

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 31. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

CHILDREN'S HEALTH INSURANCE PROGRAM

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action:</u>
R9-31-301.	Amend
R9-31-302.	Amend
R9-31-303.	Amend
R9-31-304.	Amend
R9-31-305.	Amend
R9-31-306.	Amend
R9-31-308.	Amend
R9-31-309.	Amend
R9-31-310.	Amend
R9-31-1402.	Amend
R9-31-1416.	Amend
R9-31-1420.	Amend
ARTICLE 17.	Repealed
R9-31-1701.	Repealed
R9-31-1702.	Repealed
R9-31-1703.	Repealed
R9-31-1704.	Repealed
R9-31-1705.	Repealed
R9-31-1706.	Repealed
R9-31-1707.	Repealed
R9-31-1708.	Repealed
R9-31-1709.	Repealed
R9-31-1710.	Repealed
R9-31-1711.	Repealed
R9-31-1712.	Repealed
R9-31-1713.	Repealed
R9-31-1716.	Repealed
R9-31-1717.	Repealed

R9-31-1718.	Repealed
R9-31-1719.	Repealed
R9-31-1720.	Repealed
R9-31-1721.	Repealed
R9-31-1722.	Repealed
R9-31-1723.	Repealed
R9-31-1724.	Repealed
R9-31-1725.	Repealed
R9-31-1726.	Repealed
R9-31-1727.	Repealed
R9-31-1728.	Repealed
R9-31-1729.	Repealed
R9-31-1730.	Repealed
R9-31-1731.	Repealed
R9-31-1732.	Repealed
R9-31-1733.	Repealed
R9-31-1734.	Repealed
R9-31-1735.	Repealed

**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. § 36-2986

Implementing statute: A.R.S. § 36-2983

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

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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 request 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. 3156, October 11, 2013

Notice of Proposed Rulemaking: 19 A.A.R. 3113, October 11, 2013

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

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**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 result of the Affordable Care Act of 2010 and Arizona Laws 2013, First Special Session, Chapter 10 (House Bill 2010). The majority of the significant amendments exist within Chapter 22, acute care eligibility, but as a result of this review the Administration has reviewed the eligibility requirements existing within Chapter 31, KidsCare eligibility. The proposed changes are to ensure clarity, conciseness and the accuracy of the parallel eligibility requirements for the KidsCare program, such as, changes to processes for determining and redetermining eligibility including changes to accommodate on line 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. These proposed 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 for the making of these rules.

**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 not have a significant impact on funds used for the coverage of KidsCare Medicaid applicants the substance of the impact is mainly on the acute population as described below:

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	
<b><u>GRAND TOTAL</u></b>	<b><u>1,583,076,500</u></b>	<b><u>2,768,972,900</u></b>	

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:**

No significant changes were made between the proposed rulemaking 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 R9-31-1402 was updated to crossreference the FPL % changes as described under chapter 22 since the FPL% was changed as directed by the Affordable Care Act. In addition, technical and grammatical changes have been made as a result of review from the Governor's Regulatory Review Council.



		<p>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>The grace period concerned is addressed in the current R9-31-1418.</p>
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**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, therefore these rules are not more stringent than federal law. .

**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:**

None

**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 31. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM**

**CHILDREN'S HEALTH INSURANCE PROGRAM**

**ARTICLE 3. ELIGIBILITY AND ENROLLMENT**

Section.

R9-31-301. ~~General Requirements~~ Expenditure limit and enrollment

R9-31-302. ~~Applications~~ General Requirements

R9-31-303. Eligibility Criteria

R9-31-304. Income Eligibility

R9-31-305. Verification

R9-31-306. Enrollment

R9-31-308. Changes and Redeterminations

R9-31-309. Newborn Eligibility

R9-31-310. Notice Requirements

**ARTICLE 14. PREMIUMS FOR A CHILD DETERMINED ELIGIBLE UNDER ARTICLE 3**

R9-31-1402. Premium Amount for a Member who is a Child Determined Eligible Under Article 3 of this Chapter

