

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

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

PREAMBLE

1. Sections Affected

R9-28-101
R9-28-104
R9-28-105
R9-28-106
R9-28-412
R9-28-412
R9-28-413
R9-28-414
R9-28-415
R9-28-416
R9-28-417
R9-28-418
R9-28-501
R9-28-507
R9-28-508
Article 6
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R9-28-601
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R9-28-607
R9-28-608
R9-28-608
R9-28-609
R9-28-610
R9-28-713

Rulemaking Action

Amend
Amend
Amend
Amend
Repeal
New Section
Repeal
Amend
Repeal
Repeal
New Article
Repeal
New Section
Repeal
New Section

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

Authorizing statute: A.R.S. § 36-2903.01(H)

Implementing statute: A.R.S. §§ 36-2932(G), 36-2932(M), and 36-2940

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3. The effective date of the rules:

February 8, 2000

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 5 A.A.R. 1541, May 21, 1999

Notice of Proposed Rulemaking: 5 A.A.R. 3152, September 17, 1999

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

Name: Cheri Tomlinson, Federal & State Policy Administrator

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

Telephone Number: (602) 417-4198

Fax Number: (602) 256-6756

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

For the 1st time since the inception of the Arizona Long-Term Care System (ALTCS), the Arizona Health Care Cost Containment System (AHCCCS) Administration is conducting a statewide competitive bid process for the provision of long-term care services for persons who are elderly or physically disabled. This rule change is due to a statutory change which amended A.R.S. § 36-2940 to have a delayed effective date of October 1, 2000.

7. A reference to any study that the agency relied 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

8. 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:

A.R.S. § 36-2940 requires the Administration to competitively bid the program contractor request for proposal statewide. Prior to this amendment, Maricopa and Pima counties were mandated program contractors. The counties of Cochise, Pinal, and Yavapai had the right of 1st refusal because of their program contractor status prior to January 1, 1994. The remainder of the counties would have to bid to be a program contractor. These rules do not apply to the Department of Economic Security, Division of Developmental Disabilities (DES/DDD), which serves Medicaid persons who are developmentally disabled.

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

The rules directly affect members, providers, current program contractors, and potential program contractors. The anticipated result will be that the Administration will have multiple bidders for all geographic services areas. In addition, the Administration may have multiple program contractors in the urban GSAs. Due to these changes, members and providers may have a change in program contractor. The extent of the impact, as measured in member and provider satisfaction terms as well as financial terms, cannot be projected because this is the 1st time the ALTCS program has been competitively bid in 5 counties.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

#	Rule Citation	Change
1.	General	The Administration made the rules more clear, concise, and understandable by making grammatical, verb tense, and punctuation changes throughout the proposed rules.
2.	R9-28-101	The Administration added a definition of "Indian" as used in The Indian Health Care Improvement Act, P.L. 94-437.
3.	R9-28-412	The Administration added a cross-reference to R9-28-507(D)(6) to clarify that there are other times that a member may change program contractors.

11. A summary of the principal comments and the agency response to them:

The Administration conducted a video-conference public hearing between Phoenix, Flagstaff, and Tucson where comments were received from the Pima Council on Aging and the Children's Clinics for Rehabilitative Services. In response to a comment from Pima Council on Aging that competitive bidding is not necessary for the ALTCS pro-

gram, the Administration pointed out that the proposed rule changes are mandated by Laws 1997, 2nd S.S., Ch.2, § 4 which amended A.R.S. § 36-2940 to have a delayed effective date of October 1, 2000. The Children's Clinics for Rehabilitative Services inquired about the impact of the proposed changes on the Children's Rehabilitative Services program. The Administration responded that the proposed rules will have no impact on the program.

The Administration received written comments from the Area Agency on Aging, Region One, Inc.; the Yavapai County Department of Medical Assistance, Andrew March, MD; Maricopa Integrated Health Systems; and the Department of Economic Security. The Administration contacted each entity to discuss the comments submitted and the Administration's response.

In response to comments from the Area Agency on Aging, the Administration added a definition of "Indian" for clarity and amended the proposed rules to clarify that a member may change program contractors at times other than the annual enrollment choice period. Yavapai County expressed concern that the proposed rules give the Administration the right to unilaterally amend a contract and initiate termination proceedings if a program contractor refuses to sign the amendment. The Administration responded that since counties must now compete with the private sector, the rule amendment no longer distinguishes between counties and private contractors with respect to their recourse when an amendment is tendered. This rule also ensures that changes are implemented in a timely manner, particularly if the change is required to conform to a federal mandate. When the amendment is necessitated by changes in state or federal law, the Administration must cancel the contract if the contractor is unwilling to comply. In addition, the rules do not give the Administration the right to unilaterally amend the contract. The rule provides every contractor with the option of refusing the amendment. While the rule gives the Administration the discretion to terminate contracts if an amendment is refused, the Administration cannot force a contractor to accept the amendment.

Dr. March encouraged the Administration to seek out people with special insight and expertise in creating the ALTCS system and Maricopa Integrated Health System stressed the importance of maintaining a member's relationship with his or her provider.

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

None

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

Description	Date	Location
42 U.S.C. 1396r(h)	August 5, 1997	R9-28-608(B)
42 CFR 488, Subpart F	May 17, 1999	R9-28-608(B)

14. Was this rule previously adopted as an emergency rule?

No

15. 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
- R9-28-104. Eligibility and Enrollment Related Definitions
- R9-28-105. Program Contractor and Provider Standards Related Definitions
- R9-28-106. ~~Program Contracts and Procurement~~ Request for Proposals and Contract Process Related Definitions

ARTICLE 4. ELIGIBILITY AND ENROLLMENT

Section

- R9-28-412. ~~Enrollment with an ALTCS Program Contractor~~ General Enrollment
- R9-28-413. Enrollment with an EPD Program Contractor
- R9-28-414. Enrollment with the DD Program Contractor
- R9-28-415. Enrollment with a Tribal Program Contractor
- R9-28-416. Enrollment with the FFS Program
- R9-28-417. Notification Requirements
- R9-28-418. Disenrollment

ARTICLE 5. PROGRAM CONTRACTOR AND PROVIDER STANDARDS

Section

- R9-28-501. ~~General Provisions~~ Repealed
- R9-28-507. Program Contractor General Requirements
- R9-28-508. ~~Program Contractor Standards—Submittal of Comprehensive Plan for Delivery of Services~~ Repealed

ARTICLE 6. PROGRAM CONTRACTS AND PROCUREMENT REQUEST FOR PROPOSALS AND CONTRACT PROCESS

Section

- R9-28-601. ~~General~~ General Provisions
- R9-28-602. ~~Contracts~~ Request for Proposals (RFP); Contract Award
- R9-28-603. ~~Subcontracts~~ Contract or Proposal Protests; Appeals
- R9-28-604. Request for Proposals (RFP); Contract Award ~~Contracts~~
- R9-28-605. ~~Contract or Proposal Protests; Appeals~~ Subcontracts
- R9-28-606. ~~Contract Amendments; Mergers; Reorganizations~~ Specialty Contracts
- R9-28-607. ~~Contract Sanctions~~ Contract Amendments; Mergers; Reorganizations
- R9-28-608. Contract Suspension, Denial, Modification, Termination, or Sanction
- R9-28-609. ~~Specialty Contracts~~ Repealed
- R9-28-610. ~~Hospital Rate Negotiations~~ Repealed

ARTICLE 7. STANDARDS FOR PAYMENTS

Section

- R9-28-713. Hospital Rate Negotiations

ARTICLE 1. DEFINITIONS

R9-28-101. General Definitions

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

Definition	Section or Citation
1. "211"	R9-28-104
2. "217"	R9-28-104
3. "236"	R9-28-104
4. "Administration"	A.R.S. § 36-2931
5. "ADHS"	R9-28-111
6. "AFDC"	R9-22-101
7. "Aggregate"	R9-22-107
8. "AHCCCS"	R9-22-101
9. "AHCCCS hearing officer"	R9-22-108
10. <u>"Algorithm"</u>	<u>R9-28-104</u>
10-11. "ALTCS"	A.R.S. § 36-2932
11-12. "ALTCS acute care services"	R9-28-104
12-13. "Alternative HCBS setting"	R9-28-101
13-14. "Ambulance"	R9-22-102
14-15. "Appeal"	R9-22-108
15-16. "Bed hold"	R9-28-102
16-17. "Behavior intervention"	R9-28-102
17-18. "Behavior management services"	R9-28-111
18-19. "Behavioral health para-professional"	R9-28-111
19-20. "Behavioral health professional"	R9-28-111
20-21. "Behavioral health service"	R9-28-111
21-22. "Behavioral health technician"	R9-28-111
22-23. "Billed charges"	R9-22-107
23-24. "Board eligible for psychiatry"	R9-28-111
24-25. "Capped fee-for-service"	R9-22-101
25-26. "Case management plan"	R9-28-101
26-27. "Case management services"	R9-28-111
27-28. "Case manager"	R9-28-101
28-29. "Case record"	R9-22-101
29-30. "Categorically eligible"	A.R.S. § 36-2934

