



TITLE 9. HEALTH SERVICES

CHAPTER 34. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - GRIEVANCE SYSTEM

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

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.

[R9-34-101. Application of Chapter 3](#)

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The release of this Chapter in Supp. 20-1 replaces Supp. 04-1, 1-12 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 Therefore, all superseded material should be retained in a separate binder and archived for future reference.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.

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



Administrative Rules Division
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TITLE 9. HEALTH SERVICES

CHAPTER 34. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - GRIEVANCE SYSTEM

Editor's Note: New 9 A.A.C. 34 made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

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ARTICLE 1. REQUEST FOR ELIGIBILITY HEARING

Article 1, consisting of R9-34-101 through R9-34-114, made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-101. Application of Chapter

- A.** This Article establishes the requirements and process for a petitioner to request a State Fair Hearing regarding an adverse action affecting AHCCCS eligibility.
- B.** This Article applies to appeals of eligibility determinations made by AHCCCS including determinations for the aged, blind, or disabled (9 A.A.C. 22, Article 15), the Arizona Long Term Care System (9 A.A.C. 28), the Medicare Cost Sharing Program (9 A.A.C. 29), the Medicare Part D Program (9 A.A.C. 30), and adverse actions regarding premiums and copayments described in R9-34-102(A)(5). Hearings on these appeals are conducted as described in this Article, A.R.S. § 36-2903.01(B)(4) and the Arizona Administrative Procedures Act in A.R.S. Title 41, Chapter 6.
- C.** The Arizona Department of Economic Security conducts appeals of eligibility under the procedures in A.R.S. Title 6, Chapter 9 for those eligibility determinations made by the Department including:
1. When the request for a State Fair Hearing is made for an individual whose eligibility is determined using MAGI-based income,
 2. When the request for a State Fair Hearing is made on behalf of more than one person in the same household where at least one person's eligibility is based on MAGI-based income,
 3. When the request for State Fair Hearing of AHCCCS eligibility is made at or near the same time as a request for the administrative review of an eligibility determination arising from the same facts and circumstances for any other public assistance program administered by the Department of Economic Security.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 26 A.A.R. 548, with an immediate effective date of March 5, 2020 (Supp. 20-1).

R9-34-102. Definitions

- A.** "Adverse action" by AHCCCS means:
1. Denial of eligibility,
 2. Discontinuance of eligibility,
 3. The imposition of or increase in Arizona Long Term Care System (ALTCS) share of cost determined under A.A.C. R9-28-408 or R9-28-410,
 4. An eligibility determination that the petitioner claims is beyond the established time-frame, or
 5. The imposition of or increase in a premium or copayment.
- B.** "AHCCCS" means the AHCCCS Administration as defined in A.R.S. § 36-2901.
- C.** "Day" means calendar day unless otherwise specified.
- D.** "Director" means the Director of the Arizona Health Care Cost Containment System Administration or designee.
- E.** "Director's Decision" means the final administrative decision under A.R.S. § 41-1092(5).
- F.** "Filed" means the date that AHCCCS receives a request for a State Fair Hearing as established by a date stamp on the request or other record of receipt.
- G.** "Petitioner" means applicant, member, or other representative who is described and discussed in A.A.C. R9-22-1501, R9-22-1704, R9-22-1903, R9-22-2004, R9-27-302, R9-28-401, R9-

28-1303, R9-29-203, R9-31-302, R9-31-1702, or for an adverse action under subsection (A)(5), an applicant, member, or other representative under 9 A.A.C. 22, Article 14.

- H.** "State Fair Hearing" means an administrative hearing under A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-103. Computation of Time

- A.** Computation of time begins the day after the date on the Notice of Adverse Action and includes all calendar days and the final day of the period. If the final day of the period is a weekend or legal holiday, the period is extended until the end of the next day that is not a weekend or a legal holiday.
- B.** The 30-day time-frame for filing a request for a State Fair Hearing begins with the date the petitioner receives the Notice of Adverse Action.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-104. Petitioner's Rights

AHCCCS shall allow a petitioner the right to:

1. A State Fair Hearing; and
2. Copies, at the petitioner's expense, of any relevant document not protected from disclosure by law.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-105. Who May File

A petitioner who requests a State Fair Hearing shall make the request according to this Article.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-106. Requesting a State Fair Hearing

A petitioner may request a State Fair Hearing under this Article only for an adverse action.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-107. Time-frame for Requesting a State Fair Hearing

A petitioner shall request a State Fair Hearing in writing with AHCCCS within 30 days after the petitioner receives the Notice of Adverse Action.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-108. Format and Contents of the Request for a State Fair Hearing

A petitioner shall submit a written request for a State Fair Hearing to AHCCCS. The request shall contain the case name, the adverse action taken by AHCCCS, and the reason for the State Fair Hearing.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-109. Notice of Hearing

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AHCCCS shall mail a Notice of Hearing under A.R.S. § 41-1092.05 if AHCCCS receives a request for a State Fair Hearing that is timely and contains the information listed in R9-34-108.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-110. Denial of a Request for a State Fair Hearing

AHCCCS shall deny a request for a State Fair Hearing upon written determination by AHCCCS that:

1. The request for a State Fair Hearing is untimely;
2. The request for a State Fair Hearing is not for an adverse action permitted under this Article;
3. The request for a State Fair Hearing is moot, as determined by AHCCCS, based on the factual circumstances of the case; or
4. The sole issue presented is a federal or state law requiring an automatic change adversely affecting some or all applicants or members.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-111. AHCCCS Time-frame for Resolution of a State Fair Hearing

AHCCCS shall mail a Director's Decision to the petitioner no later than 30 days after the date of the Administrative Law Judge's recommended decision and within 90 days after the date that the petitioner filed the request for a State Fair Hearing not including days for continuances granted at the petitioner's request.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-112. Withdrawal of a Request for a State Fair Hearing

- A. AHCCCS shall accept a written request for withdrawal if the written request for withdrawal is received from the petitioner before AHCCCS mails a Notice of Hearing under R9-34-109.
- B. If AHCCCS mailed a Notice of Hearing under R9-34-109, the petitioner shall send a written request for withdrawal to the Office of Administrative Hearings (OAH).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-113. Motion for Rehearing or Review

