

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE ANIMAL SERVICES DIVISION

Editor's Note: The following Notice of Exempt Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 2092.)

[R12-152]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**

R3-2-203	Amend
R3-2-701	Amend
R3-2-810	Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**

Authorizing statute: A.R.S. § 3-107(A)(1); Laws 2012, Ch. 303, § 15
Implementing statute: Laws 2012, Ch. 303, § 15; A.R.S. §§ 3-607, 3-619(A), 3-1337, 3-2003, 3-2081
Statute or session law authorizing the exemption: Laws 2012, Ch. 303, § 15
- 3. The effective date of the rule and the agency's reason it selected the effective date:**

August 2, 2012. The effective date of the rule is based on the effective date of the law authorizing the rulemaking.
- 4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**

None
- 5. The agency's contact person who can answer questions about the rulemaking:**

Name:	Dr. Perry Durham, State Veterinarian
Address:	Arizona Department of Agriculture 1688 W. Adams St. Phoenix, AZ 85007
Telephone:	(602) 542-4293
Fax:	(602) 542-3244
E-mail:	pdurham@azda.gov
- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**

This rulemaking continues certain fees increased in fiscal years 2011 and 2012 for fiscal year 2013 for services provided in fiscal year 2013. See Notice of Exempt Rulemaking: 17 A.A.R. 1756 (Sept. 2, 2011) & 16 A.A.R. 1331 (July 23, 2010). The legislature appropriates general funds to the Department based on projected revenues from these fees, and then when these fees are collected, they will be returned to the general fund. In essence, the legislature advances the funds anticipated to be collected during the year from these fees with the expectation that the Department will return what is actually collected. By continuing these fee increases, the Department anticipates it will be able to collect an amount similar to that appropriated by the legislature for this purpose. This rulemaking is exempt from Executive Order 2012-03 pursuant to paragraph 2(f) because it fulfills an obligation related to fees and is necessary to implement the state budget that was certified by the Governor's Office of Strategic Planning and Budgeting.

Notices of Exempt Rulemaking

The service charge fee for livestock inspection under A.R.S. § 3-1337 will be \$10, which is the same fee charged for fiscal years 2009 through 2012.

The license to slaughter fees under A.R.S. § 3-2003 will continue to be \$250, \$300 and \$450. The fees for processing, pet food manufacturing, and meat transportation licenses will continue to be \$300, broker, jobber, and meat storage licenses will continue to be \$450, and distributor licenses will continue to be \$500. *See* A.R.S. § 3-2081.

Manufacturing milk processing plant and wholesale distributor licenses will continue to be \$100 and milk sampler licenses and renewals will continue to be \$50 and \$30 respectively. Distributing plant licenses will continue to cost \$300 plus \$2,500 for each of the facility's pasteurizers. Similarly, producer-distributor licenses for IMS (interstate milk shipper) listed facilities will continue to cost \$150 plus \$2,500 for each of the facility's pasteurizers. The license fee for non-IMS listed producer-distributors will continue to be \$150, the same rate as the prior four years. The Department performs quarterly inspections on pasteurizers, which is why it determined to base fees on the number of pasteurizers. *See* A.R.S. §§ 3-607 & 3-619.

The fee for a license to engage in the manufacture of dairy trade products will continue to be \$100, the amount set out in A.R.S. § 3-665(B). This fee is included in the rule only for completeness.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, 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

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking 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, if applicable:

Laws 2012, Ch. 303, § 15 authorizes an exemption from the rulemaking requirements of A.R.S. Title 41, Chapter 6 for the purpose of establishing fees pursuant to those sections until July 1, 2013. As a result, this rulemaking is exempt from the requirements of the Administrative Procedures Act and no economic, small business, and consumer impact statement is required.

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):

Not applicable

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

None received

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

The Department of Agriculture Advisory Council voted on June 21, 2012 in favor of continuing the fees set out in this rulemaking through FY2013.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Rule 203 requires a license to conduct certain activities. Rule 701 does not require a permit, and rule 810 sets out fees for certain licenses but does not itself require or establish any permits or licenses. The Department does not use a general permit for rule 203 because that would increase the cost for licensees by requiring them to pay the licensing fee for activities that the licensees do not engage in. Additionally, any duplication of information provided by an applicant to obtain multiple licenses would be minimal.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No

13. A list of any incorporated by reference material and its location in the rule:

None

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

No

15. The full text of the rules follows:

Notices of Exempt Rulemaking

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE
ANIMAL SERVICES DIVISION

ARTICLE 2. MEAT AND POULTRY INSPECTION

Section
R3-2-203. Licenses; Registration; Records

ARTICLE 7. LIVESTOCK INSPECTION

Section
R3-2-701. Department Livestock Inspection

ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL

Section
R3-2-810. License Fees

ARTICLE 2. MEAT AND POULTRY INSPECTION

R3-2-203. Licenses; Registration; Records

- A. No change
 - 1. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
- B. No change
 - 1. No change
 - 2. No change
 - 3. No change
- C. No change
- D. During fiscal year ~~2011 and fiscal year 2012~~ 2013, the fee to obtain or renew a license to slaughter is:
 - 1. For not to exceed 45 head of cattle, and not to exceed 55 head of sheep, goats or swine in one calendar year, \$250.
 - 2. For more than 45 and not to exceed 150 head of cattle and more than 45 and not to exceed 160 head of sheep, goats or swine in one calendar year, \$300.
 - 3. For more than 150 head of cattle and more than 160 head of sheep, goats or swine in any one calendar year, \$450.
- E. During fiscal year ~~2011 and fiscal year 2012~~ 2013, the fee to obtain or renew a meat license is:
 - 1. For a broker, \$450.
 - 2. For exempt processing, \$300.
 - 3. For a distributor, \$500.
 - 4. For a jobber, \$450.
 - 5. For a pet food manufacturer, \$300.
 - 6. For a processor, \$300.
 - 7. For meat storage, \$450.
 - 8. For transportation, \$300.

