

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. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

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 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 43. BOARD OF OCCUPATIONAL THERAPY EXAMINERS

PREAMBLE

1. Sections Affected

R4-43-101
R4-43-102
R4-43-201
R4-43-202
R4-43-203
R4-43-204
R4-43-205
R4-43-206
R4-43-301
R4-43-302
R4-43-404
R4-43-405
R4-43-406

Rulemaking Action

Amend
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. § 32-3404(A)(4)

Implementing statutes: A.R.S. §§ 32-3423, 32-3427(A) and (B), and 32-3801

3. A list of all previous notices appearing in the Arizona Administrative Register.

Notice of Rulemaking Docket Opening: 4 A.A.R. 598, February 27, 1998.

Notice of Rulemaking Docket Opening: 4 A.A.R. 838, April 3, 1998.

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

Name: Kenneth D. Fink

Address: Board of Occupational Therapy Examiners
1400 West Washington, Suite 240
Phoenix, Arizona 85007

Telephone: (602) 542-6784

Fax: (602) 542-5469

5. An explanation of the rule, including the agency's reasons for initiating the rules:

This is an overall rule change to correct and change several rules in order to:

- a. Eliminate obsolete language,
- b. Bring the rules into agreement with the Agencies five-year review plan,
- c. Define some terms that are used interchangeably within the statutes and rules,

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- d. Require proof of passing the National examination be received directly from the National Board For Certification In Occupational Therapy, Incorporated instead of accepting a photo copy from the applicant,
- e. Amend the rules in order to bringing the application forms into agreement with the mandates within the Arizona Revised Statutes,
- f. Change the application forms to allow the applicant an opportunity to designate an alternate mailing address other than their residential address as is authorized in Arizona Revised Statutes § 32-3801,
- g. Reduce the time frame allowed for expired licenses to be reinstated,
- h. Clarifying the procedure for the renewal or to reactivate an inactive license,
- i. Correct a typographical error,
- j. Include a statute reference where necessary,
- k. Correct the time allowed for an aggrieved party to request a motion for a rehearing after the denial of a license,
- l. Clarify the language requiring the display of a license,
- m. Require address changes to be in writing,
- n. Provide an exception to the requirement that a limited permit application be complete before the Board may consider the application for a license (limited permit). The outgoing rule required that all applications be fully complete before the Board could consider them for a license or limited permit. The problem with that for the limited permit applicant was that they were required to have a signed supervisor's agreement as proof of supervision in the work space in order to have a complete application. However, supervisors will not sign such an agreement prior to the Board approving the application! Therefore, following the outgoing procedure would make impossible to obtain a limited permit!. The proposed language allows the Board to tentatively approve a limited permit application subject to having received the signed supervision agreement. This change would allow a limited permit application to be approved by the Board with actual issue of the limited permit contingent upon the receipt of the signed supervision agreement. This proposed procedure would resolve the dilemma before this Board.

6. **Reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

None.

7. **A showing of good cause why the rules are necessary to promote a statewide interest if the rule will diminish a previous grant of a political subdivision of the state:**

Not applicable.

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

There is minimal to no cost increase impact to small businesses or consumers as any and all costs related to these proposed rule amendments are born by the implementing agency or its licensees. The only cost element that might be identified would be for an applicant applying for an Arizona State License from another occupational therapy licensing state and wants to have the National examining Board to notify the Arizona Board of Occupational Therapy of written proof they have successfully passed their National examination requirement. The National examining board may charge a fee for such notification of which would be paid for by the licensee, not this Board.

9. **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: Kenneth D. Fink
Address: Board of Occupational Therapy Examiners
1400 West Washington, Room 235
Phoenix, Arizona 85007
Telephone: (602) 542-67842
Fax: (602) 542-5469

10. **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:**

No oral proceeding is scheduled. However, an agenda is published for each Board Meeting and if testimony is to be heard during a specific Board Meeting, it is scheduled within the monthly agendas. Under A.R.S. § 41-1023(C), an oral proceeding will be scheduled if a written request is submitted to the person identified in item 4 within 30 days after publication of this notice. Written comments about the proposed rule may be submitted to the person identified in item 4 until 5 p.m. on the day prior to the Board Meeting at which the Board is scheduled to approve the submission of a Notice of Final Rulemaking as announced within a Board agenda.

11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None.

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

None applicable.

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 43. BOARD OF OCCUPATIONAL THERAPY EXAMINERS

ARTICLE 1. GENERAL PROVISIONS

- Section
R4-43-101. Definitions
R4-43-102. Fees
R4-43-103. Service by the Board

ARTICLE 2. LICENSURE

- R4-43-201. Initial Application
R4-43-202. Examination
R4-43-203. Renewal of License
R4-43-204. Continuing Education for Renewal of License
R4-43-205. Inactive License
R4-43-206. Procedures for Processing License Applications

ARTICLE 3. HEARINGS

- R4-43-301. Hearing Procedures
R4-43-302. Rehearing or Review of Decision

ARTICLE 4. REGULATORY PROVISIONS

- R4-43-401. Supervision of Occupational Therapy Assistants
R4-43-402. Supervision of Occupational Therapy Aides and other Unlicensed Personnel
R4-43-404. Limited Permit Practice
R4-43-405. Display of License Certificate
R4-43-406. Change of Name and Address

ARTICLE 1. GENERAL PROVISIONS

R4-43-101. Definitions

- A. No Change.
B. No Change.
C. No Change.
D. No Change.
E. No Change.
F. "Occupational therapy Aide," "unlicensed personnel" and "occupational therapy technician" are synonymous terms means meaning a person not licensed pursuant to the statutes and rules applicable to the practice of occupational therapy, who works under the direct supervision of a licensed occupational therapist, who assists in the practice of occupational therapy and whose activities require an understanding of occupational therapy, but do not require professional or advanced training in the basic anatomical, biological, psychological and social sciences involved in the practice of occupational therapy.
G. No Change.
H. No Change.
I. No Change.

R4-43-102. Fees

- A. The Board shall charge the following fees:
1. One hundred dollars for an application for a license. This fee is in addition to the appropriate initial license fee.
2. Seventy-five dollars for an application for reinstatement filed within 180 calendar days of the normal expiration

of the license for failure to renew. This reinstatement fee is in addition to the appropriate renewal of license fee.

3. Occupational Therapist.
a. Initial license fee for a license issued on or before July 30, 1998: \$125.
b.a. Initial license fee for a license issued on or after July 31, 1998: \$135.
e. Renewal license fee for a license expiring on or before July 30, 1998: \$100.
d.b. Renewal license fee for a license expiring on or after July 31, 1998: \$135.
e.c. Inactive status renewal fee: \$25.
4. Occupational Therapy Assistant.
a. Initial license fee for a license issued on or before July 30, 1998: \$75.
b.a. Initial license fee for a license issued on or after July 31, 1998: \$70.
e. Renewal license fee for a license expiring on or before July 30, 1998: \$50.
d.b. Renewal license fee for a license expiring on or after July 31, 1998: \$70.
e.c. Inactive status renewal fee: \$15.
5. Thirty-five dollars for a limited permit. The last amount paid for a single limited permit shall be subtracted from the initial licensure fee.
6. \$10 for a duplicate license.
B. No Change.

R4-43-103. Service by the Board

No Change.

ARTICLE 2. LICENSURE

R4-43-201. Initial Application

- A. An initial application form provided by the Board for a license to practice as an occupational therapist or an occupational therapy assistant shall be submitted to the Board of Occupational Therapy Examiners office. The application and all supporting documentation must be received by the Board of Occupational Therapy Examiners five state business days prior to a board meeting.
B. The initial application form shall include the following:
1. Name and address of the Arizona Board of Occupational Therapy Examiners;
2. Applicant's full name and other names used;
3. How Applicant's name is to be shown on licensure certificate;
4. Mailing Residential address;
5. Alternate mailing address;
6. Type of license for which applying;
6.7. The amount of the application or license fees;
7.8. The applicant's American Occupational Therapy Certification Board (AOTCB) certification or The National Board for Certification in Occupational Therapy, Inc. (NBCOT) certification number, date of certification, and the number of times the AOTCB or NBCOT national examination was taken;
8.9. Employer's name, address, and telephone number;

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- 9-10. Gender;
- 10-11. Education;
- 11-12. Professional experience and/or fieldwork within the last five years;
- 12-13. Current or previous licensure/certification;
- 13-14. Other states and foreign countries where licensed to practice occupational therapy;
- 14-15. Previous license numbers and current status;
- 15-16. Current and previous disciplinary actions;
- 16-17. Affidavit of applicant.
- C. An applicant applying for a limited permit shall be typed or written in black ink, signed, accompanied by the following: and submitted to the Board along with the following:
1. Application fee;
 2. ~~Verification of having passed the American Occupational Therapy Certification Board examination; Written verification received directly from the National Board For Certification In Occupational Therapy. Incorporated as verification of having passed the American Occupational Therapy Certification Board or National Board For Certification in Occupational Therapy. Incorporated examination or certified letters of good standing issued by each state that has previously issued the applicant a license provided at least one of the states requires standards for licensure considered by the Board to be equivalent to the requirements for licensure in this state;~~
 3. Recommendations of good moral character for licensure from two health care professionals on a form which shall include the following:
 - a. Name and address of the Arizona Board of Occupational Therapy Examiners;
 - b. Name of the applicant;
 - c. Applicant's mailing address;
 - d. The American Occupational Therapy Certification Board or the National Board For Certification In Occupational Therapy certification number;
 - e. Period of time the person making the recommendation has known the applicant;
 - e-f. Period of time the person making the recommendation has worked with the applicant;
 - f-g. Does the person making the recommendation consider the applicant to be of good moral character;
 - g-h. Where the person making the recommendation worked with the applicant;
 - h-i. Describe they're professional relationship or professional experience with the applicant and why they recommend or do not recommend the applicant for an occupational therapy license;
 - i-j. Name, address, and telephone number of the person making the recommendation for the applicant;
 - j-k. The professional license/certification, number and issuing agency of the person making the recommendation for the applicant;
 - k-l. The signature and date signed by the person making the recommendation for the applicant.
- D. An applicant applying for a limited permit shall submit an application on the ~~form forms~~ prescribed in Subsection (B) and attach, Subsection (C) and this Subsection. A Direct Supervision Agreement For A Limited Permit form shall be completed and signed by an Arizona licensed occupational therapist certifying that the therapist shall work in association with the applicant, an Arizona licensed occupational therapist that assumes the professional and legal responsibility for the direct supervision of the limited permit applicant. The attached Direct Supervision Agreement For A Limited Per-
- ~~mit form shall be filed with the limited permit application on file with the Board before a limited permit may be issued and shall contain the following:~~
1. Name and address of the Arizona Board of Occupational Therapy Examiners,
 2. Name of the limited permit applicant,
 3. Date the form is completed and signed by the ~~asseeiate~~ direct supervising licensed occupational therapist,
 4. Name of the ~~asseeiate~~ direct supervising occupational therapist,
 5. Arizona license number of the ~~asseeiate~~ direct supervising occupational therapist,
 6. Applicant's Limited Permittee's employment address,
 7. Associate's Direct Supervisor's mailing address,
 8. Associate's Director Supervisor's employment address and employment telephone number,
 9. Description of ~~asseeiation~~ the direct supervision within the work space,
 10. Signature of the ~~asseeiate~~ direct supervising licensed occupational therapist.
- E. All applications and all documents filed in support thereof shall be retained by the Board. ~~The Board may permit copies to be substituted for original documents.~~
- F. ~~The applicant shall inform the Board of any changes in the applicant's mailing address within ten days from the date of change.~~
- G. If the Board denies the application, the applicant may, within fifteen thirty days of service of the notice of denial, make a written request for a hearing to review the results of the applicant's application. The hearing shall be conducted pursuant to A.R.S Title 41, Chapter 6.
- H. No Change.
- R4-43-202. Examination**
- A. ~~The Board adopts the examination currently offered by the American Occupational Therapy Certification Board administered by the National Board for Certification in Occupational Therapy, Incorporated.~~
- B. Arrangements and fees for the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy, Incorporated examination are the responsibility of the applicant.
- C. ~~The applicant shall have his examination score forwarded to the Arizona Board of Occupational Therapy Examiners directly from the American Occupational Therapy Certification Board's contracted examination service.~~
- D. ~~An applicant who fails to pass the exam may apply for re-examination directly to the American Occupational Therapy Certification Board.~~
- R4-43-203. Renewal of License**
- A. A license may be renewed by submitting to the Board of Occupational Therapy Examiners office a renewal application provided by the Board, payment of the renewal fee and presenting verifiable evidence of participation in relevant continuing education within ~~one year~~ two years of initial licensure or last renewal of license.
- B. The renewal application form shall include the following:
1. Name and address of the Arizona Board of Occupational Therapy Examiners;
 2. Applicant's full name and other names used;
 3. How applicant's name is to be shown on the renewal license;
 4. Mailing Residential address or an alternate mailing address if the residential address is not to be made available to the public;

