

APA-1

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No: 560 Department or Agency: Alabama Medicaid Agency

Rule No: 560-X-62-.26

Rule Title: Active Supervision of Regional Care Organizations

X 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: 4/20/2016

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LEGISLATIVE REF SERVICE

**ALABAMA MEDICAID AGENCY**

**NOTICE OF INTENDED ACTION**

**RULE NO. & TITLE:** 560-X-62-.26 Active Supervision of Regional Care Organizations


**INTENDED ACTION:** Add New Rule 560-X-62-.26

**SUBSTANCE OF PROPOSED ACTION:** The above referenced rule is being created to provide procedures for the Medicaid Agency to actively monitor and supervise each Regional Care Organization.

**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 3, 2016.

**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  
Commissioner

**Rule No. 560-X-62-.26. Active Supervision of Regional Care Organizations – New Rule**

(1) The Medicaid Agency shall actively monitor and supervise each regional care organization's ("RCO") activities including, but not limited to, key staffing, governance, provider services and materials, network adequacy, claims processing and payment, solvency, financial, care coordination, quality and/or utilization management, grievance and appeals, enrollment requirements, administrative support, technical infrastructure, compliance with reporting and legal requirements, the collective negotiations, bargaining, cooperation, and collaboration described in Section 22-6-150(4) of the Alabama Code and any other activities determined by the Agency. In addition to any other reports required by the Medicaid Agency, each RCO shall submit an on-line periodic report to the Medicaid Agency on the first business day of the months of June and December unless otherwise specified by the Medicaid Agency.

(2) Each periodic report must contain the information requested by the Medicaid Agency in order to allow the Medicaid Agency to engage in appropriate state supervision in accordance with Section 22-6-163 of the Alabama Code, including the following information:

(a) A description of the RCO's activities during the reporting period, including a description of what entities and persons with whom the RCO engaged in collective negotiations, bargaining, contracting, or cooperation during the reporting period and any material decisions by the RCO's Board of Directors, Executive Committee, Citizens' Advisory Committee, Provider Standards Committee, or management or managing entity of the RCO;

(b) A description of any concerns or problems encountered in the collaborative, bargaining and contracting, operational, or administrative process during the reporting period;

(c) A description of the nature and scope of expected future activities of the RCO; and

(d) Information concerning any previously unreported changes to the RCO's Board of Directors, Executive Committee, Citizens' Advisory Committee, Provider Standards Committee or corporate structure during the reporting period, including any changes in board or committee membership, material changes in management services, agreements or conflicts of interest policies, and any amendments or other changes to the RCO's governing documents such as the RCO's articles of incorporation, articles of formation, bylaws, operating agreement, certificate of formation and policies or rules required by the Medicaid Agency;

(e) Information concerning contracts or agreements the RCO entered into or terminated during the reporting period;

(f) A description of any material changes in the operations, performance, service delivery networks, policies and procedures required by the Medicaid Agency or by law or the financial condition of the organizations and of any substantial litigation filed against the organization related to the delivery of healthcare services or that could have a substantial adverse financial effect on the organization; and

(g) Any additional information the Medicaid Agency may request.

(3) Each RCO must provide the Medicaid Agency any documents, data or records requested for the reporting period, including the following:

(a) Minutes of meetings of the RCO's Board of Directors, Executive Committee, Citizens' Advisory Committee and Provider Standards Committee during the reporting period and copies of all documents and presentations reviewed at such meetings;

(b) Documents evidencing or reflecting any changes to the RCO's Board of Directors, Executive Committee, Citizens' Advisory Committee, Provider Standards Committee or corporate structure during the reporting period, including any changes in board or committee membership and any amendments or other changes to the RCO's governing documents such as the RCO's articles of incorporation, articles of formation, bylaws, operating agreement, certificate of formation, policies or rules required by the Medicaid Agency;

(c) Upon the Medicaid Agency's request, any contracts or agreements the RCO entered into during the reporting period; and

(d) Any additional documents, data or records the Medicaid Agency may request.

