

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the Register before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 2. ADMINISTRATION

#### CHAPTER 6. DEPARTMENT OF ADMINISTRATION PUBLIC BUILDINGS MAINTENANCE

#### PREAMBLE

#### 1. Sections Affected

	Rulemaking Action
Article 1	Renumber
Article 1	New Article
R2-6-101	Renumber
R2-6-101	New Section
R2-6-102	Renumber
R2-6-102	New Section
R2-6-103	Renumber
R2-6-103	New Section
R2-6-104	Renumber
R2-6-104	New Section
R2-6-105	Renumber
R2-6-105	New Section
R2-6-106	Renumber
R2-6-106	New Section
R2-6-107	Renumber
R2-6-107	New Section
R2-6-108	Renumber
R2-6-108	New Section
R2-6-109	Renumber
R2-6-109	New Section
R2-6-110	New Section
R2-6-111	New Section
R2-6-112	New Section
R2-6-113	New Section
R2-6-114	New Section
R2-6-115	New Section
R2-6-116	New Section
Article 2	Repeal
Article 2	Renumber
R2-6-201	Repeal
R2-6-201	Renumber
R2-6-202	Repeal
R2-6-202	Renumber
R2-6-203	Repeal
R2-6-203	Renumber
R2-6-204	Repeal
R2-6-204	Renumber
R2-6-205	Repeal
R2-6-205	Renumber
R2-6-206	Repeal
R2-6-206	Renumber
R2-6-207	Repeal

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R2-6-207	Renumber
R2-6-208	Repeal
R2-6-208	Renumber
R2-6-209	Repeal
R2-6-209	Renumber
R2-6-210	Repeal
R2-6-211	Repeal
R2-6-212	Repeal
Article 3	Renumber
Article 3	New Article
R2-6-301	Renumber
R2-6-301	New Section
R2-6-302	New Section
R2-6-303	New Section
R2-6-304	New Section
R2-6-305	New Section
R2-6-306	New Section
R2-6-307	New Section
R2-6-308	New Section
R2-6-309	New Section
R2-6-310	New Section
R2-6-311	New Section
Article 4	Repeal
Article 4.	New Article
R2-6-401	Repeal
R2-6-401	New Section
R2-6-402	New Section
R2-6-403	New Section
R2-6-404.	New Section
R2-6-405	New Section
R2-6-406	New Section
R2-6-407	New Section
R2-6-408	New Section
R2-6-409	New Section
R2-6-501	Renumber
R2-6-501	Amend

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. § 41-621(Q)

Implementing statute: A.R.S. § 41-791(D)

3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Scott Cooley

Address: Department of Administration  
1400 West Washington, Suite 270  
Phoenix, Arizona 85007

Telephone: (602) 542-2015

Fax: (602) 542-1486

4. **An explanation of the rule, including the agency's reasons for initiating the rule:**

The Department of Administration (Department) is updating and reorganizing this Chapter. Rules of general applicability in Article 2 are being repealed and replaced by a new Article 1 which is more readable. Traffic and parking rules are being moved from Article 1 to Article 2. The severability rule is being moved from Article 3 to Article 5. A new Article 3, governing solicitation on state property, is proposed to clarify time, place, and manner restrictions on solicitations. The department no longer has statutory authority over the subject matter of Article 4, energy conservation and solar design standards. Accordingly, Article 4 is being repealed and replaced with a new Article 4, governing special events on state property. The new Article 4 clarifies time, place, and manner restrictions on special events. All Sections in Chapter 6 are being updated to reflect current rule drafting style.

5. **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.

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6. **The preliminary summary of the economic, small business, and consumer impact:**  
 Minor modifications to the Chapter improving readability will make the rules easier to use. Small businesses and consumers will benefit because it takes less time to read the rules. Small businesses also benefit from the ability to solicit business or hold special events, to the extent that these activities are permitted under the rules.
7. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**  
 Name: Allen Malanowski  
 Address: Department of Administration  
 1400 West Washington, Suite 270  
 Phoenix, Arizona 85007  
 Telephone: (602) 542-2017  
 Fax: (602) 542-1486
8. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**  
 No oral proceedings are scheduled. The Department will schedule an oral proceeding on the proposed rules if a written request for the proceeding is submitted to the agency personnel listed in question 3 of this preamble by at least 5 persons. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement may be submitted to the person listed above no later than 5 p.m., July 9, 1997.
9. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
 Not applicable.
10. **Incorporations by reference and their location in the rules:**  
 Not applicable.
11. **The full text of the rules follows:**

**TITLE 2. ADMINISTRATION**

**CHAPTER 6. DEPARTMENT OF ADMINISTRATION  
 PUBLIC BUILDINGS MAINTENANCE**

**ARTICLE 1. GENERAL**

- R2-6-101. Definitions
- R2-6-102. Building Hours
- R2-6-103. Closed Hours Register
- R2-6-104. Alcoholic Beverages
- R2-6-105. Altering Buildings or Grounds
- R2-6-106. Animals
- R2-6-107. Bicycles, Rollerblades, Rollerskates, and Skateboards
- R2-6-108. Electrical or Plumbing Systems
- R2-6-109. Heating or Cooling Equipment
- R2-6-110. Noise
- R2-6-111. Plants
- R2-6-112. Roofs
- R2-6-113. Signs
- R2-6-114. Smoking
- R2-6-115. Waste
- R2-6-116. Windows

- ~~R2-6-105~~ R2-6-205 Penalties
- ~~R2-6-206.~~ Electrical or plumbing installation or modification approval
- ~~R2-6-106~~ R2-6-206. Impoundment
- ~~R2-6-207.~~ Adjusting of heating or cooling equipment or controls
- ~~R2-6-107~~ R2-6-207 Hearings
- ~~R2-6-208.~~ Prohibited acts, general
- ~~R2-6-108~~ R2-6-208 Rehearing
- ~~R2-6-209.~~ Entry to roofs
- ~~R2-6-109~~ R2-6-209 General Information
- ~~R2-6-210.~~ Installation of signs approval
- ~~R2-6-211.~~ Animals within buildings
- ~~R2-6-212.~~ Flowers, plants, shrubs or tree removal

**ARTICLE 3. SOLICITATION**

- R2-6-301. Definitions
- R2-6-302. Unauthorized Solicitation Prohibited
- R2-6-303. Application
- R2-6-304. Processing Procedure
- R2-6-305. Permit Issuance; Denial
- R2-6-306. Bulletin Boards
- R2-6-307. State Resources
- R2-6-308. Work Sites
- R2-6-309. Exemptions
- R2-6-310. Revocation
- R2-6-311. Review of Denial or Revocation

**ARTICLE 2. IN GENERAL**

**ARTICLE 1. ARTICLE 2 TRAFFIC AND PARKING**

- ~~R2-6-201.~~ Soliciting Permits
- ~~R2-6-101~~ R2-6-201. Definitions
- ~~R2-6-202.~~ Loitering
- ~~R2-6-102~~ R2-6-202. Parking areas
- ~~R2-6-203.~~ Schedule of hours of capitol buildings
- ~~R2-6-103~~ R2-6-203. Special Assignment Parking Permits
- ~~R2-6-204.~~ Closed hours register
- ~~R2-6-104~~ R2-6-204. Operation of Vehicles on State Property
- ~~R2-6-205.~~ Altering, remodeling, or redecorating of buildings or grounds approval

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**ARTICLE 4. ENERGY CONSERVATION AND SOLAR DESIGN STANDARDS**

**ARTICLE 4. SPECIAL EVENTS**

- R2-6-401. Energy conservation standards for state buildings
- R2-6-401. Definitions
- R2-6-402. Unauthorized Special Event Prohibited
- R2-6-403. Application
- R2-6-404. Processing Procedure
- R2-6-405. Permit Issuance; Denial
- R2-6-406. Monitors
- R2-6-407. Risk Management
- R2-6-408. Revocation
- R2-6-409. Review of Denial or Revocation

**ARTICLE 3. ARTICLE 5. SEVERABILITY**

- R2-6-301-R2-6-501 Validity of Rules

**ARTICLE 1. GENERAL**

**R2-6-101. Definitions**

The following definitions apply in this Chapter:

1. "Agency" has the meaning set forth in A.R.S. § 41-1001.
2. "Department" means the Department of Administration.
3. "Director" means the Director of the Department of Administration or the Director's designated agent.
4. "Person" has the meaning set forth in A.R.S. § 1-215 but includes an agency, unless the agency is listed in A.R.S. § 41-791(B)(3).
5. "State building" means a building under the jurisdiction of the Director.
6. "State property" means those buildings or grounds under the jurisdiction of the Director.

**R2-6-102. Building Hours.**

Unless otherwise provided by law, the Department shall ensure that state buildings are open from 7:30 a.m. until 5:30 p.m. each day on Monday through Friday, except on holidays.

**R2-6-103. Closed Hours Register**

A person who wants to enter or leave a state building at a time other than that designated in R2-6-103 shall enter his or her name and the time of any entrance or exit during closed hours on a register provided by the Department's Capitol Police.

**R2-6-104. Alcoholic Beverages**

A person shall not possess or consume alcoholic beverages on state property.

**R2-6-105. Altering Buildings or Grounds**

A person shall not alter, remodel, or redecorate state property without prior approval from the Director.

**R2-6-106. Animals**

A person shall not bring animals, other than an animal guide or service animal, onto state property without prior approval from the Director.

**R2-6-107. Bicycles, Rollerblades, Rollerskates, and Skateboards**

A person shall not use or operate bicycles, rollerblades, rollerskates, or skateboards on state property, unless that person is an on-duty police officer on bicycle patrol.

**R2-6-108. Electrical or Plumbing Systems**

A person shall not install or modify an electrical or plumbing system on state property, or any part of such a system, without prior approval from the Director.

**R2-6-109. Heating or Cooling Equipment**

A person shall not tamper with or adjust heating or cooling equipment or controls on state property without prior approval from the Director.

**R2-6-110. Noise**

A person shall not create loud noises on state property which interfere with the work of an employee or daily business of an agency.

**R2-6-111. Plants**

A person shall not pick, cut or remove flowers, shrubs, trees, or other plants or parts of plants from state property without prior approval from the Director.

**R2-6-112. Roofs**

A person shall not be on the roof of a state building without prior approval from the Director.

**R2-6-113. Signs**

A person shall not install a sign of any type on state property without prior approval from the Director.

**R2-6-114. Smoking**

A person shall not smoke in areas on state property where signs indicate smoking is prohibited.

**R2-6-115. Waste**

- A. A person shall not leave garbage, litter, trash, human or animal waste, or any other kind of waste on state property unless the waste is deposited in a container the Department maintains for that kind of waste.
- B. A person shall not deposit waste collected from a private residence or commercial business on state property.

**R2-6-116. Windows**

A person shall not open windows in air-conditioned state buildings without prior approval from the Director.

**ARTICLE 2. IN GENERAL**

**ARTICLE 1. ARTICLE 2. TRAFFIC AND PARKING**

**R2-6-201. Soliciting Permits**

No person shall directly or indirectly solicit for any purpose within the capitol buildings or upon the capitol grounds without having first obtained a permit from the Director or his designated agents.

**R2-6-101.R2-6-201. Definitions**

No change.

**R2-6-202. Loitering**

No person shall loaf or loiter on the capitol grounds or in the capitol buildings.

**R2-6-102.R2-6-202. Parking areas**

No change.

**R2-6-203. Schedule of hours of capitol buildings**

Unless otherwise provided by law, and except on holidays, the capitol buildings shall remain open from 7:30 a.m. until 5:30 p.m. each day on Monday through Friday.

**R2-6-103.R2-6-203. Special Assignment Parking Permits**

No change.

**R2-6-204. Closed hours' register**

Any person desiring to enter or leave any of the capitol buildings at any time other than that designated in R2-6-203 shall sign in and out on a register provided by the Director or his designated agents.

**R2-6-104.R2-6-204. Operation of Vehicles on State Property**

No change.

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**R2-6-205. Altering, remodeling, or redecorating of buildings or grounds approval**

There shall be no altering, remodeling, or redecorating in any of the capitol buildings or on the capitol grounds by any department, board or agency without prior approval from the Director or his designated agents.

**R2-6-105.R2-6-205.Penalties**

No change.

**R2-6-206. Electrical or plumbing installation or modification approval**

There shall be no electrical modification, including convenience outlets or light fixtures, without the prior approval of the Director or his designated agents. There shall be no electrical or plumbing equipment installations without the prior approval of the Director or his designated agents.

**R2-6-106.R2-6-206.Impoundment**

No change.

**R2-6-207. Adjusting of heating or cooling equipment or controls**

There shall be no tampering with or unauthorized adjusting of heating or cooling equipment or controls.

**R2-6-107.R2-6-207.Hearings**

No change.

**R2-6-208. Prohibited acts, general**

The following acts are prohibited:

1. The willful and malicious or careless or negligent dropping, throwing, placing or scattering in the buildings or on the grounds of any litter.
2. The distributing of handbills or advertising in the buildings or on the grounds.
3. Bicycling, skating, or skateboarding in the buildings or on the grounds.
4. Advertising of any type except in designated areas or on designated bulletin boards.
5. Opening windows in air conditioned buildings without prior approval of the Director or his designated agents.
6. Smoking in areas where signs indicate smoking is prohibited.

**R2-6-108.R2-6-208.Rehearing**

No change.

**R2-6-209. Entry to roofs**

No one shall be permitted on the roofs of the capitol buildings except authorized personnel.

**R2-6-109.R2-6-209. General information**

No change.

**R2-6-210. Installation of signs approval**

No signs of any type shall be installed in the buildings or on the grounds without prior approval of the Director or his designated agents.

**R2-6-211. Animals within buildings**

No animals, other than guide dogs, shall be permitted in any building, without the prior approval of the Director or his designated agents.

**R2-6-212. Flowers, plants, shrubs, or tree removal**

No one shall pick, cut, or remove flowers, plants, shrubs or trees from the grounds without prior approval of the Director or his designated agents.

**ARTICLE 3. SOLICITATION**

**R2-6-301. Definitions**

The following definitions apply in this Article:

1. "Solicitation" means any activity which can be interpreted as being for the promotion, sale, or transfer of products, services, or memberships, or for participation in any venture of any kind, including organizational or grievance activities. Distribution or posting of advertising circulars, flyers, handbills, leaflets, posters, or other printed information for these purposes is solicitation.
2. "Solicitation material" means advertising circulars, flyers, handbills, leaflets, posters, or other printed information.
3. "Solicitor" means the person conducting a solicitation.
4. "Work site" means any location within a state building where public employees or officers conduct the daily business of an agency. Cafeterias and break rooms are not work sites.

**R2-6-302. Unauthorized Solicitation Prohibited**

A person shall not conduct a solicitation on state property without express written permission from the Director.

**R2-6-303. Application**

- A. Any person who would like to conduct a solicitation on state property may apply for a permit by filing, either in person or by mail, a Department approved solicitation application form with the Director's Office.
- B. The completed application form shall be submitted at least 15 days prior to the desired date of the solicitation. A completed application form is 1 which is legible and contains, at a minimum, all of the following information:
  1. The name, address, and telephone number of the solicitor;
  2. The proposed date of the solicitation and the approximate starting and concluding times;
  3. The specific, proposed location for the solicitation;
  4. A general description of the solicitation's purpose;
  5. Copies of solicitation materials to be used.

**R2-6-304. Processing Procedure**

- A. Within 3 days of receiving an application, the Department shall notify the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall specify what information is missing.
- B. An applicant with an incomplete application shall supply the missing information within 5 days after the date of the notice. If the applicant fails to do so, the Department may deny the permit.
- C. Upon receipt of all missing information within 5 days, as specified in subsection (B), the Department shall notify the applicant that the application is complete.
- D. The Department shall not process an application for a permit until the applicant has fully complied with R2-6-303.
- E. The Director shall render a permit decision no later than 3 days after receipt of a complete application. The date of receipt is the postmark date of the notice advising the applicant that the application is complete.
- E. For the purpose of A.R.S. § 41-1073, the Department establishes the following permit time frames:
  1. Administrative completeness review time frame: 3 days.
  2. Substantive review time frame: 3 days.
  3. Overall time frame: 6 days.

**R2-6-305. Permit Issuance; Denial**

- A. Prior to issuing a permit, the Director shall review the application.

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- B.** The Director may issue a permit to an applicant who has complied with the application requirements in R2-6-303;
- C.** The Director may deny a permit for 1 or more of the following reasons:
1. The solicitation interferes with the work of an employee or daily business of an agency;
  2. The solicitation conflicts with the time, place, manner or duration of other events or solicitations for which permits have been issued or are pending;
  3. The solicitation creates a risk of injury or illness to persons or risk of danger to property;
  4. The applicant has not complied with the requirements of this Article.
- D.** A permit shall not be issued earlier than 60 days prior to the solicitation.
- E.** When the Director denies a permit, the Department shall send the applicant a written notice explaining:
1. The reason for denial, with citations to supporting statutes or rules;
  2. The applicant's right to seek a hearing to challenge the denial;
  3. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
  4. The time periods for appealing the denial.

**R2-6-306. Bulletin Boards**

- A.** The Director shall designate at least 1 bulletin board for solicitation material in each state building.
- B.** A person conducting a solicitation shall post solicitation material on bulletin boards designated under subsection (A).
- C.** The Department shall remove solicitation material that is outdated or improperly posted.

**R2-6-307. State Resources**

A person shall not use state materials, supplies, or equipment or other resources, such as payroll stuffing or interoffice mail, to conduct a solicitation.

**R2-6-308. Work Sites**

Except for posting solicitation material on a bulletin board designated under R2-6-306, a person shall not conduct a solicitation at a work site.

**R2-6-309. Exemptions**

This Article does not apply to the following state programs:

1. The State Deferred Compensation Program.
2. The State Employees Charitable Campaign.
3. The U.S. Savings Bond Drive.
4. The United Blood Services Blood Drive.
5. The Capitol Rideshare Commuter Club.
6. The Capitol Rideshare Clean Air Campaign.
7. The Employee Wellness Program.
8. Employee recognition programs of each agency subject to these rules.

**R2-6-310. Revocation**

- A.** The Director may revoke a permit for failure to comply with this Article or other applicable laws.
- B.** When the Director revokes a permit, the Department shall send the solicitor written notice, explaining:
1. The reason for revocation, with citations to supporting statutes or rules;
  2. The solicitor's right to seek a hearing to challenge the revocation;
  3. The solicitor's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
  4. The time periods for appealing the revocation.

**R2-6-311. Review of Denial or Revocation**

- A.** Under A.R.S. §§ 41-1092.03 through 41-1092.11, an applicant or solicitor may obtain a hearing on a denial or revocation.
- B.** The applicant or solicitor shall file a notice of appeal with the Department within 30 days after receiving the notice prescribed in R2-6-305(E) or R2-6-310(B).
- C.** The Department shall notify the Office of Administrative Hearings, which shall schedule and conduct the hearing.

**ARTICLE 4. ENERGY CONSERVATION AND SOLAR  
DESIGN STANDARDS**

**ARTICLE 4. SPECIAL EVENTS**

**R2-6-401. Energy conservation standards for state buildings**

All new state buildings, including buildings of state-supported institutions of higher education, shall comply with the *Arizona Guidelines for Energy Conservation in New Building Construction*, as published by the Arizona Energy Office, which are hereby adopted and incorporated by reference as set forth therein. (Copies of these Guidelines are on file with the Secretary of State.)

**R2-6-401. Definitions**

The following definitions apply in this Article:

1. "Special event" or "event" means an assembly, ceremony, demonstration, display, festival, gathering, parade, press conference, rally, or any other distinct activity.
2. "Sponsor" means the person holding a special event.

**R2-6-402. Unauthorized Special Event Prohibited**

A person shall not use state buildings or grounds for a special event without express written permission from the Director.

**R2-6-403. Application**

- A.** Any person who would like to hold a special event may apply for a permit by filing, either in person or by mail, a Department approved event application form with the Office of Special Events.
- B.** The completed application form shall be submitted at least 15 days prior to the desired date of the special event. A completed application form is 1 which is legible and contains, at a minimum, all of the following information:
1. The name, address, and telephone number of the sponsor;
  2. The proposed date of the event and the approximate starting and concluding times;
  3. The specific, proposed location for the event;
  4. A general description of the event, including equipment and facilities to be used;
  5. Approximate number of persons expected to be in attendance;
  6. The name, address, and telephone number of the person responsible for clean-up of the area after the activity, if different from the person in subsection (B)(1).
  7. The name, address, and telephone number of any chief monitor who will be designated to direct the event;
  8. A description of the badge or article of clothing used to identify monitors;
  9. A copy of any insurance policy for the special event;
  10. A copy of any contract for medical, sanitary and security services.
- C.** The Director may accept a completed application form submitted less than 15 days prior to a press conference if the Director determines that enforcing the 15-day requirement would nullify the need for the press conference. In such a situation, R2-6-404 does not apply.

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**R2-6-404. Processing Procedure**

- A. Within 3 days of receiving an application, the Department shall notify the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall specify what information is missing.
- B. An applicant with an incomplete application shall supply the missing information within 5 days after the date of the notice. If the applicant fails to do so, the Department may deny the permit.
- C. Upon receipt of all missing information within 5 days, as specified in subsection (B), the Department shall notify the applicant that the application is complete.
- D. The Department shall not process an application for a permit until the applicant has fully complied with R2-6-403.
- E. The Director shall render a permit decision no later than 3 days after receipt of a complete application. The date of receipt is the postmark date of the notice advising the applicant that the application is complete.
- E. For the purpose of A.R.S. § 41-1073, the Department establishes the following permit time frames:
  - 1. Administrative completeness review time frame: 3 days.
  - 2. Substantive review time frame: 3 days.
  - 3. Overall time frame: 6 days.

**R2-6-405. Permit Issuance; Denial**

- A. Prior to issuing a permit, the Director shall review the application.
- B. The Director may issue a permit to an applicant who has:
  - 1. Complied with the application requirements in R2-6-403;
  - 2. Posted any deposit necessary under R2-6-407;
  - 3. Obtained any insurance necessary under R2-6-407; and
  - 4. Submitted evidence that the applicant will provide any medical, sanitary and security services necessary under R2-6-407. Submission of a copy of the contract for these services will satisfy this requirement.
- C. The Director may deny a permit for 1 or more of the following reasons:
  - 1. The event interferes with the work of an employee or daily business of an agency;
  - 2. The event conflicts with the time, place, manner, or duration of other events for which permits have been issued or are pending;
  - 3. The event creates a risk of injury or illness to persons or risk of danger to property;
  - 4. The applicant has not complied with the requirements of this Article.
- D. A permit shall not be issued earlier than 60 days prior to the special event.
- E. When the Director denies a permit, the Department shall send the applicant a written notice explaining:
  - 1. The reason for denial, with citations to supporting statutes or rules;
  - 2. The applicant's right to seek a hearing to challenge the denial;
  - 3. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
  - 4. The time periods for appealing the denial.

**R2-6-406. Monitors**

The sponsor shall designate 1 monitor for every 50 persons expected to be in attendance. The monitors shall wear a uniform,

distinctive badge or article of clothing at all times during the event for identification purposes.

**R2-6-407. Risk Management**

- A. The Director may take 1 or more of the following actions to the extent it is necessary and in the best interests of the state:
  - 1. Impose conditions on the conduct of the event in the permit;
  - 2. Require the applicant to post a deposit against damage and clean-up expense;
  - 3. Require the applicant to carry liability insurance;
  - 4. Require the applicant to provide medical, sanitary, and security services.
- B. The Director shall consider all of the following criteria to determine whether 1 or more of the actions in subsection (A) is necessary and in the best interests of the state:
  - 1. Previous experience with similar events;
  - 2. Deposits required for similar events in Arizona;
  - 3. Risk data;
  - 4. Medical, sanitary, and security services required for similar events in Arizona and the cost of those services;
  - 5. The applicant's ability to pay a deposit, an insurance premium, or a service provider.
- C. The Department shall not provide insurance or guarantee against damage to equipment or personal property of any person using state buildings or grounds.
- D. If the Director requires insurance for a special event, the sponsor shall list the Department of Administration as an additional insured.
- E. The sponsor is liable to the state for any injury done to its property and for any expense arising out of the sponsor's use of state buildings or grounds.

