

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> |
|---|----------------------------------|
| R9-22-711 | Amend |
| Article 13 | New Section |
| R9-22-1301. | New Section |
| R9-22-1302. | New Section |
| R9-22-1303. | New Section |
| R9-22-1304. | New Section |
| R9-22-1305. | New Section |
| R9-22-1306. | New Section |
| R9-22-1307. | New Section |
- 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. §§ 36-2904 and 36-2903.01
- Implementing statute: A.R.S. § 36-261
- 3. The effective date of the rule:**
- The agency selected an effective date of 60 days from the date of filing with the Secretary of State as specified in A.R.S. § 41-1032(A), but no later than December 31, 2013.
- 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 Proposed Exempt Rulemaking: 17 A.A.R. 2456, December 9, 2011
- Notice of Exempt Rulemaking: 18 A.A.R. 461, February 3, 2012
- Notice of Proposed Exempt Rulemaking: 18 A.A.R. 1712, July 20, 2012
- Notice of Exempt Rulemaking: 18 A.A.R. 2074, August 24, 2012

Notice of Rulemaking Docket Opening: 19 A.A.R. 990, May 10, 2013

Notice of Proposed Rulemaking: 19 A.A.R. 972, May 10, 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 An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking: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 Children's Rehabilitative Services (CRS) program was administered by the Arizona Department of Health Services (ADHS) until SB1619 Arizona Laws 2011 Regular Session was enacted directing the Administration to administer the CRS program.

SB1619 specified that the existing CRS program rules adopted by ADHS were left in effect "until superseded by rules adopted by [AHCCCS]." The Legislature enacted this change as part of a larger initiative by ADHS and AHCCCS to better integrate conditions provided to medically eligible persons with CRS-related conditions while at the same time streamlining the administration of the program. Therefore, AHCCCS finalized rules to transition the ADHS requirements under AHCCCS as published in the Arizona Administrative Register, August 24, 2012 Arizona Laws 2011, Regular Session, Ch. 31, § 34 exempted AHCCCS from the requirements of A.R.S. Title 41, Ch.6. These rules were promulgated under an exemption which was subsequently repealed.

SB1528 Laws 2012, Chapter 299, Section 7 repealed the rule-making exemption authority and Section 8 stipulated that rules adopted through the previous year's authority would expire December 31, 2013, absent specific statutory authority for those rules.

Under this rulemaking AHCCCS is repromulgating and making a few minor revisions including "club foot" as a medical condition that was always a qualifying condition through

DHS policy but not stipulated in rule. In addition, rule has been updated to note that an American Indian or Comprehensive Medical and Dental Plan (CMDP) member is required to be enrolled with the CRS contractor.

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 revising the regulations.

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:

Beyond the cost of rulemaking itself, there should be minimal estimated impact expected from the transition of existing rules from ADHS to AHCCCS.

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. R9-22-711(C)(5) had the cross-reference to statute erroneously stricken. This cross-reference should remain. AHCCCS did not list the subsections under R9-22-711 (A), (B), and (D), with the language “No change” on the NOPR. The subsections have been added to the NOFR and are correctly listed with “No change”. 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:

No comments were received as of the close of the comment period of June 10, 2013.

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:

There is no federal law applicable to the subject of the rule.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable.

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:

TITLE 9. HEALTH SERVICES

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

ARTICLE 7. STANDARDS FOR PAYMENTS

Section

R9-22-711. Copayments

ARTICLE 13. ~~Repealed~~ CHILDREN'S REHABILITATIVE SERVICES (CRS)

Section

R9-22-1301. ~~Repealed~~ Children's Rehabilitative Services (CRS Related Definitions)

R9-22-1302. ~~Repealed~~ Children's Rehabilitative Services (CRS) Eligibility Requirements

R9-22-1303. ~~Repealed~~ Medical Eligibility

R9-22-1304. ~~Repealed~~ Referral and Disposition of CRS Medical Eligibility Determination

R9-22-1305. ~~Repealed~~ CRS Redetermination

R9-22-1306. ~~Repealed~~ Transition or Termination

R9-22-1307. ~~Repealed~~ Covered Services

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-22-711. Copayments

A. No change

1. No change
2. No change
3. No change

B. No change

1. No change
2. No change
3. No change
4. No change

C. The following individuals are exempt from AHCCCS copayments:

1. No change
2. No change
3. An individual eligible for the Arizona ~~Long-term~~ Long-Term Care Program in A.R.S. § 36-2931;
4. No change
5. An individual eligible for the Children's Rehabilitative Services program under A.R.S. § 36-2906(E);
6. No change
7. No change
8. An American Indian individual enrolled in a health plan and ~~who~~ has received services through an IHS facility, tribal 638 facility or urban Indian health program.

