

APA-1

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

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

Rule No: 560-X-53-.04

Rule Title: Participant Enrollment

_____ 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: 3/20/13

FOR APD USE ONLY

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ALABAMA MEDICAID AGENCY

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 560-X-53-.04 Participant Enrollment

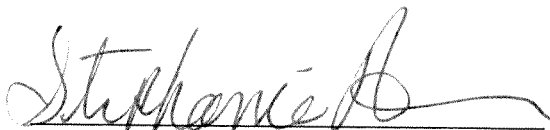
INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The above referenced rule is being amended to clarify the enrollment process for the Program of All-Inclusive Care for the Elderly (PACE) as set forth in federal law.

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

560-X-53-.04. Participant Enrollment.

~~The enrollment application is initiated and processed by the PO as outlined in 42 CFR 460.152. The AMA will assess the potential participant to ensure that they meet the level of care requirements. Requirements for information that must be included in the enrollment agreement are in 42 CFR 460.154. Enrollment procedures that must be completed by the PO are described in 42 CFR 460.156. Requirements for continuation of enrollment are outlined in 42 CFR 460.160.~~

A) Enrollment Process

1) Intake Process. Intake is an intensive process during which PACE staff members make one or more visits to a potential participant's place of residence and the potential participant may make one or more visits to the PACE center. At a minimum, the intake process must include the following activities:

- a) The PACE staff must explain to the potential participant and his or her representative or caregiver the following information:
 - (i) The PACE program, using a copy of the enrollment agreement, specifically references the elements of the agreement, including but not limited to 42 CFR §§ 460.154(e), (i) through (m), and (r);
 - (ii) The requirement that the PACE organization would be the participant's sole service provider and clarification that the PACE organization guarantees access to services, but not to a specific provider;
 - (iii) A list of the employees of the PACE organization who furnish care and the most current list of contracted health care providers;
 - (iv) Monthly premiums, if any;
 - (v) Any Medicaid spenddown obligations; and
 - (vi) Post-eligibility treatment of income.
- b) The potential participant must sign a release to allow the PACE organization to obtain his or her medical and financial information and eligibility status for Medicare and Medicaid.
- c) All services provided to a Medicaid recipient must be medically necessary in order to receive reimbursement.
- d) The Alabama Medicaid Agency must assess the potential participant, including any individual who is not eligible for Medicaid, to ensure that he or she meets the nursing facility level of care as set forth in Rule No. 560-X-10-.10.
- e) The PACE staff must assess the potential participant to ensure that he or she can be cared for appropriately in a community setting and that

he or she meets all requirements for PACE eligibility as specified in 42 CFR §§ 460.150 – 460.172.

- (2) Denial of Enrollment. When an enrollment is denied because his or her health or safety would be jeopardized by living in a community setting, the PACE organization is required to complete the following steps:
 - a) Notify the individual in writing of the reason for enrollment denial and their appeal rights;
 - b) Refer the individual to alternative services as appropriate;
 - c) Maintain supporting documentation of the reason for the denial; and
 - d) Notify CMS and the Alabama Medicaid Agency and make the documentation available for review.

B) Enrollment Agreement and Procedures.

- (1) The enrollment agreement must, at a minimum, contain the information required by 42 CFR § 460.154, as may be amended.
- (2) After the participant signs the enrollment agreement, the PACE organization must give the participant the following:
 - a) A copy of the enrollment agreement;
 - b) A PACE membership card;
 - c) Emergency information to be posted in his or her home identifying the individual as a PACE participant and explaining how to access emergency services; and
 - d) Stickers for the participant's Medicare and Medicaid cards, as applicable, which indicate that he or she is a PACE participant and which include the phone number of the PACE organization.
- (3) The PACE organization must submit participant information to CMS and AMA in accordance with established procedures.
- (4) If there are changes in the enrollment agreement information at any time during the participant's enrollment, the PACE organization must meet the following requirements:
 - a) Give an updated copy of the information to the participant; and
 - b) Explain the changes to the participant and his or her representative or caregiver in a manner they understand.
- (5) If the prospective PACE enrollee meets the eligibility requirements and signs the PACE enrollment agreement, the effective date of enrollment in the PACE program is on the first day of the calendar month following the date the PACE organization receives the participant's signed enrollment agreement.

C) Continuation of Enrollment

(1) Duration of enrollment. Enrollment continues until the participant's death, regardless of changes in health status, unless either of the following actions occur:

a) The participant voluntarily disenrolls.

b) The participant is involuntarily disenrolled, as described in Rule No. 560-X-53.05.

c) Annual recertification requirement. At least annually, the Alabama Medicaid Agency must reevaluate whether a participant meets the nursing facility level of care as set forth in Rule No. 560-X-10-.10 and all services provided to a Medicaid recipient must be medically necessary in order to receive reimbursement.

(2) Continued Eligibility

a) Deemed continued eligibility. If the Alabama Medicaid Agency determines that a PACE participant no longer meets the Alabama Medicaid Agency nursing facility level of care requirements, the participant may be deemed to continue to be eligible for the PACE program until the next annual reevaluation, if, in the absence of continued coverage under this program, the participant reasonably would be expected to meet the nursing facility level of care requirement within the next 6 months.

b) Continued eligibility criteria.

i) The Alabama Medicaid Agency must establish criteria to use in making the determination of "deemed continued eligibility." The Alabama Medicaid Agency, in consultation with the PACE organization, makes a determination of deemed continued eligibility based on a review of the participant's medical record and plan of care. These criteria must be applied in reviewing the participant's medical record and plan of care.

ii. The criteria used to make the determination of continued eligibility must be specified in the program agreement.

Author: Linda Lackey, Medicaid Administrator, LTC Project Development Unit.

Statutory Authority: State Plan, Attachment 2.2-A, Attachment 3.1-A and Supplement 3; 42 CFR § 460.160; 42 CFR § 460 Subpart I.

History: New Rule: Filed November 10, 2011; effective December 15, 2011.

Amended: Filed March 20, 2013.