

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. An individual who is denied Home and Community Based Services based on Rule No. 560-X-35-.03, may request a fair hearing in accordance with 42. C.F.R. 431, Subpart E and Chapter 3 of the Alabama Medicaid Administrative Code.

(2) If an individual/guardian chooses to appeal an adverse decision, they may choose to appeal first to the Department of Mental Health, and if not satisfied with the decision rendered in that appeal, may then further appeal to the Alabama Medicaid Agency (AMA). Or, they may appeal first directly to the Alabama Medicaid Agency. The two processes are as follows:

(a) Appeal first to the Department of Mental Health (DMH) Associate Commissioner for the Division of Developmental Disabilities: a written request for an appeal must be received by the Associate Commissioner no later than 15 calendar days after the effective date printed on the Notice of Action. Upon receipt of an appeal request by the Associate Commissioner, contact is made with the Regional Community Services Offices to request the information packet that they reviewed to base the denial decision. A written decision from the 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 Associate Commissioner's decision, he/she can request a Fair Hearing from the AMA. A written hearing request must be received by the AMA no later than 15 calendar days from the date of the Associate Commissioner's response letter.

(b) Appeal first to the Alabama Medicaid Agency: a written request for an appeal must be submitted within 60 calendar days of the effective date printed on the Notice of Action. The AMA staff will assist the individual/guardian in scheduling a hearing. Recipients will be notified in writing at least ten days prior to termination of service.

(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 A written request for a hearing must be filed within sixty days following notice of action with which an individual is dissatisfied.

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

Author: Samantha McLeod, Associate Director, Long Term Care Specialized Waiver Programs.

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.

Amended: Filed June 11, 2014; effective July 16, 2014. **Amended:** Filed November 18, 2019;