NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

ARTICLE 7. STANDARDS FOR PAYMENTS

PREAMBLE

1. Articles, Parts, or Sections Affected	**Rulemaking Action:**
R9-22-712.61	Amend
R9-22-712.75	Amend

2. Citations to the agency's statutory rulemaking authority to include 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 to include the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 25 A.A.R. 1803, July 12, 2019.

Notice of Proposed Rulemaking: 25 A.A.R. 1787, July 12, 2019.

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

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	Office of Administrative Legal Services
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	Phoenix, AZ 85034
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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 An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

This rulemaking will amend an AHCCCS DRG payment regulation to align with programmatic functions following AHCCCS Complete Care (ACC) integration October 1, 2018. This rulemaking will amend the definition of "administrative day" to authorize MCO payment to acute care hospitals at a level similar to reimbursement of these providers before the delivery system change to ACC integration. For claims with a primary diagnosis of behavioral health, acute care hospitals will receive reimbursement under the DRG methodology where, under the proposed rulemaking, this provider type will be able to qualify for payment under the revised definition of administrative day. This change will promote consistency of inpatient hospital reimbursement following ACC integration for providers serving members when claims with a primary diagnosis of behavioral health are filed.

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

This rulemaking does not diminish a previous grant of authority of a political subdivision.

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

The proposed rulemaking will support economic development in Arizona by preserving payment rates in place prior to ACC integration for acute care hospitals providing inpatient services to members with a primary diagnosis of behavioral health. The proposed amendment to the definition of "administrative day" is warranted in order to continue to support providers following ACC integration providing the same level of services In order to mitigate hospital reimbursement impacts, AHCCCS is amending the fee-for-service reimbursement methodology for acute care hospital inpatient claims with a primary diagnosis of behavioral health.

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

No changes between the proposed rulemaking and the final rulemaking have been made.

11. An agency's summary of the public or stakeholder comments made about the rule making and the agency response to the comments:

Name and Position of Commenter	Date of Comment	Text of Comment	AHCCCS Response
Jennifer A. Carusetta, Executive Director – Health System Alliance of Arizona	12/03/18	On behalf of the Health System Alliance of Arizona (Alliance), it is with great pleasure that I write this letter of support for DRG AHCCCS Complete Care (ACC) Integration. The purpose of this rulemaking is to amend the definition of "administrative day" to authorize AHCCCS's contracted health plans to issue payment for claims to acute care hospitals where the primary diagnosis is for a behavioral health condition at a level comparable to that received prior to ACC implementation. Hospitals frequently become the entry-point into the healthcare system for patients whose primary diagnosis is a behavioral health condition. Hospitals will care for those patients while they await transfer to a behavioral health provider. During this time, hospitals rely on the per diem payment that is billable through the AHCCCS contracted health plans for reimbursement for caring for the patient. This per diem payment has proven critical as the current rules governing DRG payment for administrative stays do not allow payment for acute inpatient stays with a primary diagnosis of a behavioral health condition. With this rule change, acute care hospitals will be able to continue to receive reimbursement for administrative stays for behavioral health patients at a level comparable to the historic per diem payment. Once again, it is with great pleasure that we offer our support for this rule change. We appreciate your leadership and continued consideration of the issues impacting our industry. I am happy to answer any questions or provide additional information.	AHCCCS appreciates Ms. Carusetta's comments and the support of the Health System Alliance of Arizona.

12. Other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules.

There are no other matters prescribed by statute applicable to rulemaking specific to this agency, to this specific rule, or to this class of rules.

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 rule does not require the provider to obtain a permit or a general 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:

The rule must comply with 42 CFR 438.6 and 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:

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 rules:

The rule does not include any incorporation by reference of materials as specified in statute.

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:

The rule was not previously made, amended or repealed as an emergency rule.

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

ARTICLE 7. STANDARD FOR PAYMENTS

Section

R9-22-712.61. DRG Payments: Exceptions

R9-22-712.75. DRG Reimbursement: Payment for Administrative Days

Article 7. Standards for Payment

R9-22-712.61 DRG Reimbursement: Exceptions

A. Notwithstanding section R9-22-712.60, claims for inpatient services from the following hospitals shall be paid on a per diem basis, including provisions for outlier payments, where rates and outlier thresholds are included in the capped fee schedule published by the Administration on its website and available for inspection during normal business hours at 701 E. Jefferson, Phoenix, Arizona. If the covered costs per day on a claim exceed the published threshold for a day, the claim is considered an outlier. Outliers will be paid by multiplying the covered charges by the outlier CCR. The outlier CCR will be the sum of the urban or rural default operating CCR appropriate to the location of the hospital and the statewide capital cost-to-charge ratio in the data file established as part of the Medicare Inpatient Prospective Payment System by CMS. The resulting amount will be the total reimbursement for the claim. There is no provision for outlier payments for hospitals described under subsection (A)(3).