ARTICLE 7. LIVESTOCK INSPECTION

R3-2-701. Department Livestock Inspection

- A. No change
 - 1. No change

Notices of Exempt Rulemaking

6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:

This rulemaking continues nursery certification fees from fiscal years 2011 and 2012 in fiscal year 2013 for services provided in fiscal year 2013 in order to make up for decreases in general fund appropriations. See Notice of Exempt Rulemaking: 17 A.A.R. 1761 (Sept. 2, 2011) & 16 A.A.R. 1336 (July 23, 2010). By continuing these fees and fees related to phytosanitary certification generally, the Department anticipates it will be able to maintain its current level of services pertaining to the plant services division for fiscal year 2013. This rulemaking is exempt from Executive Order 2012-03 pursuant to paragraph 2(f) because it fulfills an obligation related to fees and is necessary to implement the state budget that was certified by the Governor's Office of Strategic Planning and Budgeting.

With this rulemaking, the Department will continue to charge \$250 for general nursery stock inspection certification, and the fee for single shipment nursery stock inspection certification (also known as state nursery stock phytosanitary certification) will continue to be \$50 plus \$10 per additional lot.

The applicant informs the Department how many lots the applicant has, and the Department issues a separate certificate for each lot. Some applicants elect to artificially divide their nursery stock shipment into several small lots because if the state of import rejects part of a lot, the entire lot is rejected. By designating multiple lots, the shipper can reduce the risk of having its entire shipment rejected. However, shippers' practice of designating multiple lots for a single shipment creates extra work for the Department in issuing multiple certificates, which is another reason for raising this fee.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did 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

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking 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, if applicable:

Laws 2012, Ch. 303, § 15 authorizes an exemption from the rulemaking requirements of A.R.S. Title 41, Chapter 6 for the purpose of establishing fees pursuant to those sections until July 1, 2013. As a result, this rulemaking is exempt from the requirements of the Administrative Procedures Act and no economic, small business, and consumer impact statement is required.

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):

Not applicable

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

None received

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

The Department of Agriculture Advisory Council voted on June 21, 2012 in favor of continuing the fees set out in this rulemaking through FY2012-2013.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rule does not require a permit. The nursery certification program is voluntary.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No

13. A list of any incorporated by reference material and its location in the rule:

None

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

No

15. The full text of the rules follows:

Notices of Exempt Rulemaking

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE
PLANT SERVICES DIVISION

ARTICLE 3. NURSERY CERTIFICATION PROGRAM

Section

R3-4-301. Nursery Certification

ARTICLE 3. NURSERY CERTIFICATION PROGRAM

R3-4-301. Nursery Certification

A. No change

B. No change

1. No change
 - a. No change
 - b. No change

2. No change

3. No change

4. No change

5. No change

6. No change

7. No change

8. No change

9. No change

C. No change

1. No change

2. No change

3. No change

D. No change

1. No change

2. No change

3. No change

4. No change

E. No change

1. No change

2. No change

3. No change

4. No change

5. No change

6. No change

F. No change

1. No change

2. No change

3. No change

4. No change

G. Notwithstanding subsections (B) through (D), during fiscal year ~~2011 and fiscal year 2012~~ 2013, an applicant for nursery stock inspection certification shall pay the following fee:

1. For general certification, \$250.

2. For single shipment certification, \$50 for the first lot plus \$10 for each additional lot per Department site trip.

NOTICE OF EXEMPT RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 6. DEPARTMENT OF AGRICULTURE
OFFICE OF COMMODITY DEVELOPMENT AND PROMOTION

Editor's Note: The following Notice of Exempt Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 2092.)

[R12-154]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**
R3-6-102 Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**
Authorizing statute: A.R.S. § 3-107(A)(1) & (B)(3); Laws 2012, Ch. 303, § 15
Implementing statute: Laws 2012, Ch. 303, § 15; A.R.S. § 3-109.02(A)
Statute or session law authorizing the exemption: Laws 2012, Ch. 303, § 15; A.R.S. § 41-1005(A)(5)
- 3. The effective date of the rule and the agency's reason it selected the effective date:**
August 2, 2012. The effective date of the rule is based on the effective date of the law authorizing the rulemaking.
- 4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**
None
- 5. The agency's contact person who can answer questions about the rulemaking:**
Name: G. John Caravetta, Associate Director
Address: Arizona Department of Agriculture
1688 W. Adams St.
Phoenix, AZ 85007
Telephone: (602) 542-0996
Fax: (602) 542-0922
E-mail: jcaravetta@azda.gov
- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**

This rulemaking continues fees from fiscal years 2011 and 2012 in fiscal year 2013 for services provided in fiscal year 2013 for phytosanitary certification in order to make up for decreases in general fund appropriations. See Notice of Exempt Rulemaking: 17 A.A.R. 1765 (Sept. 2, 2011) & 16 A.A.R. 1339 (July 23, 2010). By continuing these fees and nursery stock inspection certification fees, the Department anticipates it will be able to maintain its current level of services pertaining to the plant services division for fiscal year 2013. This rulemaking is exempt from Executive Order 2012-03 pursuant to paragraph 2(f) because it fulfills an obligation related to fees and is necessary to implement the state budget that was certified by the Governor's Office of Strategic Planning and Budgeting. This rulemaking is also exempt from the Executive Order pursuant to paragraph 2(g) and A.R.S. § 41-1005(A)(5).

With this rulemaking, the fee for state phytosanitary certification continues to be \$50 plus \$10 per additional lot and the fee for federal phytosanitary certification continues to be \$50. In addition to the \$50 fee for federal phytosanitary certification paid for the benefit of the Department, applicants will continue to pay a federal administrative user fee for the federal government as required by federal law. The federal administrative user fee is currently \$6 for shippers who use the "Phytosanitary Certificate Issuance and Tracking System" paper applications and \$12 for those who do not. The Department previously erroneously listed the federal phytosanitary certification base fee as \$56, but the Department only collected a \$50 base fee.

The applicant for state phytosanitary certification informs the Department how many lots the applicant has, and the Department issues a separate certificate for each lot. Some applicants elect to artificially divide their shipment into several small lots because if the state of import rejects part of a lot, the entire lot is rejected. By designating multiple lots, the shipper can reduce the risk of having its entire shipment rejected. However, shippers' practice of designating multiple lots for a single shipment creates extra work for the Department in issuing multiple certificates, which is another reason for continuing this fee for another fiscal year.

Notices of Exempt Rulemaking

The reference to 7 CFR 354.3(g)(3)(i) is being updated from the 2011 version to the 2012 version. There is no difference in the subsection between the two versions, and the Department prefers to refer the most current version when possible.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, 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

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking 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, if applicable:

Laws 2012, Ch. 303, § 15 authorizes an exemption from the rulemaking requirements of A.R.S. Title 41, Chapter 6 for the purpose of establishing fees pursuant to those sections until July 1, 2013. As a result, this rulemaking is exempt from the requirements of the Administrative Procedures Act and no economic, small business, and consumer impact statement is required.

