

## 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 9. HEALTH SERVICES

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

#### PREAMBLE

- | <b>1. <u>Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
|------------------------------------|---------------------------------|
| R9-22-101                          | Amend                           |
| R9-22-109                          | Amend                           |
| Article 9                          | Repeal                          |
| Article 9                          | New Article                     |
| R9-22-901                          | Repeal                          |
| R9-22-901                          | New Section                     |
| R9-22-902                          | Repeal                          |
| R9-22-902                          | New Section                     |
| R9-22-903                          | Repeal                          |
| R9-22-904                          | Repeal                          |
| R9-22-905                          | Repeal                          |
| R9-22-906                          | Repeal                          |
| R9-22-907                          | Repeal                          |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. §§ 36-2903.01(H) and 36-2905.01(G)  
Implementing statute: A.R.S. §§ 36-2905.01 and 36-2905.02
- 3. A list of all previous notices appearing in the Register addressing the final rule:**  
Notice of Rulemaking Docket Opening: 5 A.A.R. 621, February 26, 1999.
- 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  
Office of Policy Analysis and Coordination  
801 East Jefferson, Mail Drop 4200  
Phoenix, AZ 85034  
Telephone: (602) 417-4198  
Fax: (602) 256-6756

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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

Title 9, Chapter 22, Article 9, Quality Control defines the requirements that the Administration and the county eligibility departments use during the quality control sample review and quality control case analysis processes. The 7 sections in the current Article have been distilled into 2 sections and like concepts have been grouped together to provide additional clarity and conciseness to the rule language. *R9-22-901, Quality Control Sample Review*, explains requirements regarding the Administration's evaluation of a statistically valid sample of case records, under A.R.S. § 36-2905.01, of a county eligibility department's eligibility determinations. The section explains the various types of certification errors, the process used for challenges by the county eligibility department, and corrective action plans. *R9-22-902, Quality Control Case Analysis*, contains requirements regarding the Administration's evaluation of individual case records, under A.R.S. § 36-2905.02, of a county eligibility department's eligibility determinations. The changes are made in lieu of a 5-Year Report due in September 1999.

**6. Reference to any study that the agency proposes to rely on and its evaluation of or justification for 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 the private sector, including small business, will not be impacted because the changes pertain to the quality control sample review and quality control case analysis processes between governmental entities: the Administration and county eligibility departments. The Administration and the county eligibility departments will benefit because the changes provide greater flexibility and clarification to the rule language.

**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: AHCCCSA, Office of Policy Analysis and Coordination  
801 East Jefferson, Mail Drop 4200  
Phoenix, AZ 85034

Telephone: (602) 417-4198

Fax: (602) 256-6756

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

Date: July 14, 1999

Time: 1:00 p.m. to 3:00 p.m.

Location: Arizona State Hospital  
2500 East Van Buren  
Phoenix, AZ 85008

Location: Community Partnership of Southern Arizona  
4575 East Broadway Road  
Tucson, AZ 85711

Location: Northern Arizona Regional Behavioral Health Authority  
125 East Elm Street  
Flagstaff, AZ 86001

Nature: Videoconference oral proceeding.

Written comments shall be submitted no later than 5:00 p.m., July 14, 1999, to the following person:

Name: Cheri Tomlinson, Federal and State Policy Administrator

Address: AHCCCSA, Office of Policy Analysis and Coordination  
801 East Jefferson, Mail Drop 4200  
Phoenix, AZ 85034

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

Telephone: (602) 417-4198

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**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 references and their location in the rules:**

None.

**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**

Section

R9-22-101. Location of Definitions

R9-22-109. Quality Control Related Definitions

**ARTICLE 9. QUALITY CONTROL REVIEW AND ANALYSIS QUALITY CONTROL**

Section

R9-22-901. ~~Definitions~~ Repealed

R9-22-901. Quality Control Sample Review

R9-22-902. ~~Certification Errors~~ Repealed

R9-22-902. Quality Control Case Analysis

R9-22-903. ~~County responsibilities~~ Repealed

R9-22-904. ~~Quality control review challenge process~~ Repealed

R9-22-905. ~~Quality control analysis challenge process~~ Repealed

R9-22-906. ~~Corrective Action Plans for Certification Errors~~ Repealed

R9-22-907. ~~Recovery of cost for covered services~~ Repealed

**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. "210"	R9-22-114
2. "1931"	R9-22-114
3. "1-time income"	R9-22-116
4. "1st-party liability"	R9-22-110
5. "3-month income period"	R9-22-116
6. "3rd-party"	R9-22-110
7. "3rd-party liability"	R9-22-110
8. "Accommodation"	R9-22-107
9. "Act"	R9-22-114
10. "Acute mental health services"	R9-22-112
11. "Adequate notice"	R9-22-114
12. "Administration"	R9-22-106, R9-22-114, and A.R.S. § 36-2901
13. "Adverse action"	R9-22-114
14. "AEC"	R9-22-117
15. "Affiliated corporate organization"	R9-22-106
16. "Aged"	R9-22-115
17. "Aggregate"	R9-22-107
18. "AHCCCS"	R9-22-101
19. " <u>AHCCCS-disqualified dependent</u> "	<u>R9-22-101</u>