**R2-6-408. Revocation**

- A. The Director may revoke a permit for failure to comply with this Article, permit conditions, or other applicable laws.
- B. When the Director revokes a permit, the Department shall send the sponsor written notice, explaining:
  - 1. The reason for revocation, with citations to supporting statutes or rules;
  - 2. The sponsor's right to seek a hearing to challenge the revocation;
  - 3. The sponsor's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
  - 4. The time periods for appealing the revocation.

**R2-6-409. Review of Denial or Revocation**

- A. Under A.R.S. §§ 41-1092.03 through 41-1092.11, an applicant or sponsor may obtain a hearing on a denial or revocation.
- B. The applicant or sponsor shall file a notice of appeal with the Department within 30 days after receiving the notice prescribed in R2-6-405(E) or R2-6-408(B).
- C. The Department shall notify the Office of Administrative Hearings, which shall schedule and conduct the hearing.

**ARTICLE 3. ARTICLE 5, SEVERABILITY**

**R2-6-301, R2-6-501. Validity of Rules**

If a Should any rule or portion of a any rule contained in this Chapter herein is held be found unconstitutional or invalid, the holding such decision does shall not affect the validity of the remaining rules.

NOTICE OF PROPOSED RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 6. DEPARTMENT OF ECONOMIC SECURITY  
DIVISION OF DEVELOPMENTAL DISABILITIES

PREAMBLE

1. Sections Affected

Article 10  
R6-6-1004.01  
R6-6-1004.02  
R6-6-1004.03  
R6-6-1004.04  
R6-6-1004.05  
Article 11  
R6-6-1104.01  
R6-6-1104.02  
R6-6-1104.03  
R6-6-1104.04  
R6-6-1104.05  
Article 15  
R6-6-1504.01  
R6-6-1504.02  
R6-6-1504.03  
R6-6-1504.04  
R6-6-1504.05

Rulemaking Action

New Article  
New Section  
New Section  
New Section  
New Section  
New Section  
New Article  
New Section  
New Section  
New Section  
New Section  
New Section  
New Article  
New Section  
New Section  
New Section  
New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 41-1954(A)(1)(i) and (j), (A)(3); 46-134(12); 36-552; 36-554; 36-591 through 36-595; 36-596.54(A); and 41-1072 through 41-1076

Implementing statutes: A.R.S. §§ 41-1954(A)(1)(i) and (j), (A)(3); 46-134(12); 36-552; 36-554; 36-591 through 36-595; 36-596.54(A); and 41-1072 through 41-1076

3. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Vista Thompson Brown  
Address: Department of Economic Security  
1789 West Jefferson, Site Code 837A  
Phoenix, Arizona 85007

or

P.O. Box 6123, Site Code 837A  
Phoenix, Arizona 85005

Telephone: (602) 542-6555

Fax: (602)542-6000

4. An explanation of the rule, including the agency's reason for initiating the rule:

Laws 1996, Ch. 102, § 42 requires agencies to adopt rules establishing certain time frames for the granting or denial of licenses. The rules must specify:

1. An "administrative completeness time frame" (the time it takes the agency to determine if an application is complete);
2. A "substantive review time frame" (the time it takes the agency to review the application and determine if the applicant meets the substantive criteria for licensure); and
3. An "overall time frame" (a combination of the administrative completeness and substantive review time frames).

"License" includes certifications and approvals issued by an agency.

The law also requires an agency to adopt rules to specify separate time frames for administrative completeness and substantive review if the agency already has time frames for licensing, but the time frames do not mirror the requirements of the law.

In addition, the agency is required to notify applicants within the established time frames, whether the application is complete (administrative completeness) and whether a license or certification is being issued (substantive review).

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These rules will establish the required time frames for licensing Child Developmental Foster Homes and Adult Developmental Homes, and certification of Home and Community Based Service Providers. The rules describe the contents of a completed application and the activities performed under substantive review. The rules also prescribe the notification procedure for the administrative review time frames and the division's duty to notify an applicant who has been denied a license of the following:

1. The reason for the denial with citation to supporting statutes or rules;
  2. The applicant's right to appeal the denial; and
  3. The time periods for appealing the denial.
5. 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.

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

Service providers for Adult Developmental Homes, Child Developmental Foster Homes, and Home and Community-Based Services are considered small businesses. The proposed amendments will benefit these service providers by identifying the time frames in which the Division will approve or deny licenses and certificates.

Consumers may also receive an intangible benefit through the potential increase in service providers due to the identification of specific time limits for processing licenses and certificates.

The cost involved to implement the amendments will be borne by the Division. The costs will include an increase in notices, mailing, and staff time to track and monitor the new time frames. These additional cost are attributable to statutory requirements the rules are implementing.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Eileen Colleran  
Address: Department of Economic Security  
1789 West Jefferson, Site Code 791A  
Phoenix, Arizona 85007

or

P.O. Box 6123, Site Code 791A  
Phoenix, Arizona 85005  
Telephone: (602) 542-6826  
Fax: (602) 542-6870

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

**Phoenix**                      **District I**  
Date: July 10, 1997  
Time: 1:30 p.m.  
Location: DES Conference Room  
815 North 18th Street  
Phoenix, Arizona

Coordin. Program Mgr.: Carla Van Cleve (602) 846-0001

**Tucson**                      **District II**  
Date: July 10, 1997  
Time: 1:30 p.m.  
Location: DES Conference Room  
400 West Congress, #420  
Tucson, Arizona

Coordin. Program Mgr.: Henry Granillo (520) 628-6810

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**Flagstaff**                    **District III**  
Date:                         July 10, 1997  
Time:                         1:30 p.m.  
Location:                    DES Conference Room  
                                  220 North LeRoux  
                                  Flagstaff, Arizona  
  
Coordin. Program Mgr.: Patty Laux (520) 779-2731, ext. 233

**Yuma**                        **District IV**  
Date:                         July 10, 1997  
Time:                         1:30 p.m.  
Location:                    DES Conference Room  
                                  350 West 16th Street  
                                  Yuma, Arizona  
  
Coordin. Program Mgr.: Tim Acuff (520) 782-4343

**Casa Grande**              **District V**  
Date:                         July 10, 1997  
Time:                         1:30 p.m.  
Location:                    DES Conference Room  
                                  2510 North Trekell  
                                  Casa Grande, Arizona  
  
Coordin. Program Mgr.: Dan Van Keuren (520) 723-4151

**Bisbee:**                    **District VI**  
Date:                         July 10, 1997  
Time:                         1:30 p.m.  
Location:                    DES Conference Room  
                                  209 Bisbee Road  
                                  Bisbee, Arizona  
  
Coordin. Program Mgr.: David Gibbs (520) 428-7702

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the program managers identified above. Requests should be made as early as possible to allow time to arrange the accommodation. This document is available in alternative format by contacting Vista Thompson Brown, at (602) 542-6555, P.O. Box 6123, Site 837A, Phoenix, Arizona 85005; TDD Relay (800) 367-8939. Requests should be made as early as possible to allow time to arrange the accommodation.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:  
Not applicable.
10. Incorporations by reference and their location in the rules:  
Not applicable.
11. The full text of the rules follows:

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TITLE 6. ECONOMIC SECURITY

CHAPTER 6. DEPARTMENT OF ECONOMIC SECURITY  
DEVELOPMENTAL DISABILITIES

ARTICLE 10. CHILD DEVELOPMENTAL FOSTER HOME  
LICENSE

- R6-6-1004.01. Time Frame for Granting or Denying a License  
R6-6-1004.02. Administrative Completeness and Substantive Review Process  
R6-6-1004.03. Contents of a Complete Application Package - Initial License  
R6-6-1004.04. Contents of a Complete Application Package - Renewal License  
R6-6-1004.05. Contents of a Complete Request for an Amended License

ARTICLE 11. ADULT DEVELOPMENTAL HOME  
LICENSE

- R6-6-1104.01. Time Frame for Granting or Denying a License  
R6-6-1104.02. Administrative Completeness and Substantive Review Process  
R6-6-1104.03. Contents of a Complete Application Package - Initial License  
R6-6-1104.04. Contents of a Complete Application Package - Renewal License  
R6-6-1104.05. Contents of a Complete Request for an Amended License

ARTICLE 15. STANDARDS FOR CERTIFICATION OF  
HOME AND COMMUNITY-BASED SERVICE (HCBS)  
PROVIDERS

- R6-6-1504.01. Time Frame for Granting or Denying a Certificate  
R6-6-1504.02. Administrative Completeness and Substantive Review Process  
R6-6-1504.03. Contents of a Complete Application Package - Initial Certificate  
R6-6-1504.04. Contents of a Complete Application Package - Renewal Certificate  
R6-6-1504.05. Contents of a Complete Request for an Amended Certificate

ARTICLE 10. CHILD DEVELOPMENTAL FOSTER HOME  
LICENSE

R6-6-1004.01. Time Frame for Granting or Denying a License  
For the purpose of A.R.S. § 41-1073, the Division establishes the following licensing time frames:

1. Administrative completeness review time frame:
  - a. For an initial license, 90 days;
  - b. For a renewal license, 40 days; and
  - c. For an amended license, 30 days.
2. Substantive review time frame:
  - a. For an initial license, 30 days;
  - b. For a renewal license, 21 days; and
  - c. For an amended license, 10 days.
3. Overall time frame:
  - a. For an initial license, 120 days;
  - b. For a renewal license, 61 days; and
  - c. For an amended license, 40 days.

R6-6-1004.02. Administrative Completeness and Substantive Review Process

- A. The Division shall send the license applicant a written notice within the administrative completeness review time frame indicating that the application package is either complete or incomplete.
- B. If the application package is incomplete, the notice shall list the information lacking and ask the license applicant to supply the missing information within 60 days from the date of notice. If the license applicant fails to do so, the Division may close the file.
- C. A license applicant whose file has been closed and who later wishes to become licensed may reapply to the Division. The administrative completeness time frame starts over when the Division receives the written request to reapply.
- D. When the application is complete, the Division shall complete a substantive review of the license applicant, as follows:
  1. Review the application form and all required documents to ensure compliance with this Article.
  2. Complete a home study as prescribed in R6-6-1001(D), and
  3. Gather additional information needed to determine the license applicant's fitness to serve as a foster parent and ability to comply with foster care requirements, which may include:
    - a. Interviewing the license applicant;
    - b. Contacting references;
    - c. Verifying information provided in the application;
    - d. Visiting the license applicant's home; and
    - e. Requesting additional information, assessments, or tests as prescribed in R6-6-1001(F) and R6-6-1003(C).
- E. If a license is denied, the Division shall send a notice to the license applicant as prescribed in R6-6-1018(F).

R6-6-1004.03. Contents of a Complete Application Package - Initial License

An initial application package is complete when the Division has all of the following information:

1. From the license applicant, a completed application form as prescribed in R6-6-1001(A) which contains the following information:
  - a. Personally identifying information, as follows:
    - i. Name and gender,
    - ii. Date and place of birth,
    - iii. Social security number,
    - iv. Ethnicity and religious preference,
    - v. Current and previous address,
    - vi. Dates resided at previous address,
    - vii. Length of Arizona residency,
    - viii. Current marital status and marital history, and
    - ix. Any other names the license applicant has been known by.
  - b. Personally identifying information on the license applicant's household members, as follows:
    - i. Name,
    - ii. Gender,
    - iii. Date of birth,
    - iv. Relationship to license applicant, and
    - v. Length of time living in the home.
  - c. Personally identifying information on the license applicant's children who do not live with the license

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- applicant, including emancipated children, as follows:
- i. Name;
  - ii. Current address;
  - iii. Date of birth; and
  - iv. School, if currently attending.
- d. Any current or prior licenses or certificates held by the license applicant to provide care to a child or adult, as follows:
- i. Type of license or certificate;
  - ii. Dates of each license and certificate;
  - iii. States in which the license or certificate was issued;
  - iv. Any license or certificate which was revoked, denied, voluntarily surrendered, or suspended, and the circumstances; and
  - v. Name of any other agency the license applicant is currently licensed or certified with to provide services to children or adults.
- e. A description of the license applicant's home, as follows:
- i. The name of the school district in which the license applicant's home is located;
  - ii. Identification and description of any swimming pool, spa, fish pond, or other body of water; and
  - iii. Number of bedrooms.
- f. Information about the license applicant, as follows:
- i. Educational background;
  - ii. Employment history;
  - iii. Previous experience in providing room and board for any person;
  - iv. Any contact with CPS or APS and the circumstances;
  - v. Any arrests and the circumstances;
  - vi. Any history of mental illness or treatment for a mental illness or emotional disorder including hospitalization for alcohol, drug, or mental health issues and the circumstances;
  - vii. If currently or previously employed by the Department of Economic Security or the Division, position, title, name of the supervisor, and name of the program;
  - viii. The reason for wanting to provide foster care;
  - ix. Type of individual, gender and age, the license applicant would prefer to take into the home;
  - x. Any experience caring for individuals who have special needs;
  - xi. Discipline techniques used or believed appropriate for rearing children; and
  - xii. Anticipated changes in the license applicant's family in the next 12 months.
- g. Information about the license applicant's household members, as follows:
- i. Any contact with CPS or APS by anyone currently or formerly residing with the license applicant and the circumstances;
  - ii. Any arrests and the circumstances;
  - iii. Any history of mental illness or treatment for a mental illness or emotional disorder including hospitalization for alcohol, drug, or mental health issues and the circumstances;
  - iv. If currently or previously employed by the Department of Economic Security or the Division, position, title, name of supervisor, and name of the program;
  - v. Any experience caring for individuals with special needs; and
  - vi. Discipline techniques used or believed appropriate for rearing children.
- h. Reference information for the license applicant, as follows:
- i. Three references who can attest to the license applicant's character and skill; and
  - ii. If the license applicant is working or has worked with children or adults with developmental disabilities, 1 employment reference;
  - i. List of any individuals who live on the property on which the license applicant's home is located but not in the license applicant's home;
2. From the license applicant, the following documents as listed on the application form:
- a. A completed declaration of criminal history for the license applicant and each adult household member on a Division form with the following information:
    - i. Name,
    - ii. Social security number,
    - iii. Date of birth,
    - iv. Address,
    - v. A declaration of whether the individual has committed any of the crimes listed in A.R.S. § 36-594(3) and R6-6-1018, and
    - vi. Dated signature.
  - b. Documentation showing that the license applicant and each adult household member have been fingerprinted;
  - c. Documentation showing that the license applicant has a current driver's license, and current vehicle liability insurance as prescribed in R6-6-1012(A);
  - d. A completed monthly budget on a Division form showing the license applicant's monthly income, and monthly expenses, and the circumstances for any declaration of bankruptcy.
  - e. A physician's statement for the license applicant and each adult household member as prescribed in R6-6-1001(L).
  - f. Documentation of current immunizations for each child living in the license applicant's home as prescribed in R6-6-1001(E)(5);
  - g. Documentation that the license applicant has completed training as prescribed in R6-6-1005(A).
3. From sources other than the applicant, the documents listed on the application form, as follows:
- a. Three letters of reference for the license applicant as prescribed in R6-6-1001(G);
  - b. If the license applicant works with children or adults with developmental disabilities, 1 employment letter of reference as prescribed in R6-6-1001(H);
  - c. Documentation that the license applicant and each adult household member have had a criminal history check as prescribed in R6-6-1001(B);
  - d. Documentation showing that the license applicant's home has passed:
    - i. A fire inspection as prescribed in R6-6-1011(E), and
    - ii. A health and safety inspection as prescribed in R6-6-1011(D).
  - e. Documentation that vehicles used for transporting foster children have passed a Division safety inspection as prescribed in R6-6-1012(B); and
  - f. Documentation that the CPS/APS Central Registry has been checked as prescribed in R6-6-1001(C).

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**R6-6-1004.04. Contents of a Complete Application Package - Renewal License**

A license renewal application package is complete when the Division has all the following information:

1. From the license applicant, a completed renewal application form as prescribed in R6-6-1001(A) which contains the following information:
  - a. Personally identifying information, as follows:
    - i. Name,
    - ii. Address, and
    - iii. Phone number.
  - b. Personally identifying information on the license applicant's household members, as follows:
    - i. Name,
    - ii. Gender,
    - iii. Age,
    - iv. Relationship to the license applicant,
    - v. School or occupation, and
    - vi. Financial contributions made by a household member to the license applicant.
  - c. Personally identifying information on the license applicant's children who do not live with the license applicant, including emancipated children, as follows:
    - i. Name;
    - ii. Age;
    - iii. Address; and
    - iv. School, if currently attending.
  - d. Information about the license applicant, as follows:
    - i. Any arrests or investigation for a criminal offense, including charges, and arresting agency;
    - ii. Referrals to or treatment for psychiatric or psychological problems including substance abuse in the last year;
  - e. Information about the license applicant's household members, including:
    - i. Arrests or investigations for a criminal offense, including charge, and arresting agency;
    - ii. Referrals to or treatment for psychiatric or psychological problems including substance abuse in the last year;
  - f. Any current or prior licenses or certificates held by the license applicant to provide care to a child or adult, as follows:
    - i. Type of license or certificate;
    - ii. Dates of each license and certificate;
    - iii. States in which the license or certificate was issued;
    - iv. Any license or certificate which was revoked, denied, voluntarily surrendered, or suspended, and the circumstances; and
    - v. Name of any other agency the license applicant is currently licensed or certified with to provide services to children or adults.
  - g. List of any individuals who live on the property on which the license applicant's home is located, but not in the license applicant's home;
  - h. Composition of the household members;
  - i. Any changes needed to the license conditions;
  - j. Dated signature.
2. From the license applicant, the items listed in R6-6-1004.03(2)(c), (d), and (f) and the following:
  - a. A completed declaration of criminal history for each new adult household member and, at 3-year intervals, for all adult household members;

- b. Documentation showing that each new adult household member has been fingerprinted and, at 3-year intervals, that all adult household members are fingerprinted;
  - c. A physician's statement every 3 years from the date of the initial license for the license applicant and all adult household members; and
  - d. Documentation that the license applicant has completed training as prescribed in R6-6-1005(B).
3. From sources other than the applicant, the documents listed in R6-6-1004.03(3)(d)(i), (3)(e), and (3)(f) and the following:
    - a. Documentation that each new adult household member has had a criminal history check and all adults household members have a criminal history check every 3 years.
    - b. Documentation that the license applicant's home has passed a health and safety inspection every 3 years.

**R6-6-1004.05. Contents of a Completed Request for an Amended License**

A request for an amended license is complete when the Division has the following:

1. A description of the change requested to the license, and
2. Documentation that the requested change complies with this Article.

**ARTICLE 11. ADULT DEVELOPMENTAL HOME  
LICENSE**

**R6-6-1104.01. Time Frame for Granting or Denying a License**

For the purpose of A.R.S. § 41-1073, the Division establishes the following licensing time frames:

1. Administrative completeness review time frame:
  - a. For an initial license, 90 days;
  - b. For a renewal license, 40 days; and
  - c. For an amended license, 30 days.
2. Substantive review time frame:
  - a. For an initial license, 30 days;
  - b. For a renewal license, 21 days; and
  - c. For an amended license, 10 days.
3. Overall time frame:
  - a. For an initial license, 120 days;
  - b. For a renewal license, 61 days; and
  - c. For an amended license, 40 days.

**R6-6-1104.02. Administrative Completeness and Substantive Review Process**

- A. The Division shall send the license applicant a written notice within the administrative completeness review time frame indicating that the application package is either complete or incomplete.
- B. If the application package is incomplete, the notice shall list the information lacking and ask the license applicant to supply the missing information within 60 days from the date of notice. If the license applicant fails to do so, the Division may close the file.
- C. A license applicant whose file has been closed and who later wishes to become licensed may reapply to the Division. The administrative completeness time frame starts over when the Division receives the written request to reapply.
- D. When the application is complete the Division shall complete a substantive review of the license applicant as follows:
  1. Review the application form and all required documents to ensure compliance with this Article,
  2. Complete a home study as prescribed in R6-6-1101(D), and

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3. Gather additional information needed to determine the license applicant's fitness to serve as an Adult Developmental Home service provider and ability to comply with Adult Developmental Home requirements, which may include:
- a. Interviewing the license applicant;
  - b. Contacting references;
  - c. Verifying information provided in the application;
  - d. Visiting the license applicant's home; and
  - e. Requesting additional information, assessments, or tests as prescribed in R6-6-1101(F) and R6-6-1103(C).

