



Division of TennCare

# **TennCare II Demonstration**

Project No. 11-W-00151/4

Amendment 38

DRAFT

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### Attachments

Attachment A: Public Chapter No. 869

## Amendment 38 to the TennCare II Demonstration

### I. Description of the Amendment

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Tennessee has a long history of innovation in its Medicaid program. Since 1994, Tennessee has operated one of the longest-lasting and most comprehensive Medicaid managed care programs in the nation. In so doing, Tennessee has become a recognized leader in the use of managed care to provide broad access to care, deliver high-quality care that promotes improved health outcomes, and manage the cost of care effectively. Tennessee operates its managed care program under the authority of an 1115 demonstration waiver known as TennCare.

Tennessee continually seeks to build on its history of innovation by identifying new ways to improve the TennCare program. In the proposed waiver amendment outlined below, Tennessee proposes an enhanced program design for certain members that is intended to support participants' ability to obtain and maintain employment, promote improved health outcomes, and ultimately serve as a pathway to independence that supports program participants in their transition from public assistance to private health insurance.

This proposed waiver amendment is consistent with guidance released by CMS on promoting work and community engagement among Medicaid beneficiaries<sup>1</sup>, and is submitted in accordance with Public Chapter No. 869, enacted by the Tennessee General Assembly in 2018.

#### **Amendment Objective and Overview**

One of the core objectives of the TennCare demonstration is to improve health outcomes for individuals enrolled in TennCare.<sup>2</sup> A growing body of evidence points to a link between productive work or community engagement and improved health outcomes. One comprehensive review of existing studies found strong evidence that unemployment is generally associated with negative health outcomes, including higher mortality, poorer general health, poorer mental health, and higher medical consultation and hospital admission rates.<sup>3</sup> In general, employed individuals are both physically and mentally healthier, as well as more financially stable, than unemployed individuals.<sup>4</sup> Due to the strong connection between employment and overall health, people who are unemployed have higher mortality

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<sup>1</sup> <https://www.medicaid.gov/federal-policy-guidance/downloads/smd18002.pdf>

<sup>2</sup> See Section II of the TennCare demonstration, available at <https://www.tn.gov/content/dam/tn/tenncare/documents/tenncarewaiver.pdf>

<sup>3</sup> Waddell, G. & Burton, A.K. (2006). *Is work good for your health and well-being?* EurErg Centre for Health and Social Care Research, University of Huddersfield, UK.

<sup>4</sup> McKee-Ryan, F.M., Song, Z., Wanberg, C.R., & Kinicki, A.J. (2005). Psychological and physical well-being during unemployment: a meta-analytic study. *Journal of Applied Psychology*, 90 (1), 53-76.; Paul, K.I., Geithner, E., & Moser, K. (2009). Latent deprivation among people who are employed, unemployed, or out of the labor force. *Journal of Psychology*, 143 (5), 477-491.

and poorer health outcomes, and, further, longitudinal studies have found that these effects of unemployment exist regardless of any pre-existing health conditions.<sup>5</sup>

Given this growing body of research, a well-designed process to connect individuals to employment in a way that promotes positive health outcomes will serve to advance the goals of the TennCare demonstration. This is true whether the individual obtaining employment remains enrolled in TennCare or is able to transition to private insurance.

Accordingly, Amendment 38 is designed to promote improved health outcomes for TennCare members, and to support member efforts to achieve independence and potentially facilitate their transition off of the TennCare program and into private insurance. To this end, Amendment 38 will establish workforce participation and community engagement as an expectation for some program enrollees, and provide corresponding supports to help enrollees achieve their education- or employment-related goals.

### ***Impacted Population***

The workforce participation and community engagement requirements will be applicable to non-pregnant,<sup>6</sup> non-disabled, non-elderly adults enrolled in TennCare in the parent/caretaker relative eligibility category described at 42 CFR § 435.110. The requirement will apply to members of this eligibility category ages 19-64 who do not qualify for one of the exceptions below.

### ***Encouraging Work and Community Engagement***

Impacted adults will be required to engage in qualifying work or community engagement activities for 20 hours per week (averaged monthly).

