ALABAMA MEDICAID AGENCY
ADMINISTRATIVE CODE

CHAPTER 560-X-43
HOME AND COMMUNITY-BASED SERVICES COMMUNITY WAIVER PROGRAM (CWP) FOR PERSONS WITH INTELLECTUAL DISABILITIES

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560-X-43-.01 Authority And Purpose.

(1) Home and Community-Based Services (HCBS) for persons with intellectual disabilities are provided by the Alabama Medicaid Agency to persons who are Medicaid-eligible under the Home and Community-Based Services Community Waiver Program (CWP) for Persons with Intellectual Disabilities requirements and who would, but for the provision of such HCBS, require the level of care available in an intermediate care facility for individuals with intellectual disabilities (ICF/IID). These HCBS are provided through a Medicaid waiver under provisions of the Omnibus Budget Reconciliation Act of 1981, which added Section 1915(c) to the Social Security Act for an initial period of three years and renewal periods of five years.

(2) The HCBS covered in the CWP Waiver are Breaks and Opportunities (Respite) Services, Community-Based Residential Services, Integrated Employment Path Services, Personal Assistance-Home Services, Support Coordination Services, Adult Family Home Services, Assistive Technology and Adaptive Aids Services, Co-Worker Supports Services, Community Integration

Connections and Skills Training Services, Community Transportation Services, Family Empowerment and Systems Navigation Counseling Services, Financial Literacy Services, Housing Counseling Services, Housing Start-Up Assistance Services, Independent Living Skills Training Services, Individual Directed Goods and Services, Minor Home Modifications Services, Natural Support or Caregiver Education and Training Services, Occupational Therapy Services, Peer Specialist Services, Personal Assistance-Community Services, Physical Therapy Services, Positive Behavioral Supports Services, Remote Supports Services, Skilled Nursing Services, Speech and Language Therapy Services, Supported Employment Individual Services, Supported Employment Small Group Services, Supported Living Services. These HCBS, provided through a Medicaid 1115 waiver, provide assistance necessary to ensure optimal functioning of individuals with intellectual disabilities.

(3) The CWP Waiver is administered with a cooperative effort between the Alabama Medicaid Agency and the Alabama Department of Mental Health. The HCBS under the CWP Waiver are limited to individuals with a diagnosis of an intellectual disability, age 3 and above.

(4) Home and Community-Based Services for the CWP Waiver 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 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 automony and independence in making life choices including, but not limited to, dailctivities, physicial environment, and with whom to interact;

5. Facilitate choice regarding services and who provides them.

(b) A compliant provider-owned or controlled residential setting will also be physically accessible to the individual, and, in addition to the above requirements, meet all of the following requirements:

1. The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities, and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.

2. Each individual has privacy in their sleeping or living unit: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. Individuals sharing units have a choice of roommates in that setting. Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. Individuals are able to have visitors of their choosing at any time.

3. Modifications to any of the additional requirements for provider owned or controlled residential setting listed above must be:

(i) Supported by specific assessed need

(ii) Justified in the person-centered service plan

(iii) Documented in the person-centered service plan, which must include:

(I) Specific individualized assessed need

(II) Prior interventions and supports including less intrusive methods

(III) Description of condition proportionate to assessed need

(IV) Ongoing data measure effectiveness of modification

(V) Established time limits for periodic review of modifications

(VI) Individual informed consent

(VII) Assurance that interventions and supports will not cause harm

(c) 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.

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 Persons with Intellectual Disabilities.
History: Rule effective August 10, 1988. **Amended:** Filed May 6, 1994; effective June 14, 1994. **Repealed:** Filed July 12, 2018; effective August 26, 2018. **New Rule:** Published March 31, 2022; effective May 15, 2022. **Amended:** Published March 31, 2023; effective May 15, 2023.

560-X-43-.02 Description Of Services.

Home and Community-Based Services (HCBS) under the Home and Community-Based Community Waiver Program (CWP) for Persons with intellectual disabilities are defined as Title XIX Medicaid-funded services provided to individuals with intellectual disabilities who, without these services, would require services in an intermediate care facility for individuals with intellectual disabilities (ICF/IID). These HCBS under the CWP Waiver will provide health, social, and related support needed to ensure optimal functioning of individuals with intellectual disabilities within a community setting. The Administering Agency may provide or subcontract for any HCBS under the CWP Waiver. To qualify for Medicaid reimbursement, each individual HCBS must be necessary to prevent institutionalization of the waiver recipient. Each provider of HCBS must have a signed provider contract, meet provider qualifications and comply with all applicable State and Federal laws and regulations. Services that are reimbursable through Medicaid's EPSDT Program shall not be reimbursed as HCBS under the CWP Waiver. The following are specific HCBS available under the CWP Waiver:

(1) Breaks and Opportunities (Respite) Services

(a) A service provided to a waiver participant that lives with family or other natural supports who are providing support, care and supervision to the waiver participant. This service is provided for time-1imited periods when the family or other natural supports are temporarily unable to continue to provide support, care and supervision to the waiver participant. This service can be provided in the waiver participant's home or the pre-approved private home of the Breaks and Opportunities service provider. The Breaks and Opportunities service is provided with two equally important goals which include:

(1) sustaining the family/natural support living arrangement and support-giving arrangement; and

(2) providing the waiver participant with opportunities to continue his/her regular activities and relationships and/or to explore new opportunities and meet new people with the Breaks and Opportunities service provider.

(b) This service is provided during specific periods of time in a day, week or month when the unpaid family/ natural support-givers typically provide support, care and supervision to the waiver participant. This service is provided in a way that ensures the individual's typical routine and activities are not disrupted and the individual's goals and needs, as set forth in the Person-Centered Plan (PCP), are attended to without disruption.

(2) Community-Based Residential Services

(a) Community-Based Residential Services enable an individual to avoid institutionalization and live in a community setting that provides services to support the person's maximum independence, autonomy and full integration in their community, ensure each person's rights and abilities to make choices and support each person in a manner that complies fully with HCBS Settings Rule standards, including standards for provider-owned or controlled homes. Community-Based Residential Services are provided for up to four individuals in a dwelling which may be rented, leased, or owned by the provider. The person has the right to a legally enforceable lease or rental agreement with the provider that offers the same appeal rights and eviction protections as is required under state landlord-tenant law.

(b) This service offers individualized services and supports that enable the person supported to acquire, retain, and improve skills necessary to reside in the least restrictive residential setting possible. The setting in which the service is provided must be an ADMH-

certified, community-based residential setting which supports each person's independence and full integration into the community and ensures each person's basic needs (e.g., food, clothing, etc.), choice, rights, safety and security. Community-Based Residential Services provide care, supervision, and skills training in activities of daily living, home management and community integration.

(c) A fraction of this service may be delivered remotely via remote supports/monitoring if:

1. appropriate for the participant as determined by the PCP team;

2. all requirements for this service as outlined in this service definition are met; and

3. all requirements in Appendix C-1-d are met. In these situations, the provider of this service is expected to contract with a remote support/remote monitoring provider that is paid for its technology and services by the service provider. On a case-by-case basis, ADMH staff will evaluate the provider's use of remote support/remote monitoring with a participant(s) to determine the impact on the provider's cost to deliver the service and determine if a rate adjustment is needed.

