

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-25-26
Baltimore, Maryland 21244-1850



State Demonstrations Group

February 27, 2024

Stephen Smith
Director of TennCare
Tennessee Department of Finance and Administration
310 Great Circle Road
Nashville, TN 37243

Dear Director Smith,

On January 24, 2024, the Centers for Medicare & Medicaid Services (CMS) received notice from the state of Tennessee (“the state”) of the intent to adjust to the annual individual expenditure limits applicable to the home and community based services (HCBS) provided to members of certain CHOICES and Employment and Community First CHOICES (ECF CHOICES) groups in the Tennessee section 1115(a) Medicaid demonstration entitled “TennCare III” (Project Number 11-W-00369/4). The demonstration was originally approved on January 8, 2021 under the authority of section 1115(a) of the Social Security Act (the Act).

In accordance with the special terms and conditions (STCs) of the TennCare III demonstration, the state may adjust the annual individual expenditure limits for the total costs for HCBS for persons enrolled in the CHOICES 3 group or ECF CHOICES Groups 4, 5, or 6, as needed in order to reflect provider rate increases over the life of the demonstration.

The STCs require that any adjustments made to the individual expenditure limits for the CHOICES 3 group or ECF CHOICES Groups 4, 5, or 6 be made publicly available on the state’s website. The state must comply with public notice processes as specified under 42 CFR 431.408 and notify CMS of any changes to the annual individual expenditure limits at least 60 days in advance of implementation. The notice received by CMS on January 24, 2024 by the state indicates compliance with the STC requirements for adjusting individual expenditure limits to reflect provider rate increases.

CMS is issuing this letter acknowledging the receipt of the notice of proposed changes on January 24, 2024. As required by the STCs of the demonstration, the earliest such changes may take effect is March 24, 2024. Please find enclosed the notice the state provided to CMS on January 24, 2024. Specific references in the STCs to annual individual expenditure limits in the demonstration impacted by this adjustment will be revised at a later date as a technical conforming update. If you have any questions, please do not hesitate to contact your project officer, Ms. Kamia Rathore. Ms. Rathore can be reached at kamia.rathore@cms.hhs.gov.

Sincerely,

A solid black rectangular box used to redact the signature of the sender.

Andrea J. Casart
Director
Division of Eligibility and Coverage Demonstrations

Enclosure

cc: Tandra Hodges, State Monitoring Lead, Medicaid and CHIP Operations Group



January 24, 2024

Kamia Rathore
State Demonstrations Group
Centers for Medicare & Medicaid Services
Center for Medicaid and CHIP Services
7500 Security Boulevard
Baltimore, Maryland 21244

RE: Notice of Change to Expenditure Caps in CHOICES Group 3 and ECF CHOICES

Dear Ms. Rathore,

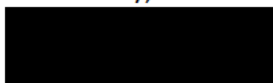
Pursuant to the terms and conditions of the TennCare Demonstration, Tennessee may adjust the expenditure limits applicable to HCBS provided through CHOICES Group 3 and Employment and Community First CHOICES (ECF CHOICES) in order to reflect provider rate increases over the life of the demonstration. Tennessee is hereby providing official notification to CMS of our intent to adjust these HCBS expenditure limits as follows:

Benefit Group	Current Expenditure Cap	New Expenditure Cap Effective To Be Effective March 24, 2024
CHOICES Group 3	\$18,000	\$19,764
ECF CHOICES Group 4	\$18,000	\$18,420
ECF CHOICES Group 5	\$36,000	\$38,820
ECF CHOICES Group 6 – Enrollees with Low Level of Need	\$54,000	\$62,268
ECF CHOICES Group 6 – Enrollees with Moderate Level of Need	\$82,000	\$95,620
ECF CHOICES Group 6 – Enrollees with High Level of Need	\$108,000	\$129,048

We have conducted the public notice process specified in STC 29.i (for CHOICES Group 3) and STC 29.j (for ECF CHOICES). You will find documentation of this public notice process attached to this letter. These new expenditure caps will be implemented 60 days from the date of this notice. Current information about these updated expenditure caps will be maintained in a publicly accessible location on the TennCare website.

If you have any questions about this notice or if you need additional information, please contact Aaron Butler at 615.507.6448, or aaron.c.butler@tn.gov.

