



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 # 31865-00105	Edison ID 50273
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Contracting State Agency Name
Department of Human Services

CFDA #
93.778 Dept of Health & Human Services/Title XIX

Service Caption
TennCare Eligibility Determination Services

Funding —

FY	State	Federal	Interdepartmental	Other	TOTAL Agreement Amount
2017	\$11,129,150.00	\$11,129,150.00			\$22,258,300.00
2018	\$11,129,150.00	\$11,129,150.00			\$22,258,300.00
2019	\$11,129,150.00	\$11,129,150.00			\$22,258,300.00
TOTAL:	\$33,387,450.00	\$33,387,450.00			\$66,774,900.00

American Recovery and Reinvestment Act (ARRA) Funding: YES 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)
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**INTERAGENCY AGREEMENT BETWEEN THE STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION, DIVISION OF HEALTH CARE
FINANCE AND ADMINISTRATION, BUREAU OF TENNCARE
AND
DEPARTMENT OF HUMAN SERVICES**

This Interagency Agreement ("Interagency Agreement"), by and between the State of Tennessee, Department of Finance and Administration, Division of Health Care Finance and Administration, hereinafter referred to as the "Procuring State Agency, "HCFA" or "TennCare," and the Department of Human Services, hereinafter referred to as the "Contracting State Agency" or "DHS," is for the provision of eligibility determination services as further defined in the "SCOPE OF SERVICES."

WHEREAS, TennCare is the Single State agency for the administration of medical assistance services, including the TennCare Program and long term care services, in the State of Tennessee, in accordance with Title XIX of the Social Security Act, which is managed through TennCare, as provided at T.C.A. § 71-5-104; and

WHEREAS, TennCare and DHS agree that this Agreement does not constitute any delegation by TennCare of Medicaid policy and decision making authority; and

WHEREAS, Section 1902, paragraph (5) of the Social Security Act, provides that determination of eligibility for medical assistance under the Plan shall be made by the State or local agency administering the Plan approved under Titles I, IV, X, XIV. DHS is designated under the above cited federal law and State Plan to determine eligibility or process redeterminations for applicants or enrollees who have an open SNAP case under Title XIX of the Social Security Act; and

WHEREAS, TennCare and DHS have a common interest in assuring that eligible persons gain access to medical services; and

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties do hereby enter into this Agreement 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.
- A.2. TennCare authorizes DHS and its designated contract agencies to assist in the administration of the TennCare program authorized under Title XIX and under Section 1115 of the Social Security Act. This designation is to perform certain eligibility determinations and redeterminations for the Medicaid, uninsured and medically eligible population to include, but not limited to:
- a. accepting and processing TennCare/Medicaid applications for purposes of determining eligibility for Medicaid services under Title XIX and for waiver services for the non-Medicaid eligible waiver demonstration population for individuals which have an open SNAP case. Applications shall be accepted and processed by DHS. The application process shall be completed within forty-five (45) days, and within ninety (90) days for disabled adults, and shall include:
 1. assisting applicants in the completion of Medicaid/TennCare applications;
 2. verifying completed Medicaid/TennCare application information, and
 3. submitting verified application determination results to TennCare;