(3) Integrated Employment Path Services

(a) The provision of time-limited learning and work experiences, including volunteering opportunities, where a person can develop general, non-job-task-specific strengths and skills that contribute to employability in individualized integrated employment or self-employment. Services are expected to specifically involve strategies that facilitate a participant's successful transition to individualized integrated employment or self-employment. Persons receiving Integrated Employment Path Services must have a desire to obtain some type of individualized integrated employment or self-employment and this goal must be documented in the PCP as the goal that Integrated Employment Path Services are specifically authorized to address.

(b) Services should be customized to provide opportunities for increased knowledge, skills and experiences specifically relevant to the person's specific individualized integrated employment and/or self-employment goals and career goals. If such specific goals are not known, this service can also be used to assist a person to identifying his/her specific individualized integrated employment and/or self-employment goals and career goals.

(c) This service is limited to no more than one year. One extension of up to one year can be allowed only if the person is actively pursuing individualized integrated employment or self-employment in an integrated setting and has documentation that a service(s) (i.e. ADRS Individualized Plan for Employment in place or Job Development or Self-Employment Start-Up funded by the Waiver) is concurrently authorized for this purpose. The one-year extension may be repeated only if a person loses individualized integrated employment or self-employment and is seeking replacement opportunities.

(4) Personal Assistance - Home Services

(a) A range of services and supports designed to complement but not supplant natural supports and assist an individual with a disability to perform, in his/her home, activities of daily living, including instrumental activities of daily living that the individual would typically do for themselves if they did not have a disability. Personal Assistance-Home services are provided in the person's home and outside the home on the property where the home is located. Participant goals and support needs, as documented in the Person-Centered Plan, shall be addressed by the Personal Assistance-Home provider in a manner that supports and enables the individual to acquire, retain and maximize skills and abilities to achieve the highest level of independence possible.

(b) Services, if needed, to support goals and needs related to instrumental activities of daily living that occur outside the home (e.g., shopping; banking), competitive integrated employment and community participation, involvement and contribution must also be addressed in the Person-Centered Plan using Personal Assistance-Community, other appropriate services, or available natural supports. Natural supports must be documented in the Person-Centered Plan and confirmed by the Support Coordinator.

(c) If self-directing this service, a relative, including a legal liable relative (i.e., the parent (biological or adoptive), guardian, spouse, or legally responsible relative) may serve as a personal assistance- home self-directed worker as long as

1. the relative/legal guardian is otherwise qualified to provide these services and

2. the relative/legal guardian does not also serve as the same participant’s representative/Employer of Record (EOR).

(5) Support Coordination Services. A case management and comprehensive supports/services coordination role involving direct assistance with gaining access to waiver program services that are desired by and selected by the individual, from among available services that are effective options for meeting one or more assessed needs. Support Coordination also involves the effective coordination of waiver program services with other Medicaid-funded services, other publicly funded services and programs (e.g., ADRS, school, workforce and generic community services), and other generic community services and resources (e.g., social, educational, religious, etc.) available to the individual, and family as applicable, regardless of the funding source.

(6) Adult Family Home Services.

(a) A community-based alternative to residential habilitation service that enables up to three persons receiving this service to live in the home of trained host family caregivers (other than the person's own family) in an adult foster care arrangement. In this type of shared living arrangement, the person(s) moves into the host family's home, enabling the person(s) to become part of the family, sharing in the experiences of a family, while the trained family members provide the individualized services that: support each person's independence and full integration in their community, ensure each person's choice and rights and support each person in a manner that complies fully with HCBS Settings Rule standards, including standards for provider-owned or controlled homes.

(b) A fraction of this service may be delivered remotely via remote supports/monitoring if:

1. appropriate for the participant as determined by the PCP team;

2. all requirements for this service as outlined in this service definition are met; and

3. all requirements in Appendix C-1-d are met. In these situations, the provider of this service is expected to contract with a remote support/remote monitoring provider that is paid for its technology and services by the service provider. On a case-by-case basis, ADMH staff will evaluate the provider's use of remote support/remote monitoring with a participant(s) to determine the impact on the provider's cost to deliver the service and determine if a rate adjustment is needed.

(7) Assistive Technology and Adaptive Aids Services

(a) An item, piece of equipment or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities and to support the individual's increased independence in their home, in community participation, and in competitive integrated employment.

(b) The service covers purchases, leasing, shipping costs, and as necessary, repair of equipment required by the person to increase, maintain or improve his/her functional capacity to perform activities of daily living or instrumental activities of daily living independently or more cost effectively than would be possible otherwise.

(c) This service must include strategies for training the individual, natural/unpaid and paid supporters of the individual in the setting(s) where the technology and/or aids will be used, as identified in the PCP.

(8) Co-Workers Supports Services

(a) This service involves the provider of this service (who receives a monthly service fee for their ongoing oversight and involvement) entering into an agreement with the employer to reimburse the employer who will in turn reimburse one or more co-workers and/or supervisors, agreeable to the person supported, for supports in lieu of a Job Coach.

(b) This service can be considered at any time the individual wishes to have Co-Worker Supports rather than Job Coaching, given that Co-Worker Supports are less intrusive and expected to be less costly to implement than Job Coaching. This service can be used when an employer wants to hire an individual; but has reasons for not wanting an external job coach in the workplace. This service must be considered as an option with the individual and his/her employer if fading of Job Coaching has ceased to continue for at least six (6) months. The use of this service should also be authorized on a time limited basis (i.e., no more than 180 days) and reviewed to determine need for renewal/continuation. This service cannot include payment for the supervisory and co-worker activities rendered as a normal part of the business setting and that would otherwise be provided to an employee without a disability. The co-worker(s) and/or supervisor(s) identified to provide the support to the person must meet the minimum qualifications (e.g., training, background checks, etc.) for a legally responsible individual as provider of this service. The provider is responsible for oversight and monitoring of paid Co-Worker Supports.

(c) The actual amount of Co-Worker Supports authorized is based on individual need as determined through an on-the-job support assessment the format for which is prescribed by DMH/DDD and as outlined in a Co-Worker Supports Agreement using a template prescribed by DMH/DDD and jointly signed by the person, the provider and the employer.

(9) Community Integrations Connections and Skills Training Services

(a) Time-limited services which identify and arrange integrated opportunities for the person to achieve his/her unique goals for community participation, involvement, membership, contribution and connections, including targeted education and training for specific skill development to enable the waiver participant to develop ability to independently (or with natural supports only) engage in these integrated opportunities as specified in the person's PCP.

(b) This service focuses specifically on successful participation in community opportunities that offer the opportunity for meaningful, ongoing interactions with members of the broader community. This service also focuses on ensuring the ongoing interactions with members of the broader community are meaningful and positive, leading to the development of a broader network of natural supports for the individual. The community connections component of this service is focused on assisting the person to find and become engaged in specific opportunities for community participation, involvement, membership, contribution and connections.

(c) This service shall be provided in a variety of integrated community settings that offer opportunities for the person to achieve their personally identified goals for community participation, involvement, membership, contribution and connections, including developing and sustaining a network of positive natural supports.

(d) The skills training component of this service is instructional and training-oriented, and not intended to provide substitute task performance by staff. Skill training is focused on the development of skills identified in the Person-Centered Plan that will enable the person to continue participation in integrated community opportunities without waiver-funded supports.

(10) Community Transportation Services

(a) Transportation services offered in order to enable an individual to access the broader community, including competitive integrated workplaces, opportunities for integrated community participation, involvement and contribution, and community services, resources and businesses, for purposes specified in the Person-Centered Plan.