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<u>30-31.</u>	“Certification”	R9-28-105
<u>31-32.</u>	“Certified psychiatric nurse practitioner”	R9-28-111
<u>32-33.</u>	“CFR”	R9-28-101
<u>33-34.</u>	“Clean claim”	A.R.S. § 36-2904
<u>34-35.</u>	“Clinical supervision”	R9-28-111
<u>35-36.</u>	“Community Spouse”	R9-28-104
<u>36-37.</u>	“Community Spouse Resource Deduction”	R9-28-104
<u>37.</u>	“Comprehensive plan for delivery of services”	R9-28-105
<u>38.</u>	“Contract”	R9-22-101
<u>39.</u>	“Contractor”	R9-22-101
<u>40.</u>	“County of fiscal responsibility”	R9-28-107
<u>41.</u>	“Covered services”	R9-22-102
<u>42.</u>	“CPT”	R9-22-107
<u>43.</u>	“CSR”	R9-28-104
<u>44.</u>	“Day”	R9-22-101
<u>45.</u>	“De novo hearing”	R9-28-111
<u>46.</u>	“DES Division of Developmental Disabilities”	<u>A.R.S. § 36-551</u>
<u>46-47.</u>	“Developmental disability”	A.R.S. § 36-551
<u>47-48.</u>	“Diagnostic services”	R9-22-102
<u>48-49.</u>	“Disenrollment”	R9-22-117
<u>49-50.</u>	“DME”	R9-22-102
<u>50-51.</u>	“Eligible person”	A.R.S. § 36-2931
<u>51-52.</u>	“Emergency medical services”	R9-22-102
<u>52-53.</u>	“Encounter”	R9-22-107
<u>53-54.</u>	“Enrollment”	R9-22-117
<u>54-55.</u>	“Estate”	A.R.S. § 14-1201
<u>55-56.</u>	“Evaluation”	R9-28-111
<u>56-57.</u>	“Facility”	R9-22-101
<u>57-58.</u>	“Factor”	R9-22-101
<u>58-59.</u>	“Fair consideration”	R9-28-104
<u>59-60.</u>	“FBR”	R9-22-101
<u>60-61.</u>	“Grievance”	R9-22-108
<u>62.</u>	“GSA”	<u>R9-22-101</u>
<u>61-63.</u>	“Guardian”	R9-22-116
<u>62-64.</u>	“HCBS”	A.R.S. §§ 36-2931 and 36-2939
<u>63-65.</u>	“Home”	R9-28-101
<u>64-66.</u>	“Home health services”	R9-22-102
<u>65-67.</u>	“Hospital”	R9-22-101
<u>66-68.</u>	“ICF-MR”	R9-28-101
<u>67-69.</u>	“IHS”	R9-28-101
<u>68-70.</u>	“IMD”	42 CFR 435.1009
<u>71.</u>	“Indian”	<u>P.L. 94-437</u>
<u>69-72.</u>	“Inpatient psychiatric facilities for individuals under age 21”	R9-28-111
<u>70.</u>	“Inspection of care”	R9-28-105
<u>71-73.</u>	“Institutionalized”	R9-28-104
<u>74.</u>	“Interested Party”	<u>R9-28-106</u>
<u>72-75.</u>	“JCAHO”	R9-28-101
<u>73-76.</u>	“License” or “licensure”	R9-22-101
<u>74-77.</u>	“Medical record”	R9-22-101
<u>75-78.</u>	“Medical services”	R9-22-101
<u>76-79.</u>	“Medical supplies”	R9-22-102
<u>77-80.</u>	“Medically eligible”	R9-28-104
<u>78-81.</u>	“Medically necessary”	R9-22-101
<u>79-82.</u>	“Member”	A.R.S. § 36-2931

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<u>80-83.</u>	“Mental disorder”	R9-28-111
<u>81-84.</u>	“MMMNA”	R9-28-104
<u>82-85.</u>	“NF”	42 U.S.C. 1396r(a)
<u>83-86.</u>	“Noncontracting provider”	A.R.S. § 36-2931
<u>84-87.</u>	“Occupational therapy”	R9-22-102
<u>85-88.</u>	“Partial care”	R9-28-111
<u>86-89.</u>	“PAS”	R9-28-103
<u>87-90.</u>	“PASARR”	R9-28-103
<u>88-91.</u>	“Pharmaceutical service”	R9-22-102
<u>89-92.</u>	“Physical therapy”	R9-22-102
<u>90-93.</u>	“Physician”	R9-22-102
<u>91-94.</u>	“Post-stabilization services”	42 CFR 438.114
<u>92-95.</u>	“Practitioner”	R9-22-102
<u>93-96.</u>	“Primary care provider”	R9-22-102
<u>94-97.</u>	“Primary care provider services”	R9-22-102
<u>95-98.</u>	“Prior authorization”	R9-22-102
<u>99.</u>	“Prior period coverage”	<u>R9-28-101</u>
<u>100.</u>	“Prior-quarter period”	<u>R9-28-101</u>
<u>96-101.</u>	“Private duty nursing services”	R9-22-102
<u>97-102.</u>	“Program contractor”	A.R.S. § 36-2931
<u>98-103.</u>	“Provider”	A.R.S. § 36-2931
<u>99-104.</u>	“Prudent layperson standard”	42 U.S.C. 1396u-2
<u>100-105.</u>	“Psychiatrist”	R9-28-111
<u>101-106.</u>	“Psychologist”	R9-28-111
<u>102-107.</u>	“Psychological rehabilitation”	R9-28-111
<u>103-108.</u>	“Quality management”	R9-22-105
<u>104-109.</u>	“RBHA”	R9-28-111
<u>105-110.</u>	“Radiology”	R9-22-102
<u>106-111.</u>	“Reassessment”	R9-28-103
<u>107-112.</u>	“Redetermination”	R9-28-104
<u>108-113.</u>	“Referral”	R9-22-101
<u>109-114.</u>	“Reinsurance”	R9-22-107
<u>110-115.</u>	“Representative”	R9-28-104
<u>111-116.</u>	“Respiratory therapy”	R9-22-102
<u>112-117.</u>	“Respite care”	R9-28-102
<u>113-118.</u>	“RFP”	R9-22-105
<u>114-119.</u>	“Room and board”	R9-28-102
<u>115-120.</u>	“Scope of services”	R9-22-102
<u>116-121.</u>	“Screening”	R9-28-111
<u>117-122.</u>	“Speech therapy”	R9-22-102
<u>118-123.</u>	“Spouse”	R9-28-104
<u>119-124.</u>	“SSA”	P.L. 103-296, Title I
<u>120-125.</u>	“SSI”	R9-22-101
<u>121-126.</u>	“Subcontract”	R9-22-101
<u>122-127.</u>	“Substance abuse”	R9-28-111
<u>123-128.</u>	“Treatment”	R9-28-111
<u>124-129.</u>	“Utilization management”	R9-22-105
<u>125-130.</u>	“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) specified in A.R.S. § 36-551:
 - i. Community residential setting defined in A.R.S. § 36-551;
 - ii. Group home defined in A.R.S. § 36-551;
 - iii. State-operated group home defined in A.R.S. § 36-591;

