

Elder Law Basics 2020

TennCare CHOICES Eligibility: PreAdmission Evaluations

by Pam F. Wright, CELA, CAP

- I. Introduction
- II. Primary References
- III. Pre-Admission Process
- IV. Function Measures and Scoring
- V. The Care Gap
- VI. Appeals

I. Introduction

The TennCare CHOICES program offers a set of benefits, within the TennCare waiver, to cover the costs of nursing facility services, assisted living and care in the home or a community-based setting (HCBS). To qualify for enrollment, an applicant must meet the requirements for both financial and medical eligibility.

There are three types of CHOICES benefits:¹

1. CHOICES Group 1 is for enrollees who receive inpatient nursing home care. The benefits package for Group 1 includes coordination of care by a care manager and payment for the nursing facility services.
2. CHOICES Group 2 is for enrollees who qualify medically for Group 1, but choose to live in an assisted living facility or to receive in-home care services instead. Enrollment is limited to (1) persons age 65 and older and (2) adults age 21, or older, with a physical disability. The benefits package includes coordination of care by a care manager. Group 2 benefits include a partial payment for assisted living facility services. For those at home, coverage is available for a limited amount of personal attendant or personal care services and non-medical benefits to stabilize care in the home. A simple list can be found here: <https://www.tn.gov/tenncare/long-term-services-supports/choices/what-home-care-services-are-covered-in-choices.html>
3. CHOICES Group 3 is for adults who receive SSI benefits who cannot qualify for Groups 1 or 2, but still need home care services to delay or prevent the need for

¹ Demonstration Approval Period: December 16, 2016 – June 30, 2021, Amended June 30, 2020, Table 2b at p. 41 and Attachment D, pp. 116-121. <https://www.tn.gov/content/dam/tn/tenncare/documents/tenncarewaiver.pdf>

nursing home care. The benefits are extremely limited.

II. Primary References

"The Waiver" - Medicaid Demonstration Approval Period: December 16, 2016 - June 30, 2021, Amended June 30, 2020

<https://www.tn.gov/content/dam/tn/tenncare/documents/tenncarewaiver.pdf>

42 CFR § 483.20, Resident Assessment,

<https://www.law.cornell.edu/cfr/text/42/483.20>

Rules of the Tennessee Dept. of Finance and Administration, Chapter 1200-13-01.

<https://publications.tnsosfiles.com/rules/1200/1200-13/1200-13-01.20180730.pdf>

Rules of the Tennessee Dept. of Finance and Administration, Chapter 1200-13-20.

<https://publications.tnsosfiles.com/rules/1200/1200-13/1200-13-20.20190822.pdf>

Assessment Form -

<https://www.tn.gov/content/dam/tn/tenncare/documents/PAEFormActive.pdf>

TennCare LTSS PAE Manual -

<https://www.tn.gov/content/dam/tn/tenncare/documents/PAEManual.pdf>

Tennessee PASRR User Guide For Nursing Facility Providers

<https://www.tn.gov/content/dam/tn/tenncare/documents/TNPASRRNFUserGuide.pdf>

III. Pre-Admission Process

To qualify for CHOICES, the applicant's medical and functional needs are assessed through a process called the PreAdmission Evaluation or PAE. The PAE is a federal requirement, though states have some flexibility in implementation. A successful PAE documents that the applicant's needs meet the **medical necessity** of care requirements for long term services and supports.

PASSR. Federal law also requires that prospective residents of nursing facilities be screened to identify persons with behavioral health needs or intellectual disability. The screening is intended to ensure that residents with these needs are not being placed in facilities unnecessarily or without adequate supports. The screening is called a Preadmission Screening and Resident Review, or PASRR. Group 1 enrollment requires this screening.²

MOPD. Enrollment in CHOICES is not available until all elements of eligibility have been

² Memo re: COVID-19 Suspension, April 1, 2020,

<https://www.tn.gov/content/dam/tn/tenncare/documents/NursingFacilityAndHospitalMemoPASRRWaiverGuidance.pdf>

successfully determined and documented. For Group 1, the Medicaid effective date is called MOPD (Medicaid Only Payment Date). It is the date that a nursing facility certifies that Medicaid reimbursement for NF services will begin and Medicaid will be the only payer source. This means that ALL other payer sources have ceased paying including Medicare and private insurance. A definite MOPD is required for CHOICES enrollment.

A new pre-Admission evaluation is also required when there has been a change in medical or functional condition (“status change”), when there has been an enrollment gap of more than 30 days or upon the “end date” of current PAE approval.

LOC Acuity Score. When the PAE is completed, the applicant is given an “acuity score” that is used to determine the level of care (LOC).

Enrollment in Group 1 or 2 is available only when the applicant meets “the nursing facility level of care criteria” (NF LOC).