(b) These services allow people to engage in typical day-to-day (non-medical) integrated community opportunities and activities such as going to and from paid, competitive, integrated employment, stores, bank, social opportunities with other members of the broader community, social events, clubs and associations, other community activities, and attending a worship service when public or other community-based transportation services or transportation provided by natural supports are not available. As part of the service, a natural or paid support-giver may accompany the person using Community Transportation, if the need for such support is necessary and documented in the Person-Centered Plan.

(c) If self-directing this service, a relative, including a legal liable relative (i.e., the parent (biological or adoptive), guardian, spouse, or legally responsible relative) may serve as a community transportation self-directed worker as long as

1. the relative/legal guardian is otherwise qualified to provide these services and

2. the relative/legal guardian does not also serve as the same participant’s representative/Employer of Record (EOR).

(11) Family Empowerment and Systems Navigation Counseling Services

(a) Family Empowerment and Systems Navigation Counseling matches the involved family members (e.g., support/care givers; legal guardians) of an individual with intellectual disabilities with a local professional or similar reputable adult with broad knowledge of the variety of programs and local community resources that are available to an individual with intellectual disabilities and his/her family. The Family Empowerment Counseling and Systems Navigation Service is intended to be a time-limited service that involves assessment of the individual’s situation (including needs, goals), assessment of the family’s specific goals and needs for information, assistance, and referral to address the individual and family’s situation.

(b) The service further includes, researching as needed, and sharing of the identified information, connecting the family with assistance, and making referrals as appropriate. The goal of the service is to empower the family with the information, connections and referrals they need, and to work with the family to increase their skills in problem-solving and leveraging available programs and community resources, including Support Coordination. This service is also intended, through temporary peer supervision, to facilitate an opportunity for interested family members, who have received this service, to become providers of this service themselves to grow the network of providers of this service over time.

(12) Financial Literacy and Work Incentives Benefits Counseling Services

(a) For a waiver participant living at home with the family who is providing a home and/or natural care or support for the waiver participant, the Financial Literacy component of this service is designed to:

1. Support continuity of stable housing, community tenure, and natural supports for the waiver participant by supporting the person in sustaining and improving his/her economic self-sufficiency.

2. Enable improvement of waiver participant's economic self-sufficiency necessary to sustain his/her living situation including availability of natural supports for that living situation.

3. Assist with evaluating a waiver participant's financial health and current level of financial literacy and making a plan with specific strategies to improve financial health and increase the waiver participant's level of financial literacy.

4. Teach financial literacy skills.

5. Assist with access to community resources available to address improvement of economic self-sufficiency and financial health, including ability to sustain current living arrangement.

(b) For a waiver participant living at home with the family who is providing a home and/or natural care or support for the waiver participant, the Work Incentive Benefits Counseling is designed to:

1. Provide general introductory education that identifies and explains the multiple pathways to

ensuring individualized integrated competitive employment results in increased economic self-sufficiency (net financial benefit) through the use of various work incentives. This general introductory education should also repudiate myths and alleviate fears and concerns related to seeking and working in individualized integrated competitive employment.

2. Provide a thorough Work Incentive Benefits Analysis addressing the benefits, entitlements, subsidies and services the individual receives to assess the impact that income from employment may have on continued eligibility and benefit amounts, including health coverage. Individuals are informed of work incentives, provisions that are designed to help protect benefits while working (i.e. Impairment Related Work Expense, Earned Income Exclusion, Plan for Achieving Self Support (PASS), Continued Medicaid and Extended Medicare, as well as other benefit programs for which the individual may be eligible. The information is intended to assist the person in making informed decisions about how much they can work and earn through individualized integrated competitive employment.

3. Introductory general education as part of Work Incentive Benefits Counseling shall be limited to individuals ages 16-60 who are not currently employed in individualized, integrated competitive employment and shall be limited to a total of four (4) hours of face-to-face service. This component of service can be reauthorized once per waiver year.

4. Work Incentive Benefits Analysis, as part of Work Incentive Benefits Counseling, shall be limited to individuals ages 16-60 who are not currently employed in individualized, integrated competitive employment and shall be limited to a total of twenty-three (23) hours of service covering all necessary steps for production of a Work Incentive Benefits Analysis report.

5. The service must be provided in a manner that supports the person’s communication style and needs, including, but not limited to, age-appropriate communications, translation and/or interpretation services for persons of limited English-proficiency or who have other communication needs requiring translation including sign language interpretation, and ability to communicate with a person who uses an assistive communication device.

6. This service may not be provided if the person receives any form of work benefits counseling from any other source or waiver service (i.e., Supported Employment).

(13) Housing Counseling Services. Services that provide assistance to a person when acquiring housing in the community, where ownership or rental of housing is separate from service provision. The purpose of Housing Counseling Services is to promote consumer choice and control of housing and access to housing that is affordable, accessible to the extent needed by the individual, and promotes community inclusion. Housing Counseling Services include counseling and assistance to the individual, based on individual needs and a plan reflecting the needs.

(14) Housing Start-Up Assistance Services

(a) A service intended to provide essential services and items needed to establish an integrated community living arrangement for persons relocating from an institution or a provider owned or controlled residential setting to one where the individual is directly responsible for his/her own living expenses. Housing Start-Up Assistance is intended to enable the person to establish an independent or supported living arrangement.

(b) Housing Start-Up Assistance may also include person-specific services and supports that may be arranged, scheduled, contracted or purchased, which support the person’s successful transition to a safe, accessible independent or supported living situation.

(c) No institutional length of stay requirement exists to access this service.

(15) Independent Living Skills Training Services

(a) Time-limited, focused service that provides targeted education and training for specific skill development to enable the waiver participant to develop ability to independently perform routine daily activities at home as specified in the person's Person-Centered Plan. Services are not intended to provide substitute task performance by staff. Services are instructional and training-oriented, focused on development of skills identified in the Person-Centered Plan.

(b) Independent Living Skills Training is intended as a short-term service designed to allow a person to acquire specific skills for independence in defined tasks and activities for community living. Goals for skill development and independence at home must be age-

appropriate for the waiver participant while recognizing that learning skills for maximizing individual initiative, autonomy and independence at home should start at a very young age.

(16) Individual Directed Goods and Services

(a) Individual Directed Goods and Services are services which are available to only those participants self-directing services who are able to save funds through negotiation of worker's employment wages. Individual goods and services include services, equipment or supplies, for the waiver participant’s use and benefit, that are specified in the person’s PCP and that are not otherwise provided to the individual through this waiver or through the Medicaid State Plan.

(b) Purchases through Individual Directed Goods and Services must address an identified goal/outcome and related need in the Person-Centered Plan (including improving or maintaining the participant's opportunities for full membership in the community and/or competitive integrated employment).

(17) Minor Home Modifications Services

(a) Modifications to the home, required by the individual PCP, which are necessary to ensure the health, welfare and safety of the individual, or which enable the individual to function with greater independence in the home. Modifications include:

1. Provision and installation of certain home mobility aids, including:

(i) A wheelchair ramp and modifications directly related to and specifically required for the construction or installation of the ramp

(ii) Handrails for interior or exterior stairs or steps

(iii) Grab bars and other devices

2. Minor physical adaptations to the interior of the individual’s place of residence which are necessary to ensure the health, welfare and safety of the individual, or which increase the member’s mobility and accessibility within the residence, including:

(i) Widening of doorways

(ii) Modification of bathroom facilities

(iii) Installation of electric and plumbing systems necessary to accommodate any medical equipment/supplies needed for the welfare of the individual

(b) All services shall be provided in accordance with applicable state or local building codes.

