

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

ADMINISTRATION

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action:</u>
R9-22-301	New Section
R9-22-302	New Section
R9-22-304	New Section
R9-22-305	New Section
R9-22-306	New Section
R9-22-307	New Section
R9-22-308	New Section
R9-22-309	New Section
R9-22-310	New Section
R9-22-311	New Section
R9-22-312	New Section
R9-22-313	New Section
R9-22-314	New Section
R9-22-315	New Section
R9-22-316	New Section
R9-22-317	New Section
Article 14	Amend
R9-22-1401	Amend
R9-22-1402	Repeal
R9-22-1403	Amend
R9-22-1404	Repeal
R9-22-1405	Repeal
R9-22-1406	Repeal
R9-22-1407	Repeal
R9-22-1408	Repeal
R9-22-1409	Repeal
R9-22-1410	Repeal
R9-22-1411	Repeal
R9-22-1412	Repeal
R9-22-1413	Amend
R9-22-1414	Repeal

R9-22-1415	Repeal
R9-22-1416	Amend
R9-22-1417	Repeal
R9-22-1418	Repeal
R9-22-1419	Repeal
R9-22-1420	Amend
R9-22-1421	Amend
R9-22-1422	Amend
R9-22-1423	Amend
R9-22-1424	Amend
R9-22-1425	Repeal
R9-22-1426	Repeal
R9-22-1427	Repeal
R9-22-1427	New Section
R9-22-1428	Repeal
R9-22-1429	Amend
R9-22-1430	Repeal
R9-22-1431	Amend
R9-22-1432	Amend
R9-22-1443	Repeal
R9-22-1501	Amend
R9-22-1502	Repeal
R9-22-1503	Amend
R9-22-1505	Amend

2. Citations to the agency’s statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. §§ 36-2903, 36-2903.01

Implementing statute: A.R.S. §§ 36-2901, 36-2901.07, 36-2903.01

Federal authority: 42 CFR Parts 431, 435, and 457

17144 Federal Register / Vol. 77, No. 57 / Friday, March 23, 2012 / Rules and Regulations

Patient Protection and Affordable Care Act (Pub. L. 111–148, enacted on March 23, 2010), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152, enacted on March 30, 2010), and together referred to as the Affordable Care Act of 2010 (Affordable Care Act)

3. The effective date of the rule:

The agency requests an immediate effective date upon filing with the Secretary of State as specified in A.R.S. § 41-1032(A). The agency believes this rulemaking meets the immediate effective date requirements under the following subsections:

2. To avoid a violation of federal law or regulation or state law, if the need for an immediate effective date is not created due to the agency's delay or inaction.
3. To comply with deadlines in amendments to an agency's governing statute or federal programs, if the need for an immediate effective date is not created due to the agency's delay or inaction.
4. To provide a benefit to the public and a penalty is not associated with a violation of the rule.

These exceptions apply to this rulemaking since the Affordable Care Act and ARS 36-2901.07 require the Administration to implement the higher federal poverty limit percentages and increase to the age limit for children in the foster care system. Therefore benefiting the public by providing coverage to more uninsured Arizona residents, The ACA requires this change to be effective January 1, 2014. Neither the ACA, the state statutes, nor the proposed rules impose any penalty for a violation of the rules. The Administration will rely on federal law for the first seven days of January until the rule is effective, no penalties or effects are associated with the different effective date. The Administration had to wait for CMS to approve the eligibility FPL requirements which caused a delay in filing.

4. Citations to all related notices published in the Register to include the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 19 A.A.R. 3154, October 11, 2013

Notice of Proposed Rulemaking: 19 A.A.R. 3064, October 11, 2013

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

Name: Mariaelena Ugarte
Address: 701 E. Jefferson St.
Telephone: (602) 417-4693
Fax: (602) 253-9115
E-mail: AHCCCSrules@azahcccs.gov
Web site: www.azahcccs.gov

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

The Administration is promulgating rule amendments as a result of the Affordable Care Act of 2010 and Arizona Laws 2013, First Special Session, Chapter 10 (House Bill 2010). Expansion of eligibility for: Children 6-18 to 133% of FPL, Former foster care children from ages 21 to 26, Childless adults up to 133% (including restoring

Prop 204 populations, as described under A.R.S. § 36-2901.01, – up to 100% - and adding 100-133% per A.R.S. § 36-2901.07); Income determinations based on “modified adjusted gross income”; Changes to processes for determining and redetermining eligibility including changes to accommodate online applications and internet-based verification of income, citizenship and alien status, state residence, and other eligibility factors; and miscellaneous changes to clarify and conform to federal requirements. As directed by the ACA and ARS 36-2901.07, the rules are to be effective January 1, 2014.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not 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 promulgating the state regulations for the Affordable Care Act.

8. 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.

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

The proposed rule changes will have a high impact on funds used for the coverage of Arizona Medicaid applicants. The Administration anticipates that for the first nine months of implementation for federal fiscal year (January 2014 through September 30, 2014) there will be a total fund expenditure of \$1,583,076,500 of both federal and state funds and for federal fiscal year (October 1, 2014 through September 30, 2015) there will be a total fund expenditure of \$2,768,972,900 of both federal and state funds.

	FFY 2014	FFY 2015	
Eligible Adults with 100-133% FPL (aka Adult Expansion)	169,631,800	399,977,600	
Childless Adults with 0-100% FPL	1,097,117,200	1,769,009,600	
Newly Eligible children ages 6-18 with 100-133% FPL	68,636,700	127,443,400	
Currently Eligible but not enrolled	247,396,400	471,762,200	
Former Foster Children between ages 21-26	294,400	780,100	
<u>GRAND TOTAL</u>	<u>1,583,076,500</u>	<u>2,768,972,900</u>	

--	--	--	--

It is estimated that the cost and benefit of the increased coverage of individuals within certain federal poverty levels as directed by the Affordable Care Act will have an impact on the implementing agencies, contractors, providers, small businesses and consumers.

Minimal impact = up to \$1M

Moderate impact = \$1M to \$10M

High impact = \$10M on up

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

Changes were made between the proposed rulemaking and the final rulemaking as a result of the public comments submitted, see item 11, and rewritten items for clarity, such as where the Attorney General's office is notified instead of Department of Homeland Security in rule R9-22-316. . In addition, technical and grammatical changes have been made as a result of review from the Governor's Regulatory Review Council.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

Comments were received as of the close of the comment period of November 12, 2013.

<u>Numb:</u>	<u>Date/ Commenter:</u>	<u>Comment:</u>	<u>Response:</u>
1.	11/12/13 Ellen Katz William Morris Institute for Justice	R9-22-301 Need to define the words "applicants," "members" and "beneficiaries."	Agreed. Changes made; beneficiary not used.
2.	11/12/13 Ellen Katz William Morris Institute for Justice	R9-22-302 This section does not refer to online applications and applications by telephone. Revise and reorganize to cover separately: (1) how someone can apply; (2) where someone can apply; (3) who can apply; and (4) what information must be provided. There appears to be no provision for an application by an emancipated minor.	The information about online applications is in Section 2. The rule draft is clear and concise and covers the noted subject areas. There isn't anything in rule that prohibits an emancipated minor from submitting an application.
3.	11/12/13 Ellen Katz William Morris Institute for Justice	R9-22-304 (F) Propose that persons have at least 20 days to respond to requests for information.	The 10 day response time has been a long-standing practice (including in other states). In the event additional time is necessary, the applicant may request the additional time. These

		<p>While the agency is helping the person obtain a Social Security Number, the agency must provide Medicaid to an otherwise eligible person. See 42 C.F.R. § 435.910.</p>	<p>requests are routinely granted.</p> <p>The information about providing Medicaid while obtaining an SSN is covered under R9-22-305(2).</p>
4.	<p>11/12/13 Ellen Katz William Morris Institute for Justice</p>	<p>R9-22-305</p> <p>These rules fail to require compliance with federal requirements that the agency must affirmatively ensure that persons eligible for emergency medical services and persons applying for benefits on behalf of eligible children and adults are not deterred, based on national origin, from applying for benefits because the agency, in person or on applications, solicits or requires unnecessary information such as social security numbers and citizenship and immigration status.</p> <p>The rules need to explicitly state that AHCCCS will only seek and record information necessary to determine eligibility for a benefit and will not solicit or record information that is not necessary for that purpose.</p> <p>Paragraph 2. There are missing words. The rule must affirmatively state that a person applying for another household member or applying only for emergency medical assistance cannot be asked for a Social Security Number.</p> <p>Paragraph 3. The inclusion of the words “as of October 1, 2012” makes the sentence ambiguous and could be interpreted to mean that a person must reside in Arizona as of that date to be eligible for medical benefits which is not correct.</p> <p>Paragraph 4. The rule must affirmatively state that a person who is seeking only emergency medical assistance cannot be asked or required to sign a written declaration that they are a citizen, national or qualified alien.</p> <p>Paragraph 5. The list of documents to show immigration status is too restrictive. If more documents are not listed, the rule should reference the U. S. Department of Justice November 17, 1997, Interim Guidance on Verification of Citizenship, Qualified</p>	<p>Although R9-22-1403 was stricken in the Notice of Proposed Rulemaking (consistent with A.R.S 41-1001), because as it is redundant of federal law, this language has been restored to R9-22-1403 in the Notice of Final Rulemaking to provide additional clarity</p> <p>The rule does explicitly state the information that is required to determine eligibility. The direction to eligibility staff to not request unnecessary information is an internal procedure covered under policy.</p> <p>The Section has been revised for clarity.</p> <p>Section 3, has been updated to state “published on October 1, 2012”.</p> <p>This concern is addressed under subsection (6) of R9-22-305.</p> <p>The listing of documents are an example, this does not restrict the submission of the documents to only those listed. The Administration has updated this section cross-referencing 45 CFR 435.406 and 435.408.</p>

		<p>Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 http://www.gpo.gov/fdsys/pkg/FR-1997-11-17/pdf/97-29851.pdf.</p> <p>Paragraph 6. The rule must affirmatively state that a person who is only applying for emergency medical assistance cannot be asked about their immigration status, asked to sign a declaration or asked to produce immigration documentation.</p>	<p>This concern is addressed under subsection (6) of R9-22-305. The rule states the person does not have to comply with sections 4 and 5, it is not necessary to repeat verbiage and it also states that they will receive emergency services only.</p>
5.	<p>11/12/13 Ellen Katz William Morris Institute for Justice</p>	<p>R9-22-306</p> <p>Go through the rules to be sure “or its designee” is inserted in all places that “Administration” is used.</p> <p>Section A(6). The agency shall provide the person information explaining the requirement that the applicant or member obtain or provide a Social Security number. The rule must affirmatively state that this section does not apply to persons seeking emergency medical assistance.</p> <p>AHCCCS is required to assist a person to obtain a Social Security number. The actions AHCCCS must take pursuant to 42 C.F.R. § 435.910 should be listed as a subsection, possibly to A(5).</p> <p>Section A(12). Use of SAVE to verify eligible alien status. The rule must affirmatively state that this rule does not apply to persons seeking only emergency medical assistance.</p> <p>Section A(19)(a). Should include the words “without good cause.”</p> <p>Section A(19)(b). This section references 42 C.F.R §433.148 which is the assignment of rights federal regulation. This sentence needs to be revised so that it is clear.</p> <p>Section B(2)(C). Refers to a Social Security Number, when the policy holder may not have one.</p>	<p>Agreed, updated where applicable.</p> <p>SSN requirements are covered under R9-22-305(2).</p> <p>SSN requirements are covered under R9-22-305(2). Your concerns have been addressed in the revision of R9-22-305(2).</p> <p>The Administration has revised this section for clarity.</p> <p>R9-22-306(A)(19) - The Administration disagrees because the federal regulations do not include an exception of “without good cause”.</p> <p>The Administration has revised this section for clarity.</p> <p>The Administration has revised this section for clarity by removing the SSN requirement.</p>

6.	11/12/13 Ellen Katz William Morris Institute for Justice	R9-22-307 Section B(3). Includes “resources” but there are no resource limits for Medicaid beneficiaries under the ACA.	No change is being made based on this comment. This section also applies to persons whose eligibility is determined using methodologies other than MAGI and that includes resource tests.
7.	11/12/13 Ellen Katz William Morris Institute for Justice	R9-22-312 Section A. Contents of Notices. Should include how the notice was served and the date of the notice. Section C (3). For a person who cannot be located, this rule should include telephone and e-mail efforts and contacts with a person who the claimant has listed as someone who may know of his/her location.	The Administration has revised this section for clarity by including in the contents of the notice the date of the notice and explaining how it can be sent in the heading of the section. An applicant or member has an affirmative responsibility to maintain a current address on file as described under 42 CFR 435.916(b). Neither state nor federal law requires the agency to attempt to locate people who do not comply.
8.	11/12/13 Ellen Katz William Morris Institute for Justice	R9-22-314 Section B: This rule allows AHCCCS to discontinue eligibility for all household members if the notice of withdrawal does not identify a “specific person.” If no one is listed then the notice of withdrawal is incomplete and cannot be action upon. If the rule means no one else in the household is listed, then no one else should be withdrawn. This rule should be revised to be clear. Section C. The notice should go to all household members that are affected by the withdrawal.	The Administration has revised this section for clarity. The notice provided will list all affected members.
9.	11/12/13 Ellen Katz William Morris Institute for Justice	R9-22-315 Section B. Notice of Adverse Action. (Relates to R9-22-312-Member Notices). Under the rules, a notice is sent 10 days prior to an action regarding eligibility or premiums. The date of the notice is the date personally served or the postmark date. These rules need to acknowledge that mailing can often take 5 business days and that time period should be added to the time to file an appeal.	This section complies with 42 CFR 431.211.
10.	11/12/13 Ellen Katz William Morris	Article 14 Under the ACA, the adjusted gross income (“AGI”) used in federal taxes with some	

	<p>Institute for Justice</p>	<p>modifications (called the Modified Adjusted Gross Income or “MAGI”) replaces the current Medicaid rules to determine financial eligibility for many eligibility categories. In general, the Institute strongly suggests that the AHCCCS rules follow the federal MAGI regulations. The federal MAGI regulation is 42 C.F.R. § 435.603. The current draft consolidates and rearranges and ends up getting things wrong or leaving important concepts out.</p> <p>1. The rule should affirmatively state there is no asset or resource limits tests for MAGI eligibility. <i>See</i> 42 C.F.R. § 435.603(g).</p> <p>2. The rule should affirmatively state who is excluded from the MAGI-based methodology. Those include persons receiving Supplemental Security Income (“SSI”), persons 65 or older when age is a condition of eligibility, persons who are blind or disabled, persons requesting long term services and supports, persons requesting Medicare and persons claiming they are medically needy. 42 C.F.R. § 435.603(g)(1-5).</p> <p>3. The definition “dependent child” is incorrect. Under 42 C.F.R. § 435.603(f)(iv), the state can elect age 19, or in the case of full-time students, age 21. Age 18 is not relevant.</p>	<p>Since the proposed amendment to the rule do not include an asset resource test neither the Administration or its designee can use that as a basis for denying eligibility therefore it is not necessary to affirmatively state that there is no asset test.</p> <p>The proposed rule identifies the people who are included in MAGI at R9-22-1427. The persons whose eligibility is determined based on something other than MAGI methodologies are listed in other Articles.</p> <p>The definition of a “dependent” child is used to determine if a person meets the definition of caretaker relative under 42 CFR 435.4. The commenter seems to confuse this definition with the definition of “child” in 42 CFR 435.4.</p>
<p>11.</p>	<p>11/12/13 Ellen Katz William Morris Institute for Justice</p>	<p>R9-22-1420</p> <p>Section A: This is the traditional Medicaid income calculation, and there is no resemblance or reference to the MAGI-based income counting federal regulation at 42 C.F.R. § 435.603(e). There are special regulations for excluding some income to Native Americans that are not in the rules. 42 C.F.R § 435.603(e)(3).</p> <p>Section B. MAGI Income Group: Throughout the rules, the rules refer to “applicant” and “taxpayer.” Without clear definitions, these are ambiguous terms.</p> <p>1. By “applicant” AHCCCS seems to mean the individual seeking coverage. However, there are situations where an individual may fill out an application for coverage of a family member. In such cases, the term “applicant” is ambiguous. As noted previously, the rules</p>	<p>This subsection merely provides a definition of “income”. It is not intended to include detail on specific types of income and treatment. That is covered by the CFR, which is referenced in the definition of MAGI-based income in R9-22-1401.</p> <p>Agreed. Added definitions of applicant in R9-22-301 and taxpayer in R9-22-1401 for clarity.</p>

		<p>should specifically define “applicant.”</p> <p>2. We believe “tax filer” is a more appropriate term than “taxpayer.” In this case the key action is the person who expects to “file” a return. But we also understand that the federal MAGI regulations use the term “tax payer.” We suggest inclusion of a reference that taxpayer is a person who expects to file a tax return.</p> <p>3. Our understanding is that there are 3 general categories of individuals: (1) Those who file taxes and are not claimed as a dependent by someone else; (2) those who file taxes and are claimed as a dependent by someone else; and (3) those who do not file taxes and are not claimed as a dependent by someone else. 42 C.F.R §435.603(f).</p> <p>Suggest that AHCCCS draft a “flow chart” that shows how MAGI household size is determined.</p> <p>Section B(1): This subsection seems to mimic 42 C.F.R. § 435.603(f)(1), but leaves out a key part. The federal regulation (f)(1) refers to a tax filer “who does not expect to be claimed as a tax dependent by another taxpayer.” Without this clause, the rule creates an ambiguity for dependents who also file taxes, who could then fit under subsection B(1) or (2). Also, the federal regulation refers to an exception if a tax filer cannot reasonably establish that someone is her dependent (f)(5). The rule makes no mention of that eventuality.</p> <p>Section B(2): This subsection deals with dependents living with a custodial parent. Again, it differs from the federal regulation and creates a potential problem. In this case, the problem is best exemplified in the case of families where a dependent child lives with both parents, but the parents are not married and file separately. By the federal regulation, the child in this situation would have a family of three (the child, the tax filer claiming them, and the second live-in parent) (see federal regulation exception at 42 C.F.R. § 435.603(f)(2)(ii).) But according to the draft rules, the MAGI household would only include the child and the custodial parent, because paragraph (c) refers to “The taxpayer’s spouse,” and in this case the second parent is not a spouse. Also, any live-in minor siblings of the child in this scenario should be included, regardless of whether</p>	<p>Agreed. the taxpayer definition has been updated in R9-22-1401.</p> <p>Added definition of taxpayer to R9-22-1401. Added language to subsection (B)(6) to address regulation at 42 CFR 435.603(f)(5)</p> <p>Agreed. Revised for clarity within the definition of taxpayer in R9-22-1401.</p> <p>Revised for clarity</p>
--	--	--	--

