

TITLE 6. ECONOMIC SECURITY
CHAPTER 17. DEPARTMENT OF ECONOMIC SECURITY
GENERAL ASSISTANCE PROGRAM

Editor's Note: 6 A.A.C. 17 made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

**ARTICLE 1. GENERAL ASSISTANCE PROGRAM;
 PURPOSE AND DEFINITIONS**

Article 1, consisting of Sections R6-17-101 and R6-17-102, made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

Section	
R6-17-101.	Purpose
R6-17-102.	Definitions

ARTICLE 2. EXPIRED

Article 2, consisting of Sections R6-17-201 through R6-17-203, expired at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

Article 2, consisting of Sections R6-17-201 through R6-17-203, made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

Section	
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R6-17-202.	Expired
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ARTICLE 3. REQUESTING BENEFITS

Article 3, consisting of Sections R6-17-301 through R6-17-308, made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

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**ARTICLE 4. NON-FINANCIAL ELIGIBILITY
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R6-17-406.	Expired
R6-17-407.	Application for Federal Disability Benefits; Authorization of Reimbursement; and Assignment of SSDI Benefits
R6-17-408.	Expired

ARTICLE 5. EXPIRED

Article 5, consisting of Sections R6-17-501 through R6-17-507, expired at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

Article 5, consisting of Sections R6-17-501 through R6-17-

507, made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

Section	
R6-17-501.	Expired
R6-17-502.	Expired
R6-17-503.	Expired
R6-17-504.	Expired
R6-17-505.	Expired
R6-17-506.	Expired
R6-17-507.	Expired

ARTICLE 6. EXPIRED

Article 6, consisting of Sections R6-17-601 through R6-17-606, expired at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

Article 6, consisting of Sections R6-17-601 through R6-17-606, made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

Section	
R6-17-601.	Expired
R6-17-602.	Expired
R6-17-603.	Expired
R6-17-604.	Expired
R6-17-605.	Expired
R6-17-606.	Expired

ARTICLE 7. BENEFIT PAYMENTS

Article 7, consisting of Sections R6-17-701 through R6-17-711, made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

Section	
R6-17-701.	Expired
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R6-17-703.	Expired
R6-17-704.	Expired
R6-17-705.	Expired
R6-17-706.	Expired
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R6-17-709.	Overpayments: Date of Discovery; Collection
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ARTICLE 8. MAINTAINING BENEFITS

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Section	
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R6-17-803.	Expired
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R6-17-805.	Notices of Adverse Action
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R6-17-807.	Interim Assistance Reimbursement

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919, made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

Section

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R6-17-910.	Subpoenas
R6-17-911.	Parties' Rights
R6-17-912.	Withdrawal of an Appeal
R6-17-913.	Failure to Appear; Default; Reopening
R6-17-914.	Hearing Proceedings
R6-17-915.	Hearing Decision
R6-17-916.	Effect of the Decision
R6-17-917.	Further Administrative Appeal
R6-17-918.	Appeals Board
R6-17-919.	Judicial Review

ARTICLE 1. GENERAL ASSISTANCE PROGRAM; PURPOSE AND DEFINITIONS

R6-17-101. Purpose

- A. The General Assistance (GA) Program is an interim cash benefits program, provided to the following individuals during the period an application has been filed and is pending with the Social Security Administration for federal disability benefits:
1. Disabled persons who agree to reimburse the Department out of any federal disability benefits received; and
 2. Caretakers of disabled persons.
- B. Eligibility determinations for the General Assistance Program are completed by the Family Assistance Administration (FAA).
- C. Notwithstanding the fulfillment of any eligibility requirement for any component of General Assistance, an individual is not entitled to GA benefits.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-102. Definitions

The following definitions apply to this Chapter:

1. "Acceptable medical source" means a registered nurse practitioner or a licensed physician, including a medical or osteopathic doctor; licensed psychologist; licensed optometrist; and licensed podiatrist, as applicable for the particular medical impairment.
2. "Administration" means the Family Assistance Administration of the Department.
3. "Adverse action" means any of the following:
 - a. The right to apply for assistance is denied;
 - b. An application for assistance is denied;
 - c. Action to approve or deny an application is not taken within 60 days of the application file date;
 - d. Assistance is terminated or reduced;
 - e. A determination that an overpayment of assistance has been made; or
 - f. A request for a waiver of an overpayment is denied.
4. "AIMBIG" or "Arizona Integrated Manual Benefit Information Guide" means the policies and procedures used to determine an assistance unit's eligibility for General Assistance.
5. "Appeals Board" means the Department's independent, quasi-judicial, administrative appellate body, established under A.R.S. § 23-672, and authorized to review administrative decisions issued by hearing officers as prescribed in A.R.S. § 41-1992(D).
6. "Appellant" means an applicant or recipient who requests a hearing with the Office of Appeals to appeal an adverse action imposed by the Department.
7. "Applicant" means a person who has directly, or through a representative, filed an application for GA with the Department.
8. "Assistance unit" means a group of persons whose needs, income, resources, and other circumstances are considered as a whole for the purpose of determining eligibility and benefit amount.
9. "Available income or resources" means income or resources that are actually available for use by the assistance unit. It includes income or resources in which the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance.
10. "CA" or "Cash Assistance" means temporary assistance for needy families paid to a recipient for the purpose of meeting basic living expenses, as defined in A.R.S. § 46-101.
11. "Collateral contact" means an individual, agency, or organization the Department contacts to confirm information provided by the applicant or recipient.
12. "Countable income" means the amount of income of the assistance unit that the Department considers to determine eligibility and compute a benefit amount under R6-17-601.
13. "Day" means a calendar day unless otherwise specified.
14. "Department" means the Arizona Department of Economic Security.
15. "District Medical Consultant" means a licensed physician whom the Department employs to review medical records for the purpose of determining physical or mental incapacity.
16. "EBT" or "Electronic Benefit Transfer" means the electronic disbursement of benefits to eligible recipients.
17. "Equity value" means the fair market value of a resource minus any legal debt owed on the resource.
18. "FAA" or "Family Assistance Administration" means the administration within the Department's Division of Benefits and Medical Eligibility responsible for providing financial and food stamp assistance to eligible persons and determining eligibility for medical assistance.
19. "Fair consideration" means an amount that reasonably represents the fair market value of transferred property.
20. "Fair market value" means the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell, and both having reasonable knowledge of the relevant facts.
21. "Federal disability benefits" means SSI and SSDI.
22. "GA" means General Assistance as provided in this Chapter.
23. "GA caretaker" means a GA recipient who is receiving GA as a full-time care provider to a disabled person.
24. "Hearing officer" means an individual appointed by the Department Director under A.R.S. § 41-1992(A) to conduct hearings when an appellant challenges an adverse action.
25. "Homebound" means a person who is confined to the home because of physical or mental incapacity.