- iv. Family foster home defined in 6 A.A.C. 5, Article 58;
- v. Group foster home defined in 6 A.A.C. 5, Article 59;
- vi. Licensed residential facility for a person with traumatic brain injury specified in A.R.S. § 36-2939(C); and
- vii. Behavioral health service agency 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 person who is elderly or physically disabled (EPD), and the facility, setting, or institution is registered with AHCCCS:
 - i. Adult foster care homes defined in A.R.S. § 36-401 and as authorized in A.R.S. § 36-2939, and an assisted living home or 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 specified in A.R.S. § 36-2939(C); and
 - iii. Behavioral health service agency specified in A.R.S. § 36-2939(C) and 9 A.A.C. 20, Articles 6, 7, and 8 for Levels I and II-; and
 - iv. Alzheimer's treatment assistive living facility demonstration pilot project as specified in Laws 1999, Ch. 313, § 35.
- 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 member's or the eligible person's need for services.
- 5. "Case manager" means a person who is either a degreed social worker, a licensed registered nurse, or a person with a minimum of 2 years of experience in providing case management services to a person who is elderly and physically disabled or 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.~~
- 9-8. "Day" is defined in 9 A.A.C. 22, Article 1.
- 9. "DES Division of Developmental Disabilities" is defined in A.R.S. § 36-551.
- 10. "Disenrollment" is defined in 9 A.A.C. 22, Article 1.
- 11. "Eligible person" ~~has the meaning is defined~~ 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 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 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 defined in A.R.S. § 36-401;
 - b. Residential care institution defined in A.R.S. § 36-401;
 - c. Community residential facility defined in A.R.S. § 36-551; or
 - d. Behavioral health service facility 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. "GSA" is defined in 9 A.A.C. 22, Article 1.
- 18-19. "ICF-MR means an intermediate care facility for the mentally retarded and is defined in 42 CFR 435.1009 and 440.150.
- 19-20. "IHS" means the Indian Health Services.
- 21. "Indian" is defined in P.L. 94-437.
- 20-22. "JCAHO" means the Joint Commission on Accreditation of Healthcare Organizations.
- 21-23. "License" or "licensure" is defined in 9 A.A.C. 22, Article 1.
- 22-24. "Medical record" is defined in 9 A.A.C. 22, Article 1.
- 23-25. "Medical services" is defined in 9 A.A.C. 22, Article 1.
- 24-26. "Medically necessary" is defined in 9 A.A.C. 22, Article 1.
- 25-27. "Member" ~~has the meaning is defined~~ in A.R.S. § 36-2931.
- 26-28. "NF" means nursing facility and is defined in 9 A.A.C. 22, Article 1.
- 27-29. "Noncontracting provider" ~~has the meaning is defined~~ in A.R.S. § 36-2931.
- 30. "Prior period coverage" means the period of time from the 1st day of the month of application or the 1st eligible month whichever is later to the day a member is enrolled with the program contractor. The program contractor receives notification from the Administration of the member's enrollment.
- 31. "Prior-quarter period" means the 3 calendar months immediately preceding the month of application during which a member may be eligible for services covered under this Chapter, retroactively under federal law and under A.R.S. § 36-2937.
- 28-32. "Program contractor" ~~has the meaning is defined~~ in A.R.S. § 36-2931.

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- ~~29-33.~~ “Provider” ~~has the meaning is defined~~ in A.R.S. § 36-2931.
~~30-34.~~ “Referral” is defined in 9 A.A.C. 22, Article 1.
~~34-35.~~ “SSA” means Social Security Administration defined in P.L. 103-296, Title I.
~~32-36.~~ “SSI” is defined in 9 A.A.C. 22, Article 1.
~~33-37.~~ “Subcontract” is defined in 9 A.A.C. 22, Article 1.

R9-28-104. Eligibility and Enrollment Related Definitions

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. “211” means 42 CFR 435.211.
2. “217” means 42 CFR 435.217.
3. “236” means 42 CFR 435.236.
4. “Algorithm” means a mathematical formula used by the Administration to assign a member to an EPD program contractor when the member does not make a choice and does not meet the assignment-decision process.
- ~~4-5.~~ “ALTCS acute care services” means services, under 9 A.A.C. 22, Articles 2 and 12, that are provided to a person who meets ALTCS eligibility requirements in 9 A.A.C. 28, Article 4 but who lives in an acute care living arrangement described in R9-28-406(B) or who is not eligible for long-term benefits, described in R9-28-409(D), due to a transfer without receiving equal compensation.
- ~~5-6.~~ “Community spouse” means the husband or wife of ~~a~~ an institutionalized person who has entered into a contract of marriage, recognized as valid by Arizona, and who does not live in a medical institution.
- ~~6-7.~~ “Community Spouse Resource Deduction” means the amount of a married couple’s resources that are excluded in the eligibility determination to prevent impoverishment of the community spouse, determined under R9-28-410(B).
- ~~7-8.~~ “CSR D” means Community Spouse Resource Deduction defined in R9-28-104(~~67~~).
- ~~8-9.~~ “Fair consideration” means income, real or personal property, services, or support and maintenance equal to the fair market value of the income or resources that were transferred.
- ~~9-10.~~ “Institutionalized” means residing in a medical institution or receiving or expecting to receive HCBS that prevent the person from being placed in a medical institution determined by the ALTCS Pre-Admission Screening (PAS) under R9-28-103.
- ~~10-11.~~ “Medically eligible” means meeting the ALTCS medical eligibility criteria under 9 A.A.C. 28, Article 3.
- ~~11-12.~~ “MMMNA” means Minimum Monthly Maintenance Needs Allowance.
- ~~12-13.~~ “Redetermination” means a periodic review of all eligibility factors for a recipient.
- ~~13-14.~~ “Representative” means a person other than a spouse or a parent of a dependent child, who applies for ALTCS on behalf of another person.
- ~~14-15.~~ “Spouse” means either someone who is legally married under Arizona law, a person who is eligible for Social Security benefits as the spouse of another person, or a person who lives with another person of the opposite sex and the couple represents themselves in their community as husband and wife.

R9-28-105. Program Contractor and Provider Standards Related Definitions

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. “Certification” means a voluntary process by which a federal or state regulatory entity grants recognition to an individual, facility, or organization which has met certain prerequisite qualifications specified by the regulatory entity and which may assume or use the word “certified” in his, her, or its title or designation to perform prescribed health professional tasks.
- ~~2.~~ “Comprehensive plan for delivery of services” means the plan that program contractors submit to the Director as prescribed in A.R.S. § 36-2940.
- ~~3.~~ “Inspection of care” means an annual review of members and eligible persons residing in ICF MRs, behavioral health residential treatment centers, inpatient psychiatric facilities for individuals less than age of 21, and IMDs to ensure appropriate placement, utilization, and quality of care.
- ~~4-2.~~ “Quality management” is defined in 9 A.A.C. 22, Article 1.
- ~~5-3.~~ “Utilization management” is defined in 9 A.A.C. 22, Article 1.

R9-28-106. Program Contracts and Procurement Request for Proposals and Contract Process Related Definitions

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: “RFP” means request for proposal and is defined in 9 A.A.C. 22, Article 1. “Interested Party” means an actual or prospective offeror whose economic interest may be affected substantially and directly by the issuance of a request for proposals, the award of a contract, or the failure to award a contract.

ARTICLE 4. ELIGIBILITY AND ENROLLMENT

R9-28-412. Enrollment with an ALTCS Program Contractor General Enrollment

- A.** Enrollment with appropriate ALTCS program contractor. As soon as a decision is reached that a person is eligible for ALTCS benefits, a person shall be enrolled under A.R.S. § 36-2933 with either:
1. The DES Division of Developmental Disabilities if a person is developmentally disabled;
 2. An ALTCS tribal contractor if the person is a Native American living on the reservation of a tribe participating as an ALTCS tribal contractor;
 3. An ALTCS program contractor; or
 4. ALTCS fee-for-service if there is no ALTCS tribal or program contractor and the person is not developmentally disabled.
- B.** Effective date of ALTCS enrollment for a person not enrolled with an acute care health plan.
1. With the exception of prior quarter eligibility under R9-28-401(G), a person shall be enrolled with the appropriate program contractor, as determined by subsection (A), retroactive to the 1st day of the month in which the person became eligible for the ALTCS program.
 2. Prior quarter eligibility benefits, specified in R9-28-401(G), are covered by the Administration on a fee-for-service basis.
- C.** Effective date of ALTCS enrollment for a person enrolled with an acute care health plan. If a person is eligible for AHCCCS acute care program and is approved for ALTCS coverage, disenrollment with a contractor who provides services specified in A.A.C. R9-22-101 and enrollment with the ALTCS tribal or program contractor is effective on the date that the ALTCS approval is posted on the AHCCCS Prepaid Medical Management Information System (PMMIS). The contractor in which the person is enrolled is responsible for AHCCCS covered services until that date.
- D.** Notification to the ALTCS tribal or program contractor. A contractor shall be notified whenever a person is enrolled or disenrolled with that contractor. Notification shall include the person's name, identification number, and the effective date of enrollment or disenrollment.
- E.** Responsibilities of ALTCS tribal or program contractors.
1. The ALTCS program contractor is responsible for all AHCCCS covered services provided to an enrolled person until the person is disenrolled.
 2. An eligible and enrolled person shall be assigned a case manager by the ALTCS program contractor.
 3. The ALTCS tribal contractor is responsible for the coordination of services specified in the tribe's intergovernmental agreement (IGA) with the Administration.
 4. The ALTCS tribal or program contractor shall notify the Administration if an ALTCS eligible person has any change that may affect eligibility including:
 - a. Residential address;
 - b. County of residence;
 - c. Facility; or
 - d. Death.
- F.** Disenrollment.
1. An eligible person who dies shall be disenrolled from the ALTCS tribal or program contractor effective the day after the date of death.
 2. An eligible person who loses ALTCS eligibility for any other reason shall be disenrolled following the receipt of appropriate notification under R9-28-411.
- A.** Program contractors. The Administration shall enroll each ALTCS member with 1 of the following ALTCS program contractors or the FFS program as specified in A.R.S. § 36-2933:
1. An elderly and physically disabled (EPD) program contractor.
 2. The developmentally disabled (DD) program contractor.
 3. A tribal program contractor, or
 4. The AHCCCS fee-for-service program.
- B.** Annual enrollment. If an ALTCS member is elderly or physically disabled and lives in a GSA served by more than 1 program contractor, a member may change program contractors during the annual enrollment choice period or as permitted as specified in R9-28-507.