- b. verifying that certain current Medicaid/TennCare enrollees meet eligibility requirements through a redetermination process if the enrollee has an open SNAP case;
 - c. submitting validated demographic data and information on an enrollee's third party health insurance to TennCare;
 - d. notifying enrollees of their appeal rights by disseminating brochures and other informational materials as approved by TennCare;
 - e. explaining to applicants in simple terms the TennCare program and its benefits;
 - f. referring TennCare applicants and enrollees, when needed, to TennCare for assistance in filing appeals;
 - g. determining and recording the applicant/enrollee's primary language for purposes of collection of data for Title VI;
 - h. verifying physical address for enrollees with Tennessee post-office boxes listed during redetermination. (Acceptable reasons for use of a post-office box may include persons receiving mail in contiguous states, in rural areas with mail delivery designated only to post office boxes, persons living in homeless shelters, and persons living in domestic violence shelters wherein confidentiality of residence is a concern);
 - i. ensuring that appropriate accommodations are offered to individuals with disabilities and limited English proficiency and comply with the TennCare policies and procedures related to accommodations;
 - j. providing assistance to applicants through the use of computer kiosks in each DHS county office that facilitate applications filed with the Federally Facilitated Marketplace. Such assistance will include access to a phone and guidance from a training Certified Application Counsel in each county;
 - k. accepting applications, renewal packets and verification documents on behalf of TennCare and fax such documents to TennCare within 2 days of receipt; and
 - l. providing assistance to enrollees in the process of redetermination by making copies of renewal packet pages upon request.
- A.3. DHS shall notify applicants in writing regarding action taken on Medicaid applications and each applicant's right to appeal.
- A.4. DHS rules, standards, policies and methods for determination of eligibility for medical assistance shall be consistent with the State and Federal objectives of the Title XIX Program and consistent with Federal and State law including any waivers thereto granted under the TennCare Demonstration Project. DHS shall provide TennCare any proposed revisions to these major policy changes involving implementation of court orders, Federal approvals, directives or rules for TennCare's review and approval prior to implementation. TennCare will provide a written response to DHS regarding the proposed revision within ten (10) business days, or within a time frame as may be mutually agreed upon by TennCare and DHS, in situations where timeframes require a shorter or longer response time. TennCare will make all reasonable efforts to review and approve the proposed changes within that timeframe. DHS shall promulgate, with TennCare's collaboration and approval, all necessary rules pertaining to determination of eligibility for medical assistance consistent with federal and state laws and regulations, the TennCare Demonstration project and TennCare policies and procedures.



- A.5. DHS shall administer the Title XVI Part B Buy-In Agreement with the Social Security Administration and prepare reports necessary for the Single State Agency to comply with State and Federal reporting requirements and discharge its assigned responsibilities and duties. TennCare will reimburse DHS for the cost of administering the Buy-In Agreement. Any work necessary to comply with this paragraph shall be completed by the DHS Buy-In Unit.
- A.6. DHS shall notify all applicants and recipients verbally and in writing of their right of appeal matters pertaining to eligibility for Medicaid services under Title XIX.
- A.7. DHS agrees to maintain records necessary for the proper and efficient administration of Title XIX functions performed under this Agreement. The records shall include, but not be limited to, eligibility records, documentation of quality control and records needed to meet other State and Federal requirements.
- A.8. DHS shall correct any invalid false Social Security numbers noted by DHS in response to monthly reports from TennCare. Corrections shall be made within five (5) business days of notification.
- A.9. DHS shall prepare ad hoc and quarterly reports concerning applications, eligibility, and maintain data files necessary for TennCare to comply with federal statistical reporting requirements. The quarterly reports are required for TennCare's reports to the Center for Medicare and Medicaid Services (CMS) and/or the Department of Health and Human Services (DHHS) and shall be submitted to TennCare on or before the twenty-first (21st) day of the month following the preceding calendar year quarter.
- A.10. DHS shall provide TennCare the following Monthly report on DHS Family Assistance Service Center (FASC) activities including:
 - a. total number of calls received;
 - b. total number of calls abandoned;
 - c. average speed answered;
 - d. percentage of calls answered;
 - e. average abandon time, and
 - f. percentage of calls abandoned.

The monthly FASC reports shall be submitted to TennCare on or before the fifteenth (15th) of the following month.

- A.11. TennCare and DHS personnel will meet no less than twice yearly to review enrollment trend reports, reports of issues needing resolution, application reports, and the performance of the activities under this Agreement. TennCare shall notify DHS in writing of any specific performance deficiencies and request a Corrective Action Plan (CAP). DHS shall respond in writing with a CAP within thirty (30) days of receipt of such notification and implement and monitor the CAP after it has been approved by TennCare.
- A.12. TennCare will notify and provide training to DHS staff regarding TennCare program issues and changes that pertain to the implementation of this Agreement. TennCare will inform DHS of any changes in state or federal laws or regulations as well as changes in TennCare policies and procedures that may affect the delivery of services under this Agreement.
- A.13. The DHS ACCENT and ARTS computer system must accommodate the receipt and transmission of exchanged data between the two agencies as agreed upon in design sessions with both agencies to meet the functional requirements of the TennCare Management Information System (TCMIS or InterChange). This includes, but is not limited to, revisions in the functional design of TCMIS/InterChange. With prior approval by TennCare, TennCare will pay the cost of system changes required for the implementation of this Agreement. If InterChange refuses to accept



and process an eligibility transaction, then DHS shall use the results of the analysis to correct or amend any information contained in the referral. These corrections or amendments shall be completed within five (5) business days of notice from TennCare of the InterChange refusal or on such time frame as may be mutually agreed upon by TennCare and DHS.