Under A.R.S. § 41-1092.09, the Director shall grant a rehearing or review for any of the following reasons materially affecting a petitioner's rights:

1. Irregularity in the proceedings of a State Fair Hearing that deprived a petitioner of a fair hearing;
2. Misconduct of AHCCCS, OAH, or a party;
3. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
4. The decision is the result of passion or prejudice;
5. The decision is not justified by the evidence or is contrary to law; or
6. Good cause is established for the nonappearance of a party at the hearing.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-114. AHCCCS Coverage During the State Fair Hearing Process

- A. If a petitioner requests a State Fair Hearing because of an increase in the share-of-cost, premium, or copayment and the request is filed before the effective date of the increase, AHCCCS shall not enforce the increase until a Director's Decision is rendered that supports the increase.
- B. If a petitioner files a request for a State Fair Hearing for a discontinuance action before the effective date of the discontinuance, the petitioner shall continue to receive AHCCCS coverage until a Director's Decision is rendered. A petitioner may waive coverage while the Director's Decision is pending.
- C. A petitioner, eligible under 9 A.A.C. 22, Article 31, who requests AHCCCS coverage during the State Fair Hearing process, shall comply with the premium payment requirements under A.A.C. R9-31-1419.
- D. A petitioner whose benefits are continued shall be financially liable for all fee-for-service and capitation payments made by AHCCCS during a period of ineligibility, if a discontinuance decision is upheld under A.R.S. § 41-1092.08.
- E. If a petitioner requests a hearing regarding the termination of family planning services under A.A.C. R9-22-1424 or the guaranteed enrollment period under 9 A.A.C. 22, Article 17, the petitioner shall not continue to be AHCCCS eligible after the end of the designated time period under A.R.S. § 36-2907.04 and 42 U.S.C. 1396a(e)(2). If the termination of family planning services is overturned, the applicable effective date of AHCCCS coverage shall be set forth in the Director's Decision.
- F. If a denial of eligibility is overturned, the effective date of AHCCCS eligibility shall be set forth in the Director's Decision.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

ARTICLE 2. APPEAL, GRIEVANCE, AND HEARING FOR AN ENROLLED PERSON

Article 2, consisting of R9-34-201 through R9-34-225, made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-201. Purpose

This Article establishes the grievance, appeal, and State Fair Hearing requirements for a person enrolled with an AHCCCS contractor. A contractor is responsible for any functions or responsibilities delegated under a subcontract. It is the contractor's responsibility to ensure that the subcontractor has the ability to perform the delegated activities.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-202. Definitions

The following definitions apply for purposes of this Article:

1. "AHCCCS" means the AHCCCS Administration as defined in A.R.S. § 36-2901.
2. "Action" by a contractor means:
 - a. The denial or limited authorization of a requested service, including the type or level of service;
 - b. The reduction, suspension, or termination of a previously authorized service;
 - c. The denial, in whole or in part, of payment for a service;
 - d. The failure to provide a service in a timely manner as set forth in contract;
 - e. The failure of a contractor to act within the timeframes specified in this Article; or

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- f. For an enrollee residing in a rural area with only one contractor, the denial of an enrollee's request to exercise the enrollee's right to obtain services outside the contractor's network.
3. "Appeal" means a request for review of an action.
 4. "Contractor" means contractor or program contractor as defined in A.R.S. § 36-2901, 36-2931, 36-2971 and 36-2981; the Comprehensive Medical Dental Program in the Department of Economic Security; and the Children's Rehabilitation Services and Behavioral Health Services in the Arizona Department of Health Services.
 5. "Day" means calendar day unless otherwise specified.
 6. "Director" means the Director of the Arizona Health Care Cost Containment System Administration or designee.
 7. "Director's Decision" means the final administrative decision under A.R.S. § 41-1092(5).
 8. "Enrollee" means a person eligible for AHCCCS under A.R.S. Title 36, Chapter 29 and who is enrolled with an AHCCCS contractor.
 9. "Filed" means the date that the contractor or AHCCCS, whichever is applicable, receives the request as established by a date stamp on the request or other record of receipt.
 10. "Grievance" means an expression of dissatisfaction about any matter other than an action. Possible subjects for grievances include, but are not limited to, the quality of care or services provided, and aspects of interpersonal relationships such as rudeness of a provider or employee or failure to respect the enrollee's rights.
 11. "Institution for Mental Disease" means an institution defined in 42 CFR 435.1009 and licensed by the Arizona Department of Health Services.
 12. "Rural" has the same meaning as in A.R.S. § 36-2171.
 13. "State Fair Hearing" means an administrative hearing under A.R.S. Title 41, Chapter 6, Article 10.
 14. "Working day" means a Monday, Tuesday, Wednesday, Thursday, or Friday unless:
 - a. A legal holiday falls on Monday, Tuesday, Wednesday, Thursday, or Friday; or
 - b. A legal holiday falls on Saturday or Sunday and a contractor is closed for business the prior Friday or following Monday.
2. The Notice of Action shall explain that free oral interpretation services are available to explain the Notice of Action for all non-English languages.
 3. The format of the Notice of Action is easily understood and available in alternative formats, such as braille, large font, or enhanced audio, and in an appropriate manner that takes into consideration the special needs of an enrollee.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-205. Content of the Notice of Action

A contractor shall ensure that the Notice of Action explains the following:

1. The action the contractor has taken or intends to take;
2. The reasons for the action;
3. The enrollee's right to file an appeal with the contractor;
4. The procedures for exercising the rights specified in this Article;
5. The circumstances under which an expedited resolution is available and how to request it; and
6. The circumstances under which an enrollee has a right to have services continue pending resolution of the appeal, how to request that services be continued, and the circumstances under which the enrollee is liable for the costs of services.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-206. Contractor Notice of Action Time-frame for Service Authorization Requests

