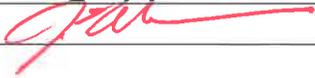




# TENNCARE POLICY MANUAL

<b>Policy No:</b> PRO 16-002	
<b>Subject:</b> Delinquent Balances on Nursing Facility Assessment Fees	
<b>Approval:</b> 	<b>Date:</b> 9/11/16

## BACKGROUND:

Tennessee law<sup>1</sup> provides for an annual assessment fee to be charged to nursing homes that are licensed by the Department of Health and that provide care in Tennessee. While the fee is calculated on an annual basis, nursing homes remit payment in quarterly installments. Proceeds from the fee are placed in a trust fund and draw matching dollars from the Centers for Medicare and Medicaid Services (CMS) to help pay for certain nursing home services covered by the TennCare program.

Occasionally, nursing homes subject to the assessment fee accrue delinquent balances by failing to remit payment in a timely manner. Legislation passed by the General Assembly in 2016<sup>2</sup> defines the ways in which TennCare may address these delinquent balances. Among the provisions of the legislation are payment plans for facilities committed to bringing their balances to a status of "current," as well as recoupments, penalties, and loss of quality incentive payments for facilities whose balances remain delinquent.

## POLICY/PURPOSE:

The purpose of this policy is to ensure that facilities fulfill their obligations related to the nursing home assessment fee in a timely manner. The Bureau of TennCare encourages all nursing homes to remit quarterly installment payments by the statutorily defined due dates. Although the "Procedures" section of this policy outlines circumstances in which payment plans may be granted, such arrangements should be viewed as a last resort.

## PROCEDURES:

1. Categorization of delinquent nursing homes. In defining how it will respond to instances of delinquent fee payment, TennCare recognizes three categories of nursing homes:

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<sup>1</sup> T.C.A. § 71-5-1003

<sup>2</sup> Public Chapter No. 883

- **Group A** – facilities that carry a delinquent balance into State Fiscal Year (SFY) 2017;
- **Group B** – facilities that develop a delinquent balance during SFY 2017 or afterward; and
- **Group C** – facilities that develop a delinquent balance during SFY 2017 or afterward, enter into a payment plan with the State, and fail to abide by the terms of the payment plan.

The manner in which TennCare addresses delinquent balances held by nursing homes in each of these groups will be discussed in Procedures 3-5 below.

2. Evaluation process. TennCare has discretion in responding to instances of delinquent fee payment in their early stages. The Bureau may, for instance, allow a nursing home to enter into a payment plan. Alternately, recoupment from scheduled nursing home payments (including acuity payments) and imposition of penalties and interest may occur. The course of action pursued depends on an evaluation conducted by TennCare, one that takes into account not only the needs of TennCare enrollees, but also the answers to such questions as—

- Has the facility made an effort to pay its assessment fees?
- Does the facility have a history of delinquent payments?
- Does the facility have the financial ability to pay?
- Does the facility have adequate margins (i.e., a proper balance between revenue and cost)?
- Is there a pending bankruptcy or change in ownership?
- Is there a specific circumstance that precipitated the delinquency, and is it likely to recur?
- Has the facility implemented proper corrective actions to prevent future delinquency?
- Does the facility have a history of non-compliance in areas other than fee payment?
- Has the facility acted in good faith, and been open and transparent in dialogue with TennCare?
- Are there other mitigating—or aggravating—factors to be considered?

These questions have been developed by the Bureau as a guide and, therefore, may be applied in any manner TennCare deems useful. Depending on a particular facility's history and circumstances, TennCare may place greater emphasis on some questions and/or exclude some questions from the evaluation altogether.

As assessment fee balances remain unpaid, the Bureau will report certain instances of delinquency to the Board for Licensing Health Care Facilities to determine whether admissions to the nursing home should be suspended and/or whether the nursing home's license should be revoked.

3. Responding to delinquent balances by nursing homes in Group A. For nursing homes that carry a delinquent assessment fee balance into SFY 2017, TennCare will formulate action plans on a case-by-case basis.
4. Responding to delinquent balances by nursing homes in Group B. For nursing homes that develop a delinquent assessment fee balance during SFY 2017 or afterward, TennCare's response will occur in stages. If any of these stages falls on a weekend or holiday, TennCare's corresponding action will occur on the first business day thereafter.

