



Division of TennCare

# **TennCare III Demonstration**

Project No. 11-W-00369/4

Amendment 6

Work Incentives Group for Persons with Disabilities

**DRAFT**

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## Amendment 6 to the TennCare III Demonstration

Since 1994, Tennessee has operated its Medicaid program under the authority of an 1115 demonstration known as TennCare. TennCare is a comprehensive Medicaid reform project, consisting of innovations in multiple aspects of Medicaid, including eligibility, benefits, and service delivery systems. Tennessee currently provides Medicaid coverage to approximately 1.5 million Tennesseans under the authority of the TennCare demonstration.

In this demonstration amendment, Tennessee is proposing to extend TennCare coverage to additional working individuals with disabilities. Individuals newly qualifying for TennCare coverage under this amendment will be subject to premiums.

The state's objective in this amendment is to remove barriers to employment for individuals with disabilities who, but for their income and resources, would otherwise qualify for coverage under the TennCare demonstration.

### I. Description of the Amendment

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In this demonstration amendment, Tennessee proposes to establish a Work Incentives Group to extend TennCare coverage to additional working individuals with disabilities. This group is modeled on the Work Incentives Group described in Section 1902(a)(10)(A)(ii)(XIII) of the Social Security Act, except where noted in the discussion below.

A note about terminology used in this amendment:

Within the TennCare demonstration, **CHOICES** is Tennessee's program of managed long-term services and supports (MLTSS) for seniors and for adults with physical disabilities.

**Employment and Community First CHOICES** (ECF CHOICES) is TennCare's MLTSS program for persons with intellectual or developmental disabilities.

### *Current Coverage Options for Persons with Disabilities and Proposed Work Incentives Group*

The TennCare demonstration currently provides coverage for persons with disabilities as follows:

- *Persons with intellectual or developmental disabilities* may qualify for TennCare coverage in the ECF CHOICES Working Disabled Group.<sup>1</sup> The ECF CHOICES Working Disabled Group is limited to

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<sup>1</sup> See Expenditure Authority 22 of the TennCare demonstration.

individuals with income no greater than 250 percent of the federal poverty level, and with resources totaling no more than \$2,000.

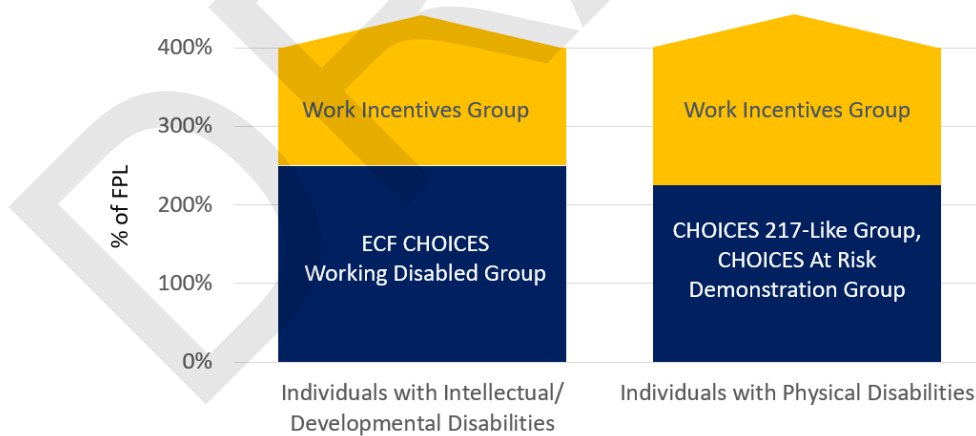
- *Elderly adults and adults with physical disabilities* may qualify for TennCare coverage in either the CHOICES 217-Like Group or the CHOICES At Risk Demonstration Group, depending on the individual’s level of functional need.<sup>2</sup> Both of these groups are limited to individuals with income no greater than 300 percent of the SSI federal benefit rate, and with resources totaling no more than \$2,000.