R9-31-1416. Allocation of Payment for an Eligible Member

R9-31-1420. Payment of a Premium

**ARTICLE 17. ~~ELIGIBILITY, ENROLLMENT AND COST SHARING FOR A PARENT~~ Repeal**

R9-31-1701. ~~General~~ Repeal

R9-31-1702. ~~Application~~ Repeal

R9-31-1703. ~~Parent Eligibility Criteria~~ Repeal

R9-31-1704. ~~Income~~ Repeal

R9-31-1705. ~~Citizenship~~ Repeal

R9-31-1706. ~~Residency~~ Repeal

R9-31-1707. ~~Social Security Number (SSN)~~ Repeal

R9-31-1708. ~~Age~~ Repeal

R9-31-1709. ~~Ineligibility for Title XIX~~ Repeal

R9-31-1710. ~~Institutionalized Person~~ Repeal

R9-31-1711. ~~Other Health Coverage~~ Repeal

R9-31-1712. ~~State Health Benefits~~ Repeal

R9-31-1713. ~~Prior Health Insurance Coverage Repeal~~

R9-31-1716. ~~Verification Repeal~~

R9-31-1717. ~~Assignment of Rights Repeal~~

R9-31-1718. ~~Approval and Effective Date of Eligibility Repeal~~

R9-31-1719. ~~Enrollment Repeal~~

R9-31-1720. ~~Change and Redetermination Repeal~~

R9-31-1721. ~~Denial of Eligibility Repeal~~

R9-31-1722. ~~Discontinuance of Eligibility and Notice Requirements Repeal~~

R9-31-1723. ~~Newborn Eligibility Repeal~~

R9-31-1724. ~~Premium and Enrollment Fees Repeal~~

R9-31-1725. ~~Appeal and Request for Hearing Process Repeal~~

R9-31-1726. ~~Payment of Outstanding Premium and Enrollment Fees Repeal~~

R9-31-1727. ~~Payment Due Date for Current Month Repeal~~

R9-31-1728. ~~Payment Received Date Repeal~~

R9-31-1729. ~~Past Due Payment Repeal~~

R9-31-1730. ~~Payment Type Repeal~~

R9-31-1731. ~~Returned Check Repeal~~

R9-31-1732. ~~Payment In Advance Repeal~~

R9-31-1733. ~~Reimbursement of a Premium Repeal~~

R9-31-1734. ~~Allocation of Payment for an Eligible Member Repeal~~

R9-31-1735. ~~Change in Premium Amount Repeal~~

### ARTICLE 3. ELIGIBILITY AND ENROLLMENT

#### **R9-31-301. General Requirements Expenditure limit and enrollment**

~~A. Administration. The Administration shall administer the program as specified in A.R.S. § 36-2982.~~

~~B. Operational authority. The Director has full operational authority to adopt rules or to use the appropriate rules for the development and management of an eligibility and enrollment system as specified in A.R.S. § 36-2986.~~

~~C. Expenditure limit and enrollment~~

1. Title XXI will accept enrollees subject to the availability of funds. If the Director determines that monies may be insufficient for the program, the Administration shall stop processing applications for the program as specified in A.R.S. § 36-2985.
2. After the Administration has verified that funding is sufficient, it will resume processing applications as specified in A.R.S. § 36-2985.
3. The Administration shall immediately stop processing all applications and shall provide advance notice to a member that the program will terminate under A.R.S. § 36-2985.
4. A child is not entitled to a hearing under ~~Article 8 of this Chapter~~ 34, if the program is suspended or terminated.

#### **R9-31-302. Applications General Requirements**

~~A. Availability. The provisions in A.A.C. R9-22-1405(B) apply to this Section. The Administration shall make available program applications. Any person may request a program application.~~

~~B. Submission of applications. An application is completed and submitted to the Administration:~~

- ~~1. In person,~~
- ~~2. By mail,~~
- ~~3. By fax, or~~
- ~~4. By other form approved by the Administration.~~

~~C. Date of application. The date of application is the date the Administration or its designee receives an application that:~~

- ~~1. Is signed by the person making the application,~~
- ~~2. Includes the name of the person for whom assistance is requested, and~~
- ~~3. Includes the address and telephone number of the person submitting the application.~~

~~D. Completed application.~~

- ~~1. The provisions in A.A.C. R9-22-1405(E) apply to this Section.~~
- ~~2. The Administration shall consider an application complete when:~~
  - ~~a. All questions are answered,~~
  - ~~b. An enrollment choice is included, and~~
  - ~~c. All necessary verification is provided by an applicant or an applicant's representative.~~
- ~~3. If the application is incomplete, the Administration shall do one or both of the following:~~

- ~~a. Contact an applicant or an applicant's representative by telephone 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.~~

**A.** Administration. The Administration or its designee shall administer the program as specified in A.R.S. § 36-2982. The requirements described under Chapter 22, Article 3, except for R9-22-303, R9-22-305(1), R9-22-306(A)(4)(a) and (b), R9-22-306(B)(2)(b) and (c), R9-22-306(B)(3)(c)(iv), (vii) and (xi), R9-22-306(B)(4), R9-22-306(B)(5) and R9-22-307, apply to this Chapter.

**E.B.** Eligibility determination processing time.

- 1. When an application is complete, the Administration or its designee shall mail notification to the applicant regarding the eligibility determination no more than 30 days from the date of application except when there is an emergency beyond the Administration's or its designee's control.
- 2. ~~An applicant shall provide the Administration with all requested information within 10 days from the date of the written request for the information. If an applicant fails to provide the requested information and fails to request an extension of the 10 day period or the request for extension is denied, the Administration shall deny eligibility.~~

**F.** ~~Waiting list.~~ ~~If the Administration stops processing an application because the monies are insufficient as specified in R9-31-301(C)(1), the Administration shall place an applicant on a waiting list and notify the applicant. When sufficient funding becomes available, the Administration shall contact an applicant on the waiting list and ask the applicant to submit a new application if the original application is more than 60 days old. The Administration shall fill spaces in the order that an application is received and approved.~~

### **R9-31-303. Eligibility Criteria**

Eligibility. To be eligible for the program, an applicant shall meet all the following eligibility requirements in addition to R9-31-302:

- 1. Age. Is less than 19 years of age. A child's coverage shall continue through the month in which a child turns age 19 if the child is otherwise eligible;
- 2. ~~Citizenship.~~ ~~Is a United States citizen or a qualified alien under A.R.S. § 36-2983;~~
- 3. ~~Residency.~~ ~~Is a resident of the state of Arizona under A.R.S. § 36-2983. An Arizona resident is a person who currently lives in Arizona and intends to remain in Arizona indefinitely;~~
- 4. Income. Meets the income requirements in R9-31-304;
- 5. Cost sharing. Pays the cost sharing premium amount when premiums are required as specified in A.R.S. §§ 36-2982 and 36-2903.01;
- 6. ~~Social security number (SSN).~~ ~~Provides a SSN or applies for a SSN within 30 days after submitting an application.~~
- 7. ~~Assignment.~~ ~~Assigns rights to any first or third party coverage of medical care as specified in 9 A.A.C. 31, Article 10;~~

