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CHAPTER SIXTY-FOUR

INTEGRATED CARE NETWORKS

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Chapter 64 Integrated Care Networks

Rule No. 560-X-64-.01 Reserved

Rule No. 560-X-64-.02 Reserved

Rule No. 560-X-64-.03 Governing Board of Directors

(1) An Integrated Care Network (ICN) shall have a governing board of directors composed of the following members:

(a) Sixty percent (60%) of the members shall be persons representing risk-bearing participants in the ICN. A participant bears risk by contributing cash, capital, or other assets to the ICN. At least half of the risk-bearing participants shall be long-term health care or medical providers, or representatives thereof, (herein referred to as “Provider Members”) who serve or will serve Medicaid beneficiaries enrolled in the ICN. Provider Members must collectively contribute cash, capital, or other assets approved by the Medicaid Agency to satisfy at least fifty percent (50%) of the minimum financial reserves and capital or surplus requirements established by the Medicaid Agency.

(b) Forty percent (40%) of the members shall be persons who do not represent a risk-bearing participant in the ICN and are not employed by a risk bearing participant. At least four of these members must be Provider Members who serve or will serve Medicaid beneficiaries enrolled in the ICN. The non-risk bearing participants must be comprised as follows:

(i) At least twenty (20%) of the members shall be appointed by long-term care and/or disability advocacy groups (including but not limited to Disabilities Leadership Coalition of Alabama, Alabama Arise, AARP, Alabama Disabilities Advocacy Program, Disability Rights and Resources, and Arc of Alabama).

(ii) Two members shall be appointed by the Medical Association of the State of Alabama, or its successor organization; and

(iii) One member shall be the chair of the citizens’ advisory committee established pursuant to Alabama Medicaid Administrative Code Rule 560-X-64-.04.

(c) The ICN shall adopt policies and procedures, subject to the review and/or approval of the Medicaid Agency, that ensures gender, race, and geographic diversity in the composition of the governing board.

(2) A majority of the members of the board may not represent a single provider. Any provider shall meet licensing requirements set by law, shall have a valid Medicaid provider number, and shall not be otherwise disqualified from participating in Medicare or Medicaid.

(3) Medicaid shall have the power to approve the members of the governing board and the board's structure, powers, bylaws, or other rules of procedure. No organization shall be granted integrated care network certification without approval.

(4) The governing board may, by resolution adopted by a majority of the directors, appoint an executive committee, which shall consist of two or more directors, who may have such authority and take such action as authorized by the governing board and consistent with state law; provided, however, any at-risk provider type shall be represented on the executive committee. For purposes of this subsection, a legal entity shall be considered the same provider type of the majority owner(s), principal(s) or member(s) of that entity. The governing board shall set policy and direction for the integrated care network and the executive committee shall execute the policies established by the governing board. The governing board may also appoint such other committees as are consistent with Alabama law. All actions of the executive committee and all other committees shall be reported to the governing board. The compositions of the executive committee must ensure gender, race, and geographic diversity. At least one member of an executive committee and any other committee shall be one of the members appointed to the board by the Medical Association of the State of Alabama.

Author: Stephanie Lindsay, Administrator, Administrative Procedures Office.

Statutory Authority: State Plan; Title XIX, Social Security Act; 42 C.F.R. Part 438

History: New Rule: Filed December 12, 2016; effective January 26, 2017. **Amended:** Emergency Rule filed and effective April 4, 2018. **Amended:** Filed June 11, 2018; effective July 26, 2018.

Rule No. 560-X-64-.04 Citizens' Advisory Committee

(1) A citizens' advisory committee (CAC) shall advise an integrated care network (ICN) on ways it may be more efficient in providing quality care to Medicaid beneficiaries. In addition, a CAC shall carry out other functions and duties assigned to it by the ICN and approved by the Medicaid Agency. Each ICN shall have a CAC, which membership shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the population served. The committee shall meet all of the following criteria:

(a) Be selected in a method established by the ICN and approved by the Medicaid Agency.

(b) At least 20 percent of its members shall be Medicaid beneficiaries enrolled in the integrated care network, or the Medicaid beneficiary's sponsor. It shall be the ICN's sole responsibility to obtain all necessary approvals, consents or waivers from Medicaid beneficiaries and to comply with all applicable laws regarding privacy and confidentiality related to such information before providing it to the Medicaid Agency.

(c) Include members who are representatives of organizations that are part of the Disabilities Leadership Coalition of Alabama or Alabama Arise, or their successor organizations, the Alabama chapter of AARP, the Alabama Disabilities Advocacy Program, the Disability Rights and Resources, the Arc of Alabama, and also include members who are non-at-risk providers that provide services to Medicaid beneficiaries through the integrated care network.

(d) Elect a chair.

(e) Meet at least every three months.

(2) A member may participate and/or vote in a meeting of the CAC by means of telephone conference, videoconference, or similar communications equipment. Participation by such means shall constitute presence in person at a meeting for all purposes, including the establishment of a quorum. Such participation is permitted only if:

(a) All persons participating in the meeting may hear each other at the same time;

(b) The equipment necessary to participate in the meeting is readily available to all members of the committee; and

(c) The meeting of the CAC is conducted at a physical location whereby members have the option to attend the meeting in-person.

Author: Stephanie Lindsay, Administrator, Administrative Procedures Office.

Statutory Authority: State Plan; Title XIX, Social Security Act; 42 C.F.R. Part 438.

History: New Rule: Filed October 20, 2016. **Amended:** Filed August 10, 2018; effective September 24, 2018.

Rule No. 560-X-64-.05 Reserved

Rule No. 560-X-64-.06 Solvency and Financial Requirements for Integrated Care Networks

(1) The Integrated Care Network (ICN) as a condition to the risk contract between the Medicaid Agency and the ICN, shall maintain minimum capital, surplus, or any combination thereof, of one million dollars (\$1,000,000), unless otherwise specified by the Medicaid Agency as provided in section (2).