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

<u>20.</u> “AHCCCS-disqualified spouse”	<u>R9-22-101</u>
<del>19-21.</del> “AHCCCS hearing officer”	R9-22-108
<del>20-22.</del> “AHCCCS inpatient hospital day or days of care”	R9-22-107
<del>21-23.</del> “Ambulance”	R9-22-102
<del>22-24.</del> “Ancillary department”	R9-22-107
<del>23-25.</del> “Annual enrollment choice”	R9-22-117
<del>24-26.</del> “Appeal”	R9-22-108
<del>25-27.</del> “Appellant”	R9-22-114
<del>26-28.</del> “Applicant”	R9-22-101
<del>27-29.</del> “Application”	R9-22-101
<del>28-30.</del> “Assignment”	R9-22-101
<del>29-31.</del> “Assistance unit”	R9-22-114
<del>30-32.</del> “Authorized representative”	R9-22-114
<del>31-33.</del> “Auto-assignment algorithm”	R9-22-117
<del>32-34.</del> “Baby Arizona”	R9-22-114
<del>33-35.</del> “BHS”	R9-22-114
<del>34-36.</del> “Billed charges”	R9-22-107
<del>35-37.</del> “Blind”	R9-22-115
<del>36-38.</del> “Bona fide funeral agreement”	R9-22-114
<del>37-39.</del> “Burial plot”	R9-22-114
<del>38-40.</del> “Capital costs”	R9-22-107
<del>39-41.</del> “Capped fee-for-service”	R9-22-101
<del>40-42.</del> “Caretaker relative”	R9-22-114
<del>41-43.</del> “Case record”	R9-22-101
<del>42-44.</del> “Cash assistance”	R9-22-114
<del>43-45.</del> “Categorically eligible”	
	A.R.S. § 36-2901(4)(b) and 36-2934
<u>46.</u> “Certification”	<u>R9-22-109</u>
<del>44-47.</del> “Certification error”	
	<del>A.R.S. § 36-2905.01</del> <u>R9-22-109</u>
<u>45-48.</u> “Certification period”	R9-22-115 and R9-22-116
<u>46-49.</u> “Child welfare agency”	R9-22-114
<u>47-50.</u> “Clean claim”	A.R.S. § 36-2904
<u>48-51.</u> “CMDP”	R9-22-117
<u>49-52.</u> “Continuous stay”	R9-22-101
<u>50-53.</u> “Contract”	R9-22-101
<u>51-54.</u> “Contractor”	R9-22-101
<u>52-55.</u> “Contractor of record”	R9-22-101
<u>53-56.</u> “Copayment”	R9-22-107
<u>57.</u> “Corrective action plan”	<u>R9-22-109</u>
<u>54-58.</u> “Cost-to-charge ratio”	R9-22-107
<u>55-59.</u> “Countable income”	R9-22-116
<u>60.</u> “County eligibility department”	<u>R9-22-109</u>
<u>56-61.</u> “County eligibility staff”	R9-22-116
<u>57-62.</u> “Covered charges”	R9-22-107
<u>58-63.</u> “Covered services”	R9-22-102
<u>59-64.</u> “CPT”	R9-22-107
<u>60-65.</u> “CRS”	R9-22-114
<u>61-66.</u> “Date of determination”	R9-22-116
<u>62-67.</u> “Date of discontinuance”	R9-22-116
<u>63-68.</u> “Date of enrollment action”	R9-22-117
<u>64-69.</u> “Day”	R9-22-101
<u>65-70.</u> “DCSE”	R9-22-114
<u>66-71.</u> “Deductible medical expense”	R9-22-116
<u>67-72.</u> “Deemed application date”	R9-22-116

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

68-73. "Dentures"	R9-22-102
69-74. "Department"	R9-22-114
70-75. "Dependent child"	R9-22-114
	and R9-22-116
71-76. "DES"	R9-22-101
72-77. "Determination"	R9-22-116
73-78. "Diagnostic services"	R9-22-102
74-79. "Disabled"	R9-22-115
75-80. "Discontinuance"	R9-22-116
76-81. "Discussions"	R9-22-106
77-82. "Disenrollment"	R9-22-117
78-83. "District Medical Consultant"	R9-22-114
79-84. "DME"	R9-22-102
80-85. "DRI inflation factor"	R9-22-107
84-86. "E.P.S.D.T. services"	R9-22-102
82-87. "EAC"	R9-22-101
83-88. "Earned income"	R9-22-116
84-89. "Educational income"	R9-22-116
85-90. "ELIC"	R9-22-101
86-91. "Eligibility determination date"	R9-22-114
87-92. "Eligible assistance children"	A.R.S. § 36-2905.03(B)
88-93. "Eligible applicant"	A.R.S. § 36-2901(4)
89-94. "Eligible low income children"	A.R.S. § 36-2905.03(C)
	and (D)
90-95. "Emancipated minor"	R9-22-116
91-96. "Emergency medical condition"	42 U.S.C. 1396b(v)
92-97. "Emergency medical services"	R9-22-102
93-98. "Encounter"	R9-22-107
94-99. "Enrollment"	R9-22-117
95-100. "Enumeration"	R9-22-101
96-101. "Equity"	R9-22-101
97-102. "Expressly emancipated minor"	R9-22-116
98-103. "FAA" or "Family Assistance Administration"	R9-22-114
99-104. "Facility"	R9-22-101
100-105. "Factor"	R9-22-101
101-106. "FBR"	R9-22-101
102-107. "Federal Benefit Rate"	R9-22-101
103-108. "Federal emergency services program"	R9-22-101
104-109. "FESP"	R9-22-101
105-110. "Foster care maintenance payment"	R9-22-114
106-111. "Foster child"	R9-22-114
107-112. "FPL"	R9-22-114
108-113. "FQHC"	R9-22-101
114. "Fraudulent information"	<u>R9-22-109</u>
109-115. "Grievance"	R9-22-108
110-116. "GSA"	R9-22-101
111-117. "Guardian"	R9-22-116
112-118. "Head-of-household"	R9-22-116
113-119. "Hearing aid"	R9-22-102
114-120. "Home health services"	R9-22-102
115-121. "Homebound"	R9-22-114
116-122. "Hospital"	R9-22-101
117-123. "Hospitalized"	R9-22-116
118-124. "ICU"	R9-22-107
119-125. "IHS"	R9-22-117
120-126. "Income"	R9-22-114
	and R9-22-116
121-127. "Income-in-kind"	R9-22-116
122-128. "Indigent"	A.R.S. § 11-297

