

Overview of Selected Federal Rules (Proposed & Final)

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The table below includes a summary of selected regulations, as proposed or issued by CMS, as well as copies of the published regulations and formal comments submitted by AHCCCS.

All documents in this page are in Adobe Acrobat Portable Document Format (PDF).

Short Title (in Alpha Order)	Summary	Proposed Rules	Final Rules	AHCCCS Comments	Effective Date, including most recent Congressional or Administrative Action
Case Management Services (including Targeted Case Management)	Implements Deficit Reduction Act of 2005 (DRA) § 6052 (Public Law 109-171), clarifying the definition of covered case management and targeted case management services to exclude specific services from case management; includes measures to address concerns regarding improper billing of non-Medicaid services and beneficiary protections.	Not applicable (N/A)	Interim Final Rule, 72 Fed. Reg. 68077 (Dec. 4, 2007)	AHCCCS Comments, February 4, 2008	Originally scheduled to be effective March 3, 2008; however, the American Recovery and Reinvestment Act (ARRA), Public Law 111-5 § 5003(a) delayed the effective date until July 1, 2009.
Case Management Services (including Targeted Case Management)- Rescission of certain provisions	Rescinds certain provisions of the December 4, 2007 interim final rule with comment period entitled "Optional State Plan Case Management Services."	Proposed Rule, 74 Fed. Reg. 21232 (May 6, 2009).	Final Rule, 73 Fed. Reg. 31183 (June 30, 2009)	AHCCCS did not submit comments.	Rescission effective July 1, 2009
Cash and Counseling State Plan Option	Provides guidance to States that want to administer self-directed personal assistance services through their State plans; (implements DRA § 6087)	Proposed Rule, 73 Fed. Reg. 3546 (Jan. 18, 2008)	Final Rule, 73 Fed. Reg. 57854 (Oct. 3, 2008).	AHCCCS did not submit comments.	November 3, 2008

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Cost Limit for Providers Operated by Units of Government	Clarifies units of government, documentation requirements, and other limits for health care providers operated by units of government and formalizes policies for certified public expenditures and other reporting requirements.	Proposed Rule, 72 Fed. Reg. 2236 (Jan. 18, 2007).	Final Rule With Comment Period, 72 Fed. Reg. 29748 (May 29, 2007).	AHCCCS Comments, March 16, 2007	Originally scheduled to be effective July 30, 2007; however, ARRA, Public Law 111-5 § 5003(d) stated that it is the “sense of Congress” that no final rule should be promulgated (legal impact unclear).
Dental Provider and Benefit Info-Public Information Collection Requirements	Requests comments on the burden of Section 501 of CHIPRA requires states to work with CMS to place and keep current information on the Insure Kids Now website information about providers that provide dental services to children enrolled in Medicaid or CHIP as well as a description of all dental services and whether they are provided through the State Plan or waiver by August 4, 2009.	N/A. Notice, 74 Fed. Reg. 29700 (June 23, 2009).	N/A	AHCCCS Comments, July 6, 2009	N/A.
Departmental Appeals Board (DAB) Revisions	Changes procedures for administrative review by the DAB to ensure final administrative decisions reflect the opinions of the HHS Secretary (i.e., published guidance) and gives the Secretary opportunity for review, in light of recent increased DAB jurisdiction.	Notice of Proposed Rulemaking, 72 Fed. Reg. 248 (Dec. 28, 2007).	No Final Rule	AHCCCS Comments, January 28, 2008.	N/A.
Disproportionate Share Hospital (DSH) Payments	Sets forth the data elements necessary to comply with the requirements of Social Security Act § 1923(j) related to auditing and reporting of disproportionate share hospital payments, implementing Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) § 1001(d).	Proposed Rule, 70 Fed. Reg. 50262 (Aug. 26, 2005).	Final Rule, 73 Fed. Reg. 77904 (Dec. 19, 2008). Correcting Amendment, 74 Fed. Reg. 18657 (April 24, 2009)	AHCCCS did not submit comments.	January 19, 2009.

