

**NOTICE OF PROPOSED RULEMAKING**  
**TITLE 9. HEALTH SERVICES**  
**CHAPTER 34. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION**

**PREAMBLE**

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

R9-34-101

**Rulemaking Action:**

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

Implementing statute: A.R.S. § 36-2903.01

**3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening: [to be filled in by SOS editor]

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

Name: Nicole Fries

Address: AHCCCS  
Office of Administrative Legal Services  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034

Telephone: (602) 417-4232

Fax: (602) 253-9115

E-mail: AHCCCSRules@azahcccs.gov

Web site: [www.azahcccs.gov](http://www.azahcccs.gov)

**5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**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 current AHCCCS regulations for the administrative grievance and appeals process, including the process for requesting an administrative hearing. To enhance understanding by the public as well as participants, the rules will delineate the rights and responsibilities of participants in the grievance and appeals process as well as clarify operational processes, including the various steps of the dispute resolution process. Furthermore, the rulemakings will reduce ambiguity, in part, by delineating State grievance and appeals system requirements, including the dispute resolution process for providers and contractors, and by identifying the administrative entity

responsible for particular evidentiary hearings. The rulemaking is necessary to accurately delineate the roles and responsibilities of the various entities involved in the grievance and appeals system, including the hearing process, and to enhance general understanding of the complex dispute resolution process. Failure to amend current rules will leave in place regulations which do not correctly set forth current requirements and operations, causing compliance issues and ambiguity. The proposed rulemaking will assist applicants, members, contractors, and providers to better understand the procedural and substantive aspects of the grievance and appeals process across the system, promote compliance, reduce confusion, improve efficiency, and align rules with State provisions.

**6. 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.

**7. 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.

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

The rulemaking has no economic, small business, or consumer impact because it delineates in rule the current administrative responsibilities and procedures and does not make changes with an economic impact.

**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Nicole Fries  
Address: AHCCCS  
Office of Administrative Legal Services  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4232  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov  
Website: www.azahcccs.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Proposed rule language will be available on the AHCCCS website. Please send comments to the above address by the close of the comment period, 5:00 p.m., January 21, 2020.

Date: January 21, 2020  
Time: 2:00 p.m.  
Location: AHCCCS  
701 East Jefferson  
Phoenix, AZ 85034  
Nature: Public Hearing

Date: January 21, 2020  
Time: 2:00 p.m.  
Location: ALTCS: Arizona Long-Term Care System  
1010 N. Finance Center Dr., Suite 201  
Tucson, AZ 85710  
Nature: Public Hearing

Date: January 21, 2020  
Time: 2:00 p.m.  
Location: 2717 N. 4th St. STE 130  
Flagstaff, AZ 86004  
Nature: Public Hearing

**11. 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:**

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 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 analysis was submitted.

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

None

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

## ARTICLE 1. REQUEST FOR ELIGIBILITY HEARING

### Sections

R9-34-101.

~~Purpose~~ Application of Chapter

## ARTICLE 1. REQUEST FOR ELIGIBILITY HEARING

### **R9-34-101. Purpose ~~Application~~ of Chapter**

- A. This Article establishes the requirements and process for a petitioner to request a State Fair Hearing regarding an adverse action affecting AHCCCS eligibility. ~~Except for the adverse action in R9-34-102(A)(5), this Article does not apply to a person determined eligible by the Arizona Department of Economic Security under 9 A.A.C. 22, Article 14.~~
- B. This Article applies to appeals of eligibility determinations made by AHCCCS including determinations for the aged, blind, or disabled (A.A.C. Chapter 22, Article 15), the Arizona Long Term Care System (Chapter 28), the Medicare Cost Sharing Program (Chapter 29), the Medicare Part D Program (Chapter 30), and adverse actions regarding premiums and copayments described in R9-34-102(A)(5). Hearings on these appeals are conducted as described in this Article, A.R.S. § 36-2903.01(B)(4) and the Arizona Administrative Procedures Act in A.R.S. Title 41, Chapter 6.
- C. The Arizona Department of Economic Security conducts appeals of eligibility under the procedures in A.R.S. Title 6, Chapter 9 for those eligibility determinations made by the Department including:
1. When the request for a State Fair Hearing is made for an individual whose eligibility is determined using MAGI-based income,
  2. When the request for a State Fair Hearing is made on behalf of more than one person in the same household where at least one person's eligibility is based on MAGI-based income,
  3. When the request for State Fair Hearing of AHCCCS eligibility is made at or near the same time as a request for the administrative review of an eligibility determination arising from the same facts and circumstances for any other public assistance program administered by the Department of Economic Security.