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5. Current Arizona Board of Occupational Therapy Examiners license number;
 6. Type of renewal license for which applying;
 7. The amount of the renewal fee;
 8. Disciplinary actions since initial licensure;
 9. Hours and titles of continuing education completed;
 10. Total hours of continuing education completed;
 11. Social Security Number (optional);
 12. Employer's name, address, and telephone number;
 13. Signature and date.
- C. No Change.
- D. Unless otherwise required by A.R.S. § 32-3202, A a license that is not renewed within one-year two years of the date of issuance expires by operation of the law and may be reinstated within 180 calendar days of normal expiration of license for failure to renew only upon payment of the required renewal fee, an additional reinstatement fee pursuant to R4-43-102(A)(2) and by submitting verifiable evidence of participation in relevant continuing education.

R4-43-204. Continuing Education for Renewal of License

- A. Pursuant to A.R.S. § 32-3426, the continuing education requirement for renewal of a license is as follows:
1. Occupational Therapist.
 - a. ~~10 clock hours for renewal of a one-year license.~~
 - b. 20 clock-hours for renewal of a two-year license.
 2. Occupational Therapist Assistant.
 - a. ~~6 clock hours for renewal of a one-year license.~~
 - b. 12 clock-hours for renewal of a two-year license.
- B. No Change.
- C. No Change.
- D. No Change.
- E. No Change.
- F. No Change.
- G. No Change.
- H. A licensee may accumulate a maximum of 4 continuing education clock hours for in-service educational training related to clinical occupational therapy services, excluding training for safety, fire evacuation, and cardiopulmonary resuscitation (CPR). As proof of completion, the licensee shall submit a letter from the supervising occupational therapist or other immediate supervisor. The licensee shall submit documentation of displaying:
1. Specific topics,
 2. Presenters,
 3. Dates,
 4. Times,
 5. Location and,
 6. Written narrative of how how the training or in-service relates to clinical practice of occupational therapy and contributes to professional competency.

R4-43-205. Inactive License

- A. No Change.
- B. No Change.
- C. An inactive license may be renewed or reactivated upon submitting a renewal application pursuant to R4-43-203, payment of the license renewal fee pursuant to R4-43-102 and meeting the continuing education requirements for the year preceding active license application pursuant to R4-43-204. The license renewal fee shall be reduced by the amount of the inactive renewal fee paid during the licensee's current licensure year.

An inactive license may be renewed or reactivated upon:

1. Submitting a renewal application in accordance with rule R4-43-203;

2. Payment of the licensure renewal fee in accordance with R4-43-102 less one inactive license fee paid for an inactive license renewal;
3. Meeting the continuing education requirements in accordance with rule R4-43-204.

R4-43-206. Procedures for Processing License Applications

- A. No Change.
- B. Renewal license application, request to transfer into inactive status, or application to return to active status.
1. Within 60 calendar days after receipt of an application included in subsection (B)(2), the Board shall perform an administrative completeness review and notify the applicant in writing that the application is either complete or incomplete.
 2. The following applications are governed by subsection (B):
 - a. A renewal license application received from an occupational therapist;
 - b. A renewal license application received from an occupational therapy assistant;
 - c. A request to transfer into inactive status by either an occupational therapist or occupational therapy assistant who has an unexpired license;
 - d. A renewal application to return to active status, submitted by a licensee.
 3. If the Board has notified an applicant that an application is incomplete within the 60-day administrative completeness review time-frame, the time-frame is suspended from the date of the notice.
 4. An applicant with an incomplete application shall submit all missing documentation and information within 60 days from the date of the notice.
 5. Except in the case of a limited permit application. The the Board shall not process the application until the applicant has fully complied with all of the application requirements of A.R.S. Title 32, Chapter 34 and this Article.
 6. After receipt of all missing documentation and information within the administrative completeness time frame specified in this Section, the Board shall notify the applicant that the application is complete.
 7. The Board shall perform the substantive review and grant or deny the renewal or transfer no later than 60 days after receipt of a complete application. For this subsection, the date of receipt is the date the notice advising the applicant that the application is complete.
 8. If an applicant has submitted a complete renewal application on or before the expiration date, but the license will expire on or before the date of the Board's next scheduled meeting, the Executive Director shall advise the applicant that the Board will not consider their current license to have lapsed until the Board has an opportunity to consider the application for renewal of license at the Board's next scheduled meeting.
 9. If an applicant has not submitted a complete application on or before the expiration date, the license expires by operation of law and the applicant shall seek reinstatement under section R4-43-203(D).
- C. No Change.

ARTICLE 3. HEARINGS

R4-43-301. Hearing Procedures

- A. All hearings held pursuant to A.R.S. § 32-3441 32-3442 et seq. shall be conducted in accordance with A.R.S. Title 41, Chapter 6.

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- B. No Change.
- C. No Change.
- D. No Change.
- E. No Change.
- F. No Change.
- G. No Change.
- H. No Change.
- I. All hearings shall be mechanically or stenographically recorded. The Board is not required to transcribe such record unless there is an appeal to the superior court. However, upon written request and receipt of a reasonable fee as is authorized in A.R.S. § 39-121.(01) for transcribing such record, the Board may transcribe the record or allow for its transcription by the person requesting the record.
- J. No Change.

R4-43-302. Rehearing or Review of Decision

- A. Except as provided in Subsection (G), any party appearing before the Board, who is aggrieved by a decision rendered, may file with the Board, not later than ten thirty days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor.
- B. No Change.
- C. No Change.
- D. No Change.
- E. No Change.
- F. No Change.
- G. No Change.

ARTICLE 4. REGULATORY PROVISION

R4-43-401. Supervision of Occupational Therapy Assistants

- A. No Change.
- B. No Change.
- C. No Change.

R4-43-402. Supervision of Occupational Therapy Aides and other Unlicensed Personnel

- A. No Change.
- B. No Change.
- C. No Change.

R4-43-403. Designation of Title

- A. No Change.

R4-43-404. Limited Permit Practice

- A. ~~The licensed therapist practicing in associate with the designated limited permittee and the limited permittee shall notify the Board, in writing, of any change of employment status or associate relationship within five days.~~
- B. ~~The last amount paid for a single limited permittee license shall be reduced from the initial occupational therapist or occupational therapy assistant licensure fee.~~
- C. ~~Any change in the licensed therapist associate or addition of a direct Arizona licensed occupational therapist supervisor shall require the filing of a new Direct Supervision Agreement For A Limited Permit form acknowledging an association the professional and legal responsibility for all patient care provided by a limited permittee under their direct supervision as required by R4-43-201(D). The Direct Supervision Agreement For A Limited Permit for shall be submitted to the Board within seven days of a change or addition of a direct limited permittee supervisor.~~
- D. ~~On patient records, all documentation of patient treatment and progress shall be co-signed by the associate direct licensed occupational therapist supervisor.~~

R4-43-405. Display of License Certificate

~~Each licensed occupational therapist licensee shall display the their current license certificate and the proof of renewal issued by the Board in a prominent place in each facility of practice. A copy of the license certificate or the proof of renewal issued by the Board may be utilized to satisfy this requirement.~~

R4-43-406. Change of Name or Address

- A. Licensees shall notify the Board in writing within thirty days when their name has been legally changed. A copy of the official document evidencing the name change shall be included. A duplicate license and current certificate of renewal shall be issued reflecting the name change. ~~Pursuant to R4-43-102(A)(9) a duplicate license fee shall be paid by the licensee.~~
- B. Licensees shall notify the Board office in writing within thirty days of a change in mailing address.

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

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

ADMINISTRATION

PREAMBLE

1. Sections Affected

R9-22-101
R9-22-210
R9-22-401
R9-22-705

Rulemaking Action

Amend
Amend
Amend
Amend

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

Authorizing statute: Laws 1998, Ch. 214

Implementing statute: Laws 1998, Ch. 214

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 4 A.A.R. 3047, October 16, 1998.

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

Name: Cheri Tomlinson, Federal and State Policy Administrator
Address: AHCCCS Administration
801 East Jefferson
Mail Drop 4200
Phoenix, Arizona 85034
Telephone: (602) 417-4198
Fax: (602) 256-6756

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

4 Articles in 9 A.A.C. 22 have been opened to make changes in order to bring the Articles into compliance with the Balanced Budget Act of 1997 (federal law) and Laws 1998, Ch. 214 (state law). In addition, minor changes were made to the language so it will conform with the Secretary of State's drafting of rules.

6. Reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

Not applicable.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

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

AHCCCS health plans will be minimally affected by the changes in rule language because health plans will be required to pay valid, clean claims in a shorter time period. Health plans will also be required to review prior authorization requests for post stabilization services within a specified time period or risk having to pay for the service for failure to respond. AHCCCS providers will be nominally impacted by the changes because providers will receive payments for claims sooner. In addition, the post stabilization authorization requirements may affect them, since providers will be required to request prior authorization for services before proceeding with treatment. Other entities considered, but which will not be directly impacted by the changes, include the AHCCCS Administration, AHCCCS members, other government entities, and the general public, including taxpayers.

