

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - ADMINISTRATION

PREAMBLE

1. Article, Part, or Section Affected

R9-22-303

Rulemaking Action:

Amend

2. 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, 36-2903, 36-2932

Implementing statutes: A.R.S. §§ 36-2904, 36-2933

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

NOTICE OF DOCKET OPENING: [To be put in by Secretary of State's Staff]

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

Name: Nicole Fries
Address: AHCCCS
Office of Administrative Legal Services
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4232
Fax: (602) 253-9115
E-mail: AHCCCSRules@azahcccs.gov
Web site: www.azahcccs.gov

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 An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The Administration is in the process of requesting a waiver from the federal prior quarter coverage eligibility requirement. On the assumption that the waiver will be approved, AHCCCS is requesting authorization to initiate the process of repealing and amending rules regarding prior quarter coverage so that the change can be implemented expeditiously upon federal approval. Failure to amend and repeal these rules to conform to an approved waiver will result in continued expenditures by AHCCCS for the substantial administrative and operational costs associated with implementation of the prior quarter coverage eligibility process for the low percentage of AHCCCS members who qualify for prior quarter coverage eligibility. Because the prior quarter

coverage eligibility process is resource-intensive, repealing prior quarter coverage eligibility will allow the Agency to utilize resources more effectively and efficiently.

More specifically, 42 CFR 435.915 requires the Administration to provide Prior Quarter (PQ) eligibility. Prior quarter eligibility is when a person who applies for AHCCCS may also qualify for Title XIX eligibility in any one of the three previous months prior to application. While A.R.S. § 36-2903(A) provides that the system's reimbursement responsibility is prospective from the date of the eligibility determination, AHCCCS has implemented prior quarter coverage to ensure federal financial participation for Arizona's Medicaid Program. Although AHCCCS had previously obtained federal approval waiving compliance from prior quarter coverage eligibility, as of January 1, 2014, AHCCCS was required by CMS to implement prior quarter eligibility. However, the Administration is seeking a new waiver from CMS so that the Administration is not required to provide Title XIX eligibility for any of the three previous months prior to the month of application.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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.

7. 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.

8. The preliminary summary of the economic, small business, and consumer impact:

In fiscal year 2017, AHCCCS reimbursed providers for member expenses that met the qualification of prior quarter coverage to the cost of \$21, 347,700. A large portion of those funds come from the federal government, however \$1,983,800 was from the State General Fund. If the rulemaking changes are made then that amount, or more, in savings would be returned to the state, as well additional savings for other political subdivisions that contribute to these funds, such as CMS and counties in Arizona.

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Nicole Fries
Address: AHCCCS
Office of Administrative Legal Services
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4232

Fax: (602) 253-9115
E-mail: AHCCCSRules@azahcccs.gov
Web site: www.azahcccs.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Proposed rule language will be available on the AHCCCS website www.azahcccs.gov the week of September 10, 2018. Please send written or email comments to the above address by the close of the comment period, 5:00 p.m., October 29, 2018.

Date: October 29, 2018
Time: 2:00 p.m.
Location: AHCCCS
701 East Jefferson
Phoenix, AZ 85034
Nature: Public Hearing

Date: October 29, 2018
Time: 2:00 p.m.
Location: ALTCS: Arizona Long-Term Care System
1010 N. Finance Center Dr., Suite 201
Tucson, AZ 85710
Nature: Public Hearing

Date: October 29, 2018
Time: 2:00 p.m.
Location: 2717 N. 4th St. STE 130
Flagstaff, AZ 86004
Nature: Public Hearing

11. 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:

The rule does not require a permit.

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 rule is not more stringent than the federal law, 42 CFR 435.915 because waivers to exempt the Administration from the federal law are allowable, the Administration has held such a waiver before, and the proposed rule would be less 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:

Not applicable.

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

Not applicable.

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

ARTICLE 3. GENERAL ELIGIBILITY REQUIREMENTS

Section

R9-22-303. Prior Quarter Eligibility

ARTICLE 3. GENERAL ELIGIBILITY REQUIREMENTS

R9-22-303. Prior Quarter Eligibility

- A. ~~Prior Quarter eligibility shall be effective no earlier than January 1, 2014. An applicant may be eligible during any of the three months prior to application if the applicant:~~Subject to CMS approval, prior quarter coverage eligibility shall be limited to applicants who meet the requirements in B and who also:
- ~~Received one or more covered services described in 9 A.A.C. 22, Article 2 and Article 12, and 9 A.A.C. 28, Article 2 during the month~~Are eligible during any of the three months prior to application; and
 - ~~Would have qualified for Medicaid at the time services were received if the person had applied regardless of whether the person is alive when the application is made.~~Received one or more covered services described in 9A.A.C. 22, Article 2 and Article 12, and 9 A.A.C. 28, Article 2 during the month; and
 - ~~Would have qualified for Medicaid at the time services were received if the person had applied regardless of whether the person is alive when the application is made.~~
- B. ~~The Prior Quarter requirements do not apply to~~Prior quarter coverage eligibility is limited to applicants who are:
- ~~Qualified Medicare Beneficiaries~~Under the age of 19, or
 - ~~KidsCare~~Pregnant, or
 - ~~In the 60 day post-partum period beginning with the last day of the pregnancy.~~