		<p>they are claimed by the tax filer who claims the child. The draft rule does not seem to account for non-dependent live-in siblings. (<i>see</i> federal regulation 42 C.F.R. § 435.603(f)(3)(iii).)</p> <p>Section B(3): There appear to be drafting errors that make this paragraph difficult to decipher. It seems to want to cover both the exception for determining household of individuals claimed by a non-custodial parent [<i>see</i> federal regulation 42 C.F.R. § 435.603(f)(2)(iii)] and the exception for individuals claimed by someone who is not their spouse or parent (42 C.F.R. § 435.603(f)(2)(i)]. We suggest the concepts be separated.</p> <p>In any case, the reference to counting income should be deleted. This section is about determining the MAGI household for the individual seeking coverage, not whose income counts, which is dealt with in the draft rule, Section C. The rule should read: “...determine the applicant’s MAGI income group as described in subsection 4(a) or 4(b), based on the applicant’s age.”</p> <p>Section B(4): This parallels federal regulation (f)(3) for non-tax filers, but there are again discrepancies.</p> <p>1. First, it again refers inappropriately to counting income, when it should only refer to determining the household size (the “MAGI income group.”)</p> <p>Household size and household income should be separate calculations.</p> <p>Also, there are cases where dependents should be counted in the household, but their income should <i>not</i> count.</p> <p>2. Second, it begins with “when the applicant is not a taxpayer,” which seems to exclude individuals who expect to be claimed as a dependent but <i>also</i> file their own taxes. It should have language to include dependent exceptions from sections B(1) & (2) who may actually file their own taxes.</p> <p>3. The words “siblings” and “parents” are undefined, though they have very specific definitions in 42 C.F.R. § 435.603(b). Those words should be defined.</p> <p>4. It fails to specify that “children” refers only to children under the age of 19 (or 21 for full time students, if the state so chooses).</p> <p>Without that reference, the exceptions could</p>	<p>Revised for clarity</p> <p>Revised for clarity.</p> <p>This concern is addressed in the introductory sentence of subsection C.</p> <p>Revised for clarity</p>
--	--	--	--

		<p>include adult children.</p> <p>Section B(5). Pregnant women: This rule is correct, but it fails to account for how the state will count pregnant women for the purposes of determining household size for <i>other</i> members of her family. In those cases, the state has the option to count her as 1, 2, or the mother + the total expected babies. This should be specified.</p> <p>Section C. MAGI-based Household Income: This is roughly parallel to 42 C.F.R. § 435.603(d).</p> <p>Section C(1): For specificity, it may be good to add “the [MAGI-based] income of an individual...” Otherwise, this roughly parallels 42 C.F.R. § 435.603(d)(2).</p> <p>Section C(2): To more closely parallel the federal regulation and avoid potential confusion, this section should read: “The income of a tax dependent [other than the tax filer’s spouse or biological, adopted or stepchild] who is included in the MAGI income group of the tax[filer]...is not counted [included in the household income of the taxfiler] whether or not...”.</p>	Revised for clarity
12		<p>R9-22-1421</p> <p>Section A. Insert “...excess [MAGI-based] income...from the [MAGI-based] household income.”</p>	Clarified title of rule. Income determinations for all persons under this article are based on MAGI methodologies. Therefore it is not necessary to repeat it every time the word “income” is used.
13		<p>R9-22-1422</p> <p>This appears to be the methodology under the traditional Medicaid rules. This rule seems to parallel 42 C.F.R § 603(h)(3). While there is flexibility in this process, there does not appear to be much connection to tax-based MAGI income or deductions.</p>	This rule outlines methodology for determining income as of a point in time. It is not intended to include detail on specific types of income and treatment.
14		<p>R9-22-1423</p> <p>In general in this and the next two sections, the Institute has concerns about how deduction and adjustments to income that often are not known until the end of the tax year will be handled.</p> <p>Section A: This section concerns lump sum payments but some of the examples are not counted as income under the MAGI</p>	Clarified rule and struck veterans benefits and child support arrearages, as these were only examples.

		calculation such as Veterans' Benefits and child support as explained in response to Section R9-22-1420.	
15		R9-22-1424 Section B(1). This is apparently a run-on sentence that currently makes no sense.	Clarified rule.
16		R9-22-1427 Section A(2). The rule does not explain what 106% refers to. Is it a MAGI converted eligibility threshold? Section B(1). The cross references to (B)(3)(a) and (b) seem incorrect as there are no subsections B(3)(a) or (b). Perhaps AHCCCS means (B)(1)(c)(i) and (ii). Section B(1)(c). The reference to "increased" earned income does not mesh with 42 U.S.C. § 1396r-6(a), which specifically dropped the word "increased" in its definition of income (compare to §1396a(e)(1), which includes "increased.") If § 1396r-6 gets extended at the end of the year, the deletion of "increased" will be important in addressing the question of whether individuals who lose their eligibility due to the MAGI transition will be eligible for Transitional Medical Assistance ("TMA"). That is, their MAGI-based income may change even if their "earned income" does not. Section E(2). This refers to not being eligible under one of the other mandatory groups. It appears to conflict with 42 C.F.R. § 436.404 that directs the agency to allow an individual eligible for different groups to select which group to have his/her eligibility determined.	Yes, the rule explains that the countable income cannot exceed 106% of the FPL for those who qualify under MAGI, as defined under R9-22-1420(B). Updated references. The language in 1396 r-6a is no longer applicable after December 31, 2013. See 42 USC 1396a(e)(1)(B). 42 USC 1396a(a)(10)(A)(i)(VIII) and 42 CFR 435.119(b)(4) requires that the individual not be eligible under any of the other mandatory groups.
17		R9-31-1402 Section B. The rule provides that a premium is imposed if the household income is greater than 100% of the federal poverty level. A household with MAGI up to 133% (138% with the 5% income disregarded) is eligible for Medicaid and no premiums are allowed for these persons. In addition, a younger child is eligible for AHCCCS when the household income exceeds 138%. <i>See</i> R9-22-1427C. Effective January 1, 2014, 42 C.F.R. § 447.55 sets forth the premiums that are allowed for different categories of eligible persons whose incomes exceed 150%. In addition, 42 C.F.R.	Clarified rule.

		<p>§ 447.56 sets forth the limitations on premiums and cost sharing. All the income and premium amounts need to be revised to reflect the increased Medicaid eligibility and the ACA regulations on cost-sharing cited above. Finally, state law only allows for premiums for children whose household income exceeds 150%, A.R.S. 36-2982(E), but even that law appears to conflict with the heightened income eligibility for Medicaid children as noted above</p> <p>In several sections, the proposed rule refers to Article 9, Chapter 22 and our comments above apply here as well.</p> <p>Finally, the federal Children’s Health Insurance Program Reauthorization Act, 42 U.S.C. §1397cc(e)(3), provides for a 30 day grace period for non-payment of a premium and at least a 7 day notice at the end of the grace period that failure to pay the premium will result in termination from the program. We could not find that provision in the rules.</p>	<p>Our responses to comments from Chapter 22 apply here as well.</p> <p>The grace period concern is addressed in the current R9-31-1418.</p>
--	--	--	--

12. 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 are applicable.

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:

The rule does not require a permit.

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:

The rule implements 42 USC 1396a as amended by the Affordable Care Act, and federal regulations at 42 CFR Part 435, which, in relevant part, mandates certain changes to encompass more eligible persons (e.g., foster children up to age 26 and children with household income between 100% and 133% of the federal poverty level) and implements optional changes to provide coverage to more persons (childless adults). In addition, that federal law and the implementing regulations mandate certain changes to the methods for determining eligibility. These rules follow those federal directives and parameters.

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.

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

The following incorporations have been updated in:

R9-22-305 - 42 CFR 435.403

R9-22-306 - 42 CFR 433.147

R9-22-1501 - 42 CFR 435.530

R9-22-1501 – 42 CFR 435.540

R9-22-1503 - 20 CFR 416.1160

R9-22-1503 - 20 CFR 416.1163(b)(1) and (2)

R9-22-1505 - 42 CFR 435.520, 42 CFR 435.530, or 42 CFR 435.540

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable.

15. The full text of the rules follows:

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ADMINISTRATION**

ARTICLE 3. GENERAL ELIGIBILITY REQUIREMENTS

Section.

- R9-22-301. ~~Reserved~~ General Eligibility Definitions
- R9-22-302. ~~Reserved~~ AHCCCS Eligibility Application
- R9-22-304. Verification of Eligibility Information.
- R9-22-305. Eligibility Requirements.
- R9-22-306. Administration, Administration's designee or Member Responsibilities
- R9-22-307. Approval or Denial of Eligibility.
- R9-22-308. Reinstating Eligibility.
- R9-22-309. Confidentiality and Safeguarding of Information
- R9-22-310. Ineligible Person
- R9-22-311. Assignment of Rights Under Operation of Law
- R9-22-312. Member Notices
- R9-22-313. Withdrawal of Application
- R9-22-314. Withdrawal from AHCCCS Medical Coverage
- R9-22-315. Notice of Adverse Action
- R9-22-316. Exemptions from Sponsor Deemed Income
- R9-22-317. Sponsor Deemed Income

ARTICLE 14. AHCCCS MEDICAL COVERAGE FOR ~~FAMILIES AND INDIVIDUALS~~ HOUSEHOLDS

Section

- R9-22-1401. General Information
- R9-22-1402. ~~Ineligible Person~~ Repeal
- R9-22-1403. Agency Responsible for Determining Eligibility
- R9-22-1404. ~~Assignment of Rights Under Operation of Law~~ Repeal
- R9-22-1405. ~~Confidentiality and Safeguarding of Information~~ Repeal
- R9-22-1406. ~~Application Process~~ Repeal
- R9-22-1407. ~~Deceased Applicants~~ Repeal
- R9-22-1408. ~~Applicant and Member Responsibility~~ Repeal
- R9-22-1409. ~~Withdrawal of Application~~ Repeal
- R9-22-1410. ~~Department Responsibilities~~ Repeal

- R9-22-1411. ~~Withdrawal from AHCCCS Medical Coverage~~ Repeal
- R9-22-1412. ~~Verification of Eligibility Information~~ Repeal
- R9-22-1413. Time-frames, ~~Approval, Discontinuance, or Denial~~ Reinstatement of an Application
- R9-22-1414. ~~Review of Eligibility~~ Repeal
- R9-22-1415. ~~Notice of Adverse Action~~ Repeal
- R9-22-1416. Effective Date of Eligibility
- R9-22-1417. ~~Social Security Number~~ Repeal
- R9-22-1418. ~~State Residency~~ Repeal
- R9-22-1419. ~~Citizenship and Immigrant Status~~ Repeal
- R9-22-1420. Income Eligibility Criteria
- R9-22-1421. MAGI based Income Eligibility
- R9-22-1422. Methods for Calculating Monthly Income
- R9-22-1423. Calculations and Use of Methods Listed in R9-22-1422 Based on Frequency of Income
- R9-22-1424. Use of Methods Listed in R9-22-1423 Based on Type of Income
- R9-22-1425. ~~Sponsor Deemed Income~~ Repeal
- R9-22-1426. ~~Exemptions from Sponsor Deemed Income~~ Repeal
- R9-22-1427. ~~Eligibility for a Family~~ Repeal
- R9-22-1427. Eligibility Under MAGI
- R9-22-1428. ~~Eligibility for a Person Not Eligible as a Family~~ Repeal
- R9-22-1429. Eligibility for a Newborn
- R9-22-1430. ~~Extended Medical Coverage for a Pregnant Woman~~ Repeal
- R9-22-1431. Family Planning Services Extension Program (FPEP)
- R9-22-1432. Young Adult Transitional Insurance
- R9-22-1443. ~~Closing New Eligibility for Persons Not Covered under the State Plan~~ Repeal

**ARTICLE 15. AHCCCS MEDICAL COVERAGE FOR PEOPLE WHO ARE AGED, BLIND, OR
DISABLED**

Section

- R9-22-1501. General Information
- R9-22-1502. ~~General Eligibility Criteria~~ Repeal
- R9-22-1503. Financial Eligibility Criteria
- R9-22-1505. Eligibility for Special Groups

ARTICLE 3. GENERAL ELIGIBILITY REQUIREMENTS

R9-22-301. Reserved General Eligibility Definitions

Definitions. In addition to definitions contained in R9-22-101 and A.R.S. § 36-2901, the words and phrases in this Article, Article 14 and Article 15 have the following meanings unless the context explicitly requires another meaning:

“Applicant”, notwithstanding R9-22-101, means a person listed on an application for whom AHCCCS coverage is being sought.

"BHS" means the division of Behavioral Health Services within the Arizona Department of Health Services.

"CRS" means the program administered by the Administration or its designee that provides covered medical services and covered support services in accordance with A.R.S. 36-261.

"DCSS" means the Division of Child Support Services, which is the division within the Department that administers the Title IV-D program and includes a contract agent operating a child support enforcement program on behalf of the Department.

"FAA" means the Family Assistance Administration, the administration within the Department's Division of Benefits and Medical Eligibility with responsibility for providing cash and food stamp assistance to a member and for determining eligibility for AHCCCS medical coverage.

"Income" means combined earned and unearned income.

"Medical support" means to provide health care coverage in the form of health insurance or court-ordered payment for medical care.

“Member” means an applicant who has been determined to qualify for AHCCCS coverage by the Administration or its designee.

"Pre-enrollment process" means the process that provides an applicant the opportunity to choose an AHCCCS health plan before the determination of eligibility is completed.

"Resources" means real and personal property, including liquid assets.

"Sponsor" means an individual who signs the USCIS I-864 Affidavit of Support agreeing to support a non-citizen as a condition of the non-citizen's admission for permanent residence in the United States.

"Sponsor deemed income" means the unearned income deemed available to the applicant named on the USCIS I-864 Affidavit of Support.

"SVES" means the State Verification and Exchange System, a system through which the Department exchanges income and benefit information with the Internal Revenue Service, Social Security Administration, and State Wage and Unemployment Insurance Benefit data files.

"USCIS" means the United States Citizen and Immigration Services.

R9-22-302. Reserved AHCCCS Eligibility Application

Application Process

1. Right to apply. A person may apply for AHCCCS medical coverage by submitting an Administration-approved application to the Administration or its designee, an FAA office, or one of the following outstation locations:
 - a. A BHS site;
 - b. A Federally Qualified Health Center or disproportionate share hospital under 42 U.S.C. 1396r-4; or
 - c. Any other site, including a hospital, approved by the Administration or its designee.
2. Application. To initiate the application process, the Administration or its designee will accept an application from the applicant, an adult who is in the applicant's household, as defined in 42 CFR 435.603(f), or family, as defined in section 36B(d)(1) of the Internal Revenue Service (IRS) Code, an authorized representative, or if the applicant is a minor or incapacitated, someone acting responsibly for the applicant by submitting a written or online application under 42 CFR 435.907.
 - a. A phone or written application must contain at least the following to be submitted to the Administration or its designee:
 - i. Applicant's legible name,
 - ii. Address or location where the applicant can be reached.
 - iii. Signature of the person submitting the application.
 - iv. Date the application was signed.
 - v. The Administration or its designee shall require that a third party witness the signing and attest by signing the application if the individual signing the application signs with a mark.
 - b. An online application must be completed in full in order to be submitted to the Administration or its designee.
3. Incomplete application. If the application is incomplete, the Administration or its designee shall do at least one of the following:
 - a. Contact an applicant or an applicant's representative by telephone or electronic medium to obtain the missing information required for an eligibility determination;
 - b. Mail a request for additional information to an applicant or an applicant's representative, allowing 10 days from the date of the request to provide the required additional information; or
 - c. Meet with the applicant, representative, or household member.
4. Date of application. The date of application is the date application is received by the Administration or its designee either on-line or at a location listed in subsection (1).
5. Complete application form. The Administration or its designee shall consider an application complete when all questions are answered. The same person as listed under subsection (2) is the person that must sign the completed application. The application shall be witnessed and signed by a third party if the individual signing the application signs with a mark.
6. Assistance with application. The Administration or its designee shall allow a person of the applicant's choice to accompany, assist, and represent the applicant in the application process.

R9-22-304. Verification of Eligibility Information.

- A.** Except as provided in subsection (E), if information provided by or on behalf of an applicant or member on an application, renewal form or otherwise does not conflict with information obtained by the agency through an electronic data match, the Administration or its designee shall determine or renew eligibility based on such information.
- B.** The Administration or its designee shall not require an applicant, member, or representative to provide additional verification unless the verification cannot be obtained electronically or the verification obtained electronically conflicts with information provided by or on behalf of the applicant or member.
- C.** If information provided by or on behalf of an applicant or member does conflict with information obtained through an electronic data match, the applicant or member shall provide the Administration or its designee with information or documentation necessary to verify eligibility, including evidence originating from an agency, organization, or an individual with actual knowledge of the information.
- D.** Income information obtained through an electronic data match shall be considered reasonably compatible with income information provided by or on behalf of an individual if both meet or both exceed the applicable income limit.
- E.** The Administration or its designee shall not accept the applicant's or member's statement by itself as verification of:

 - 1.** SSN;
 - 2.** Qualified alien status, except as described under 42 USC 1320b-7(d)(4)(A); or
 - 3.** Citizenship, except as described under 42 USC 1396a(ee)(1).
- F.** The Administration or its designee shall give an applicant or member at least 10 days from the date of a written or electronic request for information to provide required verification. The Administration or its designee may deny the application or discontinue eligibility if an applicant or a member does not provide the required information timely.

