



INTERAGENCY AGREEMENT SUMMARY

(Interagency Agreement between state agencies, including the University of Tennessee or Board of Regents colleges and universities)

Begin Date July 1, 2016	End Date June 30, 2019	Agency Tracking # 31865-00101	Edison ID 50239		
Contracting State Agency Name Department of Children's Services					
CFDA # 93.778 Dept of Health & Human Services/Title XIX					
Service Caption Administration of Title XIX Health Related Services					
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Agreement Amount
2017	\$93,729,058.00	\$173,938,242.00			\$267,667,300.00
2018	\$93,729,058.00	\$173,938,242.00			\$267,667,300.00
2019	\$93,729,058.00	\$173,938,242.00			\$267,667,300.00
TOTAL:	\$281,187,174.00	\$521,814,726.00			\$803,001,900.00
American Recovery and Reinvestment Act (ARRA) Funding:				<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.			CPO USE - IA		
Speed Chart (optional)		Account Code (optional)			



**INTERAGENCY AGREEMENT
BETWEEN THE STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE,
DEPARTMENT OF HEALTH,
AND
DEPARTMENT OF CHILDREN'S SERVICES**

This Interagency Agreement (Interagency Agreement or Contract), by and between the State of Tennessee, Department of Finance and Administration, Division of Health Care Finance and Administration (HCFA), Bureau of TennCare (TennCare), hereinafter referred to as the "Procuring State Agency" "HCFA", or "TennCare," and the Department of Health (TDH), and Department of Children's Services, hereinafter referred to as the "Contractor," "Contracting State Agency" or "DCS" is for the provision of health related services as further defined in the "SCOPE OF SERVICES."

WHEREAS, TennCare is the single state Medicaid agency for the administration of medical assistance services, the TennCare Program, in the State of Tennessee, in accordance with Title XIX of the Social Security Act and Tennessee Code Annotated (T.C.A.) § 71-5-104; and

WHEREAS, all parties agree that this Interagency Contract does not constitute any delegation by TennCare of Medicaid policy and decision making authority; and

WHEREAS, the Maternal and Child Health Section of the Tennessee Department of Health's Division of Family Health and Wellness, collectively referred to herein as "TDH", is the Tennessee Title V agency; and

WHEREAS, DCS is the state agency which provides services for unruly, delinquent, dependent and neglected children, and their respective families, as well as children who are at imminent risk and in need of services to prevent entry into DCS custody, as provided at T.C.A. § 37-5-106; and

WHEREAS, TennCare, TDH, and DCS have a common interest in fulfilling the requirements of the Medicaid-Based Early and Periodic Screening, Diagnosis and Treatment program, hereinafter referred to as "EPSDT," as well as all other federal and state requirements including court orders, laws and rules; and

WHEREAS, TennCare, TDH, and DCS have a common interest in assuring that their eligible enrollees and clients gain access to medical services and attain or maintain favorable physical and mental health by assisting them in identifying and understanding their health needs and/or in securing and using needed services; and

WHEREAS, TennCare, TDH, and DCS mutually recognize the desirability of assisting eligible children served by the Contractor in accessing medical assistance services; and

WHEREAS, TennCare, TDH, and DCS mutually recognize that coordination between them will serve the best interest of the State of Tennessee.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties do hereby enter into this Contract according to the provisions set forth herein.

A. SCOPE OF SERVICES:

- A.1. The Contracting State Agency shall provide all goods, services or deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Interagency Agreement.



Definitions:

- a. **Administrative Service.** A service which has been identified by TennCare as necessary for the smooth and efficient operation of the Medicaid program.
- b. **Child and Family Team (CFT).** An interdisciplinary team comprised of the Providers serving a child, biological and/or resource parents, child, DCS case manager, guardian ad litem, and other persons supporting the child or family. The team meets at major transitions including initial entry, reassessment intervals, changes in level of care, and at discharge from care.
- c. **Child and Adolescent Needs and Strengths (CANS).** The Child and Adolescent Needs and Strengths (CANS) assessment tool is completed by a DCS case manager, then reviewed and finalized by a Center of Excellence (COE) consultant. The assessment then provides a context for the Child and Family Team to communicate and make decisions about the care of the child, including behavioral treatment needs and residential behavioral needs. The assessment is completed at initial entry, major transitions (which includes changes in level of care), at reassessment intervals and at discharge from care.
- d. **Children at Risk of State Custody.** As defined in T.C.A. § 37-3-602(2):
"Imminent Risk of placement" (*into DCS custody*) means circumstances or behavior likely to produce, within a relatively short period of time, a reasonably strong probability that the child will be placed in (DCS) custody as a result of being adjudicated dependent and neglected, delinquent, unruly or in need of mental health services under T.C.A. § 37-1-175.
- e. **Children's Therapeutic Intervention Services.** As defined in the Title V Agreement, clinical services and other therapeutic interventions specified in an Individual Care Plan which is based on assessments of the medical, psychological, social, educational, and other needs of a child. Such assessments include the Child and Adolescents Needs and Strengths, as reviewed by the Child and Family Team. Intervention services include individual, group, or family counseling; parent effectiveness training; behavioral assessment of the child; designing, developing, and monitoring a behavioral management program for a child; one-to-one supervision for therapeutic activities; milieu therapy; supervision related to Individual Care Plan goals and objectives; skill training of the caregiver in behavioral management; assistance in household management as related to provision of mental health care-related services for the child; and other therapeutic interventions specified by the Individual Care Plan. Such services shall be provided in accordance with an Individual Care Plan and shall be provided by, or under the supervision of, an individual having at least a Bachelor's degree from an accredited college or university in nursing, psychology, sociology, social work, or related field. Clinical services shall be provided by an appropriately licensed or certified professional in accordance with state law.
- f. **Centers for Medicare and Medicaid Services (CMS).** The agency within the United States Department of Health and Human Services that is responsible for administering Title XVIII, Title XIX, and Title XXI of the Social Security Act.
- g. **Centers for Excellence for Children in State Custody (COE).** A tertiary academic medical center, Provider agency or partner designated by DCS as possessing expertise in child behavioral health issues (such as aggression, depression, attachment disorders, sexualized behaviors, poly-pharmacy) and the unique health care needs of children in or at imminent risk of DCS custody. The network of Centers of Excellence serves as referral sites for children needing the highest level of physical and/or behavioral health care and implements training programs for Providers to augment regional capacity to serve those children. COEs assist DCS in developing appropriate care plans for children in or at imminent risk of DCS custody who have complex behavioral health needs by providing interdisciplinary diagnostic



services and consultation regarding treatment services. In some cases COEs deliver needed treatment guidance, especially in the area of reviewing and changing a child's medication regimen.

- h. **Crisis Management Team (CMT).** The Crisis Management Team is a function of DCS targeted at preventing children from entering custody for receipt of health services only. (Children should enter care for the adjudication of dependency or neglect, unruliness, or delinquency, not solely to receive health services). The purpose of the CMT is to prevent children from entering DCS custody solely to receive health services, when no other issues of dependency and neglect, unruliness, or delinquency would require placement in DCS custody. After receiving referrals from DCS, guardians ad litem, families or court staff, the Crisis Management Team works to prevent custody by serving as a liaison with Providers, the TennCare MCCs, and the Bureau of TennCare to coordinate or authorize health services. The Crisis Management Team has the authority to issue a letter of authorization for payment to a Provider in order to facilitate services for a TennCare eligible child, pending a service approval or an appeal.
- i. **Dental Benefit Manager (DBM).** A contractor approved by the Tennessee Department of Finance and Administration to provide dental benefits to enrollees in the TennCare Program to the extent such services are covered by TennCare.
- j. **DCS Continuum.** A broad array of treatment and case management services ranging from residential to community based services provided by DCS as Medically Necessary to meet the treatment needs of the child. Services are initially provided to children in DCS custody but may continue with utilization pre-approval by the DCS child placement division in consultation with the DCS Well Being division, in ninety (90) day increments after a child returns home and up to nine (9) months after leaving DCS custody. The Continuum of Care is a service-based model of care which purchases the outcomes of successful permanency for children and provides incentives for the child to be placed in the most appropriate, least restrictive, community based settings. In addition to residential treatment, continuums provide broad range of home/community-based services, which shall facilitate successful reunification of the child with family. Continuums allow the Provider greater flexibility in designing services for the child and family and the ability to customize the delivery of services to each child and family in the least restrictive and most cost effective manner.
- k. **DCS Child Health Division.** Regional DCS staff dedicated to supporting case managers in effectuating the health and education needs of children. Staff includes, but is not limited to, health advocacy representatives, nurses, psychologists, mental health practitioners, and educational consultants.
- l. **DCS Cost Allocation Plan.** DCS is required to have a federally approved cost allocation plan to comply with the federal Office of Management and Budget Circular (OMB) A-87 in order to claim reimbursement for a portion of the cost of payments made under this contract from the federal government under Title IV-E and/or Title XIX.
- m. **Early and Periodic Screening, Diagnostic and Treatment Services (EPSDT).** A covered benefit for TennCare Medicaid-enrolled children only, shall mean:
 - (1) Screening in accordance with professional standards, and inter-periodic, diagnostic services to determine the existence of physical or mental illnesses or conditions of TennCare Medicaid enrollees under age twenty-one (21); and



