

INSTRUCTIONS FOR USE OF AFFIDAVITS

Under [TCA 4-5-313](#) and [TennCare Rule 1200-13-19-.17\(6\)](#), an appellant can introduce an affidavit if:

- **he delivers the affidavit to the TennCare attorney with a notice prescribed as follows in 1200-13-19-.17(7):**

The accompanying affidavit of _____ (here insert name of affiant) will be introduced as evidence at the hearing in _____ (here insert title of proceeding). _____ (Here insert name of affiant) will not be called to testify orally and you will not be entitled to question such affiant unless you notify _____ (here insert name of the proponent or the proponent's attorney) at _____ (here insert address) that you wish to cross-examine such affiant. To be effective, your request must be mailed or delivered to _____ (here insert name of proponent or the proponent's attorney) on or before _____ (here insert a date seven (7) days after the date of mailing or delivering the affidavit to the opposing party).

- **The notice and affidavit are delivered to the TennCare attorney at least ten days before the hearing.**
- **The TennCare attorney fails within 7 days of delivery to notify the appellant of his desire to cross-examine the person who signed the affidavit.**

Even if the appellant does not follow this procedure, the judge may still decide to allow use of the affidavit. But, if you have time to comply with this notice process, it is wise to do so.

A sample letter complying with this notice procedure is attached.