TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) - ADMINISTRATION

ARTICLE 7. STANDARDS FOR PAYMENTS

PREAMBLE

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

R9-22-712.06 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

Implementing statute: A.R.S. §§ 36-2903.01 and Laws 2022, Chapter 313

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 provider 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. 3506

Notice of Proposed Rulemaking: 28 A.A.R. 3465

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 An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

A.R.S. § 36-2903.01 requires the Administration to describe in rule how Graduate Medical Education (GME) funds are calculated and distributed. Under Laws 2020, Chapter 58 and Laws 2021, Chapter 408 (SFY 2021 and 2022 respectively), AHCCCS must prioritize monies appropriated and distributed to programs at hospitals in counties with a higher percentage of persons residing in a health professional shortage area, as defined in 42 CFR Part 5. The intention of this rulemaking is to implement the SFY 2023 appropriation requirements in Laws 2022, Chapter 313 for two GME pools. Laws 2022, Chapter 313 established a separate rural pool appropriation (for GME hospitals outside of Maricopa and Pima counties) and an urban pool appropriation (for GME hospitals inside Maricopa and Pima counties) for the SFY 2023 budget.

Under Laws 2022, Chapter 313, only monies distributed from the rural pool are to be prioritized to hospitals in counties with a higher percentage of persons residing in health professional shortage areas. The proposed amendments to R9-22-712.06 remove prioritization of urban hospitals in counties with a higher percentage of persons residing in health professional shortages areas for purposes of making payments to urban hospitals, reflecting the intention of the legislature.

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 relied upon.

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 of a political subdivision.

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

The AHCCCS Administration estimates this amendment will not result in any change in allocation to urban hospitals. All hospitals that received urban pool payments under Laws 2020, Chapter 58 and Laws 2021, Chapter 408 were located in the same county and did not receive funding priority over another hospital based on differences in health professional shortage area designations.

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 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:

There were no public comments about the rulemaking.

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 have been prescribed.

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 rules does not require a 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:

A federal law is not appliable.

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 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:

No materials incorporated by reference.

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

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ARTICLE 7. STANDARDS FOR PAYMENTS

Section

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-22-712.06. Supplemental Graduate Medical Education Fund Allocation

A. Gradual Medical Education (GME) reimbursement as of July 1, 2020.

1. In addition to distributions according to Section R9-22-712.05, and subject to the availability of funds and approval by CMS, the Administration shall annually distribute monies appropriated for the GME programs approved by the Administration to hospitals for direct and indirect costs for graduate medical education programs which were established or expanded on or after July 1, 2020. The Administration shall estimate the distributions using information possessed by the Administration as of December 15 of each calendar year. The actual distributions will be made using information possessed by the Administration as of September first of the year in which the new residency or fellowship begins.
2. Eligible Hospitals. A hospital is eligible for distributions under this Section if all of the following apply:
    a. It is a hospital in Arizona that is the sponsoring institution of, or a participating institution in, one or more of the GME programs in Arizona;
    b. It incurs direct costs for the training of residents in the GME programs, which costs are or will be reported on the hospital's Medicare Cost Report;
    c. It is not administered by or does not receive its primary funding from an agency of the federal government;
    d. It has established a new GME program or expanded the number of residents or fellows in an existing GME program on or after July 1, 2020.
3. Eligible positions. For purposes of determining distributions under this Section the following resident and fellowship positions qualify to the extent that the training takes place in Arizona at an eligible health care facility:
    a. Filled resident or fellow positions in approved programs which began on or after July 1, 2020;
    b. Eligible positions do not include residents or fellows that receive payments for services under the Access to Professional Services Initiative (APSI) program established in the

Contractors' prepaid capitation contracts with the Administration.

4. Annual Reporting

a. By December 15 of each year, a GME program shall provide all of the following information for GME programs and positions which are expected to be eligible for funding under this Section as of the upcoming academic year (i.e., July 1 to June 30 of each year):

i. The program name and number assigned by the accrediting organization if available;

ii. The original date of accreditation if available;

iii. The names of the sponsoring institution and all participating institutions expected as of the date of reporting;

iv. The number of anticipated resident and fellowship positions eligible for funding as of the upcoming academic year;

v. The number of months or partial months during the upcoming academic year that each resident or fellow is expected to work in each hospital or in a non-hospital setting under agreement between the non-hospital setting and the reporting hospital;

vi. The academic year of anticipated resident and fellowship positions;

vii. The length of the program; and

viii. The names and other information requested by AHCCCS to ensure the total GME distributions for each eligible position are not greater than the costs for each eligible position in the Intern and Resident Information System (IRIS) file.

b. By December 15 of each year, a GME program located in a county with a population of less than 500,000 persons shall provide the estimated one-time and ongoing costs for each program which it expects to be eligible for funding.

c. By September 1 of each year, a GME program shall provide the actual name of residents and fellows hired in the current academic year and other information requested by AHCCCS to ensure that total GME distributions for the eligible position are not greater

than the costs for each eligible position in the IRIS file.

B. Preliminary allocation of funds for urban hospitals. Annually by January 15, the Administration shall estimate the annual GME distributions under this Section using the funds appropriated for hospitals in counties with a population of 500,000 persons or more based on the number of new residents and fellows in graduate medical education programs in the following manner:

1. Each eligible resident and fellow is placed into tiers with the following priority:
    a. Returning residents and fellows. A returning resident or fellow is a resident or fellow whose position received funding under this Section for the previous academic year and who is continuing in the same GME program.
    b. Residents and fellows that are not a returning resident or fellow but are in a GME program for Family Medicine, Internal Medicine, General Pediatrics, Obstetrics and Gynecology, Psychiatry including Subspecialties, General Surgery, and any other program determined as high needs by the AHCCCS Administration.
    c. Residents or fellows that are not returning residents or fellows and are not described in subsection (1)(b) but are in a GME program that received funding under this Section in a prior year.
    d. All other residents and fellows.

