



TITLE 6. ECONOMIC SECURITY

CHAPTER 14. DEPARTMENT OF ECONOMIC SECURITY - NUTRITION ASSISTANCE PROGRAM

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Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains rule Sections that were filed to be codified in the Arizona Administrative Code between the dates of January 1, 2020 through March 31, 2020.

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The release of this Chapter in Supp. 20-1 replaces Supp. 18-4, 1-16 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into titles. Titles are divided into chapters. A chapter includes state agency rules. Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each chapter.

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2019 is cited as Supp. 19-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate chapters of the *Administrative Code* in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each *Code* chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority

note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a chapter provide information about rulemaking sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, managing rules editor, assisted with the editing of this chapter.



Administrative Rules Division
The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

TITLE 6. ECONOMIC SECURITY

CHAPTER 14. DEPARTMENT OF ECONOMIC SECURITY - NUTRITION ASSISTANCE PROGRAM

Editor's Note: The Chapter heading was amended from the Food Stamps Program to the Nutrition Assistance Program by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

ARTICLE 1. FOOD STAMPS - GENERAL INFORMATION AND PROVISIONS

Article 1, consisting of Sections R6-14-101 through R6-14-111 recodified from A.A.C. R6-3-1901 through R6-3-1911 effective February 13, 1996 (Supp. 96-1).

Table listing sections R6-14-101 through R6-14-111 with their respective expiration dates.

ARTICLE 2. EXPIRED

Article 2, consisting of Sections R6-14-201 through R6-14-218, expired effective February 28, 2005 (Supp. 05-1).

Article 2, consisting of Sections R6-14-201 through R6-14-218, recodified effective February 13, 1996 (Supp. 96-1).

Table listing sections R6-14-201 through R6-14-218 with their respective expiration dates.

ARTICLE 3. CLAIMS AGAINST HOUSEHOLDS

Article 3, consisting of emergency Sections R6-14-301 through R6-14-308, expired; new Article 3, consisting of Sections R6-14-301 through R6-14-311 made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

New Article 3, consisting of Sections R6-14-301 through R6-14-308, renewed by emergency rulemaking effective January 2, 2019 for 180 days (Supp. 18-4).

New Article 3, consisting of Sections R6-14-301 through R6-

14-308, made by emergency rulemaking effective July 6, 2018 for 180 days (Supp. 18-3).

Article 3, consisting of Sections R6-14-301 through R6-14-327, expired effective February 28, 2005 (Supp. 05-1).

Article 3, consisting of Sections R6-14-301 through R6-14-320 and R6-14-322 through R6-14-327 recodified from A.A.C. R6-3-2101 through R6-3-2120 and R6-3-2122 through R6-3-2128, recodified effective February 13, 1996 (Supp. 96-1).

Table listing sections R6-14-301 through R6-14-327 with their respective expiration dates.

ARTICLE 4. APPEALS AND FAIR HEARINGS

Article 4, consisting of emergency Sections R6-14-401 through R6-14-417, expired; new Article 4, consisting of Sections R6-14-401 through R6-14-417, made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

New Article 4, consisting of Sections R6-14-401 through R6-14-417, renewed by emergency rulemaking effective January 2, 2019 for 180 days (Supp. 18-4).

New Article 4, consisting of Sections R6-14-401 through R6-14-417, made by emergency rulemaking effective July 6, 2018 for 180 days (Supp. 18-3).

Article 4, consisting of Sections R6-14-401 and R6-14-402, expired effective February 28, 2005 (Supp. 05-1).

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Article 4, consisting of Sections R6-14-401 and R6-14-402, recodified from A.A.C. R6-3-2201 and R6-3-2203 effective February 13, 1996 (Supp. 96-1).

Section
R6-14-401. Entitlement to a Fair Hearing; Appealable Action
R6-14-402. Computation of Time
R6-14-403. Request for Hearing: Form; Time Limits; Presumptions
R6-14-404. Stay of Action Pending Appeal
R6-14-405. Hearings: Location; Notice; Time
R6-14-406. Postponing the Hearing
R6-14-407. Hearing Officer: Duties and Qualifications
R6-14-408. Change of Hearing Officer; Challenges for Cause
R6-14-409. Subpoenas
R6-14-410. Parties' Rights
R6-14-411. Withdrawal of an Appeal
R6-14-412. Failure to Appear; Default; Reopening
R6-14-413. Hearing Proceedings
R6-14-414. Hearing Decision
R6-14-415. Effect of the Decision
R6-14-416. Further Administrative Appeal
R6-14-417. Appeals Board

ARTICLE 5. INTENTIONAL PROGRAM VIOLATION

Article 5, consisting of emergency Sections R6-14-501 through R6-14-507, expired; new Article 5, consisting of Sections R6-14-501 through R6-14-507 made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

New Article 5, consisting of Sections R6-14-501 through R6-14-507, renewed by emergency rulemaking effective January 2, 2019 for 180 days (Supp. 18-4).

New Article 5, consisting of Sections R6-14-501 through R6-14-507, made by emergency rulemaking effective July 6, 2018 for 180 days (Supp. 18-3).

Article 5, consisting of Sections R6-14-501 through R6-14-507, expired effective February 28, 2005 (Supp. 05-1).

Article 5, consisting of Sections R6-14-501 through R6-14-507, recodified from A.A.C. R6-3-2301 through R6-3-2307 effective February 13, 1996 (Supp. 96-1).

Section
R6-14-501. Intentional Program Violations (IPV); Defined
R6-14-502. IPV Administrative Disqualification Hearings; Hearing Waiver
R6-14-503. Administrative Disqualification Hearings
R6-14-504. Failure to Appear; Default; Reopening
R6-14-505. Disqualification Sanctions; Notice
R6-14-506. Administrative Disqualification Hearings or Waiver of the Right to a Hearing; Appeal
R6-14-507. Honoring Out-of-State IPV Determinations and Sanctions

ARTICLE 6. EXPIRED

Article 6, consisting of Sections R6-14-601 through R6-14-610, expired effective February 28, 2005 (Supp. 05-1).

Article 6, consisting of Sections R6-14-601, R6-14-602, R6-14-604 through R6-14-608, and R6-14-610, recodified from A.A.C. R6-3-2401, R6-3-2402, R6-3-2404 through R6-3-2408, and R6-3-2410 effective February 13, 1996 (Supp. 96-1).

Section
R6-14-601. Expired
R6-14-602. Expired
R6-14-603. Expired
R6-14-604. Expired
R6-14-605. Expired
R6-14-606. Expired
R6-14-607. Expired
R6-14-608. Expired
R6-14-609. Expired
R6-14-610. Expired

CHAPTER 14. DEPARTMENT OF ECONOMIC SECURITY - NUTRITION ASSISTANCE PROGRAM

ARTICLE 1. FOOD STAMPS - GENERAL INFORMATION AND PROVISIONS**R6-14-110. Expired****Historical Note**

Section R6-14-110 recodified from A.A.C. R6-3-1910 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-101. Expired**Historical Note**

Section R6-14-101 recodified from A.A.C. R6-3-1901 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-102. Expired**Historical Note**

Section R6-14-102 recodified from A.A.C. R6-3-1902 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-103. Expired**Historical Note**

Section R6-14-103 recodified from A.A.C. R6-3-1903 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-104. Expired**Historical Note**

Section R6-14-104 recodified from A.A.C. R6-3-1904 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-105. Expired**Historical Note**

Section R6-14-105 recodified from A.A.C. R6-3-1905 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-106. Expired**Historical Note**

Section R6-14-106 recodified from A.A.C. R6-3-1906 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-107. Expired**Historical Note**

Section R6-14-107 recodified from A.A.C. R6-3-1907 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-108. Expired**Historical Note**

Section R6-14-108 recodified from A.A.C. R6-3-1908 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-109. Expired**Historical Note**

Section R6-14-109 recodified from A.A.C. R6-3-1909 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

20. "Denial". The formal disapproval of an application for

R6-14-111. Definitions

For purposes of this Section, the following terms are defined as follows:

1. "Adjusted net income". Income remaining after all deductions from gross income.
2. "Adverse action". The reduction or termination of program benefits within the certification period.
3. "Alien lawfully admitted to the United States". An alien legally admitted to the United States by the U.S. Immigration and Naturalization Service. An alien legally admitted to the United States may or may not be legally admitted for permanent residence or residing under color of law.
4. "Alien lawfully admitted to the United States for permanent residence". An alien permitted to reside continuously in the United States, as specified by appropriate documentation which the alien must have in the alien's possession at all times.
5. "Allotment". The total value of coupons a household is authorized to receive during each month or any specified time period.
6. "Annualization of income". The division of yearly gross income by 12 to arrive at the monthly average.
7. "Anticipated income". Income which is not yet available to meet needs but which is expected to become available.
8. "Appeal". An individual's written statement requesting a hearing to contest action to be taken or previously taken by the Department.
9. "Applicant". A person who applies for program benefits for the that person and/or others.
10. "Assets". All items owned by an individual which have a monetary value.
11. "A.T.P.". Authorization to Participate in the Food Stamp Program.
12. "Authorized representative". A person authorized by an individual to act in the individual's behalf.
13. "Basis of issuance or benefit level". The amount of coupons for which the household is eligible, based on household size and adjusted net income.
14. "Boarding house". A commercial enterprise which offers meals and lodging for compensation.
15. "Certification". Approval of the household's application and determination of basis of issuance and period of eligibility.
16. "Citizen". An individual born or naturalized in the United States, which is defined, for program purposes, as the 50 states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and Swain's Island.
17. "Collateral contact". An individual, agency, or organization contacted to confirm statements presented by the applicant and/or participant.
18. "Color of Law". A legal status which a lawfully admitted alien may claim if the alien can satisfactorily prove that the alien has continuously resided in the United States since June 30, 1948.
19. "Coupon". Any coupon, stamp, or certification provided pursuant to the Food Stamp Act of 1977 for the purchase of eligible food.
20. "Denial". The formal disapproval of an application for program benefits.

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21. "Department". The Department of Economic Security.
22. "Drug and/or alcoholic treatment and rehabilitation center". A center providing treatment and rehabilitation programs by a private nonprofit organization.
23. "Earned income". Compensation received as wages, salaries, commissions, or profit, through employment or self-employment.
24. "Eligible food". Any food for human consumption; seeds and plants to grow foods for the personal consumption of the eligible household; delivered meals and meals served at approved communal dining facilities and rehabilitation treatment centers.
25. "Eligibility worker". Department employee responsible for the determination of eligibility of the applicant households.
26. "Equity value". The fair market value less encumbrances.
27. "F.N.S.". Food and Nutrition Service, a division of the United States Department of Agriculture.
28. "Fraud". An action, punishable by law, in which a person has knowingly, willfully, and with deceitful intent obtained benefits for which the person was not eligible.
29. "Hearing". The process of reviewing a client's situation for the purpose of deciding whether or not action taken or intended action by the Department is correct.
30. "Home visit". A visit by an Eligibility Worker to the client's place of residence to verify eligibility factors for program benefits.
31. "Home and land contiguous thereto". The residential real property owned by a client, both land improvements on which client is living, as well as any land immediately touching which is also owned by the client.
32. "Identification card". A card which identifies the bearer as eligible to receive and use food coupons.
33. "In kind". Any gain or benefit which is not in the form of money payable directly to the household, such as meals, clothing, public housing, produce from a garden, and vendor payments.
34. "Institution of higher education". Any institution providing post-high-school education, including, but not limited to, colleges, universities, and vocational or technical schools at the post-high-school level.
35. "Liquid resources". Financial instruments which can be converted to cash quickly (such as stocks, bonds, savings certificates, notes, sales contracts, etc.).
36. "Minor child". A person under age 18 and under parental control.
37. "Non-eligible food". Hot foods and hot food products prepared for immediate over-the-counter service, alcoholic beverages, tobacco, pet foods and supplies, soap, and paper products.
38. "Overissuance". The amount of a coupon allotment received by a household which is in excess of what it was eligible to receive.
39. "Parental control". A child under the age of 18 years and under the control of the parent or any adult other than natural parents (in loco parentis).
40. "Project area". The county or geographic entity designated as the administrative unit for program operations.
41. "Recertification". A re-evaluation of all eligibility factors.
42. "Restoration of lost benefits". Issuance of coupons to an eligible household that did not receive benefits or the correct amount of benefits due to an error caused by the Department.
43. "Retroactive benefits". An issuance of coupons to an eligible household who experienced a delay in the processing of the application.
44. "Roomer". Individual to whom lodging is furnished for compensation.
45. "Spouse". One of 2 individuals who are married to each other under applicable state law or who are living together and holding themselves out to the community as husband and wife.
46. "Student". An individual 18 years of age or older and attending, at least half time, a post-high-school institution of higher education (as defined for program purposes).
47. "United States citizen". A person who was born in the United States or naturalized in the United States and has maintained United States citizenship status.
48. "U.S.D.A.". United States Department of Agriculture.
49. "Vendor payments". Money payments made on behalf of the household to another by a 3rd party.

Historical Note

Section R6-14-111 recodified from A.A.C. R6-3-1911 effective February 13, 1996 (Supp. 96-1).

ARTICLE 2. EXPIRED**R6-14-201. Expired****Historical Note**

R6-14-201 recodified from A.A.C. R6-3-2001 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-202. Expired**Historical Note**

R6-14-202 recodified from A.A.C. R6-3-2002 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-203. Expired**Historical Note**

R6-14-203 recodified from A.A.C. R6-3-2003 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-204. Expired**Historical Note**

R6-14-204 recodified from A.A.C. R6-3-2004 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-205. Expired**Historical Note**

R6-14-205 recodified from A.A.C. R6-3-2005 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-206. Expired**Historical Note**

R6-14-206 recodified from A.A.C. R6-3-2006 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

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R6-14-207. Expired**Historical Note**

R6-14-207 recodified from A.A.C. R6-3-2007 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-208. Expired**Historical Note**

R6-14-208 recodified from A.A.C. R6-3-2008 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-209. Expired**Historical Note**

R6-14-209 recodified from A.A.C. R6-3-2009 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-210. Expired**Historical Note**

R6-14-210 recodified from A.A.C. R6-3-2010 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-211. Expired**Historical Note**

R6-14-211 recodified from A.A.C. R6-3-2011 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-212. Expired**Historical Note**

R6-14-212 recodified from A.A.C. R6-3-2012 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-213. Expired**Historical Note**

R6-14-213 recodified from A.A.C. R6-3-2013 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-214. Expired**Historical Note**

R6-14-214 recodified from A.A.C. R6-3-2014 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-215. Expired**Historical Note**

R6-14-215 recodified from A.A.C. R6-3-2015 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-216. Expired**Historical Note**

R6-14-216 recodified from A.A.C. R6-3-2016 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-217. Expired**Historical Note**

R6-14-217 recodified from A.A.C. R6-3-2017 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-218. Expired**Historical Note**

R6-14-218 recodified from A.A.C. R6-3-2018 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

ARTICLE 3. CLAIMS AGAINST HOUSEHOLDS**R6-14-301. Purpose and Definitions**

- A. The Department establishes and collects claims under 7 CFR 273.18, Claims against households. This Article clarifies the Department's policies and procedures as permitted in federal regulation.
- B. The definitions in R6-14-111 and the following definitions apply to this Article:
 1. "Agency error" or "AE claim" means any claim for an overpayment caused by an action or failure to take action by the Department.
 2. "Claim" means the amount of a federal debt owed because Nutrition Assistance benefits were overpaid or benefits were trafficked.
 3. "Household" means one of the following individuals or groups of individuals, unless otherwise specified under 7 CFR 273.1(b):
 - a. Except as contained in (B)(3)(b):
 - i. An individual living alone;
 - ii. An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others; or
 - iii. A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.
 - b. Specific to the Claim Compromise process in R6-14-308, the following persons who are residing together:
 - i. Adults who were members of the Nutrition Assistance household for which the claim was established, and who were adults at the time the claim was established, and
 - ii. Minor children for whom adult household members are responsible.
 4. "Inadvertent household error" or "IHE claim" means any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the Nutrition Assistance household. This includes instances when the household received more benefits than it was entitled to receive because the household requested a continuation of benefits, pending a fair hearing decision.
 5. "Intentional Program Violation" or "IPV claim" means any claim for an overpayment resulting from an individ-

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ual committing and intending to commit, an IPV under 7 CFR 273.16.

6. "Trafficking claim" means any claim for the value of benefits that are trafficked, under 7 CFR 273.18. Trafficking is defined under 7 CFR 271.2.

