

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

ARIZONA LONG-TERM CARE SYSTEM

PREAMBLE

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

R9-28-508

**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. § 36-2951

Implementing statute: A.R.S. § 36-2951

**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).

**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: 18 A.A.R. 1079, May 11, 2012

Notice of Proposed Rulemaking: 18 A.A.R. 1066, May 11, 2012

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 An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

A.R.S. § 36-2951 authorizes the Administration to provide requirements for Self-Directed Attendant Care (SDAC) services. The Administration is proposing a revision to the rule language describing the administration of insulin. An Attendant Care Worker may provide insulin and is not limited to only providing the insulin when using a sliding scale.

The Nursing Board has approved the rulemaking on March 4, 2011.

**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 for SDAC.

**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 minimal economic impact on the implementing agency, small businesses and consumers. Other attendant care options are available to the member in addition to the Self-Directed Attendant Care services described in the rule.

**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.

**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 18, 2012.

**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.

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

**ARTICLE 5. PROGRAM CONTRACTOR AND PROVIDER STANDARDS**

Section

R9-28-508. Self-directed Attendant Care (SDAC)

## ARTICLE 5. PROGRAM CONTRACTOR AND PROVIDER STANDARDS

### **R9-28-508. Self-directed Attendant Care (SDAC)**

**A.** For purposes of this Article the following terms are defined:

“Competent member” means a person who is oriented, exhibits evidence of logical thought, and can provide directions.

“Fiscal and Employer Agent” or “FEA” is a company specified by the program contractor or the Administration in contract to serve as an employment/payroll processing center for attendant care workers employed by the member to provide SDAC services.

“Medically stable” means the member’s skilled-care medical needs are routine and not subject to frequent change because of health issues.

“Personal care” means activities of daily life such as dressing, bathing, eating and mobility.

**B.** In lieu of receiving other attendant care services a competent member who meets the requirements of A.R.S. § 36-2951 or the member’s legal guardian may choose to employ through the FEA a person to provide Self-directed Attendant Care (SDAC) services. A paid caregiver described under R9-28-506 and a parent of a minor child shall not receive reimbursement for SDAC services.

**C.** The attendant care worker chosen to provide SDAC services does not need to be a registered provider. The attendant care worker shall have, at a minimum, hands-on training in First Aid, CPR, Universal Precautions, and state and federal laws regarding privacy of health information or training of similar efficacy as approved by the Administration.

**D.** The Administration or Program Contractor shall cover SDAC services only if the member resides in the member’s home, and shall not cover SDAC services if the member is institutionalized or residing in an alternative residential setting. If the member has a legal guardian, the legal guardian shall be present when SDAC services are provided.

**E.** A member who chooses to receive SDAC services is not precluded from receiving medically necessary, cost-effective home health services from other agencies or providers if the services provided are not duplicative of the specific attendant care or skilled service already received through the program contractor.

**F.** A competent member or legal guardian may employ an SDAC attendant care worker to provide personal care, homemaker and general supervision services.

**G.** A competent member, who is medically stable, or the member’s legal guardian may employ an attendant care worker to also provide the following skilled services:

1. Bowel care, including suppositories, enemas, manual evacuation, and digital stimulation;
2. Bladder catheterizations (non-indwelling) that do not require a sterile procedure;
3. Wound care (non-sterile);
4. Glucose monitoring;
5. Glucagon as directed by the health care provider;

6. Insulin by subcutaneous injection only if the member is not able to self-inject ~~and the attendant care worker uses a sliding scale dosing for insulin;~~
7. Permanent gastrostomy tube feeding; and
8. Additional services requested in writing with the approval of the Director and the Arizona State Board of Nursing.

**H.** The Administration or program contractor shall not cover services under ~~this Section~~ subsection (G) unless:

1. For each SDAC attendant care worker employed by a member or legal guardian, a registered nurse licensed under A.R.S. Title 32, Chapter 15 visits the member and SDAC attendant care worker before a skilled service is provided. The registered nurse will assess, educate, and train the member and SDAC attendant care worker regarding the specific skilled service that the member requires; and
2. The registered nurse determines in writing that the attendant care worker understands how and demonstrates the skill to perform the processes or procedures required to provide the specific skilled service.