

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the Register 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the Arizona Administrative Register after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

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

ADMINISTRATION

PREAMBLE

1. Sections Affected

R9-22-339
R9-22-401
R9-22-402
R9-22-403
R9-22-404
R9-22-405
R9-22-406
R9-22-801
R9-22-801
R9-22-802
R9-22-802
R9-22-803
R9-22-803
R9-22-804
R9-22-804

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
Amend
Repeal
New Section
Repeal
New Section
Repeal
New Section
Repeal
New Section

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

R9-22-339
Authorizing statute: A.R.S. § 36-2903.01(B)
Implementing statute: A.R.S. § 36-2903.01(K)

Article 4
Authorizing statute: A.R.S. § 36-2903.01(H)
Implementing statutes: A.R.S. §§ 36-2903(C)(2), (D), and (N) and 36-2904(C)

Article 8
Authorizing statute: A.R.S. § 36-2903(H)
Implementing statutes: A.R.S. §§ 36-2903.01(B)(4) and 36-2904(H)

3. The effective date of the rules:

January 14, 1997

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening:

1 A.A.R. 1669, September 22, 1995
2 A.A.R. 2027, May 17, 1996
2 A.A.R. 2053, May 24, 1996

Notice of Proposed Rulemaking:

2 A.A.R. 3109, June 14, 1996

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

Name: Cheri Tomlinson
Address: AHCCCS, Office of Policy Analysis and Coordination
801 East Jefferson, Mail Drop #4200
Phoenix, Arizona 85034
Telephone: (602) 417-4198
Fax: (602) 256-6756

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

R9-22-339: This newborn eligibility rule is being amended to reflect the approval of a waiver by the Health Care Financing Administration. The federal waiver allows newborns of categorically eligible mothers to remain AHCCCS eligible for 1 year, regardless of the mother's continued eligibility.

ARTICLE 4: The proposed rules result from a 5-year rule review of this Article which identified some non-substantive revisions which would make rule language clearer and more accurate. Language is deleted in R9-22-401 since it already appears, more appropriately, in a list of required contract provisions, at R9-22-402(A)(27). Language in R9-22-402 was revised to more accurately reflect the time records should be retained. The new language parallels language used in AHCCCS contracts with Health Plans. Current rule language would allow documents to be destroyed after 5 years, however, the revised language requires that records for which payments are in question be kept until final disposition or resolution which could be longer than 5 years. The sanction dollar limit of \$5,000 reflected in R9-22-406 was deleted since a maximum limit is no longer included in AHCCCS contracts. This provides the agency with the ability to escalate sanction amounts in the event that a particular compliance problem is severe and/or becomes chronic. Other changes have been made to reflect current policies or to better clarify the intent of the rule. For example, the term "quality assurance" was updated to reflect the current industry term "quality management".

ARTICLE 8: Pursuant to recommendations made during a 5-year rule review, amendments to rule language in the Article are being made to adopt rules that are more understandable, more logical, more consistent and which conform with current format and style requirements. Essentially the current rules were reformatted and rewritten to meet these goals. For example, the current rules did not consolidate general provisions that govern all grievances and appeals. R9-22-801 now achieves this. The adopted general provision rules (R9-22-801) and the grievance rule (R9-22-804) will be cross-referenced in the ALTCS (9 A.A.C. 28) grievance and appeal rules (rulemaking in process) to assure consistency in procedures for all parties involved in resolving grievance and appeal matters.

The only substantive change in the Article 8 rulemaking is in R9-22-803. These new rules are needed because, as of July 1, 1995, AHCCCS took over the responsibility for conducting Supplemental Security Income-related medical assistance eligibility determinations and for handling any appeals resulting from this action. Prior to July 1995, the Department of Economic Security was responsible for this. (NOTE: Article 8 rules do not include procedures for grievances and appeals arising from DES eligibility determinations since DES rules govern those grievances and appeals.)

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

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

R9-22-339: AHCCCS members who are infants will benefit by receiving medical coverage from AHCCCS for 1 year after birth regardless of the mother's eligibility status. However this impact is not a direct result of the rule, but rather of HCFA's approval of this extended eligibility period.

ARTICLE 4: The changes will have nominal economic impact on AHCCCS Health Plans because they will be required to maintain records longer in certain instances. The 1 AHCCCS Health Plan that could be classified as a small business will also be nominally impacted for the cost of maintaining records for a longer period of time than it would currently. AHCCCS Health Plans that have difficulty complying with agency policies may be subject to larger sanction amounts because the rules would eliminate the current \$5,000 per violation sanction limit. This could benefit AHCCCS members because the Health Plans would have additional incentive to comply with rules and continue to provide quality care. AHCCCS will also benefit because the clearer rule language will make contract monitoring and administration easier for staff. There will be no impact on political subdivisions because the changes pertain only to contractual arrangements between AHCCCS and contractors who provide services to AHCCCS members.

ARTICLE 8: There will be no substantive fiscal impact on businesses or political subdivisions as changes are being made only to make the rules easier to use and to clarify AHCCCS' role in determining eligibility for SSI-related medical assistance only individuals and providing continued medical coverage to deemed newborns. There will be a minor impact for the cost of printing the copies of the rule revision and a small cost for training AHCCCS staff to be aware of the changes made in R9-22-803 as a result of the transfer of eligibility for SSI-related MAO individuals to AHCCCS. AHCCCS acute care applicants, eligible persons and members and the State may benefit from the changes because the grievance and appeal process will be more clearly defined and it is possible this could result in the initiation of fewer grievances and appeals.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

For rules R9-22-339; R9-22-401 through R9-22-406; and R9-22-801 through R9-22-804 there were some minor changes made between the proposed and final rules. There are minor changes in word choices, grammar, and style and were made to enhance the clarity, conciseness, and understandability of the rules. However, due to written and oral comments regarding R9-22-1001 and

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R9-22-1002, the Administration is adding clarifying language that is substantive in nature. Therefore, the Administration is separating these rules from the original rulemaking package, and filing a Supplemental Notice for R9-22-1001 and R9-22-1002. This action will permit interested parties to further comment on the new rule language.

10. A summary of the principal comments and the agency response to them:

For rules R9-22-339; R9-22-401 through R9-22-406; and R9-22-801 through R9-22-804 the agency received no oral or written comments. The Administration is filing the proposed rule language as the final rulemaking language.

