

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM -

ADMINISTRATION

PREAMBLE

1. Article, Part, or Section Affected (as applicable) Rulemaking Action

R9-22-712.63

Amend

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

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

Implementing statute: A.R.S. § 36-2903.01(G)(12)

3. The effective date of the rule:

As specified in A.R.S. § 41-1032(A)(4), the agency requests an immediate effective date to provide a benefit to the public and a penalty is not associated with a violation of the rule.

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

Notice of Rulemaking Docket Opening: 28 A.A.R. 1232, June 3, 2022

Notice of Supplemental Proposed Rulemaking: 28 A.A.R. 2114, August 26, 2022

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

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 An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

All Patient Refined Diagnosis Related Groups (APR-DRG) payment methodology is the primary reimbursement method for AHCCCS hospital inpatient care services. AHCCCS transitioned to the APR-DRG payment methodology beginning October 1, 2014 from the previous tiered per diem rates. AHCCCS updated the model starting January 1, 2018 and again beginning October 1, 2021. A.R.S § 36-2905.02 provides two available options to enhance rural hospital reimbursement with existing appropriated monies. AHCCCS has the authority to implement a supplemental payment methodology or may adjust rates established pursuant to section A.R.S § 36-2903.01, subsection G. AHCCCS is proposing to create a unique base payment amount for rural hospitals that current qualify for payments under A.R.S § 36-2905.02. Due to Centers for Medicare & Medicaid Services (CMS) restrictions, this additional base payment amount will ensure AHCCCS has the flexibility to continue to provide funding to rural hospitals. AHCCCS has updated the language to ensure that the

transition from the current payment methodology to the APR-DRG payment methodology has minimal impact to the existing allocation of funds.

Through the public comment process, AHCCCS has determined that additional modifiers were needed in R9-22-712.63 for the methodology to achieve its intended purpose. With this rulemaking, a modification will be made to A.A.C. R9-22-712.63 to create a rural hospital DRG base rate hospital class. The proposed rulemaking will ensure alignment with previously funded Rural Hospital Inpatient Fund payments within the APR-DRG payment methodology.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not 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:

No study was used.

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 of this state:

The rulemaking will not diminish a previous grant of authority.

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

The Administration anticipates that the DRG rulemaking will ensure that current supplemental payments made to rural hospitals may continue as part of the DRG payment methodology. With this change, 12.1 million dollars will continue to be provided to critical hospitals in non-urban settings.

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

There were no changes between the proposed supplemental rulemaking and the final rulemaking.

11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

No public comments were submitted during the public comment period for the proposed supplemental rulemaking, however AHCCCS chose to initiate the supplemental rulemaking in order to address the one public comment received during the initial proposed rulemaking and that comment has been included below.

Commenter	Date	Comment	AHCCCS Response
Amy Upston, Director of Financial Policy and Reimbursement - Arizona Hospital and Healthcare Association	7/5/2022	Thank you for the opportunity to comment on the proposed rule for the All Patient Refined Diagnosis Related Groups (APR-DRG) Payment Methodology. I am responding on behalf of the Arizona Hospital and Healthcare Association (AzHHA) and our thirteen rural hospitals that will be impacted by the proposed incorporation of the rural inpatient supplemental payments into the APR-DRG payments methodology. AzHHA deeply appreciates the initiative the AHCCCS Administration has taken on this proposed rule in order to ensure rural hospitals continue to receive the approximate \$12.2 million that has been appropriated annually for almost 20 years in the state budget and which is referenced in A. R. S. § 36-2905.02. These monies are critical to financing these hospitals and ensuring they continue to provide access to care for AHCCCS members. It is our understanding that it is the AHCCCS Administration’s intent to find a way to disburse these monies to the eligible hospitals in such a way that most closely mirrors how they are currently being distributed. AzHHA strongly supports this approach.	AHCCCS appreciates the Arizona Hospital and Healthcare Association feedback in regards to the All Patient Refined Diagnosis Related Group (APR-DRG) payment methodology proposed rule. AHCCCS values the partnership that the agency has established with the Association to provide healthcare services to the AHCCCS members.