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

<del>123-129.</del> “Inmate of a public institution”	42 CFR 435.1009
<del>124-130.</del> “Interested party”	R9-22-106
<del>125-131.</del> “Interim change”	R9-22-116
<del>126-132.</del> “JTPA” or “Job Training Partnership Act”	R9-22-114
<del>127-133.</del> “License” or “licensure”	R9-22-101
<del>128-134.</del> “Liquid assets”	R9-22-114 and R9-22-116
<del>129-135.</del> “Liquid resources”	R9-22-116
<del>130-136.</del> “Lump-sum income”	R9-22-116
<del>131-137.</del> “Mailing date”	R9-22-114
<del>132-138.</del> “Medical education costs”	R9-22-107
<del>133-139.</del> “Medical record”	R9-22-101
<del>134-140.</del> “Medical review”	R9-22-107
<del>135-141.</del> “Medical services”	R9-22-101
<del>136-142.</del> “Medical supplies”	R9-22-102
<del>137-143.</del> “Medical support”	R9-22-114
<del>138-144.</del> “Medically necessary”	R9-22-101
<del>139-145.</del> “Medicare claim”	R9-22-107
<del>140-146.</del> “Medicare HMO”	R9-22-101
<del>141-147.</del> “MI/MN”	A.R.S. § 36-2901(4)(a) and (c)
<del>142-148.</del> “Minor parent”	R9-22-114
<del>143-149.</del> “Month of determination”	R9-22-116
<del>144-150.</del> “New hospital”	R9-22-107
<del>145-151.</del> “NICU”	R9-22-107
<del>146-152.</del> “Noncontracting provider”	A.R.S. § 36-2931
<del>147-153.</del> “Nonliquid resources”	R9-22-116
<del>148-154.</del> “Nonparent caretaker relative”	R9-22-114
<del>149-155.</del> “Nursing facility”	42 U.S.C. 1396r(a)
<del>150-156.</del> “Occupational therapy”	R9-22-102
<del>151-157.</del> “Offeror”	R9-22-106
<del>152-158.</del> “Operating costs”	R9-22-107
<del>153-159.</del> “Outlier”	R9-22-107
<del>154-160.</del> “Outpatient hospital service”	R9-22-107
<del>155-161.</del> “Ownership change”	R9-22-107
<del>156-162.</del> “Peer group”	R9-22-107
<del>157-163.</del> “Pharmaceutical service”	R9-22-102
<del>158-164.</del> “Physical therapy”	R9-22-102
<del>159-165.</del> “Physician”	R9-22-102
<del>160-166.</del> “Post-stabilization services”	42 CFR 438.114
<del>161-167.</del> “Practitioner”	R9-22-102
<del>162-168.</del> “Pre-enrollment process”	R9-22-114
<del>163-169.</del> “Prescription”	R9-22-102
<del>164-170.</del> “Primary care provider”	R9-22-102
<del>165-171.</del> “Primary care provider services”	R9-22-102
<del>166-172.</del> “Prior authorization”	R9-22-102
<del>167-173.</del> “Private duty nursing services”	R9-22-102
<del>168-174.</del> “Proposal”	R9-22-106
<del>169-175.</del> “Proposal of discontinuance”	R9-22-116
<del>170-176.</del> “Prospective rate year”	R9-22-107
<del>171-177.</del> “Prospective rates”	R9-22-107
<del>172-178.</del> “Prudent layperson standard”	42 U.S.C. 1396u-2
<del>173-179.</del> “Public assistance”	R9-22-116
<u>180.</u> “Quality control case analysis”	<u>R9-22-109</u>
<u>181.</u> “Quality control sample review”	<u>R9-22-109</u>
<del>174-182.</del> “Quality management”	R9-22-105
<del>175-183.</del> “Radiology”	R9-22-102
<del>176-184.</del> “Rebasing”	R9-22-107
<del>177-185.</del> “Recipient”	R9-22-114

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

<del>178-186.</del> “Redetermination”	R9-22-116
<del>179-187.</del> “Referral”	R9-22-101
<del>180-188.</del> “Rehabilitation services”	R9-22-102
<del>181-189.</del> “Reinsurance”	R9-22-107
<del>182-190.</del> “Resources”	R9-22-114 and R9-22-116
<del>183-191.</del> “Respiratory therapy”	R9-22-102
<del>184-192.</del> “Responsible offeror”	R9-22-106
<del>185-193.</del> “Responsive offeror”	R9-22-106
<del>186-194.</del> “Review”	R9-22-114
<del>187-195.</del> “RFP”	R9-22-105 and R9-22-106
<del>188-196.</del> “Scope of services”	R9-22-102
<del>189-197.</del> “SDAD”	R9-22-107
<del>190-198.</del> “Separate property”	A.R.S. § 25-213
<del>191-199.</del> “Service location”	R9-22-101
<del>192-200.</del> “Service site”	R9-22-101
<del>193-201.</del> “SESP”	R9-22-101
<del>194-202.</del> “S.O.B.R.A.”	R9-22-101
<del>195-203.</del> “Specialist”	R9-22-102
<del>196-204.</del> “Specified relative”	R9-22-114 and R9-22-116
<del>197-205.</del> “Speech therapy”	R9-22-102
<del>198-206.</del> “Spendthrift restriction”	R9-22-114
<del>199-207.</del> “Spouse”	R9-22-101
<del>200-208.</del> “SSA”	P.L. 103-296, Title I
<del>201-209.</del> “SSI”	R9-22-101
<del>202-210.</del> “SSN”	R9-22-101
<del>203-211.</del> “State alien”	R9-22-101
<del>204-212.</del> “State emergency services program”	R9-22-101
<del>205-213.</del> “Sterilization”	R9-22-102
<del>206-214.</del> “Subcontract”	R9-22-101
<del>207-215.</del> “SVES” or “State Verification and Exchange System”	R9-22-114
<del>208-216.</del> “Tier”	R9-22-107
<del>209-217.</del> “Tiered per diem”	R9-22-107
<del>210-218.</del> “Title IV-A”	R9-22-114
<del>211-219.</del> “Title IV-D”	R9-22-114
<del>212-220.</del> “Title IV-E”	R9-22-114
<del>213-221.</del> “TMA”	R9-22-114
<del>214-222.</del> “Total inpatient hospital days”	R9-22-107
<del>215-223.</del> “Unearned income”	R9-22-116
<del>216-224.</del> “Utilization management”	R9-22-105

