



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 An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

A.R.S. § 36-2903.01 requires the Administration to describe in rule how GME appropriated funds for distribution to hospitals for direct costs of the GME programs established or expanded on or after July 1, 2006. In addition the rule describes how indirect GME costs for programs located in a county with a population of less than 500,000 are calculated and distributed and how funds and certified public expenditures apply to other indirect program costs. The intention of this rulemaking is to modify the method of allocating funds for indirect GME costs to permit payments that will cover a greater portion of the costs reported by the GME programs. Pursuant to A.R.S. § 36-2903.01(G)(9), certain public entities are permitted to transfer funds to the AHCCCS Administration to support these payments. In addition, AHCCCS would like to make additional clarifying changes to the rule.

**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 these 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:**

The Administration anticipates a moderate economic impact on the implementing agency, small businesses and consumers. The proposed rulemaking intends to calculate the maximum payment for the indirect cost of graduate medical education. The rulemaking will benefit hospitals operating GME programs because the proposed rule amendment, which will not require additional State funding, will expand payments in support of graduate medical

education. Payments to Arizona training hospitals are expected to increase or enhance payments by approximately \$81,000,000 annually without use of additional State funds.

Minimal impact = \$0 - \$1M

Moderate impact = \$1M - \$100M

Maximum impact = \$100M on up

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

No changes were made between the proposed rulemaking and the final rulemaking.

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

The following comments were received as of the close of the comment period of October 13, 2015.

#	Commenter	Subsection	Comment	Response
1.	Linda Hunt Dignity Health	R9-22-712.05	On behalf of Dignity Health I would like to express our support for the Proposed Amendment to R9-22-712.05 pursuant to A.R.S. 36-2903.01 amending the Graduate Medical Education fund Allocation. I sincerely appreciate Governor Ducey’s foresight and commitment to ensuring the needs of our healthcare workforce is met and your leadership on this desperately needed Rule change.	<b>The AHCCCS Administration appreciates the support provided.</b>

#	Commenter	Subsection	Comment	Response
2.	Linda Hunt Dignity Health	R9-22-712.05	Our Creighton University School of Medicine Regional Campus at St Joseph's Medical Center is an accredited Graduate Medical Education (GME) program which provides 3 <sup>rd</sup> and 4 <sup>th</sup> year medical students the training they need to become successful physicians. Dignity Health is committed to training and recruiting the best physician's. We are able to do this through many of our own resources but would not be able to accomplish it without the assistance of the GME program. The proposed Rule change to GME allocation will have a distinct positive impact on our program as well as attracting and keeping physicians in our great state.	<b>The AHCCCS Administration appreciates the support provided.</b>
3.	Linda Hunt Dignity Health	R9-22-712.05 (D)(1)(b)	It is not clear how the CHGME payment program or other future specialty specific funding is factored in the calculation methodology paragraph (D) section (4) subsection (b). This could be a factor for specialty hospitals considering opening a residency in Psychiatry or Physical Medicine and Rehabilitation.	<b>It is not factored into the calculation methodology; it is an element of eligibility to receive the payment.</b>
4.	Linda Hunt Dignity Health	R9-22-712.05 (D)(1)(b)	Institutions that either sponsor a free-standing residency that is not fully under Medicare reimbursement (e.g., Pediatrics, Psychiatry, Physical Medicine and Rehabilitation, Medical genetics, etc.) or by their demography have a low Medicare population may be disadvantaged in the methodology.	<b>Under this provision if there are any indirect costs at all reported on the Medicare Cost Report or that are reimbursable by CHGME, then the hospital will be eligible to receive reimbursement of indirect costs.</b>