- (2) Health care, treatment, and other measures, described in 42 U.S.C. § 1396a(a) to correct or ameliorate any defects and physical and mental illnesses and conditions discovered. TennCare Rule 1200-13-13-.01.
- n. **Grier Revised Consent Decree (Modified)**, referred to herein as "*Grier*." The controlling Order entered in the case of *Grier v. Wadley*, U.S. Dist. (M.D. Tenn.) Civil Action No. 79-3107 on October 26, 1999 and all later revisions and modifications of such Revised Consent Decree entered by the Court.
- o. **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. Please note: An Inmate is considered to be incarcerated. TennCare enrollees who become incarcerated generally lose eligibility for TennCare. Juvenile Detention is not incarceration. In the case of DCS children who become incarcerated, TennCare ceases payment for all services, with two exceptions. (1) When the child must leave the facility to go into an inpatient hospital setting, TennCare Select will cover the hospitalization if it is Medically Necessary (see TennCare Policy EED 06-001). (2) When a TennCare appeal results in favor of the youth services will continue.
- p. **Juvenile Detention**. A home or center for delinquent children that is under the direction or supervision of the court or other public authority or of a private agency approved by the court. Juvenile Detention is not considered incarceration.
- q. **Managed Care Contractor (MCC)**. (1) A Managed Care Organization, Pharmacy Benefits Manager and/or a Dental Benefits Manager which has signed a TennCare Contractor Risk Agreement with HCFA and operates a Provider network and provides covered health services to TennCare enrollees; or (2) A Pharmacy Benefits Manager, or Dental Benefits Manager which subcontracts with a Managed Care Organization to provide services; or (3) A Tennessee government agency (i.e., Department of Children's Services and Department of Intellectual and Developmental Disabilities Services) that contracts with TennCare for the provision of services. DCS children who are TennCare eligible (or presumed TennCare eligible) are automatically enrolled in TennCare Select. DCS children are also enrolled with TennCare's Pharmacy Benefits Manager (PBM) for coverage of prescription drugs and Dental Benefits Manager (DBM) for coverage of dental services.
- r. **Managed Care Organization (MCO)**. An appropriately licensed Health Maintenance Organization (HMO) approved by the Bureau of TennCare as capable of providing medical, behavioral, and long-term services and supports in the TennCare Program.
- s. **Medicaid**. The federal- and state-financed, state-run program of medical assistance pursuant to Title XIX of the Social Security Act.
- t. **Medicaid Fraud Control Unit**. Pursuant to T.C.A. § 71-5-2508 and 42 CFR 1007, the Medicaid Fraud Control Unit (MFCU) is the State of Tennessee agency responsible for the investigation of Provider fraud, abuse and neglect in the Tennessee Medicaid program (TennCare).
- u. **Medically Necessary**. Defined by T.C.A., § 71-5-144, and shall be described as a medical item or service that meets the criteria set forth in that statute. The term "medically necessary," as defined by T.C.A. § 71-5-144, applies to TennCare enrollees. Implementation of the term "medically necessary" is provided for in the TennCare Rules, consistent with the statutory provisions, which control in case of ambiguity. No enrollee shall be entitled to receive and TennCare shall not be required to pay for any items or services that fail fully to satisfy all criteria of "medically necessary" items or services, as defined either in the statute or in the Medical Necessity rule chapter at 1200-13-16.



- v. **Mental Health Case Management.** Mental Health Case Management is a supportive service provided to enhance treatment effectiveness and outcomes with the goal of maximizing resilience and recovery options and natural supports for the individual provided by the MCO. Mental Health Case Management is consumer-centered, consumer focused and strength-based, with services provided in a timely, appropriate, effective, efficient and coordinated fashion. It consists of activities performed by a team or a single mental health case manager to support clinical services. Mental health case managers assist in ensuring the individual/family access to services. Please refer to executed statewide managed care contract below:
<http://www.tn.gov/assets/entities/hcfa/attachments/BlueCareTennessee.pdf>
- w. **Office of Inspector General (OIG).** The State of Tennessee agency that investigates and may prosecute civil and criminal fraud and abuse of the TennCare program or any other violations of state law related to the operation of the TennCare program administratively, civilly or criminally.
- x. **Participating Providers.** A TennCare Provider, as defined in TennCare Rule 1200-13-13-.01., who has entered into a contract with an enrollee's Managed Care Contractor.
- y. **Pharmacy Benefits Manager (PBM).** An organization approved by HCFA to provide pharmacy benefits to enrollees to the extent such services are covered by the TennCare Program. A PBM may have a signed TennCare Contractor Risk Agreement with HCFA, or may be a subcontractor to an MCO. **TennCare Rule 1200-13-13-.01.**
- z. **Provider.** An appropriately licensed institution, facility, agency, person, corporation, partnership, or association that delivers health care services. Providers are categorized as either TennCare Providers or Non-TennCare Providers. TennCare Providers may be further categorized as being one of the following:
 - (1) Participating Providers or In-Network Providers
 - (2) Non-Participating Providers or Out-of-Network Providers
 - (3) Out-of-State Emergency Providers.
- aa. **Non-Participating Provider.** A TennCare Provider, as defined in TennCare Rule 1200-13-13-.01., who is not contracted with a particular enrollee's MCO. This term may include TennCare Providers who furnish services outside the managed care program on a fee-for-service basis, as well as TennCare Providers who receive Medicare crossover payments from TennCare.
- bb. **Provider Agreement or Provider Contract.** An agreement between DCS and a Provider of health care services which describes the conditions under which the Provider agrees to furnish covered services to a child in DCS custody. Provider Agreements between DCS and Providers who deliver Medicaid-reimbursed services must meet the requirements of 42 CFR 431.107.
- cc. **Quality Monitoring (QM).** The ongoing process of assuring that the delivery of services is appropriate, timely, accessible, available, and Medically Necessary and in keeping with established guidelines and standards and reflective of the current state of medical knowledge. QM includes any current or future initiative by DCS, or future vendor contracted by TennCare to provide both expert clinical and technical support to the physicians and practitioners treating enrollees with certain identifiable diseases and by providing educational interventions to assist patients in managing their diseases more effectively.
- dd. **Quarter.** One of the following four divisions of time: The months of July through September, October through December, January through March, and April through June.



- ee. **Subcontract.** An agreement entered into by DCS with any other person or entity which agrees to perform any Administrative Service or function for DCS specifically related to securing or fulfilling DCS's obligations to TennCare under the terms of this Contract.
- ff. **Targeted Case Management.** Medicaid's Targeted Case Management must be provided for the purpose of coordinating medical care and consists of a set of interrelated activities through which eligible individuals will be assisted in gaining access to needed medical, social, educational, residential, and other services. Targeted Case Management activities shall encourage the use of least restrictive residential environments and cost effective child services through referrals to appropriate Providers. Targeted Case Management services shall discourage over utilization or duplication of costly services and shall focus on the child. Targeted Case Management services are designed to reduce or minimize the number of children in DCS custody and to utilize a community-based arena of service Providers.
- gg. **TennCare.** The program administered by the Single State agency as designated by the State of Tennessee and CMS in the Tennessee Medicaid State Plan (State Plan) pursuant to Title XIX of the Social Security Act and the Section 1115 Research and Demonstration waiver granted to the State of Tennessee.
- hh. **TennCare Solutions Unit (TSU).** The TennCare unit responsible for monitoring MCC compliance with those contract provisions required pursuant to the *Grier* Revised Consent Decree (Modified) (*Grier*) and attendant TennCare Rule(s). Among other things, TSU determines whether an MCC action affecting TennCare enrollees comprises a violation of those contract provisions devised to ensure compliance with *Grier*.
- ii. **TennCare Office of Contract Compliance and Performance (OCCP).** The TennCare unit responsible for monitoring the contract compliance of TennCare's Managed Care Contractors, including DCS. For purposes of this Agreement, OCCP is charged with collecting sanctions assessed pursuant to the recommendation of the TennCare Directives Solutions Unit (DSU).
- jj. **TennCare Provider.** A Provider who accepts as payment in full for furnishing benefits to a TennCare enrollee, the amounts paid pursuant to an approved agreement with an MCC or TennCare. Such payment may include copayments from the enrollee or the enrollee's responsible party. Except in the case of Out-of-State Emergency Providers, as defined in TennCare Rule 1200-13-13-.01, a TennCare Provider must be enrolled with TennCare. TennCare Providers must abide by all TennCare rules and regulations, including requirements regarding Provider billing of patients as found in TennCare Rule 1200-13-13-.08. TennCare Providers must be appropriately licensed for the services they deliver and must not be Providers who have been excluded from participation in Medicare or Medicaid.
- kk. **Title V Agreement.** An agreement between the Tennessee Medicaid agency and the Tennessee Title V agency that is entered into in accordance with 42 CFR 431.615.
- ll. **Youth Development Center (YDC).** A hardware secure facility operated by the Department of Children's Services, for youth who have been adjudicated delinquent and committed to the custody of DCS by a juvenile court of competent jurisdiction, and meet certain other criteria as determined by DCS. Children who reside at YDCs are by definition ineligible for TennCare services provided at the YDC, pursuant to 42 U.S.C. § 1396d(a)(27)(A), except for corrective action available under 42 C.F.R. §§ 431.246 and 431.250(b), and pursuant to HCFA Program Issuance Transmittal Notice MCD-05-98 dated 3/6/98. See *Grier v. Goetz* Feb. 2008 Order C15(f).



The Contractor shall provide the Medicaid Administrative Services, and Medically Necessary Medicaid Services designated , including below for children entering, or already in, DCS Custody:

- a. Determination of eligibility for the Title XIX program for the above identified children only, but not for any other group or category of current or potential TennCare enrollees;
- b. Services including determination of eligibility for Title XIX EPSDT outreach administrative activities identified in the DCS Cost Allocation Plan, as they relate to the provision of health services coordinated under the TDH Title V Agreement;
- c. Medicaid services including Children's Therapeutic Intervention Services as all or a component of DCS residential placement or DCS Continuum services; and
- d. Medicaid services including Targeted Case Management services, provided such services are covered under federal Medicaid guidelines at the time the TennCare enrollee received such services.

A.4. The Contractor shall provide the following Title V and Title XIX Medical Services to all eligible children:

- a. TDH hereby authorizes DCS and DCS' designated Providers and subcontractors to provide or arrange for the provision of Title V health related services to TennCare and Title V Program eligible children in DCS custody or at risk of custody. These services include Targeted Case Management and Children's Therapeutic Intervention Services claimed in accordance with 42 CFR 431.615 and Tennessee Medicaid State Plan.
- b. DCS shall ensure that Targeted Case Management services meet a minimum standard of at least one (1) documented face-to-face encounter per child per month. Targeted Case Management shall be provided by DCS to children in custody and children identified at imminent risk of custody. DCS Targeted Case Management may be provided in addition to Mental Health Case Management, which is provided by the TennCare enrollee's MCO. It is the responsibility of DCS to make a referral to the MCO for Mental Health Case Management services that may be needed in addition to DCS Targeted Case Management.
- c. Children's Therapeutic Intervention Services, as defined herein and in the Medicaid/Title V Agreement, are provided directly to children in custody and are also provided to children whom DCS has enrolled in a DCS Continuum. Children's Therapeutic Intervention Services represent the portion of a child's residential placement that is considered "treatment" under EPSDT. The specific categories of Children's Therapeutic Intervention Services which are funded under this Agreement are listed in Attachment A.
- d. TennCare eligible children in DCS custody have access to all TennCare covered services, with the exception of Non-Emergency Medical Transportation (NEMT). Foster parents and child care agencies serving children in custody are required by Title IV- E to agree to furnish transportation services for children in their care. Therefore, DCS children do not lack access to NEMT and thus do not generally qualify for TennCare coverage of this service. The one special situation where DCS children might make use of NEMT, however, is children in DCS custody who are on a trial visit home and are encouraged to access services in the most normal manner possible. These children might be appropriate candidates for TennCare covered NEMT. However, children in DCS custody who are on trial home visits may qualify for NEMT. Contractor shall ensure children in DCS custody who are on trial home visits have access to NEMT as a covered service as appropriate.



