NOTICE OF FINAL EXPEDITED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 31. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

CHILDREN'S HEALTH INSURANCE PROGRAM

PREAMBLE

1.	**Article, Part, or Section Affected (as applicable)**	**Rulemaking Action:**
	R9-31-101	Amend
	R9-31-103	Amend
	R9-31-301	Amend
	R9-31-308	Amend
	R9-31-401	Amend
	R9-31-1408	Amend
	R9-31-1420	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. § 36-2986

Implementing Statute: A.R.S. § 36-2982

3. The effective date of the rule:

The rule is effective the day the Notice of Final Expedited Rulemaking is filed with the Office of the Secretary of State.

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 Docket Opening: 28 A.A.R. 1236, June 3, 2022

Notice of Proposed Expedited Rulemaking: 28 A.A.R. 1219, June 3, 2022

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

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 An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:

Under A.R.S. 41-1027(A), this rulemaking does not increase the cost of regulatory compliance, increase a fee or reduce procedural rights of persons regulated and (7) Implements, without material change, a course of action that is proposed in a five-year review report approved by the council pursuant to section 41-1056 within one hundred eighty days of the date that the agency files the proposed expedited rulemaking with the secretary of state. The entirety of this rulemaking was approved by the Council in a five-year-review report on March 1, 2022.

AHCCCS seeks to remove outdated eligibility categories within R9-31-401 and R9-31-1408(D), in addition to updating the rules to reflect current timelines for both the period of ineligibility and the required timeline to provide verification of need. These and other technical and conforming changes are necessary to help members and potential members understand AHCCCS KidsCare categories and processes. Also, AHCCCS prefers to remove regulations with out-of-date references or eligibility categories in an effort to decrease the regulatory burden on the public. Additional changes are needed to keep the rules clear, concise, and understandable for members of the public.

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:

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 of this state:

Not applicable.

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

Under A.R.S. § 41-1055(D)(2), the Administration is not required to provide an economic, small business, and consumer impact statement.

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

In R9-31-101, the symbol for section was added to citations to the United States Code in order to correctly format the citation. In R9-31-301, the headings were re-lettered correctly. No other differences between the proposed and final rulemakings.

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 made.

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:

There are no other matters prescribed by statutes applicable specifically to the Administration or this specific rulemaking.

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 the federal law:

Not applicable.

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 rule:

None.

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:

TITLE 9. HEALTH SERVICES

CHAPTER 31. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

CHILDREN'S HEALTH INSURANCE PROGRAM

Section

ARTICLE 1. DEFINITIONS

R9-31-101. Location of Definitions

A. Location of definitions. Definitions applicable to 9 A.A.C. 31 are found in the following~~.~~:

Definition	Section or Citation
"ADHS"	R9-22-102
"Administration"	A.R.S. § 36-2901
"Adverse action"	R9-34-102
"Aggregate"	R9-22-701
"AHCCCS"	R9-31-101
"AHCCCS registered provider"	R9-22-101
"Ambulance"	A.R.S. § 36-2201
"Applicant"	R9-31-101
"Application"	R9-31-101
"Behavior management service"	R9-31-1201
"Behavioral health evaluation"	R9-31-1201
"Behavioral health medical practitioner"	R9-31-1201
"Behavioral health professional"	R9-31-1201
"Behavioral health service"	R9-31-1201
"Behavioral health technician"	R9-31-1201
"Billed charges"	R9-22-701
"Capital costs"	R9-22-701
"Certified nurse practitioner"	R9-31-102
"Certified psychiatric nurse practitioner"	R9-31-1201
"Child"	42 U.S.C. § 1397jj
"Chronically ill"	A.R.S. § 36-2983
"Clean claim"	A.R.S. § 36-2904
"Clinical supervision"	R9-22-102
"CMDP"	R9-31-103
"Continuous stay"	R9-22-101
"Contract"	R9-22-101
"Contractor"	A.R.S. § 36-2901
"Contract year"	R9-31-101
"Cost avoid"	R9-22-1201
"Cost-to-Charge"	R9-22-701
"Covered charges"	R9-31-107
"Covered services"	R9-22-102
"CPT"	R9-22-701

