

APA-1

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No: 560 Department or Agency: Alabama Medicaid Agency

Rule No: 560-X-35-.17

Rule Title: Fair Hearings

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? 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 action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? no

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 Services Agency.

Signature of certifying officer: Stephanie Lindsay

Date: 1/20/2022

REC'D & FILED

JAN 20 2022

LEGISLATIVE SVC AGENCY

ALABAMA MEDICAID AGENCY

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Medicaid Agency

RULE NO. & TITLE: 560-X-35-.17 Fair Hearings

INTENDED ACTION: Amend 560-X-35-.17

SUBSTANCE OF PROPOSED ACTION: The above referenced rule is being amended to update the Fair Hearing/ Appeal process for an Intellectual Disabilities (ID) Waiver participant and/or guardian seeking to dispute an adverse decision made by the Department of Mental Health (Operating Agency).

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 7th, 2022.

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
Commissioner

Rule No. 560-X-35-.17 Fair Hearings

(1) An individual receiving a Notice of Action (denial, termination, suspension, reduction in services) from the operating agency (OA), may request an appeal if he/she disagrees with the decision. The Notice of Action explains the reason for the denial, termination, suspension, or reduction in waiver services and the appeal rights made available to them.

(2) If an individual/guardian chooses to appeal an adverse decision, they may choose to appeal to the Department of Mental Health (DMH) Associate Commissioner of the Developmental Disabilities Division no later than 15 calendar days after the effective date printed on the Notice of Action.

~~first to the Department of Mental Health, and if not satisfied with the decision rendered in that appeal, may then further appeal to the Alabama Medicaid Agency (AMA). Or, they may appeal first directly to the Alabama Medicaid Agency. The two processes are as follows:~~

~~(a) Appeal first to the Department of Mental Health (DMH) Associate Commissioner for the Division of Developmental Disabilities: a written request for an appeal must be received by the Associate Commissioner no later than 15 calendar days after the effective date printed on the Notice of Action.~~

(3) Services will continue until the final outcome of the hearing for those individuals who are already receiving services when they submit an appeal within 10 days after the effective date of action unless:

(a) It is determined at the hearing that the sole issue is one of Federal or State law or policy; and

(b) The agency promptly informs the beneficiary in writing that services are to be terminated or reduced pending the hearing decision.

(4) Upon receipt of an appeal request by the DMH Associate Commissioner of the Developmental Disabilities Division, contact is made with the Regional Community Services Offices to request the information packet that they reviewed to base the denial decision. The DMH Associate Commissioner of the Developmental Disabilities Division will contact the individual/ guardian and inform them that the division is in the process of reviewing their information. -A written decision from the DMH Associate Commissioner will be mailed (certified) to the individual/guardian within 21 days after the review of all information is completed. If the individual/guardian disagrees with the DMH Associate Commissioner's decision, he/she can submit a request for a Fair Hearing from to the AMA Alabama Medicaid Agency (Medicaid). A written hearing request must be received by the AMA Medicaid no later than 60+5 calendar days from the date of the DMH Associate Commissioner's response letter.

~~(b) Appeal first to the Alabama Medicaid Agency: a written request for an appeal must be submitted within 60 calendar days of the effective date printed on the Notice of Action. The AMA staff will assist the individual/guardian in scheduling a hearing.~~

~~(3) Services will continue until the final outcome of the hearing for those individuals who are already receiving services when they submit an appeal within 10 days after the effective date of action unless:~~

- ~~(a) It is determined at the hearing that the sole issue is one of Federal or State law or policy;~~
~~and~~
~~(b) The agency promptly informs the beneficiary in writing that services are to be terminated or reduced pending the hearing decision.~~

Author: Mattie Jackson, Associate Director, Specialized Waiver Unit, LTC Healthcare Reform Division

Statutory Authority: Social Security Act §1915(c); 42 C.F.R. Section 431, Subpart E—Fair Hearings for Applicants and Recipients.

History: New Rule: Filed September 20, 2002; effective December 26, 2002. Filed December 6, 2021;

Amended: Filed June 11, 2014; effective July 16, 2014. **Amended:** Filed January 10, 2020; Effective March 16, 2020. **Amended:** Filed January 20, 2022;

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