- 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. “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.
  2. “AHCCCS-disqualified dependent” means a dependent child residing in the same household of an AHCCCS-disqualified spouse.
  3. “AHCCCS-disqualified spouse” means the spouse of an MN/MI applicant who is ineligible for MN/MI benefits because the value of that spouse’s separate property, when combined with the value of other resources owned by household members, exceeds the allowable resource limit.
  4. “Applicant” means a person who submits or whose representative submits, a written, signed, and dated application for AHCCCS benefits that has not been approved or denied.
  5. “Application” means an official request for medical assistance made under this Chapter.
  6. “Assignment” means enrollment of an eligible person with a contractor by the Administration.
  7. “Capped fee-for-service” means the payment mechanism by which a provider of care is reimbursed upon submission of a valid claim for a specific AHCCCS covered service and equipment provided to an eligible applicant. A payment is made in accordance with an upper, or capped, limit established by the Director.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

- ~~6-8.~~ 8. “Case record” means the file and all documents in the file that are used to establish eligibility.
- ~~7-9.~~ 9. “Categorically eligible” means a person who is eligible as defined by A.R.S. §§ 36-2901(4)(b) and 36-2934.
- ~~8-10.~~ 10. “Continuous stay” means the period of time during which an eligible person receives inpatient hospital services without interruption beginning with the date of admission and ending with the date of discharge or date of death.
- ~~9-11.~~ 11. “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 member under A.R.S. Title 36, Chapter 29, and these rules.
- ~~10-12.~~ 12. “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 under the requirements of the contract and these rules.
- ~~11-13.~~ 13. “Contractor of record” means an organization or an entity in which a person is enrolled for the provision of AHCCCS services.
- ~~12-14.~~ 14. “Day” means a calendar day unless otherwise specified in the text.
- ~~13-15.~~ 15. “DES” means the Department of Economic Security.
- ~~14-16.~~ 16. “EAC” means eligible assistance children.
- ~~15-17.~~ 17. “ELIC” means eligible low-income children.
- ~~16-18.~~ 18. “Eligible assistance children” means the children defined by A.R.S. § 36-2905.03(B).
- ~~17-19.~~ 19. “Eligible low income children” means the children defined by A.R.S. § 36-2905.03(C) and (D).
- ~~18-20.~~ 20. “Eligible applicant” means the applicant defined in A.R.S. § 36-2901(4).
- ~~19-21.~~ 21. “Enumeration” means the assignment of a specific 9-digit identification number to a person by the Social Security Administration.
- ~~20-22.~~ 22. “Equity” means the county assessor full cash or market value of a resource minus valid liens, encumbrances, or both.
- ~~21-23.~~ 23. “Facility” means a building or portion of a building licensed or certified by the Arizona Department of Health Services as a health care institution, under A.R.S. Title 36, Chapter 4, to provide a medical service, a nursing service, or other health care or health-related services.
- ~~22-24.~~ 24. “Factor” means an organization, a collection agency, a service bureau, or a person who advances money to a provider for accounts receivable that the provider assigns, sells, or otherwise transfers, including transfers through the use of a power of attorney, to the organization, the collection agency, the service bureau, or the person that receives an added fee or a deduction of a portion of the face value of the accounts receivable in return for the advanced money. The term “factor” does not include a business representative, such as a billing agent or an accounting firm described within these rules, or a health care institution.
- ~~23-25.~~ 25. “FBR” means Federal Benefit Rate, defined in R9-22-101(B)(24).
- ~~24-26.~~ 26. “Federal Benefit Rate” means the maximum monthly Supplemental Security Income payment rate for an eligible person or a married couple.
- ~~25-27.~~ 27. “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 under A.R.S. § 36-2903.03.
- ~~26-28.~~ 28. “FESP” means federal emergency services program.
- ~~27-29.~~ 29. “FQHC” means federally qualified health center.
- ~~28-30.~~ 30. “GSA” means a geographical service area designated by the Administration within which a contractor of record provides, directly or through a subcontract, a covered health care service to a member enrolled with that contractor of record.
- ~~29-31.~~ 31. “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.
- ~~30-32.~~ 32. “Indigent” means meeting eligibility criteria under A.R.S. § 11-297.
- ~~31-33.~~ 33. “Inmate of a public institution” means a person defined by 42 CFR 435.1009.
- ~~32-34.~~ 34. “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.
- ~~33-35.~~ 35. “Medical record” means all documents that relate to medical and behavioral health services provided to an eligible person, a physician, or other licensed practitioner of the healing arts or member and that are kept at the site of the provider.
- ~~34-36.~~ 36. a health professional and technical personnel under the direction of a physician, a practitioner, or a dentist.
- ~~35-37.~~ 37. “Medically necessary” means a covered service provided by a physician or other licensed practitioner of the healing arts and within the scope of practice under state law to:
- a. Prevent disease, disability, and other adverse health conditions or their progression; or
  - b. Prolong life.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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- 36-38. "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 under 42 CFR 417(L).
- 37-39. "MI/MN" means medically indigent and medically needy defined in A.R.S. § 36-2901(4)(a) and (c).
- 38-40. "Nursing facility" means a nursing facility defined in 42 U.S.C. 1396r(a).
- 39-41. "Noncontracting provider" means the provider defined in A.R.S. § 36-2931.
- 40-42. "Referral" means the process by which an eligible person is directed by a primary care provider or an attending physician to another appropriate provider or resource for diagnosis or treatment.
- 41-43. "Separate property" means property defined in A.R.S. § 25-213.
- 42-44. "Service location" means any location at which a member obtains any health care service provided by a contractor of record under the terms of a contract.
- 43-45. "Service site" means a location designated by a contractor of record as the location at which a person is to receive health care services.
- 44-46. "SESP" means state emergency services program.
- 45-47. "S.O.B.R.A." means Section 9401 of the Sixth Omnibus Budget Reconciliation Act, 1986, amended by the Medicare Catastrophic Coverage Act of 1988, 42 U.S.C. 1396a(a)(10)(A)(i)(IX), July 1, 1988.
- 46-48. "Spouse" means the husband or wife who has entered into a contract of marriage, recognized as valid by Arizona.
- 47-49. "SSA" means Social Security Administration defined in P.L. 103-296, Title I.
- 48-50. "SSI" means Supplemental Security Income under Title XVI of the Social Security Act, as amended.
- 49-51. "SSN" means social security number.
- 50-52. "State alien" means an unqualified alien described in A.R.S. § 36-2903.03(C).
- 51-53. "State emergency services program" means a program designed to provide emergency medical services identified as covered under R9-22-217 to treat an emergency medical condition for a person who is determined eligible under A.R.S. § 36-2905.05.
- 52-54. "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 member;
  - b. A marketing organization; or
  - c. Any other organization or person who agrees to perform any administrative function or service for a contractor specifically related to securing or fulfilling the contractor's obligation to the Administration under the terms of a contract.