Sincerely,



Stephen Smith
Director, Division of TennCare

Attachment A

Description of Public Notice and Input

Description of Public Notice and Input

Effective 60 days from the date of this notice, TennCare will adjust the expenditure limits applicable to HCBS provided through CHOICES Group 3 and ECF CHOICES to reflect targeted rate increases for certain HCBS. The state has taken a variety of steps to ensure that members of the public have been notified of this planned change and have had an opportunity to provide comments and input. These measures were informed by—and comply with—the STCs of the TennCare Demonstration and 42 CFR § 431.408.

Public Notice

The state held a formal notice and comment period on this proposed change from December 20, 2023, through January 22, 2024. During this time, a comprehensive description of the planned change was made available for public review and comment on a designated page on the TennCare website. An abbreviated public notice—which included a summary description of the planned change; the locations, dates, and times of two public hearings; and a link to the full public notice on the state’s website—was published in the newspapers of widest circulation in Tennessee communities with 50,000 or more residents.

The state held two public hearings to seek public comment on this planned change. One hearing took place on January 3, 2024, at 10:00 a.m., Central Time, at the TennCare building, 310 Great Circle Road, Nashville, Tennessee. The other hearing was conducted virtually and took place on January 4, 2024, at 2:00 p.m., Central Time. Members of the public also had the option to submit comments throughout the notice period by mail and/or email.

In addition, the state disseminated information about this proposed change, including a link to the relevant information on TennCare’s website, via its social media accounts (i.e., Facebook, X).

Public Comments

The state received comments from one organization on this proposed change. This comment was supportive of the state’s plan to increase the HCBS expenditure limits in CHOICES Group 3 and ECF CHOICES. This comment is attached in its entirety as Attachment C.

Attachment B
Documentation of Public Notice

Notice of Change to the TennCare III Program Adjustments to Certain HCBS Expenditure Caps

December 20, 2023

The Commissioner of the Tennessee Department of Finance & Administration is providing official notification of a planned change to the TennCare program. This change entails adjustments to certain HCBS expenditure caps in the TennCare program. TennCare is publishing this notice pursuant to 42 CFR § 431.408 and the terms and conditions of the TennCare demonstration in order to solicit public input on this planned change.

Description of Planned Program Change

Within the TennCare demonstration, CHOICES provides HCBS to seniors and adults with physical disabilities. Employment and Community First CHOICES (ECF CHOICES) provides HCBS to individuals with intellectual or other developmental disabilities.

HCBS benefits in CHOICES Group 3 and in ECF CHOICES are subject to annual expenditure caps as specified in the Special Terms and Conditions (STCs) of the TennCare demonstration. Under the terms of the TennCare III demonstration, TennCare may make modifications to these expenditure caps, subject to public notice and notification to the Centers for Medicare & Medicaid Services (CMS).

TennCare hereby provides notice that expenditure caps for certain groups receiving HCBS will be modified as indicated in the table below. These changes will become effective March 24, 2024.

Benefit Group	Expenditure Cap Currently Specified in the STCs	New Expenditure Cap Effective March 2024
CHOICES Group 3	\$18,000	\$19,764
ECF CHOICES Group 4	\$18,000	\$18,420
ECF CHOICES Group 5	\$36,000	\$38,820
ECF CHOICES Group 6 – Enrollees with Low Level of Need	\$54,000	\$62,268
ECF CHOICES Group 6 – Enrollees with Moderate Level of Need	\$82,000	\$95,620
ECF CHOICES Group 6 – Enrollees with High Level of Need	\$108,000	\$129,048

These expenditure cap adjustments reflect targeted increases in reimbursement rates for certain HCBS.

Expected Impact on Enrollment and Expenditures

Adjusting the HCBS expenditure caps for CHOICES Group 3 and ECF CHOICES as described above will not result in the enrollment of additional persons in the TennCare program. This change is also not expected to result in material changes to aggregate expenditures under the TennCare demonstration. TennCare has implemented targeted increases in reimbursement rates for certain HCBS, including under Tennessee's approved plan to enhance, expand, and strengthen HCBS under Section 9817 of the American Rescue Plan Act. The demonstration's STCs currently stipulate that individuals in CHOICES 3 and ECF CHOICES are not subject to service reductions based on exceeding an expenditure cap if the sole reason the expenditure cap would be exceeded is due to these rate increases. This change will ensure that the expenditure caps for CHOICES 3 and ECF CHOICES more accurately reflect the current cost of providing HCBS for these individuals but will not lead to additional expenditures beyond current levels.