#	Commenter	Subsection	Comment	Response
5.	Linda Hunt Dignity Health	R9-22-712.05 (D)(1)(b)	While the federal GME funding program for Pediatrics (CHGME) addresses this inequity, and will be used as a replacement in the AHCCCS GME methodology, new hospitals considering sponsoring one of the residencies as described above may be at a disadvantage.	<b>The proposed changes clarify that children’s hospitals that incur indirect costs are qualified for reimbursement even though the costs may not appear on the Medicare Cost Report but are otherwise reflected in the CHGME program. The proposed changes in (D)(1)(b) do not replace or alter elements for the IME calculation; this section merely describes the hospitals which are eligible to receive IME payments.</b>
6.	Barbara Fanning Director, Government Affairs AzHHA	R9-22-712.05	The Arizona Hospital and Healthcare Association would like to thank Governor Ducey, Director Betlach and their staffs for the proposed changes to the indirect Graduate Medical Education (GME) formula. We are very supportive of this change that will make additional funding available to hospitals with residency programs. As I am sure you know, the GME program is vital to ensuring the state has adequately trained physicians who are ready to meet the increasingly critical needs of Arizona’s patients. This change will not only allow hospitals to continue to do this, but will help strengthen existing residency programs.	<b>The AHCCCS Administration appreciates the support provided.</b>

**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:**

Not applicable.

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

Not applicable. There are no federal laws that specify how to structure GME payments; also there are no federal laws that prohibit it. There is limited language in 42 CFR 438.6 stating we must take into account GME payments when making capitation payments. Our State Plan authorizes us to make GME payments.

**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

R9-22-712.05. Graduate Medical Education Fund Allocation

## ARTICLE 7. STANDARDS FOR PAYMENTS

### **R9-22-712.05. Graduate Medical Education Fund Allocation**

- A.** Graduate medical education (GME) reimbursement as of September 30, 1997. Subject to legislative appropriation, the Administration shall make a distribution based on direct graduate medical education costs as described in A.R.S. § ~~36-2903.01(H)(9)(a)~~. 36-2903.01(G)(9)(a).
- B.** Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for the expansions of GME programs approved by the Administration to hospitals for direct program costs eligible for funding under A.R.S. § ~~36-2903.01(H)(9)(b)~~ 36-2903.01(G)(9)(b). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (B)(3).
1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (B) if all of the following apply:
    - a. It is a hospital in Arizona that is the sponsoring institution of, or a participating institution in, one or more of the GME programs in Arizona;
    - b. It incurs direct costs for the training of residents in the GME programs, which costs are or will be reported on the hospital's Medicare Cost Report;
    - c. It is not administered by or does not receive its primary funding from an agency of the federal government.
  2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (B)(4) the following resident positions are eligible for consideration to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (B)(1)(c):
    - a. Filled resident positions in approved programs established as of October 1, 1999 at hospitals that receive funding as described in A.R.S. § ~~36-2903.01(H)(9)(a)~~ 36-2903.01(G)(9)(a) that are additional to the number of resident positions that were filled as of October 1, 1999; and

- b. All filled resident positions in approved programs other than GME programs described in A.R.S. § ~~36-2903.01(H)(9)(a)~~ 36-2903.01(G)(9)(a) that were established before July 1, 2006.
3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (B) shall provide the applicable information listed in this subsection to the Administration:
  - a. A GME program shall provide all of the following:
    - i. The program name and number assigned by the accrediting organization;
    - ii. The original date of accreditation;
    - iii. The names of the sponsoring institution and all participating institutions current as of the date of reporting;
    - iv. The number of approved resident positions and the number of filled resident positions current as of the date of reporting;
    - v. For programs established as of October 1, 1999, the number of resident positions that were filled as of October 1, 1999, if the program has not already provided this information to the Administration;
  - b. A hospital seeking a distribution under subsection (B) shall provide all of the following that apply:
    - i. If the hospital uses the Intern and Resident Information System (IRIS) for tracking and reporting its resident activity to the fiscal intermediary, copies of the IRIS master and assignment files for the hospital's two most recently completed Medicare cost reporting years as filed with the fiscal intermediary;
    - ii. If the hospital does not use the IRIS or has less than two cost reporting years available in the form of the IRIS master and assignment files, the information normally contained in the IRIS master and assignment files in an alternative format for the hospital's two most recently completed Medicare cost reporting years;
    - iii. At the request of the Administration, a copy of the hospital's Medicare Cost Report or any part of the report for the most recently completed cost reporting year.