R9-22-305. Eligibility Requirements.

As a condition of eligibility, the Administration or its designee must require applicants, and members to do the following:

- 1.** Take all necessary steps to obtain any annuities, pensions, retirement, disability benefits to which they are entitled, unless they can show good cause for not doing so.
- 2.** Furnish a SSN under 42 CFR 435.910 and 435.920, or in the absence of an SSN, provide proof of a submitted application of SSN. The Administration or its designee will assist in obtaining or verifying the applicant's SSN under 42 CFR 435.910 if an applicant cannot recall the applicant's SSN or has not been issued a SSN. An applicant is not required to furnish an SSN if the applicant is not able to legally obtain a SSN. The Administration or its designee shall determine eligibility notwithstanding the applicant's lack of a SSN, if the applicant is cooperating with the Administration or its designee to obtain a SSN and obtain a SSN prior to the next scheduled review of eligibility.

3. Provide proof of residency of Arizona. An applicant or a member is not eligible unless the applicant or member is a resident of Arizona under 42 CFR 435.403 effective October 1, 2012, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
4. A written declaration, signed under penalty of perjury, must be provided for each person for whom benefits are being sought stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is a qualified alien. The declaration must be provided by the individual for whom eligibility is being sought or an adult member of the individual's family or household.
5. Each applicant who claims qualified alien status must provide either:
 - a. Alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or
 - b. Other documents that the Administration or its designee accepts as evidence of immigration status, such as:
 - i. a Form I-94 Departure Record issued by the USCIS,
 - ii. a Foreign Passport,
 - iii. a USCIS Parole Notice,
 - iv. a Victim of Trafficking Certification or Eligibility Letter issued by the US DHHS Office of Refugee Resettlement],
 - v. other documentation consistent with 42 CFR 435.406 or 435.407.
 - c. Sufficient information for the Administration or its designee to obtain electronic verification of immigration status from the USCIS.
6. If a person for whom eligibility is being sought, states that they are an alien, that person is not required to comply with subsections (4) and (5); however, if they do not comply with those sections, and if they meet all other eligibility criteria, benefits will be limited to those necessary to treat an emergency medical condition.

R9-22-306. Administration, Administration's designee or Member Responsibilities

- A. The Administration or its designee is responsible for the following:**
 1. The Administration or its designee shall determine eligibility within 90 days for an applicant applying on the basis of disability and 45 days for all other applicants, unless:
 - a. The agency cannot reach a decision because the applicant or an examining physician delays or fails to take a required action, or
 - b. When there is an administrative or other emergency beyond the agency's control.

2. If an applicant dies while an application is pending, the Administration or its designee shall complete an eligibility determination for the deceased applicant.
3. The Administration or its designee shall complete an eligibility determination on an application filed on behalf of a deceased applicant.
4. During the application process the Administration or its designee shall provide information to the applicant or member explaining the requirements to:
 - a. Cooperate with DCSS in establishing paternity and enforcing medical support, except in circumstances when good cause under 42 CFR 433.147 exists for not cooperating;
 - b. Establish good cause for not cooperating with DCSS in establishing paternity and enforcing medical support, when applicable;
 - c. Report a change listed under subsection (B)(3)(c) no later than 10 days from the date the applicant or member knows of the change;
 - d. Send to the Administration or its designee any medical support payments resulting from a court order;
 - e. Cooperate with the Administration or its designee's assignment of rights and securing payments received from any liable party for a member's medical care.
5. Offer to help the applicant or member to complete the application form and to obtain the required verification;
6. Provide the applicant or member with information explaining:
 - a. The eligibility and verification requirements for AHCCCS medical coverage;
 - b. The requirement that the applicant or member obtain and provide a SSN to the Administration or its designee;
 - c. How the Administration or its designee uses the SSN;
7. Explain to the applicant or member the practice of exchange of eligibility and income information through the electronic service established by the Secretary;
8. Explain to the applicant and member the right to appeal an adverse action under R9-22-315;
9. Use any information provided by the member to complete data matches with potentially liable parties;
10. Explain the eligibility review process;
11. Explain the AHCCCS pre-enrollment process;
12. Use the Systematic Alien Verification for Entitlements (SAVE) process to verify qualified alien status;
13. Provide information regarding the penalties for perjury and fraud on the application;
14. Review any verification items provided by the applicant or member and inform the member of any additional verification items and time-frames within which the applicant or member shall provide information to the Administration or its designee;
15. Explain to the applicant or member the applicant's and member's responsibilities under subsection (B);
16. Transfer the applicant's information to other insurance affordability programs as described under 42 CFR 435.1200(e) when the applicant does not qualify for Medicaid;

17. Attain a written record of a collateral contact: such as a verbal statement from a representative of an agency or organization, or an individual with actual knowledge of the information;
18. Complete a review of eligibility:
 - a. Any time there is a change in a member's circumstance that may affect eligibility.
 - b. For a member approved for the MED program under R9-22-1435 through R9-22-1440 before the end of the six-month eligibility period,
 - c. Of each member's continued eligibility for AHCCCS medical coverage once every 12 months;
19. The Administration or its designee shall discontinue eligibility and notify the member of the discontinuance under R9-22-307 if the member:
 - a. Fails to comply with the review of eligibility,
 - b. Fails to comply under 42 CFR 433.148 with the requirements and conditions of eligibility under this Article regarding assignment of rights and cooperation of establishing paternity and obtaining medical support, or
 - c. Does not meet the eligibility requirements; and
20. Redetermine eligibility for a person terminated from the SSI cash program.
 - a. Continuation of AHCCCS medical coverage. The Administration shall continue AHCCCS medical coverage for a person terminated from the SSI cash program until a redetermination of eligibility is completed.
 - b. Coverage group screening. Before terminating a person from the SSI cash program, the Administration shall determine if the person is eligible for coverage as a person described in A.R.S. §§ 36-2901(6)(a)(i) through (vi) or 36-2934.
 - c. Eligibility decision.
 - i. If a person is eligible under this Article or 9 A.A.C. 28, Article 4, the Administration shall send a notice informing the applicant that AHCCCS medical coverage is approved.
 - ii. If a person is ineligible, the Administration shall send a notice to deny AHCCCS medical coverage.

B. Applicant and Member Responsibilities.

1. An applicant or a member shall authorize the Administration or its designee to obtain verification for initial eligibility or continuation of eligibility.
2. As a condition of eligibility, an applicant or a member shall:
 - a. Provide the Administration or its designee with complete and truthful information. The Administration or its designee may deny an application or discontinue eligibility if:
 - i. The applicant or member fails to provide information necessary for initial or continuing eligibility;
 - ii. The applicant or member fails to provide the Administration or its designee with written authorization or electronic authorization to permit the Administration or its designee to obtain necessary initial or continuing eligibility verification;

ix. Death;

x. Change in marital status; or

xi. Change in school attendance.

4. As a condition of eligibility, an applicant or a member shall cooperate with the assignment of rights as required by R9-22-311. If the applicant or member receives medical care and services for which a first or third party is or may be liable, the applicant or member shall cooperate with the Administration or its designee in assisting, identifying and providing information to assist the Administration or its designee in pursuing any first or third party who is or may be liable to pay for medical care and services.

5. A pregnant woman under A.R.S. § 36-2901(6)(a)(ii) is not required to provide the Administration or its designee with information regarding paternity or medical support from a father of a child born out of wedlock.

C. Administration or its designee responsibilities at Eligibility Renewal.

1. The Administration or its designee shall renew eligibility without requiring information from the individual if able to do so based on reliable information available to the agency, including through an electronic data match. If able to renew eligibility based on such information, the Administration or its designee shall send the member notice of:

a. The eligibility determination; and

b. The member's requirement to notify the Administration or its designee if any of the information contained in the renewal notice is inaccurate.

2. If unable to renew eligibility, the Administration or its designee shall:

a. Send a pre-populated renewal form listing the information needed to renew eligibility.

b. Give the member 30 days from the date of the renewal form to submit the signed renewal form and the information needed.

c. Send the member notice of the renewal decision under R9-22-312 or R9-22-1413(B) as applicable.

R9-22-307. Approval or Denial of Eligibility.

A. Approval. If the applicant meets all the eligibility requirements and conditions of eligibility of this Article, the Administration or its designee shall approve the application and provide the applicant with an approval notice.

The approval notice shall contain:

1. The name of each approved applicant.

2. The effective date of eligibility for each approved applicant.

3. The reason and the legal citations if a member is approved for only emergency medical services, and

4. The applicant's right to appeal the decision.

B. Denial. If an applicant fails to meet the eligibility requirements or conditions of eligibility of this Article, the Administration or its designee shall deny the application and provide the applicant with a denial notice. The denial notice shall contain:

1. The name of each ineligible applicant.
2. The specific reason why the applicant is ineligible.
3. The income and resource calculations for the applicant compared to the income or resource standards for eligibility when the reason for the denial is due to the applicant's income or resources exceeding the applicable standard.
4. The legal citations supporting the reason for the ineligibility.
5. The location where the applicant can review the legal citations.
6. The date of the application being denied; and
7. The applicant's right to appeal the decision and request a hearing.

R9-22-308. Reinstating Eligibility.

The Administration or its designee shall reopen an application or reinstate eligibility of a member when any of the following conditions are met:

1. The denial or discontinuance of eligibility was due to an administrative error.
2. The discontinuance of eligibility was due to noncompliance with a condition of eligibility and the applicant or member complies prior to the effective date of the discontinuance.
3. The member informs the Administration or its designee of a change of circumstances prior to the effective date of the discontinuance, that would allow for continued eligibility, or
4. Following a discontinuance, the member qualifies for continuation of medical coverage pending an appeal.

R9-22-309. Confidentiality and Safeguarding of Information

The Administration or its designee shall maintain the confidentiality of an applicant or member's records and limit the release of safeguarded information under R9-22-512 and 6 A.A.C. 12, Article 1. In the event of a conflict between R9-22-512 and 6 A.A.C. 12, Article 1, R9-22-512 prevails.

R9-22-310. Ineligible Person

A person is not eligible for AHCCCS medical coverage if the person is:

1. An inmate of a public institution, or
2. Over age 64 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except as allowed in 42 USC 1396d(h) or as allowed under the Administration's Section 1115 waiver.

R9-22-311. Assignment of Rights Under Operation of Law

By operation of law and under A.R.S. § 36-2903, a person determined eligible assigns rights to the system medical benefits to which the person is entitled.

R9-22-312. Member Notices

A. Contents of notice. The Administration or its designee shall issue a notice by mail, personal delivery, or electronic means when an action is taken regarding a person's eligibility or premiums. The notice shall contain the following information:

1. The date of the notice issued;
2. A statement of the action being taken;
3. The effective date of the action;
4. The specific reason for the intended action;
5. If eligibility is being discontinued due to income in excess of the income standards, the actual figures used in the eligibility determination and the amount by which the person exceeds income standards;
6. If a premium is imposed or increased, the actual figures used in determining the premium amount;
7. The specific law or regulation that supports the action, or a change in federal or state law that requires an action;
8. An explanation of the member's rights to an appeal and continued benefits.

B. Advance notice of changes in eligibility or premiums. "Advance notice" means a notice that is issued to a person at least 10 days before the effective date of the change. Except as specified in subsection (C), advance notice shall be issued whenever the following adverse action is taken:

1. To discontinue or suspend or reduce eligibility or covered services; or
2. To impose a premium or increase a person's premium.

C. The Administration or its designee shall issue a Notice of Adverse Action to a member no later than the effective date of action if:

1. The Administration or its designee receives a request to withdraw;
2. A person provides information that requires termination of eligibility or an increase or imposition of the premium and the person signs a clear written statement waiving advance notice;
3. A person cannot be located and mail sent to that person has been returned as undeliverable;
4. A person has been admitted to a public institution where the person is ineligible under R9-22-310;
5. A person has been approved for Medicaid or CHIP in another state; or
6. The Administration or its designee has information that confirms the death of the person.

R9-22-313. Withdrawal of Application

A. An applicant may withdraw an application at any time before the Administration or its designee completes an eligibility determination by making an oral or written request for withdrawal to the Administration or its designee and stating the reason for withdrawal.

B. If an applicant orally requests withdrawal of the application, the Administration or its designee shall document the:

1. Date of the request.
2. Name of the applicant for whom the withdrawal applies, and
3. Reason for the withdrawal.

C. An applicant may withdraw an application in writing by:

1. Completing an Administration -approved voluntary withdrawal form; or
2. Submitting a written, signed, and dated request to withdraw the application.

D. The effective date of the withdrawal is the date of the application.

E. If an applicant requests to withdraw an application, the Administration or its designee shall:

1. Deny the application, and
2. Notify the applicant of the denial following the notice requirements under R9-22-307.

R9-22-314. Withdrawal from AHCCCS Medical Coverage

A. A member may withdraw from AHCCCS medical coverage at any time by giving oral or written notice of withdrawal to the Administration or its designee. The member or the member's legal or authorized representative shall provide the Administration or its designee with:

1. The reason for the withdrawal.
2. The date the notice is effective, and
3. The name of the member for whom AHCCCS medical coverage is being withdrawn.

B. If a notice of withdrawal does not identify specific members the Administration or its designee shall discontinue eligibility for any members that the person submitting the withdrawal has legal authority to act on behalf of.

C. The Administration or its designee shall notify the member of the discontinuance as required by R9-22-312.

R9-22-315. Notice of Adverse Action

A. Adverse actions. An applicant or member may appeal, as described under Chapter 34, by requesting a hearing from the Administration or its designee concerning any of the following adverse actions:

1. Complete or partial denial of eligibility under R9-22-307 and R9-22-313(E);
2. Suspension, termination, or reduction of AHCCCS medical coverage under R9-22-307, R9-22-312 and R9-22-314;
3. Delay in the eligibility determination beyond the time-frames under this Article;
4. The imposition of or increase in a premium or copayment; or
5. The effective date of eligibility.

B. Notice of Adverse Action. The Administration or its designee shall personally deliver or send, by mail, or electronic means a Notice of Adverse Action to the person affected by the action. For the purpose of this

Section, the date of the Notice of Adverse Action shall be the date of personal delivery to the applicant or the postmark date, if mailed.

C. Automatic change and hearing rights.

1. An applicant or a member is not entitled to a hearing if the sole issue is a federal or state law requiring an automatic change adversely affecting some or all recipients.
2. An applicant or a member is entitled to a hearing if a federal or state law requires an automatic change and the applicant or member timely files an appeal that alleges a misapplication of the facts to the law.

R9-22-316. Exemptions from Sponsor Deemed Income

A. An applicant shall provide proof to the Administration or its designee when claiming an exemption from sponsor deemed income.

B. The Administration or its designee shall grant an exemption from deeming a sponsor's income for a Lawful Permanent Resident applicant if the applicant:

1. Adjusted immigration status to Lawful Permanent Resident from status as a refugee or asylee;
2. Is the spouse or dependent child of the sponsor and lives with the sponsor;
3. Is indigent as specified in subsection (C);
4. Is a victim of domestic violence or extreme cruelty as specified in subsection (D); or
5. Has acquired 40 qualified quarters of work credit based on earnings as specified in subsection (E).

C. Exemption from sponsor deeming based on indigence.

1. The Administration or its designee shall consider the applicant indigent and grant an exemption from sponsor deemed income for an applicant, for a period of 12 months beginning with the first month of eligibility if all the following are met:

a. An applicant is indigent if all of the following are met:

- i. The applicant does not reside with the applicant's sponsor;
- ii. The applicant does not receive free room and board; and
- iii. The applicant's total gross income including monies received from the sponsor and the value of any vendor payments received for food, utilities, or shelter does not exceed 100% of the FPL for the size of the income group.

2. The Administration or its designee shall send a notice under 8 U.S.C. 1631(e)(2) to the Attorney General's Office when approving an applicant who is exempt from sponsor deemed income due to indigence.

D. The Administration or its designee shall grant an exemption from sponsor deemed income for an applicant who is a victim of domestic violence or extreme cruelty under 8 CFR 204.2 for a period of 12 months beginning with the first month of eligibility. The Administration or its designee shall redetermine the exemption status at each renewal.

1. The Administration or its designee considers an applicant to be a victim of domestic violence or extreme cruelty when all of the following are met:

a. The applicant is the victim, the parent of a child victim, or the child of a parent victim;

- b. The perpetrator of the domestic violence or extreme cruelty was the spouse or parent of the victim or other family member related by blood, marriage or adoption to the victim;
 - c. The perpetrator was residing in the same household as the victim when the abuse occurred;
 - d. The abuse occurred in the United States;
 - e. The applicant did not participate in the domestic violence or cruelty; and
 - f. The victim does not currently live with the perpetrator.
2. The applicant shall provide proof that the applicant or the applicant's child is a victim of domestic violence or extreme cruelty by presenting one of the following:
- a. USCIS form I-360 Petition for Amerasian, Widow, or Special Immigrant;
 - b. USCIS form I-797 USCIS approval of the I-360 petition;
 - c. Reports or affidavits concerning the domestic violence or cruelty documented by police, judges, or other court officials, medical personnel, school officials, clergy, social workers, counseling or mental health personnel, or other social service agency personnel;
 - d. Legal documentation, such as an order of protection against the perpetrator or an order convicting the perpetrator of committing an act of domestic violence or extreme cruelty that chronicles the existence of domestic violence or extreme cruelty;
 - e. Evidence that indicates that the applicant sought safe haven in a battered women's shelter or similar refuge because of the domestic violence or extreme cruelty against the applicant or the applicant's child; or
 - f. Photographs of the applicant or applicant's child showing visible injury.

E. The Administration or its designee shall grant an exemption from sponsor deemed income for an applicant who has reached 40 qualifying quarters of work credit.