Currently, the NF LOC is demonstrated by having either:

- **an acuity score of 9** or higher on the PAE, or
- an acuity score that demonstrates a risk of NF placement and have an approved “safety determination.”

The individual acuity score is defined as “the weighted value assigned by TennCare to: (a) The response to a specific ADL or related question in the PAE for NF LOC **that is supported by the medical evidence submitted with the PAE.**” Rule 1200-13-01-.02 Definitions (96), emphasis added.

There are separate scoring measures used for skilled care and rehabilitation services, which are outlined in the LTSS PAE Manual, pp. 26-28.

For Group 1, PAE assessment is usually done by the nursing facility staff; or, in some instances, staff at the discharging hospital. For Group 2, application for TennCare CHOICES is made through the local Area Agency on Aging and Disability. The AAAD has staff designated to complete the PAE assessment. For applicants already covered by TennCare, application for enrollment in CHOICES and PAE assessment is handled by the Managed Care Organization (MCO) in which the applicant is already enrolled.

The PAE interviewer will speak with the applicant directly, to the extent possible, and speak with “collateral references,” which may include family members. It is important for the collateral references to be prepared with relevant information and to be proactive about providing the information and supporting documentation. After the PAE interviewer completes the assessment, it is sent to TennCare (or a TennCare contractor) for review and final scoring. A notice of the determination from the final review is then sent to the applicant from TennCare.

To qualify for enrollment into CHOICES Group 1, an applicant must:

1. Have completed the Pre –Admission Screening and Resident Review (PASRR) process and be determined appropriate for NF placement;
2. Have an approved, unexpired PAE for NF LOC;
3. Be approved financially for TennCare reimbursement of NF services;
4. Be admitted to a NF; and
5. Have a Medicaid Only Payer Date.

To qualify for enrollment into CHOICES Group 2, an applicant must:

1. Have an approved, unexpired PAE for NF LOC;
2. Be approved financially for TennCare reimbursement of LTSS;
3. An applicant must be in the target population;
4. TennCare must have received a determination by the MCO or AAAD that the applicant’s needs can be safely and appropriately met in the community, and at a cost that does not exceed the Individual Cost Neutrality Cap; and
5. There must be capacity within the established Enrollment Target to enroll the applicant.

IV. Functional Measures and Scoring

ADLs. The PAE assessment focuses on the applicant’s need for assistance with the following Activities of Daily Living (ADLs):

Mobility,
Transfer,
Eating,
Toileting,

and deficits in the following ADL-related functions:

Communication (expressive and receptive),
Orientation (to person, place, or event/situation),
Behaviors, and
Self-administration of medications.

Through the assessment, the applicant receives a score in each “measure” of ADLs. The total score is the acuity score that determines the level of care. **At the present time, the “magic number” for approval is 9.**

Safety Determination. If the acuity score is less than 9, the applicant may request that a “Safety Determination” be completed.

<https://www.tn.gov/content/dam/tn/tenncare/documents/SafetyDeterminationRequestForm.pdf>

Generally, an applicant may be approved for enrollment in CHOICES when a determination is made that the applicant’s needs establish an imminent and significant risk to his health and safety. [The actual definition is more convoluted. Rules 1200-13-01-.02(181) and 1200-13-01-.05(6)(f), pp. 57-58, 83.]

Safety Determinations - considers, among other issues:

recent hospitalizations,
recent falls,
significant changes in physical or behavioral health needs, and
changes in caregiver’s availability or ability to help.

See page 29 of the LTSS PAE Manual,

<https://www.tn.gov/content/dam/tn/tenncare/documents/PAEManual.pdf>

- *Transfer* - The applicant is incapable of transfer to and from bed, chair, or toilet unless physical assistance is provided by others on an ongoing basis.
- *Mobility* - The applicant requires physical assistance from another person for mobility on an ongoing basis. Mobility is defined as the ability to walk, using mobility aids such as a walker, crutch, or cane if required, or the ability to use a wheelchair (manual or electric) if walking is not feasible.
- *Eating* - The applicant requires physical assistance with gastrostomy tube feedings or physical assistance or constant one-on-one observation and verbal assistance (reminding, encouraging) to consume prepared food and drink (or self-administer tube feedings, as applicable) or must be fed part or all of each meal. Food preparation, tray set-up, assistance in cutting up foods, and general supervision of multiple residents shall not be considered to meet this requirement.
- *Toileting* - The applicant requires physical assistance from another person to use the toilet on an ongoing basis. (Transferring on and off the toilet does not count as a deficit in the Toileting measure as this is captured in the Transfer functional measure.)