Historical Note

R6-14-301 recodified from A.A.C. R6-3-2101 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-302. Claim Calculation; Date of Discovery; Overpayment Period

Under 7 CFR 273.18, the Department shall calculate an overpayment of benefits claim by:

- A. Date of discovery. The date of discovery is determined when the Department becomes aware of the overpayment.
1. For AE claims, the date of discovery is the date the overpayment has been verified or the date the household ultimately fails to respond to or satisfy an overpayment inquiry.
 2. For IHE and IPV claims, the date that the Department obtains verification used to calculate the over-issuance.
 3. For claims resulting from trafficking, the date of the court decision, or the date the household signed a waiver of administrative disqualification hearing form or a disqualification consent agreement.
- B. For AE and IHE claims, calculate a claim for the month of the date of discovery and for each prior month, not to exceed 36 months prior to the date of discovery.
- C. For an IPV claim not related to trafficking, calculate a claim back to the month that the IPV first occurred, not to exceed 72 months prior to the date of discovery.
- D. For a claim resulting from trafficking, calculate a claim for the value of the trafficked benefits, as determined under 7 CFR 273.18(c)(2).

Historical Note

R6-14-302 recodified from A.A.C. R6-3-2102 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-303. Determining a Claim Amount

- A. For all claims other than a claim resulting from trafficking:
1. The Department shall determine whether the overpayment of benefits occurred at the time an eligibility determination was rendered for a new or recertification application or whether the overpayment occurred during an eligible certification period.
 2. When it is discovered that the Department rendered an incorrect eligibility determination or issued an incorrect benefit amount because the Department failed to cor-

rectly act on information provided on the application or reported by the applicant, or because the applicant failed to provide correct information on the application or prior to application approval, the Department shall re-determine eligibility and a benefit amount for that application and for the months in the certification period, using the application approval or denial policies and procedures that were in effect at the time the eligibility determination for the application was rendered. The Department will not consider information that was not previously reported by the household that would have resulted in an increase in the benefit allotment at the time of initial approval of benefits.

- a. When it is determined that the household was ineligible, the Department shall establish a claim based on the amount of benefits issued for each month during the certification period that was established when the application was originally approved, minus the amount of benefits that the Department has expunged from the household's EBT benefit account, for each of the corresponding overpaid months.
 - b. When it is determined that the household was eligible, the Department shall establish a claim based on the amount of benefits that were paid in excess of the correct benefit amount in each month of the certification period, minus the amount of benefits that the Department has expunged from the household's EBT benefit account, for each of the corresponding overpaid months.
 - c. When it is determined that the household was eligible and received a smaller benefit amount than it was eligible to receive because the Department failed to correctly act on information provided on the application or reported by the applicant prior to application approval, the Department shall issue a supplement for each month in the certification period that the household was paid less than the correct benefit amount as provided in 7 CFR 273.17.
3. When a change occurred during an eligible certification period:
- a. The Department shall process any change that was reported and re-determine a new benefit allotment amount for each affected month in the certification period using the change processing policies and procedures that were in effect for those months under 7 CFR 273.12(c).
 - i. The Department shall establish a claim based on the amount of benefits that were paid in excess of the new benefit amount in each affected month of the certification period, minus the amount of benefits that the Department has expunged from the household's EBT benefit account.
 - ii. The Department shall issue a supplement for each month the household was paid less than the new benefit amount.
 - b. When the Department discovers a change which was not reported by the household, the Department shall determine whether the change was required to be reported based on the change reporting requirement assigned to the household for the certification period.
 - i. When the change was not required to be reported the Department shall not process the

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change for the months in the certification period.

- ii. When the change was required to be reported the Department shall re-determine eligibility and a new benefit allotment amount for each affected month in the certification period using the change processing policies and procedures that were in effect for those months under 7 CFR 273.12(c). The Department shall establish a claim based on the amount of benefits that were paid in excess of the correct benefit amount in each month of the certification period, minus the amount of benefits that the Department has expunged from the household's EBT benefit account.

- B. For a claim resulting from trafficking, the Department shall calculate a claim amount based on the entire value of the trafficked benefits.

Historical Note

R6-14-303 recodified from A.A.C. R6-3-2103 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-304. Pre-establishment Cost Effectiveness Determination

The Department shall not establish an overpayment that is not cost effective using the threshold at 7 CFR 273.18(e)(2)(ii), unless the Department establishes and collects claims under a cost-effectiveness plan approved by the Food and Nutrition Service of the U.S. Department of Agriculture under 7 CFR 273.18(e)(2)(i) that establishes a different threshold.

Historical Note

R6-14-304 recodified from A.A.C. R6-3-2104 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-305. Notice of Claim

To begin collection on a claim, the Department shall send the household a Notice of Claim. At a minimum, the notice shall include all elements required under 7 CFR 273.18(e)(3)(iv).

Historical Note

R6-14-305 recodified from A.A.C. R6-3-2105 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an

immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-306. Acceptable Forms of Payment

The Department may accept all forms of payment, including the methods listed in 7 CFR 273.18(f) to collect a claim.

Historical Note

R6-14-306 recodified from A.A.C. R6-3-2106 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-307. Collection Methods

- A. Allotment reduction. When a household is receiving Nutrition Assistance benefits, the Department may use the allotment reduction in 7 CFR 273.18(g)(1).
- B. As provided under 7 CFR 273.18(g)(5), the Department may allow a household that is not participating in the Nutrition Assistance program to pay a claim in equal monthly payments in a negotiated repayment agreement. The household shall be responsible to pay a monthly payment in one of the following amounts until the claim is paid in full:
 1. An amount equal to the balance of the claim at the time the negotiated repayment agreement is made, divided by 36.
 2. When the amount in (B)(1) is equal to or less than \$10.00, the monthly repayment amount shall be \$10.00.
- C. Under 7 CFR 273.18(g)(6), the Department may arrange with a liable individual to intercept his or her unemployment compensation benefits. This collection option may be included as part of a repayment agreement. The Department may also intercept an individual's unemployment compensation benefits by obtaining a court order.
- D. Under 7 CFR 273.18(g)(8), the Department may use other collection methods that include:
 1. Submitting the claim to the Arizona Department of Revenue for payment through a state tax refund.
 2. Submitting the claim to the Arizona Lottery Commission for payment through a lottery winnings offset.
 3. Submitting the claim to the federal Treasury Offset Program under 7 CFR 273.18(n).
 4. A wage garnishment established through a civil judgment or criminal restitution order. When the Department has obtained a judgment or order, the Department shall:
 - a. Send the household a Pre-Garnishment Notice to allow the household to agree to pay the claim in a manner other than wage garnishment; and
 - b. If the household fails to arrange for payment in response to the Pre-Garnishment Notice, the Department may request the Arizona Attorney General's Office to initiate a wage garnishment under A.R.S. Title 12, Chapter 9, Article 4.1, and that garnishment may continue until the claim is paid in full.
 5. Garnishment or levy of monies or property per A.R.S. Title 12, Chapter 9, Article 4.
 6. Imposition or enforcement of all liens, including judgment liens imposed under A.R.S. § 33-961.
 7. Any other legal or equitable remedy for the collection of debts and judgments.

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- E. Under 7 CFR 273.18(j) and at the Arizona Attorney General's direction, the Department shall act on behalf of the Food and Nutrition Service of the U.S. Department of Agriculture in any bankruptcy proceeding against a household subject to a claim.

Historical Note

R6-14-307 recodified from A.A.C. R6-3-2107 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-308. Claim Compromise

- A. In accordance with the Department's Claim Compromise policy and procedures as contained in the Arizona Cash and Nutrition Assistance Policy manual, the Department may compromise an entire claim or any portion of a claim if it can be reasonably determined that a household's economic circumstances dictate that the claim will not be paid in three years.
- B. For purposes of a claim compromise "household" means the following persons who are residing together:
1. Adults who were members of the Nutrition Assistance household for which the claim was established, and who were adults at the time the claim was established, and
 2. Minor children for whom adult household members are responsible.
- C. When a household reports that it is unable to pay the claim in the equal monthly increments specified in R6-14-307(A) or (B), the Department shall inform the household that it may request a one-time compromise of the claim and shall provide the household with instructions for requesting a compromise. The Department may compromise the claim by reducing the claim amount and the resulting monthly payment amount when:
1. The household contacts the Department, orally or in writing, and requests a compromise of the claim,
 2. The claim was established as an Agency Error claim or an Inadvertent Household Error claim,
 3. There is no pending Appeal of the claim,
 4. The Department has not previously approved a compromise of the claim, and
 5. The Department approves the compromise request as provided in this Section.
- D. When the Department receives a compromise request, and there is no pending appeal of the claim for which the compromise is requested, the Department shall send the household a Financial Statement form requesting necessary information and verification required for the Department to determine eligibility for a claim compromise.
- E. The household must return the completed Financial Statement with requested information and verification to the Department no later than the thirtieth calendar day following the date that the Department mailed or otherwise transmitted the Financial Statement to the household. When the household requests assistance or additional time, the Department shall allow an additional thirty calendar days for the household to provide a completed Financial Statement. The Department shall deny the compromise claim request when the Financial Statement is not provided by the household by the thirtieth calendar day or the agreed upon extension date, unless the delay was for good cause. Good cause includes circumstances beyond the house-

hold's reasonable control such as illness, illness of another household member requiring the presence of the adult member, or a household emergency.