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Electronic Health Record Incentive Program	Proposes to implement ARRA provisions to provide incentive payments to eligible professionals participating in Medicare and Medicaid programs that adopt and meaningfully use certified electronic health record (EHR) technology.	Proposed Rule, 75 Fed. Reg. 1844 (January 13, 2010)		AHCCCS Comments, March 15, 2010	
Ensuring That DHHS Funds Do Not Support Coercive or Discriminatory Policies or Practices in Violation of Federal Law (Provider Conscience Rule)	Ensures that HHS funds do not support morally coercive or discriminatory practices or policies in violation of federal law and that recipients of Department funds know about their legal obligations under federal health care conscience protection laws. Assigns responsibility for complaint handling and investigation among the Department's Office for Civil Rights and Department program offices.	73 Fed. Reg. 50274 (Aug. 26, 2008).	73 Fed. Reg. 78072 (Dec. 19, 2008).	AHCCCS did not submit comments.	January 20, 2009.
Ensuring That DHHS Funds Do Not Support Coercive or Discriminatory Policies or Practices in Violation of Federal Law (Provider Conscience Rule) – Rescission	Rescinds the December 19, 2008 final rule entitled “Ensuring That Department of Health and Human Services Funds Do Not Support Coercive or Discriminatory Policies or Practices in Violation of Federal Law.”	74 Fed. Reg. 10209 (Mar. 10, 2009).	No Final Rule	AHCCCS did not submit comments.	N/A.
Graduate Medical Education	Clarifies that costs or payments for graduate medical education are not expenditures for medical assistance federally reimbursable under Medicaid.	Proposed Rule, 72 Fed. Reg. 28930 (May 23, 2007).	No Final Rule.	AHCCCS Comments, June 22, 2007.	No applicable effective date. ARRA, Public Law 111-5 § 5003(d) stated that it is the “sense of Congress” that no final rule

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Healthcare-Related Provider Taxes	Revises the threshold under the indirect guarantee hold harmless arrangement test to reflect the provisions of the Tax Relief and Health Care Act of 2006.	Proposed Rule, 72 Fed. Reg. 13726 (Mar. 23, 2007).	Final Rule, 73 Fed. Reg. 9685 (Feb. 22, 2008).	AHCCCS did not submit comments.	Originally scheduled to be effective April 22, 2008; however, ARRA, Public Law 111-5 § 5003(a) delayed the effective date until July 1, 2009. Additionally, HHS issued a proposed rule on May 6, 2009, delaying the effective date further until June 30, 2009.
Healthcare Related Provider Taxes- Delay	Delays the enforcement of portions of the regulation that clarified limitations on health care related tax programs pending further CMS review.	Proposed Rule, 74 Fed. Reg. 21230 (May 6, 2009).	Final Rule, 74 Fed. Reg. 31196 (June 30, 2009).	AHCCCS did not submit comments	Delayed until June 30, 2010. Final rule delaying regulation effective July 1, 2009
Home and Community-Based State Plan Services	Amends Medicaid regulations to define and describe the home and community based services option under the State Plan, as permitted by DRA § 6086.	Proposed Rule, 73 Fed. Reg. 18676 (Apr. 4, 2008).	No Final Rule.	AHCCCS did not submit comments.	N/A.
Initial Core Set of Children's Healthcare Quality Measures	Identifies and solicits comments on the initial, recommended core set of children's health care quality measures for Medicaid and CHIP programs.	Notice with Comment Period, 74 Fed. Reg. 68846 (December 29, 2009)		AHCCCS comments, March 1, 2010	N/A
Medicare Program; Revisions to the Medicare Advantage and Prescription Drug	Requires any MA organization seeking to offer a special needs plan serving dual eligible individuals to have a contract with the State Medicaid agency.	N/A.	Interim Final Rule with Comment Period, 73 Fed. Reg. 54226 (Sept. 18, 2008)	AHCCCS did not submit comments	September 18, 2008

