NOTICE OF EMERGENCY RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - ARIZONA LONG-TERM CARE SYSTEM

PREAMBLE

1. Permission to proceed with this emergency rulemaking was granted under A.R.S. § 41-1039 by the governor on:

October 12, 2025

2.

Article, Part, or Section Affected (as applicable)	Rulemaking Action
Article 12	New Article
R9-28-1201	New Section
R9-28-1202	New Section
R9-28-1203	New Section
R9-28-1204	New Section
R9-28-1205	New Section
R9-28-1206	New Section
R9-28-1207	New Section

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

Authorizing statute: A.R.S. § 36-2970.01(D)

Implementing statute: A.R.S. § 36-2970.01(D)

4. The effective date of the rule:

Effective immediately upon filing with the Office of the Secretary of State.

Emergency rulemaking and an immediate effective date are necessary for multiple reasons: First, A.R.S. § 36-2970.01(D) directs AHCCCS, "[o]n or before October 1, 2025," to adopt "a strengthened standardized assessment tool to determine the need for extraordinary care for minor children." Emergency rulemaking will allow AHCCCS to comply with state law while it proceeds with regular rulemaking. Second, AHCCCS has conducted extensive public engagement and collaboration regarding the Home and Community Based Services (HCBS) Needs Tool (HNT) in anticipation of the October 1 deadline and has developed a strengthened assessment tool. AHCCCS is initiating emergency rulemaking to adopt the tool and to incorporate recent public input on its provisions. AHCCCS will continue to consider stakeholder comments through regular rulemaking. Third, the HNT outlined in the emergency rulemaking serves the public interest and welfare because it will improve care delivery and promote uniformity in the assessment process while also ensuring the Arizona Long Term Care System remains budget neutral, consistent with federal requirements, and sustainable for those who utilize the services.

Effective for 180 days after the filing with the Secretary of State, A.R.S. § 41-1026.

5. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the current record of the emergency rule:

Not applicable

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

Name: Sladjana Kuzmanovic

Title: Senior Rule Analyst

Division: AHCCCS Office of General Counsel

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

The Arizona Long Term Care System is Arizona's Medicaid program administered by the AHCCCS Administration pursuant to Arizona Revised Statutes, Title 36, Chapter 29, Article 2 for individuals who are elderly or have physical or developmental disabilities. Individuals eligible for ALTCS are determined to be at risk of institutionalization. This rulemaking describes the assessment process for direct care and habilitation services for ALTCS members through use of the HNT. The Arizona Legislature directed AHCCCS "[o]n or before October 1, 2025," to adopt "a strengthened standardized assessment tool to determine the need for extraordinary care for minor children." A.R.S. § 36-2970.01(D). As noted above (see section 4), AHCCCS is initiating emergency rulemaking to immediately adopt the strengthened standardized assessment tool as required by A.R.S. § 36-2970.01(D) while it pursues regular rulemaking.

8. 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:

Not applicable

9. 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

10. All matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include but are not limited to:

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:

Federal law sets forth general provisions for an annual assessment and a person-centered planning process. The rule is 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:

Not applicable

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

Not applicable

12. An agency explanation about the situation justifying the rulemaking as an emergency rule:

See sections 4 and 7 above

13. The date the Attorney General approved the rule:

October 15, 2025

14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - ARIZONA LONG-TERM CARE SYSTEM