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26. “Homestead property” means:
- A home that is owned and occupied by an applicant or recipient, or
 - A home that is co-owned by the applicant or recipient and a separated or divorced spouse of the applicant or recipient, and is occupied by the separated or divorced spouse.
27. “Institution” means a facility such as a hospital or nursing home, but does not include a penal facility.
28. “Income” means earned and unearned income combined.
29. “In-kind income” means the value of goods or services received for work in lieu of the receipt of wages.
30. “IPV” or “Intentional Program Violation” means an act committed by an applicant or recipient, for the purpose of establishing or maintaining eligibility for GA or for increasing or preventing a reduction in the amount of assistance, which is intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.
31. “Liquid asset” means cash or another financial instrument that is readily convertible to cash.
32. “Local office” means an FAA office that is designated as the office in which GA applications and other documents are filed with the Department and in which eligibility and benefit amounts are determined.
33. “Lump sum payment” means a single payment such as retroactive monthly benefits, non-recurring pay adjustments or bonuses, inheritances, lottery winnings, or personal injury and workers’ compensation awards.
34. “Mailing date,” when used in reference to a document sent first class, postage prepaid, through the United States mail, means the date:
- Shown on the postmark;
 - Shown on the postage meter mark of the envelope, if there is no postmark; or
 - Entered on the document as the date of its completion, if there is no legible postmark or postage meter mark.
35. “Net income” means the assistance unit’s total gross income less applicable disregards, which is used to compute the benefit amount.
36. “Notice date” means the date that appears as the official date of issuance on a document or official written notice the Department sends or gives to an applicant or recipient.
37. “Notice of adverse action” means a written notice sent to a recipient when the Department decreases or terminates assistance, as described at R6-17-805.
38. “Office of Appeals” means the Department’s independent, quasi-judicial, administrative hearing body, which includes hearing officers appointed under A.R.S. § 41-1992(A).
39. “OSI” or “Office of Special Investigations” means the Department office to which FAA refers cases for investigation of certain eligibility information, investigation and preparation of fraud charges, coordination and cooperation with law enforcement agencies, and other similar functions.
40. “Overpayment” means a financial assistance payment received by or for an assistance unit that exceeds the amount to which the unit is lawfully entitled.
41. “Recipient” means a person, including a GA caretaker, who receives GA benefits.
42. “Request for hearing” means a clear written or verbal expression by an applicant or recipient, or such person’s representative, indicating a desire to present the case or issue to a higher authority.
43. “Resident” means a person who meets the definition of A.R.S. § 46-292(A)(1).
44. “Resources” means the assistance unit’s real and personal property and liquid assets.
45. “Review” means a review of all factors affecting an assistance unit’s eligibility and benefit amount.
46. “Social Disability” means any non-medical impairments or deficiencies which in combination with a medical disability further serve to limit employability. Non-medical impairments include the following:
- Advanced age;
 - Language barriers;
 - Lack of education; and
 - Lack of employment history.
47. “SSDI” or “Social Security Disability Insurance” means disability benefits paid pursuant to 42 U.S.C. 401, et seq.
48. “Spendthrift restriction” means a legal restriction on the use of a resource that prevents a payee or beneficiary from spending the resource.
49. “SSI” or Supplemental Security Income” means benefits paid pursuant to 42 U.S.C. 1381, et seq.
50. “Suitable work” means work for which a person is reasonably qualified.
51. “SVES” means the State Verification and Exchange System, which is a system through which the Department exchanges income and benefit information with the Internal Revenue Service, Social Security Administration, State Wage, and Unemployment Insurance Benefit data files.
52. “Underpayment” means a monthly benefit payment that is less than the amount for which the assistance unit is eligible, or the Department’s failure to issue a benefit payment when such payment should have been issued.
53. “Vendor payment” means a payment that a person or organization who is not a member of an assistance unit makes to a third party to cover assistance unit expenses.
54. “WIA” or “Workforce Investment Act” means the program authorized by 29 U.S.C. 2801 et seq. that provides a comprehensive workforce investment system whose purpose is to increase financial productivity and reduce welfare dependency. WIA provides workforce investment activities designed to increase employment, employment retention and earnings, occupational skills, and the quality of the workforce. WIA replaces the former “Job Training Partnership Act” (JTPA) programs.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Amended by final rulemaking at 14 A.A.R. 3891, effective September 24, 2008 (Supp. 08-3).

ARTICLE 2. EXPIRED**R6-17-201. Expired****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-202. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-203. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

ARTICLE 3. REQUESTING BENEFITS**R6-17-301. Expired****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-302. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-303. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-304. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-305. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-306. Case Record

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

applicable criminal that prohibits the receipt of assistance, as defined in A.R.S. § 46-101.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-307. Confidentiality

- A.** Personally identifiable information.
 1. All personally identifiable information concerning an applicant or recipient in the possession of the Department is confidential and not subject to public inspection, except as otherwise specified in A.R.S. § 41-1959 and this Section.
 2. Personally identifiable information includes:
 - a. Name, address, and telephone number;
 - b. Social security number and date of birth;
 - c. Unique identifying numbers such as a driver's license number;
 - d. Photographs;
 - e. Information related to social and economic conditions or circumstances;
 - f. Medical data, including diagnosis and past history of disease or disability; and
 - g. Any other information that is reasonably likely to permit another person to readily identify the subject of the information.
- B.** Release of information to applicants and recipients.
 1. The Department shall not release confidential information obtained without the applicant's or recipient's knowledge, such as information from the Office of Special Investigations (OSI), to the applicant or recipient. The Department shall only release such information pursuant to a court order, or with the permission of OSI.
 2. An applicant or recipient may review the contents of their own case record at any time during the Department's regular business hours, provided that a Department employee is present during the review.
 3. The Department may withhold medical information contained in the case file from an applicant or recipient until the Department contacts the patient's physician and obtains an opinion that the Department can safely release the information.
- C.** Release of information to another person. An applicant or recipient may permit the release of information from the applicant or recipient's eligibility file to another person or representative by executing a release form containing the following information:
 1. The specific information the Department is authorized to release;
 2. The name of the person to whom the Department may release information;
 3. The duration of the release, if limited; and
 4. The signature of the applicant or recipient and the date that the release is signed.
- D.** Release to persons and agencies for official purposes.
 1. An official purpose, as used in this subsection, means a purpose directly related to the administration of a public assistance program and includes:
 - a. Establishing eligibility;
 - b. Determining the amount of an assistance benefit;
 - c. Providing services to applicants and recipients, including child support enforcement services;
 - d. Investigating or prosecuting civil or criminal proceedings related to an assistance program; and
 - e. Evaluating, analyzing, overseeing, and auditing program operations.

