

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 660 Department or Agency Human Resources

Rule No. 660-5-2-.09

Rule Title: Proposed Categories Of Service

New 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 rule making 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 an economic impact? Yes

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 § 41-22-23, ALA.CODE 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, ALA.CODE 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service:

Signature of certifying officer:

Date: February 9, 2012 Aimee J. Buckner

DATE FILED
(STAMP)

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 660 Department or Agency Human Resources

Rule No: 660-5-2-.09

Rule Title: Proposed Categories of Service

New Amend Repeal Adopt by Reference

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

DHR provides services to children with mental and/or physical disabilities, i.e. handicapped. This rule sets standards for the delivery of services to handicapped children where the funds for these services are donated, allocated or appropriated specifically for services to that population.

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

Some funds have already been allocated to serve handicapped children. Alabama Act 89-755 specifically establishes a handicapped children's fund for Marion County. Other funds may be forthcoming. Alabama Attorney General Opinion 2004-122 states that DHR must establish by APA rule the procedure for expenditure of such funds.

3. EFFECT OF THIS RULE ON COMPETITION:

None.

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

None.

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

No additional DHR staff requirements are anticipated.

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

Alabama Act 89-755 funds and other funds later specifically donated, allocated or appropriated for services to handicapped children.

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

Some children in Marion County will benefit immediately from expenditure of available funds.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

In order to expand services, funding will have to be located and donated, allocated or appropriated specifically for handicapped children.

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

None.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

None.

****Additional pages may be used if needed.**

Alabama Department of Human Resource
General Administrative Division

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 660-5-2-.09 Proposed Categories Of Service

INTENDED ACTION: To amend Rule 660-5-2-.09.


SUBSTANCE OF PROPOSED ACTION: The purpose of this rule amendment is to amend the rules regarding the provisions of child welfare services to authorize the provision of services to handicapped children, i.e. individuals with disabilities, where specific funding sources to serve that population exists. Attorney General Opinion 2004-122 states that DHR must establish APA rules authorizing this service.

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested parties may submit data, views, or arguments respecting the proposed amendment by mail or in person through the close of business on April 4, 2012. Persons wishing to submit data, views, or arguments orally should contact the Department's Administrative Procedure Secretary between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding State holidays, at (334) 242-9330, or set up an appointment for such oral/in person presentations.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: April 4, 2012

CONTACT PERSON AT AGENCY:

Ms. Gail M. Grobe, APA Secretary
State Department of Human Resources
Gordon Persons Building
50 Ripley Street, Room 2122
Montgomery, Alabama 36130-4000



Nancy T. Buckner, Commissioner,
Department of Human Resources

**ALABAMA DEPARTMENT OF HUMAN RESOURCES
SOCIAL SERVICES DIVISION
ADMINISTRATIVE CODE**

**CHAPTER 660-5-2
SOCIAL SERVICES PLAN**

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660-5-2-.09 Proposed Categories Of Services

Proposed categories of services include:

(a) Adoption Services (also provided through Title IVB) Services provided on behalf of a child who is legally free for adoption, inclusive of recruitment and study of prospective adoptive homes, placement of the child, supervision of the child, and other post placement services; legal services; reporting to the court and supervision of a child for whom an adoption petition has been filed in Probate Court; purchase of adoption placement services for children with special needs; and information and referral;

(b) Day Care for Adults - A program of care for a portion of a 24hour day in a protective setting for the individual (1) who is at risk of abuse, neglect, or exploitation or (2) who is at risk of institutionalization. Service includes medical examination (when not available without cost to the Department) to determine appropriateness of service; casework and services to assure placement appropriate to the need of individuals served; Information and Referral and Counseling with the provider of care; service includes meals and may include transportation. If termination or reductions are necessary due to funding reductions, the person most recently authorized with

the lowest priority will be the first terminated or reduced. (NOTE: When two or more adults on the waiting list have the same priority, the "date of request" will be used to determine which has priority.) Fulltime adult day care services are not available for residents of group living arrangements serving four or more unrelated individuals;

