

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 410 Department or Agency State Health Planning and Development Agency (Statewide Health Coordinating Council)
Rule No. 410-2-4-.07
Rule Title: Home Health
 New Amend Repeal Adopt 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? N/A

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 an 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 Abra M. Lambert

Date 12/1/14

DATE FILED
(STAMP)



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

100 NORTH UNION STREET, SUITE 870
MONTGOMERY, ALABAMA 36104

NOTICE OF INTENDED ACTION

AGENCY NAME: STATE HEALTH PLANNING AND DEVELOPMENT AGENCY
(Statewide Health Coordinating Council)

RULE NO. & TITLE: 410-2-4-.07 Home Health

INTENDED ACTION:

The State Health Planning and Development Agency and the Statewide Health Coordinating Council propose to amend the above-styled section of the *Alabama State Health Plan*.

SUBSTANCE OF PROPOSED ACTION:

To impose a moratorium on new Certificate of Need applications for home health agencies until the earlier of January 1, 2016, or the adoption of a revised home health need methodology, and to require applicants to comply with SHPDA's data collection requirements before a Certificate of Need application is deemed to be complete.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

In response to this Proposed Rule, all interested persons are invited to submit data, views, comments and/or arguments, orally or in writing. Any and all such data, comments, arguments and/or requests to orally address the Statewide Health Coordinating Council (SHCC) shall be made in writing on or before February 4, 2015, and shall be made to:

Nicole Horn, Executive Secretary
State Health Planning and Development Agency
P. O. Box 303025
Montgomery, Alabama 36130-3025

On February 6, 2015, at 10:00 a.m., the SHCC shall conduct a public hearing in the Old Archives Chamber, Second Floor, State Capitol, Montgomery, Alabama, at which time it shall consider the Proposed Rule along with all written and oral submissions in respect to the Proposed Rule. Only those interested persons who have made timely written requests will be afforded the opportunity to speak.

Copies of the proposed changes are available for review at 100 North Union Street, RSA Union Building, Suite 870, Montgomery, Alabama. Phone (334) 242-4103 or visit the office Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding State holidays.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

February 4, 2015

CONTACT PERSON AT AGENCY:

Nicole Horn
100 North Union Street
RSA Union, STE 870
Montgomery, AL 36104
(334) 242-4103


Alva M. Lambert, Executive Director

410-2-4-.07 **Home Health**

(1) Definitions

(a) Home Health Agency. A home health agency is an organization that is primarily engaged in providing skilled nursing services and other therapeutic services. Services are provided on an intermittent basis. Each visit must be less than four hours in duration. Any visit made to or procedures performed on a patient at their home must only be made upon a physician's written order. Home health providers shall provide at least the following services, including, but not limited to, skilled nursing care, personal care, physical therapy, speech therapy, medical social services, and medical supplies services.

(b) Home Health Care. Home health care is that component of a continuum of comprehensive health care whereby intermittent health services are provided to individuals and families in their places of residence for the purpose of promoting, maintaining or restoring health, or of maximizing the level of independence, while minimizing the effects of disability and illness, including terminal illness. Services appropriate to the needs of the individual patient and family are planned, coordinate, and made available by providers organized for the delivery of home health care through the use of employed staff, contractual arrangements, or a combination of employed staff and contractual arrangements. There is no licensure requirement for home health agencies in Alabama.

(c) Home Health Services. Home health services are made available based upon patient care needs as determined by an objective patient assessment administered by a multidisciplinary team or a single health professional. Centralized professional coordination and case management are included. These services are provided under a plan of treatment certified by a physician that may include, but are not limited to, appropriate service components, such as medical, nursing, social work, respiratory therapy, physical therapy, occupational therapy, speech therapy, nutrition, homemaker home health aide service, and provision of medical equipment and supplies.

