



June 10, 2024

Kamia Rathore
State Demonstrations Group
Centers for Medicare & Medicaid Services
Center for Medicaid and CHIP Services
Mail Stop: S2-25-26
7500 Security Boulevard
Baltimore, Maryland 21244

RE: TennCare III Demonstration (No. 11-W-00369/4), Amendment 5

Dear Ms. Rathore,

We greatly appreciate your review and approval of Amendment 5 to the TennCare III demonstration. The approval of this amendment will expand access to coverage for low-income families in Tennessee, as well as enhance the benefits available under the demonstration to children and persons with disabilities. These enhancements will advance our shared goal of improving health outcomes for individuals enrolled in the TennCare demonstration.

We have reviewed the materials that accompanied the approval of Amendment 5, and we accept the amended Special Terms and Conditions, Waivers, and Expenditure Authorities.

We have identified a small number of technical corrections that should be reflected in the amended demonstration materials. A list of these technical corrections is attached to this letter. If you need additional information about Amendment 5 or about the attached comments, please contact Aaron Butler at 615.507.6448, or aaron.c.butler@tn.gov

We look forward to continuing to work with CMS to provide high-quality healthcare to Tennesseans enrolled in TennCare.

Sincerely,



Stephen Smith
Director, Division of TennCare

Attachment: Technical Corrections to Amended Demonstration Materials

Technical Corrections to Amended Demonstration Materials (Amendment 5)

1. *Cost Sharing*

Under the demonstration, TennCare Medicaid enrollees (i.e., state plan enrollees) who are not exempt from cost sharing are subject to nominal copays for prescription drugs (\$3 for brand name drugs and \$1.50 for generic drugs; see STC 37.b). This includes caretaker relatives who are eligible under the state plan. The state's intent is to apply these same copays to the higher-income caretaker relatives who are now eligible under demonstration authority. See the discussion in the state's amendment application: "Parents/caretaker relatives enrolled under this authority will receive their care through TennCare's existing managed care service delivery system, will receive the same benefits as all other persons enrolled in TennCare, *and will be subject to the same cost sharing as other adults enrolled in TennCare.*" In order to ensure maximum clarity, we request that Table 5 of the STCs be modified to reflect that pharmacy copays apply both to caretaker relatives eligible for Medicaid under state plan authority and to caretaker relatives eligible for TennCare under demonstration authority.

2. *Mid-Course Correction*

STC 78 describes the circumstances under which the state may request a "mid-course correction" adjustment to the demonstration's budget neutrality framework. We believe this STC contains incorrect cross-reference citations that should be corrected.

3. *Clarifications to ECF CHOICES Service Definitions*

The state has identified several clarifications and corrections to some of the ECF CHOICES service definitions contained in Attachment H. These clarifications/corrections reflect certain non-substantive changes to state procedures (e.g., the relevant licensing agency for certain providers) as well as updates intended to help ensure the state is able to ensure adequate access to care for all ECF CHOICES enrollees.

The specific technical corrections requested by the state are illustrated below.

VII. COST SHARING/PREMIUMS/PREMIUM ASSISTANCE

36. Cost Sharing. TennCare enrollees are subject to cost sharing as indicated in Table 5. Copay amounts are specified in Table 6.

Table 5 TennCare Demonstration Cost Sharing		
Program/Group	Pharmacy Copays	Non-Pharmacy Copays
TennCare Medicaid (state plan enrollees not exempt from cost sharing)	Yes	No
<u>Parents/Caretaker Relatives whose incomes exceed the income standard in the state plan</u>	<u>Yes</u>	<u>No</u>

XI. MONITORING BUDGET NEUTRALITY FOR THE DEMONSTRATION

78. Budget Neutrality Mid-Course Correction Adjustment Request. No more than once a demonstration year, the state may request that CMS make an adjustment to its budget neutrality agreement based on changes to the state’s Medicaid expenditures that are unrelated to the demonstration and/or outside the state’s control, and/or that result from a new expenditure that is not a new demonstration-covered service or population and that is likely to further strengthen access to care.

- a. Contents of Request and Process.** In its request, the state must provide a description of the expenditure changes that led to the request, together with applicable expenditure data demonstrating that due to these expenditures, the state’s actual costs have exceeded the budget neutrality cost limits established at demonstration approval. The state must also submit the budget neutrality update described in ~~STC 12-18-c 78.c~~ 78.c. If approved, an adjustment could be applied retrospectively to when the state began incurring the relevant expenditures, if appropriate. Within 120 days of acknowledging receipt of the request, CMS will determine whether the state needs to submit an amendment pursuant to ~~STC 3-7 7~~ 7. CMS will evaluate each request based on its merit and will approve requests when the state establishes that an adjustment to its budget neutrality agreement is necessary due to changes to the state’s Medicaid expenditures that are unrelated to the demonstration, are outside of the state’s control, and/or that result from a new expenditure that is not a new demonstration-covered service or population and that is likely to further strengthen access to care.