(c) Day care for Children--Provision of counseling, including information and referral, and care for a portion of a 24hour day. Service includes developmental programs, nutritious meals, and physical examinations prior to admission in accordance with requirements of minimum standards (if such examinations are not available without cost to the Department). Purchase of service is limited to: (1) prevent or remedy abuse/neglect/exploitation of child as documented in the protective services plan and to enable foster care children placed with employed foster parents to receive day care; (2) enable employment of AFDC recipients and allow transitional child care services for AFDC recipients whose benefits are terminated due to earned income; (3) enable AFDC recipients to participate in employment, training and education programs and to enable food stamp recipients in selected counties to participate in Food Stamp Employment and Training; (4) enable employment of child's parent/responsible caretaker who is income eligible and at risk of welfare dependency (5) enable a child's parent/responsible caretaker who is income eligible and defined eligible for block programs (6) enable employment of grantee relative/responsible caretaker not in the AFDC budget; or (7) to relieve stress caused by disability of parent/responsible caretaker or child. Day care may be approved as an Aid to Refugee Service for a child whose parents do not speak English and who are enrolled full or part-time in English as a second language class and for a child whose parent/responsible caretaker is enrolled in school or a training program for the purpose of developing employment potential. With the exception of JOBS and transitional child care day care payments are limited to a specified number of slots per county for each funding source (Title XX, At Risk, and Block Grant). Payment for day care services for children is authorized on a "first come, first served basis" as long as there are slots available. When slots under a particular funding source are filled, a waiting list is established which contains the names of children who were denied day care because of lack of an available slot. As slots become available, children on the waiting list are selected for service based on date of application and/or reasons why day care is needed.

(d) Day Care for the Physically and/or Mentally Handicapped--Day Care for the Physically and/or Mentally Handicapped includes habilitative and rehabilitative services for the physically and/or mentally handicapped in a group setting away from a home for a portion of a 24hour day. This service will provide training in education, communication, functional living skills, and social functioning. Day Care for the Physically and/or Mentally Handicapped is available to individuals 6-17 only during periods outside the regular public school year. Individuals 18-20 may be served only when they are not eligible to receive services through the LEA. Transportation, daily meals and snacks may be included. Physical examinations and D & E services may be provided if not available without cost to the Department. Day Care for Physically and/or Mentally Handicapped will be available to school age children (6-17) only during periods outside the regular public school year; (2) be diagnosed mentally retarded by medical or other diagnosis with preference for services made to persons with moderate and below diagnosis of mental retardation, with the family's need for the service taken into consideration. When waiting lists must be established, the degree of retardation and date of request for service will be used to establish waiting lists. If terminations are necessary due to funding reductions, the persons most recently authorized will be the first terminated. If they continue to be eligible for the service, those terminated will go to the top of the waiting list.

(e) Foster Care for Adults--Service provided in private approved homes on a 24-hour basis for persons who are in need of residential care in a family setting. It serves the individual who is (1) at risk of abuse, neglect or exploitation; or (2) at risk of institutionalization and is unable to live in his or her own home and whose family is unable to meet the client's needs because of distance, ill health, estrangement, or the family's inability to provide adequate care. Foster care placement may be arranged after a protective services investigation reveals the client cannot protect himself from abuse, neglect, or exploitation. Service includes medical examination (when not available without cost to the Department) to determine appropriateness of services; Information and Referral; casework services to assure placement appropriate to the need of individuals being served, proper care, continuing appropriateness of foster care; legal services; case planning and monitoring of service delivery with the provider of care; limited transportation; recruitment and study of foster homes; diagnostic and evaluation services and mental health counseling. Also includes payment for specialized foster care services

provided under certain conditions for adult with physical, mental, or emotional or behavior problems who are not eligible for State Supplementation. Service does not include payment for room and board, and client must have sufficient resources to pay this cost. Portions of this service are also provided under State Supplementation program;

