

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

ARTICLE 21. TRAUMA AND EMERGENCY SERVICES FUND

PREAMBLE

1. Articles, Parts, or Sections Affected

R9-22-2101

Rulemaking Action:

Amend

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 36-2903.01

Implementing statutes: A.R.S. § 36-2903.07

3. The effective date of the rule:

The agency selected an effective date of 60 days from the date of filing with the Secretary of State as specified in A.R.S. § 41-1032(A).

4. Citations to all related notices published in the Register to include the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 24 A.A.R. 1755, June 22, 2018.

Notice of Proposed Rulemaking: 24 A.A.R. 1722, June 22, 2018.

5. The agency's contact person who can answer questions about the rulemaking:

Name: Nicole Fries

Address: AHCCCS

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6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The amended rule will eliminate the ambiguity of this definition and will allow provisional and initial level I trauma centers and level I pediatric trauma centers to receive money from the Proposition 202 Trauma Fund for unrecovered trauma center readiness costs. It will also allow provisional and initial level I trauma centers and level I pediatric trauma centers to receive a larger payment through the Outpatient Capped Fee Schedule pursuant to A.A.C. R9-22-712.35(C) which uses the same definition for level I trauma center.

7. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

A study was not referenced or relied upon when revising these regulations.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision:

This rulemaking does not diminish a previous grant of authority of a political subdivision.

9. A summary of the economic, small business, and consumer impact:

Hospitals that are eligible for designation as level I trauma centers or level I pediatric trauma centers will benefit from the clarity in how AHCCCS reimbursement applies to them during a provisional or initial designation period. AHCCCS members will directly benefit from this rulemaking because it will allow a greater number of hospitals to achieve more efficient administration of health care delivery.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

One change was made to include pediatric level 1 trauma centers in the definition of level 1 trauma centers, as a matter of clarification in response to a stakeholder question. The intention was that pediatric level 1 trauma centers always be included in the definition so this is not a substantive change to the rule.

11. An agency's summary of the public or stakeholder comments made about the rule making and the agency response to the comments:

Name and Position of Commenter	Date of Comment	Text of Comment	AHCCCS Response

<p>Michelle Pabis, Vice President, Government & Community Affairs – HonorHealth</p>	<p>07/17/18</p>	<p>HonorHealth supports the AHCCCS proposed rule clarifying the definition of a level I trauma center to include any acute care hospital designated by the Arizona Department of Health Services (ADHS) as a level I trauma center including provisional and initial. As AHCCCS notes in its justification, level I trauma centers designated by ADHS as provisional or initial are operating as a level I trauma center in every way and seeing the most critically injured patients as they await verification by the American College of Surgeons.</p> <p>A level I trauma center is a health care facility distinguished by the immediate availability of specialized personnel, equipment and services 24 hours a day, to treat the most severe and critical injuries. Hospitals in Arizona voluntarily submit to the process of becoming designated as a level I trauma center by ADHS which is a time and resource intensive process. All level I trauma centers in Arizona begin with provisional status as it takes 18 months for a new trauma center to capture the patient population and data necessary to be verified by the American College of Surgeons which is required under the ADHS current regulations. It has been the historical practice of AHCCCS to allow these trauma centers to receive money from the Proposition 202 Trauma Fund and enhanced reimbursement through the Outpatient Capped Fee Schedule. Most recently, Chandler Regional Medical Center received these funds during their provisional</p>	<p>AHCCCS appreciates Ms. Pabis’s comments and the support of Honor Health.</p>
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		<p>designation status in 2014.</p> <p>From a resources and clinical care perspective provisional level I trauma centers are state designated trauma centers which must meet all the trauma center standards as any other level I designated trauma center with the exception of American College of Surgeons verification.</p> <p>There is nothing in statute or rule that precludes level I trauma centers with provisional designation from receiving Proposition 202 trauma funding. They are meeting the requirement in statute and rule to provide level I trauma care on a twenty-four hour, seven days per week basis and are designated by ADHS as a level one trauma center.</p> <p>HonorHealth sincerely appreciates AHCCCS amending this rule to eliminate any ambiguity of definition and to reflect what the practice had been to date. Specifically, I would like to thank Shelli Silver and Victoria Burns for their willingness to understand the nuances of the ADHS trauma center designation process and work with newly designated level I trauma centers, like HonorHealth Deer Valley, to ensure money from the Proposition 202 Trauma Fund will be paid for unrecovered trauma center readiness costs.</p> <p>Thank you for supporting Arizona hospitals in providing the highest level of trauma care.</p>	
Jason Bezozo, Vice President, Government Relations –	7/18/18	On behalf of Banner Health, I am writing to you today regarding the proposed changes to the Trauma and Emergency Services Fund rule, R9-22-2101. I would like to express our	AHCCCS thanks Mr. Bezozo for his comments and the support of Banner