Evaluation Impact

TennCare does not anticipate modifying its evaluation design based on this planned change. This change is expected to contribute to key goals of the TennCare demonstration already reflected in the demonstration's evaluation design (currently under CMS review). These include supporting access to appropriate and cost-effective HCBS.

Waiver and Expenditure Authorities Requested

TennCare is not requesting any new waiver or expenditure authorities under Section 1115 of the Social Security Act to implement this change.

Under the terms of the TennCare III demonstration, Tennessee may adjust the HCBS expenditure caps applicable to persons in CHOICES Group 3 and ECF CHOICES without seeking additional approval of a demonstration amendment from the Centers for Medicare & Medicaid Services (CMS).

Public Notice Process

TennCare has taken a variety of steps to ensure that members of the public are notified of this planned change to the TennCare program. These measures include the development and maintenance of this webpage, as well as notices published in newspapers of general circulation in Tennessee communities with 50,000 or more residents.

In addition, TennCare has disseminated information about this proposed change via its social media accounts (e.g., Facebook, X/Twitter).

Public Input Process

TennCare is seeking feedback on this planned change. Members of the public are invited to offer comments regarding this change from December 20, 2023, through January 22, 2024.

Members of the public who wish to comment on this planned change may do so through either of the following options:

- Comments may be sent by email to public.notice.tenncare@tn.gov.
- Comments may be mailed to

Aaron Butler, Director of Policy
Division of TennCare
310 Great Circle Road
Nashville, TN 37243.

Individuals who prefer to make their comments verbally may participate in one of the following public hearings to comment on this planned change:

In-Person Hearing

Location: Room 320.3E of the TennCare Building, 310 Great Circle Road, Nashville, TN.

Date: January 3, 2024

Time: 10:00 a.m. CT

Virtual Hearing

Location: <https://tn.webex.com/tn/j.php?MTID=m6c214df9743e62bec89dfb2120957f>

Date: January 4, 2024

Time: 2:00 p.m. CT

TennCare always appreciates input. In order to be considered prior to implementation of this change, feedback must be received no later than January 22, 2024. Individuals wishing to view comments submitted by members of the public may submit their requests to the same physical address and/or email address at which comments are being accepted.

TennCare Demonstration

A copy of the TennCare demonstration is available at

<https://www.tn.gov/content/dam/tn/tenncare/documents/tenncarewaiver.pdf>.

TennCare Page on CMS Web Site

As the federal agency with oversight authority over all Medicaid programs, CMS offers its own online resources regarding the TennCare demonstration. Interested parties may view these materials at

https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/waivers_faceted.html.



17

**TennCare**

December 22, 2023 ·



TennCare will be making modifications to the expenditure caps in CHOICES Group 3 and in ECF CHOICES. These changes will become effective March 24, 2024.

To learn more visit: <https://www.tn.gov/.../HCBSExpenditureCapsComprehensiveNo...>



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TennCare will be making modifications to the expenditure caps in CHOICES Group 3 and in ECF CHOICES. These changes will become effective March 24, 2024.

To learn more visit: [tn.gov/content/dam/tn...](#)

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<https://twitter.com/TennCare/status/1738310945162846703>

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Attachment C

Public Comments

From: [Debi Gonzalez](#)
To: [PUBLICE.NOTICE TENNCARE](#)
Cc: [Kristen Otto](#); [Robin Atwood](#)
Subject: [EXTERNAL] TennCare III Program Adjustments to HCBS Spending Caps
Date: Thursday, January 18, 2024 11:47:26 AM

Hello Aaron,

I am sending comments on behalf of Tennessee Community Organizations (TNCO) for the Notice of Change to the TennCare III Program Adjustments to Certain HCBS Spending Caps.

We would like to sincerely thank TennCare for adjusting the spending caps to accommodate the rate increases. This will be extremely beneficial for individuals to continue receiving the services that they need and desire. This also greatly supports the provider network in providing those services. We would like to request that TennCare continue to review the need for any changes to the caps with any additional rate increases.

Thank you for your time and consideration.

--

Debi Gonzalez, M.S., BCBA
Chief Operating Officer
She/Her

office: 615.564.7177 ext. 719
mobile: 615.945.2113
fax: 1.888.800.7610
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