

APA-1

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No: 560 Department or Agency: Alabama Medicaid Agency

Rule No: 560-X-3-.03

Rule Title: Fair Hearing Procedures for Recipients and Providers  
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: 3/20/13

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**ALABAMA MEDICAID AGENCY**

**NOTICE OF INTENDED ACTION**

**RULE NO. & TITLE:** 560-X-3-.03 - Fair Hearing Procedures for Recipients and Providers.

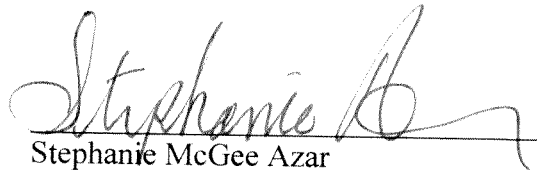
**INTENDED ACTION:** Amend

**SUBSTANCE OF PROPOSED ACTION:** The above referenced rule is being amended to clarify the process of requesting a fair 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 May 3, 2013.

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



Stephanie McGee Azar  
Acting Commissioner

**Rule No. 560-X-3-.03. Fair Hearing Procedures for Recipients and Providers.**

- (1) ~~(1)~~—The procedures contained herein have been adopted by Medicaid to settle formal complaints of persons who are receiving care under the Medicaid program or who have been denied care under this program because of eligibility standards, or for providers who desire a fair hearing upon denial of a claim for services, out-dated claim and non-renewal or termination of a contract. At the request of a provider, the Commissioner may grant a fair hearing on any other matter pertinent to Medicaid except the following:
- a. When Medicaid suspends payments to a provider after Medicaid determines there is a credible allegation of fraud, pursuant to the requirements of 42 C.F.R. § 455.23, the provider shall not be entitled to a fair hearing regarding the suspension of payments;
  - a.b. When the Secretary of Health and Human Services determines that a provider must be removed from the program for fraud or abuse.
- ~~(2)~~—~~Except where the Secretary of Health and Human Services had determined that a provider must be removed from the program for abuse, the Commissioner of Medicaid shall, in writing, offer a provider a fair hearing prior to suspension or termination from the Alabama Medicaid Program. If the provider does not respond within 10 days of the written offer he will be terminated from the program without further action.~~
- ~~(3)~~—~~When provider criminal fraud is suspected, the Commissioner shall cause her/his appropriate staff to consult with the Office of the Attorney General prior to offering a fair hearing for termination purposes.~~
- ~~(34)~~ A complainant, or authorized person acting for him, may request a fair hearing in writing if he or she is not satisfied with the actions taken that relate specifically to himself. ~~Persons desiring a hearing within the jurisdiction of Medicaid will be referred to the Director, Hearings, for appropriate scheduling.~~
- ~~(45)~~ ~~Except for the specific situations outlined below A written request for a fair hearing or undue hardship, if allowed by law, must be received by Medicaid within 60 days from the date the following the notice of action is mailed, which prompts a claimant to request a hearing. Medicaid will not accept requests for fair hearings or undue hardship, if allowed by law, which are outside the 60 day limit. A request for an undue hardship, if allowed by law, will not toll the 60 day time limit to request a fair hearing. The exceptions to the 60 day limit are as follows:~~
- (5) ~~(a)~~ In a case in which Medicaid is terminating recipient eligibility, if a hearing request is received within 10 days of the date of the notice of action, benefits may be continued pending outcome of the hearing unless there are unnecessary delays in finalizing the hearing caused by the recipient or the recipient's representative.

—(6) (b) In a case in which Medicaid is suspending or terminating a Medicaid provider, if a hearing request is received within 10 days of receipt of the notice of termination, the provider may continue to remain as a Medicaid provider pending outcome of the hearing, unless there are unnecessary delays in finalizing the hearing caused by the provider or the provider's representative.

Authority: State Plan, Title XIX of the Social Security Act. 42 C.F.R. Sec. 401, et seq. Rule effective October 1, 1982. Amended: Filed April 11, 1985; Effective January 1, 1986.  
Amended: Filed March 20, 2013.