

APA-1

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No: 560 Department or Agency: Alabama Medicaid Agency

Rule No: 560-X-64-.10

Rule Title: Financial Reporting and Audit Requirements.

X 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

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: 6-20-2017

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Rule No. 560-X-64-.10 Financial Reporting and Audit Requirements – NEW RULE

(1) Each integrated care network ("ICN") shall provide to the Medicaid Agency a periodic financial report setting forth information concerning the ICN's restricted reserves, capital and surplus, and such other information as the Medicaid Agency may require, in such form and content and at such frequency as may be prescribed by the Medicaid Agency from time to time. In addition, each ICN shall provide such other financial reports and information as may be required by the Medicaid Agency pursuant to applicable state and federal laws and regulations. The Medicaid Agency may require that ICNs use specific reporting forms in order to supply required information.

(2) Each ICN shall report all data as required by the Medicaid Agency, consistent with the federal Health Insurance Portability and Accountability Act (HIPAA) as in effect from time to time.

(3) After there is any change in the financial condition of an ICN which could result in a determination of hazardous financial condition or insolvency pursuant to Rule 560-X-64-.11, including but not limited to any deficiency in the required restricted reserves or capital and surplus of the ICN, the ICN shall promptly give notice to the Medicaid Agency describing the circumstances of such change and its plan of action for responding to the change. Notwithstanding any such plan of action, the Medicaid Agency may at any time take any action or exercise any authority, right, or remedy available in accordance with the rules of the Medicaid Agency, the risk contract, or applicable law in connection with such change in the financial condition of the ICN.

(4) Each ICN shall at its expense have its independent certified public accountant deliver directly to the Medicaid Agency the certified audited annual financial statements of the ICN, prepared in accordance with Generally Accepted Accounting Principles (GAAP) and generally accepted auditing standards (GAAS), no later than one hundred twenty (120) calendar days after the ICN's fiscal year end, for the immediately preceding fiscal year. The Medicaid Agency may require that supplemental financial information be included in the ICN's audited financial statements related to restricted reserves, capital and surplus, and other related information. A statement shall be included with the audit report delivered by the ICN's accountant acknowledging that the Medicaid Agency is an intended beneficiary of the audit report.

(5) In addition to the annual audits conducted by the ICN's independent certified public accountant, the Medicaid Agency shall conduct or contract for audits of each ICN, in accordance with Section 22-6-226(c)(5) of the Alabama Code, as often as the Medicaid Agency deems necessary or appropriate, but at least every three years.

(a) The audits shall be conducted for the purposes of determining the financial condition of the ICN, its means and ability to fulfill its obligations, the nature of its operations, and/or its compliance with applicable provisions of the risk contract, rules of the Medicaid Agency, and other applicable state and federal laws and regulations, including but not limited to a review of the accuracy, truthfulness, and completeness of the encounter and financial data submitted by or on behalf of the ICN.

(b) When the Medicaid Agency determines that an audit should be conducted, the Medicaid Agency shall appoint one or more auditors to perform the audit and instruct them as to the scope of the audit. The Medicaid Agency may adopt or prescribe such audit guidelines and procedures as the Medicaid Agency from time-to-time determines to be appropriate.

(c) The Medicaid Agency may retain appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as needed to conduct an audit. The reasonable cost of retaining such professionals and specialists, and all other reasonable costs of the audit as determined by the Medicaid Agency including transportation and travel expenses, shall be borne by the ICN that is the subject of the audit.

(d) The ICN shall produce or provide timely, convenient, and free access at all reasonable business hours at the offices of the ICN to all books, records, accounts, papers, documents and electronic and other recordings (hereafter collectively referred to in this rule as "books and records") in its possession or control relating to the matter under audit, including as applicable the property, assets, business and affairs of the ICN. The officers, directors, and agents of the ICN shall facilitate the audit.

(e) An audit report shall be issued with respect to each audit of an ICN, as follows:

(i) Not later than sixty (60) calendar days after completion of an audit, the auditor in charge of the audit shall submit to the Medicaid Agency a written report of the audit, verified by the oath of the auditor. The audit report shall comprise only information appearing upon the books and records of the ICN, its agents, affiliates, or other persons being examined or information from testimony of individuals concerning the affairs of the ICN, together with such conclusions and recommendations as reasonably may be warranted from such information.

(ii) The Medicaid Agency shall make a copy of the audit report submitted under this section available to the ICN that is the subject of the audit and shall give the ICN an opportunity to review and respond to the audit report. The Medicaid Agency may request additional information or meet with the ICN for the purpose of resolving questions or obtaining additional information, and may direct the auditor to consider the additional information for inclusion in the audit report. The Medicaid Agency may issue the report as a final audit report after the ICN has had an opportunity to review and respond to the report.