(18) Natural Support or Caregiver Education and Training Services. This service provides a natural, unpaid support or natural, unpaid caregiver of a waiver participant with education, training and technical assistance, as needed, to enable the natural support or natural caregiver to effectively provide supports to the waiver participant as documented in the person-centered plan.

(19) Occupational Therapy Services

(a) Occupational therapy is the application of occupation-oriented or goal-oriented activity to achieve optimum functioning, to prevent dysfunction, and to promote health. The term occupation as used in occupational therapy refers to any activity engaged in for evaluation, specifying, and treating problems interfering with functional performance. Services must begin with the OT evaluation that, if necessary, results in the development of a treatment plan.

(b) The evaluation of an individual is to determine level of functioning, need for therapy, and all information necessary for the development of the treatment plan. The treatment plan should outline the frequency of service (maximum one session per week in combination with home or community-based program implementation by natural/paid direct support providers), goals of therapy, and outcomes or milestones to be reached by the participant.

(c) Occupational therapy involves the application of diagnostic and prognostic tasks and treating individuals in the prescribed therapy, including treatment training programs, to secure and/or obtain necessary functioning.

(d) Occupational Therapy requires a physician's prescription and documentation in the form of an initial evaluation and development of a treatment plan with established goals that must be present in the case record and must justify the need for service.

(e) Services must be listed on the PCP and be provided and billed in 15-minute units of service.

(f) Occupational therapy is limited to no more than 50 hours or 200 units annually and no more than one session

a week. If it appears that more frequent occupational therapy is needed, and the benefit from which cannot be accomplished through natural/paid direct support providers, trained by the OT, implementing a home or community-based OT program in-between OT sessions, the OT must re-evaluate and submit another treatment plan as described above to the Support Coordinator who will complete a request for action to the Regional Office and Central Office to approve.

(g) Occupational therapy under the waiver is not available to children under the age of 21 because this service is covered under the State Plan EPSDT services.

(h) Service delivery in less than 1:1 ratio is not permitted.

(i) Providers of service must maintain a service log that documents specific days on which occupational therapy services were delivered, including detailed documentation of what the service entailed. Occupational therapist must sign each treatment note and must describe progress made on goals established in the treatment plan.

(20) Peer Specialist Services. A service that assists a person to develop and utilize skills and knowledge for self-determination in one or more of the following areas:

(a) Directing the PCP process;

(b) Understanding and considering self-direction;

(c) Understanding and considering individualized integrated employment/self-employment;

(d) Understanding and considering independent and supported living community living options. The service is provided on a time-limited basis, determined by the person’s individual need, by a peer with intellectual or developmental disabilities who has experience matched to the focus areas, needs and goals of the person receiving this service: has successfully directed their own Person-Centered Planning process; has self-directed their own services; has successfully obtained individualized integrated employment at a competitive wage; and/or utilizes independent/supported living options.

(21) Personal Assistance- Community Services

(a) A range of services and supports designed to assist an individual with a disability to perform, participate fully in his/her community and supports for activities of daily living and instrumental activities of daily living

that the individual would typically do for themselves if they did not have a disability and that occur outside the home.

(b) Personal Assistance-Community services may be provided outside the person's home, at an integrated workplace where the person is paid a competitive wage, or other places in the broader community to support community participation, involvement and contribution by the person.

(c) Personal Assistance-Community services must be provided consistent with the goals/outcomes defined in the Person-Centered Plan and with the over-arching goal of ensuring the individual's full community participation and inclusion. Participant goals and support needs, as documented in the Person-Centered Plan, shall be addressed by the Personal Assistance-Community provider in a manner that supports and enables the individual to achieve the highest level of independence possible.

(d) Personal Assistance-Community may be used to address assistance needs in the workplace and community, if personal care and assistance are the only type of supports an individual needs in these locations. Otherwise, personal care and assistance is included in Supported Employment or Community Integration Connections and Skills Training services and the provider of those services shall be responsible for these needs during the hours that Supported Employment on-the-job supports (i.e. Individual Job Coaching or Small Group supports) or Community Integration Connections and Skills Training services are provided.

(e) As appropriate to the individual need, based on the nature of the community involvement, this service includes assistance, support, supervision and partial participation with eating, toileting, personal hygiene and grooming, and other activities of daily living as appropriate and needed to sustain competitive integrated employment, integrated community participation, involvement and contribution.

(f) If self-directing this service, a relative, including a legal liable relative (i.e., the parent (biological or adoptive), guardian, spouse, or legally responsible relative) may serve as a personal assistance- community self-directed worker as long as

1. the relative/legal guardian is otherwise qualified to provide these services and

2. the relative/legal guardian does not also serve as the same participant’s representative/Employer of Record (EOR).

(22) Physical Therapy Services

(a) Physical therapy is treatment of an individual by the employment of effective properties of physical measures and the use of therapeutic exercises and rehabilitative procedures with or without assistive devices, for the purpose of preventing, correcting, or alleviating a physical or mental disability. Services must begin with the PT evaluation that, if necessary, results in the development of a treatment plan.

(b) The evaluation of an individual to determine level of functioning, need for therapy, and all information necessary for the development of the treatment plan. The treatment plan should outline the frequency of service (maximum one session per week in combination with home-based program implementation natural/paid direct support providers), goals of therapy, and outcomes or milestones to be reached by the participant.

(c) Physical therapy involves applying diagnostic and prognostic tasks and providing treatment training programs that are designed to preserve and improve abilities for independent function, such as range of motion, strength, tolerance, coordination and facility performing activities of daily living; and prevent irreducible progressive disabilities through means such as the use of orthotic and prosthetic appliances, assistive and adaptive devices, positioning, behavior adaptations and sensory stimulation.

(d) Physical Therapy requires a physician's prescription and documentation in the form of an initial evaluation and development of a treatment plan with established goals that must be present in the case record and must justify the need for service.

(e) Services must be listed on the PCP and be provided and billed in 15-minute units of service.

(f) Physical therapy is limited to no more than 50 hours or 200 units annually and no more than one session a week. If it appears that more frequent physical therapy is needed, and the benefit from which cannot be accomplished through natural/paid direct support providers, trained by the PT, implementing a home or community-based PT program in-between PT sessions, the PT must re-evaluate and submit another treatment plan as described above to the Support Coordinator who will

complete a request for action to the Regional Office and Central Office to approve.

(g) Physical therapy under the waiver is not available to children under the age of 21 because the service is covered under State Plan EPSDT services.

(h) Medicaid State Plan physical therapy in a hospital outpatient setting must be utilized first or documentation maintained it was confirmed unavailable to or previously exhausted by the individual.

(i) Service delivery in less than 1:1 ratio is not permitted.

(j) Providers of service must maintain a service log that documents specific days on which physical therapy services were delivered, including detailed documentation of what the service entailed. Physical therapist must sign each treatment note and must describe progress made on goals established in the treatment plan.