E. If a license is denied, the Division shall send a notice to the license applicant as prescribed in R6-6-1118(F).

**R6-6-1104.03. Contents of a Complete Application Package - Initial License**

An initial application package is complete when the Division has all of the following information:

- I. From the license applicant, a completed application form as prescribed in R6-6-1101(A) which contains the following information:
  - a. Personally identifying information, as follows:
    - i. Name and gender,
    - ii. Date and place of birth,
    - iii. Social security number,
    - iv. Ethnicity and religious preference,
    - v. Current and previous address,
    - vi. Dates resided at previous address,
    - vii. Length of Arizona residency,
    - viii. Current marital status and marital history, and
    - ix. Any other names the license applicant has been known by.
  - b. Personally identifying information on the license applicant's household members, as follows:
    - i. Name,
    - ii. Gender,
    - iii. Date of birth,
    - iv. Relationship to license applicant, and
    - v. Length of time living in the home.
  - c. Personally identifying information on the license applicant's children who do not live with the license applicant, including emancipated children, as follows:
    - i. Name;
    - ii. Current address;
    - iii. Date of birth; and
    - iv. School, if currently attending.
  - d. Any current or prior licenses or certificates held by the license applicant to provide care to a child or adult, as follows:
    - i. Type of license or certificate;
    - ii. Dates of each license and certificate;
    - iii. States in which the license or certificate was issued;
    - iv. Any license or certificate which was revoked, denied, voluntarily surrendered, or suspended and the circumstances; and
    - v. Name of any other agency the license applicant is currently licensed or certified with to provide services to children or adults.
  - e. A description of the license applicant's home, as follows:
    - i. The name of the school district in which the license applicant's home is located;

- ii. Identification and description of any swimming pool, spa, fish pond, or other body of water; and
  - iii. Number of bedrooms.
- f. Information about the license applicant, as follows:
- i. Educational background;
  - ii. Employment history;
  - iii. Previous experience in providing room and board for any person;
  - iv. Any contact with CPS or APS and the circumstances;
  - v. Any arrests and the circumstances;
  - vi. Any history of mental illness or treatment for a mental illness or emotional disorder including hospitalization for alcohol, drug, or mental health issues and the circumstances;
  - vii. If currently or previously employed by the Department of Economic Security or the Division, position, title, name of the supervisor, and name of the program;
  - viii. The reason for wanting to provide care to an adult;
  - ix. Type of individual, gender and age, the license applicant would prefer to take into the home;
  - x. Any experience caring for individuals who have special needs;
  - xi. Discipline techniques used or believed appropriate; and
  - xii. Anticipated changes in the license applicant's family in the next 12 months.
- g. Information about the license applicant's household member, as follows:
- i. Any contact with CPS or APS by anyone currently or formerly residing with the license applicant and the circumstances;
  - ii. Any arrests and the circumstances;
  - iii. Any history of mental illness or treatment for a mental illness or emotional disorder including hospitalization for alcohol, drug, or mental health issues and the circumstances;
  - iv. If currently or previously employed by the Department of Economic Security or the Division, position, title, name of the supervisor, and name of the program;
  - v. Any experience caring for individuals with special needs; and
  - vi. Discipline techniques used or believed appropriate.
- h. Reference information for the license applicant, as follows:
- i. Three references who can attest to the license applicant's character and skill; and
  - ii. If the license applicant is working or has worked with children or adults with developmental disabilities, 1 employment reference;
- i. List of any individuals who live on the property on which the license applicant's home is located, but not in the license applicant's home;
2. From the license applicant, the following documents listed on the application form:
- a. A completed declaration of criminal history for the license applicant and each adult household member on a Division form with the following information:
    - i. Name,
    - ii. Social security number,
    - iii. Date of birth,

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- iv. Address.
  - v. A declaration of whether the individual has committed any of the crimes listed in A.R.S. § 36-594(3) and R6-6-1118, and
  - vi. Dated signature.
  - b. Documentation showing that the license applicant and each adult household member have been fingerprinted;
  - c. Documentation showing that the license applicant has a current driver's license, and current vehicle liability insurance as prescribed in R6-6-1112(A);
  - d. A completed monthly budget on a Division form showing the license applicant's monthly income, and monthly expenses, and the circumstances for any declaration of bankruptcy.
  - e. A physician's statement for the license applicant and each adult household member as prescribed in R6-6-1101(L).
  - f. Documentation of current immunizations for each child living in the license applicant's home as prescribed in R6-6-1101(E)(5);
  - g. Documentation that the license applicant has completed training as prescribed in R6-6-1105(A).
3. From sources other than the applicant, the documents listed on the application form, as follows:
- a. Three letters of reference for the license applicant as prescribed in R6-6-1101(G);
  - b. If the license applicant works with children or adults with developmental disabilities, 1 employment letter of reference as prescribed in R6-6-1101(H);
  - c. Documentation that the license applicant and each adult household member have had a criminal history check as prescribed in R6-6-1101(B);
  - d. Documentation showing that the license applicant's home has passed:
    - i. A fire inspection as prescribed in R6-6-1111(E), and
    - ii. A health and safety inspection as prescribed in R6-6-1111(D).
  - e. Documentation that vehicles used for transporting individuals with developmental disabilities have passed a Division safety inspection as prescribed in R6-6-1112(B); and
  - f. Documentation that the CPS/APS Central Registry has been checked as prescribed in R6-6-1101(C).
- c. Personally identifying information on the license applicant's children who do not live with the license applicant, including emancipated children, as follows:
    - i. Name;
    - ii. Age;
    - iii. Address; and
    - iv. School, if currently attending.
  - d. Information about the license applicant, as follows:
    - i. Any arrests or investigation for a criminal offense, including charges, and arresting agency;
    - ii. Referrals to or treatment for psychiatric or psychological problems including substance abuse in the last year;
  - e. Information about the license applicant's household member, including:
    - i. Arrests or investigations for a criminal offense, including charge, and arresting agency;
    - ii. Referrals to or treatment for psychiatric or psychological problems including substance abuse treatment in the last year;
  - f. Any current or prior licenses or certificates held by the license applicant to provide care to a child or adult, as follows:
    - i. Type of license or certificate;
    - ii. Dates of each license and certificate;
    - iii. States in which the license or certificate was issued;
    - iv. Any license or certificate which was revoked, denied, voluntarily surrendered, or suspended and the circumstances; and
    - v. Name of any other agency the license applicant is currently licensed or certified with to provide services to children or adults.
  - g. List of any individuals who live on the property on which the license applicant's home is located, but not in the license applicant's home;
  - h. Composition of the household members;
  - i. Any changes needed to the license conditions;
  - j. Dated signature.
2. From the license applicant, the items listed in R6-6-1104.03(2)(c), (d), and (f) and the following:
- a. A completed declaration of criminal history for each new adult household member and, at 3-year intervals, for all adult household members;
  - b. Documentation showing that each new adult household member has been fingerprinted and, at 3-year intervals, that all adult household members are fingerprinted;
  - c. A physician's statement every 3 years from the date of the initial license for the license applicant and all adult household members; and
  - d. Documentation that the license applicant has completed training as prescribed in R6-6-1105(B).
3. From sources other than the applicant, the documents listed in R6-6-1104.03(3)(d)(i), (3)(e), and (3)(f) and the following:
- a. Documentation that each new adult household member has had a criminal history check and all adults household members have a criminal history check every 3 years; and
  - b. Documentation that the license applicant's home has passed a health and safety inspection every 3 years.

**R6-6-1104.04. Contents of a Complete Application Package - Renewal License**

A license renewal application package is complete when the Division has all the following information:

- 1. From the license applicant, a completed renewal application form as prescribed in R6-6-1101(A) which contains the following information:
  - a. Personally identifying information, as follows:
    - i. Name,
    - ii. Address, and
    - iii. Phone number.
  - b. Personally identifying information on the license applicant's household members, as follows:
    - i. Name,
    - ii. Gender,
    - iii. Age,
    - iv. Relationship to the license applicant,
    - v. School or occupation, and
    - vi. Financial contributions made by a household member to the license applicant.

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**R6-6-1104.05. Contents of a Complete Request for an Amended License**

A request for an amended license is complete when the Division has the following:

1. A description of the change requested to the license, and
2. Documentation that the requested change complies with this Article.

**ARTICLE 15. STANDARDS FOR CERTIFICATION OF HOME AND COMMUNITY-BASED SERVICE (HCBS) PROVIDERS**

**R6-6-1504.01. Time Frame for Granting or Denying an HCBS certificate**

For the purpose of A.R.S. § 41-1073, the Division establishes the following HCBS certificate time frames:

1. Administrative completeness review time frame, 60 days;
2. Substantive review time frame, 60 days; and
3. Overall time frame, 120 days.

**R6-6-1504.02. Administrative Completeness and Substantive Review Process**

- A. The Division shall send the applicant a written notice within the administrative completeness review time frame indicating that the application package is either complete or incomplete.
- B. If the application package is incomplete, the notice shall list the information lacking and ask the applicant to supply the missing information within 30 days from the date of notice. If the applicant fails to do so, the Division may close the file.
- C. An applicant whose file has been closed and who later wishes to become certified may reapply to the Division. The administrative completeness time frame starts over when the Division receives the written request to reapply.
- D. When the application is complete, the Division shall complete a substantive review of the applicant as follows:
  1. Review the application form and all required documents to ensure compliance with this Article;
  2. CPS/APS background checks, and
  3. Previous license/certificate verification.
- E. If an HCBS certificate is denied, the Division shall send a notice to the applicant and include the following information:
  1. The reason for the denial with citation to supporting statutes or rules,
  2. The applicant's right to appeal the denial, and
  3. The time periods for appealing the denial.

**R6-6-1504.03. Contents of a Complete Application Package - Initial Certificate**

An initial application package is complete when the Division has all of the following information:

1. From the applicant, a completed application form as prescribed in R6-6-1504(B); and
2. From the applicant, the following documents listed on the application form:
  - a. A completed AHCCCS provider participation agreement form as prescribed in R6-6-1503 which contains the following information:
    - i. The applicant's name, social security number or tax identification number, and business address;
    - ii. Terms of the agreement between the provider and AHCCCS; and
    - iii. Signature of the applicant.
  - b. A completed declaration of criminal history as prescribed in R6-6-1504(B)(6) on a Division form which contains the following information:
    - i. Name of the applicant,

- ii. Social security number,
  - iii. Date of birth,
  - iv. Applicant address,
  - v. A declaration of whether or not the applicant has committed any of the crimes listed in R6-6-1514, and
  - vi. Dated signature.
- c. Documentation showing that fingerprints have been taken as prescribed in R6-6-1506;
  - d. Documentation showing current CPR training as prescribed in R6-6-1520;
  - e. Documentation showing current First Aid training as prescribed in R6-6-1520;
  - f. Documentation showing Article 9 review as prescribed in R6-6-1520;
  - g. Documentation showing that the applicant has a current driver's license, vehicle registration, and liability insurance as prescribed in R6-6-1520(D);
  - h. Copies of any professional license or certification as prescribed in R6-6-1504(C); and
  - i. AHCCCS provider registration form as prescribed in R6-6-1503 which contains the following information:
    - i. Name, social security number, and FEI number of the applicant;
    - ii. Physical and mailing address of the applicant;
    - iii. Telephone and telefacsimile numbers for the applicant;
    - iv. Categories of service provided;
    - v. Changes from the prior year, if necessary;
    - vi. AHCCCS provider identification number;
    - vii. Districts and counties served;
    - viii. Place and date of birth; and
    - ix. Dated signature.
3. From sources other than the applicant, the documents listed on the application form as follows:
    - a. Three letters of reference as prescribed in R6-6-1504(C); and
    - b. Documentation showing that the applicant's home or office has passed:
      - i. A fire inspection as prescribed in R6-6-1505;
      - ii. A health and safety inspection as prescribed in R6-6-1505;

**R6-6-1504.04. Contents of a Complete Application Package - Renewal Certificate**

A renewal application is complete when the Division is in receipt of the following information:

1. From the applicant, the following items:
  - a. AHCCCS provider registration form;
  - b. Documentation of current CPR and First Aid training, current driver's license, professional licenses, and certifications, if prior documentation has expired;
  - c. A completed declaration of criminal history every 3 years; and
  - d. Documentation that fingerprints have been taken at 3-year intervals.
2. From sources other than the applicant, documentation that the applicant's home or office has passed a fire inspection every 2 years;

**R6-6-1504.05. Contents of a Complete Request for an Amended Certificate**

A request for an amended HCBS certificate is complete when the Division is in receipt of the following information:



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

The following entities will be impacted by the proposed changes:

- AHCCCS health plans will be nominally impacted if they:
- Provide services in excess of current limitations in R9-22-214 on dentures. For example, under the proposed rules, a health plan could provide more than 1 set of medically necessary dentures per member during a 5-year period. Conversely, health plans could also save staff time since they will no longer need to monitor the limitation.

The following parties will benefit from the increased clarity, conciseness, and understandability of the proposed changes:

- AHCCCS;
- AHCCCS health plans;
- AHCCCS providers; and
- AHCCCS members.
- The following entities were considered but will not be affected by the proposed changes:
- Taxpayers;
- The larger business community, except for AHCCCS health plans and providers that are businesses;
- Political subdivisions, such as cities or counties.

**7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Cheri Tomlinson  
Address: AHCCCS  
801 East Jefferson, MD4200  
Phoenix, Arizona 85034  
Telephone: (602) 417-4198  
Fax: (602) 256-6756

**8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

A public hearing will be held as follows:

Date: July 7, 1997  
Time: 9 a.m.  
Location: AHCCCS Administration  
Public Hearing Room A, 2nd Floor  
701 East Jefferson  
Phoenix, Arizona

A person may submit written comments on the proposed rules no later than 5 p.m., July 7, 1997, to the person listed above.

**9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable.

**10. Incorporation by reference and their location in the rules:**  
42 U.S.C. § 1396d(r)(5), April 1, 1990 incorporated at R9-22-213.

**11. The full text of the rules follows:**

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**TITLE 9. HEALTH SERVICES**

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

**ARTICLE 2. SCOPE OF SERVICES**

- R9-22-201. ~~Scope of Covered Services~~
- R9-22-201. ~~General Requirements~~
- R9-22-202. ~~Covered Services Reserved~~
- R9-22-203. ~~Excluded Services Reserved~~
- R9-22-204. ~~Out-of-area Coverage Inpatient General Hospital Services~~
- R9-22-205. ~~Outpatient Health Services~~
- R9-22-205. ~~Physician and Primary Care Provider Services~~
- R9-22-206. ~~Organ and Tissue Transplantation Services~~
- R9-22-207. ~~Pharmaceutical services~~
- R9-22-207. ~~Dental Services~~
- R9-22-208. ~~Medical Supplies, Durable Equipment, Orthotic and Prosthetic Devices~~
- R9-22-208. ~~Laboratory, Radiology and Medical Imaging Services~~
- R9-22-209. ~~Inpatient Hospital Services~~
- R9-22-209. ~~Pharmaceutical Services~~
- R9-22-210. ~~Emergency Medical Services~~
- R9-22-211. ~~Transportation Services~~
- R9-22-212. ~~Emergency dental services~~
- R9-22-212. ~~Medical Supplies, Durable Equipment, Orthotic, and Prosthetic Devices~~
- R9-22-213. ~~Early and Periodic Screening, Diagnosis and Treatment Services (EPSDT)~~
- R9-22-214. ~~Medically-necessary dentures Reserved~~
- R9-22-215. ~~Notification of changes in covered services~~
- R9-22-215. ~~Other Medical Professional Services~~
- R9-22-216. ~~Minimum health care benefits; additional services and charges~~
- R9-22-216. ~~Nursing Facility Services~~
- R9-22-217. ~~Services for State and Federal Emergency Services Persons~~
- R9-22-217. ~~Services Included in the State and Federal Emergency Services Programs~~
- R9-22-218. ~~Laboratory, X-ray, and Medical Imaging Services~~

**ARTICLE 2. SCOPE OF SERVICES**

**R9-22-201. Scope of Covered Services**

- A. ~~Covered services provided to enrolled members. Covered services shall be medically necessary and provided by, or under the direction of, a primary care physician, specialist or dentist under the referral of a primary care physician. Nurse practitioners and physician assistants may provide covered services in appropriate affiliation with a primary care physician. Delegation for the provision of primary care services to a practitioner shall not diminish the role or responsibility of the delegating primary care physician, as defined in these rules. Certain services, ordinarily provided under Title XIX of the Social Security Act, as amended, are specifically excluded from coverage under AHCCCS pursuant to waiver agreements between the Administration and the Health Care Financing Administration of the U.S. Department of Health and Human Services. Some services require prior authorization by the Administration.~~
- B. ~~Covered services provided to eligible but not enrolled persons. Only emergency medical services provided by licensed providers in compliance with provisions of this Chapter shall be covered for non categorical persons who have been determined eligible by the county but who are not enrolled.~~

- C. ~~Covered state and federal emergency services are set forth in R9-22-217.~~
- D. ~~Restrictions, exclusions and prior authorizations. The restrictions, exclusions and prior authorizations set forth under this Article shall not apply to the following groups:~~
  - 1. ~~Public and private employers selecting AHCCCS as a health care option for their employees and wishing to negotiate for extended benefits.~~
  - 2. ~~Prepaid capitated contractors electing to provide noncovered services. The costs associated with the provisions of those services to the categorically eligible, indigent and medically needy shall not be included in development or negotiation of capitation rates. Noncovered services must be paid for out of administrative revenue or other plan funds.~~

**R9-22-201. General Requirements**

- A. ~~In addition to requirements and limitations specified in this Chapter, the following general requirements apply:~~
  - 1. ~~Covered services provided to a member shall be medically necessary and provided by, or under the direction of, a primary care provider or a dentist; specialist services shall be provided under referral from, and in consultation with, the primary care provider;~~
    - a. ~~If a primary care provider delegates the provision of primary care for a member to a practitioner, the role or responsibility of the delegating primary care provider, as defined in these rules, shall not be diminished;~~
    - b. ~~Behavioral health screening and evaluation services may be provided without referral from a primary care provider; behavioral health treatment services shall be provided under referral from, and in consultation with, the primary care provider;~~
  - 2. ~~Covered services provided to an eligible person through the AHCCCS Administration shall be medically necessary and provided by, or under the direction of, an attending physician, practitioner, or dentist;~~
  - 3. ~~Services shall be rendered in accordance with state and federal laws and regulations, the Arizona Administrative Code and AHCCCS contractual requirements;~~
  - 4. ~~Only emergency medical services provided in compliance with this Chapter shall be covered for a noncategorically eligible person for 48 hours prior to enrollment in the system;~~
  - 5. ~~Experimental services as determined by the director, or services provided primarily for the purpose of research, shall not be covered;~~
  - 6. ~~AHCCCS services shall be limited to those not available for a member or eligible person through Medicare coverage;~~
  - 7. ~~Services or items, if furnished gratuitously, are not covered and payment shall be denied;~~
  - 8. ~~Personal care items are not covered and payment shall be denied;~~
  - 9. ~~Medical or behavioral health services are not covered if provided to:~~
    - a. ~~An inmate of a prison;~~
    - b. ~~A person who is in residence at an institution for the treatment of tuberculosis; or~~
    - c. ~~A person who is in an institution for the treatment of mental disorders, unless provided according to Article 12.~~

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- B. Services shall be provided by AHCCCS registered personnel or facilities that meet state and federal requirements and are appropriately licensed or certified to provide the service.
- C. Payment for services or items requiring prior authorization may be denied if prior authorization is not obtained. Services provided during the prior period coverage do not require authorization. Emergency services under A.R.S. § 36-2908 do not require prior authorization.
1. For an eligible person, the AHCCCS Administration shall prior authorize services based on the diagnosis, complexity of procedures, prognosis, and commensurate with the diagnostic and treatment procedures requested by the eligible person's attending physician or practitioner.
  2. Services for unrelated conditions, requiring additional diagnostic and treatment procedures, require additional prior authorization.
  3. Written documentation of treatment is required for reimbursement of all services in which prior authorization is required. In addition to the requirements of Article 7 of these rules, written documentation of diagnosis and treatment is required for reimbursement of services which require prior authorization.
- D. Covered services rendered to a member shall be provided within the service area of the member's primary contractor except under the following circumstances when:
1. A primary care provider refers a member out of the contractor's area for medical specialty care when;
  2. A member is traveling or temporarily residing out of the service area of the member's contractor, covered services are restricted to emergency care services, unless otherwise authorized by the contractor;
  3. A covered service that is medically necessary for a member is not available within the contractor's service area;
  4. A net savings in service delivery costs can be documented without requiring undue travel time or hardship for a member or the member's family;
  5. A member is placed in a nursing facility located out of the contractor's service area;
  6. Services provided during prior period coverage of services are authorized under Article 3;
  7. The service is otherwise authorized by the contractor based on medical practice patterns, and cost or scope of service considerations.
- E. The Director shall determine the circumstances under which an eligible person may receive services, other than emergency services, from service providers outside the eligible person's county of residence, or outside the state. Criteria considered by the Director in making this determination shall include availability and accessibility of appropriate care, and cost effectiveness.
- F. Each contractor shall provide at a minimum, directly or through subcontracts, the covered services specified in these rules and in contract.
- G. If a member or eligible person requests the provision of a service that is not covered by AHCCCS or not authorized by the contractor, the service may be rendered to the member or eligible person by an AHCCCS-registered service provider under the following conditions:
1. A document is prepared that list the requested services is provided to the member or eligible person; and
  2. The signature of the member or eligible person is obtained in advance of service provision indicating that the services have been explained to the member or eligible person, and that the member or eligible person accepts responsibility for payment.
- H. The restrictions, limitations and exclusions in this Article shall not apply to the following groups:
1. Public and private employers selecting AHCCCS as a health care option for their employees and wishing to negotiate for extended benefits; and
  2. Contractors electing to provide noncovered services.
    - a. The costs associated with the provision of any non-covered service to a member shall not be included in development or negotiation of capitation.
    - b. Noncovered services must be paid from administrative revenue or other contractor funds.
- I. In accordance with A.R.S. § 36-2907(F) the Director may, upon 30 days advance written notice to contractors and counties, modify the list of services for all members except those members categorically eligible pursuant to Title XIX of the Social Security Act, as amended.
- R9-22-202. Covered Services Reserved**  
Subject to the exclusions and limitations contained in this Chapter, the following services shall be covered:
1. ~~Outpatient health services.~~
  2. ~~Laboratory, X-ray and medical imaging services.~~
  3. ~~Pharmacy services.~~
  4. ~~Medical supplies, medical equipment and prosthetic devices.~~
  5. ~~Inpatient hospital services.~~
  6. ~~Emergency services.~~
  7. ~~Emergency ambulance and medically necessary transportation.~~
  8. ~~Emergency dental care and extractions.~~
  9. ~~Medically necessary dentures.~~
  10. ~~Early and periodic screening, diagnosis and treatment services (EPSDT), subject to the limitations set forth in this Article.~~
  11. ~~Podiatry services beginning October 1, 1985.~~
  12. ~~AHCCCS covered services described in paragraphs (1) through (4) and (6) through (11) of this Section provided in the home, in a nursing facility.~~
  13. ~~Home health services pursuant to A.R.S. § 36-2907(D).~~
  14. ~~Nursing facility services, including room and board, provided in lieu of hospitalization for up to 90 days in any contract year. Prior authorization from the Administration is required to provide these services to nonenrolled eligible persons.~~
  15. ~~Home health services, including nursing services, may be covered under deferred liability as determined by the Director in accordance with R9-22-336 for up to 14 days. Home health care services, including nursing services, provided within 90 days after discharge from the hospital and in lieu of continued hospitalization shall be covered under reinsurance in accordance with R9-22-503.~~
  16. ~~Family planning services, including drugs, supplies, devices, and surgical procedures provided to delay or prevent pregnancy. Family planning services are limited to:~~
    - a. ~~Contraceptive counseling, medication, supplies, and associated medical and laboratory examinations, including HIV blood screening as part of a package of sexually transmitted disease tests provided with a family planning service.~~
    - b. ~~Sterilizations.~~
    - c. ~~Natural family planning education or referral.~~
- R9-22-203. Excluded Services Reserved**
- A. The following services are excluded:
1. Services or items furnished solely for cosmetic purposes.
  2. Services or items requiring prior authorization for which prior authorization has not been obtained.

