

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 2. ADMINISTRATION

#### CHAPTER 5. DEPARTMENT OF ADMINISTRATION PERSONNEL ADMINISTRATION

[R06-435]

#### PREAMBLE

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R2-5-902                           | Amend                           |
- 2. The statutory authority for the rulemaking, including both the authorizing statutes (general) and the implementing statutes (specific):**  
Authorizing statutes: A.R.S. § 41-763(6)  
Implementing Statutes: A.R.S. §§ 41-763.04 and 41-783(14)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 11 A.A.R. 5411, December 23, 2005
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- |            |  |
|------------|--|
| Name:      | Christine Bronson, Human Resources Consultant  |
| Address:   | Arizona Department of Administration<br>Human Resources Division<br>100 N. 15th Ave., Suite 261<br>Phoenix, AZ 85007 |
| Telephone: | (602) 364-1693   |
| Fax:       | (602) 542-2796   |
| E-mail:    | Christine.Bronson@azdoa.gov  |
- 5. An explanation of the rule, including the agency's reasons for initiating the rulemaking:**  
R2-5-902 contains procedures for conducting a reduction in force, including the reasons for a reduction, order of separation of non-permanent status employees, calculation of retention points, resolution of ties, offer of position, and employee requests for review. The Department is amending the rule to be consistent with A.R.S. § 41-763.04, which requires that the procedures provide for a reduction in force to be limited to a single agency. This rulemaking also clarifies a former employee's eligibility for reemployment, updates the calculation of retention points to the 5-point rating scale for state service employee performance evaluations, adds service while on special detail as a period of service for the purpose of calculating retention points for length of service, and adds alternative job offers in lieu of an employee being reduced in grade as the result of a reduction in force. The amended rule will also conform to current rulemaking format and style requirements.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
None
- 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

Notices of Proposed Rulemaking

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

This rule does not directly impact small businesses or consumers. The economic impact would be on any agency facing the need to reduce the workforce for any of the reasons outlined in R2-5-902(A)(1). The type and extent of an economic impact can be determined only when a specific reduction is planned and cannot be pre-determined.

**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: Christine Bronson, Human Resources Consultant  
Address: Arizona Department of Administration  
Human Resources Division  
100 N. 15th Ave., Suite 261  
Phoenix, AZ 85007  
Telephone: (602) 364-1693  
Fax: (602) 542-2796  
E-mail: Christine.Bronson@azdoa.gov

**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:**

An oral proceeding is not scheduled for this proposed rule. To request an oral proceeding or to submit written comments, please contact the human resources consultant listed in item #4 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except Arizona legal holidays, prior to the close of record.

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

None

**12. Any material incorporated by reference and its location in the rule:**

None

**13. The full text of the rule follows:**

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION  
PERSONNEL ADMINISTRATION

ARTICLE 9. SEPARATIONS

Section  
R2-5-902. Reduction in Force

ARTICLE 9. SEPARATIONS

**R2-5-902. Reduction in Force**

**A. General.**

1. An agency head shall submit to the Director a proposal to conduct a reduction in force ~~when if required by~~ for one or more of the following reasons:
  - a. ~~A lack~~ Lack of funds or work;
  - b. ~~The abolition~~ Abolition of one or more positions;
  - c. ~~A material~~ Material change in job duties or agency organization;
  - d. ~~The introduction~~ Introduction of a cost reduction initiative;
  - e. ~~A Lack of need in a receiving agency has no need~~ for the position or positions transferred under R2-5-208(B)(4)(a); or
  - f. ~~A lack~~ Lack of a vacant position to revert an employee on promotional probation.
2. ~~The Director may limit a reduction in force to a single agency. An agency may limit a reduction in force to an organizational unit or agency operations within a geographic area.~~
- 3-2. An agency head shall submit ~~an agency~~ the proposal for a reduction in force at least 30 working days before the proposed effective date of the ~~proposed~~ reduction in force. ~~The proposal shall indicate the reason for the reduction, the affected organizational unit, the geographical area, if applicable, and the effective date of the reduction. If circumstances beyond the agency's control do not permit at least 30 working days' notice, the agency head shall provide notice~~ submit the proposal as soon as ~~it~~ the agency head is aware of the necessity for a reduction in force.

3. An agency head shall include all of the following in the proposal for a reduction in force:
  - a. The reason for the reduction in force;
  - b. The proposed scope of the reduction in force, which shall be limited to either:
    - i. The agency;
    - ii. An organizational unit of the agency; or
    - iii. Agency operations within a geographic area;
  - c. Each specific state service position proposed for elimination and an organization chart identifying each position;  
and
  - d. The proposed effective date of the reduction in force.
4. An agency head shall submit a proposal for a voluntary separation program in accordance with R2-5-904 at the same time the agency head submits a reduction in force proposal to the Director.
5. ~~If an agency abolishes a program or an institution permanently terminates operation by phasing out operations over a minimum period of three months, the head of the agency considering reduction in force activity shall develop and communicate to affected employees the agency's voluntary separation program plan permitting staggered phase-out and transfer, reduction, or separation of personnel as appropriate.~~
- ~~6-5.~~ An agency head shall submit a proposal that is consistent with A.R.S. §§ 41-763.03 and § 41-763.04, this Section, and R2-5-904.
6. An agency head shall not approve a personnel action that would have an effect on the reduction in force after the agency head has submitted a proposal for a reduction in force.
7. An agency head shall not re-establish a position that was abolished as a result of a reduction in force for two years if the position was filled when the reduction in force occurred, unless the position was abolished due to fiscal constraints, legislative action, or court order.
- ~~7-8.~~ A permanent status employee separated as a result of a reduction in force is entitled, upon written application, to be considered for reemployment in the class held ~~at the time of~~ immediately prior to the separation; and for all classes at the same or lower grade for which the former employee is qualified as provided in Article 2 of these rules. The employee shall be given first consideration for ~~a position in the class~~ reemployment in the agency from which the employee was separated based upon prior seniority and performance, ~~for one year from the date of separation.~~
- ~~8-9.~~ A permanent status employee reduced in pay grade as a result of a reduction in force is entitled to be considered for repromotion to the class held immediately prior to the reduction in force or any intervening class as provided in Article 2 of these rules.
- B. Administration of reduction in force. The Director shall review and approve, ~~or~~ modify or deny a reduction in force and voluntary separation program within 20 working days of receipt. ~~Except as provided in subsection (A)(5), the~~ The Director shall administer a reduction in force in the following manner:
  1. An agency head shall separate an employee who is not a permanent status employee in the class affected by the reduction in force in the following order before any reduction in force action is taken affecting a permanent status employee, provided the separation of the employee will accomplish, or assist in accomplishing, the purpose of the reduction in force:
    - a. Provisional employee;
    - b. Clerical pool employee;
    - c. Temporary employee;
    - ~~d. Seasonal employee;~~
    - ~~e-d.~~ Original probationary limited employee;
    - ~~f-e.~~ Original probationary employee; and
    - ~~g-f.~~ Limited appointment employee.
  2. An agency head shall use retention points to identify a permanent status employee within a class series affected by a reduction in force for retention in the employee's current position, transfer, reduction, or separation based on the employee's relative standing on the retention point list.
  3. An agency head shall base retention points upon performance and length of state service calculated in accordance with the instructions in subsections (C), (D), and (E). ~~Service in a position covered under A.R.S. Title 41, Chapter 4 shall be considered state service.~~
  4. An employee on promotional probation or detail to special duty shall compete for retention ~~only~~ in the employee's permanent status class series.
  5. An employee in an underfill position shall compete for retention ~~only~~ in the employee's permanent status class series.
  6. A permanent part-time employee shall compete for retention ~~only~~ against another permanent part-time employee in the same class series.
- C. Calculation of retention points for performance. An agency head shall average the scores of a maximum of the three most recent performance evaluations in the 24 months concluded before the date of request proposal for ~~the~~ a reduction in force as the basis for determining retention points. An agency head shall resolve any grievance on the most recent performance evaluation before computing retention points. An agency head using an approved alternate employee performance evalu-