R9-28-413. Enrollment with an EPD Program Contractor

- A.** A member's enrollment with 1 EPD program contractor. The Administration shall enroll an ALTCS elderly or physically disabled member with the 1 EPD program contractor assigned to that GSA.
- B.** New member make a choice of an EPD program contractor on or after October 1, 2000. The Administration shall provide a new member an opportunity to choose an EPD program contractor, if an ALTCS member is elderly or physically disabled, and lives in a GSA served by more than 1 EPD program contractor.

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- C.** New member who makes no choice of an EPD program contractor on or after October 1, 2000. The Administration shall enroll an elderly or physically disabled new member that lives in a GSA with more than 1 EPD program contractor and who makes no choice of an EPD program contractor under the following:
1. Criteria. The Administration will prioritize enrollment based on continuity of care and enroll a member with an EPD program contractor chosen under the following criteria, including but not limited to:
 - a. A member's living arrangement, and
 - b. A member's primary care practitioner.
 2. Algorithm. The Administration shall enroll a member through an algorithm as specified in contract, when a member has a choice of more than 1 EPD program contractor and the criteria in subsection (C)(1) does not apply.
- D.** A member enrolled with an EPD program contractor prior to October 1, 2000, and is enrolled in the system after October 1, 2000.
1. Choice. The Administration shall request an existing member residing in a GSA with more than 1 EPD program contractor to choose an EPD program contractor.
 2. A member makes no choice. If a member makes no choice, the Administration will continue enrollment with a member's existing EPD program contractor. If that existing EPD program contractor is not awarded a bid, the member will be enrolled with an EPD program contractor as specified in Section (C).

R9-28-414. Enrollment with the DD Program Contractor

- A.** A member's DD program contractor. The Administration shall enroll a member with the DES Division of Developmental Disabilities as specified in A.R.S. § 36-2940, if the ALTCS member is eligible for services for the developmentally disabled services.
- B.** Indian on and off reservation. The Administration shall enroll an Indian ALTCS member who is developmentally disabled, with the DES Division of Developmental Disabilities. This enrollment shall be made whether the member is considered to be residing on or off reservation.

R9-28-415. Enrollment with a Tribal Program Contractor

- A.** On-reservation. The Administration shall enroll an Indian ALTCS member who is elderly or physically disabled with the ALTCS tribal program contractor as specified in A.R.S. § 36-2932 if a person:
1. Lives on-reservation of a tribe participating as an ALTCS tribal program contractor, or
 2. Lived on-reservation of a tribe participating as an ALTCS tribal program contractor immediately prior to placement in an off-reservation NF or alternative HCBS setting.
- B.** Off-reservation. The Administration shall enroll an Indian ALTCS member who is elderly or physically disabled with an EPD program contractor under R9-28-413, if a member lives off-reservation, and has no on-reservation status as specified in subsection (A)(2).

R9-28-416. Enrollment with the FFS Program

- A.** No tribal or EPD program contractor in GSA. The Administration shall enroll an ALTCS elderly or physically disabled member who resides in an area with no ALTCS tribal program contractor or EPD program contractor in the AHCCCS FFS program as specified in A.R.S. § 36-2945.
- B.** Prior-quarter period. The Administration shall enroll a member in ALTCS FFS program if a member is eligible during the prior-quarter period for that period as specified in A.R.S. § 36-2937.
- C.** Prior period coverage. The Administration shall enroll a member in AHCCCS fee-for-service program if a member is eligible for ALTCS services only during prior period coverage.

R9-28-417. Notification Requirements

- A.** Administration responsibilities. The Administration shall notify a member's program contractor when a member is enrolled or disenrolled from the ALTCS program. The Administration shall include the following in the notification:
1. The member's name,
 2. The member's identification number,
 3. The member's effective date of enrollment or disenrollment, and
 4. The member's share-of-cost on a monthly enrollment roster.
- B.** Program contractor's responsibilities. The program contractor shall notify the Administration if an ALTCS member has any change that may affect eligibility including but not limited to:
1. A change in residential address,
 2. A change in medical or functional condition,
 3. A change in living arrangement including:
 - a. Alternative HCBS setting,
 - b. Home,
 - c. Nursing facility, or
 - d. Other living arrangement not specified in this subsection.
 4. Change in resource or income, or

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5. Death.

R9-28 418. Disenrollment

The Administration shall disenroll an ALTCS member the last day of the month following receipt of appropriate notification under R9-28-411 except under the following situations:

1. The Administration shall disenroll an ALTCS member who dies. A member's last day of enrollment shall be the date of death.
2. The Administration may disenroll a member immediately if requested.
3. The Administration shall disenroll a member effective the date of the hearing decision if ALTCS benefits have been continued pending an eligibility appeal decision and the discontinuance is upheld, as specified in 9 A.A.C. 28, Article 8.

ARTICLE 5. PROGRAM CONTRACTOR AND PROVIDER STANDARDS

R9-28-501. General Provisions Repealed

- ~~A.~~ An eligible person or member may receive the covered services specified in Article 2 of this Chapter. A program contractor shall provide and coordinate services for a member enrolled with the program contractor. The Administration shall provide and coordinate ALTCS covered services to an eligible person or member in counties where there is no program contractor. The Department of Economic Security, in its role as a program contractor, shall provide and coordinate services to an eligible person or member with developmental disabilities, as defined in A.R.S. § 36-551.
- ~~B.~~ To participate in the ALTCS program, through a program contractor or directly through the Administration, a provider of ALTCS covered services shall be registered with the Administration.

R9-28-507. Program Contractor General Requirements

- A. To participate in the ALTCS program, through a program contractor or directly through the Administration, a provider of ALTCS-covered services shall be registered with the Administration.
- ~~A.B.~~ ALTCS program contractors shall ensure that providers of service meet the requirements of this Article.
- ~~B.C.~~ Each ALTCS program contractor shall maintain member service records. These shall include, at a minimum, a case management plan, medical records, encounter data, grievances, complaints, and service information for each ALTCS member. A program contractor shall ensure that all member service records are retained for 5 years from the date of final payment, ~~or, for~~ For records relating to costs and expenses to which the Administration has taken exception, member service records are retained for 5 years after the date of final disposition or resolution of the exception. A program contractor shall provide ALTCS member service records or copies of member service records to the Administration upon request.
- ~~C.D.~~ An ALTCS program contractor shall produce and distribute information materials to each enrolled ALTCS member or designated representative within ~~40~~ 12 days after receipt of notification of enrollment from the Administration. The information, which shall be approved by the Administration before distribution, shall include:
1. A description of all ~~available~~ covered services as specified in contract;
 2. An explanation of service limitations and exclusions;
 3. An explanation of the procedure for obtaining services, including a notice stating that the program contractor is liable only for those services authorized by an ALTCS member's case manager;
 4. An explanation of the procedure for obtaining emergency services; ~~and~~
 5. An explanation of the procedure for filing a grievance and appeal; ~~and~~
 6. An explanation of when plan changes may occur as specified in contract.
- ~~D.E.~~ An ALTCS program contractor shall submit encounter reports on services rendered to each member within 120 days after the month of service, except for services with Medicare coverage, which shall be submitted within 180 days after the month of service.
- ~~E.F.~~ An ALTCS program contractor or subcontractor shall collect the member's share of cost and report the amount collected as specified in their contract to the program contractor or Administration, if necessary.
- ~~F.G.~~ An ALTCS program contractor shall monitor a trust fund account for an institutionalized ALTCS member to verify that expenditures from the member's trust fund account are in compliance with federal regulations.
- ~~G.H.~~ A program contractor shall ensure that an institutionalized ALTCS member ~~who is~~ transferred to an acute facility for services is, whenever possible, returned to the original institution upon completion of acute care.
- ~~H.I.~~ A program contractor shall ensure that an institutionalized ALTCS member ~~who is~~ granted therapeutic leave is returned to the same bed in the original institution upon completion of the therapeutic leave.
- ~~I.J.~~ A Program contractors program contractor shall ensure that services are provided paid according to under A.A.C. R9-22-705.
- ~~K.~~ An EPD program contractor shall meet the marketing provisions in A.A.C. R9-22-505.

