

APA-1

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No: 560 Department or Agency: Alabama Medicaid Agency

Rule No: 560-X-63-.06

Rule Title: Nursing Facility Participation Requirements
_____ 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: 10/20/14

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PUBLISHED IN VOLUME _____ ISSUE NO. _____

EDITED AND APPROVED BY _____ DOCUMENT NO. _____

ALABAMA MEDICAID AGENCY

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 560-X-63-.06. Nursing Facility Participation Requirements

INTENDED ACTION: Amend 560-X-63-.06

SUBSTANCE OF PROPOSED ACTION: This section is being revised to change the certification period from three months to six months for the qualified ventilator-dependent/qualified tracheostomy care residents.

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 December 5, 2014.

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

Rule No. 560-X-63-.06. Nursing Facility Participation Requirements.

In addition to the requirements described in Rule No. 560-X-.63-.05 above, the nursing facility that desires to receive a supplemental fee-for-service payment for ventilator-dependent and/or qualified tracheostomy residents must:

- (1) Be enrolled as a Medicaid-certified facility.
- (2) Meet all of the federal and state regulations governing nursing facilities.
- (3) Meet the federal and state physical plant requirements and all life safety standards for nursing facilities including, an alternate power source to prevent interruption of the ventilator in the event of a power outage.
- (4) Ensure that a Registered Nurse or Licensed Practical Nurse has primary responsibility for the unit and is readily available at all times.
- (5) Ensure that in-house respiratory services are provided by a licensed Respiratory Therapist 24 hours a day for ventilator-dependent residents and/or qualified tracheostomy residents.
- (6) Provide a program of initial training and ongoing in-service training for direct care staff.
- (7) Ensure that any attempts to wean a resident be documented in the resident's record. The nursing facility must notify the Medicaid Agency within 14 days from the date the resident is successfully weaned and is no longer in need of either ventilator care or qualified tracheostomy treatment. No additional reimbursement will be issued to the provider after the resident has been successfully weaned for 14 days and is no longer in need of either ventilator care or qualified tracheostomy treatment.
- (8) Ensure that physician visits are conducted in accordance with the federal regulations for nursing facilities.
- (9) Maintain separate staffing records for the Respiratory Therapy staff that provides care for the ventilator-dependent and/or qualified tracheostomy residents.
- (10) Report any change of condition, such as weaning from ventilators, transfers, discharges, re-hospitalizations and deaths.
- (11) Make available the resident record for review by the Medicaid Agency every ~~three~~ six months to determine if the resident continues to meet the ventilator-dependent and/or qualified tracheostomy care criteria.
- (12) Not accept a ventilator-dependent and/or qualified tracheostomy resident if any of the following situations exists:
 - (a) Termination of the nursing facility's Medicaid certification is imminent; or
 - (b) The nursing facility is a Special Focus Facility, under review by CMS, the Alabama Department of Public Health, or the Alabama Medicaid Agency.

Authority: Robin Arrington, Associate Director, Provider Recipient Services.

Statutory Authority: State Plan; Title XIX, Social Security Act; and 42 CFR Sections 401, et seq., Section 483.75

History: New Rule: Filed December 12, 2011; effective January 16, 2012. **Amended:** Filed October 20, 2014.