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Benefit Programs					
Outpatient hospital definition upper payment limits	Amends the regulatory definition of outpatient hospital services and upper payment limits.	Proposed Rule, 72 Fed. Reg. 55158 (Sept. 28, 2007).	Final Rule, 73 Fed. Reg. 66187 (Nov. 7, 2008).	AHCCCS comments, Oct. 29, 2007	Originally scheduled to be effective December 8, 2008; however, ARRA, Public Law 111-5 § 5003(c) delayed the effective date until July 1, 2009.
Outpatient hospital definition upper payment limits- Rescission	Rescinds the November 7, 2008 final rule entitled “Clarification of Outpatient Hospital Facility (Including Outpatient Hospital Clinic) Services Definition.”	Proposed Rule, 74 Fed. Reg. 21232 (May 6, 2009).	Final Rule, 74 Fed. Reg. 31183 (June 30, 2009)	AHCCCS did not submit comments	July 1, 2009.
Premiums and Cost Sharing	Implements and interprets §§ 6041, 6042, 6043 of DRA and adds new § 1916A of the SSA to provide states with increased flexibility to impose premiums/cost sharing on certain Medicaid recipients. This authority is in addition to existing authority under § 1916 of SSA.	Proposed Rule, 73 Fed. Reg. 9727 (Feb. 22, 2008).	Final Rule, 73 Fed. Reg. 71828 (Nov. 25, 2008).	AHCCCS did not submit comments.	Originally scheduled to be effective January 24, 2009; however, HHS amended the final rule, delaying the effective date until Dec. 31, 2009. Final Rule, 74 Fed. Reg. 13346 (March 27, 2009)
Premiums and Cost Sharing--- Temporary Delay	Proposes to temporarily delay the effective date of the November 25, 2008 final rule.	Proposed Rule, 74 Fed. Reg. 56151 (Oct. 30, 2009)	No Final Rule	AHCCCS did not submit comments	N/A
Rehabilitative Services Option	Amends the definition of Medicaid rehabilitative services and clarifies conditions for claiming federal financial participation for Medicaid expenditures.	Proposed Rule, 72 Fed. Reg. 45201 (Aug. 13, 2007).	Withdrawal of Proposed Rule, 74 Fed. Reg. 61096 (Nov. 23, 2009)	AHCCCS Comments, Oct. 12, 2007.	Withdrawal effective November 23, 2009. No applicable effective date. ARRA, Public Law 111-5 § 5003(d) stated that it is the “sense of Congress”

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Revisions to the Medicare Advantage and Prescription Drug Benefit Programs	Revises the Medicare Advantage (MA) program (Part C) and prescription drug benefit program (Part D). Contains new regulatory provisions regarding special needs plans, medical savings accounts plans, and cost-sharing for dual eligible enrollees in the MA program, the prescription drug payment and novation processes in the Part D program, and the enrollment, appeals, and marketing processes for both programs based on lessons learned since 2006, the initial year of the prescription drug program and the revised MA program.	Proposed Rule, 73 Fed. Reg. 28556 (May 16, 2008)	Final Rule, 73 Fed. Reg. 54208 (September 18, 2008)	AHCCCS did not submit comments.	September 18, 2008
School-based claiming	Eliminates reimbursement under Medicaid for school administration expenditures and costs related to transportation of school-age children between home and school	Proposed Rule, 72 Fed. Reg. 51397 (Sept. 7, 2007).	Final Rule, 72 Fed. Reg. 73635 (Dec. 28, 2007)	AHCCCS Comments, October 31, 2007	Originally scheduled to be effective February 26, 2008; however, ARRA, Public Law 111-5 § 5003(b) delayed the effective date until July 1, 2009.
School-based Claiming – Rescission	Rescinds the December 28, 2007 final rule entitled “Elimination of Reimbursement Under Medicaid for School Administration Expenditures and Costs Related to Transportation of School-Age Children Between Home and School.”	Proposed Rule, 74 Fed. Reg. 21232 (May 6, 2009).	Final Rule, 74 Fed. Reg. 31183 (June 30, 2009)	AHCCCS did not submit comments.	July 1, 2009
State Flexibility for Medicaid Benefit Packages (“Benchmark	Implements DRA § 6044 , which provided states with increased flexibility under the State Plan to define scope of covered medical assistance by offering coverage of	Proposed Rule, 73 Fed. Reg. 9714 (Feb. 22, 2008).	Final Rule, 73 Fed. Reg. 73694 (Dec. 3, 2008).	AHCCCS did not submit comments.	Originally scheduled to be effective February 2, 2009; however, HHS

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Packages”)	benchmark or benchmark-equivalent benefit packages to certain Medicaid recipients.				amended the final rule, delaying the effective date until Dec. 31, 2009. Final Rule 74 Fed. Reg. 15221 (April 3, 2009)
State Flexibility for Medicaid Benefit Packages (“Benchmark Packages”)--- Temporary Delay	Proposes to temporarily delay the effective date of the December 3, 2008 final rule.	Proposed Rule, 74 Fed. Reg. 56151 (Oct. 30, 2009)	Final Rule, 75 Fed. Reg. 23068 (April 30, 2010)	AHCCCS did not submit comments	N/A
State Option to Establish Non-Emergency Medical Transportation Program	Implements § 6083 of the DRA providing States with additional flexibility to establish a NEMT brokerage program, and to receive FMAP. This authority supplements the current authority States have to provide NEMT to Medicaid beneficiaries who need access to medical care, but have no other means of transportation.	Proposed Rule, 72 Fed. Reg. 48604 (Aug. 24, 2007)	Final Rule, 73 Fed. Reg. 77519 (Dec. 19, 2008)	AHCCCS did not submit comments.	January 20, 2009.