(f) Foster Care for Children—Services for children outside of their own homes on a 24-hour basis in a licensed or approved facility include: diagnosis and evaluation; counseling with parents, relatives, child, provider of foster care; Information and Referral; recruitment and study of foster care resources; legal services; purchase of social services for children in licensed or approved child care facilities; and transportation for children returned to this state and from this state to another state pursuant to placement agreements. Transportation and recreational services may be included in purchase of service contracts. Payment may be made for specialized foster care services in foster homes for children with physical, mental, emotional or behavioral problems. Portions of this program are available under the State Supplementation program;

(g) Handicapped Children Services from funds dedicated or appropriated or allocated by law especially for services to handicapped children. Funds may be dedicated, appropriated or allocated by law or ordinance or by private donation, grant or from other sources. The provision of this service is restricted by the law, ordinance or criteria under which funds are made available. Application, income scales and fees, service availability, priorities for services, waiting list and other requirements of Rule Chapter 660-5-2 and Rule Chapter 660-5-3 apply to Handicapped Children Services. The definition of "handicapped" is the same as the definition of "disability" under the federal Americans with Disabilities Act of 1990, 42 U.S.C. § 12102(2) (29 C.F.R. § 16302(g)) and the definition of "individual with handicaps" under the federal Rehabilitation Act of 1973. 29 U.S.C. § 705(20) (A) and (B) and federal regulations implementing the Americans with Disabilities Act which define a disability in terms of a physical or mental impairment substantially limiting a major life activity. 29 C.F.R. § 1630.2(i) and (j). A "physical impairment" is any physiological disorder, condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, muscular-skeletal, special sensory organs (including speech organs), respiratory, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic,

skin, and endocrine. 28 C.F.R. § 36.104, 29 C.F.R. § 1630(2)(h)(1). A "mental impairment" is any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. 28 C.F.R. § 36.104; 29 C.F.R. § 1630(2)(h)(2).

(gh) Homemaker Services for Adults--Assistance provided in managing and keeping in operation the home of the individual who is (1) at risk of abuse, neglect, or exploitation and for whom homemaker services is the least restrictive method by which such protection can be provided or (2) at risk of institutionalization. When waiting lists must be established for recipients for the service, these same criteria will be used (in order listed) for removing names from the waiting when the service becomes available. Service may include help in bathing and dressing when the county department has documentation that the homemaker has successfully completed training to perform these tasks; limited transportation; casework related to the need for acceptance of an appropriate use of service, and Information and Referral. (NOTE: When two or more adults on the waiting list have the same priority, the "date of request" will be used to determine which has priority.) If terminations or reductions are necessary due to funding reductions, the person most recently authorized with the lowest priority will be the first terminated or reduced. Those terminated or reduced will go to the top of the waiting list.

(hi) Homemaker Services for Children--Assistance provided by homemakers to help families with children by teaching them good methods of home management, child care and personal care; and by managing and keeping the family's home in operation including the provision of supplemental care of the children when the parent, responsible relative, or foster parent is disabled, temporarily unable to provide such care. Service also includes casework service relating to the need for, acceptance of, and appropriate use of the service, and Information and Referral. If termination or reductions are necessary due to the funding reductions, the person most recently authorized will be the first terminated or reduced unless this is a protective service case. Homemaker Services for Children is not available in all counties. However, Waivered Homemaker Services will be available when a child who is an SSI or State Supplementation recipient has been approved for Waivered Services by the Alabama Medicaid Agency and who without the provision of Homemaker Services would

require nursing home care, and a child who is an SSI or a State SUP recipient whose physician has certified that the recipient would be in need of ICF or SNF care, and whose application for Waivered Services is pending a determination by Medicaid;

