

NOTICE OF EXEMPT PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

ARIZONA LONG-TERM CARE SYSTEM

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| R9-28-206                   | Amend                    |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
- Authorizing statute: A.R.S. 36-2907  
Implementing statute: A.R.S. 36-2907, amended by HB2010, Forty-ninth Legislature, Seventh Special Session 2010
- 3. The proposed effective date of the rules:**
- October 1, 2010
- 4. A list of all previous notices appearing in the Register addressing the proposed exempt rule:**
- None
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- Name: Mariaelena Ugarte  
Address: AHCCCS  
Office of Administrative and Legal Services  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSrules@azahcccs.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**
- The AHCCCS Administration is proposing rule changes to delineate the service limitations/ exclusions as described in HB2010, Forty-ninth Legislature Seventh Special Session of 2010.  
The AHCCCS Administration is exempt from the rule making requirements of Title 41, Chapter 6, A.R.S., as described in HB2010, Forty-ninth Legislature Seventh Special Session of 2010, Section 34.
- 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:**

No studies were relied upon for the implementation of this rulemaking, but analysis of the outpatient physical therapy services reported through claims and encounters as having provided these services during CY 2009, has assisted the AHCCCS Administration in arriving at the limitation amount of covered outpatient physical therapy services of 15 visits, which represents that the limitation does not affect 85% of members receiving outpatient physical therapy services.

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

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

The Administration estimates that approximately 183,380 members may be impacted by the proposed limitations/exclusions of services as described in HB2010, Forty-ninth Legislature Seventh Special Session of 2010.

Based on the utilization of each type of service during the contract year (CY) 2009 the Administration foresees an approximate savings of \$24,024,650 per CY. In addition, the limitation applied to outpatient physical therapy services the Administration foresees an approximate savings of \$2,900,000 per CY for members 21 years of age and over.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Not applicable.

**11. A summary of the comments made regarding the rule and the agency response to them:**

None have been received yet. The public hearing is scheduled for June 22, 2010 at 2:00 p.m. at:

Location: AHCCCS  
701 East Jefferson  
Phoenix, AZ 85034

Nature: Public Hearing

Location: ALTCS: Arizona Long-Term Care System  
1010 N. Finance Center Dr, Suite 201  
Tucson, AZ 85710

Nature: Public Hearing

Location: ALTCS: Arizona Long-Term Care System  
3480 East Route 66  
Flagstaff, AZ 86004

Nature: Public Hearing

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable.

**13. Incorporations by reference and their location in the rules:**

None.

**14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**

No.

**15. The full text of the rules follows:**

**TITLE 9. HEALTH SERVICES**  
**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM**  
**ADMINISTRATION**

**ARTICLE 2. COVERED SERVICES**

Section

R9-28-206. ALTCS Services that may be Provided to a Member Residing in either an Institutional or HCBS Setting

**TITLE 9. HEALTH SERVICES**

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
ARIZONA LONG-TERM CARE SYSTEM**

**ARTICLE 2. COVERED SERVICES**

**R9-28-206. ALTCS Services that may be Provided to a Member Residing in either an Institutional or HCBS Setting**

The Administration shall cover the following services if the services are provided to a member within the limitations listed:

1. Occupational and physical therapies, speech and audiology services, and respiratory therapy:
  - a. The duration, scope, and frequency of each therapeutic modality or service is prescribed by the member's primary care provider or attending physician;
  - b. The therapy or service is authorized by the member's contractor or the Administration; and
  - c. The therapy or service is included in the member's case management plan.
  - d. AHCCCS will not cover more than 15 outpatient physical therapy visits for the contract year.
2. Medical supplies, durable medical equipment, and customized durable medical equipment, which conform with the requirements and limitations of 9 A.A.C. 22, Article 2;
3. Ventilator dependent services:
  - a. Inpatient or institutional services are limited to services provided in a general hospital, special hospital, NF, or ICF-MR. Services provided in a general or special hospital are included in the hospital's unit tier rate under 9 A.A.C. 22, Article 7;
  - b. A ventilator dependent member may receive the array of home and community based services under R9-28-205 as appropriate.
4. Hospice services:
  - a. Hospice services are covered only for a member who is in the final stages of a terminal illness and has a prognosis of death within six months;
  - b. Covered hospice services for a member are those allowable under 42 CFR 418.202, December 20, 1994, incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments; and
  - c. Covered hospice services do not include:
    - i. Medical services provided that are not related to the terminal illness; or
    - ii. Home delivered meals.
  - d. Medicare is the primary payor of hospice services for a member if applicable.