9. 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, Federal and State Policy Administrator
Address: AHCCCS Administration
801 East Jefferson
Mail Drop 4200
Phoenix, Arizona 85034
Telephone: (602) 417-4198
Fax: (602) 256-6756

10. 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: December 17, 1998
Time: 9 a.m.
Location: AHCCCS Administration
801 East Jefferson, 4th Floor, Oval Conference Room
Phoenix, Arizona 85034
Nature: Public Hearing

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

12. Incorporations by reference and their location in the rules:

42 CFR 438.114 as of September 29, 1998, incorporated in R9-22-210.
42 U.S.C. 1396u-2 as of August 5, 1997, incorporated in R9-22-401.
42 U.S.C. 1396b(m) as of August 5, 1997, incorporated in R9-22-401.
42 and 45 CFR as of October 1, 1995, incorporated in R9-22-401.
42 U.S.C. 1396u-2 as of August 5, 1997, incorporated in R9-22-705.

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13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

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

ADMINISTRATION

ARTICLE 1. DEFINITIONS

R9-22-101. Location of Definitions

ARTICLE 2. SCOPE OF SERVICES

R9-22-210. Emergency Medical and Behavioral Health Services

ARTICLE 4. CONTRACTS, ADMINISTRATION, AND STANDARDS

R9-22-401. General

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-22-705. Payments by Contractors

ARTICLE 1. DEFINITIONS

R9-22-101. Location of Definitions

A. Location of definitions. Definitions applicable to Chapter 22 are found in the following:

Definition	Section or Citation
1. "1st-party liability"	R9-22-110
2. "3rd-party"	R9-22-110
3. "3rd-party liability"	R9-22-110
4. "Accommodation"	R9-22-107
5. "Acute mental health services"	R9-22-112
6. "AFDC"	R9-22-101
7. "Aggregate"	R9-22-107
8. "AHCCCS"	R9-22-101
9. "AHCCCS-disqualified dependent"	R9-22-103
10. "AHCCCS-disqualified spouse"	R9-22-103
11. "AHCCCS hearing officer"	R9-22-108
12. "AHCCCS-inpatient hospital day or days of care"	R9-22-107
13. "Ambulance"	R9-22-102
14. "Ancillary department"	R9-22-107
15. "Appeal"	R9-22-108
16. "Applicant"	R9-22-101
17. "Application"	R9-22-101
18. "Assignment"	R9-22-101
19. "Billed charges"	R9-22-107
20. "Capital costs"	R9-22-107
21. "Capped fee-for-service"	R9-22-101
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B. General definitions. In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

1. "AFDC" means Aid to Families with Dependent Children under Title IV-A of the Social Security Act, as amended.
2. "AHCCCS" means the Arizona Health Care Cost Containment System, which is composed of the Administration, contractors, and other arrangements through which health care services are provided to an eligible person or member.

3. "Applicant" means a person who submits, or on whose behalf is submitted, a written, signed, and dated application for AHCCCS benefits which has been either completed or denied.
4. "Application" means an official request for AHCCCS benefits made in accordance with Article 3.
5. "Assignment" means enrollment of an eligible person with a contractor by the AHCCCS Administration.
6. "Capped fee-for-service" means the payment mechanism by which a ~~providers-provider~~ provider of care ~~are is~~ reimbursed upon submission of a valid ~~claims claim~~ claim for a specific AHCCCS covered ~~services service~~ service and equipment provided to ~~an eligible persons-person~~ an eligible person. ~~A Payments payment are is~~ made in accordance with an upper, or capped, limit as established by the Director.
7. "Continuous stay" means the period of time during which an eligible person or member receives inpatient hospital services without interruption beginning with the day of admission, and ending with the day of discharge or date of death.
8. "Contract" means a written agreement entered into between a person, an organization, or other entity and the Administration to provide health care services to a members member under the provisions of A.R.S. Title 36, Chapter 29, and these rules.
9. "Contractor" means a person, an organization, or an entity that agrees through a direct contracting relationship with the Administration to provide goods and services specified by the contract in conformance with the requirements of the contract and these rules.
10. "Contractor of record" means ~~the an~~ an organization or an entity in which a member is enrolled for the provision of AHCCCS services.
11. "Day" means a calendar day unless otherwise specified in the text.
12. "Eligible person" has the meaning in A.R.S. § 36-2901(4).
13. "Facility" means a building or portion of a building licensed or certified by the Arizona Department of Health Services as a health care institution, according to A.R.S. Title 36, Chapter 4, to provide a medical services service, a nursing services service, or other health care or health-related services.
14. "Factor" means an organization, a collection agency, a service bureau, or an individual who advances money to a provider for accounts receivable that ~~the a~~ a provider assigns, sells, or otherwise transfers, including transfers through the use of a power of attorney, to ~~the an~~ an organization, a collection agency, a service bureau, or an individual which receives an added fee or a deduction of a portion of the face value of ~~the an~~ an accounts receivable in return for the advanced money. The term "factor" does not include a business representatives representative, such as a billing agents agent or an accounting firms firm as described within these rules, or a health care institutions institution.
15. "Federal emergency services program" means a program designed to provide emergency medical services covered under 42 U.S.C. 1396b(v), to treat an emergency medical condition for a categorically eligible person who is determined eligible according to A.R.S. § 36-2903.03.
16. "GSA" means a geographical service area designated by the Administration within which a contractor of record provides, directly or through a subcontract, a covered

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- health care services ~~service~~ to a ~~members~~ member enrolled with that contractor of record.
17. "Hospital" means a health care institution that is licensed as a hospital by the Arizona Department of Health Services under A.R.S. Title 36, Chapter 4, Article 2, and certified as a provider under Title XVIII of the Social Security Act, as amended, or is currently determined to meet the requirements of certification.
 18. "Indigent" means meeting income and resource criteria according to A.R.S. § 11-297.
 19. "Inmate of a public institution" means a person defined by 42 CFR 435.1009.
 20. "License" or "licensure" means a nontransferable authorization that is based on established standards in law, is issued by a state or a county regulatory agency or board, and allows a health care provider to render a health care service lawfully.
 21. "Medical record" means all documents that relate to medical and behavioral health services provided to an eligible person or member and that are kept at the site of the provider.
 22. "Medical services" means health care services provided to an eligible person or a member by a physician, a practitioner, a dentist, or by a health professionals professional and technical personnel under the direction of a physician, a practitioner, or a dentist.
 23. "Medically necessary" means a covered ~~services~~ service provided by and within the scope of practice under state law of a physician or other licensed practitioner of the healing arts to:
 - a. Prevent disease, disability, and other adverse health conditions or their progression, or
 - b. Prolong life.
 24. "Medicare HMO" means a health maintenance organization that has a current contract with the Health Care Financing Administration (HCFA) for participation in the Medicare program according to 42 CFR 417(L).
 25. "MI/MN" means medically indigent and medically needy as defined A.R.S. § 36-2901(4)(a) and (c).
 26. "Noncontracting provider" has the meaning in A.R.S. § 36-2931.
 27. "NF" means nursing facility as is defined in 42 U.S.C. 1396r(a).
 28. "Referral" means the process by which an eligible person or a member is directed by a primary care provider or an attending physician to another appropriate provider or resource for diagnosis or treatment.
 29. "Service location" means any location at which a member obtains any health care service provided by the a contractor of record under the terms of a contract.
 30. "Service site" means a location designated by the a contractor of record as the location at which a member is to receive health care services.
 31. "State emergency services program" means a program designed to provide emergency medical services identified as covered under A.A.C. R9-22-217 to treat an emergency medical condition for a person who is determined eligible according to A.R.S. § 36-2905.05.
 32. "Subcontract" means an agreement entered into by a contractor with any of the following:
 - a. A provider of health care services who agrees to furnish covered services to a ~~members~~ member;
 - b. A marketing organization; and
 - c. Any other organization or a person who agrees to perform any administrative function or service for the a contractor specifically related to securing or fulfilling the a contractor's ~~obligations~~ obligation to the Administration under the terms of a contract.

ARTICLE 2. SCOPE OF SERVICES

R9-22-210. Emergency Medical and Behavioral Health Services

- A. Provision of emergency services. An Emergency emergency medical services service and a behavioral health emergency or crisis stabilization services service may be provided based on the prudent layperson standard to a member or an eligible person by a licensed ~~providers~~ provider, registered with AHCCCS to provide the services.
- B. Verification. The A provider of emergency services shall verify eligibility and enrollment status through the Administration to determine the need for notification to a contractor for a member, or the Administration for an eligible person, and to determine the party responsible for payment of services rendered.
- C. Access. 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 a practitioner for the provision of emergency services.
- D. Consultation. Consultation provided by a psychiatrist or a psychologist shall be covered as an emergency service if required to evaluate or stabilize an acute episode of mental illness or substance abuse.
- E. Prior authorization. Emergency services do not require prior authorization but a ~~providers~~ provider shall comply with the following notification requirements:
 1. A Providers provider, a nonproviders nonprovider, and a noncontracting ~~providers~~ provider furnishing emergency services to a member shall notify the a member's contractor within 12 hours of from the time the a member presents for services;
 2. A Providers provider of emergency services to for an eligible person ~~are~~ is not required to notify the Administration; and
 3. If a member's medical condition is determined not to be an emergency medical condition, as defined in Article 1 of this Chapter, the a provider shall notify the a member's contractor before initiation of treatment and follow the prior authorization requirements and protocol of the a contractor regarding treatment of the a member's non-emergent condition. Failure to provide timely notice or comply with prior authorization requirements of the a contractor constitutes cause for denial of payment.
- F. Post stabilization services. A provider, a nonprovider, and a noncontracting provider shall request authorization from a contractor for post stabilization services. A contractor shall pay for the post stabilization services if:
 1. The service is pre-approved by a contractor, or
 2. A contractor does not respond to an authorization request within the time-frame specified in 42 CFR 438.114, as of September 29, 1998, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

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ARTICLE 4. CONTRACTS, ADMINISTRATION, AND STANDARDS

R9-22-401. General

- A.** ~~A Contracts contract~~ to provide services under AHCCCS will be established between the Administration and a qualified providers ~~provider~~ of health care in conformance with the requirements in this Article. ~~Contracts and subcontracts sub-~~contract entered into ~~in accordance with according to~~ this Article are public records ~~and~~ on file with the Administration ~~in accordance with as specified in~~ selected provisions of 42 and 45 CFR, as of October 1, 1995. These citations are incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.
- B.** ~~A contractor shall not knowingly have a director, an officer, a partner, or a person with ownership of more than 5% of a contractor's equity who has been debarred or suspended by any federal agency as specified in 42 U.S.C. 1396u-2, as of August 5, 1997, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~
- C.** ~~The Administration shall certify a contractor as a risk-bearing entity as specified in A.R.S. § 36-2903 and 42 U.S.C. 1396b(m), as of August 5, 1997, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-22-705. Payments by Contractors