- A.14. The parties to this Agreement agree to comply with all applicable obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Health Information Technology for Economic and Clinical Health Act (HITECH) under the American Recovery and Reinvestment Act of 2009 (ARRA) and their accompanying regulations, and as amended and as dictated within the Federal Register by their designated due dates.
- A.15. TennCare hereby authorizes and designates DHS, through the Division of Adult and Family Services and its designated contract agencies, to assist in the provision of health related services for Medicaid eligible adults, provided that:
- a. such services meet the definition of health-related services for Medicaid-eligible adults specified in Attachment C, the terms of which are incorporated herein; and
 - b. these services are performed for adults served by the Division of Adult and Family Services and its designated contract agencies under the provisions of Tenn. Code Ann. § 71-6-101.
- A.16. In addition to the responsibilities set forth elsewhere in this Agreement, DHS shall:
- a. provide administrative support to the TennCare program and submit claims to TennCare, in accordance with TennCare's CMS approved administrative cost allocation plan approved by DHS and the Department of Finance and Administration;
 - b. document this allocation for Title XIX on the basis of an approved Random Moment Time Study conducted in accordance with the State's Federally approved Cost Allocation Plan;
 - c. instruct its administrators and staff in the above authorizations and responsibilities, and shall provide the training and monitoring necessary to assure capture of the required Random Moment Time Study documentation;
 - d. provide to the administrators and staff of its own offices and its designated contract agencies any other advice and instructions that TennCare deems necessary to the proper and efficient conduct of the Medicaid activities described in this Agreement;
 - e. provide to TennCare the quarterly statewide results of the Random Moment Time Study governing its allocations for Title XIX and other federal programs; and
 - f. continually monitor and provide all required services according to this Agreement, including but not limited to, sufficient quality review to assure that all applicable state and federal laws, TennCare rules and policies, and state and federal court orders are being complied with by DHS and its designated contract agencies.

BUREAU OF TENNCARE RESPONSIBILITIES:

- A.17. In addition to TennCare responsibilities set forth elsewhere in this Agreement, TennCare shall be responsible for performing services to meet the following requirements and obligations under this Agreement:
- a. provide DHS with the claim categories and other information to which expenditure data must adhere for billing to TennCare;



- b. make payments to DHS for coordination of Medicaid services to Medicaid eligible adults served by the Division of Adult and Family Services, in accordance with an approved administrative cost allocation plan submitted by DHS;
- c. To the extent practicable prior to finalization of program or procedural changes relating to eligibility, TennCare will allow DHS to comment on any drafts of policies, standards, methods, and procedures of suggested changes.
- d. The parties to this Agreement shall meet on a regularly scheduled basis to review the performance of the activities under this Agreement. TennCare shall notify DHS in writing of any specific performance deficiencies and request corrective action. The Contracting State Agency shall respond in writing with a corrective action plan within thirty (30) days of receipt of such notification and implement and monitor the plan upon approval by TennCare;
- e. Should DHS fail or refuse to undertake corrective action as requested by TennCare, TennCare may withhold payment for that portion of the DHS program that TennCare deems deficient.
- f. insure that there are sufficient funds to process MAO cases, and
- g. provide a method for appeals regarding Medicaid services and/or payments and conduct necessary hearings of grievances by dissatisfied enrollees.