Note that this is not an exhaustive list of all eligibility categories for persons with disabilities within the TennCare demonstration. These are the eligibility categories within the demonstration that currently have the highest income and resource limits.

In this amendment, Tennessee proposes to create a new Work Incentives Group for persons with disabilities whose income and/or resources exceed the limits for these existing categories of coverage. This Work Incentives Group will provide a pathway to TennCare coverage for persons who would otherwise qualify for CHOICES or ECF CHOICES but who have excess income or resources due to employment.

Figure 1 illustrates the relationship between the proposed Work Incentives Group and TennCare’s existing coverage for persons with disabilities.

**Figure 1. Proposed Addition of Work Incentives Group to Existing Demonstration Framework<sup>3</sup>**



<sup>2</sup> See Expenditure Authorities 11 and 15 of the TennCare demonstration.

<sup>3</sup> This figure is intended for illustrative purposes only and represents the income limits currently applicable for persons with disabilities in CHOICES and ECF CHOICES, as well as the income limits that will be applicable to persons in the proposed Work Incentives Group. This figure does not attempt to illustrate the resource limitations applicable to CHOICES and ECF CHOICES. Also note that the income limits for the CHOICES 217-Like Group and the CHOICES At Risk Demonstration Group are based on the SSI federal benefit rate (SSI/FBR). The current SSI/FBR for an individual has been converted to a percentage of the federal poverty level for purposes of this illustration.

Consistent with Section 1902(a)(10)(A)(ii)(XIII) of the Social Security Act, individuals in the proposed Work Incentives Group must have earned income and will be subject to monthly premiums.

The Work Incentives Group will expand access to care for persons with disabilities in Tennessee and help ensure that persons with disabilities who wish to pursue employment are not disincentivized from doing so due to concerns about potentially losing their TennCare coverage because of an increase in earned income.

### ***Additional Population—The Work Incentives Group***

In this amendment, Tennessee is proposing to establish a Work Incentives Group for persons with disabilities within the TennCare demonstration.

To qualify in the new Work Incentives Group, individuals must meet the following criteria:

- Must be 18 years of age or older (no maximum age);
- Must meet the level of care criteria for TennCare’s existing programs for persons with disabilities (i.e., CHOICES or ECF CHOICES); and
- Must have earned income.

In addition, to qualify in the Work Incentives Group, individuals must meet generally applicable Medicaid eligibility criteria pertaining to state residence, citizenship, Social Security number, and any other applicable criteria unrelated to one’s income or disability status.

There shall be no limitations on eligibility in the Work Incentives Group related to a person’s income or resources (i.e., no maximum income or resource standard).

Individuals in the Work Incentives Group will be subject to premiums, and eligibility in the Work Incentives Group may be terminated based on an individual’s failure to pay required premiums. Additional information about the premium requirements that will be applicable to the Work Incentives Group is provided below.

### ***Benefits Covered for Individuals Enrolled in the Work Incentives Group***

Individuals who qualify for TennCare in the Work Incentives Group as described above will receive the full TennCare benefits package as provided to all other persons determined categorically eligible for TennCare. In addition, individuals in the Work Incentives Group may receive CHOICES HCBS or ECF CHOICES HCBS, to the extent that they meet the applicable criteria for these programs.

For example, an adult with physical disabilities who is determined to meet TennCare’s level of care criteria for CHOICES Group 2 or CHOICES Group 3 will be eligible to receive the HCBS available under CHOICES Group 2 or CHOICES Group 3, respectively. An individual with intellectual or developmental disabilities who meets TennCare’s level of care criteria for ECF CHOICES HCBS may receive ECF CHOICES HCBS

consistent with the ECF CHOICES benefit group that they would otherwise qualify for based on their LOC assessment.<sup>4</sup>

Although individuals in the Work Incentives Group may receive CHOICES- or ECF CHOICES-equivalent HCBS based on their level of care needs, Tennessee will track membership in the Work Incentives Group separately from the existing CHOICES and ECF CHOICES populations. Individuals in the Work Incentives Group receiving HCBS will not count against the current enrollment targets established for CHOICES or ECF CHOICES. Individuals in the Work Incentives Group will be tracked and reported separately.