DCS shall provide services covered under this Contract in accordance with EPSDT requirements.

A.6. DCS shall provide services covered under this Contract in compliance with the applicable requirements of *Grier* and in compliance with the DCS *Grier* Implementation Plan, or if *Grier* is no longer applicable to the TennCare program, DCS shall comply with such other guidelines and implementation plan as TennCare may establish from time to time to provide to DCS. DCS shall provide notices of action regarding behavioral health services to be provided by DCS, including any delay in providing such service.

A.7. TennCare agrees that the following are its responsibilities and obligations under this Contract:

a. Policies and Procedures

- (1) Respond to DCS inquiries and requests in writing pertaining to questions about the Title XIX program within thirty (30) days of an inquiry or request, provided the request or inquiry is made in writing, with accompanying and appropriate supporting documents.
- (2) Provide technical assistance to DCS, as requested on accessing TennCare services for children. Respond to concerns raised by DCS regarding MCOs within five (5) business days or sooner if necessitated by a child's medical condition or legal status provided this request is made in writing, with accompanying and appropriate supporting documents. Designate a responsible individual at TennCare for DCS to report concerns to who will assist in resolution and report back to DCS TennCare's findings and corrective action taken.
- (3) Collaborate with DCS on developing policy and procedure manuals covering services described in this Interagency Agreement.
- (4) Collaborate with DCS regarding the contractual obligations and procedures of the Centers of Excellence serving children in and at risk of custody.
- (5) Collaborate with DCS on the responsibilities of the MCC assigned to administer TennCare services to children in custody.
- (6) Provide "immediate eligibility" for children entering DCS custody. Immediate eligibility means that the effective date of Medicaid coverage begins on the date the child enters custody and will continue until eligibility is determined up to a maximum of forty-five (45) days.

b. Monitoring

- (1) Collaborate with DCS on designing Quality Monitoring and performance indicators on services covered by this Interagency Agreement.
- (2) TennCare shall notify DCS in writing of any specific performance deficiencies and request a corrective action plan. DCS shall respond in writing with a corrective action plan by the date specified. TennCare will have ten (10) business days to review and either approve the corrective action plan or request modifications if the corrective action plan is considered to be incorrect or deficient.

c. Reimbursement

- (1) Reimburse DCS for administrative, Targeted Case Management, and Children's Therapeutic Intervention Services performed in accordance with this Contract,



and services DCS is directed by TennCare to provide, including directives or administrative orders resulting from a TennCare appeal.

- (2) Review and approve DCS claims categories, billing methodologies, rates, and other procedures related to payment of claims.
- (3) Communicate promptly with CMS on behalf of DCS to assure appropriate mechanisms for reimbursement.
- (4) Reimburse DCS for treatment expenses of non-custodial at risk children for whom the CMT has issued a Letter of Authorization to access services pending TennCare appeals processes.

A.8. DCS agrees that the following are its responsibilities and obligations under this Contract:

a. Policies and Procedures

- (1) Provide to the administrators and staff of its own offices and its designated contracted agencies, the requirements for compliance with the TennCare program and this Interagency Agreement that are necessary for the proper and efficient conduct of the TennCare activities described in this Interagency Agreement.
- (2) Provide regular information to TennCare, in a format approved by and through a secure method designated by TennCare, such as via Secure File Transfer Protocol (SFTP), which will allow TennCare to provide current information to MCOs to identify their enrollees who are in DCS custody and allow TennCare to eliminate from enrollment those enrollees who are ineligible or not reimbursable for Title XIX funding.
- (3) Respond to the TennCare Solutions Unit (TSU) by providing services within the requested time whenever a directive is issued to DCS to provide a service as a result of the appeals process.
- (4) Provide information to the designated person at TennCare regarding any difficulties experienced in accessing TennCare services for children in DCS custody.
- (5) Assure that DCS's Provider networks are adequate for the provision of services which are DCS's responsibility under this Contract.
- (6) Work with other MCO and TennCare contractors to assure that the appropriate health-related records available to DCS are provided, via Secure File Transfer Protocol (SFTP) or other secure communication method established between the parties, in accordance with state and federal law and DCS Policy in order to coordinate health-related services for the delivery of Medically Necessary TennCare benefits to children in DCS custody or children who have been identified as at imminent risk of DCS custody/placement. This will include children transitioning out of DCS custody and who need to access services through their assigned MCOs
- (7) Ensure that DCS Provider Agreements with Providers delivering Medicaid-funded services comply with the requirement of 42 CFR 431.107, as well as sections of the rules and regulations cited in Section A.13. of this agreement. Provider requirements may also be included in the DCS Provider Manual as applicable. DCS shall submit its templates to TennCare for review by March 1 annually, and



TennCare shall provide any contract template changes to DCS by April 1. Contract requirements received by TennCare after April 1 shall be included in future contract amendments. As contracts are renewed or amended, DCS will ensure that such Provider Agreements meet all of the above requirements.

- (8) Submit, at TennCare's request, DCS policies and procedures covering services described in this Contract, within thirty (30) calendar days of the request.
- (9) Provide service(s) to a child in DCS custody as requested/directed by TennCare, pursuant to a medical necessity determination or other decision in favor of an enrollee during the appeal process.
- (10) Fully collaborate and cooperate with TennCare on all efforts to monitor services covered by this Contract.
- (11) File appeals for all non-custodial at risk children for whom a letter of authorization has been issued by the CMT.
- (12) DCS and its Providers shall comply with the following requirements as stipulated in this Contract between DCS and TennCare.
 - A. DCS and its Providers shall disclose the following information in accordance with the Code of Federal Regulations, Title 42, Part 455.100, *et seq.*:
 - (1) The name, address, date of birth (DOB), and Social Security Number (SSN) of each person with an ownership or control interest in the disclosing entity or in any subcontractor in which the disclosing entity has direct or indirect ownership of five percent (5%) or more;
 - (2) List whether any of the persons named, in compliance with paragraph A(1) of this section, is related to another as spouse, parent, child, or sibling;
 - (3) The name of any other disclosing entity in which a person with an ownership or control interest in the disclosing entity also has an ownership or control interest. This requirement applies to the extent that the disclosing entity can obtain this information by requesting it in writing from the person. The disclosing entity shall:
 - (a) Keep copies of all these requests and the responses to them;
 - (b) Make them available to the Secretary of Health and Human Services or TennCare upon request; and
 - (c) Advise the TennCare when there is no response to a request.
- (13) DCS shall comply with Medicaid federal and state Provider rules and regulations including prompt notice of any revisions.
 - A. DCS and its Providers shall furnish to TennCare or to the Secretary of HHS upon request the following full and complete information relating to business transactions within thirty-five (35) days of request:



- (1) The ownership of any subcontractor with whom it has had business transactions totaling more than twenty-five thousand dollars (\$25,000) during the twelve (12) month period ending on the date of the request; and
 - (2) Any significant business transactions between it and any wholly owned supplier, or between it and any subcontractor, during the five (5) year period ending on the date of the request.
- B. Before DCS enters into or renews a Provider Agreement, or at any time upon written request by TennCare, the DCS' Providers shall disclose to DCS and TennCare the identity of any person who:
- (1) Has ownership or control interest in it, or is an agent or managing employee of the entity. The Providers shall disclose the name, address, DOB, and SSN for these individuals.
 - (2) List the name, address, DOB, and SSN for each person who has ownership or control interest in it, or is an agent or managing employee of the entity that has been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or Title XIX services programs, since the inception of those programs. Provider shall search the List of Excluded Individuals/Entities (LEIE) each month for the names of the Providers' employees and contractors.
- TennCare shall notify the Office of Inspector General of any disclosures made under paragraph C of this section within twenty (20) business days from the date it receives the information. TennCare shall also promptly notify the Office of Inspector General of any action it takes on DCS' or its Provider's application for participation in the program.
- C. DCS or TennCare may refuse to enter into or renew a Provider Agreement with a Provider and/or Contractor if any person who has an ownership or control interest in the entity, or who is an agent or managing employee of the entity, has been convicted of a criminal offense related to that person's involvement in any program established under Medicare, Medicaid, or Title XIX services programs.
- D. DCS or TennCare may refuse to enter into or may terminate a Provider's and/or Contractor's Provider Agreement if it determines that the entity did not fully and accurately make any disclosure required under this section.

b. Eligibility determination

- (1) DCS shall perform TennCare eligibility determinations in accordance with Medicaid and TennCare Standard eligibility criteria and timeframes for children entering DCS custody who are not otherwise eligible for TennCare. Children who are not eligible may obtain eligibility upon entering custody, since there is an eligibility category especially for Title IV-E children in adoption subsidy or foster care programs. Title IV-E is the program that provides federal payments for adoption subsidy and foster care programs. Contractor shall perform Title IV-E eligibility determinations. DCS shall provide its own eligibility workers called "Child Welfare Benefits Counselors" who conduct eligibility determinations. In the event the child may qualify for SSI (Supplemental Security Income), the DCS eligibility staff shall send the child's medical eligibility packet to the Social Security Administration for determination



