

Rule No. 560-X-35-.17 Fair Hearings

(1) An individual receiving a Notice of Action (denial, termination, suspension, reduction in services) from the operating agency (OA), may request an appeal if he/she disagrees with the decision. The Notice of Action explains the reason for the denial, termination, suspension, or reduction in waiver services and the appeal rights made available to them.

(2) If an individual/guardian chooses to appeal an adverse decision, they may choose to appeal to the Department of Mental Health (DMH) Associate Commissioner of the Developmental Disabilities Division no later than 15 calendar days after the effective date printed on the Notice of Action.

(3) Services will continue until the final outcome of the hearing for those individuals who are already receiving services when they submit an appeal within 10 days after the effective date of action unless:

(a) It is determined at the hearing that the sole issue is one of Federal or State law or policy; and

(b) The agency promptly informs the beneficiary in writing that services are to be terminated or reduced pending the hearing decision.

(4) Upon receipt of an appeal request by the DMH Associate Commissioner of the Developmental Disabilities Division, contact is made with the Regional Community Services Offices to request the information packet that they reviewed to base the denial decision. The DMH Associate Commissioner of the Developmental Disabilities Division will contact the individual/ guardian and inform them that the division is in the process of reviewing their information. A written decision from the DMH Associate Commissioner will be mailed (certified) to the individual/guardian within 21 days after the review of all information is completed. If the individual/guardian disagrees with the DMH Associate Commissioner's decision, he/she can submit a request for a Fair Hearing to the Alabama Medicaid Agency (Medicaid). A written hearing request must be received by Medicaid no later than ~~60~~15 calendar days from the date of the DMH Associate Commissioner's response letter.

Author: Mattie Jackson, Director, LTC Healthcare Reform Development Division.

Statutory Authority: Social Security Act §1915(c); 42 C.F.R. Section 431, Subpart E–Fair Hearings for Applicants and Recipients.

History: New Rule: Filed September 20, 2002; effective December 26, 2002. Filed December 6, 2021; **Amended:** Filed June 11, 2014; effective July 16, 2014. **Amended:** Filed January 10, 2020; Effective March 16, 2020. **Amended:** Filed March 21, 2022; Effective May 15, 2022. **Amended:** Filed January 20, 2023;