Banner Health		<p>support for the proposed changes and appreciation to the Administration to ensure that a level I trauma center with a provisional or initial designation can participate in the Trauma and Emergency Services Fund program.</p> <p>As you know, this program has played a critical role in defraying some of the unrecovered readiness costs at Arizona’s level I trauma centers. This proposed rule will help ensure Arizona’s newest level I trauma centers, those with provisional (and now initial) designations, are eligible to participate in this fund as well as their eligibility for enhanced trauma payments under the outpatient payment system.</p> <p>We sincerely appreciate the Administration’s efforts to quickly update this definition which is consistent with the trauma center licensing regulations.</p> <p>Please feel free to contact me if you have any questions.</p>	Health.
Jennifer A. Carusetta, Executive Director - Health System Alliance of Arizona	7/23/18	<p>On behalf of the Health System Alliance of Arizona (Alliance), it is with great pleasure that I write this letter of support for the AHCCCS Proposed Rule related to Trauma Funding.</p> <p>As stated, in the proposed rule, Provisional and initial Level One Trauma Centers operate in the same way as any other Level One Trauma Centers but are awaiting their Level One Trauma Center verification by the American College of Surgeons (ACS). All Level One Trauma Centers in Arizona begin with</p>	AHCCCS thanks Ms. Carusetta for her comments and the support of the Alliance.

		<p>provisional status as it takes 18 months for a new trauma center to capture the patient population and data necessary for an American College of Surgeons site visit. It has been the historical practice of AHCCCS to allow these level One Trauma Centers to receive money from the Proposition 202 Trauma Fund and enhanced reimbursement through the Outpatient Capped Fee Schedule.</p> <p>We are pleased to see that AHCCCS seeks to clarify that all designated Level One Trauma Centers, including Provisional and Initial Level One Trauma Centers, shall be eligible for the funding streams authorized by Proposition 202. We would remind AHCCCS that Proposition 202 funding is limited by a voter protected statute to Level One Trauma Centers and cannot be expanded to include any other levels of trauma facilities in the future.</p> <p>We appreciate your consideration and are pleased to offer our support for this proposal. I am happy to answer any questions or provide additional information.</p>	
<p>Annie Mooney, Vice President, Public Affairs & Advocacy – Phoenix Children’s Hospital</p>	<p>7/23/18</p>	<p>In 2016, AHCCCS revised its rules to clarify the definitions of a Level I Trauma Center and create a Level I Pediatric Trauma Center designation, outlining the specific designation requirements for the two separate and distinct categories. These definitions provided critical clarification. The new designation, however, created an opportunity for the exclusion of Level I Pediatric Trauma Centers from language that previously included all Level I Trauma Centers regardless of whether the</p>	<p>AHCCCS thanks Ms. Mooney for her comments and the support of Phoenix Children’s Hospital. The final rule does add “pediatric level 1 trauma center” to the amended definition of “level 1 trauma center” in the</p>