R9-28-508. Program Contractor Standards—Submittal of Comprehensive Plan for Delivery of Services Repealed

~~A program contractor shall annually submit a comprehensive plan for delivery of services under the ALTCS program as specified in the RFP during bid years or the RFP amendment during renewal years. The program contractor shall ensure that the~~

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comprehensive service delivery plan describes the methods and procedures to be used by the program contractor in complying with the standards defined in this Article, and in providing services to an eligible person or member.

ARTICLE 6. PROGRAM CONTRACTS AND PROCUREMENT REQUEST FOR PROPOSALS AND CONTRACT PROCESS

~~R9-28-601. General~~

- ~~A. The Administration shall establish contracts to provide services under ALTCS with qualified program contractors in conformance with the requirements in this Article.~~
- ~~B. Contracts and subcontracts entered into 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 investigation of a person who 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 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 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 interest of the state.~~
- ~~F. Failure of an offeror to supply information required by the RFP is a 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 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, as specified in RFP and contract, and as specified in 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.~~

R9-28-601. General Provisions

- A. The Administration shall follow the provisions specified in 9 A.A.C. 22 Articles 4 and 6 for ALTCS members, subject to limitations and exclusions specified in that Article, unless otherwise specified in this Chapter. All references to the Administration also shall apply to ALTCS.
- B. The Administration shall establish contracts to provide services as specified in A.R.S. § 36-2940.
- C. All contract records shall follow the provisions of A.R.S. § 36-2932 and A.A.C. R9-22-603.

~~R9-28-602. Contracts~~

~~Each contract between the Administration and a program contractor shall be in writing and contain at least the information listed:~~

- ~~1. The method and amount of compensation or other consideration to be received by the program contractor;~~
- ~~2. The name and address of the program contractor;~~
- ~~3. The population to be covered by the contract;~~
- ~~4. The amount, duration, and scope of services to be provided or for which compensation will be paid;~~
- ~~5. The term of the contract, including the beginning and ending dates, as well as methods of extension, renegotiation, and termination;~~
- ~~6. A provision that the Director or the Secretary of the U.S. Department of Health and Human Services may evaluate, through inspection or other means, the quality, appropriateness, or timeliness of services performed under the contract;~~
- ~~7. A description of the member services, medical and cost recordkeeping systems, and a provision that the Director or the Secretary of the U.S. Department of Health and Human Services may audit and inspect any of the program contractor's records that pertain to services performed and determinations of amounts payable under the contract. These records shall be maintained by the program contractor for 5 years from the date of final payment or, for records relating to costs and expenses to which the Administration has taken exception, 5 years after the date of final disposition or resolution of the exception;~~
- ~~8. A provision that the program contractor maintains all forms, records, and statistical information required by the Director for purposes of audit and program management. These materials, including files, correspondence, and~~

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related information pertaining to services rendered or claims for payments, are subject to inspection and copying by the Administration and the U.S. Department of Health and Human Services during normal business hours at the place of business of the individual or organization maintaining the materials;

9. A provision that the program contractor safeguard confidential information as required by 42 CFR 431, Subpart F;
10. The functions that may not be subcontracted;
11. A provision that the program contractor arrange for the collection from all probable sources of 1st and 3rd party liability except for uninsured and underinsured motorist insurance, 1st and 3rd party liability insurance, and tortfeasors;
12. A provision that the program contractor not bill or attempt to collect from a member for any covered service except as may be authorized by statute or this Chapter;
13. A provision that the contract not be assigned or transferred without the prior written approval of the Director;
14. The procedures for enrollment or re-enrollment of the members;
15. The procedures and criteria for terminating the contract;
16. A provision that any cost-sharing requirements imposed for services furnished to members are in accordance with 42 CFR 447.50 through 447.58 as of December 19, 1990, which 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;
17. A provision that specifies the actuarial basis for computation of capitation fees, if applicable;
18. A provision for terminating enrollment;
19. A provision for choosing a health professional;
20. A provision that the program contractor provide for an internal grievance procedure that:
 - a. Is approved in writing by the Administration;
 - b. Provides for prompt resolution; and
 - c. Ensures the participation of individuals with authority to require corrective action.
21. A provision that the program contractor maintain a comprehensive internal quality management system consistent with ALTCS rules;
22. A provision that the program contractor submit marketing plans, procedures, and materials to the Administration for approval before implementation;
23. A statement that all representations made by the program contractor or its authorized representative are truthful and complete to the best of its knowledge;
24. A provision that the program contractor is responsible for all tax obligations, Workers' Compensation Insurance, and all other applicable insurance coverage, for itself and its employees, and that the Administration has no responsibility or liability for any of the taxes or insurance coverage of the program contractor or its subcontractors;
25. A provision that the program contractor agrees to comply with all applicable federal and state statutes and rules;
26. A provision that the program contractor report each member's case management plan and any changes in a manner prescribed by the Director;
27. A provision that members needing therapeutic leave or bed hold days be returned to the same facility;
28. A provision that the program contractor submit all RFPs for services to the Administration for review and written approval before issuance;
29. A provision that the program contractor submit an annual plan in response to the annual contract renewal amendment as defined in A.R.S. § 36-2940 to the Administration;
30. An agreement to hold harmless and indemnify the state, the Director, the Administration, and members against claims, liabilities, judgments, costs, and expenses with respect to 1st and 3rd parties, which may accrue against the state, the Director, the Administration, or members, through the negligence, omission, or intentional conduct of the program contractor;
31. A provision that the program contractor establish and implement a plan for preventing fraud or abuse by members, providers, and noncontracting providers;
32. A provision that the program contractor comply with all 1st and 3rd party liability and coordination of benefits requirements established by state and federal rules;
33. A provision that the program contractor comply with financial and performance audit standards that satisfy R9-28-512 and R9-28-513;
34. A provision that the program contractor comply with inspection of care reviews;
35. A provision that the program contractor may forfeit payments if the program contractor fails to comply with the provisions of its contract or this Chapter;
36. A provision that the program contractor establish and submit to the Administration for approval a utilization control system plan that satisfies A.R.S. § 36-2947 and 9 A.A.C. 28, Article 5;
37. A provision that the program contractor develop and submit to the Administration for approval a plan for its case management system that satisfies R9-28-510;

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38. A provision that the program contractor notify the Administration if a member is no longer eligible due to death or a move out of the state;
39. A provision that the program contractor comply with the uniform accounting system established by the Administration;
40. A provision that the program contractor may forfeit funds to the Administration to recompense it for federal sanctions or penalties placed on the Administration for errors made by the program contractor;
41. A provision that the program contractor suspend or reduce services upon notification by the Administration under A.R.S. § 36-2958;
42. A provision that the program contractor provide encounter reporting in the form and format prescribed by the Administration; and
43. A provision that if, at any time, federal monies are denied, not received, or become unavailable for any reason, the operation of ALTCS is suspended.

R9-28-602. Request for Proposals (RFP); Contract Award

The ALTCS RFP for an EPD program contractor serving members who are elderly or physically disabled shall be in accordance with A.R.S. § 36-2944 and A.A.C. R9-22-604.