**R9-22-109. Quality Control Related 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: ~~"Certification error" has the meaning in A.R.S. § 36-2905.01-~~

1. "Certification" means approval of eligibility under 9 A.A.C. 22, Article 16.
2. "Certification error" means an error defined in A.R.S. § 36-2905.01(I), R9-22-901(A), and R9-22-902(A).
3. "Corrective action plan" means a plan developed by a county eligibility department to reduce the county eligibility department's error rate calculated under A.R.S. § 36-2905.01(A).
4. "County eligibility department" means an entity within a county's administration which is responsible for determining eligibility under 9 A.A.C. 22, Article 16.
5. "Fraudulent information" means information provided or withheld intentionally with the purpose of obtaining benefits which a person would not otherwise be entitled to receive.
6. "Quality control case analysis" means the Administration's evaluation of individual case records, under A.R.S. § 36-2905.02, of a county eligibility department's eligibility determinations.
7. "Quality control sample review" means the Administration's evaluation of a statistically valid sample of case records, under A.R.S. § 36-2905.01, of a county eligibility department's eligibility determinations.

**ARTICLE 9. QUALITY CONTROL REVIEW AND ANALYSIS QUALITY CONTROL**

**R9-22-901. Definitions Repealed**

The terms used in this Article have the following meanings:

1. ~~"Certification errors" has the meaning defined in A.R.S. § 36-2905.01(I) and R9-22-902.~~
2. ~~"Corrective action plan" means a plan developed by a county to reduce its error rate calculated pursuant to A.R.S. § 36-2905.01(A).~~
3. ~~"Fraudulent information" means incorrect information intentionally provided with the purpose of obtaining benefits to which the applicant would not otherwise be entitled.~~
4. ~~"Good cause" means events that are beyond the control of the county or its agents which cause inability to comply with the requirements of submitting case files to the Administration.~~
5. ~~"Improperly classified" means a person who was certified as indigent or medically needy but was eligible only under the criteria for eligible low-income children, or a person who was erroneously certified as indigent or medically~~

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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- needy and who is approved for categorical eligibility or a person who was certified as indigent or medically needy or as an eligible low income child but was eligible only under the criteria for state emergency services.
6. ~~“Improperly incurred expenses” means all expenses paid by the Administration or paid or incurred by providers or nonproviders on behalf of an ineligible person, a person certified through a certification error, the difference between the amount of capitation paid and the correct amount for a person improperly classified, or expenses resulting from the county’s failure to take timely action to discontinue or adjust benefits. “Improperly incurred expenses” also means two-thirds of all expenses paid or incurred by providers or nonproviders on behalf of a hospitalized person potentially eligible for Title XIX, who was not referred for federal emergency services and who would have been approved for Title XIX had the person been referred.~~
  7. ~~“Loss of contact” means that a member could not be located at the address of record and there is no alternate or forwarding address known to the Administration or the county.~~
  8. ~~“Quality control analysis” means the AHCCCS analysis of a county’s eligibility files pursuant to A.R.S. § 36-2905.02.~~
  9. ~~“Quality control review” means the AHCCCS review of a county’s eligibility files pursuant to A.R.S. § 36-2905.01.~~
  10. ~~“Review Committee” means the persons designated by the Director to review and make decisions on county challenges of certification errors.~~
  11. ~~“Review period” means the period during which member files are selected for review of eligibility.~~
  12. ~~“Timely action” means the county took appropriate action to adjust or discontinue benefits in accordance with the time frames prescribed by Article 3.~~
  13. ~~“Total capitation payment” means the amount of capitation paid by AHCCCS to providers in a county for the review period. This includes any retroactive adjustments in capitation rates.~~

**R9-22-901. Quality Control Sample Review**

**A. Certification errors.** The Administration shall include the following as certification errors for a quality control sample review conducted under A.R.S. § 36-2905.01.