1. Hospitals designated as type: hospital, subtype; rehabilitation in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website in March of each year;
2. Hospitals designated as type: hospital, subtype: long term in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website for March of each year;
3. Hospitals designated as type: hospital, subtype; psychiatric in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website for March of each year;

B. Notwithstanding section R9-22-712.60, claims for inpatient services that are covered by a RBHA or TRBHA, where the principal diagnosis on the claim is a behavioral health diagnosis, shall be reimbursed as prescribed by a per diem rate described by a fee schedule established by the Administration; however, if the principal diagnosis is a physical health diagnosis, the claim shall be processed under the DRG methodology described in this section, even if behavioral health services are provided during the inpatient stay. Inpatient claims covered by an AHCCCS payer which is not a RBHA or TRBHA, with a principal diagnosis of behavioral health, will be reimbursed under the DRG methodology as administrative days for claims with principal diagnosis of behavioral health meeting inpatient medical criteria with dates of discharge on and after October 1, 2018, consistent with R9-22-712.75(A)(2).

C. Notwithstanding section R9-22-712.60, claims for services associated with transplant services shall be paid in accordance with the contract between the AHCCCS administration and the transplant facility.

D. Notwithstanding section R9-22-712.60, claims from an IHS facility or 638 Tribal provider shall be paid the all-inclusive rate on a per visit basis in accordance with the rates published annually by IHS in the federal register.

E. For hospitals that have contracts with the Administration for the provision of transplant services, inpatient days associated with transplant services are paid in accordance with the terms of the contract.

F. For inpatient services with a date of admission from October 1, 2018 through September 30, 2019, provided by a hospital in subsection (A) that qualifies, the administration shall pay the hospital an Inpatient Differential Adjusted

Payment equal to the sum of the payment otherwise provided for in subsection (A) plus the product of the amount otherwise provided for in subsection (A) and a percentage published on the Administration's public website as part of its fee schedule, subsequent to a public notice published no later than September 1, 2018. To qualify for the Inpatient Differential Adjusted Payment, the exempt hospital must meet the following criteria:

1. By June 15, 2018 submit a Letter of Intent to AHCCCS and a qualifying Health Information Exchange (HIE) organization in which the hospital agrees to achieve the following:

a. By July 31, 2018, execute an agreement with a qualifying HIE organization;

b. By October 31, 2018, approve and authorize a formal scope of work with a qualifying HIE to develop and implement the data exchange necessary to meet the requirements in subsections (F)(1)(c) and (F)(1)(d);

c. By March 31, 2019, electronically submit admission, discharge, and transfer information (including data from the hospital emergency department) to a qualifying HIE;

d. By June 30, 2019, electronically submit laboratory, radiology, transcription, and medication information, and discharge summaries that include, at a minimum, discharge orders, discharge instructions, active medications, new prescriptions, active problem lists (diagnosis), treatments and procedures conducted during the stay, active allergies, and discharge destination to a qualifying HIE.

R9-22-712.75 DRG Reimbursement: Payment for Administrative Days

A. Categories of Administrative Days. Administrative days fall into one of two categories, either (A)(1) or (A)(2).

1. Administrative days due to lack of appropriate placement options and not meeting inpatient medical criteria. Administrative days are days in which a member is admitted as an inpatient to an acute care hospital, does not meet the criteria for an acute inpatient stay, but is admitted or not discharged because; (1) an appropriate placement outside the hospital is not available, (2) the member cannot be safely discharged or transferred, or (3) the Administration or the contractor failed to provide for the appropriate placement outside the hospital in a timely manner.

~~1.~~ a. Administrative days may occur prior to an acute care episode, for example, when a woman with a high-risk pregnancy is admitted to a hospital while awaiting delivery.

~~2.~~b. Administrative days may also occur at the end of an acute care episode, for example, when a member is not discharged while awaiting placement in a nursing facility or other sub-acute or post-acute setting.

~~3.~~c. Administrative days may also include days in a receiving hospital when the member has been discharged from one acute care hospital for the purpose of receiving sub-acute services at the receiving hospital.

d~~**B.**~~ Administrative days do not include days when the member is awaiting appropriate placement or services that are currently available but the hospital has not transferred or discharged the member because of the hospital's administrative or operational delays.

e. Administrative days include inpatient claims covered by a RBHA or TRBHA that otherwise meet the criteria in subsection A(1).

2. Administrative days for claims with the principal diagnosis of behavioral health meeting inpatient medical criteria. Administrative days are days with dates of discharge on or after October 1, 2018, in which a member is admitted as an inpatient to an acute care hospital, meets the criteria for an acute inpatient stay, and the principal diagnosis on the hospital claim is a behavioral health diagnosis. Inpatient claims covered by a RBHA or TRBHA are not considered administrative days under subsection (A)(2) regardless of the principal diagnosis on the hospital claim.

B. Reimbursement of Administrative Days.

1. Administrative days under subsection (A)(1) are reimbursed at the rate the claim would have paid had the services not been provided in an inpatient hospital setting but had been provided at the appropriate level of care such as the rate paid for stays at a nursing facility.

2. Administrative days under subsection (A)(2) are reimbursed at the daily rate found on the Inpatient Behavioral Health Capped Fee-For-Service Schedule meeting the criteria of "Service Description – Psychiatric Stay," regardless of revenue code.

C. Prior authorization is required for administrative days.

D. A hospital shall submit a claim for administrative days separate from any claim for reimbursement for the inpatient stay otherwise reimbursable under the DRG payment methodology.

~~**E.** Administrative days are reimbursed at the rate the claim would have paid had the services not been provided in an inpatient hospital setting but had been provided at the appropriate level of care (e.g., as nursing facility days).~~