(2) The Medicaid Agency may, in its sole discretion, add to, reduce, or otherwise alter, amend, adjust, or modify the minimum capital or surplus described in section (1) of this rule to account for the level of financial and/or other risk the ICN bears with regard to the populations to be served or the services to be provided by the ICN, or any other factor the Agency considers relevant to the financial solvency of the ICN.

(3) For purposes of section (1) of this rule, an ICN's capital and surplus is the difference between the admitted assets of the ICN and the liabilities of the ICN, determined as follows:

(a) The classification and value of the ICN's assets and liabilities shall be determined in accordance with Generally Accepted Accounting Principles (GAAP) and Generally Accepted Auditing Standards (GAAS), as modified by the provisions of this section (3).

(b) For purposes of this rule, "admitted assets" means only assets owned exclusively by the ICN consisting of:

- (i) Cash, including the true balance of deposits in solvent banks and trust companies;
- (ii) Bonds, notes, warrants, debentures, and other evidences of indebtedness which are direct obligations of the United States of America for which the full faith and credit of the United States of America is pledged for the payment of principal and interest ("U.S. Treasury Securities");
- (iii) Investment grade bonds or other evidences of indebtedness other than U.S. Treasury Securities, satisfying standards approved by the Medicaid Agency;
- (iv) Marketable equity securities, satisfying standards approved by the Medicaid Agency;
- (v) Due or deferred Per Member Per Month (PMPM) payments pursuant to the risk contract between the ICN and the Medicaid Agency;
- (vi) The acquisition cost of land and depreciated cost of improvements thereon owned by the ICN and used in connection with the performance of the risk contract, in excess of any liabilities secured by encumbrances on such assets, in an aggregate amount not greater than 50 percent of the required minimum capital and surplus of the ICN; and
- (vii) Such other assets as may be approved by the Medicaid Agency.

(c) In addition to assets not described in subsection 3(b) of this rule, an ICN's admitted assets shall not include:

- (i) Any single investment or asset, or any combination of investments in or secured by the securities, obligations, and/or property of one person, entity, or governmental unit, to the extent any such investment or combination of investments would exceed 20 percent of the ICN's admitted assets, provided that the foregoing restriction shall not apply to U.S. Treasury Securities or cash; or
- (ii) Goodwill and other intangible assets.

(d) In any determination of the capital and surplus of an ICN, liabilities to be charged against the ICN's admitted assets shall include, in addition to other liabilities chargeable in accordance with GAAP and GAAS:

- (i) The amount necessary to pay all of the ICN's unpaid losses and claims incurred on or prior to the date of the statement, together with the expenses of adjustment or settlement thereof;
- (ii) Federal, state, and local taxes, expenses and other obligations due or accrued at the date of the statement; and
- (iii) Any additional reserves for asset valuation contingencies or loss contingencies required by the Medicaid Agency.

(4) No ICN shall reduce its combined capital and surplus, by distribution of its assets to the members, owners, or risk-bearing participants of the ICN or otherwise, below the ICN's required capital and surplus under the rules of the Medicaid Agency.

Author: Stephanie Lindsay, Administrator, Administrative Procedures Office.

Statutory Authority: State Plan; Title XIX, Social Security Act; 42 C.F.R. Part 438.

History: Emergency Rule filed and effective March 30, 2017. **Amended:** Filed June 9, 2017; effective July 24, 2017. **Amended:** Filed July 12, 2018; effective August 27, 2018.

Rule No. 560-X-64-.07 Service Delivery Network Requirements for Integrated Care Networks

(1) Definitions – As referenced in this Chapter of the Alabama Medicaid Administrative Code the following terms shall be defined as follows:

(a) *Care Management Organization (CMO)* is defined as an organization providing case management for the 1915(c) waivers enrolled in the ICN program in accordance with Rule 560-X-64-.17 (e.g. AAAs and other agencies currently providing HCBS Case Management.)

(b) *Nursing Facility* as defined in Rule 560-X-10-.01.

(c) *Service Delivery Network* is defined as one that ensures enrollees have access to a network of appropriate providers that is sufficient to provide adequate access to all enrollees of the ICN.

1. The ICN must establish prior to the ICN Program implementation and maintain thereafter an adequate amount and appropriate geographic distribution of Nursing Facilities and CMOs, as required to appropriately service its enrollees, provide choice of providers to enrollees, and facilitate timely and effective care transitions and community participation. To satisfy this adequacy requirement, the ICN must have:

(i) Coordination agreements with at least fifty percent (50%) of the Medicaid Nursing Facilities' total licensed beds in the State.

(ii) Contracts with at least seventy-five percent (75%) of the CMOs in the State.

2. The ICN must establish agreements with the Alabama Department of Mental Health (ADMH) to ensure that each ICN establishes and maintains a collaboration to address the needs of enrollees who have mental illnesses and substance abuse disorders.

3. The ICN must establish agreements with the Alabama Department of Human Resources (ADHR) to ensure that each ICN establishes and maintains a collaboration to assist with prevention, reporting, and investigation activities of Adult Protection Services.

4. The ICN must establish agreements with the Alabama Department of Senior Services (ADSS) to ensure that each ICN establishes and maintains an adequate network for HCBS Waiver Case Management activities.

(2) Each ICN must demonstrate to the satisfaction of the Medicaid Agency that its Service Delivery Network meets the requirements of this rule based on the timelines established by the Medicaid Agency.

(3) Each ICN must ensure compliance with all requirements for the furnishing of Medicaid services in accordance with this rule, applicable laws and medical standards as well as the needs of Medicaid enrollees.

(4) The Medicaid Agency may inspect or request additional documentation and information relating to the documentation submitted pursuant to this rule at any time to verify the information contained therein.

(5) Notwithstanding any provisions of this rule to the contrary, any ICN shall be governed by federal access standards which may be found in their entirety in 42 C.F.R. §§ 438.206 - 438.210 and which are hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof are adopted as rules of the Medicaid Agency.

Author: Stephanie Lindsay, Administrator, Administrative Procedures Office.

Statutory Authority: State Plan; Title XIX, Social Security Act; 42 C.F.R. Part 438.