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):

Not applicable

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

None received

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

The Department of Agriculture Advisory Council voted on June 21, 2012 in favor of continuing the fees set out in this rulemaking through FY2013.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rule does not require a permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

The federal administrative user fee is set out in 7 CFR 354.3(g)(3)(i). This rule is not more stringent than federal law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No

13. A list of any incorporated by reference material and its location in the rule:

7 CFR 354.3(g)(3)(i), revised January 1, 2012, is incorporated by reference in R3-6-102(A)(2).

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

No

15. The full text of the rules follows:

TITLE 3. AGRICULTURE

CHAPTER 6. DEPARTMENT OF AGRICULTURE
OFFICE OF COMMODITY DEVELOPMENT AND PROMOTION

ARTICLE 1. MARKETING

Section

R3-6-102. Phytosanitary Certification

ARTICLE 1. MARKETING

R3-6-102. Phytosanitary Certification

A. During fiscal year ~~2011 and fiscal year 2012~~ 2013, a person who applies to the Department for phytosanitary certification

Notices of Exempt Rulemaking

Not applicable

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

Not applicable. This rulemaking is exempt from the requirement to prepare an economic, small business and consumer impact statement pursuant to Laws 2012, Ch. 297, § 24.

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):

Not applicable

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

None

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

This rule does not require a permit. It establishes fees for licenses required by other rules.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

No

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No

13. A list of any incorporated by reference material and its location in the rule:

None

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 29. OFFICE OF PEST MANAGEMENT

ARTICLE 1. GENERAL AND ADMINISTRATIVE PROVISIONS

Section

R4-29-105. Fees; Charges; Exemption

ARTICLE 1. GENERAL AND ADMINISTRATIVE PROVISIONS

R4-29-105. Fees; Charges; Exemption

A. No change

1. No change

a. No change

b. No change

c. No change

d. No change

e. No change

2. No change

a. No change

b. No change

c. No change

d. No change

e. No change

f. No change

g. No change

Notices of Exempt Rulemaking

- h. No change
- i. No change
- j. No change
- 3. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
- B.** No change
- C.** No change
- D.** No change
- E.** No change
- F.** No change
- G.** No change
- H.** No change
- I.** Notwithstanding subsections (A), (D) and (E), for services provided in fiscal year ~~2011-2012~~ 2012-2013, the Acting Director shall collect the following fees:
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - 3. No change
 - a. No change
 - b. No change
 - c. No change
 - 4. No change
 - 5. No change
 - a. No change
 - b. No change
 - c. No change
- J.** No change

NOTICE OF EXEMPT RULEMAKING

TITLE 6. ECONOMIC SECURITY

**CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY
SOCIAL SERVICES**

Editor's Note: The following Notice of Exempt Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 2092.)

[R12-147]

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
Appendix A	Repeal
Appendix A	New Section

Notices of Exempt Rulemaking

- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**
Authorizing statute: A.R.S. §§ 41-1005(A)(25); 41-1954(A)(3); 46-134(A)(12); 46-805
Implementing statute: A.R.S. §§ 46-801 through 46-810
Statute or session law authorizing the exemption: A.R.S. § 41-1005(A)(25)
- 3. The effective date of the rules and the agency's reason it selected the effective date:**
July 1, 2012. This date is consistent with statutory requirements regarding eligibility levels.
- 4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**
None
- 5. The agency's contact person who can answer questions about the rulemaking:**

Name:	Beth A. Broeker
Address:	Department of Economic Security 1789 W. Jefferson St., Site Code 837A Phoenix, AZ 85007
	or
	Department of Economic Security P.O. Box 6123, Site Code 837A Phoenix, AZ 85005
Telephone:	(602) 542-6555
Fax:	(602) 542-6000
E-mail:	bbroeker@azdes.gov
Web site:	http://www.azdes.gov
- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**
A.R.S. § 41-1005(A)(25) gives the Department an exemption from the Administrative Procedure Act to develop rules under A.R.S. § 46-805. This statute gives the Department the authority to establish payment rates for child care assistance and a sliding fee scale and formula for determining child care assistance. The Department is adopting a new Child Care Assistance Gross Monthly Income Eligibility Chart and Fee Schedule to adjust the eligibility limits for child care assistance, to reflect updated Federal Poverty Guidelines.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did 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:**
Not applicable
- 8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking 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, if applicable:**
Because these rules are exempt from the Administrative Procedure Act under A.R.S. § 41-1005(A)(25), the Department did not prepare an economic impact statement.
- 10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):**
Not applicable
- 11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**
Not applicable
- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**

 - a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
Not applicable

Notices of Exempt Rulemaking

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:
Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:
Not applicable

13. A list of any incorporated by reference material and its location in the rule:
Not applicable

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:
Not applicable

15. The full text of the rules follows:

TITLE 6. ECONOMIC SECURITY

**CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY
SOCIAL SERVICES**

ARTICLE 49. CHILD CARE ASSISTANCE

Section

~~Appendix A. Child Care Assistance Gross Monthly Income Eligibility Chart and Fee Schedule~~

~~Appendix A. Child Care Assistance Gross Monthly Income Eligibility Chart and Fee Schedule~~

ARTICLE 49. CHILD CARE ASSISTANCE

~~Appendix A. Child Care Assistance Gross Monthly Income Eligibility Chart and Fee Schedule~~