- 1. The Administration or its designee shall not count quarters credited after January 1, 1997 that were earned while the applicant was receiving any federal means-tested benefits.
- 2. The Administration or its designee shall not count the 40 qualifying quarters of work credit unless the credited quarters are:
 - a. Quarters that the applicant worked;
 - b. Quarters worked by the applicant's spouse or deceased spouse during their marriage; or
 - c. Quarters worked by the applicant's parents when the applicant was under age 18.

R9-22-317. Sponsor Deemed Income

A. The Administration or its designee shall use income of a USCIS sponsor to determine eligibility for a non-citizen applicant, whether or not the income is available, to the non-citizen applicant unless exempt under R9-22-316.

B. Counting the income from a sponsor.

- 1. This Section applies to non-citizen applicants who:
 - a. Are Lawful Permanent Residents under 8 CFR 101.3;
 - b. Applied for Lawful Permanent Resident Status on or after December 19, 1997;

- c. Are sponsored by an individual who signed a USCIS I-864 Affidavit of Support; and
- d. Are eligible for full AHCCCS medical coverage.
- 2. Sponsor deemed income shall be considered the income of the non-citizen applicant only.
- 3. The Administration or its designee shall not use the provisions of this Section when:
 - a. The applicant becomes a naturalized U.S. citizen;
 - b. The applicant qualifies for an exemption listed in R9-22-316; or
 - c. The sponsor dies.

C. Determining income from a sponsor.

- 1. For an applicant who is exempt from sponsor deeming under R9-22-316, only cash contributions actually received from the sponsor are countable income to the applicant.
- 2. For an applicant to whom the sponsor's income is deemed, the Administration or its designee shall exclude any cash contributions received from the sponsor.

D. Calculation of income from a sponsor.

- 1. The Administration or its designee shall include the total gross income of the sponsor and the sponsor's spouse, when living with the sponsor.
- 2. The Administration or its designee shall subtract an amount equal to 100% of the FPL for the sponsor's household size from the total gross income under (D)(1); and
- 3. The amount calculated under subsection (D)(2) is deemed as income to the applicant for purposes of determining eligibility.

ARTICLE 14. AHCCCS MEDICAL COVERAGE FOR FAMILIES AND INDIVIDUALS HOUSEHOLDS

R9-22-1401. General Information

A. Scope. This Article contains eligibility criteria to determine whether a family household or individual is eligible for AHCCCS medical coverage. Eligibility criteria described under Article 3 applies to this Article.

B. Definitions. In addition to definitions contained in R9-22-101 and A.R.S. § 36-2901, the words and phrases in this Article, Article 3 and Article 15 have the following meanings unless the context explicitly requires another meaning:

~~"Baby Arizona" means the public or private partnership program that provides a pregnant woman an opportunity to apply for AHCCCS medical coverage at a Baby Arizona provider's office through a streamlined eligibility process.~~

~~"BHS" means the division of Behavioral Health Services within the Arizona Department of Health Services.~~

"Burial plot" means a space reserved in a cemetery, crypt, vault, or mausoleum for the remains of a deceased person.

~~"Caretaker relative" means a parent who maintains a family setting for a dependent child and who exercises responsibility for the day to day physical care, guidance, and support of that child.~~

Caretaker relative" means:

A parent of a dependent child with whom the child is living;

When the dependent child does not live with a parent or the parent in the home is incapacitated, another relative of the child by blood, adoption, or marriage in the home who assumes primary responsibility for the child's care; or

A woman in her third trimester of pregnancy with no other dependent children.

"Cash assistance" means a program administered by the Department that provides assistance to needy families with dependent children under 42 U.S.C. 601 et seq.

~~"CRS" means the program within ADHS that provides covered medical services and covered support services in accordance with A.R.S. 36-261.~~

~~"DCSE" means the Division of Child Support Enforcement, which is the division within the Department that administers the Title IV D program and includes a contract agent operating a child support enforcement program on behalf of the Department.~~

"Dependent child" means a child under the age of 18, or if age 18 is a full-time student in secondary school or equivalent vocational or technical training, if reasonably expected to complete such school or training before turning age 19.

~~"FAA" means the Family Assistance Administration, the administration within the Department's Division of Benefits and Medical Eligibility with responsibility for providing cash and food stamp assistance to a member and for determining eligibility for AHCCCS medical coverage.~~

"Homebound" means a person who is confined to home because of physical or mental incapacity.

~~"Income" means combined earned and unearned income.~~

~~"Indigent" means an applicant's total income, including sponsor deemed income actually received, is less than or equal to 100% of the federal poverty level for the size of the income group under R9-22-1425.~~

~~"Liquid assets" means those assets in the form of cash or other financial instruments, that are convertible to cash and include:~~

~~Savings accounts;~~

~~Checking accounts;~~

~~Stocks and bonds;~~

~~Mutual fund shares;~~

~~Promissory notes;~~

~~Cash value of insurance policies; and~~

~~Similar assets.~~

"MAGI – based income" means Modified Adjusted Gross Income as defined under 42 CFR 435.603(e).

"Medical expense deduction" or "MED" means the cost of the following expenses if incurred in the United States:

A medical service or supply that would be covered if provided to an AHCCCS member of any age under Articles 2 and 12 of this Chapter;

A medical service or supply that would be covered if provided to an Arizona Long-term Care System member under 9 A.A.C. 28, Articles 2 and 11;

Other necessary medical services provided by a licensed practitioner or physician;

Assistance with daily living if the assistance is documented in an individual plan of care by a nurse, social service worker, registered therapist, or dietitian under the supervision of a physician except when provided by the spouse of an applicant or the parent of a minor child;

Medical services provided in a licensed nursing home or in an alternative HCBS setting under R9-28-101;

Purchasing and maintaining an animal guide or service animal for the assistance of a member of the MED family unit under R9-22-1436; and

Health insurance premiums, deductibles, and coinsurance, if the insured is a member of the MED family unit.

~~"Medical support" means to provide health care coverage in the form of health insurance or court ordered payment for medical care.~~

"Monthly income" means the gross countable income received or projected to be received during the month or the monthly equivalent.

"Monthly equivalent" means a monthly countable income amount established by averaging, prorating, or converting a person's income.

~~"Nonparent caretaker relative" means a person, other than a parent, who is related by blood, marriage, or lawful adoption to a dependent child and who:~~

~~Maintains a family setting for the dependent child, and~~

~~Exercises responsibility for the day to day physical care, guidance, and support of the dependent child.~~

~~"Pre enrollment process" means the process that provides an applicant the opportunity to choose an AHCCCS health plan before the determination of eligibility is completed.~~

~~"Resources" means real and personal property, including liquid assets.~~

~~"Spendthrift restriction" means a legal restriction on the use of a resource that prevents a payee or beneficiary from alienating the resource.~~

~~"Sponsor" means an individual who signs the USCIS I 864 Affidavit of Support agreeing to support a non-citizen as a condition of the non-citizen's admission for permanent residence in the United States.~~

~~"Sponsor deemed income" means the unearned income for an applicant named on the USCIS I 864 Affidavit of Support who is applying for AHCCCS medical coverage.~~

~~"SVES" means the State Verification and Exchange System, a system through which the Department exchanges income and benefit information with the Internal Revenue Service, Social Security Administration, and State Wage and Unemployment Insurance Benefit data files.~~

~~"Tax dependent" is described under 42 CFR 435.4.~~

~~"Taxpayer" means a person who expects to file a tax return, and does not expect to be claimed as a tax dependent by another person.~~

~~"Title IV-D" means Title IV-D of the Social Security Act, 42 U.S.C. 651-669, the statutes establishing the child support enforcement and paternity program.~~

~~"Title IV-E" means Title IV-E of the Social Security Act 42 U.S.C. 670-679, the statutes establishing the foster care and adoption assistance programs.~~

~~"USCIS" means the United States Citizen and Immigration Services.~~

R9-22-1402. Ineligible Person Repeal

~~A person is not eligible for AHCCCS medical coverage if the person is:~~

- ~~1. An inmate of a public institution, or~~
- ~~2. Age 21 through age 64 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except if allowed under the Administration's Section 1115 waiver.~~

R9-22-1403. Agency Responsible for Determining Eligibility

~~The Department Administration or its designee shall determine eligibility under the provisions of this Article. The Department Administration or its designee shall not discriminate against an applicant or member because of race, color, creed, religion, ancestry, national origin, age, sex, or physical or mental disability.~~

R9-22-1404. Assignment of Rights Under Operation of Law Repeal

~~By operation of law and under A.R.S. § 36-2903, a person determined eligible assigns rights to the system and the county all types of medical benefits to which the person is entitled.~~

R9-22-1405. Confidentiality and Safeguarding of Information Repeal

~~The Administration and Department shall maintain the confidentiality of an applicant or member's records and limit the release of safeguarded information under R9 22 512 and 6 A.A.C. 12, Article 1. In the event of a conflict between R9 22 512 and 6 A.A.C. 12, Article 1, R9 22 512 prevails.~~

R9-22-1406. Application Process Repeal

~~A. Right to apply. A person may apply for AHCCCS medical coverage by submitting an Administration approved written application to the Administration, an FAA office, or one of the following outstation locations:~~

- ~~1. A BHS site;~~
- ~~2. A facility contracted with CRS Administration;~~
- ~~3. A Baby Arizona approved provider's office, if the applicant is a pregnant woman;~~
- ~~4. A Federally Qualified Health Center or disproportionate share hospital under 42 U.S.C. 1396r 4; or~~
- ~~5. Any other site, including a hospital, approved by the Department or the Administration.~~

~~B. Written application. To initiate the application process, any person may apply by submitting a written application under 42 CFR 435.907 with the appropriate signatures to one of the sites listed in subsection (A):~~

- ~~1. A written application is one that contains the:
 - ~~a. Applicant's legible name,~~
 - ~~b. Address or location where the applicant can be reached,~~
 - ~~c. Signature of the person listed in subsection (D)(2) or (D)(3),~~
 - ~~d. Date the application was signed.~~~~
- ~~2. The Administration or Administration's designee shall require that a third party witness the signing and attest by signing the application if the individual signing the application signs with a mark.~~
- ~~3. The Administration or Administration's designee shall accept an application for a person who is incapacitated and whose name and address are unknown.~~

~~C. Date of application. The date of application is the date a written application is received by the Administration or its designee at a location listed in subsection (A):~~

~~D. Complete application form:~~

- ~~1. The Administration shall consider an application complete when:
 - ~~a. All questions are answered; and~~
 - ~~b. All necessary verification is provided by an applicant or an applicant's representative.~~~~
- ~~2. The Administration or Administration's designee shall not approve an application unless the applicant's legal representative, if one exists, signs the declarations on the application relating to the applicant's eligibility, under penalty of perjury.~~
- ~~3. If there is no legal representative, or the legal representative is incapacitated, one of the following shall sign the declarations on the application relating to the applicant's eligibility, under penalty of perjury:
 - ~~a. The applicant, if age 18 or older;~~
 - ~~b. The applicant, if less than 18 years old and married or not living with a parent;~~
 - ~~c. The applicant's spouse if the applicant and spouse are not legally separated;~~~~

- d. ~~An adult who lives with an applicant, if the applicant is less than 18 years old or age 18 and a student;~~
 - e. ~~One of the unmarried partners if living together with a child in common, if the child is the applicant;~~
 - f. ~~Another party, if the applicant is incapacitated and no one listed in subsections (D)(3)(a) through (e) is available to sign the application on the applicant's behalf. The Administration shall require incapacity to be verified by written documentation signed by a licensed physician or by one of the following:~~
 - i. ~~A physician assistant;~~
 - ii. ~~A nurse practitioner, or~~
 - iii. ~~A registered nurse under the direction of a licensed physician; or~~
 - g. ~~A person authorized verbally in the presence of an employee of the Administration or the Administration's designee or in writing, by a person listed in subsection (D)(2) or (D)(3)(a) through (e), to represent the applicant in the application process. The authorized representative may sign the declaration on the application relating to the applicant's eligibility, under penalty or perjury.~~
4. ~~Unmarried adults not applying for a child in common shall each sign the application if using the same application form.~~
5. ~~The application shall be witnessed and signed by a third party if the individual signing the application signs with a mark.~~
6. ~~If the application is incomplete, the Administration or the Administration's designee shall do at least one of the following:~~
 - a. ~~Contact an applicant or an applicant's representative by telephone or electronic medium to obtain the missing information required for an eligibility determination;~~
 - b. ~~Mail a request for additional information to an applicant or an applicant's representative, allowing 10 days from the date of the request to provide the required additional information; or~~
 - c. ~~Meet with the applicant, representative, or household member.~~
- ~~E. Assistance with application. The Administration or Administration's designee shall allow a person of the applicant's choice to accompany, assist, and represent the applicant in the application process.~~

R9-22-1407. Deceased Applicants Repeal

- ~~A. If an applicant dies while an application is pending, the Administration or Administration's designee shall complete an eligibility determination for all applicants listed on the application, including the deceased applicant.~~
- ~~B. The Administration or Administration's designee shall complete an eligibility determination on an application filed on behalf of a deceased applicant, if the application is filed in the same month as the applicant's death.~~

R9-22-1408. Applicant and Member Responsibility Repeal

- ~~A. An applicant and a member shall authorize the Department to obtain verification for initial eligibility or continuation of eligibility.~~
- ~~B. As a condition of eligibility, an applicant or a member shall:~~

1. ~~Provide the Department with complete and truthful information. The Department may deny an application or discontinue eligibility if:~~
 - a. ~~The applicant or member fails to provide information necessary for initial or continuing eligibility;~~
 - b. ~~The applicant or member fails to provide the Department with written authorization to permit the Department to obtain necessary initial or continuing eligibility verification;~~
 - c. ~~The applicant or member fails to provide verification under R9-22-1412 after the Department made an effort to obtain the necessary verification but has not obtained the necessary information; or~~
 - d. ~~The applicant or member does not assist the Department in resolving incomplete, inconsistent, or unclear information that is necessary for initial or continuing eligibility;~~
2. ~~Cooperate with the Division of Child Support Enforcement (DCSE) in establishing paternity and enforcing medical support obligations when requested unless good cause exists for not cooperating under 42 CFR 433.147 as of October 1, 2006, which is incorporated by reference, on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol St., NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments. The Department shall not deny AHCCCS eligibility to an applicant who would otherwise be eligible, is a minor child, and whose parent or legal representative does not cooperate with the medical support requirements under subsection (E) or first and third party liability requirements under Article 10 of this Chapter; and~~
3. ~~Provide the following information concerning third party coverage for medical care:~~
 - a. ~~Name of policyholder,~~
 - b. ~~Policyholder's relationship to the applicant or member,~~
 - c. ~~SSN of the policy holder,~~
 - d. ~~Name and address of the insurance company, and~~
 - e. ~~Policy number.~~

C. A member or an applicant shall:

1. ~~Send to the Department any medical support payments received while the member is eligible that result from a medical support order;~~
2. ~~Cooperate with the Administration or Administration's designee regarding any issues arising as a result of Eligibility Quality Control described under A.R.S. § 36-2903.01; and~~
3. ~~Inform the Department of the following changes within 10 days from the date the applicant or member knows of a change:~~
 - a. ~~In address;~~
 - b. ~~In the household's composition;~~
 - c. ~~In income;~~
 - d. ~~In resources, when required under R9-22-1438 for the Medical Expense Deduction (MED) program;~~
 - e. ~~In Arizona state residency;~~
 - f. ~~In citizenship or immigrant status;~~

~~g. In first or third party liability that may contribute to the payment of all or a portion of the person's medical costs; or~~

~~h. That may affect the member's or applicant's eligibility, including a change in a woman's pregnancy status.~~

~~D. As a condition of eligibility, an applicant or a member shall apply for other benefits as required under 42 CFR 435.608 as of October 1, 2006, which is incorporated by reference, on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol St., NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.~~

~~E. As a condition of eligibility, an applicant or a member shall cooperate with the assignment of rights under R9 22-1404. If the applicant or member receives medical care and services for which a first or third party is or may be liable, the applicant or member shall cooperate with the Department and the Administration in identifying and providing information to assist the Department and the Administration in pursuing any first or third party who is or may be liable to pay for medical care and services.~~

~~F. As a condition of eligibility of a child whose parent, legal representative, or other legally responsible adult applies for AHCCCS medical coverage on behalf of the child, the individual who applies for the child shall cooperate with the Department to establish paternity and obtain medical support or other payments as provided in A.R.S. § 46-292(C). However, a pregnant woman under A.R.S. § 36-2901(6)(a)(ii) is not required to provide the Department with information regarding paternity or medical support from a father of a child born out of wedlock.~~

R9-22-1409. Withdrawal of Application Repeal

~~A. An applicant may withdraw an application at any time before the Department completes an eligibility determination by making an oral or written request for withdrawal to the Department and stating the reason for withdrawal.~~

~~B. If an applicant orally requests withdrawal of the application, the Department shall document the:~~

- ~~1. Date of the request,~~
- ~~2. Name of the applicant for whom the withdrawal applies, and~~
- ~~3. Reason for the withdrawal.~~

~~C. An applicant may withdraw an application in writing by:~~

- ~~1. Completing a Department approved voluntary withdrawal form; or~~
- ~~2. Submitting a written, signed, and dated request to withdraw the application.~~

~~D. The effective date of the withdrawal is the date of the application.~~

~~E. If an applicant requests to withdraw an application, the Department shall:~~

- ~~1. Deny the application, and~~
- ~~2. Notify the applicant of the denial following the notice requirements under R9 22-1413.~~