- A. For an authorization decision, not covered under subsection (B), for a service requested on behalf of an enrollee, the contractor shall mail a Notice of Action within 14 calendar days following the receipt of the enrollee's request.
- B. For an authorization request in which the provider indicates or the contractor determines that following the time-frame in subsection (A) could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function, the contractor shall make an expedited authorization decision and mail the Notice of Action as expeditiously as the enrollee's health condition requires, but not later than three working days after receipt of the request for service.
- C. If the enrollee requests an extension of the time-frame in subsection (A) or (B), the contractor shall extend the time-frame up to an additional 14 days as requested by the enrollee.
- D. If the contractor needs additional information and the extension is in the best interest of the enrollee, the contractor shall extend the time-frame in subsection (A) or (B) up to an additional 14 days. If the contractor extends the time-frame, the contractor shall:
 1. Give the enrollee written notice of the reason for the decision to extend the time-frame and inform the enrollee of the right to file a grievance if the enrollee disagrees with the decision, and
 2. Issue and carry out the determination as expeditiously as the enrollee's health condition requires and no later than the date the extension expires.
- E. For service authorization decisions not reached within the maximum time-frame in this Section, the authorization shall be considered denied on the date that the time-frame expires.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-203. Computation of Time

- A. Computation of time in calendar days, begins the day after the act, event, or decision and includes all calendar days and the final day of the period. If the final day of the period is a weekend or legal holiday, the period is extended until the end of the next day that is not a weekend or a legal holiday.
- B. Computation of time in working days, begins the day after the act, event or decision and includes all working days.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-204. Language and Format of the Notice of Action

A contractor shall ensure that the Notice of Action is in writing and meets the following language and format requirements:

1. The Notice of Action shall be available in each non-English language spoken by a significant number or percentage of enrollees or potential enrollees in the contractor's geographic service area as established by contract.

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Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-207. Contractor Notice of Action Time-frame for Service Termination, Suspension, or Reduction

- A.** For termination, suspension, or reduction of previously authorized AHCCCS covered service, a contractor shall send the Notice of Action at least 10 days before the date of the action except as provided in subsection (B) or (C).
- B.** The contractor may mail the Notice of Action no later than the date of action if:
1. The contractor has factual information confirming the death of an enrollee;
 2. The contractor receives a clear written statement signed by the enrollee that the enrollee no longer wishes services or the enrollee gives information to the contractor that requires termination or reduction of services and indicates that the enrollee understands that this shall be the result of supplying that information;
 3. The enrollee is age 21 through 64 and has resided in an Institution for Mental Disease for more than 30 days;
 4. The enrollee is an inmate of a public institution that does not receive federal financial participation;
 5. The enrollee's whereabouts are unknown and the post office returns mail, directed to the enrollee, to the contractor indicating no forwarding address; or
 6. The contractor establishes the fact that the enrollee has been accepted for Medicaid by another state.
- C.** The contractor may shorten the period of advance notice to five days before the date of action if the contractor has verified facts indicating probable fraud by the enrollee.
- D.** If the contractor denies payment to a provider, the contractor shall send the Notice of Action to the enrollee at the time of the action affecting the claim.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-208. Who May File

- A.** An enrollee shall file a grievance, an appeal, or request a State Fair Hearing according to this Article.
- B.** An authorized representative, including a provider, acting on behalf of the enrollee, with the enrollee's written consent, may file an appeal or request a State Fair Hearing on behalf of an enrollee. A provider is permitted to file a grievance with a contractor at the contractor's discretion.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-209. Enrollee Time-frame for Filing an Appeal or Grievance with the Contractor

- A.** An enrollee shall file an appeal either orally or in writing with the contractor within 60 days after the date of the Notice of Action.
- B.** The enrollee shall file a grievance either orally or in writing with the contractor.
- C.** The enrollee shall file a grievance directly with the contractor. AHCCCS shall refer to the contractor any grievance filed with AHCCCS. An enrollee is not entitled to a State Fair Hearing on a grievance.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-210. Contractor General Requirements for Grievance or Appeal Process

- A.** A contractor shall provide reasonable assistance to enrollees in completing forms and taking other procedural steps. Reasonable assistance includes, but is not limited to, providing interpreter services and toll-free numbers that have adequate TTY/TTD (teletypewriter/telecommunications device for the deaf, and text telephone) and interpreter capability.
- B.** The contractor shall acknowledge receipt of each grievance orally or in writing. The contractor shall acknowledge receipt of each appeal in writing.
- C.** The contractor shall ensure that the individual who makes a decision on a grievance or an appeal was not involved in any previous level of review or decision-making.
- D.** The contractor shall ensure that a health care professional who makes decisions on any of the following appeals or grievances has the appropriate clinical expertise in treating the enrollee's condition or disease:
1. An appeal of a denial that is based on lack of medical necessity,
 2. A grievance regarding denial of expedited resolution of an appeal, or
 3. A grievance or appeal that involves clinical issues.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-211. Contractor Special Requirements for the Appeal Process

- A.** A contractor shall treat an oral inquiry seeking to appeal an action as an appeal.
- B.** A resolution of an appeal by the contractor before a State Fair Hearing is an informal resolution under A.R.S. § 36-2903.01(B)(4).
- C.** The contractor shall provide a reasonable opportunity for an enrollee to present evidence, and allegations of fact or law, in person and in writing. The contractor shall inform the enrollee of the limited time available for this in the case of an expedited resolution.
- D.** The contractor shall provide the enrollee and representative the opportunity, before and during the appeal process, to examine the enrollee's case file, including medical records, documents, and records considered during the appeal process, not protected from disclosure by law.
- E.** The contractor shall include, as a party to the appeal, the enrollee or the legal representative of a deceased enrollee's estate.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-212. Contractor Time-frame for Standard Disposition of a Grievance

For disposition of a grievance, a contractor shall complete disposition and provide oral or written notice to the enrollee of the contractor's decision within 90 days after the day the contractor receives the grievance.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-213. Contractor Time-frame for Standard Resolution

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of an Appeal

- A. For standard resolution of an appeal, a contractor shall resolve the appeal and mail the written Notice of Appeal Resolution to the enrollee within 30 days after the day the contractor receives the appeal.
- B. If the enrollee requests an extension of the 30-day time-frame in subsection (A), the contractor shall extend the time-frame up to an additional 14 days.
- C. If the contractor needs additional information and the extension is in the best interest of the enrollee, the contractor shall extend the time-frame in subsection (A) up to an additional 14 days. If the contractor extends the time-frame, the contractor shall:
 - 1. Give the enrollee written notice of the reason for the decision to extend the time-frame, and
 - 2. Issue and carry out the resolution as expeditiously as the enrollee's health condition requires and no later than the date the extension expires.
- D. If a Notice of Appeal Resolution is not sent within the time-frame in this Section, the appeal shall be considered denied on the date that the time-frame expires.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-214. Contractor Process for an Expedited Resolution of an Appeal