The first stage occurs **30 days after the assessment fee due date**, when the Bureau sends notification letters to all facilities found to be delinquent. The letter will inform facilities that they have an additional 15 days to remit payment or obtain a payment plan from TennCare, and that failure to comply will trigger financial recoupments and termination of incentive payments from the Quality Improvement in Long-Term Services and Supports (QuILTSS) program. Nursing homes that remit payment within the 15-day period will not be subject to further action. *N.B.: in the case of a facility that is chronically late with assessment fee payments, TennCare reserves the right to dispense with the grace period and to impose penalties and interest immediately.*

The second stage occurs **45 days after the assessment fee due date**. Facilities that have opted for a payment plan by this point may—at TennCare's discretion—be offered the opportunity to avoid penalties and interest by making all installment payments timely. (The alternative is that penalties and interest are calculated from the original assessment fee due date to the date on which the first payment plan installment is received. This total is then divided equally among the number of installments associated with the payment plan.) Facilities that—by the 45<sup>th</sup> day—have neither paid the assessment fee in full nor entered into a payment plan are subject to a variety of measures, including the following:

- Imposition of penalties and interest back to the original due date;
- Immediate ineligibility for QuILTSS payments<sup>3</sup> and complete recoupment of future acuity payments until the facility's balance is current or a payment plan has been obtained; and
- Additional recoupments as necessary (at a pace determined by TennCare).

The third stage occurs **90 days after the assessment fee due date**. For facilities that have neither paid the assessment fee in full nor entered into a payment plan by this point, the Bureau will initiate proceedings before the Board for Licensing Health Care Facilities as required by

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<sup>3</sup> Forfeited QuILTSS payments are not applied to the nursing home's delinquent balance. A facility that becomes temporarily ineligible for QuILTSS payments before paying their assessment fees in full will have their next QuILTSS payment reduced on a prorated basis (reflecting the length of the period of ineligibility).

Tennessee law.<sup>4</sup> The proceedings will address whether admissions to the facility should be suspended.<sup>5</sup>

5. Responding to delinquent balances by nursing homes in Group C. As with facilities in Group B, TennCare's response to nursing homes in Group C will occur in stages. These stages are based not on the original assessment fee due date, but on the due date of the payment plan installment. When any of the milestone dates related to Group C fall on a weekend or holiday, the action tied to the milestone will occur on the first business day thereafter.

**The first day after a missed installment due date**, the Bureau will notify the facility by letter that it has seven calendar days after the due date either to pay the installment or to restructure the payment plan with TennCare. It should be noted that TennCare is under no obligation to accept a restructured payment plan. A nursing home that has failed to abide by the terms of the original payment plan must offer a compelling reason that the terms should be renegotiated.

Facilities that have not paid the installment or obtained a restructured payment plan by **the eighth day after a missed installment due date** are subject to several measures. These include the following:

- Reinstatement of all previous penalties and interest that had been avoided by timely installment payments;
- New penalties and interest, which are calculated from the missed installment due date until the facility's balance is current;
- Immediate ineligibility for QuILTSS payments (in the same manner as applied to Group B) and complete recoupment of future acuity payments until the facility's balance is current or the payment plan is reestablished or restructured; and
- Additional recoupments as necessary (at a pace determined by TennCare).

On **the thirtieth (30<sup>th</sup>) day after a missed installment due date**, if the facility has neither paid the installment in full nor restructured its payment plan with TennCare, the Bureau will initiate proceedings before the Board for Licensing Health Care Facilities as required by Tennessee law (in the same manner as with Group B).

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<sup>4</sup> T.C.A. § 71-5-1006(c)(2)(A)

<sup>5</sup> If the Board does suspend admissions, the facility has 60 days either to pay the assessment fee in full or enter into a payment plan. If the facility fails to do either, TennCare will initiate proceedings with the Board to revoke the facility's license, as required by T.C.A. § 71-5-1006(c)(4).

**OFFICES OF PRIMARY RESPONSIBILITY:**

TennCare Assessment Review Committee  
HCFA Fiscal Office

**REFERENCES:**

<http://www.lexisnexis.com/hottopics/tncode/>

T.C.A. §§ 71-5-1003 and 71-5-1006

<http://share.tn.gov/sos/acts/109/pub/pc0883.pdf>

Public Chapter No. 883, Public Acts of the Tennessee 109<sup>th</sup> General Assembly

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