History: Emergency rule filed and effective March 31, 2017. **Amended:** Filed June 9, 2017; effective July 24, 2017. **Repealed and New Rule:** Filed June 11, 2018; effective July 26, 2018.

Rule No. 560-X-64-.08 Reserved

Rule No. 560-X-64-.09 Information and Marketing Requirements for Enrollees and Potential Enrollees

(1) As used in this rule, the following terms have the meanings set forth below:

- (a) Enrollee means a Medicaid beneficiary enrolled as a member of an Integrated Care Network (ICN).
- (b) Large Print means printed in a font size no smaller than 18 point.
- (c) Limited English Proficient (LEP) means Enrollees and Potential Enrollees who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. LEP individuals may be eligible to receive language assistance for a particular type of service, benefit or encounter.
- (d) Potential Enrollee means a Medicaid beneficiary subject to mandatory enrollment in an ICN or who may voluntarily be required to enroll as a member of an ICN.

- (e) Prevalent means those non-English languages determined to be spoken by a significant number or percentage of Enrollees and Potential Enrollees that are limited English proficient. The following languages are defined as Prevalent:
 - (i) Spanish or Spanish Creole;
 - (ii) Korean;
 - (iii) Chinese;
 - (iv) Vietnamese;
 - (v) Arabic;
 - (vi) German;
 - (vii) French;
 - (viii) Gujarati;
 - (ix) Tagalog;
 - (x) Hindi;
 - (xi) Laotian;
 - (xii) Russian;
 - (xiii) Portuguese;
 - (xiv) Turkish; and
 - (xv) Japanese.

- (f) Readily Accessible means electronic information and services which comply with modern accessibility standards such as section 508 guidelines, section 504 of the Rehabilitation Act and W3C's Web Content Accessibility Guidelines (WCAG) 2.0 AA and successor versions.

(2) The ICN shall be responsible for the development of outreach and educational materials addressing prevention of illness and disease, disease management, healthy lifestyles, and the availability of and how to access non-emergency transportation services. All materials used by the ICN must be approved by the Medicaid Agency prior to their use.

(3) The Medicaid Agency shall be responsible for the development of all other information and materials for Enrollees and Potential Enrollees not listed in paragraph (2) above, including but not limited to, the Enrollee handbook and notices in accordance with 42 C.F.R. § 438.10(e).

(4) All materials provided to Enrollees or Potential Enrollees must be in a manner and format that may be easily understood and is Readily Accessible, the information required herein, including the process to enroll in an ICN, the rights and responsibilities of Enrollees, as well as the grievance and appeals process in order to help Enrollees and Potential Enrollees understand the requirements, benefits and services of the Integrated Care Network (ICN) Program.

(5) General Information Requirements. The below requirements shall apply to the ICN to the extent it develops and distributes materials in accordance with paragraph (2) and to the Agency to the extent it develops and distributes materials in accordance with paragraph (3). Herein, the term "Organization" shall mean both the Agency and the ICN to the extent each entity is responsible for developing and distributing materials.

- (a) The Organization must have policies and procedures in place regarding providing assistance to Enrollees and Potential Enrollees in making informed decisions and in understanding the ICN program's benefits and services (hereafter collectively the "services").
- (b) The Organization must give each Enrollee notice of any significant change, as determined by the Medicaid Agency, in the written material and the information required by this rule and by 42 C.F.R. § 438.10, at least thirty (30) calendar days before the intended effective date of the change.
- (c) The Organization shall ensure that all its representatives who have contact with Enrollees and Potential Enrollees are properly trained and fully informed of the policies, procedures, and forms of the Organization including those applicable to enrollment, disenrollment and the grievance system set forth under the ICN program.
- (d) Enrollee information required hereunder may not be provided electronically by the Organization unless:
 - (i) The format is Readily Accessible.
 - (ii) The information is placed in a location on the Organization's website that is prominent and Readily Accessible.
 - (iii) The information is provided in an electronic form which can be electronically retained and printed.
 - (iv) The information is consistent with the content and language requirements of this rule.
 - (v) The Enrollee is informed that the information is available in paper form without charge upon request and the Organization provides such information within five (5) business days of the request.
- (e) The ICN must also use the managed care terminology established by the Alabama Medicaid Agency pursuant to 42 C.F.R. § 438.10(c)(4).

(2) Language and Format

- (a) All written materials that are critical to obtaining services, including at a minimum, provider directories, Enrollee handbooks, appeal and grievance notices, and denial and termination notices available to Enrollees and Potential Enrollees are available in an easily understandable language that meets the requirements of this section, in English and all other Prevalent Non-English Languages in the ICN's service area. Auxiliary aids and services must be made available at no cost to Enrollees or Potential Enrollees upon his or her request.

- (b) Written materials referenced in subsection (a) must include taglines in the Prevalent non-English languages, as well as Large Print, explaining the availability of written translation or oral interpretation to understand the information provided and the toll-free and TTY/TDY telephone number of the Organization's Enrollee/customer service unit.
- (c) The Organization shall make interpretation services available to Potential Enrollees and Enrollees and provide those services free of charge. This includes oral interpretation and the use of auxiliary aids such as TTY/TDY and American Sign Language. Oral interpretation requirements apply to all non-English languages, not just those the Agency has identified as Prevalent.
- (d) The Organization shall notify Enrollees that oral interpretation is available for any language and written translation available in Prevalent languages; that auxiliary aids and services are available upon request at no cost for Enrollees with disabilities; and how to access the services in this subsection.
- (e) Upon request by and at no charge to Enrollees and Potential Enrollees, the Organization must make all written material available in easily understood language and format, in alternative formats and in an appropriate manner that takes into consideration the special needs of Enrollees or Potential Enrollees with disabilities or limited English proficiency. The Organization must inform Enrollees and Potential Enrollees that written information is available in alternative formats and how to access these formats. Except as otherwise expressly provided herein, the written materials referenced herein shall use a font size no smaller than 12 point, except the Organization shall include a Large Print tagline and information on how to request auxiliary aids and services, including the provision of materials in alternate formats.