(iii) If the final audit report reveals that the ICN has violated or is operating in violation of any provision of the risk contract, rule of the Medicaid Agency, or any other applicable state or federal law or regulation, the Medicaid Agency may order the ICN to take any action the Medicaid Agency considers necessary and appropriate to cure such violation and to take such additional actions and measures as may be permitted under the rules of the Medicaid Agency or any other applicable law or regulation.

(iv) A report filed as a final audit report is subject to public inspection.

(f) Nothing in this rule shall be interpreted to require the Medicaid Agency to conduct an audit, issue an audit report, or wait any period of time before taking any action or exercising any authority, right, or remedy available to the Medicaid Agency under the rules of the Medicaid Agency, the risk contract, or applicable law.

(6) In addition to any other powers of the Medicaid Agency relating to the audits of ICNs, the Medicaid Agency may at any time require any ICN to produce such books and records in the possession of the ICN

or its affiliates or risk-bearing participants as are reasonably necessary to ascertain the financial condition of the ICN or to determine compliance with the rules of the Medicaid Agency and the contract between the ICN and the Medicaid Agency. If the ICN or its affiliates or risk-bearing participants fails to comply with any such request within the period of time prescribed the Medicaid Agency, the Medicaid Agency may audit the ICN and its affiliates or risk-bearing participants to obtain such books and records, in addition to imposing sanctions or other remedies under the rules of the Medicaid Agency and/or the contract between the ICN and the Medicaid Agency. The Medicaid Agency shall report the failure to comply to all of the ICN's participating providers. The ICN shall pay the costs incurred by the Medicaid Agency.

(7) In accordance with 42 C.F.R. § 438.66, the Medicaid Agency has the authority to monitor the ICN's operations, including, at a minimum, operations related to violations of the conditions for federal financial participation, as set forth in subpart J of 42 C.F.R. § 438.

(8) The ICN must report information related to the ICN's medical loss ratio ("MLR") as required by 42 C.F.R. § 438.8.

(a) The ICN shall calculate its MLR according to the requirements in 42 C.F.R. § 438.8 and shall report to the Medicaid Agency the ICN's MLR no later than twelve (12) months after the completion of each rate year the ICN provides services to enrollees pursuant to a risk contract. The ICN's report on its MLR must include the following information:

(i) Total incurred claims;

(ii) Expenditures on quality improving activities;

(iii) Expenditures related to activities compliant with 42 C.F.R. § 438.608(a)(1)-(5), (7), (8), and (b);

(iv) Non-claims costs;

(v) Premium revenue;

(vi) Taxes, licensing and regulatory fees;

(vii) Methodology(ies) for allocation of expenditures;

(viii) Any credibility adjustment applied;

(ix) The calculated MLR;

(x) Any remittance owed to the State, if applicable;

(xi) A comparison of the information reported in this paragraph with the audited financial report required under section (4) of this rule and 42 C.F.R. § 438.3(m);

(xii) A description of any aggregation method used under 42 C.F.R. § 438.8(i); and

(xiii) The number of member months.

(b) In accordance with 42 C.F.R. § 438.8(m), in any instance where the Medicaid Agency makes a retroactive change to the capitation payments for a MLR reporting year where the report has already been submitted to the Medicaid Agency, the ICN shall recalculate the MLR for all MLR reporting years affected by the change and submit a new report meeting the requirements of subsection (8)(a) of this rule and 42 C.F.R. § 438.8(k).

(c) The ICN shall require any third party vendor providing claims adjudication activities to provide all underlying data associated with MLR reporting to the ICN within one hundred eighty (180) calendar days of the end of the MLR reporting year or within thirty (30) calendar days of being requested by the ICN, whichever comes sooner, regardless of current contractual limitations, to calculate and validate the accuracy of the MLR reporting.

(d) The ICN must attest to the accuracy of the MLR calculation in accordance with the requirements of 42 C.F.R. § 438.8 when submitting the report required under subsection (8)(a) of this rule and 42 C.F.R. § 438.8(k), including a new report submitted under subsection (8)(b).

(9) The Medicaid Agency, CMS, the Office of the Inspector General, the Comptroller General, and their designees may, at any time, inspect and audit any records or documents of the ICN or its subcontractors, and may, at any time, inspect the premises, physical facilities, and equipment where Medicaid-related activities or work is conducted. The right to audit exists for ten (10) years from the final date of the risk contract term, including any extensions, or from the date of completion of any audit, whichever is later.

(10) Except as otherwise determined by the Medicaid Agency or required by applicable law, all financial reports submitted to the Medicaid Agency pursuant to this rule shall be public records subject to disclosure.

Author: Stephanie Lindsay, Administrator, Administrative Procedures Office.

Statutory Authority: Code of Alabama, 1975 Section 22-6-220 et seq. 42 C.F.R. Part 438.

History: New Rule: Filed June 20, 2017.