- A. A contractor shall establish and maintain a review process for an expedited appeal. The contractor shall conduct an expedited appeal if:
 - 1. The contractor receives a request for an appeal from an enrollee and the contractor determines that taking the time for a standard resolution could seriously jeopardize the enrollee's life or health, or ability to attain, maintain, or regain maximum function;
 - 2. The contractor receives a request for an expedited appeal from an enrollee supported with documentation from the provider that taking the time for a standard resolution could seriously jeopardize the enrollee's life or health, or ability to attain, maintain, or regain maximum function; or
 - 3. The contractor receives a request for an expedited appeal directly from a provider, with the enrollee's written consent, and the provider indicates that taking the time for a standard resolution could seriously jeopardize the enrollee's life or health, or ability to attain, maintain, or regain maximum function.
- B. The contractor shall ensure that punitive action is not taken against a provider who requests an expedited resolution or who supports an enrollee's appeal.
- C. If the contractor denies a request for expedited resolution of an appeal from an enrollee, the contractor shall:
 - 1. Resolve the appeal within the time-frame in R9-34-213; and
 - 2. Make reasonable efforts to give the enrollee prompt oral notice of the denial, and follow up within two calendar days with a written notice.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-215. Contractor Time-frame for an Expedited Appeal Resolution

- A. For expedited resolution of an appeal, a contractor shall resolve the appeal and mail a written Notice of Appeal Resolution to the enrollee within three working days after the day the

contractor receives the appeal. The contractor shall make reasonable efforts to provide prompt oral notice.

- B. If the enrollee requests an extension of the three working day time-frame in subsection (A), the contractor shall extend the time-frame up to an additional 14 days.
- C. If the contractor needs additional information and the extension is in the best interest of the enrollee, the contractor shall extend the time-frame in subsection (A) up to an additional 14 days. If the contractor extends the time-frame, the contractor shall:
 - 1. Give the enrollee written notice of the reason for the decision to extend the time-frame, and
 - 2. Issue and carry out the determination as expeditiously as the enrollee's health condition requires and no later than the date the extension expires.
- D. For resolution decisions not reached within the time-frame in this Section, the appeal shall be considered denied on the date that the time-frame expires.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-216. Content of Contractor Notice of Appeal Resolution

- A. A contractor shall ensure that the written Notice of Appeal Resolution includes the results of the resolution process and the date it was completed.
- B. For an appeal not resolved wholly in favor of the enrollee, the Notice of Appeal Resolution shall contain:
 - 1. The right to request a State Fair Hearing, and how to do so;
 - 2. The right to request to receive services while the State Fair Hearing is pending, and how to make the request;
 - 3. The factual and legal basis for the decision; and
 - 4. That the enrollee shall be liable for the cost of continued services if the Director's Decision upholds the contractor's decision.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-217. Enrollee Request for a State Fair Hearing

- A. An enrollee may request a State Fair Hearing on the contractor's resolution of an appeal. The request shall be in writing, submitted to and received by the contractor, no later than 30 days after the date the enrollee receives the Notice of Appeal Resolution.
- B. If an enrollee wants services to be continued pending a State Fair Hearing, the request to continue services shall be in writing and comply with R9-34-224.
- C. AHCCCS shall mail a Notice of Fair Hearing under A.R.S. § 41-1092.05 if a timely request for a State Fair Hearing is received.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-218. AHCCCS Time-frame for Resolution of a State Fair Hearing

AHCCCS shall mail a Director's Decision to the enrollee no later than 30 days after the date of the Administrative Law Judge's recommended decision and within 90 days after the date that the enrollee filed the appeal with the contractor, not including the number of days the enrollee took to file for a State Fair Hearing, and days for continuances granted at the enrollee's request.

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Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-219. Enrollee's Request for an Expedited State Fair Hearing

An enrollee may request an expedited State Fair Hearing on the contractor's resolution of an expedited appeal. The request shall be in writing, submitted to and received by the contractor no later than 30 days after the enrollee receives the contractor's Notice of Appeal Resolution.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-220. AHCCCS Time-frame for Resolution of an Expedited State Fair Hearing

Within three working days after the date AHCCCS receives the case file and information from the contractor concerning an expedited appeal resolution, AHCCCS shall mail to the enrollee the AHCCCS Director's Decision which results from the State Fair Hearing and the Administrative Law Judge's Recommended Decision. AHCCCS shall make reasonable efforts to provide oral notice of the Director's Decision.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-221. Withdrawal of a Request for a State Fair Hearing

- A.** AHCCCS shall accept a written request for withdrawal if the written request for withdrawal is received from the enrollee before AHCCCS mails a Notice of a State Fair Hearing under A.R.S. § 41-1092, et seq.
- B.** If AHCCCS mailed a Notice of Hearing under A.R.S. § 41-1092, et seq., an enrollee shall send a written request for withdrawal to the OAH.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-222. Denial of a Request for a State Fair Hearing

AHCCCS shall deny a request for a State Fair Hearing under A.R.S. § 41-1092, et seq., upon written determination that:

1. The request for hearing is untimely;
2. The request for hearing is not for an action permitted under this Article;
3. The request for hearing is moot, as determined by AHCCCS, based on the factual circumstances of each case; or
4. The sole issue presented is a federal or state law requiring an automatic change adversely affecting some or all enrollees.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-223. Motion for Rehearing or Review

Under A.R.S. § 41-1092.09, the Director shall grant a rehearing or review for any of the following reasons materially affecting an enrollee's rights:

1. Irregularity in the proceedings of a hearing that deprived an enrollee of a fair hearing;
2. Misconduct of AHCCCS, OAH, or a party;
3. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
4. The decision is the result of passion or prejudice;

5. The decision is not justified by the evidence or is contrary to law; or
6. Good cause is established for the nonappearance of the enrollee at the State Fair Hearing.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-224. Continuation of Services While the Contractor Appeal and the State Fair Hearing Are Pending

