

APA-1

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No: 560 Department or Agency: Alabama Medicaid Agency

Rule No: 560-X-64-.13

Rule Title: Conflict of Interest Policy for Directors and Officers of Integrated Care Networks

_____ 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

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: 6/20/2018

ALABAMA MEDICAID AGENCY

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 560-X-64-.13 - Conflict of Interest Policy for Directors and Officers of Integrated Care Networks

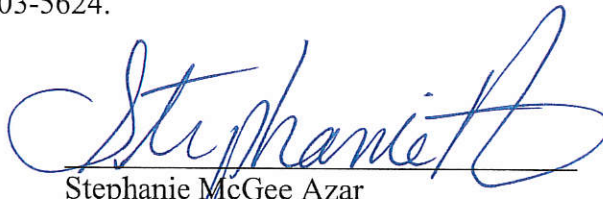
INTENDED ACTION: Amend Rule 560-X-64-.13

SUBSTANCE OF PROPOSED ACTION: The above referenced rule is being amended to align with the Medicaid Agency's shift in implementation of the Integrated Care Network Program.

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 August 3, 2018.

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
Commissioner

Rule No. 560-X-64-.13 Conflict of Interest Policy for Directors and Officers of Integrated Care Networks

(1) ~~The An organization seeking to become fully certified as an Integrated eCare nNetwork (ICN) or seeking to become an organization with probationary ICN certification~~ shall adopt a conflict of interest policy for directors and officers. The conflict of interest policy shall require all directors and officers to conduct their activities as directors or officers so that they do not advance or protect their own interests, or the interests of others with whom they have a private or professional relationship, in a way that is detrimental to the interests of, or to, the ICN ~~or organization with probationary ICN certification~~, and the conflict of interest policy shall provide for the removal of any director or officer whose conduct violates such policy, unless a remedial action shall be sufficient to bring the director or officer into compliance with the policy. The conflict of interest policy shall require each director and officer to disclose in a written statement all employments, associations, commitments and financial interests that may currently exist or may have previously existed within the preceding two (2) years or that they reasonably expect to arise in the future, on the part of the director or officer, or his or her immediate family member, including spouse, dependents, adult children and their spouses, parents, spouse's parents, siblings and their spouses, that could reasonably be perceived, directly or indirectly, as a conflict of interest with the ICN or organization with probationary ICN certification. The statement shall also disclose whether the director or officer or his or her immediate family member as described in the preceding sentence is a current or former employee of, consultant with, or lobbyist for the Medicaid Agency or with any individual or entity (including subcontractors) providing enrollment broker or choice counseling services on behalf of the Medicaid Agency. Each director and officer shall file such disclosure statement with the ICN's or organization's board of directors and the Medicaid Agency on an annual basis.

(2) The conflict of interest policy must also:

- (a) Require each director or officer to disclose relevant financial interests and potential conflicts of interest
- (b) Provide a procedure satisfactory to the Medicaid Agency to determine whether an actual or potential conflict of interest exists and set forth a process satisfactory to the Medicaid Agency to address any potential conflicts of interest that arise;
- (c) Address remedial action for directors or officers that fail to comply with the policy; and
- (d) Require that the board of directors of the organization be responsible for enforcement of the conflict of interest policy and maintain minutes, disclosures of potential conflicts and other related documents, which will be subject to review by the Medicaid Agency, describing potential conflicts of interests and the action taken by the directors.

(3) An ICN ~~and an organization with probationary ICN certification~~ and each of its directors and officers must complete and submit to the Medicaid Agency the Disclosure Statement required by Act 2001-955 prior to the ICN entering into a contract with the Medicaid Agency.

(4) All current and former employees and agents of the Medicaid Agency who have responsibilities relating to contracts with an ICN ~~or an organization with probationary ICN certification~~ must comply with

| applicable provisions of the state ethics laws including, but not limited to, Sections 36-25-5, -7, -8, -11, -12, and -13 of the Alabama Code.

(5) An ICN and each of its directors and officers must observe the independence and freedom from conflict of interest requirements of 42 C.F.R. § 438.810(b)(1) and (2) in connection with any enrollment broker services that may be provided.

(6) No individual or entity of any kind shall have a direct or indirect ownership interest in more than one ICN. No individual or entity of any kind that has a direct or indirect ownership interest in an ICN may enter into an administrative and/or managerial contract or subcontract relating to another ICN.

| (7) The Medicaid Agency may require an ICN ~~or an organization with probationary ICN certification~~ and each of its directors and officers to comply with additional conflict of interest requirements and policies the Medicaid Agency determines to be necessary to satisfy State and Federal requirements or necessary to address issues of noncompliance with the requirements of this Conflict of Interest Rule.

Author: Stephanie Lindsay, Administrator, Administrative Procedures Office.

Statutory Authority: State Plan; Title XIX, Social Security Act; 42 C.F.R. Part 438.

History: Emergency Rule filed and effective August 21, 2017. **Amended:** Filed October 13, 2017; effective November 28, 2017. **Amended:** Filed June 20, 2018.