	<p>While we realize that funneling the \$12.2 million appropriation through the APR-DRG base payments is likely the best solution for retaining similar payment structure, our members would like to see modeling done prior to the new base rate being finalized and would appreciate another opportunity to provide input on that modeling. Additionally, we are concerned the payment amount for at least one of the hospitals is likely to substantially decrease since a significant portion of its inpatient payments are related to behavioral health services, which are not paid through the APR-DRG methodology. AzHHA would like the opportunity to confirm this once initial modeling is shared with the hospitals and the opportunity to propose additional measures if deemed necessary. For example, AHCCCS may want to consider an APR-DRG adjustor (similar to the high Medicaid volume hold-harmless adjustor) for significantly impacted hospitals or a change in the behavioral health inpatient fee schedule for significantly impacted hospitals.</p> <p>We appreciate your consideration of this request and look forward to additional modeling of each impacted hospital. Please do not hesitate to contact me if you have any questions, or if I can provide additional information.</p>	<p>AHCCCS will continue to work with the Association on the implementation of the rule to try and achieve the best possible outcome as we move from a pass-through payment for the Rural Hospital Inpatient Fund (RHIF) to the incorporation of the funding into the APR-DRG model.</p>
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12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

No other matters.

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:

Not applicable.

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:

The rule is not more stringent than 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:

Not applicable.

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

Not applicable.

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:

Not applicable.

15. The full text of the rules follows:

ARTICLE 7. STANDARDS FOR PAYMENTS

Section

R9-22-712.63 DRG Base Payments Not Based on the Statewide Standardized Amount

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-22-712.63. DRG Base Payments Not Based on the Statewide Standardized Amount

- A. Notwithstanding Section R9-22-712.62, a select specialty hospital standardized amount shall be used in place of the statewide standardized amount in subsection R9-22-712.62(B) to calculate the DRG base rate for the following hospitals:
1. Hospitals located in a city with a population greater than one million, which on average have at least 15 percent of inpatient days for patients who reside outside of Arizona, and at least 50 percent of discharges as reported on the 2011 Medicare Cost Report are reimbursed by Medicare.
 2. Hospitals designated as type: hospital, subtype: short term that has a license number beginning "SH" in the Provider & Facility Database for Arizona Medical Facilities posted by the ADHS Division of Licensing Services on its website for March of each year.
- B. The select specialty hospital standardized amount is included in the AHCCCS capped fee schedule available on the agency's website.
- C. Notwithstanding Section R9-22-712.62, a rural hospital standardized amount shall be used in place of the statewide standardized amount in subsection R9-22-712.62(B) to calculate the DRG base rate for the following hospitals:
1. A health care institution that is licensed as an acute care hospital, that has one hundred or fewer beds, and that is located in a county with a population of less than five hundred thousand persons; or
 2. A health care institution that is licensed as a critical access hospital.
- D. The rural hospital standardized amount is included in the AHCCCS capped fee schedule.

available on the agency's website.

- E. Notwithstanding Section R9-22-712.62 and R9-22-712.63(B), a hospital standardized amount shall be used in place of the statewide standardized amount in subsection R9-22-712.62(B) or R9-22-712.63(B) to calculate the DRG base rate for a health care institution that is licensed as an acute care hospital, that has one hundred or fewer beds, that is located in a county with a population of less than five hundred thousand persons and has greater than twenty percent of Medicaid inpatient reimbursement with a primary diagnosis of behavioral health in the prior federal fiscal year as of April 30th.
- F. The hospital standardized amount is included in the AHCCCS capped fee schedule available on the agency's website.
- G. Notwithstanding Section R9-22-712.62 and R9-22-712.63(B), a hospital standardized amount shall be used in place of the statewide standardized amount in subsection R9-22-712.62(B) or R9-22-712.63(B) to calculate the DRG base rate for a health care institution with two separate ADHS acute care hospital licenses, with one facility that has one hundred or fewer beds, that is located in a county with a population of less than five hundred thousand persons and has one single AHCCCS registration for both licenses.
- H. The hospital standardized amount is included in the AHCCCS capped fee schedule available on the agency's website.