**Notices of Proposed Rulemaking**

ation system shall convert the performance evaluation scores of an affected employee to the ~~8-point~~ 5-point scale established by the Director before calculating retention points. If an employee has not had a performance evaluation in the past 24 months, the employee shall receive ~~30~~ 24 retention points. An employee shall receive retention points for performance as follows:

1. A score of ~~"8"~~ "5.00" receives 60 retention points.
2. A score of ~~"7"~~ "4.33" but less than ~~"8"~~ "5.00" receives 48 retention points.
3. A score of ~~"6"~~ "3.67" but less than ~~"7"~~ "4.33" receives 36 retention points.
4. A score of ~~"5"~~ "3.00" but less than ~~"6"~~ "3.67" receives 24 retention points.
5. A score of ~~"4"~~ "2.50" but less than ~~"5"~~ "3.00" receives 12 retention points.
6. A score of ~~"3"~~ "2.00" but less than ~~"4"~~ "2.50" receives 1 retention point.
7. A score of less than ~~"3"~~ "2.00" receives 0 retention points, and the employee shall be placed at the bottom of a retention list.

**D.** Calculation of retention points for length of service. Each permanent status employee shall ~~earn~~ receive 1 retention point for each credited month of state service in the employee's current class series during the 60 months before the proposed effective date of the reduction in force ~~implementation date~~ as follows:

1. ~~To receive credit for a month, Except as provided in subsection (D)(3), an employee shall receive credit for a month of state service if the employee must have been was~~ in a pay status for at least 1/2 of the employee's working days in that month.
2. ~~A period of service as a state service employee before a separation shall count only if the separation was less than two years and was not the result of disciplinary action.~~
- 2.3. ~~The following periods during the 60 months before the reduction in force shall count: An employee shall receive credit for the periods listed below, provided the employee meets the pay status requirement under subsection (D)(1):~~
  - a. State service as a provisional, ~~seasonal~~, temporary, ~~or limited, or clerical pool~~ employee that is credited toward satisfying a subsequent original probationary requirement;
  - b. ~~Military leave with or without pay;~~
  - e.b. Service on mobility assignment;
  - c. Service on special detail;
  - d. Continuous uninterrupted service in a position that is transferred to state service by legislative action or otherwise from a budget unit of the state; and
  - e. ~~Family and Medical Leave Act leave with or without pay. Service as a state service employee before a separation only if the separation was less than two years and was not the result of a disciplinary action.~~
3. An employee shall receive credit for the periods listed below, regardless of the employee's pay status:
  - a. Military leave; and
  - b. Family and Medical Leave Act leave.

**E.** Resolution of ties. An agency head shall ~~break~~ break ~~ties~~ any tie in total retention points in the following manner and order:

1. The employee with the highest average performance evaluation during the past 24 months shall be given preference.
2. If a tie continues to exist, the employee with the highest total number of retention points for state service shall be given preference.
3. If a tie continues to exist, ~~an~~ the agency head shall retain the employee with the earlier state service hire date of record.
4. If a tie continues to exist, ~~an~~ the agency head shall break the tie by lot.

**F.** Offer of position.

1. An agency head shall ~~give~~ provide written notice at least five working days in advance to each employee identified for transfer, reduction, or separation. If circumstances beyond the agency's control do not permit at least five working days' notice, the agency head shall provide notice as soon as ~~it~~ the agency head is aware of the necessity to transfer, reduce, or separate the employee.
2. The notice shall include:
  - a. The reason for and effective date of the action;
  - b. ~~The~~ A job offer, if any, including the salary, location of the position, and supervisor's name;
  - c. The availability of reduction in force procedures and records for review, with references to relevant statutes and rules;
  - d. The employee's right to request a review of the ~~action~~ determination as provided in subsection (G); and
  - e. The employee's reemployment ~~or~~ repromotion rights, ~~if~~ as applicable.
3. An agency head shall make a position offer to an employee identified for transfer, reduction, or separation with the highest number of points on the retention point list in descending order as follows:
  - a. ~~Retention in the current position.~~
  - b.a. If a position exists and an employee possesses the required knowledge, skill, and ability for the class, an agency head shall make the single best offer, in terms of pay grade, within the agency of:
    - i. A permanent position at the same or lower pay grade in the same class series as the employee's present per-

- manent status position;
- ii. A permanent position at the same or lower pay grade in the class series in which the employee has held permanent status during the past five years; or
- iii. If both positions described in subsections (3)(a)(i) and (3)(~~b~~)(a)(ii) are available, the position ~~covered by~~ described in (3)(a)(i).
- b. If the single best offer described in subsection (3)(a) is a position at a lower grade, the agency head shall provide the employee the option of accepting:
  - i. A vacant, funded, permanent position at the employee's present pay grade in a class series in which the employee has never held permanent status for which the employee is qualified; or,
  - ii. A vacant limited, temporary, or part-time position at the employee's present pay grade for which the employee is qualified.
- 4. An employee shall possess the knowledge, skill, and ability required when the position was last filled, unless the Director grants an exception.
- 5. Any job offer shall contain a limit time period of not less than three working days in which the employee may accept the offer. Failure of an employee to reply in writing within the stated time limit period, or failure to accept a the job offer, shall constitute a resignation. An employee may accept a job offer and retain the right to request a review of the reduction in force determination.
- 6. If no position exists, ~~an~~ the agency head shall separate an employee without prejudice.
- G. Employee request for review.
  - 1. An employee may request a review of the following determinations made during a reduction in force:
    - a. Calculation of the employee's retention points;
    - b. A job offer resulting in the employee's transfer or reduction;
    - c. Notification of the employee's separation.
  - 2. Within three working days of receipt of a reduction in force determination notice, unless a longer time period is authorized by an agency head, an employee may submit a written request to the agency head for a review of the procedure resulting in the employee's transfer, reduction, or separation due to a reduction in force determination. The request for review shall be based upon an error, contain specific information concerning the error involved, and include a proposed resolution of the problem.
  - 3. The agency head shall review the request and respond to the employee within five working days after receipt of the request.
  - ~~2-4.~~ An agency head may postpone any portion of a reduction in force until completion of an employee requested review.