(ij) Preventive and Supportive Services--Casework
To assist individuals and families in: making appropriate use of physical and mental health resources; counseling and referrals for family planning; counseling unmarried parents; preventing unnecessary institutional care; improving nutrition; improving living arrangements; making the best use of income and resources; improving parenting, individual functioning, and communication skills; removing barriers to employment service; and providing Information and Referral. Services may include legal representation in those situations involving CHINS (Children in Need of Supervision);

(jk) Protective Services for Adults--Services
Including case management directed toward preventing or remedying neglect, abuse, or exploitation of individuals 18 years of age or older who are unable to protect their own interests, or are harmed or threatened with harm through the action or inaction by another individual or through their action due to ignorance, incompetence or poor health, if such action or inaction results in: (1) physical or mental injury; (2) neglect or maltreatment; (3) failure to receive adequate food, shelter, or clothing; (4) deprivation of entitlements due them; or (5) wasting of their resources. Services include: identifying those in need of such services; investigating their situations (Exception: the County Department of Human Resources shall not be required to investigate any report of abuse, neglect, exploitation, sexual abuse, or emotional abuse that occurs in any facility owned and operated by the Alabama Department of Corrections or the Alabama Department of Mental Health and Mental Retardation); diagnosing their situations and service needs; providing case management and diagnostic and evaluative services and mental health counseling to them and to others on their behalf; transportation necessary for worker to provide the service; or arranging appropriate living arrangements; arranging for medical care and other community resources; arranging for guardians or conservators; arranging for protective placement or providing advocacy to ensure receipt of rights and entitlements, including legal representation for the DHR; emergency shelter care limited to 28 days per fiscal year; receiving and filing adult protective service reports; making required reports to the court and Information and Referrals.

(k1) Protective Services for Children--Services directed toward preventing or remedying abuse, neglect, or exploitation of children under the age of 18 years of age unable to protect their own interests or harmed or threatened with harm by a person responsible for the individual's health or welfare (and for runaways) through: (1) non-accidental physical or mental injury; (2) sexual abuse or exploitation; (3) or negligent treatment or maltreatment including the failure to provide adequate food, medical maltreatment including the failure to provide adequate food, medical treatment, clothing or shelter. Services include: identifying children in need or protection, receiving child abuse and neglect reports, making reports to the central registry, investigating complaints or reports, diagnosis and evaluation, making reports to courts having juvenile court jurisdiction, providing Information and Referral, supervision of child in home of parents or relatives, arranging protective placement, providing legal services, arranging medical care, making use of community resources, including training for parents and providing shelter care including clothing when shelter care is provided in a purchase of service contract. Shelter (and clothing and transportation under a purchase of service contract) is limited to 30 days in any six months period. Service also includes transportation of runaways from and to another state and transportation for children returned to this state and from this state to another state pursuant to placement agreements. In combination with these services certain other services may be provided without regard to income when used to prevent or remedy abuse, neglect, or exploitation of the individual receiving protective services for children. These services are: homemaker services for children (limited to 90 days WRTI in any six months period) and day care children (limited to 90 days WRTI in any six months period);

(l1m) Residential Care Services for Delinquent Children and Youth--This service, provided in a residential setting, includes the provision of supervision; counseling and training related to vocational, academic and adjustment needs; and Information and Referral. Transportation, physical examinations, essential clothing and chemotherapy to alleviate behavioral or emotional problems which contribute to placement in the facility are also provided. In addition to services, room and board for a period not to exceed six months is available. Service also includes casework service relating to the need for, acceptance of, and appropriate use of the service. (NOTE: When room and board and/or physical examinations and chemotherapy are

provided, they are an integral but subordinate part of the service.);

(mn) Residential Care for Individuals with Exceptional Needs—The provision of services in a residential setting including comprehensive care, counseling and training for individuals with emotional, behavioral, and physical handicaps, or those with adjustment problems such as "child in need of supervision." Also included are supervision, diagnosis and evaluation, transportation, counseling related to adjustment problems, education, recreation and socialization training, essential clothing, and Information and Referral. Education services are available to all individuals during periods outside of the regular school year. Chemotherapy to alleviate behavioral or emotional problems which contribute to the placement in the facility and physical examinations are provided. In addition to services, room and board for a period not to exceed six months is available. (NOTE: When room and board and/or physical examinations and chemotherapy are provided, they are an integral but subordinate part of the service.)