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

Not applicable

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

R9-22-339: None

ARTICLE 4:

42 CFR 433, Subpart D is incorporated in R9-22-402(A)(11).

42 CFR 434.6(b) is incorporated in R9-22-402(A)(12).

42 CFR 434, Subpart C is incorporated in R9-22-402(B) and R9-22-403(B)(7).

42 CFR 447.50 through 447.58 are incorporated in R9-22-402(A)(18).

42 CFR 455, Subparts A and B are incorporated in R9-22-405(A) (20), and(21) respectively.

ARTICLE 8: None

13. Was the rule previously adopted as an emergency rule?

No.

14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

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

ARTICLE 3. ELIGIBILITY AND ENROLLMENT

R9-22-339. Newborn ~~Eligibility-eligibility~~

ARTICLE 4. CONTRACTS, ADMINISTRATION, AND STANDARDS

R9-22-401. General

R9-22-402. Contracts

R9-22-403. Subcontracts

R9-22-404. Contract ~~Amendments; Mergers; Reorganizations~~
~~amendments; mergers; reorganizations~~

R9-22-405. Suspension, Denial, Modification, or Termination of
Contract ~~denial, modification or termination or con-~~
~~tract~~

R9-22-406. Contract ~~Compliance Sanction Alternative-compli-~~
~~ance-sanction-alternative~~

ARTICLE 8. GRIEVANCE AND APPEAL PROCESS

R9-22-801. ~~Eligibility Appeals and Hearing Requests for the~~
~~Indigent, Medically Needy, Eligible Low-income~~
~~Children and State Emergency Services Persons~~
~~General Provisions For All Grievances and Appeals~~

R9-22-802. ~~Member Grievances Eligibility Appeals for Appli-~~
~~cants, Eligible Persons, and Members Receiving~~
~~State-funded AHCCCS Services~~

R9-22-803. ~~Non-member Grievances Eligibility Appeals for~~
~~Applicants, Eligible Persons, and Members Receiv-~~
~~ing SSI-related Medical Assistance Only AHCCCS~~
~~Services~~

R9-22-804. ~~Contractor and County Grievances Grievances~~

ARTICLE 3. ELIGIBILITY AND ENROLLMENT

R9-22-339. Newborn ~~Eligibility-eligibility~~

A. ~~A newborn whose mother has Newborn of mothers who have~~
~~been determined indigent or medically needy shall be provided~~
~~not less than 30 consecutive days nor not more than 60 consec-~~
~~utive days of AHCCCS eligibility. Eligibility shall begin on~~
~~the date of birth. Nothing contained in this subsection shall be~~
~~construed to prevent a newborn from obtaining additional eli-~~
~~gibility and enrollment as otherwise provided for in this Arti-~~
~~cle.~~

B. ~~A newborn of a categorically eligible mother Newborns of cat-~~
~~egorically eligible mothers shall be AHCCCS eligible from the~~
~~date of birth through the end of the month in which its their 1st~~
~~birthday occurs, as long as the newborn remains in the~~
~~mother's household in Arizona in the state of Arizona and the~~
~~mother remains categorically eligible.~~

C. If AHCCCS receives notification of the baby's birth from the
appropriate eligibility agency, ~~contractor, contractor or hospi-~~
~~tal, the newborn shall be enrolled according to R9-22-333, R9-~~
~~22-334, R9-22-334 or R9-22-342 R9-22-707, of AHCCCS~~
~~rules-whichever is applicable.~~

ARTICLE 4. CONTRACTS, ADMINISTRATION, AND STANDARDS

R9-22-401. General

Contracts to provide services under AHCCCS will be established
between the Administration and qualified providers of health care
in conformance with the requirements ~~set forth in~~ this Article. Con-
tracts and subcontracts entered into in accordance with this Article
are ~~shall become~~ public records on file with the Administration in
accordance with ~~selected provisions of 42 and 45 CFR, as of Octo-~~

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ber 1, 1995. These citations are incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. All contracts and subcontracts shall specify agreement to comply with all applicable federal and state statutes and regulations.

R9-22-402. Contracts

A. Each contract between the Administration and a contractor shall be in writing and shall contain at least the following information:

1. ~~The Full disclosure of the method and amount of compensation or other consideration to be received by the contractor.~~
2. ~~The Identification of the name and address of the contractor.~~
3. ~~The Identification of the population to be covered by the contract.~~
4. ~~The amount, duration, duration and scope of medical services to be provided, or for which compensation will be paid.~~
5. ~~The Specification of the term of the contract, including the beginning and ending dates, as well as methods of extension, renegotiation, renegotiation and termination.~~
6. A provision that the Director or the Secretary of the U.S. Department of Health and Human Services may evaluate, through inspection or other means, the quality, appropriateness, appropriateness or timeliness of services performed under the contract.
7. A description of patient, medical, medical and cost record-keeping systems and a provision that the Director or the Secretary of the U.S. Department of Health and Human Services may audit and inspect any of the contractor's records that pertain to services performed and determinations of amounts payable under the contract. These Such records shall be maintained by the contractor for 5 years from the date of final payment or, until any pending audits are completed and approved by the Director, whichever first occurs, for records relating to costs and expenses to which the Administration has taken exception, 5 years after the date of final disposition or resolution of the exception, thereof.
8. A provision ~~to retain for the retention of a specified percentage of periodic payments to contractors, have a reserve fund, or use another means to adjust the payments made to contractors, provisions by which adjustments in the payments to contractors are made, based on utilization efficiency, including incentives for maintaining quality care and minimizing unnecessary inpatient services. This provision specification applies only to capped fee-for-service and AHCCCS-assembled AHCCCS-assembled-network contractors and providers that participate in a risk retention fund in accordance with R9-22-714.~~
9. A provision that contractors shall maintain all forms, records, records and statistical information required by the Director for purposes of audit and program management. This Such material, including files, correspondence, correspondence and related information pertaining to services rendered or claims for payments shall be subject to inspection and copying by the Administration and the U.S. Department of Health and Human Services during normal business hours at the place of business of the person or organization maintaining the records. The cost of duplicating materials will be born by AHCCCS.