- (2) In order to facilitate the timely receipt of care, children entering custody who are eligible for TennCare shall be enrolled in TennCare as soon as possible. Those children who are not already enrolled in TennCare Medicaid prior to entering custody are presumed to be TennCare Medicaid eligible while their Medicaid eligibility determination is being processed, an arrangement referred to as "Immediate Eligibility." If the result of the TennCare Medicaid eligibility determination is that the child is not eligible for TennCare, then DCS is responsible for refunding to TennCare any payments they made for services delivered to the child during the "Immediate Eligibility" period. These expenses include, but are not limited to, administrative fees, capitation payments, health services and behavioral services.
- (3) Contractor shall ensure only eligible children are enrolled in TennCare. Not all children in custody are eligible for TennCare, e.g., children in custody who are undocumented or ineligible aliens cannot be TennCare-eligible since TennCare is prohibited from enrolling persons in this category. TennCare may pay for emergency services delivered to these children, in accordance with Policy EED 05-001 ("Emergency Medical Services for Illegal and Ineligible Aliens"). Children who have incomes or resources that exceed established limits would also be ineligible for TennCare in the "Title IV-E" category. Children who exceed established income and resource limits are not eligible for TennCare payment of their emergency services.
- (4) DCS shall provide eligibility information for the families/family members of children in and at risk of custody only by designated teams within DCS, as authorized by release of the family member subject to the minimum necessary standard, with an authorization for release of information. The designated teams to review eligibility information shall be health advocacy teams, fiscal teams, and eligibility workers.

c. Monitoring, Documentation and Reports

- (1) The parties to this Contract shall meet on a regularly scheduled basis to review the performance of activities under this Contract.
- (2) Pursuant to A.7.b., DCS shall respond in writing with a corrective action plan by the date specified.
- (3) DCS shall provide a quarterly report to TennCare within forty-five (45) days of the end of each calendar quarter documenting DCS' activities under this Contract. TennCare will have up to fifteen (15) business days to review this report after receiving it to either approve it, return it to DCS with requests for modifications, or not respond, in which case the report will be deemed as approved after fifteen (15) business days. The quarterly report will include, but not be limited to, the following:
 - i. Summary of EPSDT outreach activities, including the number of children in DCS custody that have been taken for a screening appointment.
 - ii. Summary of eligibility determination activities that DCS has performed for TennCare.
 - iii. Summary of CMT activities including number of children averted from custody.
 - iv. Summary of Targeted Case Management activities
 - v. DCS network adequacy report
- (4) DCS shall provide to TennCare a report of all children entering and exiting DCS custody each business day.



- (5) DCS shall provide to TennCare the following reports on a monthly basis:
 - i. List of children who are Inmates
 - ii. List of children who are hospitalized
 - iii. List of children on runaway (AWOL) status
- (6) DCS shall provide to TennCare an electronic file listing all children receiving Targeted Case Management services. The face to face contacts report shall be sent to TennCare each month.
- (7) DCS shall provide to TennCare a report of actual and projected financial information for all services delivered and covered under this Contract on a quarterly basis within forty-five (45) days of the quarter end date.

d. Reimbursement

- (1) DCS shall maintain procedures to assure that TennCare is billed only for services delivered to children who are eligible for TennCare and who are eligible for the service billed. TennCare does not reimburse for bed hold days and the child must be physically present in the residential placement facility for all days billed.
- (2) DCS shall document DCS administrative cost allocation to Title XIX on the basis of an approved Random Moment Time Study conducted in accordance with the federally approved DCS Cost Allocation Plan.
- (3) DCS shall provide to TennCare the statewide results of the Random Moment Time Study governing allocations to Title XIX and other federal programs.
- (4) DCS shall submit claims to TennCare in accordance with the billing processes outlined in Attachment A.
- (5) DCS shall provide documentation to TennCare to support the establishment or modification of reimbursement rates as determined necessary. Modification of existing rates is subject to TennCare approval.
- (6) DCS shall refund to TennCare any funds received as a result of inappropriate billings.
- (7) DCS shall reimburse TennCare for expenses incurred by TennCare in providing TennCare services to children for whom DCS billed TennCare but who were determined not to be eligible for services.

A.9. DCS shall comply with all deliverables and performance standards required in this Contract, including, but not limited to, the following:

- a. DCS shall provide to TennCare reports required according to A.8.c.
- b. DCS shall conform with all performance standards set forth in Attachment C.

A.10. Method of exchange of reports of services furnished to enrollees

- a. All services provided by DCS, and/or their contracted Providers, to TennCare-eligible individuals shall be documented in accordance with current accepted and approved standards and practices, with such documentation deemed confidential according to



federal and state laws and regulations, and shall be delivered to TennCare upon request, utilizing appropriate security safeguards and through secure methods, such as via Secure File Transfer Protocol (SFTP) or other secure communication method established between the parties.

- b. Data shall be collected and provided to meet the reporting requirements outlined in 42 USC 706(a).
-
- A.11. In the provision of targeted case management, DCS shall assign and make available a single case manager for responsibility to work with the child and the family, for assessing and meeting the child's and the family's needs, determining and implementing a permanency plan, supervising, supporting and assuring the stability of the child's placement and assuring a safe, adequate, well-planned exit from foster care.
 - A.12. DCS shall contract with a sufficient number of providers to permit access to behavioral residential services for children in custody who are assessed as needing such services. There shall be a sufficient number of providers to assure that children receiving behavioral residential services shall receive those services in their home region, (region in which they originated into custodial care) or within a 75-mile radius of the home region, unless the child's needs are of a complex or exceptional nature such that they cannot be met within the home region or within 75 miles of the home region.
 - A.13. DCS shall only contract for behavioral residential services with licensed contractors or subcontractors.
 - A.14. For purposes of monitoring under the Contract, DCS shall make available to TennCare or its representatives, and other State and federal personnel authorized by law or otherwise, all records, books, documents, and other evidence pertaining to this Contract, as well as appropriate administrative and/or management personnel who administer the plan. The monitoring shall occur periodically during the Contract period and may include announced or unannounced visits, or both.
 - A.15. Nondiscrimination Compliance Requirements,
 - a. Contractor agrees that it shall comply with the applicable federal and state civil rights laws and regulations, which may include, but are not limited to, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and 42 U.S.C. § 18116. As part of this compliance no person on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classifications protected under federal or state laws shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of Contractor's obligation under its agreement with TennCare or in the employment practices of the Contractor.
 - b. Contractor agrees that its civil rights compliance staff member will work directly with TennCare's Nondiscrimination Compliance Director in order to implement and coordinate nondiscrimination compliance activities. The Contractor shall provide to TennCare, within ten (10) days of signing this Contract, the name and contact information of its civil rights compliance staff member. If at any time that position is reassigned to another staff member, the new staff member's name and contract information shall be reported in writing to TennCare within ten (10) calendar days of assuming these duties.



INTERAGENCY AGREEMENT TERM:

- B.1. This Interagency Agreement shall be effective on July 1, 2016 ("Effective Date"), and extend for a period of thirty-six (36) months ("Term"). The Procuring State Agency shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.
- B.2. Renewal Options. This Interagency Agreement may be renewed upon satisfactory completion of the Term. The Procuring State Agency reserves the right to execute two (2) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the Procuring State Agency under this Agreement exceed Two Hundred Sixty-Seven Million Six Hundred Sixty-Seven Thousand Three Hundred Dollars (\$267,667,300.00) for FY 2017, Two Hundred Sixty-Seven Million Six Hundred Sixty-Seven Thousand Three Hundred Dollars (\$267,667,300.00) for FY 2018 and Two Hundred Sixty-Seven Million Six Hundred Sixty-Seven Thousand Three Hundred Dollars (\$267,667,300.00) for FY 2019, with a total Maximum Liability of Eight Hundred Three Million One Thousand Nine Hundred Dollars (\$803,001,900.00) The payment methodology in Section C.3 shall constitute the entire compensation due the Contracting State Agency for the goods delivered and accepted or for services performed and all of the Contracting State Agency's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contracting State Agency.
- C.2. Compensation Firm. The payment rates and the maximum liability of the Procuring State Agency under this Agreement are firm for the duration of the Agreement and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Contracting State Agency shall be reimbursed for Title XIX services at actual incurred cost. The actual cost determination methods will be reviewed and approved by TennCare.
- a. The compensation shall be contingent upon the satisfactory completion of service outlined in Section A.
 - b. Claims for services shall be coded as follows: Codes for Targeted Case Management shall be the HIPAA compliant codes approved by TennCare; per diem payment rates for Targeted Case Management services and for therapeutic intervention services shall be approved by TennCare.
 - c. Interim payments for Targeted Case Management services will be made at agreed upon cost rates by agreed by the Contracting State Agency and TennCare, as stated in Attachment A and will be cost-settled in accordance with DCS' federally-approved Cost Allocation Plan.
 - d. DCS will submit invoices for administrative costs in accordance with its federally-approved Cost Allocation Plan.
- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Payment of Invoice. A payment by the Procuring State Agency shall not prejudice the Procuring State Agency's right to object to or question any payment, invoice, or matter in relation thereto. A



payment by the Procuring State Agency shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.

- C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Procuring State Agency, on the basis of audits conducted in accordance with the terms of this Interagency Agreement, not to constitute proper remuneration for compensable services.
- C.7. Deductions. The Procuring State Agency reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any Interagency Agreement between the Contractor and the Procuring State Agency any amounts, which are or shall become due and payable to the Procuring State Agency by the Contractor.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The Procuring State Agency and the Contracting State Agency are not bound by this Agreement until it is signed by the agency head or the agency head's designee. Each agency's legal counsel shall review and approve the Agreement as to form and legality.
- D.2. Modification and Amendment. Any modifications, amendments, renewals or extensions shall be in writing, signed, and approved by all parties who signed and approved this Agreement.
- D.3. Termination for Convenience. This Agreement may be terminated by either party by giving written notice to the other, at least thirty (30) days before the effective date of termination. Should the Procuring State Agency exercise the option of terminating this Agreement for convenience, the Contracting State Agency shall be entitled to compensation for all goods delivered and accepted or satisfactory and authorized services completed as of the termination date. Should the Contracting State Agency exercise this provision, the Procuring State Agency shall have no liability to the Contracting State Agency except for those goods delivered and accepted or those units of service that were satisfactorily completed by the Contracting State Agency. The final decision as to the acceptability of goods or whether units of service were satisfactorily completed shall be determined by the Procuring State Agency in its sole discretion.
- D.4. Subject to Funds Availability. This Agreement is subject to the appropriation and availability of state and/or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Procuring State Agency reserves the right to terminate this Agreement upon written notice to the Contracting State Agency. Said termination shall not be deemed a breach of this Agreement by the Procuring State Agency. Upon receipt of the written notice, the Contracting State Agency shall cease all work associated with this Agreement. Should such an event occur, the Contracting State Agency shall be entitled to compensation for all satisfactory and goods delivered and accepted or authorized services completed as of the termination date. Upon such termination, the Contracting State Agency shall have no right to recover from the Procuring State Agency any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.5. Completeness. This Agreement is complete and contains the entire understanding between the parties relating to this subject matter, including all the terms and conditions of the parties' agreement. There are no other prior or contemporaneous agreements that modify, supplement, or contradict any of the express terms of the agreement.
- D.6. Communications and Contacts. All instructions, notices, consents, demands, or other communications shall be made in writing and directed to the following designated contact persons:



The Procuring State Agency:

Deputy Commissioner
Department of Finance and Administration
Bureau of TennCare
310 Great Circle Road
Nashville, Tennessee 37247-6501
Phone: (615) 507-6362
FAX: (615) 532-5236

The Contractor:

Department of Children's Services
315 Deaderick Street
10th Floor, UBS Tower
Nashville, TN 37243
Phone: 615.253.3199
Fax: (615) 253-5670

Tennessee Department of Health
8th Floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243
Phone: (615) 741-0310
Fax: (615) 532-1064

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- D.7. Termination for Cause. If the Contracting State Agency fails to properly perform its obligations under this Interagency Agreement in a timely or proper manner, or if the Contracting State Agency violates any terms of this Interagency Agreement, the Procuring State Agency shall have the right to immediately terminate the Agreement and withhold payments in excess of fair compensation for completed services.
- D.8. Subcontracting. The Contracting State Agency shall not assign this Interagency Agreement or enter into a subcontract for any of the services performed under this Interagency Agreement without obtaining the prior written approval of the Procuring State Agency. Notwithstanding any use of approved subcontractors, the Contracting State Agency shall be the prime contractor and shall be responsible for all work performed.
- D.9. Monitoring. The Contracting State Agency's activities conducted and records maintained pursuant to this Interagency Agreement shall be subject to monitoring and evaluation by the Procuring State Agency, the Comptroller of the Treasury, or their duly appointed representatives.
- D.10. Progress Reports. The Contracting State Agency shall submit brief, periodic, progress reports to the Procuring State Agency as requested.
- D.11. State and Federal Compliance. The Contracting State Agency shall comply with all applicable state and federal laws and regulations in the performance of this Agreement.
- D.12. Headings. Section headings are for reference purposes only and shall not be construed as part of this Agreement.

E. SPECIAL TERMS AND CONDITIONS:



Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the Procuring State Agency or acquired by the Contractor on behalf of the Procuring State Agency shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Interagency Agreement; previously possessed by the Contractor without written obligations to the Procuring State Agency to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the Procuring State Agency's information; or, disclosed by the Procuring State Agency to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the Procuring State Agency or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Interagency Agreement.

E.2. HIPAA Compliance. HCFA and the Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Interagency Agreement.

- a. The Contractor warrants to HCFA that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Interagency Agreement.
- b. The Contractor warrants that it will cooperate with HCFA, including cooperation and coordination with HCFA privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Interagency Agreement so that both parties will be in compliance with the Privacy Rules.
- c. HCFA and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep HCFA and the Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Interagency Agreement is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.
- d. The Contractor will indemnify HCFA and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by HCFA because of the violation.



Business Associate. Contractor hereby acknowledges its designation as a business associate under HIPAA and agrees to comply with all applicable HIPAA regulations. In accordance with the HIPAA regulations, the Contractor shall, at a minimum:

- a. Comply with requirements of the HIPAA, including, but not limited to, the transactions and code sets, privacy, security, and identifier regulations. Compliance includes meeting all required transaction formats and code sets with the specified data sharing agreements required under the regulations;
- b. Transmit/receive from/to its providers, subcontractors, clearinghouses and HCFA all transactions and code sets required by HIPAA in the appropriate standard formats, utilizing appropriate and adequate safeguards, as specified under the law and as directed by HCFA so long as HCFA direction does not conflict with the law;
- c. Agree that if it is not in compliance with all applicable standards defined within the transactions and code sets, privacy, security and all subsequent HIPAA standards, that it will be in breach of this Interagency Agreement and will then take all reasonable steps to cure the breach or end the violation as applicable. Since inability to meet the transactions and code sets requirements, as well as the privacy and security requirements can bring basic business practices between HCFA and the Contractor and between the Contractor and its Providers and/or subcontractors to a halt, if for any reason the Contractor cannot meet the requirements of this Section, HCFA may terminate this Interagency Agreement.
- d. Ensure that Protected Health Information (PHI) exchanged between the Contractor and HCFA is used only for the purposes of treatment, payment, or health care operations and health oversight and its related functions. All PHI not transmitted for these purposes or for purposes allowed under the federal HIPAA regulations shall be de-identified to secure and protect the individual enrollee's PHI;
- e. Report to HCFA's Privacy Office immediately upon becoming aware of any use or disclosure of PHI in violation of this Interagency Agreement by the Contractor, its officers, directors, employees, subcontractors or agents or by a third party to which the Contractor disclosed PHI;
- f. Specify in its agreements with any agent or subcontractor that will have access to PHI that such agent or subcontractor agrees to be bound by the same restrictions, terms and conditions that apply to the Contractor pursuant to this Section;
- g. Make its internal policies and procedures, records and other documentation related to the use and disclosure of PHI available upon request to the U.S. Secretary of Health and Human Services for the purposes of determining compliance with the HIPAA regulations;
- h. Create and adopt policies and procedures to periodically audit adherence to all HIPAA regulations;
- i. Agree to ensure that any agent, including a subcontractor, to whom it provides PHI that was created, received, maintained, or transmitted by or on behalf of HCFA agrees to use reasonable and appropriate safeguards to protect the PHI.
- j. If feasible, return or destroy all PHI, in whatever form or medium (including any electronic medium) and all copies of any data or compilations derived from and allowing identification of any individual who is a subject of that PHI upon termination, cancellation, expiration or other conclusion of the Agreement, and in accordance with this Section of this Interagency Agreement. The Contractor shall complete such return or destruction as promptly as possible, but not later than thirty (30) days after the effective date of the termination, cancellation, expiration or other conclusion of the Agreement. The Contractor shall identify any PHI that cannot feasibly be returned or destroyed. Within such thirty (30) days after the



effective date of the termination, cancellation, expiration or other conclusion of the Agreement, the Contractor shall: (1) certify an oath in writing that such return or destruction has been completed; (2) identify any PHI which cannot feasibly be returned or destroyed; and (3) certify that it will only use or disclose such PHI for those purposes that make its return or destruction infeasible;

- k. Implement all appropriate administrative, physical and technical safeguards to prevent the use or disclosure of PHI other than pursuant to the terms and conditions of this Interagency Agreement and, including, but not limited to, privacy, security and confidentiality requirements in 45 CFR Parts 160 and 164;
 - l. Set up appropriate mechanisms to limit use or disclosure of PHI to the minimum necessary to accomplish the intended purpose of the use or disclosure;
 - m. Create and implement policies and procedures to address present and future HIPAA regulatory requirements as needed, including, but not limited to: use and disclosure of data; de-identification of data; minimum necessary access; accounting of disclosures; enrollee's right to amend, access, request restrictions; notice of privacy practices and right to file a complaint;
 - n. Provide an appropriate level of training to its staff and employees regarding HIPAA related policies, procedures, enrollee rights and penalties prior to the HIPAA implementation deadlines and at appropriate intervals thereafter;
 - o. Track training of Contractor's staff and employees and maintain signed acknowledgements by staff and employees of the Contractor's HIPAA policies;
 - p. Be allowed to use and receive information from HCFA where necessary for the management and administration of this Interagency Agreement and to carry out business operations where permitted under the regulations;
 - q. Be permitted to use and disclose PHI for the Contractor's own legal responsibilities;
 - r. Adopt the appropriate procedures and access safeguards to restrict and regulate access to and use by Contractor's employees and other persons performing work for the Contractor to have only minimum necessary access to PHI and personally identifiable data within their organization;
 - s. Continue to protect and secure PHI and personally identifiable information relating to enrollees who are deceased; and
 - t. Track all security incidents as defined by HIPAA and periodically report such incidents to HCFA in summary fashion.
- E.4. Information Holders. HCFA and the Contractor are "information holders" as defined in TCA 47-18-2107. In the event of a breach of the security of Contractor's information system, as defined by TCA 47-18-2107, the Contractor shall indemnify and hold HCFA harmless for expenses and/or damages related to the breach. Such obligations shall include, but not be limited to, mailing notifications to affected enrollees. Substitute notice to written notice, as defined by TCA 47-18-2107(e)(2) and (3), shall only be permitted with HCFA's express written approval. The Contractor shall notify HCFA's Privacy Office immediately upon becoming aware of any security incident that would constitute a "breach of the security of the system" as defined in TCA 47-18-2107.
- E.5. Notification of Breach and Notification of Suspected Breach. - The Contractor shall notify HCFA's Privacy Office immediately upon becoming aware of any incident, either confirmed or suspected, that represents or may represent unauthorized access, use or disclosure of encrypted or unencrypted computerized data that materially compromises the security, confidentiality, or



integrity of enrollee PHI maintained or held by the Contractor, including any unauthorized acquisition of enrollee PHI by an employee or otherwise authorized user of the Contractor's system. This includes, but is not limited to, loss or suspected loss of remote computing or telework devices such as laptops, PDAs, Blackberrys or other Smartphones, USB drives, thumb drives, flash drives, CDs, and/or disks.