- ~~8-6.~~ Other federal program. Is not eligible for Medicaid or other federally operated or financed health care insurance program, except the Indian Health Service as specified in A.R.S. § 36-2983;
- ~~9-7.~~ Inmate of a public institution. Is not an inmate of a public institution, as specified in A.R.S. § 36-2983;
- ~~10-8.~~ Patient in an institution for mental disease. Is not a patient in an institution for mental disease at the time of application, or at the time of redetermination, as specified in A.R.S. § 36-2983;
- ~~11-9.~~ Other health coverage. Is not covered under:
- a. An employer's group health insurance plan,
  - b. Family or individual health insurance, or
  - c. Other health insurance;
- ~~12-10.~~ State health benefits. Is not a member of a family that is eligible for health benefits coverage under a state health benefit plan based on a family member's employment with a public agency in the state of Arizona;
- ~~13-11.~~ Prior health insurance coverage. Has not been covered by health insurance during the previous ~~three months~~ 90 days unless that health insurance was discontinued due to the involuntary loss of employment or other involuntary reason as specified in A.R.S. § 36-2983. The ~~three months~~ 90 days of ineligibility due to previous insurance coverage shall not apply to a child if:
- ~~a. A newborn as defined in R9-31-309;~~
  - ~~b. A Title XIX member as specified in 9 A.A.C. 22, Article 1;~~
  - ~~e. An applicant who is seriously ill under R9-31-101 or chronically ill under A.R.S. § 36-2983;~~
  - ~~d. A member under this Article who loses insurance coverage;~~
  - ~~e. A CRS member; or~~
  - ~~f. A Native American member receiving services from IHS or a Tribal Facility.~~
  - a. Following the loss of eligibility for and enrollment in Medicaid or another insurance affordability program.
  - b. The premium paid by the family for coverage of the child under the group health plan exceeded 5 percent of household income;
  - c. The child's parent is determined eligible for advance payment of the premium tax credit for enrollment in a QHP through the Exchange because the ESI in which the family was enrolled is determined unaffordable in accordance with 26 CFR 1.36B-2(c)(3)(v).
  - d. The cost of family coverage that includes the child exceeds 9.5 percent of the household income.
  - e. The employer stopped offering coverage of dependents (or any coverage) under an employer-sponsored health insurance plan;
  - f. A change in employment, including involuntary separation, resulted in the child's loss of employer-sponsored insurance (other than through full payment of the premium by the parent under COBRA);
  - g. The child has special health care needs; or
  - h. The child lost coverage due to the death or divorce of a parent.

**R9-31-304. Income Eligibility**

A. Income standard. The combined gross income of the household income group members as specified in subsection (C) shall not exceed the percentage of the appropriate FPL under A.R.S. § 36-2981 for the Title XXI household income group size.

B. Calculating monthly income. The Administration or its designee shall calculate monthly income under R9-22-1423.A.A.C. R9-22-1419.01(B) through 1419.04.

C. ~~Title XXI household income group~~ The Administration or its designee shall include the income of persons described under R9-22-1420(B).

1. ~~For this Section:~~

a. ~~"Child" means a person less than 19 years of age or an unborn child.~~

b. ~~"Parent" means a biological, adoptive, or step parent.~~

2. ~~The following related persons, when residing together, constitute a Title XXI household income group:~~

a. ~~A married couple and children of either one or both;~~

b. ~~An unmarried couple with a common child and at least one other child of either one or both;~~

e. ~~A married couple when one or both are under age 19 with no child;~~

d. ~~A single parent and the single parent's child;~~

e. ~~A child who does not live with a parent; and~~

f. ~~The following persons, when living with a child:~~

i. ~~A spouse of the child;~~

ii. ~~A child of the spouse child;~~

iii. ~~A child of the child; and~~

iv. ~~The other parent of a child of the child.~~

3. ~~A member of the household income group who is absent from a household shall be included in the child's household income group if absent:~~

a. ~~For 30 days or less;~~

b. ~~For the purpose of seeking employment or to maintain a job;~~

e. ~~For serving in the military, or~~

d. ~~For an educational purpose and the child's parent claims the child as a dependent on the parent's income tax return.~~

D. Income disregards. When determining gross income of the household, the Administration or its designee shall disregard income as described under R9-22-1421(A). ~~the following:~~

1. ~~Income specified in 20 CFR 416, Appendix to subpart K as of June 6, 1997, which is incorporated by reference and on file with the Office of the Secretary of State and the Administration. This incorporation by reference contains no future editions or amendments;~~

2. ~~Income paid according to federal law that prohibits the use of the income when determining eligibility for public benefits;~~

3. ~~Money received as the result of the conversion of an asset;~~

4. ~~Income tax refunds; and~~
5. ~~An amount equal to the expenses of producing self-employment income from the gross self-employment income.~~

**E.** Effective date of initial eligibility.

1. For an eligibility determination completed by the 25th day of the month, eligibility shall begin on the first day of the month following the determination of eligibility.
2. For an eligibility determination completed after the 25th day of the month, eligibility shall begin on the first day of the second month following the determination of eligibility.

**R9-31-305. Verification**

Verification. An applicant or a member shall provide the Administration or its designee with verification or authorize the release of verification to the Administration or its designee of all information necessary to complete the determination of eligibility as described under R9-22-304.

**R9-31-306. Enrollment**

~~A.~~ Selection choices. Enrollment requirements applicable to the KidsCare program are described under Chapter 22, Article 17.