D. No change

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change

- 7. No change
- 8. No change
- 9. No change
 - a. No change
 - b. No change
 - c. No change

E. No change

- 1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change

- 2. No change

F. No change

G. No change

H. No change

I. No change

ARTICLE 13. ~~Repealed~~ CHILDREN’S REHABILITATIVE SERVICES (CRS)

R9-22-1301. ~~Repealed~~ Children’s Rehabilitative Services (CRS) related Definitions

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

“Active treatment” means there is a current need for treatment or evaluation for continuing treatment of the CRS qualifying condition(s) or it is anticipated that treatment or evaluation for continuing treatment of the CRS qualifying condition(s) will be needed within the next 18 months from the last date of service for treatment of any CRS qualifying condition.

“CRS application” means a submitted form with any additional documentation required by the Administration to determine whether an individual is medically eligible for CRS.

"Chronic" means expected to persist over an extended period of time.

"CRS condition" means any of the covered medical condition(s) in R9-22-1303.

"CRS provider" means a person who is authorized by employment or written agreement with the Administration to provide covered CRS medical services to a member or covered support services to a member or a member's family.

"Functionally limiting" means a restriction having a significant effect on an individual's ability to perform an activity of daily living as determined by a CRS provider.

"Medically eligible" means meeting the medical eligibility requirements of R9-22-1303.

"Redetermination" means a decision made by the Administration regarding whether a member continues to meet the requirements in R9-22-1302.

R9-22-1302. Repealed Children's Rehabilitative Services (CRS) Eligibility Requirements

Beginning October 1, 2013 an AHCCCS member who needs active treatment for one or more of the qualifying medical condition(s) in R9-22-1303 shall be enrolled with the CRS contractor. An American Indian member shall obtain CRS services through the CRS contractor. A member enrolled in CMDP shall also obtain CRS services through the CRS contractor. Initial enrollment with the CRS contractor is limited to individuals under the age of 21. The CRS contractor shall provide covered services necessary to treat the CRS condition(s) and other services described within the CRS contract. The effective date of enrollment in CRS shall be as specified in contract.

R9-22-1303. Repealed Medical Eligibility

The following lists identify those medical condition(s) that do qualify for the CRS program as well as those that do not qualify for the CRS program. The covered condition(s) list is all inclusive. The list of condition(s) not covered by CRS is not an all-inclusive list:

1. Cardiovascular System
 - a. CRS condition(s):
 - i. Congenital heart defect,
 - ii. Cardiomyopathy,
 - iii. Valvular disorder,
 - iv. Arrhythmia,

- v. Conduction defect,
 - vi. Rheumatic heart disease,
 - vii. Renal vascular hypertension,
 - viii. Arteriovenous fistula, and
 - ix. Kawasaki disease with coronary artery aneurysm;
- b. Condition(s) not medically eligible for CRS:
- i. Essential hypertension;
 - ii. Premature atrial, nodal or ventricular contractions that are of no hemodynamic significance;
 - iii. Arteriovenous fistula that is not expected to cause cardiac failure or threaten loss of function; and
 - iv. Benign heart murmur;

2. Endocrine system:

- a. CRS condition(s):
- i. Hypothyroidism,
 - ii. Hyperthyroidism,
 - iii. Adrenogenital syndrome,
 - iv. Addison's disease,
 - v. Hypoparathyroidism,
 - vi. Hyperparathyroidism,
 - vii. Diabetes insipidus,
 - viii. Cystic fibrosis, and
 - ix. Panhypopituitarism;
- b. Condition(s) not medically eligible for CRS:
- i. Diabetes mellitus,
 - ii. Isolated growth hormone deficiency,
 - iii. Hypopituitarism encountered in the acute treatment of a malignancy, and