10. ~~A provision that records pertaining to categorically eligible persons or members be retained in accordance with the record retention requirements of 45 Part 74~~
11. ~~10. A provision that the contractor safeguard information about categorically eligible persons and members as required by 42 CFR 431, Subpart F.~~
12. ~~11. Any Identification of any activities to be performed by the contractor affecting categorically eligible persons and members that are related to third-party liability requirements as prescribed in 42 CFR 433, Subpart D, as of October 1, 1995, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~
13. ~~12. Functions that Specification of these which may be subcontracted, including a provision that any subcontract affecting categorically eligible individuals meets the requirements of 42 CFR 434.6(b), as of October 1, 1995, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~
14. ~~13. A provision that the contractor arrange for the collection of any required co-payment and third-party insurance.~~
15. ~~14. A provision that the contractor will not bill or attempt to collect from a the member for any covered service except as may be authorized by statute or these rules.~~
16. ~~15. A provision that the contract will not be assigned or transferred without the prior approval of the Director.~~
17. ~~16. Procedures A provision that specifies for enrollment or re-enrollment of the covered population.~~
18. ~~17. Procedures A provision that specifies and criteria for terminating the contract.~~
19. ~~18. A provision that any cost sharing requirements imposed for services furnished to members are in accordance with 42 CFR 447.50 through 447.58, as of October 1, 1995, which are incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~
20. ~~19. A provision in the contract or proposal on which the contract is based that specifies the a. The actuarial basis for computation of capitation fees, if applicable; and b. That the capitation fees and any other payments provided for in the contract do not exceed the payment limits set forth in 42 CFR 447.361.~~
21. ~~20. Procedures for terminating Provisions regarding termination of enrollment and choice of health professional, that are consistent with the requirements of 42 CFR 434.27 and 434.29.~~
22. ~~21. A provision that a contractor shall provide for an internal grievance procedure that:~~
 - a. Is approved in writing by the Administration;
 - b. Provides for prompt resolution; and
 - c. Ensures Assures the participation of individuals with authority to require corrective action.
23. ~~22. A provision that requires the contractor to maintain an internal quality management assurance system consistent with AHCCCS rules, and 42 CFR Section 434.34~~
24. ~~23. A provision that requires the contractor to submit marketing plans, procedures, and materials to the Administration for approval in accordance with R9-22-505 before implementation.~~
25. ~~24. A statement in the contract or proposal on which the contract is based that all representations made by contrac-~~

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tors or authorized representatives are truthful and complete to the best of their knowledge.

~~26-25.~~ A provision that the contractor is ~~shall be fully responsible for all tax obligations, Worker's Compensation Insurance, and all other applicable insurance coverage, for itself and its employees, and that the Administration has shall have no responsibility or liability for any of the such taxes or insurance coverage.~~

~~27-26.~~ A provision that the contractor agrees to comply with all applicable statutes and rules.

- B. Each contract shall include all provisions necessary to ensure compliance with the applicable requirements of 42 CFR 434, Subpart C, ~~as of October 1, 1995, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments, and 45 CFR 74, Appendix G~~

R9-22-403. Subcontracts

- A. Approval. Any subcontract entered into by a contractor to provide covered services to ~~categorically needy, indigent, or medically-needy~~ AHCCCS members or any amendment to a subcontract shall be subject to review and approval by the Director. No subcontract alters the legal responsibility of a the contractor to the Administration to ~~ensure assure~~ that all activities under the contract are carried out.

- B. Subcontracts. Each subcontract shall be in writing and include:

1. ~~That A specification~~ the subcontract is to ~~shall~~ be governed by, and construed in accordance with all laws, rules, ~~rules and~~ contractual obligations of the contractor.
2. ~~Provision An agreement to notify the Administration in the event the subcontract agreement with the contractor is amended or terminated.~~
3. ~~Provision An agreement that assignment or delegation of the subcontract is shall be voidable unless prior written approval is obtained from the Administration.~~
4. ~~Provision An agreement to hold harmless the state, the Director, the Administration, Administration and members in the event the contractor cannot or will not pay for covered services performed by the subcontractor.~~
5. A Provision that the subcontract and subcontract amendments are subject to review and approval by the Director as set forth in these rules and that a subcontract or subcontract amendment may be terminated, ~~rescinded, rescinded or cancelled by the Director for a violation of the provisions of these rules.~~
6. ~~Provision An agreement to hold harmless and indemnify the state, the Director, the Administration, Administration and members against claim, liabilities, judgments, costs, costs and expenses with respect to third parties, which may accrue against the state, the Director, the Administration, Administration or members, through the negligence of the subcontractor.~~
7. ~~Provision that members are not to be held liable for payment to providers in the event of contractor's bankruptcy, in compliance with 42 CFR 434, Subpart C, as of October 1, 1995, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~
- 7-8. The requirements contained in R9-22-402(A)(1) through (A)(7), (A)(9), (A)(10), (A)(14), (A)(15), (A)(17), and (A)(24) through (A)(26) subsection (A), paragraphs (1) through (7), (9) through (11)(10), (15)(14), (16)(15), (18)(17), and (25)(24) through (27)(26) but substituting

the term "subcontractor" wherever the term "contractor" is used.

- C. Waiver. A contractor may submit a written request to the Administration requesting a waiver of the requirement that the contractor subcontract with a hospital in the contractor's service area. The request shall set forth the reasons ~~a waiver is believed to be necessary therefor~~ and shall state all efforts the ~~contractor has that have been made to secure such a subcontract.~~ For good cause shown, the Administration may waive the hospital subcontract requirement. The Administration shall consider the following criteria in deciding whether to waive the hospital subcontract requirement:

1. The number of hospitals in the service area.
2. The extent to which the contractor's primary care physicians have staff privileges at noncontracting hospitals in the service area.
3. The size and population of, and the demographic distribution within, the service area.
4. Patterns of medical practice and care within the service area.
5. Whether the contractor has diligently attempted to negotiate a hospital subcontract in the service area.
6. Whether the contractor has any hospital subcontracts in adjoining service areas with hospitals that are reasonably accessible to the contractor's members in the service area.
7. Whether the contractor's members can reasonably be expected to receive all covered services in the absence of a hospital subcontract.