(3) Information Packet. Within fifteen (15) calendar days of an of an Enrollee's enrollment in the ICN program, the Agency shall mail an information packet to new Enrollees setting forth the information required herein. The packet shall include, at a minimum, confirmation of enrollment in the ICN and an Enrollee handbook. Alternatively, Enrollees may elect but are not required to receive the materials electronically via e-mail, an on-line Enrollee portal, or similar means. An Organization wishing to make this option available must contact the Enrollee within five (5) business days of enrollment to determine if the Enrollee prefers to receive information electronically. For Enrollees who make this election, the Organization must mail written confirmation within fifteen (15) calendar days of an Organization receiving notice of an Enrollee's enrollment in the ICN program confirming the Enrollee's decision to receive information electronically and explaining the method(s) for doing so and how to opt-out and return to paper communications.

- (a) The Enrollee handbook shall also be maintained on the Agency's website.
- (b) At least once a year, the Agency shall provide notice to Enrollees that a copy of the Enrollee handbook is available upon request.

- (c) The Enrollee handbook shall list the ICN's location, mailing address, web address, telephone number and office hours.

(4) Information for Enrollees. The Medicaid Agency must provide information required by 42 C.F.R. § 438.10(f) and hereunder to all Enrollees including:

- (a) At least annually, and within ten (10) calendar days of request, the Medicaid Agency must notify Enrollees of their disenrollment rights, including an explanation of the process for exercising disenrollment rights and the alternatives available to the Enrollee based on their specific circumstances;
- (b) The right of Enrollees to request and obtain all information listed herein at least once a year;
- (c) The right of Enrollees to request all information listed herein within a reasonable time after the Organization receives notice of the Enrollee's enrollment in the ICN program; and
- (d) Written notice of any significant changes in the information required under this rule provided at least thirty (30) calendar days before the intended effective date of the change.

(5) Enrollee Handbook. In addition to any requirements set forth in a contract between the ICN and the Medicaid Agency:

- (a) Each Organization must provide each Enrollee an Enrollee handbook, within a reasonable time, not to exceed fifteen (15) calendar days, after receiving notice of the Enrollee's enrollment, which serves a similar function as the summary of benefits and coverage described in 45 C.F.R. § 147.200(a). At least once a year, the Agency must provide notice to Enrollees that the Handbook is available upon request.
- (b) The content of the Enrollee handbook must include information that enables the Enrollee to understand how to effectively use the ICN program. The information must include at a minimum:
 - (i) Services provided by the ICN;
 - (ii) Enrollee rights, responsibilities and protections, including the applicable elements set forth in 42 C.F.R. § 438.100;
 - (iii) A description of how to access auxiliary aids and services, including additional information in alternative formats and languages;
 - (iv) The toll-free number for Enrollee services, medical management, and any other unit providing services directly to Enrollees;

- (v) Information on how to report suspected fraud or abuse;
 - (vi) How to access and understand forms provided by the Organization and how to obtain assistance in completing and submitting forms; and
 - (vii) The Enrollee's right to request and obtain copies of their medical records and whether they may be charged a reasonable copying fee.
- (c) Information required by this Rule will be considered to be provided by the Organization if the Organization:
- (i) Mails a printed copy of the information to the Enrollee's mailing address;
 - (ii) Provides information by email after obtaining the Enrollee's agreement to receive the information by email;
 - (iii) Post the information on the Organization's website and advises the Enrollee in paper or in electronic form that the information is available on the internet and includes the applicable internet address, provided that Enrollees with disabilities who cannot access this information online are provided auxiliary aids and services upon request at no cost; or
 - (iv) Provides the information by any other method that can reasonably be expected to result in the Enrollee receiving the information.
- (d) The Organization must give each Enrollee notice of any significant change, as determined by the Medicaid Agency, in the written material and the information required by this paragraph and by 42 C.F.R. § 438.10(g)(4), at least thirty (30) calendar days before the intended effective date of the change.

(6) Marketing.

- (a) The ICN may not directly market to individual Medicaid recipients or Potential Enrollees, except as specified in this rule, and must adhere to the requirements specified by 42 C.F.R. §§ 438.10 and 438.104 and section 1557 of the Affordable Care Act. The ICN is prohibited from door-to-door, telephone, email, texting or other cold-call marketing or engaging in marketing activities that could mislead, confuse or defraud Medicaid recipients, Enrollees or Potential Enrollees. Marketing materials must receive Agency approval prior to use and cannot contain any assertion or statement whether written or oral that:
 - (i) Potential Enrollees must enroll with the ICN in order to obtain benefits or in order not to lose benefits; or
 - (ii) The ICN is endorsed by CMS, the Federal or State government or similar entity.

- (b) When distributing approved marketing materials, the ICN must distribute the materials throughout the entire State.
- (c) The ICN marketing activities and materials must not seek to influence enrollment in conjunction with the sale or offering of any private insurance.
- (d) The ICN may only conduct marketing activities in health care settings in common areas, such as cafeterias, recreational rooms or conference rooms. The ICN may not conduct marketing activities in areas where Enrollees primarily receive health care services, or wait to receive health care services. Areas where the ICN is prohibited from conducting marketing activities include, but are not limited to, the following:
 - (i) Waiting rooms;
 - (ii) Exam rooms;
 - (iii) Hospital patient rooms; and
 - (iv) Dialysis center treatment areas.

(7) Sanctions may be imposed in accordance with Alabama Medicaid Administrative Code Chapter 64 if the ICN distributes information or materials to Enrollees, Potential Enrollees or providers is misrepresented, falsified, or distributed without prior authorization by the Medicaid Agency.

(8) Compliance with state and federal law. In addition to the information required by this rule, the ICN must provide an Enrollee and Potential Enrollee any additional information required by applicable state and federal law. All such information must be provided in a format required by this rule and other applicable law.

Author: Stephanie Lindsay, Administrator, Administrative Procedures Office.

Statutory Authority: State Plan; Title XIX, Social Security Act; 42 C.F.R. § 438.10.

History: New Rule: Filed June 11, 2018; effective July 26, 2018.