1. ~~Except as provided in subsections (A)(3), (4), and (5), at the time of application, an applicant shall select from the following enrollment choices:~~
  - a. ~~A contractor which includes a contractor or a qualifying plan as defined in A.R.S. § 36-2981, or~~
  - b. ~~The IHS as specified in A.R.S. § 36-2982. If a member is enrolled with the IHS, a member may elect to receive covered services from a participating Tribal Facility.~~
2. ~~Except as provided in subsections (A)(3), (4), and (5), coverage shall not begin until a Title XXI enrollment choice is made.~~
3. ~~The Administration shall enroll a member with CMDP when a member is a foster care child according to A.R.S. § 8-512.~~
4. ~~When a Title XIX member becomes ineligible for Title XIX and DES determines the member eligible for Title XXI with no break in coverage,~~
  - a. ~~The Title XXI member shall remain enrolled with the Title XIX contractor; and~~
  - b. ~~The Administration shall send the Title XXI member a notice explaining the member's right to choose as specified in subsection (A)(1).~~
5. ~~When an applicant applies for Title XIX through DES and DES determines the applicant ineligible for Title XIX but eligible for Title XXI, the Administration shall enroll the applicant for Title XXI as follows:~~
  - a. ~~If a Title XIX contractor pre-enrollment choice is pending at the time the Administration receives the Title XXI approval from DES, the Administration may:~~
    - i. ~~Enroll member with the Title XIX contractor, and~~

- ii. ~~Notify the member of the member's enrollment and provide the member an opportunity to select an enrollment choice as specified in subsection (A)(1).~~
  - b. ~~If there is no pending Title XIX choice at the time the Administration receives the Title XXI approval from DES, the Administration shall pend the Title XXI decision and obtain a choice from the member as specified in subsection (A)(1).~~
- B. Effective date of initial enrollment.**
  - 1. ~~For an eligibility determination completed by the 25th day of the month, enrollment shall begin on the first day of the month following the determination of eligibility.~~
  - 2. ~~For an eligibility determination completed after the 25th day of the month, enrollment shall begin on the first day of the second month following the determination of eligibility.~~
- C. Enrollment changes.**
  - 1. ~~If a member moves from one GSA to another GSA during the period of enrollment, enrollment changes shall occur as follows:~~
    - a. ~~If a member's current enrollment choice is available in a member's new GSA, a member shall remain enrolled with the member's current enrollment choice.~~
    - b. ~~If a member's current enrollment choice is not available in the new GSA, a member shall:~~
      - i. ~~Remain enrolled with the current enrollment choice. The current enrollment choice may limit services to emergency services outside the GSA as specified in R9 31 201.~~
      - ii. ~~Select from the enrollment choices provided in R9 31 306(A)(1) that are available in the new GSA. Once a new choice is made, a member shall be enrolled with the new choice effective with the date the Administration processes the member's enrollment choice. Covered services shall be available on the date of the enrollment change.~~
  - 2. ~~A member may change a member's enrollment choice:~~
    - a. ~~During a member's annual enrollment choice period,~~
    - b. ~~At any time from:~~
      - i. ~~IHS to a contractor as specified in subsection (A)(1) of this Section; or~~
      - ii. ~~A contractor to IHS.~~
    - c. ~~When a member is no longer a foster care child as specified in subsection (A)(3) of this Section.~~
  - 3. ~~Except for subsection (C)(2)(c) of this Section, the effective date of the new enrollment choice is the date the Administration processes the enrollment choice. The effective date of the enrollment change from CMDP to a Title XXI choice as specified in subsection (A)(1) of this Section, shall be the first of the following month.~~
- D. Annual enrollment choice period.** ~~A member shall have the opportunity to change enrollment no later than 12 months following the last time a member made an enrollment choice or had the opportunity to make an enrollment choice.~~



~~E. Health Insurance Portability and Accountability Act of 1996. As specified in A.R.S. § 36-2982, a Title XXI member who has been disenrolled shall be allowed to use enrollment in the Title XXI program as creditable coverage as defined in A.R.S. § 36-2984.~~

#### **R9-31-308. Changes and Redeterminations**

**A. Reporting Changes.** A member or a member's parent or guardian shall report the following changes to the Administration or its designee:

1. Any increase in income that will begin or continue into the following month,
2. Any change of address,
3. The addition or departure of a household member,
4. Any health coverage under private or group health insurance,
5. Employment of a member or a parent with a state agency, ~~and~~
6. Incarceration of a member, and
7. Any other changes that may impact eligibility or premiums.

**B. Verification.** If required verification is needed and requested as a result of a change specified in subsection (A) of this Section to determine the impact on eligibility or premiums and is not received within 10 days, the Administration or its designee shall send a notice to discontinue eligibility for a member unless a member is within the guaranteed ~~eligibility~~ enrollment period as specified in R9-31-307.

**C. Redeterminations.** The renewal eligibility requirements described under R9-22-306 for a KidsCare program member shall be followed. ~~If no change is reported, the Administration shall initiate redetermination no later than the end of the 12th month after the effective date of eligibility, or the completion of the most recent redetermination decision whichever is later.~~

**D. Termination.** The termination notice requirements as described under R9-22-307 for a KidsCare program member shall be followed. ~~If the Administration determines that a child no longer meets the eligibility criteria, or a head of household fails to respond or cooperate with the redetermination of eligibility, the Administration shall terminate coverage.~~

#### **R9-31-309. Newborn Eligibility**

**A. Eligibility.** A child born to a Title XXI member, is eligible for 12 months of coverage without filing an application under Title XXI provided:

1. The child continues to live with the child's mother during the 12-month period; and
2. One of the events as specified in R9-31-307(A) does not occur.