ARTICLE 12. ~~REPEALED~~ HCBS NEEDS TOOL AND EXTRAORDINARY CARE REVIEW

Section

R9-28-1201. ~~Repealed~~ Definitions

R9-28-1202. General Provisions

R9-28-1203. HCBS Needs Tool Process

R9-28-1204. HNT Criteria for ALTCS Members Under the Age of 18

R9-28-1205. HNT Criteria for ALTCS Members Age 18 and Older

R9-28-1206. Extraordinary Care Review

R9-28-1207. Reporting and Oversight

ARTICLE 12. ~~REPEALED~~ HCBS NEEDS TOOL AND EXTRAORDINARY CARE REVIEW

R9-28-1201. ~~Repealed~~Definitions

1. "Activities of Daily Living" or "ADL" means activities a member shall perform daily for the member's regular day-to-day necessities, including but not limited to mobility, transferring, bathing, dressing, grooming, eating, and toileting as specified in Title 9 Chapter 28 Article 1.
2. "Arizona Long Term Care System" or "ALTCS" means a Medicaid program administered by the AHCCCS Administration pursuant to Arizona Revised Statutes, Title 36, Chapter 29, Article 2 for an individual who is elderly or who has a physical or developmental disability.
3. "Case Manager" means an individual assigned as responsible for locating, accessing, and monitoring the provision of service to an individual in conjunction with a clinical team as specified in A.A.C. Title 9, Chapter 28, and Title 6, Chapter 6.
4. "Direct Care Services" means the services provided by Direct Care Workers or "DCW" that are collectively known as Direct Care Services. There are three types of services within ALTCS that are provided by DCW which consist of Attendant Care, Personal Care, and Homemaker services.
5. "Extraordinary Care" means care that exceeds the range of activities that a spouse or a legally responsible parent of a minor child would ordinarily perform in the household on behalf of the ALTCS member if the member did not have a disability or chronic illness, and which is necessary to assure the health and welfare of the member.
6. "Extraordinary Care Review" or "ECR" means a review process available to each member under the age of 18 who disagrees with the number of assessed hours for Direct Care Services, Habilitation Service, or both as a result of the age limitations set forth in the HNT.
7. "Habilitation Service" means the services that help a person get and keep skills and functioning for daily living.
8. "HCBS Needs Tool" or "HNT" means a standardized assessment instrument created by AHCCCS to evaluate the functional and support needs of ALTCS members who may benefit from receiving certain HCBS to support ADL and IADL. The HNT is specific to assessment of member need for Direct Care and Habilitation Service.
9. "Health Care Decision Maker" or "HCDM" means an individual who is authorized to make health care treatment decisions for the patient. As applicable to the situation, this may include a parent of an unemancipated minor or an individual lawfully authorized to make health care treatment decisions as specified in Arizona Revised Statutes, Title 14, Chapter 5, Article 2 or 3 or A.R.S. §§ 8-514.05, 36-3221, 36-3231 or 36-3281.
10. "Home and Community Based Services" or "HCBS" means home and community-based services, as specified in A.R.S. §§ 36-2931 and 36-2939.
11. "Instrumental Activities of Daily Living" or "IADL" means activities a member shall perform that are more complex in nature and necessary for independent living and community participation, such as managing money, preparing meals, shopping, doing laundry, and using transportation as specified in Title 9 Chapter 28 Article 1.
12. "Person-Centered Service Plan" or "PCSP" means a written plan developed through an assessment of functional need that reflects each service and support, both paid and unpaid, that are important for and important to the member in meeting the identified needs and preferences for the delivery of each service and support. The PCSP shall also reflect the member's strengths and preferences that meet the member's social, cultural, and linguistic needs, individually identified and prioritized goals and desired outcomes, and reflect

risk factors (including risks to member rights) and measures in place to minimize them, including individualized back-up plans and other strategies as needed.

R9-28-1202. General Provisions

The Administration shall require the ALTCS Case Manager to conduct a PCSP for each ALTCS member in each instance prescribed by 42 CFR § 441.725.

1. The PCSP process is an in-person meeting with the member, the HCDM if applicable, and any other person included in the Planning Team in order to develop a comprehensive PCSP.
2. The PCSP process is used to assess the member's specific HCBS needs which includes assessment for the ADL or IADL specific to Direct Care Services and Habilitation Service, utilizing the HNT as set forth in A.A.C. R9-28-1203.
3. The member will be assessed for Direct Care Services and Habilitation Service, if applicable, and if the member resides in their own home, the member or HCDM is interested in receiving HCBS, and the care team determines that HCBS services are appropriate.

R9-28-1203. HCBS Needs Tool Process

A. The Case Manager shall utilize the HNT when appropriate as outlined in A.A.C. R9-28-1202 to assess or re-assess need for Direct Care Services and Habilitation Service:
   1. At least annually if the member is currently receiving a service,
   2. The initial or annual PCSP indicates a potential need for the service,
   3. The member experiences a significant change in condition that causes the member's health to improve or decline,
   4. At any time the member requests to receive an updated assessment, or
   5. When the member or HCDM request to be evaluated for HCBS in lieu of institutional care.

B. The ALTCS Case Manager shall use the HNT to determine if Direct Care Services, Habilitation Service, or both will be authorized as part of the member's HCBS service array.
   1. The HNT shall be reviewed during each quarterly case management review meeting.
   2. The HNT shall be completed in collaboration with the member, their HCDM or anyone else requested to participate by the member or HCDM.
   3. The HNT will include documentation of the member's or HCDM's description of unique need for each task on the tool.
   4. The HNT shall identify and document each service need regardless of cost-effectiveness or service delivery method.
   5. The completed HNT shall be incorporated by reference into the member's PCSP.