B. 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 months ("Term"). The Procuring State Agency shall have no obligation for goods or services provided by the Contracting State Agency 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 renewal options under the same terms and conditions for a period not to exceed twenty-four (24) months each by the Procuring State Agency, at the Procuring State Agency'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: twenty-two million two hundred fifty-eight thousand three hundred dollars (\$22,258,300.00) for Fiscal Year 2017; twenty-two million two hundred fifty-eight thousand three hundred dollars (\$22,258,300.00) for Fiscal Year 2018; and twenty-two million two hundred fifty-eight thousand three hundred dollars (\$22,258,300.00) for Fiscal Year 2019, with a total Maximum Liability during the Term of this Agreement of sixty-six million seven hundred seventy-four thousand nine hundred dollars (\$66,774,900.00). 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 Upon completion of the work described in Section A of this Interagency Agreement, and at least on a quarterly basis, the Contracting State Agency shall be compensated based on actual



expenditures for staff providing Title XIX determinations and redeterminations, including their support costs billed in accordance with DHS federally approved cost allocation plan and charges specified in Attachments A and B.

- C.4. Travel Compensation. The Contracting State Agency 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 Contracting State Agency'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 Contracting State Agency under this or any Interagency Agreement between the Contracting State Agency and the Procuring State Agency any amounts, which are or shall become due and payable to the Procuring State Agency by the Contracting State Agency.

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:

Dr. Wendy Long, Deputy Commissioner
Department of Finance and Administration
Bureau of TennCare
310 Great Circle Road
Nashville, Tennessee 37247-6501
Telephone # (615) 507-6362
FAX # (615) 532-5236

The Contracting State Agency:

Commissioner
Department of Human Services
400 Deaderick Street
Citizens Plaza Building
Nashville, TN 37219
Phone: (615) 313-4700
Fax: (615) 741-4165

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:



- E.1. 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 Contracting State Agency by the Procuring State Agency or acquired by the Contracting State Agency 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 Contracting State Agency 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 Contracting State Agency'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 Contracting State Agency of this Interagency Agreement; previously possessed by the Contracting State Agency without written obligations to the Procuring State Agency to protect it; acquired by the Contracting State Agency without written restrictions against disclosure from a third party which, to the Contracting State Agency's knowledge, is free to disclose the information; independently developed by the Contracting State Agency 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 Contracting State Agency 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 Contracting State Agency 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. The Procuring State Agency and the Contracting State Agency 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 Contracting State Agency warrants to the Procuring State Agency 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 Contracting State Agency warrants that it will cooperate with the Procuring State Agency, including cooperation and coordination with State 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. The Procuring State Agency and the Contracting State Agency will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to ensure the compliance of the Procuring State Agency and the Contracting State Agency with the Privacy Rules. This provision shall not be applicable if and to the extent that 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.

- E.3. Business Associate. Contracting State Agency 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 Contracting State Agency 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 Contracting State Agency and between the Contracting State Agency and its providers and/or subcontractors to a halt, if for any reason the Contracting State Agency cannot meet the requirements of this Section, HCFA may terminate this Interagency Agreement.
- d. Ensure that Protected Health Information exchanged between the Contracting State Agency 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 Contracting State Agency, its officers, directors, employees, subcontractors or agents or by a third party to which the Contracting State Agency 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 Contracting State Agency 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 Contracting State Agency 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 Contracting State Agency 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 Contracting State Agency 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 Contracting State Agency's staff and employees and maintain signed acknowledgements by staff and employees of the Contracting State Agency'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 Contracting State Agency's own legal responsibilities;
 - r. Adopt the appropriate procedures and access safeguards to restrict and regulate access to and use by Contracting State Agency's employees and other persons performing work for the Contracting State Agency 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 Contracting State Agency are "information holders" as defined in Tenn. Code Ann. § 47-18-2107. In the event of a breach of the security of Contracting State Agency's information system, as defined by Tenn. Code Ann. § 47-18-2107, the Contracting State Agency shall reimburse HCFA 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 Tenn. Code Ann. § 47-18-2107(e)(2) and (3), shall only be permitted with HCFA's express written approval. The Contracting State Agency 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 Tenn. Code Ann. § 47-18-2107.
- E.5. Notification of Breach and Notification of Suspected Breach. - The Contracting State Agency 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 Contracting State Agency,



