

APA-1

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No: 560 . Department or Agency: Alabama Medicaid Agency

Rule No: 560-X-36-.08

Rule Title: Fair Hearings
_____ New Rule; X 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: 4/20/12

FOR APD USE ONLY

PUBLISHED IN VOLUME _____ ISSUE NO. _____

EDITED AND APPROVED BY _____ DOCUMENT NO. _____

ALABAMA MEDICAID AGENCY

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: Fair Hearings 560-X-36-.08

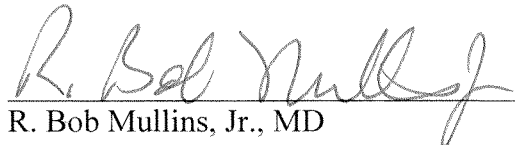
INTENDED ACTION: Amend 560-X-36-.08

SUBSTANCE OF PROPOSED ACTION: The above referenced rule is being amended to update the fair hearing process.

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 June 5, 2012.

CONTACT PERSON AT AGENCY: Stephanie Lindsay, Administrative Secretary, Alabama Medicaid Agency, 501 Dexter Avenue, Post Office Box 5624, Montgomery, Alabama 36103-5624.


R. Bob Mullins, Jr., MD
Commissioner

Rule No. 560-X-36-.08. Fair Hearings.

~~(1) —~~ (1) An individual whose application to the waiver program is denied or waiver participants whose services are terminated, suspended, or reduced based on Rule No. 560-X-36-.02, may request an appeal in accordance with 42 CFR Section 431, Subpart E and Chapter 3 of the Alabama Medicaid Administrative Code.

~~(2) —~~ (2) E&D waiver participants will be given at least a ten-day notice before termination, suspension, or reduction of service.

~~(3) —~~ (3) If an individual/guardian chooses to appeal the decision, a written request for an informal conference must be received by the Operating Agency within 30 days from the effective date of the notice. Services may continue for waiver participants until the final outcome of the administrative appeal process, if the written request is received within 10 days after the effective date of the action.

~~(4) —~~ (4) If the individual/guardian is dissatisfied with the Informal Conference decision, a Fair Hearing may be requested. A written request for a Fair Hearing must be received no later than 30 days from the date of the Informal Conference decision notice.

~~(5) —~~ (5) If the individual/guardian is dissatisfied with the Fair Hearing decision, he/she may appeal pursuant to the provisions of the Alabama Administrative Procedure Act.

~~(6) —~~ (6) The Operating Agency will take the lead role for the Informal Conferences, Fair Hearings, and subsequent judicial appeals. Medicaid legal counsel and program staff will function as support staff.

~~An individual or his/her legal representative who has received a notice of adverse action based on financial eligibility may request a fair hearing in writing within 60 days from the effective date of the action through the appropriate certifying agency.~~

~~(2) —~~ (2) ~~An individual or his/her legal representative who has received a notice of adverse action based on medical criteria may request a fair hearing in writing within 60 days from the effective date of the action through the Alabama Medicaid Agency Long Term Care Division.~~

~~(3) —~~ (3) ~~If the written request for a fair hearing is received within 10 days following the effective date of the adverse action, benefits can be continued pending the outcome of the hearing, if requested in writing.~~

Author: Monica Abron, Associate Director, LTC Program Management Unit

Statutory Authority: 42 CFR Section 431, Subpart E.

History: Emergency rule effective March 18, 1985. Rule effective July 13, 1985. Amended November 18, 1987 and May 15, 1990. **Amended:** Filed April 21, 2003; effective July 16, 2003. **Amended:** Filed February 20, 2008; effective May 16, 2008. **Amended:** Filed April 20, 2012