1. A county eligibility department’s failure to provide a case record, defined in R9-22-1633, that the Administration selects for review under A.R.S. §§ 36-2905.01 or 36-2905.02; or
2. Certification of a person or household that is ineligible at the time of certification because:
  - a. A household’s annual income exceeds the limits specified in A.R.S. §§ 11-297, 36-2905, or 36-2905.03;
  - b. A household’s resources exceed the limits specified in A.R.S. §§ 11-297, 36-2905, and 36-2905.03;
  - c. A household member transfers resources, except as permitted under R9-22-1628, for the purpose of meeting the resource limits specified in A.R.S. §§ 11-297, 36-2905, and 36-2905.03;
  - d. A person is not a resident of Arizona under A.R.S. § 36-2903.01;
  - e. A person is not a citizen of the United States or a qualified alien under R9-22-1624. This requirement does not apply to SESP;
  - f. A person is enrolled or eligible to be enrolled to receive Medicare covered services through a managed care organization, except if the person receives a transplant as specified in A.R.S. § 36-2905(J) or is prohibited from enrolling in a Medicare HMO due to a pre-existing medical condition or receipt of Medicare hospice services;
  - g. A person is 1 of the following as specified in R9-22-1616:
    - i. An inmate in a public institution,
    - ii. A patient in a public mental hospital,
    - iii. Deceased,
    - iv. An AHCCCS-disqualified spouse,
    - v. An AHCCCS-disqualified dependent, or
    - vi. A current recipient of benefits under Title XIX or Title XXI of the Social Security Act;
  - h. There is a refusal to cooperate with the Title XIX or Title XXI eligibility process as required under A.R.S. §§ 11-297, 36-2905, and 36-2905.03;
  - i. The county eligibility department did not screen and refer the person for potential eligibility for Title XIX or Title XXI under A.R.S. § 36-2905 and 36-2983; or
  - j. A person is potentially eligible for S.O.B.R.A., and neither of the conditions in R9-22-1610(E)(1) or (E)(3)(c) is met.

**B. Challenge by county eligibility department.**

1. Challenge process.
  - a. A county eligibility department may challenge a quality control finding of a certification error by submitting a written challenge to the Administration which is postmarked no later than 30 days from the postmark date of the quality control case report. A county eligibility department’s challenge shall include evidence which refutes the Administration’s quality control finding of a certification error. A county eligibility department may include evidence obtained after the date of the quality control case report.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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b. The Administration's quality control finding shall be final if a county eligibility department fails to submit a challenge under the time-frame in subsection (B)(1)(a).

2. Challenge review.

a. The Administration shall review a county eligibility department's challenge and either uphold or overturn a quality control finding.

b. The Administration shall consider only evidence submitted by the Administration's quality control staff and a county eligibility department.

c. The Administration shall overturn a finding if a preponderance of the evidence establishes that a person was eligible for AHCCCS benefits at the time of certification.

d. If the Administration overturns a finding, the Administration shall not consider a case record an error in calculating a county eligibility department's error rate under A.R.S. § 36-2905.01(A).

3. Hearings. A county eligibility department may appeal the Administration's decision under 9 A.A.C. 22, Article 8.

**C.** Corrective action plan.

1. Submittal of a corrective action plan. A county eligibility department in a county with a certification error rate greater than 3%, calculated under A.R.S. § 36-2905.01(A), shall prepare a corrective action plan. The county eligibility department shall submit to the Administration a corrective action plan which is postmarked no later than 90 days from the postmark date of the Administration's quality control sample review summary report. A corrective action plan shall be required no more than 1 time every 12 months.

2. Content of a corrective action plan.

a. A corrective action plan shall include procedures that a county eligibility department will use to:

i. Identify certification errors.

ii. Analyze the frequency of certification errors.

iii. Analyze the cause of certification errors.

iv. Develop and implement corrective actions for certification errors, and

v. identify procedures for evaluating the effectiveness of a corrective action plan.

b. For each corrective action, a corrective action plan shall include a narrative summary that contains:

i. A statement identifying each certification error addressed by a corrective action;

ii. An estimate of the certification error percentage caused by an identified error;

iii. A summary explaining how a certification error was discovered;

iv. A description of the county eligibility department's procedures in use when a certification error occurred;

v. A description of a subsequent or proposed change to correct a certification error;

vi. A summary of the expected certification error rate reduction resulting from a implementation of a corrective action; and

vii. An estimate of when a county eligibility department expects to achieve the certification error rate reduction.

c. Each corrective action shall include a work plan that identifies:

i. Major activities or action steps planned to implement a corrective action;

ii. A person responsible for each activity or action step;

iii. A proposed timetable for implementing each activity or action step listed in a work plan;

iv. A person who will monitor implementation of a work plan; and

v. A method for evaluating the effectiveness of a work plan.

**D.** Recovery of costs. If a county's certification error rate exceeds 3%, the Administration shall recover costs as defined in A.R.S. § 36-2905.01.

