

APA-1

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No: 560 Department or Agency: Alabama Medicaid Agency

Rule No: 560-X-10-.05

Rule Title: Reservation of Beds

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

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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.

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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 Services Agency.

Signature of certifying officer: Stephanie Lindsay

Date: 7/17/2018

**ALABAMA MEDICAID AGENCY**

**NOTICE OF INTENDED ACTION**

**AGENCY NAME:** Alabama Medicaid Agency

**RULE NO. & TITLE:** 560-X-10-.05 – Reservation of Beds

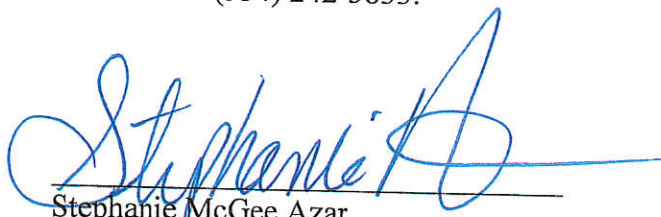
**INTENDED ACTION:** Amend 560-X-10-.05

**SUBSTANCE OF PROPOSED ACTION:** The above referenced rule is being amended to provide guidance regarding the discharge notice when a facility is discharging a resident while the resident is hospitalized.

**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 September 4, 2018.

**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-10-.05. Reservation of Beds**

(1) Payment for Reservation of Beds in Long Term Care Facilities.

(a) Neither Medicaid patients, nor their families, nor their sponsor, may be charged for reservation of a bed for the first four days of any period during which a Medicaid patient is temporarily absent due to admission to a hospital. Prior to discharge of the patient to the hospital, the patient, the family of the patient or the sponsor of the patient is responsible for making arrangements with the nursing home for the reservation of a bed and any costs associated with reserving a bed for the patient beyond the covered four day hospital stay reservation period. The covered four day hospital stay reservation policy does not apply to:

1. Medicaid-eligible patients who are discharged to a hospital while their nursing home stay is being paid by Medicare or another payment source other than Medicaid;
2. Any non-Medicaid patients;
3. A patient who has applied for Medicaid but has not yet been approved; provided that if such a patient is later retroactively approved for Medicaid and the approval period includes some or all of the hospital stay, then the nursing home shall refund that portion of the bed hold reservation charge it actually received from the patient, family of the patient or sponsor of the patient for the period that would have been within the four covered days policy; or
4. Medicaid patients who have received a notice of discharge for non-payment of service.

(2) Upon entering the hospital or the resident being placed on therapeutic leave, a nursing facility must provide to the resident and a family member or legal representative written notice which specifies the duration of the bed-hold policy. The bed-hold policy specifies when a resident is permitted to return and resume residence in the nursing facility.

(3) When a nursing facility is contacted by the hospital notifying them that the resident is ready for release, within the four day bed-hold period, the nursing facility must allow the resident to return to their facility before the bed-hold period expires provided the resident is an appropriate placement for nursing facility care and the nursing facility provides the type of services that meets the needs of the resident. The nursing facility must have documented verifiable evidence in the resident's medical record to indicate that there has been a significant change in the resident's condition, either prior to or during the hospital stay, making re-admission to the nursing facility inappropriate because the nursing facility can no longer meet the needs of the resident. When such a significant change in a resident's condition occurs prior to discharge to the hospital, the nursing facility should use reasonable efforts to begin to arrange for appropriate placement for the resident prior to transferring the resident to the hospital. If there is documented evidence in the medical record that the nursing facility is refusing to re-admit a resident without valid cause as determined by the Alabama Medicaid Agency, the Alabama Medicaid Agency shall notify the Division of Health Care Facilities, Alabama Department of Public Health, for appropriate enforcement action. If enforcement action ensues and results in program termination, any loss of nursing facility payment during the time that the nursing facility contract is terminated will not be considered a reimbursable Medicaid cost.



(4) A nursing facility or ICF/IID must establish and follow a written policy under which a resident who has been hospitalized or who exceeds therapeutic leave or bed-hold policy is readmitted to the facility immediately upon the first available bed in a semi-private room if the resident requires the services provided by the facility.

(5) Four day bed-hold. If a nursing facility refuses to take a resident back who has been released from the hospital during the four day bed-hold period, provided the resident is an appropriate placement for nursing facility care and the nursing facility provides the type of services capable of meeting the resident's needs, Medicaid may terminate the facility's provider agreement for failing to adhere to the rules set forth in the federal and state bed-hold policy until an acceptable plan of correction is received from the nursing facility. In situations where the facility has decided to discharge the resident while the resident is still hospitalized, the facility must send a notice of discharge to the resident and the resident representative, and must also send a copy of the discharge notice to a representative of the Office of the State LTC Ombudsman and Medicaid. If the Alabama Medicaid Agency determines that the nursing facility has failed to follow the rules set forth in the federal and state bed-hold policies, the Alabama Medicaid Agency shall notify the Division of Health Care Facilities, Alabama Department of Public Health, for appropriate enforcement action. If enforcement action ensues and results in program termination, any loss of nursing facility payment during the time that the nursing facility contract is terminated will not be considered a reimbursable Medicaid cost.

**Author:** Robin Arrington, Associate Director, LTC Provider Recipient/Services Unit.

**Statutory Authority:** State Plan Attachment 4.19-C; Title XIX, Social Security Act; and 42 CFR Section 483.12.

**History:** Rule effective October 1, 1982. Amended October 1, 1990, and February 13, 1991.

**Amended:** Filed July 20, 1999; effective October 12, 1999. **Amended:** Filed May 22, 2000; effective August 11, 2000. **Amended:** Filed December 17, 2001; effective March 15, 2002. **Amended:** Filed June 20, 2003; effective September 15, 2003; **Amended:** Filed January 11, 2017; effective October 26, 2018. **Amended:** Filed July 17, 2018.