- A.** For the purposes of this Section, timely filing means filing on or before the later of the following:
1. Within 10 days after the date that the contractor mails the Notice of Action, or
 2. The effective date of the action as indicated in the Notice of Action.
- B.** The contractor shall continue the enrollee's services if:
1. The enrollee files the appeal timely;
 2. The appeal involves the termination, suspension, or reduction of a previously authorized course of treatment;
 3. The services were ordered by an authorized provider;
 4. The original period covered by the original authorization has not expired; and
 5. The enrollee requests continuation of services.
- C.** If, at the enrollee's request, the contractor continues or reinstates the enrollee's services while the appeal is pending, the contractor shall continue services until one of following occurs:
1. The enrollee withdraws the appeal;
 2. Ten days pass after the contractor mails the Notice of Appeal Resolution to the enrollee, unless the enrollee, within the 10-day time-frame, has requested in writing a State Fair Hearing with continuation of benefits until a Director's Decision is reached;
 3. AHCCCS mails a Director's Decision adverse to the enrollee; or
 4. The time-period or service limits of a previously authorized service have been met.
- D.** If the Director's Decision upholds the contractor's action, the contractor may recover the cost of the services furnished to the enrollee while the appeal is pending if the services were furnished solely because of the requirements of this Section.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-225. Reversed Appeal Resolutions

- A.** If the contractor or the Director's Decision reverses a decision to deny, limit, or delay services that were not furnished while the appeal was pending, the contractor shall authorize or provide the disputed services promptly, and as expeditiously as the enrollee's health condition requires.
- B.** If the contractor or the Director's Decision reverses a decision to deny authorization of services, and the enrollee received the disputed services while the appeal was pending, the contractor shall pay the provider for those services.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

ARTICLE 3. APPEAL AND HEARING FOR AN FFS MEMBER

Article 3, consisting of R9-34-301 through R9-34-322, made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp.

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04-1).

R9-34-301. Purpose

This Article establishes the appeal and State Fair Hearing requirements for an AHCCCS fee-for-service (FFS) member.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-302. Definitions

- A. "Action" by AHCCCS or a tribal contractor means:
1. The denial or limited authorization of a requested service, including the type or level of service;
 2. The reduction, suspension, or termination of a previously authorized service;
 3. The failure to provide services in a timely manner as set forth in contract; or
 4. The failure of AHCCCS to act within the time-frames specified in this Article.
- B. "AHCCCS" means the AHCCCS Administration as defined in A.R.S. § 36-2901.
- C. "Appeal" means a request for review of an action.
- D. "Day" means calendar day unless otherwise specified.
- E. "Director" means the Director of the Arizona Health Care Cost Containment System Administration or designee.
- F. "Director's Decision" means the final administrative decision under A.R.S. § 41-1092(5).
- G. "FFS member" means an FFS member eligible for AHCCCS under A.R.S. Title 36, Chapter 29, and who is enrolled with AHCCCS on an FFS basis.
- H. "Filed" means the date that AHCCCS receives a request as established by a date stamp on the request or other record of receipt.
- I. "Institution for Mental Disease" means an institution defined in 42 CFR 435.1009 and licensed by the Arizona Department of Health Services.
- J. "State Fair Hearing" means an administrative hearing under A.R.S. Title 41, Chapter 6, Article 10.
- K. "Working day" means a Monday, Tuesday, Wednesday, Thursday, or Friday unless:
1. A legal holiday falls on Monday, Tuesday, Wednesday, Thursday, or Friday; or
 2. A legal holiday falls on Saturday or Sunday and a contractor is closed for business the prior Friday or following Monday.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-303. Computation of Time

- A. Computation of time in calendar days begins the day after the act, event, or decision and includes all calendar days and the final day of the period. If the final day of the period is a weekend or legal holiday, the period is extended until the end of the next day that is not a weekend or a legal holiday.
- B. Computation of time for working day begins the day after the act, event, or decision and includes all working days.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-304. Language and Format of the Notice of Action

The Notice of Action shall be in writing and meet the following language and format requirements:

1. The Notice of Action is available in each non-English language spoken by a significant number or percentage of FFS members as established by contract.
2. The Notice of Action shall explain that free oral interpretation services are available to explain the Notice of Action for all non-English languages.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-305. Content of the Notice of Action

The Notice of Action explains the following:

1. The action AHCCCS has taken or intends to take;
2. The reasons for the action;
3. The factual and legal basis for the decision;
4. The FFS member's right to file an appeal with AHCCCS;
5. The procedures for exercising the rights specified in this Section;
6. The circumstances under which an expedited resolution is available and how to request it; and
7. The circumstances under which an FFS member has a right to have services continue pending resolution of the appeal, how to request that services be continued, and the circumstances under which the FFS member shall be liable for the costs of these services.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-306. Time-frame for Notice of Action for Service Authorization Requests

- A. For an authorization decision, not covered in subsection (B), for a service requested on behalf of the FFS member, AHCCCS shall mail a Notice of Action within 14 calendar days following receipt of the FFS member's request.
- B. For authorization requests in which the provider indicates or AHCCCS determines that following the time-frame in subsection (A) could seriously jeopardize the FFS member's life or health, or ability to attain, maintain, or regain maximum function, AHCCCS shall make an expedited authorization decision and provide notice as expeditiously as the FFS member's health condition requires, but not later than three working days after receipt of the request for service.
- C. If the FFS member requests an extension of the time-frame in subsection (A) or (B), AHCCCS shall extend the time-frame up to an additional 14 days as requested by the FFS member.
- D. If AHCCCS needs additional information and the extension is in the best interest of the FFS member, AHCCCS shall extend the time-frame in subsection (A) or (B) up to an additional 14 days. If AHCCCS extends the time-frame, AHCCCS shall:
1. Give the FFS member written notice of the reason for the decision to extend the time-frame; and
 2. Mail and carry out the determination as expeditiously as the FFS member's health condition requires and no later than the date the extension expires.
- E. For service authorization decisions not reached within the time-frames in this Section, the authorization shall be considered denied on the date that the time-frame expires.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-307. Time-frame for Notice of Action for Service Termination, Suspension, or Reduction

- A. For termination, suspension, or reduction of previously authorized AHCCCS covered service, AHCCCS shall send the

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Notice of Action at least 10 days before the date of the action except as provided in subsection (B) or (C).