- Incontinence care – The applicant requires physical assistance from another person to completed Incontinence Care.
- Catheter/ostomy care - The applicant requires physical assistance from another person to perform ostomy care, or catheter care.
- *Orientation* - The applicant is disoriented to person (e.g., fails to remember own name, or recognize immediate family members), place (e.g., does not know residence is a NF), or event/situation (e.g., is unaware of current circumstances in order to make decisions that prevent risk of harm).
- *Expressive communication* - The applicant is incapable of reliably communicating basic needs and wants.
- *Receptive communication* - The applicant is incapable of understanding and following very simple instructions and commands without continual intervention.
- *Self-administration of medication* - The applicant is not cognitively or physically capable of self-administering prescribed medications at the prescribed schedule despite the availability of limited assistance from another person. Limited assistance includes, but is not limited to, reminding when to take medications, encouragement to take, reading medication labels, opening bottles, handing to applicant, reassurance of the correct dose, and the use of assistive devices including a prepared medication box. An occasional lapse in adherence to a medication schedule shall not be sufficient for approval of this deficit; the applicant must have physical or cognitive impairments which persistently inhibit his or her ability to self-administer medications.
- *Behavior* - The applicant requires persistent staff or caregiver intervention and supervision (due to an established and persistent pattern of behavioral problems which are not primarily related to a mental health condition (for which mental health treatment would be the most appropriate course of treatment) or a substance abuse disorder (for which substance abuse treatment would be the most appropriate course of treatment), and which, absent such continual intervention and supervision, place the applicant or others at imminent and serious risk of harm. Such behaviors may include physical aggression (including assaultive or self-injurious behavior, destruction of property, resistive or combative to personal and other care, intimidating/threatening, or sexual acting out or exploitation) or inappropriate or unsafe behavior (including disrobing in public, eating non-edible substances, fire setting, unsafe cooking or smoking, wandering, elopement, or getting lost).

This scoring chart is from pp. 46-47 of the LTSS PAE Manual:

Functional Measure	Acuity Score for this Group of Conditions	Always	Usually	Usually Not	Never	Maximum Individual Acuity Score	Maximum Acuity Score for the Measure
Transfer	Highest Value of two measures	0	1	3	4	4	4
Mobility		0	1	2	3	3	
Eating		0	1	3	4	4	4
Toileting	Highest value of three questions for the toileting measure	0	0	1	2	2	3
Incontinence Care		0	1	2	3	3	
Catheter/Ostomy Care		0	1	2	3	3	
Orientation		0	1	3	4	4	4
Expressive Communication	Highest value of two questions for the communication measure	0	0	0	1	1	1
Receptive communication		0	0	0	1	1	
Self-administration of medication	First question only; excludes sliding scale insulin	0	0	1	2	2	2
Behavior		3	2	1	0	3	3
Total: Maximum possible is 21							

V. The Care Gap

The plans that you develop with your client should include, to the extent possible, flexibility to address a “care gap.”

For example, clients sometimes find that they can no longer live safely in an independent setting and they need to pay for care services. Yet, they don’t have the demonstrated needs that will result in an approval of a PAE. For these clients, care and support is clearly needed even though their current circumstances do not support approval for enrollment in the TennCare CHOICES program. Generally, those clients must rely upon private funds, family and other informal supports until their situation worsens enough to get a PAE approved.

For clients who are applying for Group 2 services, a care gap arises while the application is being processed. TennCare has ninety (90) days to process an application. In most instances, they take every bit of that time. Occasionally, the time is extended while applicants obtain documents for verification of financial eligibility.

Note: If your client’s application has not been decided within 90 days from application, you may file a “delay appeal.” These delays are usually related to determinations of *financial* eligibility. PAE processing almost always moves quickly. The delay appeal form is found at <https://www.tn.gov/content/dam/tn/tennCare/documents/RequestWilsonHearingForm.pdf>.

VI. PAE Appeals

If NF level of care is denied, the applicant will receive a notice of action which includes appeal rights and the time limit within which an appeal may be filed. The time limit for filing an appeal is 30 calendar days from the receipt of the notice mailed by TennCare.

The hearings are heard by the Secretary of State, Administrative Procedures Division and conducted according to the provisions of the Tennessee Uniform Administrative Procedures Act.

References:

- 42 CFR 431.200, *et seq.*, <https://www.law.cornell.edu/cfr/text/42/431.200>
- Tennessee Rule 1200-13-01-.10 (7)
- Tennessee Department of State, Uniform Rules of Procedures for Hearing Contested Cases before State Administrative Agencies, 1360-04-01, <https://sharetn.gov.tnsosfiles.com/sos/rules/1360/1360-04/1360-04.htm>.

A note from the Presenter, Pam Ford Wright:

I would like to thank Katie Ann Twiggs, Independence Team—Community Engagement Coordinator for Tennessee Justice Center, for her permission to incorporate portions of her work in this presentation.

The Tennessee Justice Center is available to provide you technical assistance in handling a TennCare matter. Visit their website at www.tnjustice.org for more information.