ATTACHMENT H Employment and Community First CHOICES Service Definitions

Intensive Behavioral Family-Centered Treatment, Stabilization and Supports:

Intensive Behavioral Family-Centered Treatment, Stabilization and Supports (IBFCTSS) is an integrated behavioral health and HCBS benefit targeted to providing intensive in-home, family-centered²⁴ behavior supports, behavioral-focused supportive home care, caregiver training and support, combined with crisis intervention and stabilization assistance that is available 24 hours a day, 7 days a week, and in-home behavioral respite when needed for a relatively small group of children (under age 21) who live with their family and have intellectual and/or developmental disabilities (I/DD) and severe co-occurring behavioral health and/or psychiatric conditions that place the child or others at imminent and significant risk of serious physical harm (that does not rise to the level of inpatient treatment or for which such treatment would not be appropriate), and threaten the sustainability of the family living arrangement.²⁵

These are children at imminent and significant risk of placement outside the home (e.g., state custody, hospitalization, residential treatment, incarceration). The benefit is available only for children eligible for and enrolled in Intensive Behavioral Family Supports (ECF CHOICES 7).

IBFCTSS combines family-centered behavioral health treatment services with family-centered HCBS. Qualified providers are licensed ~~by the Department of Mental Health and Substance Abuse Services (DMHSAS) for the delivery of behavioral health services and~~ by the Department of Intellectual and Developmental Disabilities for the delivery of HCBS for individuals with I/DD.²⁶ Behavioral health assessment, planning and treatment components of the ~~new~~ benefit are provided by a Masters level licensed ~~Mental Health professional clinician~~ and tailored to the needs of children with I/DD. Supportive service components (i.e., “Intensive Behavioral Supportive Home Care”) are provided by ~~Bachelor level Behavior Support Specialists~~²⁷ ~~Behavior Support Specialists~~ and organized around the needs of the

²⁴ *Family-centered* behavior supports include working with family members to understand their strengths, needs, preferences, goals and challenges; developing a collaborative relationship with the family; and providing support in a way that helps to engage, strengthen, support, and build the capacity and confidence of the family in order to help ensure safety, well-being, and permanency.

²⁵ “*Significant risk of harm*” means that serious physical injury to the person or other persons in the home is more than likely to happen imminently (very soon). Generally, “*imminent and significant risk of serious physical harm*” is evidenced by a well-documented, persistent and continuing pattern of behaviors that has resulted in serious physical injury to the person or others, and regarding which previous interventions (also documented) have been unsuccessful in reducing the risk to an acceptable level. The terms “*threaten the sustainability of the family living*” and “*significant risk of placement outside the home*” mean that as a result of the ongoing challenge of trying unsuccessfully to manage the behaviors which place the child and others at “*imminent and significant risk of serious physical harm*” as described above, the family has recently placed (in the last 180 days) or is actively pursuing placement outside the home for the child in order to keep the child or other family members safe, as evidenced by out-of-home placement, requests for out of home placement, or intervention by DCS

²⁶ Pursuant to State law, the provider’s Personal Services Supports Agency license could be issued by DMHSAS, in which case, a provider must have significant experience and expertise serving individuals with I/DD and complex behavior support needs, in order to meet provider qualifications for this benefit.

²⁷ Behavior Support Specialists are expected to have substantial ~~education,~~ training, ~~and~~ experience, ~~and~~ ~~structured clinical supervision while~~ ~~in~~ providing these types of supports to persons with I/DD in a family-centered way (i.e., a Bachelor’s degree in a relevant field plus at least one year experience working with individuals with

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person served, their preferences, and their stated goals including (a) enhancement of their understanding of and ability to manage and cope with their psychiatric disabilities and/or behavioral challenges; (b) self-care and independent living skills; (c) relationship building and use of leisure time; (d) employment; and (e) economic self-sufficiency and income budget maintenance. These HCBS will utilize a trauma informed care approach and be integrated with treatment services and with ongoing implementation of Behavior Support (or other behavior management) Plans and the PCSP, and will provide supportive services in a way that helps to engage, strengthen, support, and build the capacity and confidence of the family in the consistent and effective implementation of the child's behavior support (or other behavior management) plan in all aspects of daily life²⁸ in order to help ensure safety, well-being, and permanency. Behavior Support Specialists will have ongoing access to direct guidance from the Masters level mental health professionals who are employed by or contracted with the IBFCTSS provider. Providers of IBFCTSS must build and maintain ~~a written agreement with or employ~~ strong partnerships with a psychiatrist or other appropriately licensed psychiatric professional through strong coordination of care and to facilitate timely access to psychiatric care, as needed. While the service is intended to provide support for family caregivers, it is not intended to supplant the supports provided by natural caregivers, but rather to build the capacity of families to better provide natural supports by teaching, training and supporting them in their caregiving role.

Intensive Behavioral Community Transition and Stabilization Services

Intensive Behavioral Community Transition and Stabilization Services (IBCTSS) is an integrated benefit that combines generally short-term²⁹ intensive 24/7 community-based residential services with behavioral health treatment and supports to assist certain adults aged 18 years and older with intellectual and/or developmental disabilities (I/DD) and severe behavioral and/or psychiatric conditions who are transitioning out of a highly structured and supervised environment to achieve and maintain stable, integrated lives in their communities. The benefit is available only for adults eligible for and enrolled in Comprehensive Behavioral Supports for Employment and Community Living (ECF CHOICES 8).