- B.** AHCCCS may mail the Notice of Action no later than the date of action if:
1. AHCCCS has factual information confirming the death of an FFS member;
 2. AHCCCS receives a clear written statement signed by the FFS member that the FFS member no longer wishes services or the FFS member gives information that requires termination or reduction of services and indicates that the FFS member understands that this shall be the result of supplying that information;
 3. The FFS member is age 21 through 64 and has resided in an Institution for Mental Disease for more than 30 days;
 4. The FFS member is an inmate of a public institution that does not receive federal financial participation;
 5. The FFS member's whereabouts are unknown and the post office returns mail, directed to the FFS member, to the contractor indicating no forwarding address; or
 6. AHCCCS establishes the fact that the FFS member has been accepted for Medicaid by another state.
- C.** AHCCCS may shorten the period of advance notice to five days before the date of action if AHCCCS has verified facts indicating probable fraud by the FFS member.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-308. Who May File

- A.** An FFS member shall file an appeal or request a State Fair Hearing according to this Article.
- B.** An authorized representative, including a provider acting on behalf of the FFS member with the FFS member's written consent, shall file an appeal or request a State Fair Hearing on behalf of an FFS member.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-309. Time-frame for Filing an Appeal

An FFS member shall file an appeal either orally or in writing with AHCCCS within 60 days after the date the FFS member receives the Notice of Action.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-310. General Requirements for the Appeal Process

- A.** AHCCCS shall provide reasonable assistance to an FFS member in completing forms and taking other procedural steps. Reasonable assistance includes, but is not limited to, providing interpreter services and toll-free numbers that have adequate TTY/TTD (teletypewriter/telecommunications device for the deaf and text telephone) and interpreter capability.
- B.** AHCCCS shall acknowledge receipt of each appeal in writing.
- C.** AHCCCS shall ensure that the individual who makes a decision on an appeal was not involved in any previous level of review or decision-making.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-311. Special Requirements for the Appeal Process

- A.** AHCCCS shall provide that an oral inquiry seeking to appeal an action is treated as an appeal.

- B.** A resolution of an appeal by AHCCCS before a State Fair Hearing is an informal resolution under A.R.S. § 36-2903.01(B)(4).
- C.** AHCCCS shall provide a reasonable opportunity for the FFS member to present evidence and allegations of fact or law prior to issuance of an appeal resolution.
- D.** AHCCCS shall provide the enrollee and representative the opportunity, before and during the appeals process, to examine the enrollee's case file, including medical records, documents not protected from disclosure by law, and records considered during the appeal process.
- E.** AHCCCS shall schedule a hearing and mail a Notice of State Fair Hearing under A.R.S. § 41-1092.05 if AHCCCS receives a timely appeal and:
1. The prior authorization request, as defined in 9 A.A.C. 22, Article 1, was reviewed by two independent medical professionals prior to mailing the Notice of Action; or
 2. The FFS member requests a State Fair Hearing for expedited resolution that meets the criteria in R9-34-316.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-312. Time-frame for Standard Resolution of an Appeal

- A.** For standard resolution of an appeal, AHCCCS shall resolve the appeal and mail written Notice of Appeal Resolution to the FFS member within 30 days after the day AHCCCS receives the appeal.
- B.** If the FFS member requests an extension of the 30 day time-frame in subsection (A), AHCCCS shall extend the time-frame up to an additional 14 days if requested by the FFS member.
- C.** If additional information is needed by AHCCCS and the extension is in the best interest of the FFS member, AHCCCS shall extend the time-frame in subsection (A) up to an additional 14 days. If AHCCCS extends the time-frame, AHCCCS shall:
1. Give the FFS member written notice of the reason for the decision to extend the time-frame, and
 2. Mail and carry out the resolution as expeditiously as the FFS member's health condition requires and no later than the date the extension expires.
- D.** For resolution decisions not reached within the time-frames in this Section, the appeal shall be considered denied on the date that the time-frames expires.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-313. Content of the Notice of Appeal Resolution

- A.** The written Notice of Appeal Resolution shall include the results of the resolution process and the date it was completed.
- B.** For appeals not resolved wholly in favor of the FFS member, the Notice of Appeal Resolution shall contain,
1. The right to request a State Fair Hearing, and how to do so,
 2. The right to request to receive services while the State Fair Hearing is pending, and how to make the request,
 3. The factual and legal basis for the decision; and
 4. That the FFS member shall be liable for the cost of continued services if the Director's Decision upholds AHCCCS' decision.

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Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-314. Request for a State Fair Hearing

- A.** An FFS member may request a State Fair Hearing on AHCCS' standard resolution of an appeal. The request shall be in writing, submitted to and received by AHCCCS, no later than 30 days after the FFS member receives the AHCCCS Notice of Appeal Resolution.
- B.** If an FFS member wants services to be continued pending a State Fair Hearing, the request to continue services shall be in writing and comply with R9-34-321.
- C.** AHCCCS shall mail a Notice of State Fair Hearing under A.R.S. § 41-1092.05 if AHCCCS receives a timely request for a State Fair Hearing under the requirements of this Article.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-315. Time-frame for Resolution of State Fair Hearing for a Standard Resolution of an Appeal

AHCCCS shall mail a Notice of Final Decision to the FFS member no later than 30 days after the date the Administrative Law Judge sends the recommended decision to AHCCCS, and within 90 days after the date that the FFS member filed the appeal with AHCCCS, not including the days for continuances granted at the enrollee's request.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-316. Request for Expedited Resolution of an Appeal

- A.** AHCCCS shall mail a Notice of State Fair Hearing under A.R.S. § 41-1092.05 when AHCCCS receives an appeal request from an FFS member no later than 30 days after the FFS member receives the AHCCCS Notice of Action and:
1. AHCCCS determines that taking the time for a standard resolution could seriously jeopardize the FFS member's life, health, or ability to attain, maintain, or regain maximum function;
 2. The expedited appeal request is supported with documentation by the provider supporting that taking the time for a standard resolution could seriously jeopardize the FFS member's life or health, or ability to attain, maintain, or regain maximum function; or
 3. AHCCCS receives an expedited appeal request directly from the provider who indicates that taking the time for a standard resolution could seriously jeopardize the FFS member's life or health, or ability to attain, maintain, or regain maximum function.
- B.** AHCCCS shall ensure that punitive action is not taken against a provider who requests an expedited resolution or who supports an FFS member's appeal.
- C.** If AHCCCS denies a request for expedited resolution of an appeal from an FFS member, AHCCCS shall:
1. Resolve the appeal within the time-frame in R9-34-315, and
 2. Make reasonable efforts to give the FFS member prompt oral notice of the denial, and follow up within two calendar days with a written notice.
- D.** If an FFS member wants services to be continued pending a State Fair Hearing, the request to continue services shall be in writing and comply with R9-34-321.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-317. Time-frame for Resolution of Expedited State Fair Hearing

