

APA-1

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No: 560 Department or Agency: Alabama Medicaid Agency

Rule No: 560-X-52-.15

Rule Title: Fair Hearings

_____ New Rule; X Amend; _____ Repeal; _____ Adoption by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? _____ no

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? _____ yes

Is there another, less restrictive method of regulation available that could adequately protect the public? _____ no

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? _____ no

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? _____ no

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? _____ yes

Does the proposed rule have any economic impact? _____ no

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer: Stephanie Lindsay

Date: 4-18-11

FOR APD USE ONLY

PUBLISHED IN VOLUME _____ ISSUE NO. _____

EDITED AND APPROVED BY _____ DOCUMENT NO. _____

ALABAMA MEDICAID AGENCY

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 560-X-52-.15 – Fair Hearings.

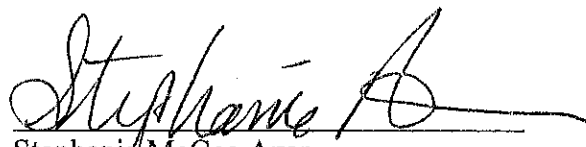
INTENDED ACTION: Amend 560-X-52-.15.

SUBSTANCE OF PROPOSED ACTION: The above referenced rule is being amended to explain the HCBS Waiver Appeal Process by including timeframes required to submit a request for a hearing.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written or oral comments may be submitted to the Alabama Medicaid Agency, 501 Dexter Avenue, Post Office Box 5624, Montgomery, Alabama 36103-5624. Agency business hours are 8:00 a.m. to 5:00 p.m. Monday through Friday.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Written/Oral comments concerning this change must be received by the Alabama Medicaid Agency no later than June 4, 2014.

CONTACT PERSON AT AGENCY: Stephanie Lindsay, Administrative Secretary,
Alabama Medicaid Agency, 501 Dexter Avenue, Post Office Box 5624,
Montgomery, Alabama 36106-5624


Stephanie McGee Azar
Acting Commissioner

Rule No. 560-X-52-15 HCBS Waiver Appeal Process. Fair Hearings

(1) An individual receiving a Notice of Action (denial, termination, suspension, reduction in services) from the operating agency (OA), may request an appeal if he/she disagrees with the decision. The Notice of Action explains the reason for the denial, termination, suspension, or reduction in waiver services and the appeal rights made available to them. An individual who is denied home and community-based services based on Rule No. 560-X-52-.03, may request a fair hearing in accordance with 42 C.F.R. 431, Subpart E and Chapter 3 of the Alabama Medicaid Administrative Code.

(2) If an individual/guardian chooses to appeal an adverse decision, they may choose to appeal first to the Department of Mental Health, and if not satisfied with the decision rendered in that appeal, may then further appeal to the Alabama Medicaid Agency (AMA). Or, they may appeal first directly to the Alabama Medicaid Agency. The two process are as follows:

(a) Appeal first to the Department of Mental Health (DMH) Associate Commissioner for the Division of Developmental Disabilities: a written request for an appeal must be received by the Associate Commissioner no later than 15 days calendar days after the effective date printed on the Notice of Action. Upon receipt of an appeal request by the Associate Commissioner, contact is made with the Regional Community Services Offices to request the information packet that they reviewed to base the denial decision. A written decision from the Associate Commissioner will be mailed (certified) to the individual/guardian within 21 days after the review of all information is completed. If the individual/guardian disagrees with the Associate Commissioner's decision, he/she can request a Fair Hearing from the AMA. A written hearing request must be received by the AMA no later than 15 calendar days from the date of the Associate Commissioner's response letter.

(b) Appeal first to the Alabama Medicaid Agency: a written request for an appeal must be submitted within 60 calendar days of the effective date printed on the Notice of Action. The AMA staff will assist the individual/guardian in scheduling a hearing.

(3) Services will continue until the final outcome of the hearing for those individuals who are already receiving services when they submit an appeal within 10 days after the effective date of action unless: Recipients will be notified in writing at least ten days prior to termination of service.

(a) It is determined at the hearing that the sole issue of is one of Federal or State law or policy; and

(b) The agency promptly informs the beneficiary in writing that services are to be terminated or reduced pending the hearing decision.

~~(3) A written request for a hearing must be received by Medicaid within sixty (60) days following the date on the notice of action with which an individual is dissatisfied.~~

Author: Samantha McLeod, Associate Director, Long Term Care Specialized Waiver Programs.

Statutory Authority: Social Security Act §1915(c); 42 C.F.R. Section 431, Subpart E—Fair Hearings for Applicants and Recipients.

History: New Rule: Filed September 20, 2002; effective December 26, 2002.

Amended: Filed April 21, 2014.