~~ARIZONA DEPARTMENT OF ECONOMIC SECURITY~~

~~CHILD CARE ASSISTANCE GROSS MONTHLY INCOME
ELIGIBILITY CHART AND FEE SCHEDULE~~

~~EFFECTIVE JULY 1, 2011~~

Family Size ↓	FEE LEVEL 1 (L1) INCOME MAXIMUM EQUAL TO OR LESS THAN 85% FPL*	FEE LEVEL 2 (L2) INCOME MAXIMUM EQUAL TO OR LESS THAN 100% FPL*	FEE LEVEL 3 (L3) INCOME MAXIMUM EQUAL TO OR LESS THAN 135% FPL*	FEE LEVEL 4 (L4) INCOME MAXIMUM EQUAL TO OR LESS THAN 145% FPL*	FEE LEVEL 5 (L5) INCOME MAXIMUM EQUAL TO OR LESS THAN 155% FPL*	FEE LEVEL 6 (L6) INCOME MAXIMUM EQUAL TO OR LESS THAN 165% FPL*
1	0 — 772	773 — 908	909 — 1,226	1,227 — 1,317	1,318 — 1,408	1,409 — 1,499
2	0 — 1,043	1,044 — 1,226	1,227 — 1,656	1,657 — 1,778	1,779 — 1,901	1,902 — 2,023
3	0 — 1,314	1,315 — 1,545	1,546 — 2,086	2,087 — 2,241	2,242 — 2,395	2,396 — 2,550
4	0 — 1,584	1,585 — 1,863	1,864 — 2,516	2,517 — 2,702	2,703 — 2,888	2,889 — 3,074
5	0 — 1,854	1,855 — 2,181	2,182 — 2,945	2,946 — 3,163	3,164 — 3,381	3,382 — 3,599
6	0 — 2,125	2,126 — 2,500	2,501 — 3,375	3,376 — 3,625	3,626 — 3,875	3,876 — 4,125
7	0 — 2,396	2,397 — 2,818	2,819 — 3,805	3,806 — 4,087	4,088 — 4,368	4,369 — 4,650
8	0 — 2,666	2,667 — 3,136	3,137 — 4,234	4,235 — 4,548	4,549 — 4,861	4,862 — 5,175
9	0 — 2,937	2,938 — 3,455	3,456 — 4,665	4,666 — 5,010	5,011 — 5,356	5,357 — 5,701
10	0 — 3,208	3,209 — 3,773	3,774 — 5,094	5,095 — 5,471	5,472 — 5,849	5,850 — 6,226
11	0 — 3,478	3,479 — 4,091	4,092 — 5,523	5,524 — 5,932	5,933 — 6,342	6,343 — 6,751
12	0 — 3,749	3,750 — 4,410	4,411 — 5,954	5,955 — 6,395	6,396 — 6,836	6,837 — 7,277

Notices of Exempt Rulemaking

MINIMUM REQUIRED CO-PAYMENTS

Per child in care	full day = \$1.00 part day = \$.50	full day = \$2.00 part day = \$1.00	full day = \$3.00 part day = \$1.50	full day = \$5.00 part day = \$2.50	full day = \$7.00 part day = \$3.50	full day = \$10.00 part day = \$5.00
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For families receiving Transitional Child Care (TCC) there is no co-pay assigned beyond the third child in the family.

Full day = Six or more hours; Part day = Less than six hours.

Families receiving Child Care Assistance based on Child Protective Services/Foster Care, the Jobs Program or those who are receiving Cash Assistance (CA) and are employed, may not have an assigned fee level and may not have a minimum required co-payment. However, all families may be responsible for charges above the minimum required co-payments if a provider's rates exceed allowable state reimbursement maximums and/or the provider has other additional charges.

*Federal Poverty Level (FPL) = US DHHS 2011 poverty guidelines. The Arizona state statutory limit for child care assistance is 165% of the Federal Poverty Level.

The Federal Child Care & Development Funds statutory limit (for eligibility for child care assistance) of 85% of the state median income.

Appendix A. Child Care Assistance Gross Monthly Income Eligibility Chart and Fee Schedule

ARIZONA DEPARTMENT OF ECONOMIC SECURITY

CHILD CARE ASSISTANCE GROSS MONTHLY INCOME ELIGIBILITY CHART AND FEE SCHEDULE

EFFECTIVE JULY 1, 2012

Family Size ↓	<u>FEE LEVEL 1</u> <u>(L1)</u> <u>INCOME</u> <u>MAXIMUM</u> <u>EQUAL TO OR</u> <u>LESS</u> <u>THAN 85% FPL*</u>	<u>FEE LEVEL 2</u> <u>(L2)</u> <u>INCOME</u> <u>MAXIMUM</u> <u>EQUAL TO OR</u> <u>LESS</u> <u>THAN 100% FPL*</u>	<u>FEE LEVEL 3</u> <u>(L3)</u> <u>INCOME</u> <u>MAXIMUM</u> <u>EQUAL TO OR</u> <u>LESS</u> <u>THAN 135% FPL*</u>	<u>FEE LEVEL 4</u> <u>(L4)</u> <u>INCOME</u> <u>MAXIMUM</u> <u>EQUAL TO OR</u> <u>LESS</u> <u>THAN 145% FPL*</u>	<u>FEE LEVEL 5</u> <u>(L5)</u> <u>INCOME</u> <u>MAXIMUM</u> <u>EQUAL TO OR</u> <u>LESS</u> <u>THAN 155% FPL*</u>	<u>FEE LEVEL 6</u> <u>(L6)</u> <u>INCOME</u> <u>MAXIMUM</u> <u>EQUAL TO OR</u> <u>LESS</u> <u>THAN 165% FPL*</u>
	1	0 – 792	793 – 931	932 – 1,257	1,258 – 1,350	1,351 – 1,444
2	0 – 1,072	1,073 – 1,261	1,262 – 1,703	1,704 – 1,829	1,830 – 1,955	1,956 – 2,081
3	0 – 1,353	1,354 – 1,591	1,592 – 2,148	2,149 – 2,307	2,308 – 2,467	2,468 – 2,626
4	0 – 1,633	1,634 – 1,921	1,922 – 2,594	2,595 – 2,786	2,787 – 2,978	2,979 – 3,170
5	0 – 1,914	1,915 – 2,251	2,252 – 3,039	3,040 – 3,264	3,265 – 3,490	3,491 – 3,715
6	0 – 2,194	2,195 – 2,581	2,582 – 3,485	3,486 – 3,743	3,744 – 4,001	4,002 – 4,259
7	0 – 2,475	2,476 – 2,911	2,912 – 3,930	3,931 – 4,221	4,222 – 4,513	4,514 – 4,804
8	0 – 2,755	2,756 – 3,241	3,242 – 4,376	4,377 – 4,700	4,701 – 5,024	5,025 – 5,348
9	0 – 3,036	3,037 – 3,571	3,572 – 4,821	4,822 – 5,178	5,179 – 5,536	5,537 – 5,893
10	0 – 3,316	3,317 – 3,901	3,902 – 5,267	5,268 – 5,657	5,658 – 6,047	6,048 – 6,437
11	0 – 3,597	3,598 – 4,231	4,232 – 5,712	5,713 – 6,135	6,136 – 6,559	6,560 – 6,909**
12	0 – 3,877	3,878 – 4,561	4,562 – 6,158	6,159 – 6,614	6,615 – 7,050**	

MINIMUM REQUIRED CO-PAYMENTS

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**The Federal Child Care & Development Funds statutory limit (for eligibility for child care assistance) is 85% of the state median income.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ADMINISTRATION

Editor's Note: The following Notice of Exempt Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 2092.) The Governor's Office authorized the notice to proceed through the rulemaking process on April 26, 2012.