R9-22-404. Contract Amendments; Mergers; Reorganizations amendments; mergers; reorganizations

~~Any merger, reorganization, or change in ownership of a contractor shall require that the contractor submit the contract between the Administration and the contractor for amendment and prior approval by the Director. Any merger, reorganization or change in ownership of a contractor shall constitute a contract amendment which requires the prior approval of the Director. Additionally, any merger, reorganization, reorganization or change in ownership of a subcontractor that is related to or affiliated with the contractor shall constitute a contract amendment which requires the prior approval of the Director. To be effective, contract amendments shall be in reduced to writing and executed by the contractor and the Director.~~

R9-22-405. Suspension, Denial, Modification or Termination of Contract denial, modification or termination of contract

- A. General. The Director may suspend, deny, refuse or fail to renew, or terminate a contract or subcontract for good cause which may include the following reasons:
1. Submitting any misleading, ~~false, false or~~ fraudulent information ~~with a claim when submitting claims for payment.~~
 2. Submitting false information for the purpose of obtaining greater compensation than that to which the contractor is legally entitled.
 3. Submitting an inaccurate or incomplete representation ~~representations in the bidding process.~~
 4. Failing to disclose or make available to the Administration, or its authorized representatives, records of or services provided to eligible persons or members and records of payment made ~~for the services thereafter.~~
 5. Submitting false information for the purpose of obtaining authorization ~~to provide services requiring authorization for the provision of services requiring such authorization.~~
 6. ~~Over-providing services or delivering Over-provision of services or the delivery of unnecessary services by inducing or otherwise causing an eligible person or member to~~

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receive services or items not required by the such person or member or by directly furnishing the such services or items.

7. ~~Providing Provision of any services in violation of or not authorized by or otherwise precluded by licensure, certification, certification or other law.~~
8. ~~Breaching Breach of the terms or conditions of a contract.~~
9. ~~Having a member A felony conviction of members of the board, administrator administrators, manager managers, or participating physician physicians of a contractor convicted of a felony.~~
10. ~~Giving or accepting a rebate, kickback, or fee or portion of a fee, or charging for referral of an eligible person or member. Giving or accepting a rebate, kickback or fee; or portion of a fee, or charge for referral of an eligible person or member referral.~~
11. ~~Violating any provision of A.R.S. Title 36, Chapter 29, Title XIX of the Social Security Act, as amended, or any state or federal rule promulgated under those statutes. Violation of any of the provisions of A.R.S. Title 36, Chapter 29, Title XIX of the Social Security Act, as amended, or any state or federal rule promulgated thereunder.~~
12. ~~Demonstrating an inability to perform obligations under a contractor agreement by prior conduct. Demonstration of an inability to perform obligations under a contractor agreement by prior conduct.~~
13. ~~Being determined to have substantially breached a previous or existing contract agreement with another state agency. Determination of a substantial breach of a previous or existing contract agreement with other state agencies.~~
14. ~~Being Determination that a contractor has previously been found ineligible to participate in federal or state assembled medical programs by the Administration or any other state or federal governmental agency.~~
15. ~~Failing to reimburse a subcontracting or and noncontracting provider providers utilized by referral for the provision of medically necessary health care services to the contractor's their members within 60 days of receipt of a valid claim valid claims, unless a different period is specified by contract, or failing to ensure that future claims will be paid.~~
16. ~~Failing to reimburse a noncontracting provider or nonprovider noncontracting providers and nonproviders for the provision of emergency medical services provided to the contractor's members within 60 days of receipt of a valid claim valid claims, or failing to ensure that future claims will be timely paid.~~
17. ~~Failing Failure to provide and maintain quality health care service to eligible persons and members, as determined by standards established by state and federal statute or regulations.~~
18. ~~Being determined to be endangering or to have endangered either, by omission of commission, the health, safety, or well-being of an eligible person or member. Substantiation that the contractor, either by omission or commission, is endangering or has endangered the health, safety, or well-being of an eligible person or member.~~
19. ~~Becoming Upon the contractor insolvent, or filing proceedings in bankruptcy or reorganization under the United States Code, or assigning rights or obligations under the contract without the prior written consent of the Administration.~~
20. ~~Failing or refusing Failure or refusal of the contractor to comply with the reporting or disclosure requirement of 42~~

CFR 455, Subpart B, as of October 1, 1995, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

21. ~~Being determined to have committed fraud or abuse. Substantiation of fraud or abuse by a contractor or subcontractor in accordance with 42 CFR 455, Subpart A, as of October 1, 1995, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. 455.203~~
 22. ~~Being convicted Conviction of a criminal offense related to involvement in any program under Medicare, Medicaid, Medicaid or Title XX of the Social Security Act of any person who has an ownership or control interest in the contractor or subcontractor, or is an agent or managing employee of the contractor or subcontractor.~~
 23. ~~Failing Failure to conform to and abide by the applicable laws or rules of the state of Arizona, the United States federal government and the Administration.~~
- B. Modification and termination of the contract without cause. The contract may be modified or terminated at any time by mutual consent of the Administration and contractor. Additionally, the Administration may terminate or suspend the contract in whole or in part without cause effective 30 days after mailing written notice of termination or suspension by certified mail, return receipt requested, to the contractor.
- C. Notification. The Director shall will provide the contractor written notice of intent to suspend, deny, fail to renew, or terminate a contract or related subcontract. The Such notice shall will be provided to affected principals, enrolled members and other interested parties, and shall will include the effective date of, and reason for, the such action.
- D. Records. All medical, financial, financial and other records shall be retained by a terminated contractor in accordance with federal and state laws and rules. Medical records or copies of medical records may be required to be submitted shall be provided to the Director, or his designee, within 10 working days of the effective date of contract termination.

R9-22-406. Contract Compliance Sanction Alternative compliance-sanction-alternative

- A. ~~Instead of using the sanctioning authority prescribed in R9-22-405, the Director may impose 1 or more of the following sanctions upon a contractor that violates any provision of these rules or of an AHCCCS contract. The Director may, in lieu of the sanctioning authority prescribed in Section R9-22-405, impose 1 or more of the following sanctions upon a contractor that violates any provision of these rules or of the appropriate AHCCCS contracts:~~
1. ~~Suspend Suspension of any or all further member enrollment, by choice or assignment, for a period of time to be commensurate with the nature, term, term and severity of the violation.~~
 2. ~~Withhold Withholding of a percentage of the contractor's capitation prepayment, commensurate with the nature, term, term and severity of the violation, but not to exceed \$5,000.00 per violation.~~
- 3-B. ~~The Director shall provide a contractor with written. Written notice will be provided contractors specifying the sanction alternative, grounds for the sanction, such sanction and either the length of suspension or the amount of prepayment to be withheld.~~
- 4-C. ~~Nothing contained in this Section shall be construed to prevent the Administration from imposing sanctions provided for by contract.~~

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ARTICLE 8. GRIEVANCE AND APPEAL PROCESS