**B. Deemed Coverage.** A newborn's deemed newborn coverage shall begin effective with a newborn's date of birth and end with the last day of the month in which a newborn turns age 1. Deemed newborn status does not preclude a child from ~~applying being approved~~ for Title XIX and being approved.

**C. Enrollment choice for a newborn.** A newborn shall be enrolled with a mother's enrollment choice as specified in contract.

D. Notification of enrollment. The Administration or its designee shall notify a mother of a newborn's enrollment and provide a mother an opportunity to select an enrollment choice as specified in ~~R9-31-306(A)(1)~~ Chapter 22, Article 17.

### **R9-31-310. Notice Requirements**

~~A. Notice Requirements. The notice requirements as described in R9-22-312 apply to this Chapter. Applications.~~

~~Upon completion of a determination of eligibility or ineligibility for any child in the household, the Administration shall issue a written notice to an individual who initiated the application. This notice shall include a statement of the intended action, an explanation of a person's hearing rights as specified in 9 A.A.C. 31, Article 8, and:~~

~~1. If approved, the notice shall contain the name and effective date of eligibility for each approved applicant;~~

~~2. If denied, the notice shall contain:~~

~~a. The name of each ineligible applicant,~~

~~b. The effective date of the denial,~~

~~c. The reasons for ineligibility including appropriate income calculations and income standard when the reason for the denial is based on excess income,~~

~~d. The legal authority supporting the reason for ineligibility, and~~

~~e. The resource or reference materials where the legal authority citations are found.~~

~~B. Terminations:~~

~~1. When the Administration proposes a termination of Title XXI eligibility, the Administration shall provide a member with:~~

~~a. Advance notice at least 10 days before the effective date of the adverse action except as provided in subsection (B)(1)(b).~~

~~b. Adequate notice no later than the date of adverse action when a member:~~

~~i. Voluntarily withdraws and indicates an understanding of the results of the action,~~

~~ii. Becomes an inmate of a public institution as specified in R9-31-303(I),~~

~~iii. Dies and the Administration has verification of the death,~~

~~iv. Has whereabouts that are unknown and the Administration's loss of contact is confirmed by returned mail from the post office with no forwarding address, or~~

~~v. Is approved for Title XIX.~~

~~2. In addition to the requirements listed in subsection (A)(2), the termination notice shall include an explanation of a member's right to continued Title XXI coverage pending a request for hearing as provided in 9 A.A.C. 31, Article 8 and 14.~~

## ARTICLE 14. PREMIUMS FOR A CHILD DETERMINED ELIGIBLE UNDER ARTICLE 3

### **R9-31-1402. Premium Amount for a Member who is a Child Determined Eligible Under Article 3 of this Chapter**

- A. For the purposes of this Article, a premium is a monthly amount that an enrolled member pays to the Administration to remain eligible for Title XXI.
- B. When the household income is greater than the income limit described under R9-22-1427(D) ~~100 percent of the FPL~~ and less than or equal to 150 percent of the FPL, the monthly premium is \$10 for one eligible child and \$15 for two or more eligible children.
- C. When household income is greater than 150 percent of the FPL and less than or equal to 175 percent of the FPL, the monthly premium payment is \$40 for one eligible child and \$60 for two or more eligible children.
- D. When household income is greater than 175 percent of the FPL and less than or equal to 200 percent of the FPL, the monthly premium is \$50 for one eligible child and \$70 for two or more eligible children.
- E. A household's premium payments as specified in this Section shall not exceed five percent of a household's gross income.
- F. A member's newborn is enrolled immediately upon the Administration receiving notification of the child's birth. Upon enrollment, the household's premium is redetermined.
- G. To remain eligible, the premium amount shall be paid according to this Article.
- H. ~~Native Americans~~ American Indians are exempt from paying premiums.
- I. ~~When a premium is paid for a household including the parents of a child eligible under Article 3 as described in Article 17, no separate premium is charged for the child under this Section.~~

### **R9-31-1416. Allocation of Payment for an Eligible Member**

Except for payments specified in R9-31-1419 of this Article, all payments received for eligible members shall first be applied to any past due amounts for prior months owed to the Administration for a child determined eligible under Article 3 of this Chapter, ~~next to the unpaid enrollment fee for a parent eligible under Article 17, and then to the past due amounts for prior months owed to the Administration for a parent determined eligible under Article 17 of this Chapter.~~ Any remaining amounts shall ~~first then~~ first then be applied to the amount due for the current month for a child eligible under Article 3 of this Chapter ~~and then to the amount due for the current month for a parent, eligible under Article 17 of this Chapter.~~

### **R9-31-1420. Payment of a Premium**

When a member was discontinued with an unpaid premium, the parent or other responsible person shall pay the past due premium amounts for a child to the Administration or the child will remain ineligible for 90 days before the person can attain eligibility again. ~~before eligibility for the child under this Article can be approved.~~