## NOTICE OF PROPOSED RULEMAKING

### TITLE 6. ECONOMIC SECURITY

#### CHAPTER 13. DEPARTMENT OF ECONOMIC SECURITY STATE ASSISTANCE PROGRAMS

[R06-436]

#### PREAMBLE

#### 1. Sections Affected

Article I  
R6-13-101  
R6-13-102  
R6-13-103  
R6-13-104  
R6-13-105  
R6-13-106  
R6-13-107  
R6-13-108  
R6-13-109  
R6-13-110  
R6-13-111  
R6-13-112  
R6-13-113  
R6-13-114  
R6-13-115  
R6-13-116

#### Rulemaking Action

New Article  
New Section  
New Section

Notices of Proposed Rulemaking

R6-13-117	New Section
R6-13-118	New Section
R6-13-119	New Section
R6-13-120	New Section
R6-13-121	New Section
R6-13-122	New Section
Article 9	Repeal
R6-13-901	Repeal
R6-13-902	Repeal
R6-13-903	Repeal
R6-13-904	Repeal
R6-13-905	Repeal
R6-13-906	Repeal
R6-13-907	Repeal
R6-13-908	Repeal
R6-13-909	Repeal
R6-13-910	Repeal
R6-13-911	Repeal
R6-13-912	Repeal
R6-13-913	Repeal
R6-13-914	Repeal
R6-13-915	Repeal
R6-13-916	Repeal
R6-13-917	Repeal
R6-13-918	Repeal
R6-13-919	Repeal
R6-13-920	Repeal
R6-13-921	Repeal
R6-13-922	Repeal
R6-13-1213	Repeal

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

Authorizing statutes: A.R.S. §§ 41-1954(A)(3) and 46-134(A)(12)

Implementing statutes: A.R.S. § 36-716

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

Notice of Rulemaking Docket Opening: 12 A.A.R. 3567, September 29, 2006

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

Name: Beth Broeker

Address: Department of Economic Security  
P.O. Box 6123, Site Code 837A  
Phoenix, AZ 85005

or

Department of Economic Security  
1789 W. Jefferson, Site Code 837A  
Phoenix, AZ 85007

Telephone: (602) 542-6555

Fax: (602) 542-6000

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

The Department is initiating this rulemaking in response to a 5-year-review report, in order to update the remaining rules in Chapter 13.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**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:**

Rulemaking pertaining to the Tuberculosis Control payments will affect individuals who have tuberculosis and are eligible for the payments. In fiscal year 2005, 205 people received Tuberculosis Control payments. The Family Assistance Administration issued \$28,405 in Tuberculosis Control payments in FY 2005.

**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: Beth Broeker  
Address: Department of Economic Security  
P.O. Box 6123, Site Code 837A  
Phoenix, AZ 85005  
or  
Department of Economic Security  
1789 W. Jefferson, Site Code 837A  
Phoenix, AZ 85007  
Telephone: (602) 542-6555  
Fax: (602) 542-6000

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

The Department does not plan to conduct an oral proceeding on the proposed rules unless a written request for an oral proceeding is submitted to the person named in item 4 within 30 days after this notice is published. The Department will accept written public comment on the rule until the Notice of Final Rulemaking is filed.

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

None

**12. Incorporations by reference and their locations in the rules:**

None

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

**TITLE 6. ECONOMIC SECURITY**

**CHAPTER 13. DEPARTMENT OF ECONOMIC SECURITY  
STATE ASSISTANCE PROGRAMS**

**ARTICLE 1. ~~RESERVED~~ TUBERCULOSIS CONTROL PROGRAM**

Section	
<u>R6-13-101.</u>	<u>Purpose</u>
<u>R6-13-102.</u>	<u>Definitions</u>
<u>R6-13-103.</u>	<u>Individuals Who May Qualify for Assistance</u>
<u>R6-13-104.</u>	<u>Client Responsibilities at Initial Application</u>
<u>R6-13-105.</u>	<u>Agency Responsibilities at Initial Application</u>
<u>R6-13-106.</u>	<u>Client Responsibilities at the Initial Interview</u>
<u>R6-13-107.</u>	<u>Agency Responsibilities at the Initial Interview</u>
<u>R6-13-108.</u>	<u>Processing the Initial Application</u>
<u>R6-13-109.</u>	<u>Case Record</u>
<u>R6-13-110.</u>	<u>Confidentiality</u>
<u>R6-13-111.</u>	<u>Manuals</u>
<u>R6-13-112.</u>	<u>Non-financial Eligibility Determination</u>
<u>R6-13-113.</u>	<u>Resource Limitations</u>
<u>R6-13-114.</u>	<u>Resource Verification</u>
<u>R6-13-115.</u>	<u>Availability and Ownership of Resources</u>
<u>R6-13-116.</u>	<u>Nonrecurring Lump Sum Payments</u>
<u>R6-13-117.</u>	<u>Treatment of Income: Overview</u>

Notices of Proposed Rulemaking

<u>R6-13-118.</u>	<u>Income Exclusions</u>
<u>R6-13-119.</u>	<u>Determining Income Eligibility and a Cash Benefit Amount</u>
<u>R6-13-120.</u>	<u>TC Payments</u>
<u>R6-13-121.</u>	<u>Maintaining Benefits</u>
<u>R6-13-122.</u>	<u>Appeals and Hearings</u>

**ARTICLE 9. ~~TUBERCULOSIS CONTROL~~ REPEALED**

Section

R6-13-901.	<u>Expired</u> <u>Repealed</u>
R6-13-902.	<u>Age</u> <u>Repealed</u>
R6-13-903.	<u>Residence</u> <u>Repealed</u>
R6-13-904.	<u>Citizenship</u> <u>Repealed</u>
R6-13-905.	<u>Limitations on Value of Real and Personal Property</u> <u>Repealed</u>
R6-13-906.	<u>Transfer of Property</u> <u>Repealed</u>
R6-13-907.	<u>Employability</u> <u>Repealed</u>
R6-13-908.	<u>Receipt of Other Public Assistance</u> <u>Repealed</u>
R6-13-909.	<u>Institutional Status</u> <u>Repealed</u>
R6-13-910.	<u>Diagnosis and Treatment</u> <u>Repealed</u>
R6-13-911.	<u>Referral of Cases to the Department of Economic Security</u> <u>Repealed</u>
R6-13-912.	<u>Foster Home Care</u> <u>Repealed</u>
R6-13-913.	<u>Return of Nonresidents</u> <u>Repealed</u>
R6-13-914.	<u>Computing the Tuberculosis Control Grant</u> <u>Repealed</u>
R6-13-915.	<u>Termination of the Tuberculosis Control Grant</u> <u>Repealed</u>
R6-13-916.	<u>Termination of TC Grant with AFDC Grant Continuing in Household</u> <u>Repealed</u>
R6-13-917.	<u>Overpayment</u> <u>Repealed</u>
R6-13-918.	<u>Vendor Payments</u> <u>Repealed</u>
R6-13-919.	<u>Redeterminations</u> <u>Repealed</u>
R6-13-920.	<u>Available Services</u> <u>Repealed</u>
R6-13-921.	<u>Right of Appeal</u> <u>Repealed</u>
R6-13-922.	<u>Reporting Change of Status</u> <u>Repealed</u>

