



STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE
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M. D. Goetz, Jr.
Commissioner

MEMORANDUM

TO: Betty F. Boner
General Counsel

FROM: Donna K. Tidwell
Assistant General Counsel

SUBJECT: Construction of the term "Principal Residence"

DATE: January 27, 2003

The TennCare Reform Act of 2002 amended T.C.A. § 71-5-120 by, among other things, instituting obtaining specific proofs of residency from applicants for enrollment. Particularly problematic is T.C.A. § 71-5-120(b)(2)(A), which requires a declaration "under penalty of perjury" that:

The adult applicant does not own or lease a principal residence outside of this state.

T.C.A. § 71-5-103(9) defines "resident" as:

...any individual who is living within the state, with the intent that such person's permanent home be within the state, and not temporarily.

Federal law prohibits the use of

any residence requirement which excludes any individual who resides in the state, regardless of whether or not the residence is maintained permanently or at a fixed address

as a condition of eligibility. 42 U.S.C. § 1396a(b)(2). Further, the federal regulations include many definitions of a state resident, including a person who is over age 21 who is living in the state with the intention to remain permanently or for an indefinite period, whether residing in an institution or not. 42 CFR § 435.403(d),(i)(1)(i) and (i)(4).

To comport with federal law, "principal residence" may be construed as meaning the current residence at which the individual intends to reside permanently or for an indefinite period.