R9-28-603. Subcontracts

- A.** Approval. When a program contractor enters into any subcontract or amends any subcontract to provide covered services to ALTCS members, the subcontracts shall be subject to review and prior written approval by the Director. A subcontract does not alter the legal responsibility of a program contractor to the Administration to ensure that all activities under the contract are carried out.
- B.** Subcontracts. Each subcontract shall be in writing and include the requirements listed below:
 1. A provision that the subcontract be governed by, and construed in accordance with all laws, rules, and contractual obligations of the program contractor;
 2. A provision to notify the Administration in the event the agreement with the program contractor is amended or terminated;
 3. A provision that assignment or delegation of the subcontract is void unless prior written approval is obtained from the Administration;
 4. A provision to hold harmless the state, the Director, the Administration, and members in the event the program contractor cannot or will not pay for covered services performed by the provider;
 5. A provision that the subcontract and subcontract amendments are subject to review and approval by the Administration as required in this Chapter and that a subcontract or subcontract amendment may be terminated, rescinded, or canceled by the Administration for a violation of this Chapter;
 6. A provision to hold harmless and indemnify the state, the Director, the Administration, and members against claims, liabilities, judgments, costs, and expenses with respect to 1st- and 3rd- parties, which may accrue against the state, the Director, the Administration, or members through the negligence, omission, or intentional conduct of the provider;
 7. The requirements contained in R9-28-602(A)(1) through (7), (9), (10), (14), (15), (17), and (23) through (25) with the term "provider" substituted wherever the term "program contractor" is used; and
 8. A provision that members are not held liable for payment to providers in the event of the program contractor's bankruptcy, in compliance with 42 CFR 434, Subpart C, June 27, 1995, 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.

R9-28-603. Contract or Proposal Protests; Appeals

The ALTCS grievances related to contract performance shall be in accordance with A.A.C. R9-22-602, and all references in that rule shall apply to ALTCS.

R9-28-604. Request for Proposals (RFP); Contract Award

- A.** The Director may cancel or reject any or all requests for proposals in whole or in part if it is deemed by the Director to be in the best interests of the State. The reason for cancellation or rejection shall be made part of the contract file.
- B.** RFP content. The Administration shall include the following items in a RFP:
 1. The instructions and information to offerors concerning the proposal submission requirements, including:
 - a. The time and date set for the proposal submission deadline;
 - b. The address of the office at which proposals are to be received, and
 - c. The period during which the proposal shall remain open and any other special information;
 2. The service description, covered populations, geographic coverage, specifications, and a delivery or performance schedule;
 3. The contract terms and conditions, including bonding or other security requirements, if applicable;
 4. A provision for a 2nd round competitive procedure to request voluntary price reductions of bids from only those offerors that have been tentatively selected for award, if applicable;

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5. The factors to be used in the evaluation of proposals;
6. The location of and method for obtaining documents that are incorporated by reference;
7. A provision that the offeror acknowledge receipt of all RFP amendments issued by the Administration;
8. The type of services required and a description of the work involved;
9. The type of contract to be used and a copy of a proposed contract form or provisions;
10. The estimated length of time during which service will be required;
11. The minimum information that the proposal contain; and
12. A provision that the offeror certify that submission of the proposal does not involve collusion or other anticompetitive practice.

C. Evaluation of proposals:

1. As provided in the RFP, the Administration may conduct discussions with responsible offerors that submit proposals determined to be reasonably susceptible to being selected for award. The Administration shall accord offerors fair treatment with respect to any opportunity for discussion and revision of proposals, and may permit revisions after submission and before award for the purpose of obtaining best and final offers. In conducting discussions, the Administration shall not disclose any information derived from proposals submitted by competing offerors.
2. As part of its discussions, the Administration may conduct a 2nd round competitive procedure to request voluntary price reductions from offerors that have been tentatively selected for award, before the final award or rejection of proposals.
3. If discussions are conducted under subsection (C)(1), the Administration may issue a written request for best and final offers. The request shall include the date, time, and place for the submission of best and final offers. Best and final offers shall be requested only once, unless the Administration makes a determination that it is advantageous to the state to conduct further discussions or change the state's requirements. The request for best and offers shall inform the offerors that if they do not submit a notice of withdrawal or a new offer, their immediate previous offer shall be construed as their best and final offer.
4. The Administration shall base proposal evaluation on the evaluation factors in the RFP.
5. The Administration shall provide written notice to offerors whose proposals are rejected. The rejection notice shall be made part of the contract file and public record.

D. Contract award:

1. In competitive counties, the Administration shall use the evaluation factors in the RFP to assess each proposal, and award a contract to the responsible and responsive offeror determined to be most advantageous to the state.
2. Counties required by law to be program contractors, and counties that have exercised the right of 1st refusal, shall submit to the Administration a satisfactory comprehensive plan for delivery of services in response to the RFP.
3. The contract file shall contain the basis on which the award is made. A contract shall not be awarded to any program contractor that will cause the System to lose any federal monies to which it is otherwise entitled.

R9-28-604. Contracts

All ALTCS contracts shall meet the requirements in accordance with A.R.S. §§ 36-2932 and 36-2944 and A.A.C. R9-22-402. In addition, the Administration may extend existing contracts as specified in the contract.

R9-28-605. Contract or Proposal Protests; Appeals

A. Resolution of proposal protests. The procurement officer issuing a RFP under R9-28-604 shall have the authority to resolve proposal protests. Appeal from the decision of the procurement officer may be made to the Director under subsection (G). This Section does not apply to contracting between the Administration and the counties or the Arizona Department of Economic Security under A.R.S. § 36-2940.

B. Filing of a protest:

1. Any interested party may protest a RFP issued by the Administration, a proposed award, or an award of a contract by filing a protest with the procurement officer. "Interested party" means an actual or prospective offeror whose economic interest may be affected substantially and directly by the issuance of a request for proposals, the award of a contract, or the failure to award a contract. This Section does not apply to grievances related to contract performance. Grievances related to contract performance are governed by R9-28-803.
2. Content of protest. A protest shall be in writing and include the following information:
 - a. The name, address, and telephone number of the protester;
 - b. The signature of the protester or its representative;
 - c. The request for proposals or contract number;
 - d. The legal and factual grounds of the protest, including copies of relevant documents; and
 - e. The relief requested.

C. Time for filing protests:

1. Protests concerning improprieties in a request for proposals. Protests based upon alleged improprieties in the request for proposals that are apparent before the submission deadline for initial proposals shall be filed before that submission deadline.

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- ~~2. In cases other than those covered in subsection (C)(1), protests shall be filed within 10 days after the protester knows or should have known the basis of the protest, whichever is earlier.~~
- ~~**D.** Stay of procurements during the protest. If a protest is filed before the award of a contract, the award may be made, unless the Director makes a written determination that there is a reasonable probability the protest will be sustained and the stay of award of the contract is not contrary to the best interests of the state.~~
- ~~**E.** Decision by the procurement officer:
 1. The procurement officer shall issue a written decision within 14 days after a protest has been filed. The decision shall contain an explanation of the basis of the decision.
 2. Methods. The procurement officer shall furnish a copy of the decision to the protester, by certified mail, return receipt requested, or by any other method that provides evidence of receipt.
 3. The time limit for decisions in subsection (E)(1) may be extended by the Director for a reasonable time not to exceed 30 days. The procurement officer shall notify the protester in writing that the time for issuance of a decision has been extended and the date by which a decision will be issued.
 4. If the procurement officer fails to issue a decision within the time limit in subsections (E)(1) or (E)(3), the protester may proceed as if the procurement officer had issued a decision adverse to the protester.~~
- ~~**F.** Remedies:
 1. If the procurement officer sustains the protest in whole or part and determines that the request for proposals, proposed contract award, or contract award does not comply with applicable statutes and rules, the officer shall implement an appropriate remedy.
 2. Circumstances. In determining an appropriate remedy, the procurement officer shall consider all of the circumstances surrounding the procurement or proposed procurement including:
 - a. The seriousness of the procurement deficiency;
 - b. Degree of prejudice to other interested parties or the integrity of the procurement system;
 - c. Good faith of the parties;
 - d. Extent of performance;
 - e. Costs to the state;
 - f. Urgency of the procurement, and
 - g. Impact of the relief on the Administration's mission.
 3. Remedy. A remedy shall be deemed appropriate if it includes 1 or more of the following:
 - a. Decline to exercise an option to renew under the contract;
 - b. Terminate the contract;
 - c. Reissue the request for proposals;
 - d. Issue a new request for proposals; or
 - e. Award a contract consistent with procurement statutes and rules.~~
- ~~**G.** Appeals to the Director:
 1. An appeal from a decision entered or deemed to be entered by the procurement officer shall be filed with the Director within 5 days from the date the decision is received. The appellant shall also file a copy of the appeal with the procurement officer.
 2. Content of appeal. The appeal shall contain:
 - a. The information in subsection (B);
 - b. A copy of the decision of the procurement officer;
 - c. The precise factual or legal error in the decision of the procurement officer from which the appeal is taken; and
 - d. A request for hearing unless the appellant desires that the Director's decision be based solely upon the contract record as it then exists.~~
- ~~**H.** Stay of procurement during appeal. If a protest is filed before an award of contract and the award of the contract is stayed by the procurement officer under subsection (D), the filing of an appeal shall automatically continue the stay, unless the Director makes a written determination that award of the contract without delay is necessary to protect substantial interests of the state.~~
- ~~**I.** Dismissal before hearing. The Director shall dismiss, upon a written determination, an appeal before scheduling a hearing if:
 1. The appeal does not state a valid basis for protest;
 2. The appeal is untimely under subsection (G); or
 3. The appeal is moot.~~
- ~~**J.** Hearing. Hearings requested under this rule shall be conducted as described in Article 8.~~

R9-28-605. Subcontracts

All ALTCS subcontracts shall be entered in accordance with A.R.S. § 36-2932 and A.A.C. R9-22-403, and all references in that rule shall apply to ALTCS.