- iv. Precocious puberty;
3. Genitourinary system medical condition(s):
- a. CRS condition(s):
 - i. Vesicoureteral reflux, with at least mild or moderate dilatation and tortuosity of the ureter and mild or moderate dilatation of renal pelvis;
 - ii. Ectopic ureter;
 - iii. Ambiguous genitalia;
 - iv. Ureteral stricture;
 - v. Complex hypospadias;
 - vi. Hydronephrosis;
 - vii. Deformity and dysfunction of the genitourinary system secondary to trauma after the acute phase of the trauma has passed;
 - viii. Pyelonephritis when treatment with drugs or biologicals has failed to cure or ameliorate and surgical intervention is required;
 - ix. Multicystic dysplastic kidneys;
 - x. Nephritis associated with lupus erythematosus; and
 - xi. Hydrocele associated with a ventriculo-peritoneal shunt;
 - b. Condition(s) not medically eligible for CRS:
 - i. Nephritis, infectious or noninfectious;
 - ii. Nephrosis;
 - iii. Undescended testicle;
 - iv. Phimosis;
 - v. Hydrocele not associated with a ventriculo-peritoneal shunt;
 - vi. Enuresis;
 - vii. Meatal stenosis; and
 - viii. Hypospadias involving isolated glandular or coronal aberrant location of the urethralmeatus without curvature of the penis;

4. Ear, nose, or throat medical condition(s):

a. CRS condition(s):

- i. Cholesteatoma;
- ii. Chronic mastoiditis;
- iii. Deformity and dysfunction of the ear, nose, or throat secondary to trauma, after the acute phase of the trauma has passed;
- iv. Neurosensory hearing loss;
- v. Congenital malformation;
- vi. Significant conductive hearing loss due to an anomaly in one ear or both ears equal to or greater than a pure tone average of 30 decibels, that despite medical treatment, requires a hearing aid;
- vii. Craniofacial anomaly that requires treatment by more than one CRS provider; and
- viii. Microtia that requires multiple surgical interventions;

b. Condition(s) not medically eligible for CRS

- i. Tonsillitis,
- ii. Adenoiditis,
- iii. Hypertrophic lingual frenum,
- iv. Nasal polyp,
- v. Cranial or temporal mandibular joint syndrome,
- vi. Simple deviated nasal septum,
- vii. Recurrent otitis media,
- viii. Obstructive apnea,
- ix. Acute perforation of the tympanic membrane,
- x. Sinusitis,
- xi. Isolated preauricular tag or pit, and
- xii. Uncontrolled salivation;

5. Musculoskeletal system medical condition(s):

a. CRS condition(s):

- i. Achondroplasia;

- ii. Hypochondroplasia;
- iii. Diastrophic dysplasia;
- iv. Chondrodysplasia;
- v. Chondroectodermal dysplasia;
- vi. Spondyloepiphyseal dysplasia;
- vii. Metaphyseal and epiphyseal dysplasia;
- viii. Larsen syndrome;
- ix. Fibrous dysplasia;
- x. Osteogenesis imperfecta;
- xi. Rickets;
- xii. Enchondromatosis;
- xiii. Juvenile rheumatoid arthritis;
- xiv. Seronegative spondyloarthropathy;
- xv. Orthopedic complications of hemophilia;
- xvi. Myopathy;
- xvii. Muscular dystrophy;
- xviii. Myoneural disorder;
- xix. Arthrogryposis;
- xx. Spinal muscle atrophy;
- xxi. Polyneuropathy;
- xxii. Chronic stage bone infection;
- xxiii. Chronic stage joint infection;
- xxiv. Upper limb amputation;
- xxv. Syndactyly;
- xxvi. Kyphosis;
- xxvii. Scoliosis;
- xxviii. Congenital spinal deformity;
- xxix. Congenital or developmental cervical spine abnormality;
- xxx. Hip dysplasia;
- xxxi. Slipped capital femoral epiphysis;
- xxxii. Femoral anteversion and tibial torsion;

