

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - ADMINISTRATION

PREAMBLE

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

September 10, 2024

<u>2. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
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R9-22-2002	Amend
R9-22-2003	Amend
R9-22-2004	Amend
R9-22-2005	Amend

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. § 36-2903.01(F)

Implementing statute: A.R.S. § 36-2901.05

4. The effective date of the rule:

This rule shall become effective 60 days after a certified original and preamble are filed in the Office of the Secretary of State pursuant to A.R.S. § 41-1032(A). The effective date is (to be filled in by *Register* editor).

a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

Not applicable.

b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

Not applicable.

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 final rule:

Notice of Rulemaking Docket Opening: 31 A.A.R. 76, Issue Date: January 3, 2025, Issue Number: 1, File number: (R24-293)

Notice of Proposed Rulemaking: 31 A.A.R. 52, Issue Date: January 3, 2025, Issue Number: 1, File number: (R24-290)

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

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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 An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking: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 Administrative Code (A.A.C.) Title 9, Chapter 22, Article 20 addresses the Breast and Cervical Cancer Treatment Program. This program outlines eligibility criteria, application processes, and the scope of services provided to individuals diagnosed with breast or cervical cancer, ensuring they receive necessary medical treatment under AHCCCS. It provides access to critical medical care for breast and cervical cancer, including diagnosis, treatment, and follow-up services. Eligibility is based on diagnosis through approved screenings, income limits, and lack of insurance, ensuring comprehensive support throughout treatment. While effective, some existing rules lack the necessary clarity to fully guide individuals relying on them. The proposed changes in this rulemaking are meant for clarifying purposes and do not impose any additional burdens or costs to regulated persons. Substantive and procedural rights of members are not affected, nor are any of the programs of the Administration.

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:

The Administration did not review or rely on any study for this rulemaking.

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

The Administration does not anticipate an economic impact due to these changes since changes provide clarity and not changes in practice. The recommendations will not incur any additional costs to the implementing agency or any other agency but represent current practice. Proposed changes primarily serve to provide clarification including updating a rule stating that a woman enrolled in this program is exempt from copays and replacing references to "Chief Medical Officer" with "Administration" because the determination whether a treatment is considered the standard of care may be made by Administration staff, not necessarily by the Chief Medical Officer. Also, other technical changes are being made such as rewording a rule to clarify the reoccurrence of cancer and eligibility and removing references to a couple of rules that have been repealed. The promulgated rule represents the most cost-effective method of fulfilling AHCCCS' responsibilities while complying with all applicable state and federal laws and regulations.

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

There are no changes between the proposed rulemaking and the final rulemaking.

12. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

There were no public or stakeholder comments made about the rulemaking.

13. 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:

There are no other matters prescribed by statute applicable specifically to the Administration or this specific rulemaking.

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 the issuance of a regulatory permit. Therefore, a general permit is 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:

The rules are not more stringent than the 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 business competitiveness analysis was submitted to the Administration.

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

Not applicable

15. 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

16. The full text of the rules follows:

TITLE 9. HEALTH SERVICES
CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - ADMINISTRATION
ARTICLE 20. BREAST AND CERVICAL CANCER TREATMENT PROGRAM

Section

R9-22-2002.	General Requirements
R9-22-2003	Eligibility Criteria
R9-22-2004	Treatment
R9-22-2005	Application Process

ARTICLE 20. BREAST AND CERVICAL CANCER TREATMENT PROGRAM

R9-22-2002. General Requirements

- A. Confidentiality. The Administration shall maintain the confidentiality of a woman's records and shall not disclose a woman's financial, medical, or other confidential information except as allowed under R9-22-512.
- B. Covered services. A woman who is eligible under this Article receives all medically necessary services under Articles 2 and 12 of this Chapter.
- C. Choice of health plan. A woman who is eligible under this Article shall be enrolled with a contractor under Article 17 of this Chapter.
- D. ~~A Native American woman who receives services through Indian Health Service (IHS) or through a tribal health program qualifies for services provided under this Article if all eligibility requirements are met.~~
- E. ~~A woman qualified under this Article shall pay~~ be exempt from co-pays as described in R9-22-711(C)(9).