R9-22-801. Eligibility Appeals and Hearing Requests for the Indigent, the Medically Needy, Eligible Low Income Children and State Emergency Services Persons General Provisions For All Grievances and Appeals

- A. Individuals affected by an adverse eligibility action may appeal and request a hearing concerning any of the following adverse eligibility actions:
1. Denial of eligibility; or,
 2. Discontinuance of eligibility; or,
 3. Delay in the eligibility determination beyond 30 days from the date of application unless the head of household had agreed to an extension in writing.
- B. Notice of an adverse eligibility action shall be personally delivered or mailed to the affected individual by regular mail. For purposes of this Section, the date of the Notice of Action shall be the date of personal delivery to the individual or the postmark date.
- C. Computation of time. In computing any period of time for establishing timeliness of filing grievances and appeals allowed by this Article, the day of the act, event or decision from which the designation of time begins to run shall not be included. Intermediate Saturdays, Sundays, and legal holidays shall be included in the computation. The last day of the period so computed shall be included unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday.
- D. Eligibility appeals and hearing request process.
1. The head of household or the designated representative may appeal and request a hearing from any adverse eligibility action by completing and submitting the AHCCCS Request for Hearing form or by submitting a written request as described in Paragraph (4). of this subsection not later than 15 days after the date of the Notice of Action.
 2. The Request for Hearing form or the written request shall be submitted to either the county eligibility office which rendered the adverse eligibility action or directly to the AHCCCS Administration, Office of Grievance and Appeals. If the Request for Hearing is submitted by mail, the date of request shall be the postmark date. If the Request for Hearing is submitted in person, the date of request shall be the date on which the request is submitted to the county or the AHCCCS Administration, Office of Grievance and Appeals.
 3. Counties shall maintain a register which documents the dates on which Requests for Hearings are submitted. Each Request for Hearing form shall indicate the date of request as described in Paragraph (2).
 4. If the appellant or designated representative does not utilize the Request for Hearing form he or she shall provide the following information on a written hearing request:
 - a. The case name; and,
 - b. Adverse eligibility action being appealed; and,
 - c. Reason for appeal.
 5. If requested, the county eligibility office shall assist the appellant or designated representative in the completion of the Request for Hearing form or the written request.
 6. The county eligibility office shall send to the AHCCCS Administration, Office of Grievance and Appeals, the Pre-Hearing Summary, a copy of the case file, and the Request for Hearing form or written request, which must be received by the AHCCCS Administration, Office of Grievance and Appeals, not later than ten days from the date of the county's receipt of the request. In the event that the appeal request is submitted directly to the AHCCCS Administration, Office of Grievance and Appeals, the county shall send the Pre-Hearing Summary and a copy of the case file, which shall be received by the AHCCCS Administration, Office of Grievance and Appeals, not later than ten days from the date of a request for such materials.
7. The Pre-Hearing Summary shall be completed by the county eligibility office and shall summarize the facts and factual basis for the adverse eligibility action.
- E. Withdrawal and denial of the hearing request.
1. The AHCCCS Chief Hearing Officer or designee shall deny a Request for Hearing and deny the appeal if a written request for withdrawal is received from the appellant prior to the date of the hearing. The case file then shall be closed.
 2. The AHCCCS Chief Hearing Officer or designee may deny an appeal and Request for Hearing if:
 - a. The date of request is subsequent to the 15th day after the date of the Notice of Action,
 - b. The appeal and Request for Hearing is for a reason(s) other than those identified in subsection (A) of this Section, or,
 - c. The appellant's appeal rights have been waived pursuant to Article 3.
- F. Postponement.
1. The Chief Hearing Officer or designee on his own motion may postpone a hearing. When the request for postponement is made, it shall be made in writing and received by the AHCCCS Administration, Office of Grievance and Appeals, no later than 5 days prior to the scheduled hearing date. The AHCCCS Chief Hearing Officer or designee shall grant a request for postponement on a showing that:
 - a. There is substantial cause for the postponement, and
 - b. The cause is beyond the reasonable control of the party.
 2. If a postponement is granted, the hearing shall be rescheduled at the earliest practicable date.
- G. Notice of Hearing. The Notice of Hearing shall be in accordance with A.R.S. § 41-1061 and shall include the following information:
1. A statement asserting the appellant's financial liability if AHCCCS benefits are continued and a proposed discontinuance is upheld by the Director; and,
 2. A statement detailing how an appellant may request a change in the scheduled hearing date.
- H. Failure to appear for hearing. Should the appellant, his representative or a representative from the county fail to appear at the hearing without good cause or a postponement, the AHCCCS Chief Hearing Officer or designee may:
1. Proceed with the hearing,
 2. Reschedule the hearing with further notice on his own motion,
 3. Issue a decision based on the evidence of record; or
 4. Issue a default disposition.
- I. AHCCCS coverage during the appeal process.
1. Individuals appealing a discontinuance. A discontinuance is a termination of AHCCCS benefits prior to the last month of the individual's certification period. The effective date of a discontinuance shall be the 16th day after the date of Notice of Action. Individuals appealing a discontinuance of AHCCCS benefits within the 15 day time frame as specified in subsection (C) shall continue to be covered by AHCCCS until an adverse decision on appeal is rendered or until the end of the certification

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period set forth in R9-22-313, whichever comes first. Appellants whose benefits are continued shall be financially liable for all AHCCCS benefits received during a period of ineligibility if the discontinuance decision is upheld by the AHCCCS Director.

2. Individuals appealing a denial of AHCCCS coverage.

- a. A denial is an adverse eligibility decision which finds the applicant or member ineligible for AHCCCS benefits as a result of either an initial application or a redetermination which does not terminate benefits prior to the end of a current certification period.
- b. The effective date of a denial of an initial application is the date of Notice of Action. Individuals may appeal this denial within the 15 day time frame as specified in subsection (C). In the event that the denial is overturned, the effective date of AHCCCS coverage shall be established by the Director in accordance with applicable law.
- c. The effective date of a denial of a redetermination shall be the last day of the final month in the current certification period. Individuals may appeal this denial within the 15 day time frame as specified in subsection (C). Individuals appealing an indigent, medically needy or eligible low income child redetermination decision within the 15 day time frame as specified in subsection (C) shall continue to be covered by AHCCCS until such time as administrative remedies are exhausted. Members whose benefits are continued shall be financially liable for all AHCCCS benefits received during a period of ineligibility if the denial decision is upheld by the Director.