**ARTICLE 12. OTHER PROCEDURES AND SERVICES**

Section

R6-13-1213.	<u>Definition of Indigency for County Medical Care and Hospitalization</u> <u>Repealed</u>
-------------	--

**ARTICLE 1. ~~RESERVED~~ TUBERCULOSIS CONTROL PAYMENTS**

**R6-13-101. Purpose**

- A.** The purpose of Tuberculosis Control (TC) payments is to control the spread of tuberculosis by minimizing contact between individuals with tuberculosis and the general public.
- B.** In order to prevent an individual with tuberculosis from entering or remaining in the work force and exposing the general public to the disease, the Department of Health Services (DHS) refers these individuals to FAA to determine whether they are eligible for TC payments.
- C.** TC payments provide monetary assistance for the support of an individual who is certified unemployable by the state Tuberculosis Control Officer as a result of communicable tuberculosis, and for the support of the persons for whom the individual is legally responsible.
- D.** FAA determines the amount of monetary assistance, if any, that shall be paid to an eligible individual with tuberculosis.
- E.** Neither a DHS referral nor the fulfillment of eligibility requirements entitles an individual to TC payments.

**R6-13-102. Definitions**

The following definitions apply to this Chapter:

- 1. "Administration" means the Family Assistance Administration of the Department.
- 2. "Adverse action" means that the Department has:
  - a. Denied the right to apply for assistance;
  - b. Denied an application for assistance;
  - c. Failed to take action to approve or deny an application within 30 days of the application file date;
  - d. Terminated or reduced assistance;
  - e. Determined that a TC payment recipient has been overpaid; or
  - f. Denied a request for a waiver of an overpayment.
- 3. "Applicant" means a person who has directly, or through a representative, filed an application for TC payments with

- the Department.
4. "Assistance unit" means a group of persons whose needs, income, resources, and other circumstances are considered as a whole for the purpose of determining eligibility and benefit amount.
  5. "CA" or "Cash Assistance" means temporary assistance for needy families paid to a recipient for the purpose of meeting basic living expenses, under A.R.S. § 46-291 et seq.
  6. "Collateral Verification" means the use of an agency, organization, or qualified individual who has knowledge of the requested eligibility information and whom the Department may use as a collateral contact, when requested to do so or when documented verification is not available to the applicant.
  7. "Department" means the Arizona Department of Economic Security.
  8. "FAA" or "Family Assistance Administration" means the administration within the Department's Division of Benefits and Medical Eligibility responsible for providing financial and food stamp assistance to eligible persons and determining eligibility for medical assistance.
  9. "GA" means General Assistance as provided in 6 A.A.C. 17.
  10. "Legally responsible" means a having duty under Arizona law to provide support for an individual.
  11. "Notice of adverse action" means a written notice sent to a recipient when the Department decreases or terminates assistance, as described at R6-17-805.
  12. "Office of Appeals" means the Department's independent, quasi-judicial, administrative hearing body, which includes hearing officers appointed under A.R.S. § 41-1992(A).
  13. "Recipient" means a person who receives TC payments.
  14. "Resources" means the assistance unit's real and personal property and liquid assets.

**R6-13-103. Individuals Who May Qualify for Assistance**

- A.** The following persons may be eligible for TC payments, if all financial and non-financial eligibility requirements are met:
1. A person who is certified unemployable by the state Tuberculosis Control Officer as a result of communicable tuberculosis;
  2. The spouse of the individual listed in subsection (1); or
  3. Any children:
    - a. Who reside with the individual listed in subsection (1), and
    - b. For whom the individual listed in subsection (1) is legally responsible.
- B.** An individual may receive TC payments only if the individual is not eligible to receive cash assistance under 6 A.A.C. 12.

**R6-13-104. Client Responsibilities at Initial Application**

- A.** A person may apply for TC by submitting an identifiable Department-approved application to an FAA office in person, by mail, or by fax transmittal.
- B.** An identifiable application means an application that contains:
1. The legible name and address of the applicant; and
  2. The signature of the applicant, the applicant's representative, or, if the applicant is incompetent or incapacitated, someone legally authorized to act on behalf of the applicant.
- C.** The application file date is the date an identifiable application is received in any FAA office. If the applicant is eligible, TC payments will be paid as calculated from this date.

**R6-13-105. Agency Responsibilities at Initial Application**

- A.** Upon receipt of an identifiable application, the Department shall:
1. Date stamp the application with the application file date;
  2. Schedule an initial eligibility interview with the applicant at a location that assures a reasonable amount of privacy; and
  3. If requested, schedule an initial interview at the residence of an applicant that is homebound. The Department shall mail the homebound applicant written notice of a scheduled home interview at least seven days before the date of the interview.
- B.** The Department shall assist the applicant in completing the application if necessary. A completed application shall contain:
1. The names of all persons living in the applicant's dwelling and their relationship to the applicant;
  2. A request to receive TC payments; and
  3. All financial and non-financial eligibility information requested on the application form.

**R6-13-106. Client Responsibilities at the Initial Interview**

- A.** The applicant shall attend the interview. A person of the applicant's choosing may also attend the interview with the applicant.
- B.** Missed Appointments
1. If the applicant misses a scheduled appointment for an interview, the applicant shall:

*Arizona Administrative Register / Secretary of State*  
**Notices of Proposed Rulemaking**

---

- a. Request to reschedule the interview no later than close of business on the day of the missed appointment; and
  - b. Attend the second scheduled appointment.
  2. If the applicant fails to comply with the requirements in (a) or (b), without good cause, the Department shall deny the application and the applicant may reapply to receive TC payments. Good cause for failure to comply with the requirements in subsection (B)(1)(a) or (b) is any unanticipated occurrence that, in the discretion of the Department, made it impossible or unreasonable for the applicant to attend the interview or contact the local office.
- C.** An applicant for assistance shall:
1. Give the Department complete and truthful information;
  2. Inform the Department of all changes in income, assets, or other circumstances affecting eligibility that have occurred since the date of application for TC payments, as prescribed in R6-13-105(A)(1);
  3. Comply with Electronic Benefit Transfer (EBT) requirements; and
  4. Comply with any other procedural requirements contained in this Chapter or in state or federal statute.
- D.** An applicant shall provide required verification of financial and non-financial eligibility information or request assistance from the Department in obtaining the information.
1. An applicant shall provide the Department with all requested verification of financial and non-financial eligibility factors, or request the Department's assistance in obtaining the requested verification within 10 calendar days from the date of a written request for such information.
  2. An applicant shall provide the Department with verification of financial and non-financial eligibility factors by submitting to the Department:
    - a. Documents originating from an agency, organization, or individual qualified to have knowledge of the provided information; or when the items required by this subsection are not available to the applicant or when requested by the Department;
    - b. The name, phone number, and address of an agency, organization, or individual qualified to have knowledge of the requested eligibility information and that the Department may use as a collateral contact; or when the items in this subsection or subsection (a) are not available;
    - c. A signed written statement from the applicant that describes facts specific to an eligibility factor. The Department shall not accept an applicant's signed and written statement as acceptable verification of identity, relationship of household members, and expenses.