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2. The Department may release confidential information to the following persons and agencies as required for official purposes:
- Department employees;
 - Employees of the Social Security Administration;
 - Public assistance agencies of any other state;
 - Persons connected with the administration of child support enforcement activities;
 - The Office of the Arizona Attorney General;
 - Persons connected with the administration of federal or federally assisted programs that provide assistance, in cash or in-kind, or services directly to individuals on the basis of need;
 - Government auditors, when the audits are conducted in connection with the administration of any assistance program by a governmental entity that is authorized by law to conduct such audits;
 - AHCCCS, for eligibility purposes; and
 - Law enforcement officials for an investigation, prosecution, or civil or criminal proceeding conducted by or on behalf of the Department or a federal public assistance agency in connection with the administration of a public assistance program.
- E. The Department may also release information concerning a recipient to a federal, state, or local law enforcement officer under A.R.S. § 46-134.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-308. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

ARTICLE 4. NON-FINANCIAL ELIGIBILITY DETERMINATION**R6-17-401. Expired****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-402. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-403. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-404. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463,

effective October 31, 2013 (Supp. 14-1).

R6-17-405. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-406. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-407. Application for Federal Disability Benefits; Authorization of Reimbursement; and Assignment of SSDI Benefits

- A. The following persons shall apply for federal disability benefits with the Social Security Administration (SSA), as defined in R6-17-102, and provide verification that SSA has received the application and that an interview with SSA has been completed:
- An applicant requesting GA as a person who is unemployable due to a disability as described in R6-17-201(1) or (2), and
 - The disabled person for whom an applicant is providing full-time care as described in R6-17-202.
- B. An applicant requesting GA as a person who is unemployable due to a disability shall sign:
- A Department approved Interim Assistance Reimbursement Authorization form that authorizes:
 - The Social Security Administration to send the initial SSI payment of federal disability benefits to the Department, and
 - The Department to use the payment to reimburse the Department for the amount of all GA payments paid to the applicant.
 - An assignment of SSDI benefits that requires the recipient to reimburse the Department for the amount of all GA payments paid to the applicant.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-408. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

ARTICLE 5. EXPIRED**R6-17-501. Expired****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-502. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463,

R6-17-708. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-709. Overpayments: Date of Discovery; Collection

An overpayment exists when the financial assistance payment received by, or for, an assistance unit exceeds the amount to which the unit was lawfully entitled.

1. The Department may pursue collection of all overpayments, under A.R.S. § 46-213.
2. The Department shall write an overpayment report within 90 days of the date of discovery. The date of discovery is the date the Department determines that a potential overpayment exists.
3. If the FAA office suspects that the overpayment was caused by fraudulent activity, it shall refer the overpayment report to the Department's Office of Special Investigations for potential prosecution.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-710. Methods of Collection and Recoupment

- A.** When an overpaid assistance unit is currently receiving benefits, the Department shall seek recovery using one or more of the following repayment methods:
1. Offset against any underpayment due the unit in the current month;
 2. Cash payments;
 3. Reduction in current benefits, in an amount not to exceed 10% of the unit's monthly payment, unless the unit desires a larger reduction;
 4. A combination of the above methods.
- B.** If the assistance unit is not receiving benefits, the Department shall pursue recovery by appropriate action under state law.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-711. Overpayment Calculation Date

When determining an overpayment amount, an assistance unit's overpayment period begins in one of the following:

1. The benefit month for which an initial GA payment is issued, when the assistance unit was ineligible for the amount of assistance paid,
2. The first day of the second month following the month in which the change that resulted in an overpayment of GA cash benefits occurred, or
3. For an overpayment that resulted from GA benefits being paid for more than 12 months in any 36 consecutive month period, the month the 13th payment was issued, beginning no earlier than August 1, 1994.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

ARTICLE 8. MAINTAINING BENEFITS**R6-17-801. Expired****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463,

effective October 31, 2013 (Supp. 14-1).

