

Rule No. 560-X-54-.06. Fair Hearing.

(1) An individual whose application to the Waiver Program is denied or waiver participants whose services are terminated, suspended, or reduced based on Rule No. 560-X-54-.02 may request an appeal in accordance with 42 CFR Section 431, Subpart E and Chapter 3 of the Alabama Medicaid Administrative Code, as modified by the below provisions. a hearing through the appropriate operating agency, or the Alabama Medicaid Agency.

(2) An individual who is denied Home and Community-Based Services waiver participants will be given at least a ten-day notice before termination, suspension or reduction of services. based on Rule No. 560-X-54-.02, may request a fair hearing in accordance with 42 CFR Section 431, Subpart E and Chapter 3 of the Alabama Medicaid Administrative Code.

(3) If an individual/guardian chooses to appeal the decision, a written request for an informal conference must be received by the Operating Agency within 30 days from the effective date of the notice. Services may continue for waiver participants until the final outcome of the administrative appeal process, if the written request is received within 10 days after the effective date of the action. Applicants will be given at least a ten-day notice before termination of service.

(4) If the individual/guardian is dissatisfied with the Informal Conference decision, a Fair Hearing may be requested. A written request for a Fair Hearing must be received no later than 30 days from the date of the Informal Conference decision notice. A written request for a hearing must be received by Medicaid within 60 days following notice of action for which an individual is dissatisfied.

(5) If the individual/guardian is dissatisfied with the Fair Hearing decision, he/she may appeal pursuant to the provisions of the Alabama Administrative Procedure Act.

(6) The Operating Agency will take the lead role for the Informal Conferences, Fair Hearings and subsequent judicial appeals. Medicaid legal counsel and program staff will function as support staff.

Author: Luzenia Lawson, Associate Director, Long Term Care, Quality Review Unit.

Statutory Authority: 42 CFR Section 441, Subpart G and the Home and Community-Based Technology Assisted Waiver for Adults.

History: Emergency Rule filed and effective March 13, 2003. **Amended:** Filed March 20, 2003; effective June 16, 2003. **Amended:** Filed June 20, 2008; effective September 15, 2008.

Amended: Filed April 21, 2014.