Additionally, because the proposed Work Incentives Group is modeled on Section 1902(a)(10)(A)(ii)(XIII) of the Social Security Act (rather than Section 1902(a)(10)(A)(ii)(VI)), although individuals *may* elect to receive the HCBS for which they would otherwise qualify based on their level of care needs, individuals are not *required* to be receiving HCBS as a condition of eligibility in the Work Incentives Group. An individual who otherwise meets the criteria for coverage in the Work Incentives Group may elect not to receive HCBS and still qualify for TennCare in this group.

### ***Service Delivery System***

Like all other TennCare enrollees, individuals enrolled in the Work Incentives Group will receive their TennCare-covered benefits through the managed care service delivery system authorized under the TennCare demonstration. Individuals in the Work Incentives Group will be enrolled in the TennCare Select health plan for receipt of their TennCare benefits.

### ***Premiums and Cost Sharing Applicable to Individuals Enrolled in the Work Incentives Group***

Individuals enrolled in the Work Incentives Group will be subject to monthly premiums equivalent to 5 percent (rounded down to the nearest whole dollar) of countable income, including both earned and unearned income. In determining the premium amount applicable to each individual, the state will count only the income of the enrolled individual and not the income of other household members.

Individuals in the Work Incentives Group will be billed for premiums in the month following the benefit month, with the first monthly premium beginning following the first full month of coverage. Any changes to premium amounts based on changes in an individual's income will become effective the month after the change in income is reported to the state.

The state may terminate an individual's eligibility in the Work Incentives Group if premiums are not paid in full for four consecutive months. If an individual has failed to pay a premium for a particular month, payments subsequently received by that individual will be applied first to premiums owed for past due months, beginning with the most delinquent month, and then progressively to less delinquent months,

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<sup>4</sup> For a full listing of HCBS benefits available through CHOICES and ECF CHOICES, see Tables 2b and 2d of the TennCare demonstration at <https://www.tn.gov/content/dam/tn/tenncare/documents/tenncarewaiver.pdf>.

and then to the current coverage month. Premiums must be paid in full to avoid losing eligibility, and if an individual makes a partial payment, the partial payment does not count as a full payment toward the premium. Any individuals subject to termination of enrollment due to non-payment of premiums will receive all applicable notice and fair hearing rights.

Individuals disenrolled from the Work Incentives Group due to non-payment of premiums must pay all premium arrearages in order to qualify for re-enrollment in the Work Incentives Group. (Premium arrearages will not impact an individual's eligibility for other categories of TennCare coverage.)

Individuals in the Work Incentives Group will be subject to the same cost sharing (i.e., copays) as other TennCare beneficiaries. Adults who meet the state's level of care criteria for nursing facility care have no copays. Adults who do not meet the level of care criteria for nursing facility care have nominal copays for prescription drugs, consisting of \$3 for brand name drugs and \$1.50 for generic drugs.

### ***Enrollment Target Applicable to the Work Incentives Group***

In order to ensure that the state is able to administer coverage for the Work Incentives Group within available funds, the state may establish an enrollment target for the Work Incentives Group. This enrollment target will be publicly available on the state's website. If the enrollment target is reached, the state may stop enrolling individuals in the Work Incentives Group until additional slots become available.

Any enrollment target established for the Work Incentives Group will be in addition to and separate from the already existing enrollment targets for the CHOICES and ECF CHOICES programs.

### ***Transitions to Other Categories of TennCare Coverage***

The state is proposing to exclude resources that result from earnings during an individual's enrollment in the Work Incentives Group when determining the individual's subsequent eligibility for other categories of TennCare coverage. In order to exclude these resources, they must be accumulated in a separate account. This may include IRS-approved retirement accounts.