[R12-156]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**

Article 13	New Article
R9-22-1301	New Section
R9-22-1302	New Section
R9-22-1303	New Section
R9-22-1304	New Section
R9-22-1305	New Section
R9-22-1306	New Section
R9-22-1307	New Section
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**

Authorizing statute: A.R.S. §§ 36-2904 and 36-2903.01
Implementing statute: A.R.S. § 36-261
Statute or session law authorizing the exemption: Laws 2011, Ch. 31, § 34
- 3. The effective date of the rule and the agency's reason it selected the effective date:**

August 1, 2012
- 4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**

Notice of Proposed Exempt Rulemaking: 18 A.A.R. 1712, July 20, 2012
- 5. The agency's contact person who can answer questions about the rulemaking:**

Name: Mariaelena Ugarte
Address: 701 E. Jefferson St.
Phoenix, AZ 85034
Telephone: (602) 417-4693
Fax: (602) 253-9115
E-mail: AHCCCSrules@azahcccs.gov
Web site: www.azahcccs.gov
- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**

With the recent change in Arizona Law, AHCCCS now has direct legal responsibility for the CRS program. As part of that legislative act, the existing CRS program rules adopted by ADHS were left in effect "until superceded by rules adopted by [AHCCCS]." The legislature enacted this change as part of a larger initiative by ADHS and AHCCCS to better integrate the care provided to children eligible for Medicaid and CRS related services while at the same time streamlining the administration of the program. Therefore, AHCCCS is proposing rule to transition the ADHS requirements under AHCCCS.

Arizona Laws 2011, Regular Session, Ch. 31, § 34, exempts AHCCCS from the requirements of A.R.S. Title 41, Ch. 6.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did 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

Notices of Exempt Rulemaking

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking 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, if applicable:

No estimated impact is expected due to the transition of existing rules from ADHS to AHCCCS. The CRS expenditures for FFY 2010 were approximately \$310,974,300.

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):

Technical changes were made as a result of the comments received. See item 11.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

The following comments were received by the close of the comment period, July 30, 2012, 5:00 p.m.:

<u>Numb:</u>	<u>Date/ Commentor:</u>	<u>Comment:</u>	<u>Response:</u>
1.	07/27/12 Tanie Sherman Arizona Hospital Association	R9-22-1301 "CRS condition" would be clearer if defined as "CRS covered condition" or "CRS eligible condition". It would be helpful to define "AHCCCS Contractor", "CRS Contractor", "Contract" or "ALTCS EPD". To clarify confusion with use of the term "contract" and "contractor in R9-22-1302 and R9-22-1305(C).	Definition of CRS condition has been clarified to include only "covered" conditions. All other terms are either already defined under R9-22-101, R9-28-101 or are self evident. R9-22-1305C was clarified after determining it was sufficiently covered in another rule.
2.	07/27/12 Tanie Sherman Arizona Hospital Association	R9-22-1302 The age of eligibility for CRS services is unclear. Recommend the sentence state, "Beginning October 1, 2013, an AHCCCS eligible individual less than 21 years of age who needs active treatment for one or more of the CRS covered condition in R9-22-1303 shall be enrolled with the CRS Contractor, unless enrolled with an ALTCS EPD contractor."	R9-22-1302 has been revised to clarify the age of eligibility.
3.	07/27/12 Tanie Sherman Arizona Hospital Association	R9-22-1304 This section indicates any person can make a referral to AHCCCS CRS with documentation form any provider. Does the individual (child) have to be already eligible and enrolled in AHCCCS to be eligible for CRS services? Does the provider refer to a CRS provider? Does the provider need to be an AHCCCS provider, or at a minimum, a provider who is a physician with specialization in treating children in the area of the applicable CRS-covered condition? Does DMS determine the medical eligibility for the CRS program, or are CRS applications reviewed and approved by the AHCCCS Medical Director?	No, if we receive a referral for a person not already enrolled in AHCCCS we will determine their AHCCCS eligibility as well as their enrollment in CRS. See R9-22-1302 which states that the individual must be AHCCCS eligible but does not state the individual must be enrolled. No, any person or any provider may make a referral to AHCCCS for CRS eligibility. No, any person or any provider may make a referral to AHCCCS for CRS eligibility. AHCCCS Division of Member Services (DMS) will determine the medical eligibility.

Notices of Exempt Rulemaking

		<p>Is there a mechanism to notify an applicant of their approval or denial of their CRS application?</p> <p>Is there a process for the applicant to challenge or grieve a denial to the AHCCCS Administration?</p> <p>Is there a timeframe within which the Administration will provide written notice to an applicant regarding their eligibility and CRS enrollment determination?</p>	<p>Yes, rule has been revised.</p> <p>Grievance rights apply to all applicants of the AHCCCS program described under Chapter 34.</p> <p>To the extent that the referral requires a determination of eligibility it will be determined within the timelines described under Chapter 22, Article 14 or 15 or Chapter 28 depending on the individual's eligibility category. The rule is being modified to add a time-frame for CRS determination.</p>
4.	07/27/12 Tanie Sherman Arizona Hospital Association	<p>R9-22-1305</p> <p>What is the timeframe for CRS redeterminations?</p> <p>What is the "medical redetermination form", and how is it used?</p> <p>What are the times or timeframes the AHCCCS Administration can request CRS Medical Redetermination?</p> <p>It is unclear to state "at any time" or "within the timeframes specified in contract".</p> <p>Who is the "representative"?</p> <p>Can a member apply to the program on or after age 21 and be eligible for the program since there is not an age limit specified in R9-22-1302?</p> <p>What are the factors that would determine a CRS member's "medical eligibility" to continue in the program after age 21?</p> <p>Is it intended to open up medical eligibility for considered coverage beyond the age of 21 for all conditions, not just sickle cell anemia and cystic fibrosis?</p> <p>An applicant with sickle cell anemia and cystic fibrosis who is over the age of 21 would not be allowed as an initial applicant, but a CRS child with sickle cell anemia or cystic fibrosis could apply to continue in the program, as could a child with any other CRS eligible condition apply to continue past the age of 21.</p>	<p>It is not necessary to specify a time-frame for the redetermination since the CRS member will remain enrolled in CRS until it is determined they are no longer qualified for enrollment in CRS.</p> <p>The "medical redetermination form" is the form the Administration will establish to determine requalification of CRS medical eligibility.</p> <p>See above.</p> <p>Rule changed to use "authorized representative" as defined under R9-22-101.</p> <p>No, reference answer above.</p> <p>Reference answer above.</p> <p>Yes, continuation for member in the CRS program beyond the age of 21 is intended for all CRS eligible conditions.</p> <p>The rule has been clarified to state that no one is allowed to enroll with the CRS contractor if they are not initially enrolled under age 21.</p>