R6-17-802. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-803. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-804. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-805. Notices of Adverse Action

- A.** A notice of adverse action shall contain:
1. The adverse action taken;
 2. The reason for the adverse action;
 3. The effective date of the adverse action;
 4. The name and phone number of the Administration office to contact for additional information;
 5. The phone number for free legal assistance; and
 6. The recipient's appeal rights.
- B.** Timely Notice of Adverse Action.
1. When the Department intends to reduce or terminate benefits, the Department shall provide the assistance unit with timely notice of adverse action, except when the reduction or termination is for one of the reasons in subsection (C).
 2. The Department shall mail the notice of adverse action first class, postage prepaid, to the last known residential address for the assistance unit, or other designated address for the unit, so as to be reasonably expected to arrive at least 10 days prior to the first day of the effective month.
- C.** The Department may dispense with timely notice, but shall mail the notice of adverse action so as to be reasonably expected to arrive no later than the first day of the effective month when:
1. A recipient makes a written or verbal request for termination;
 2. A recipient is ineligible because they have been admitted to a facility where the recipient's needs are being met. This includes:
 - a. Incarceration,
 - b. Long-term hospitalization and the recipient is not expected to return to the home, and
 - c. Institutionalization in a skilled nursing care or intermediate care facility;
 3. The recipient's address is unknown;
 4. The Department has verified that the recipient has been accepted for assistance in another state;
 5. The recipient has been convicted in a court of law of committing an Intentional Program Violation (IPV).

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-806. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-807. Interim Assistance Reimbursement

- A.** Within 10 days of receiving the GA recipient's initial SSI payment from the Social Security Administration, as contained in R6-17-407(B), the Department shall:
1. Compute the amount of GA benefits that were paid to the recipient for each month the recipient was eligible for both GA and SSI,
 2. Retain the resulting amount from the initial SSI payment as reimbursement to the Department,
 3. Distribute the remaining amount in one payment to the GA recipient. The Department shall notify the recipient of the recipient's right to a fair hearing to dispute the Department's allocation of the initial SSI payment.
- B.** Within 10 days of being notified of the recipient's initial SSDI payment from SSA, the Department shall send written notice to the recipient requesting reimbursement of GA assistance, pursuant to the assignment signed by the recipient. The notice shall include:
1. The amount of assistance the recipient is obligated to reimburse to the Department;
 2. The payment due date;
 3. The payment methods accepted by the Department;
 4. The name and phone number of a Department representative to contact for additional information;
 5. The phone number for free legal assistance; and
 6. The recipient's appeal rights.
- C.** The Department shall pay the claim of any attorney, or advocate under the supervision of the attorney, for representing a GA recipient in an appeal of any claim for federal disability benefits before an administrative law judge or for a subsequent adjudication or appeal that is decided in favor of the recipient, as required in A.R.S. § 46-238.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

ARTICLE 9. APPEALS AND HEARINGS**R6-17-901. Entitlement to a Hearing; Appealable Action**

- A.** An applicant or recipient who appeals an adverse action may obtain an administrative hearing to challenge the action as provided in this Article.
- B.** An adverse action resulting from a uniform change in federal or state law is not appealable, unless the Department has misapplied the law to the person seeking the hearing.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-902. Computation of Time

- A.** In computing any time period,
1. The term "day" means a calendar day;
 2. The term "work day" means Monday through Friday, excluding Arizona state holidays;
 3. The date of the act, event, notice, or default from which a designated time period begins to run is not counted as part of the time period; and
 4. The last day of the designated time period is counted, unless it is a Saturday, Sunday, or Arizona state holiday.

- B.** A document mailed by the Department is deemed given to the addressee on the date mailed to the addressee's last known address. The mailing date is presumed to be the date shown on the document, unless the facts show otherwise.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-903. Request for Hearing; Form; Time Limits; Presumptions

