

October 31, 2018

The Honorable Steve Yarborough, President
Arizona State Senate
1700 W. Washington
Phoenix, AZ 85007

The Honorable J.D. Mesnard, Speaker
Arizona State House of Representatives
1700 W. Washington
Phoenix, AZ 85007

Dear President Yarborough and Speaker Mesnard:

A.R.S. 41-1092.08(B) provides that, within thirty days of receiving an administrative law judge's decision, the head of the agency may review the decision and accept, reject or modify it. If the head of the agency rejects or modifies the decision, the agency head must provide a written justification for the rejection or modification of each finding of fact or conclusion of law.

Subsection (B) also requires that if the agency head rejects or modifies a conclusion of law, the written justification shall be sent to the President of the Senate and the Speaker of the House of Representatives.

Most, if not all, administrative law judge decisions and the associated decision of the agency head regarding the AHCCCS program include the information that is confidential under State and federal law. See 45 CFR Part 164 and AAC R9-22-309. As such, AHCCCS cannot provide the full text of the administrative law judge decisions or the agency decision. As a practical matter, redacted versions of the justification for a modification or rejection of an administrative law judge's conclusion of law are not comprehensible without the full context of findings of fact and conclusion of law made by the administrative law judge.

For that reason, AHCCCS is providing quarterly summary information. For the quarter ending September 30, 2018, AHCCCS has identified 7 matters where the agency had rejected or modified an administrative law judge's conclusions of law. During that same quarter, AHCCCS reviewed 161 administrative law judge decisions. The following Conclusions of Law were modified or rejected:

- Modified to clarify the legal requirement that participation in the Arizona Long Term Care Program requires the applicant to have a need for institutional care and to clarify the method used to make that determination – the Pre-Admission Screening tool. **(197753)**
- Modified to clarify that this appeal of transportation benefits were brought under the procedures afforded members with a Serious Mental Illness and not the procedures for appealing a Medicaid benefit, and, as such it is the SMI rules that applied. **(198492)**

- Modified to correct an inapplicable reference to Social Security disability hearings and to correct the legal standard regarding the weight according the opinion of a treating provider. **(199091)**
- Rejected dismissal for default due to clerical errors in the Notice of Hearing **(196751 & 196757)**
- Modified to correct and elaborate on the federal and State regulations regarding use of a safety bed and why it is not an impermissible means of restraint. **(186019)**
- Modified to add more specific language regarding the limits of the health plan's responsibility to reimburse the member for durable medical equipment purchased out-of-pocket from a non-contracted provider without prior authorization **(196647)**

Please feel free to contact me if you have any questions about this report.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas J. Betlach', written over a horizontal line.

Thomas J. Betlach
Director

cc: Richard Stavneak, Director, Joint Legislative Budget Committee
Matt Gress, Director, Governor's Office of Strategic Planning and Budgeting
Christina Corieri, Governor's Office, Senior Policy Advisor