- A.** Authorization. A contractor shall pay for all admissions and covered services rendered to its members if the covered services or admissions have been arranged by the ~~a~~ contractor's agents ~~agent~~ or ~~an~~ employees ~~employee~~, a subcontracting providers ~~provider~~, or other individuals ~~individual~~ acting on the ~~a~~ contractor's behalf and if necessary authorization has been obtained. A contractor shall not require prior authorization for medically necessary covered services provided during any prior period for which the ~~a~~ contractor is responsible. A contractor is not required to pay a claim for ~~a~~ covered services ~~service~~ that is submitted more than 6 months after the date of the service or more than 6 months after the date of eligibility posting, whichever is later, or that is submitted as a clean claim more than 12 months after the date of the service or more than 12 months after the date of eligibility posting, whichever is later.
- B.** Timeliness of provider claim payment.
1. A contractor shall reimburse ~~or provide written notice for a claim that is denied or reduced by a contractor to a~~ subcontracting and a noncontracting providers ~~provider~~ for the provision of medically necessary health care services to the ~~a~~ contractor's members ~~member~~, within the time period specified by ~~the~~ contract between the ~~a~~ contractor and the ~~a~~ subcontracting entity, ~~or within 60 days of receipt of a valid clean claim if a time period is not specified.~~
 2. ~~A contractor shall provide written notice to a provider whose claim is denied or reduced by the contractor within 60 days of receipt of the claim. This notice shall include a statement describing the providers right to:~~
 - a. ~~Grieve the contractor's rejection or reduction of the claim, and~~

- b. ~~Submit a grievance according to Article 8 of these rules.~~
 2. ~~Unless the subcontract specifies otherwise, a contractor shall pay 90% of valid clean claims within 30 days of the date of receipt of a claim and 99% of valid the clean claims within 90 days of the date of receipt of a claim, as specified in 42 U.S.C. 1396u-2, as of August 5, 1997, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~
 3. ~~The notice for a denied or a reduced claim shall be sent within the time-frames specified in this Section, and shall include a statement describing a provider's right to grieve the contractor's denial or reduction of the claim as specified in A.A.C. R9-22-Article 8.~~
- 3- C. Date of Claim.** A contractor's date of receipt of an inpatient or ~~an~~ outpatient hospital claim shall be the date the claim is received by the ~~a~~ contractor as indicated by the date stamp on the claim, the claim reference number, or the date-specific number system assigned by the ~~a~~ contractor. A hospital claim shall be considered paid on the date indicated on the disbursement check. A denied hospital claim shall be considered adjudicated on the date of its denial. ~~A Claims claim that are~~ is pending for additional supporting documentation will receive new dates of receipt upon receipt of the additional documentation; however, ~~a claims claim that are~~ is pending for documentation other than the minimum required documentation specified in either A.R.S. § 36-2903.01(J) or A.R.S. § 36-2904(K), as applicable, will not receive new dates of receipt. A contractor and a hospital may, through a contract approved ~~in accordance with as specified in~~ R9-22-715(A), adopt a method for identifying, tracking, and adjudicating ~~a claims claim~~ that is different from the method described in this subsection.
- B-D. Payment for medically necessary outpatient hospital services.**
1. A contractor shall reimburse ~~a~~ subcontracting and ~~a~~ noncontracting providers ~~provider~~ for the provision of outpatient hospital services rendered on or after March 1, 1993, at either a rate specified by ~~a~~ subcontract or, in absence of a subcontract, the AHCCCS hospital-specific outpatient cost-to-charge ratio multiplied by covered charges. Subcontract rates, terms, and conditions are subject to review, and approval or disapproval under A.R.S. § 36-2904(K)(1)(b) and R9-22-715.
 2. A contractor shall pay for all emergency care services rendered to its ~~a members member~~ by ~~a~~ noncontracting providers ~~provider~~ or ~~a nonproviders nonprovider~~ when the services:
 - a. ~~Are rendered according to the prudent lavperson standard;~~
 - a-b. Conform to the definitions of emergency medical and acute mental health services in Articles 1 and 12; and
 - b-c. Conform to the notification requirements in Article 2.
- C. E. Payment for inpatient hospital services.** A contractor shall reimburse ~~an~~ out-of-state hospitals ~~hospital~~ for the provision of hospital services at negotiated discounted rates, the Arizona average cost-to-charge ratio multiplied by covered charges or, if reasonably and promptly available, the Medicaid rate that is in effect at the time services are provided in the state in which the ~~a~~ hospital is located, whichever is lowest. A contractor shall reimburse ~~an~~ in-state subcontractors ~~subcontractor~~ and ~~a~~ noncontracting providers ~~provider~~ for the

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provision of inpatient hospital services rendered with an admission date on or after March 1, 1993, at either a rate specified by a subcontract or, in absence of a subcontract, the prospective tiered-per-diem amount in A.R.S. § 36-2903.01 and R9-22-712. Subcontract rates, terms, and conditions are subject to review and approval or disapproval under A.R.S. § 36-2904(K)(1)(b) and R9-22-715. This subsection does not apply to a contractor participating in the pilot program described in R9-22-718.

D.F. Payment for observation days. A contractor may reimburse a subcontracting and a noncontracting providers provider for the provision of observation days at either a rate specified by a subcontract or, in the absence of a subcontract, the AHCCCS hospital-specific outpatient cost-to-charge ratio multiplied by covered charges.

E.G. Review of hospital claims.

1. If a contractor and a hospital do not agree on reimbursement levels, terms, and conditions, the reimbursement levels established under A.R.S. § 36-2903.01 and R9-22-712 or R9-22-718 shall apply. In these cases, a hospital shall obtain prior authorization from the an appropriate contractor for nonemergency admissions. A contractor shall consider medical condition of the a member, length of stay, and other factors when issuing its prior authorization. A contractor shall not require prior authorization for medically necessary services provided during any prior period for which the a contractor is responsible. If a contractor and a hospital agree to a subcontract, the parties shall abide by the terms of their contract regarding utilization control activities that may include prior authorization of nonemergency admissions. Failure to obtain prior authorization when it is

required shall be cause for nonpayment or denial of the a claim. A hospital shall cooperate with a contractor's reasonable activities necessary to perform concurrent review and make the a hospital's medical records, specific to a member enrolled with the a contractor, available for review.

2. Regardless of prior authorization or concurrent review activities, all hospital claims, including outlier claims, are subject to prepayment medical review and post-payment review by the a contractor. Post-payment reviews shall be consistent with A.R.S. § 36-2903.01(O), and erroneously paid claims are subject to recoupment. If prior authorization was given for a specific level of care, but medical review of the a claim indicates that a different level of care was appropriate, the a contractor may adjust the a claim to reflect the more appropriate level of care. An adjustment in level of care shall be effective on the date when the different level of care was medically appropriate.
3. A contractor and a hospital may enter into a subcontract that includes hospital claims review criteria and procedures different from those in this subsection if the a subcontract binds both parties and meets the requirements of R9-22-715.

F.H. Timeliness of hospital claim payment. Payment by a contractor for inpatient hospital admissions and outpatient hospital services on and after March 1, 1993, shall be subject to Laws 1993, 2nd Special Session Ch. 6, § 29, as amended by Laws 1995, 1st Special Session Ch. 5, § 8; Laws 1993, 2nd Special Session Ch. 6, § 27, as amended by Laws 1995, 1st Special Session Ch. 5, § 6; and A.R.S. § 36-2903.01(J)(6).

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

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

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R9-28-101 | Amend |
| R9-28-504 | Amend |
| R9-28-511 | Amend |
| R9-28-601 | Amend |
| R9-28-705 | Repeal |
| R9-28-705 | 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: Laws 1998, Ch. 214
Implementing statute: Laws 1998, Ch. 214
 3. **A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 4 A.A.R. 3048, October 16, 1998.
 4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Cheri Tomlinson, Federal & State Policy Administrator
Address: AHCCCS Administration
801 East Jefferson
Mail Drop 4200
Phoenix, Arizona 85034

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Telephone: (602) 417-4198

Fax: (602) 256-6756

5. **An explanation of the rule, including the agency's reasons for initiating the rule:**
4 Articles in 9 A.A.C. 28 have been opened to make changes in order to bring the Articles into compliance with the Balanced Budget Act of 1997 (federal law) and Laws 1998, Ch. 214 (state law). In addition, minor changes were made to the language so it will conform with the Secretary of State's drafting of rules.
6. **Reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**
Not applicable.
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable.
8. **The preliminary summary of the economic, small business, and consumer impact:**
It is anticipated that there will be a minimal impact on the AHCCCS Administration because it will not be required to conduct inspection of care reviews at mental hospitals and intermediate care facilities for the mentally retarded. AHCCCS program contractors will be minimally affected by the changes because program contractors will be required to pay valid, clean claims for acute care services in a shorter time period. AHCCCS providers will be nominally impacted by the changes because providers will receive payment for valid, clean claims sooner. Other entities considered, but which will not be directly impacted by the changes, include ALTCS members, other government entities, and the general public, including taxpayers.
9. **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, Federal & State Policy Administrator
Address: AHCCCS Administration
801 East Jefferson
Mail Drop 4200
Phoenix, Arizona 85034
Telephone: (602) 417-4198
Fax: (602) 256-6756
10. **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: December 17, 1998
Time: 9 a.m.
Location: AHCCCS Administration
801 East Jefferson, 4th Floor, Oval Conference Room
Phoenix, Arizona 85034
Nature: Public Hearing
11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable.
12. **Incorporations by reference and their location in the rules:**
42 CFR 456 Subparts C, D, and F as of December 1, 1986, incorporated in R9-28-511.
42 U.S.C. 1396u-2 as of August 5, 1997, incorporated in R9-28-601.
42 U.S.C. 1396b(m) as of August 5, 1997, incorporated in R9-28-601.
13. **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 1. DEFINITIONS

Section
R9-28-101. General Definitions

ARTICLE 5. PROGRAM CONTRACTOR AND PROVIDER STANDARDS

R9-28-504. Standards of Participation, Licensure, and Certification for HCBS Providers
R9-28-511. Quality Management/Utilization Management

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(QM/UM) Requirements

**ARTICLE 6. PROGRAM CONTRACTS AND
PROCUREMENT PROCESS**

R9-28-601. General

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-28-705. ~~Payments by Program Contractors~~

