherwise require the level of care provided in an ICF;
Note: Group homes are considered a community based setting, so individuals living in those settings could be eligible for HCBS benefits.
- Services are required to be furnished under an individual written plan of care; and
- Individuals enrolled must meet the same eligibility criteria as if admitted to an ICF.

ii. Employment and Community First (ECF) CHOICES

Employment and Community First (ECF) CHOICES is an HCBS program designed to support individuals with intellectual and developmental disabilities (I/DD) of all ages in realizing their employment and independent living goals. Individuals enrolled must either meet the NF LOC or be at risk for NF placement in the absence of HCBS. In addition, enrollees must:

- Have been assessed and found to have an intellectual disability manifested before eighteen (18) years of age or a developmental disability manifested before twenty-two (22) years of age, as specified in Tennessee State law (Tennessee Code Annotated, Title 33-1-101); and

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NOTE: For children five years old or younger a “developmental disability” refers to a condition of substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disability if services and supports are not provided.

- Be enrolled in TennCare Medicaid as an SSI recipient or through one of the demonstration groups: ECF CHOICES 217-Like Group or Interim ECF CHOICES At-Risk Group.

Eligibility for the ECF CHOICES 217-Like Group and the Interim ECF CHOICES At-Risk Group is determined based on Institutional Medicaid non-financial and financial eligibility rules.

iii. Department of Intellectual and Developmental Disabilities (DIDD) Waivers

The DIDD waivers provide LTSS for individuals with intellectual disabilities through one of two environments:

- ICF/IIDs; and
- HCBS.

Individuals eligible for a DIDD waiver must meet the non-financial and financial eligibility requirements of the Institutional Medicaid category or receive Medicaid through SSI. There are three DIDD HCBS waivers for individuals with intellectual disabilities:

1. Comprehensive Aggregate Cap Waiver

Individuals qualify for, and absent the provision of waiver services would be placed in, an ICF/IID.

To enroll in this waiver program, an individual must:

- Meet TennCare ICF/IID level of care criteria (TennCare Rule 1200-13-1-.15) and financial eligibility criteria and have a PAE approved by TennCare;
- Have been assessed and found to have an intellectual disability manifested before eighteen 18 years of age, as specified in Tennessee State law (Tennessee Code Annotated, Title 33-1-101); and
- Have been identified by the state as a former member of the certified class in the United States vs. State of Tennessee, et al. (Arlington Developmental Center), a current member of the certified class in the United States vs. the State of Tennessee, et al. (Clover Bottom Developmental Center), or an individual transitioned from the Statewide Waiver (#0128) upon its renewal on January 1, 2015, because he or she was identified by the state as receiving services in excess of the individual cost neutrality cap established for the Statewide Waiver.

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2. State-Wide ID Waiver

The Statewide ID Waiver provides services to Tennessee children with developmental delays and adults and children with intellectual disability who meet the ICF/IID level of care criteria.

To enroll in this waiver program, an individual must:

- Meet TennCare ICF/IID level of care criteria (TennCare Rule 1200-13-1-.15) and financial eligibility criteria and have a PAE approved by TennCare;
- Have been assessed and found to:
 - Have an intellectual disability manifested before eighteen (18) years of age, as specified in Tennessee State law (Tennessee Code Annotated, Title 33-1-101); or
 - Have a developmental disability, which is defined as a condition of substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in an intellectual disability and be a child five (5) years of age or younger.

3. Self-Determination Waiver

The Self-Determination Waiver provides community-based services to individuals with developmental disabilities who would otherwise require the level of care provided in an ICF/IID.

To enroll in this waiver program, an individual must:

- Meet TennCare ICF/IID level of care criteria (TennCare Rule 1200-13-1-.15) and financial eligibility criteria and have a PAE approved by TennCare;
- Have been assessed and found to:
 - Have an intellectual disability manifested before eighteen (18) years of age, as specified in Tennessee State law (Tennessee Code Annotated, Title 33-1-101); or,
 - Have a developmental disability, which is defined as a condition of substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting an intellectual disability and be a child five (5) years of age or younger; and
- Not require residential waiver services (e.g., family model, residential habilitation, supported living) and have an established non-institutional place of residence where the individual lives with family, a non-related caregiver or the individual's own home.

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