

## **Rule No. 560-X-44-.01. Authority and Purpose**

(1) Home and Community-Based Services for the ACT Alabama Community Transition Waiver are provided by the Alabama Medicaid Agency to elderly and disabled individuals who would otherwise require institutionalization in a nursing facility. These services are provided through a Medicaid waiver under the provisions of Section 1915(c) of the Social Security Act ~~for an initial period of five years and for five year periods thereafter upon renewal of the waiver by the Centers for Medicare and Medicaid Services.~~

(2) The purpose of the ACT Waiver is to enable individuals, who currently reside in a nursing facility, the opportunity to transition out of the facility and receive home and community based services in the community. A second target population would be individuals currently being served on one of Alabama's other HCBS Home and Community-Based Services programs waivers whose condition is such that their current program waiver is not meeting their needs and admission to an institution is eminent if the ACT Waiver were not an option to better serve their needs.

(3) Home and Community-Based Services for the ACT Waiver are provided in compliance with the provisions of the HCBS Settings Final Rule (CMS 2249-F/2296-F). These provisions require the following:

- a. Services may only be provided in settings that:
  - i. Are integrated in and support full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS;
  - ii. Are selected by the individual from among setting options;
  - iii. Ensure individual rights of privacy, dignity and respect, and freedom from coercion and restraint;
  - iv. Optimize autonomy and independence in making life choices including but not limited to, daily activities, physical environment, and with whom to interact.; and
  - v. Facilitate choice regarding services and who provides them.
- b. Services may not be provided in:
  - i. Excluded settings that include nursing facilities, institutions for mental disease, intermediate care facilities for individuals with intellectual disabilities, and hospitals; and,
  - ii. Presumed institutional settings that include those in a publicly or privately-owned facility that provides inpatient treatment; on the grounds of, or immediately adjacent to, a public institution; or that have the effect of isolating individuals receiving Medicaid-funded HCBS from the broader community of individuals not receiving Medicaid-funded HCBS.

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**Statutory Authority:** Section 1915(c) Social Security Act; 42 CFR 441, Subpart G. **History:** New Rule: Filed February 10, 2012; effective March 16, 2012. **Amended:** Filed March 21, 2018.