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~~R9-28-606. Contract Amendments; Mergers; Reorganizations~~

- ~~A. If there is a proposed merger, reorganization, or change in ownership of a program contractor, the program contractor shall submit details of the proposed merger, reorganization, or change in ownership to the Administration for prior written approval by the Director. Additionally, if there is a proposed merger, reorganization, or change in ownership of a provider (A.R.S. §§ 36-2931 and 36-2901) that is related to or affiliated with the program contractor, the program contractor shall submit the details of the proposed merger, reorganization, or change in ownership to the Administration for prior written approval by the Director.~~
- ~~B. In those counties where the county is not required by law to be the program contractor, the Administration shall deem amendments to extend or modify the contract to have been accepted 60 days from the date of mailing by the Administration, even if the amendment has not been signed by the program contractor. If, within the 60 days, the program contractor notifies the Administration in writing that it refuses to sign the amendment, the Administration may initiate contract termination proceedings.~~
- ~~C. For counties and state agencies required by law to be a program contractor, the Administration shall deem amendments to extend or modify the contract to have been accepted 60 days from the date of mailing by the Administration, even if the amendment has not been signed by the mandated program contractor. If, within the 60 days, the program contractor notifies the Administration in writing that it refuses to sign the amendment, the disagreement will be considered a grievance and administered in accordance with Article 8.~~

R9-28-606. Specialty Contracts

The Director shall negotiate specialty contracts under A.A.C. R9-22-716.

~~R9-28-607. Contract Sanctions~~

- ~~A. General. Grounds for suspending, denying, refusing, or failing to renew, or terminating a contract or subcontract, or imposing monetary sanctions shall include, but not be limited to, the reasons listed below:~~
- ~~1. Submitting any misleading, false, or fraudulent information with a claim for payment;~~
 - ~~2. Submitting false information for the purpose of obtaining greater compensation than that to which the program contractor or provider is legally entitled;~~
 - ~~3. Submitting inaccurate or incomplete representations in a proposal;~~
 - ~~4. Failing to disclose or make available to the Administration, or its authorized representatives, records of services provided to eligible persons or members and records of payment;~~
 - ~~5. Submitting false information for the purpose of obtaining authorization to provide services requiring authorization;~~
 - ~~6. Over providing services or delivering unnecessary services by inducing or otherwise causing an eligible person or member to receive services or items not required by the eligible person or member or by directly furnishing the services or items;~~
 - ~~7. Providing any service in violation of, not authorized by, or which is otherwise precluded by law;~~
 - ~~8. Breaching terms or conditions of a contract;~~
 - ~~9. Having a member of the board, administrator, manager, or participating physician convicted of a felony;~~
 - ~~10. Giving or accepting a rebate, kickback, fee, portion of a fee, or charge for referral of an eligible person or member;~~
 - ~~11. Violating any of the provisions of A.R.S. Title 36, Chapter 29; Title XIX of the Social Security Act, as amended; or any state or federal rule promulgated thereunder;~~
 - ~~12. Demonstrating an inability to perform contract obligations;~~
 - ~~13. Having substantially breached a previous or existing contract agreement with another state agency;~~
 - ~~14. Being previously found ineligible to participate in a federal or state assembled medical program by the Administration or any other state or federal governmental agency;~~
 - ~~15. Failing to reimburse providers for medically necessary institutional and HCBS within 30 days of the receipt of valid, clean claims, unless a different period is specified by contract, or failing to ensure that future claims will be timely paid;~~
 - ~~16. Failing to reimburse providers for medically necessary acute health care services within 60 days of receipt of valid, clean claims, unless a different period is specified by contract, or failing to ensure that future claims will be timely paid;~~
 - ~~17. Failing to reimburse providers for emergency medical services within 60 days of receipt of valid, clean claims, or failing to ensure that future claims will be timely paid;~~
 - ~~18. Failing to provide and maintain quality health care service to eligible persons and members, as determined by standards established by state and federal statutes;~~
 - ~~19. Endangering the health, safety, or well being of an eligible person or member, either by omission or commission.~~
 - ~~20. Becoming insolvent, filing proceedings in bankruptcy or reorganization under the United States Code, or assigning rights or obligations under the contract without the prior written consent of the Administration;~~
 - ~~21. Failing or refusing to comply with the reporting or disclosure requirements;~~
 - ~~22. Committing fraud or abuse or having a provider that commits fraud or abuse;~~

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23. ~~Having any person who has an ownership or controlling interest in the program contractor or provider, or is an agent or managing employee of the program contractor or provider convicted of a criminal offense related to involvement in any program under Medicare, Medicaid, or Title XX of the Social Security Act;~~
 24. ~~Failing to conform to and abide by the applicable laws or rules of the state of Arizona, the United States Federal Government, and the Administration;~~
 25. ~~Failing to comply with the approved utilization review plan;~~
 26. ~~Having a suspended or revoked professional license;~~
- B.** ~~Monetary sanctions. Monetary sanctions are imposed as follows:~~
1. ~~Except as provided in subsection (B)(2), the Administration shall withhold a percentage of a program contractor's capitation payment, commensurate with the:~~
 - a. ~~Nature;~~
 - b. ~~Term, and~~
 - c. ~~Severity of the violation;~~
 2. ~~If a program contractor provides inappropriate services to an eligible person or member, the Administration shall withhold an amount equal to the cost of the services from the program contractor's capitation payment;~~
 3. ~~The Administration shall provide a written notice to a program contractor specifying the monetary sanction, grounds for the sanction, and either the length of suspension of payment or the amount of payment to be withheld; and~~
 4. ~~Nothing contained in this Section shall be construed to prevent the Administration from imposing sanctions provided for by contract.~~
- C.** ~~Termination or suspension of a contract without cause. Termination or suspension of a contract, in whole or in part, without cause shall be effective 30 days after the Administration mails written notice of termination or suspension by certified mail, return receipt requested, to a program contractor.~~
- D.** ~~The Administration shall apply remedies for nursing facilities that do not meet requirements of participation in accordance with Section 1919(h) of the Social Security Act, effective December 19, 1989, and 42 CFR 488, Subpart F, September 28, 1995, incorporated by reference and on file with the Administration and the Office of the Secretary of State. These incorporations by reference contain no future editions or amendments.~~
- E.** ~~Notification. The Director shall provide written notice of intent to suspend, refuse to renew, or terminate a contract or subcontract. The notice shall be provided to affected principals, enrolled members, and other interested parties and shall include the effective date of, and reason for, the action.~~

R9-28-607. Contract Amendments; Mergers; Reorganizations

- A.** Any amendments, mergers or reorganizations regarding ALTCS shall be in accordance with A.A.C. R9-22-404.
- B.** If a program contractor or DES Division of Developmental Disabilities notifies the Administration in writing that it refuses to sign an amendment within 60 days from the date the Administration mails the amendment, the Administration may initiate contract termination proceedings for the program contractor. For DES Division of Developmental Disabilities the refusal will be considered a grievance and administered under 9 A.A.C. 28, Article 8.
- C.** If the Administration does not receive a signed amendment or a written refusal to sign the amendment by the 60th day from the date the Administration mails the amendment, the Administration shall consider the amendment as accepted by the program contractor or DES Division of Developmental Disabilities.

R9-28-608. Contract Suspension, Denial, Modification, Termination, or Sanction

- A.** The Administration shall follow the suspension, denial, modification, termination, or sanction provisions in accordance with A.A.C. R9-22-405 and R9-22-406, and all references in that rule.
- B.** The Administration shall apply remedies for a NF that does not meet requirements of participation under 42 U.S.C. 1396r(h) effective August 5, 1997, and 42 CFR 488, Subpart F, effective May 17, 1999, incorporated by reference and on file with the Administration and the Office of the Secretary of State. These incorporations by reference contain no future editions or amendments.