R9-28-705. Payments by Program Contractors

ARTICLE 1. DEFINITIONS

R9-28-101. General Definitions

A. Location of definitions. Definitions applicable to Chapter 28 are found in the following:

Definition	Section or Citation
1. "AFDC"	R9-22-101
2. "Aggregate"	R9-22-107
3. "AHCCCS"	R9-22-101
4. "AHCCCS hearing officer"	R9-28-108
5. "ALTCS"	A.R.S. § 36-2932
6. "Alternative HCBS setting"	R9-28-101
7. "Ambulance"	R9-22-102
8. "Appeal"	R9-22-108
9. "Bed hold"	R9-28-102
10. "Behavior intervention"	R9-28-102
11. "Billed charges"	R9-22-107
12. "Capped fee-for-service"	R9-22-101
13. "Case management plan"	R9-28-101
14. "Case manager"	R9-28-101
15. "Case record"	R9-22-103
16. "Categorically eligible"	A.R.S. § 36-2934
17. "Certification"	R9-28-105
18. "CFR"	R9-28-101
19. "Clean claim"	A.R.S. § 36-2904
20. "Comprehensive plan for delivery of services"	R9-28-105
21. "Contract"	R9-22-101
22. "Contractor"	R9-22-101
23. "County of fiscal responsibility"	R9-28-104
24. "Covered services"	R9-22-102
25. "CPT"	R9-22-107
26. "Day"	R9-22-101
27. "Designated representative"	R9-28-104
28. "Developmental disability"	A.R.S. § 36-551
29. "Diagnostic services"	R9-22-102
30. "Disenrollment"	R9-22-103
31. "DME"	R9-22-102
32. "Eligible person"	A.R.S. § 36-2931
33. "Emergency medical services"	R9-22-102
34. "Encounter"	R9-22-107
35. "Enrollment"	R9-22-103
36. "Estate"	A.R.S. § 14-1201
37. "Facility"	R9-22-101
38. "Factor"	R9-22-101
39. "Grievance"	R9-22-108
40. "Guardian"	R9-22-103
41. "HCBS"	A.R.S. §§ 36-2931 and 36-2939
42. "Home"	R9-28-101
43. "Home health services"	R9-22-102
44. "Hospital"	R9-22-101
45. "ICF-MR"	R9-28-101
46. "IHS"	R9-28-101
47. "IMD"	42 CFR 435.1009
48. "Inspection of care"	R9-28-105
49. "JCAHO"	R9-28-101

50. "Institutionalized individual"	R9-28-104
51. "License" or "licensure"	R9-22-101
52. "Medical record"	R9-22-101
53. "Medical services"	R9-22-101
54. "Medical supplies"	R9-22-102
55. "Medically eligible"	R9-28-104
56. "Medically necessary"	R9-22-101
57. "Member"	A.R.S. § 36-2931
58. "Minor"	R9-22-103
59. "NF"	42 U.S.C. 1396r(a)
60. "Noncontracting provider"	A.R.S. § 36-2931
61. "Occupational therapy"	R9-22-102
62. "Physical therapy"	R9-22-102
63. "PAS"	R9-28-103
64. "PASARR"	R9-22-103
65. "Pharmaceutical service"	R9-22-102
66. "Physician"	R9-22-102
67. "Post Stabilization Services"	42 CFR 438.114
67-68. "Practitioner"	R9-22-102
68-69. "Primary care provider"	R9-22-102
69-70. "Primary care provider services"	R9-22-102
70-71. "Prior authorization"	R9-22-102
71-72. "Private duty nursing services"	R9-22-102
72-73. "Program contractor"	A.R.S. § 36-2931
73-74. "Provider"	A.R.S. § 36-2931
75. "Prudent layperson standard"	42 U.S.C. 1396u-2
74-76. "Quality management"	R9-22-105
75-77. "Radiology services"	R9-22-102
76-78. "Reassessment"	R9-28-103
77-79. "Referral"	R9-22-101
78-80. "Reinsurance"	R9-22-107
79-81. "Respiratory therapy"	R9-22-102
80-82. "Respite care"	R9-28-102
81-83. "RFP"	R9-22-105
82-84. "Room and board"	R9-28-102
83-85. "Scope of services"	R9-22-102
84-86. "Speech therapy"	R9-22-102
85-87. "Spouse"	R9-22-103
86-88. "SSA"	P.L. 103-296, Title I
87-89. "SSI"	R9-22-103
88-90. "Subcontract"	R9-22-101
89-91. "Utilization management"	R9-22-105
90-92. "Ventilator dependent"	R9-28-102

B. General definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

1. "AHCCCS" is defined in 9 A.A.C. 22, Article 1.
2. "ALTCS" means the Arizona Long-Term Care System as authorized by A.R.S. § 36-2932.
3. "Alternative HCBS setting" means a living arrangement approved by the Director and licensed or certified by a regulatory agency of the state, where a member may reside and receive HCBS including:
 - a. For a person with a developmental disability (DD) as specified in A.R.S. § 36-551:
 - i. Community residential setting as defined in A.R.S. § 36-551;
 - ii. Group home as defined in A.R.S. § 36-551;
 - iii. State operated group home as defined in A.R.S. § 36-591;
 - iv. Family foster home as defined in 6 A.A.C. 5, Article 58;

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- v. Group foster home as defined in 6 A.A.C. 5, Article 59;
 - vi. Licensed residential facility for a persons per-son with traumatic brain injury as specified in A.R.S. § 36-2939(C); and
 - vii. Behavioral health service agency as specified in A.R.S. § 36-2939(B)(2) and 9 A.A.C. 20, Articles 6, 7, and 8 for Levels I, II, or III;
- b. For a persons per-son who are is elderly or physically disabled (EPD):
- i. ~~Residential care institutions as specified in A.R.S. § 36-2939(C), including Adult foster care home as defined in A.R.S. § 36-401; and as authorized in A.R.S. § 36-2939; and adult care home as defined in A.R.S. § 36-448, and Laws 1995, Ch. 256, amended 1997; support-~~ive residential living center as defined in A.R.S. § 36-1301; an assisted living home or a residential unit, as defined in A.R.S. § 36-401, and as authorized in A.R.S. § 36-2939.
 - ii. Licensed residential facility for a person with a traumatic brain injury as specified in A.R.S. § 36-2939(C); and
 - iii. Behavioral health service agency as specified in A.R.S. § 36-2939(C) and 9 A.A.C. 20, Articles 6, 7, and 8 for levels I and II.
4. "Case management plan" means a service plan developed by a case manager that involves the overall management of a member's or an eligible person's care, and the continued monitoring and reassessment of the a member's or an eligible person's need for services.
5. "Case manager" means an individual who is either a degreed social worker, or a licensed registered nurse, or an individual with a minimum of 2 years of experience in providing case management services to an individuals individual who are is elderly and physically disabled or have has developmental disabilities.
6. "CFR" means Code of Federal Regulations, unless otherwise specified in this Chapter.
7. "Contract" is defined in 9 A.A.C. 22, Article 1.
8. "Contractor" is defined in 9 A.A.C. 22, Article 1.
9. "Day" is defined in 9 A.A.C. 22, Article 1.
10. "Disenrollment" is defined in 9 A.A.C. 22, Article 1.
11. "Eligible person" has the meaning in A.R.S. § 36-2931.
12. "Enrollment" is defined in 9 A.A.C. 22, Article 1.
13. "Facility" is defined in 9 A.A.C. 22, Article 1.
14. "Factor" is defined in 9 A.A.C. 22, Article 1.
15. "HCBS" means home and community based services as defined in A.R.S. §§ 36-2931 and 36-2939.
16. "Home" means a residential dwelling that is owned, rented, leased, or occupied at no cost to the a member including a house, a mobile home, an apartment, or other similar shelter. A home is not a facility, a setting, or an institution, or a portion and any of these, licensed or certified by a regulatory agency of the state as a:
- a. Health care institution as defined in A.R.S. § 36-401;
 - b. Residential care institution as defined in A.R.S. § 36-401;
 - c. Community residential facility as defined in A.R.S. § 36-551; or
 - d. Behavioral health service facility as defined in 9 A.A.C. 20, Articles 6, 7, and 8.
17. "Hospital" is defined in 9 A.A.C. 22, Article 1.
18. "ICF-MR" has the meaning in 42 CFR 435.1009 and 440.150.
19. "IHS" means the Indian Health Services.
20. "JCAHO" means the Joint Commission on Accreditation of Healthcare Organizations.
21. "License" or "licensure" is defined in 9 A.A.C. 22, Article 1.
22. "Medical record" is defined in 9 A.A.C. 22, Article 1.
23. "Medical services" is defined in 9 A.A.C. 22, Article 1.
24. "Medically necessary" is defined in 9 A.A.C. 22, Article 1.
25. "Member" has the meaning in A.R.S. § 36-2931.
26. "NF" means nursing facility and is defined in 9 A.A.C. 22, Article 1.
27. "Noncontracting provider" has the meaning in A.R.S. § 36-2931.
28. "Program contractor" has the meaning in A.R.S. § 36-2931.
29. "Provider" has the meaning in A.R.S. § 36-2931.
30. "Referral" is defined in 9 A.A.C. 22, Article 1.
31. "SSA" means Social Security Administration as defined in P.L. 103-296, Title I.
32. "SSI" is defined in 9 A.A.C. 22, Article 1.
33. "Subcontract" is defined in 9 A.A.C. 22, Article 1.

ARTICLE 5. PROGRAM CONTRACTOR AND PROVIDER STANDARDS

R9-28-504. Standards of Participation, Licensure, and Certification for HCBS Providers

- A. All noninstitutional long-term care providers shall be registered with the Administration and meet the requirements of the Arizona Department of Health Services' rules for licensure, if applicable.
- B. Additional qualifications:
1. A Community community residential settings setting and a group homes home for an individual with developmental disabilities shall be licensed by the appropriate regulatory agency of the state according to 6 A.A.C. 6;
 2. An Adult adult foster care homes home shall be certified or licensed according to 9 A.A.C. 10;
 3. A Home home health services service agencies agency shall be Medicare certified and licensed according to 9 A.A.C. 10;
 4. An individual providing a homemaker services service shall meet the requirements specified in contract;
 5. An individual providing a personal care services service shall meet the requirements specified in contract;
 6. An adult day health provider shall be licensed according to 9 A.A.C. 10;
 7. A therapy provider shall meet the requirements stated below:
 - a. A physical therapy provider shall meet the requirements in 4 A.A.C. 24;
 - b. A speech therapy provider shall be certified by the American Speech, Language, and Hearing Association;
 - c. An occupational therapy provider shall meet the requirements in 4 A.A.C. 43; and
 - d. A respiratory therapy provider shall meet the requirements in 4 A.A.C. 45;
 8. A respite provider shall meet the requirements specified in contract;
 9. A hospice provider shall be Medicare certified and licensed according to 9 A.A.C. 10;

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10. A provider of home delivered meal service shall comply with hygiene requirements in 9 A.A.C. 8;
11. A provider of non-emergency transportation shall be licensed by the Arizona Department of Transportation, Motor Vehicle Division;
12. A provider of emergency transportation shall meet the licensure requirements in 9 A.A.C. 13;
13. A day care provider for the developmentally disabled shall meet the licensure requirements in 6 A.A.C. 6;
14. A habilitation provider shall meet the requirements in A.A.C. R6-6-1523 or the therapy requirements in this Section;
15. Another service provider approved by the director shall meet the requirements specified in a program contractor's contract with the Administration;
16. A behavioral health provider shall have all applicable state licenses or certifications, and meet the service specifications in A.A.C. R9-22-1205;
- ~~17. An adult care home shall meet the requirements in 9 A.A.C. 10; and~~
- ~~17. An assisted living home or a residential unit as defined in A.R.S. § 36-401 and as authorized in A.R.S. § 36-2939.~~
- ~~18. A supportive residential living center shall meet the requirements in 9 A.A.C. 10.~~

R9-28-511. Quality Management/Utilization Management (QM/UM) Requirements

A. A program contractor shall:

1. Comply with all requirements specified in A.A.C. R9-22-522; and
2. Submit a quarterly utilization control reports report within time lines specified in contract and in accordance with as specified in 42 CFR 456 Subparts C, D, and F, December 1, 1986, incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

- B.** In addition to QM/UM monitoring activities specified in A.A.C. R9-22-522, the Administration shall conduct inspections of care at ICF/MR facilities, psychiatric hospitals, inpatient psychiatric facilities for individuals less than age 21 (behavioral health residential treatment centers), and institutions for mental disease (IMDs) where members reside while receiving treatment.