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3. ~~Services not rendered in accordance with AHCCCS rules or contractual requirements.~~
  4. ~~Services or items furnished gratuitously or for which charges are not usually made.~~
  5. ~~Services provided in an institution for the treatment of tuberculosis or an institution for the treatment of mental disorders, except services provided to a categorically eligible person pursuant to Article 12.~~
  6. ~~Hearing aids, eye examinations for prescriptive lenses, and prescriptive lenses for eligible persons 21 years of age or older. Glasses or contact lenses are not excluded if they are the sole prosthetic device after a cataract extraction.~~
  7. ~~Treatment of the basic conditions of alcoholism and drug addiction.~~
  8. ~~Services determined by the Director to be experimental or provided primarily for the purpose of research.~~
  9. ~~Nursing facility services, except as provided in R9-22-202(12) and (14) and 9 A.A.C. 28.~~
  10. ~~Services of private or special duty nurses other than when medically necessary and prior authorized.~~
  11. ~~Sex change operations, infertility services, and reversal of surgically induced infertility (sterilization).~~
  12. ~~Care not deemed necessary by the Director, the responsible contractor, or the responsible primary care physician and not specifically provided for in these rules.~~
  13. ~~Medical services provided to a person who is an inmate of a public institution or who is in the custody of a state mental health facility.~~
  14. ~~Outpatient speech and occupational therapy for eligible persons 21 years of age and older.~~
  15. ~~Physical therapy prescribed only as a maintenance regimen.~~
  16. ~~Orthognathic surgery for eligible persons 21 years of age and older.~~
  17. ~~Artificial or mechanical hearts and xenografts.~~
  18. ~~Heart transplantation, except as specified in A.R.S. § 36-2907(E).~~
  19. ~~Abortions and hysterectomies that are not medically necessary.~~
  20. ~~Abortion counseling.~~
  21. ~~Organ or tissue transplantations which are experimental or are not medically necessary or are not required by state or federal law.~~
  22. ~~Personal comfort items.~~
- B. ~~Except as otherwise provided in R9-22-202(15) and 9 A.A.C. 28, the following services are excluded when provided in a nursing facility:~~
1. ~~Nursing services:~~
    - a. ~~Administration of medication.~~
    - b. ~~Tube feedings.~~
    - c. ~~Personal care services (assistance with bathing and grooming).~~
    - d. ~~Routine testing of vital signs.~~
    - e. ~~Assistance with eating.~~
    - f. ~~Maintenance of catheters.~~
  2. ~~Basic patient care equipment and sickroom supplies, including, but not limited to:~~
    - a. ~~First aid supplies such as band aids, tape, ointments, peroxide, alcohol and over the counter remedies.~~
    - b. ~~Bathing and grooming supplies.~~
    - c. ~~Identification devices.~~
    - d. ~~Skin lotions.~~
    - e. ~~Medication cups.~~
    - f. ~~Alcohol wipes, cotton balls and cotton rolls.~~
    - g. ~~Rubber gloves—nonsterile.~~

- h. ~~Laxatives.~~
  - i. ~~Beds and accessories.~~
  - j. ~~Thermometers.~~
  - k. ~~Ice bags.~~
  - l. ~~Rubber sheeting.~~
  - m. ~~Passive restraints.~~
  - n. ~~Glycerin swabs.~~
  - o. ~~Facial tissue.~~
  - p. ~~Enemas.~~
  - q. ~~Heating pads.~~
  - r. ~~Diapers.~~
  - s. ~~Alcoholic beverages.~~
3. ~~Dietary services including, but not limited to, preparation and administration of special diets, and adaptive tools for eating.~~
  4. ~~Any services that are included in a facility's room and board charge or services that are required of the facility to meet state or county licensure.~~
  5. ~~Administrative physician visits made solely for the purpose of meeting state licensure or county certification requirements.~~
  6. ~~Physical therapy prescribed only as a maintenance regimen.~~
  7. ~~Bed pans, urinals, walkers and wheelchairs, bedside commodes and geriatric chairs except when provided in a licensed supervisory care facility or a certified adult foster care facility for the purpose of maintaining the member at such level. Such medical equipment shall be ordered by a physician.~~

**R9-22-204. Out-of-area Coverage**

- A. ~~Covered services shall be provided within the service area of the contractor except as follows:~~
1. ~~When a primary care provider refers a member out of the contractor's service area for medical specialty care.~~
  2. ~~Coverage for members traveling or temporarily residing out of their contractor's service area is restricted to emergency care services, unless otherwise authorized by the Administration.~~
  3. ~~When a covered service is not available within the contractor's service area.~~
  4. ~~When net savings in transportation costs can reasonably be expected.~~
  5. ~~In cases where the current attending providers are out of the contractor's service area and a deferred liability situation exists as specified in Article 3 of these rules.~~
  6. ~~When members are placed in a nursing facility located out of the contractor's service area.~~
  7. ~~When a retroactive coverage situation exists as specified in Article 3 of these rules.~~
  8. ~~As otherwise authorized in writing by the Administration based on medical practice patterns, cost or scope of service considerations.~~
- B. ~~The Director will determine the circumstances under which an eligible person may be enrolled with, or receive reimbursable routine covered services from, contracting or noncontracting providers outside the member's county of residence, or outside the state. Criteria to be considered by the Director in making this determination shall include:~~
1. ~~Availability and accessibility of appropriate care.~~
  2. ~~Cost benefits.~~

**R9-22-204. Inpatient General Hospital Services**

- A. ~~Inpatient services provided in a general hospital and covered by contractors or provided by fee-for-service providers or noncontracting providers shall include:~~

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1. Hospital accommodations and appropriate staffing, supplies, equipment, and services for each level of care provided by the facility for the following:
    - a. Maternity care;
    - b. Neonatal intensive care (NICU);
    - c. Intensive care (ICU);
    - d. Surgery;
    - e. Nursery;
    - f. Routine care;
    - g. Behavioral health (psychiatric) care.
      - i. Emergency crisis behavioral health services may be provided for a maximum of 72 hours per acute episode and a maximum of 12 days per AHCCCS contract year for each member or eligible person unless services are provided under Article 12.
      - ii. For purposes of this Section, the AHCCCS contract year shall be October 1 through September 30.
  2. Ancillary services for each level of care as specified by the Director and included in contract:
    - a. Labor, delivery and recovery rooms, and birthing centers;
    - b. Surgery and recovery rooms;
    - c. Laboratory services;
    - d. Radiological and medical imaging services;
    - e. Anesthesiology services;
    - f. Rehabilitation services;
    - g. Pharmaceutical services and prescribed drugs;
    - h. Respiratory therapy;
    - i. Blood and blood derivatives;
    - j. Central supply items, appliances and equipment not ordinarily furnished to all patients and which are customarily reimbursed as ancillary services;
    - k. Maternity services; and
    - l. Nursery and related services.
- B.** The following limitations apply to inpatient hospital services provided by fee-for-service providers:
1. The cost of inpatient hospital accommodation for an eligible person shall be incorporated into the rate paid for the level of care as specified in subsection (A)(1).
  2. Prior authorization shall be obtained from the Administration for the following inpatient hospital services provided to an eligible person:
    - a. Nonemergency and elective admission, including psychiatric hospitalization, shall be authorized prior to the scheduled admission;
    - b. Elective surgery, with the exception of voluntary sterilization procedures, shall be authorized prior to the surgery;
    - c. Any emergency hospitalization that extends beyond 3 days or an intensive care unit admission that exceeds 1 day;
    - d. Hospitalization beyond the number of days initially authorized shall be covered only if determined medically necessary through AHCCCS Administration concurrent review;
    - e. Services or items furnished to cosmetically reconstruct appearance after the onset of trauma or serious injury shall be authorized prior to service delivery; and
    - f. Behavioral health services for an eligible person who is 18, 19, or 20 years of age that are provided on an emergency basis for crisis stabilization, and extend beyond 3 days per episode, or 12 days per contract year.
- R9-22-205. Outpatient Health Services**
- A.** The outpatient health services to be provided by contractors and the services reimbursable to capped-fee-for-service providers or noncontracting providers are as follows:
1. Ambulatory surgery and anesthesiology services not specifically excluded.
  2. Physician's services, including patient education.
  3. Pharmaceutical services and prescribed drugs to the extent authorized by these rules and applicable provider contracts.
  4. Treatment of medical conditions of the eye.
  5. Laboratory services.
  6. X-ray and medical imaging services.
  7. Services of allied health professionals when supervised by a physician.
  8. Nursing services provided in an outpatient health care facility.
  9. Medical supplies and equipment ordinarily furnished to persons receiving outpatient health services to the extent that they are covered services and authorized by a primary care physician.
  10. The use of emergency, examining or treatment rooms when required for the provision of physician's services. Access to an emergency room and medical emergency services shall be provided on a 24-hour a day, 7-day a week basis in the contractor's service area.
  11. Consultation for acute mental health episodes provided by a psychiatrist or psychologist which is prescribed by a primary care physician for stabilization, evaluation and treatment plan determination, except consultation services provided to a categorically eligible person pursuant to Article 12.
  12. Home health visits as medically necessary.
  13. Home physician visits as medically necessary.
  14. Dialysis as limited by these rules.
  15. Specialty care physician services shall be considered covered services only when referred by a primary care physician.
  16. Rehabilitation services, excluding occupational therapy and speech therapy for persons 21 years of age or older.
  17. Beginning October 1, 1985, total parenteral nutrition services.
  18. Beginning October 1, 1985, outpatient podiatry services performed by a podiatrist licensed pursuant to Title 32, Chapter 7, which are ordered by a primary care physician.
  19. Orthognathic surgery for eligible persons under 21 years of age.
  20. Physical examinations, periodic health examinations, health assessments, physical evaluations, diagnostic work-ups, or health protection packages, that include groups of tasks or procedures designed to:
    - a. Determine risk of disease;
    - b. Provide early detection of disease;
    - c. Detect the presence of injury or disease at any stage;
    - d. Establish a treatment plan for injury or disease;
    - e. Evaluate the results or progress of a treatment plan or the disease; or
    - f. Establish the presence and characteristics of a physical disability which may be the result of disease or injury.
  21. Beginning October 1, 1987, nurse-midwife services.
- B.** The following limitations apply to capped-fee-for-service providers and nonproviders:
1. Dialysis is limited to services not covered by Title XVIII, Social Security Act, as amended.

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- 2. ~~Services provided upon referral from a primary care physician are limited to those services or conditions for which the referral was made or for which authorization was given.~~
- C. ~~Prior authorization from the Administration is required for capped fee-for-service providers or nonproviders to provide the following services:~~
  - 1. ~~Dialysis not covered by Title XVIII.~~
  - 2. ~~Elective ambulatory surgery and anesthesia services, with the exception of voluntary sterilization procedures.~~
  - 3. ~~Services or items provided to improve personal appearance after a condition, illness or injury.~~
  - 4. ~~Acute mental health care services.~~
  - 5. ~~Home health services.~~
  - 6. ~~Rehabilitative services.~~
  - 7. ~~Orthognathic surgery for eligible persons under 21 years of age.~~
  - 8. ~~Beginning October 1, 1985, outpatient podiatry services performed by a podiatrist licensed pursuant to Title 32, Chapter 7, which are ordered by a primary care physician.~~
- D. ~~Written documentation of treatment is required for reimbursement of the services in subsection (C) in addition to the requirements of Article 7 of these rules.~~
- E. ~~Whenever a physical examination is performed with the primary intent to accomplish 1 or more of the objectives listed in subsection (A), paragraph (19) of this Section, it will be a service or benefit covered by AHCCCS and/or its contractors, except when there is an additional or alternative objective that is designed to satisfy the demands of outside public or private agencies, including preparation of required documentation for that agency's use. Examples of such alternative objectives include physical examinations and resulting documentation for:~~
  - 1. ~~Qualification for insurance,~~
  - 2. ~~Pre-employment physical evaluation,~~
  - 3. ~~Qualification for sports or physical exercise activities,~~
  - 4. ~~Pilots examination (FAA).~~
  - 5. ~~Disability certification for the purpose of establishing any kind of periodic payments,~~
  - 6. ~~Evaluation for establishing third party liabilities, or~~
  - 7. ~~Physical ability to perform functions that have no relation to primary objectives listed in subsection (A), paragraph (19) of this Section.~~

**R9-22-205. Physician and Primary Care Physician and Practitioner Services**

- A. ~~Primary care provider services shall be furnished by a physician or practitioner and shall be covered for members when rendered within the provider's scope of practice under to A.R.S. Title 32. An eligible person may receive these services through an attending physician or practitioner. Primary care provider services may be provided in an inpatient or outpatient setting and shall include at a minimum:~~
  - 1. ~~Periodic health examinations and assessments;~~
  - 2. ~~Evaluations and diagnostic workups;~~
  - 3. ~~Medically necessary treatment;~~
  - 4. ~~Prescriptions for medications and medically necessary supplies and equipment;~~
  - 5. ~~Referrals to specialists or other health care professionals when medically necessary;~~
  - 6. ~~Patient education; and~~
  - 7. ~~Home visits when determined medically necessary.~~
- B. ~~The following limitations and exclusions apply to physician and practitioner services and primary care provider services:~~
  - 1. ~~Specialty care physician services provided to a member shall be considered covered services only when a referral~~

~~is made for the services by the member's primary care provider;~~

- 2. ~~Services provided to a member upon referral from a primary care provider or to an eligible person upon referral from the attending physician or practitioner shall be limited to the services or conditions for which the referral is made, or for which authorization is given;~~
- 3. ~~If a physical examination is performed with the primary intent to accomplish 1 or more of the objectives listed in subsection (A), it shall be covered by the member's contractor, or the Administration except if there is an additional or alternative objective to satisfy the demands of an outside public or private agency. Alternative objectives may include physical examinations and resulting documentation for:~~
  - a. ~~Qualification for insurance;~~
  - b. ~~Pre-employment physical evaluation;~~
  - c. ~~Qualification for sports or physical exercise activities;~~
  - d. ~~Pilot's examination (FAA);~~
  - e. ~~Disability certification for establishing any kind of periodic payments;~~
  - f. ~~Evaluation for establishing 3rd party liabilities; or~~
  - g. ~~Physical ability to perform functions that have no relationship to primary objectives listed in subsection (A).~~
- 4. ~~Orthognathic surgery shall be covered only for members and eligible persons who are under 21 years of age;~~
- 5. ~~The following services shall be excluded from AHCCCS coverage:~~
  - a. ~~Infertility services, reversal of surgically induced infertility (sterilization) and sex change operations;~~
  - b. ~~Abortion counseling services are excluded;~~
  - c. ~~Abortions are excluded, unless determined to be medically necessary; abortions are excluded if not performed according to federal or state law;~~
  - d. ~~Services or items furnished solely for cosmetic purposes, and~~
  - e. ~~Hysterectomies unless determined to be medically necessary.~~
- 6. ~~Prior authorization from the Administration shall be required for fee-for-service providers to render the following services to eligible persons:~~
  - a. ~~Elective or scheduled surgeries with the exception of voluntary sterilization procedures;~~
  - b. ~~Nonemergency treatment of medical conditions of the eye for eligible persons who are 21 years of age and older; and~~
  - c. ~~Services or items provided to reconstruct or improve personal appearance after an illness or injury.~~

**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;~~

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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.~~
  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, Chapter 1, § 5.~~
- A. ~~The following organ and tissue transplantation services shall be covered for a member or eligible person as specified in A.R.S. § 36-2907 if prior authorized and coordinated with the member's contractor, or the Administration for eligible persons:~~
1. ~~Kidney transplantation;~~
  2. ~~Cornea transplantation;~~
  3. ~~Heart transplantation;~~
  4. ~~Liver transplantation;~~
  5. ~~Autologous and allogeneic bone marrow transplantation;~~
  6. ~~Lung transplantation;~~
  7. ~~Heart-lung transplantation;~~
  8. ~~Other organ transplantation if the transplantation is required by federal law for a categorically eligible person or member less than the age of 21 years and if other statutory criteria are met; and~~
  9. ~~Immunosuppressant medications, chemotherapy, and other related services.~~
- B. ~~The following limitations shall apply to organ and tissue transplantation services:~~
1. ~~Artificial or mechanical hearts and xenografts are not covered services.~~
  2. ~~Organ or tissue transplantation services specified in subsection (A) are covered for a member or eligible person who is medically indigent or medically needy or for eligible assistance children and eligible low-income children only if funding is available as specified in A.R.S. § 36-2907;~~
  3. ~~Organ and tissue transplantation services are not covered during the fee-for-service emergency services only period for a member or eligible person who is medically indigent or medically needy or for eligible assistance children and eligible low-income children, except for persons eligible for services under Laws 1995, Ch. 1, § 5; and~~
  4. ~~Organ and tissue transplantation services are not covered under the state and federal emergency services programs.~~

**R9-22-207. Pharmaceutical services**

- A. ~~Pharmaceutical services shall be available to members during customary business hours and shall be located within reasonable travel distance.~~
- B. ~~The following limitations shall apply:~~
1. ~~Drugs personally dispensed by a physician or dentist are not covered, except in geographically remote areas where~~

~~there is no participating pharmacy or when accessible pharmacies are closed.~~

2. ~~Prescriptions in excess of a 30-day supply or a 100-unit dose are excluded from covered services, with the exception of prescriptions for chronic illnesses which shall be limited to a 100-day supply or 100-unit doses, whichever is more.~~
3. ~~The following are excluded from covered services:~~
  - a. ~~Nonprescription drugs and medicines except when appropriate alternative over the counter drugs are available and are less costly than prescription drugs.~~
  - b. ~~Drugs and medicines not prescribed by the member's primary care physicians, physicians and dentists under their referral, or authorized practitioners.~~
  - c. ~~Refilling of a prescription in excess of the number specified, or any refill dispensed after 1 year from the original order.~~
4. ~~All changes in, or additions to, the original prescription shall be approved by the authorized prescriber and shall clearly indicate the date of change and be initialed by the dispensing pharmacist.~~

**R9-22-207. Dental Services**

- A. ~~Emergency dental care which encompasses the following services shall be covered:~~
1. ~~Emergency oral diagnostic examination including laboratory and radiographs when necessary to determine an emergent condition;~~
  2. ~~Relief of severe pain associated with an oral or maxillofacial condition, limited to immediate palliative treatment including extractions when professionally indicated;~~
  3. ~~Initial treatment for acute infection;~~
  4. ~~Immediate and palliative procedures for acute craniomandibular problems and for traumatic injuries to teeth, bone, or soft tissue;~~
  5. ~~Preoperative procedures; and~~
  6. ~~Anesthesia appropriate for optimal patient management.~~
- B. ~~The following limitations shall apply to emergency dental services provided by fee-for-service providers:~~
1. ~~Treatment for the prevention of pulpal death and imminent tooth loss is limited to non-cast fillings, crowns constructed from pre-formed stainless steel, pulp caps, and pulpotomies only for the tooth causing pain or in the presence of active infection. Root canals are limited to treatment for acute infection or to eliminate pain;~~
  2. ~~Routine restorative procedures and routine root canal therapy are not emergency services;~~
  3. ~~Radiographs are limited to symptomatic teeth for use as a diagnostic tool preceding treatment and to support the need for, and provision of, dentures;~~
  4. ~~Maxillofacial dental services provided by a dentist are not covered except to the extent prescribed for the reduction of trauma, including reconstruction of regions of the maxillae and mandible; and~~
  5. ~~Diagnosis and treatment of temporomandibular joint dysfunction are not covered except for the reduction of trauma.~~
- C. ~~Covered denture services include medically necessary dental services and procedures associated with, and including, the provision of dentures.~~
- D. ~~The following limitations shall apply to dentures provided by fee-for-service providers:~~
1. ~~Provision of dentures for cosmetic purposes is not a covered service;~~
  2. ~~Extractions of asymptomatic teeth are not covered unless their removal constitutes the most cost effective dental procedure for the provision of dentures;~~

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3. Radiographs are limited to use as a diagnostic tool preceding treatment of symptomatic teeth and to support the need for, and provision of, dentures; and
4. Prior authorization of dental services for an eligible person is required from the Administration for the following:
  - a. Provision of medically necessary dentures;
  - b. Request for replacement, repair, or adjustment to dentures; and
  - c. Provision of obturators or other prosthetic appliances for restoration or rehabilitation.

**R9-22-208. Medical Supplies, Durable Equipment, Orthotic and Prosthetic Devices**

- A. Medical supplies, durable equipment, orthotic and prosthetic devices prescribed by a primary care physician, a practitioner or by a physician upon referral from the primary care physician, qualify as covered services when they are medically necessary and not excluded by these rules.
1. Medical supplies include but are not limited to surgical dressings, splints, casts and other consumable items covered under Title XVIII and which are not reusable and are provided to the member or eligible person.
  2. Medical equipment includes but is not limited to wheelchairs, walkers, hospital beds, bed pans and other durable items purchased or rented for the member or eligible person.
  3. Prosthetic and orthotic devices include only those items that are essential for the rehabilitation of the member or eligible person.
- B. The following limitations shall apply:
1. Medical equipment may be purchased or rented only when there are no reasonable alternative resources from which the medically necessary medical equipment can be obtained at no cost.
  2. The contractor shall furnish all medically necessary medical equipment on a rental or purchase basis, whichever is less expensive. Total expense or rental shall not exceed purchase price.
  3. Reasonable repairs or adjustment of purchased medical equipment is covered when necessary to make the equipment serviceable and when the cost of repair is less than the cost of rental or purchase of another unit.
  4. For capped fee-for-service providers, changes in, or additions to, the original order for medical equipment shall be approved by the primary care physician or authorized prescriber and shall be indicated clearly and initialed by the vendor. No change or addition to the original order for medical equipment may be made after the claim for services has been submitted to the Administration without prior written notification of such change or addition.
  5. Rental fees shall terminate no later than the end of the month in which the member no longer needs the medical equipment as certified by the authorized provider, or when the member is no longer eligible or enrolled with a contractor, except during transitions of care as specified by the Director.
- C. Exclusions:
1. Personal incidentals including items for personal cleanliness, body hygiene and grooming are not covered unless needed to treat a medical condition under a prescription.
  2. First aid supplies are not covered unless they are provided in accordance with a prescription.
  3. Hearing aids and prescriptive lenses are not covered for eligible persons who are 21 years of age and older. Glasses and contact lenses are not excluded if they are the sole prosthetic device after a cataract extraction.
- D. Prior authorization:

1. Capped fee-for-service providers shall obtain authorization from the Administration prior to providing consumable medical supplies ordered for a member or eligible person when the cost for such supplies exceeds \$50.00 per month.
  2. Capped fee-for-service providers shall obtain authorization from the Administration prior to providing durable medical equipment and prosthetic or orthotic devices when the cost for the item exceeds \$200.00.
- E. Liability and ownership:
1. Purchased durable medical equipment provided to members that is no longer needed may be disposed of in accordance with each contractor's policy.
  2. The state shall retain title to purchased durable medical equipment supplied to eligible non-enrolled persons who are no longer enrolled and who no longer require its usage.

**R9-22-208. Laboratory, Radiology, and Medical Imaging Services**

Laboratory, radiology, and medical imaging services shall be covered services when:

1. Prescribed for members by a primary care provider or a dentist, or by a physician or practitioner upon referral from the primary care provider or dentist;
2. Provided for an eligible person by a fee-for-service provider and the services are prescribed by the attending physician, practitioner, or dentist of the eligible person;
3. Provided in hospitals, clinics, physician offices, or other health care facilities by licensed health care providers; or
4. Provided by a provider that meets all applicable state and federal license and certification requirements and provides only services that are within the scope of practice stated in the provider's license or certification.

**R9-22-209. Inpatient Hospital Services**

- A. Inpatient hospital services means medically necessary services provided by or under the direction of a primary care physician, practitioner or by a specialty physician or dentist on referral from a primary care physician. The inpatient hospital services covered by contractors and the hospital services provided by capped fee-for-service providers or noncontracting providers shall include:
1. Routine services, including:
    - a. Hospital accommodations.
    - b. Intensive care and coronary care unit.
    - c. Nursing services necessary and appropriate for the member's medical condition.
    - d. Dietary services.
    - e. Medical supplies, appliances and equipment ordinarily furnished to hospital inpatients billed as part of routine services and included in the daily room and board charge.
    - f. Acute mental health care services up to limits of 72 hours per acute episode and 12 days per contract year for each eligible person other than categorically eligible persons pursuant to Article 12. For purposes of this Section, the contract year shall be considered as October 1 through September 30.
  2. Ancillary services, including:
    - a. Labor, delivery and recovery rooms, and birthing centers.
    - b. Surgery and recovery rooms.
    - c. Laboratory services.
    - d. Radiological and medical imaging services.
    - e. Anesthesiology services.
    - f. Rehabilitation services.

