



**Comments of the Tennessee Health Care Association/
Tennessee Center for Assisted Living
on
Proposed Renewal of TennCare II Demonstration Project**

**Submitted February 6, 2016
via online portal at www.medicaid.gov**

The Tennessee Health Care Association/Tennessee Center for Assisted Living (THCA/TNCAL (THCA)) appreciates the opportunity to provide public comment to the Centers for Medicare and Medicaid Services (CMS) regarding the State of Tennessee's request for renewal and extension of the TennCare II's Medicaid waiver application, which is set to expire on June 30, 2016. THCA/TNCAL is a statewide association representing nursing facilities and assisted living communities.

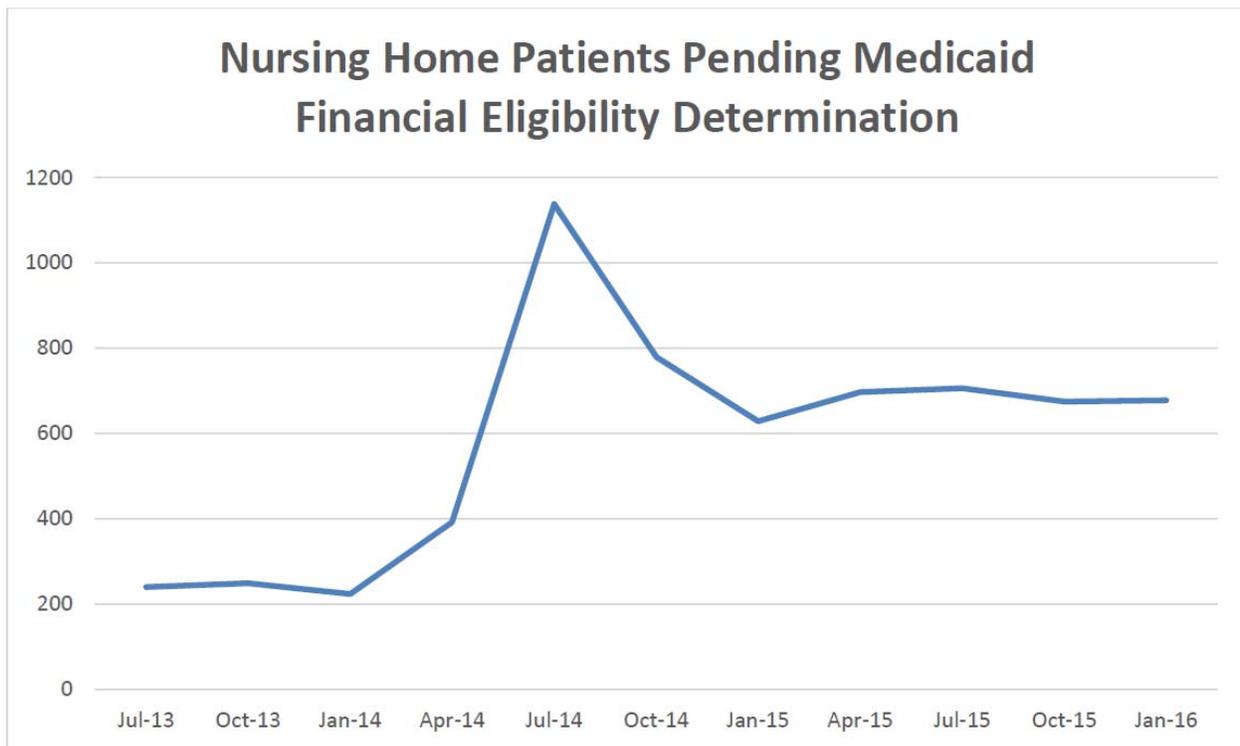
While THCA does not oppose the continuation of TennCare, its comments flow from experiences with its provider members and are intended to highlight various aspects and challenges of those provider experiences. Our hope is these comments will allow CMS to focus on several elements of Tennessee's request which could be addressed by CMS to ensure TennCare II is best able to achieve Medicaid's goal of providing health care to low-income individuals.

Prior to January 2014, TennCare contracted with the Tennessee Department of Human Services (DHS) to administer the eligibility process. Most individuals who were eligible for TennCare coverage applied in person at local DHS offices, which are located in all 95 counties of Tennessee. Applicants were interviewed by social workers, who took their information and keyed it into a DHS computer system. Because nursing facilities are often put in the position of providing substantial assistance to their patients and families regarding Medicaid applications and eligibility, most Tennessee nursing homes has, over time, developed strong working relationships with DHS offices that aided beneficiaries in applying promptly and efficiently for Medicaid. Generally, eligibility determinations were made and communicated promptly to patients, and the DHS caseworker was required to, and did, assist the applicant in obtaining verification documents if the applicant encountered difficulties.