- F. When the Financial Statement is timely provided to the Department, and all information and verification is complete, the Department shall complete the determination of eligibility for a compromise and send a notice no later than the twentieth working day, as defined in R6-14-402, following the date that the Department received the Financial Statement and all required information and verification.
- G. When the compromise request is approved the Department shall notify the household of the compromised claim amount, the repayment plan for the new claim amount, and the household's right to file an appeal of the Department's action. The compromised claim amount shall be final unless modified by an appeal hearing decision.
1. The household shall pay a monthly payment in one of the following amounts until the compromised claim balance is paid in full:
 - a. An amount equal to the balance of the compromised claim amount, divided by 36.
 - b. When the amount in (G)(1)(a) is equal to or less than \$10.00, the monthly payment shall be \$10.00.
 - c. When the household is currently participating in the Nutrition Assistance program, the Department shall reduce the household's monthly Nutrition Assistance benefit allotment by the greater of \$10 or 10 percent.
 - d. When the household is no longer participating in the Nutrition Assistance program, the household shall be responsible to pay the original claim compromise monthly payment amount calculated in accordance with (G)(1)(a) and (b). The Department shall notify the household of the claim compromise monthly payment obligation.
 2. The approval of a compromise request shall apply only to the household that requested the compromise and does not affect the responsibility of any person:
 - a. Who is not a member of the household that requested the compromise, and
 - b. Who is responsible for paying the claim under 7 CFR 273.18(a)(4).
- H. When the compromise request is denied the Department shall notify the household of the denial and the household's right to file an appeal of the Department's action.
- I. The household may appeal the following actions or inaction related to a request for a compromise:
1. The Department's inaction or untimely action on processing the compromise request;
 2. The amount of the approved compromise balance; or
 3. A denial of the compromise request.

Historical Note

R6-14-308 recodified from A.A.C. R6-3-2108 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-309. Reinstatement of a Compromised Claim

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The Department shall reinstate any compromised portion of a claim when either of the following occurs:

1. A claim becomes delinquent under 7 CFR 273.18(e)(5).
2. The Department approved a compromise for a claim that was originally established as an Inadvertent Household Error claim and the original claim is later determined to have resulted from an Intentional Program Violation, as evidenced by a signed waiver of an Administrative Disqualification Hearing, an Administrative Disqualification Hearing decision, or a decision rendered by a state or federal court in a civil or criminal action.

Historical Note

R6-14-309 recodified from A.A.C. R6-3-2109 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-310. Terminating and Writing Off a Claim

The Department shall terminate and write off a claim as required under 7 CFR 273.18(e)(8)(ii)(A through E), and may terminate and write off a claim as allowed under 7 CFR 273.18(e)(8)(ii)(F) and (G).

Historical Note

R6-14-310 recodified from A.A.C. R6-3-2110 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-311. Claims Established in Another State

Under 7 CFR 273.18(i)(2), the Department may accept a claim from another state if the household subject to the claim receives Nutrition Assistance benefits in Arizona, when:

1. The Department confirms that the household was notified by the other state of the overpayment, and
2. There is no pending or unresolved Fair Hearing or Appeal of the overpayment in the other state, and
3. The Department determines with reasonable certainty that the household is able to repay the outstanding claim balance in full within the Nutrition Assistance certification period assigned to the household in Arizona.

Historical Note

R6-14-311 recodified from A.A.C. R6-3-2111 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-312. Expired**Historical Note**

R6-14-312 recodified from A.A.C. R6-3-2112 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-313. Expired**Historical Note**

R6-14-313 recodified from A.A.C. R6-3-2113 effective February 13, 1996 (Supp. 96-1). Section expired under

A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-314. Expired**Historical Note**

R6-14-314 recodified from A.A.C. R6-3-2114 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-315. Expired**Historical Note**

R6-14-315 recodified from A.A.C. R6-3-2115 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-316. Expired**Historical Note**

R6-14-316 recodified from A.A.C. R6-3-2116 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-317. Expired**Historical Note**

R6-14-317 recodified from A.A.C. R6-3-2117 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-318. Expired**Historical Note**

R6-14-318 recodified from A.A.C. R6-3-2118 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-319. Expired**Historical Note**

R6-14-319 recodified from A.A.C. R6-3-2119 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-320. Expired**Historical Note**

R6-14-320 recodified from A.A.C. R6-3-2120 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-321. Expired**Historical Note**

R6-14-321 reserved; Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-322. Expired**Historical Note**

R6-14-322 recodified from A.A.C. R6-3-2122 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

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R6-14-323. Expired**Historical Note**

R6-14-323 recodified from A.A.C. R6-3-2123 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-324. Expired**Historical Note**

R6-14-324 recodified from A.A.C. R6-3-2124 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-325. Expired**Historical Note**

R6-14-325 recodified from A.A.C. R6-3-2125 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-326. Expired**Historical Note**

R6-14-326 recodified from A.A.C. R6-3-2126 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-327. Expired**Historical Note**

R6-14-327 recodified from A.A.C. R6-3-2127 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

ARTICLE 4. APPEALS AND FAIR HEARINGS**R6-14-401. Entitlement to a Fair Hearing; Appealable Action**

Any applicant or recipient who disagrees with any action or inaction by the Department which affects the participation of the household in the program has the right to challenge the action or inaction by requesting an administrative or fair hearing. Administrative hearings are conducted by the Department's Office of Appeals. In this Article, "hearing" refers to a Fair Hearing as required in 7 CFR 273.15.

Historical Note

R6-14-401 recodified from A.A.C. R6-3-2201 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-402. Computation of Time

- A. In computing any time period:
1. "Day" means a calendar day;
 2. "Working day" means Monday through Friday, excluding federal or Arizona state holidays;

3. The Department does not count the date of the act, event, notice, or default from which a designated time period begins to run as part of the time period; and
4. The Department counts the last day of the designated time period. When the day is a Saturday, Sunday, federal holiday or Arizona state holiday, the last day is the first working day following that day.

- B. Documents sent by the Department are received by an applicant or recipient on the date sent to the applicant or recipient's last known street or e-mail address, plus an additional five calendar days only when sent by U.S. mail. The send date is the date shown on the document unless the facts show otherwise.

Historical Note

R6-14-402 recodified from A.A.C. R6-3-2203 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-403. Request for Hearing: Form; Time Limits; Presumptions

- A. As contained in 7 CFR 273.15(h) a request for a hearing is defined as a clear expression, oral or written, by the household or its representative to the effect that it wishes to appeal a decision or that an opportunity to present its case to a higher authority is desired.
- B. An applicant or recipient who wishes to appeal an action or inaction shall make an oral or written request for a hearing to the Department within 90 days of the notice date advising the applicant or recipient of the action, except that a recipient may appeal the current level of benefits at any time within a certification period. Action by the Department shall include a denial of a request for restoration of any benefits lost more than 90 days but less than one year prior to the request for a hearing. An applicant or recipient may file a request for hearing in-person or by mail, fax, phone, or Internet. The Department shall provide a form for this purpose. Upon request, the Department shall help an applicant or recipient to file an appeal. If the applicant or recipient makes an oral request for a hearing, the Department shall accept the oral request, record in writing the date of the request and the stated reasons for the hearing, and forward the request to the Office of Appeals. The freedom to make a request for a hearing shall not be limited or interfered with in any way.
- C. An appellant is an applicant or recipient who files an appeal.
- D. The Department shall process any oral or written request for a hearing that contains sufficient information for the Department to determine the appellant's identity.
- E. The Department deems a request for hearing filed:
1. If the appellant sends the request for hearing by first-class mail through the United States Postal Service to the Department:
 - a. On the mailing date as shown by the postmark;
 - b. In the absence of a postmark, on the postage meter mark on the envelope in which it is received; or
 - c. If not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.
 2. The date the Department actually receives the request, if not mailed.