- E.6. Authority. If other state or local agencies or offices perform services for TennCare, including the Contractor, these entities do not have the authority to change or disapprove any administrative decision of TennCare, or otherwise substitute their judgment for that of TennCare with respect to the application of policies, rules and regulations issued by TennCare.
- E.7. Applicable Laws, Rules, Policies and Court Orders. The Contractor agrees to comply with all applicable federal and State laws, rules, regulations, sub-regulatory guidance, executive orders, HCFA Waivers, and all current, modified or future Court decrees, orders or judgments applicable to the TennCare program. Such compliance shall be performed at no additional cost to HCFA.
- E.8. Disclosure of Personal Identity Information. The Contractor shall report to HCFA any instances of unauthorized disclosure of confidential information that come to the attention of the Contractor. Any such report shall be made by the Contractor within twenty-four (24) hours after the instance has come to the attention of the Contractor. The Contractor, at HCFA's sole discretion HCFA, shall provide no cost credit monitoring services for individuals that are deemed to be part of a potential disclosure. The Contractor shall bear the cost of notification to individuals having personal identity information involved in a potential disclosure event, including individual letters and/or public notice.
- E.9. Severability. If any terms and conditions of this Interagency Agreement are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Interagency Agreement are declared severable.
- E.10. Records. The Contractor shall maintain documentation for all charges under this Interagency Agreement. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Interagency Agreement, shall be maintained for a period of six (6) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by HCFA, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- E.11. Social Security Administration (SSA) Required Provisions for Data Security. The Contractor shall comply with limitations on use, treatment, and safeguarding of data under the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, related Office of Management and Budget guidelines, the Federal Information Security Management Act of 2002 (44 U.S.C. § 3541, *et seq.*), and related National Institute of Standards and Technology guidelines. In addition, the Contractor shall have in place administrative, physical, and technical safeguards for data.
- a. The Contractor shall not duplicate in a separate file or disseminate, without prior written permission from TennCare, the data governed by the Interagency Agreement for any purpose other than that set forth in this Interagency Agreement for the administration of the TennCare program. Should the Contractor propose a redisclosure of said data, the Contractor must specify in writing to TennCare the data the Contractor proposes to redisclose, to whom, and the reasons that justify the redisclosure. TennCare will not give permission for such redisclosure unless the redisclosure is required by law or essential to the administration of the TennCare program.
 - b. The Contractor agrees to abide by all relevant federal laws, restrictions on access, use, and disclosure, and security requirements in this Interagency Agreement.



- c. The Contractor shall provide a current list of the employees of such Contractor with access to SSA data and provide such lists to TennCare.
- d. The Contractor shall restrict access to the data obtained from TennCare to only those authorized employees who need such data to perform their official duties in connection with purposes identified in this Interagency Agreement. The Contractor shall not further duplicate, disseminate, or disclose such data without obtaining TennCare's prior written approval.
- e. The Contractor shall ensure that its employees:
 - (1) properly safeguard PHI/PII furnished by TennCare under this Interagency Agreement from loss, theft or inadvertent disclosure;
 - (2) understand that they are responsible for safeguarding this information at all times, regardless of whether or not the Contractor's employee is at his or her regular duty station;
 - (3) ensure that laptops and other electronic devices/ media containing PHI/PII are encrypted and/or password protected;
 - (4) send emails containing PHI/PII only if encrypted or if to and from addresses that are secure; and,
 - (5) limit disclosure of the information and details relating to a PHI/PII loss only to those with a need to know.

Contractor employees who access, use, or disclose TennCare or TennCare SSA-supplied data in a manner or purpose not authorized by this Interagency Agreement may be subject to civil and criminal sanctions pursuant to applicable federal statutes.

- f. Loss or Suspected Loss of Data – If an employee of the Contractor becomes aware of suspected or actual loss of PHI/PII, he or she must immediately contact TennCare **within 1 hour** to report the actual or suspected loss. The Contractor will use the Loss Worksheet located at http://www.tn.gov/assets/entities/tenncare/attachments/phi_piiworksheet.pdf to quickly gather and organize information about the incident. The Contractor must provide TennCare with timely updates as any additional information about the loss of PHI/PII becomes available.

If the Contractor experiences a loss or breach of said data, TennCare will determine whether or not notice to individuals whose data has been lost or breached shall be provided and the Contractor shall bear any costs associated with the notice or any mitigation.

- g. TennCare may immediately and unilaterally suspend the data flow under this Interagency Agreement, or terminate this Interagency Agreement, if TennCare, in its sole discretion, determines that the Contractor has: (1) made an unauthorized use or disclosure of TennCare SSA-supplied data; or (2) violated or failed to follow the terms and conditions of this Interagency Agreement.
- h. Legal Authority – Federal laws and regulations giving SSA the authority to disclose data to TennCare and TennCare's authority to collect, maintain, use and share data with Contractor is protected under federal law for specified purposes:



- (1) Sections 1137, 453, and 1106(b) of the Act (42 U.S.C. 1320b-7, 653, and 1306(b)) (income and eligibility verification data);
- (2) 26 U.S.C. 6103(l)(7) and (8) (tax return data);
- (3) Section 202(x)(3)(B)(iv) of the Act (42 U.S.C. 401(x)(3)(B)(iv)) (prisoner data);
- (4) Section 205(r)(3) of the Act (42, U.S.C. 405(r)(3)) and Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458, 7213(a)(2) (death data);
- (5) Sections 402, 412, 421, and 435 of Pub. L. 104-193 (8 U.S.C. 1612, 1622, 1631, and 1645) (quarters of coverage data);
- (6) Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. 111-3 (citizenship data); and
- (7) Routine use exception to the Privacy Act, 5 U.S.C. 552a(b)(3) (data necessary to administer other programs compatible with SSA programs).

This Section further carries out Section 1106(a) of the Act (42 U.S.C. 1306), the regulations promulgated pursuant to that section (20 C.F.R. Part 401), the Privacy of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, related Office of Management and Budget ("OMB") guidelines, the Federal Information Security Management Act of 2002 ("FISMA") (44 U.S.C. 3541 *et seq.*), and related National Institute of Standards and Technology ("NIST") guidelines, which provide the requirements that the Contractor must follow with regard to use, treatment, and safeguarding data.

i. Definitions

- (1) "SSA-supplied data" – information, such as an individual's social security number, supplied by the Social Security Administration to TennCare to determine entitlement or eligibility for federally-funded programs (CMPPA between SSA and F&A; IEA between SSA and TennCare).
- (2) "Protected Health Information/Personally Identifiable Information" (PHI/PII) (45 CFR 160.103; OMB Circular M-06-19) – Protected health information means individually identifiable health information that is: (i) Transmitted by electronic media; (ii) Maintained in electronic media; or (iii) Transmitted or maintained in any other form or medium.
- (3) "Individually Identifiable Health Information" – information that is a subset of health information, including demographic information collected from an individual, and: (1) Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (2) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- (4) "Personally Identifiable Information" – any information about an individual maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and information which can be used to distinguish or trace an individual's identity, such as their name, Social Security Number, date and place of birth, mother's maiden name, biometric records, including any other personal information which can be linked to an individual.

IN WITNESS WHEREOF:



DEPARTMENT OF HEALTH:

John J. Dreyzehner, MD, MPH / 6.1.16
SIGNATURE / DATE

John J. Dreyzehner, MD, MPH, FACOEM, COMMISSIONER

PRINTED NAME AND TITLE

DEPARTMENT OF CHILDREN'S SERVICES:

Bonnie Hornmich / 6/1/16
SIGNATURE / DATE

Bonnie Hornmich, Commissioner

PRINTED NAME AND TITLE

DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE:

Larry B. Martin / CD / 6/1/16
LARRY B. MARTIN, COMMISSIONER / DATE



ATTACHMENT A

Payment Policies



Targeted Case Management is reimbursed according to the State Plan Amendment. A unit of service is defined as one day.

Children's Therapeutic Intervention Services include a variety of services. The definitions of these services are presented in the following chart. A unit of service is defined as one day.

Billing policies and reimbursement policies for all types of services are presented below.

Billing Policies

1. DCS must provide the capability of electronic billing for all their TennCare filings.
2. DCS must comply with the standardized paper billing forms/formats (HCFA 1500)
3. DCS must comply with the Health Insurance Portability and Accountability Act (HIPAA)
4. All claims must be received by TennCare within one year from the date of service except as described in a. and b. below.
 - a. If the recipient eligibility was determined retroactively then must be file within one (1) year after final determination of eligibility.
 - b. The claim was returned due to third party liability. These claims must be submitted net of third party payment or a coverage denial within sixty (60) days of notice from the third party provider.
5. DCS must file any denied or resubmitted claims within six (6) months of the original submission date.
6. DCS must file all adjustments within six (6) of the original payment date.
7. DCS must bill only for DCS children in custody or at risk of custody.

Assistance payments:

TennCare payments for residential services are based upon the lesser of billed amount or the Federal approved procedures rates on the servicing provider's usual and customary pricing file.

Payments are for only one (1) residential service code per day per recipient.

Payments are for only one (1) Targeted Case Management fee per child per month.

Payments will not be made for children on AWOL or Inmate status.

Should a child become AWOL or an Inmate after DCS has billed TennCare the claim must be voided by DCS within sixty (60) days of notice from the child's case manager.

Administration payments:

Administration payments are based upon the federally approved DCS Cost Allocation Plan in effect for the period billed.

Administration payments are processed through the State of Tennessee Accounting system on a quarterly basis.



**Categories of
TennCare-Billable DCS Children's Therapeutic Intervention Services**

Note: A unit of service equals one day. Date of discharge is not billed.

Name of Service	Definition of Service
Foster care—Special Medically Fragile	Foster homes specially trained to deal with children and youth with intense medical needs such as the need for administration of complex medications and special therapies by the caregiver; terminal illness care. Care-takers are specially-trained to care for children with extreme medical needs, which cannot be provided in their family homes. Program is offered to children with serious medical needs who would otherwise remain in a hospital or other medical settings.
Foster Care—Special Therapeutic	Foster family placement for youth with moderate mental health and behavioral issues who would benefit from a family-based treatment model, have a need for treatment in order to be able to function in a community setting, and cannot be served in less intensive foster care programs. These children exhibit behavioral, emotional, or social problems that are of such a nature that they disrupt academic and developmental progress, family relationships, and hinder overall functioning. Parents receive higher level of training and intervention services including behavior management techniques, and coordination of medical treatment and physical therapies when necessary.
Independent Living	Residential or apartment based program focusing on self sufficiency and independent living skills for youth who have separated from their homes and are disconnected from long-term family relationships and who need skills to lead self-sufficient, productive and responsible lives.
Level 2 Residential Programs	Residential Treatment Centers for youth with moderate treatment and supervision needs. The behavior management needs of these children require constant supervision in that they have behavior that is not well-controlled and basic structure and nurturance are not sufficient. Children eligible for this program must have a DSM-IV diagnosis or be identified by a mental health professional as having at least moderate emotional and/or behavior problems and be in need of treatment and appropriate for this level of care. These children have not responded to less intensive forms of treatment, and/or have been denied admission or discharged from various placements because of emotional and behavioral disruption. They need highly structured environments in school, the community or home.
Level 2 Continuum	A broad array of treatment and case management services ranging from residential to community based services provided by DCS as Medically Necessary to meet the treatment needs of the child. Children enter the Level 2 continuum program at Level II. Services are initially provided only to children in DCS custody but may continue after a child is reunified to home. The Continuum of Care is a service-based model of care which purchases the outcomes of successful permanency for children and provides incentives for the child to be placed in the most appropriate, least restrictive,