TennCare terminated this process in January 2014 and, at that time, DHS no longer accepted or processed TennCare applications. Replacing DHS was a TennCare contracted call center, referred to as the Tennessee Health Connection (THCA), which is the primary point of

contact for TennCare applicants to seek information from the State of Tennessee. Now, local DHS offices do not assist with enrollment, but rather enrollees can call THC from the local offices.

For several years, THCA has tracked, through an online survey of all Tennessee nursing homes, the number of nursing facility residents whose are reported by facilities to have Medicaid applications pending for an extended period of time. The chart below illustrates those results collected by THCA:



The elimination of the local DHS office process for eligibility accounts to the spike in such individuals rising from January 2014 forward. This increase, particularly in long term care CHOICES beneficiaries whose applications are over 90 days pending, has caused a tremendously increase in the delay nursing facility resident have to receive determinations of financial eligibility for TennCare nursing facility services. THCA members have also identified to THCA instances where individuals applying for Medicaid have not been properly assisted by THC and/or TennCare. In several of these cases, THCA and/or TennCare has deemed individuals' applications as "withdrawn" simply because they were unable to obtain and/or provide certain financial documentation within a ten (10) day period.¹ The lack of any assistance from TennCare to these individuals in obtaining the required

¹ The hearing officer's decision in at least one of these cases was based on the state's failure to satisfy the provisions of 42 U.S.C. 1396w(b) to obtain a release and seek the required information from the applicant's financial institutions.

paperwork for eligibility has resulted in reversal of TennCare's denial of those individuals' eligibility and a remand requesting TennCare receive and review documentation.

THCA provider members and Tennessee's nursing facilities are currently impacted by the significant delays in processing Medicaid application decisions. THCA provider members also are experiencing more issues with incorrect processing and difficulties with the inflexible timeframes to assist patients or their families in responding to requests for additional financial verification information. This is causing enrollees to potentially incur significant costs for uncovered nursing facility services that should have been paid by TennCare, and more often is resulting in a provider incurring an uncompensated care loss because there are no funds available to pay the facility for those periods when the beneficiary is waiting for enrollment but receiving services in the facility.

It is within the above context that THCA comments on the state's waiver extension and its request for a five (5) year continuation to waive the state's compliance with the retroactive eligibility requirements of Section 1902(a)(34) of the Social Security Act and 42 C.F.R. §435.914. THCA requests HHS to deny the continuation of this waiver of retroactive eligibility and require TennCare include this feature within its managed care program. As other organizations have commented, THCA has similar concerns regarding significant delays in processing application and eligibility is directly affecting beneficiaries and providers. These delays are resulting in enrollees facing significant medical costs and providers (specifically nursing facility providers) are facing increased uncompensated care costs when waiting for enrollment.

Retroactive eligibility, and more specifically within the CHOICES population, makes sense and has benefits that are not addressed by TennCare's policy reasons for continued waiver of retroactive eligibility. The TennCare II waiver extension requests retroactive eligibility continue for several reasons. On page 25, of the application, TennCare states those include the state's ability to attract enrollees before they incur significant health care needs, deterrence of "adverse selection" where enrollees only seek coverage when they get sick, and the lack of such a feature in other non-Medicaid health plans. Most individuals are not adversely selecting CHOICES services as TennCare argues. Rather, many times nursing facility residents are dual eligible individuals who often have entered the facility during a Medicare skilled nursing facility episode, and then continue under Medicaid as a dual eligible individual because their needs exceed what can be provided outside the facility setting.

Given the extensive delays and complications with the TennCare application process, the extension of retroactive eligibility is an important benefit and safeguard for TennCare enrollees. Given the fact that TennCare has experienced significant delays in processing applications beyond federally-required timeframes, retroactive eligibility would provide protections for consumers to receive coverage for all services to which they are entitled, and

would relieve providers from the uncompensated care TennCare appropriately should be reimbursing.

THCA also requests that CMS exercise its oversight function over the Tennessee Medicaid plan and obtain from TennCare assurances that a functional eligibility and enrollment system for CHOICES' beneficiaries will be implemented and/or the noted deficiencies and delays are quickly addressed before renewal of the waiver on more than a short-term basis.

We thank you for the opportunity to comment. Should you have any questions regarding THCA's comments or need additional information, please contact Jesse Samples, THCA Executive Director at (615) 834-6520 or jsamples@thca.org.