

APA-1

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

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

Rule No: 560-X-53-.05

Rule Title: Participant Voluntary and Involuntary Disenrollment
_____ 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: 3/20/13

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ALABAMA MEDICAID AGENCY

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 560-X-53-.05 Participant Voluntary and Involuntary Disenrollment

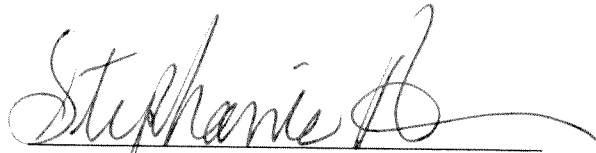
INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The above referenced rule is being amended to clarify voluntary and involuntary disenrollment for the Program of All-Inclusive Care for the Elderly (PACE) as set forth in federal law.

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 May 3, 2013.

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
Acting Commissioner

560-X-53-.05. Participant Voluntary & Involuntary Disenrollment.

A) Voluntary Disenrollment

- (1) A PACE participant may voluntarily disenroll from the PACE program without cause at any time.

B) Involuntary Disenrollment

(1) Reasons for involuntary disenrollment.

- (1) A participant may be involuntarily disenrolled for any of the following reasons:

~~(2) Refer to 42 CFR 460.164 for guidelines to disenroll a participant.~~

~~a) (a) The Pparticipant fails to pay, or to make satisfactory arrangements to pay, any premium due to the PACE organization after a 30-day grace period;~~

~~(b) The Pparticipant moves out of PACE program service areaengages in disruptive or threatening behavior, as described below:~~

~~(i) For purposes of this section, a participant who engages in disruptive or threatening behavior refers to a participant who exhibits either of the following:~~

~~1. A participant whose behavior jeopardizes his or her health or safety, or the safety of others; or~~

~~2. A participant with decision-making capacity who consistently refuses to comply with his or her individual plan of care or the terms of the PACE enrollment agreement.~~

~~(ii) Documentation of disruptive or threatening behavior. If a PACE organization proposes to disenroll a participant who is disruptive or threatening, the organization must document the following information in the participant's medical record:~~

~~1. The reasons for proposing to disenroll the participant; and~~

~~2. All efforts to remedy the situation.~~

~~;~~

~~c) (e) The participant moves out of the PACE program service area or is out of the service area for more than 30 consecutive days, unless the PACE organization agrees to a longer absence due to extenuating circumstancesParticipant is out of the service area for more than 30 consecutive days unless an agreement has been reached for a longer absence due to extenuating circumstances;~~

~~d) _____~~ (d) The participant is determined to no longer meet the Alabama Medicaid Agency nursing facility level of care requirements as set forth in Rule No. 560-x-10-.10 ~~It is determined the Participant no longer meets the level of care requirements and is deemed not eligible;~~

~~_____ (e) _____~~ (e) The PACE program agreement with CMS and the Alabama Medicaid Agency is not renewed or is terminated ~~The PACE agreement with CMS and AMA is not renewed or is terminated;~~

~~_____ (f) _____~~ (f) The PACE organization is unable to offer health care services due to the loss of State licenses or contracts with outside providers ~~(f) The PO is unable to offer health care services due to the loss of State licenses or contracts with outside providers.~~

~~(_____ 2) _____~~ (2) Noncompliant behavior.

a) A PACE organization may not disenroll a PACE participant on the grounds that the participant has engaged in noncompliant behavior if the behavior is related to a mental or physical condition of the participant, unless the participant's behavior jeopardizes his or her health or safety, or the safety of others.

b) For purposes of this section, noncompliant behavior includes repeated noncompliance with medical advice and repeated failure to keep appointments.

(3) Alabama Medicaid Agency review and final determination. Before an involuntary disenrollment is effective, the Alabama Medicaid Agency must review it and determine in a timely manner that the PACE organization has adequately documented acceptable grounds for disenrollment.

C) A PACE organization must meet the following requirements:

(1) Have a procedure in place to document the reasons for all voluntary and involuntary disenrollments;

(2) Make documentation available for review by CMS and the Alabama Medicaid Agency; and

(3) Use the information on voluntary disenrollments in the PACE organization's internal quality assessment and performance improvement

program.

D) Effective date of disenrollment.

(1) In disenrolling a participant, the PACE organization must take the following actions:

- a) Use the most expedient process allowed under Medicare and Medicaid procedures, as set forth in the PACE program agreement
- b) Coordinate the disenrollment date between Medicare and Medicaid (for a participant who is eligible for both Medicare and Medicaid).
- c) An advance notice of at least 10 days prior to the disenrollment date is to be provided to the participant.

(2) Until the date enrollment is terminated, the following requirements must be met:

- a) PACE participants must continue to use PACE organization services and remain liable for any premiums.
- b) The PACE organization must continue to furnish all needed services.

E) To facilitate a participant's reinstatement in other Medicare and Medicaid programs after disenrollment, the PACE organization must do the following:

(1) Make appropriate referrals and ensure medical records are made available to new providers in a timely manner.

(2) Work with CMS and the Alabama Medicaid Agency to reinstate the participant in other Medicare and Medicaid programs for which the participant is eligible.

F) A previously disenrolled participant may be reinstated in a PACE program if all eligibility and enrollment criteria met upon reapplication. If the reason for disenrollment is failure to pay the premium and the participant pays the premium before the effective date of disenrollment, the participant is reinstated in the PACE program with no break in coverage.

(g) Participant engages in disruptive or threatening behavior by:

- 1. jeopardizing his or her safety or the safety of others;
- 2. consistently refusing to comply with his or her individual plan of care;
- 3. consistently refusing to comply with the terms of the enrollment agreement.

(h) The participant no longer meets the eligibility criteria for full Medicaid or Medicare.

(3) If a PO is disenrolling a participant due to disruptive or threatening behavior, the

PO must document the following information in the participant's medical record:

- ~~_____ (a) The reasons for the disenrollment;~~
- ~~_____ (b) All efforts that were made to remedy the situation.~~

~~_____ (4) A PO must have procedures in place to document reasons for all voluntary and involuntary disenrollments. The disenrollment is to be coordinated with CMS and AMA and documentation must be made available to CMS and AMA for review. AMA must review involuntary disenrollments and determine that there is adequate documentation of the reason(s) for the involuntary disenrollment before it is effective. Information on voluntary disenrollments is to be used for the PO's internal quality assessment and performance improvement program.~~

~~_____ (5) When disenrolling a participant, the PO is to use the most expedient process allowed under Medicaid and Medicare procedures. An advance notice of 10 days prior to the disenrollment date is to be provided to the participant.~~

~~_____ (6) The PO must continue to furnish all services needed by the participant until the disenrollment date. It is also required that the participant continue to use PACE services until the disenrollment date, as well as remain liable for any premiums that may be due. The disenrollment date will be the last day of the month that the participant is voluntarily or involuntarily disenrolled.~~

~~_____ (7) The PO is to work with CMS and AMA to facilitate the reinstatement of Medicaid and Medicare programs for which the participant is eligible.~~

~~_____ (8) A participant that has been voluntarily or involuntarily disenrolled may be reinstated in a PACE program following the initial enrollment procedures outlined in 42 CFR 460.152.~~

Author: Linda Lackey, Medicaid Administrator, LTC Project Development Unit.

Statutory Authority: State Plan, Attachment 2.2-A, Attachment 3.1-A and Supplement 3; 42 CFR § 460.162 – 460.172; 42 CFR § 460 Subpart I.

History: New Rule: Filed November 10, 2011; effective December 15, 2011.

Amended: Filed March 20, 2013.