- xxxiii. Legg-Calve-Perthes disease;
 - xxxiv. Lower limb amputation, including prosthetic sequelae of cancer;
 - xxxv. Metatarsus adductus;
 - xxxvi. Leg length discrepancy of five centimeters or more;
 - xxxvii. Metatarsus primus varus;
 - xxxviii. Dorsal bunions;
 - xxxix. Collagen vascular disease;
 - xxxx. Benign bone tumor;
 - xxxxi. Deformity and dysfunction secondary to musculoskeletal trauma;
 - xxxxii. Osgood Schlatter's disease that requires surgical intervention;
 - xxxxiii. Complicated flat foot, such as rigid foot, unstable subtalar joint, or significant calcaneus deformity; and
 - xxxxiv. Club foot
- b. Condition(s) not medically eligible for CRS
- i. Ingrown toenail;
 - ii. Back pain with no structural abnormality;
 - iii. Ganglion cyst;
 - iv. Flat foot other than complicated flat foot;
 - v. Fracture;
 - vi. Popliteal cyst;
 - vii. Simple bunion; and
 - viii. Carpal tunnel syndrome;
 - ix. Deformity and dysfunction secondary to trauma or injury if:
 - 1. Three months have not passed since the trauma or injury; and
 - 2. Leg length discrepancy of less than five centimeters at skeletal maturity.
6. Gastrointestinal system medical condition(s):
- a. CRS condition(s):
 - i. Tracheoesophageal fistula;

- ii. Anorectal atresia;
 - iii. Hirschsprung's disease;
 - iv. Diaphragmatic hernia;
 - v. Gastroesophageal reflux that has failed treatment with drugs or biologicals and requires surgery;
 - vi. Deformity and dysfunction of the gastrointestinal system secondary to trauma, after the acute phase of the trauma has passed;
 - vii. Biliary atresia;
 - viii. Congenital atresia, stenosis, fistula, or rotational abnormalities of the gastrointestinal tract;
 - ix. Cleft lip;
 - x. Cleft palate;
 - xi. Omphalocele; and
 - xii. Gastroschisis;
- b. Condition(s) not medically eligible for CRS
- i. Malabsorption syndrome, also known as short bowel syndrome,
 - ii. Crohn's disease,
 - iii. Hernia other than a diaphragmatic hernia,
 - iv. Ulcer disease,
 - v. Ulcerative colitis,
 - vi. Intestinal polyp,
 - vii. Pyloric stenosis, and
 - viii. Celiac disease;

7. Nervous system medical condition(s):

- a. CRS condition(s):
 - i. Uncontrolled seizure disorder, in which there have been more than two seizures with documented adequate blood levels of one or more medications;
 - ii. Cerebral palsy;
 - iii. Muscular dystrophy or other myopathy;

- iv. Myoneural disorder;
 - v. Neuropathy, hereditary or idiopathic;
 - vi. Central nervous system degenerative disease;
 - vii. Central nervous system malformation or structural abnormality;
 - viii. Hydrocephalus;
 - ix. Craniosynostosis of a sagittal suture, a unilateral coronal suture, or multiple sutures in a child less than 18 months of age;
 - x. Myasthenia gravis, congenital or acquired;
 - xi. Benign intracranial tumor;
 - xii. Benign intraspinal tumor;
 - xiii. Tourette's syndrome;
 - xiv. Residual dysfunction after resolution of an acute phase of vascular accident, inflammatory condition, or infection of the central nervous system;
 - xv. Myelomeningocele, also known as spina bifida;
 - xvi. Neurofibromatosis;
 - xvii. Deformity and dysfunction secondary to trauma in an individual;
 - xviii. Residual dysfunction after acute phase of near drowning; and
 - xix. Residual dysfunction after acute phase of spinal cord injury;
- b. Condition(s) not medically eligible for CRS
- i. Headaches;
 - ii. Central apnea secondary to prematurity;
 - iii. Near sudden infant death syndrome;
 - iv. Febrile seizures;
 - v. Occipital plagiocephaly, either positional or secondary to lambdoidal synostosis;
 - vi. Trigonocephaly secondary to isolated metopic synostosis;
 - vii. Spina bifida occulta;
 - viii. Near drowning in the acute phase; and
 - ix. Spinal cord injury in the acute phase;
 - x. Chronic vegetative state;

8. Ophthalmology:

a. CRS condition(s):

- i. Cataracts;
- ii. Glaucoma;
- iii. Disorder of the optic nerve;
- iv. Non-malignant enucleation and post-enucleation reconstruction;
- v. Retinopathy of prematurity; and
- vi. Disorder of the iris, ciliary bodies, retina, lens, or cornea;

b. Condition(s) not medically eligible for CRS

- i. Simple refraction error,
- ii. Astigmatism,
- iii. Strabismus, and
- iv. Ptosis;

9. Respiratory system medical condition(s):

a. CRS condition(s):

- i. Anomaly of the larynx, trachea, or bronchi that requires surgery; and
- ii. Nonmalignant obstructive lesion of the larynx, trachea, or bronchi;

b. Condition(s) not medically eligible for CRS:

- i. Respiratory distress syndrome,
- ii. Asthma,
- iii. Allergies,
- iv. Bronchopulmonary dysplasia,
- v. Emphysema,
- vi. Chronic obstructive pulmonary disease, and
- vii. Acute or chronic respiratory condition requiring venting for the neuromuscularly impaired;

10. Integumentary system medical condition(s):

a. CRS condition(s):

- i. A craniofacial anomaly that is functionally limiting.
- ii. A burn scar that is functionally limiting.
- iii. A hemangioma that is functionally limiting.
- iv. Cystic hygroma, and
- v. Complicated nevi requiring multiple procedures;

b. Condition(s) not medically eligible for CRS:

- i. A deformity that is not functionally limiting.
- ii. A burn other than a burn scar that is functionally limiting;
- iii. Simple nevi.
- iv. Skin tag.
- v. Port wine stain.
- vi. Sebaceous cyst.
- vii. Isolated malocclusion that is not functionally limiting.
- viii. Pilonidal cyst.
- ix. Ectodermal dysplasia, and
- x. A craniofacial anomaly that is not functionally limiting;

11. Metabolic CRS condition(s) :

- i. Amino acid or organic acidopathy.
- ii. Inborn error of metabolism.
- iii. Storage disease.
- iv. Phenylketonuria.
- v. Homocystinuria.
- vi. Maple syrup urine disease.
- vii. Biotinidase deficiency.

12. Hemoglobinopathies CRS condition(s):

- a. Sickle cell anemia.

b. Thalassemia.

13. Medical/behavioral condition(s) which are not medically eligible for CRS:

- a. Allergies;
- b. Anorexia nervosa or obesity;
- c. Autism;
- d. Cancer;
- e. Depression or other mental illness;
- f. Developmental delay;
- g. Dyslexia or other learning disabilities;
- h. Failure to thrive;
- i. Hyperactivity;
- j. Attention deficit disorder; and
- k. Immunodeficiency, such as AIDS and HIV.

R9-22-1304. Repealed Referral and Disposition of CRS Medical Eligibility Determination

A. To refer an individual for a CRS medical eligibility determination a person shall submit to the Administration the following information:

- 1. CRS application,
- 2. Documentation from a provider who evaluated the individual, stating the individual's diagnosis;
- 3. Diagnostic test results that support the individual's diagnosis, and
- 4. Documentation of the individual's need for specialized treatment of the CRS condition through medical, surgical, or therapy modalities.

B. The Administration shall notify the CRS applicant, member or authorized representative of the outcome of the determination within 60 days of receipt of information required under subsection (A). The member may appeal the determination under Chapter 34.

R9-22-1305. ~~Repealed~~ CRS Redetermination

A. Continued eligibility for the CRS program shall be redetermined by verifying active treatment status of the CRS qualifying medical condition(s) as follows:

1. The CRS Contractor is responsible for notifying the AHCCCS Administration of the date when a CRS member is no longer in active treatment for the CRS qualifying condition(s).
2. The Administration may request, at any time, that the CRS contractor submit the medical documentation requested in the CRS medical redetermination form within the specified timeframes in contract.
3. The Administration shall notify the CRS member or authorized representative of the redetermination process.

B. If the Administration determines that a CRS member is no longer medically eligible for CRS, the Administration shall provide the CRS member or authorized representative a written notice that informs the CRS member that the Administration is transitioning the CRS member's enrollment according to R9-22-1306. The member may appeal the redetermination under Chapter 34.

C. Upon reaching his or her 21st birthday the CRS member will be enrolled with a non-CRS contractor unless the member requests to continue enrollment with the CRS contractor.

R9-22-1306. ~~Repealed~~ Transition or termination

A. The Administration shall transition a CRS member from the CRS contractor when the Administration determines the CRS member does not meet the medical eligibility requirements under this Article.

B. The Administration shall terminate a CRS member from the CRS contractor and the AHCCCS program when the Administration determines the CRS member does not meet the AHCCCS eligibility requirements. The member may appeal the termination under Chapter 34.

C. If the Administration transitions a CRS member from the CRS contractor, the Administration shall provide the CRS member, or authorized representative a written notice of transition. The member may appeal the transition under Chapter 34.

R9-22-1307. ~~Repealed~~ Covered Services

The Administration will cover medically necessary services as described within Article 2 unless otherwise specified in contract.