- A.** A person who wishes to appeal an adverse action shall make a verbal or written request for hearing with the Administration within 30 days of the date on the notice or letter advising the person of the adverse action. The Administration shall provide a form for this purpose, and, upon request, shall help an appellant fill out the form. If the person makes a verbal request for hearing, the Department shall reduce the appeal and the stated reasons for the appeal to writing, record the date of the verbal request, and forward the request to the Office of Appeals.
- B.** An appellant shall include the following information in the request for hearing:
1. Name, address, and telephone number of the person subject to the adverse action;
 2. A description of the adverse action which is the subject of the appeal;
 3. The date of the notice of adverse action; and
 4. A statement explaining why the adverse action is unauthorized, unlawful, or an abuse of discretion.
- C.** The Department shall not deny an appeal solely because the request does not include all the information listed in subsection (B), so long as the request contains sufficient information for the Department to determine the identity of the appellant.
- D.** A request for hearing is deemed filed:
1. On the mailing date, as shown by the postmark, if sent 1st-class mail, postage prepaid, through the United States Postal Service to the Department; or
 2. On the date actually received by the Department, if not mailed as provided in subsection (D)(1).
- E.** The Department may determine that a document was timely filed if the sender of the document can demonstrate that the 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 caused by the appellant changing mailing addresses at a time when the appellant had no duty to notify the Administration of the change.
- F.** When the Office of Appeals receives a request for hearing that was not timely filed, the Office of Appeals shall schedule a hearing to determine whether the delay in submission is excused as provided in subsection (E).
- G.** An appellant whose appeal is denied as untimely may petition for review as provided in R6-17-918.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-904. Administration: Transmittal of Appeal

- A.** The Administration shall notify the Office of Appeals of a request for hearing within two work days of receipt of the request.
- B.** No less than 10 work days before the scheduled hearing date, unless otherwise ordered, the Administration shall send the Office of Appeals and the appellant a prehearing summary. The prehearing summary shall include, at a minimum:
1. The appellant's name,

2. The appellant's social security number,
3. The local office that issued the adverse action under appeal,
4. A brief summary of the facts leading to the adverse action, and
5. The legal or Administration policy basis for the adverse action.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-905. Stay of Adverse Action Pending Appeal

- A.** The Department shall stay the implementation of the adverse action until the hearing officer renders a decision on the appeal, if the appellant makes a request within 10 days from the date the Department mails the notice, except in the following circumstances:
1. The appellant expressly waives the delay of action;
 2. The adverse action is a result of a uniform change in federal or state law;
 3. The appellant is requesting continued benefits when the time period for which the Department has approved benefits has expired;
 4. If the Department has denied the appellant's initial or renewal application;
 5. The appellant does not request that the Department stay the implementation of a separate pending or subsequent adverse action;
 6. The appeal challenges an action that is not appealable according to R6-17-902(B);
 7. The appellant withdraws the request for hearing; or
 8. The appellant fails to appear for the hearing.
- B.** The Department shall extend the 10-day time period in subsection (A) if the appellant establishes good cause. Good cause includes any unanticipated occurrence that, in the discretion of the Department, made it impossible or unreasonable for the appellant to make the request as specified in subsection (A).

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-906. Hearings: Location; Notice; Time

- A.** The Office of Appeals shall schedule the hearing. The Office of Appeals may schedule a telephonic hearing or permit a witness, upon request, to appear telephonically.
- B.** Unless the parties stipulate to another 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 mail a notice of hearing to all interested parties at least 20 days before the scheduled hearing date.
- D.** The notice of hearing shall be in writing and shall include the following information:
1. The date, time, and place of the hearing;
 2. The name of the hearing officer;
 3. A general statement of the issues involved in the case;
 4. A statement listing the parties' rights, as specified in R6-17-911; and
 5. A general statement of the hearing procedures.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-907. Rescheduling the Hearing