R9-28-1204. HNT Criteria for ALTCS Members Under the Age of 18

A. A copy of the HNT for a member under the age of 18 shall be made available on the Administration's website.

B. For each Direct Care Services category identified in Table 1. below, a member under the age of 18 will be age-limited by the HNT, except when it is determined that the member requires Extraordinary Care pursuant to A.A.C. R9-28-1206.

C. For Habilitation Service identified in Table 2., a member under the age of 18 years will be age-limited by the HNT, except when it is determined that the member requires Extraordinary Care pursuant to A.A.C. R9-28-1206.

Table 1. Direct Care Services for Members under the Age of 18

Direct Care Services Task	Age Limitation
Housekeeping	Shall not be assessed for children under the age of 18
Laundry	Shall not be assessed for children under the age of 18
Food Shopping	Shall not be assessed for children under the age of 18
Medication Pick Up	No age limitation
Meal Preparation and Clean Up	Shall not be assessed for children under the age of 12
Specialty Meal Preparation	No age limitation
Eating and Feeding	Shall not be assessed for children under the age of 8
Specialty Eating and Feeding	No age limitation
Bathing	Shall not be assessed for children under the age of 8
Dressing	Shall not be assessed for children under the age of 7
Grooming	Shall not be assessed for children under the age of 8
Toileting	Shall not be assessed for children under the age of 4
Specialty Toileting Needs	No age limitation
Mobility	Shall not be assessed for children under the age of 4
Transferring	Shall not be assessed for children under the age of 4
General Supervision	Shall not be assessed for children under the age of 10

Table 2. Habilitation Service for Members under the Age of 18

Member Ages	Weekly Service Limits
Members under the age of 3	Habilitation Service shall not be assessed
Ages 3-5	Not to exceed 5 hours in a 7-day period
Ages 6-9	Not to exceed 9 hours in a 7-day period
Ages 10-12	Not to exceed 11 hours in a 7-day period
Ages 13-17	Not to exceed 14 hours in a 7-day period

R9-28-1205. HNT Criteria for ALTCS Members Age 18 and Older

A. A copy of the HNT shall be made available on the Administration's website.

B. Tasks assessed for a member aged 18 and older are not subject to age limitations.

R9-28-1206. Extraordinary Care Review

A. Each ALTCS Contractor, including DES/DDD, shall develop an ECR process to be submitted to the Administration for review prior to implementation.

B. The ECR process shall adhere to the provisions of this Section and shall include:

1. The purpose,

2. The notification process to members of the availability of ECR,

3. How the ECR may be requested, including the information that must be provided,

4. The type of clinician performing the ECR pursuant to Subsection C, and

5. Description of how the ECR records shall be maintained

C. The ECR process shall be conducted by a clinician with relevant professional experience and licensure or certification.

D. When a member or HCDM disagrees with the time assessed on the HNT, the ALTCS Contractor, including DES/DDD, shall notify members, in writing, of the ECR process.

E. A request for ECR shall be made in writing.

1. The request shall be made by the member or HCDM.

2. The request shall include:

a. Whether the member is seeking additional Direct Care Services, Habilitation Service, or both;

b. How many additional hours are requested for each service type, and for Direct Care services, task-specific rationale must be provided.

c. The reason the member should be granted additional time for Extraordinary Care. Any additional supporting documentation can be included for review.

F. Upon request for ECR, each ALTCS Contractor, including DES/DDD, shall:

1. Complete an ECR for Direct Care Services, Habilitation Service, or both consistent with the request.

2. Render a decision in writing.

a. Inform the member, the HCDM, and the member's Case Manager of the ECR determination which shall be incorporated into the member's PCSP by the ALTCS Case Manager.

b. When the total time assessed for Direct Care Services, Habilitation Service, or both, is increased from the prior authorized hours, the services shall be authorized for service delivery by the ALTCS Case Manager.

c. When the total time assessed for Direct Care Services and Habilitation Service, or both, is less than the amount of time requested by the member in the ECR process, the ALTCS Contractor, including DES/DDD, shall issue a Notice of Adverse Benefit Determination pursuant to A.A.C. R9-34-205.

R9-28-1207. Reporting and Oversight

A. Each ALTCS Contractor, including DES/DDD, shall maintain records of all ECR requests and outcomes, as prescribed by the Administration.

B. The Administration shall conduct a periodic audit to ensure compliance with this rule and evaluate the effectiveness of the ECR process.