These individuals can fulfill this requirement in a variety of ways. These include:

- Working in paid employment or self-employment;<sup>7</sup>
- General education (e.g., high school or high school equivalency, college, English as a second language, etc.);
- Vocational education and training;
- Participation in job search or job skills training activities sponsored by the Tennessee Department of Labor & Workforce Development;
- Accredited homeschooling; and
- Community service (volunteering) in approved settings.

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<sup>5</sup> Egerter, S., Dekker, M., An, J., Grossman-Kahn, R., & Braveman P. (2008). *Work matters for health* (Issue Brief No. 4). Robert Wood Johnson Foundation, Commission to Build a Healthier America. Retrieved from <http://www.commissiononhealth.org/PDF/Oe8ca13d-6fb8-451d-bac8-7d15343aacff/Issue%20Brief%204%20Dec%2008%20-%20Work%20and%20Health.pdf>

<sup>6</sup> The workforce participation and community engagement requirement does not apply to pregnant women, or to women during their period of postpartum coverage.

<sup>7</sup> If self-employed, an individual must be able to demonstrate income that is consistent with working at least 20 hours per week (averaged monthly).

In addition, individuals subject to and complying with the work requirements of another public assistance program (i.e., SNAP or TANF) will be deemed to be in compliance with the TennCare community engagement requirement. This includes individuals who are enrolled in another public assistance program and who have been determined to be exempt from that program's work requirements.

### **Exceptions**

TennCare acknowledges there are circumstances that may limit or prevent a member's ability to comply with the community engagement requirement. Members will be exempt from the requirement in any month in which any one of the following conditions is met:

- Individuals who are at least 65 years old
- Individuals who are physically or mentally incapable of work, as certified by an appropriate medical professional
- Individuals who are determined to be medically frail
- Individuals with a short-term or long-term disability or an acute medical condition validated by a medical professional that would prevent them from complying
- Individuals who have pending applications for Supplemental Security Income or Social Security Disability Insurance
- Individuals participating in inpatient or residential treatment for a substance use disorder
- Individuals who are the primary caregiver of a child younger than six years of age (one exemption per household)
- Individuals who are providing caregiver services for a household member (child or adult) with a disability or incapacitation
- Individuals receiving unemployment benefits
- Individuals who have recently been directly impacted by a catastrophic event such as a natural disaster

In addition to the exceptions listed above, TennCare may grant a good cause exemption from the community engagement requirement based on a determination that there are acute or short-term individual circumstances that warrant special consideration (e.g., individuals experiencing homelessness, victims of domestic violence, victims of human trafficking, etc.). TennCare will work with individuals in these circumstances to connect them to education- and employment-related resources on a voluntary basis and as desired by the individual.

In addition, TennCare reserves the right to temporarily modify or waive the community engagement requirement in counties that are determined to be economically distressed.

## **Supports**

In order to support members' success in achieving their education- and employment-related goals, Tennessee will implement a number of strategies to make assistance and supports available to members who desire such assistance, with an emphasis on linking individuals to existing community resources. TennCare will partner with the Tennessee Department of Labor & Workforce Development and other entities as needed to provide members with access to information and services designed to prepare and support persons in obtaining and maintaining employment.

Where lack of postsecondary education or training is determined to be a barrier to employment, TennCare will connect members to resources such as Tennessee Reconnect, the state's program to support adults who do not already have a postsecondary credential attend a community college or technical college and complete a postsecondary degree or credential.<sup>8</sup> Individuals needing to complete secondary education will be connected to adult education opportunities sponsored by the Tennessee Department of Labor & Workforce Development.

In addition to this demonstration amendment and pursuant to Tennessee Public Chapter No. 869, Tennessee will seek the necessary approval from the U.S. Department of Health & Human Services to utilize funds from the state's TANF program to implement the TennCare workforce participation and community engagement activities, and to provide additional supports to individuals subject to the work requirement.

## **Impact on Member Benefits**

TennCare members subject to the community engagement requirement will document their compliance to TennCare on a monthly basis. Affected members must meet the requirement for four months out of every six-month period in order to maintain coverage. TennCare will assess member compliance after six months of eligibility, and every six months thereafter. At that time, members who have not demonstrated compliance for at least four months of the six-month reporting period will be subject to suspension of benefits. Benefits for these members will remain suspended until they demonstrate compliance with the requirement for one month. TennCare may offer additional opportunities for members to leave suspended status and regain full coverage through participating in an activity that supports the goals of the community engagement program (e.g., taking a state-approved health or financial literacy course).