Rule No. 560-X-64-10 – Financial Reporting and Audit Requirements

(1) An integrated care network ("ICN") shall provide to the Medicaid Agency a periodic financial report setting forth information concerning the ICN's capital and surplus and such other information as the Medicaid Agency may require, in such form and content and at such frequency as may be prescribed by the Medicaid Agency from time to time. In addition, an ICN shall provide such other financial reports and information as may be required by the Medicaid Agency pursuant to applicable state and federal laws and regulations. The Medicaid Agency may require that ICNs use specific reporting forms in order to supply required information.

(2) An ICN shall report all data as required by the Medicaid Agency, consistent with the federal Health Insurance Portability and Accountability Act (HIPAA) as in effect from time to time.

(3) After there is any change in the financial condition of an ICN which could result in a determination of hazardous financial condition or insolvency pursuant to Rule 560-X-64-.11, including but not limited to any deficiency in the required capital and surplus of the ICN, the ICN shall promptly give notice to the Medicaid Agency describing the circumstances of such change and its plan of action for responding to the change. Notwithstanding any such plan of action, the Medicaid Agency may at any time take any action or exercise any authority, right, or remedy available in accordance with the rules of the Medicaid Agency, the risk contract, or applicable law in connection with such change in the financial condition of the ICN.

(4) An ICN shall at its expense have its independent certified public accountant deliver directly to the Medicaid Agency the annual audited financial statements of the ICN, prepared in accordance with Generally Accepted Accounting Principles (GAAP) and Generally Accepted Auditing Standards (GAAS), no later than one hundred twenty (120) calendar days after the ICN's fiscal year end, for the immediately preceding fiscal year. The Medicaid Agency may require that supplemental financial information be included in the ICN's audited financial statements related to capital and surplus and other related information. A statement shall be included with the audit report delivered by the ICN's accountant acknowledging that the Medicaid Agency is an intended beneficiary of the audit report.

(5) In addition to any other powers of the Medicaid Agency relating to the audits of ICNs, the Medicaid Agency may at any time require an ICN to produce such books and records in the possession of the ICN or its affiliates or risk-bearing participants as are reasonably necessary to ascertain the financial condition of the ICN or to determine compliance with the rules of the Medicaid Agency and the contract between the ICN and the Medicaid Agency. If the ICN or its affiliates or risk-bearing participants fails to comply with any such request within the period of time prescribed the Medicaid Agency, the Medicaid Agency may audit the ICN and its affiliates or risk-bearing participants to obtain such books and records, in addition to imposing sanctions or other remedies under the rules of the Medicaid Agency and/or the contract between the ICN and the Medicaid Agency. The Medicaid Agency shall report the failure to comply to all of the ICN's participating providers. The ICN shall pay the costs incurred by the Medicaid Agency.

(6) In accordance with 42 C.F.R. § 438.66, the Medicaid Agency has the authority to monitor the ICN's operations, including, at a minimum, operations related to violations of the conditions for federal financial participation, as set forth in subpart J of 42 C.F.R. § 438.

(7) The Medicaid Agency, CMS, the Office of the Inspector General, the Comptroller General, and their designees may, at any time, inspect and audit any records or documents of the ICN or its subcontractors, and may, at any time, inspect the premises, physical facilities, and equipment where Medicaid-related activities or work is conducted. The right to audit exists for ten (10) years from the final date of the risk contract term, including any extensions, or from the date of completion of any audit, whichever is later.

(8) Except as otherwise determined by the Medicaid Agency or required by applicable law, all financial reports submitted to the Medicaid Agency pursuant to this rule shall be public records subject to disclosure.

Author: Stephanie Lindsay, Administrator, Administrative Procedures Office.

Statutory Authority: State Plan; Title XIX, Social Security Act; 42 C.F.R. Part 438.

History: New Rule: Filed August 11, 2017; effective September 25, 2017. **Amended:** Filed July 12, 2018; effective August 27, 2018.

Rule No. 560-X-64-11 Reserved

Rule No. 560-X-64-12 Reserved

Rule No. 560-X-64-13 Conflict of Interest Policy for Directors and Officers of Integrated Care Networks

(1) The Integrated Care Network (ICN) shall adopt a conflict of interest policy for directors and officers. The conflict of interest policy shall require all directors and officers to conduct their activities as directors or officers so that they do not advance or protect their own interests, or the interests of others with whom they have a private or professional relationship, in a way that is detrimental to the interests of, or to, the ICN, and the conflict of interest policy shall provide for the removal of any director or officer whose conduct violates such policy, unless a remedial action shall be sufficient to bring the director or officer into compliance with the policy. The conflict of interest policy shall require each director and officer to disclose in a written statement all employments, associations, commitments and financial interests that may currently exist or may have previously existed within the preceding two (2) years or that they reasonably expect to arise in the future, on the part of the director or officer, or his or her immediate family member, including spouse, dependents, adult children and their spouses, parents, spouse's parents, siblings and their spouses, that could reasonably be perceived, directly or indirectly, as a conflict of interest with the ICN or organization with probationary ICN certification. The statement shall also disclose whether the director or officer or his or her immediate family member as described in the preceding sentence is a current or former employee of, consultant with, or lobbyist for the Medicaid Agency or with any individual or entity (including subcontractors) providing enrollment broker or choice counseling services on behalf of the Medicaid Agency. Each director and officer shall file such disclosure statement with the ICN's or organization's board of directors and the Medicaid Agency on an annual basis.

(2) The conflict of interest policy must also:

(a) Require each director or officer to disclose relevant financial interests and potential conflicts of interest

(b) Provide a procedure satisfactory to the Medicaid Agency to determine whether an actual or potential conflict of interest exists and set forth a process satisfactory to the Medicaid Agency to address any potential conflicts of interest that arise;

(c) Address remedial action for directors or officers that fail to comply with the policy; and

(d) Require that the board of directors of the organization be responsible for enforcement of the conflict of interest policy and maintain minutes, disclosures of potential conflicts and other related documents, which will be subject to review by the Medicaid Agency, describing potential conflicts of interests and the action taken by the directors.