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- ~~g. Pharmaceutical services and prescribed drugs.~~
  - ~~h. Respiratory therapy.~~
  - ~~i. Blood and blood derivatives.~~
  - ~~j. Central supply items, appliances and equipment not ordinarily furnished to all patients and which are customarily reimbursed as ancillary services.~~
  - ~~k. Maternity services.~~
  - ~~l. Nursery and related services.~~
  - ~~m. Chemotherapy.~~
  - ~~n. Dialysis as limited by these rules~~
  - ~~o. Beginning October 1, 1985, total parenteral nutrition services.~~
  - ~~p. Orthognathic surgery for eligible persons under 21 years of age.~~
  - ~~q. Beginning October 1, 1985, podiatry services performed by a podiatrist licensed pursuant to Title 32, Chapter 7, which are ordered by a primary care physician.~~
- ~~B. Limitations. The following limitations apply to inpatient hospital services provided by capped-fee-for-service providers or nonproviders:~~
- ~~1. Inpatient hospital accommodations are limited to no more than a semi-private rate except when patients must be isolated for medical reasons.~~
  - ~~2. Dialysis is limited to services not covered by Title XVIII, Social Security Act, as amended.~~
- ~~C. Prior authorization for non-enrolled eligible persons. Prior authorization for covered services is required to provide the following services. Written documentation of treatment is required for reimbursement of the services in this subsection in addition to the requirements of Article 7.~~
- ~~1. Dialysis not covered by Title XVIII.~~
  - ~~2. Services or items furnished to cosmetically reconstruct appearance after the onset of trauma or serious injury.~~
  - ~~3. Elective surgery with the exception of voluntary sterilization procedures.~~
  - ~~4. Any emergency hospitalization beyond 3 days or intensive care unit (ICU) admission beyond 24 hours requires prior authorization. Based on the diagnosis, complexity of procedures and prognosis, the Administration may authorize an additional maximum number of inpatient hospital days for the diagnostic and treatment procedures requested by a primary care physician. Unrelated conditions requiring additional diagnostic and treatment procedures require additional prior authorization. Continued hospitalization beyond the number of days initially authorized shall be covered only if re-authorization was previously obtained which will be based on the same criteria as initial authorization requests.~~
  - ~~5. Nonemergency and elective admissions require prior authorization before the eligible person is admitted. Based on the diagnosis, complexity of procedures and prognosis, the Administration shall authorize a maximum number of inpatient hospital days for the diagnostic and treatment procedures requested by a primary care physician. Unrelated conditions requiring additional diagnostic and treatment procedures require additional prior authorization. Continued hospitalization beyond the number of days initially authorized shall be covered only if re-authorization was previously obtained which will be based on the same criteria as initial authorization requests.~~
  - ~~6. Emergency services pursuant to A.R.S. § 36-2908(E) do not require prior authorization.~~
  - ~~7. Acute mental health care services which extend beyond 24 hours of inpatient hospitalization.~~
- ~~8. Beginning October 1, 1985, podiatry services performed by a podiatrist licensed pursuant to Title 32, Chapter 7, which are ordered by a primary care physician.~~
  - ~~9. Kidney transplantation not covered by Medicare and all heart transplantation.~~
- R9-22-209. Pharmaceutical Services**
- A. Pharmaceutical services may be provided by an inpatient or outpatient provider including hospitals, clinics, or appropriately licensed and certified health care facilities and pharmacies.**
  - B. The Administration or its contractor shall make pharmaceutical services available during customary business hours and shall be located within reasonable travel distance.**
  - C. Pharmaceutical services shall be covered if prescribed for a member by the member's primary care provider or dentist, or a specialist upon referral from the primary care provider. Pharmaceutical services provided for an eligible person shall be covered if prescribed by the attending physician, practitioner, or dentist.**
  - D. The following limitations shall apply to pharmaceutical services:**
    - 1. Medications personally dispensed by a physician or dentist are not covered, except in geographically remote areas where there is no participating pharmacy or when accessible pharmacies are closed.**
    - 2. Prescriptions in excess of a 30-day supply or a 100-unit dose are not covered unless:**
      - a. The medications are prescribed for chronic illnesses and the prescriptions are limited to no more than a 100 day supply or 100-unit doses, whichever is more.**
      - b. The member or eligible person will be out of the provider's service area for an extended period of time and the prescriptions are limited to the extended time period, not to exceed 100 days or 100-unit doses, whichever is more.**
      - c. Precautions must be taken due to the member's or eligible person's diagnosed illness to ensure that a gap does not occur in the pharmacological regimen of treatment.**
    - 3. Nonprescription medications are not covered unless appropriate, alternative over-the-counter medications are available and are less costly than prescription medications.**
    - 4. A prescription is not covered if filled or refilled in excess of the number specified, or if an initial prescription or refill as dispensed after 1 year from the original prescribed order.**
    - 5. Approval by the authorized prescriber is required for all changes in, or additions to, an original prescription. The date of a prescription change is to be clearly indicated and initialed by the dispensing pharmacist.**
- R9-22-210. Emergency Medical and Behavioral Health Services**
- A. Emergency services may be provided to eligible persons by contracting providers, noncontracting providers and nonproviders. If the person claims to be covered by AHCCCS, the provider of emergency services shall verify through the Administration eligibility and enrollment status to determine the need for notification to and prior authorization from the Administration or contractor, and liability for services.**
  - B. Notification procedures. Members enrolled in prepaid capitated contracting health plans. Noncontracting providers and nonproviders furnishing emergency services to members who are enrolled with a prepaid capitated contract provider**

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~~must notify the member's contractor within 12 hours of the time the member registers for services. If the member's medical condition is not emergent, as specified in the definitions of emergency medical services in Article 1 of these rules, the nonprovider or noncontracting provider must notify the member's contractor prior to the initiation of treatment. Failure to provide timely notice may constitute cause for denial of payment.~~

- ~~A. Emergency medical services and behavioral health emergency or crisis stabilization services may be provided to a member or eligible person by licensed providers, registered with AHCCCS to provide the services.~~
- ~~B. The provider of emergency services shall verify eligibility and enrollment status through the Administration to determine the need for notification to, and authorization from, a contractor for enrolled members, or the Administration for eligible persons, and to determine the party responsible for payment of services rendered.~~
- ~~C. Access to an emergency room and emergency medical and behavioral health services shall be available 24 hours per day, 7 days per week in each contractor's service area. The use of examining or treatment rooms shall be available when required by a physician or practitioner for the provision of emergency services.~~
- ~~D. Consultation provided by a psychiatrist or psychologist shall be covered as an emergency service if required to evaluate or stabilize an acute episode of mental illness or substance abuse.~~
- ~~E. Emergency services do not require prior authorization but providers shall comply with the following notification requirements:
  - ~~1. Providers, nonproviders, and noncontracting providers furnishing emergency services to members shall notify the member's contractor within 12 hours of the time the member presents for services;~~
  - ~~2. Providers of emergency services to eligible persons are not required to notify the Administration; and~~
  - ~~3. If a member's medical condition is determined to not be an emergency medical condition, as defined in Article 1 of this Chapter, the provider shall notify the member's contractor before initiation of treatment and follow the prior authorization requirements and protocol of the contractor regarding treatment of the member's nonemergent condition. Failure to provide timely notice or comply with prior authorization requirements of the contractor constitutes cause for denial of payment.~~~~

**R9-22-211. Transportation Services**

- ~~A. Emergency ambulance services.
  - ~~1. Emergency ambulance transportation for eligible persons is a covered service. Payment is limited to the cost of transporting eligible persons in a ground or air ambulance to the nearest appropriate provider or medical facility capable of meeting the eligible person's medical needs, when no other means of transportation is both appropriate and available.~~
  - ~~2. If the eligible person is enrolled with a contractor, the ground or air ambulance provider providing emergency transportation shall notify the member's contractor within 10 working days from the date of transport. Failure to notify shall be cause for denial or nonpayment of claims.~~
  - ~~3. Determination of whether an emergency transport is medically necessary is based upon an assessment of the eligible person's medical condition at the time of transport.~~~~
- ~~B. Medically necessary transportation.
  - ~~1. Medically necessary transportation services shall be arranged for or provided by contractors according to prior authorization guidelines for members who are unable to~~~~

~~arrange or pay for their own transportation to a service site or location when free transportation services are not available.~~

- ~~2. When an eligible person who is not enrolled requires medically necessary transportation, due to an inability to arrange or pay for such services, or such services are not available at no cost, the attending physician or practitioner shall order those services in writing. Such transportation services require prior authorization of the Administration.~~
- ~~C. Air ambulance services are covered only if:
  - ~~1. The air ambulance transport is initiated upon the request of an emergency response unit, a law enforcement official, a hospital, a physician, or clinic medical staff; and~~
  - ~~2. The point of pickup is inaccessible by ground ambulance; or great distances or other obstacles are involved in getting emergency services to the eligible person and transporting the eligible person to the nearest hospital or other provider with appropriate facilities; or the medical condition of the eligible person requires timely ambulance service and ground ambulance service will not suffice.~~~~
- ~~D. Meals, lodging and attendant services.
  - ~~1. Expenses for meals, lodging and transportation for an eligible person while en route to or returning from a health care service site, as prior authorized, out of the eligible person's service area or county of residence are AHCCCS covered services.~~
  - ~~2. Meals, lodging and transportation expenses of an attendant, who may be a family household member accompanying an eligible person out of the eligible person's service area, shall be covered if the services of the attendant are ordered in writing by the primary care physician. A salary for an attendant is covered if the attendant is not a part of the eligible person's family household.~~~~
- ~~E. Limitations
  - ~~1. Family household members, friends and neighbors may be reimbursed for providing transportation services only if the services are ordered in writing by the primary care physician and free transportation or public transportation is not available.~~
  - ~~2. A charitable organization routinely providing transportation services at no cost to ambulatory or chairbound persons shall not charge or seek reimbursement from the Administration or contractors for the provision of such services to eligible persons but may enter into subcontractual agreements with AHCCCS contractors for medically necessary transportation services provided under such arrangements.~~
  - ~~3. Payment for meals, lodging and transportation of an attendant and a salary not to exceed federal minimum wage for such attendant is allowed only when the eligible person requires covered services that are not available in the service area. If the eligible person is admitted to an inpatient facility, meals, lodging and a salary for the attendant are covered only when accompanying the member en route to and returning from the facility.~~~~
- ~~F. Prior authorization. Prior authorization for transportation services provided or ordered by a capped fee for service provider is required for the following:
  - ~~1. All medically necessary transportation services.~~
  - ~~2. All meals, lodging and services of an attendant.~~~~
- ~~A. Emergency ambulance services.
  - ~~1. Emergency ambulance transportation shall be a covered service for a member and eligible person. Payment is limited to the cost of transporting the member or eligible person in a ground or air ambulance:~~~~

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- a. To the nearest appropriate provider or medical facility capable of meeting the member's or eligible person's medical needs; and
  - b. When no other means of transportation is both appropriate and available.
2. Subject to A.R.S. § 36-2908(E), a ground or air ambulance transport that originates in response to a 911 call or other emergency response system shall be reimbursed by the member's contractor, or the Administration for eligible persons, if the medical condition at the time of transport justified a medically necessary ambulance transport. No prior authorization is required for reimbursement of these transports.
  3. Determination of whether transport is medically necessary shall be based upon the medical condition of the member or eligible person at the time of transport.
  4. A ground or air ambulance provider furnishing transport in response to a 911 call or other nonemergency transportation to members shall notify the member's contractor within 10 working days from the date of transport. Failure to notify the contractor may constitute cause for denial of claims.
  5. Notification to the Administration for emergency transportation provided to an eligible person is not required, but the provider shall submit documentation with the claim which justifies the service.
- B. Medically necessary nonemergency transportation.**
1. Contractors shall arrange or provide medically necessary nonemergency transportation services for a member who is unable to arrange or pay for the member's own transportation to a service site or location if free transportation services are not available.
  2. If an eligible person requires medically necessary non-emergency transportation due to an inability to arrange to pay for the services, or the services are not available at no cost, the attending physician or practitioner shall order those services.
- C. Air ambulance services shall be covered only if:**
1. The air ambulance transport is initiated upon the request of an emergency response unit, a law enforcement official, a hospital or clinic medical staff member, a physician or a practitioner;
  2. The point of pickup is inaccessible by ground ambulance, or great distances, or other obstacles are involved in getting emergency services to the member or eligible person or transporting the member or eligible person to the nearest hospital or other provider with appropriate facilities; or
  3. The medical condition of the member or eligible person requires timely ambulance service and ground ambulance service will not suffice.
- D. Meals, lodging, and attendant services.**
1. Expenses for meals, lodging, and transportation for a member or eligible person while en route to, or returning from, a health care service site out of the member's or eligible person's service area or county of residence shall be AHCCCS covered services.
  2. Meals, lodging, and transportation expenses of an attendant, who may be a family household member accompanying an eligible person or member out of the eligible person's or member's service area, shall be covered if the services of the attendant are ordered in writing by the member's primary care provider or the eligible person's attending physician or practitioner. A salary for an attendant shall be covered if the attendant is not a part of the eligible person's or member's family household.

- E. Limitations.**
1. Family household members, friends, and neighbors may be reimbursed for providing transportation services only if the services are ordered in writing by the member's primary care provider or the eligible person's attending physician or practitioner, and free transportation or public transportation is not available.
  2. A charitable organization routinely providing transportation services at no cost to ambulatory or chairbound persons shall not charge or seek reimbursement from the Administration or contractors for the provision of these services to a member or eligible person but may enter into subcontractual agreements with AHCCCS contractors for medically necessary transportation services provided to their members.
  3. Payment for meals, lodging, and transportation of an attendant and a salary not to exceed the federal minimum wage for an attendant is allowed only when the member or eligible person requires covered services that are not available in the service area. If the member or eligible person is admitted to an inpatient facility, meals, lodging, and a salary for the attendant are covered only when accompanying the member or eligible person en route to, and returning from, the inpatient facility.
- F. Subject to A.R.S. § 36-2908(E) prior authorization from the Administration for transportation services provided for eligible persons is required for the following:**
1. Medically necessary nonemergency transportation services not originated through a 911 call; and
  2. All meals, lodging, and services of an attendant.

**RR-22-212. Emergency dental services**

- A. Emergency dental care includes the following services:**
1. Relief of severe pain associated with an oral or maxillofacial condition, limited to immediate palliative treatment, but including extractions when professionally indicated.
  2. Initial treatment for acute infection.
  3. Immediate and palliative procedures for acute craniomandibular problems and for traumatic injuries to teeth, bone or soft tissue.
  4. Laboratory and preoperative procedures including examination and radiographs.
  5. Anesthesia appropriate for optimal patient management.
- B. The following limitations apply to emergency dental services provided by capped fee-for-service providers:**
1. Extractions are limited to emergency care but should not be the treatment of choice.
  2. The treatment for the prevention of pulpal death and imminent tooth loss is limited to non-cast fillings, crowns constructed from performed stainless steel, pulp caps and pulpotomies only for the tooth causing pain or in the presence of active infection. Root canals are limited to 6 anterior teeth (uppers and lowers) only and only when indicated as treatment for acute infection or to eliminate pain.
  3. Routine restorative procedures and routine root canal therapy are not considered emergency services.
  4. Radiographs are limited to use as a diagnostic tool preceding treatment of symptomatic teeth and to support the need and provision of dentures.
  5. Maxillofacial dental services provided by a dentist are not covered except to the extent prescribed for the reduction of trauma, including reconstruction of regions of the maxillae and mandible.
  6. Diagnosis and treatment of temporomandibular joint dysfunction are not covered except for the reduction of trauma.

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**R9-22-212. Medical Supplies, Durable Equipment, and Orthotic and Prosthetic Devices**

- A. Medical supplies, durable equipment, and orthotic and prosthetic devices shall be covered services if:
1. Prescribed for a member by the member's primary care provider or a physician or practitioner upon referral from the primary care provider; or
  2. Prescribed by the attending physician or practitioner of an eligible person; and
  3. Provided in compliance with requirements of this Chapter.
- B. Medical supplies include consumable items covered under Medicare, that are provided to a member or eligible person and that are not reusable.
- C. Medical equipment includes any durable item, appliance, or piece of equipment that is designed for a medical purpose, is generally reusable by others, and is purchased or rented for a member or eligible person.
- D. Prosthetic and orthotic devices include only those items that are essential for the habilitation or rehabilitation of a member or eligible person.
- E. Prescriptive lenses are covered if they are the sole prosthetic device after a cataract extraction;
- F. The following limitations shall apply:
1. If medical equipment can not be reasonably obtained from alternative resources at no cost, the medical equipment shall be furnished on a rental or purchase basis, whichever is least expensive. The total expense of renting the equipment shall not exceed the cost of the equipment if purchased.
  2. Reasonable repair or adjustment of purchased medical equipment shall be covered if necessary to make the equipment serviceable and if the cost of repair is less than the cost of renting or purchasing another unit.
  3. Changes in, or additions to, an original order for medical equipment shall be approved by the member's primary care provider or authorized prescriber, or prior authorized by the Administration for eligible persons, and shall be indicated clearly and initialed by the vendor. No change or addition to the original order for medical equipment may be made after a claim for services has been submitted to the member's contractor, or the Administration for eligible persons, without prior written notification of the change or addition.
  4. Rental fees shall terminate:
    - a. No later than the end of the month in which the primary care provider or authorized prescriber has certified that the member or eligible person no longer needs the medical equipment;
    - b. When the member or eligible person is no longer eligible for AHCCCS services; or
    - c. When the member is no longer enrolled with a contractor, with the exception of transitions of care as specified by the Director.
  5. Personal incidentals including items for personal cleanliness, body hygiene, and grooming shall not be covered unless needed to treat a medical condition and provided in accordance with a prescription.
  6. First aid supplies shall not be covered unless they are provided in accordance with a prescription.
  7. Hearing aids and prescriptive lenses shall not be covered for members or eligible persons who are 21 years of age and older.
- G. Fee-for-service providers shall obtain prior authorization from the Administration before providing:

1. Consumable medical supplies exceeding \$50 per month; and
  2. Durable medical equipment or prosthetic or orthotic devices for an eligible person if the cost to rent or purchase the equipment exceeds \$200.
- H. Liability and ownership.
1. Purchased durable medical equipment provided to members but which is no longer needed may be disposed of in accordance with each contractor's policy.
  2. The state shall retain title to purchased durable medical equipment supplied to eligible persons who become ineligible or no longer require its usage.
  3. If customized durable medical equipment is purchased by the Administration for an eligible person, or for a member by the contractor, the equipment will remain with the person during times of transition, or upon loss of eligibility.
    - a. For purposes of this Section, customized durable medical equipment refers to equipment that has been altered or built to specifications unique to a member's or eligible person's medical needs and which, most likely, cannot be used or reused to meet the needs of another individual.
    - b. Customized equipment obtained fraudulently by a member or a eligible person shall be returned for disposal to the member's contractor, or to the Administration if the customized equipment was purchased for an eligible person.

**R9-22-213. Early and Periodic Screening, Diagnosis and Treatment Services (EPSDT)**

- A. The services set forth below are covered for eligible persons from birth to 21 years of age:
1. Screening services, including:
    - a. Comprehensive health and developmental history.
    - b. Comprehensive unclothed physical examination.
    - c. Appropriate immunizations according to age and health history.
    - d. Laboratory tests.
    - e. Health education, including anticipatory guidance.
  2. Vision services, including diagnosis and treatment for defects in vision, and eye examinations for the provision of prescriptive lenses and provision of lenses.
  3. Hearing services, including diagnosis and treatment for defects in hearing, and testing and the provision of hearing aids.
  4. Dental screening and diagnosis and treatment of dental disease, and the provision of dentures and other prosthetic devices.
  5. Mental health services for categorically eligible persons, pursuant to Article 12.
  6. Other necessary health care, diagnostic services, treatment and measures, such as speech services, required by Section 1905(r)(5) of the Social Security Act, April 1, 1990, incorporated by reference herein and on file with the Office of the Secretary of State.
- B. All providers of EPSDT services shall meet the following conditions: Services shall be conducted under the direction of the primary care physician.
1. Performing tests and examinations in accordance with the AHCCCS Administration Periodicity Schedule.
  2. Referring eligible persons as necessary for dental diagnosis and treatment, and necessary specialty care.
- C. Contractors shall meet the following additional conditions:
1. Services shall include:
    - a. Providing information to members concerning EPSDT services.

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- b. ~~Notifying members regarding the initiation of EPSDT screening and subsequent appointments according to the Periodicity Schedule.~~
- 2. ~~Contractors shall offer and provide, if requested, necessary assistance with transportation to and from providers, pursuant to R9-22-211, and with scheduling appointments for services.~~
- 3. ~~Contractors may refer members with special health care needs to the Children's Rehabilitative Services program.~~
- A. The following EPSDT services shall be covered for a member or eligible person less than 21 years of age:
  - 1. Screening services, including:
    - a. Comprehensive health and developmental history;
    - b. Comprehensive unclothed physical examination;
    - c. Appropriate immunizations according to age and health history;
    - d. Laboratory tests; and
    - e. Health education, including anticipatory guidance;
  - 2. Vision services, including:
    - a. Diagnosis and treatment for defects in vision;
    - b. Eye examinations for the provision of prescriptive lenses; and
    - c. Provision of prescriptive lenses;
  - 3. Hearing services, including:
    - a. Diagnosis and treatment for defects in hearing;
    - b. Testing to determine hearing impairment; and
    - c. Provision of hearing aids;
  - 4. Dental services including:
    - a. Emergency dental services as specified in R9-22-207;
    - b. Preventive services including EPSDT screening, diagnosis, and treatment of dental disease; and
    - c. Therapeutic dental services including fillings, crowns, dentures, and other prosthetic devices;
  - 5. Orthognathic surgery;
  - 6. Behavioral health services under Article 12;
  - 7. Other necessary health care, diagnostic services, treatment and measures required by 42 U.S.C. § 1396d(r)(5), April 1, 1990, incorporated by reference and on file with the Administration and the Office of Secretary of State. This incorporation by reference contains no future editions or amendments.
- B. All providers of EPSDT services shall meet the following standards:
  - 1. Provide services by or under the direction of, the member's primary care provider or dentist, or the eligible person's attending physician, practitioner, or dentist.
  - 2. Perform tests and examinations in accordance with the AHCCCS Administration Periodicity Schedule.
    - a. Refer member and eligible persons as necessary for dental diagnosis and treatment, and necessary specialty care.
    - b. Refer members and eligible persons as necessary for behavioral health diagnosis and treatment services.
- C. Contractors shall meet the following additional conditions for EPSDT members:
  - 1. Provide information to members and their parents or guardians concerning EPSDT services;
  - 2. Notify members and their parents or guardians regarding the initiation of EPSDT screening and subsequent appointments according to the AHCCCS Administration Periodicity Schedule; and
  - 3. Offer and provide, if requested, necessary assistance with transportation to and from providers, in accordance with R9-22-211, and with scheduling appointments for services.

D. ~~Members and eligible persons with special health care needs may be referred to the Children's Rehabilitative Service program.~~

**R9-22-214. Medically necessary dentures Reserved**

- A. ~~Covered denture services include those medically necessary dental services and procedures associated with, and including, the provision of dentures.~~
- B. ~~The following limitations apply to dentures provided by capped fee-for-service providers:~~
  - 1. ~~Provision of dentures for cosmetic purposes is not a covered service.~~
  - 2. ~~Extractions of asymptomatic teeth are not covered unless their removal constitutes the most cost effective dental procedure for the provision of dentures.~~
  - 3. ~~Radiographs are limited to use as a diagnostic tool preceding treatment of symptomatic teeth and to support the need and provision of dentures.~~
  - 4. ~~Members shall receive only 1 set of dentures during any given 5 year period, unless the Administration determines that replacement within that period is medically indicated.~~
  - 5. ~~Unless authorized by the Administration, no more than 5 repairs and/or adjustments will be allowed during any given 5 year period.~~
- C. ~~Prior written authorization:~~
  - 1. ~~Provision of dentures by capped fee-for-service providers shall require prior written authorization from the Administration. Requests for replacements, repairs or adjustments require prior written authorization from the Administration.~~
  - 2. ~~Provision of obturators and other prosthetic appliances for restoration or rehabilitation provided by capped fee-for-service providers shall require prior authorization by the Administration.~~

**R9-22-215. Notification of changes in covered services**

~~In accordance with A.R.S. § 36-2907(F) the Director may, upon 30 days advance written notice to contractors and counties, modify the list of services for all members except those members categorically eligible pursuant to Title XIX of the Social Security Act, as amended.~~

**R9-22-215. Other Medical Professional Services**

- A. The following medical professional services provided to members by a contractor, or an eligible person through the Administration, shall be covered services when provided in an inpatient, outpatient, or office setting within limitations specified below:
  - 1. Dialysis;
  - 2. Family planning services, including medications, supplies, devices, and surgical procedures provided to delay or prevent pregnancy. Family planning services are limited to:
    - a. Contraceptive counseling, medications, supplies, and associated medical and laboratory examinations, including HIV blood screening as part of a package of sexually transmitted disease tests provided with a family planning service;
    - b. Sterilization;
    - c. Natural family planning education or referral;
  - 3. Certified nurse midwife services provided by a certified nurse practitioner in midwifery;
  - 4. Licensed midwife service for prenatal care and home births in low risk pregnancies;

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5. Podiatry services when ordered by a member's primary care provider or an eligible person's attending physician or practitioner;
  6. Respiratory therapy;
  7. Ambulatory and outpatient surgery facilities services;
  8. Home health services under A.R.S. § 36-2907(D);
  9. Private or special duty nursing services when medically necessary and prior authorized;
  10. Rehabilitation services including physical therapy, occupational therapy, audiology, and speech therapy within limitations in this Article;
  11. Total parenteral nutrition services;
  12. Chemotherapy; and
  13. Consultation for acute episodes of mental illness or substance abuse provided by a psychiatrist or psychologist through referral from a member's primary care provider or a eligible person's attending physician or practitioner, regarding evaluation, stabilization, and treatment plan determination, except consultation services provided under Article 12.
- B. Prior authorization from the Administration for eligible persons are required for services listed in subsections (A)(4) through (12).
- C. The following shall be excluded as AHCCCS covered services:
1. Occupational and speech therapies provided on an outpatient basis for members and eligible persons 21 years of age and older;
  2. Physical therapy provided only as a maintenance regimen;
  3. Abortion counseling;
  4. Services or items furnished solely for cosmetic purposes.