**R6-13-107. Agency Responsibilities at the Initial Interview**

- A.** During the interview, a Department representative shall:
1. Discuss how the applicant and the other assistance unit members previously met their needs and why they now need financial assistance;
  2. Provide the applicant with written information explaining:
    - a. The terms, conditions, and obligations of the TC program;
    - b. Any additional required verification information that the applicant must provide for the Department to conclude the eligibility evaluation;
    - c. The Department's practice of exchanging eligibility and income information through the State Verification and Exchange System (SVES);
    - d. The coverage and scope of the TC program;
    - e. Related services that may be available to the applicant;
    - f. The applicant's rights, including the right to appeal adverse action;
    - g. The requirement to report all changes, as specified in R6-17-802, within 10 calendar days from the date the change becomes known; and
    - h. Other benefits for which any person in the assistance unit may be potentially eligible and the requirement that those other benefits must be applied for and accepted, if eligibility exists;
  3. Inform the applicant that the Department shall assist the applicant in obtaining required verification at the request of the applicant, when the verification provided by the applicant is insufficient to complete an eligibility determination, or when the required verification is difficult or impossible for the applicant to obtain;
  4. Review the penalties for perjury and fraud, as printed on the application;
  5. Review any verification information provided with the application or at the initial interview;
  6. Review all ongoing reporting requirements, and the potential consequences for failure to make timely reports, including overpayment liability;
  7. Offer an applicant who is a United States citizen the opportunity to register to vote, and provide the applicant with a voter registration form if requested; and
  8. Witness the signature of the applicant or the applicant's representative.
- B.** The Department shall obtain independent verification or corroboration of information provided by the applicant when required by law, or when necessary to determine eligibility or benefit level.
- C.** The Department may verify or corroborate information by any reasonable means including:

1. Contacting third parties such as employers;
2. Asking the applicant to provide documented verification, such as billing statements or pay stubs;
3. Asking the applicant to provide a signed written statement that describes facts specific to an eligibility factor when documented or collateral verification is not available;
4. Conducting a computer data match through SVES; and
5. Referring a case to the Department's Office of Special Investigations (OSI) for investigation when:
  - a. The Department has valid reason to suspect that an act has been committed for the purpose of deception, misrepresentation, or concealment of information relevant to a determination of eligibility or the amount of a benefit payment; or
  - b. FAA suspects the commission of theft or fraud related to TC or any conduct listed in A.R.S. § 46-215.

**R6-13-108. Processing the Initial Application**

- A.** The Department shall complete the eligibility determination and benefit level computation within 30 calendar days of the application file date, unless:
1. The application is withdrawn. An applicant may withdraw an application at any time before the Department completes an eligibility determination by requesting a withdrawal from the Department either verbally or in writing.
    - a. If an applicant verbally requests to withdraw an application the Department shall:
      - i. Document the names of persons and type of benefits or services from which the applicant wishes to withdraw, and
      - ii. Deny the application and notify the applicant.
    - b. A withdrawal is effective as of the date of application.
    - c. When an application is withdrawn, an applicant may file a new application to request TC payments.
  2. The applicant dies. If an applicant dies while the application is pending, the Department shall deny the application.
  3. The Department is aware of a delay in receiving verification of a required eligibility factor. In this case, the Department shall assist the applicant in obtaining the required verification, even if the delay extends beyond 30 days.
- B.** The Department shall deny an application and send the applicant a written notice of denial that shall include an explanation of the assistance unit's appeal rights when the applicant:
1. Fails to complete the application as prescribed in R6-13-105(B) and complete an eligibility interview, as prescribed in R6-13-106;
  2. Fails to cooperate with all required Department procedures without good cause. However, the Department shall not take such actions unless the Department has advised the applicant or recipient of these procedural requirements in writing;
  3. Fails to meet all of the mandatory financial and non-financial eligibility criteria used to establish eligibility for the TC program; or
  4. Fails to meet the verification requirements provided in R6-13-106(D).

**R6-13-109. Case Record**

- A.** The case record shall contain all data collected or used by the Department in evaluating and determining eligibility and benefit amount.
- B.** The Department shall maintain a case record for every applicant for, or recipient of, assistance.
- C.** Except as otherwise provided in subsections (D) and (E) below, the Department shall retain the case record for a period of three years after the last date on which the applicant received an adverse determination of eligibility or the recipient last received a TC benefit payment.
- D.** The Department shall retain a case record that contains an unpaid overpayment until:
1. The overpayment is paid in full; or
  2. The assistance unit is no longer obligated to repay the overpayment.
- E.** The Department shall retain a case record that includes a person determined to have committed an Intentional Program Violation pursuant to Article 8 until the overpayment is paid in full.
- F.** The Department shall retain a case record that includes a disqualification imposed under A.R.S. § 13-3418 or any other applicable criminal that prohibits the receipt of assistance, as defined in A.R.S. § 46-101.

**R6-13-110. Confidentiality**

- A.** Personally identifiable information.
1. All personally identifiable information concerning an applicant or recipient in the possession of the Department is confidential and not subject to public inspection, except as otherwise specified in A.R.S. § 41-1959 and this Section.
  2. Personally identifiable information includes:
    - a. Name, address, and telephone number;
    - b. Social security number and date of birth;
    - c. Unique identifying numbers such as a driver's license number;
    - d. Photographs;