4. Allocation of expansion funds. Annually the Administration shall allocate available funds to each approved GME program in the following manner:
  - a. Information provided by hospitals under subsection (B)(3)(b) shall be used to determine the program in which each eligible resident is enrolled and the number of days that each eligible resident worked in any area of the hospital complex or in a non-hospital setting under agreement with the reporting hospital during the period of assignment to that hospital. For this purpose, the Administration shall use data relating to the most recent 12-month period that is common to all information provided under subsections (B)(3)(b)(i) and (ii).
  - b. The number of eligible residents allocated to each participating institution within each approved GME program shall be determined as follows:
    - i. Total the number of days determined for each participating institution under subsection (B)(4)(a) and divide each total by 365.
    - ii. Proportionally adjust the result of subsection (B)(4)(b)(i) for each participating institution within each program according to the number of residents determined to be eligible under subsection (B)(2).
  - c. The number of allocated eligible residents determined under subsection (B)(4)(b)(ii) shall be adjusted for Arizona Medicaid utilization using the most recent Medicare Cost Report information on file with the Administration as of the date of reporting under subsection (B)(3) and the Administration's inpatient hospital claims and encounter data for the time period corresponding to the Medicare Cost Report information for each hospital. The Administration shall use only those inpatient hospital claims paid by the Administration and encounters that were adjudicated by the Administration as of the date of reporting under subsection (B)(3). The Medicaid-adjusted eligible residents shall be determined as follows:
    - i. For each hospital, the total AHCCCS inpatient hospital days of care shall be divided by the total Medicare Cost Report inpatient hospital days, multiplied by 100 and rounded up to the nearest multiple of 5 percent.
    - ii. The number of allocated eligible residents determined for each participating hospital under subsection (B)(4)(b)(ii) shall be multiplied by the percentage derived under subsection (B)(4)(c)(i) for that hospital. The number of allocated

eligible residents determined under subsection (B)(4)(b)(ii) for a participating institution that is not a hospital and not a health care facility made ineligible under subsection (B)(1)(c) shall be multiplied by the percentage derived under subsection (B)(4)(c)(i) for the program's sponsoring institution or, if the sponsoring institution is not a hospital, the sponsoring institution's affiliated hospital. The number of allocated eligible residents determined under subsection (B)(4)(b)(ii) for a participating institution that is made ineligible under subsection (B)(1)(c) shall be multiplied by zero percent.

- d. The total allocation for each approved program shall be determined by multiplying the Medicaid-adjusted eligible residents determined under subsection (B)(4)(c)(ii) by the per resident conversion factor determined below and totaling the resulting dollar amounts for all participating institutions in the program. The per resident conversion factor shall be determined as follows:
    - i. Calculate the total direct GME costs from the most recent Medicare Cost Reports on file with the Administration for all hospitals that have reported such costs.
    - ii. Calculate the total allocated residents determined under subsection (B)(4)(b)(i) for those hospitals described under subsection (B)(4)(d)(i).
    - iii. Divide the total GME costs calculated under subsection (B)(4)(d)(i) by the total allocated residents calculated under subsection (B)(4)(d)(ii).
5. Distribution of expansion funds. On an annual basis subject to available funds, the Administration shall distribute the allocated amounts determined under subsection (B)(4) in the following manner:
- a. The allocated amounts shall be distributed in the following order of priority:
    - i. To eligible hospitals that do not receive funding in accordance with A.R.S. § ~~36-2903.01(H)(9)(a)~~ 36-2903.01(G)(9)(a) for the direct costs of programs established before July 1, 2006;
    - ii. To eligible hospitals that receive funding in accordance with A.R.S. § ~~36-2903.01(H)(9)(a)~~ 36-2903.01(G)(9)(a) for the direct costs of programs established before July 1, 2006;

- b. The allocated amounts shall be distributed to the eligible hospitals in each approved program in proportion to the number of Medicaid-adjusted eligible residents allocated to each hospital within that program under subsection (B)(4)(c)(ii).
  - c. If funds are insufficient to cover all distributions within any priority group described under subsection (B)(5)(a), the Administration shall adjust the distributions proportionally within that priority group.
- C. Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for the expansions of GME programs approved by the Administration to hospitals for direct program costs eligible for funding under A.R.S. § ~~36-2903.01(H)(9)(e)(i)~~ 36-2903.01(G)(9)(c)(i). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (C)(3).
1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (C) if it meets all the conditions of subsections (B)(1)(a) through (c).
  2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (C)(4), the following resident positions are eligible for consideration to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (B)(1)(c):
    - a. All filled resident positions in approved programs established on or after July 1, 2006; and
    - b. For approved programs established on or after July 1, 2006 that have been established for less than one year as of the date of reporting under subsection (C)(3) and have not yet filled their first-year resident positions, all prospective residents reasonably expected by the program to be enrolled as a result of the most recently completed annual resident match.
  3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (C) shall provide to the Administration:
    - a. A GME program shall provide all of the following:
      - i. The requirements of subsections (B)(3)(a)(i) through (iv);