(4) All periodic reports submitted by each RCO must also include a narrative analysis, based upon currently available information, explaining how the operation of the RCO has and will continue to:

(a) result in improved quality of healthcare services to Medicaid beneficiaries;

(b) result in cost-containment in providing health care services;

(c) result in enhancements in technology;

(d) maintain competition in the health care services market; and/or

(e) identify appropriate service delivery systems and reimbursement methods in order to align incentives in support of integrated and coordinated health care delivery consistent with Sections 22-6-150, *et seq.* of the Alabama Code.

(5) The RCO shall certify in each periodic report that the bargaining during the reporting period was in good faith and necessary to meet the legislative intent expressed in Section 22-6-163 of the Alabama Code.

(6) All agreements and contracts of the RCO shall be subject to review and/or approval by the Medicaid Agency. The Medicaid Agency shall have the ability to disapprove any agreement, contract or material decision of the RCO that does not accord with applicable laws and regulations or the legislative intent expressed in Sections 22-6-163 of the Alabama Code. Any



RCO aggrieved by a final decision of the Medicaid Agency under this section may appeal that decision by following the procedures outlined in Rule 560-X-62-.20.

(7) In accordance with Section 22-6-163(k) of the Alabama Code, the Medicaid Agency shall actively monitor agreements approved by the Medicaid Agency to ensure that a collaborator's or RCO's performance under the agreement remains in compliance with the conditions of approval. Upon request and not less than annually, a collaborator or RCO shall provide the Medicaid Agency requested information regarding agreement compliance. The Medicaid Agency may revoke the agreement upon a finding that performance pursuant to the agreement is not in substantial compliance with the terms of the contract. Any entity or individual aggrieved by any final decision regarding contracts under Section 22-6-163 of the Alabama Code that are approved by the Medicaid Agency, or presented to the Medicaid Agency, may take direct judicial appeal as provided for judicial review of final decisions in the Administrative Procedure Act.

(8) The RCO's submittal of a periodic report in accordance with this rule does not relieve any person or entity from the requirement to submit periodic progress reports to the Medicaid Agency pursuant to a Certificate to Collaborate under Rule 560-X-62-.02. The RCO's submittal of a periodic report in accordance with this rule does not relieve the RCO from the requirement to submit other reports in accordance with a risk contract, rules of the Medicaid Agency or applicable federal or state law or regulation.

(9) Each RCO shall participate fully in any surveys that the Medicaid Agency may conduct concerning payment and delivery reforms. Each RCO shall provide the Medicaid Agency or its designee all information and data requested in connection with such surveys.

(10) In addition, the Medicaid Agency may inspect or request additional information, inspect or request documentation, and may convene meetings, make inquiries, and/or have such discussions it deems appropriate.

(11) All workplans, documents related to readiness assessment, business plans, documents containing sensitive business, financial, or proprietary information or other documents and information produced or provided by the RCO or third parties and all notes, memoranda, emails, correspondence, reports, work papers, findings, documents or other information generated by the Medicaid Agency as part of any audit, investigation, inspection or request for additional documents or information may be withheld from public inspection or disclosure if necessary, in the opinion of the Commissioner of the Medicaid Agency, to protect the confidential or proprietary nature of such information and documents or if deemed necessary to protect the RCO and any persons affiliated therewith from unwarranted injury or if otherwise deemed by the Commissioner of the Medicaid Agency to be in the public interest.

(12) Failure to file a periodic report required by this rule or failure to provide information or documents requested by the Medicaid Agency within fourteen (14) days after notice of default shall result in a fine of \$100 for each additional day that the periodic report is not filed or the requested information or documents are not provided to the Medicaid Agency. In addition, the Medicaid Agency may revoke a Certificate as a Regional Care Organization for failure to file

a periodic report required by this rule or failure to provide information or documents requested by the Medicaid Agency within fourteen (14) days after notice of default. Other sanctions may be imposed in accordance with Rule 560-X-62-.24.

**Author:** Stephanie Lindsay, Administrator, Administrative Procedures Office.

**Statutory Authority:** Code of Alabama, 1975 Section 22-6-150 *et seq.*

**History:** New Rule: Filed April 20, 2016.