“CRS”	R9-31-103
“Date of eligibility posting”	R9-22-701
“Day”	R9-22-101
“De novo hearing”	42 CFR 431.201
“Dentures” and “Denture services”	R9-22-102
“DES”	R9-31-103
“Determination”	R9-31-103
“Diagnostic services”	R9-22-102
“Director”	A.R.S. § 36-2981
“DME”	R9-22-102
“DRI inflation factor”	R9-22-701
“Emergency medical condition”	42 U.S.C. § 1396b(v)
“Emergency medical services for the non-FES” member	R9-22-102
“Encounter”	R9-22-701
“Enrollment”	R9-31-103
“Experimental services”	R9-22-101
“Facility”	R9-22-101
“Factor”	R9-22-101
“Federal Poverty Level” or “FPL”	A.R.S. § 36-2981
“First-party liability”	R9-22-1001
“Grievance”	R9-34-202
“Group Health Plan”	42 U.S.C. § 1397jj
“GSA”	R9-22-101
“Head of Household”	R9-31-103
“Health care practitioner”	R9-31-1201
“Hearing aid”	R9-22-102
“Home health services”	R9-22-102
“Hospital”	R9-22-101
“Household income”	R9-31-103
“ICU”	R9-22-701
“IGA”	R9-31-116
“IHS”	R9-31-116
“IHS” or “Tribal Facility Provider”	R9-31-116
“Information”	R9-31-103
“Institution for Mental Diseases” or “IMD”	42 CFR 435.1010 and R9-22-102
“Inmate of a public institution”	42 CFR 435.1010
“Inpatient hospital services”	R9-31-101

“License” or “licensure”	R9-22-101
“Medical record”	R9-22-101
“Medical review”	R9-31-107
“Medical services”	R9-22-101
“Medical supplies”	R9-22-102
“Member”	A.R.S. § 36-2981
“Mental disorder”	A.R.S. § 36-501
“Native American”	R9-31-101
“New hospital”	R9-22-701
“NF” or “nursing facility”	42 U.S.C. § 1396r(a)
“NICU”	R9-22-701
“Noncontracting provider”	A.R.S. § 36-2981
“Occupational therapy”	R9-22-102
“Offeror”	R9-31-106
“Operating costs”	R9-22-701
“Outlier”	R9-31-107
“Outpatient hospital service”	R9-22-701
“Ownership change”	R9-22-701
“Partial care”	R9-22-1201
“Peer group”	R9-22-701
“Pharmaceutical service”	R9-22-102
“Physical therapy”	R9-22-102
“Physician”	A.R.S. § 36-2981
“Post stabilization care services”	42 CFR 438.114
“Practitioner”	R9-22-102
~~“Pre-existing condition”~~	~~R9-31-501~~
“Prepaid capitated”	A.R.S. § 36-2981
“Prescription”	R9-22-102
“Primary care physician”	A.R.S. § 36-2981
“Primary care practitioner”	A.R.S. § 36-2981
“Primary care provider (PCP)”	R9-22-102
“Primary care provider services”	R9-22-102
“Prior authorization”	R9-22-102
“Program”	A.R.S. § 36-2981
“Proposal”	R9-31-106
“Prospective rates”	R9-22-701
“Provider”	A.R.S. § 36-2931

“Psychiatrist”	A.R.S. § 36-501
“Psychologist”	A.R.S. § 36-501
“Psychosocial rehabilitation”	R9-22-102
“Qualified alien”	A.R.S. § 36-2903.03
“Qualifying plan”	A.R.S. § 36-2981
“Quality management”	R9-22-501
“Radiology”	R9-22-102
“Rebase”	R9-22-701
“Redetermination”	R9-31-103
“Referral”	R9-22-101
“Regional Behavioral Health Authority” or “RBHA”	A.R.S. § 36-3401
“Rehabilitation services”	R9-22-102
“Reinsurance”	R9-22-701
“Remittance advice”	R9-22-701
“RFP”	R9-31-106
“Respiratory therapy”	R9-22-102
“Scope of services”	R9-22-102
“Seriously ill”	R9-31-101
“Service location”	R9-22-101
“Service site”	R9-22-101
“SMI” or “Seriously mentally ill”	A.R.S. § 36-550
“Specialist”	R9-22-102
“Speech therapy”	R9-22-102
“Spouse”	R9-31-103
“SSI-MAO”	R9-31-103
“Stabilize”	42 U.S.C. § 1395dd
“Standard of care”	R9-22-101
“Sterilization”	R9-22-102
“Subcontract”	R9-22-101
“Subcontractor”	R9-31-101
“Third-party”	R9-22-1001
“Third-party liability”	R9-22-1001
“Tier”	R9-22-701
“Tiered per diem”	R9-31-107
“TRBHA” or “Tribal Regional Behavioral Health Authority”	R9-31-1201
“Tribal facility”	A.R.S. § 36-2981
“Utilization management”	R9-22-501

B. General definitions. The words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

"ADHS" has the same meaning as in A.A.C. R9-22-102.

"AHCCCS" means the Arizona Health Care Cost Containment System, which is composed of the Administration, contractors, and other arrangements through which health care services are provided to a member.