including any unauthorized acquisition of enrollee PHI by an employee or otherwise authorized user of the Contracting State Agency'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 Contracting State Agency, 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 parties to this Agreement agree 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 State's TennCare and CHIP programs. Such compliance shall be performed at no additional cost to the Procuring State Agency.
- E.8. Disclosure of Personal Identity Information. The Contracting State Agency shall report to the Procuring State Agency any instances of unauthorized disclosure of confidential information that come to the attention of the Contracting State Agency. Any such report shall be made by the Contracting State Agency within twenty-four (24) hours after the instance has come to the attention of the Contracting State Agency. The Contracting State Agency, at the sole discretion of the Procuring State Agency, shall provide no cost credit monitoring services for individuals that are deemed to be part of a potential disclosure. The Contracting State Agency 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 Contracting State Agency shall maintain documentation for all charges under this Interagency Agreement. The books, records, and documents of the Contracting State Agency, 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 the Procuring State Agency, 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 Contracting State Agency 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 Contracting State Agency shall have in place administrative, physical, and technical safeguards for data.
- a. The Contracting State Agency 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 Contracting State Agency propose a redisclosure of said data, the Contracting State Agency must specify in writing to TennCare the data the Contracting State Agency 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 Contracting State Agency agrees to abide by all relevant federal laws, restrictions on access, use, and disclosure, and security requirements in this Interagency Agreement.
- c. The Contracting State Agency shall provide a current list of the employees of such Contracting State Agency with access to SSA data and provide such lists to TennCare.
- d. The Contracting State Agency 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 Contracting State Agency shall not further duplicate, disseminate, or disclose such data without obtaining TennCare's prior written approval.
- e. The Contracting State Agency 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 Contracting State Agency'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.

Contracting State Agency 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 Contracting State Agency 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 Contracting State Agency 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 Contracting State Agency must provide TennCare with timely updates as any additional information about the loss of PHI/PII becomes available.

If the Contracting State Agency 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 Contracting State Agency 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 Contracting State Agency 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 Contracting State Agency 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 Contracting State Agency 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.

E.12. Nondiscrimination Compliance Requirements.

- a. Each party to this Agreement agrees that it shall comply with all 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 obligations under its Agreement or in its employment practices.
- b. Contracting State Agency 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 Contracting State Agency shall provide to TennCare, within ten (10) days of signing this Agreement, 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 contact information shall be reported in writing to TennCare within ten (10) calendar days of assuming these duties.

IN WITNESS WHEREOF:

DEPARTMENT OF HUMAN SERVICES:

Raquel Hatter ^{du} 6-3-16
 SIGNATURE DATE

Raquel Hatter Commissioner Department of Human Services
 PRINTED NAME AND TITLE

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

Larry B Martin ^{WLC} 6/3/16
 LARRY B. MARTIN, COMMISSIONER DATE



Attachment A

On a quarterly basis, DHS/DRS Disability Determination Services (DDS) shall determine the cost of processing the Medicaid Assistance Only (MAO) workload. It shall be determined by both actual charges for personnel, medical consultants, medical evidence of record, consultative examinations, vocational assessments, and claimant travel and by prorating all other costs based on the percentage of the MAO workload to the total combined workloads (SSA and MAO).

A. Actual Charges: Those items which can be actually charged to the individual MAO case are as follows:

1. Salaries and benefits of full-time staff dedicated to processing MAO cases. Their time shall be reported on time sheets.
2. The cost of contract medical consultants who review MAO cases. Their time shall be reported on time sheets.
3. Consultative Examinations
4. Purchased Evidence of Record
5. Vocational Evaluations
6. Applicant Travel

A separate account shall be kept of all these charges for both MAO and SSA cases.

B. The cost of MAO services listed under actual charges shall be subtracted from DDS total costs (MAO and SSA). The costs of the SSA services listed under actual charges shall be subtracted from DDS total costs (MAO and SSA). The remaining costs (i.e., all other costs for MAO and SSA cases which include allocated personnel costs, indirect costs and the following other Non-Personnel costs) occupancy, contracted costs, equipment costs, communications, travel, supplies and miscellaneous shall be reported on financial report form SSA-4513, State Agency Report of Obligations for Social Security Administration Disability Programs (OMB No. 0960-0421) for the quarter and shall be prorated based on the percentage of the MAO workload to the total cases reported in the State Agency Operations Report (SAOR) (SSA and MAO) for the same time period.

C. The total MAO workload cost allocable to the DDS for a given period shall be the sum of the MAO charges determined by A and B above.