## **ARTICLE 17. ELIGIBILITY, ENROLLMENT AND COST SHARING FOR A PARENT Repeal**

### **R9-31-1701. General Repeal**

- A.** Purpose. ~~This Article contains the criteria to determine the eligibility, enrollment, and cost sharing for a parent under A.R.S. §§ 36-2982, 36-2983 and Laws 2006, Ch. 331, § 32. Unless otherwise noted in this Chapter, the provisions of this Chapter apply to a parent eligible under this Article.~~
- B.** Expenditure limit and enrollment
1. ~~Eligibility of a parent shall be based on the FPL established in Laws 2006, Ch. 331, § 32, subject to the availability of monies. If the Director determines that monies are insufficient for the program, the eligibility agency shall suspend accepting new applications and shall deny all pending applications.~~
  2. ~~If the federal government eliminates federal funding for the program, the eligibility agency shall deny all pending applications and shall discontinue an eligible parent after providing advance notice that the program shall terminate under A.R.S. § 36-2985.~~
  3. ~~A parent is not entitled to a hearing under R9-31-1724 of this Article, if the program is suspended or terminated.~~
- C.** Definition
1. For the purposes of this Article, a child is:
    - a. ~~A child, except for a deemed newborn, under A.R.S. § 36-2901(6)(a)(ii), who is determined eligible under 9 A.A.C. 22, Article 14, or~~
    - b. ~~A child, except for a deemed newborn, under A.R.S. § 36-2981(6) who is determined eligible under Article 3 of this Chapter. A child in the guaranteed enrollment period under R9-31-307 or a newborn under R9-31-309, is not considered a child under this Article.~~
  2. ~~For the purposes of this Article, a parent is defined under Laws 2006, Ch. 331, § 32 and also includes a stepparent. A parent of an 18 year old child under subsection (C)(1)(a) is not eligible under this Article.~~
  3. ~~For the purposes of this Article, eligibility agency means either DES or the Administration, whichever agency made the eligibility determination for the child.~~
- D.** Services. ~~A parent eligible under this Article shall receive medically necessary services under 9 A.A.C. 22, Article 2.~~

### **R9-31-1702. Application Repeal**

- A.** Application form. ~~A parent who wants to apply for eligibility under this Article shall apply using an application approved by the Administration.~~
- B.** Application process. ~~For a parent of a child under R9-31-1701(C)(1)(a), the Administration shall process an application under A.A.C. R9-22-1405(A) through (F), R9-22-1411(A) and (C), and R9-22-1407. For a parent of a child under R9-31-1701(C)(1)(b), the Administration shall process an application under R9-31-302(A) through (E).~~

**R9-31-1703. Parent Eligibility Criteria Repeal**

To be eligible, a parent shall be a parent of, and living with, a child as defined in R9-31-1701(C).

**R9-31-1704. Income Repeal**

To be eligible, the countable income shall be determined under R9-31-304 and shall not exceed the percentage of FPL established in Laws 2006, Ch. 331, § 32. For a parent of a child under R9-31-1701(C)(1)(a), the countable income shall include a stepparent's income if the stepparent is applying.

**R9-31-1705. Citizenship Repeal**

To be eligible, a parent shall be a United States citizen or a qualified alien as specified in A.R.S. § 36-2903.03(B).

**R9-31-1706. Residency Repeal**

To be eligible, a parent shall be a current resident of the state of Arizona.

**R9-31-1707. Social Security Number (SSN) Repeal**

To be eligible, a parent shall provide a SSN or apply for a SSN within 30 days after submitting an application.

**R9-31-1708. Age Repeal**

To be eligible, a parent shall be age 19 or older.

**R9-31-1709. Ineligibility for Title XIX Repeal**

To be eligible, a parent shall not be eligible for Title XIX under A.R.S. § 36-2901(6). A parent is not eligible under this Article if ineligibility for Title XIX is due to the parent's refusal to apply for Title XIX or the parent's noncompliance with a Title XIX eligibility requirement.

**R9-31-1710. Institutionalized Person Repeal**

To be eligible, a parent shall not be an inmate of a public institution or a patient in an IMD under A.R.S. § 36-2983(G), unless federal financial participation is available.

**R9-31-1711. Other Health Coverage Repeal**

To be eligible, a parent shall not be covered under an employer's group health insurance plan, family or individual health insurance, or other health insurance, including Medicare. Eligibility for the Indian Health Service is not considered other health coverage.

**R9-31-1712. State Health Benefits Repeal**

To be eligible, a parent shall not be eligible for health coverage under a state health benefit plan based on a family member's employment with a public agency in the state of Arizona.

**R9-31-1713. Prior Health Insurance Coverage Repeal**

To be eligible, a parent shall not have been covered by health insurance as defined in R9 31 1711 or R9 31 1712 of this Article, during the previous three months, unless that health insurance was discontinued due to the involuntary loss of employment or other involuntary reason.

**R9-31-1716. Verification Repeal**

To be eligible, a parent shall provide verification or authorize the release of verification for all information necessary to complete the determination of eligibility.

**R9-31-1717. Assignment of Rights Repeal**

To be eligible, a parent shall assign rights to any first or third party coverage of medical care as specified in Article 10 of this Chapter.

**R9-31-1718. Approval and Effective Date of Eligibility Repeal**

~~A. Approval. An eligibility approval under this Article shall be determined by the Administration. The Administration shall follow the approval notice requirements in R9 31 310(A).~~

~~B. Effective date of eligibility. The effective date of eligibility is the later of one of the following:~~

- ~~1. The first day of the month following the eligibility determination for a determination made on or before the 25th day of the month,~~
- ~~2. The first day of the second month following the eligibility determination for a determination made after the 25th day of the month, or~~
- ~~3. The first day of the month in which the parent meets all eligibility requirements in this Article.~~

**R9-31-1719. Enrollment Repeal**

~~There is no guaranteed enrollment period for a parent eligible under this Article.~~

**R9-31-1720. Change and Redetermination Repeal**

~~A. Reporting a change. A parent eligible under this Article shall report the following changes to the eligibility agency:~~