- A.** A party may ask for postponement of a hearing by calling or writing the Office of Appeals and providing good cause as to why the hearing should be postponed. Good cause exists where circumstances beyond the appellant's reasonable control make it difficult or burdensome for the appellant to attend the hearing on the scheduled date.
- B.** Except in emergency circumstances, the appellant shall ensure that the Office of Appeals receives the request for postponement at least five work days before the scheduled hearing date. The Office of Appeals may deny an untimely request. Emergency circumstances mean circumstances:
1. Beyond the reasonable control of the party;
 2. That did not arise until after the five-day period; and
 3. That could not reasonably have been anticipated.
- C.** When the Office of Appeals reschedules a hearing under this Section or R6-17-914, the Office of Appeals shall mail the notice of rescheduled hearing at least 11 days prior to the date of the rescheduled hearing.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-908. 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 and conduct hearings in an orderly and dignified manner that avoids unnecessary repetition and affords due process to all participants;
 3. Ensure that all relevant issues are considered;
 4. Exclude evidence that is not competent, relevant, or material, or that is unduly repetitious from the record;
 5. Request, receive, and incorporate into the record, relevant evidence;
 6. Upon compliance with the requirements of R6-17-911, subpoena witnesses or documents needed for the hearing;
 7. Open, conduct, and close the hearing;
 8. Rule on the admissibility of evidence offered at the hearing;
 9. Direct the order of proof at the hearing;
 10. Upon the request of a party, or on the hearing officer's own motion, and for good cause shown, take action the hearing officer deems necessary for the proper disposition of an appeal, including the following:
 - a. Disqualify himself or herself from the case;
 - b. Continue the hearing to a future date or time;
 - c. Prior to the entry of a final decision, reopen the hearing to take additional evidence;
 - d. Deny or dismiss an appeal or request for hearing in accordance with the provisions of this Article;
 - e. Exclude non-party witnesses from the hearing room; and
 11. Issue a written decision resolving the appeal.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-909. 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 which shall include:
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 scheduled hearing date.
- C.** Unless a party is challenging a hearing officer for cause under subsection (E), a party may request only one change of hearing officer.
- D.** A party may not request a change of hearing officer once the hearing officer has heard and decided a substantive motion, except as provided in subsection (E).
- E.** At any time before a hearing officer renders a decision, 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.** The hearing officer being challenged for cause may hear and decide the challenge unless:
1. A party specifically requests that another hearing officer make the determination, or
 2. The assigned hearing officer disqualifies himself or herself from the decision.
- 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 exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-910. Subpoenas

- A.** A party who wishes to have a witness testify at a hearing, or to offer a particular document or item in evidence, shall first attempt to obtain the witness or evidence by voluntary means. Department documents are available to the appellant as prescribed in R6-17-911(2).
- B.** If the party cannot procure the voluntary attendance of the witness or production of the evidence, the party may ask the hearing officer assigned to the case to issue a subpoena for a witness, document, or other physical evidence, or to otherwise obtain the requested evidence.
- C.** 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, with a description of the subject matter of the witness's anticipated testimony;
 4. A description of any documents or physical evidence to be subpoenaed, 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;
 5. A statement as to the expected substance of the testimony or other evidence, as well as the relevance and importance of the requested testimony or other evidence; and
 6. A description of the party's efforts to obtain the witness or evidence by voluntary means.
- D.** A party who wants a subpoena shall ask for the subpoena at least five days before the scheduled hearing date.

- E.** 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 cumulative.
- F.** The Office of Appeals shall prepare all subpoenas and serve them by mail, except that the Office of Appeals may serve subpoenas to state employees who are appearing in the course of the employee's state employment, by regular mail, hand-delivery, electronic, or interoffice mail.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-911. Parties' Rights

A party to a hearing has the following rights:

1. The right to request a postponement of the hearing, as provided in this Article;
2. The right to copy, before or during the hearing, any documents in the Department's file on the appellant and documents the Department may use at the hearing, except documents shielded by the attorney-client or work-product privilege, or as otherwise prohibited by federal or state confidentiality laws;
3. The right to request a change of hearing officer as provided in A.R.S. § 41-1992(B) and R6-17-910;
4. The right to request subpoenas for witnesses and evidence as provided in R6-17-910;
5. The right to present the case in person or through an authorized representative, subject to any limitations prescribed in the Rules of the Supreme Court of Arizona, Rule 31;
6. The right to present evidence and to cross-examine witnesses; and
7. The right to further appeal, as provided in R6-17-918 and R6-17-920, if dissatisfied with an Office of Appeals' decision.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-912. Withdrawal of an Appeal

- A.** An appellant may withdraw an appeal verbally or in writing at any time prior to the time the hearing officer renders a decision.
1. An appellant may withdraw an appeal verbally in person or by telephone. The Department may audiotape the withdrawal.
 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 upon receipt of a withdrawal request signed by the appellant or the appellant's representative, or a statement of withdrawal made on the record, when the hearing officer has accepted the withdrawal.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