**R9-22-216. Minimum health care benefits; additional services and charges**

- A. Each contractor shall provide, directly or through subcontracts, not less than the covered services specified in these rules and in contract provisions.
- B. Additional noncovered services may be rendered to a member by a provider or nonprovider at reasonable cost when:
1. The member is notified of the need or requests the provision of such services; and,
  2. The costs of services are itemized and the member signs a written statement in advance accepting responsibility for payment.

**R9-22-216. Nursing Facility Services**

- A. Nursing facility services including room and board shall be covered for a maximum of 90 days per contract year if the medical condition of a member or eligible person is such that, if nursing facility services are not provided, hospitalization of the individual would result.
- B. Except as otherwise provided in 9 A.A.C. 28, the following services shall be excluded for purpose of separate billing if provided in a nursing facility:
1. Nursing services including but not limited to:
    - a. Administration of medication,
    - b. Tube feedings,
    - c. Personal care services (assistance with bathing and grooming),
    - d. Routine testing of vital signs, and
    - e. Maintenance of catheters.
  2. Basic patient care equipment and sickroom supplies, including, but not limited to:
    - a. First aid supplies such as bandages, tape, ointments, peroxide, alcohol, and over-the-counter remedies;
    - b. Bathing and grooming supplies;

- c. Identification devices;
  - d. Skin lotions;
  - e. Medication cups;
  - f. Alcohol wipes, cotton balls, and cotton rolls;
  - g. Rubber gloves (non sterile);
  - h. Laxatives;
  - i. Beds and accessories;
  - j. Thermometers;
  - k. Ice bags;
  - l. Rubber sheeting;
  - m. Passive restraints;
  - n. Glycerin swabs;
  - o. Facial tissue;
  - p. Enemas;
  - q. Heating pads;
  - r. Diapers; and
  - s. Alcoholic beverages.
3. Dietary services including, but not limited to, preparation and administration of special diets, and adaptive tools for eating.
4. Any services that are included in a nursing facility's room and board charge or services that are required of the nursing facility to meet federal mandates, state licensure standards or county certification requirements.
5. Administrative physician visits made solely for the purpose of meeting state licensure standards or county certification requirements.
6. Physical therapy prescribed only as a maintenance regimen, and
7. Assistive devices and durable medical equipment.
- C. Each admission shall be prior authorized by the Administration for eligible persons.

**R9-22-217. Services for State and Federal Emergency Services Persons**

- A. Covered state and federal emergency services to treat an emergency medical condition include:
1. Inpatient hospital services;
  2. Outpatient hospital services;
  3. Emergency room services;
  4. Physician services;
  5. Clinic services;
  6. Ancillary services, such as laboratory, x-ray, medical supplies, and durable medical equipment;
  7. Medications;
  8. Dental services;
  9. Emergency treatment for the continuance of inpatient or outpatient emergency care subsequent to the initial treatment of the emergency medical condition.
  10. Emergency transportation services.
- B. Limitations and exclusions:
1. Limitations:
    - a. Covered services are limited to those services which are medically necessary to treat an emergency medical condition.
    - b. Emergency mental health services are limited to those emergency services which are medically necessary for crisis stabilization, not to exceed 72 hours per episode.
    - c. Durable medical equipment is limited to equipment which is medically necessary and cost effective at the time of discharge.
  2. Exclusions:
    - a. All services deemed nonemergency by the Administration;
    - b. Private duty nursing;
    - c. Elective surgery;

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- d. Physical, speech, or occupational therapy;
- e. Prevention programs;
- f. Acute rehabilitation services provided in a licensed general hospital rehabilitation unit or rehabilitation specialty center, if the primary purpose of the hospitalization is for rehabilitation;
- g. Nonemergency transportation services;
- h. Hearing aids, eyeglasses, or dentures;
- i. Family planning services;
- j. All services excluded by R9-22-203;
- k. Care and services related to transplantation procedures.

**C. Prior authorization.**

- 1. With the exception of emergency room services, emergency transportation services, and emergency dental services, all services listed under subsection (A) require prior authorization from the Administration.
- 2. Failure to obtain prior authorization may constitute cause for denial of payment by the Administration.

**R9-22-217. Services Included in the State and Federal Emergency Services Programs**

**A. Covered state and federal emergency services to treat an emergency medical condition shall include the following, within limitations specified in this Article:**

- 1. Inpatient hospital services;
- 2. Outpatient hospital services;
- 3. Emergency room services;
- 4. Physician services;
- 5. Clinic services;
- 6. Ancillary services, such as laboratory, radiology, medical supplies, and durable medical equipment.
- 7. Medications;
- 8. Emergency dental services; and
- 9. Emergency transportation services.

**B. Limitations and exclusions.**

- 1. The following limitations shall apply:
  - a. Covered services are limited to services that are medically necessary to treat an emergency medical condition.
  - b. Emergency behavioral health services are limited to emergency services that are medically necessary for crisis stabilization, not to exceed 3 days per episode or 12 days per year.
  - c. The continuance of inpatient or outpatient emergency care subsequent to the initial treatment of the emergency medical condition, is not to exceed the acute level of care that is medically necessary.

- d. Durable medical equipment is limited to equipment that is medically necessary and cost effective at the time of discharge.

**2. The following exclusions shall apply:**

- a. All services deemed nonemergent by the Administration;
- b. Private duty nursing;
- c. Elective surgery;
- d. Physical, speech, or occupational therapy;
- e. Prevention programs;
- f. Acute rehabilitation services provided in a licensed general hospital rehabilitation unit or rehabilitation specialty center, if the primary purpose of the hospitalization is for rehabilitation;
- g. Nonemergency transportation services;
- h. Hearing aids, eye glasses, or dentures;
- i. Family planning services;
- j. All services provided after the person's Arizona residency has terminated and all services provided outside the boundaries of the United States;
- k. All organ and tissue transplantation and related services; and
- l. Long term care services.

**C. Prior authorization of federal and state emergency services.**

- 1. With the exception of emergency room services, emergency transportation services, and emergency dental services, all services listed under subsection (A) require prior authorization from the Administration.
- 2. Failure to obtain prior authorization constitutes cause for denial of payment by the Administration.

**D. All service requirements, exclusions, and limitations specified in this Article shall apply to services provided through the federal or state emergency services program.**

**R9-22-218. Laboratory, X-ray, and Medical Imaging Services**

Laboratory, X-ray and medical imaging services prescribed by a primary care physician, practitioner or by a dentist or physician upon referral from the primary care physician, which are ordinarily provided in hospitals, clinics, physicians' offices and other health care facilities by licensed health care providers shall qualify as covered services if medically necessary. Clinical laboratory, X-ray, or medical imaging service providers must satisfy all applicable state and federal license and certification requirements and shall provide only services which are within the categories stated in such provider's license or certification.

**NOTICE OF PROPOSED RULEMAKING**

TITLE 9. HEALTH SERVICES

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

**PREAMBLE**

1. **Sections Affected**

<u>Sections Affected</u>	<u>Rulemaking Action</u>
R9-28-201	Amend
R9-28-202	Repeal
R9-28-202	New Section
R9-28-203	Repeal
R9-28-204	Amend
R9-28-205	New Section
R9-28-206	Repeal
R9-28-206	New Section
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. § 36-2932(F)  
Implementing statutes: A.R.S. §§ 36-447.01, 36-2932(A), and 36-2939
3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Cheri Tomlinson  
Address: AHCCCS  
801 East Jefferson, MD 4200  
Phoenix, Arizona 85034  
Telephone: (602) 417-4198  
Fax: (602) 256-6756
4. **An explanation of the rule, including the agency's reasons for initiating the rule:**

The proposed rules to Article 2 resulted from a 5-year-review report which identified non-substantive revisions which would make the language more clear, concise, and understandable.
5. **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.
6. **The preliminary summary of the economic, small business, and consumer impact:**

The proposed changes have a zero to nominal impact upon the business community or any parties involved with the ALTCS program. However, some individuals/entities will benefit from the proposed changes including:

  - ALTCS members;
  - ALTCS HCBS providers;
  - ALTCS program contractors; and
  - AHCCCS.

Individuals and/or entities that were considered but will not be directly affected include:

  - Taxpayers and the general public;
  - ALTCS providers other than ALTCS HCBS providers;
  - The business community, except for the 2 program contractors that are private business entities;
  - Political subdivisions, other than the 5 program contractors that could be considered part of political subdivisions which will benefit from the changes; and
  - Other governmental agencies, except for DES/DDD, the state agency that is the program contractor for the developmental disabled population, which will benefit.

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7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Cheri Tomlinson  
Address: AHCCCS  
801 E. Jefferson, MD4200  
Phoenix, Arizona 85034  
Telephone: (602) 417-4198  
Fax: (602) 256-6756

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

A public hearing is scheduled as follows:

Date: July 7, 1997  
Time: 9 a.m.  
Location: AHCCCS Administration  
Hearing Room A, 2nd Floor  
701 East Jefferson  
Phoenix, Arizona

A person may submit written comments on the proposed rules. The written comments should be submitted not later than 5 p.m., July 7, 1997, to the person listed above.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:  
Not applicable.

10. Incorporation by reference and their location in the rules:

42 CFR 418, December 20, 1994 incorporated in R9-28-206

42 CFR 483, Subpart I, February 28, 1992 incorporated in R9-28-204(D)(2)

11. The full text of the rules follows:

**TITLE 9. HEALTH SERVICES**

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ARIZONA LONG-TERM CARE SYSTEM**

**ARTICLE 2. COVERED SERVICES**

- R9-28-201. ~~General requirements~~ General Requirements  
R9-28-202. ~~Covered Services~~ Medical Services  
R9-28-203. ~~Excluded Services and Limitations~~ Reserved  
R9-28-204. ~~Institutional Services~~  
R9-28-205. ~~Reserved Home and Community Based Services (HCBS)~~  
R9-28-206. ~~Home and Community based Services~~ ALTCS Services which may be Provided to Members or Eligible Persons Residing in either Institutional or HCBS Settings

**ARTICLE 2. COVERED SERVICES**

**R9-28-201. General Requirements**

~~Service requirements. In addition to the exclusions and limitations contained in this Article, the service requirements listed below apply:~~

- ~~1. Services shall be medically necessary, cost effective, and federally reimbursable.~~
- ~~2. Services shall be coordinated by the case manager.~~
- ~~3. Services shall be prior authorized by the member's program contractor or the Administration for an eligible non-enrolled individual.~~
- ~~4. Services shall be provided by licensed or certified personnel or agencies who are registered with the Administration.~~
- ~~5. Services shall be provided at an appropriate level of care.~~

In addition to the exclusions and limitations specified in this Article, ALTCS services shall be:

1. Medically necessary, cost effective, and federally reimbursable;
2. Coordinated by a case manager in accordance with requirements specified in R9-28-510;
3. Prior authorized by a member's program contractor, or the Administration for eligible persons, when this authorization is required:
  - a. Services may be denied if required prior authorization is not obtained,
  - b. Services provided during a retroactive period of eligibility are exempt from prior authorization requirements.
4. Provided in facilities or areas of facilities, licensed or certified according to Article 5 of this Chapter, or meet other requirements described in Article 5 of this Chapter;
5. Rendered by providers registered with the Administration as authorized to provide the service; and
6. Provided at an appropriate level of care, as determined by the preadmission screening and reassessment process described in Article 3 of this Chapter.

**R9-28-202. Covered Services**

~~A. The services listed below shall be covered, subject to the limitations and exclusions in this Article, and subject to approval by the Health Care Financing Administration:~~

- ~~1. Medical services and provisions specified in A.A.C. Title 9, Chapter 22, Article 2, subject to the limitations and~~

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exclusions specified therein. For purposes of this Chapter, the terms "prepaid contractor" and "contractor" as they appear in 9 A.A.C. 22, Article 2, shall mean "program contractor".

2. Institutional services, including:
  - a. Nursing Facility services (NF) other than services in an institution for tuberculosis or in an institution for mental diseases which services are excluded pursuant to Article 11;
  - b. Intermediate care facility services for mentally retarded (ICF-MR).
3. Home and community-based (HCB) services set forth in A.R.S. § 36-2939(B) and (C).
4. Hospice services.

B. Each eligible person or member shall receive the services of a case manager.

C. Speech, physical, respiratory, and occupational therapies are covered services when provided in nursing care institutions and alternate residential facilities, and as part of home and community-based services. The duration, scope and frequency of each therapeutic modality shall be prescribed by a physician. These services shall be included in the case management plan and shall be authorized by the Administration or program contractor based on the medical necessity.

D. Subject to the limitations of R9-28-203(B)(5), customized durable medical equipment and supplies are covered services for both institutional and home and community-based services.

E. Subject to the availability of federal funds, home and community-based services are covered services when provided to individuals residing in alternate residential settings.

F. Private duty nursing services are covered services for ventilator dependent individuals residing at home.

G. Covered services for ventilator dependent individuals shall be provided in the individual's residence or in a nursing care institution.

#### **R9-28-202. Medical Services**

The Administration and its contractors shall cover medical services and provisions specified in 9 A.A.C. 22, Article 2 and Article 12 for ALTCs members and eligible persons, subject to the limitations and exclusions specified in those Articles, unless otherwise specified in this Chapter.

#### **R9-28-203. Excluded Services and Limitations Reserved**

- A. Excluded services. The services listed below are excluded:
1. Services excluded in A.A.C. Title 9, Chapter 22, Article 2 unless otherwise provided for by this Article.
  2. Services rendered by nonregistered providers.
  3. Services or items requiring prior authorization for which prior authorization has not been obtained from a program contractor or the Administration.
  4. Services rendered in institutions for the treatment of tuberculosis or in institutions for mental diseases, unless such services are provided for under Article 11.
  5. Convalescent care for individuals eligible under A.R.S. Title 36, Chapter 29, Article 1.
  6. Services provided in a facility or in an area of a facility that is not certified for such services.
  7. Services provided to individuals who require a level of care below the level of care they are receiving whether in a facility or in the home as determined by the pre-admission screening and reassessment process described in Articles 3 and 5 of this Chapter.

8. Home and community-based services unless such services are in lieu of institutionalization and are authorized by the case management plan.

9. Private duty nursing services except for ventilator dependent clients.

10. Psychiatric and other mental health services for treatment of mental illness or disease, unless such services are provided for under Article 11.

B. Limitations. The services listed below are limited:

1. Private rooms in nursing care institutions are limited to medical conditions that require isolation per physician orders.

2. Respite care is limited to 30 days per contract year.

3. For fee-for-service providers, therapeutic leave days shall be limited to nine days per contract year. A physician must order leave from the facility for at least an overnight stay to enhance psychosocial environment or as a trial basis for discharge planning. The member shall be returned to the same bed.

4. For fee-for-service providers, bed hold days shall be limited to 12 days per contract year and are to be available when a patient is admitted to the hospital for a short stay. The member shall be returned to the same facility, and the same bed if the person requires the same level of care.

5. Durable medical equipment and supplies described in A.A.C. R9-22-208 are limited to items that are not included by the Administration under the rate set forth in Article 7 for the providers of the services.

6. Habilitation services shall be rendered as a separate service category to individuals with developmental disabilities. Elderly and disabled individuals shall receive individual therapy services for habilitation.

7. Room and board services provided in alternate residential settings, including the member's own home, are not covered.

8. Services available to recipients of hospice care are limited to those allowable under 42 CFR 418.80 through 418.98, incorporated by reference herein and on file with the Office of the Secretary of State.

9. Home and community-based services shall be limited in accordance with federal monies made available to the state for home and community-based services.

#### **R9-28-204. Institutional Services**

A. Services to be included in the per diem rate of Nursing Facilities (NF) and Intermediate Care Facilities for Mentally Retarded (ICF-MR), licensed pursuant to requirements set forth in Article 5, are:

1. Nursing care services, including rehabilitative and restorative services;
2. Social services;
3. Nutritional and dietary services;
4. Recreational activities and therapies;
5. Medical supplies and durable medical equipment;
6. Overall management and evaluation of care plan;
7. Observation and assessment of a patient's changing condition; and
8. Room and board services, including, but not limited to, supporting services such as food, personal laundry and housekeeping;
9. Nonprescription, stock pharmaceuticals;
10. Respite services not to exceed 30 days.

B. Each facility shall be responsible for coordinating the delivery of auxiliary services pursuant to A.R.S. § 36-447.01. These services include medical services, pharmaceutical services, therapies, diagnostic services, emergency services, and medically necessary transportation.

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- C. ~~Limitations. Intermediate care facilities for the mentally retarded shall meet standards in 42 CFR 483, Subpart I, September 1, 1992, incorporated by reference herein and on file with the Office of the Secretary of State. Services provided in such institutions are covered only for members residing in an Arizona training program facility, a state-owned and operated services center, state-owned or operated community residential setting, or existing licensed facilities operated by the state or under contract with the Department of Economic Security on or before July 1, 1988.~~
- D. ~~Other coverage. Services that are not part of a per diem rate and are ALTCSS covered services that are deemed necessary by the case manager or his designee shall be covered provided that such services are ordered by the primary care physician and specified in the case management plan pursuant to R9-28-510.~~
- A. ~~Institutional services shall be provided in:~~
1. ~~A nursing facility as defined in R9-28-101;~~
  2. ~~An "ICF-MR" as defined in R9-28-101; or~~
  3. ~~An "IMD" as defined in R9-28-101.~~
- B. ~~The Administration and its contractors shall include the following services in the per diem rate for these facilities:~~
1. ~~Nursing care services;~~
  2. ~~Rehabilitative services;~~
  3. ~~Restorative services;~~
  4. ~~Social services;~~
  5. ~~Nutritional and dietary services;~~
  6. ~~Recreational therapies and activities;~~
  7. ~~Medical supplies and durable medical equipment described in 9 A.A.C. 22, Article 2;~~
  8. ~~Overall management and evaluation of a member's or eligible person's care plan;~~
  9. ~~Observation and assessment of a member's or eligible person's changing condition;~~
  10. ~~Room and board services, including, but not limited to, supporting services such as food and food preparation, personal laundry, and housekeeping;~~
  11. ~~Non-prescription, stock pharmaceuticals; and~~
  12. ~~Respite services not to exceed 30 days per contract year.~~
- C. ~~Each facility shall be responsible for coordinating the delivery of at least the following auxiliary services specified below:~~
1. ~~As specified in 9 A.A.C. 22, Article 2:~~
    - a. ~~Medical services,~~
    - b. ~~Pharmaceutical services,~~
    - c. ~~Diagnostic services,~~
    - d. ~~Emergency services, and~~
    - e. ~~Emergency and medically necessary transportation services.~~
  2. ~~Therapy services, as specified in R9-28-206.~~
- D. ~~Limitations. The following limitations shall apply:~~
1. ~~A nursing facility, ICF-MR, and IMD, ICF-MR, and IMD shall place a member or eligible person in a private room only if:~~
    - a. ~~The member or eligible person has medical condition that requires isolation, and~~
    - b. ~~The member's or eligible person's primary care provider gives written authorization.~~
  2. ~~Each ICF-MR shall meet the standards in A.R.S. § 36-2939(B)(1), and in 42 CFR 483, Subpart I, February 28, 1992, incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no further editions or amendments.~~
  3. ~~Convalescent care is excluded as a covered service for members and eligible persons specified in A.R.S. Title 36, Chapter 29, Article 1;~~
4. ~~Bed hold days for fee-for-service providers shall meet the following criteria:~~
    - a. ~~Short term hospitalization leave shall be limited to 12 days per AHCCCS contract year, and shall be available when an eligible person is admitted to the hospital for a short stay. The eligible person shall be returned to the same institutional facility, and the same bed if the level of care required can be provided in that facility bed; and~~
    - b. ~~Therapeutic leave days shall be limited to 9 days per AHCCCS contract year. A physician order shall be required for leave from the facility for 1 or more overnight stays to enhance psycho-social interaction, or as a trial basis for discharge planning. The eligible person shall be returned to the same bed within the institutional facility;~~
  5. ~~The Administration or its contractors shall cover services that are not part of a per diem rate but are ALTCSS covered services included in this Article, and deemed necessary by a member's or eligible person's case manager or the case manager's designee if:~~
    - a. ~~The services shall be ordered by the member's or eligible person's primary care provider; and~~
    - b. ~~The services shall be specified in a case management plan according to A.A.C. R9-28-510.~~
- R9-28-205. Home and Community Based Services (HCBS)**
- A. ~~Subject to the availability of federal funds, HCBS are covered services when provided to a member or eligible person residing in an HCBS setting. Room and board services are not covered in an HCBS setting.~~
- B. ~~The case manager in accordance with R9-28-510 is required to authorize any additions, deletions, or changes in home and community based services provided to a member or eligible person.~~
- C. ~~Home and community based services include the following:~~
1. ~~Home health services provided on a part-time or intermittent basis. These services include:~~
    - a. ~~Nursing care;~~
    - b. ~~Home health aide;~~
    - c. ~~Medical supplies, equipment, and appliances;~~
    - d. ~~Physical therapy;~~
    - e. ~~Occupational therapy;~~
    - f. ~~Respiratory therapy; and~~
    - g. ~~Speech and audiology services;~~
  2. ~~Medical supplies and durable medical equipment, and customized DME, as described in 9 A.A.C. 22, Article 2;~~
  3. ~~Transportation services to obtain ALTCSS covered medically necessary services;~~
  4. ~~Adult day health services provided to a member or eligible person who is not developmentally disabled as defined by A.R.S. § 36-551, in an adult day health care facility licensed according to 9 A.A.C. 10, Article 5, including:~~
    - a. ~~Planned care supervision and activities;~~
    - b. ~~Personal care;~~
    - c. ~~Personal living skills training;~~
    - d. ~~Meals and health monitoring;~~
    - e. ~~Preventive, therapeutic, and restorative health related services; and~~
    - f. ~~Behavioral health services, provided either directly or through referral, if medically necessary;~~
  5. ~~Personal care services;~~
  6. ~~Homemaker services;~~
  7. ~~Home delivered meals delivered to the home of a member or eligible person who is not developmentally disabled as~~

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- defined by A.R.S. § 36-551 a nutritious meal, containing at least 1/3 of the recommended dietary allowance;
8. Respite care services for no more than 720 hours per contract year;
  9. Habilitation services including:
    - a. Physical therapy,
    - b. Occupational therapy,
    - c. Speech and audiology services,
    - d. Training in independent living,
    - e. Special development skills,
    - f. Sensory-motor development,
    - g. Behavior intervention, and
    - h. Orientation and mobility training;
  10. Developmentally disabled day care for these members who are developmentally disabled as defined by A.R.S. § 36-551, provided in a group setting during a portion of continuing 24-hour period, and to include:
    - a. Planned care supervision and activities;
    - b. Personal care;
    - c. Activities of daily living skills training; and
    - d. Habilitation services; and
  11. Supported employment services provided to a member or eligible person who is developmentally disabled as defined by A.R.S. § 36-551.

**R9-28-206. Home and Community-based Services**

- A. Home and community-based services shall be provided to eligible persons residing in the member's own home or alternate residential setting, subject to limitations set forth under A.R.S. § 36-2939(D).
- B. Home and community-based services shall be covered only when provided to eligible persons who are determined to need SNF, ICF, or ICF-MR level of care and authorized by the case manager.
- C. Initial home and community-based services, changes in services and additional services shall be authorized through the case management plan.
- D. Home and community-based service providers shall be licensed, registered or certified as specified in Article 5.
- E. Home and community-based services shall be provided in the individual's own home or alternate residential setting to meet the individual's need. The duration, scope, and frequency of these services shall be specified in the case management plan.
- F. Home and community-based services shall be authorized for ventilator dependent individuals.
- G. Home and community-based services include the following categories of services as needed:
  1. Home health services provided on a part-time or intermittent basis. These services include:
    - a. Nursing services;
    - b. Home health aide;
    - c. Medical supplies, equipment and appliances;
    - d. Physical therapy;
    - e. Occupational therapy; and
    - f. Speech and audiology services.
  2. Homemaker services.
  3. Personal care services.
  4. Habilitation services. These services include:
    - a. Physical therapy;
    - b. Occupational therapy;
    - c. Speech and audiology services;
    - d. Training in independent living;
    - e. Special development skills;
    - f. Sensory-motor development;
    - g. Behavior intervention; and
    - h. Orientation and mobility.
  5. Respite care services.