AHCCCS shall mail a written Hearing Decision to the FFS member within three working days after the date that the hearing has concluded.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-318. Withdrawal of a Request for a State Fair Hearing

- A.** AHCCCS shall accept a written request for withdrawal if the written request for withdrawal is received from the FFS member before AHCCCS mails a notice of hearing under A.R.S. § 41-1092 et seq.
- B.** If AHCCCS mailed a notice of hearing under A.R.S. § 41-1092 et seq., an FFS member shall send a written request for withdrawal to OAH.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-319. Denial of a Request for a State Fair Hearing

AHCCCS shall deny a request for hearing under A.R.S. § 41-1092 et seq., upon written determination that:

1. The request for hearing is untimely;
2. The request for hearing is not for an action permitted under this Article;
3. The request for State Fair Hearing is moot, as determined by AHCCCS, based on the factual circumstances of the case; or
4. The sole issue presented is a federal or state law requiring an automatic change adversely affecting some or all enrollees.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-320. Motion for Rehearing or Review

Under A.R.S. § 41-1092.09, the Director shall grant a rehearing or review for any of the following reasons materially affecting an enrollee's rights:

1. Irregularity in the proceedings of a hearing that deprived an FFS member of a State Fair Hearing;
2. Misconduct of AHCCCS, OAH, or a party;
3. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
4. The decision is the result of passion or prejudice;
5. The decision is not justified by the evidence or is contrary to law; or
6. Good cause is established for the nonappearance of a party at the hearing.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-321. Continuation of Services While the Appeal and the State Fair Hearing are Pending

- A.** For the purposes of this Section, timely filing means filing on or before the later of the following:
1. Within 10 days from the date that AHCCCS mails the Notice of Action, or

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2. The intended effective date of AHCCCS' proposed action.
- B.** AHCCCS shall continue the FFS member's services if:
1. The FFS member files the appeal timely;
 2. The appeal involves the termination, suspension, or reduction of a previously authorized course of treatment;
 3. An authorized provider ordered the services;
 4. The original period covered by the original authorization has not expired; and
 5. The FFS member requests continuation of services.
- C.** If, at the FFS member's request, AHCCCS continues or reinstates the FFS member's services while the appeal is pending, AHCCCS shall continue the services until one of following occurs:
1. The FFS member withdraws the appeal;
 2. Ten days pass after AHCCCS mails the Notice of Appeal Resolution to the FFS member unless the FFS member within the 10-day time-frame has requested a State Fair Hearing in writing with continuation of benefits until a Director's Decision is reached;
 3. AHCCCS mails a hearing decision adverse to the FFS member; or
 4. The time-period or service limits of a previously authorized service have been met.
- D.** If the Director's Decision upholds AHCCCS' action, the FFS member shall be liable for the cost of the services furnished to the FFS member while the appeal is pending, to the extent that the services were furnished solely because of the requirements of this Section.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-322. Reversed Appeal Resolutions

- A.** If the Director's Decision reverses a decision to deny, limit, or delay services that were not furnished while the appeal was pending, AHCCCS shall authorize or provide the disputed services promptly, and as expeditiously as the FFS member's health condition requires.
- B.** If the Director's Decision reverses a decision to deny authorization of services, and the FFS member received the disputed services while the appeal was pending, AHCCCS shall pay the provider for those services.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

ARTICLE 4. CLAIM DISPUTE

Article 4, consisting of R9-34-401 through R9-34-409, made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-401. Purpose

This Article establishes process and requirements for a provider or contractor to resolve a claim dispute or request a State Fair Hearing. A contractor is responsible for any functions or responsibilities delegated under a subcontract. It is the contractor's responsibility to ensure that the subcontractor has the ability to perform the delegated activities.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-402. Definitions

- A.** "AHCCCS" means the AHCCCS Administration as defined in A.R.S. § 36-2901.

- B.** "Claim dispute" means a dispute involving a payment of a claim, denial of a claim, imposition of a sanction or reinsurance.
- C.** "Contractor" means contractor or program contractor as defined in A.R.S. Title 36, Chapter 29; the Comprehensive Medical Dental Program in the Department of Economic Security; and the Children's Rehabilitation Services and Behavioral Health Services in the Arizona Department of Health Services.
- D.** "Day" means calendar day unless otherwise specified.
- E.** "Director" means the Director of the Arizona Health Care Cost Containment System Administration or designee.
- F.** "Director's Decision" means the final administrative decision under A.R.S. § 41-1092(5).
- G.** "FFS member" means an FFS member eligible for AHCCCS under A.R.S. Title 36, Chapter 29, and who is enrolled with AHCCCS on an FFS basis and not enrolled with an AHCCCS contractor.
- H.** "Filed" means the date that AHCCCS receives a request as established by a date stamp on the request or other record of receipt.
- I.** "State Fair Hearing" means an administrative hearing under A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-403. Computation of Time

Computation of time for calendar day begins the day after the act, event, or decision and includes all calendar days and the final day of the period. If the final day of the period is a weekend or legal holiday, the period is extended until the end of the next day that is not a weekend or a legal holiday.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-404. Content of Claim Dispute

A claim dispute shall specify in detail the factual and legal basis for the claim dispute and the relief requested. AHCCCS shall deny a claim dispute if the factual or legal basis is not detailed.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-405. Filing a Claim Dispute for a Claim Involving a Member Enrolled with a Contractor

