



# Alabama Medicaid: Changes to the Regional Care Organization Statute

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On May 17, 2013, Governor Bentley signed into law Act 2013-261, *Ala. Code § 22-6-150 et. seq.* As you may recall, the new law changed the Alabama Medicaid program from a fee-for-service program to a managed care program and created Regional Care Organizations ("RCOs") to serve as the conduit for care to Medicaid beneficiaries. In the last legislative session, the Alabama legislature passed amendments to the RCO statute. These changes impacted the way in which RCOs are structured and provide for a grievance procedure for providers who are dissatisfied with the contracts or terms offered by a RCO.

The original RCO statute provided for a RCO board of directors (the "Board") consisting of 12 members representing the risk-bearing participants, 8 non risk-bearing participants and 3 community representatives totaling 23 members. Under the new law, the 3 community representatives are no longer an additional category but are now included as part of the 8 non risk-bearing representatives. Consequently, the 8 non risk-bearing participants consist of 5 medical professionals and 3 community representatives. Of the 5 medical professionals, 2 are primary care physicians appointed by the Medical Association of the State of Alabama ("MASA") as opposed to the caucus of county boards of health. These 2 physicians will serve with 1 physician representing a Federally Qualified Health Care Center, an optometrist and a pharmacist. Therefore, the composition of the Board will be as follows:

- 12 risk-bearing representatives
- 8 non risk-bearing representatives
  - > 5 Medical Professionals
    - › 1 Federally Qualified Health Care Center representative
    - › 2 Primary Care Physicians (appointed by MASA)
    - › 1 optometrist
    - › 1 Pharmacist
  - > 3 Community representatives
- TOTAL BOARD MEMBERS: 20

The amendments prohibit a majority of the members of the Board from representing a single provider. This is much less restrictive than the previous provision that stated a majority of members could not represent a single TYPE of provider. Additionally, there is no longer a requirement that all Board action have the approval of a physician representing the non-risk bearing participants.

The amendments also changed how vacancies on the Board are filled. Previously, the RCO in conjunction with the county board of health caucus, the citizens' advisory committee, and the optometric and pharmacy associations filled the vacancy. The new law provides that a vacancy on the Board shall be filled by the authority responsible for filling the position initially. For example, if a primary care physician vacates the Board, MASA would be responsible for appointing another primary care physician to fill the vacancy.

Another change was to allow for an executive committee appointed by the Board. The executive committee must consist of at least 2 members of the Board, but any at-risk provider type must be represented on the committee. There is also a new provider standards committee. This committee is tasked with reviewing and developing performance standards and quality measures for the providers participating in the RCO. Sixty percent of the members of this committee must be physicians who provide care to Medicaid beneficiaries served by the RCO, but no more than fifty percent of the members may reside in one county in the region.

The new law outlines a procedure by which a provider may seek redress if it is dissatisfied with any term or provision of the contract offered by the RCO. Under the previous law, the Agency was tasked with creating a grievance procedure that included an opportunity for a fair hearing in accordance with the Alabama Administrative Procedure Act. Although the new law did not remove that provision, it adds additional language regarding a grievance procedure for a provider who is dissatisfied with the terms of the agreement or contract offered by a RCO.

Pursuant to this procedure, a provider must first seek redress from the RCO. The RCO is required to submit the grievance to a committee composed of a representative of the RCO, the same type of provider as the one seeking redress and a representative of the citizen's advisory board appointed by the chair of the advisory board. If the provider remains dissatisfied after being heard by the RCO panel or if the RCO is dissatisfied with the outcome, either may request a review by the Medicaid Agency. Within 30 days of receiving Medicaid's decision, the provider or RCO may request review of Medicaid's decision by a "contract dispute committee." This committee is appointed by the Medicaid Agency and is composed of 2 providers from other Medicaid regions, 2 representatives of RCOs from other regions and an administrative law judge selected by Medicaid. The 2 provider representatives are selected by the provider's professional or business association, and the two representatives of the RCOs are appointed by Medicaid from a list of 4 representatives submitted by the unaffected Medicaid regions.

If the provider or RCO is dissatisfied with the decision of the contract dispute committee, it can file an appeal in the Montgomery County Circuit Court within 30 days of the committee's decision. Although this may be a time-consuming process, it allows for an avenue of redress not available under the old statute.

The deadline for forming RCOs is October 2014. Therefore, now is the time to educate yourself on how you will be represented in the RCO and the role you will play in patient care.

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