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- F. A document is timely filed if the appellant can demonstrate that any delay in submission was due to any of the following reasons:
1. Department error or misinformation;
 2. Delay or other action by the United States Postal Service; or
 3. Delay due to the appellant's changing mailing addresses at a time when the appellant had no duty to notify the Department of the change.
- G. When the Office of Appeals receives an untimely request for a hearing, the Office of Appeals shall determine whether the delay in submission is excusable, as provided in subsection (F). The Department shall consider an untimely request for a hearing as a request for restoration of lost benefits in accordance with 7 CFR 273.17.
- H. An appellant whose appeal the Office of Appeals denies as untimely may petition for review of this issue as provided in R6-14-416.
- I. The Department shall expedite a hearing request for any person covered by 7 CFR 273.15(i)(2).
- J. The Department shall provide interpreters or other language services at no cost to persons whose primary language is other than English. This shall include explaining the hearing procedures orally in the person's language if the materials are not translated into the person's language.
- K. The Department shall offer an agency conference as provided by 7 CFR 273.15(d) to those persons denied expedited service and to any person who requests a conference.
1. Include information on how to request an in-person hearing;
 2. Advise the appellant or the appellant's representative of the name, address, and phone number to notify the Office of Appeals in the event it is not possible for the appellant to attend the hearing;
 3. Specify that the Office of Appeals will dismiss the hearing request if the appellant or the appellant's representative fails to appear for the hearing without good cause;
 4. Include the Office of Appeals hearing procedures and any other information that would provide the appellant with an understanding of the proceedings and that would contribute to the effective presentation of the appellant's case; which shall include a pre-hearing summary prepared by the Department, and
 5. Explain that the appellant or the appellant's representative shall be given adequate opportunity to:
 - a. Examine the case file prior to the hearing. The contents of the case file including the application form and documents of verification used by the Department to establish the household's ineligibility or eligibility and allotment shall be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge or the nature or status of pending criminal prosecutions, is protected from release. If requested by the household or its representative, the Department shall provide a free copy of the portions of the case file that are relevant to the hearing. Confidential information that is protected from release and other documents or records which the household will not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing or affect the hearing official's decision.
 - b. Present the case or have it presented by legal counsel or another person.
 - c. Bring witnesses.
 - d. Advance arguments without undue interference.
 - e. Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses.
 - f. Submit evidence to establish all pertinent facts and circumstances in the case.
 6. The notice shall include information about the availability of free legal services.

Historical Note

New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-404. Stay of Action Pending Appeal

As provided by 7 CFR 273.15(k), if the appellant timely requests a fair hearing, the Department shall stay the implementation of an action until the hearing officer renders a final decision on the appeal and the person receives the decision, unless the appellant signs a waiver of continuation of benefits.

Historical Note

New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-405. Hearings: Location; Notice; Time

- A. The Office of Appeals shall schedule the hearing. The Office of Appeals may schedule a telephonic hearing instead of an in-person hearing or permit a witness or party, upon request, to appear telephonically.
- B. Unless the appellant requests an earlier hearing date, the Office of Appeals shall schedule the hearing no earlier than 20 days from the date the Department receives the appellant's request for hearing.
- C. The Office of Appeals shall send a notice of hearing to all parties at least 20 days before the hearing date, unless a request for an earlier hearing date is granted under subsection (B).
- D. The notice of hearing shall be in writing and shall:

Historical Note

New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-406. Postponing the Hearing

- A. The appellant may request and is entitled to receive one postponement of the first scheduled hearing. The postponement shall not exceed 30 days and the time limit for action on the decision may be extended for as many days as the hearing is postponed. The Office of Appeals may grant subsequent postponements upon a showing of good cause.
- B. When the Office of Appeals reschedules a hearing under this Section, the Office of Appeals shall send the notice of rescheduled hearing at least 11 days prior to the date of the rescheduled hearing, unless the appellant agrees to shorter notice.

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Historical Note

New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-407. Hearing Officer: Duties and Qualifications

- A. An impartial hearing officer in the Office of Appeals shall conduct all hearings.
- B. The hearing officer shall:
 1. Administer oaths and affirmations;
 2. Regulate the conduct and course of the hearing consistent with due process to insure an orderly hearing;
 3. Consider all relevant issues;
 4. Request, receive, and admit into the record all evidence determined necessary to decide the issues being raised;
 5. Order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the Department. The hearing officer shall decide on the source of the medical assessment or professional evaluation when the household and the Department are unable to agree on a mutually satisfactory source. The Department shall pay for the medical assessment or professional evaluation when such services are not available to the household as part of the household's current health insurance coverage;
 6. As provided under 7 CFR 273.15(m)(2)(vi), render a hearing decision and issue a written decision reversing, affirming, modifying or remanding the agency's decision; and
 7. Issue subpoenas under R6-14-409.

Historical Note

New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-408. Change of Hearing Officer; Challenges for Cause

- A. A party may request a change of hearing officer as prescribed in A.R.S. § 41-1992(B) by filing an affidavit that includes:
 1. The case name and number;
 2. The hearing officer assigned to the case; and
 3. The name and signature of the party requesting the change.
- B. The party requesting the change shall file the affidavit with the Office of Appeals and send a copy to all other parties at least five days before the hearing date.
- C. A party shall request only one change of hearing officer unless that party is challenging a hearing officer for cause under subsection (E).
- D. A party may not request a change of hearing officer once the hearing officer has heard and decided a motion except as provided in subsection (E).
- E. At any time before a hearing officer renders a final decision under R6-14-414, a party may challenge a hearing officer on the grounds that the hearing officer is not impartial or disinterested in the case.
- F. A party who brings a challenge for cause shall file an affidavit as provided in subsection (A) and send a copy of the affidavit to all other parties. The affidavit shall explain the reason why the assigned hearing officer is not impartial or disinterested.

- G. When a party files an affidavit for a change in hearing officer as provided in subsection (F), the Office of Appeals shall assign another hearing officer to determine whether the hearing officer being challenged shall be removed, unless the hearing officer recuses himself or herself.
- H. The Office of Appeals shall transfer the case to another hearing officer when:
 1. A party requests a change as provided in subsections (A) through (D); or
 2. The hearing officer is removed for cause, as provided in subsections (E) through (G).
- I. The Office of Appeals shall send the parties written notice of the new hearing officer assignment.

Historical Note

New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-409. Subpoenas

- A. A party may ask the assigned hearing officer to issue a subpoena for a witness, document, or other physical evidence or to otherwise obtain the requested evidence. Subpoena forms are available to the appellant under R6-14-410(D).
- B. The party seeking the subpoena shall send the hearing officer a written request for a subpoena. The request shall include:
 1. The case name and number;
 2. The name of the party requesting the subpoena;
 3. The name and address of any person to be subpoenaed;
 4. A description of any documents or physical evidence the appellant desires the hearing officer to subpoena, including the title, appearance, and location of the item if the appellant knows its location, and the name and address of the person in possession of the item; and
 5. A statement about the expected substance of the testimony or other evidence as well as the relevance and importance of the requested testimony or other evidence.
- C. A party shall request a subpoena at least five working days before the hearing date. A party who is unable to request a subpoena at least five days before the hearing date may request a postponement of the hearing. A party may raise the denial of a subpoena request in a petition for review to the Appeals Board, pursuant to R6-14-416.
- D. The hearing officer shall deny the request if the witness's testimony or the physical evidence is not relevant to an issue in the case or is duplicative.
- E. The Office of Appeals shall prepare all subpoenas and serve them by mail, except that the Office of Appeals may serve subpoenas on state employees who are appearing in the course of their jobs, by regular mail, hand-delivered mail, e-mail, or interoffice mail.

Historical Note

New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-410. Parties' Rights

- The appellant and the Department have the following rights:
1. The right to request a postponement of the hearing;

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2. The right to receive before and during the hearing documents the Department may use at the hearing and a free copy of any documents in the Department's file on the appellant, except documents protected by the attorney-client or work-product privilege or as otherwise protected by federal or state confidentiality laws;
3. The right to request a change of hearing officer;
4. The right to request subpoenas for witnesses and evidence;
5. The right to be represented by an authorized representative, subject to any limitations on the unauthorized practice of law in the Rules of the Supreme Court of Arizona, Rule 31;
6. The right to bring witnesses, present evidence and to confront and cross-examine adverse witnesses;
7. The right to advance arguments without undue interference, to question or refute any testimony or evidence; and
8. The right to further appeal, as provided in R6-14-416 and R6-14-417, if dissatisfied with the Office of Appeals decision.