**R9-22-902. Certification Errors Repealed**

**A:** Certification errors for quality control reviews and quality control analyses include:

1. Certification of an applicant who was in fact ineligible because:

a. Income exceeded the income limit;

b. Total resources exceeded the liquid or total resource limits;

e. Transfer of property;

d. The applicant was not an Arizona resident;

e. The applicant did not meet the family household criteria;

f. Someone was improperly included or excluded from the AHCCCS family household; or

g. The applicant was not a citizen of the United States or an alien who meets the requirements of 42 CFR 435.406(a), March 14, 1991, incorporated by reference herein and on file with the Office of the Secretary of State.

2. The case file was not available for review and the written explanation provided by the county did not establish good cause for the absence of the case file pursuant to A.R.S. §§ 36-2905.01(D) or 36-2905.02(F).

3. Certification of an applicant when any eligibility requirement was not met including:

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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- a. ~~Approving a potentially eligible S.O.B.R.A. person or an emergency services applicant potentially eligible for Title XIX, or failing to discontinue a hospitalized person potentially eligible for Title XIX, who has refused to cooperate in the federal eligibility determination process, pursuant to A.R.S. § 11-297, 36-2905, 36-2905.03, or 36-2905.05.~~
- b. ~~Approving a potentially eligible Title XIX person when Title XIX eligibility has not been determined, except:
  - i. When the applicant is admitted to a hospital as an inpatient at any time while the application is pending, or
  - ii. After a S.O.B.R.A. application has been completed and submitted to DES by the county by 31 days from the date of application, but DES has not made a S.O.B.R.A. eligibility determination within ten working days from the date the completed S.O.B.R.A. application was received by DES.~~
- e. ~~Approving a hospitalized person who is a citizen of the United States or an alien who meets the requirements of 42-CFR 435.406(a), March 14, 1991, incorporated by reference herein and on file with the Office of the Secretary of State, except as permitted by R9-22-313(D) and R9-22-309.~~
- d. ~~Approving a state emergency services applicant except as permitted by R9-22-309 and R9-22-343(H) and (L).~~
- B.** ~~An applicant under subparagraph (A)(3)(b) is ineligible for indigent, medically needy, eligible low-income child, or state emergency services coverage and the county shall be subject to sanctions until one of the following occurs:
  - 1. Ten working days have elapsed since a completed S.O.B.R.A. application was received by DES from the county, but the S.O.B.R.A. eligibility decision is still pending; or
  - 2. The person is approved for Title XIX by DES and the adjustment in capitation rate, if appropriate, has been made; or
  - 3. The person is denied for Title XIX other than for a refusal to cooperate.~~
- C.** ~~Certification errors for quality control analyses also include:
  - 1. Improper classification of a person as indigent or medically needy when in fact the person met only the criteria for eligible low-income children.
  - 2. The county failed to take timely action to discontinue benefits, in accordance with R9-22-316, R9-22-318, or R9-22-330, after receiving notice, from any source, containing cause for ineligibility.
  - 3. Improper classification of a person as indigent or medically needy or as an eligible low-income child when in fact the person only met the criteria for state emergency services.~~

**R9-22-902. Quality Control Case Analysis**

- A.** Certification error. To identify certification errors, the Administration may conduct a quality control case analysis under A.R.S. § 36-2905.02. In addition to certification errors described in R9-22-901(A), a certification error for a quality control case analysis includes:
  - 1. Improper classification of a person as MI/MN when a person meets only the criteria for ELIC.
  - 2. A county eligibility department's failure to take timely action to discontinue benefits when appropriate, under R9-22-1615, after receiving information containing cause for ineligibility.
- B.** Challenge process. Except for R9-22-901(B)(2)(d), the challenge process described in R9-22-901(B) shall apply to a quality control case analysis with the following additions:
  - 1. If a county eligibility department claims that a certification decision was based on fraudulent information, a county eligibility department shall establish the existence of fraudulent information by clear and convincing evidence.
  - 2. The Administration shall overturn a quality control finding if clear and convincing evidence establishes that a county eligibility department's certification decision was based on fraudulent information.
  - 3. If the Administration overturns a finding, the Administration shall withdraw any associated penalties.
- C.** Recovery of cost for covered services. The Administration shall recover costs for covered services under A.R.S. § 36-2905.02. The following conditions apply:
  - 1. A county shall reimburse the Administration for capitation, claims, and reinsurance paid to a contractor as a result of a certification error.
  - 2. A county shall reimburse a provider or nonprovider who has incurred or paid an expense not already paid by the Administration, including an expense in excess of the capitation.
  - 3. A county may file a grievance concerning the amount of a financial penalty resulting from a quality control case analysis under 9 A.A.C. 22, Article 8.
- 4. If the Director issues a decision in favor of a county, and the Administration has recovered the cost of services under A.R.S. § 36-2905.02, the Administration shall refund to a county an amount specified by the Director.

**R9-22-903. County responsibilities Repealed**

In addition to other responsibilities required by this Article, a county shall observe the following:

- 1. ~~Failure by a member to cooperate with a quality control review or a quality control analysis shall result in a member's discontinuance from AHCCCS. The county shall send an advance notice of discontinuance to the head of household within two days from the date of notification from the Administration of the member's failure to cooperate. Discontinuance shall be withdrawn if the county receives notice from the Administration during the advance notice period that the member is cooperating with the Administration.~~

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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2. A county shall initiate discontinuance of a household and send advance notice of discontinuance to the head of household within two days of receipt of notice from the Administration that loss of contact with a head of household has occurred in the course of a quality control review or a quality control analysis.
3. When a county claims that a certification error was based on fraudulent information, the county shall establish the existence of fraudulent information by clear and convincing evidence.
4. A notification to a county of a change in circumstances or any information which would effect eligibility shall result in a re-evaluation or redetermination in accordance with R9-22-330.
5. In all cases except those involving fraudulent information, the county shall establish by a preponderance of the evidence that the applicant is eligible for AHCCCS coverage.