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

Notices of Exempt Rulemaking

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

13. A list of any incorporated by reference material and its location in the rule:

None

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

Not applicable

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ADMINISTRATION

ARTICLE 13. ~~REPEALED~~ **CHILDREN'S REHABILITATIVE SERVICES (CRS)**

Section

- R9-22-1301. ~~Repealed~~ Children's Rehabilitative Services (CRS) Related Definitions
- R9-22-1302. ~~Repealed~~ Children's Rehabilitative Services (CRS) Eligibility Requirements
- R9-22-1303. ~~Repealed~~ Medical Eligibility
- R9-22-1304. ~~Repealed~~ Referral and Disposition of CRS Medical Eligibility Determination
- R9-22-1305. ~~Repealed~~ CRS Redetermination
- R9-22-1306. ~~Repealed~~ Transition or Termination
- R9-22-1307. ~~Repealed~~ Covered Services

ARTICLE 13. ~~REPEALED~~ **CHILDREN'S REHABILITATIVE SERVICES (CRS)**

R9-22-1301. ~~Repealed~~ Children's Rehabilitative Services (CRS) related Definitions

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Article have the following meanings unless the context explicitly requires another meaning:

"Active treatment" means there is a current need for treatment or evaluation for continuing treatment of the CRS qualifying condition or it is anticipated that treatment or evaluation for continuing treatment of the CRS qualifying condition will be needed within the next 18 months.

"CRS application" means a submitted form with any additional documentation required by the Administration to determine whether an individual is medically eligible for CRS.

"Chronic" means expected to persist over an extended period of time.

"CRS condition" means any of the covered medical conditions in R9-22-1303.

"CRS provider" means a person who is authorized by employment or written agreement with the Administration to provide covered CRS medical services to a member or covered support services to a member or a member's family.

"Functionally limiting" means a restriction having a significant effect on an individual's ability to perform an activity of daily living as determined by a CRS provider.

"Medically eligible" means meeting the medical eligibility requirements of R9-22-1303.

"Redetermination" means a decision made by the Administration regarding whether a member continues to meet the requirements in R9-22-1302.

R9-22-1302. ~~Repealed~~ Children's Rehabilitative Services (CRS) Eligibility Requirements

Beginning October 1, 2013 an AHCCCS eligible individual who needs active treatment for one or more of the qualifying medical conditions in R9-22-1303 shall be enrolled with the CRS contractor, unless enrolled with an ALTCS EPD contractor. Initial enrollment with the CRS contractor is limited to individuals under the age of 21. The CRS contractor shall provide covered services necessary to treat the CRS condition and other services described within the CRS contract. The effective date of enrollment in CRS shall be as specified in contract.

R9-22-1303. ~~Repealed~~ Medical Eligibility

The following lists identify those medical conditions that do qualify for the CRS program as well as those that do not qualify for the CRS program. The covered conditions list is all inclusive. The list of conditions not covered by CRS is not an all-inclusive list:

Notices of Exempt Rulemaking

1. Cardiovascular System:
 - a. CRS conditions:
 - i. Congenital heart defect.
 - ii. Cardiomyopathy.
 - iii. Valvular disorder.
 - iv. Arrhythmia.
 - v. Conduction defect.
 - vi. Rheumatic heart disease.
 - vii. Renal vascular hypertension.
 - viii. Arteriovenous fistula, and
 - ix. Kawasaki disease with coronary artery aneurysm.
 - b. Conditions not medically eligible for CRS:
 - i. Essential hypertension;
 - ii. Premature atrial, nodal or ventricular contractions that are of no hemodynamic significance;
 - iii. Arteriovenous fistula that is not expected to cause cardiac failure or threaten loss of function; and
 - iv. Benign heart murmur.
2. Endocrine system:
 - a. CRS conditions:
 - i. Hypothyroidism.
 - ii. Hyperthyroidism.
 - iii. Adrenogenital syndrome.
 - iv. Addison's disease.
 - v. Hypoparathyroidism.
 - vi. Hyperparathyroidism.
 - vii. Diabetes insipidus.
 - viii. Cystic fibrosis, and
 - ix. Panhypopituitarism.
 - b. Conditions not medically eligible for CRS:
 - i. Diabetes mellitus.
 - ii. Isolated growth hormone deficiency.
 - iii. Hypopituitarism encountered in the acute treatment of a malignancy, and
 - iv. Precocious puberty.
3. Genitourinary system medical conditions:
 - a. CRS conditions:
 - i. Vesicoureteral reflux, with at least mild or moderate dilatation and tortuosity of the ureter and mild or moderate dilatation of renal pelvis;
 - ii. Ectopic ureter;
 - iii. Ambiguous genitalia;
 - iv. Ureteral stricture;
 - v. Complex hypospadias;
 - vi. Hydronephrosis;
 - vii. Deformity and dysfunction of the genitourinary system secondary to trauma after the acute phase of the trauma has passed;
 - viii. Pyelonephritis when treatment with drugs or biologicals has failed to cure or ameliorate and surgical intervention is required;
 - ix. Multicystic dysplastic kidneys;
 - x. Nephritis associated with lupus erythematosus; and
 - xi. Hydrocele associated with a ventriculo-peritoneal shunt.
 - b. Conditions not medically eligible for CRS:
 - i. Nephritis, infectious or noninfectious;
 - ii. Nephrosis;
 - iii. Undescended testicle;
 - iv. Phimosis;
 - v. Hydrocele not associated with a ventriculo-peritoneal shunt;
 - vi. Enuresis;
 - vii. Meatal stenosis; and
 - viii. Hypospadias involving isolated glandular or coronal aberrant location of the urethralmeatus without curvature of the penis.
4. Ear, nose, or throat medical conditions:

Notices of Exempt Rulemaking

- a. CRS conditions:
 - i. Cholesteatoma;
 - ii. Chronic mastoiditis;
 - iii. Deformity and dysfunction of the ear, nose, or throat secondary to trauma, after the acute phase of the trauma has passed;
 - iv. Neurosensory hearing loss;
 - v. Congenital malformation;
 - vi. Significant conductive hearing loss due to an anomaly in one ear or both ears equal to or greater than a pure tone average of 30 decibels, that despite medical treatment, requires a hearing aid;
 - vii. Craniofacial anomaly that requires treatment by more than one CRS provider; and
 - viii. Microtia that requires multiple surgical interventions.
 - b. Conditions not medically eligible for CRS:
 - i. Tonsillitis,
 - ii. Adenoiditis,
 - iii. Hypertrophic lingual frenum,
 - iv. Nasal polyp,
 - v. Cranial or temporal mandibular joint syndrome,
 - vi. Simple deviated nasal septum,
 - vii. Recurrent otitis media,
 - viii. Obstructive apnea,
 - ix. Acute perforation of the tympanic membrane,
 - x. Sinusitis,
 - xi. Isolated preauricular tag or pit, and
 - xii. Uncontrolled salivation.
5. Musculoskeletal system medical conditions:
- a. CRS conditions:
 - i. Achondroplasia;
 - ii. Hypochondroplasia;
 - iii. Diastrophic dysplasia;
 - iv. Chondrodysplasia;
 - v. Chondroectodermal dysplasia;
 - vi. Spondyloepiphyseal dysplasia;
 - vii. Metaphyseal and epiphyseal dysplasia;
 - viii. Larsen syndrome;
 - ix. Fibrous dysplasia;
 - x. Osteogenesis imperfecta;
 - xi. Rickets;
 - xii. Enchondromatosis;
 - xiii. Juvenile rheumatoid arthritis;
 - xiv. Seronegative spondyloarthropathy;
 - xv. Orthopedic complications of hemophilia;
 - xvi. Myopathy;
 - xvii. Muscular dystrophy;
 - xviii. Myoneural disorder;
 - xix. Arthrogryposis;
 - xx. Spinal muscle atrophy;
 - xxi. Polyneuropathy;
 - xxii. Chronic stage bone infection;
 - xxiii. Chronic stage joint infection;
 - xxiv. Upper limb amputation;
 - xxv. Syndactyly;
 - xxvi. Kyphosis;
 - xxvii. Scoliosis;
 - xxviii. Congenital spinal deformity;
 - xxix. Congenital or developmental cervical spine abnormality;
 - xxx. Hip dysplasia;
 - xxxi. Slipped capital femoral epiphysis;
 - xxxii. Femoral anteversion and tibial torsion;
 - xxxiii. Legg-Calve-Perthes disease;

Notices of Exempt Rulemaking

- xxxiv. Lower limb amputation, including prosthetic sequelae of cancer;
- xxxv. Metatarsus adductus;
- xxxvi. Leg length discrepancy of five centimeters or more;
- xxxvii. Metatarsus primus varus;
- xxxviii. Dorsal bunions;
- xxxix. Collagen vascular disease;
- xl. Benign bone tumor;
- xli. Deformity and dysfunction secondary to musculoskeletal trauma;
- xlii. Osgood Schlatter's disease that requires surgical intervention; and
- xliii. Complicated flat foot, such as rigid foot, unstable subtalar joint, or significant calcaneus deformity.
- b. Conditions not medically eligible for CRS:
 - i. Ingrown toenail;
 - ii. Back pain with no structural abnormality;
 - iii. Ganglion cyst;
 - iv. Flat foot other than complicated flat foot;
 - v. Fracture;
 - vi. Popliteal cyst;
 - vii. Simple bunion; and
 - viii. Carpal tunnel syndrome;
 - ix. Deformity and dysfunction secondary to trauma or injury if:
 - (1) Three months have not passed since the trauma or injury, and
 - (2) Leg length discrepancy of less than five centimeters at skeletal maturity.
- 6. Gastrointestinal system medical conditions:
 - a. CRS conditions:
 - i. Tracheoesophageal fistula;
 - ii. Anorectal atresia;
 - iii. Hirschsprung's disease;
 - iv. Diaphragmatic hernia;
 - v. Gastroesophageal reflux that has failed treatment with drugs or biologicals and requires surgery;
 - vi. Deformity and dysfunction of the gastrointestinal system secondary to trauma, after the acute phase of the trauma has passed;
 - vii. Biliary atresia;
 - viii. Congenital atresia, stenosis, fistula, or rotational abnormalities of the gastrointestinal tract;
 - ix. Cleft lip;
 - x. Cleft palate;
 - xi. Omphalocele; and
 - xii. Gastroschisis.
 - b. Conditions not medically eligible for CRS:
 - i. Malabsorption syndrome, also known as short bowel syndrome;
 - ii. Crohn's disease;
 - iii. Hernia other than a diaphragmatic hernia;
 - iv. Ulcer disease;
 - v. Ulcerative colitis;
 - vi. Intestinal polyp;
 - vii. Pyloric stenosis; and
 - viii. Celiac disease.
- 7. Nervous system medical conditions:
 - a. CRS conditions:
 - i. Uncontrolled seizure disorder, in which there have been more than two seizures with documented adequate blood levels of one or more medications;
 - ii. Cerebral palsy;
 - iii. Muscular dystrophy or other myopathy;
 - iv. Myoneural disorder;
 - v. Neuropathy, hereditary or idiopathic;
 - vi. Central nervous system degenerative disease;
 - vii. Central nervous system malformation or structural abnormality;
 - viii. Hydrocephalus;
 - ix. Craniosynostosis of a sagittal suture, a unilateral coronal suture, or multiple sutures in a child less than 18 months of age;