(23) Positive Behavioral Support Services

(a) Expertise, training and technical assistance in evidence-based positive behavior support strategies to assist natural, co-worker and/or paid staff in supporting individuals who have behavioral support needs. Positive Behavior Supports are designed to improve the ability of unpaid natural supports and paid direct support staff to carry out therapeutic interventions. As needed, providers of Positive Behavior Supports conduct assessments, develop a person’s behavior support plan and train/ consult with unpaid caregivers and/or paid support staff who are implementing the person’s behavior support plan, which is necessary to facilitate the person’s successful participation in the community, in employment and to ensure the person can remain in his/her current community living situation or transition to a less restrictive living situation.

(b) This service may also include time-limited consultation with the person and his/her Person-Centered Planning team to consider available service providers and potential providers and assist the person to identify and select providers that can meet the unique needs of the member and to identify additional supports necessary to implement behavior plans and perform therapeutic interventions.

(c) As needed, this service is also used to allow the behavioral specialist to be an integral part of the

person-centered planning team, as needed, to participate in team meetings.

(24) Remotes Supports Services

(a) The provision of supports to a waiver participant at their place of residence by Remote Support staff housed at a remote location and who are engaged with the person through equipment with the capability for live, two-way communication.

(b) Remote Supports shall be provided in real time, not via a recording, by awake staff at a remote monitoring base using the appropriate stable, reliable connection. While Remote Supports are being provided, the remote support staff shall not have duties other than remote support.

(c) Remote Supports are provided pursuant to the PCP and required protocol(s) that are developed from, and support implementation of, the PCP. Remote Supports are intended to address a person's assessed needs in his/her residence, and are to be provided in a manner that promotes autonomy and minimizes dependence on paid support staff.

(25) Skilled Nursing Services

(a) Services listed in the PCP which are within the scope of the State’s Nurse Practice Act and must be provided by a registered professional nurse (RN), or licensed practical (LPN) or vocational nurse under the supervision of a registered nurse, licensed to practice in the state of Alabama. An RN is required to perform the supervisory visit every 60 days for an LPN providing this service. To authorize this service, a physician’s order is required followed by a Regional Office RN completing an assessment to determine if the services may be safely and effectively administered in the home or community (the place or places of service where the individual desires to receive the service).

(b) There is no restriction on the place of service except the service may not be provided in facility-based non-residential service settings or other settings that do not fully comport with the setting standards contained in the federal HCBS settings rule, including the additional standards that apply to provider owned or controlled settings. This assessment by the Regional Office RN also will identify and confirm the specific type of Skilled Nursing service needed and the amount of time needed.

(26) Speech and Language Therapy Services

(a) Speech and language therapy includes diagnostic, screening, preventive and corrective services provided on an individual basis, when referred by a physician (M.D., D.O.). Services must begin with the SLT evaluation that, if necessary, results in the development of a treatment plan.

(b) The evaluation of an individual is to determine level of functioning, need for therapy, and all information necessary for the development of the treatment plan. The evaluation is customized to the individual and may include screening and evaluation of the individual's speech and hearing functions or a comprehensive speech and language evaluation. The treatment plan should outline the frequency of service (maximum one session per week in combination with home or community-based program implementation by natural/paid direct support providers), goals of therapy, and outcomes or milestones to be reached by the participant.

(c) These services address improvement in speech fluency and intelligibility and development of an individual's communications skills including expressive and receptive communication skills. These services may include swallowing therapy in additional to other treatment services if the evaluation identifies this as an assessed need.

(27) Supported Employment Individual Services

(a) A progression of services provided, as needed, on an individual basis for a person who, because of their disability(s), needs support to obtain and/or maintain an individualized, competitive or customized job in an integrated community setting for which the person is compensated at or above the minimum wage. These services are designed to support the achievement of individualized integrated employment outcomes consistent with the person's employment/career goals and conditions for success, as determined through Exploration and/or Discovery if such services are needed to accurately identify these goals and conditions.

(b) The expected outcome of this service is sustained paid employment in a competitive or customized job, with an employer who is not the person's service provider, and for which a person is compensated at or above the minimum wage, but not less than the customary wage paid by the employer for the same or similar work performed by persons without disabilities. The job also offers the

level of benefits offered to persons without disabilities performing the same/similar work.

(c) Supported Employment—Individual Employment Support Services are individualized and may include the following components:

1. Exploration: A time-limited & targeted service designed to help a person make an informed choice about whether to pursue an individualized, competitive or customized job in an integrated community setting for which compensation is at or above the minimum wage.

2. Discovery: A time-limited & targeted service, if not otherwise available to the individual from the Alabama Department of Rehabilitative Services, designed to help a person, who wishes to pursue an individualized, competitive or customized job in an integrated community setting for which the person is compensated at or above the minimum wage, to identify through person-centered assessment, planning and exploration.

3. Job Development Plan: A time-limited & targeted service, if otherwise not available to the individual from ADRS, designed to create a clear plan for Job Development to obtain an individualized, competitive or customized job in an integrated community setting for which the person is compensated at or above the minimum wage.

4. Job Development: A service, if otherwise not available to the individual from ARDS, that supports a person to obtain an individualized, competitive or customized job in an integrated community setting for which the person is compensated at or above the minimum wage. This service is designed to implement the Job Development Plan, if applicable, and should result in the achievement of an individualized, integrated employment outcome consistent with the person's employment and career goals, as determined through Exploration (if necessary), Discovery (if necessary) and/or the employment planning process and reflected in the PCP.

5. Job Coaching: A service for individualized, integrated employment, if not otherwise available to the individual from ADRS, includes identifying and providing services and supports that assist the person in maintaining and advancing in individualized employment in an integrated setting. Job Coaching includes supports provided to the person and their

supervisor or co-workers, either remotely (via technology) or face-to-face. Job Coaching supports must be guided by a Job Coaching fading plan and must include systematic instruction utilizing task analysis to teach the person to independently complete as much of their job duties as possible.

6. Career Advancement: A time-limited career planning and advancement support service, if not otherwise available to the individual from the Alabama Department of Rehabilitative Services, for persons currently engaged in individualized, integrated employment who wish to obtain a promotion and/or a second individualized, integrated employment opportunity. The service focuses on developing and successfully implementing a plan for achieving increased income and economic self-sufficiency through promotion to a higher paying position or through a second individualized, integrated employment or self-employment opportunity.

(28) Supported Employment Small Group Services

(a) A service providing employment services and training activities to support successful transition to individualized integrated employment or self-employment, or to supplement such employment and/or self-employment when it is only part-time.

(b) The expected outcome of this service is the acquisition of knowledge, skills and experiences that facilitate career development and transition to individualized integrated employment or self-employment, or that supplement such employment and/or self-employment when it is only part-time. The individualized integrated employment or self-employment shall be consistent with the individual’s personal and career goals, as documented in their PCP. Supported Employment—Small Group shall be provided in a way that presumes all participants are capable of working in individualized integrated employment and/or self-employment.

(c) Participants in this service shall be encouraged, on an ongoing basis, to explore and develop their interests, strengths, and abilities relating to individualized integrated employment and/or self-employment. In order to reauthorize this service, the PCP must document that such opportunities are being provided through this service, to the person, on an on-going basis. The PCP shall also document and address any barriers to the person transitioning to individualized integrated employment or self-employment if the person is not already

participating in individualized integrated employment or self-employment.