Historical Note

New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-411. Withdrawal of an Appeal

- A. An appellant may withdraw an appeal at any time prior to the time the hearing officer issues a decision.
 1. An appellant may withdraw an appeal orally, either in person or by telephone. The Department may record the audio of the withdrawal. The Department is prohibited from coercion or actions that would influence the person or their representative to withdraw the fair hearing request. The Department must provide a written notice within 10 days of the oral request confirming the withdrawal request and providing the person an opportunity to request to reinstate the hearing within 10 days of the date the notice is received as provided in R6-14-402(B).
 2. An appellant may withdraw an appeal by signing a written statement expressing the intent to withdraw. The Department shall make a withdrawal form available for this purpose.
- B. The Office of Appeals shall dismiss the appeal when the appellant or the appellant's representative provides a signed withdrawal request to the Department or to the hearing officer prior to the issuance of a hearing decision or when the appellant or the appellant's representative makes such a request on the record during a hearing, or orally as provided in subsection (A)(1).

Historical Note

New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-412. Failure to Appear; Default; Reopening

- A. If an appellant fails to appear at the hearing, the hearing officer shall:
 1. Enter a default and issue a decision dismissing the appeal, except as provided in subsection (B);
 2. Rule summarily on the available record; or
 3. Adjourn the hearing to a later date and time.

- B. The hearing officer shall not enter a default or rule summarily if the appellant notifies the Office of Appeals before the scheduled time of hearing that the appellant cannot attend the hearing because of good cause and still desires a hearing or wishes to have the matter considered on the available record. Good cause includes circumstances beyond the household's reasonable control such as, but not limited to, illness, illness of another household member requiring the presence of the adult member, or a household emergency.
- C. A party who did not appear at the hearing may file a request to reopen the proceedings no later than 10 days after the hearing. The request shall be in writing, by mail or e-mail, or be made in person or by telephone and shall demonstrate good cause for the party's failure to appear.
- D. If the hearing officer finds that the party had good cause for failure to appear, the hearing officer shall reopen the proceedings and schedule a new hearing with notice to all interested parties as prescribed in R6-14-405.
- E. If the hearing officer cannot grant or deny the request to reopen the proceedings based on the information provided, the hearing officer shall set the matter for a hearing to determine whether the party had good cause for failure to appear.
- F. Good cause, for the purpose of reopening a hearing, is established if the failure to appear at the hearing and the failure to timely notify the hearing officer were beyond the reasonable control of the nonappearing party. Good cause also exists when the nonappearing party demonstrates excusable neglect, as used in Arizona Rules of Civil Procedure, Rule 60(b)(1) for both the failure to appear and the failure to timely notify the hearing officer. "Excusable neglect" means an action involving an error such as might be made by a reasonably prudent person who attempts to handle a matter in a prompt and diligent fashion.

Historical Note

New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-413. Hearing Proceedings

- A. The hearing is a de novo proceeding. The Department has the initial burden of presenting the evidence to support the adverse action being appealed.
- B. The standard of proof is a preponderance of the evidence.
- C. The Arizona Rules of Evidence do not apply at the hearing. The hearing officer may admit and give probative effect to evidence as prescribed in A.R.S. § 41-1062(A).
- D. The Office of Appeals shall audio record all hearings. The Office of Appeals shall also transcribe the proceedings when a transcription is requested by the Appeals Board or when a transcription is required for judicial review under A.R.S. § 41-1993. If a transcript is prepared for any purpose, the appellant is entitled to a copy of the transcription at no cost.
- E. A party may, at the party's own expense, arrange to have a court reporter present to transcribe the hearing, provided that such transcription does not delay or interfere with the hearing. The Office of Appeal's recording of the hearing shall constitute the official record of the hearing.

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- F. The hearing officer shall call the hearing to order and dispose of any prehearing motions or issues.
 - G. With the consent of the hearing officer, the parties may stipulate to factual findings or legal conclusions.
 - H. A party may advance arguments without undue interference.
 - I. A party may testify, present evidence, call witnesses, cross-examine adverse witnesses, and object to evidence. The hearing officer may also take witness testimony or admit evidence on the hearing officer's own motion.
 - J. The hearing officer shall keep a complete record of all proceedings in connection with an appeal.
 - K. The hearing officer may request the parties to submit memoranda on issues in the case if the hearing officer finds that the memoranda would assist the hearing officer in deciding the case. The hearing officer shall establish a briefing schedule for any required memoranda.
 - L. The recording of the hearing, all the evidence presented at the hearing and all papers and requests filed shall constitute the record and shall be available to the household or its representative at any reasonable time for copying and inspection.
- A. If the hearing officer affirms the adverse action against the appellant, the adverse action is effective as of the date of the initial determination of adverse action by the Department. The adverse action remains effective until the appellant appeals and obtains a higher administrative or judicial decision reversing or vacating the hearing officer's decision.
 - B. If the hearing officer vacates or reverses the Department's decision to take adverse action, the Department shall not take the action or shall reverse any adverse action, unless the Department appeals and obtains a higher administrative or judicial decision reversing or vacating the hearing officer's decision.
 - C. As specified in 7 CFR 273.15(c) the Department shall:
 1. For decisions that result in an increase in household benefits:
 - a. Authorize and deposit a benefit supplement in the household's EBT benefit account within 10 days of the receipt of the hearing decision; or
 - b. The Department may take longer than 10 days if it elects to make the decision effective in the household's normal issuance cycle, provided that the issuance will occur within 60 days from the household's request for the hearing.
 2. For decisions that result in a decrease in household benefits the Department shall authorize and deposit a decreased benefit amount in the household's EBT benefit account for the next scheduled issuance following receipt of the hearing decision.

Historical Note

New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-414. Hearing Decision

- A. No later than 60 days after the date the appellant files a request for hearing with the Department, the hearing officer shall render a decision based solely on the evidence and testimony produced at the hearing and the applicable law. The 60-day time limit is extended for any delay necessary to accommodate hearing continuances or extensions, or postponements requested by a party.
- B. The hearing decision shall include:
 1. Findings of fact concerning the issue on appeal;
 2. Citations to the law and authority applicable to the issue on appeal;
 3. A statement of the conclusions derived from the controlling facts and law and the reasons for the conclusions;
 4. The name of the hearing officer;
 5. The date of the decision;
 6. A statement of further appeal rights, a statement of the process required to initiate a further appeal, and the time period for exercising those rights; and
 7. That an appeal may result in a reversal of the decision.
- C. The Office of Appeals shall send a copy of the decision to each party or the party's representative.
- D. When requested by the appellant, the Department, or upon the hearing officer's own motion, the Office of Appeals may amend or vacate a decision to correct clerical errors, including typographical and computational errors.

Historical Note

New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-415. Effect of the Decision

- A. No later than 60 days after the date the appellant files a request for hearing with the Department, the hearing officer shall render a decision based solely on the evidence and testimony produced at the hearing and the applicable law. The 60-day time limit is extended for any delay necessary to accommodate hearing continuances or extensions, or postponements requested by a party.
- B. The hearing decision shall include:
 1. Findings of fact concerning the issue on appeal;
 2. Citations to the law and authority applicable to the issue on appeal;
 3. A statement of the conclusions derived from the controlling facts and law and the reasons for the conclusions;
 4. The name of the hearing officer;
 5. The date of the decision;
 6. A statement of further appeal rights, a statement of the process required to initiate a further appeal, and the time period for exercising those rights; and
 7. That an appeal may result in a reversal of the decision.
- C. The Office of Appeals shall send a copy of the decision to each party or the party's representative.
- D. When requested by the appellant, the Department, or upon the hearing officer's own motion, the Office of Appeals may amend or vacate a decision to correct clerical errors, including typographical and computational errors.

Historical Note

New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-416. Further Administrative Appeal

- A. A party can appeal an adverse decision issued by a hearing officer to the Department's Appeals Board as prescribed in A.R.S. § 41-1992(C) and (D) by filing a written petition for review with the Office of Appeals within 15 days of the mailing or transmittal date of the hearing officer's decision.
- B. The petition for review shall:
 1. Be in writing and filed in person or by mail or fax;
 2. Describe why the party disagrees with the hearing officer's decision; and
 3. Be signed and dated by the party or the party's representative.

Historical Note

New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-417. Appeals Board

- A. The Appeals Board shall conduct proceedings in accordance with A.R.S. §§ 41-1992(D) and 23-672.
- B. The Appeals Board shall issue to all parties a final written decision affirming, reversing, setting aside, or modifying the hearing officer's decision based on the complete record, including the audio recording or the transcript of the hearing.