**R9-22-904. ~~Quality control review challenge process~~ Repealed**

~~A county may challenge review findings of certification errors in any case.~~

1. ~~A challenge shall include evidence to support the county's claim of error by the Administration reviewer.~~
2. ~~Failure to submit a challenge to the Administration within 30 days of the postmarked date of the initial report shall be deemed an acceptance by the county of the review findings and the finding of the AHCCCS Administration shall be final.~~
3. ~~Challenges shall be reviewed by an AHCCCS Review Committee which may uphold, modify or overturn the review findings. If the review findings are overturned, the corrected status of the case shall be used in calculating the error rate pursuant to A.R.S. § 36-2905.01(A).~~
4. ~~The Review Committee shall consider only documentary or written evidence presented by the quality control reviewer and the evidence submitted by the county. A county may submit evidence obtained subsequent to the date of AHCCCS notification of eligibility for consideration in the challenge process. The Review Committee shall base its decision on the most convincing evidence presented that establishes whether the member was in fact eligible for AHCCCS benefits as a medically indigent or medically needy person or eligible low-income child.~~

**R9-22-905. ~~Quality control analysis challenge process~~ Repealed**

~~A county may challenge an error decision resulting from a quality control analysis.~~

1. ~~Failure to submit a challenge to the Administration within 30 days shall be deemed an acceptance by the county of the analysis review findings and the findings of the AHCCCS Administration shall be final.~~
2. ~~A county may submit documentary or written evidence obtained subsequent to the date of AHCCCS notification of eligibility for consideration in the challenge process.~~
3. ~~All challenge evidence shall be reviewed by an AHCCCS Review Committee, which may uphold, modify or overturn the review findings. If the review findings are overturned, the county shall be absolved of all penalties that otherwise would have resulted from the review.~~
4. ~~The Review Committee shall consider the documentary or written evidence presented by the quality control reviewer and the documentary or written evidence submitted by the county and shall base its decision on the most convincing evidence presented. The challenge shall be successful if a preponderance of the evidence establishes that a member was in fact eligible for AHCCCS benefits or if clear and convincing evidence establishes that a certification decision was based on fraudulent information.~~

**R9-22-906. ~~Corrective Action Plans for Certification Errors~~ Repealed**

~~**A.** A county with a certification error rate of more than 3%, as calculated according to A.R.S. § 36-2905.01(A), shall prepare a corrective action plan to reduce the certification error rate.~~

~~**B.** A county shall include in its corrective action plan procedures to reduce the occurrence of all certification errors that prevent the county from achieving an allowable eligibility certification error rate of 3% or less.~~

~~**C.** A county shall describe in its corrective action plan procedures that will be used by the county to:~~

1. ~~Identify certification errors;~~
2. ~~Analyze the frequency of occurrence of the certification errors;~~
3. ~~Analyze the cause of the certification errors;~~
4. ~~Develop and implement corrective actions for the certification errors, and~~
5. ~~Identify the procedures for evaluating the effectiveness of the corrective action plan.~~

~~**D.** For each corrective action developed, a county shall prepare a narrative summary that contains the following information:~~

1. ~~A statement identifying the certification error addressed by the corrective action;~~
2. ~~An estimate of the certification error percentage caused by the identified error;~~
3. ~~A summary explaining how the certification error was discovered (internal, Quality Analysis, Quality Control, etc.);~~
4. ~~A description of the county system that existed when the certification error occurred;~~
5. ~~A description of the subsequent or proposed changes to correct the certification error;~~
6. ~~A summary of the expected certification error rate reduction resulting from the implementation of this corrective action; and~~
7. ~~An estimate of when the certification error rate reduction is expected to be achieved.~~

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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- ~~**E.** For each corrective action developed and described in a county's corrective action plan, the county shall include a work plan that identifies:~~
- ~~1. The major activities or action steps planned to implement the initiative;~~
  - ~~2. The individual responsible for each activity or action step;~~
  - ~~3. The proposed timetable for implementing each activity or action step listed in the work plan (start date, planned completion date, etc.);~~
  - ~~4. Who will monitor implementation of each work plan; and~~
  - ~~5. How the effectiveness of the work plan will be evaluated.~~
- ~~**F.** A county shall submit an annual corrective action plan to the Administration within 60 days of issuance of the Administration's certification error rate report.~~

**R9-22-907. Recovery of cost for covered services Repealed**

- ~~**A.** Quality control analysis. Pursuant to A.R.S. § 36-2905.02, counties shall reimburse AHCCCS for any expenses improperly incurred by AHCCCS due to erroneous eligibility certifications. The following reimbursement conditions apply:~~
- ~~1. A county shall reimburse the Administration for any capitation paid to a contractor,~~
  - ~~2. A county shall reimburse the Administration for any claims paid by the Administration,~~
  - ~~3. A county shall reimburse the Administration for any reinsurance paid by the Administration, and~~
  - ~~4. A county shall reimburse a provider or nonprovider which has incurred or paid expenses not already paid by the Administration, including expenses in excess of the capitations.~~
- ~~**B.** A county may file a grievance concerning the amount of a financial penalty resulting from a quality control review or analysis, pursuant to A.R.S. §§ 36-2905.01 or 36-2905.02, by following the county grievance process in accordance with Article 8. In the event that a county files a grievance concerning the amount of a financial penalty and the Director renders a final decision in favor of the county after the county has paid the financial penalty or the state treasurer has deposited any portion of the financial penalty into the Arizona Health Care Cost Containment System Fund pursuant to A.R.S. § 36-2905.02(C), the Administration shall refund to the county the amount specified by the Director in his decision.~~