- ii. The academic year rotation schedule on file with the program current as of the date of reporting; and
    - iii. For programs described under subsection (C)(2)(b), the number of residents expected to be enrolled as a result of the most recently completed annual resident match.
  - b. A hospital seeking a distribution under subsection (C) shall provide the requirements of subsection (B)(3)(b).
4. Allocation of expansion funds. Annually the Administration shall allocate available funds to approved GME programs in the following manner:
- a. Information provided by hospitals in accordance with subsection (B)(3)(b) shall be used to determine the program in which each eligible resident is enrolled and the number of days that each eligible resident worked in any area of the hospital complex or in a non-hospital setting under agreement with the reporting hospital during the period of assignment to that hospital. For this purpose, the Administration shall use data relating to the most recent 12-month period that is common to all information provided in accordance with subsections (B)(3)(b)(i) and (ii).
  - b. For approved programs whose resident activity is not represented in the information provided in accordance with subsection (B)(3)(b), information provided by GME programs under subsection (C)(3)(a) shall be used to determine the number of days that each eligible resident is expected to work at each participating institution.
  - c. The number of eligible residents allocated to each participating institution for each approved GME program shall be determined by totaling the number of days determined under subsections (C)(4)(a) and (b) and dividing the totals by 365.
  - d. The number of allocated residents determined under subsection (C)(4)(c) shall be adjusted for Arizona Medicaid utilization in accordance with subsection (B)(4)(c).
  - e. The total allocation for each approved program shall be determined in accordance with subsection (B)(4)(d).
5. Distribution of expansion funds. On an annual basis subject to available funds, the Administration shall distribute the allocated amounts determined under subsection (C)(4) to the eligible hospitals in each approved program in proportion to the number of

Medicaid-adjusted eligible residents allocated to each within that program under subsection (C)(4)(d).

**D.** Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for GME programs approved by the Administration to hospitals for indirect program costs eligible for funding under A.R.S. § ~~36-2903.01(H)(9)(e)(ii)~~ 36-2903.01(G)(9)(c)(ii). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (D)(3).

1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (D) if all of the following apply:

a. It is a hospital in Arizona that is the sponsoring institution of, or a participating institution in, one or more of the GME programs in Arizona or is the base hospital for one or more of the GME programs in Arizona whose sponsoring institutions are not hospitals;

b. It incurs indirect program costs for the training of residents in the GME programs, which are or will be calculated on the hospital's Medicare Cost Report or are reimbursable under the Children's Hospitals Graduate Medical Education Payment Program administered by HRSA;

c. It is not administered by or does not receive its primary funding from an agency of the federal government.

2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (D)(4) the following resident positions are eligible for consideration to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (D)(1)(c):

a. Any filled resident position in an approved program that includes a rotation of at least one month per year in a county other than Maricopa or Pima whose population was less than 500,000 persons at the time the residency rotation was added to the academic year rotation schedule;

b. For approved programs that have been established for less than one year as of the date of reporting under subsection (D)(3) and have not yet filled their first-year resident