(3) An ICN and each of its directors and officers must complete and submit to the Medicaid Agency the Disclosure Statement required by Act 2001-955 prior to the ICN entering into a contract with the Medicaid Agency.

(4) All current and former employees and agents of the Medicaid Agency who have responsibilities relating to contracts with an ICN must comply with applicable provisions of the state ethics laws including, but not limited to, Sections 36-25-5, -7, -8, -11, -12, and -13 of the Alabama Code.

(5) An ICN and each of its directors and officers must observe the independence and freedom from conflict of interest requirements of 42 C.F.R. § 438.810(b)(1) and (2) in connection with any enrollment broker services that may be provided.

(6) No individual or entity of any kind shall have a direct or indirect ownership interest in more than one ICN. No individual or entity of any kind that has a direct or indirect ownership interest in an ICN may enter into an administrative and/or managerial contract or subcontract relating to another ICN.

(7) The Medicaid Agency may require an ICN and each of its directors and officers to comply with additional conflict of interest requirements and policies the Medicaid Agency determines to be necessary to satisfy State and Federal requirements or necessary to address issues of noncompliance with the requirements of this Conflict of Interest Rule.

Author: Stephanie Lindsay, Administrator, Administrative Procedures Office.

Statutory Authority: State Plan; Title XIX, Social Security Act; 42 C.F.R. Part 438.

History: Emergency Rule filed and effective August 21, 2017. **Amended:** Filed October 13, 2017; effective November 28, 2017. **Amended:** Filed August 10, 2018; effective September 24, 2018.

Rule No. 560-X-64-.14 Reserved

Rule No. 560-X-64-.15 Fair Hearings of Integrated Care Networks

(1) An integrated care network (ICN) that has been sanctioned by the Medicaid Agency in accordance with Alabama Medicaid Administrative Code Chapter 560-X-64 may request a fair hearing.

(2) An ICN's request for a fair hearing with the Medicaid Agency relating to the imposition of a sanction must be in writing and must be filed with the Medicaid Agency within thirty (30) calendar days of the date of the sanction notice. The written request shall include a statement of the factual and/or legal basis for the ICN's dispute or claim and a statement of the relief or action sought. The Medicaid Agency will not accept requests for fair hearings that are outside the filing deadline. The

ICN may submit the written request for fair hearing to the Medicaid Agency by mail, hand-delivery, facsimile or electronic mail, and the request must be received by the Medicaid Agency on or before the filing deadline.

(3) Upon filing a written request for a fair hearing, the ICN may also request an informal conference with the Medicaid Agency to seek a resolution of the ICN grievance.

(4) If the ICN grievance is not resolved through informal conference with the Medicaid Agency, the ICN grievance shall be reviewed in a fair hearing shall be conducted before an impartial hearing officer in accordance with the requirements for contested case proceedings under the Alabama Administrative Procedure Act, Section 41-22-1 *et seq.* of the Alabama Code. The hearing authority for all fair hearings of ICN sanctions shall be the Commissioner of the Medicaid Agency, who shall appoint one or more hearing officers to conduct fair hearings and submit findings and recommendations to the Commissioner for final decision on each ICN grievance. The hearing officer shall not have been involved in any way with the ICN sanction in question.

(5) A fair hearing shall be impartially conducted and held at the Medicaid Agency's central office in Montgomery. Written notice of the date, time, place and nature of the fair hearing shall be sent by certified mail to the ICN's address of record and may also be communicated by email or facsimile transmission by the Director, Hearings of the Medicaid Agency, or the designated hearing officer, at least ten (10) calendar days before the hearing is to be held. The notice shall comply with the requirements of Section 41-22-12(b) of the Alabama Code.

(6) The ICN may be represented at the fair hearing by legal counsel at its own expense. The ICN may call witnesses and may examine witnesses called by other parties.

(7) The Medicaid Agency shall be responsible for payment of the hearing officer(s) fees and expenses and any court reporter's fees and expenses related to the fair hearing.

(8) All fair hearings shall be conducted in accordance with the provisions of Sections 41-22-12 through 41-22-19 of the Alabama Code, unless otherwise noted in this rule. Within thirty (30) calendar days of the conclusion of the hearing, the findings and recommendations of the hearing officer shall be submitted to the Commissioner of the Medicaid Agency, who shall make a final decision within thirty (30) calendar days of the recommendation. The Medicaid Agency shall promptly send a copy of the final decision to the ICN's address of record by certified mail.

(9) The ICN may seek judicial review of the final decision of the Medicaid Agency in accordance with the provisions of Sections 41-22-20 and 41-22-21 of the Alabama Code.

(10) Nothing in this rule is intended to create or establish new causes of action in any court. Nothing in this rule shall be construed as a waiver of any sovereign, qualified, or any other type of immunity.

Author: Stephanie Lindsay, Administrator, Administrative Procedures Office.

Statutory Authority: State Plan; Title XIX, Social Security Act; 42 C.F.R. Part 438; Code of Alabama, 1975 41-22-12 through 41-22-19.

History: Emergency Rule filed and effective August 21, 2017. **Amended:** Filed October 13, 2017; effective November 28, 2017. **Amended:** Filed August 10, 2018; effective September 24, 2018.

Rule No. 560-X-64-.16 ICN Covered Population

(1) The following groups of eligible Medicaid beneficiaries shall be included for coverage by an integrated care network (ICN):

(a) Individuals that meet the current admission criteria for nursing facility care as described in Alabama Medicaid Administrative Code Rule 560-X-10-.10 and who are receiving nursing facility services in accordance with Alabama Medicaid Administrative Code Rule 560-X-10-.04(1);

(b) Individuals that meet the eligibility criteria for the Home and Community-Based Services for the Alabama Community Transition (ACT) Waiver in accordance with Alabama Medicaid Administrative Code Rule 560-X-44-.02; and,

(c) Individuals that meet the eligibility criteria for the Home and Community-Based Services for the Elderly and Disabled Waiver in accordance with Alabama Medicaid Administrative Code Rule 560-X-36-.02.

(2) All groups of Medicaid beneficiaries not expressly included in (1) above will continue to be served by the Medicaid fee-for-service program outside of the ICN.