(29) Supported Living Services

(a) Services that include training and assistance in maintaining a home of one's own: a residence not owned or controlled by a waiver service provider or a residence that is not the home of a family caregiver. The home may be shared with other freely chosen housemates who may or may not also receive waiver services and/or have a disability. Supported Living Services are provided with the goal of maximizing the person's independence and interdependence with housemates and natural supports, using a combination of teaching, training, technology and facilitation of natural supports. Supported Living Services are delivered according to the person's Supported Living Service Plan.

(b) This service is intended for persons who, with technology, natural supports and good advanced planning, need intermittent and/or on-call staff support to remain in their own home and who do not need and will not benefit from around-the-clock staffing. Supported Living Services are differentiated from Personal Assistance by virtue of the 24-hour on-call access to supports on an as-needed/emergency basis that are part of Supported Living Services.

(c) A fraction of this service may be delivered remotely via remote supports/monitoring if:

1. appropriate for the participant as determined by the PCP team;

2. all requirements for this service as outlined in this service definition are met; and

3. all requirements in Appendix C-1-d are met. In these situations, the provider of this service is expected to contract with a remote support/remote monitoring provider that is paid for its technology and services by the service provider. On a case-by-case basis, ADMH staff will evaluate the provider's use of remote support/remote monitoring with a participant(s) to determine the impact on the provider's cost to deliver the service and determine if a rate adjustment is needed.

Author: Riyyah James, Associate Director, Specialized Waiver Unit, LTC Healthcare Reform Development Division

Statutory Authority: Section 1915(c) Social Security Act; 42 CFR Section 441, Subpart G; and the Home and Community-Based Waiver for Persons with Intellectual Disabilities.

History: Rule effective August 10, 1988. **Amended:** Filed May 6, 1994; effective June 14, 1994. **Repealed:** Filed July 12, 2018; effective August 26, 2018. **New Rule:** Filed March 21, 2022; Effective May 15, 2022. **Amended:** Published May 29, 2026; effective July 13, 2026.

560-X-43-.03 Eligibility.

Eligibility criteria for Home and Community-Based Services (HCBS) recipients under the Community Waiver Program (CWP) for Persons with intellectual disabilities shall be the same as eligibility criteria for an intermediate care facility for individuals with intellectual disabilities (ICF/IID). Thus, HCBS under the CWP Waiver will be available to persons with intellectual disabilities who would be eligible for institutional services under 42 C.F.R.§435.217 and who are now eligible under 435.120. Persons with intellectual disabilities who meet categorical (including 42 C.F.R.§435.120), medical, and/or social requirements for Title XIX coverage will be eligible for HCBS under the CWP Waiver. Applicants found eligible shall not be required to apply income above the personal needs allowance reserved to institutional recipients toward payment of care.

(1) Financial eligibility for HCBS under the CWP Waiver is limited to those individuals receiving SSI, Parent and Other Caretaker Relatives (POCR), Pregnant Women, Infants and Children under Age 19, Children with Non IV-Adoption Assistance (Over age 21), Children with Non IV-Adoption Assistance, Former Foster Care, Reasonable Classification of Individuals under Age 21, SSI related protected groups deemed to be eligible for SSI/Medicaid (i.e., Widow/Widower, Disabled Adult Child, Continuous (Pickle) Medicaid), federal and state adoption subsidy individuals, and special home and community-based optional categorically needy group whose income is not greater than 300 percent of the SSI federal benefit rate.

(2) Medical eligibility for HCBS under the CWP Waiver is limited to those individuals that meet the ICF/IID level of care. No HCBS under the CWP Waiver will be provided to a recipient residing in an institutional facility, or who has a primary diagnosis of mental illness, or whose health and safety is at risk in the community.

(3) Financial determinations and redeterminations for HCBS under the CWP Waiver shall be made by the Alabama Medicaid Agency, the Department of Human Resources or the Social Security Administration, as appropriate. In addition to the financial and medical eligibility criteria, the Alabama Medicaid Agency is limited to the number of recipients who can be served by the CWP Waiver.

Author: Mattie Jackson, Associate Director, Specialized Waiver Unit, LTC Healthcare Reform Division
Statutory Authority: 42 C.F.R. Section 441, Subpart G and the Home and Community-Based Waiver for Persons with Intellectual Disabilities.
History: Rule effective August 10, 1988. **Amended:** Filed May 6, 1994; effective June 14, 1994. **Repealed:** Filed July 12, 2018; effective August 26, 2018. **New Rule:** Published March 31, 2022; effective May 15, 2022.

560-X-43-.04 Characteristics Of Persons Requiring ICF/IID Care.

(1) Generally, persons eligible for the level of care provided in an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) are those persons who need such level of care because the severe, chronic nature of their mental impairment results in substantial functional limitations in three or more of the following areas of life activity:

(a) Self-Care

(b) Receptive and expressive language

(c) Learning

(d) Self-direction

(e) Capacity for independent living

(f) Mobility

(2) Services provided in an Intermediate Care Facility for Individuals with Intellectual Disabilities in Alabama are those services that provide a setting appropriate for a functionally individual with an intellectual disability in the least restrictive productive environment currently available. Determination regarding eligibility for ICF/IID care is made by a Qualified Intellectual Disabilities Professional (QIDP). A QIDP is an individual possessing, at minimum, those qualifications in 42 C.F.R. Section 483.430. Recommended continued stay is made by an interdisciplinary team of a nurse, social worker, and a member of appropriate related discipline, usually a psychologist, and certified by a QIDP and a physician.

(3) ICF/IID care includes those services that address the functional deficiencies of the beneficiaries and that require the skills of a QIDP to either provide directly or supervise others in the provision of services needed for the beneficiary to experience personal hygiene, participate in daily living activities appropriate to his functioning level, take medication under

appropriate supervision (if needed), receive therapy, receive training toward more independent functioning, and experience stabilization as a result of being in the least restrictive, productive environment in which he or she can continue his/her individual developmental process.
Author: Mattie Jackson, Associate Director, Specialized Waiver Unit, LTC Healthcare Reform Division
Statutory Authority: 42 C.F.R. Section 441, Subpart G and the Home and Community-Based Waiver for Persons with Intellectual Disabilities.
History: Rule effective August 10, 1988. **Amended:** Effective October 8, 1991; November 13, 1991. **Amended:** Filed May 6, 1994; effective June 14, 1994. **Repealed:** Filed July 12, 2018; effective August 26, 2018. **New Rule:** Published March 31, 2022; effective May 15, 2022.

560-X-43-.05 Qualifications Of Staff Who Will Serve As Review Team For Medical Assistance.

(1) The nurse shall be a graduate of a licensed school of nursing with a current state certification as a Licensed Practical Nurse (LPN) or Registered Nurse (RN). This person shall have knowledge and training in the area of intellectual disabilities with a minimum of two (2) years' experience.

(2) The social worker shall be a graduate of a four-year college with an emphasis in social work. This person shall have knowledge and training in the area of intellectual disabilities with a minimum of two (2) years' experience.

(3) The psychologist shall be a PH.D. in Psychology. This person shall be a licensed psychologist with general knowledge of test instruments used for individuals with intellectual disabilities with a minimum of two (2) years' experience.

