

APA-1

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No: 560 Department or Agency: Alabama Medicaid Agency

Rule No: 560-X-62-.20

Rule Title: Grievances and Fair Hearings of Regional Care Organizations

X New Rule; \_\_\_\_\_ 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

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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.

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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: 1/22/2015

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**ALABAMA MEDICAID AGENCY**

**NOTICE OF INTENDED ACTION**

**RULE NO. & TITLE:** 560-X-62-.20 Grievances and Fair Hearings of Regional Care Organizations

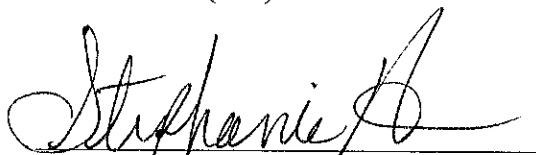
**INTENDED ACTION:** Add New Rule 560-X-62-.20

**SUBSTANCE OF PROPOSED ACTION:** The above referenced rule is being created to set forth the procedures for a regional care organization with a grievance concerning the Medicaid Agency as address in Section 22-6-153(e) of the Alabama Code.

**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 March 9, 2015.

**CONTACT PERSON AT AGENCY:** Stephanie Lindsay, Administrative Secretary, Alabama Medicaid Agency, 501 Dexter Avenue, Post Office Box 5624, Montgomery, Alabama 36103-5624. Phone: (334) 242-5833.



Stephanie McGee Azar  
Acting Commissioner

**Rule No. 560-X-62-20 Grievances and Fair Hearings of Regional Care Organizations –  
NEW RULE**

- (1) A regional care organization (RCO) with a grievance concerning the Medicaid Agency as addressed in Section 22-6-153(e) of the Alabama Code, shall abide by the following procedures.
- (2) For the purposes of this rule, a “RCO grievance” means any dispute or claim of a RCO against the Medicaid Agency for which an opportunity for hearing is provided by law or specific contractual provision, excepting disputes or claims for which the State of Alabama, the Medicaid Agency, or their officials, employees, or agents are immune under the constitutions or laws of the State of Alabama and/or the United States.
- (3) An RCO shall request a fair hearing with the Medicaid Agency to review an RCO grievance. The request for fair hearing must be in writing and must be filed with the Medicaid Agency within 60 calendar days from the date of the occurrence upon which the RCO grievance is based. Provided, however, this deadline shall not apply to any occurrence discovered upon receipt of an audit, reconciliation or report that provides notice to the RCO of an occurrence that was not previously discoverable in the exercise of reasonable care. In such case the deadline for requesting a fair hearing shall be 60 calendar days from the RCO’s receipt of such audit, reconciliation, or report. An RCO’s request for a fair hearing with the Medicaid Agency relating to the imposition of a sanction must be in writing and must be filed with the Medicaid Agency within 30 calendar days of the date of the sanction notice. The written request shall include a statement of the factual and/or legal basis for the RCO’s dispute or claim and a statement of the relief or action sought. The Medicaid Agency will not accept requests for fair hearings that are outside the filing deadline. The RCO may submit the written request for fair hearing to the Medicaid Agency by mail, hand-delivery, facsimile or electronic mail, and the request must be received by the Medicaid Agency on or before the filing deadline.
- (4) Upon filing a written request for a fair hearing, the RCO may also request an informal conference with the Medicaid Agency to seek a resolution of the RCO grievance.
- (5) If the RCO grievance is not resolved through informal conference with the Medicaid Agency, the RCO grievance shall be reviewed in a fair hearing before an impartial hearing officer in accordance with the requirements for contested case proceedings under the Alabama Administrative Procedure Act, Section 41-22-1 *et seq.* The hearing authority for all fair hearings of RCO grievances shall be the Commissioner of the Medicaid Agency, who shall appoint one or more hearing officers to conduct fair hearings and submit findings and recommendations to the Commissioner for final decision on each RCO grievance. The hearing officer shall not have been involved in any way with the RCO grievance in question.
- (6) A fair hearing shall be impartially conducted and held at the Medicaid Agency’s central office in Montgomery. Written notice of the date, time, place and nature of the fair hearing shall be sent by certified mail to the RCO’s address of record and may also be communicated by email or facsimile transmission by the Director, Hearings of the Medicaid Agency, or the designated hearing officer, at least 10 calendar days before the hearing is to be held. The notice shall comply with the requirements of Section 41-22-12(b).

(7) The RCO may be represented at the fair hearing by legal counsel at its own expense. The RCO may call witnesses and may examine witnesses called by other parties.

(8) The Medicaid Agency shall be responsible for payment of the hearing officer(s) fees and expenses and any court reporter's fees and expenses related to the fair hearing.

(9) All fair hearings shall be conducted in accordance with the provisions of Sections 41-22-12 through 41-22-19, unless otherwise noted in this rule. Within 30 calendar days of the conclusion of the hearing, the findings and recommendations of the hearing officer shall be submitted to the Commissioner of the Medicaid Agency, who shall make a final decision within 30 calendar days of the recommendation. The Medicaid Agency shall promptly send a copy of the final decision to the RCO's address of record by certified mail.

(10) The RCO may seek judicial review of the final decision of the Medicaid Agency in accordance with the provisions of Sections 41-22-20 and 41-22-21.

(11) This rule shall not be applicable to any grievance relating to a provider contract subject to the provisions of Section 22-6-153(g) or Rule No. 560-X-62-.11.

(12) Nothing in this rule is intended to create or establish new causes of action in any court. Nothing in this rule shall be construed as a waiver of any sovereign, qualified, or any other type of immunity.

**Author:** Sharon Weaver, Administrator, Administrative Procedures Office.

**Statutory Authority:** Code of Alabama, 1975 Section 22-6-150 *et seq.* and 41-22-12 through 41-22-19.

**History:** New Rule: Filed January 22, 2015.