Author: Stephanie Lindsay, Administrator, Administrative Procedures Office.

Statutory Authority: State Plan; Title XIX, Social Security Act; 42 C.F.R. Part 438.

History: New Rule: Filed October 13, 2017; effective November 28, 2017. **Amended:** Filed June 11, 2018; effective July 26, 2018.

Rule No. 560-X-64-.17 ICN Covered Services

(1) The following services must be covered for Medicaid recipients who are enrolled in an integrated care network (ICN):

(a) Direct Home and Community-Based Service Case Management for the Alabama Community Transition (ACT) Waiver in accordance with Alabama Medicaid Administrative Code Rule 560-X-44-.04;

(b) Direct Home and Community-Based Service Case Management for the Elderly and Disabled in accordance with Alabama Medicaid Administrative Code Rule 560-X-36-.04; and

(c) Primary care case management services, which include the location, coordination, and monitoring of primary health care services, in addition to one or more of the following, as specified by the Medicaid Agency:

- (i) Provision of intensive telephonic or face-to-face case management, including operation of a nurse triage advice line.
- (ii) Development of enrollee care plans.
- (iii) Execution of contracts with and/or oversight responsibilities for the activities of FFS providers in the FFS program.
- (iv) Provision of payments to FFS providers on behalf of the State.
- (v) Provision of enrollee outreach and education activities.
- (vi) Operation of a customer service call center.
- (vii) Review of provider claims, utilization and practice patterns to conduct provider profiling and/or practice improvement.
- (viii) Implementation of quality improvement activities including administering enrollee satisfaction surveys or collecting data necessary for performance measurement of providers.
- (ix) Coordination with behavioral health systems/providers.
- (x) Coordination with long-term services and supports systems/providers.

(2) Only those services identified in paragraph (1) above will be used in calculating an ICN's Per Member, Per Month (PMPM) payment amount; however, nothing in this rule shall preclude an ICN from providing services not identified in paragraph (1), subject to the approval of the Medicaid Agency, at its own expense.

Author: Stephanie Lindsay, Administrator, Administrative Procedures Office.

Statutory Authority: State Plan; Title XIX, Social Security Act; 42 C.F.R. Part 438.

History: New Rule: Filed October 13, 2017; effective November 28, 2017. **Amended:** Filed June 11, 2018; effective July 26, 2018.

Rule No. 560-X-64-.18 Sanctions

(1) Bases for Imposition of Sanctions on ICNs. The Medicaid Agency may impose sanctions on an integrated care network ("ICN") if the Medicaid Agency determines in its sole discretion that the ICN has violated any applicable federal or state law or regulation, the Alabama Medicaid State Plan, the risk contract between the Medicaid Agency and the ICN and the exhibits thereto (the

“risk contract”), any policies, procedures, written interpretations, or other guidance of the Medicaid Agency, or for any other applicable reason described in 42 C.F.R. Part 438, Subpart I or the risk contract, including but not limited to a determination by the Medicaid Agency that an ICN acts or fails to act as follows:

(a) fails substantially to provide medically necessary services that the ICN is required to provide, under law or under its risk contract, to an enrollee covered under the risk contract;

(b) imposes on enrollees premiums or charges that are in excess of the premiums or charges permitted under the Alabama Medicaid program;

(c) acts to discriminate among enrollees on the basis of their health status or need for health care services (including termination of enrollment or refusal to reenroll a recipient, except as permitted under the Alabama Medicaid program, or any practice that would reasonably be expected to discourage enrollment by recipients whose medical condition or history indicates probable need for substantial future medical services);

(d) misrepresents or falsifies information that it furnishes to the Medicaid Agency or to the Centers for Medicare and Medicaid Services (CMS);

(e) misrepresents or falsifies information that it furnishes to an enrollee, potential enrollee, or health care provider;

(f) distributes directly, or indirectly through any agent or independent contractor, marketing materials that have not been approved in writing by the Medicaid Agency or that contain false or materially misleading information;

(g) fails submit a corrective action plan that is acceptable to the Medicaid Agency within the time period specified by the Medicaid Agency’s written notice or does not implement or complete the corrective action within the established time period;

(h) violates, as determined by the Medicaid Agency, any requirement of sections 1903(m), 1932, or 1905(t) of the Social Security Act or any implementing regulations; or

(i) violates, as determined by the Medicaid Agency, any applicable requirement of the Alabama Code or the Alabama Medicaid Administrative Code.

(2) Types of Sanctions that May be Imposed on ICNs. The sanctions imposed by the Medicaid Agency against an ICN are as follows:

(a) requiring the ICN to develop and implement a corrective action plan that is acceptable to the Medicaid Agency;

(b) the intermediate sanctions described in 42 U.S.C. § 1396u-2(e)(2) and 42 C.F.R. Part 438, Subpart I, including but not limited to civil monetary penalties up to the maximum amounts set forth in 42 C.F.R. § 438.704;

(c) Grant Enrollees the right to disenroll without cause (the Agency may notify the affected Enrollees of their right to disenroll);

(d) Suspend all new enrollment, including auto-assignment, after the date HHS or the Agency notifies Contractor of a determination of a violation of any requirement under Sections 1932 or 1905(t) of the Social Security Act;

(e) Suspend payment for Enrollees enrolled after the effective date of the Sanction until CMS or the Agency is satisfied that the reason for the imposition of the Sanction no longer exists and is not likely to recur;

(f) for acts or omissions which are not addressed by 42 C.F.R. Part 438, Subpart I, other provisions of this rule, or the risk contract and exhibits thereto, and which, in the opinion of the Medicaid Agency, constitute willful, gross, or fraudulent misconduct, the assessment of a monetary penalty amount up to \$100,000 per act or omission;

(g) any other sanction available under federal or state law or regulation, including without limitation Rule No. 560-X-37-.01;

(h) termination of the risk contract, in accordance with the terms of the risk contract; and

(i) any other sanction reasonably designed to remedy noncompliance and/or compel future compliance with the contract or federal or state law or regulation, pursuant to the Medicaid Agency’s authority under 42 C.F.R. § 438.702(b), including, but not limited to:

Activity	Sanction
<ul style="list-style-type: none"> Distribution of unapproved material, distribution of materials that contain false or materially misleading information, or materials that otherwise violate Rule No. 560-X-64-.09. 	<ul style="list-style-type: none"> Up to \$25,000 for each determination
<ul style="list-style-type: none"> Untimely, as defined in the ICN’s contract with the Medicaid Agency, payment to a Case Management Organization, through the Alabama Department of Senior Services for Home and Community Based Services Case Management. 	<ul style="list-style-type: none"> Up to \$5,000 for the first quarter that Claims performance percentages by claim type fall below the performance standards Up to \$25,000 per quarter for each additional quarter that the Claims performance percentages by claim type

	fall below the performance standards
<ul style="list-style-type: none"> • Failure to report, as required by the ICN’s contract with the Medicaid Agency, suspected Enrollee abuse, neglect, or exploitation. 	<ul style="list-style-type: none"> • Up to \$25,000 for each determination
<ul style="list-style-type: none"> • Approved Encounters, as defined in the ICN’s contract with the Medicaid Agency, less than 98%. 	<ul style="list-style-type: none"> • 0.25% of the Per Member Per Month Payment for each percentage point below 98%
<ul style="list-style-type: none"> • Misrepresents or falsifies information furnished to the Agency or CMS. 	<ul style="list-style-type: none"> • Up to \$100,000 for each determination

(3) Notice of Sanction. Before the Medicaid Agency imposes a sanction under this rule, it will give the affected organization timely written notice explaining (a) the basis and nature of the sanction, (b) if applicable, the organization’s right to request a fair hearing under Rule No. 560-X-64-.15, and (c) any other due process protections the Medicaid Agency elects to provide.

(4) Waiver of Fair Hearing and Reduction of Sanction. Except as otherwise required by applicable law, in the event of an imposed sanction in the form of a civil monetary penalty according to this rule and/or the risk contract and exhibits thereto, the amount of the sanction imposed will be reduced by thirty five percent (35%) if the ICN waives, in writing, its right to a fair hearing within thirty (30) calendar days from the date of notice imposing the sanction. The reduction under this section only applies to sanctions that could be appealed under Rule No. 560-X-64-.15 and not to any other outstanding sanctions imposed on the ICN by the Medicaid Agency.

(5) Pre-termination Hearing. Before terminating the contract as a sanction under this rule and 42 C.F.R. § 438.708, the Medicaid Agency will provide the ICN with a pre-termination hearing to be conducted in accordance with the procedures for fair hearings set forth in Rule No. 560-X-64-.15. Prior to such pre-termination hearing, the Medicaid Agency will, in accordance with 42 C.F.R. § 438.710:

(a) give the ICN written notice of the Medicaid Agency’s intent to terminate the risk contract, the reason or reasons for termination of the risk contract, and the time and place of the hearing;

(b) after the hearing, give the ICN written notice of the decision affirming or reversing the proposed termination of the risk contract and, for an affirming decision, the effective date of termination; and

(c) For a decision affirming the determination to terminate the risk contract, give enrollees of the ICN notice of the termination and information, consistent with 42 C.F.R. § 438.10, on their options for receiving Medicaid services following the effective date of termination.

(6) Sanctions Not Exclusive. The imposition of a single sanction by the Medicaid Agency does not preclude the imposition of any other sanction or combination of sanctions or any remedy authorized under the risk contract for the same deficiency. The Medicaid Agency may impose sanctions under this rule in addition to or in lieu of exercising any other right, remedy, or authority that the Medicaid Agency may exercise under other rules promulgated by the Medicaid Agency, other applicable state and federal laws and regulations, or any contract between the Medicaid Agency and an ICN. Nothing in this rule shall restrict or prevent the Medicaid Agency or the State of Alabama from obtaining declaratory, injunctive or equitable relief, or from recovering damages from an ICN and/or any other person or entity for breach of contract or any other cause of action.

Author: Stephanie Lindsay, Administrator, Administrative Procedures Office.

Statutory Authority: State Plan; Title XIX, Social Security Act; 42 C.F.R. Part 438; 42 C.F.R. § 438.700 *et seq.*

History: Emergency Rule filed and effective August 21, 2017. **Amended:** Filed October 13, 2017; effective November 28, 2017. **Amended:** Filed August 10, 2018; effective September 24, 2018.

Rule No. 560-X-64-19 Readiness Assessment Requirements

(1) The Integrated Care Network (ICN) shall be subject to a readiness assessment period before it may begin providing services to enrollees.

(2) The ICN must demonstrate readiness, to the Medicaid Agency's satisfaction, as specified in the risk contract.

(3) The Medicaid Agency will provide a readiness assessment tool detailing the requirements necessary to demonstrate an ICN's readiness. The Medicaid Agency will conduct a readiness review which will include desk and onsite reviews of information submitted by the ICN.

(4) All requested documentation, information and/or demonstrations must be submitted or conducted as specified by the Medicaid Agency. The Medicaid Agency may require additional documentation or updates to submissions throughout the readiness assessment period.

(5) The ICN shall produce or provide timely, convenient, and free access at reasonable business hours at the office(s) of the ICN to all books, records, accounts, papers, documents, and electronic and other recordings in its possession or control relating to the matter related to the readiness assessment, including as applicable the property, assets, business and affairs of the ICN.

(6) The ICN shall make private office space available to the Medicaid Agency and/or its designee for the duration of any onsite review without cost to the Medicaid Agency and/or its designee.

(7) Only after an ICN has demonstrated, in the Medicaid Agency's sole discretion, readiness may it begin providing services pursuant to its contract with the State to enrollees.

Author: Stephanie Lindsay, Administrator, Administrative Procedures Office.

Statutory Authority: State Plan; Title XIX, Social Security Act; 42 C.F.R. Part 438

History: New Rule: Filed October 13, 2017; effective November 28, 2017. **Amended:** Filed July 12, 2018; effective August 27, 2018.