~~2. Residents and fellows in each tier are further divided into four sub-tiers with the following priority based on the location of the sponsoring or participating hospital:~~

~~a. Hospitals in a county designated by the Health Resource and Services Administration of the U.S. Department of Health & Human Services as a health professional shortage area (HPSA) with a greater than 85 percent primary care shortage.~~

~~b. Hospitals in a county designated as a HPSA with a greater than 50 percent to 85 percent primary care shortage.~~

~~c. Hospitals in a county designated as a HPSA with a 25-50 percent primary care shortage.~~

~~d. Hospitals in a county designated as a HPSA with a less than 25 percent primary care shortage.~~

2~~3~~. The amount of the distribution for each GME program for direct costs is calculated as the product

of:

a. The number of eligible residents and fellows adjusted for the number of months or partial months worked in each hospital or non-hospital setting under agreement between the non-hospital setting and the reporting hospitals;

b. The Arizona Medicaid utilization as determined by R9-22-712.05(B)(4)(c)(i) in the previous calendar year; and,

c. The average direct cost per resident determined under R9-22-712.05(B)(4)(d) in the previous calendar year.

3~~4~~. If monies are still remaining after direct funding has been allocated, indirect funding shall be allocated based on the priority of each tier and sub-tier. The amount of the distribution for each GME program for indirect costs is calculated as the product of:

a. The number of allocated eligible residents and fellows adjusted for the number of months or partial months worked in each hospital or non-hospital setting under agreement between the non-hospital setting and the reporting hospital;

b. The indirect cost per resident per month calculated in R9-22-712.05(D)(4)(b)(vi) in the previous calendar year; and

c. Twelve months.

d. Funds shall be allocated based on the priority of each tier and sub-tier. Distributions for eligible positions in a tier or sub-tier with a lower priority will not receive a distribution until distributions are allocated for the costs of all positions in a higher tier or sub-tier. If funding is insufficient to fully fund a tier or sub-tier, the remainder of funds will be prorated for eligible positions in that tier or sub-tier.

4~~5~~. Payments are made to participating hospitals based on the FTEs who worked at their hospitals per year.

C. Preliminary allocation of funds for rural hospitals. Annually by January 15, the Administration shall estimate the annual GME distributions under this Section using the funds appropriated for rural hospitals based on the number of eligible resident and fellow positions in graduate medical education programs located in a county with a population of less than 500,000 persons in the following manner:

1. Each resident and fellow will then be placed into a tier with the following priority:
    a. Returning residents and fellows. A returning resident or fellow is a resident or fellow whose position received funding under this Section for the previous academic year and who is continuing in the same GME program.
    b. Residents and fellows that are not a returning resident or fellow but are in a GME program for Family Medicine, Internal Medicine, General Pediatrics, Obstetrics and Gynecology, Psychiatry including Subspecialties, General Surgery, and any other program determined as high needs by the AHCCCS Administration.
    c. Residents or fellows that are not returning residents or fellows and are not described in subsection (1)(b) but are in a GME program that received funding under this Section in a prior year.
    d. All other residents and fellows.
2. Residents and fellows in each tier are further divided into four sub-tiers with the following priority based on the location of the sponsoring or participating hospital:
    a. Hospitals in a county designated by the Health Resource and Services Administration of the U.S. Department of Health & Human Services as a HPSA with a greater than 85 percent primary care shortage.
    b. Hospitals in a county designated as a HPSA with a greater than 50 percent to 85 percent primary care shortage.
    c. Hospitals in a county designated as a HPSA with a 25-50 percent primary care shortage.
    d. Hospitals in a county designated as a HPSA with a less than 25 percent primary care shortage.
3. Funds shall first be allocated for direct and indirect costs based in order of priority of each tier. If not enough funding is available to fully fund a tier or sub-tier, the remainder of funds will be prorated in a tier or sub-tier.
4. The amount of the distribution for each GME program for direct costs is calculated as the product of:
    a. The number of eligible residents and fellows adjusted for the number of months or partial

months worked in each hospital or non-hospital setting under agreement between the non-hospital setting and the reporting hospitals;

b. The Arizona Medicaid utilization determined under R9-22-712.05(B)(4)(c)(i); and,

c. The actual direct cost per resident per year.

5. The amount of the distribution for each GME program for indirect costs is calculated as the product of:

a. The number of allocated eligible residents and fellows adjusted for the number of months or partial months worked in each hospital or non-hospital setting under agreement between the non-hospital setting and the reporting hospital;

b. The indirect cost per resident per month calculated in R9-22-712.05(D)(4)(b)(vi) in the previous calendar year; and

c. Twelve months.

6. Payments are made to participating hospitals based on the FTEs who worked at their hospitals per year.

D. Final allocation of funds. Annually no sooner than September 1 following the start of the academic year, the Administration will recalculate the allocation for urban and rural hospitals using the same methodology used to estimate distributions, but using the actual residents and fellows as reported in R9-22-712.06(~~B~~A)(~~3~~4)(c).

F. Exclusions. To ensure that residents and fellows are not double counted residents/fellows which receive funding through R9-22-712.06 shall not receive funding through R9-22-712.05.