**ARTICLE 6. PROGRAM CONTRACTS AND
PROCUREMENT PROCESS**

R9-28-601. General

- A. The Administration shall establish a contracts contract to provide services under the ALTCS between itself and a qualified program contractors contractor in conformance with the requirements in this Article.
- B. Contracts and subcontracts entered into in accordance with as specified in this Article are public records on file with the Administration.
- C. Except as otherwise provided by law, this Article applies to the expenditure of all public monies, including federal assistance monies, by the Administration for ALTCS services.
- D. The Director may conduct an investigations investigation of a persons person who have has ownership or management interests in an offeror or an affiliated organization of the offeror. The Administration shall have in effect conflict of interest safeguards with respect to an officer and an employee of

the state with responsibilities relating to contracts and the contract procurement process as specified in 42 U.S.C. 1396u-2, as of August 5, 1997, incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

- E. All information contained in a proposal is confidential so as to avoid disclosure of contents prejudicial to competing offerors during the process of discussions. The Administration shall open proposals for public inspection after contract award, unless upon an offeror's written request for nondisclosure, the Director makes a determination that disclosure is not in the best interests of the state.
- F. Failure of an offeror to supply information required by the RFP is sufficient basis for rejecting the offeror's proposal.
- G. Disclosure by an offeror of the terms of its proposal to another offeror or to any other individual before contract award is prohibited and may be grounds for rejecting the disclosing offeror's proposal.
- H. The Administration shall retain all contract records for 5 years and dispose of these in accordance with as specified in A.R.S. § 41-2550.
- I. A contractor shall not knowingly have a director, an officer, a partner, or a person with ownership of more than 5% of a contractor's equity who has been debarred or suspended by any federal agency as specified in 42 U.S.C. 1396u-2, as of August 5, 1997, incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.
- J. The Administration shall certify a contractor as a risk-bearing entity as specified in A.R.S. § 36-2932 and 42 U.S.C. 1396b(m), as of August 5, 1997, incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-28-705. Payments by Program Contractors

- A. ~~Program contractors shall pay for all ALTCS covered services rendered their members where such services or admissions have been arranged by their agents or employees, or providers or other individuals acting on the program contractor's behalf and for which necessary authorization has been obtained.~~
- B. ~~Payment for long-term care services in institutional and home and community-based settings:~~
 1. ~~Program contractors shall reimburse providers and non-contracting providers for the provision of medically necessary health care services to their members already made within the time period specified by contract between a program contractor and a provider or within 30 days of receipt of valid, clean claims if a time period is not specified in contract.~~
 2. ~~Program contractors annually shall submit to the Administration their proposed payment methodology for reimbursement of participating providers. All payment methods and rates of payment shall be subject to the approval of the Administration based on the reasonableness of the methods and rates. Program contractors shall use the following types or reimbursement:~~
 - a. ~~The Administration's fee for service schedule;~~
 - b. ~~Subcapitation;~~
 - c. ~~Prospective payment where payment is tied to quality of care;~~

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- d. Volume purchase; and
 - e. Selective contracting and competitive bidding.
- C.** ~~Payment for medically necessary acute outpatient services. Program contractors shall reimburse in-state providers and noncontracting providers for the provision of medically necessary outpatient services to their members, within the time period specified by contract between a program contractor and a provider or within 60 days of receipt of valid, clean claims if a time period is not specified. A program contractor shall pay 90% of valid, clean claims within 30 days of the date of receipt of the claim and 99% of valid, clean claims within 90 days of the date of receipt of the claim, as specified in 42 U.S.C. 1396u-2, as of August 5, 1997, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. Reimbursement shall be made in accordance with a payment methodology set forth in subsection (B).~~
- D.** ~~Payment for acute hospital services and out-of-state hospital services:~~
- 1. ~~Program contractors shall reimburse providers and noncontracting providers for the provision of medically necessary hospital services to their members within the time period specified in contract between a program contractor and a provider or within 60 days of a valid clean claim if a time period is not specified.~~
 - 2. ~~Program contractors shall reimburse providers and noncontracting providers for the provision of medically necessary hospital services in accordance with R9-22-705.~~
- E.** ~~Payment standards for emergency services. Program contractors shall pay for all emergency care services rendered their members by noncontracting providers or providers when such services:~~
- 1. ~~Conform to the definitions of emergency medical and acute mental health services defined in A.A.C. Title 9, Chapter 22, Article 1;~~
 - 2. ~~Conform to the notification requirements set forth in A.A.C. Title 9, Chapter 22, Article 2.~~
- F.** ~~Notification of members. Program contractors shall provide written notice to claimants whose claims are denied or reduced by the contractor within 30 days of disposition of such claims. This notice shall include a statement describing the provider's right to:~~
- 1. ~~Grieve the contractor's rejection or reduction of the claim; and~~
 - 2. ~~Submit the grievance to the Administration pursuant to Article 8 of this Chapter.~~
- G.** ~~Program contractors shall pay for ground or air ambulance transport in response to a 9-1-1 or other emergency response system call in accordance with A.A.C. R9-22-705.~~

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-28-705. Payments by Program Contractors

- A.** Authorization. A program contractor shall pay for all ALTCS covered services rendered to a member where the service or admission has been arranged by a program contractor's agent, an employee, a provider or other individual acting on a program contractor's behalf and for which necessary authorization has been obtained.
- B.** Timeliness of provider claim payment. A program contractor shall pay a claim or shall provide a notice for a denied or a reduced claim as specified in A.A.C. R9-22-705.
- C.** Payment for a long-term care service in an institutional and a home and community based setting. A program contractor annually shall submit to the Administration, a program contractor's proposed payment methodology for reimbursement of a participating provider for long-term care services in an institutional and a home and community based setting. All payment methods and rates of payment shall be subject to the approval of the Administration based on the reasonableness of the methods and rates. A program contractor shall use the following types of reimbursement:
- 1. The Administration's fee-for-service schedule;
 - 2. Subcapitation;
 - 3. Prospective payment where payment is tied to quality of care;
 - 4. Volume purchase; and
 - 5. Selective contracting and competitive bidding.
- D.** Payment for medically necessary acute outpatient services. A program contractor shall reimburse an in-state provider and a noncontracting provider for the provision of medically necessary outpatient services to a program contractor's member.
- E.** Reimbursement for an acute hospital service and an out-of-state hospital service. A program contractor shall reimburse a provider and a noncontracting provider for the provision of medically necessary hospital services to a program contractor's member.
- F.** Reimbursement standards for emergency services. A program contractor shall pay for all emergency care services rendered a program contractor's member by a noncontracting provider or a provider when the services:
- 1. Are rendered according to the prudent layperson standard;
 - 2. Conform to the definitions of emergency medical and acute mental health services defined in 9 A.A.C. 22, Article 1; and
 - 3. Conform to the notification requirements in 9 A.A.C. 22, Article 2.
- G.** Transportation. A program contractor shall pay for ground or air ambulance transport in response to a 9-1-1 or other emergency response system call as specified in A.A.C. R9-22-705.

NOTICE OF PROPOSED RULEMAKING

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

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

1. <u>Sections Affected</u>	<u>Rulemaking Action</u>
R19-3-1001	New Section
R19-3-1002	New Section
R19-3-1003	New Section
R19-3-1004	New Section
R19-3-1005	New Section
R19-3-1006	New Section

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R19-3-1007
R19-3-1008

New Section
New Section

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).

3. **A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 4 A.A.R. 3820, November 13, 1998.

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

Name: Mr. Geoffrey Gonsler, Executive Director

Address: Arizona State Lottery
4740 E. University
Phoenix, Arizona 85034

Telephone: (602) 921-4514

Fax: (602) 921-4488

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

Sections R19-3-1001 through R19-3-1008 set forth provisions unique to the conduct of the Arizona Lottery promotions to increase sales, public awareness of Lottery games and benefits, and retailer participation in Lottery programs. These rules explain the common components of Lottery promotions, how to participate in a promotion, promotion characteristics and restrictions, how to identify a winning promotion, the procedures required to claim promotional items and the claim period, validation requirements, promotion premiums, and disputes concerning a promotion.

6. **Reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

Not applicable.

7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

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

A. The Arizona State Lottery.

Costs to the Agency for this Article are included in the agency's appropriated budget. They include the cost of cash or merchandise prizes, and administrative operating expenses associated with personnel, point-of-sale items, and related advertising.

B. Political Subdivisions.

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

C. Businesses Directly Affected by the Rulemaking.

Businesses affected by this rule are Lottery retailers who sell Lottery game products to the public. The only impact this rule has upon Lottery retailers is to specify how they determine if a player is a promotion winner, and if so, the premium amount. Currently, retailers receive \$.065 commission for each \$1 Lottery game transaction. An increase in sales as a result of Lottery promotions will boost the amount of commissions earned by retailers. Retailers may also earn an additional \$.005 per transaction for participation in the Retailer Incentive Programs.

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 implementation of this rule.

F. State Revenues.

This rulemaking will not have a significant impact on state revenues. More money may be transferred to the general fund because of an increase in sales as a result of Lottery promotions.

9. **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. Geoffrey Gonsler, Executive Director

Address: Arizona State Lottery
4740 E. University
Phoenix, Arizona 85034

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Telephone: (602) 921-4514

Fax: (602) 921-4488

10. 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: December 18, 1998

Time: 10 a.m.

Location: Arizona State Lottery
4740 E. University
Phoenix, Arizona 85034

Nature: Oral Proceeding (Close of the record is 5:00 p.m., M.S.T., Thursday, December 17, 1998 for written comments and at the end of the oral proceeding for verbal comments.)

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

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

Not applicable.

13. The full text of the rules follows:

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

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

ARTICLE 10. PROMOTIONS

Section

- R19-3-1001. Definitions
- R19-3-1002. Promotion Profile
- R19-3-1003. Promotion Play Style
- R19-3-1004. Determination of a Winning Promotion
- R19-3-1005. Promotion Ticket Ownership and Payment for Promotion Winnings
- R19-3-1006. Promotion Validation Requirements
- R19-3-1007. Procedure for Claiming Prizes and Claim Period
- R19-3-1008. Disputes Concerning a Promotion Ticket or a Promotion Winner

ARTICLE 10. PROMOTIONS

R19-3-1001. Definitions

In this Article, unless the context otherwise requires:

1. "Best interests of the Lottery" means advantageous to the Lottery as determined by the Director.
2. "Category" means player, consumer, retailer, vendor, or other person who participates in the promotion.
3. "Charitable organization" means a non-profit organization organized and operated exclusively for charitable purposes and is qualified under § 502(c)(3) of the United States Internal Revenue Code.
4. "Prize type" means cash, free ticket or tickets from same or different game product, ticket coupon, drawing coupon, discount on same or different game product or vendor product, or merchandise prize.
5. "Promotion" means a program designed to increase awareness of the Lottery and Lottery games and to increase sale of lottery tickets to produce the maximum amount of net revenue for the state by offering an incentive to buy.
6. "Promotional merchandise" means Lottery related goods, consumer products, or services provided by the Lottery for use in a promotion.
7. "Promotional ticket" means a Arizona Lottery ticket from a current, active game provided by the Lottery for use in a promotion.