J. Appellant's hearing rights.

1. Each appellant shall be afforded those hearing rights as specified in A.R.S. §§ 41-1061 and 41-1062.
2. Each appellant has the right to obtain copies of any relevant documents from the county eligibility case record at the appellant's expense.
3. Each appellant has the right to appear at the hearing and be heard in person, by telephone if available, through a representative designated in writing by the appellant, or to submit to the Administration a written statement that is signed and notarized prior to the hearing.
4. Each appellant has the right to bring an interpreter to assist at the hearing.
5. Persons who are deaf or mute according to A.R.S. § 12-242 shall be provided an interpreter by the Administration.

K. County review of eligibility determinations. In the event that new information is acquired by the county which materially affects the adverse eligibility decision, the county shall complete a new application and render a decision according to the requirements specified in Article 3. The effective date of AHCCCS coverage shall be the date established in Article 3. A county decision in accordance with this subsection shall not be considered a disposition of a pending appeal.

L. Conduct of hearing. The hearing shall be conducted pursuant to A.R.S. §§ 41-1061 and 41-1062.

M. AHCCCS Hearing Officer decision.

1. Except as provided in paragraph (2) of this subsection, after the conclusion of the hearing, the AHCCCS Hearing Officer shall prepare written findings of fact and conclusions of law and render a recommended decision to the Director.

2. Under the following circumstances the AHCCCS Chief Hearing Officer or designee may issue a final disposition in a case without a hearing by:

- a. Default when the appellant, his representative or a representative of the county fails to appear at the hearing without good cause; or,
- b. Disposition order when the appellant withdraws his appeal or there is a stipulated agreement to the disposition; or,
- c. Dismissal order when the appeal was not timely filed.

N. Decision of the Director.

1. After receipt of the Hearing Officer's recommended decision, the Director shall issue his or her decision in writing, which shall include findings of fact and conclusions of law, and unless otherwise provided by law, personally deliver or mail by certified mail a copy thereof to all parties at their last known residence or place of business. If a discontinuance or denial is upheld, the decision shall also state that the appellant may reapply for AHCCCS benefits under the conditions specified in Article 3.
2. As part of his or her decision, the Director may remand the case to the county for eligibility determination.
3. Except as provided in subsection (N), the Director's decision made pursuant to this subsection shall be a final administrative decision and may be reviewed as provided by A.R.S. § 12-901 et seq.

O. Request for Rehearing or Review.

1. A party dissatisfied with the decision may petition the Director for rehearing or review of the decision for any of the following causes which materially affects the appellant's rights:
 - a. Irregularity in the proceedings of the hearing or appeal whereby the aggrieved party was deprived of a fair hearing or appeal,
 - b. Misconduct of a party, the county, or the agency,
 - c. Newly discovered material evidence, which with reasonable diligence could not have been discovered and produced at the hearing,
 - d. That the decision is the result of passion or prejudice, or
 - e. That the decision is not justified by the evidence or is contrary to law.
2. The Director may remand the case to the county for eligibility determination, open the decision, order the taking of additional testimony or evidence before the Hearing Officer, amend findings of fact and conclusions of law or make new findings and conclusions, and render a new decision.
3. The petition for review or rehearing shall be in writing and shall specify the grounds upon which the petition is based. The Director shall review the sufficiency of the evidence if the petition is made upon the ground that the decision is not justified by the evidence.
4. A petition for rehearing or review shall be filed not later than 15 days after the date of the Director's decision. The date of the Director's decision shall be the date of personal delivery to the party dissatisfied with the decision or the postmark date, whichever occurs first. In the event that a timely petition for rehearing or review is filed, the Director's decision shall not be considered a final administrative decision until the Director renders a final decision on the petition for rehearing.

P. Failure to submit a grievance or appeal in a timely manner shall constitute a failure to exhaust administrative remedies required as a condition to seeking judicial relief.

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A. Definitions. In this Article:

1. "Appellant" means an individual filing any grievance or appeal under this Article.
2. "Request for hearing" means an appeal of an adverse eligibility action; an appeal filed after an informal decision has been rendered on a grievance by the Administration; an appeal of a grievance decision rendered by a contractor; or an appeal filed because a contractor has failed to render a timely grievance decision.
3. "Respondent" means the party responsible for the action being grieved or appealed. In eligibility appeals regarding state-funded services, the county is the respondent. In eligibility appeals regarding SSI-related medical assistance only services, the Administration is the respondent. In most member grievances, the contractor generally is the respondent.

B. Filing grievances and appeals. Unless provided elsewhere in this Chapter, all grievances and appeals or other statements shall be considered filed when received in writing by the Administration.

C. Computation of time. In computing any period of time for establishing timeliness of filing grievances and appeals, the period shall commence the day after the act, event, or decision grieved or appealed, and shall include 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 shall be extended until the end of the next day that is not a weekend or a legal holiday.

D. Appellant's hearing rights. The Administration shall afford an appellant the right to:

1. Have a hearing that is conducted as specified in A.R.S. §§ 41-1061 and 41-1062.
2. Obtain copies of any relevant document from the respondent or from AHCCCS at the appellant's expense.
3. Appear at the hearing and be heard in person, by telephone if available, through a representative designated in writing by the appellant, or to submit to the Administration a written statement that is signed and notarized prior to the hearing.
4. Bring an interpreter to assist at the hearing.
5. Be provided an interpreter by the Administration if hearing-challenged according to A.R.S. §12-242.

E. Withdrawal or denial of a request for hearing.

1. The AHCCCS Chief Hearing Officer or designee shall deny a request for hearing and deny a grievance or appeal if a written request for withdrawal is received from the appellant before the date of the hearing. The case file then shall be closed.
2. The AHCCCS Chief Hearing Officer or designee may deny a request for hearing and dismiss a grievance or appeal upon written determination that:
 - a. The request for hearing is untimely;
 - b. The request for hearing, grievance, or appeal is not for a reason permitted under this Article;
 - c. The appellant's appeal rights have been waived under Article 3; or
 - d. The appeal is otherwise moot.