6. Transportation services.
7. Developmentally disabled day care services for those members who are developmentally disabled as defined by A.R.S. § 36-551, provided in a group setting during a portion of continuing 24-hour period, and to include:
  - a. Planned care supervision and activities;
  - b. Personal care;
  - c. Activities of daily living skills training; and
  - d. Habilitation services.
8. Adult day health services for those members who are not developmentally disabled as defined by A.R.S. § 36-551, if the services are provided in a group setting during a portion of a continuous 24-hour period, and includes:
  - a. Planned care supervision and activities;
  - b. Personal care;
  - c. Personal living skills training;
  - d. Meals and health monitoring; and
  - e. Preventive, therapeutic and restorative health related services other than behavioral health services.
9. Home delivered meal services that provide for a nutritious meal containing at least one-third of the recommended dietary allowance and that is delivered to the member's residence for those members who are not developmentally disabled.
10. Attendant care services.

**R9-28-206. ALTCS Services Which May be Provided to Members or Eligible Persons Residing in Either Institutional or HCBS Settings**

The Administration shall cover the following ALTCS services when the services are provided to a member or eligible person within the limitations listed:

1. Occupational and physical therapies, speech and audiology services, and respiratory therapy:
  - a. The duration, scope, and frequency of each therapeutic modality or service prescribed by the member's or eligible person's primary care provider or attending physician;
  - b. These therapies and services are authorized by the member's program contractor or the Administration for all eligible persons; and
  - c. These therapies and services are included in the member's or eligible person's case management plan.
2. Medical supplies, durable medical equipment, and customized durable medical equipment.
  - a. These supplies or equipment conform with the requirements and limitations of 9 A.A.C. 22, Article 2;
  - b. For billing purposes, supplies and equipment are limited to items not included by the Administration under the rates set forth in Article 7 for the providers of the services.
3. Ventilator dependent services:
  - a. Inpatient or institutional services for a ventilator dependent member shall be limited to services provided in a general hospital, special hospital, nursing facility, or ICF-MR. Services provided in a general or special hospital are included in the hospital's unit tier rate; or
  - b. In addition to authorized home and community based services specified in this Section, private duty nursing services are covered only for a ventilator dependent member or eligible person residing in an HCBS setting.
4. Hospice services.

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- a. Hospice services are covered only for a member or eligible person who is in the final stages of a terminal illness and has a prognosis of death within 6 months.
- b. Services available to a member and eligible person receiving hospice care are limited to those allowable under 42 CFR 418, December 20, 1994, incorporated by reference and on file with the Administration and the Office of the Secretary of State. This
- c. incorporation by reference contains no further editions or amendments.
- c. Hospice services are inclusive except for:
- i. Medical services provided that are not related to the terminal illness;
  - ii. Home delivered meals; and
  - iii. Hospice services that are provided and covered through Medicare.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 15. REVENUE**

**CHAPTER 7. DEPARTMENT OF REVENUE  
BINGO SECTION**

**PREAMBLE**

1. **Sections Affected** **Rulemaking Action**  
R15-7-308 New Section
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statutes: A.R.S. §§ 5-402 and 42-105  
Implementing statutes: A.R.S. §§ 5-403 and 41-1073
3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Holly Unck, Tax Analyst  
Address: Tax Research & Analysis Section  
Department of Revenue  
1600 West Monroe  
Phoenix, Arizona 85007  
Telephone: (602) 542-4672  
Fax: (602) 542-4680
4. **An explanation of the rules, including the agency's reasons for initiating the rules:**  
Laws 1996, Ch. 102, § 42, requires that all state agencies that issue licenses have in place rules establishing certain time frames for the granting or denial of each license. The rules must specify:
  1. An "administrative completeness time frame" (the time it takes the agency to determine if an application is complete);
  2. A "substantive review time frame" (the time it takes the agency to review the application and determine if the applicant meets the substantive criteria for licensure); and
  3. An "overall time frame" (a combination of the administrative completeness and substantive review time frames.)The law also requires an agency to notify applicants within the established time frames, whether the application is complete (administrative completeness) and whether a license or certification is being issued (substantive review).  
This rule will establish the required time frames for licensing bingo games. The rule also describes a completed application and the activities performed during the administrative and substantive reviews.
5. **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.
6. **The preliminary summary of the economic, small business, and consumer impact:**  
*Summary of Information in the Economic, Small Business, and Consumer Impact Statement:*  
It is not anticipated that the adoption of this rule will have any impact on government, private industry, small businesses or consumers. This rule action is merely the codification of the timeframes currently observed in issuing bingo licenses by the Department of Revenue.

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7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Holly Unck, Tax Analyst  
Address: Tax Research & Analysis Section  
Department of Revenue  
1600 West Monroe  
Phoenix, Arizona 85007  
Telephone: (602) 542-4672  
Fax: (602) 542-4680

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The Department has not scheduled any oral proceedings. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statements may be submitted to the person listed above. The Department will schedule oral proceedings if 5 or more people file written requests for oral proceedings no later than 5 p.m., July 7, 1997, to the person listed above.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:  
None.

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

11. The full text of the rules follows:

TITLE 15. REVENUE

CHAPTER 7. DEPARTMENT OF REVENUE  
BINGO SECTION

ARTICLE 3. LICENSING PROVISIONS

R15-7-308. Initial License Application Time Frames

ARTICLE 3. LICENSING PROVISIONS

R15-7-308. Initial License Application Time Frames

- A. For an initial license, the overall time frame described in A.R.S. § 41-1072(2) is 60 days.
- B. For an initial license, the administrative completeness review time frame described in A.R.S. § 41-1072(1) is 30 calendar days and begins on the date the Department receives all documentation required by A.R.S. §§ 5-403(B) and 5-404.
1. Within 10 calendar days of receiving a license application package, the Department shall notify the applicant that the package is either complete or incomplete. If the package is incomplete, the notice shall specify what information is missing. If the Department does not provide notice to the applicant, the license application package shall be deemed complete.

2. An applicant with an incomplete license application package shall supply the missing information within 30 calendar days from the date of the notice. The 30-day time frame for the Department to finish the administrative review is suspended from the date the Department notifies the applicant of missing information until the date the department receives the information.
3. If an applicant fails to submit a complete license application package within the 30-day time frame the Department shall close the file. An applicant whose file has been closed and who later wishes to obtain a license shall submit a new application.
- C. For an initial license, the substantive review time frame described in A.R.S. § 41-1072(3) is 30 calendar days and begins on the date the department receives a complete license application package.
1. As part of the substantive review, the Department may schedule a visit to the premises.
2. The department shall issue a written notice of denial if an applicant or the premises does not meet the requirements of A.R.S. § 5-401 et seq. and these rules.

NOTICE OF PROPOSED RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

1. Sections Affected

	<u>Rulemaking Action</u>
R19-3-501	Amend
R19-3-507	Amend
R19-3-508	Amend
R19-3-509	Amend
R19-3-510	Amend
R19-3-511	ReNUMBER
R19-3-511	New Section
R19-3-512	ReNUMBER
R19-3-512	New Section
R19-3-513	ReNUMBER
R19-3-513	Amend
R19-3-514	ReNUMBER
R19-3-514	Amend
R19-3-515	ReNUMBER
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R19-3-530	Amend
R19-3-531	ReNUMBER
R19-3-531	Amend
R19-3-532	ReNUMBER
R19-3-532	New Section
R19-3-533	ReNUMBER
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R19-3-536	Amend
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R19-3-538	ReNUMBER
R19-3-538	Amend
R19-3-539	ReNUMBER
R19-3-539	Amend
R19-3-540	ReNUMBER
R19-3-540	New Section
R19-3-541	ReNUMBER
R19-3-542	ReNUMBER
R19-3-542	Amend
R19-3-543	ReNUMBER
R19-3-543	Amend

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R19-3-544	Re-number
R19-3-544	New Section
R19-3-545	Re-number
R19-3-545	New Section
R19-3-546	New Section
R19-3-547	New Section
R19-3-548	Re-number
R19-3-549	New Section
R19-3-550	Re-number
R19-3-550	Amend
R19-3-551	New Section
R19-3-552	Re-number
R19-3-552	Amend
R19-3-553	Re-number
R19-3-553	Amend
R19-3-554	Re-number
R19-3-554	Amend
R19-3-555	Re-number
R19-3-555	Amend
R19-3-556	Re-number
R19-3-556	Amend

2. **The specific authority for rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 5-504(B)

Implementing statute: A.R.S. § 5-504(B)

3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Mr. Jody Spicola, Executive Director

Address: Arizona State Community College  
4740 East University  
Phoenix, Arizona 85034

Telephone: (602) 921-4514

Fax: (602) 921-4488

4. **An explanation of the rule, including the agency's reason for initiating the rule:**

R19-3-501 through R19-3-556 is required by A.R.S. § 5-09 and prescribes the policies and procedures for procurements relating to the design and operations of the Lottery, and the purchase of Lottery equipment tickets, and related material. This amendment will provide consistency in the language of the text and, further, to make the rules clear, concise and understandable.

5. **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.

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

A. *The Arizona State Lottery.*

There will not be a change in the manner in which the Lottery carries the procurement function. There are no identifiable costs to the Agency for this Article.

B. *Political Subdivisions.*

Political subdivisions of this state are not directly affected by the procurement rule.

C. *Businesses Directly Affected by the Rulemaking.*

Businesses affected by this rule are vendors wishing to supply the Lottery with products and services through the bid process. The rule provides for competition, consistency, and equal treatment of all vendors. It prescribes the procedures that will be followed in the purchasing of Lottery products and services.

D. *Private and Public Employment.*

Private and public employees are not directly affected by this rule.

E. *Consumers and the Public.*

There are no costs to the public associated with the amendment of this rule.

F. *State Revenues.*

This rulemaking will not have an impact on state revenues.

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7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:  
Name: Mr. Jody Spicola, Executive Director  
Address: Arizona State Lottery Commission  
4740 East University  
Phoenix, Arizona 85034  
Telephone: (602) 921-4514  
Fax: (602) 921-4488
8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:  
Date: July 18, 1997  
Time: 10 a.m.  
Location: Arizona State Lottery Commission  
4740 East University  
Phoenix, Arizona 85034  
Nature: Oral Proceeding (Close of the record is 5 p.m., M.S.T., Thursday, July 17, 1997, for written comments and at the end of the oral proceeding for verbal comments.)
9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:  
Not applicable.
10. Incorporation by reference and their location in the rules:  
Not applicable.
11. The full text of the rules follows:

**TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

**CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION**

**ARTICLE 5. PROCUREMENTS**

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**ARTICLE 5. PROCUREMENTS**

**R19-3-501. Definitions**

In this Article, unless the context otherwise requires:

1. "Best interests of the Lottery" means advantageous to the Lottery.
2. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
3. "Change order" means a document signed by the Director which directs the contractor to make changes that which the contract authorizes the Director to order.
4. "Contract" means all types of agreements, regardless of what they may be called, for the procurement of lottery equipment, tickets, and related materials.
5. "Contract modification" means any written alteration in the terms and conditions of any contract accomplished by mutual action of the parties to the contract.
6. "Contractor" means any person who has a contract with the Lottery.
7. "Cost analysis" means the evaluation of cost data.
- 7-8. "Cost data" means information concerning the actual or estimated cost of labor, material, overhead, and other cost elements that have been actually incurred or that are expected to be incurred by the contractor in performing the contract.
- 8-9. "Cost-plus-a-percentage-of-cost-contract" means a contract under which the parties agree, prior to completion of the work, that the fee is a predetermined percentage of the total cost of the work.
- 9-10. "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are reasonable, allowable, and allocable in accordance with the contract terms and the provisions of this Article, and a fee, if provided for in the contract.
- 10-11. "Days" means calendar days and shall be computed pursuant to A.R.S. § 1-243.
- 11-12. "Director" means the Executive Director of the State Lottery.
- 12-13. "Discussions" means oral or written negotiations between the Lottery and an offeror during which information is exchanged about specifications, scope of work, terms and conditions and price as set forth in the initial proposal. Communication with an offeror for the sole purpose of clarifications does not constitute "discussions." an exchange of information or any form of negotiation.
- 13-14. "Filed" means delivery to the Director. A time/date stamp affixed to a document by the office of the Director shall be determinative of the time of delivery for purposes of filing.
- 14-15. "Incremental award" means an award of portions of a definite quantity requirement to more than 1 contractor. Each portion is for a definite quantity and the sum of the portions is the total definite quantity required.
- 15-16. "Interested party" means an actual or prospective bidder or offeror whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract, or by the failure to award a contract.
- 16-17. "Invitation for Bids" means all documents, whether attached or incorporated by reference, which are used for soliciting bids in accordance with the procedures prescribed in R19-3-509.
- 17-18. "Materials" means all lottery property including equipment, supplies, printing, insurance, and leases of property but does not include land or a permanent interest in land or real property.
- 18-19. "May" denotes the permissive.
20. "Minor informality" means mistakes, excluding judgmental errors, that have negligible effect on price, quantity, quality, delivery, or other contractual terms and the waiver or correction of which does not prejudice other bidders or offerors.
- 19-21. "Multiple award" means an award of an indefinite quantity contract for 1 or more similar materials or services to more than 1 bidder or offeror.
- 20-22. "Multi-step sealed bidding" means a 2-phase process consisting of a technical 1st phase composed of 1 or more steps in which bidders submit unpriced technical offers to be evaluated by the Director and a 2nd phase in which those bidders whose technical offers are determined to be acceptable during the 1st phase have their price bids considered.
- 21-23. "Person" means any corporation, business, individual, union, committee, club, other organization, or group of individuals.
- 22-24. "Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any lottery materials, services, or construction. Procurement also includes all functions that pertain to the obtaining of any lottery material, services, or construction, including description or requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
- 23-25. "Proprietary specification" means a specification that describes a material made and marketed by a person having the exclusive right to manufacture and sell the material and excludes other material with similar quality, performance, or functional characteristics.
- 24-26. "Purchase description" means the words used in a solicitation to describe the lottery materials for purchase and includes specifications attached to, or made a part of, the solicitation.
- 25-27. "Purchase request" or "purchase requisition" means that document, or electronic transmission, whereby the Director requests that a contract be entered into for a specific need and may include the description of the requested item, delivery schedule, transportation data, criteria for evaluation, suggested sources of supply, and information supplied for the making of any written determination required by this Article.
- 26-28. "Request for Proposals" means all documents, whether attached or incorporated by reference, which are used for soliciting proposals in accordance with procedures prescribed in R19-3-510.
- 27-29. "Responsible bidder or offeror" means a person who has the capability to perform the contract requirements and the integrity and reliability necessary to assure a good faith performance.
- 28-30. "Responsive bidder or offeror" means a person who submits a bid which conforms in all material respects to the invitation for bids or request for proposals.
- 29-31. "Services" means the furnishing of labor, time, or effort by a contractor which does not involve the delivery of a specific end product other than required reports and performance. Services does not include employment agreements or collective bargaining agreements.
- 30-32. "Shall" denotes the imperative.
33. "Small business" means a concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than

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100 full-time employees or which had gross annual receipts of less than 4 million dollars in its last fiscal year."

~~31-34~~ "Solicitation" means an invitation for bids, a request for proposals, a request for quotations, or any other document by which the Director invites bids or proposals.

~~32-35~~ "Specification" means any description of the physical or functional characteristics, or of the nature of a lottery material or service. Specification includes a description of any requirement for inspecting, testing, or preparing a lottery material for delivery.

36. "Subcontractor" means a person who contracts to perform work or render service to a contractor as defined by this Section or to another subcontractor as a part of a contract with the Lottery.

~~33-37~~ "Technical offer" means unpriced written information from a prospective contractor stating the manner in which the prospective contractor intends to perform certain work, its qualifications, and its terms and conditions.

38. "Trade secret" means a secret, commercially valuable plan, formula, process or device that is used for making, preparing, compounding or processing trade commodities and that can be said to be a product of either innovation or substantial effort.

**R19-3-507. Installment Purchases**

Installment purchases may be used when advantageous to the Lottery. If an installment purchase is used, provisions for installment purchase payments shall be included in the solicitation document.

**R19-3-508. Multiple-source Contracting**

A. Incremental award. An incremental award shall be made when only if the Director determines in writing that the award is necessary to obtain the required quantity or delivery.

B. Multiple award. A multiple award shall be made when only if the Director determines in writing that a single award is not advantageous to the Lottery. A multiple award shall be limited to the least number of contractors necessary to meet the requirements of the Lottery.

**R19-3-509. Competitive Sealed Bidding**

A. An Invitation for Bids shall be issued and shall include a purchase description and all contractual terms and conditions applicable to the procurement.

B. Public notice of the Invitation for Bids shall be given before the date set forth in the Invitation for the opening of bids, in accordance with this Article. The notice shall include publication 1 or more times in a newspaper of general circulation before bid opening. If the Invitation for Bids is for the procurement of services, the notice shall include publication in a newspaper within this state for 2 publications not less than 6 or more than 10 days apart. The 2nd publication shall be not less than 2 weeks before bid opening.

C. Bids shall be opened publicly at the time and place designated in the Invitation for Bids. The amount of each bid, and other relevant information as may be specified by this Article, together with the name of each bidder shall be recorded. This record shall be open to public inspection at the bid opening in a manner prescribed by this Article. The bids shall not be open for public inspection until after a contract is awarded. To the extent the bidder designates and the Director concurs, trade secrets or other proprietary data contained in the bid documents shall remain confidential in accordance with this Article.

D. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Article. Bids shall be evaluated based on the requirements set forth in the Invitation

for Bids, as prescribed in this Article. The Invitation for Bids shall set forth the evaluation criteria to be used. No criteria shall be used in bid evaluations that are not set forth in the Invitation for Bids.

E. Requests to correct or withdraw erroneous bids before or after bid opening, based on bid mistakes, may be permitted in accordance with the determination of the Director as to its validity. After bid opening, no corrections in bid prices or other provisions of bids prejudicial to the interest of the Lottery or fair competition shall be permitted. Except as otherwise provided by this Article, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination of the Director.

F. The contract shall be awarded to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set forth in the Invitation for Bids. The amount of any applicable transaction privilege or use tax of a political subdivision of this state shall not be a factor in determining the lowest bidder if a competing bidder located outside of this state is not subject to a transaction privilege or use tax of a political subdivision of this state.

G. The multi-step sealed bidding method may be used if the Director determines in writing that it is not practical to initially prepare a definitive purchase description which is suitable to permit an award based on competitive sealed bidding. An Invitation for Bids may be issued requesting the submission of technical offers to be followed by an Invitation for Bids limited to those bidders whose offers are determined to be technically acceptable under the criteria set forth in the 1st solicitation, except that the multi-step sealed bidding method may not be used for construction contracts.

H. If the price of a recycled paper product which conforms to specifications is within 5% of a low bid product which is not recycled and the recycled product bidder is otherwise the lowest responsible and responsive bidder, the award shall be made to the bidder offering the recycled product.

**R19-3-511. Small Business Set-aside**

A. When practical and as except as provided under subsection (D) of this rule, purchases estimated to cost less than \$10,000 shall be restricted to small businesses in accordance with procedures set forth in subsections (B) and (C). Purchases shall be conducted in accordance with R19-3-512.

B. If a request for quotations is issued for the purchase, it shall contain a notice that only small businesses as defined in these rules may respond. Any request for quotations that requires written quotes shall request bidders to self-certify in their quotes that they are a small business. If verbal quotes are accepted in response to a written request for quotations or if the bidder fails to certify in a written quote that it is a small business, the Lottery shall confirm before awarding a contract that the intended awardee is a small business. A bidder shall be presumed to be small business if it has registered on the State Procurement Office's prospective vendors list as a small business. The Lottery shall make a written notation in the contract file of that confirmation.

C. If a request for quotation is not issued, the Lottery shall verbally request confirmation that the bidder contacted to offer a quote is a small business. The Lottery shall confirm before awarding a contract for a purchase that the intended awardee is a small business and shall make a written notation in the contract file of that confirmation.

D. It is declared to be impractical for the Lottery to determine a bidder's status as a small business under the following circumstances:

1. Sole source procurements as define in A.R.S. § 41-2536;

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2. Emergency procurements as defined in A.R.S. § 41-2537;
3. Purchases not expected to exceed \$1000;
4. Purchases that have been unsuccessfully competed under subsections (B) and (C) of this rule, including failure to obtain fair and reasonable prices.

**R19-3-512. Procurements Not Exceeding an Aggregate Amount of \$25,000**

A. Purchases estimated to cost from \$10,000 to \$25,000 shall be in accordance with the following procedures:

1. The Lottery shall conduct purchases in accordance with procedures prescribed in R19-3-509 and R19-3-510 for purchases estimated to cost from \$10,000 to \$25,000.
2. If practical, the Lottery may utilize the state procurement office's electronic notification/distribution system, AZFACTS, to conduct purchases estimated to cost from \$10,000 to \$25,000 in accordance with the following procedures:
  - a. The Lottery shall issue a request for quotations. The request for quotations shall be transmitted to the state procurement office's electronic/distribution system, AZFACTS.
  - b. Requests for quotations on the electronic notification/distribution system shall be retained on that system for a period of not less than 11 days.
  - c. Bidders shall submit quotes on a form approved by the state procurement administrator and the quotes shall be recorded and placed in the procurement file.
  - d. Award shall be made to the responsible bidder submitting the quotation which is most advantageous to the Lottery and conforms to the solicitation.
  - e. If only 1 responsive quotation is received, a statement shall be included in the contract file setting forth the basis for determining that the price is fair and reasonable. This determination may be based on a comparison of the proposed price with prices found reasonable on previous purchases or current price lists.
3. Purchases estimated to cost less than \$10,000 may be placed on the electronic notification/distribution system AZFACTS.

B. If practical, purchases estimated to cost from \$5,001 to \$9,999 shall be made in accordance with the following procedures:

1. If applicable under R19-3-511, bidders shall be limited to small businesses.
2. At least 3 bidders shall be solicited to submit written quotations.
3. The Lottery shall issue a request for quotations to a reasonable number of vendors. The request for quotation need not be sent to all vendors on the vendors list but shall be sent to any who specifically requests the request for quotation. Vendors solicited shall be rotated to the extent necessary to give all vendors a fair and equal opportunity to compete.
4. The Lottery shall issue the request for quotation for a reasonable time as determined under the circumstances of each case.
5. Quotes shall be submitted in accordance with subsection (A)(2)(c) of this rule. Award shall be made in accordance with subsection (A)(2)(d) and, where applicable, subsection (A)(2)(e).

C. If practical, purchases estimated to cost from \$1,001 to \$5,000 shall be made in accordance with the following procedures:

1. If applicable under R19-3-511, bidders shall be limited to small businesses.
2. At least 3 bidders shall be solicited to submit verbal or written quotations.

3. Quotations need not be solicited from all vendors on the vendors list but shall be solicited from any vendor who specifically requests to submit a quotation. Vendors solicited shall be rotated to the extent necessary to give all vendors a fair and equal opportunity to compete.

4. Quotations shall be recorded and a record sufficient to facilitate auditing of the purchasing process shall be placed in the procurement file.

D. For purchases of \$1,000 or less, the Lottery shall utilize procedures providing for adequate and reasonable competition and for making records to facilitate auditing of the purchasing process.

E. For the purposes of a multi-term contract, the total amount of the contract over the full term including the amounts of any options to extend, will determine whether it is subject to this Section.