### ***Companion Change to CHOICES***

Currently, CHOICES Group 2 and CHOICES Group 3 provide HCBS to individuals who are age 21 and older who have physical disabilities and who meet Tennessee's level of care criteria for CHOICES 2 or 3. In this amendment, Tennessee proposes to extend CHOICES Group 2 and Group 3 to individuals age 18 and older who have physical disabilities and who meet the relevant level of care criteria. This includes adjusting the minimum ages for the CHOICES 217-Like Group and the CHOICES At Risk Demonstration Group, as well as the age at which Medicaid-eligible individuals (i.e., SSI recipients) may begin to receive CHOICES HCBS. This change will align the age of HCBS recipients in CHOICES with the age of HCBS recipients in the new Work Incentives Group.

## **II. Proposed Waiver and Expenditure Authorities**

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All waiver and expenditure authorities currently approved for the TennCare demonstration will continue to be in effect.

To effectuate the changes described in this amendment, the state requests expenditure authority under Section 1115(a)(2) of the Social Security Act to cover medically necessary care—including any HCBS for which an individual may qualify—for persons in the Work Incentives Group. Tennessee’s proposed Work Incentives Group is modeled on the Work Incentives Group described in Section 1902(a)(10)(A)(ii)(XIII) of the Social Security Act, except that it will be subject to an enrollment target as described above. More specifically, this group will cover working age adults with disabilities who have earned income, and who but for their income or resources would be eligible for TennCare in one of the demonstration’s existing eligibility categories for persons with disabilities.

Tennessee also requests any additional waiver authorities determined necessary by CMS in order for the state to establish an enrollment target for the Work Incentives Group as described above, and not to provide medical assistance to persons in excess of that enrollment target (e.g., any needed waivers of the reasonable promptness requirements located at Section 1902(a)(8) of the Social Security Act).

## **III. Expected Impact on Budget Neutrality**

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Implementation of this amendment is expected to result in an increase in TennCare enrollment of approximately 700 persons and an increase in annual aggregate expenditures of approximately \$28 million under the TennCare demonstration.

Attached is an updated overview of the demonstration’s finances that reflects these adjustments.

## **IV. Expected Impact on CHIP Allotment Neutrality**

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This amendment will not result in any changes to Tennessee’s CHIP allotment neutrality.

## **V. Updates to Monitoring and Evaluation Processes**

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The state does not anticipate modifying its evaluation design based on this amendment. This amendment is expected to contribute to key goals of the TennCare demonstration already reflected in the demonstration’s evaluation design (currently under CMS review). These include enhancing the coverage available under the TennCare demonstration.



Demonstration monitoring reports and processes will be updated to include the number of individuals who receive coverage under this new category of eligibility.

## **VI. Demonstration of Public Notice and Input**

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The state has used multiple mechanisms for notifying the public about this amendment and for soliciting public input on the amendment. These public notice and input procedures are informed by—and comply with—the requirements specified in STC 12 of the TennCare demonstration and 59 Fed. Reg. 49249.

### ***Public Notice***

The state held a formal notice and comment period on this proposed demonstration amendment from July 8, 2024, through August 9, 2024. During this time, a comprehensive description of the amendment to be submitted to CMS was available for public review and comment on an amendment-specific webpage on the TennCare website. In addition, a notice of the state’s intent to submit a demonstration amendment was published in newspapers of general circulation in Tennessee communities with 50,000 or more residents. This newspaper notice described the major elements of the proposed amendment and provided instructions for how to access the full proposal on the TennCare website. The newspaper notice also provided instructions for submitting comments on the proposed amendment to the state during the notice and comment period. In addition, the state notified the public of its intent to submit a demonstration amendment via social media (i.e., Facebook, X) with links to the comprehensive notice on the state’s website. The state made copies of its notice available in county health departments throughout the state. TennCare also notified the members of the Tennessee General Assembly of this amendment via an electronically transmitted letter.

Attachment  
Data Analysis

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