R6-17-913. Failure to Appear; Default; Reopening

- A.** If an appellant fails to appear at the scheduled 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 if the appellant notifies the Office of Appeals, before the scheduled time of hearing, that the appellant cannot attend the hearing, due to good cause, and still desires a hearing or wishes to have the matter considered on the available record.
- C. No later than 10 days after a scheduled hearing date at which a party failed to appear, the non-appearing party may file a request to reopen the proceedings. The request shall be in writing and shall demonstrate good cause for the party's failure to appear.
- D. The hearing officer shall set the matter for a hearing to determine whether the appellant had good cause for the appellant's failure to appear.
- E. If the hearing officer finds that the party had good cause for non-appearance, the hearing officer shall reopen the proceedings and schedule a de novo hearing with notice to all interested parties as prescribed in R6-17-907(C).
- 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 non-appearing party. Good cause also exists when the non-appearing party demonstrates excusable neglect for both the failure to appear and the failure to timely notify the hearing officer. "Excusable neglect" has the meaning applied to "excusable neglect" as that term is used in Arizona Rules of Civil Procedure, Rule 60(c).

Historical Note

New Section made by exempt rulemaking at 9 A.A.R.
3970, effective October 20, 2003 (Supp. 03-3).

R6-17-914. Hearing Proceedings

- A. The hearing is a de novo proceeding. The Department has the initial burden of going forward with evidence to support the adverse action being appealed.
- B. To prevail, the appellant shall prove, by a preponderance of the evidence, that the Department's action was unauthorized, unlawful, or an abuse of discretion.
- 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. § 23-674(D).
- D. The Office of Appeals shall record all hearings. The Department need not transcribe the proceedings unless a transcription is required for further administrative or judicial proceedings.
- E. The Office of Appeals charges a fee of 15¢ per page for providing a transcript. A party may obtain a waiver of the fee by submitting an affidavit stating that the party cannot afford to pay for the transcript.
- F. A party may, at his or her 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 Department's recording of the hearing shall constitute the official record of the hearing.
- G. The hearing officer shall call the hearing to order and dispose of any pre-hearing motions or issues.
- H. With the consent of the hearing officer, the parties may stipulate to factual findings or legal conclusions.
- I. Upon request and with the consent of the hearing officer, a party may make opening and closing statements. The hearing officer shall consider any statements as argument and not evidence.
- J. A party may testify, present evidence, and cross-examine adverse witnesses. The hearing officer may also take witness testimony or admit documentary or physical evidence on his or her own motion.
- K. The hearing officer shall keep a complete record of all proceedings in connection with an appeal.

- L. The hearing officer may require 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.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R.
3970, effective October 20, 2003 (Supp. 03-3).

R6-17-915. 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 caused by the appellant.
- 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; and
 6. A statement of further appeal rights and the time period for exercising those rights.
- C. The Office of Appeals shall mail a copy of the decision to each party's representative, or to the party if the party is unrepresented.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R.
3970, effective October 20, 2003 (Supp. 03-3).

R6-17-916. Effect of the Decision

- 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 reverses the Administration's decision to take adverse action, the Administration shall not take the action or shall reverse any adverse action taken unless and until the Appeals Board or Arizona Court of Appeals issues a decision affirming the adverse action.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R.
3970, effective October 20, 2003 (Supp. 03-3).

R6-17-917. Further Administrative Appeal

- A. A party may 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 date of the hearing officer's decision.
- B. The petition for review shall:
 1. Be in writing,
 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.
- C. The party petitioning for review shall mail a copy of the petition to all other parties.
- D. The Appeals Board shall have the proceedings of the hearing below transcribed.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R.

3970, effective October 20, 2003 (Supp. 03-3).

R6-17-918. Appeals Board

- A. The Appeals Board shall conduct proceedings in accordance with A.R.S. § 41-1992(D) and A.R.S. § 23-672.
- B. Following notice to the parties, the Appeals Board may receive additional evidence or hold a hearing if the Appeals Board finds that additional information would help in deciding the appeal. The Board may also remand the case to the Office of Appeals for rehearing, specifying the nature of the additional evidence required, or any further issues to be considered.
- C. The Appeals Board shall decide the appeal based solely on the record of proceedings before the hearing officer and any further evidence or testimony presented to the Board.

- D. The Appeals Board shall issue, and mail to all parties, a final written decision affirming, reversing, setting aside, or modifying the hearing officer's decision. The Board's decision shall specify the parties' rights to further review and the time for filing a request for review.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R.
3970, effective October 20, 2003 (Supp. 03-3).

R6-17-919. Judicial Review

Any party adversely affected by an Appeals Board decision may seek judicial review as prescribed in A.R.S. § 41-1993.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R.
3970, effective October 20, 2003 (Supp. 03-3).