If a member's benefits are suspended, he or she will receive a notice explaining the reason for the suspensions and the steps the member must take to have benefits reinstated. Members subject to suspension due to failure to comply with the community engagement requirement will retain their rights to appeal their suspension at a state fair hearing.

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<sup>8</sup> For more information about Tennessee Reconnect, see <https://www.tnreconnect.gov/>

## **II. Description of the Proposed Health Care Delivery System, Eligibility Requirements, Benefit Coverage, and Cost Sharing**

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Amendment 38 will not entail any changes to the package of benefits covered under the TennCare demonstration, or to the health care delivery system used to administer those benefits. Under Amendment 38, benefits for certain members may be suspended for failure to comply with community engagement requirement as described in Section I.

Amendment 38 will not entail any changes to cost sharing under the TennCare demonstration. Nominal cost sharing for TennCare members will continue to be implemented in accordance with Section VII of the TennCare demonstration.

Eligibility requirements for the TennCare demonstration are unaffected by Amendment 38. As noted elsewhere, under Amendment 38 receipt of benefits for certain members of the parent/caretaker relative eligibility category will be conditioned on compliance with the community engagement requirement. The requirements for members in other TennCare eligibility categories are unchanged.

## **III. Expected Impact on Enrollment and Expenditures**

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Of the members who will be impacted by the community engagement requirement, it is estimated that a significant number are already working, or will be deemed to be in compliance with the requirement by virtue of their participation in the SNAP or TANF work program, or will qualify for an exception to the requirement. For the remaining members, the state intends to provide linkages to resources to assist individuals in complying with the requirement, as desired by the individual and as described in Section I. Some number of individuals may transition off of TennCare and into other coverage options as their earnings increase; however, it is not possible to reliably project the magnitude of this decrease in enrollment at this time.

The state is not requesting any new expenditure authorities under Section 1115 of the Social Security Act to implement Amendment 38. As required by the state's authorizing legislation, the state will seek federal approval to use TANF funds to fund any costs associated with the workforce participation and community engagement initiative.<sup>9</sup>

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<sup>9</sup> See Tennessee Code Annotated § 71-5-158.

## IV. Waiver and Expenditure Authorities Requested

All waiver and expenditure authorities currently approved for the TennCare demonstration will continue to be in effect. To implement Amendment 38, the state requests the following additional waiver authorities, pursuant to Section 1115(a)(1) of the Social Security Act.

### Provision of Medical Assistance

### Section 1902(a)(8) and 1902(a)(10)

To the extent necessary to enable the State to suspend benefits for, and not make medical assistance available to, beneficiaries who fail to comply with workforce participation and community engagement requirements.

## V. Research Hypotheses and Evaluation

The table below presents an overview of the state’s preliminary plan for evaluating its workforce participation and community engagement initiative. This evaluation plan is subject to change and will be further refined to reflect operational details as the program is implemented.

Hypothesis	Methodology	Data Sources and Metrics
<b>Goal 1: Improve health outcomes for the impacted adult population.</b>		
Implementation of work and community engagement requirements will decrease hospital stays for the impacted adult population.	Track member use of inpatient hospitalizations.	Encounter data
Implementation of work and community engagement requirements will decrease emergency room visits for the impacted adult population.	Track member use of emergency room.	Encounter data
<b>Goal 2: Improve education, employment, and community engagement outcomes for the impacted adult population.</b>		
Implementation of work and community engagement requirements will encourage members to seek and obtain employment.	Track members who report participating in job search or employment activities.	Administrative data <ul style="list-style-type: none"> <li>Member reports of job search activities</li> <li>Members reporting paid employment activities that are sustained for more than 90 days</li> </ul>
Implementation of work and community engagement requirements will encourage members to obtain high school equivalency or other needed	Track members who report participating in educational activities.	Administrative data <ul style="list-style-type: none"> <li>Member reports of education activities</li> <li>Members earning high school equivalency diplomas or</li> </ul>

educational credentials.		other educational credentials
Implementation of work and community engagement requirements will increase community engagement.	Track members who report participating in volunteer or community engagement activities.	Administrative data <ul style="list-style-type: none"> <li>• Member reports of volunteer or community engagement activities</li> </ul>