(4) Other professional disciplines which may be represented on the assessment team as necessary depending on the age, functional level, and physical disability of the clients are as follows:

(a) Special Education

(b) Speech Pathologist

(c) Audiologist

(d) Physical Therapist

(e) Optometrist

(f) Occupational Therapist

(g) Vocational Therapist

(h) Recreational Specialist

(i) Pharmacist

(j) Doctor of Medicine

(k) Psychiatrist

(l) Other skilled health professionals

Author: Mattie Jackson, Associate Director, Specialized Waiver Unit, LTC Healthcare Reform Division
Statutory Authority: 42 C.F.R. Section 441, Subpart G, and the Home- and Community-Based Waiver for Persons with Intellectual Disabilities and Developmentally Disabled.
History: Rule effective August 10, 1988. **Amended:** Effective October 8, 1991; November 13, 1991. **Amended:** Filed May 6, 1994; effective June 14, 1994. **Repealed:** Filed July 12, 2018; effective August 26, 2018. **New Rule:** Published March 31, 2022; effective May 15, 2022.

560-X-43-.06 Individual Assessments.

(1) Alabama Medicaid Agency will require an individual plan of care for each waivered service recipient. Such plan, entitled "Person-Centered Plan" (PCP), is subject to review by the Alabama Medicaid Agency and Department of Health and Human Services. Client assessment procedures in place in the Alabama Department of Mental Health, which are based on eligibility criteria for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs) developed jointly by the Alabama Department of Mental Health (ADMH) and the Alabama Medicaid Agency, will be utilized by ADMH (or its contract service providers) in screening for eligibility for the waivered services as an alternative to institutionalization. Whether performed by a qualified practitioner in ADMH, its contract service providers, or provided by qualified (Diagnostic and Evaluation Team) personnel of the individual/agency arranging the service, review for "medical assistance" eligibility determination will be based on client assessment data, and the criteria for admission to an ICF/IID, as described in Rule No. 560-X-43-.03. Re-evaluation of clients shall be performed on an annual basis. Written documentation of all assessments will be maintained in the client's case file and subject to review by the Alabama Medicaid Agency and Department of Health and Human Services.

(2) The Alabama Medicaid Agency will give notice of services available under the waiver as required by federal regulations, particularly to primary care givers for the target group, including but not limited to, programs operated by ADMH, the

statewide network of community mental health centers, and to other appropriate care-giving agencies such as county Department of Human Resources offices, hospitals, hospital associations, and associations for individuals with intellectual disabilities.
Author: Riyyah James, Associate Director, Specialized Waiver Unit, LTC Healthcare Reform Development Division
Statutory Authority: Section 1915(c) Social Security Act; 42 C.F.R. Section 441, Subpart G; and the Home and Community-Based Waiver for Persons with Intellectual Disabilities.
History: Rule effective August 10, 1988. **Amended:** Effective October 8, 1991; November 13, 1991. **Amended:** Filed May 6, 1994; effective June 14, 1994. **Repealed:** Filed July 12, 2018; effective August 26, 2018. **New Rule:** Published March 31, 2022; effective May 15, 2022. **Amended:** Published May 29, 2026; effective July 13, 2026.

560-X-43-.07 Informing Beneficiaries Of Choice.

(1) Alabama Medicaid Agency will be responsible for assurances that beneficiaries of the waiver service program will be advised of the feasible service alternatives and be given a choice of which type of service—institutional or home- and/or community-based services—they wish to receive.

(2) Residents of long-term care facilities for whom home- and community-based services become a feasible alternative under this waiver will be advised of the available alternative at the time of review. Applicants for SNF, ICF, ICF/IID services, or a designated responsible party with authority to act on the applicant's behalf, will be advised of feasible alternatives to institutionalization at the time of their entry into a treatment system wherein an alternative is professionally determined to be feasible. All applicants found eligible for will be offered the alternative unless there is reasonable expectation that services required for the applicant would cost more than institutional care. Provisions for fair hearings for all persons eligible for services under this waiver will be made known and accessible to potential eligibles in accordance with Fair Hearings Procedures set forth in Rule No. 560-X-43-.16.
Author: Mattie Jackson, Associate Director, Specialized Waiver Unit, LTC Healthcare Reform Division
Statutory Authority: 42 C.F.R. Section 441, Subpart G and the Home- and Community-Based Waiver for Persons with Intellectual Disabilities and Developmentally Disabled.
History: **New Rule:** Published March 23, 2022; effective May 15, 2022.

560-X-43-.08 Payment Methodology For Covered Services.

(1) The Medicaid reimbursement for each service provided by a mental health service provider shall be based on a fee-for-service system. Each covered service is identified on a claim by a procedure code.

(2) Providers should bill no more than one month's services on a claim for a recipient. There may be multiple claims in a month, but no single claim may cover services performed in different months. For example, October 15, 1990, to November 15, 1990, would not be allowed. If the submitted claim covers dates of service, part or all of which were covered in a previously paid claim, it will be rejected.

(3) Payment will be based on the number of units of service reported for HCPCS codes.

(4) All claims for services must be submitted within 12 months from the date of service.

(5) Accounting for actual cost and units of services provided during a waiver year must be accomplished on HCFA's form 372. The following accounting definitions will be used to capture reporting data, and the audited figures used in establishing new interim fees:

(a) A waiver year consists of 12 consecutive months starting with the approval date specified in the approved waiver document.

(b) An expenditure occurs when cash or its equivalent is paid in a quarter by a state agency for waiver benefits. For a public/governmental provider, the expenditure is made whenever it is paid or recorded, whichever is earlier. Non-cash payments, such as depreciation, occur when transactions are recorded by the state agency.

(c) The services provided by a direct service provider agency arereported and paid by dates of service. Thus, all services provided during the 12 months of the waiver year will be attributed to that year.

Author: Mattie Jackson, Associate Director, Specialized Waiver Unit, LTC Healthcare Reform Division
Statutory Authority: Section 1915(c) Social Security Act; 42 C.F.R. Section 441, Subpart G; and the Home and Community-Based Waiver for Persons with Intellectual Disabilities.
History: New Rule: Published March 31, 2022; effective May 15, 2022. **Amended:** Published May 31, 2023; effective July 15, 2023.

560-X-43-.09 Third Party Liability.

Providers shall make all reasonable efforts to determine if there is a liable third-party source, including Medicare, and in the case of a liable third-party source, utilize that source for payments and benefits prior to applying for Medicaid payments. Third party payments received after billing Medicaid for service for a Medicaid recipient shall be refunded to the Alabama Medicaid Agency.
Author: Mattie Jackson, Associate Director, Specialized Waiver Unit, LTC Healthcare Reform Unit
Statutory Authority: 42 CFR, Section 433, Subpart D – Third Party Liability.
History: New Rule: Filed March 21, 2022; Effective May 15, 2022.

560-X-43-.10 Payment Acceptance.

(1) Payment made by the Medicaid Program to a provider shall be considered to be payment in full for covered services rendered.

(2) No Medicaid recipient shall be billed for covered Medicaid services for which Medicaid has been billed.

(3) No person or entity, except a liable third-party source, shall be billed for covered Medicaid services.
Author: Mattie Jackson, Associate Director, Specialized Waiver Unit, LTC Healthcare Reform Division
Statutory Authority: 42 CFR Section 447, Subpart A – Payments: General Provisions.
History: New Rule: Published March 31, 2022; effective May 15, 2022.

560-X-43-.11 Confidentiality.

