Rule No. 560-X-36-.01 Authority and Purpose

(1) Home- and community-based services to the elderly and disabled are provided by the Alabama Medicaid Agency to categorically needy individuals who would otherwise require institutionalization in a nursing facility. These services are provided through a Medicaid waiver under the provisions of Section 1915(c) of the Social Security Act for an initial period of five years and for five-year periods thereafter upon renewal of waiver by the Centers for Medicare and Medicaid Services (CMS). Upon approval by CMS, this waiver request will serve as the State's authority to provide home and community services to the target group under its Medicaid plan.

(2) The purpose of providing home- and community-based services to individuals at risk of institutional care is to protect the health, safety, and dignity of those individuals while reducing Medicaid expenditures for institutional care. Waiver services are not entitlements but are based on individual client needs. The State assures that each individual found eligible for the waiver will be given free choice of all qualified providers enrolled for each service included in his or her written plan of care.

(3) Waiver services provided to eligible Medicaid recipients must be identified on the individual's Plan of Care and the Service Authorization Form. Waiver services provided but not listed on the Plan of Care and the Services Authorization Form are not reimbursable. Payments rendered for services not ~~present~~ documented on the Plan of Care and the Service Authorization Form will be recovered.

(4) It is not the intent of the E/D Waiver Services program to provide 24-hour in-home care. Should 24-hour in-home care become necessary in order to protect the health and safety of the waiver client, the appropriateness of waiver services should be assessed and other alternatives considered.

(5) Home and Community-Based Waiver Services are provided in compliance with the provisions of the HCBS Settings Final Rule (CMS 2249-F/2296-F). These provisions require the following:

(a) Services may only be provided in settings that:

1. Are integrated in and support full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS;

2. Are selected by the individual from among setting options;

3. Ensure individual rights of privacy, dignity and respect, and freedom from coercion and restraint;

4. Optimize autonomy and independence in making life choices including, but not limited to, daily activities, physical environment, and with whom to interact; and,

5. Facilitate choice regarding services and who provides them.

(b) Services may not be provided in:

1. Excluded settings that include nursing facilities, institutions for mental disease, intermediate care facilities for individuals with intellectual disabilities, and hospitals; and,

2. Presumed institutional settings that include those in a publicly or privately-owned facility that provides inpatient treatment; on the grounds of, or immediately adjacent to, a public institution; or that have the effect of isolating individuals receiving Medicaid-funded HCBS from the broader community of individuals not receiving Medicaid-funded HCBS.

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Statutory Authority: Section 1915(c) Social Security Act; 42 C.F.R. Section 441, Subpart G; and The Home and Community-Based Waiver for the Elderly and Disabled.
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