R9-22-2003. Eligibility Criteria

- A. General. To be eligible under this Article, a woman shall meet the requirements of this Article and:
 - 1. Be screened for breast and cervical cancer through AZNBCCEDP;
 - 2. Be less than 65 years of age;
 - 3. Be ineligible for Title XIX under Articles 14 and 15 in this Chapter and under Chapter 28;
 - 4. Receive a positive screen under subsection (A)(1), a confirmed diagnosis through AZ-NBCCEDP, and need treatment for breast cancer or cervical cancer, including a precancerous cervical lesion, as specified in R9-22-2004;
 - 5. Not be covered under creditable coverage as specified in Section 2701(c) of the Public Health Services Act, 42 U.S.C. 300gg(c). For purposes of this Article, IHS or Tribal health coverage is not considered creditable coverage as specified in 42 U.S.C. 1396a(a)(10)(A)(ii), as amended by the Native American Breast and Cervical Cancer Treatment Technical Amendment Act of 2002; and
 - 6. Meet the requirements under ~~R9-22-1417 and R9-22-1418~~ R9-22-305.
- B. Ineligible woman. A woman is ineligible under this Article if the woman:
 - 1. Is an inmate of a public institution and federal financial participation (FFP) is not available,
 - 2. Is at least age 21 but less than age 65 and resides in an Institution for Mental Disease (IMD) as defined in R922-112, except if allowed under the Administration's Section 1115 waiver, ~~or~~
 - 3. ~~No longer meets an eligibility requirement under this Article.~~
- C. Metastasized cancer. The AHCCCS ~~Chief Medical Officer~~ Administration may continue a woman's eligibility under this Article if a metastasized cancer is found in another part of the woman's body and that metastasized cancer is a known or a presumed complication of the breast or cervical cancer as determined by the treating physician.
- D. Reoccurrence of cancer. ~~A woman shall have eligibility reestablished after eligibility under this Article ends if the woman is screened under the AZ-NBCCEDP program and additional breast cancer or cervical cancer, including a pre-cancerous cervical lesion, is found. A woman's eligibility under this Article shall be reinstated if, after her initial eligibility ends, she undergoes screening through the AZ-NBCCEDP program and is diagnosed with breast cancer, cervical cancer, or a pre-cancerous cervical lesion.~~

- E. Ineligible male. A male is precluded from receiving screening and diagnostic services under the AZ-NBCCEDP program and is ineligible under this Article.

R9-22-2004. Treatment

- A. Breast cancer. Coverage for treatment for breast cancer under this Article shall conclude on the last provider visit for the specific treatment of the cancer or at the end of hormonal therapy for the cancer, whichever is later. For purposes of this subsection treatment means:
1. Lumpectomy or surgical removal of breast cancer;
 2. Chemotherapy;
 3. Radiation therapy; and
 4. A treatment for breast cancer that, as determined by the AHCCCS ~~Chief Medical Officer~~ Administration, is considered the standard of care as supported by a peer-reviewed study published in a medical journal.
- B. Pre-cancerous cervical lesion. Coverage for treatment for a pre-cancerous cervical lesion under this Article, including moderate or severe cervical dysplasia or carcinoma in situ, shall conclude on the last provider visit for specific treatment for the pre-cancerous lesion. For purposes of this subsection treatment means:
1. Conization;
 2. LEEP;
 3. Cryotherapy; and
 4. A treatment for pre-cancerous cervical lesion that, as determined by the AHCCCS ~~Chief Medical Officer~~ Administration, is considered the standard of care as supported by a peer-reviewed study published in a medical journal.
- C. Cervical cancer. Coverage for treatment for cervical cancer under this Article shall conclude on the last provider visit for the specific treatment for the cancer. For purposes of this subsection treatment means:
1. Surgery;
 2. Radiation therapy;
 3. Chemotherapy; and
 4. A treatment for cervical cancer that, as determined by the AHCCCS ~~Chief Medical Officer~~ Administration, is considered the standard of care as supported by a peer-reviewed study published in a medical journal.

R9-22-2005. Application Process

- A. Application. A woman may apply for eligibility under this Article by submitting a complete application ~~as specified in R9-22-1406~~.
- B. Submitting the application. The woman may complete and submit an application at the time of the AZ-NBCCEDP screening. The AZ-NBCCEDP staff may mail or fax the application directly to the Administration.
- C. Date of application. The date of the application is the date of the diagnostic procedure that results in a positive diagnosis for breast cancer or cervical cancer, including a pre-cancerous cervical lesion.
- D. Responsibility of a woman who is applying or who is a member. A woman who is applying or who is a member shall:
1. Provide medical insurance information, including any changes in medical insurance; and
 2. Inform the Administration about a change in address, residence, and alienage status.