		<p>Center treats adult or pediatric patients.</p> <p>For instance, the recent proposed rulemaking clarifying that a Level I Trauma Center “refers to any acute care hospital designated by the Arizona Department of Health Services (ADHS) as a Level I Trauma Center, a provisional Level I Trauma Center, or an initial Level I Trauma Center,” excludes those trauma centers with Level I Pediatric designation, of which Phoenix Children’s Hospital is the only designee in the state. We do not believe this was the intent, as the new designation for Level I Pediatric Trauma Centers did not exist when AHCCCS last considered these rules.</p> <p>We respectfully request that the rule be further revised to include both Level I Trauma Centers and Level I Pediatric Trauma Centers as eligible to receive money from the Proposition 202 Trauma Fund for unrecovered trauma center readiness costs. Pediatric trauma care tends to be more expensive than adult trauma care due to the specialization of the providers and equipment. Level I Pediatric Trauma Centers face a burden of uncompensated trauma care that can be considered higher than many Level 1 Trauma Centers that focus on serving adult populations. The inclusion of “Level I Pediatric Trauma Center” in R9-22-2101.F.1 and any subsequent references to the definition of Level 1 Trauma Center helps ensure that those trauma centers that specialize in the care of pediatrics receive the same funding opportunities as those that provide care to adult populations.</p>	<p>rulemaking.</p>
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		Thank you for your consideration and for your continued efforts to provide clarity in AHCCCS's rules related to trauma centers.	
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12. Other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules.

There are no other matters prescribed by statute applicable to rulemaking specific to this agency, to this specific rule, or to this class of rules.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rule does not require the provider to obtain a permit or a general permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

There is no corresponding federal law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No such analysis was submitted.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

The rule does not include any incorporation by reference of materials as specified in statute.

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

The rule was not previously made, amended or repealed as an emergency rule.

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

ARTICLE 21. TRAUMA AND EMERGENCY SERVICES FUND

Section

R9-22-2101. General Provisions

ARTICLE 21. TRAUMA AND EMERGENCY SERVICES FUND

R9-22-2101. General Provisions

- A. A.R.S. § 36-2903.07 establishes the Administration as the authority to administer the Trauma and Emergency Services Fund.
- B. The Administration shall distribute 90% of monies from the trauma and emergency services fund to a level I trauma center, as defined in subsection (F) of this Section, for unrecovered trauma center readiness costs as defined in subsection (F) of this Section. Reimbursement is limited to no more than the amount of unrecovered trauma center readiness costs as determined in subsections (D) and (E) of this Section. Unexpended funds may be used to reimburse unrecovered emergency room costs under subsection (C) of this Section.
- C. The Administration shall distribute 10% of monies from the trauma and emergency services fund, for unrecovered emergency services costs, to a hospital having an emergency department, using criteria under R9-22-2103. Reimbursement is limited to no more than the amount of unrecovered emergency services costs as determined in R9-22-2103. The Administration may distribute more than 10% of the monies for unrecovered emergency room costs when there are unexpended monies under subsection (B) of this Section.
- D. The Administration shall distribute a reporting tool and guidelines to level I trauma centers to determine, on an annual basis, the unrecovered trauma center readiness costs for level I trauma centers as defined in subsection (F) of this Section. The reporting time-frame is July 1 of the prior year through June 30 of the reporting year. A level I trauma center shall submit the requested data and a copy of the most recently completed uniform accounting report under A.R.S. § 36-125.04 to the Administration no later than October 31 of each reporting year.
- E. When a level I trauma center closes in a county where there are one or more level I trauma center(s) remaining in operation, the following shall occur:
 1. The closing level I trauma center shall submit the requested data under subsection (D) of this Section for the months of the reporting time-frame in which it met the definition of a level I trauma center, and
 2. The data under subsection (D) of this Section, which is submitted by the closing level I trauma center, shall be added to the remaining level I trauma center(s) in that county for the current reporting time-frame only.
- F. In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:
 - ~~1. "Level I trauma center" means any acute care hospital that:
 - a. Provides in-house 24-hour daily dedicated trauma-surgical services as defined in A.R.S. § 36-2201(26) pertaining to a trauma center, or
 - b. Is recognized as a rural regional trauma center that was providing formal organized trauma services on or before January 1, 2003.~~
 12. On or after January 1, 2005, "Level I trauma center" means any acute care hospital designated by the Arizona Department of Health Services as a level I trauma center, a provisional level I trauma center, a pediatric level I trauma center or an initial level I trauma center.
 23. "Unrecovered trauma center readiness costs" means losses incurred treating trauma patients:
 - a. Determined in accordance with Generally Accepted Accounting Principles,
 - b. Based on both clinical and professional costs incurred by a level I trauma center necessary for the provision of level I trauma care, and
 - c. Based on administrative and overhead costs directly associated with providing level I trauma care.