Notices of Exempt Rulemaking

- x. Myasthenia gravis, congenital or acquired;
- xi. Benign intracranial tumor;
- xii. Benign intraspinal tumor;
- xiii. Tourette's syndrome;
- xiv. Residual dysfunction after resolution of an acute phase of vascular accident, inflammatory condition, or infection of the central nervous system;
- xv. Myelomeningocele, also known as spina bifida;
- xvi. Neurofibromatosis;
- xvii. Deformity and dysfunction secondary to trauma in an individual;
- xviii. Residual dysfunction after acute phase of near drowning; and
- xix. Residual dysfunction after acute phase of spinal cord injury.
- b. Conditions not medically eligible for CRS:
 - i. Headaches;
 - ii. Central apnea secondary to prematurity;
 - iii. Near sudden infant death syndrome;
 - iv. Febrile seizures;
 - v. Occipital plagiocephaly, either positional or secondary to lambdoidal synostosis;
 - vi. Trigonocephaly secondary to isolated metopic synostosis;
 - vii. Spina bifida occulta;
 - viii. Near drowning in the acute phase; and
 - ix. Spinal cord injury in the acute phase;
 - x. Chronic vegetative state.
- 8. Ophthalmology:
 - a. CRS conditions:
 - i. Cataracts;
 - ii. Glaucoma;
 - iii. Disorder of the optic nerve;
 - iv. Non-malignant enucleation and post-enucleation reconstruction;
 - v. Retinopathy of prematurity; and
 - vi. Disorder of the iris, ciliary bodies, retina, lens, or cornea.
 - b. Conditions not medically eligible for CRS:
 - i. Simple refraction error,
 - ii. Astigmatism,
 - iii. Strabismus, and
 - iv. Ptosis.
- 9. Respiratory system medical conditions:
 - a. CRS conditions:
 - i. Anomaly of the larynx, trachea, or bronchi that requires surgery; and
 - ii. Nonmalignant obstructive lesion of the larynx, trachea, or bronchi.
 - b. Conditions not medically eligible for CRS:
 - i. Respiratory distress syndrome,
 - ii. Asthma,
 - iii. Allergies,
 - iv. Bronchopulmonary dysplasia,
 - v. Emphysema,
 - vi. Chronic obstructive pulmonary disease, and
 - vii. Acute or chronic respiratory condition requiring venting for the neuromuscularly impaired.
- 10. Integumentary system medical conditions:
 - a. CRS conditions:
 - i. A craniofacial anomaly that is functionally limiting,
 - ii. A burn scar that is functionally limiting,
 - iii. A hemangioma that is functionally limiting,
 - iv. Cystic hygroma, and
 - v. Complicated nevi requiring multiple procedures.
 - b. Conditions not medically eligible for CRS:
 - i. A deformity that is not functionally limiting,
 - ii. A burn other than a burn scar that is functionally limiting,
 - iii. Simple nevi,
 - iv. Skin tag.

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- v. Port wine stain.
- vi. Sebaceous cyst.
- vii. Isolated malocclusion that is not functionally limiting.
- viii. Pilonidal cyst.
- ix. Ectodermal dysplasia, and
- x. A craniofacial anomaly that is not functionally limiting.
- 11. Metabolic CRS conditions:
 - a. Amino acid or organic acidopathy.
 - b. Inborn error of metabolism.
 - c. Storage disease.
 - d. Phenylketonuria.
 - e. Homocystinuria.
 - f. Maple syrup urine disease.
 - g. Biotinidase deficiency.
- 12. Hemoglobinopathies CRS conditions:
 - a. Sickle cell anemia.
 - b. Thalassemia.
- 13. Medical/behavioral conditions which are not medically eligible for CRS:
 - a. Allergies:
 - b. Anorexia nervosa or obesity:
 - c. Autism:
 - d. Cancer:
 - e. Depression or other mental illness:
 - f. Developmental delay:
 - g. Dyslexia or other learning disabilities:
 - h. Failure to thrive:
 - i. Hyperactivity:
 - j. Attention deficit disorder; and
 - k. Immunodeficiency, such as AIDS and HIV.

R9-22-1304. ~~Repealed~~ Referral and Disposition of CRS Medical Eligibility Determination

- A.** To refer an individual for a CRS medical eligibility determination a person shall submit to the Administration the following information:
 - 1. CRS application.
 - 2. Documentation from a provider who evaluated the individual, stating the individual's diagnosis;
 - 3. Diagnostic test results that support the individual's diagnosis; and
 - 4. Documentation of the individual's need for specialized treatment of the CRS condition through medical, surgical, or therapy modalities.
- B.** The Administration shall notify the CRS applicant, member or authorized representative of the outcome of the determination within 60 days of receipt of information required under subsection (A). The member may appeal the determination under 9 A.A.C. 34.

R9-22-1305. ~~Repealed~~ CRS Redetermination

- A.** Continued eligibility for the CRS program shall be redetermined by verifying active treatment status of the CRS qualifying medical conditions as follows:
 - 1. The CRS Contractor is responsible for notifying the AHCCCS Administration of the date when a CRS member is no longer in active treatment for the CRS qualifying condition(s).
 - 2. The Administration may request, at any time, that the CRS contractor submit the medical documentation requested in the CRS medical redetermination form within the specified time-frames in contract.
 - 3. The Administration shall notify the CRS member or authorized representative of the redetermination process.
- B.** If the Administration determines that a CRS member is no longer medically eligible for CRS, the Administration shall provide the CRS member or authorized representative a written notice that informs the CRS member that the Administration is transitioning the CRS member's enrollment according to R9-22-1306.
- C.** Upon reaching his or her 21st birthday the CRS member will be enrolled with a non-CRS contractor unless the member requests to continue enrollment with the CRS contractor.

R9-22-1306. ~~Repealed~~ Transition or Termination

- A.** The Administration shall transition a CRS member from the CRS contractor when the Administration determines the CRS member does not meet the medical eligibility requirements in R9-22-1301.
- B.** The Administration shall terminate a CRS member from the CRS contractor and the AHCCCS program when the Administration determines the CRS member does not meet the AHCCCS eligibility requirements.

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C. If the Administration transitions a CRS member from the CRS contractor, the Administration shall provide the CRS member, or authorized representative a written notice of transition.

R9-22-1307. ~~Repealed~~ Covered Services

The AHCCCS will cover medically necessary services as described within Article 2.