## VI. Documentation of Public Notice and Input

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### *Summary of Public Notice Processes*

The state has implemented multiple mechanisms for notifying interested parties about Amendment 38 and for soliciting public input on Amendment 38. These public notice and input procedures are informed by—and comply with—the requirements specified at 42 CFR § 431.408.

The state’s public notice and comment period began on September 24, 2018, and lasted through October 26, 2018. During this time, a comprehensive description of the amendment to be submitted to CMS was made available for public review and comment on an amendment-specific webpage on the TennCare website. An abbreviated public notice—which included a summary description of Amendment 38; the locations, dates, and times of two public hearings; and a link to the full public notice on the state’s amendment-specific webpage—was published in the newspapers of widest circulation in Tennessee cities with a population of 50,000 or more. TennCare disseminated information about the proposed amendment, including a link to the relevant webpage, via its social media. TennCare also notified the members of the Tennessee General Assembly of Amendment 38 via an electronically transmitted letter.

The state held three public hearings to seek public comment on Amendment 38. The first hearing took place on October 8, 2018, at 11:00 a.m. Central Time in the Large Meeting Room of the Bordeaux branch of the Nashville Public Library, 4000 Clarksville Pike in Nashville. The second hearing took place on October 9, 2018, at 1:00 p.m. Eastern Time in the Community Meeting Room of the Burlington branch of the Knox County Public Library, 4614 Asheville Highway in Knoxville. The third hearing took place on October 11, 2018, at 11:00 a.m. in the Program Center of the Jackson Madison County Library, 433 East Lafayette Street in Jackson. Members of the public also had the option to submit comments throughout the notice period by mail and/or email.

The state notes that—in addition to the public notice mechanisms described above—Amendment 38 implements Tennessee Code Annotated § 71-5-158, which was enacted by the 110th General Assembly of the state of Tennessee in 2018, and was the product of a public legislative process.

### *Summary of Public Input*

[COMMENTS RECEIVED ON AMENDMENT 38 WILL BE SUMMARIZED HERE.]

Attachment A

Public Chapter No. 869



## State of Tennessee

### PUBLIC CHAPTER NO. 869

#### HOUSE BILL NO. 1551

**By Madam Speaker Harwell, Representatives Howell, Boyd, Ragan, Terry, Weaver, Zachary, Powers, Vaughan, Tillis, Gant, Jerry Sexton, Johnson, Reedy, Sherrell, Calfee, Dawn White, Moody, Daniel, Keisling**

**Substituted for: Senate Bill No. 1728**

**By Senators Roberts, Bell, Green, Stevens, Bowling, Pody**

AN ACT to amend Tennessee Code Annotated, Title 71, relative to imposing requirements on recipients of medical assistance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following new section to be appropriately designated:

An amendment to the existing TennCare II waiver shall be submitted to the federal centers for medicare and medicaid services (CMS) authorizing the bureau of TennCare to create reasonable work and community engagement requirements for able-bodied working age adult enrollees without dependent children under the age of six (6). The waiver shall be consistent with the most recent guidance to state medicaid directors provided by CMS concerning opportunities to promote work and community engagement in demonstration projects authorized under § 1115 of the federal social security act (42 U.S.C. § 1315). The state shall seek the necessary approval from the United States department of health and human services to utilize funds from the temporary assistance to needy families (TANF) program under the Families First Act of 1996, compiled in chapter 3, part 1 of this title, for eligible expenditures related to the waiver. Implementation of the waiver shall be contingent upon the available use of TANF funds or other federal appropriations to meet the requirements of the waiver.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

HOUSE BILL NO. 1551

PASSED: April 19, 2018

  
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BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

  
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RANDY MCNALL  
SPEAKER OF THE SENATE

APPROVED this 3<sup>rd</sup> day of May 2018

  
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BILL HASLAM, GOVERNOR