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- The decision of the Appeals Board shall specify the right to further review and the time for filing an application for appeal.
- C. A household appellant adversely affected by an Appeals Board decision may seek judicial review under A.R.S. § 41-1993.

Historical Note

New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

ARTICLE 5. INTENTIONAL PROGRAM VIOLATION**R6-14-501. Intentional Program Violations (IPV); Defined**

- A. An Intentional Program Violation (IPV) consists of having intentionally:
1. Made a false or misleading statement, or misrepresented, concealed or withheld facts; or
 2. Committed any act that constitutes a violation of the Food and Nutrition Act, the Supplemental Nutrition Assistance Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of Supplemental Nutrition Assistance Program benefits or Electronic Benefit Transfer (EBT) cards. In Arizona, the name of the Supplemental Nutrition Assistance Program is the Nutrition Assistance Program.
- B. For the purpose of imposing sanctions as prescribed in R6-14-505, a person is considered to have committed an IPV if:
1. A person signs a waiver of an Administrative Disqualification Hearing,
 2. A person is found to have committed an IPV by an Administrative Disqualification Hearing, or
 3. A person is convicted of a criminal offense the elements of which would constitute an IPV under subsection A above or enters into a disqualification consent agreement for deferred prosecution for fraud in a court of law.

Historical Note

R6-14-501 recodified from A.A.C. R6-3-2301 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-502. IPV Administrative Disqualification Hearings; Hearing Waiver

- A. Upon receipt of sufficient documentary evidence substantiating that a person has committed an IPV, the Department shall initiate either an Administrative Disqualification Hearing, or a referral for prosecution.
- B. When the Department initiates an Administrative Disqualification Hearing, the Department shall mail the person suspected of an IPV written notice of the right to waive the Administrative Disqualification Hearing. This notice shall be sent either by first class mail or certified mail – return receipt requested.
- C. The waiver notice of the Administrative Disqualification Hearing shall include the following information as well as the information described in R6-14-503(D):

1. A statement that the Department has determined that the individual suspected of the IPV committed, and intended to commit, one or more acts described in R6-14-501(A) and that the Department has initiated an Administrative Disqualification Hearing against the individual suspected of the IPV.
2. A summary of the allegations and evidence against the individual suspected of the IPV and notification that the individual suspected of the IPV has the right to examine the case file prior to the hearing and, when requested by the individual or representative, be provided a free copy of any documents in the case file, except documents protected by the attorney-client or work-product privilege or as otherwise protected by federal or state confidentiality laws.
3. A statement of the right of the individual suspected of the IPV to remain silent concerning the allegation of an IPV, and that anything said or signed by the individual concerning the allegations can be used against the individual suspected of the IPV in a court of law, including signing any part of the waiver.
4. A statement that signing a waiver of the Administrative Disqualification Hearing will result in disqualification periods as determined by section R6-14-505, a statement of the penalty the Department believes is applicable to the case scheduled for a hearing and a reduction in benefits for the period of disqualification, even if the individual suspected of the IPV does not admit to the facts as presented by the Department.
5. A statement that the individual suspected of the IPV does not have to sign a waiver of the Administrative Disqualification Hearing, return the waiver form to the Department or speak to anyone at the Department.
6. A statement of the fair hearing rights of the individual suspected of the IPV and notification that these rights are waived when the individual suspected of the IPV submits a signed waiver of the Administrative Disqualification Hearing form.
7. A statement that waiver of the Administrative Disqualification Hearing does not preclude the State or Federal Government from prosecuting the individual suspected of the IPV for the IPV in a civil or criminal court action, or from collecting any over issuance of Nutrition Assistance benefits.
8. A statement that the individual suspected of the IPV may wish to consult an attorney and a list of any individuals or organizations that provide free legal representation.
9. A statement that Nutrition Assistance benefits will continue and will only be terminated if the following occurs:
 - a. The individual suspected of the IPV signs a notice to waive their rights to an Administrative Disqualification Hearing,
 - b. There is an Administrative Disqualification Hearing decision that the individual suspected of the IPV is disqualified,
 - c. The individual is determined to no longer be eligible on other grounds, or
 - d. The individual requests that the Nutrition Assistance benefits not be continued in order to avoid a potential over issuance of benefits.
10. A statement that the remaining adult household members, if any, will be held responsible for repayment of the resulting over issuance claim.
11. An opportunity for the individual suspected of the IPV to specify whether or not the individual admits to the facts as presented by the Department. This opportunity shall

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consist of the following statements, and a method for the individual suspected of the IPV to designate the individual's waiver choice:

- a. I admit to the facts as presented and understand that a disqualification penalty will be imposed if I sign this waiver. I understand that if I sign this waiver, there will not be an Administrative Disqualification Hearing; or
 - b. I do not admit that the facts as presented are correct in my Nutrition Assistance case. However, I have chosen to sign this waiver of the Administrative Disqualification Hearing. I also understand that a disqualification penalty will be imposed. I understand that if I mark this box, I will not be able to submit additional evidence, have an Administrative Disqualification Hearing, or have the right to administrative appeal; or
 - c. I do not admit that the facts as presented are correct in my Nutrition Assistance case. I do not waive my right to require an Administrative Disqualification Hearing where the Department must prove by clear and convincing evidence that I committed, and intended to commit, an Intentional Program Violation.
12. A statement that if the individual suspected of the IPV does not waive their right to an Administrative Disqualification Hearing, then the Department must prove by clear and convincing evidence that the person committed and intended to commit, an Intentional Program Violation. The statement shall also advise the person that they may attend the hearing but are not required to attend. If the person opts to attend the hearing, they may talk to the judge about what happened and present additional evidence to the judge if they want to. The person also has the right to remain silent. The judge will decide if the person will be disqualified from participating in the Nutrition Assistance program.
 13. The telephone number of the appropriate Department unit that the individual may contact to obtain additional information.
 14. A due date that the signed waiver of an Administrative Disqualification Hearing must be provided to the Department so that a hearing will not be held and a signature block for the individual suspected of the IPV, along with a statement that the head of household must also sign the waiver if the individual suspected of the IPV is not the head of household, with an appropriately designated signature block.
 15. If the signed waiver of the Administrative Disqualification Hearing is not returned by the due date, the Department shall schedule the Administrative Disqualification Hearing and shall send the individual suspected of the IPV a written hearing notice as contained in R6-14-503(C).
- D.** For the purpose of imposing sanctions as prescribed in R6-14-505, a timely signed waiver of an Administrative Disqualification Hearing shall have the same effect as an administrative adjudication that an IPV occurred.

Historical Note

R6-14-502 recodified from A.A.C. R6-3-2302 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180

days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-503. Administrative Disqualification Hearings

- A.** The rules on fair hearings contained in Article 4 of this Chapter apply to Intentional Program Violation (IPV) Administrative Disqualification Hearings, except as provided in this Article.
- B.** All IPV Administrative Disqualification Hearings are conducted by the Department's Office of Appeals.
- C.** If the individual suspected of an IPV does not sign and return the waiver of Administrative Disqualification Hearing by the return date set in the waiver notice, or returns the waiver notice stating they do not waive the Administrative Disqualification Hearing, the Office of Appeals shall send the individual a written hearing notice. The Office of Appeals shall send the notice by first class mail, certified mail - return receipt requested, or any other reliable method, no later than 30 days before the scheduled hearing date.
- D.** The hearing notice shall include the following information:
1. The date, time, and place of the hearing;
 2. The allegations of an IPV against the individual;
 3. A summary of the evidence, how and where the evidence can be examined, and that the individual suspected of the IPV has the right to examine the case file prior to the hearing. When requested by the household or its representative, the Department shall provide a free copy of any documents in the case file, except documents protected by the attorney-client or work-product privilege or as otherwise protected by federal or state confidentiality laws;
 4. A notice that the decision will be based solely on information provided by the Department if the individual suspected of the IPV fails to appear at the hearing;
 5. A statement that the individual or representative will, upon receipt of the notice, have 10 days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing;
 6. A warning that a determination of IPV will result in disqualification periods as defined by R6-14-505, and a statement of which penalty the Department believes is applicable to the case scheduled for a hearing;
 7. A listing of the individual's rights as contained in R6-14-410;
 8. A statement that the Administrative Disqualification Hearing does not preclude the State or Federal Government from prosecuting the individual for the IPV in a civil or criminal court action, or from collecting any over issuance of Nutrition Assistance benefits;
 9. A statement that the individual suspected of the IPV may consult with an attorney and a list of any individuals or organizations known to the Department that provide free legal representation; and
 10. A notice that the individual suspected of the IPV has the right to obtain a copy of the Department's published hearing procedures together with an explanation of how the individual suspected of the IPV can obtain these procedures.
- E.** The hearing officer shall postpone a hearing for up to 30 days if the individual suspected of the IPV files a written or oral request for postponement with the hearing officer no later than 10 days before the hearing date. Any such postponement shall increase the time by which the hearing officer shall issue a decision, as provided in subsection (J).
- F.** The time and place for the hearing shall be arranged so that the hearing is accessible to the individual suspected of the IPV,

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including making reasonable accommodations for a person with a disability.