8. "Targeted game or targeted games" means the specific game or games a promotion is intended to increase sales or awareness of.

9. "Tickets" means 1 or more Lottery game plays from the targeted game or games.

R19-3-1002. Promotion Profile

A. The Commission shall approve orders in accordance with A.R.S. § 5-504(C) for the specific Promotion Profile prior to the promotion being introduced to the public for participation.

B. At a minimum, the Promotion Profile for each promotion shall contain the following information:

1. Promotion name;
2. Prize type and structure, including the estimated number and size of monetary prizes, free tickets, and merchandise prizes available, if applicable;
3. Play style - Promotion Type
4. Category;
5. Targeted game or games or products involved in the Promotion;
6. Special feature, if any;
7. Retail sales price;
8. Promotion date range (beginning and ending promotion dates, term of the promotion);
9. Time range, if applicable;
10. Day or days of the week, if applicable;
11. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable;
12. Promotion selection criteria, if applicable.

R19-3-1003. Promotion Play Style- Promotion Type

A. The Play style for a specific promotion shall be fully described in the Promotion Profile and shall be 1 of the following methods of play unless a different method is prescribed by another rule:

1. Second Chance Drawing - non-winning tickets - Players.
2. Second Chance Drawing - entry forms - Players.

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3. Second Chance Drawing - low or mid-tier winners - Players.
 4. Increased Prize Payment.
 5. Buy X and Get Y Free - tickets.
 6. Buy X and Get Y Free - ticket coupon.
 7. Buy X and Get Y Free - drawing coupon.
 8. Buy X and Get Y Free - merchandise.
 9. Buy X and Get Y Free - cash prize.
 10. Buy X and Get Y Free, every Nth transaction - tickets.
 11. Buy X and Get Y Free, every Nth transaction - ticket coupon.
 12. Buy X and Get Y Free, every Nth transaction - drawing coupon.
 13. Buy X and Get Y Free, every Nth transaction - merchandise prize.
 14. Buy X and Get Y Free, every Nth transaction - cash prize.
 15. Buy X and Get Y Free, every Nth transaction - Partner Play.
 16. Buy X and Get Y Free, No Match - tickets.
 17. Buy X and Get Y Free, No Match - ticket coupon.
 18. Buy X and Get Y Free, No Match - drawing coupon.
 19. Buy X and Get Y Free, No Match - merchandise prize.
 20. Buy X and Get Y Free, No Match - cash prize.
 21. Buy X and Get Y Free, Day of the Week - tickets.
 22. Buy X and Get Y Free, Day of the Week - ticket coupon.
 23. Buy X and Get Y Free, Day of the Week - drawing coupon.
 24. Buy X and Get Y Free, Day of the Week - merchandise prize.
 25. Buy X and Get Y Free, Day of the Week - cash prize.
 26. Buy X and Get Y Free, Multi-Draw - tickets.
 27. Buy X and Get Y Free, Multi-Draw - ticket coupon.
 28. Buy X and Get Y Free, Multi-Draw - drawing coupon.
 29. Buy X and Get Y Free, Multi-Draw - merchandise prize.
 30. Buy X and Get Y Free, Multi-Draw - cash prize.
 31. Buy X and Get Y Free, Non-Winning Tickets - tickets.
 32. Buy X and Get Y Free, Non-Winning Tickets - ticket coupon.
 33. Buy X and Get Y Free, Non-Winning Tickets - drawing coupon.
 34. Buy X and Get Y Free, Non-Winning Tickets - merchandise prize.
 35. Buy X and Get Y Free, Non-Winning Tickets - cash prize.
 36. Complete Survey - Tickets.
 37. Complete Survey - Ticket Coupon.
 38. Complete Survey - Drawing Coupon.
 39. Complete Survey - Merchandise Prize.
 40. Complete Survey - Cash Prize.
 41. Buy X Get Y Free Coupon - Direct Mail.
 42. Buy X Get Y Free Coupon - Newspaper.
 43. Happy Birthday Club Coupon.
 44. Special Events - Non-winning Tickets.
 45. Special Events - Spin of the Lottery Prize Wheel.
 46. Special Events - Various Games of Little or No Skill.
 47. Special Events - Guess How Many?.
 48. Special Events - Where's Willy?.
 49. Second Chance Drawing - Retailer.
 50. Retailer Incentive - Sales.
 51. Retailer Incentive - Point-of-Sale.
 52. Mystery Shopper - Retailer.
 53. Ask for the Sale - Retailer.
 54. Ask Me What the Jackpot Is - Retailer.
 55. Ask Me What the Grand Prize Is - Retailer.
 56. Retailer's Second Chance Drawing - Retailer/Player.
 57. Cross Promotion - Vendor.
 58. Radio Promotion - Vendor.
 59. Charitable Organization.
 60. Public Contest - not related to specific Lottery game.
 61. Customer Service - Tickets.
 62. Customer Service - Ticket Coupon.
 63. Customer Service - Merchandise.
 64. POWERBALL™ Doubler Promotion.
 65. POWERBALL™ - MUSL Promotions.
- B.** More than 1 promotion may run concurrently.
C. Promotion may be held only on specific days of the week.
D. Promotion may be held only during specific hours of the day.
E. Promotion may be available for selected regions, zones, retailer groups or player groups. Groups may be made by business codes, regions, county, zip code, chain designator, field representative or sales quota.
- R19-3-1004. Determination of a Winning Promotion**
- A.** Eligibility to win a prize is based on compliance with the designated Play style as follows:
1. Second Chance Drawing - non-winning tickets - Players. The player shall send the Lottery game non-winning ticket or tickets from the targeted games or games required in the Promotion Profile to the Lottery office for entry into a Grand Prize Drawing. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
 2. Second Chance Drawing - entry forms - Players. The player shall send a completed entry form required in the Promotion Profile to the Lottery office or designated Lottery vendor for entry into a Grand Prize Drawing. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
 3. Second Chance Drawing - low or mid-tier winners - Players. Players who win a particular prize denomination in the targeted game or games shall automatically be entered into a Grand Prize Drawing. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
 4. Increased Prize Payment. Players who win a particular prize denomination in the targeted game or games shall win an additional amount specified in the Promotion Profile, i.e. double prize payout for a division 4 winners in Lotto, 20% increase in all prizes in the Pick 3™ game on each Monday in May.
 5. Buy X and Get Y Free - tickets. Each time a player buys a predetermined number of the targeted game or games tickets, the player will receive a predetermined number of additional tickets free according to the Promotions Profile.
 6. Buy X and Get Y Free - ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets, the player will receive a coupon to be redeemed for a predetermined number of additional tickets free with the purchase of the same game tickets according to the Promotions Profile.
 7. Buy X and Get Y Free - drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure

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- shall win the cash or merchandise prize designated in the Promotion Profile.
8. Buy X and Get Y Free - merchandise. Each time a player buys a predetermined number of the targeted game or games tickets, the player will receive a merchandise prize according to the Promotions Profile.
 9. Buy X and Get Y Free - cash prize. Each time a player buys a predetermined number of the targeted game or games tickets, the player will receive a cash prize according to the Promotions Profile.
 10. Buy X and Get Y Free, every Nth transaction - tickets. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player will receive a predetermined number of additional tickets free according to the Promotions Profile.
 11. Buy X and Get Y Free, every Nth transaction - ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player will receive a coupon to be redeemed for a predetermined number of additional tickets free with the purchase of the same game tickets according to the Promotions Profile.
 12. Buy X and Get Y Free, every Nth transaction - drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
 13. Buy X and Get Y Free, every Nth transaction - merchandise prize. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player will receive a merchandise prize according to the Promotions Profile.
 14. Buy X and Get Y Free, every Nth transaction - cash prize. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player will receive a cash prize according to the Promotions Profile.
 15. Buy X and Get Y Free, every Nth transaction - Partner Play. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player and the selling retailer clerk will receive an exact free ticket according to the Promotions Profile.
 16. Buy X and Get Y Free, No Match - tickets. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket does not match any of the number selected in that game's drawing, the player will receive a predetermined number of tickets free according to the Promotions Profile.
 17. Buy X and Get Y Free, No Match - ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket does not match any of the number selected in that game's drawing, the player will receive a coupon to be redeemed for a predetermined number of additional tickets free with the purchase of the same game tickets according to the Promotions Profile.
 18. Buy X and Get Y Free, No Match - drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket does not match any of the number selected in that game's drawing, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
 19. Buy X and Get Y Free, No match - merchandise prize. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket does not match any of the number selected in that game's drawing, the player will receive a merchandise prize according to the Promotions Profile.
 20. Buy X and Get Y Free, No Match - cash prize. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket does not match any of the number selected in that game's drawing, the player will receive a cash prize according to the Promotions Profile.
 21. Buy X and Get Y Free, Day of the Week - tickets. Each time a player buys a predetermined number of the targeted game or games tickets on a particular day or days of the week, the player will receive a predetermined number of tickets free according to the Promotions Profile.
 22. Buy X and Get Y Free, Day of the Week - ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets on a particular day or days of the week, the player will receive a coupon to be redeemed for a predetermined number of additional tickets free with the purchase of the same game tickets according to the Promotions Profile.
 23. Buy X and Get Y Free, Day of the Week - drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets on a particular day or days of the week, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
 24. Buy X and Get Y Free, Day of the Week - merchandise prize. Each time a player buys a predetermined number of the targeted game or games tickets on a particular day or days of the week, the player will receive a merchandise prize according to the Promotions Profile.
 25. Buy X and Get Y Free, Day of the Week - cash prize. Each time a player buys a predetermined number of the targeted game or games tickets on a particular day or days of the week, the player will receive a cash prize according to the Promotions Profile.
 26. Buy X and Get Y Free, Multi-Draw - tickets. Each time a player buys a predetermined number of the targeted game or games tickets for more than 1 drawing (for X number of drawings), the player will receive a predetermined number of tickets free according to the Promotions Profile.
 27. Buy X and Get Y Free, Multi-Draw - ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets for more than 1 drawing (for X number of drawings), the player will receive a coupon to be redeemed for a predetermined number of