(d) Section 22-21-265, Code of Alabama 1975, allows an existing home health agency to accept referrals from a county which is contiguous to the county where the CON is held (see the referenced section above for restrictions as provided in the section with regard to contiguous counties; also this information is posted on the SHPDA website at <http://www.shpda.alabama.gov>.)

(2) Inventory of Existing Resources

The State Health Planning and Development Agency annually compiles several home health agency reports and identifies counties which are in need of an additional agency. These publications are available for a fee upon request. A current listing of home health agencies is located at <http://www.shpda.alabama.gov> or <http://www.adph.org>.

(3) Planning Policy -- (Availability)

Home health visits are scheduled on an intermittent basis and must be available seven days a week at such times as may be ordered by referring physicians. While availability must include provision for weekend and evening services, emergency services are not within the scope or purpose of home health providers.

(4) Accessibility

(a) Home health service must be obtainable by the general public in every county in the state.

(b) Because physicians and other referral sources are sometimes unfamiliar with the total scope of services offered by home health providers, patients' accessibility is also limited by failure to refer appropriately to home health services. Every agency should provide an active community information program to educate consumers and professionals to the availability, nature, and extent of home health services.

(5) Acceptability and Continuity

(a) Acceptability is the willingness of consumers, physicians, discharge planners, and others to use home health services as a distinct component of the health care continuum.

(b) Continuity reflects a case management approach that allows patient entry into the health care continuum at the point that ensures delivery of appropriate services. Home health care provides a balanced program of clinical and social services, and may serve as a transitional level of care between inpatient treatment and infrequent physician office visits. Home health also extends certain intensive, specialized treatments into the home setting.

(c) Planning Guides and Policies

1. Planning Guide

Home health providers shall maintain referral contacts with appropriate community providers of health and social services, to facilitate continuity of care and to coordinate services not provided directly by the home health provider.

2. Planning Policy

Home health providers must furnish discharge-planning services for all patients.

(6) Quality

(a) Quality is that characteristic, which reflects professionally appropriate and technically adequate patient services.

(b) The state home health industry, through development of ethical standards and a peer review process, can foster provision of quality home health care services. Each

provider must establish mechanisms for quality assurance, including procedures for resolving concerns identified by patients, physicians, families or others involved in patient referral or patient care.

(c) Planning Policies

1. Planning Policy

The county will be the geographic unit for need determination, based upon population.

2. Planning Policy – (New Providers)

When a new provider is approved for a county, that provider will have eighteen months from the date of the Certificate of Need to meet the identified need in the county before a new provider may apply for a Certificate of Need to serve a county.

3. Planning Policy – (Existing Providers)

If an existing provider ceases to operate in a county, once the Certificate of Need is deemed null and void then a provider can apply under the current published statistical need.

4. Planning Policy – Favorable Consideration

Home health agencies that achieve or agree to achieve Charity Care plus Self Pay at the statewide average percent for all home health providers shall be given favorable CON consideration over home health applicants that do not achieve the statewide average for Charity Care plus Self Pay, but not less than one (1) percent. The latest published SHPDA data report HH-11 shall be used to determine the assets to governmental and non-profit organizations at the individual county level that may be considered. See section 410-2-2-.06 for the definition of charity care.

5. Planning Policy – CON Intervention/Opposition

(a) Any CON application filed by a licensed health care facility shall not be deemed complete until, and unless:

- i. The applicant has submitted all survey information requested by SHPDA prior to the application date; and
- ii. The SHPDA Executive Director determines that the survey information is substantially complete.

(b) No Home Health Agency or Hospice Agency filing an intervention notice or statement in opposition in any CON proceeding may cite or otherwise seek consideration by SHPDA of such facility's utilization data until, and unless:

- i. the intervenor or opponent has submitted all survey information requested by SHPDA prior to the application date; and
- ii. the SHPDA Executive Director determines that the survey information is substantially complete.

6. Home Health Need Methodology

(i) Purpose. The purpose of this home health need methodology is to identify, by county, the number of home health agencies needed to assure the continued availability, accessibility, and affordability of quality home health care for residents of Alabama.