R9-28-609. Specialty contracts Repealed

~~The Director shall negotiate specialty contracts pursuant to A.A.C. R9-22-716.~~

R9-28-610. Hospital Rate Negotiations Repealed

- A.** ~~Program contractors that negotiate with hospitals for inpatient services shall reimburse hospitals for patient care in accordance with R9-22-715(A).~~
- B.** ~~If the Administration negotiates or contracts with hospitals on behalf of program contractors for discounted hospital rates, the negotiated discounted rates shall be included in contracts between program contractors and hospitals when in the best interest of the state.~~
- C.** ~~The Director shall apportion any cost avoidance in the hospital component of provider capitation rates between the Administration and program contractor. The Administration's portion of the cost avoidance shall be reflected in reduced capitation rates paid to program contractors.~~

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-28-713. Hospital Rate Negotiations

- A.** A program contractor that negotiates with a hospital for inpatient services shall reimburse hospitals for a member's care under A.A.C. R9-22-715(A).
- B.** If the Administration negotiates or contracts with hospitals on behalf of program contractors for discounted hospital rates, the negotiated discounted rates shall be included in contracts between a program contractor and a hospital when in the best interest of the state.
- C.** The Director shall apportion any cost avoidance in the hospital component of provider capitation rates between the Administration and program contractor. The Administration's portion of the cost avoidance shall be reflected in reduced capitation rates paid to a program contractor.

NOTICE OF FINAL RULEMAKING

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

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

PREAMBLE

- | | |
|------------------------------------------|-----------------------------------|
| 1. Sections Affected
R19-3-203 | Rulemaking Action
Amend |
|------------------------------------------|-----------------------------------|
- 2. The specific authority for rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. §5-504(B).
 - 3. The effective date of the rules:**
February 10, 2000
 - 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 5 A.A.R. 2390, July 23, 1999
Notice of Proposed Rulemaking: 5 A.A.R. 2427, July 30, 1999
 - 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Mr. Geoffrey Gonsler, Executive Director
Address: 4740 E. University
Phoenix, AZ 85034
Telephone: (602) 921-4514
Fax: (602) 921-4488
 - 6. An explanation of the rule, including the agency's reason for initiating the rule:**
A.A.C. R19-3-203 is required by A.R.S. § 5-504 and prescribes the requirements and procedures for Arizona retailer businesses to obtain a license to sell Lottery game products, display promotional materials, requirements for the sale and payment of instant games and on-line games, and retailer conduct. The rule establishes procedures for license revocation, suspension, or renewal; hearing procedures; and Lottery-conducted compliance investigations. This amendment prohibits Lottery retailers from selling a Lottery ticket to a person who uses a public assistance voucher or an electronic benefits transfer card to purchase the ticket in accordance with A.R.S. § 5-504(B)(4).
 - 7. A reference to any study that the agency relied on in its evaluation of or justification for the 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
 - 8. 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
 - 9. The summary of the economic, small business, and consumer impact:**
A. The Arizona State Lottery.

Costs to the Lottery for this rule are included in the agency's appropriated budget. Retailer-related costs include background investigations for licensing, delivery of tickets, supplies, point-of-sale promotional items, installation of telephone lines for the on-line terminal and monthly communication fees for each retailer selling on-line games, and

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administrative costs collecting sales revenues and providing customer service to retailers. Cost of a licensing investigation, which includes an ADA (Americans with Disabilities Act) on-site inspection, is approximately \$200 per location. Initial telecommunication line installation for an on-line retailer terminal is approximately \$400 and the average monthly line charge is \$50. The Lottery has approximately 2,400 on-line retailers. The Lottery paid \$1.9 million in telecommunication line-charges last fiscal year.

B. Political Subdivisions.

Political subdivisions of this state are not directly affected by the retailer 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 rule provides for licensing requirements, retailer conduct in selling and redeeming Lottery tickets, and compensation paid to retailers for Lottery services. The Lottery paid retailers over \$16 million in commissions last fiscal year.

D. Private and Public Employment.

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

E. Consumers and the Public.

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

F. State Revenues.

License fees and revenue generated by the sale of Lottery game tickets are distributed to those programs funded with Lottery monies. The Lottery collected \$7,200 in retailer license fees in fiscal year 1998. Transfers to State of Arizona funds were in excess of \$78 million.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Except for technical and grammatical changes suggested by Governor's Regulatory Review Council staff, the text of R19-3-203, as adopted, is the same as the text of the proposed rule.

11. A summary of the principal comments and the agency response to them:

No comments were received by the agency.

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

Not applicable

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

Not applicable

14. Was this rule previously adopted in an emergency rule?

No

15. The full text of the rules follows:

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

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

ARTICLE 2. RETAILERS

Section

R19-3-203. Revocation, Suspension, or Renewal Denial of Retailer's License

ARTICLE 2. RETAILERS

R19-3-203. Revocation, Suspension, or Renewal Denial of Retailer's License

A. A retailer's license may be revoked, suspended, or denied renewal by the Director for any of the following reasons:

1. The retailer violates a provision of the Act or this Chapter;
2. The retailer knowingly sells a ticket to a person less than 18 years old;
3. The retailer knowingly sells a ticket to a person using a public assistance voucher or an electronic benefits transfer card issued by any public entity to purchase the ticket;
- 4 ~~3~~. The retailer's average weekly sales of tickets for the:
 - a. Instant games are less than 250 tickets per week for the preceding quarterly period; and
 - b. On-line games are less than 400 tickets per week for the preceding quarterly period;
- 5 ~~4~~. The retailer commits an act that impairs the retailer's reputation for honesty and integrity;
- 6 ~~5~~. The retailer does not make purchase or redemption of lottery tickets convenient and readily accessible to the public;

- ~~7~~ 6. The retailer provides to the Lottery a statement, representation, warranty, or certificate that the Lottery determines is false, incorrect, or incomplete;
- ~~8~~ 7. The retailer has 2 payments returned to the Lottery for insufficient funds in a 12-month period which is caused by the retailer's actions;
- ~~9~~ 8. The retailer becomes insolvent, unable or unwilling to pay its debts, or is declared bankrupt;
- ~~10~~ 9. The retailer or an officer or controlling agent of the retailer:
- Is convicted of a felony, felony theft that is designated as a misdemeanor, or a crime involving gambling or fraudulent schemes and artifices; or
 - Is the subject of ~~an~~ a civil order, judgment, or decree of a federal or state authority related to misrepresentation, consumer fraud, or other fraud;
- ~~11~~ 10. Facts are discovered which, if known at the time the retailer's license was issued or renewed, would have been grounds to deny licensure;
- ~~12~~ 11. The retailer adds a minor as an owner, partner, or officer of the business; or
- ~~13~~ 12. The retailer or an officer or employee of the retailer sells a ticket or pays a prize to oneself.
- B.** The Director may on the Director's own motion, and shall on the written complaint of any person, investigate ~~the acts an act of a licensee retailer. and~~ The Director may temporarily suspend a license, ~~with or without imposing and impose~~ specific conditions on a retailer during the suspension or permanently revoke a license issued under this Article if the ~~licensee retailer~~ retailer is found to have committed an act or omission listed in subsection (A).
- C.** Procedure for hearings. A retailer may request a hearing regarding a revocation, suspension, or license denial. The hearing shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.
- D.** Procedure for filing an appeal with the Commission:
- A person who wishes to appeal a final decision of the Director shall file an appeal with the Lottery Commission within ~~15~~ 30 days of receipt of the Director's decision. The filed appeal shall contain the following:
 - A copy of the Director's decision; and
 - The alleged factual or legal error in the decision of the Director from which the appeal is taken.
 - A person appealing the decision of the Director may file a written brief stating the position on the appeal within ~~15~~ 30 days after receipt of the decision being appealed.
 - The Commission may provide for oral argument.
 - The Commission shall make its ruling on the appeal on the record.
- E.** A final decision of the Commission is subject to judicial review under A.R.S., Title 41, Chapter 6, Article 10 ~~by any party to the action.~~
- F.** ~~Termination~~ Revocation of a retailer's license.
- A retailer who receives a notice of license ~~termination~~ revocation shall:
 - Immediately cease all sales of lottery products, and
 - Surrender the retailer's license and all other lottery property and products upon request by the Director's representative.
 - If the retailer fails to settle the financial account and surrender the license and all other lottery property and products, the Director ~~shall take steps to impose the penalties and exercise the enforcement powers provided in the Act and this Article~~ is authorized to take all steps allowed by law to secure payment and return of lottery products and property.