APA-2

ALABAMA MEDICAID AGENCY

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 560-X-62-.17 Financial Reporting and Audit Requirements

INTENDED ACTION: Add New Rule 560-X-62-.17

SUBSTANCE OF PROPOSED ACTION: The above referenced rule is being created to set forth the financial reporting and auditing requirements for each regional care organization.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written or oral comments may be submitted to the Alabama Medicaid Agency, 501 Dexter Avenue, Post Office Box 5624, Montgomery, Alabama 36103-5624. Agency business hours are 8:00 a.m. to 5:00 p.m. Monday through Friday.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:. Written/Oral comments concerning this change must be received by the Alabama Medicaid Agency no later than March 9, 2015.

CONTACT PERSON AT AGENCY: Stephanie Lindsay, Administrative Secretary, Alabama Medicaid Agency, 501 Dexter Avenue, Post Office Box 5624, Montgomery, Alabama 36103-5624. Phone: (334) 242-5833.

Stephanie McGee Azar
Acting Commissioner

Rule No. 560-X-62-.17 Financial Reporting and Audit Requirements – NEW RULE

(1) Each regional care organization ("RCO") shall provide to the Medicaid Agency a periodic financial report setting forth information concerning the RCO's restricted reserves, 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, each RCO 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 RCOs use specific reporting forms in order to supply required information.

(2) Each RCO 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 RCO which could result in a determination of hazardous financial condition or insolvency pursuant to Alabama Administrative Code Rule 560-X-62-.18, including but not limited to any deficiency in the required restricted reserves or capital and surplus of the RCO, the RCO 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 RCO.

(4) Each RCO shall at its expense have its independent certified public accountant deliver directly to the Medicaid Agency the certified audited annual financial statements of the RCO, prepared in accordance with generally accepted accounting principles (GAAP), no later than 120 days after the RCO's fiscal year end, for the immediately preceding fiscal year. The Medicaid Agency may require that supplemental financial information be included in the RCO's audited financial statements related to restricted reserves, capital and surplus, and other related information. A statement shall be included with the audit report delivered by the RCO's accountant acknowledging that the Medicaid Agency is an intended beneficiary of the audit report.

(5) In addition to the annual audits conducted by the RCO's independent certified public accountant, the Medicaid Agency shall conduct or contract for audits of each RCO, in accordance with Section 22-6-153(h)(5) of the Alabama Code, as often as the Medicaid Agency deems necessary or appropriate, but at least every three years.

(a) The audits shall be conducted for the purposes of determining the financial condition of the RCO, its means and ability to fulfill its obligations, the nature of its operations, and/or its compliance with applicable provisions of the risk contract, rules of the Medicaid Agency, and other applicable state and federal laws and regulations.

(b) When the Medicaid Agency determines that an audit should be conducted, the Medicaid Agency shall appoint one or more auditors to perform the audit and instruct them as to

the scope of the audit. The Medicaid Agency may adopt or prescribe such audit guidelines and procedures as the Medicaid Agency from time-to-time determines to be appropriate.

(c) The Medicaid Agency may retain appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as needed to conduct an audit. The reasonable cost of retaining such professionals and specialists, and all other reasonable costs of the audit as determined by the Medicaid Agency including transportation and travel expenses, shall be borne by the RCO that is the subject of the audit.

(d) The RCO shall produce or provide timely, convenient, and free access at all reasonable business hours at the offices of the RCO to all books, records, accounts, papers, documents and electronic and other recordings (hereafter collectively referred to in this rule as "books and records") in its possession or control relating to the matter under audit, including as applicable the property, assets, business and affairs of the RCO. The officers, directors, and agents of the RCO shall facilitate the audit.

(e) An audit report shall be issued with respect to each audit of an RCO, as follows:

(i) Not later than 60 calendar days after completion of an audit, the auditor in charge of the audit shall submit to the Medicaid Agency a written report of the audit, verified by the oath of the auditor. The audit report shall comprise only information appearing upon the books and records of the RCO, its agents, affiliates, or other persons being examined or information from testimony of individuals concerning the affairs of the RCO, together with such conclusions and recommendations as reasonably may be warranted from such information.

(ii) The Medicaid Agency shall make a copy of the audit report submitted under this section available to the RCO that is the subject of the audit and shall give the RCO an opportunity to review and respond to the audit report. The Medicaid Agency may request additional information or meet with the RCO for the purpose of resolving questions or obtaining additional information, and may direct the auditor to consider the additional information for inclusion in the audit report. The Medicaid Agency may issue the report as a final audit report after the RCO has had an opportunity to review and respond to the report.

(iii) If the final audit report reveals that the RCO has violated or is operating in violation of any provision of the risk contract, rule of the Medicaid Agency, or any other applicable state or federal law or regulation, the Medicaid Agency may order the RCO to take any action the Medicaid Agency considers necessary and appropriate to cure such violation and to take such additional actions and measures as may be permitted under the rules of the Medicaid Agency or any other applicable law or regulation.

(iv) A report filed as a final audit report is subject to public inspection.

(f) Nothing in this rule shall be interpreted to require the Medicaid Agency to conduct an audit, issue an audit report, or wait any period of time before taking any action or

exercising any authority, right, or remedy available to the Medicaid Agency under the rules of the Medicaid Agency, the risk contract, or applicable law.

(6) In addition to any other powers of the Medicaid Agency relating to the audits of RCOs, the Medicaid Agency may at any time require any RCO to produce such books and records in the possession of the RCO or its affiliates or risk-bearing participants as are reasonably necessary to ascertain the financial condition of the RCO or to determine compliance with the rules of the Medicaid Agency and the contract between the RCO and the Medicaid Agency. If the RCO 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 RCO 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 RCO and the Medicaid Agency. The Medicaid Agency shall report the failure to comply to all of the RCO's participating providers. The RCO shall pay the costs incurred by the Medicaid Agency.

(7) In accordance with 42 C.F.R. § 438.66, the Medicaid Agency has the authority to monitor the RCO'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.

(8) All books, documents, payroll papers, accounting records, and other evidence pertaining to costs incurred under each contract between an RCO and the Medicaid Agency will be maintained and made available by the RCO at reasonable times during business hours during the period of the agreement and for five years thereafter for inspection by any authorized representatives of the state or federal government, or for such longer period as may be required by contract or applicable state or federal law.

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

Author: Sharon Weaver, Administrator, Administrative Procedures Office.
Statutory Authority: Code of Alabama, 1975 Section 22-6-150 *et seq.* 42 C.F.R. Part 438.
History: New Rule: Filed January 22, 2015.