

August 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 June 30, 2018, AHCCCS has identified 10 matters where the agency had rejected or modified an administrative law judge's conclusions of law. During that same quarter, AHCCCS reviewed 144 administrative law judge decisions. The following Conclusions of Law were modified or rejected:

- Modified a Conclusion of Law that due process denied because a legal argument was made for the first time at hearing.
- Corrected factual statement in a Conclusion of Law that did not alter the legal conclusion or the outcome of the decision.
- Additional Conclusion of Law added to clarify the rights of persons with a serious mental illness and the implementation of case management through policy.
- The Administrative Law Judge failed to consider applicable Arizona Administrative Code and AHCCCS policies regarding requirements for prior authorization of medical supplies.
- Added Conclusions of Law regarding the requirement that providers must have a provider participation agreement with AHCCCS or their services are not covered

The Honorable Steve Yarborough  
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August 15, 2018  
Page 2

- Rejected a Conclusion of Law concluding that the hospital failed to carry their burden of proving that the claim was billed correctly.
- Clarified that the provider has the burden of establishing the timeliness of the claim dispute; and noting harmless error due to a technical error in the health plan's notice of claim resolution.
- Clarified that all beneficiaries are eligible for all covered services regardless of whether the beneficiary has a condition that qualifies for the Children's Rehabilitative Services program.
- Struck a reference in a Conclusion of Law to the beneficiary's sexual orientation as irrelevant to coverage of a prophylactic drug.
- Added Conclusions of Law regarding appeal rights of persons with a serious mental illness.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas J. Betlach". The signature is fluid and cursive, with a large initial "T" and "J".

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