- ~~1. An increase or decrease in income,~~
- ~~2. A change of address,~~
- ~~3. A move out of state,~~
- ~~4. An addition or departure of a household member,~~
- ~~5. Any health coverage under private or group health insurance,~~
- ~~6. Eligibility for health coverage under a state health benefit plan based on a family member's employment with a public agency in the state of Arizona,~~
- ~~7. Incarceration of a member,~~

- 8. ~~Becoming an inpatient in an IMD, and~~
- 9. ~~Receipt of a SSN.~~
- B.** ~~Verification. If required verification is needed and requested by the eligibility agency as a result of a change specified in subsection (A), to determine the impact on eligibility, and is not received within 10 days, the Administration shall send a notice to discontinue eligibility.~~
- C.** ~~Redetermination. The eligibility agency shall complete a redetermination of each parent's eligibility at least once every 12 months.~~

**R9-31-1721. Denial of Eligibility Repeal**

- A.** ~~For a parent of a child under R9 31 1701(C)(1)(a):~~
  - 1. ~~DES shall deny eligibility under this Article if the parent does not meet a requirement under this Article except for R9 31 1726 of this Article. DES shall follow the denial notice requirements in A.A.C. R9 22 1411(C); and~~
  - 2. ~~The Administration shall deny eligibility under this Article if the parent does not meet the requirement under R9 31 1726 of this Article. The Administration shall follow the denial notice requirements under R9 31 310(A)(2).~~
- B.** ~~For a parent of a child under R9 31 1701(C)(1)(b), the Administration shall deny eligibility under this Article if any one of the conditions of eligibility listed in this Article is not met. The Administration shall follow the denial notice requirements under R9 31 310(A)(2).~~

**R9-31-1722. Discontinuance of Eligibility and Notice Requirements Repeal**

- A.** ~~The Administration shall discontinue eligibility under this Article if any one of the conditions of eligibility listed in this Article is not met.~~
- B.** ~~The Administration shall send an adverse action notice to discontinue eligibility if the Administration does not receive a payment that is equal to the past and current due premium amounts by the 15th day of the current month.~~
- C.** ~~The Administration shall follow the discontinuance notice requirements under R9 31 310(B).~~

**R9-31-1723. Newborn Eligibility Repeal**

~~A child born to a mother eligible under R9 31 1701(C)(1)(a) shall follow the newborn eligibility under R9 22 1422. A child born to a mother eligible under R9 31 1701(C)(1)(b) shall follow the newborn eligibility under R9 31 309.~~

**R9-31-1724. Premium and Enrollment Fees Repeal**

- A.** ~~For the purposes of this Article:~~
  - 1. ~~A premium is a monthly payment that an enrolled member pays to the Administration to remain eligible.~~

2. ~~An enrollment fee is the amount required by subsection (C)(4), which shall be paid to the Administration by a member who is a parent determined eligible under this Article. The enrollment fee and the first month's premium will be billed and due concurrently with the first month's payment.~~
3. ~~To remain eligible, a parent shall pay the premium amount and enrollment fee according to this Article.~~

**B. Premiums**

1. ~~When countable income is equal to or greater than 100 percent but less than 150 percent of the FPL, the monthly premium for the family is three percent of the countable income.~~
2. ~~When countable income is equal to or greater than 150 percent but less than 175 percent of the FPL, the monthly premium for the family is five percent of the countable income.~~
3. ~~When countable income is equal to or greater than 175 percent but less than or equal to 200 percent of the FPL, the monthly premium for the family is five percent of the countable income.~~
4. ~~Native Americans are exempt from paying premiums.~~
5. ~~When a premium is paid for a household including the parents of a child eligible under Article 3 as described in Article 17, no separate premium is charged for the child under this Section.~~

**C. Enrollment Fees**

1. ~~A parent enrolled on or after January 1, 2005 will be charged an enrollment fee.~~
  - a. ~~If a parent who has paid the enrollment fee does not receive coverage under this Article for a period of at least 24 months, the parent will be charged another enrollment fee if the parent is approved again under this Article.~~
  - b. ~~If a parent who has paid the enrollment fee is discontinued under this Article for a period of less than 24 months, the parent will not be charged an enrollment fee when the parent is approved again.~~
2. ~~A parent who was enrolled before January 1, 2005 will not be charged an enrollment fee unless the parent is discontinued under this Article and approved again.~~
3. ~~Native Americans are exempt from paying the enrollment fee.~~
4. ~~The enrollment fee amount:~~
  - a. ~~For each eligible parent is \$15 when countable income is less than or equal to 150 percent of the FPL.~~
  - b. ~~For each eligible parent is \$20 when countable income is greater than 150 percent of the FPL and less than or equal to 175 percent of the FPL.~~
  - c. ~~For each eligible parent is \$25 when countable income is greater than 175 percent of the FPL and less than or equal to 200 percent of the FPL.~~

**R9-31-1725. Appeal and Request for Hearing Process Repeal**

- A.** ~~Denial. If DES denies a parent under R9 31 1721 of this Article, the appeal and request for hearing process shall be conducted under A.A.C. R9 22 1433. If the Administration denies a parent under R9 31 1721 of this Article, the appeal and request for hearing process shall be conducted under 9 A.A.C. 34.~~
- B.** ~~Discontinuance. If the Administration discontinues a parent under R9 31 1722 of this Article, the appeal and request for hearing process shall be conducted under 9 A.A.C. 34.~~