R9-22-1410. Department Responsibilities Repeal

- ~~A. The Department shall provide during the application process to the applicant or member information explaining the requirements to:~~
- ~~1. Cooperate with DCSE in establishing paternity and enforcing medical support, except in circumstances when good cause under 42 CFR 433.147 exists for not cooperating;~~
 - ~~2. If applicable, establish good cause for not cooperating with DCSE in establishing paternity and enforcing medical support;~~
 - ~~3. Report a change listed in R9 22 1408(C)(3) no later than 10 days from the date the applicant or member knows of the change;~~
 - ~~4. Send to the Department any medical support payments received through a Title IV D court order; and~~
 - ~~5. Cooperate with the Department's and Administration's assignment of rights and securing payments received from any liable party for a member's medical care.~~
- ~~B. At initial application or eligibility review a Department representative shall:~~
- ~~1. Offer to help the applicant or member to complete the application form and to obtain required verification;~~
 - ~~2. Provide the applicant or member with information explaining:~~
 - ~~a. The eligibility and verification requirements for AHCCCS medical coverage,~~
 - ~~b. The requirement that the applicant or member obtain and provide a SSN to the Department,~~
 - ~~c. How the Department uses the SSN,~~
 - ~~d. The Department's practice of exchanging eligibility and income information through the State Verification and Exchange System (SVES),~~
 - ~~e. The applicant and member's right to appeal an adverse action under R9 22 1441,~~
 - ~~f. The assignment of rights under operation of law as provided in A.R.S. § 36 2903,~~
 - ~~g. That the Department will use any information provided by the member to complete data matches with potentially liable parties,~~
 - ~~h. The eligibility review process,~~
 - ~~i. The program coverage and the types of services available under each program,~~
 - ~~j. The AHCCCS pre enrollment process,~~
 - ~~k. Availability of continued AHCCCS medical coverage under R9 22 1427,~~
 - ~~l. That the Department will use the Systematic Alien Verification for Entitlements (SAVE) process to verify eligible alien status, and~~
 - ~~m. That the Department will help the applicant or member obtain necessary verification if the applicant or member asks for help;~~
 - ~~3. Provide information regarding the penalties for perjury and fraud printed on the application;~~
 - ~~4. Review any verification items provided by the applicant or member and inform the member of any additional verification items and time frames within which the applicant or member shall provide information to the Department;~~
 - ~~5. Explain to the applicant or member the applicant's and member's responsibilities under R9 22 1408;~~

6. ~~Provide information regarding all reporting requirements and explain to the applicant or member that the applicant or member may lose the earned income disregards under R9 22 1420 if the applicant or member fails to timely report earned income changes.~~

R9-22-1411. Withdrawal from AHCCCS Medical Coverage Repeal

- ~~A. A member may withdraw from AHCCCS medical coverage at any time by giving oral or written notice of withdrawal to the Department. The member or the member's legal or authorized representative shall provide the Department with:~~
- ~~1. The reason for the withdrawal,~~
 - ~~2. The date the notice is effective, and~~
 - ~~3. The name of the member for whom AHCCCS medical coverage is being withdrawn.~~
- ~~B. The Department shall discontinue eligibility for AHCCCS medical coverage for all family members if the notice of withdrawal does not identify a specific person.~~
- ~~C. The Department shall notify the member of the discontinuance as required by R9 22 1415.~~

R9-22-1412. Verification of Eligibility Information Repeal

- ~~A. An applicant or a member has the primary responsibility to provide the Department with information necessary to verify eligibility and complete the determination of eligibility at the time of initial application, when a change in circumstances occurs that may affect eligibility, or at the eligibility review under R9 22 1414. With the exception of subsection (B), the applicant or member shall use the following types of documents, in the following order, to verify information:~~
- ~~1. First, hard copy verification: written evidence originating from an agency, organization, or an individual with actual knowledge of the information;~~
 - ~~2. Second, a written record of a collateral contact: a verbal statement from a representative of an agency or organization, or an individual with actual knowledge of the information; and~~
 - ~~3. Third, the applicant's or member's written statement, to be used only if:~~
 - ~~a. Verification under subsections (A)(1) and (A)(2) is not available, and~~
 - ~~b. The statement is not inconsistent with other information.~~
- ~~B. The Department shall not accept any form of verification other than hard copy verification for:~~
- ~~1. SSN;~~
 - ~~2. Legal alien status;~~
 - ~~3. Proof of alien sponsor under R9 22 1425, if applicable;~~
 - ~~4. Relationship, when questionable; and~~
 - ~~5. Citizenship, when questionable.~~
- ~~C. The Department shall only accept hard copy verification or a collateral contact for verification of pregnancy and amounts billed for the care of a dependent child or incapacitated adult.~~

~~D. The Department shall provide an applicant or member at least 10 days from the date of a written request for information to provide required verification. The Department may deny the application or discontinue eligibility if an applicant or a member does not provide the required information timely.~~

R9-22-1413. Time-frames, Approval, Discontinuance, or Denial Reinstatement of an Application

~~A. Application processing time. The Department Administration or its designee shall complete an eligibility determination under R9-22-306(A)(1) 42 CFR 435.911 within 45 days after the application date under R9 22-1406 unless:~~

- ~~1. The applicant is pregnant. The Department Administration or its designee shall complete an eligibility determination for a pregnant woman within 20 days after the application date unless additional information is required to determine eligibility; or~~
- ~~2. The applicant is in a hospital as an inpatient at the time of application. Within seven days of the Department's Administration or its designee's receipt of a signed application the Department Administration or its designee shall complete an eligibility determination if the Department Administration or its designee does not need additional information or verification to determine eligibility.~~

~~B. Approval. If the applicant meets all the eligibility requirements and conditions of eligibility of this Article, the Department shall approve the application and provide the applicant with an approval notice. The approval notice shall contain:~~

- ~~1. The name of each approved applicant,~~
- ~~2. The effective date of eligibility as defined in R9 22 1416 for each approved applicant,~~
- ~~3. The reason and the legal citations if a member is approved for only emergency medical services, and~~
- ~~4. The applicant's right to appeal the decision under R9 22 1441(A).~~

~~C. Denial. If an applicant fails to meet the eligibility requirements or conditions of eligibility of this Article, the Department shall deny the application and provide the applicant with a denial notice. The denial notice shall contain:~~

- ~~1. The name of each ineligible applicant,~~
- ~~2. The specific reason why the applicant is ineligible,~~
- ~~3. The income and resource calculations for the applicant compared to the income or resource standards for eligibility when the reason for the denial is due to the applicant's income or resources exceeding the applicable standard,~~
- ~~4. The legal citations supporting the reason for the ineligibility,~~
- ~~5. The location where the applicant can review the legal citations,~~
- ~~6. The date of the application being denied; and~~
- ~~7. The applicant's right to appeal the decision and request a hearing.~~

~~D. The Department shall reopen an application or reinstate eligibility of a member when any of the following conditions are met:~~

- ~~1. The denial or discontinuance of eligibility was due to an administrative error,~~

2. ~~The discontinuance of eligibility was due to noncompliance with a condition of eligibility and the applicant or member complies prior to the effective date of the discontinuance,~~
3. ~~The member informs the Department of a change of circumstances prior to the effective date of the discontinuance, that would allow for continued eligibility, or~~
4. ~~Following a discontinuance the member requests and is eligible for continuation of medical coverage pending an appeal under R9-22-1441.~~

B. The Administration or its designee shall reopen or reinstate eligibility of an individual who is discontinued for failure to submit the renewal form or necessary information, without requiring a new application, if the individual submits the renewal form or necessary information within 90 days after the date of discontinuance.

R9-22-1414. Review of Eligibility Repeal

~~A.~~ ~~Except as provided in subsection (B), the Department shall complete a review of each member's continued eligibility for AHCCCS medical coverage at least once every 12 months.~~

~~B.~~ ~~The Department shall complete a review of eligibility for a:~~

1. ~~Pregnant woman determined eligible under R9-22-1428(2) following the termination of her pregnancy,~~
2. ~~Non-pregnant member approved only for Federal Emergency Services at least once in a six-month period,~~
3. ~~Member approved for the MED program under R9-22-1435 through R9-22-1440 before the end of the six-month eligibility period,~~
4. ~~Any time there is a change in a member's circumstance that may affect eligibility.~~

~~C.~~ ~~If a member continues to meet all eligibility requirements and conditions of eligibility, the Department shall authorize continued eligibility and notify the member of continued eligibility. If the member continues to be eligible for Federal Emergency Services, the notice shall state that the continued eligibility is for Federal Emergency Services only.~~

~~D.~~ ~~The Department shall discontinue eligibility and notify the member of the discontinuance under R9-22-1415 if the member:~~

1. ~~Fails to comply with the review of eligibility,~~
2. ~~Fails to comply with the requirements and conditions of eligibility under this Article without good cause under 42 CFR 433.148, or~~
3. ~~Does not meet the eligibility requirements.~~

R9-22-1415. Notice of Adverse Action Repeal

~~A.~~ ~~Notice requirement. If a member fails to meet an eligibility requirement or condition of eligibility under this Chapter, the Department shall provide the member a Notice of Adverse Action no later than 10 days before the effective date of the suspension, reduction, or discontinuance.~~

~~B.~~ ~~The Department shall mail a Notice of Adverse Action to a member to discontinue eligibility no later than the effective date of action if the Department:~~

1. ~~Receives a request to withdraw under R9-22-1411,~~

2. ~~Receives verification that the member is ineligible under R9-22-1402,~~
3. ~~Has documented information confirming the death of a member,~~
4. ~~Receives returned mail with no forwarding address from the post office and the member's whereabouts are unknown, or~~
5. ~~Verifies that the member has been approved for Medicaid by another state.~~

~~C. The Department shall ensure that the Notice of Adverse Action contains:~~

1. ~~The name of each ineligible member,~~
2. ~~The specific reason why the member is ineligible,~~
3. ~~The income and resource calculations compared to the income or resource standards when the reason for the discontinuance is due to the member's income or resources exceeding the applicable standard,~~
4. ~~The legal citations supporting the reason for ineligibility,~~
5. ~~The location where the member can review the legal citations,~~
6. ~~The date the discontinuance is effective, and~~
7. ~~The member's appeal rights and right to continued medical coverage pending appeal under R9-22-1441.~~

R9-22-1416. Effective Date of Eligibility

- A. Except as provided in R9-22-303 and subsections (B), (C) and ~~(D)~~, the effective date of eligibility is the first day of the month that the applicant files an application if the applicant is eligible that month, or the first day of the first eligible month following the application month except for:
1. The MED program under R9-22-1439, and
 2. Eligibility for a newborn under R9-22-1429.
- B. The effective date of eligibility for an applicant who moves into Arizona ~~during the month of application~~ is no sooner than the date Arizona residency is established.
- C. The effective date of eligibility for an inmate applying for medical coverage is the date the applicant no longer meets the definition of an inmate of a public institution.
- D. The effective date of eligibility for a newborn is no sooner than the date of birth.

R9-22-1417. Social Security Number Repeal

- ~~A. As a condition of eligibility, an applicant or a member shall furnish a SSN under 42 CFR 435.910 and 435.920.~~
- ~~B. A person who is not able to legally obtain a SSN is not required to furnish a SSN.~~
- ~~C. The Department shall grant an applicant until the first review of eligibility to provide a SSN if the applicant is cooperating with the Department to obtain a SSN.~~
- ~~D. If an applicant cannot recall the applicant's SSN or has not been issued a SSN, the Department shall assist in obtaining or verifying the applicant's SSN under 42 CFR 435.910.~~

R9-22-1418. State Residency Repeal

~~An applicant or a member is not eligible unless the applicant or member is a resident of Arizona under 42 CFR 435.403 as of November 21, 1990, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments. The Department shall not consider an alien who does not have immigrant status under 8 U.S.C. 1101(a)(15) to be a resident.~~

R9-22-1419. Citizenship and Immigrant Status Repeal

- ~~A. An applicant or a member is not eligible for full services under Article 2 of this Chapter, unless the applicant or member is a citizen of the United States or is a qualified alien under A.R.S. § 36-2903.03(B) or meets the requirements of A.R.S. § 36-2903.03(C).~~
- ~~B. The Department shall use the Systematic Alien Verification for Entitlements (SAVE) process to verify legal alien status.~~
- ~~C. An applicant or member is eligible for emergency medical services under R9-22-217 if the applicant or member is either a qualified alien or noncitizen and:~~
- ~~1. Meets all other eligibility requirements except those in subsection (A), and~~
 - ~~2. Is eligible under A.R.S. § 36-2901(6)(a)(i), (ii), or (iii).~~

R9-22-1420. Income Eligibility Criteria

- A. Evaluation of income. In determining eligibility, the ~~Department Administration or its designee~~ shall evaluate the following types of income received by a person identified in subsection (B):
1. Earned income, including in-kind income, before any deductions. For purposes of this Section, in-kind income means room, board, or provision for other needs in exchange for work performed. The person identified in subsection (B) shall ensure that the provider of the in-kind income establishes and verifies the monetary value of the item provided. The provider may be, but is not limited to:
 - a. A landlord who provides all or a portion of rent or utilities in exchange for services;
 - b. A store owner who gives goods such as groceries, clothes, or furniture in exchange for services; or
 - c. An individual who trades goods such as a car, tools, trailer, building material, or gasoline in exchange for services;
 2. Self-employment income under R9-22-1424, including gross business receipts minus business expenses; and
 3. Unearned income, including deemed income under ~~R9-22-1425~~ R9-22-317 from the sponsor of a non-citizen applicant.
- B. MAGI income group. ~~A person whose income is counted.~~ The ~~Department Administration or its designee~~ shall include the following persons in the MAGI income group under Section 1902(a)(17) of the Act if living with the applicant unless the person is a SSI cash recipient:
1. Applicant;
 2. Applicant's parent if the applicant is an unmarried dependent child who is less than 18 years old;
 3. Applicant's spouse;

4. ~~A sponsor under 8 CFR 213a.1 of a person meeting the qualified alien requirements under A.R.S. § 36-2903.03 and the sponsor's spouse; and~~
 5. ~~A non parent caretaker relative and spouse, as allowed under R9 22 1427, and their unmarried minor children if applying as a family, including a dependent child living with a caretaker relative.~~
1. When the applicant is a taxpayer include:
 - a. The applicant.
 - b. Everyone the applicant expects to claim as a tax dependent for the current year, and
 - c. The applicant's spouse, when living with the applicant.
 2. Except as provided in subsection (B)(3), when the applicant expects to be claimed as a tax dependent for the current year include:
 - a. The taxpayer claiming the applicant.
 - b. Everyone else the taxpayer expects to claim as a tax dependent.
 - c. The taxpayer's spouse when living with the taxpayer, and
 - d. The applicant's spouse, when living with the applicant.
 3. When any of the following apply, determine the persons whose income is included as described in subsection (4)(a) or (4)(b) based on the applicant's age:
 - a. The applicant expects to be claimed as a tax dependent by someone other than a spouse or natural, adopted or step-parent;
 - b. The applicant is under age 19, expects to be claimed as a tax dependent by a natural, adopted or step-parent, lives with more than one such parent and the parents do not expect to file a joint tax return; or
 - c. The applicant is under age 19 and expects to be claimed as a tax dependent by a non-custodial parent.
 4. When the applicant is not a taxpayer, does not expect to be claimed as a tax dependent and is:
 - a. Under age 19. Include the income of the applicant and when living with the applicant, the applicant's:
 - i. Spouse
 - ii. Natural, adopted and step-children
 - iii. Natural, adopted and step-parents
 - iv. Natural, adopted and step-siblings
 - b. Age 19 or older. Include the income of the applicant and when living with the applicant, the applicant's:
 - i. Spouse
 - ii. Natural, adopted and step-children under age 19
 5. When the applicant is a pregnant woman, the Administration or its designee shall also include the number of expected babies only for the pregnant woman's income group.
 6. When the taxpayer cannot reasonably establish that a person is the taxpayer's tax dependent, inclusion of the person in the taxpayer's MAGI income group is determined as provided in subsection (B)(4).

C. A person whose income is counted. The Administration or its designee shall count the MAGI-based income of all members of an applicant's MAGI income group with the following exceptions:

1. The income of an individual who is included in the MAGI income group of his or her natural, adoptive or step parent and is not expected to be required to file a tax return for the year in which eligibility for Medicaid is being determined, is not counted whether or not the individual files a tax return.
2. The income of a tax dependent other than the taxpayer's spouse or biological, adopted or stepchild who is not expected to be required to file a tax return for the year in which eligibility for Medicaid is being determined is not counted when the tax dependent is included in the taxpayer's MAGI income group, whether or not the tax dependent files a tax return.

