

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. § 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONAINMENT SYSTEM (AHCCCS) ADMINISTRATION

PREAMBLE

- 1. Sections Affected**

R9-22-202	<u>Rulemaking Action</u>
R9-22-206	Amend
R9-22-206	New Section
	ReNUMBER
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 36-2903.01(H)
Implementing statute: A.R.S. §§ 36-2907(A)(11)
- 3. The effective date of the rules:**

January 1, 1996
- 4. A list of all previous notices appearing in the Register addressing the exempt rule:**

None published.
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Debi Wells, Executive Administrator
Address: AHCCCS Administration
Office of Policy Analysis and Coordination
801 East Jefferson, Mail Drop 4200
Phoenix, Arizona 85034
Telephone: (602) 417-4781
Fax: (602) 256-6756
- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**

The Arizona Legislature approved lung and heart/lung transplants for recipients under AHCCCS.
Tobacco tax money will be used to pay the entire cost of lung and heart/lung transplants for eligible persons and members who are medically needy (MN) or medically indigent.
Tobacco tax money also will be used as the state match for lung and heart/lung transplants for eligible persons and members who are categorically eligible. The Federal Government will pick up the rest of the cost.
This rulemaking will implement the above transplant coverage changes. Other revisions will make the rules more understandable and consistent with federal and state laws.
Laws 1995, Third Special Session, Ch. 1, § 5 grants the Administration an exemption from the regular rulemaking process.
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.
- 8. The summary of the economic, small business, and consumer impact:**

An estimated 16 lung or heart/lung transplants are expected for the current fiscal year at a total cost of \$2.7 million. Tobacco tax money will pick up \$1.7 million of this expense; the rest will be paid by the Federal Government. An estimated 20 lung or heart/lung operations are anticipated for next fiscal year, with a total cost of \$3.4 million.

Arizona Administrative Register
Notices of Exempt Rulemaking

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):
Not applicable.

10. A summary of the principal comments and the agency response to them:
Not applicable.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
As required by Laws 1995, Third Special Session, Ch. 1, § 5, AHCCCS is providing an opportunity for public comment and will make any necessary amendments to these rules.

Written comments will be accepted Monday through Friday, 8 a.m. to 5 p.m., at the address indicated above, until February 14, 1996.

12. Incorporations by reference and their location in the rules:
Not applicable.

13. Was this rule previously adopted as an emergency rule?
No.

14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
ADMINISTRATION**

ARTICLE 2. SCOPE OF SERVICES

Section
R9-22-202. Covered Services
R9-22-206. Organ and Tissue Transplantation Services
~~R9-22-206~~218 Laboratory, X-ray, and Medical Imaging Services

ARTICLE 12. BEHAVIORAL HEALTH SERVICES

R9-22-202. Covered Services
Subject to the exclusions and limitations contained in this Chapter, the following services shall be covered:

1. No change.
2. No change.
3. No change.
4. No change.
5. No change.
6. No change.
7. No change.
8. No change.
9. No change.
10. No change.
11. No change.
12. No change.
13. No change.
14. No change.
15. No change.
16. No change.

17. Organ transplantations:

- a. ~~Medically necessary kidney transplantations and related immunosuppressant medications.~~
- b. ~~Medically necessary cornea transplantations and related immunosuppressant medications.~~
- c. ~~Medically necessary bone transplantations and related immunosuppressant medications.~~
- d. ~~Medically necessary heart transplantations and related immunosuppressant medications for categorically eligible persons, if federal financial participation in excess of capitation is available.~~
- e. ~~Medically necessary autologous and allogeneic bone marrow transplantations and related chemotherapy or preparatory regimens for categorically eligible persons, if federal financial participation in excess~~

- ~~of capitation is available.~~
f. ~~Other organ transplantations and related immunosuppressant medications which are not experimental and are medically necessary, if the transplantation is required by federal law for categorically eligible persons under the age of 21 years, and if federal financial participation in excess of capitation is available.~~

R9-22-206. Organ and Tissue Transplantation Services

A. The following organ and tissue transplantation services are covered for members and eligible persons except those individuals receiving services through the federal or state emergency services programs:

1. Kidney transplantation;
2. Heart transplantation;
3. Liver transplantation;
4. Autologous and allogeneic bone marrow transplantation;
5. Cornea transplantation;
6. Lung transplantation;
7. Heart-lung transplantation;
8. Other organ transplantation may be covered if the transplantation is required by federal law for categorically eligible persons or members under the age of 21 years and if other statutory criteria are met;

9. Immunosuppressant medications, chemotherapy, and other related services.

B. The following limitations shall apply to organ and tissue transplantation services.

1. Organ or tissue transplantation services determined by the Director to be experimental services, or services provided primarily for the purpose of research, are not covered.
2. Artificial or mechanical hearts and xenografts are not covered services.
3. Organ and tissue transplantation services under subsections (A)(2), (3), (4), (6), and (7) are covered for members and eligible persons who are medically indigent, medically needy, eligible assistance children, and eligible low-income children, only if funding is available as specified in A.R.S. § 36-2907

Arizona Administrative Register
Notices of Exempt Rulemaking

4. Organ and tissue transplantation services are not covered during the fee-for-service emergency-services-only period for eligible persons who are medically indigent, medically needy, eligible assistance children, and eligible low-income children, except for those persons eligible for services pursuant to Laws 1995, Third Special Session Ch. 1, § 5.

R9-22-206218. Laboratory, X-ray, and Medical Imaging Services

No change.