- A.** For a claim for services rendered to a member enrolled with a contractor, the provider shall file a written claim dispute with the contractor under the timelines in A.R.S. § 36-2903.01(B)(4).
- B.** The contractor shall mail a written Notice of Decision of the claim dispute to the provider no later than 30 days after the provider files the claim dispute with the contractor, unless the provider and contractor agree to a longer period.
- C.** The contractor's written Notice of Decision shall include:
1. The date of the decision,
 2. The factual and legal basis for the decision,
 3. The provider's right to request a State Fair Hearing under A.R.S. § 41-1092, et seq., and
 4. The manner in which a request for a State Fair Hearing is filed under A.R.S. § 41-1092, et seq.
- D.** A provider may request a State Fair Hearing on the contractor's Notice of Decision if:
1. The provider files a written request for a State Fair Hearing with the contractor no later than 30 days after the date

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the provider receives the contractor's written Notice of Decision, or

2. The contractor does not render a written Notice of Decision within 30 days after the claim dispute is filed and the provider files a written request for a State Fair Hearing within 30 days after the date that the Notice of Decision should have been mailed.
- E. AHCCCS shall mail a Notice of Hearing under A.R.S. § 41-1092.05 to the parties if a contractor receives a timely request for hearing from the provider.
- F. AHCCCS shall mail a Director's Decision to the provider no later than 30 days after the date the Administrative Law Judge sends the OAH decision to AHCCCS.
- G. AHCCCS shall accept a written request for withdrawal if the written request for withdrawal is received from the provider before AHCCCS mails a Notice of Hearing under A.R.S. § 41-1092, et seq. If AHCCCS mailed a Notice of Hearing under A.R.S. § 41-1092, et seq., a provider shall send a written request for withdrawal to OAH.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-406. Filing a Claim Dispute From a Contractor for Reinsurance

- A. A contractor shall file a written reinsurance claim dispute with AHCCCS under the timelines in A.R.S. § 36-2903.01(B)(4).
- B. AHCCCS shall mail a written Notice of Decision of the claim dispute for reinsurance to the contractor no later than 30 days after the contractor files the claim dispute with AHCCCS, unless AHCCCS and contractor agree to a longer period.
- C. AHCCCS' written Notice of Decision shall include:
 1. The date of the decision,
 2. The factual and legal basis for the decision,
 3. The contractor's right to request a State Fair Hearing under A.R.S. § 41-1092, et seq., and
 4. The manner in which a contractor is to file a State Fair Hearing request under A.R.S. § 41-1092 et seq.
- D. A contractor may request a State Fair Hearing on AHCCCS' Notice of Decision if:
 1. The contractor files a written request for a State Fair Hearing with AHCCCS no later than 30 days after the date the contractor receives the AHCCCS' written Notice of Decision regarding reinsurance, or
 2. AHCCCS does not render a written Notice of Decision regarding reinsurance within 30 days after the claim dispute is filed and the contractor files a written request for a State Fair Hearing within 30 days after the date that the Notice of Decision should have been mailed.
- E. AHCCCS shall mail a notice of a State Fair Hearing under A.R.S. § 41-1092.05 if AHCCCS receives a timely request for a State Fair Hearing from the contractor.
- F. AHCCCS shall mail a Director's Decision to the contractor no later than 30 days after the date the Administrative Law Judge sends the OAH decision to AHCCCS.
- G. AHCCCS shall accept a written request for withdrawal if the written request for withdrawal is received from the contractor before AHCCCS mails a notice of hearing under A.R.S. § 41-1092, et seq. If AHCCCS mailed a Notice of Hearing under A.R.S. § 41-1092, et seq., a contractor shall send a written request for withdrawal to OAH.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-407. Filing a Claim Dispute for a Claim Involving an**FFS Member**

- A. For a claim for an FFS member, the provider shall file a written claim dispute with AHCCCS under the timelines in A.R.S. § 36-2903.01(B)(4).
- B. AHCCCS shall mail a written Notice of Decision of the claim dispute to the provider no later than 30 days after the provider files the claim dispute with AHCCCS, unless AHCCCS and the provider agree to a longer period.
- C. AHCCCS' written Notice of Decision shall include:
 1. The date of the decision,
 2. The factual and legal basis for the decision,
 3. The provider's right to request a State Fair Hearing under A.R.S. § 41-1092, et seq., and
 4. The manner in which a provider is to file a State Fair Hearing request under A.R.S. § 41-1092 et seq.
- D. A provider may request a State Fair Hearing on AHCCCS' Notice of Decision if:
 1. The provider files a written request for a State Fair Hearing with AHCCCS no later than 30 days after the date the provider receives the AHCCCS' written Notice of Decision, or
 2. AHCCCS does not render a written Notice of Decision within 30 days after the claim dispute is filed and the provider files a written request for a State Fair Hearing based on AHCCCS' failure or refusal to decide the claim dispute within 30 days after the date that the Notice of Decision should have been mailed.
- E. AHCCCS shall mail a Notice of Hearing under A.R.S. § 41-1092.05 if AHCCCS receives a timely request for a State Fair Hearing from the provider.
- F. AHCCCS shall mail a Director's Decision to the provider no later than 30 days after the date the Administrative Law Judge sends the OAH decision to AHCCCS.
- G. AHCCCS shall accept a written request for withdrawal if the written request for withdrawal is received from the provider before AHCCCS mails a Notice of Hearing under A.R.S. § 41-1092 et seq. If AHCCCS mailed a Notice of Hearing under A.R.S. § 41-1092 et seq., a provider shall send a written request for withdrawal to OAH.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-408. Denial of a Request for a State Fair Hearing

- AHCCCS shall deny a request for hearing under A.R.S. § 41-1092, et seq., upon written determination that:
1. The request for hearing is untimely;
 2. The request for hearing is not for an action permitted under this Article;
 3. The provider or contractor waives the right to a hearing; or
 4. The request for hearing is moot, as determined by AHCCCS, based on the factual circumstances of the case.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).

R9-34-409. Motion for Rehearing or Review

Under A.R.S. § 41-1092.09, the Director shall grant a rehearing or review for any of the following reasons materially affecting a provider's rights:

1. Irregularity in the proceedings of a hearing that deprived a provider of a fair hearing;
2. Misconduct of AHCCCS, OAH, or a party;

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3. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
4. The decision is the result of passion or prejudice;
5. The decision is not justified by the evidence or is contrary to law; or
6. Good cause is established for the nonappearance of a party at the hearing.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 828, effective April 3, 2004 (Supp. 04-1).