IBCTSS offers a short-term (initial authorization period ~~of up to 90 days with limited extensions defined by the ISCT and subsequent phases to approve or extend phases, or return to phases as appropriate~~) behavioral-focused residential planning, stabilization and treatment program that addresses the mental health and stabilization needs of: 1) adults³⁰ with severe psychiatric or behavioral symptoms whose

I/DD who have challenging behavior support needs, including internship experience. Equivalent experience may be substituted for educational requirements, when appropriate—e.g., an Associates' degree with three years of experience, or five years of experience if no postsecondary degree.) TennCare may establish alternative competency-based requirements to deliver these services, while ensuring the appropriate level of expertise to deliver high quality and effective supports.

²⁸ IBFCTSS is an integrated family-centered behavioral health treatment and home and community-based service, not an educational or related service. These benefits will not be provided in education settings. However, the MCO and IBFCTSS provider is expected to coordinate with the Local Education Agency to help ensure consistent implementation of behavior support (or other behavior management) plans across daily environments.

²⁹ In rare some instances, IBCTSS may be utilized to support longer term implementation of a plan to fade from high intensity community-based supports following a transition or when necessary to support continued stability in the community and diversion from (re)institutionalization. A tiered structure of reimbursement will provide for stepdown intensity of supports in these limited instances.

³⁰ As it relates to ECF CHOICES, "adults" generally refers to individuals no longer eligible for the EPSDT benefit, i.e., individuals age 21 and older. However, IBCTSS and enrollment into ECF CHOICES Group 8 may be permitted for

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family is no longer capable of supporting the individual due to the severity and frequency of behaviors; 2) emerging young adults (age 18-21) with I/DD and severe psychiatric or behavioral symptoms aging out of the foster care system; and 3) adults with I/DD and severe psychiatric or behavioral symptoms following a crisis event and/or psychiatric inpatient stay and/or transitioning out of the criminal justice system or a long-term (two or more years) institutional placement (including residential psychiatric treatment facility). The purpose of Comprehensive Behavioral Supports for Employment and Community Living (Group 8) is to help stabilize the individual in the community and to help plan and prepare for transition to the appropriate ECF CHOICES Group (likely to be Group 6 in most cases), once it is possible to conduct appropriate assessments and determine the level of services and supports that will be needed going forward.

Qualified providers are licensed ~~by the Department of Mental Health and Substance Abuse Services for the delivery of behavioral health services and~~ by the Department of Intellectual and Developmental Disabilities for the delivery of residential services for individuals with I/DD. Behavioral health assessment, planning and treatment components of the ~~new~~ benefit are provided by a Masters level licensed ~~Mental Health professional~~ clinician and tailored to the needs of individuals with I/DD. Residential service components are provided by ~~Bachelor level Behavior Support Specialists~~³¹ ~~Behavior Support Specialists~~ with training and expertise in serving individuals with I/DD who have a severe behavioral and/or psychiatric condition.

This team provides comprehensive person-centered (including behavior supports) planning; coordination with the treating mental health practitioner (i.e., psychiatrist or other licensed prescriber); and intensive therapeutic support and intervention, up to 24 hours a day, as needed, across the person's day-to-day life domains, including home, school,³² work³³ and community, in order to achieve stability, support the person in building healthy relationships, and successfully plan and transition to other long-term services and supports with appropriate behavioral health treatment services. Providers of IBCTSS must build and maintain a ~~written agreement with or employ strong partnership with~~ a psychiatrist or other appropriately licensed psychiatric professional through strong coordination of care and to facilitate timely access to psychiatric care, as needed.

emerging young adults, and on a case-by-case basis, for late adolescents with severe psychiatric or behavioral symptoms in one of the circumstances described above in order to avoid placement in DCS custody.

³¹ Behavior Support Specialists are expected to have substantial ~~education,~~ training, ~~and~~ experience, and structured clinical supervision while ~~in~~ providing these types of supports to persons with I/DD in a family-centered way (i.e., a Bachelor's degree in a relevant field plus at least one year experience working with individuals with I/DD who have challenging behavior support needs, including internship experience. Equivalent experience may be substituted for educational requirements, when appropriate—e.g., an Associates' degree with three years of experience, or five years of experience if no postsecondary degree.) TennCare may establish alternative competency-based requirements to deliver these services, while ensuring the appropriate level of expertise to deliver high quality and effective supports.

³² IBCTSS is an integrated behavioral health treatment and home and community-based service, not an educational or related service. These benefits are not provided for individuals under age 22 in secondary education settings. However, the MCO and IBCTSS provider is expected to coordinate with the Local Education Agency to help ensure consistent implementation of behavior support (or other behavior management) plans across daily environments.

³³ The IBCTSS provider is responsible for the provision of therapeutic support and intervention during the provision of employment services/supports, as needed.