(ii) Basic Methodology.

The SHCC finds that the current home health methodology, set forth below, is in need of review prior to the grant or consideration of new home health agencies. Consequently, no new home health applications shall be accepted until the earlier of (1) January 1, 2016; or (2) the adoption of a revised home health need methodology.

In order to perform the calculations for this methodology, population data from the Center for Business and Economic Research (CBER) was used. All time frames are based on the year of the latest reported data.

Step 1:

1. Data required to perform the calculations in this methodology are: population data for the current reporting year, the two reporting years immediately prior to the current reporting year, and the projected data for three years immediately following the current reporting year.
2. Persons served data for the current reporting year, and the two reporting years immediately prior to the current reporting year, are required to perform the calculations in this methodology. This information can be gathered off the HH-2 report as generated by SHPDA.
3. The ratio for the change in population for two age cohorts, Population under 65 and Population age 65 and over, needs to be determined per county. The ratio for the change will be for a three year period. Therefore, the current reporting year will be compared to the year three years following the current reporting year. The year immediately prior to the current reporting year will be compared to the year two years following the current reporting year. The year two year prior to the current reporting year will be compared to the year immediately following the current reporting year. To show this another way:

Current Reporting Year	--	Current Reporting Year + 3
Current Reporting Year	--	Current Reporting Year + 2
Current Reporting Year	--	Current Reporting Year + 1

4. Projected patients served under the age of 65 for future reporting years are calculated on a county basis by: multiplying the year's total persons served by 25% (0.25) to determine the approximate number of persons served under the age of 65. This number is divided by the county population under the age of 65 to determine a utilization rate. To determine the *projected patients served under the age of 65*, this total is then multiplied by the total projected population for the target year for each county.
5. Projected patients served age 65 and older for future reporting years are calculated on a county basis by: multiplying the year's total persons served by 75% (0.75) to determine the approximate number of persons served age 65 and older. This number is divided by the county population 65 and older to determine a utilization rate. To determine the *projected patients served age 65 and older*, this total is then multiplied by the total projected population for the target year for each county.
6. To determine the *total number of projected persons served per county*, add the totals from steps 4 and 5.
7. Add the *total number of projected persons served*, by county, to determine the *statewide projected total persons served*.
8. Multiply the target year's *projected total persons served* for the target year by 25% (0.25) to reflect the *projected statewide total persons served* under the age of 65.
9. Divide the total statewide population under the age of 65 for the target year by 1000.
10. Divide the numeric result from step 8 by the numeric result in step 9.
11. Multiply the target year's *projected total persons served* by 75% (0.75) to reflect the projected statewide total persons served ages 65 and over.
12. Divide the total statewide population age 65 and over for the target year by 1000.
13. Divide the numeric result from step 11 by the numeric result in step 12.
14. Add the results from steps 10 and 13. This is the *projected average statewide persons served per 1000 population*, by county, for the target year.
15. Repeat steps 4 through 14 for the second target year.
16. Repeat steps 4 through 14 for the third target year.
17. To determine the *projected weighted statewide average persons served*, perform the following calculation: multiply the *projected statewide average persons served per 1000 population* for 3 years after the current reporting year by 3; multiply the *projected statewide average persons served per 1000 population* for 2 years after the current reporting year by 2; and multiply the *projected statewide average persons served per 1000 population* for 1 year after the current reporting year by 1.
18. Add the three results determined in step 17 and divide the total by 6 for the *projected statewide average persons served per 1000 population*.
19. To determine the *Current Home Health Comparative Value*, multiply the number derived in step 18 by 85% (0.85). This is the value that will be utilized in the comparisons in step 2.

Step 2:

1. Using the data created above for the target year (the year three years after the current reporting year), follow the steps below to determine the future projected need for Home Health Services by county.

