NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

PREAMBLE

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

R9-22-712.07. 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. § 36-2905.02

Implementing statute: A.R.S. § 36-2905.02

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: Mariaelena Ugarte

Address: AHCCCS

Office of Administrative Legal Services

701 E. Jefferson, Mail Drop 6200

Phoenix, AZ 85034

Telephone: (602) 417-4693

Fax: (602) 253-9115

E-mail: AHCCCSRules@azahcccs.gov

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 An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The AHCCCS Administration is proposing to amend A.A.C. R9-22-712.07 to fix an unintended effect of recent budget bills, eliminate Disproportionate Share Hospital (DSH) payments from the Rural Hospital Inpatient Fund (RHIF) calculation, and to make RHIF clarifications consistent with the current protocol.

The State Fiscal Year (SFY) 2015 budget increased the Critical Access Hospital (CAH) supplemental payments from $1,700,000 annually to $10,491,000, and the SFY 2016 budget retained the higher appropriation. Since the RHIF calculation is based on the proportion of AHCCCS inpatient service payments from one-year prior data- including the inpatient portion of the CAH supplemental payments and the DSH payments- an increase in CAH supplemental payments has the effect of increasing the RHIF payments for CAHs. Since the total funds available for the RHIF payments are fixed, an increase in RHIF payments for CAHs provides a corresponding decrease in aggregate payments for the non-CAHs receiving a RHIF payment. An additional increase in RHIF payments for CAHs and a corresponding decrease to non-CAH RHIF hospitals will also occur if hospitals are able to find a partnering political subdivision to provide a state match for the voluntary CAH payments enacted in the SFY 2016 Health Budget Reconciliation Bill (Laws 2015, Chapter 14, Section 4).

In addition to eliminating the inpatient portion of the CAH payment from the RHIF calculation, the Agency proposes eliminating the requirement to account for DSH payments in the RHIF calculation. The RHIF rule was created prior to the creation of "Pool 5" DSH payments (the payments which can only be received if a hospital is able to find a partnering political subdivision to provide the non-federal share of the payment). The continued inclusion of DSH in the calculation in current rules allows hospitals which are able to find a partner to obtain both a higher DSH payment and a higher RHIF payment.

Finally, the Agency proposes amending the rule to clarify that RHIF payments are only made to acute care hospitals which are neither an Indian Health Services or a tribal owned and operated facility and that "PPS beds" do not include subprovider beds. These changes are consistent with the current protocol.

These changes have been presented to all hospitals currently receiving a RHIF payment, and hospitals (including both CAHs and non-CAHs) have expressed widespread support for this change.

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 the 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 Administration does not anticipate an overall economic impact since the aggregate payments made from the Rural Hospital Inpatient Fund remains the same. However, there may be an economic impact to individual providers as the money will be distributed in a more equitable manner than if there were no rule change.

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

Name: Mariaelena Ugarte

Address: AHCCCS

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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 www.azahcccs.gov the week of August 17, 2015. Please send written or email comments to the above address by the close of the comment period, 5:00 p.m., October 5, 2015.

Date: October 5, 2015

Time: 1:00 p.m.

Location: AHCCCS

701 East Jefferson

Phoenix, AZ 85034

Nature: Public Hearing

Date:	October 5, 2015
Time:	1:00 p.m.
Location:	ALTCS: Arizona Long-Term Care System 1010 N. Finance Center Dr, Suite 201 Tucson, AZ 85710
Nature:	Public Hearing

Date:	October 5, 2015
Time:	1:00 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:

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

ARTICLE 7. STANDARDS FOR PAYMENTS

Section

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-22-712.07. Rural Hospital Inpatient Fund Allocation

A. For purposes of this Section, the following words and phrases have the following meanings unless the context specifically requires another meaning:

1. "Calculated inpatient costs" means the sum of inpatient covered charges multiplied by the Milliman study's implied cost-to-charge ratio of .8959.
2. "Claims paid amount" means the sum of all claims paid by the Administration and contractors, as reported by the contractor to the Administration, to a rural hospital for covered inpatient services rendered for dates of service during the previous state fiscal year.
3. "Fund" means any state funds appropriated by the Legislature for the purposes set forth in A.R.S. § 36-2905.02 and any federal funds that are available for matching the state funds.
4. "Inpatient covered charges" means the sum of all covered charges billed by a hospital to the Administration or contractors, as reported by the contractors to the Administration, for inpatient services rendered during the previous state fiscal year.
5. "Milliman study" means the report issued by Milliman USA on March 11, 2004, to the Arizona Hospital and Healthcare Association that updated a portion of a cost study entitled "Evaluation of the AHCCCS Inpatient Hospital Reimbursement System" prepared by Milliman USA for AHCCCS on November 15, 2002. A copy of each report is on file with the Administration.
6. "Rural hospital" means a health care institution that is licensed as ~~a~~ an acute care hospital by the Arizona Department of Health Services for the previous state fiscal year and is not an IHS hospital or a tribally owned or operated facility ~~a hospital operated by IHS or a special hospital that limits the care provided to rehabilitation service~~ and:
   a. Has 100 or fewer PPS beds, not including beds reported as subprovider beds on the hospital's Medicare Cost Report, and is located in a county with a population of less than 500,000 persons, or
   b. Is designated as a critical access hospital for the majority of the previous state fiscal year.

~~7. "Total inpatient payments" means the sum of:~~

~~a. The~~ the ~~claims paid amount~~

~~b. Any disproportionate share hospital payments for the previous fiscal year, and~~

~~c. The inpatient component of any Critical Access Hospital payments made to the hospital for the previous state fiscal year.~~

B. Each February, the Administration shall allocate the Fund to the following three pools for the fiscal year:

1. Rural hospitals with fewer than 26 PPS beds <u>not including subprovider beds</u> and all Critical Access Hospitals, regardless of the number of beds in the Critical Access Hospital;
2. Rural hospitals other than Critical Access Hospitals with 26 to 75 PPS beds <u>not including subprovider beds</u>; and
3. Rural hospitals other than Critical Access Hospitals with 76 to 100 PPS beds <u>not including subprovider beds</u>.

C. The Administration shall allocate the Fund to each pool according to the ratio of ~~total inpatient payments to~~ <u>claims paid amount for</u> all hospitals assigned to the pool to total ~~inpatient payments to~~ <u>claims paid amount for</u> all rural hospitals.

D. The Administration shall determine each hospital's claims paid amount and allocate the funds in each pool to each hospital in the pool based on the ratio of each hospital's claims paid amount to the sum of the claims paid amount for all hospitals assigned to the pool.

E. The Administration shall not make a Fund payment to a hospital that will result in the hospital's ~~total inpatient payments~~ <u>claims paid amount</u> plus that hospital's Fund payment being greater than that hospital's calculated inpatient costs.

1. If a hospital's ~~total inpatient payments~~ <u>claims paid amount</u> plus the hospital's Fund payment would be greater than the hospital's calculated inpatient costs, the Administration shall make a Fund payment to the hospital equal to the difference between the hospital's calculated inpatient costs and the hospital's ~~total inpatient payments~~ <u>claims paid amount</u>.
2. The Administration shall reallocate any portion of a hospital's Fund allocation that is not paid to the hospital due to the reason in subsection (E)(1) to the other eligible hospitals in the pool based upon the ratio of the claims paid amount for each hospital remaining in the pool to the sum of the claims paid amount for each hospital remaining in the pool.

F. If funds remain in a pool after allocations to each hospital in the pool under subsections (D) and (E), the Administration shall reallocate the remaining funds to the other pools based upon the ratio of each pool's original allocation of the Fund as determined under subsection (C) to the sum of the remaining pools' original Fund allocations under subsection (C). The Administration shall allocate remaining funds to the hospitals in the remaining pools under subsection (D) and (E). See Exhibit 1 for an example.

G. Subject to CMS approval of the method and distribution of the Fund, the administration or its contractors will distribute the Fund as a lump sum allocation to the rural hospitals in either one or two installments by the end of each state fiscal year.

Exhibit 1. Pool Example

Pool A receives $2,000,000. Pool B receives $7,000,000. Pool C receives $3,000,000.

If all of the funds in Pool B are paid to eligible hospitals and there is $1,000,000 remaining, the remaining funds would be allocated to Pool A and Pool C based on the ratio of each pool's original allocation (original allocations of $2,000,000 and $3,000,000) to the total of their original allocation ($2,000,000 + $3,000,000 = $5,000,000).

Pool A would receive 2/5 of the remaining funds ($400,000) and Pool C would receive 3/5 of the remaining funds ($600,000).