- positions, all prospective residents reasonably expected by the program to be enrolled as a result of the most recently completed annual resident match who will perform rotations of at least one month per year in a county other than Maricopa or Pima whose population was less than 500,000 persons at the time the residency rotation was added to the academic year rotation schedule.
3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (D) shall provide to the Administration:
    - a. A GME program shall provide all of the following:
      - i. The requirements of subsections (B)(3)(a)(i) through (iv);
      - ii. The academic year rotation schedule on file with the program current as of the date of reporting;
      - iii. For programs described under subsection (D)(2)(c), the number of residents expected to be enrolled as a result of the most recently completed annual resident match.
    - b. A hospital seeking a distribution under subsection (D) shall provide the requirements of subsection (B)(3)(b)(iii).
  4. Allocation of funds for indirect program costs. Annually the Administration shall allocate available funds to approved GME programs in the following manner:
    - a. Using the information provided by programs under subsection (D)(3), the Administration shall determine for each program the number of residents in the program who are eligible under subsection (D)(2) and the number of months per year that each eligible resident will perform rotations in counties described by subsection (D)(2), multiply the number of eligible residents by the number of months and multiply the result by the per resident per month conversion factor determined under subsection (D)(4)(b).
    - b. Using the most recent Medicare Cost Reports on file with the Administration for all hospitals that have calculated a Medicare indirect medical education payment, the Administration shall determine a per resident per month conversion factor as follows:
      - i. Calculate each hospital's Medicaid share by dividing the AHCCCS inpatient hospital days of care by the total inpatient hospital days from the Medicare Cost Report. For this purpose, the Administration shall use the information described

by subsection (B)(4)(c) for adjusting allocated residents for Arizona Medicaid utilization.

- ii. Calculate each hospital's Medicare share by dividing the Medicare inpatient days on the Medicare Cost Report by the total inpatient hospital days on the Medicare Cost Report.
  - iii. Divide the Medicaid share by the Medicare share and multiply the resulting ratio by the indirect medical education payment calculated on the Medicare Cost Report.
  - iv. Total the results for all hospitals, divide the result by the total allocated residents determined under subsection (B)(4)(b)(ii) for these hospitals, and divide that result by 12.
5. Distribution of funds for indirect program costs. On an annual basis subject to available funds, the Administration shall distribute ~~the allocated amounts determined under subsection (D)(4) to the program's sponsoring hospital or the program's base hospital if the sponsoring institution is not a hospital, up to but not exceeding:~~
- a. ~~The amount calculated for the hospital at subsection (D)(4)(b)(iii), or~~
  - b. ~~The median of all amounts calculated at subsection (D)(4)(b)(iii) if no amount was calculated for the hospital.~~ to each eligible hospital the amount calculated for the hospital at subsection (D)(4)(a).
- E.** Reallocation of funds. If funds appropriated for subsection (B) are not allocated by the Administration and funds appropriated for subsections (C) and (D) are insufficient to cover all distributions under subsections (C)(5) and (D)(5), the funds not allocated under subsection (B) shall be allocated under subsections (C) and (D) to the extent of the calculated distributions. If funds are insufficient to cover all distributions under subsections (C)(5) and (D)(5), the Administration shall adjust the distributions proportionally. If funds appropriated for subsections (C) and (D) are not allocated by the Administration and funds appropriated for subsection (B) are insufficient to cover all distributions under subsection (B)(5), the funds not allocated under subsections (C) and (D) shall be allocated under subsection (B) to the extent of the calculated distributions.
- F.** The Administration may enter into intergovernmental agreements with local, county, and tribal governments wherein local, county and tribal governments may transfer funds or

certify public expenditures to the Administration. Such funds or certification, subject to approval by CMS, will be used to qualify for additional federal funds. Those funds will be used for the purposes of reimbursing hospitals that are eligible under subsection (D)(1) and specified by the local, county, or tribal government for indirect program costs other than those reimbursed under subsection (D). The Administration shall allocate available funds ~~Funds transferred and available under this subsection shall be distributed~~ in accordance with subsection (D) except that reimbursement with such funds is not limited to resident positions or rotations in counties with populations of less than 500,000 persons. On an annual basis subject to available funds, the Administration shall distribute to each eligible hospital the greatest among the following amounts, less any amounts distributed under subsection (D)(5):

1. The amount that results from multiplying the total number of eligible residents allocated to the hospital under subsection (B)(4)(b)(ii) by 12 by the per resident per month conversion factor determined under subsection (D)(4)(b);
2. The amount calculated for the hospital at subsection (D)(4)(b)(iii); or
3. The median of all amounts calculated at subsection (D)(4)(b)(iii) if the hospital does not have an indirect medical education payment calculated on the Medicare Cost Report.