Costs shall be reported and determined in accordance with SSA accounting and reporting procedures for SSA disability programs. Actual costs for the year are determinable only when DHS, Division of Rehabilitation Services, Disability Determination Services, has submitted its financial report (Form SSA-4513) to SSA after the ninety (90) day close-out period. Assumption of the MAO workload is to be predicated upon the recognition and payment of all costs by TennCare, direct and indirect, in accordance with State and Federal laws.



Attachment B

The following method shall be used to report to SSA and TennCare the DDS involvement with the MAO workload:

1. **Workload Reporting:** The MAO workload shall be reported on the weekly State Agency Operating Report (SAOR). Each week's clearances shall be reported as non-federal cases according to instructions in the Management Information Manual (MIM), Part IV, Chapter 2200.
2. **Fiscal:** The DDS shall maintain records which identify how charges attributable to the MAO workload have been calculated. The calculation shall be in accordance with standard accounting principles. Reports and cost calculations used to determine charges to the MAO workload shall be maintained until such time as an acceptable audit review of DDS non-SSA workload activity has occurred and findings have been satisfactorily reconciled.

The MAO costs will not be reported in the body of the monthly fiscal report or the quarterly financial report (SSA-4513), but shall be reported in the remarks section of each report or on the form attached.

3. **Time reporting:** Time shall be reported for actual time spent on the MAO cases by full-time staff dedicated to this workload. Actual time shall also be reported for contract medical consultants who review MAO cases. Time shall be prorated for all other designated staff who spend a portion of their time on the Medicaid workload. The method to prorate staff shall be on the basis of the percent of the MAO workload to the total combined workloads (SSA and MAO). Work power information shall be provided on both the SAOR and the quarterly time report (SSA-4514, Time Report of Personnel Services for Disability Determination Services OMB No. 0960-0421). The time shall be reported in hours on the SAOR according to Part IV, Chapter 2100, MIM instructions.



ATTACHMENT C

DESCRIPTION OF ADULT PROTECTIVE SERVICES

The Adult Protective Services (APS) Program is a statewide program provided under a legislative mandate to investigate reports of abuse, neglect or exploitation of adults who are unable to protect themselves due to mental or physical impairments. Staff at a centralized intake site receive reports of abuse, neglect, and exploitation of vulnerable adults. The reports are investigated by APS staff, who are stationed across the state. Services are provided to decrease health risks to victims in need of protective services.

The program is administered by a program director, who is responsible for program development, evaluation, coordination, and supervision of field staff.

The four primary components of this program are as follows:

- Intake
- Investigations
- Service Provision
- Custody Cases

DEFINITION OF HEALTH-RELATED SERVICES FOR MEDICAID-ELIGIBLE ADULTS

Health-Related Services for Medicaid-Eligible Adults provided by APS are any activities which help Medicaid-eligible adults who are clients of APS gain access to medical services and/or attain or maintain a favorable physical or mental health condition by assisting them in identifying and understanding their health needs, or in securing and using treatment and health maintenance services.

Examples of activities which are considered to be part of Health-Related Services include:

- Arranging for medical, health, or mental health services for clients who are TennCare eligible;
- Arranging admission to hospitals or medical facilities;
- Providing liaison with medical providers and local health departments, including providing transportation to a medical provider;
- Providing outreach through training hospital staff, nursing home staff, coalitions and advocates for the elderly on special needs of APS clients;
- Providing assistance in utilizing Medicaid services and understanding Medicaid benefits, services, coverage, forms, and rules;
- Providing case management, including explaining the TennCare managed care system to TennCare eligible clients;
- Assisting in implementing prescribed health plans and regimens, and providing instruction on appropriately following medical directions and prescriptions;
- Discussing generic drug options with enrollee's pharmacy;
- Developing and monitoring health plans;
- Assessing the need for and arranging for admission to long-term care facilities or alternatives to institutional care;
- Compiling individually applicable lists of physicians and other providers of medical and mental health services;
- Making referrals to other agencies and programs for health and mental health needs;
- Performing activities related to pre-admission screening for inpatient or nursing home care, prior authorization for services, medical second opinions, or utilization review; and
- Conducting outreach activities to inform Medicaid eligible adults about available services and programs.



- Investigations by APS of referrals involving vulnerable adults, to determine the need for TennCare/Medicaid services.
- Legal services to assist in obtaining TennCare/Medicaid services.