

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 34. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

PREAMBLE

1. Article, Part, or Section Affected (as applicable)

R9-34-101

Rulemaking Action:

Amend

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

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

Implementing statute: A.R.S. § 36-2903.01

3. The effective date of the rule:

As specified in A.R.S. § 41-1032(A)(4), the Administration requests an immediate effective date to provide a benefit to the public and a penalty is not associated with a violation of the rule. The Administration believes the rule meets this requirement because the rule is an update to align with the existing language of the AHCCCS State Plan and Interagency Agreements.

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: 25 A.A.R. 3654, December 20, 2020.

Notice of Proposed Rulemaking: 25 A.A.R. 3611, December 20, 2020.

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 An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

This rulemaking amends R9-34-101 and is the first rule package of a broader rulemaking to amend the grievance and appeals system rules. This particular rulemaking will amend R9-34-101 to clarify the process for requesting a State Fair Hearing regarding an adverse action affecting AHCCCS eligibility. The broader grievance and appeals rulemaking, to be filed at a later date, will amend current AHCCCS regulations for the overall administrative grievance and appeals process, including the process for requesting an administrative hearing and will encompass eligibility-related matters as well as non-eligibility related matters such as member service appeals, provider claim disputes, contractor sanctions, provider terminations, and discharges of AHCCCS members from nursing facilities. Other subjects to be addressed in the broader grievance and appeals rulemaking include, but are not limited to, service authorization requests, grievance matters, issuance of notices of action and adverse benefit determinations, timeframes for resolution, and member protections. To enhance understanding by the public as well as participants, the rules will delineate the rights and responsibilities of participants in the grievance and appeals process as well as clarify operational processes, including the various steps of the dispute resolution process. Furthermore, the rulemakings will reduce ambiguity, in part, by delineating State grievance and appeals system requirements, including the dispute resolution process for providers and contractors, and by identifying the administrative entity responsible for particular evidentiary hearings. The grievance and appeals system rulemaking is necessary to update the rules with federal and state provisions and to accurately delineate the roles and responsibilities of the various entities involved in the grievance and appeals system, including the hearing process, and to enhance general understanding of the complex dispute resolution process. Failure to amend current rules will leave in place regulations which do not correctly set forth current requirements and operations, causing compliance issues and ambiguity. The proposed rulemaking will assist applicants, members, contractors, and providers to better understand the procedural and substantive aspects of the grievance and appeals process across the system, promote compliance, reduce confusion, improve efficiency, and align rules with State and federal provisions.

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:

This rulemaking does not diminish a previous grant of authority of a political subdivision.

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

The rulemaking does not change which state agencies handle which administrative appeals under eligibility determinations by the Administration for AHCCCS coverage. Since this is a clarifying change for the public, the Administration does not anticipate any economic, small business, or consumer impact.

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

No changes were made to the proposed rulemaking.

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 made regarding the rulemaking.

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 have been prescribed.

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

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:

A.R.S. Title 6, Chapter 9, Title 36, Chapter 29, Article 3.01, and Title 41, Chapter 6, as well as A.A.C. Chapter 22, Article 15, Chapter 28, Chapter 29, Chapter 30, and Chapter 34, Article 102.

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:

ARTICLE 1. REQUEST FOR ELIGIBILITY HEARING

Sections

R9-34-101.

~~Purpose~~ Application of Chapter

ARTICLE 1. REQUEST FOR ELIGIBILITY HEARING

R9-34-101. Purpose-Application of Chapter

- A. This Article establishes the requirements and process for a petitioner to request a State Fair Hearing regarding an adverse action affecting AHCCCS eligibility. ~~Except for the adverse action in R9-34-102(A)(5), this Article does not apply to a person determined eligible by the Arizona Department of Economic Security under 9 A.A.C. 22, Article 14.~~
- B. This Article applies to appeals of eligibility determinations made by AHCCCS including determinations for the aged, blind, or disabled (A.A.C. Chapter 22, Article 15), the Arizona Long Term Care System (Chapter 28), the Medicare Cost Sharing Program (Chapter 29), the Medicare Part D Program (Chapter 30), and adverse actions regarding premiums and copayments described in R9-34-102(A)(5). Hearings on these appeals are conducted as described in this Article, A.R.S. § 36-2903.01(B)(4) and the Arizona Administrative Procedures Act in A.R.S. Title 41, Chapter 6.
- C. The Arizona Department of Economic Security conducts appeals of eligibility under the procedures in A.R.S. Title 6, Chapter 9 for those eligibility determinations made by the Department including:
1. When the request for a State Fair Hearing is made for an individual whose eligibility is determined using MAGI-based income,
 2. When the request for a State Fair Hearing is made on behalf of more than one person in the same household where at least one person's eligibility is based on MAGI-based income,
 3. When the request for State Fair Hearing of AHCCCS eligibility is made at or near the same time as a request for the administrative review of an eligibility determination arising from the same facts and circumstances for any other public assistance program administered by the Department of Economic Security.