2. Multiply the target year's total persons served by 25% (0.25) to reflect the *county wide total persons served under the age of 65*.
3. Divide the total county wide population under the age of 65 by 1000.
4. Divide the numeric result from step 2 by the numeric result in step 3.
5. Multiply the current year's total persons served by 75% (0.75) to reflect the *county wide total persons served ages 65 and over*.
6. Divide the total county wide population age 65 and over by 1000.
7. Divide the numeric result from step 5 by the numeric result in step 6.
8. Add the results from steps 4 and 7. This is the *projected total persons served per 1000 population* used to determine need for Home Health Services in a county.
9. Subtract the result from step 8, by county, from the *Current Home Health Comparative Value*. If this number is negative, there is no need for a new Home Health provider in a county. If the number is positive, continue to step 10.
10. This number is then divided by the SUM of 0.75 (75%) times 1000 divided by the county population aged 65 and over AND 0.25 (25%) times 1000 divided by the county population under the age of 65. This number is the number of new persons required to be served in a county to bring the county persons served per 1000 value up to the statewide comparative value.
11. A threshold level of 100 new patients needed to be served is required for a determination of need in a county. If the number of new patients needed to be served is less than 100, there is no need for a new Home Health provider in a county. If the number is equal to or greater than 100, there is a need for a new Home Health Care provider in a county.

Step 1:

For each target year by county:

(reported year persons served * 0.25) / (reported year population under 65)

= utilization rate population under 65

Utilization rate * target year population under 65 = projected persons served under 65

(reported year persons served * 0.75) / (reported year population age 65 and over)

=utilization rate population age 65 and over

Utilization rate * target year population age 65 and over = projected persons served age 65 and over

Projected persons served under 65 + projected persons served age 65 and over

= Target year projected persons served by county

For each target year:

Sum of all Target year projected persons served by county = Target year projected total persons served

$(\text{Target year projected total persons served} * 0.25) / (\text{Projected population under 65}/1000) +$
 $(\text{Target year projected total persons served} * 0.75) / (\text{Projected population age 65 and over}/1000)$

=Projected Statewide Average Persons Served per 1000 Population

To Determine Current Home Health Comparative Value for Step 2:

$(3 \text{ Years after Current Reporting Year Projected Average Persons Served} * 3) +$
 $(2 \text{ Years after Current Reporting Year Projected Average Persons Served} * 2) +$
 $(1 \text{ year after Current Reporting Year Projected Average Persons Served} * 1)$

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= Projected Weighted Average Persons Served per 1000 Population

Projected Weighted Average Persons Served per 1000 Population * 0.85

= Current Home Health Comparative Value

Step 2: *(Using population and persons served for 3 years after current reporting year)*

$\frac{(\text{countywide total persons served} * 0.25)}{(\text{countywide population under 65}/1000)} + \frac{(\text{countywide total persons served} * 0.75)}{(\text{county population 65 and over}/1000)}$

= County Persons Served per 1000 Population

Current Home Health Comparative Value – County Persons Served per 1000 Population

=County Projected Persons Per 1000 Population in Need of Home Health Services.

County Projected Persons Per 1000 Population in need of Home Health Services

$(0.75 * 100/\text{Population age 65 and over}) + (0.25 * 1000/\text{Population under 65})$

= New persons required to be served in county to equal Current Home Health Comparative Value

If number is negative, there is no need in a county.

If number is less than 100, there is no need in a county.

If number is 100 or more, there is a need for a new Home Health provider in a county.

For a listing of Home Health Agencies or the most current statistical need projections in Alabama you may contact the Data Division as follows:

MAILING ADDRESS
(U.S. Postal Service)

PO BOX 303025
MONTGOMERY AL 36130-3025

TELEPHONE:
(334) 242-4103

E-Mail:
info@shpda.alabama.gov

STREET ADDRESS
(Commercial Carrier)

100 NORTH UNION STREET
SUITE 870
MONTGOMERY AL 36104

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