- ~~C. Coverage for Discontinuance. Except as provided in this Section, the Administration shall discontinue eligibility on the effective date of the discontinuance if the past due amount for at least one prior month is not received by the Administration in full before the effective date of the discontinuance.~~
- ~~D. Discontinuance rescinded. The Administration shall rescind the discontinuance and continue eligibility if the past due amount for at least one prior month is received by the Administration in full before the effective date of the discontinuance.~~
- ~~E. Discontinuance of eligibility. To receive coverage from the time an appeal and request for hearing is filed for a discontinuance of eligibility until a Director's decision is made.~~
- ~~1. A member shall:~~
    - ~~a. File an appeal and request for hearing prior to the effective date of the discontinuance.~~
    - ~~b. Submit the full monthly premium amount to the Administration prior to the date of the discontinuance, and~~
    - ~~c. Continue to pay the full monthly premium amount each month during the hearing process.~~
  - ~~2. Failure of the member to pay the full monthly premium shall result in the loss of eligibility effective the first day of the next month.~~
  - ~~3. If the decision is upheld, the Administration shall not refund any premium amounts that have been paid during the hearing process.~~
- ~~F. Increase in premium amount. To stop the Administration from increasing the premium amount from the time an appeal and request for hearing is filed until a Director's decision is made.~~
- ~~1. A member shall file an appeal and request for hearing prior to the effective date of the action.~~
  - ~~2. If the decision to increase the premium is upheld, the member shall be responsible for paying the higher premium retroactively from the proposed effective date of the increase in the premium amount that is being appealed.~~
- ~~G. Imposition of an enrollment fee and premium. To receive coverage from the time an appeal and request for hearing is filed for an imposition of an enrollment fee and premium until a Director's decision is made.~~
- ~~1. A member shall file an appeal and request for hearing in accordance with the time frame as specified in R9-34-107.~~
  - ~~2. A member shall pay the enrollment fee and premium as billed by the Administration.~~
  - ~~3. If the decision determines the imposition of the enrollment fee and premium is incorrect then the enrollment fee and premium will be refunded to the member.~~
- ~~H. Method of payment. To continue coverage a member shall pay the premium by:~~
- ~~1. Cashier's check,~~
  - ~~2. Money order, or~~
  - ~~3. Other form approved by the Administration.~~

**R9-31-1726. Payment of Outstanding Premium and Enrollment Fees Repeal**

~~As a condition of eligibility, a parent shall be required to pay any unpaid enrollment fee and premiums owed to the Administration that were previously incurred. The unpaid enrollment fee and unpaid premiums consist of:~~

- ~~1. All unpaid enrollment fees and premiums for the parent that were incurred prior to becoming eligible,~~
- ~~2. All unpaid premiums for the parent's children, and~~
- ~~3. All unpaid enrollment fees and premiums for the parent's spouse with whom the parent resides, and with whom the parent resided at the time the premium and enrollment fee was incurred.~~

**R9-31-1727. Payment Due Date for Current Month Repeal**

- ~~A. The monthly premium payment is due on the 15th day of the month for coverage of that month. This would be considered a current payment.~~
- ~~B. The enrollment fee is due with the first monthly premium payment on the 15th day of the month for coverage. This would be considered a current payment.~~

**R9-31-1728. Payment Received Date Repeal**

~~A payment is considered received on the date that the Administration receives and credits the payment to the member's account.~~

**R9-31-1729. Past Due Payment Repeal**

- ~~A. Past due payment date. A payment is considered past due if the Administration does not receive the payment by the 15th day of the month.~~
- ~~B. Payment not received. If payment for a month is not received in full by the last working day of the month in which the payment is due, the Administration shall include the past and current due amounts in the next billing statement.~~

**R9-31-1730. Payment Type Repeal**

~~A premium and an enrollment fee shall be paid to the Administration by a:~~

- ~~1. Cashier's check,~~
- ~~2. Personal check,~~
- ~~3. Money order,~~
- ~~4. Electronic debit, or~~
- ~~5. Other form approved by the Administration.~~

**R9-31-1731. Returned Check Repeal**

~~The Administration shall not accept a personal check when the premium or enrollment fee has been previously paid with a personal check that was returned to the Administration because of insufficient funds.~~

**R9-31-1732. Payment In Advance Repeal**

~~A premium may be paid in advance.~~

**R9-31-1733. Reimbursement of a Premium Repeal**

- ~~A. A premium paid in advance is nonrefundable, unless the member is disenrolled at least 15 days prior to the month of coverage.~~
- ~~B. A premium and enrollment fee paid during an appeal and request for hearing process is applied as specified in R9-31-1724.~~

**R9-31-1734. Allocation of Payment for an Eligible Member Repeal**

~~Except for payments specified in R9-31-1724 of this Article, all payments received for eligible members shall first be applied to any past due amounts for prior months owed to the Administration for a child determined eligible under Article 3 of this Chapter, next to the unpaid enrollment fee for a parent eligible under this Article, and then to the past due amounts for prior months owed to the Administration for a parent determined eligible under this Article. Any remaining amounts shall first be applied to the amount due for the current month for a child eligible under Article 3 of this Chapter and then to the amount due for the current month for a parent, eligible under this Article.~~

**R9-31-1735. Change in Premium Amount Repeal**

- ~~A. When there is a decrease in the premium amount and the change is processed by the 25th day of the month, then the effective date of the change shall begin on first day following the month in which the amount of the premium change is processed.~~
- ~~B. When there is a decrease in the premium amount and the change is processed after the 25th day of the month, then the effective date of the change shall begin on the first day of the second month in which the amount of the premium change is processed.~~
- ~~C. When there is an increase in the premium amount, the effective date of the change shall begin with the first month following advance notice of at least ten days.~~