Notices of Proposed Rulemaking

- e. Information related to social and economic conditions or circumstances;
  - f. Medical data, including diagnosis and past history of disease or disability; and
  - g. Any other information that is reasonably likely to permit another person to readily identify the subject of the information.
- B.** Release of information to applicants and recipients.
- 1. The Department shall not release confidential information obtained without the applicant's or recipient's knowledge, such as information from the Office of Special Investigations (OSI), to the applicant or recipient. The Department shall only release such information pursuant to a court order, or with the permission of OSI.
  - 2. An applicant or recipient may review the contents of their own case record at any time during the Department's regular business hours, provided that a Department employee is present during the review.
  - 3. The Department may withhold medical information contained in the case file from an applicant or recipient until the Department contacts the patient's physician and obtains an opinion that the Department can safely release the information.
- C.** Release of information to another person. An applicant or recipient may permit the release of information from the applicant or recipient's eligibility file to another person or representative by executing a release form containing the following information:
- 1. The specific information the Department is authorized to release;
  - 2. The name of the person to whom the Department may release information;
  - 3. The duration of the release, if limited; and
  - 4. The signature of the applicant or recipient and the date that the release is signed.
- D.** Release to persons and agencies for official purposes.
- 1. An official purpose, as used in this subsection, means a purpose directly related to the administration of a public assistance program and includes:
    - a. Establishing eligibility;
    - b. Determining the amount of an assistance benefit;
    - c. Providing services to applicants and recipients, including child support enforcement services;
    - d. Investigating or prosecuting civil or criminal proceedings related to an assistance program; and
    - e. Evaluating, analyzing, overseeing, and auditing program operations.
  - 2. The Department may release confidential information to the following persons and agencies as required for official purposes:
    - a. Department employees;
    - b. Employees of the Social Security Administration;
    - c. Public assistance agencies of any other state;
    - d. Persons connected with the administration of child support enforcement activities;
    - e. The Office of the Arizona Attorney General;
    - f. Persons connected with the administration of federal or federally assisted programs that provide assistance, in cash or in-kind, or services directly to individuals on the basis of need;
    - g. Government auditors, when the audits are conducted in connection with the administration of any assistance program by a governmental entity that is authorized by law to conduct such audits;
    - h. AHCCCS, for eligibility purposes; and
    - i. Law enforcement officials for an investigation, prosecution, or civil or criminal proceeding conducted by or on behalf of the Department or a federal public assistance agency in connection with the administration of a public assistance program.
- E.** The Department may also release information concerning a recipient to a federal, state, or local law enforcement officer under A.R.S. § 46-134.

**R6-13-111. Manuals**

Each FAA office shall make the Arizona Integrated Manual Benefit Information Guide (AIMBIG), as defined in R6-17-102, available for public inspection during regular business hours.

**R6-13-112. Non-financial Eligibility Determination**

- A.** Age. An applicant for TC must be at least 18 years of age.
- B.** Identity. An applicant for TC shall provide the Department with verification that reasonably establishes the applicant's identity.
- 1. Verification that reasonably establishes identity includes:
    - a. A driver's license or state-issued identification card that contains a photo of the applicant;
    - b. Documents such as the applicant's birth certificate, school identification card, citizenship and immigration documents, identification card from health benefits or other social service programs, wage stubs, work identification card, voter registration card, or other such documents; or

- c. Collateral verification, as defined at R6-13-101, from an individual who shall not benefit from the applicant's receipt of TC.
- 2. An applicant's written statement is not sufficient verification of identity.
- C. Residency. An applicant must satisfy the residency requirements of the Arizona Department of Health Services.
- D. Disability and Employability Determination. An applicant must satisfy the disability and employability determination requirements of the Arizona Department of Health Services.

**R6-13-113. Resource Limitations**

- A. An applicant is not eligible for TC payments if the applicant has resources in excess of the following, after the exclusions in subsection (B) are applied:
  - 1. \$1000 for an assistance unit consisting of only the applicant.
  - 2. \$1400 for an assistance unit consisting of the applicant and the applicant's spouse.
- B. The Department shall exclude the equity value of the resources listed below:
  - 1. The homestead of the assistance unit, as defined in R6-17-102, not to exceed a current equity of \$50,000;
  - 2. Household furnishings used by the assistance unit in their residence, and personal effects essential to day-to-day living;
  - 3. \$1500 of the current equity value of one vehicle in the assistance unit. When two or more vehicles are owned, the Department shall apply the exclusion to the vehicle with the highest equity value. Jointly owned vehicles, with ownership records containing the word "or" between the owners' names, are available in full to each owner unless it can be proven by the assistance unit member that the vehicle is not available to them or not in their possession. When more than one owner is a member of an assistance unit, the equity value of the resource is counted only once;
  - 4. Funds established in connection with settling liability claims concerning Agent Orange death or disability;
  - 5. Any other resource specifically excluded by law.

**R6-13-114. Resource Verification**

The Department shall verify all resources, as defined in R6-13-102.

**R6-13-115. Availability and Ownership of Resources**

- A. The Department shall consider a resource as countable to the assistance unit only when the resource is legally and physically available, or in the possession of the assistance unit member.
- B. The Department shall consider the availability of property to the assistance unit based on the type of ownership.
  - 1. The sole and separate property of one spouse is available to the other spouse only when the spouse/owner makes the property available. A resource shall be considered sole and separate property only when obtained in one of the following manners:
    - a. Before the present marriage, or
    - b. At any time by gift or inheritance.
  - 2. Jointly owned resources, with ownership records containing the words "and" or "and/or" between the owners' names, are deemed available when all owners can be located and consent to disposal of the resource, except that such consent is not required when all owners are members of the assistance unit.
- C. The Department considers the following resources unavailable to the assistance unit:
  - 1. Any resource owned solely by a spouse who is receiving Supplemental Security Income (SSI) paid by Title XVI of the Social Security Act.
  - 2. Resources being disputed in divorce proceedings or in probate matters.
  - 3. Real property situated on a Native American reservation.

**R6-13-116. Nonrecurring Lump Sum Payments**

- A. The Department shall count nonrecurring lump sum payments, as defined in R6-17-102, as a resource beginning in the month received.
- B. Any part of a lump sum payment that will recur in future months shall be counted as income in the month received.

**R6-13-117. Treatment of Income: Overview**

- A. "Income" includes the following, when actually received by the assistance unit:
  - 1. Gross earned wages from public or private employment, before any deductions;
  - 2. In-kind income, as defined in R6-17-102;
  - 3. For self-employed persons, the sum of gross business receipts minus business expenses;
  - 4. Unearned monetary gains such as TC payments, minus any deductions to repay prior overpayments or attorney fees, except as provided in subsection (A)(5); and
  - 5. A prorated share of any cash assistance benefit received by the applicant's spouse.
- B. The Department considers all gross income available to the assistance unit in determining eligibility, except for those types of income excluded under R6-13-118.

**R6-13-118. Income Exclusions**

The types of income listed in this Section are not counted when determining the income available to an assistance unit.

1. One-half of the countable income of the applicant's spouse;
2. One-half of the prorated share of any Cash Assistance benefits received by the applicant's spouse;
3. Loans;
4. Educational grants or scholarships;
5. Income tax refunds;
6. The value of food stamp benefits and benefits from the Special Supplemental Food Program for Women, Infants, and Children (WIC);
7. Energy assistance payments or allowances provided under any federal, state, or local law, including Negative Rent Utility Payments issued by the Department of Housing and Urban Development for the purpose of energy assistance;
8. Vendor payments, as defined in R6-17-102;
9. Vocational rehabilitation program payments made as reimbursements for training-related expenses, subsistence and maintenance allowances, and incentive payments that are not intended as wages;
10. Agent Orange payments;
11. Burial benefits that are dispersed solely for burial expenses;
12. Reimbursements for work-related expenses that do not exceed the actual expense amount;
13. The earned or unearned income of an SSI recipient;
14. Insurance payments issued to repay a specific bill, debt, or estimate that cannot be used to meet basic daily needs such as housing, food, or other personal expenses;
15. Attorney fees that are included in the gross payment of industrial compensation paid under the workers' compensation law or in legal settlements;
16. In-kind income, as defined in R6-17-102;
17. Earned income received from employment through the Workforce Investment Act (WIA), including earnings received from on-the-job-training; and
18. Any other income specifically excluded by applicable state or federal law.

