

APA-1

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No: 560 Department or Agency: Alabama Medicaid Agency

Rule No: 560-X-54-.06

Rule Title: Fair Hearings

\_\_\_\_\_ 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

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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.

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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 Reference Service.

Signature of certifying officer: Stephanie Lindsay

Date: 4-15-14

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**ALABAMA MEDICAID AGENCY**

**NOTICE OF INTENDED ACTION**

**RULE NO. & TITLE:** 560-X-54-.06 Fair Hearings

**INTENDED ACTION:** Amend 560-X-54-.06

**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 4, 2014.

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

A handwritten signature in cursive script, reading "Stephanie A", with a long horizontal flourish extending to the right.

Stephanie McGee Azar  
Acting Commissioner

**Rule No. 560-X-54-.06. Fair Hearing.**

(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-54-.02 may request an appeal in accordance with 42 CFR Section 431, Subpart E and Chapter 3 of the Alabama Medicaid Administrative Code, as modified by the below provisions. a hearing through the appropriate operating agency, or the Alabama Medicaid Agency.

(2) An individual who is denied Home and Community-Based Services waiver participants will be given at least a ten-day notice before termination, suspension or reduction of services. based on Rule No. 560 X 54 .02, may request a fair hearing in accordance with 42 CFR Section 431, Subpart E and Chapter 3 of the Alabama Medicaid Administrative Code.

(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. Applicants will be given at least a ten-day notice before termination of service.

(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. A written request for a hearing must be received by Medicaid within 60 days following notice of action for which an individual is dissatisfied.

(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) 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.

**Author:** Luzenia Lawson, Associate Director, Long Term Care, Quality Review Unit.

**Statutory Authority:** 42 CFR Section 441, Subpart G and the Home and Community-Based Technology Assisted Waiver for Adults.

**History:** Emergency Rule filed and effective March 13, 2003. **Amended:** Filed March 20, 2003; effective June 16, 2003. **Amended:** Filed June 20, 2008; effective September 15, 2008. **Amended:** Filed April 21, 2014.