~~Income exclusions. The Department shall not count the following income:~~

1. ~~Agent Orange settlement fund payments;~~
2. ~~AmeriCorps Network Program benefits;~~
3. ~~Burial benefits dispersed solely for burial expenses;~~
4. ~~Cash contributions from agencies or organizations other than the Department or the Administration if the contributions are not intended to cover the following items:~~
 - a. ~~Food;~~
 - b. ~~Rent or mortgage payments for shelter;~~
 - c. ~~Utilities;~~
 - d. ~~Household supplies such as bedding, towels, laundry, cleaning, and paper supplies;~~
 - e. ~~Public transportation fares for personal use;~~
 - f. ~~Basic clothing or diapers; or~~
 - g. ~~Personal care and hygiene items, such as soap, toothpaste, shaving cream, and deodorant;~~
5. ~~Disaster assistance provided under the Federal Disaster Relief Act, disaster assistance organizations, or comparable assistance provided by state or local governments;~~
6. ~~Educational grants or scholarships funded by the United States Department of Education or from a Veterans Education assistance program or the Bureau of Indian Affairs student assistance program;~~
7. ~~Energy assistance that is provided:~~
 - a. ~~Either in cash or in kind by a government agency or municipal utility, or~~
 - b. ~~In kind by a private nonprofit organization;~~
8. ~~Earnings from high school on the job training programs;~~
9. ~~Earned income of a dependent child who is a student enrolled and attending school at least half time as defined by the institution;~~
10. ~~Fair Labor Standard Act supplemental payment;~~
11. ~~Food stamp benefits;~~
12. ~~Foster care maintenance payments intended for a child who is not included in the family or Medical Expense Deduction (MED) unit;~~
13. ~~Funds set aside in an Individual Development Account under A.A.C. R6-12-404;~~

14. ~~Governmental rent and housing subsidies;~~
 15. ~~Income tax refunds, including any earned income tax credit;~~
 16. ~~Loans from a private person or a commercial or educational institution if there is a written agreement for repayment of the loan;~~
 17. ~~Nonrecurring cash gifts that do not exceed \$30 per person in any calendar quarter;~~
 18. ~~Payments made from a fund established by the Susan Walker v. Bayer Corporation class action lawsuit or the Ricky Ray Hemophilia Relief Fund Act of 1998;~~
 19. ~~Radiation exposure compensation payments;~~
 20. ~~Reimbursement for work related expenses that do not exceed the actual expense amount;~~
 21. ~~Reimbursement for Job Opportunities and Basic Skills (JOBS) Program training related expenses;~~
 22. ~~Reparation and restitution payments under Section 1902(f) of the Act;~~
 23. ~~SSI designated account and interest earned on the account;~~
 24. ~~Temporary Assistance for Needy Families (TANF) or SSI cash assistance payment;~~
 25. ~~Vendor payment made by an organization or person who is not a member of the family or MED unit, to a third party to cover family expenses;~~
 26. ~~Volunteers In Service To America (VISTA) income that does not exceed the state or federal minimum wage;~~
 27. ~~Vocational rehabilitation program payments made as reimbursement for training related expenses, subsistence and maintenance allowances, and incentive payments that are not intended as wages;~~
 28. ~~Women, Infants, and Children (WIC) benefits; or~~
 29. ~~Any other income specifically excluded under 20 CFR 416 Appendix to Subpart K, as of June 6, 1997, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.~~
- ~~D. Special income provision for child support. The Administration or Administration's designee shall consider child support to be income of the child for whom the support is intended and count the child support income received after deducting \$50 per child receiving child support income from the monthly amount.~~
- ~~E. Determining income for a month.~~
1. ~~Calculating monthly income. The Administration or Administration's designee shall calculate monthly income under R9-22-1421 through R9-22-1426,~~
 2. ~~The Administration or Administration's designee shall deduct the applicable disregards and deductions to which a person is entitled for the month.~~
- ~~F. Earned income disregards.~~
1. ~~General. The Department shall apply the earned income disregards to each employed person's gross earnings.~~
 2. ~~Disregards. The Department shall apply the following method to calculate the amount of the countable earned income under subsection (A):~~

- a. ~~Subtract a \$90 cost of employment (COE) allowance from the gross amount of earned income for each person whose earned income is counted;~~
 - b. ~~Subtract an amount billed for the care of each dependent child or incapacitated adult member who is the responsibility of the person whose income is counted, if the care is for the purpose of allowing the person to work. If more than one person in the household is responsible for and billed for the care of a dependent child the disregard may be split between the wage earners to the benefit of the family, but shall not exceed the maximum disregards as follows:~~
 - i. ~~A maximum of \$200 for each child under age two and \$175 for each other dependent for a wage earner employed full time (86 or more hours per month); and~~
 - ii. ~~A maximum of \$100 for each child under age two, and \$88 for each other dependent for a wage earner employed part time (less than 86 hours a month).~~
3. ~~Loss of disregards. The Department shall not apply the earned income disregards if the member fails to report to the Department a change in earned income within 10 days from the date the change becomes known to the member. The change report to the Department shall be postmarked no later than the 10th day from the date the change becomes known.~~

R9-22-1421. MAGI based Income Eligibility

~~A. A person is eligible under this Article unless the person's monthly income exceeds the appropriate Federal Poverty Level (FPL) listed in R9 22 1427 and R9 22 1428. A person is eligible under R9 22 1437 unless the person's income during the period defined in R9 22 1437(C) exceeds the FPL under R9 22 1437(B).~~

~~B. The Administration or Administration's designee shall consider the following factors when determining the income period to use to determine monthly income:~~

- 1. ~~Type of income,~~
- 2. ~~Frequency of income~~
- 3. ~~If source of income is new or terminated, or~~
- 4. ~~Income fluctuation~~

~~C. Definitions.~~

- 1. ~~"Monthly income" means the gross countable income received or projected to be received during the month or the monthly equivalent.~~
- 2. ~~"Monthly equivalent" means a monthly countable income amount established by averaging, prorating, or converting a person's income.~~

~~A. In determining eligibility, if an individual would otherwise be ineligible under this Article due to excess income, the Administration or its designee shall subtract an amount equivalent to five percentage points of the Federal Poverty Level (FPL) from the household income.~~

~~B. A person is eligible under this Article when:~~

1. Subject to subsection (A), the monthly household income does not exceed the appropriate FPL;
2. If ineligible under (B)(1), the household income determined in accordance with 26 CFR 1.36B-1(e) is below 100 percent FPL; or
3. For eligibility under R9-22-1437, the person's income during the period defined in R9-22-1437(C) does not exceed the FPL under R9-22-1437(B).

C. The Administration or its designee shall consider the following factors when determining the income period to use to determine monthly income:

1. Type of income.
2. Frequency of income
3. If source of income is new or terminated, or
4. Income fluctuation

R9-22-1422. Methods for Calculating Monthly Income

A. Projecting income.

1. Description. Projecting income is a method of determining the amount of income that a person will receive.
2. Calculation. The ~~Department~~ Administration or its designee shall project income by:
 - a. Converting income to a monthly equivalent,
 - b. Using unconverted income, or
 - c. Prorating income to determine a monthly equivalent.
3. Exclusion. When calculating projected monthly income, the Administration or ~~Administration's~~ its designee shall exclude an unusual variation in income under R9-22-1424(E), except for a month in which the variation is anticipated to occur.

B. Averaged income.

1. Description. Averaging income proportionally distributes the person's income received on a regular basis.
2. Calculation. To average income, the Administration or ~~Administration's~~ its designee shall add the amount of the income and divide by the total number of pay periods. If the amount of income received per pay period fluctuates, and the fluctuation is expected to continue, the Administration or its designee shall:
 - a. Use the averaged weekly or bi-weekly amounts to convert weekly or bi-weekly income to a monthly equivalent;
 - b. Use the averaged monthly or semi-monthly amounts to project monthly income; and
 - c. Use the averaged hours worked and multiply the average by the current rate of pay. If there is a change in the rate of pay, use the new rate of pay when calculating projected income under subsection (A).

C. Prorated income.

1. Description. Prorated income evenly distributes a person's income over the period the income is intended to cover to calculate a monthly equivalent.
2. Calculation. To prorate income, the Administration or its designee shall divide the total amount of the person's income received during the period by the number of months that the income is intended to cover.

D. Converted income.

1. Description. Converted income is income received weekly or biweekly that is changed to a monthly equivalent.
2. Calculation.
 - a. The Administration or its designee shall average the weekly or bi-weekly income amounts before converting to the monthly equivalent if the person's past income fluctuates and the fluctuation is expected to recur.
 - b. To convert income paid weekly to a monthly equivalent, the Administration or its designee shall multiply the weekly average by 4.3 weeks.
 - c. To convert income paid bi-weekly to a monthly equivalent, the Administration or its designee shall multiply the bi-weekly average by 2.15 weeks.

E. Unconverted income.

1. Description. Unconverted income is the actual amount of income received or projected to be received during a month.
2. Calculation. The Administration or its designee shall sum the actual amount of income received or projected to be received during a month.

R9-22-1423. Calculations and Use of Methods Listed in R9-22-1422 Based on Frequency of Income

- A. Monthly income.** If otherwise countable income is received monthly or in a lump sum, the Administration or its designee shall use the unconverted method for calculating monthly income.
1. Lump sum means a nonrecurring payment that serves as a complete payment.
 2. Lump sum payments include but are not limited to: rebates or credits; inheritances; insurance settlements; and payments for prior months from such sources as Social Security, ~~Veterans Administration~~, Railroad Retirement, ~~child support arrearages~~, or other benefits.
 3. A lump sum payment may include a portion intended for the current month.
- B. Weekly income.** If income is received weekly, the Administration or its designee shall convert the income to a monthly equivalent under R9-22-1422(D).
- C. Bi-weekly income.** If income is received bi-weekly, the Administration or its designee shall convert the income to a monthly equivalent under R9-22-1422(D).
- D. Semi-monthly or daily income.** If income is received semi-monthly or daily, the Administration or its designee shall use the unconverted method for calculating monthly income under R9-22-1422(E).
- E. Bimonthly, quarterly, semi-annual, or annual income.** If income is received bimonthly, quarterly, semi-annually, or annually, the Administration or its designee shall prorate the income received or projected to be received under R9-22-1422(C).

R9-22-1424. Use of Methods Listed in R9-22-1423 Based on Type of Income

- A. New income.**

1. Description. New income is income received from a new source during the first calendar month that the income is received from the source.
2. Calculating monthly income.
 - a. If a full month's income is received, the Administration or ~~Administration's~~ its designee shall use the appropriate method described in R9-22-1423 to calculate the monthly income.
 - b. If less than a full month's income is received, the Administration or ~~Administration's~~ its designee shall use the unconverted method to calculate the monthly income.

B. Terminated income.

1. ~~Description.~~ Terminated income is income received during the last calendar month ~~that income is received from a source~~ when no more income is expected to be received from ~~the~~ that source.
2. Calculating monthly income.
 - a. If a full month's income is received, the Administration or ~~Administration's~~ its designee shall use the appropriate method described in R9-22-1423 to calculate the monthly income.
 - b. If less than a full month's income is received, the Administration or ~~Administration's~~ its designee shall use the unconverted method to calculate the monthly income.

C. Break in income.

1. Description. A break in income is a break in established frequency of income of one calendar month or more.
2. Calculating monthly income.
 - a. If a full month's income is received, the Administration or ~~Administration's~~ its designee shall use the appropriate method described in R9-22-1423 to calculate the monthly income.
 - b. If less than a full month's income is received, the Administration or ~~Administration's~~ its designee shall use the unconverted method to calculate the monthly income.

~~D. Contract income.~~

1. ~~Description.~~ ~~Contract income is income a person earns under a contract or other legal document that specifies a length of time the contract or legal document covers, the amount of income to be paid, and the frequency of payment.~~
2. ~~Calculating monthly income.~~
 - a. ~~The Administration or designee shall calculate the monthly income based on the frequency of payment if income is paid more frequently than monthly.~~
 - b. ~~The Administration or designee shall prorate over the period of time specified by the contract if income is paid monthly or less frequently.~~

D. Contract or regular seasonal income.

1. Descriptions.

- a. Contract income is income a person earns under a contract that specifies a length of time the contract covers, the amount of income to be paid, and the frequency of payment.

b. Regular seasonal income is income that fluctuates based on season or is only received during a certain season, and can reasonably be anticipated based on history or other verification.

2. Calculating monthly income.

a. When the contract or regular seasonal income will not fluctuate over the 12-month period beginning with the month the application or renewal is submitted, the Administration or its designee shall use the appropriate income calculation method in R9-22-1423 for the frequency of receipt.

b. When the contract or regular seasonal income is anticipated to fluctuate over the 12-month period beginning with the month the application or renewal is submitted, the Administration or its designee shall calculate the monthly income as follows:

i. For a one-time contract that ends between the month the application or renewal is submitted and the end of the calendar year, divide the income that will be received from the application or renewal month through the end of the calendar year by the number of months in that period to get a monthly equivalent

ii. For contracts that extend into the next calendar year, contract that are anticipated to be renewed and regular seasonal income, the Administration or its designee shall divide the income that will be received in the 12 month period beginning with the application or renewal month by 12 to get the monthly equivalent.

E. Unusual variation in the amount of income.

1. Description. Unusual variation is an amount of income that is different from the established amount received and is not projected to continue or recur.

2. Calculating monthly income.

a. When calculating income for the month in which an unusual variation in income occurs, the Administration or its designee shall include the unusual variation in the income calculation.

b. When an unusual variation in income occurs during the month, the Administration or ~~Administration's~~ its designee shall use the converted method for calculating monthly income if income is received weekly or bi-weekly.

c. When projecting income for the months following the month in which the unusual variation occurs, the Administration or its designee shall exclude the unusual variation in income from the income calculation.

F. Self-employment income.

1. Description. Self-employment income is income a person earns from the person's own trade or business less allowable expenses.

2. Calculating monthly income. The Administration or ~~Administration's~~ its designee shall ~~use the following methods in the following order:~~ prorate the income under R9-22-1422.

~~a. When the self-employed person filed a tax return for the prior year and the person states that the current income is the same, the Administration or Administration's designee shall prorate the income under R9-22-1422.~~

- b. ~~When the self-employed person did not file a tax return for the prior year or states that the current income is not the same, the Administration or Administration's designee shall:~~
 - i. ~~Use the person's business ledger or other records to verify the current income received, less allowable expenses; and~~
 - ii. ~~Use the appropriate method described in R9-22-1423 to calculate the monthly income.~~
- e. ~~When the self-employed person did not file a tax return or keep business records of the income received and expense incurred during the income period, the Administration or Administration's designee:~~
 - i. ~~Shall use the person's written statement to verify income received,~~
 - ii. ~~Shall not deduct incurred expenses from the income without hard copy verification of the expense, and~~
 - iii. ~~Shall use the appropriate method described in R9-22-1423 to calculate the monthly income.~~

R9-22-1425. Sponsor Deemed Income Repeal

~~A. The Administration or Administration's designee shall use income of a USCIS sponsor to determine eligibility for a non-citizen applicant, whether or not the income is available, to the non-citizen applicant unless exempt under R9-22-1426.~~

~~B. Counting the income from a sponsor:~~

- 1. ~~This Section applies to non-citizens applicants who:~~
 - a. ~~Are Lawful Permanent Residents under 8 CFR 101.3;~~
 - b. ~~Applied for Lawful Permanent Resident Status on or after December 19, 1997;~~
 - c. ~~Are sponsored by an individual who signed a USCIS I 864 Affidavit of Support; and~~
 - d. ~~Are eligible for full AHCCCS medical coverage.~~
- 2. ~~Sponsor deemed income shall be considered the income of the non-citizen applicant only.~~
- 3. ~~The Administration shall not use the provisions of this Section and R9-22-1426 when:~~
 - a. ~~The applicant becomes a naturalized U.S. citizen;~~
 - b. ~~The applicant qualifies for an exemption listed in R9-22-1426; or~~
 - c. ~~The sponsor dies.~~

~~C. Determining income from a sponsor:~~

- 1. ~~For an applicant who is exempt under R9-22-1426(C) and (D), only cash contributions actually received from the sponsor are countable income to the applicant.~~
- 2. ~~For an applicant to whom the sponsor's income is deemed, the Department shall exclude any cash contributions received from the sponsor.~~

~~D. Calculation of income from a sponsor:~~

- 1. ~~The Department shall include the total gross income of the sponsor and the following individuals who live in the sponsor's household:~~
 - a. ~~The sponsor's spouse;~~

- b. The sponsor's dependent children, and
- e. The sponsor's spouse's dependent children;

- 2. The Department shall subtract the total gross income from 100% of the FPL for the sponsor's family size; and
- 3. The amount calculated under subsections (D)(1) and (D)(2) represents the remaining amount deemed to the applicant from the sponsor.

R9-22-1426. Exemptions from Sponsor Deemed Income Repeal

- ~~A. An applicant shall provide proof to the Administration or designee when claiming an exemption from sponsor deemed income.~~
- ~~B. The Administration or designee shall grant an exemption from using a sponsor's income for a Lawful Permanent Resident applicant if the applicant:
 - 1. Entered the U.S. or applied for a visa or adjustment of status before December 19, 1997;
 - 2. Adjusted immigration status to Lawful Permanent Resident from status as a refugee or asylee;
 - 3. Qualifies only for Federal Emergency Services;
 - 4. Has a sponsor who signed an Affidavit of Support other than the USCIS Form I 864;
 - 5. Is the spouse or child of the sponsor and lives with the sponsor;
 - 6. Is indigent as specified in subsection (C);
 - 7. Is a victim of domestic violence or extreme cruelty as specified in subsection (D); or
 - 8. Has acquired 40 qualified quarters of work credit based on earnings as specified in subsection (E).~~
- ~~C. The Administration or designee shall grant an exemption from sponsor deemed income for indigent applicants for a period of 12 months beginning with the application month. The Administration or designee shall redetermine indigent status at each eligibility renewal.
 - 1. An applicant is indigent if all of the following are met:
 - a. The applicant does not reside with the applicant's sponsor;
 - b. The applicant does not receive free room and board; and
 - c. The applicant's total gross income including monies received from the sponsor and the value of any vendor payments received for food, utilities, or shelter does not exceed 100% of the FPL.
 - 2. The Administration shall send a notice to the Department of Homeland Security when approving an applicant who is exempt from sponsor deemed income due to indigency.~~
- ~~D. The Administration shall grant an exemption from sponsor deemed income for an applicant who is a victim of domestic violence or extreme cruelty under 8 CFR 204.2 for a period of 12 months beginning with the application month. The Administration shall redetermine the exemption status at each renewal.
 - 1. The Administration considers an applicant to be a victim of domestic violence or extreme cruelty when all of the following are met:
 - a. The applicant is the victim, the parent of a child victim, or the child of a parent victim;~~

- b. ~~The perpetrator of the domestic violence or extreme cruelty was the spouse or parent of the victim or other family member related by blood, marriage or adoption to the victim;~~
 - e. ~~The perpetrator was residing in the same household as the victim when the abuse occurred;~~
 - d. ~~The abuse occurred in the United States;~~
 - e. ~~The applicant did not participate in the domestic violence or cruelty; and~~
 - f. ~~The victim does not currently live with the perpetrator.~~
2. ~~The applicant shall provide proof that the applicant or the applicant's child is a victim of domestic violence or extreme cruelty by presenting one of the following:~~
- a. ~~USCIS form I 360 Petition for Amerasian, Widow, or Special Immigrant;~~
 - b. ~~USCIS form I 797 USCIS approval of the I 360 petition;~~
 - e. ~~Reports or affidavits concerning the domestic violence or cruelty from police, judges, or other court officials, medical personnel, school officials, clergy, social workers, counseling or mental health personnel, or other social service agency personnel;~~
 - d. ~~Legal documentation, such as an order of protection against the perpetrator or an order convicting the perpetrator of committing an act of domestic violence or extreme cruelty that chronicles the existence of domestic violence or extreme cruelty;~~
 - e. ~~Evidence that indicates that the applicant sought safe haven in a battered women's shelter or similar refuge because of the domestic violence or extreme cruelty against the applicant or the applicant's child; or~~
 - f. ~~Photographs of the applicant or applicant's child showing visible injury.~~
- ~~E. The Administration shall grant an exemption from sponsor deemed income for an applicant who has reached 40 qualifying quarters of work credit.~~
- 1. ~~The Administration or Administration's designee shall not count quarters credited after January 1, 1997 that were earned while the applicant was receiving any federal means tested benefits.~~
 - 2. ~~The Administration shall not count the 40 qualifying quarters of work credit unless the credited quarters are:~~
 - a. ~~Quarters that the applicant worked;~~
 - b. ~~Quarters worked by the applicant's spouse or deceased spouse during their marriage; or~~
 - c. ~~Quarters worked by the applicant's parents when the applicant was under age 18.~~