**R6-13-119. Determining Income Eligibility and a Cash Benefit Amount**

The Department shall determine income eligibility and a cash benefit amount in the same manner as the General Assistance program, under 6 A.A.C. 17, Article 6.

**R6-13-120. TC Payments**

The Department shall process TC payments in the same manner as the General Assistance program, under 6 A.A.C. 17, Article 7, except that the Department shall issue benefit payments no later than the 30th day following initial application, and on the first day of each month for which the applicant is eligible thereafter.

**R6-13-121. Maintaining Benefits**

Upon establishing initial eligibility, the recipient may maintain benefits in the same manner as R6-17-801 through R6-17-805. When FAA is notified by the Department of Health Services that an individual receiving TC payments is no longer unemployable due to tuberculosis, that individual is no longer eligible for TC payments.

**R6-13-122. Appeals and Hearings**

The Department shall handle appeals and hearings in the same manner as the General Assistance program, under 6 A.A.C. 17, Article 9.

**ARTICLE 9. TUBERCULOSIS CONTROL REPEALED**

**R6-13-902. Age Repealed**

~~A Tuberculosis Control grant will not be issued if the person certified as tubercular is a minor, unless authorized by the district Public Assistance Program Manager.~~

**R6-13-903. Residence Repealed**

- ~~A. The Department of Health Services is responsible for determination of residence.~~
- ~~B. Inter-county transfers are permitted.~~
- ~~C. Assistance may be granted out of state with Department of Health Services approval.~~

**R6-13-904. Citizenship Repealed**

~~There is no citizenship requirement.~~

**R6-13-905. Limitations on Value of Real and Personal Property Repealed**

~~The following resource limitations apply:~~

- ~~1. Household furnishings used in the usual place of residence;~~
- ~~2. Wearing apparel and necessary personal effects;~~

3. A home in which the recipient resides and land contiguous thereto which has a gross market value not in excess of \$25,000;
4. An automobile with a gross retail market value of \$1,200 or less. If such value exceeds \$1,200 the excess value shall be counted against other property or assets specified in subsection (6);
5. Tools of trade;
6. Other property or assets having a total gross market value of \$1,000 for a single recipient or \$1,400 for a recipient and spouse, or two or more recipients in a single household;
7. Real and personal property shall be valued at their gross market value.

**R6-13-906. ~~Transfer of Property~~ Repealed**

~~Transfer of property does not affect eligibility.~~

**R6-13-907. ~~Employability~~ Repealed**

~~Employability is determined by the Department of Health Services.~~

**R6-13-908. ~~Receipt of Other Public Assistance~~ Repealed**

~~When a recipient with dependents is eligible for AFDC as well as TC:~~

1. ~~The maximum allowable from the AFDC program will be granted.~~
2. ~~Any unmet need will be provided by a TC grant up to 100% of allowable need.~~

**R6-13-909. ~~Institutional Status~~ Repealed**

- ~~A. A TC grant will be made for personal care expense to eligible recipients receiving care in an institution.~~
- ~~B. Department of Health Services approval is required.~~
- ~~C. The amount of the grant will be according to the assistance standard.~~

**R6-13-910. ~~Diagnosis and Treatment~~ Repealed**

- ~~A. The physician treating the case is responsible to determine whether contagious tuberculosis exists.~~
- ~~B. Decisions of eligibility for care and treatment are made by the Department of Health Services.~~

**R6-13-911. ~~Referral of Cases to the Department of Economic Security~~ Repealed**

- ~~A. The local Department of Health Services initiates referrals for Tuberculosis Control financial assistance.~~
- ~~B. After acting on an application for TC, the local DES office will notify the Department of Health Services of the decision reached.~~
- ~~C. When the Department of Health Services refers the case and it is shown that the patient resides at home, no other approval is required for home care.~~
- ~~D. Approval for institutional care must be given by the Department of Health Services.~~

**R6-13-912. ~~Foster Home Care~~ Repealed**

~~Placement of the children of tubercular parents or relatives in Foster Care is a Social Services Bureau program.~~

**R6-13-913. ~~Return of Nonresidents~~ Repealed**

~~The Tuberculosis Control Officer of the Department of Health Services will contact DES, other agencies, or relatives when a tuberculosis patient is to be sent outside of the state.~~

**R6-13-914. ~~Computing the Tuberculosis Control Grant~~ Repealed**

~~The assistance grant shall be equal to the budgetary need amount, minus countable income. An Eligible Recipient means the medically eligible person and the person's legal dependents who reside in a home maintained by the family, regardless of whether the medically eligible person is present in the home, providing such dependents do not have their total needs met from another source or from another assistance grant.~~

**R6-13-915. ~~Termination of the Tuberculosis Control Grant~~ Repealed**

~~When the Department of Health Services notifies the local DES office that a TC grant is to be stopped, it will be stopped in the specified month.~~

**R6-13-916. ~~Termination of TC Grant with AFDC Grant Continuing in Household~~ Repealed**

~~Incapacity must be established if AFDC is to be continued.~~

**R6-13-917. ~~Overpayment~~ Repealed**

~~In the Tuberculosis Control Program, overpayments will be reported but not collected unless repaid voluntarily.~~

**R6-13-918. ~~Vendor Payments~~ Repealed**

~~A vendor payment will be made only when transportation is furnished.~~

**R6-13-919. ~~Redeterminations~~ Repealed**

~~Tuberculosis Control cases must be review each six months.~~

Notices of Proposed Rulemaking

**R6-13-920. Available Services Repealed**

Basic services in the Tuberculosis Control program are:

- 1. Meeting financial need of eligible persons;
- 2. Services related to treatment and home supervision are the responsibility of the Department of Health Services.

**R6-13-921. Right of Appeal Repealed**

An applicant or recipient who is dissatisfied with a decision on the applicant's or recipient's case has the right to appeal.

**R6-13-922. Reporting Change of Status Repealed**

An applicant or recipient shall report, within 10 days from the date the change occurs, all changes in current income, resources, and any other circumstances which may affect eligibility or the amount of the assistance payment.

**ARTICLE 12. OTHER PROCEDURES AND SERVICES**

**R6-13-1213. Definition of Indigency for County Medical Care and Hospitalization Repealed**

A.R.S. § 11-297(A) gives the Arizona Department of Economic Security the responsibility to define indigency for purposes of eligibility for county medical care and hospitalization.