Name of Service	Definition of Service
	<p>community based settings. In addition to residential treatment, continuums provide broad range of home/community-based services, which will facilitate successful reunification of the child with family. Continuums allow the Provider greater flexibility in designing services for the child and family, the ability to facilitate rapid movement of the child through the service system and the ability to customize the delivery of services to each child and family in the least restrictive and most cost effective manner. Residential Treatment, Group home or Therapeutic Foster Care programs that are flexible in nature and individually designed for each child and their family. Programs focus on working with the family, if available, or assisting the child in reaching independence or readiness for adoption if reunion with the family is not possible. Youth enter the Continuum at the Level 2 level of care but move to foster care or home with wraparound treatment services as they make progress.</p>
<p>Level 2 Continuum Group Care</p>	<p>These children/youth may be delinquent or a plaintiff class child/youth with complex needs and have a past history of multiple felony charges and/or a history with a multitude of the following behaviors: impulsivity, aggression, destruction or theft of property, alcohol or drug misuse, moderate to serious sex offenses, or described as having disruptive behavioral needs. Child/youth may have patterns of runaway episodes, may be involved in a gang, have difficulty maintaining self-control, display poor social skills, and/or have difficulty accepting authority. This service is available to children/youth (ages 13 up to 19) transitioning from a secure YDC facility after having received treatment, or from detention without treatment, or children/youth who present with similar needs but do not qualify for a secure facility. Such children/youth may have a need for treatment and support as they are preparing for full community integration or transition to a less restrictive setting.</p>
<p>Level 2 Continuum Special Needs JJ</p>	<p>This program is designed for youth (ages 13-19) transitioning from a YDC, have received treatment and completed their sentence in accordance with the court's directive. Such youth may have a need for continued treatment and support as they are prepared for full community integration. On a case by case basis older Juvenile Justice (JJ) youth (ages 13-19) placed in detention may be admitted based on bed availability.</p>
<p>Level 2 Special Needs</p>	<p>Residential Treatment Centers with a treatment focus specifically on youth with developmental disabilities and mental illness or sexual offending issues and mental illness meeting the Level 2 treatment needs.</p>
<p>Level 2 Special Population</p>	<p>Residential Treatment Center for youth with level 2 treatment needs who also require a self-contained educational setting due to treatment needs. Two examples of this program type are alcohol and drug treatment and wilderness programs. Program must provide 24-hour awake staff. These children have not responded to less intensive forms of treatment and/or have been denied admission or discharged from various placements because of emotional and behavioral disruption.</p>
<p>Level 2 Alcohol and Drug</p>	<p>Addresses the treatment needs of adolescents, ages 13 to 18,</p>



Name of Service	Definition of Service
	<p>exhibiting behaviors relating to the abuse and misuse of alcohol and/or other drugs in which there is evidence of moderate impairment in any one or combination of these areas: familial, social, educational, or occupational functioning. The residential program is designed for adolescents who need continued structure beyond a typical family setting to provide protection from negative peer influence while promoting a sustained focus on their recovery. There is a need for limited 24 hour supervision by staff which will prepare the adolescent for the independence that is necessary to be successful in settings away from his or her home.</p>
<p>Level 3 Alcohol and Drug</p>	<p>Addresses treatment needs of adolescents, ages 13 to 18, exhibiting behaviors relating to the abuse and misuse of alcohol and/or other drugs. Evidence must indicate a severe and significant impairment in familial, social, educational or occupational functioning. The program is designed for adolescents who need continued structure beyond a typical family setting to provide protection from negative peer influences while promoting a sustained focus on their recovery and rehabilitation. There is a need for 24-hour supervision by staff which will prepare the adolescent for the independence necessary to be successful in settings away from his or her home. The residential program uses a structured 7-days-a-week/24-hour therapeutic environment to achieve rehabilitation</p>
<p>Level 3</p>	<p>Residential Treatment Programs with treatment designed to address children with serious emotional and behavioral problems who require constant adult supervision. These children require therapy and may have psychiatric/medication needs. These programs have intensive day treatment and a self-contained educational program.</p>
<p>Level 3 Continuum</p>	<p>A broad array of treatment and case management services ranging from residential to community based services provided by DCS as Medically Necessary to meet the treatment needs of the child. Children enter the Level III continuum program at Level III. Services are Initially provided only to children in DCS custody but may continue after a child is reunified to home. The Continuum of Care is a service-based model of care which purchases the outcomes of successful permanency for children and provides incentives for the child to be placed in the most appropriate, least restrictive, community based settings. In addition to residential treatment, continuums provide broad range of home/community-based services, which will facilitate successful reunification of the child with family. Continuums allow the Provider greater flexibility in designing services for the child and family, the ability to facilitate rapid movement of the child through the service system and the ability to customize the delivery of services to each child and family in the least restrictive and most cost effective manner. The residential Treatment Programs are flexible in nature and individually designed for each child and their family. Programs focus on working with the family, if available, or assisting the child in</p>



Name of Service	Definition of Service
	reaching independence or readiness for adoption if reunion with the family is not possible. Youth enter the Continuum at the Level 3 level of care but move to therapeutic foster care, foster care, Level 1, or homes with treatment services as they make progress.
Level 3 Continuum Services Enhanced	Youth has a history of major impairments in several areas, such as work or school, family relations, judgment, thinking or mood. Youth may have a history of multiple felony charges and/or a history of a multitude of behaviors, including but not limited to: self-harm, aggression, strong gang affiliation, moderate to serious incidents of sex offending behaviors or described as having conduct, oppositional or defiant behaviors.
Level 3 Continuum Special Needs	Same as Level 3 Continuum except these programs are solely for youth with mental retardation and mental illness or sexual offending behaviors and mental illnesses or substance abuse.
Level 4	A psychiatric facility providing treatment for mentally ill youth who are not acute but who need secure mental health treatment.
Level 4 Special Needs	A psychiatric facility providing treatment for mentally ill youth who are not acute but who need secure mental health treatment and must have one-to-one supervision a majority of the time due to developmental delay, violence, or sexual offending risk.
Sex Offender Residential Treatment	Treats youth between the ages of 13-17 who have had a psychiatric diagnosis and who have been engaged in sexually abusive behavior as determined by court, Child Protective Services or by self- admission. Determination for service include factors related to risk for sexually abusive behavior combined with other variables impacting the ability to safely manage the in a less restrictive environment, including difficulty controlling sexual behavior, failure in outpatient programs, significant psychiatric disorders, and history of aggressive behavior, runaway, or community safety.
Primary Treatment Center	Residential Treatment Centers to complete evaluations and make treatment recommendations for youth in crisis or initially entering DCS custody.
Severely Emotionally Disturbed (SED) Psychiatric Residential Treatment	This service is for children and adolescents with significant psychiatric needs who cannot maintain treatment or safety in the community, but who do not meet medical necessity for acute inpatient hospitalization. Clinical care occurs in a highly structured, 24-hour a day setting. Therapeutic interventions are provided on a frequent and consistent basis in order to stabilize unsafe behaviors and address psychiatric symptoms. Residents are evaluated by a physician on a weekly basis and 24-hour



Name of Service	Definition of Service
Severely Emotionally Disturbed (SED) Psychiatric Residential Treatment High Intensity – Heightened Supervision	This service is for children and adolescents with significant psychiatric needs who cannot maintain treatment or safety in the community, but who do not meet medical necessity for acute inpatient hospitalization. The resident's unsafe behaviors are persistent and/or at a heightened level so as to present a potential risk of harm to self or others and require 1:1 supervision by program staff. Clinical care occurs in a highly structured, 24-hour a day setting. Therapeutic interventions are provided on a frequent and consistent basis in order to
Autism Spectrum/Neurodevelopmental Disorders Residential Treatment	This service is for children and adolescents with a diagnosis of Autism Spectrum or another Neurodevelopmental Disorder and a co-occurring psychiatric disorder(s). Difficulties with transitions and/or sensory integration do not impair the resident's daily functioning and a 1:4 level of supervision is provided by program staff. Clinical care occurs in a highly structured, 24-hour a day setting that includes ABA (Applied Behavior Analysis) or an equivalent intervention. Residents are evaluated by a physician on a weekly basis and 24-hour
Autism Spectrum/Neurodevelopmental Disorders Psychiatric Residential Treatment—Mid Intensity	This service is for children and adolescents with a diagnosis of Autism Spectrum or another Neurodevelopmental Disorder and a co-occurring psychiatric disorder(s). Difficulties with transitions and/or sensory integration impair the resident's daily functioning so that a 1:3 level of supervision is provided by program staff. Clinical care occurs in a highly structured, 24-hour a day setting that includes ABA (Applied Behavior Analysis) or an equivalent intervention. Residents are evaluated by a physician on a weekly basis and 24-hour
Autism Spectrum/Neurodevelopmental Disorders Psychiatric Residential Treatment—High Intensity – Heightened Supervision	This service is for children and adolescents with a diagnosis of Autism Spectrum or another Neurodevelopmental Disorder and a co-occurring psychiatric disorder(s). The resident exhibits significant impairment in daily functioning. This impairment may include, but is not limited to, the following: limited expressive language skills, assistance required for activities of daily living and/or a history of harm to self or others in consideration with the resident's size and age. A 1:1 level of supervision is provided by program staff. Increased involvement from a Board Certified Behavior Analyst is needed to write and monitor the behavior intervention plan. Residents are evaluated by a physician on a weekly basis and 24-hour nursing care is



ATTACHMENT B

TennCare Policy Reference Interfaces between TennCare and DCS dated December 6, 2010



TENNCARE POLICY REFERENCE

Topic: Interfaces between TennCare and DCS

Date: December 6, 2010

The purpose of this policy reference is to clarify the relationships between TennCare and the Department of Children's Services (DCS) regarding the delivery of services to children in State custody and at risk of State custody.

DISCUSSION:

Children in State custody and children at risk of State custody are a particularly vulnerable population. For custody children, the State serves as their "parent" during the custody period and thus has a special obligation to ensure that their needs are addressed quickly and effectively.¹ TennCare plays a major role in addressing the medical, dental, and behavioral health needs of custody children. TennCare and DCS have entered into several unique relationships to promote coordination and to maximize the availability of federal funds for services provided to custody children.