R9-22-1427. Eligibility for a Family Repeal

- ~~A. A family unit with an eligible deprived dependent child is eligible for AHCCCS medical coverage when the requirements of this Section are met. A woman in her third trimester of pregnancy with no other dependent children is considered a family unit with a dependent child.~~
- ~~B. A family unit includes the following when living together:~~
 - 1. ~~A natural or adopted dependent child under age 18;~~
 - 2. ~~A dependent child who is age 18 and:~~

- a. ~~A full-time student at a secondary school or attending a vocational or technical training school that includes shop practicum for at least 30 hours per week or does not include shop practicum and attendance is at least 25 hours per week, and~~
 - b. Reasonably expected to complete the education or training before age 19; and
 - 3. A natural or adoptive parent of a dependent child.
- C. ~~The Department shall include in the family unit, the spouse of the dependent child's parent if the spouse wants to apply for AHCCCS medical coverage. The Department shall include the spouse of the non-parent caretaker relative if:~~
 - 1. ~~The non-parent caretaker relative applies and is eligible, and~~
 - 2. ~~The non-parent caretaker relative applies for the spouse.~~
- D. ~~The Department shall include in the family unit, a dependent child's non-parent caretaker relative if the non-parent caretaker relative wants to apply for AHCCCS medical coverage and:~~
 - 1. ~~Provides the dependent child with:~~
 - a. ~~Physical care;~~
 - b. ~~Support;~~
 - c. ~~Guidance, and~~
 - d. ~~Control; and~~
 - 2. ~~The parent of a dependent child:~~
 - a. ~~Does not live in the non-parent caretaker relative's home;~~
 - b. ~~Lives with the non-parent caretaker relative but is also a dependent child; or~~
 - c. ~~Lives with the non-parent caretaker relative but cannot function as a parent due to physical or mental impairment.~~
- E. ~~The Department shall not include a SSI cash recipient in the family unit.~~
- F. ~~A child is considered a deprived dependent if deprived of parental support and care by:~~
 - 1. ~~Continued absence of a parent;~~
 - 2. ~~Death of a parent;~~
 - 3. ~~Disability of a parent, as determined by a healthcare practitioner;~~
 - 4. ~~Unemployment or under-employment of a parent in a two-parent assistance unit under subsection (I).~~
- G. ~~Continued absence of a parent:~~
 - 1. ~~Continued absence under subsection (F) is established:~~
 - a. ~~When absence of the parent from the home either interrupts or terminates the parent's functioning as a provider of support, physical care, or guidance for the child;~~
 - b. ~~When absence of the parent from the house for a known or indefinite duration precludes relying on the parent for the present support or care of the child; or~~
 - c. ~~When the parent's absence from the home is for a period of 30 days or more and for any reason other than those listed in subsection (G)(2).~~
 - 2. ~~The Department shall not consider the following to be continued absence:~~

- a. ~~The parent is voluntarily absent to visit friends or relatives, to seek employment or maintain a job, or to attend school or training if the parent in the home and the absent parent are not separated;~~
- b. ~~The parent is absent due to active military duty;~~
- c. ~~The parents live in separate dwellings and the dwellings are considered part of a single home; or~~
- d. ~~One parent is absent from the home in order to allow the remaining family members to qualify for medical assistance.~~

H. Disability of a parent, as determined by a healthcare practitioner.

1. ~~Disability is established if the parent or applicant provides a medical statement from a healthcare practitioner that includes:~~
 - a. ~~A diagnosis of the parent's medical condition;~~
 - b. ~~A finding that the parent has a physical or mental condition that prevents the parent from working, and~~
 - c. ~~An opinion concerning the duration of unemployability or a date for re-evaluation of unemployability.~~
2. ~~Disability is established without further medical verification if the parent or applicant provides evidence that:~~
 - a. ~~The Social Security Administration (SSA) has determined that the parent is eligible for Retirement, Survivors, Disability Insurance (RSDI) benefits due to blindness or disability;~~
 - b. ~~The SSA has determined that the parent is eligible for Supplemental Security Income (SSI) due to blindness or disability;~~
 - c. ~~The Veteran's Administration has determined that the parent has a 100% disability;~~
 - d. ~~The parent's healthcare practitioner has released the parent from the hospital and imposed work restrictions for a specified recuperation period;~~
 - e. ~~The parent's employer or physician has required the parent to terminate employment due to the onset of a disability and the healthcare practitioner has specified a recuperation period;~~
 - f. ~~The parent's healthcare practitioner has determined that the parent is capable of employment only in a sheltered workshop under 26 U.S.C. 151(c)(5)(B), for a specified period of time, and the parent is so employed; or~~
 - g. ~~A prior certification of the parent's disability by a healthcare practitioner is in the applicant's case record as maintained by the Department and is still valid to cover the period in which assistance is requested and will be received.~~

I. Unemployment or under employment of a parent in a two parent assistance unit.

1. ~~A child is deprived if the primary wage earning parent is unemployed or underemployed and the two parent assistance unit meets the following requirements:~~
 - a. ~~The child's natural or adoptive mother and father both reside with the child, and~~
 - b. ~~Neither parent meets the provisions of subsection (F)(3).~~
2. ~~"Underemployment" means the parent's earned income combined with the assistance unit's other countable income does not exceed the income standards provided in subsection (J).~~

~~3. "Primary wage earner" means the parent in a two-parent assistance unit who earned the greater amount of income in the 24-month period immediately preceding the month in which an application for assistance is submitted.~~

~~J. Income standard. A family unit is not eligible if the family unit's countable income exceeds 100 percent of the FPL adjusted annually for the family unit.~~

~~K. Continued medical coverage. An eligible member of the family unit under this Section is entitled to continued AHCCCS coverage for up to 12 months if eligible under subsection (K)(3)(a) and up to four months if eligible under subsection (K)(3)(b) if the family unit's income exceeds 100 percent of the FPL and the following conditions are met:~~

- ~~1. The family continues to include a dependent child;~~
- ~~2. The family received AHCCCS medical coverage under this Section for three calendar months out of the most recent six months; and~~
- ~~3. The loss of AHCCCS coverage under this Section is due to:~~
 - ~~a. Increased earned income of the caretaker relative and the person is a member of the family unit in accordance with 42 U.S.C. 1396a(e)(1) and 42 U.S.C. 1396r-6, or~~
 - ~~b. Increased spousal or child support and the family unit member meets requirements under 42 CFR 435.115(f).~~

~~L. An applicant may be added to the continued medical coverage of a family unit, under subsection (K)(3)(a), if the applicant did not reside with the family unit at the time continued medical coverage under this Section was determined and the applicant is:~~

- ~~1. The spouse or dependent child of the family unit receiving continued medical coverage, or~~
- ~~2. The parent of a dependent child who is a member of the family unit receiving continued medical coverage.~~

R9-22-1427. Eligibility Under MAGI

A. Caretaker Relatives. An individual is eligible for AHCCCS medical coverage as a Caretaker Relative when the individual meets the following requirements:

1. Is a caretaker relative as defined in R9-22-1401.
2. The total countable income under R9-1420(B) does not exceed 106 percent of the FPL for the number of people in the MAGI income group.

B. Continued medical coverage.

1. A caretaker relative eligible under subsection (A) and all dependent children eligible under subsection (D) in the caretaker relative's MAGI income group are entitled to continued AHCCCS coverage for up to 12 months if eligible under subsection (B)(1)(c)(i) and up to four months if eligible under subsection (B)(1)(c)(ii) if the MAGI income group's income exceeds the limit for the income group's size and the following conditions are met:

- a. The caretaker relative still lives with a dependent child;

- b. A caretaker relative in the income group received AHCCCS medical coverage under this Section for three calendar months out of the most recent six months; and
 - c. The loss of AHCCCS coverage under this Section is due to:
 - i. Increased earned income of a caretaker relative, or
 - ii. Increased spousal support.
 - 2. An applicant may be added to the continued medical coverage under subsection (B)(1), if the applicant did not reside in the household at the time continued medical coverage under this Section was determined and the applicant is:
 - a. The spouse or dependent child of a caretaker relative receiving continued medical coverage, or
 - b. The parent of a dependent child who is receiving continued medical coverage.
- C. Pregnant Women.** A pregnant woman is eligible for AHCCCS medical coverage when the total countable income under R9-22-1420(B) does not exceed 156 percent of the FPL for the number of people in the MAGI income group. A pregnant woman who applies for AHCCCS medical coverage during the pregnancy or postpartum period and is determined eligible, remains eligible throughout the postpartum period. The postpartum period begins the day the pregnancy terminates and ends the last day of the month in which the 60th day following pregnancy termination occurs.
- D. Children.** A child less than 19 years of age is eligible for AHCCCS medical coverage when the total countable income under R9-22-1420(B) does not exceed the following percentage of the FPL for the number of people in the MAGI income group:
- 1. 147 percent for a child under one year of age,
 - 2. 141 percent for a child age one through five years of age, or
 - 3. 133 percent for all other persons.
- E. Adults.** An individual is eligible for AHCCCS medical coverage when the individual meets the following eligibility requirements:
- 1. Is 19 years of age or older but less than 65 years of age;
 - 2. Is not pregnant;
 - 3. Is not eligible for AHCCCS Medical Coverage under any other coverage group listed in 42 U.S.C. 1396a(a)(10)(A)(i);
 - 4. Is not entitled to or enrolled for Medicare benefits under Part A or Part B;
 - 5. The total countable income under R9-22-1420(B) does not exceed 133 percent of the FPL for the number of people in the MAGI income group; and
 - 6. When the individual is a caretaker relative, but has income exceeding the limit in subsection (A)(2), each child under age 19 living with the individual is receiving AHCCCS medical coverage or KidsCare, or is enrolled in minimum essential coverage as defined in 42 CFR 435.4.

R9-22-1428. Eligibility for a Person Not Eligible as a Family Repeal

~~Income standards. A person who is not approved in a family unit under R9-22-1427 but meets all the eligibility requirements in the Article is eligible for AHCCCS medical coverage if countable income does not exceed the following percentage of the FPL:~~

- ~~1. 150 percent for a pregnant woman,~~
- ~~2. 140 percent for a child under one year of age,~~
- ~~3. 133 percent for a child age one through five years of age, or~~
- ~~4. 100 percent for all other persons.~~

R9-22-1429. Eligibility for a Newborn

A child born to a mother eligible for and receiving medical coverage under this Article, Article 15 of the Chapter, or 9 A.A.C. 28, is automatically eligible for AHCCCS medical coverage for a period not to exceed 12 months ~~if the child continuously lives with the mother in the state of Arizona.~~ Automatic eligibility begins on the child's date of birth and ends with the last day of the month in which the child turns age one. ~~The Department shall conduct an informal review when the child is six months old to ensure the child resides with the mother in Arizona.~~

~~R9-22-1430. Extended Medical Coverage for a Pregnant Woman Repeal~~

- ~~A. A pregnant woman who applies for and is determined eligible for AHCCCS medical coverage during the pregnancy remains eligible throughout the postpartum period.~~
- ~~B. The postpartum period begins the day the pregnancy terminates and ends the last day of the month in which the 60th day following pregnancy termination.~~

R9-22-1431. Family Planning Services Extension Program (FPEP)

- A. A member who loses eligibility for AHCCCS medical coverage ~~under R9-22-1430~~ due to the postpartum period ending and who has no other creditable coverage, as specified in 42 U.S.C. 300gg-3(c)(1), may receive up to 24 months of family planning services as provided in this Section and A.R.S. § 36-2907.04.
- B. Review of eligibility.
1. The ~~Department~~ Administration or its designee shall complete a review of each member's continued eligibility for FPEP at least once every 12 months.
 2. If a member continues to meet all eligibility requirements, the ~~Department~~ Administration or its designee shall authorize continued eligibility for the FPEP and notify the member of continued eligibility.
 3. The ~~Department~~ Administration or its designee shall discontinue eligibility and notify the member of the discontinuance ~~under R9-22-1415~~ if the member:
 - a. Has income that exceeds ~~150~~ 156 percent of the FPL at the time of the 12-month review,
 - b. Fails to comply with a review of eligibility under this subsection, or
 - c. Meets any of the criteria under subsection (D).
- C. Changes in the member's income after the initial or review eligibility determination shall not impact the member's eligibility during the following 12-month period.

- D.** The Administration or its designee shall deny or terminate a member from FPEP under this Section if the member:
1. Voluntarily withdraws from the program;
 2. ~~Has whereabouts that are unknown~~ Cannot be located;
 3. Fails to provide information to the Administration or ~~the Administration's~~ its designee;
 4. ~~Becomes an inmate of a public institution~~;
 - 5-4. Moves out-of-state;
 - 6-5. Has creditable coverage under 42 U.S.C. 300gg-3(c)(1);
 - 7-6. Fails to meet the documentation requirements for U.S. citizenship or legal alien status under A.R.S. § 36-2903.03;
 - 8-7. Becomes eligible under 9 A.A.C. 22, 9 A.A.C. 28, or 9 A.A.C. 31 for full services under Article 2 of this Chapter;
 - 9-8. Becomes sterile; or
 - 10-9. Dies.
- E.** The Administration or its designee shall not reinstate eligibility under this Section after the effective date of a discontinuance of eligibility unless the discontinuance is overturned on appeal or resulted from an administrative error.

R9-22-1432. Young Adult Transitional Insurance

A person under the age of 21 who was in the custody of the Department of Economic Security under A.R.S. Title 8, Chapter 5 or Chapter 10 on the person's 18th birthday is eligible for AHCCCS medical coverage under A.R.S. § 36-2901(6)(a)(iii).

An individual is eligible for AHCCCS medical coverage when the individual meets all of the following eligibility requirements:

1. Is 18 through 25 years of age;
2. Was in the custody of the Department of Economic Security under A.R.S. Title 8, Chapter 5 or Chapter 10 on the individual's 18th birthday;
3. Was eligible for and receiving AHCCCS Medical Coverage on the individual's 18th birthday; and
4. Is not eligible for AHCCCS Medical Coverage under 42 U.S.C. 1396a(a)(10)(A)(i)(I) - (VII).

R9-22-1443. Closing New Eligibility for Persons Not Covered under the State Plan Repeal

A. ~~Definition. For purposes of this Section, "AHCCCS Care" refers to the eligibility category that includes individuals encompassed within the expanded definition of "eligible person" under A.R.S. § 36-2901.01 and~~

R9-22-1428(4), but who do not meet eligibility criteria for an optional or mandatory Title XIX coverage group described in the Arizona State Plan for Medicaid.

- B. General Rule.** Except as provided by this Section, neither the Department nor the Administration shall approve an individual for AHCCCS Care with an effective date of eligibility on or after July 8, 2011.
- C. Exception for pending applications.** With respect to any applications that are pending as of July 8, 2011, the Department and the Administration shall approve any individual as eligible for AHCCCS Care who has met all eligibility requirements for AHCCCS Care during or after the month of application but prior to July 8, 2011, and has continuously met all eligibility requirements for AHCCCS Care since that date.
- D. Exception for children.** The Department and the Administration shall approve an individual as eligible for AHCCCS Care on or after July 8, 2011 who:

 - 1. Was determined eligible under the Arizona State Plan for Medicaid based on being under the age of 19;
 - 2. Would otherwise be discontinued due to reaching the age of 19 on or after July 8, 2011, under subsection (B) of this Section; and
 - 3. Meets all eligibility requirements for AHCCCS Care on and after reaching age 19.
- E. Exception for KidsCare.** The Department and the Administration shall approve an individual as eligible for AHCCCS Care on or after July 8, 2011 who:

 - 1. Was determined eligible under 9 A.A.C. 31 based on being under the age of 19;
 - 2. Would otherwise be discontinued due to reaching the age of 19 on or after July 8, 2011, under subsection (B) of this Section; and
 - 3. Meets all eligibility requirements for AHCCCS Care on and after reaching age 19.
- F. Exception for Young Adult Transitional Insurance (YATI).** The Department and the Administration shall approve an individual as eligible for AHCCCS Care on or after July 8, 2011 who:

 - 1. Was determined eligible for YATI under R9-22-1432;
 - 2. Would otherwise be discontinued due to reaching the age of 21 on or after July 8, 2011 under subsection (A) of this Section; and
 - 3. Meets all eligibility requirements for AHCCCS Care on and after reaching age 21.
- G. Exception for certain SSI MAO.** The Department and the Administration shall approve as eligible for AHCCCS Care, on or after July 8, 2011, an individual who:

 - 1. Was determined eligible for AHCCCS Care; and
 - 2. Whose eligibility category is changed on or after June 28, 2011, from AHCCCS Care to eligibility based on R9-22-1501(A)(1) (SSI Medical Assistance Only) because the individual, at the time of the change in eligibility category, is age 65 or over, under the age of 65 with Medicare coverage, or who has been determined by ADHS to have a Serious Mental Illness; but who
 - 3. Subsequent to the change in eligibility category, is determined not to meet eligibility requirements under Article 15; but only if
 - 4. The individual meets all eligibility requirements for AHCCCS Care on and after the date the individual is determined not to meet eligibility requirements under Article 15.