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- additional tickets free with the purchase of the same game tickets according to the Promotions Profile.
28. Buy X and Get Y Free, Day of the Week - drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets for more than 1 drawing (for X number of drawings), the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
 29. Buy X and Get Y Free, Multi-Draw - merchandise prize. Each time a player buys a predetermined number of the targeted game or games tickets for more than 1 drawing (for X number of drawings), the player will receive a merchandise prize according to the Promotions Profile.
 30. Buy X and Get Y Free, Multi-Draw - cash prize. Each time a player buys a predetermined number of the targeted game or games tickets for more than 1 drawing (for X number of drawings), the player will receive a cash prize according to the Promotions Profile.
 31. Buy X and Get Y Free, Non-Winning Tickets - tickets. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket is not a winning ticket, the player will receive a predetermined number of tickets free according to the Promotions Profile.
 32. Buy X and Get Y Free, Non-Winning Tickets - ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket is not a winning ticket, the player will receive a coupon to be redeemed for a predetermined number of additional tickets free with the purchase of the same game tickets according to the Promotions Profile.
 33. Buy X and Get Y Free, Non-Winning Tickets - drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket is not a winning ticket, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
 34. Buy X and Get Y Free, Non-Winning Tickets - merchandise prize. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket is not a winning ticket, the player will receive a merchandise prize according to the Promotions Profile.
 35. Buy X and Get Y Free, Non-Winning Tickets - cash prize. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket is not a winning ticket, the player will receive a cash prize according to the Promotions Profile.
 36. Complete Survey - Tickets. If a player completes a survey, the player will receive a predetermined number of the target game or games tickets free according to the Promotions Profile.
 37. Complete Survey - Ticket Coupon. If a player completes a survey, the player will receive a coupon to be redeemed for a predetermined number of tickets free with the purchase of the same game tickets according to the Promotions Profile.
 38. Complete Survey - Drawing Coupon. If a player completes a survey, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
 39. Complete Survey - Merchandise Prize. If a player completes a survey, the player will receive a merchandise prize according to the Promotions Profile.
 40. Complete Survey - Cash Prize. If a player completes a survey, the player will receive a cash prize according to the Promotions Profile.
 41. Buy X Get Y Free Coupon - Direct Mail. Players who receive the Buy X Get Y Free coupon in the mail may redeem the coupon at any Lottery retailer for a Lottery ticket stated on the coupon and listed in the Promotion Profile.
 42. Buy X Get Y Free Coupon - Newspaper. Players who receive the Buy X Get Y Free coupon in the local Newspaper may redeem the coupon at any Lottery retailer for a Lottery ticket stated on the coupon and listed in the Promotion Profile.
 43. Happy Birthday Club Coupon. Plays who mail a form with their name, address, phone number and birthday to the Lottery will receive a coupon which can be redeemed at any Lottery retailer for one Lottery ticket on their birthday.
 44. Special Events - Non-winning Tickets. Each time a player turns in a predetermined number of the targeted game or games non-winning tickets to a special event location, the player will receive a merchandise prize according to the Promotions Profile.
 45. Special Events - Spin of the Lottery Prize Wheel. Each player who visits a special event location may spin the Lottery Prize Wheel once. The player shall win the prize indicated on the Lottery Prize Wheel. Wheel must complete at least one complete revolution.
 46. Special Events - Various Games of Little or No Skill. Each player who visits a special event location may play any number of carnival type games to win the prize indicated in the Promotion Profile and listed at the special event game. Games may include, but are not limited to the following: Bingo, Go Fish, Grand Prix race cars, basketball free throw, bean bag throw, golf putt-putt, obstacle course, frisbee toss, raft race, hula hoop contest, dunk tank, etc.
 47. Special Events - Guess How Many?. Each player who visits a special event location shall complete a form with their name, address, phone number and guess how many items are in a container (for example, large plastic "L" with loose change, money bag, iced tea jug with Lottery Scratchers). The predetermined number of players who come closest to correct amount shall win the prize indicated in the Promotion Profile.
 48. Special Events - Where's Willy?. Clues to Windfall Willie's whereabouts shall be announced on the participating radio station daily. Players who correctly locate Willie shall be entered into drawing for cash or merchandise prizes listed in the Promotion Profile.
 49. Second Chance Drawing - Retailer. The Arizona Lottery retailer shall send the entry form required in the Promotion Profile to the Lottery office for entry into a Grand Prize Drawing. The retailer selected in the prize drawing procedures shall win the cash or merchandise prize designated in the Promotion Profile.
 50. Retailer Incentive - Sales. Retailers who increase Lottery ticket sales for the targeted game or games by a par-

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- tical percent during the designated period specified in the Promotion Profile shall win the corresponding prize listed in the Promotion Profile.
51. Retailer Incentive - Point-of-Sale. Retailers who display a defined number of point-of-sale pieces during the designated period specified in the Promotion Profile shall win the corresponding prize listed in the Promotion Profile.
52. Mystery Shopper - Retailer. The Lottery shall send out mystery shoppers or spotters to visit randomly selected retailers in the promotional area. Retailers who display point-of-sale materials and promote the targeted game or games according to the Promotion Profile shall win the designated prize.
53. Ask for the Sale - Retailer. Retailers participating in the promotion shall ask all customers if they want to purchase a Lottery ticket for the targeted game or games. If the Retailer does not ask a customer, the customer shall receive a free Lottery ticket from the designated game. The Lottery shall provide the participating retailer with a predetermined number of tickets from the targeted game or games according to the Promotion Profile.
54. Ask Me What the Jackpot Is - Retailer. Customers who ask a participating retailer what the targeted game's jackpot is and the retailer does not know the jackpot amount, the customer shall receive a free ticket from the targeted game. The Lottery shall provide the participating retailer with a predetermined number of tickets from the targeted game according to the Promotion Profile.
55. Ask Me What the Grand Prize Is - Retailer. Customers who ask a participating retailer what the targeted game's Grand Prize is and the retailer does not know the grand prize amount, the customer shall receive a free ticket from the targeted game. The Lottery shall provide the participating retailer with a predetermined number of tickets from the targeted game according to the Promotion Profile.
56. Retailer's Second Chance Drawing - Retailer/Player. Retailers participating in the promotion shall ask all players to place their non-winning tickets in a Drawing Container at the retailer's location. The retailer shall perform random drawings according to the Promotions Profile. The players selected in the drawing procedure shall win the merchandise prize designated on the point-of-purchase item at the store. The Lottery shall provide the participating retailer with a predetermined number of tickets from the targeted game or games or promotional merchandise items, such as t-shirts, ball caps and sipper cups, according to the Promotion Profile.
57. Cross Promotion - Vendor. Players who present a predetermined number of non-winning tickets of the targeted game or games to a particular vendor shall win a merchandise or service prize or merchandise or service discount according to the Promotion Profile. For example, 5 non-winning POWERBALL tickets presented to Circle K receives a 12 ounce 7-Up soft drink. Non-winning ticket presented to Kentucky Fried Chicken receive \$1 off price of meal. Coupon on 12 packs of 7-Up can be redeemed for 1 free POWERBALL ticket at Circle K. 5 non-winning tickets receive a free game of bowling, goofy golf, 2 for 1 movie tickets, etc.
58. Radio Promotion - Vendor. The caller to a radio station who answers a Lottery trivia question correctly or the Nth caller at a specific time shall win a free ticket from the targeted game or games or promotional merchandise prize as described in the Promotion Profile. The Lottery shall provide the participating radio station with a predetermined number of tickets from the targeted game or games or promotional merchandise items.
59. Charitable Organization. The Lottery shall provide a qualifying charitable organization with a predetermined number of the targeted game or games tickets or promotional merchandise to distribute to customers during their charitable event. The Lottery shall approve the charity's program in writing and complete a Promotion Profile.
60. Public Contest - not related to specific Lottery game. The Lottery conduct a contest not related to any specific Lottery game as defined in the Promotion Profile. Contest may be for, but not necessarily limited to the following purposes: the design of a Scratcher™ ticket or Lottery logo, naming a mascot, character or Lottery game, or for other decision in which public comment is desirable.
61. Customer Service - Tickets. If a player is inconvenienced or is unhappy as a result of Lottery actions, the Lottery may provide the player with a predetermined number of tickets free according to the Promotions Profile.
62. Customer Service - Ticket Coupon. If a player is inconvenienced or is unhappy as a result of Lottery actions, the Lottery may provide the player with a coupon to be redeemed for a predetermined number of tickets free with the purchase of the same game tickets according to the Promotions Profile.
63. Customer Service - Merchandise. If a player is inconvenienced or is unhappy as a result of Lottery actions, the Lottery may provide the player with a merchandise prize according to the Promotions Profile.
64. POWERBALL™ Doubler Promotion. A player who purchases a predetermined number of POWERBALL™ tickets for a single draw are eligible to double the amount of any cash Set Prize won in a drawing held during the promotional period. A qualifying play which wins one of the eight cash Set Prizes will receive double if, in a separate random drawing announced during the live POWERBALL™ drawing, the "Double Prize" chance is selected.
65. POWERBALL™ - MUSL Promotions. The Lottery shall participate in POWERBALL™ promotions adopted by the MUSL board and published in the Multi-State Lottery Association Policies and Procedures Manual.
- R19-3-1005. Promotion Ticket Ownership and Payment for Promotion Winnings**
- A. Until a ticket is signed, the ticket is owned by its physical possessor.
- B. When signed, the claimant whose signature appears on the ticket is entitled to the corresponding prize.
- C. The Arizona Lottery shall only make payment to the claimant, less any authorized debt set-off amounts, who is also the ticket holder.
- D. All prize levels are specified in the Promotion Profile. Each play winning any prize entitles the winner to the prize or prize amount specified in the Promotion Profile
- R19-3-1006. Promotion Validation Requirements**
- A. Each promotion ticket shall be valid and validated prior to payment of a prize.

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B. To be a valid promotion ticket and eligible to receive a prize, a ticket shall satisfy all the requirements established by 19 A.A.C. 3.

R19-3-1007. Procedure for Claiming Prizes and Claim Period

- A. To claim a promotion prize, a claimant may take the ticket to a participating retailer or a Lottery office, or mail the ticket to a Lottery office designated in the Promotion Profile for validation in accordance with 19 A.A.C. 3.
- B. In order for the claimant to receive payment, a winning promotion ticket shall be received by the Arizona Lottery or a retailer no later than the time specified in the Promotion Profile.
- C. In the case of a drawing prize, the claimant must claim the prize no later than 5 p.m. (Phoenix time) on the final day designated by the Director and on file at the Arizona Lottery.

R19-3-1008. Disputes Concerning a Promotion Ticket or a Promotion Winner

A. If a dispute between the Arizona Lottery and a claimant occurs concerning a promotion ticket or the winning of a promotion prize, the Director shall replace the disputed ticket

with a ticket or tickets of equivalent value from any current promotion.

- B. If a defective promotion ticket is obtained, the Arizona Lottery shall replace the defective ticket with a ticket of equivalent value from any current promotion.
- C. The Arizona Lottery shall not be liable for paying the difference in a prize amount previously paid to a claimant and the actual amount that should be paid unless the claimant provides documentation establishing:
1. The claimant was paid the lesser amount, and;
 2. The claimant is entitled to greater amount, according to the records on file at the Arizona Lottery and the criteria set forth in these rules and in order for promotion approved by the Arizona Lottery Commission pursuant to A.R.S. § 5-504(C) or A.R.S. § 5-504(D).