

APA-1

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No: 560 Department or Agency: Alabama Medicaid Agency

Rule No: 560-X-64-.15

Rule Title: Grievances and Fair Hearings 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-.15 - Grievances and Fair Hearings of Integrated Care Networks

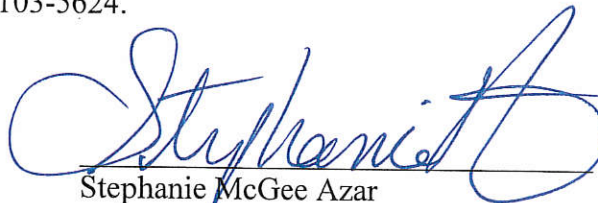
INTENDED ACTION: Amend Rule 560-X-64-.15

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-.15 ~~Grievances and~~ Fair Hearings of Integrated Care Networks

(1) An integrated care network (ICN) ~~with a grievance concerning the Medicaid Agency as addressed in Section 22-6-225(e) of the Alabama Code, shall abide that has been sanctioned by the Medicaid Agency in accordance with Alabama Medicaid Administrative Code Chapter 560-X-64 may request a fair hearing by the following procedures.~~

~~(2) For the purposes of this rule, an "ICN grievance" means any dispute or claim of an ICN against the Medicaid Agency for which an opportunity for hearing is provided by law or specific contractual provision, excepting disputes or claims for which the State of Alabama, the Medicaid Agency, or their officials, employees, or agents are immune under the constitutions or laws of the State of Alabama and/or the United States.~~

~~(32) An ICN shall request a fair hearing with the Medicaid Agency to review an ICN grievance. The request for fair hearing must be in writing and must be filed with the Medicaid Agency within sixty (60) calendar days from the date of the occurrence upon which the ICN grievance is based. Provided, however, this deadline shall not apply to any occurrence discovered upon receipt of an audit, reconciliation or report that provides notice to the ICN of an occurrence that was not previously discoverable in the exercise of reasonable care. In such case the deadline for requesting a fair hearing shall be sixty (60) calendar days from the ICN's receipt of such audit, reconciliation, or report.~~ An ICN's request for a fair hearing with the Medicaid Agency relating to the imposition of a sanction must be in writing and must be filed with the Medicaid Agency within thirty (30) calendar days of the date of the sanction notice. The written request shall include a statement of the factual and/or legal basis for the ICN's dispute or claim and a statement of the relief or action sought. The Medicaid Agency will not accept requests for fair hearings that are outside the filing deadline. The ICN may submit the written request for fair hearing to the Medicaid Agency by mail, hand-delivery, facsimile or electronic mail, and the request must be received by the Medicaid Agency on or before the filing deadline.

(43) Upon filing a written request for a fair hearing, the ICN may also request an informal conference with the Medicaid Agency to seek a resolution of the ICN grievance.

(54) If the ICN grievance is not resolved through informal conference with the Medicaid Agency, the ICN grievance shall be reviewed in a fair hearing shall be conducted before an impartial hearing officer in accordance with the requirements for contested case proceedings under the Alabama Administrative Procedure Act, Section 41-22-1 *et seq.* of the Alabama Code. The hearing authority for all fair hearings of ICN ~~grievances-sanctions~~ shall be the Commissioner of the Medicaid Agency, who shall appoint one or more hearing officers to conduct fair hearings and submit findings and recommendations to the Commissioner for final decision on each ICN grievance. The hearing officer shall not have been involved in any way with the ICN ~~grievance sanction~~ in question.

(65) A fair hearing shall be impartially conducted and held at the Medicaid Agency's central office in Montgomery. Written notice of the date, time, place and nature of the fair hearing shall be sent by certified mail to the ICN's address of record and may also be communicated by email or facsimile transmission by the Director, Hearings of the Medicaid Agency, or the designated

hearing officer, at least ten (10) calendar days before the hearing is to be held. The notice shall comply with the requirements of Section 41-22-12(b) of the Alabama Code.

(76) The ICN may be represented at the fair hearing by legal counsel at its own expense. The ICN may call witnesses and may examine witnesses called by other parties.

(87) The Medicaid Agency shall be responsible for payment of the hearing officer(s) fees and expenses and any court reporter's fees and expenses related to the fair hearing.

(98) All fair hearings shall be conducted in accordance with the provisions of Sections 41-22-12 through 41-22-19 of the Alabama Code, unless otherwise noted in this rule. Within thirty (30) calendar days of the conclusion of the hearing, the findings and recommendations of the hearing officer shall be submitted to the Commissioner of the Medicaid Agency, who shall make a final decision within thirty (30) calendar days of the recommendation. The Medicaid Agency shall promptly send a copy of the final decision to the ICN's address of record by certified mail.

(109) The ICN may seek judicial review of the final decision of the Medicaid Agency in accordance with the provisions of Sections 41-22-20 and 41-22-21 of the Alabama Code.

~~(11) This rule shall not be applicable to any grievance or appeal of a provider or Medicaid Beneficiary filed pursuant to the provisions of Section 22-6-225(b) of the Alabama Code or rules promulgated by the Medicaid Agency pursuant thereto providing for grievances and appeals of providers and Medicaid Beneficiaries.~~

(1210) Nothing in this rule is intended to create or establish new causes of action in any court. Nothing in this rule shall be construed as a waiver of any sovereign, qualified, or any other type of immunity.

Author: Stephanie Lindsay, Administrator, Administrative Procedures Office.

Statutory Authority: State Plan; Title XIX, Social Security Act; 42 C.F.R. Part 438; Code of Alabama, 1975 41-22-12 through 41-22-19.

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