F. Notice of Hearing. The Notice of Hearing shall be in accordance with A.R.S. § 41-1061 and shall include the following information:

1. A statement asserting the appellant's financial liability if AHCCCS benefits are continued during an eligibility

appeal and a proposed discontinuance or redetermination denial is upheld by the Director, and

2. A statement informing an appellant how to request a change in the scheduled hearing date.

G. Postponement.

1. The AHCCCS Chief Hearing Officer or designee on the officer or designee's own motion may postpone a hearing. When a request for postponement is made, it shall be in writing and received by the Administration, Office of Grievance and Appeals, no later than 5 days before the scheduled hearing date. The AHCCCS Chief Hearing Officer or designee may grant a request for postponement on a showing that:
 - a. There is substantial cause for the postponement, and
 - b. The cause is beyond the reasonable control of the party making the request.
2. If a postponement is granted, the hearing shall be rescheduled at the earliest practicable date.

H. Failure to appear for hearing. If any party or representative fails to appear at a hearing without good cause or a postponement, the AHCCCS Chief Hearing Officer or designee may:

1. Proceed with the hearing.
2. Reschedule the hearing with further notice.
3. Issue a decision based on the evidence of record, or
4. Issue a default disposition.

I. Conduct of hearing. The hearing shall be conducted as specified in to A.R.S. §§ 41-1061 and 41-1062.

1. The hearing shall be conducted in an informal manner without formal rules of evidence or procedure.
2. The AHCCCS Chief Hearing Officer or designee may:
 - a. Hold pre-hearing conferences to settle, simplify, or identify issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding;
 - b. Require parties to state their positions concerning the various issues in the proceeding;
 - c. Require parties to produce for examination those relevant witnesses and documents under their control;
 - d. Rule on motions and other procedural items;
 - e. Regulate the course of the hearing and conduct of participants;
 - f. Establish time limits for submission of motions or memoranda;
 - g. Impose appropriate sanctions against any individual failing to obey an order under these procedures, which may include:
 - i. Refusing to allow the individual to assert or oppose designated claims or defenses, or prohibiting that individual from introducing designated matters in evidence;
 - ii. Excluding all testimony of an unresponsive or evasive witness; and/or
 - iii. Expelling the individual from further participation in the hearing;
 - h. Take official notice of any material fact not appearing in evidence in the record, if the fact is among the traditional matters of judicial notice; and
 - i. Administer oaths or affirmations.

J. AHCCCS Hearing Officer recommended decision. After the conclusion of the hearing, unless the appellant withdraws or the parties stipulate to a settlement, the AHCCCS Hearing Officer shall prepare written findings of fact and conclusions of law and render a recommended decision to the Director.

K. Decision of the Director.

1. The Director may affirm, modify, or reject the Hearing Officer's recommendation in whole or in part; may

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remand a matter to any party or the Hearing Officer with specific instructions; or make any other appropriate disposition.

2. The Director shall mail by certified mail a copy of the decision to all parties at the last known residence or place of business of each party.
3. If a discontinuance or denial of AHCCCS eligibility is upheld, the decision also shall state that the appellant may reapply for AHCCCS benefits under the conditions specified in Article 3.

L. Petition for rehearing or review.

1. A party dissatisfied with the decision may petition the Director for rehearing or review of the decision for any of the following causes which materially affects the appellant's rights:
 - a. Irregularity in the proceedings of the hearing or appeal whereby the aggrieved party was deprived of a fair hearing or appeal;
 - b. Misconduct of a party or the agency;
 - c. Newly discovered material evidence, which with reasonable diligence could not have been discovered and produced at the hearing;
 - d. That the decision is the result of passion or prejudice; or
 - e. That the decision is not justified by the evidence or is contrary to law.
2. The petition for rehearing or review shall be filed not later than 15 days after the date of the Director's decision, which is the postmark date of the decision. The moving party also shall send a copy of the petition to all other parties. If a timely petition for rehearing or review is filed, the Director's decision is not a final administrative decision; rather, the final administrative decision is the decision the Director renders as a result of the petition.
3. The petition for rehearing or review shall be in writing and shall specifically state the grounds upon which it is based. The Director shall review the sufficiency of the evidence if the petition is made upon the ground that the decision is not justified by the evidence.
4. The Director may remand the case to any party; reopen the decision; order the taking of additional testimony or evidence before the Hearing Officer; amend findings of fact and conclusions of law; make new findings and conclusions; render an amended decision; or deny the petition and affirm the previous decision.
5. The Director, within the time for filing a petition for rehearing or review, may on the Director's own motion order a rehearing or issue an amended decision for any reason for which the Director might have done so upon petition of a party.

M. Failure to submit a grievance, appeal, request for hearing, or petition for rehearing or review in a timely manner shall constitute a failure to exhaust administrative remedies required as a condition to seeking judicial relief.

R9-22-802. Member Grievances Eligibility Appeals For Applicants, Eligible Persons and Members Receiving State-funded AHCCCS Services

- A.** A member aggrieved by any adverse decision or action by a contractor, subcontractor, non-contracting provider, nonprovider, or the Administration, may file a grievance and request a hearing as specified in this Section. This Section shall not apply to actions or decisions affecting a member's eligibility or to actions or decisions that reduce a categorically-eligible member's benefits as a result of changes in state or federal law.
- B.** Member grievances to contractor.

1. All grievances filed by members relating to the contractor, subcontractor, non-contracting provider, or nonprovider shall be filed with the member's contractor for review, investigation and resolution in accordance with the grievance requirements of this subsection and the applicable contract.
2. All grievances shall be filed orally or in writing with the member's contractor not later than 35 days after the date of such adverse decision or action. Grievances filed pursuant to this subsection shall state with particularity the factual and legal basis therefor and the relief requested.
3. The contractor shall record and retain sufficient information to identify the grievant, date of receipt and nature of the grievance.
4. A final decision shall be rendered by the contractor on all grievances within 30 days of filing. The decision by the contractor shall be personally delivered or mailed by certified mail to the member, and by regular mail to all other parties and shall state the basis for the decision as well as the individual's right to appeal the decision to the Administration. The contractor's final decision shall specify the manner in which an appeal to the Administration may be filed.
5. At the time of enrollment, each member shall be given written information explaining grievance procedures available through the contractor, and through the Administration.

C. Member's appeal or grievance to Administration.

1. Members may appeal to and request a hearing from the AHCCCS Administration, Office of Grievance and Appeals, if:
 - a. The member files a written notice of appeal not more than 15 days after the date of the final decision of the contractor. The date of the final decision shall be the date of personal delivery to the member or the postmark date of certified mailing, whichever occurred first.
 - b. In the event that a decision was not timely rendered by the contractor in accordance with the provisions of this Section, the member files a written notice of appeal based upon the contractor's failure or refusal to timely decide the grievance.
 - c. The member has a grievance against the Administration and files the grievance not more than 35 days after the date of adverse decision or action by the Administration. Grievances filed pursuant to this subsection shall state with particularity the factual and legal basis therefor and the relief requested.
2. The Administration, in its sole discretion, may investigate the grievance and render a written decision prior to scheduling a hearing. A hearing shall be scheduled in the event the Administration elects not to investigate the grievance, or upon the request for a hearing by any grievant subsequent to any such investigation by the Administration.