"Applicant" means a person who submits, or whose representative submits, a written, signed, and dated application for Title XXI medical coverage.

"Application" means an official request for Title XXI medical coverage made under this Chapter.

"Contract year" means the period beginning on October 1 and continuing until September 30 of the following year.

"Inpatient hospital services" means medically necessary services that require an inpatient stay in an acute care hospital and that are provided by or under the direction of a physician or other health care practitioner upon referral from a member's primary care provider.

"Native American" means Indian as specified in 42 CFR 137.10.

"Seriously ill" means a medical or psychiatric condition manifesting itself by acute symptoms that left untreated may result in:

Death,

Disability,

Disfigurement, or

Dysfunction.

"Subcontractor" means a person, agency, or organization that enters into an agreement with a contractor or subcontractor to provide services.

R9-31-103. ~~Eligibility and Enrollment Related Definitions~~Repealed

~~Definitions. The words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:~~

~~"CMDP" means Comprehensive Medical and Dental Program.~~

~~"CRS" means Children's Rehabilitative Services.~~

~~"DES" means the Department of Economic Security.~~

~~"Determination" means the process by which an applicant is approved or denied for coverage.~~

~~"Enrollment" means the process by which a person is determined eligible for and enrolled in the program.~~

~~"Head of household" means the household member who assumes the responsibility for providing eligibility information for the household unit.~~

~~"Household income" means the total gross amount of all money received by or directly deposited into a financial account of a member of the household income group as defined in R9-31-304.~~

~~"Information" means the knowledge received or communicated in written or oral form regarding a circumstance~~

~~or proof of a circumstance.~~

~~"PSP" means Premium Sharing Program, established according to A.R.S. § 36-2923.01.~~

~~"Redetermination" means the periodic review of a member's continued Title XXI eligibility.~~

~~"Spouse" means the husband or wife of a Title XXI applicant or household member, who has entered into a contract of marriage, recognized as valid by Arizona.~~

~~"SSI-MAO" means Supplemental Security Income-Medical Assistance Only.~~

ARTICLE 3. ELIGIBILITY AND ENROLLMENT

R9-31-301. Expenditure Limit and Enrollment

~~Expenditure limit and enrollment~~

~~1.~~**A.** Title XXI will accept enrollees subject to the availability of federal funds. If the Director determines that monies may be insufficient for the program, the Administration shall stop processing applications for the program as specified in A.R.S. § 36-2985.

~~2.~~ **B.** After the Administration has verified that federal funding is sufficient, it will resume processing applications as specified in A.R.S. § 36-2985.

~~3.~~ **C.** The Administration shall immediately stop processing all applications and shall provide advance notice to a member that the program will terminate under A.R.S. § 36-2985.

~~4.~~ **D.** A child is not entitled to a hearing under Chapter 34, if the program is suspended or terminated.

R9-31-308. Changes and Redeterminations

A. Reporting Changes. A member or a member's parent or guardian shall report the following changes to the Administration or its designee:

1. Any increase in income that will begin or continue into the following month,
2. Any change of address,
3. The addition or departure of a household member,
4. Any health coverage under private or group health insurance,
5. Employment of a member or a parent with a state agency,
6. Incarceration of a member, and
7. Any other changes that may impact eligibility or premiums.

B. Verification. If required verification is needed and requested as a result of a change specified in subsection (A) of this Section to determine the impact on eligibility or premiums and is not received within ~~10~~15 days, the Administration or its designee shall send a notice to discontinue eligibility for a member unless a member is within the guaranteed enrollment period as specified in R9-31-307.

C. Redeterminations. The renewal eligibility requirements described under R9-22-306 for a KidsCare program member shall be followed.

D. Termination. The termination notice requirements as described under R9-22-307 for a KidsCare program member shall be followed.

ARTICLE 4. KIDSCARE II PROGRAM

R9-31-401. ~~KidsCare II Program~~Repealed

~~A.~~ ~~Subject to CMS approval and the availability of funding under the special terms and conditions of the 1115 Waiver, the Administration shall establish the KidsCare II program.~~

~~B.~~ ~~Subject to the availability of funding, the following children are potentially eligible under this Section notwithstanding the closure of new enrollment under Article 3 on December 21, 2009, due to a lack of available funding:~~

1. ~~Children with household income at or below 175% of FPL, who are discontinued for eligibility under 9 A.A.C. 22, Article 14, effective on or after May 1, 2012, due to age.~~
2. ~~Children with household income at or below 175% of FPL, whose application for assistance was denied or discontinued as ineligible under 9 A.A.C. 22 on or after December 21, 2009, but who where determined potentially eligible for KidsCare as of the date of that denial or discontinuance and whose eligibility for KidsCare was not determined because the Administration stopped processing applications due to insufficient funding pursuant to R9-31-301(C).~~
3. ~~Children not described in subsection (B)(2) with household income at or below 175% of FPL.~~

