

APA-1

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No: 560 . Department or Agency: Alabama Medicaid Agency

Rule No: 560-X-6-.09 (2) (b), (3)

Rule Title: Consent Forms Required Before Payments Can Be Made

_____ 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 [Signature]

Date: 3-16-12

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ALABAMA MEDICAID AGENCY

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 560-X-6-.09 Consent Forms Required Before Payments Can Be Made.

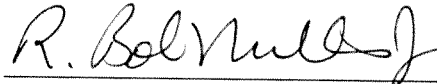
INTENDED ACTION: Amend 560-X-6-.09 (2) (b), (3)

SUBSTANCE OF PROPOSED ACTION: The above referenced rule is being amended to include the exceptions for unusual circumstances that were added to the hysterectomy consent requirements.

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, 334-242-5833. 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 May 4, 2012.

CONTACT PERSON AT AGENCY: Stephanie McGee Azar, Administrative Secretary, Alabama Medicaid Agency, 501 Dexter Avenue, Post Office Box 5624, Montgomery, Alabama 36103-5624.



R. Bob Mullins, Jr., MD
Commissioner

Rule No. 560-X-6-.09. Consent Forms Required Before Payments Can Be Made.

(1) Abortions: A claim seeking payment for an abortion must be accompanied by one or more (depending on the circumstance) of the forms required by federal law and a copy of the medical records. Payment is available for abortions as provided under federal law.

In the event the abortion does not meet the requirements of federal law, and the recipient elects to have the abortion, the provider may bill the recipient for the abortion.

(2) Sterilization: A claim seeking payment for sterilization must be accompanied by a sterilization form (Form 193) or Medicaid approved substitute.

Sterilization by Hysterectomy

(a) Payment is not available for a hysterectomy if:

1. It was performed solely for the purpose of rendering an individual permanently incapable of reproducing, or
2. If there was more than one purpose to the procedure, it would not have been performed but for the purpose of rendering the individual permanently incapable of reproducing.

Hysterectomy procedures performed for the sole purpose of rendering an individual incapable of reproducing are no longer covered under Medicaid. Hysterectomies done as a medical necessity as treatment of disease can be paid for by the Medicaid funds under the physician's program.

(b) A claim seeking payment for a hysterectomy performed for reasons of medical necessity, and not for purpose of sterilization, must be accompanied by a Hysterectomy Consent Form PHY-81243 (rev. ~~052082~~ 02-10-2010) or Medicaid approved substitute. See Chapter 28 for sample copy of this form. The doctor's explanation to the patient that the operation will make her sterile, and the doctor's and recipient's signature must precede the operation except in the case of ~~medical emergency~~ unusual circumstances.

~~The consent form is not required if the operation took place on or after March 8, 1979, and if (1) the physician who performed the hysterectomy certifies in writing that the patient was already sterile when the hysterectomy was performed; the cause of sterility must be stated in this written statement, or if (2) the physician who performed the hysterectomy certifies in writing that the hysterectomy was performed under a life-threatening emergency situation in which prior acknowledgement was not possible. This written statement must include a description of the nature of the emergency, or if (3) the hysterectomy was performed during a period of retroactive Medicaid eligibility, and the physician who performed the hysterectomy submits, in lieu of the consent form, a written statement certifying that the individual was informed before the operation that the hysterectomy would make her sterile. The physician who performed the hysterectomy must complete Part IV. Unusual Circumstances of the revised hysterectomy consent form certifying that, (1) the patient was already sterile when the hysterectomy was performed; the cause of sterility must be stated and supporting medical records (history and physical, operative notes, and discharged~~

summary) must be attached, or (2) the hysterectomy was performed under a life-threatening emergency situation in which prior acknowledgement was not possible. Medical records supporting life-threatening emergency situation must be attached, or (3) the hysterectomy was performed during a period of retroactive Medicaid eligibility, and before the operation was performed, the physician informed the recipient that she would be permanently incapable of reproducing as a result of the operation.

Completed copies of the consent form must be submitted by a provider-physician, hospital, laboratory, or other providers who submit a claim related to a hysterectomy. Surgeons are responsible for submitting hard copy hysterectomy consent forms to HPES. The form must be signed by both the patient, or a representative, and the physician.

Copies of the signed form should be obtained from the physician by the hospital, laboratory, or other provider and submitted with their claims.

~~(3) — Accident: A claim seeking payment for service made necessary because of an accident may require an accident/insurance form (XIX-TPD-1-76). See Chapter 20 (Third Party) for specific details. A copy of this form is included in Chapter 28.~~

Author: Desiree Nelson; Program Manager; Medical Support.

Statutory Authority: Title XIX, Social Security Act; 42 C.F.R. §§ 401, et seq.; State Plan.

History: Rule effective October 1, 1982. **Amended:** effective March 12, 1987.

Emergency rule effective March 1, 1989. **Amended:** June 16, 1989; March 15, 1994; June 14, 2002; May 16, 2003. **Amended:** Filed March 20, 2012.