**R19-3-511.R19-3-513. Procurements Not Exceeding an Aggregate Amount of \$10,000**

A. Any procurement which does not exceed an aggregate dollar amount of \$10,000 shall be exempt from the provisions of rules R19-3-509 and R19-3-510, except that the procurement shall be made with as much competition as is practicable under the circumstances. Procurement requirements shall not be artificially divided or fragmented as to constitute a purchase under this rule and to circumvent the source selection procedures required by R19-3-509 and R19-3-510.

B. If material, service or construction is available from only 1 vendor, and the purchase is estimated to cost less than \$10,000, the sole source procurement method set forth in R19-3-514 shall be used.

**R19-3-512.R19-3-514. Sole Source Procurement**

A contract may be awarded for a material, or service or construction without competition if the Director determines in writing that there is only 1 source for the required material, service or construction item. Sole source procurement shall be avoided except when no reasonable alternative sources exist. A written determination of the basis for the sole source procurement shall be included in the contract file.

**R19-3-513.R19-3-515. Emergency Procurements**

Notwithstanding any other provisions of this Article, the Director shall authorize emergency procurements if there exists a threat to public health, welfare, or safety or if a situation exists which makes compliance with R19-3-509 or R19-3-510 impracticable, unnecessary or contrary to the public interest as defined in these rules and regulations, except that emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

**R19-3-514.R19-3-516. Cancellation of Invitation for Bids or Requests for Proposals**

An Invitation for Bids, a Request for Proposals, or other solicitation shall be canceled or rejected if it is in the best interests of the Lottery. The reason for the cancellation or rejection shall be made part of the contract file.

**R19-3-515.R19-3-517. Responsibility of Bidders and Offerors**

A. In accordance with this Article, the Director shall determine that a bidder or offeror is responsible before awarding a contract to that bidder or offeror. If the Director determines that a prospective contractor is nonresponsible, the determination shall be in writing, set forth the basis for the determination, and be made a part of the procurement file. A copy shall be promptly sent to the nonresponsible bidder or

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offeror. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility shall be grounds for a determination of nonresponsibility with respect to the bidder or offeror. A finding of nonresponsibility shall not be construed as a violation of the rights of any person.

- B. Factors to be considered in determining if a prospective contractor is responsible include:
1. The proposed contractor's financial, physical, personnel, and other resources, including subcontracts;
  2. The proposed contractor's record of performance and integrity;
  3. Whether the proposed contractor is qualified legally to contract with the Lottery; and
  4. Whether the proposed contractor supplied all necessary information concerning its responsibility.
- C. Any specific responsibility criteria shall be set forth in the solicitation.
- D. Information furnished by a bidder or offeror pursuant to this rule shall not be disclosed outside of the office of the Director without prior written consent by the bidder or offeror except to law enforcement agencies.

**~~R19-3-516~~R19-3-518. Prequalification of Contractors**

- A. ~~Prospective contractors may be prequalified shall provide information which enables the Director to prequalify the contractors for particular types of materials, or services and construction offered.~~ Prospective contractors have a continuing duty to provide the Director with information annually on any material change affecting the basis of prequalification. Solicitation mailing lists of potential contractors shall include the prequalified contractors.
- B. A prospective contractor need not be prequalified to be awarded a contract. Prequalification does not represent a determination of responsibility.

**~~R19-3-517~~R19-3-519. Bid and Contract Security**

The Director is authorized to require, in accordance with this Article, the submission of security to guarantee faithful bid and contract performance. In determining the amount and type of security required for each contract, the Director shall consider the nature of the performance and the need for future protection to the Lottery. The requirement for security shall be stated in the Invitation for Bid or Request for Proposals.

**~~R19-3-518~~R19-3-520. Bid and Performance Bonds for Material or Service Contracts**

- A. Bid and performance bonds or other security shall be required for material or service contracts as the Director deems advisable to protect the interests of the Lottery. Bond or other security requirements shall be stated in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of bidder responsibility.
- B. If a bid is withdrawn at any time before bid opening, any bid security shall returned to the bidder.

**~~R19-3-519~~R19-3-521. Cost or Pricing Data**

- A. The Director shall require the submission of current cost or pricing data in connection with an award in situations in which the analysis of the proposed price is essential to determine that the price is reasonable and fair. A contractor shall, except as provided in subsection (C), submit current cost or pricing data and certify that, to the best of the contractor's knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of a mutually determined specified date before the date of either:
1. The pricing of any contract awarded by competitive sealed proposals or pursuant to sole source procurement

authority, if the total contract price is expected to exceed an amount established by this Article.

2. The pricing of any change order or contract modification which is expected to exceed an amount established by this Article.
- B. Any contract, change order, or contract modification under which a certificate is required shall contain a provision that the price to the Lottery shall be adjusted to exclude any significant amounts by which the Lottery finds that the price was increased because the contractor-furnished cost or pricing data was inaccurate, incomplete, or not current as of the date agreed on between the parties. This adjustment by the Lottery may include profit or fee.
- C. The requirements of this rule need not be applied to contracts if any of the following apply:
1. The contract price is based on adequate price competition;
  2. The contract price is based on established catalogue prices or market prices;
  3. Contract prices are set by law or rule; or
  4. It is determined in writing that the requirements of this rule should be waived in the best interests of the Lottery and the reasons for the waiver are stated in writing.
- D. A change order exceeding 5% of the contract amount or \$10,000, whichever is greater, shall be executed only after the Director determines in writing that the change order is advantageous to the Lottery.

**~~R19-3-520~~R19-3-522. Types of Contracts**

~~Any type of contract which will promote the best interests of the Lottery may be used except that the~~ The use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost-reimbursement contract may be used only if a determination is made in writing by the Director that the contract is to be less costly to the Lottery than any other type.

**~~R19-3-521~~R19-3-523. Approval of Accounting System**

Except with respect to firm fixed-price contracts, no contract type may be used unless it is determined in writing by the Director that the proposed contractor's accounting system is adequate to allocate costs.

**~~R19-3-522~~R19-3-524. Multi-term Contracts**

- A. Unless otherwise provided by law, a contract for materials or services may be entered into for a period of time up to 5 years, as deemed by the Director to be in the best interest of the Lottery, if the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and monies are available for the 1st fiscal period at the time of contracting. A contract may be entered into for a period of time exceeding 5 years if the Director determines that:
1. Estimated requirements cover the period of the contract and are reasonable and continuing; and
  2. The contract will serve the best interests of the Lottery by encouraging effective competition or otherwise promoting economies in Lottery procurement.
- B. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of monies.
- C. If monies are not available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled and the contractor only reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the materials or services delivered under the contract or which are otherwise not recoverable.

**~~R19-3-523~~R19-3-525. Right to Inspect Plant**

The Lottery shall, at reasonable times, inspect the part of the plant

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or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the Director, if deemed in the best interest of the Lottery.

**R19-3-524.R19-3-526. Right to Audit Records**

The Lottery shall be entitled, at reasonable times and places, to audit the books and records of any person who submits cost or pricing data as provided in R19-3-521 R19-3-519 to the extent that the books and records relate to the performance of the contract or subcontract cost or pricing data. ~~The books and records shall be maintained by the contractor for a period of 3 years from the date of final payment under the prime contract and by the subcontractor for a period of 3 years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing by the director.~~

**R19-3-525.R19-3-527. Reporting of Anticompetitive Practices**

If for any reason collusion or other anticompetitive practices by any bidders or offerors are suspected, a notice of the relevant facts shall be transmitted to the Director and the Attorney General. A law enforcement agency conducting an investigation into such these practices is not required to notify to the Director.

**R19-3-526.R19-3-528. Anticompetitive Practices among Bidders or Offerors**

A bidder or offeror shall certify that the submission of the bid or offer did not involve collusion or other anticompetitive practices.

**R19-3-527.R19-3-529. Retention of Procurement Records**

All procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules approved by the Department of Library, Archives, and Public Records.

**R19-3-528.R19-3-530. Record of Procurement Actions**

The Director shall maintain a record listing all contracts in excess of \$10,000 made under R19-3-514 R19-3-512 or R19-3-515 R19-3-513 for a minimum of 5 years. The record shall contain:

1. Each contractor's name;
2. The amount and type of each contract; and
3. A listing of the materials or services procured under each contract.

**R19-3-529.R19-3-531. Content of Specifications**

- A. A specification may provide alternate description of materials, services, or construction items where 2 or more design, functional, or performance criteria will satisfactorily meet the Lottery's requirements.
- B. To the extent practicable, a specification shall not include any solicitation or contract term or condition.
- C. ~~All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the Lottery's needs and shall not be unduly restrictive.~~
- D.C. To the extent practicable, specifications shall emphasize functional or performance criteria. To facilitate the use of these criteria, the Lottery shall use reasonable efforts to include the principal functional or performance requirements as a part of its purchase requisitions.

**R19-3-532. Types of Specifications**

- A. ~~To the extent practicable, a specification for common or general use item shall be prepared and utilized when:~~
  1. ~~A material, service, or construction item is used repeatedly and the characteristics of the material, service or construction, as commercially produced or provided, remain relatively stable while the frequency or volume of procurement is significant;~~
  2. ~~The Lottery's recurring needs require uniquely designed or specially produced items; or~~

3. ~~The Lottery finds it to be advantageous to the Lottery.~~
- B. ~~A brand name or equal specification may be used when the director determines in writing that use of a brand name or equal specification is advantageous to the Lottery and that:~~
  1. ~~No specification for a common or general use item or qualified products list is available;~~
  2. ~~Time does not permit the preparation of another form of specification, other than a brand name specification; or~~
  3. ~~The nature of the product or the Lottery's requirements makes use of a brand name or equal specification suitable for the procurement.~~
- C. ~~A brand name or equal specification shall designate as many different brands as are practicable as "or equal" references. A solicitation that uses a brand name or equal specification shall explain that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. The solicitation shall state that products substantially equivalent to those brands designated shall qualify for consideration.~~

**R19-3-530.R19-3-533. Confidentiality**

- A. Specification, and any written determination or other document generated or used in the development of a specification, shall be available for public inspection, except to the extent that the withholding of this information is permitted or required as determined by the Director.
- B. If the supplier believes that the specifications contain trade secrets, test data, or similar information that should be kept confidential, a statement advising the Director of this fact shall accompany the specification.

**R19-3-534. Maximum Practicable Competition**

~~All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the Lottery's needs and shall not be unduly restrictive.~~

**R19-3-531.R19-3-535. Requirements of Nonrestrictiveness**

- A. Nonexclusive specifications
  1. To the extent practicable and unless otherwise permitted by this Article, all specifications shall describe the Lottery's requirements in a manner that does not unnecessarily exclude a material or service.
  2. Proprietary specifications shall not be used unless the Director determines in writing that the specifications are required by demonstrable technological justification and that it is not practicable or advantageous to use a less restrictive specification. Past success in the material's performance, traditional purchasing practices, or inconvenience of drawing specifications does not justify the use of proprietary specifications.
- B. To the extent practicable, the Lottery shall use accepted commercial specifications and procure standard commercial materials.

**R19-3-532.R19-3-536. Preparation of Specifications by Persons Other than State Personnel**

~~The Director may contract for the preparation of specifications or plans for Lottery contracts by persons other than state personnel. The requirements of this Article shall R19-3-529 apply to all specifications or plans prepared by persons other than state personnel. Contracts for the preparation of specifications by persons other than state personnel shall require the specification writer to adhere to the requirements.~~

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**R19-3-533.R19-3-537. Conflicts of Interest**

- A. No person preparing or assisting in the preparation of specifications, plans, or scopes of work pursuant to R19-3-529 shall receive any direct or indirect benefit from the utilization of the specifications, plans or scopes of work.
- B. ~~The Director is authorized to contract for the preparation of specifications with persons other than state personnel.~~
- ~~C.B.~~ Notwithstanding the provisions of this rule, the Director is authorized to approve or disapprove all specifications.

**R19-3-534.R19-3-538. Filing of a Protest**

- A. Any interested party may protest a solicitation issued by the Lottery, or the proposed award or the award of a contract.
- B. The protest shall be in writing and include the following information:
1. The name, address, and telephone number of the protester;
  2. The signature of the protester or its representative.
  3. Identification of the solicitation or contract number;
  4. A detailed statement of the legal and factual grounds of the protest, including copies of relevant documents; and
  5. The form of relief requested.

**R19-3-535.R19-3-539. Time for Filing Protest**

- A. Protests concerning improprieties in a solicitation.
1. Protests based upon alleged improprieties in a solicitation that are apparent before the bid opening shall be filed before bid opening. Protests based upon alleged improprieties in a solicitation that are apparent before the closing date for receipt of initial proposals shall be filed before the closing date for receipt of initial proposals.
  2. In procurements requesting proposals, protests concerning improprieties that do not exist in the initial solicitation but that are subsequently incorporated into the solicitation shall be filed by the next closing date for receipt of proposals following the incorporation.
  3. ~~If a protest is filed before the award of a contract, the award may be made before a decision on the protest.~~
- B. In cases other than those covered in subsection (A), protests shall be filed within 10 days after the protester knows or should have known the basis of the protest, whichever is earlier award is made.
- C. In the event a protest is filed, the Director shall immediately give notice of the protest to the successful contractor if an award has been made or to all interested parties if no award has been made.

**R19-3-540. Stay of Procurement During Protest**

~~If a protest is filed before the award of a contract or before performance of a contract has begun, the award may be made or contract performance may proceed, unless the director stays the contract award or performance on determining in writing that there is a reasonable probability that the protest will be sustained or that a stay is not contrary to the best interests of the Lottery.~~

**R19-3-536.R19-3-541. Confidential Information**

If the protester believes the protest contains material that should be withheld, a statement advising the Director of this fact shall accompany the protest submission.

**R19-3-537.R19-3-542. Decision by the Director**

- A. The Director shall issue a written decision within 14 60 days after a protest has been filed. The decision shall contain an explanation of the basis of the decision.
- B. The Director shall furnish a copy of the decision to the protester by any method that provides evidence of receipt.

- C. The time limit for decisions set forth in subsection (A) may be extended by the Director for good cause for a reasonable time not to exceed 30 days. The Director shall notify the protester in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued.
- D. If the Director fails to issue a decision within the time limits set forth in subsection (A) or (C), the protester may proceed as if the Director had issued an adverse decision.

**R19-3-538.R19-3-543. Remedies**

- A. If the Director sustains the protest in whole or in part and determines that a solicitation, proposed contract award, or contract award does not comply with A.R.S. § 5-509 or this Article, the Director shall implement an appropriate remedy.
- B. In determining an appropriate remedy, the Director shall consider all of the circumstances surrounding the procurement or proposed procurement including:
1. The seriousness of the procurement deficiency;
  2. The degree of prejudice to other interested parties or to the integrity of the procurement system;
  3. The good faith of the parties;
  4. The extent of performance;
  5. The costs to the Lottery;
  6. The urgency of the procurement; and
  7. The impact of the relief on the Lottery's mission.
- C. An appropriate remedy may include 1 or more of the following:
1. Decline to exercise an option to renew under the contract;
  2. Terminate the contract;
  3. Amend Reissue the solicitation;
  4. Issue a new solicitation;
  5. Award a contract consistent with A.R.S. § 5-509 and this Article; or
  6. Any other relief as is determined necessary to ensure compliance with A.R.S. § 5-509 and this Article.

**R19-3-544. Appeals to the Director**

- A. ~~An appeal from a decision entered or deemed to be entered by the Director shall be filed with the Director within 5 days after the date the decision is received.~~
- B. ~~Content of appeal. The appeal shall contain:~~
1. ~~The information set forth in R19-3-538(B), including the identification of protected information in the manner set forth in R19-3-541;~~
  2. ~~A copy of the decision of the Director; and~~
  3. ~~The precise or legal error in the decision of the Director from which an appeal is taken.~~

**R19-3-545. Notice of Appeal**

~~The Director shall immediately give notice of the appeal to all interested parties.~~

**R19-3-546. Stay of Procurement During Appeal**

~~If a stay was issued pursuant to R19-3-540, the filing of an appeal shall automatically continue the stay unless the Director makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the state.~~

**R19-3-547. Dismissal Before Hearing**

~~The Director shall dismiss, upon a written determination, an appeal before scheduling a hearing if:~~

1. ~~The appeal does not state a valid basis for protest; or~~
2. ~~The appeal is untimely pursuant to R19-3-544(A).~~

**R19-3-539.R19-3-548. Commission's Rejection of Award**

~~No request to reject an award made by the Director shall be made to the Commission, pursuant to A.R.S. § 5-509(C), until a final decision on any protest has been made by the Director and the award communicated to the Commission.~~

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**R19-3-549. Contract Claims**

- A. Claims under contracts shall be filed with the Director within 12 months after claim arises.
- B. The Director shall have the authority to settle and resolve contract claims.

**R19-3-540.R19-3-550. Resolution of Contract Claims and Controversies**

- A. If a contract claim or controversy cannot be resolved by mutual agreement, the Director shall, upon a written request by the contractor for a final decision, issue a written decision no more than 60 days after the request is filed. Before issuing a final decision, the Director shall review the facts pertinent to the controversy and secure any necessary assistance from legal, fiscal, and other advisors.
- B. The Director shall furnish a copy of the decision to the contractor by any method that provides evidence of receipt. The decision shall include:
  - 1. A description of the controversy;
  - 2. A reference to the pertinent contract provision;
  - 3. A statement of the factual areas of agreement or disagreement;
  - 4. A statement of the Director's decision, with supporting rationale; and
  - 5. A paragraph substantially as follows: "This is the final decision of the Director. This decision may not be appealed to the Commission".
- C. The time limit for decisions set forth in subsection (A) may be extended for good cause for a reasonable time not to exceed 30 days. The Director shall notify the contractor in writing that the time for the issuance of a decision has been extended and the date by which a decision shall be issued.
- D. If the Director fails to issue a decision within 60 days after the request is filed or within the time prescribed under subsection (A) of this rule, the contractor may proceed as if the Director had issued an adverse decision.

**R19-3-551. Appeals to the Director**

- A. An appeal from a final decision of the Director on a claim shall be filed with the Director within 5 days from the date the decision is received.
- B. Content of appeal. The appeal shall contain a copy of the decision of the Director and the precise factual or legal error in the decision of the Director from which an appeal is taken.
- C. The Director shall file a complete report on the appeal within 10 days from the date the appeal is filed. The Director shall furnish a copy of the report to the appellant by any method that provides evidence of receipt. The report, at a minimum, shall contain a copy of the claim, a copy of the Director's decision, if applicable, and any other documents that are relevant to the claim.

**R19-3-541.R19-3-552. Debarment and Suspension of Contractors**

The suspension and debarment of any person from consideration for award of contract pursuant to this Article shall be governed by A.R.S. § 41-2613, except that reference to "Director" shall mean the Executive Director of the State Lottery.

**R19-3-542.R19-3-553. Hearing Procedures**

- A. The Director may arrange for a hearing of protests and notify the parties in writing of the time and place of the hearing.
- B. If a hearing is required or permitted under these rules, the Director shall appoint a 3 member Dispute Resolution Committee. The Dispute Resolution Committee shall render a decision as provided in this rule.

~~B.C.~~ The hearing shall be conducted by a the Dispute Resolution Committee within 30 days after the appeal is filed unless the time is extended by mutual consent of the Appellant and the Committee. The hearing shall be conducted in an informal manner without formal rules of evidence or procedure.

~~C.D.~~ The Dispute Resolution Committee hearing officer may:

1. Hold prehearing conferences to settle, simplify, or identify the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding;
2. Require parties to state their positions concerning the various issues in the proceeding;
3. Require parties to produce for examination those relevant witnesses and documents under their control;
4. Rule on motions and other procedural items on matters pending before such officer;
5. Regulate the course of the hearing and conduct of participants;
6. Establish time limits for submission of motions or memoranda;
7. Impose appropriate sanctions against any person failing to obey an order under these procedures, which may include:
  - a. Refusing to allow the person to assert or oppose designated claims or defenses, or prohibiting that person from introducing designated matters in evidence;
  - b. Excluding all testimony of an unresponsive or evasive witness; and
  - c. Expelling person from further participation in the hearing.
8. Take official notice of any material fact not appearing in evidence in the record, if the fact is among the traditional matters of judicial notice; and
9. Administer oaths or affirmations.

~~D.E.~~ A transcribed record of the hearing shall be made available at cost to any requesting party.

~~E.E.~~ The hearing officer shall make a recommendation to the Director based on the evidence presented. The Dispute Resolution Committee shall render its decision within 20 days after the conclusion of the hearing and shall at that time send a copy of its decision to the Lottery and the Appellant. The Committee shall prepare an official record of the hearing, including all testimony, exhibits and other relevant documents. ~~The recommendation shall. The report shall also include findings of fact and conclusions of law.~~

~~F.G.~~ The Dispute Resolution Committee may, with the consent of both parties, waive the hearing and render its decision based solely upon the written evidence. The Director shall affirm, modify, or reject the Committee's recommendation in whole or in part, remand the matter to the Committee with instructions, or make any other appropriate disposition.

~~G.~~ The Director's decision shall be sent to all parties by a method that provides evidence of receipt. The decision shall state that any party adversely affected may within ten days request a rehearing with the Director.

**R19-3-543.R19-3-554. Rehearing Procedures**

- A. Any party who is aggrieved by a decision rendered in such appeal ~~of the Director concerning a contract claim or controversy~~ may file a written request for rehearing of the decision specifying the precise factual and legal grounds.
  1. The request for rehearing shall be filed ~~with the Director~~ within 10 days after ~~service~~ of the decision and shall include any supporting affidavits.
  2. The request shall be clearly designated as a "Request for Rehearing."

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3. The Dispute Resolution Committee Director shall, within 5 days after the request is filed, notify interested parties of the request by a method that provides evidence of receipt.
- B. An interested party may within 5 days after receipt of the notice file a response including opposing affidavits.
- C. Any argument not raised in the request or in a response is waived.
- D. The Committee Director may require the filing of written briefs and provide for oral argument.
- E. A rehearing of the decision may be granted for any of the following grounds materially affecting the requesting party's rights causes:
  1. Irregularity in the proceedings before the Dispute Resolution Committee Director or any order or an abuse of discretion by the Director, depriving the requesting party of a fair hearing;
  2. Misconduct of the Dispute Resolution Committee Director, the staff, the Committee, or the prevailing any party;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
  5. Excessive or insufficient penalties;
  6. Error in the admission or rejection of evidence or other error in law occurring at the hearing; or
  7. A showing that the decision is not justified by the evidence or is contrary to law.
- F. The Dispute Resolution Committee may affirm or modify the decision or grant a rehearing as to all or part of the issues for any of the reason set forth in subsection (E). The Committee's Director's decision concerning a request for rehearing shall be in writing and state the basis of the decision. A decision granting a rehearing shall specify with particularity the grounds on which the rehearing is granted and its date, time, and place. The rehearing shall cover only those matters specified in the decision.
- G. The Dispute Resolution Committee Director, within the time for filing a request for rehearing under this rule, may order a rehearing or review of the decision for any reason for which it might have granted a rehearing on motion of a party without receiving a request for rehearing from a party. After giving the parties notice and an opportunity to be heard on the matter, the Dispute Resolution Committee may grant a motion for rehearing, timely served, for a reason not stated in the motion. In either case, the order granting such a rehearing shall specify the grounds therefor.
- H. When a motion for rehearing is based upon affidavits, they shall be served with the motion. The opposing party may within 10 days after such service serve opposing affidavits.

**~~R19-3-544.R19-3-555.~~ Judicial Review**

Any final decision of the Dispute Resolution Committee Director, on a protest, contract claim, or controversy, shall be subject to judicial review as provided in A.R.S. §12-901 et seq. pursuant to Arizona Revised Statutes, Title 12, Chapter 7, Article 6 by any party to the proceeding before the Committee Director. The complaint seeking review shall be filed with the Superior Court in Maricopa County and served on the Lottery Director within the time prescribed pursuant to A.R.S. § 12-904.

**~~R19-3-545.R19-3-556.~~ Exclusive Remedy**

This Article provides the exclusive procedure for asserting a claim against the Lottery, arising in relation to any procurement conducted under this Article.