Author: Kay Pilgreen

Statutory Authority: Omnibus Budget Reconciliation Act of 1981, P.L. 9735, 42 U.S.C. 1396n, 1397; 45 C.F.R. Part 96; P.L. 100485, Titles II and III; 42 U.S.C. §§ 602, 681687; 45 C.F.R. Parts 250 and 255; 54 Fed. Reg. 4214542267; Title IVA of the Social Security Act, §§402 (1) and 403 (n); Code of Ala. 1975, §§3826, 3871 through 17, 3891 through 11; Social Security Act Title XIX State Plan Waiver; JOBS State Plan and State Supportive Services Plan.

History: Effective June 28, 1983. Emergency amendment effective August 24, 1983. Emergency amendment to emergency amendment of August 24, 1983, effective September 23, 1983. Permanent amendment effective December 9, 1983. Succeedent emergency amendment effective October 18, 1984. Succeedent permanent amendment effective January 9, 1985. Succeedent emergency amendment effective March 7, 1985. Succeedent permanent amendment effective June 10, 1985. Succeedent emergency amendment effective July 17, 1985. Succeedent permanent amendment effective October 9, 1985. Succeedent emergency amendment effective September 30, 1985. Succeedent permanent amendment effective January 9, 1986. Succeedent emergency amendment effective October 1, 1985. Succeedent permanent amendment effective January 9, 1986. Succeedent permanent amendment effective March 14, 1986. Succeedent emergency amendment effective January 1, 1986. Succeedent permanent amendment effective April 24, 1986. Succeedent emergency amendment filed

February 6, 1986; effective March 1, 1986; rescinded effective February 28, 1986. Succeedent emergency amendment filed February 28, 1986; effective March 1, 1986; rescinded effective April 18, 1986. Succeedent emergency amendment effective April 1, 1986. Succeedent permanent amendment effective July 25, 1986. Succeedent permanent amendment effective December 9, 1986. Succeedent permanent amendment effective February 4, 1988. Succeedent emergency amendment effective May 13, 1988. Succeedent permanent amendment effective August 11, 1988. Succeedent emergency amendment effective September 16, 1988. Succeedent permanent amendment effective December 9, 1988. Succeedent emergency amendment effective April 1, 1990. Succeedent permanent amendment effective July 10, 1990. Succeedent emergency amendment effective October 1, 1990. Succeedent permanent amendment effective November 9, 1990. Succeedent permanent amendment effective January 9, 1991. Succeedent emergency amendment effective April 1, 1991. Succeedent permanent amendment effective July 10, 1991. Succeedent emergency amendment effective October 1, 1991. Succeedent permanent amendment effective January 9, 1992. Succeedent permanent amendment effective June 10, 1992. Succeedent permanent amendment effective August 12, 1992. Succeedent emergency amendment effective December 17, 1992. Succeedent permanent amendment effective March 11, 1993. Succeedent emergency amendment effective July 21, 1994. **Amended:** Filed August 4, 1994; effective September 8, 1994. **Amended:** Filed September 6, 1994; effective October 11, 1994. Succeedent emergency amendment effective June 21, 1995. **Amended:** Filed August 4, 1995; effective September 8, 1995. **Amended:** Filed February 18, 1999; effective March 25, 1999. **Succeedent Emergency Amendment:** Effective February 7, 2012. **Succeedent permanent amendment:** effective May 9, 2012.