Providers shall not use or disclose, except to duly authorized representatives of federal or state agencies, any information concerning an eligible recipient except upon the written consent of the recipient, his/her attorney, or his/her guardian, or upon subpoena from a court of appropriate jurisdiction.
Author: Mattie Jackson, Associate Director, Specialized Waiver Unit, LTC Healthcare Reform Division
Statutory Authority: 42 CFR Section 431.306, Subpart F – Safeguarding Information on Applicants and Recipients.
History: New Rule: Filed March 31, 2022; effective May 15, 2022.

560-X-43-.12 Records.

(1) The Department of Mental Health shall make available to the Alabama Medicaid Agency at no charge, all information regarding claims submitted and paid for services provided eligible recipients and shall permit access to all records and facilities for the purpose of claims audit, program monitoring, and utilization review by duly authorized representatives of federal and state agencies. Complete and accurate medical/psychiatric and fiscal records which fully disclose the extent of services shall be maintained by the clinic. Said records shall be retained for the period of time required by state and federal laws.

(2) Sign-in log, service receipt, or some other written record shall be used to show the date and nature of services; this record shall include the Recipient's signature.
Author: Mattie Jackson, Associate Director, Specialized Waiver Unit, LTC Healthcare Reform Division
Statutory Authority: Section 1915(c) Social Security Act; 42 C.F.R. Section 431.107, Subpart C – Administrative Requirements: Provider Relations; and the Home and Community-Based Waiver for Persons with Intellectual Disabilities.
History: New Rule: Published March 31, 2022; effective May 15, 2022. **Amended:** Published May 31, 2023; effective July 15, 2023.

560-X-43-.13 Service Providers.

The Home and Community-Based CWP Waiver is a cooperative effort between the Alabama Medicaid Agency and the Department of Mental Health.
Author: Mattie Jackson, Associate Director, Specialized Waiver Unit, LTC Healthcare Reform Division
Statutory Authority: Section 1915(c) Social Security Act; 42 C.F.R. Section 441, Subpart G; and the Home and Community-Based Waiver for Persons with Intellectual Disabilities.
History: New Rule: Published March 31, 2022; effective May 15, 2022. **Amended:** Published May 31, 2023; effective July 15, 2023.

560-X-43-.14 Application Process.

(1) The Alabama Medicaid Agency will provide the operating agency with the approved level of care determination process.

(2) The operating agency will review the applicant’s eligibility status to determine if the applicant is medically and financially eligible for waiver services. The targeted case manager will

assist the recipient to make financial application and ensure that the appropriate documents are completed and routed to the appropriate Medicaid District Office.

(3) All recipients who are applying for a Home and Community Based Services (HCBS) waiver who are financially approved by the Department of Human Resources or are under the age of 65 and have not been determined disabled must have a disability determination made by the Medical Review team of the Alabama Medicaid Agency.

(4) If a disability determination has been made, the Regional Office should complete a slot confirmation form (Form 376).

(5) The Qualified Intellectual Disabilities Professional (QIDP) will complete the level of care determination and the plan of care development.

(6) The operating agency will be required to adhere to all federal and state guidelines in the determination of the level of care approval.

(7) During the assessment, it must be determined that "without waiver services the client is at risk of institutionalization."

(8) The operating agency or its designee (case manager), will ensure that the applicant has been screened and assessed to determine if the services provided through the ID Waiver will meet the applicant's needs in the community.

(9) The Alabama Department of Mental Health (ADMH) is responsible for the assessment, evaluation of admissions, readmissions, and annual redeterminations for eligible participants receiving home and community-based services in accordance with the provisions of the Home and Community-Based Waiver for Persons with Intellectual Disabilities.

(10) The Alabama Medicaid Agency will provide to the ADMH the approved Level of Care criteria and policies and procedures governing the level of care determination process.

(11) The ADMH will designate a qualified medical professional to approve the level of care and develop the Plan of Care.

(12) ADMH may utilize Medicaid staff for consultation on questionable admissions and annual redeterminations prior to a final decision being rendered.

(13) The Alabama Medicaid Agency will conduct a retrospective review on a monthly basis of a random sample of individuals served under the Home and Community Based Services Community Waiver Program (CWP) for Persons with Intellectual Disabilities to determine appropriate admissions and annual redeterminations. This review includes whether appropriate documentation is present and

maintained and whether all state and federal medical necessity and eligibility requirements for the program are met. The LTC Waiver Quality Improvement Unit conducts a random sample of plans of care and related documents annually.

(14) The Alabama Medicaid Agency will initiate recoupment of payment for services when it determines that state and federal, medical necessity, and eligibility requirements are not met.

(15) The Alabama Medicaid Agency may seek recoupment from ADMH for other services reimbursed by Medicaid for those individuals whom Medicaid determines would not have been eligible for the Home and Community-Based Services Community Waiver Program for Persons with Intellectual Disabilities or Medicaid eligibility but for the certification of waiver eligibility by ADMH.

(16) The operating agency or its designee will develop a plan of care that includes waiver as well as non-waiver services.

(17) Upon receipt of the financial award letter from the Alabama Medicaid Agency, the LTC Admissions Notification Form should be completed and forwarded to Medicaid's Fiscal Agent electronically. Medicaid's Fiscal Agent will either accept or reject the transmission of the LTC Admissions Notification Form. The operating agency or its designee will receive notice of the status of applications transmitted the next business day following the transmission.

(18) If Medicaid's Fiscal Agent accepts the transmission, the information is automatically written to the Long-Term Care file. The operating agency or its designee can begin rendering services and billing the Alabama Medicaid Agency for services rendered.

(19) If Medicaid's Fiscal Agent rejects the transmission, the operating agency or its designee must determine the reason for the rejection and retransmit the LTC Admissions Notification Form.

(20) Neither the Alabama Medicaid Agency nor Medicaid's Fiscal Agent will send out the LTC-2 Notification letters. The record of successful transmission will be your record of "approval" to begin rendering service.

(21) For applications where the level of care is questionable, you may submit the applications to the LTC Medical and Quality Review Unit for review by a nurse and/or a Medicaid physician.2

(22) Once the individual's information has been added to the Long-Term Care File, changes can only be made by authorized Medicaid staff.

Author: Mattie Jackson, Associate Director, Specialized Waiver Units, LTC Healthcare Reform Division

Statutory Authority: Section 1915(c) Social Security Act; 42 C.F.R. Section 441, Subpart G; and the Home and Community-Based Waiver for Persons with Intellectual Disabilities.
History: New Rule: Published March 31, 2022; effective May 15, 2022.

560-X-43-.15 Cost For Services.

The cost for services to individuals who qualify for Home and Community-Based care under the waiver program will not exceed on an average per capita basis the total expenditures that would be incurred for such individuals if Home and Community-Based services were not available.
Author: Mattie Jackson, Associate Director, Specialized Waiver Unit, LTC Healthcare Reform Division
Statutory Authority: Social Security Act §1915(c); 42 C.F.R. Section 441, Subpart G and the Home and Community-Based Waiver for Persons with Intellectual Disabilities.
History: New Rule: Published March 31, 2022; effective May 15, 2022. **Amended:** Published May 31, 2023; effective July 15, 2023.

560-X-43-.16 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 15 calendar days from the date of the DMH Associate Commissioner's response letter.

Author: Mattie Jackson, Director, LTC Healthcare Reform 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: Published March 31, 2022; effective May 15, 2022. **Amended:** Published March 31, 2023; effective May 15, 2023.