- ~~H. Exception for redeterminations. This Section does not prohibit the redetermination of an individual as eligible for AHCCCS Care on or after July 8, 2011, if the individual was determined eligible for AHCCCS Care prior to July 8, 2011 and has remained continuously eligible for AHCCCS Care since July 8, 2011 or the date on which the individual was determined eligible for AHCCCS Care under subsections (C), (D), and (E) of this Section.~~
- ~~I. Discontinuance for other reasons. Nothing in this Section prohibits or restricts the Department or the Administration from discontinuing AHCCCS Care for an individual who does not meet any other eligibility criteria set forth elsewhere in this Chapter including but not limited to discontinuance based on the individual's failure to verify eligibility information upon an application or redetermination.~~
- ~~J. Review of anticipated expenditures. At least monthly, the Director shall review the most recent estimate of the anticipated expenditures for the remainder of the state fiscal year as compared to funds remaining in the appropriations made to the agency for the state fiscal year as well as any other known or reasonably anticipated sources of other funding. Based on that review the Director may, subject to approval by the Center for Medicare and Medicaid Services, re open the AHCCCS Care program to new enrollment otherwise prohibited by this Section.~~
- ~~K. At least 30 days prior to the effective date of any changes to eligibility for the AHCCCS Care program as described in this Section, public notice shall be provided via publication on the AHCCCS web site unless shorter notice is necessary to maintain a program that is reasonably anticipated to remain within available funding.~~

**ARTICLE 15. AHCCCS MEDICAL COVERAGE FOR PEOPLE WHO ARE AGED, BLIND, OR
DISABLED**

R9-22-1501. General Information

A. General. The Administration shall determine eligibility for AHCCCS medical coverage for the following applicants or members using the eligibility criteria and requirements in this Article and Article 3:

1. A person who is aged, blind, or disabled and does not receive SSI cash; and
2. A person terminated from the SSI cash program under R9-22-1505.

B. Definitions. In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

"Aged" means a person who is 65 years of age or older as specified in 42 U.S.C. 1382c(a)(1)(A).

"Blind" means a person who has been determined blind by the Department of Economic Security, Disability Determination Services Administration, under 42 U.S.C. 1382c(a)(2) and 42 CFR 435.530 as of October 1, 2012, which are incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.

"Disabled" means a person who has been determined disabled by the Department of Economic Security, Disability Determination Services Administration, under 42 U.S.C. 1382c(a)(3)(A) through (E) and 42 CFR 435.540 as of October 1, 2012, which are incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.

~~**C. Confidentiality.** The Administration shall maintain the confidentiality of an applicant's or member's records and limit the release of safeguarded information under R9-22-512.~~

~~**D. Application process.**~~

- ~~1. A person may apply for AHCCCS medical coverage by submitting a signed application to any Administration office or outstation location under R9-22-1406.~~
- ~~2. The provisions in R9-22-1406(B), (C), and (E) apply to this Section.~~
- ~~3. The application date is the date a signed application is received at any Administration office or outstation location approved by the Director.~~
- ~~4. An applicant who files an application may withdraw the application, either orally or in writing. If an applicant withdraws an application, the Administration shall send the applicant a denial notice under subsection (G).~~
- ~~5. Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 90 days for an applicant applying on the basis of disability and 45 days for all other applicants.~~
- ~~6. If an applicant dies while an application is pending, the Administration shall complete an eligibility determination for the deceased applicant.~~

~~7. The Administration shall complete an eligibility determination on an application filed on behalf of a deceased applicant, if the application is filed in the month of the applicant's death.~~

~~E.~~ Redetermination of eligibility for a person terminated from the SSI cash program.

~~1. Continuation of AHCCCS medical coverage. The Administration shall continue AHCCCS medical coverage for a person terminated from the SSI cash program until a redetermination of eligibility under subsection (E)(2) is completed.~~

~~2. Coverage group screening. The Administration shall screen a person under any coverage group under A.R.S. §§ 36-2901(6)(a)(i), (ii), (iii), (iv), and (v) and 36-2934.~~

~~3. Eligibility decision.~~

~~a. If a person is eligible under this Article or 9 A.A.C. 28, Article 4, the Administration shall send a notice as under subsection (G) informing the applicant that AHCCCS medical coverage is approved.~~

~~b. If a person is ineligible, the Administration shall send a notice as under subsection (G) to deny AHCCCS medical coverage.~~

~~F.~~ C. Eligibility effective date.

~~1. Eligibility is effective on the first day of the month that all eligibility requirements are met, including the period described under R9-22-303.~~

~~2. The effective date of eligibility for an applicant who moves into Arizona is no sooner than the date Arizona residency is established.~~

~~3. The effective date of eligibility for an inmate applying for medical coverage is the date the applicant no longer meets the definition of an inmate of a public institution.~~

~~G.~~ Notice for approval or denial. The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the intended action, and:

~~1. If approved, the notice shall contain the effective date of eligibility.~~

~~2. If approved under FESP, the notice shall also contain:~~

~~a. The emergency services certification end date,~~

~~b. A statement detailing the reason for the denial of full services,~~

~~e. The legal authority supporting the decision,~~

~~d. Where the legal authority supporting the decision can be found,~~

~~e. An explanation of the right to request a hearing, and~~

~~f. The date by which a request for hearing shall be received by the Administration.~~

~~3. If denied, the notice shall contain:~~

~~a. The effective date of the denial;~~

~~b. The reason for the denial, including specific financial calculations and the financial eligibility standard, if applicable;~~

~~e. Legal authority supporting the decision;~~

~~d. Where the legal authority supporting the decision can be found;~~

~~e. An explanation of the right to request a hearing; and~~

~~f. The date by which a request for hearing shall be received by the Administration.~~

H. Reporting and verifying changes.

- ~~1. An applicant or a member shall report to the Administration the following changes for the applicant or member, the applicant's or member's spouse, and the applicant or member's dependent children:
 - a. Change of address;
 - b. Change in the household's members;
 - e. Change in income;
 - d. Death;
 - e. Change in marital status;
 - f. Change in school attendance;
 - g. Change in Arizona state residency; and
 - h. Any other change that may affect the member's or applicant's eligibility.~~
- ~~2. A member shall report to the Administration the following changes:
 - a. Admission to a penal institution;
 - b. Change in U.S. citizenship or immigrant status;
 - e. Receipt of a Social Security number; and
 - d. Change in first or third party liability that may contribute to the payment of all or a portion of the person's medical costs.~~
- ~~3. A person other than a member or an applicant who reports a change to the Administration either orally or in writing shall include the:
 - a. Name of the affected applicant or member;
 - b. Description of the change;
 - e. Date the change occurred;
 - d. Name of the person reporting the change; and
 - e. Social Security or case number of the applicant or member, if known.~~
- ~~4. An applicant or a member shall provide verification of changes if requested by the Administration.~~
- ~~5. An applicant or a member shall report anticipated changes in eligibility to the Administration as soon as the person knows that the change will occur.~~
- ~~6. An applicant or a member shall report an unanticipated change to the Administration within 10 days following the date the change occurred.~~

I. Processing of changes and redeterminations. ~~If a member receives AHCCCS medical coverage under subsection (A), the Administration shall redetermine the member's eligibility at least once every 12 months or more frequently when changes occur that may affect eligibility.~~

J. Actions that may result from a redetermination or change. ~~In processing a redetermination or change, the Administration shall determine whether there should be:~~

- ~~1. No change in eligibility;~~
- ~~2. Discontinuance of eligibility if a condition of eligibility is no longer met, or~~

~~3. A change in the program under which a person receives AHCCCS medical coverage.~~

~~**K.** Notice of discontinuance.~~

~~1. Contents of notice. The Administration shall issue a notice when it takes action to discontinue a member's eligibility. The notice shall contain the following information:~~

- ~~a. A statement of the action that is being taken;~~
- ~~b. The effective date of the action;~~
- ~~e. The reason for the discontinuance, including specific financial calculations and the financial eligibility standard if applicable;~~
- ~~d. The legal authority that supports the action proposed by the Administration;~~
- ~~e. Where the legal authority supporting the decision can be found;~~
- ~~f. An explanation of the right to request a hearing; and~~
- ~~g. The date by which a hearing request shall be received by the Administration and the right to continue medical coverage pending appeal.~~

~~2. Advance notice of changes in eligibility. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (K)(3), the Administration shall issue an advance notice when an adverse action is taken to suspend, reduce or discontinue eligibility.~~

~~3. Exceptions from advance notice. The Administration shall issue a notice to a member to discontinue eligibility no later than the effective date of the action if:~~

- ~~a. The member provides to the Administration a clearly written statement, signed by that member, that:
 - ~~i. Services are no longer wanted; or~~
 - ~~ii. Gives information that requires a discontinuance or reduction of services and indicates that the member understands that this is the result of supplying the information;~~~~
- ~~b. The member provides information to the Administration that requires a discontinuance of eligibility and a member signs a written statement waiving advance notice;~~
- ~~e. The member cannot be located and mail sent to the member's last known address has been returned as undeliverable under 42 CFR 431.213(d) subject to reinstatement of discontinued eligibility;~~
- ~~d. The member has been admitted to a public institution where a member is ineligible for coverage;~~
- ~~e. The member has been approved for Medicaid in another state; or~~
- ~~f. The Administration receives information confirming the death of the member.~~

~~**L.** Request for hearing. An applicant or member may request a hearing under Chapter 34 for any of the following adverse actions:~~

- ~~1. Complete or partial denial of eligibility,~~
- ~~2. Discontinuance or reduction of AHCCCS medical coverage, or~~
- ~~3. Delay in the eligibility determination beyond the time frames listed in R9-22-1501(D).~~

~~**M.** Assignment of rights. A person determined eligible assigns rights to all types of medical benefits to which the person is entitled under operation of law under A.R.S. § 36-2903.~~

R9-22-1502.-General Eligibility Criteria-~~Repeal~~

~~A. Social Security Number.~~

- ~~1. An applicant applying under R9 22 1501(A)(1) or (A)(2), or R9 22 1505(A) shall furnish a SSN or apply for one, as required under 42 CFR 435.910 and 435.920.~~
- ~~2. An applicant who meets all other eligibility criteria except the criteria in subsection (C) shall provide a SSN unless the applicant cannot legally obtain one.~~
- ~~3. If an applicant cannot recall or has not been issued a SSN, the Administration shall assist in obtaining or verifying the applicant's SSN under 42 CFR 435.910.~~

~~B. State residency. A person is not eligible unless the person is a resident of Arizona under 42 CFR 435.403.~~

~~C. Citizenship and immigrant status.~~

- ~~1. An applicant or a member is not eligible for full services under Article 2 of this Chapter unless the applicant or member is a citizen of the United States or is a qualified alien under A.R.S. § 36 2903.03(B) or meets the requirements of A.R.S. § 36 2903.03(C).~~
- ~~2. An applicant or member is eligible for emergency medical services under R9 22 217 if the applicant or member is either a qualified alien or noncitizen and:
 - ~~a. Meets all other eligibility requirements except those in subsection (A); and~~
 - ~~b. Is eligible under A.R.S. § 36 2901(6)(a)(i), (ii), or (iii).~~~~

~~D. Applicant and member responsibility. As a condition of eligibility, an applicant and a member shall:~~

- ~~1. Authorize the Administration to obtain verification of information for initial or continued eligibility;~~
- ~~2. Give the Administration complete and truthful information. The Administration may deny an application or discontinue eligibility if:
 - ~~a. The applicant or member fails to provide information necessary for initial or continuing eligibility;~~
 - ~~b. The applicant or member fails to provide the Administration with written authorization to permit the Administration to obtain necessary verification;~~
 - ~~c. The applicant or member fails to provide verification after the Administration had made an effort to obtain the necessary verification but has not obtained the necessary information; or~~
 - ~~d. The applicant or member does not assist the Administration in resolving incomplete, inconsistent, or unclear information that is necessary for initial or continuing eligibility;~~~~
- ~~3. Comply with the DCSE under 42 CFR 433.148 in establishing paternity and enforcing medical support obligations when requested. The Administration shall not deny AHCCCS eligibility to any applicant who would otherwise be eligible, is a minor child, and whose parent or legal representative does not cooperate with the medical support requirements or first and third party liability under Article 10;~~
- ~~4. Provide information concerning third party coverage for medical care; and~~
- ~~5. Take all necessary steps to obtain annuity, pension, retirement, and disability benefits for which the applicant or member may be entitled.~~

~~E. Inmate of a public institution. An inmate of a public institution is not eligible to AHCCCS coverage if federal financial participation (FFP) is not available.~~

~~F. Verification of eligibility information:~~

- ~~1. The applicant or member has the primary responsibility to provide the Administration with verification of all information necessary to complete the determination of eligibility.~~
- ~~2. The Administration shall provide an applicant or a member no less than 10 days following the date of written request for the information to provide required verification. If an applicant or member does not provide the required information timely, the Administration may deny the application or discontinue eligibility.~~

R9-22-1503. Financial Eligibility Criteria

A. General income eligibility. ~~Except as provided under subsection (B) of this rule, the~~The Administration or its designee shall count the identified income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K ~~with the exceptions in subsection (B).~~

B. Exceptions.

1. In-kind support and maintenance under 42 U.S.C. 1382a(a)(2)(A) is excluded.
2. For a person living with a spouse, the Administration or its designee calculates net income for an eligible couple under 4220 CFR 416.1160 as of ~~June 15, 1999~~ April 1, 2013, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments, even if the spouse is not eligible for or applying for SSI or coverage under this Article.
3. In determining the net income of a married couple living with a child or the net income of a person who is not living with a spouse but living with a child, a child allocation is allowed as a deduction from the combined net income of the couple for each child regardless of whether the child is ineligible or eligible. For the purposes of this Section, a child means a person who is unmarried, natural or adopted, and under age 18 or under age 22 if a full-time student. Each child's allocation deduction is reduced by that child's income, including public income maintenance payments, using the methodology under 20 CFR 416.1163(b)(1) and (2) as of ~~June 15, 1999~~ April 1, 2013, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
4. In determining the income deemed available to an applicant who is a child from an ineligible parent or parents, an allocation for each eligible or ineligible child of the parent is allowed as a deduction from the parent's income under 20 CFR 416.1165(b). The child's allocation is reduced by that child's income, including public income maintenance payments.
5. In determining the income of a person who receives an annual Title II Cost of Living Allowance (COLA) increase, the COLA amount is disregarded ~~for the months of January through March, but is countable~~

~~income effective in April to correspond with the FPL implementation date from January until the Administration applies the effective income limits under R9-22-1504 based on the FPL for the calendar year.~~

6. ~~Sponsor deemed income. The Administration shall use income of a USCIS sponsor to determine eligibility for a non-citizen applicant under R9-22-1425, whether or not the income is available, unless exempt under R9-22-1426.~~

R9-22-1505. Eligibility for Special Groups

A. The following are considered special groups:

1. A person meeting the requirements in A.R.S. § 36-2903.03 who:
 - a. Is aged, blind, or disabled under 42 CFR 435.520, 42 CFR 435.530, or 42 CFR 435.540 as of ~~October 1, 2004~~ October 1, 2012, which are incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
 - b. Received SSI cash or AHCCCS medical coverage under this subsection, or subsections (A)(2), (A)(3), or (A)(4) on or before August 21, 1996;
 - c. Was residing in the United States under color of law on or before August 21, 1996; and
 - d. Meets the requirements under this Article;
2. A disabled child (DC) under 42 U.S.C. 1396a(a)(10)(A)(i)(II). A disabled child is a child who:
 - a. Was receiving SSI cash benefits as a disabled child on August 22, 1996;
 - b. Lost SSI cash benefits effective July 1, 1997, or later, due to a disability determination under Section 211(d)(2)(B) of Subtitle B of P.L. 104-193;
 - c. Continues to meet the disability requirements for a child that were in effect on August 21, 1996; and
 - d. Meets the requirements under this Article;
3. A disabled adult child (DAC), under 42 U.S.C. 1383c(c) who:
 - a. Was determined disabled by the Social Security Administration before attaining the age of 22 years,
 - b. Became entitled to or received an increase in child's insurance benefits under Title II of the Act on the basis of blindness or disability,
 - c. Was terminated from SSI cash benefits due to entitlement to or an increase in income under Title II of the Act,
 - d. Meets the requirements under this Article, and
 - e. Is 18 years of age or older;
4. A disabled widow or widower (DWW) under 42 U.S.C. 1383c(b) and (d) who:
 - a. Is blind or disabled,
 - b. Is ineligible for Medicare Part A benefits,
 - c. Received SSI cash benefits the month before Title II of the Act benefit payments began, ~~and~~
 - d. Meets the requirements under this Article; ~~and~~

e. Is at least 50 years of age but under age 65; and

f. Is unmarried.

5. Under 42 CFR 435.135, a person who:

a. Is aged, blind, or disabled;

b. Receives benefits under Title II of the Act;

c. Received SSI cash benefits in the past;

d. Received SSI cash benefits and Title II of the Social Security Act benefits concurrently for at least one month anytime after April 1977;

e. Became ineligible for SSI cash benefits while receiving SSI and benefits under Title II of the Act concurrently; and

f. Meets the requirements under this Article.

B. Income for special groups.

1. Except as provided in subsection (B)(2), income eligibility is determined using the income criteria in R9-22-1503(A).

2. Exceptions to income for special groups.

a. For a person in the DAC coverage group under subsection (A)(3), the applicant's Title II of the Social Security Act benefits are disregarded in determining income eligibility under 42 U.S.C. 1383c(c).

b. For a person in the DWW coverage group, under subsection (A)(4), the applicant's Title II of the Social Security Act benefits are disregarded in determining income eligibility under 42 U.S.C. 1383c(b) and (d).

c. For an applicant or member in the coverage group under subsection (A)(5), the portion of the applicant's or member's Title II of the Social Security Act benefits attributed to cost-of-living adjustments received by the applicant since the effective date of SSI ineligibility is disregarded in determining income eligibility under 42 CFR 435.135.

C. 100 percent FBR. As a condition of eligibility for all special groups, countable income shall be equal to or less than 100 percent of the SSI FBR, as adjusted annually.