TennCare's arrangement with DCS has been formalized in a contract that can be viewed on the TennCare intranet at <http://intranet.state.tn.us/tenncare/contracts/dcs04.pdf>. There is a Medicaid coordination committee that meets regularly and includes representatives from DCS, TennCare Select, and TennCare. The purpose of the committee is to increase communication among the entities and to develop solutions to problems as they come up.

It should be noted that formal custody ends when children reach age 18.² DCS continues to work with a subset of children who have "aged out" of custody. These children are sometimes

¹ It should be noted that even though the State is acting as the child's "parent" during a period of custody, the child's parents may still retain some or all rights, such as granting permission for treatment. This is a factor that must be addressed by DCS case managers.

² T.C.A. § 37-5-103 defines a "child" as a person under the age of 18.



called "Chafee children."³ "Chafee children" are not necessarily Medicaid-eligible, however. They can qualify for Medicaid if they meet the criteria for any open category, such as the Medically Needy category. See the Policy Reference entitled "Independent Foster Care Adolescents."

DESCRIPTION OF TENNCARE SERVICE DELIVERY SYSTEM FOR CUSTODY CHILDREN

1. **Managed Care Contractors.** DCS children who are TennCare eligible (or presumed TennCare eligible—see "Immediate Eligibility" section below) are automatically enrolled in TennCare Select. One purpose of this assignment is to minimize transition difficulties that can occur when custody children move from one part of the State to another. TennCare Select has identified a Best Practices Network of providers across the State who have special skills in relating to custody children.

DCS children are also enrolled with TennCare's Pharmacy Benefits Manager (PBM) for coverage of prescription drugs and Dental Benefits Manager (DBM) for coverage of dental services.

2. **Eligibility.** Many children entering DCS custody are already eligible for TennCare. Those who are not usually obtain eligibility upon entering custody, since there is an eligibility category especially for Title IV-E children in adoption subsidy or foster care programs. (Title IV-E is the program that provides federal payments for adoption subsidy and foster care programs.)⁴ DCS has its own eligibility workers called "Child Benefits Workers" who conduct eligibility determinations.

Not all custody children are eligible for TennCare, however. Custody children who are undocumented or ineligible aliens cannot be TennCare-eligible, as an example, since TennCare is prohibited from enrolling persons in this category. TennCare can pay for emergency services delivered to these children, in accordance with Policy EED 05-001

³ The John H. Chafee Foster Care Independence Program (CFCIP) offers assistance to help current and former foster care youths achieve self-sufficiency. Grants are offered to States and Tribes who submit a plan to assist youth in a wide variety of areas designed to support a successful transition to adulthood. Activities and programs include, but are not limited to, help with education, employment, financial management, housing, emotional support and assured connections to caring adults for older youth in foster care. The program is intended to serve youth who are likely to remain in foster care until age 18, youth who, after attaining 16 years of age, have left foster care for kinship guardianship or adoption, and young adults ages 18-21 who have "aged out" of the foster care system.

⁴ For definitions of "Title IV-A, Title IV-B, Title IV-D, and Title IV-E, see www.tn.gov/youth/dcsguide/glossary.pdf.



("Emergency Medical Services for Illegal and Ineligible Aliens"). See www.tn.gov/tenncare/forms/eed05001.pdf.

Children who have incomes or resources that exceed established limits would also be ineligible for TennCare in the "Title IV-E" category. Since they are not undocumented or ineligible aliens, they are not eligible for TennCare payment of their emergency services.

3. **Immediate Eligibility.** In order to facilitate the timely receipt of care, children entering custody who are eligible for TennCare need to be enrolled in TennCare as soon as possible. Those children who are not already TennCare-eligible are presumed to be TennCare eligible while their eligibility determination is being processed. This arrangement is called "Immediate Eligibility."

If the result of the eligibility determination is that the child is not eligible for TennCare, then DCS is responsible for refunding to the TennCare Managed Care Contractors any payments they made for services delivered to the child during the "Immediate Eligibility" period.

4. **TennCare benefits.** TennCare-eligible children in DCS custody have access to all TennCare covered services, with the exception of Non-Emergency Transportation (NEMT). Foster parents and child care agencies serving custody children are required by Title IV-E to agree to furnish transportation services for children in their care. This means that DCS children do not lack access to NEMT and thus do not generally qualify for TennCare coverage of this service. There is one special situation where DCS children might make use of NEMT, however. Custody children who are on a trial visit home are encouraged to access services in the most normal manner possible, and these children might be appropriate candidates for TennCare-covered NEMT.

DCS children get the following special benefits from TennCare:

- a. **Targeted case management.** Targeted case management (TCM) for DCS children who are eligible for TennCare is provided through the Medicaid State Plan⁵ and thus outside of the managed care program. TennCare pays DCS directly for these services. It is important to be aware that CMS's position in recent years is that TCM paid for by Medicaid cannot overlap with TCM paid for

⁵ See Tennessee Medicaid State Plan, Supplement 1 to Attachment 3.1-A (Program D); Attachment 3.1.A.1 (Program D); Attachment 3.1.B.1 (Program D); and Attachment 4.19B (Program D).



by Title IV-E. Medicaid's TCM must be provided for the purpose of coordinating medical care. Medicaid dollars cannot support other activities of DCS case managers, such as going to court, inspecting homes for foster children, recruiting foster parents, etc. See State Medicaid Director Letter 01-013 at www.cms.gov/smdl/downloads/smd011901c.pdf. Targeted case management for DCS children who are not eligible for TennCare is provided by DCS.

- b. Children's therapeutic intervention services.** This is a name given to a financing arrangement that has existed for nearly 20 years between the Bureau of TennCare and DCS. The portion of a child's residential day that is considered "treatment" is billed to TennCare by DCS outside the managed care program and reimbursed by TennCare through the Title V agreement. Title V agreements are discussed at 42 CFR § 431.615. In Tennessee, the Title V agreement is a three-way agreement among the Department of Health, the Department of Children's Services, and the Bureau of TennCare. Since the Department of Health is the Title V agency in Tennessee, that is the agency that maintains this Agreement.
- c. Behavioral Health Centers of Excellence services.** The State has set up a system of regional Behavioral Health Centers of Excellence for the purpose of assisting DCS in developing appropriate care plans for custody children and children at risk of custody who have complex behavioral health needs. These COEs provide interdisciplinary diagnostic services and consultation regarding treatment services. In some cases they actually deliver needed treatment services, especially in the area of reviewing and changing a child's medication regimen. Contracts with the COEs are monitored by the Governor's Office of Children's Care Coordination.
- d. Inpatient hospital services for DCS children who are incarcerated.** TennCare enrollees who become incarcerated generally lose eligibility for TennCare. In the case of DCS children who become incarcerated, TennCare ceases payment for all services, with one exception. When the child must leave the facility to go into an inpatient hospital setting, TennCare Select will cover the hospitalization if it is medically necessary. See TennCare Policy EED 06-001 ("Eligibility of Incarcerated Individuals") at www.tn.gov/tenncare/forms/eed06001.pdf.



- e. **Crisis Management Team.** DCS has an in-house Crisis Management Team that authorizes certain services for TennCare-eligible children, usually residential services, when the child's MCO has denied the services and the team believes that the child will go into custody if he does not receive those services. Services are authorized for 30 days at a time while an appeal is processed at TennCare.

The "owner" of the DCS contract at TennCare is Michael Myszka in the Quality Oversight Division. Andrea Thaler and Mary Shelton in the Managed Care Operations Division work with Dr. Myszka and with DCS on various coordination activities.

Susie Boird
December 6, 2010

Original, June 1, 2010 - Initials
Rev 1: date - initials
Rev 2: date - initials OR Reviewed, but not modified, date - initials

Policy Office, Bureau of TennCare

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This document has been prepared as an internal document for use within the Bureau of TennCare. It is being provided to you as it may be a helpful summary; however, readers should not rely on this content instead of reading the actual laws, rules, policies and other official guidance.



ATTACHMENT C

Performance Standards



Standard 1: There will be written documentation of Targeted Case Management activity for each custodial TennCare-eligible child billed to TennCare. The documentation will include a minimum of one face-to-face encounter between the case manager and the child.

Indicator: TennCare Billing verification

Standard 2: TennCare eligible children in DCS custody will be taken for an annual EPSDT screening appointment. Exceptions include children not in the physical custody of DCS (runaway, out of state placement, at home, or as noted in records). EPSDT outreach will be provided to children who have not been in the physical custody of DCS. Reports will be produced to indicate aggregate screening appointment met percentages for children in care on a monthly basis.

Indicator: DCS screening appointment met reports/DCS TennCare Quarterly Report

Standards 3: The Crisis Management Team (CMT) will review children/youth who are referred and at imminent risk of custody to determine if they can be assisted in accessing TennCare services that have been denied or are pending, and where appropriate refer for an assessment of needed additional services or authorize services pending a TennCare appeal on denied services.

Indicator: DCS TennCare Quarterly CMT report

Standard 4: DCS will not submit any claims to TennCare for services to children who are Inmates when they are not TennCare eligible.

Indicator: DCS and TennCare billing verification

Standard 5: DCS will not submit any claims to TennCare for residential services to children who are not physically present to receive the residential service.

Indicator: DCS and TennCare billing verification

Standard 6: All DCS Provider Agreements will be compliant with TennCare requirements.

Indicator: TennCare yearly review

Standard 7: DCS will maintain an adequate Provider network for TennCare-covered residential behavioral services at all times that assures all child/youth are placed within 75 miles of the address of the committing court of their home county.

Indicator: DCS network adequacy report/quarterly report

Standard 8: All DCS residential services which are reimbursed at 100% by TennCare will meet the definitions found at 42 CFR 483.352.

Indicator: DCS Quarterly Report

Standard 9: DCS reports required in this Contract will be submitted timely, completely, and accurately.

Indicator: TennCare verification

Standard 10: Services required by a directive to DCS from the TennCare Solutions Unit will be delivered to ODCD within the required timeframe.



Indicator: TennCare verification

Standard 11: Acceptable corrective action plans (CAPs) will be filed by DCS within the timeframe stipulated in the CAP.

Indicator: TennCare verification

Standard 12: At least 95% of all TennCare eligibility determinations will be completed within 45 days of initiation.

Indicator: DCS Quarterly Report