- G. At the start of the Administrative Disqualification Hearing, the hearing officer shall advise the individual suspected of the IPV or representative of the right to remain silent during the hearing. The hearing officer shall also advise that if the individual suspected of the IPV or representative chooses not to exercise the right to remain silent, anything they say may be used against them.
- H. A hearing officer, as prescribed in R6-14-407, shall conduct the Administrative Disqualification Hearing pursuant to the procedures set forth in R6-14-408, R6-14-409, R6-14-410 and R6-14-413, except as prescribed in this subsection.
- I. The Department shall prove by clear and convincing evidence that the household member committed, and intended to commit, an IPV.
- J. No later than 90 days from the date of the notice of hearing, as increased by any postponement days, the hearing officer shall send to the individual suspected of the IPV a written decision. The hearing officer shall find whether the evidence shows by clear and convincing evidence that the person committed, and intended to commit, an IPV. The decision shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent regulation, respond to reasoned arguments made by the individual suspected of the IPV or representative, and include appeal rights.

Historical Note

R6-14-503 recodified from A.A.C. R6-3-2303 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-504. Failure to Appear; Default; Reopening

- A. If the individual suspected of the IPV fails to appear at the Administrative Disqualification Hearing without good cause, the hearing officer shall conduct the hearing.
- B. The hearing officer shall not conduct the hearing if the individual suspected of the IPV notifies the Office of Appeals before the hearing that the individual cannot attend the hearing because of good cause and still desires a hearing. Good cause includes circumstances beyond the household's reasonable control such as illness, illness of another household member requiring the presence of the adult member, or a household emergency.
- C. An individual suspected of the IPV who did not appear at the hearing may file a request to reopen the Administrative Disqualification Hearing. The request shall be in writing and shall demonstrate good cause for the party's failure to appear.
 1. The individual suspected of the IPV has 30 days after the date of the written notice of the hearing decision to file a request to reopen the Administrative Disqualification Hearing if the individual did not receive a hearing notice.
 2. In all other instances, the individual suspected of the IPV has 10 days from the hearing date to show good cause why the individual failed to appear.
- D. The hearing officer shall review the good cause reason submitted by the individual suspected of the IPV and unless the hearing officer can grant or deny the request based on the information provided, shall set the matter for a hearing to

determine whether the individual suspected of the IPV had good cause for failing to appear.

- E. If the hearing officer finds that the individual suspected of the IPV had good cause for failure to appear, the previous decision shall be vacated and the hearing officer shall reopen the Administrative Disqualification Hearing and schedule a new hearing with notice to all parties. The hearing officer must enter the good cause decision on the record.
- F. Good cause, for the purpose of reopening an Administrative Disqualification Hearing, is established if the failure to appear at the hearing and the failure to timely notify the hearing officer were beyond the reasonable control of the individual suspected of the IPV. Good cause also exists when the individual suspected of the IPV demonstrates excusable neglect for both the failure to appear and the failure to timely notify the hearing officer. "Excusable neglect" means an action involving an error such as might be made by a reasonably prudent person who attempts to handle a matter in a prompt and diligent fashion.

Historical Note

R6-14-504 recodified from A.A.C. R6-3-2304 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-505. Disqualification Sanctions; Notice

- A. A person found to have committed an IPV is disqualified from program participation:
 1. For a period of 12 months for the first IPV, except as provided under subsections (B) through (E);
 2. For a period of 24 months for the second IPV, except as provided in subsections (B) through (E); and
 3. Permanently for the third IPV.
 4. The same act of IPV repeated over a period of time shall not be separated so that separate penalties can be imposed.
- B. Individuals found by any court to have used or received benefits in a transaction involving the sale of a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), shall be ineligible to participate in the program:
 1. For a period of 24 months for the first violation; and
 2. Permanently upon the second violation.
- C. Individuals found by any court to have used or received benefits in a transaction involving the sale of firearms, ammunition or explosives shall be permanently ineligible to participate in the program upon the first violation.
- D. An individual convicted by any court of having trafficked benefits for an aggregate amount of \$500 or more shall be permanently ineligible to participate in the program upon the first violation.
- E. Except as provided under subsection (A)(3), an individual found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple Nutrition Assistance benefits simultaneously shall be ineligible to participate in the program for 10 years.

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- F. Upon a determination of IPV, the Department shall notify the disqualified person in writing of the pending disqualification. The written notice shall:
1. Inform the disqualified person of the decision and the reasons for the decision; and
 2. Inform the disqualified person of the date the disqualification will take effect and the duration of the disqualification.
- G. Under 7 CFR 273.11(c)(1), when determining the eligibility and benefit level for the remaining eligible members of the household, the Department shall count the income and resources of the disqualified person in their entirety and the entire household's allowable earned income, standard, medical, dependent care, child support, and excess shelter deductions shall continue to apply to the remaining household members. The Department shall not include the ineligible member when determining the household's size for the purposes of:
1. Assigning a benefit level to the household;
 2. Assigning a standard deduction to the household;
 3. Comparing the household's monthly income with the income eligibility standards; or
 4. Comparing the household's resources with the resource eligibility limits.
- H. Under 7 CFR 273.11 (c)(4) and 7 CFR §273.16(e)(9)(ii) and (f)(3), the Department shall notify the remaining members of their eligibility and benefit level at the same time the excluded member is notified of his or her disqualification.

Historical Note

R6-14-505 recodified from A.A.C. R6-3-2305 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-506. Administrative Disqualification Hearings or Waiver of the Right to a Hearing; Appeal

- A. Upon a determination of IPV through a signed waiver of an Administrative Disqualification Hearing, the individual has no right to further administrative appeal. The individual may seek relief in a court having jurisdiction and may seek a stay or other injunctive relief of a period of disqualification.
- B. A party may appeal a Hearing Officer's Administrative Disqualification Hearing decision as provided in R6-14-416(A) to the Appeals Board as provided in R6-14-417.
- C. An individual adversely affected by an Appeals Board decision may seek judicial review under A.R.S. § 41-1993.

Historical Note

R6-14-506 recodified from A.A.C. R6-3-2306 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an

immediate effective date of January 21, 2020 (Supp. 20-1).

R6-14-507. Honoring Out-of-State IPV Determinations and Sanctions

The Department shall honor sanctions imposed against an applicant or recipient by the agency of another state that administers the Supplemental Nutrition Assistance Program and shall consider prior violations committed in another state when determining the appropriate sanction.

Historical Note

R6-14-507 recodified from A.A.C. R6-3-2307 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3). Emergency renewed at 24 A.A.R. 3591, effective January 2, 2019 for an additional 180 days (Supp. 18-4). Emergency expired; new Section made by final rulemaking at 26 A.A.R. 263, with an immediate effective date of January 21, 2020 (Supp. 20-1).

ARTICLE 6. EXPIRED**R6-14-601. Expired****Historical Note**

R6-14-601 recodified from A.A.C. R6-3-2401 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-602. Expired**Historical Note**

R6-14-602 recodified from A.A.C. R6-3-2402 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-603. Expired**Historical Note**

R6-14-603 reserved; Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-604. Expired**Historical Note**

R6-14-604 recodified from A.A.C. R6-3-2404 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-605. Expired**Historical Note**

R6-14-605 recodified from A.A.C. R6-3-2405 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-606. Expired**Historical Note**

R6-14-606 recodified from A.A.C. R6-3-2406 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-607. Expired

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Historical Note

R6-14-607 recodified from A.A.C. R6-3-2407 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-608. Expired**Historical Note**

R6-14-608 recodified from A.A.C. R6-3-2408 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-609. Expired**Historical Note**

R6-14-609 reserved; Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-610. Expired**Historical Note**

R6-14-610 recodified from A.A.C. R6-3-2410 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).