

February 15, 2018

The Honorable Steve Yarborough, President
Arizona State Senate
1700 West Washington
Phoenix, Arizona 85007

The Honorable J.D. Mesnard, Speaker
Arizona State House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Dear President Yarborough and Speaker Mesnard:

A.R.S. 41-1092.08(B) provides that, within thirty days of receiving an administrative law judge's decision, the head of the agency may review the decision and accept, reject or modify it. If the head of the agency rejects or modifies the decision, the agency head must provide a written justification for the rejection or modification of each finding of fact or conclusion of law.

Subsection (B) also requires that if the agency head rejects or modifies a conclusion of law, the written justification shall be sent to the President of the Senate and the Speaker of the House of Representatives.

Most, if not all, administrative law judge decisions and the associated decision of the agency head regarding the AHCCCS program include the information that is confidential under State and federal law. See 45 CFR Part 164 and AAC R9-22-309. As such, AHCCCS cannot provide the full text of the administrative law judge decisions or the agency decision. As a practical matter, redacted versions of the justification for a modification or rejection of an administrative law judge's conclusion of law are not comprehensible without the full context of findings of fact and conclusion of law made by the administrative law judge.

For that reason, AHCCCS is providing quarterly summary information. For the quarter ending December 30, 2017, AHCCCS has identified 16 matters where the agency head rejected or modified an administrative law judge's conclusions of law. During that same quarter, AHCCCS reviewed 183 administrative law judge decisions. The relevant cases involved issue(s) regarding


- The agency's legal authority to determine eligibility under the Arizona Long Term Care Program. (4 matters)
- Standing to appeal the denial of a provider claim. (2 matters)
- Member appeal of the denial of prior authorization. (2 matters)
- The legal standard for coverage of services under the Early, Periodic, Screening, Diagnosis, and Treatment program under Medicaid. (1 matter)
- The legal standard for timely submission of provider claims. (1 matter)
- The legal authority for deductions from income for purposes of determining eligibility. (1 matter)

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- The legal authority to suspend Medicaid payments following a determination of a credible allegation of fraud. (1 matter)
- Correcting clerical errors in Administrative Law Judges' Decisions. (3 matters)
- Appeal of the rationale for and decision made by a behavioral health provider to issue a Notice of Action that immediately terminated Flex Care Plus services for individual with co-occurring disorder(s). (1 matter)

Please feel free to contact me if you have any questions about this report.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Betlach', enclosed within a large, hand-drawn oval.

Thomas J. Betlach
Director

cc: Richard Stavneak, Director, Joint Legislative Budget Committee
Matt Gress, Director, Governor's Office of Strategic Planning and Budgeting
Christina Corieri, Governor's Office, Senior Policy Advisor