- 1. All public welfare recipients, and all foster home children whose care is paid for from state or federal funds, are defined as indigent unless medical care is available from another source.
- 2. A person or family household, if not welfare recipients, is defined as indigent if it does not have:
  - a. Annual net income in excess of:
    - \$2,100 — If single person or married person, living alone.
    - \$2,800 — If married person living with spouse.
    - Plus \$350 — For each additional dependent member of the household.
    - (Net income is gross income from all sources less medical expenses incurred.)
  - b. Resources in excess of the following:
    - i. Household furnishings used by applicant and the applicant's family in the applicant's usual place of residence;
    - ii. Wearing apparel and necessary personal effects;
    - iii. The dwelling house in which such person resides and the land contiguous thereto, not to exceed a fair market value of \$10,000;
    - iv. Livestock used primarily for domestic purposes;
    - v. Tools of trade having a fair market value of \$500;
    - vi. An automobile with a fair market value not exceeding \$750.
    - vii. Other property or assets with the exception of a single or family burial plot having a total fair market value of \$800 for a single recipient or \$1,200 for a recipient and spouse or two or more recipients in a single household.
  - e. Means of eligibility for obtaining medical care from any other source.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

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

[R06-437]

**PREAMBLE**

**1. Sections Affected**

- R9-22-707
- R9-22-709
- R9-22-713
- R9-22-720

**Rulemaking Action**

- Repeal
- Amend
- Amend
- Amend

**2. The statutory 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, 36-2903.01, 36-2904

Implementing statute: A.R.S. §§ 36-2903.01, 36-2909, 36-2986, 36-2906

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

Notices of Proposed Rulemaking

Notice of Rulemaking Docket Opening: 12 A.A.R. 4024, October 27, 2006

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

Name: Mariaelena Ugarte  
Address: AHCCCS  
Office of Legal Assistance  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov

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

The rules outline the provisions that apply to payments. The proposed rulemaking is intended to update these rules, ensuring that they represent the Agency's current practice.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

No study was reviewed during this rulemaking and the Agency does not anticipate reviewing any studies.

**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:**

The economic impact is anticipated to be minimal since the rules have been updated for clarity and conciseness.

**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: Mariaelena Ugarte  
Address: AHCCCS  
Office of Legal Assistance  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov

Proposed rule language will be available on the AHCCCS web site [www.azahcccs.gov](http://www.azahcccs.gov) the week of November 13, 2006. Please send written comments to the above address by 5:00 p.m., January 16, 2007. E-mail comments will be accepted.

**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: January 16, 2007  
Time: 12:30 noon  
Location: AHCCCS  
701 E. Jefferson  
Phoenix, AZ 85034  
Nature: Public Hearing

Date: January 16, 2007  
Time: 12:30 noon  
Location: ALTCS: Arizona Long-term Care System  
110 S. Church, Suite 1360  
Tucson, AZ 85701

Notices of Proposed Rulemaking

Nature: Public Hearing  
Date: January 16, 2007  
Time: 12:30 noon  
Location: ALTCS: Arizona Long-term Care System  
3480 E. Route 66  
Flagstaff, AZ 86004  
Nature: Public Hearing

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

Not applicable

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

None

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
ADMINISTRATION**

**ARTICLE 7. STANDARDS FOR PAYMENTS**

Section

R9-22-707. ~~Payments for Newborns~~ Repealed  
R9-22-709. Contractor's Liability to Hospitals for the Provision of Emergency and ~~Subsequent~~ Post-Stabilization Care  
R9-22-713. ~~Payments Made on Behalf of a Contractor;~~ Overpayment and Recovery of Indebtedness  
R9-22-720. Reinsurance

**ARTICLE 7. STANDARDS FOR PAYMENTS**

**R9-22-707. Payments for Newborns Repealed**

If a mother is enrolled on the date of her newborn's birth, a contractor shall be financially liable under the mother's capitation to provide all AHCCCS-covered services to the newborn from the date of birth until the Administration is notified of the birth.

**R9-22-709. Contractor's Liability to Hospitals for the Provision of Emergency and ~~Subsequent~~ Post-Stabilization Care**

- A.** A contractor is liable for the cost of services for an emergency medical or acute mental health condition of a member only until the member's condition is stabilized and the member is transferable, or until the member is discharged following stabilization subject to the requirements of A.R.S. § 36-2909 and Article 2 of this Chapter.
- B.** Subject to subsection (A), if a member cannot be transferred following stabilization to a facility that has a subcontract with the contractor of record, the contractor of record shall pay for all appropriately documented, prior authorized, and medically necessary treatment provided to the member before the discharge date or transfer under R9-22-705.
- C.** If a member refuses transfer from a noncontracting provider or noncontracting hospital to a hospital affiliated with the member's contractor of record, neither the Administration nor the contractor shall be liable for any costs incurred after the date of refusal if:
  - 1. After consultation with the member's contractor of record, the member continues to refuse the transfer; and
  - 2. The member has been provided and signs a written statement, before the date the member is liable for payment, informing the member of the medical and financial consequences of refusing to transfer. If the member refuses to sign a written statement, a statement signed by two witnesses indicating that the member was informed may be substituted.

A contractor is liable for emergency hospitalization and post-stabilization care in circumstances as described in R9-22-210 and R9-22-210.01.

**R9-22-713. ~~Payments Made on Behalf of a Contractor;~~ Overpayment and Recovery of Indebtedness**

Notices of Proposed Rulemaking

- ~~A.~~ The Administration may make payments on behalf of a contractor in order to prevent a suspension or termination of AHCCCS services after considering whether:
- ~~1. A contractor does not adjudicate a valid accrued claim within the period set forth under subcontract, or~~
  - ~~2. A contractor does not adjudicate 99 percent of valid accrued claims within 90 days of receipt from the AHCCCS registered provider.~~
- ~~BA.~~ If a contractor or a subcontracting provider receives an overpayment from the Administration or otherwise becomes indebted to the Administration, the contractor or subcontracting provider shall immediately return the amount of the indebtedness or overpayment to the Administration for deposit in the AHCCCS fund.
- ~~CB.~~ If the funds described in subsection (B) are not remitted, the Administration may recover the indebtedness or overpayment paid by the Administration to a contractor or subcontracting provider through:
1. ~~Negotiation of a~~ A repayment agreement executed with the Administration;
  2. Withholding or offsetting against current or future payments to be paid to the contractor or subcontracting provider; or
  3. Enforcement of, or collection against, the performance bond, financial reserve, or other financial security under A.R.S. § 36-2903.
- ~~D.~~ ~~Except as specifically provided for in this Article, the Administration is not liable for payment for medical expenses incurred by enrolled members of prepaid capitated contractors.~~

**R9-22-720. Reinsurance**

- A. Reinsurance is a stop-loss program provided by the Administration to the Contractor for the partial reimbursement of covered services for a member with an acute medical condition beyond a pre-determined deductible level amount within a contract year. The Administration self-insures the reinsurance program through a deduction to capitation rates. The reinsurance program also includes a special catastrophic reinsurance program for members diagnosed with specific medical conditions.
- ~~AB.~~ ~~For purposes of the Administration's reinsurance program, the insured entity is a prepaid plan with which the Administration contracts. The Administration shall specify in contract guidelines for claims submission, processing, and payment, and the types of care and services that are provided to a member whose care is covered by reinsurance.~~
- BC. When the Administration determines that a contractor does not follow the specified guidelines for care or services and the care or services could be have been provided at a lower cost according to the guidelines, the contractor is entitled to reimbursement as if the care or services had been provided as specified in the guidelines ~~had been provided at a lower cost.~~