~~C.~~ ~~Beginning on or before May 1, 2012, the Administration shall send notice of potential eligibility under this Section to as many households with children described in subsection (B)(2) as is estimated by the Administration as likely to result in the return of a sufficient number of applications to increase enrollment under this Section to the extent of available funding under this Section.~~

~~D.~~ ~~Notice of potential eligibility:~~

1. ~~Children who were placed on the waiting list established under R9-31-302(F) on an earlier date shall receive notice before children placed on the waiting list on a later date.~~
2. ~~Notwithstanding subsection (D)(1), all children in the household will receive notice and be determined for eligibility based on the child in the household with the earliest applicable date.~~
3. ~~Households shall have 30 days to return an application to the Department.~~
4. ~~If notices that are initially sent under subsection (C) do not result in sufficient applications to enroll as many children as allowed by available funding, the Administration shall send out additional notices as described in subsection (C).~~

~~E.~~ ~~The Department shall review all applications for a determination of eligibility under 9 A.A.C. 22. If the Department determines that a child is not eligible under 9 A.A.C. 22 but has income at or below 175% of FPL and meets all other eligibility criteria under R9-31-303, the Department shall refer the application to the Administration.~~

~~F.~~ ~~The Administration shall accept the Department's determinations regarding eligibility criteria without requiring the household to submit a new application under this Section or to reverify information verified by the Department.~~

~~G.~~ ~~Upon referral of an application from the Department, the Administration shall:~~

1. Determine whether the application referred by the Department was from a household with a child described in subsection (B)(1) or from a household that received a notice under subsection (D) that submitted an application to the Department within 30 days of the Administration's request for a new application;
2. Process applications for children described in subsection (B)(3) beginning June 25, 2012;
3. Determine whether the household has any unpaid premiums as described in R9-31-1420 and, if so, the Administration shall require the household to pay the past due premium within 20 days from notification as a condition of determining a child eligible under this Section;
4. Enroll children under this Section based on the date that the Administration determines the child eligible; and
5. Stop processing applications and determining eligibility under this Section once the Administration has enrolled the maximum number of children consistent with funding made available under this Section.

H. Effective date of initial enrollment.

1. For an eligibility determination completed by the 25th day of the month, enrollment shall begin on the first day of the month following the determination of eligibility.
2. For an eligibility determination completed after the 25th day of the month, enrollment shall begin on the first day of the second month following the determination of eligibility.

I. Any child who is not determined eligible under subsection (G) shall remain on the waiting list described in R9-31-302(F).

J. Eligibility for children under this Section ends on December 31, 2013.

K. Except as otherwise provided by this Section, eligibility shall be determined in accordance with the provisions of this Chapter.

ARTICLE 14. PREMIUMS FOR A CHILD DETERMINED ELIGIBLE UNDER ARTICLE 3

R9-31-1418. Discontinuance for Failure to Pay Premium

A. Discontinuance notice. The Administration shall send an adverse action notice to discontinue eligibility if the Administration does not receive the past and current due premium amounts by the 15th day of the current month. The Administration shall follow the discontinuance notice requirements under R9-31-310(B).

B. Discontinuance rescinded. The Administration shall rescind the discontinuance and continue eligibility if the past due amount for at least one prior month is received by the Administration in full before the effective date of the discontinuance.

C. Discontinuance of eligibility. Except as provided in R9-31-1419, the Administration shall discontinue eligibility on the effective date of the discontinuance if the past due amount for at least one prior month is not received by the Administration in full before the effective date of the discontinuance.

~~**D.** Notwithstanding subsection (A), the Administration shall not discontinue eligibility for the enrolled members of the household until the Administration has not received, by the 15th day of the month in which the Administration sends the adverse action notice, premium amounts due for the past two months and the current month for persons who:~~

~~1. Have been continuously eligible since June 2004,~~

~~2. Were required to pay a premium under R9-31-1402(B) for the month of July 2004,~~

~~3. Were required to pay any premium under R9-31-1402 for the month of August 2004, and~~

~~4. As of August 31, 2004, had not paid the premiums required for July 2004 and August 2004.~~

R9-31-1420. Payment of a Premium

When a member was discontinued with an unpaid premium, the parent or other responsible person shall pay the past due premium amounts for a child to the Administration or the child will remain ineligible for ~~90~~60 days before the person can attain eligibility again.