D. AHCCCS Hearing Officer decision.

1. The hearing shall be conducted before an AHCCCS Hearing Officer designated by the Director.
2. After the conclusion of the hearing, the AHCCCS Hearing Officer shall prepare written findings of fact and conclusions of law and render a recommended decision to the Director.

E. Decision of the Director.

1. After receipt of the Hearing Officer's recommended decision, the Director shall issue his or her decision in writing, which shall include findings of fact and conclusions

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of law and, unless otherwise provided by law, personally deliver or mail by certified mail a copy thereof to all parties at their last known residence or place of business.

2. Except as provided in subsection (F) of this Section, the Director's decision made pursuant to this subsection shall be a final administrative decision and may be reviewed as provided by A.R.S. § 12-901 et seq.

F. Request for rehearing or review.

1. A party dissatisfied with the decision may petition the Director for rehearing or review of the decision for any of the following causes which materially affects the appellant's rights:
- ~~Irregularity in the proceedings of the hearing or appeal whereby the aggrieved party was deprived of a fair hearing or appeal,~~
 - ~~Misconduct of a party or the agency,~~
 - ~~Newly discovered material evidence, which with reasonable diligence could not have been discovered and produced at the hearing,~~
 - ~~That the decision is the result of passion or prejudice, or~~
 - ~~That the decision is not justified by the evidence or is contrary to law.~~
2. ~~The Director may open the decision, order the taking of additional testimony or evidence before the hearing officer, amend findings of fact and conclusions of law or make new findings and conclusions, and render a new decision.~~
3. ~~The petition for review or rehearing shall be in writing and shall specify the grounds upon which the petition is based. The Director shall review the sufficiency of the evidence if the petition is made upon the ground that the decision is not justified by the evidence.~~
4. ~~A petition for rehearing or review shall be filed not later than 15 days after the date of the Director's decision. The date of the Director's decision shall be the date of personal delivery to the member or the postmark date. In the event that a timely petition for rehearing or review is filed, the Director's decision shall not be considered a final administrative decision until the Director renders a final decision on the petition for rehearing.~~

G. Failure to submit a grievance and appeal in a timely manner shall constitute a failure to exhaust administrative remedies required as a condition to seeking a judicial relief.

A. Adverse eligibility actions. An applicant, eligible person, or member receiving state-funded AHCCCS services may appeal and request a hearing concerning any of the following adverse eligibility actions:

- Denial of eligibility,
- Discontinuance of eligibility, or
- Delay in the eligibility determination beyond 30 days from the date of application unless the head of household agrees to an extension in writing.

B. Notice of an adverse eligibility action shall be personally delivered or mailed to the affected individual by regular mail. For purposes of this Section, the date of the Notice of Action shall be the date of personal delivery to the individual or the postmark date, if mailed.

C. Appeals and requests for hearing.

- An applicant, eligible person, member, head of household or designated representative may appeal and request a hearing regarding an adverse eligibility action by completing and submitting the AHCCCS Request for Hearing form or by submitting a written request containing the following information:
 - The case name,

- The adverse eligibility action being appealed, and
- The reason for appeal.

2. A request for hearing shall be filed not later than 15 days after the date of the notice of adverse action by mailing or delivering it to either the county eligibility office or the Administration, Office of Grievance and Appeals. For this Section only, the date of the request for hearing shall be the postmark date, if mailed, or the date of personal delivery.

D. County responsibilities.

- Counties shall maintain a register that documents the dates on which requests for hearings are submitted.
- If requested, a county eligibility office shall assist an appellant or designated representative to complete of a Request for Hearing form.
- A Pre-hearing Summary shall be completed by the county eligibility office and shall summarize the facts and factual basis for the adverse eligibility action.
- The county eligibility office shall send to the Administration, Office of Grievance and Appeals, the Pre-hearing Summary, a copy of the case file, and the Request for Hearing, which must be received by the Administration, Office of Grievance and Appeals, not later than 10 days from the date the county received the request for hearing. If the request for hearing is submitted directly to the Administration, the county shall send the materials to the Office of Grievance and Appeals not later than 10 days from the date of a request for the materials.
- County review of eligibility determinations. If new information is acquired by the county that materially affects the adverse eligibility decision, the county shall complete a new application and render a decision according to the requirements specified in Article 3. The effective date of AHCCCS coverage shall be the date established in Article 3. A county decision in accordance with this subsection shall not be considered a disposition of a pending appeal.

E. AHCCCS coverage during the appeal process.

- Eligible persons or members appealing a discontinuance. A discontinuance is a termination of AHCCCS benefits before the last month of an individual's certification period. The effective date of a discontinuance shall be the 16th day after the date of the Notice of Action. An eligible person or member appealing a discontinuance of AHCCCS benefits within the 15-day timeframe as specified in subsection (C) shall continue to be covered by AHCCCS until an adverse decision on appeal is rendered or until the end of the certification period set forth in R9-22-313, whichever comes 1st.
- Individuals appealing a denial of AHCCCS coverage.
 - A denial is an adverse eligibility decision that finds an applicant, eligible person, or member ineligible for AHCCCS benefits. A denial results from either an initial application or a redetermination that does not terminate benefits before the end of a current certification period.
 - The effective date of a denial of an initial application is the date of the Notice of Action. An individual may appeal this denial within the 15-day timeframe specified in subsection (C). If the denial is overturned, the effective date of AHCCCS coverage shall be established by the Director in accordance with applicable law.
 - The effective date of a denial of a redetermination shall be the last day of the final month in the current certification period. An individual who appeals this

denial within the 15-day timeframe specified in subsection (C) shall continue to be covered by AHCCCS until administrative remedies are exhausted.

3. An individual whose benefits are continued shall be financially liable for all AHCCCS benefits received during a period of ineligibility if a discontinuance decision or redetermination denial is upheld by the Director.

R9-22-803. Non-member Grievances Eligibility Appeals for Applicants, Eligible Persons, and Members Receiving SSI-Related Medical Assistance Only AHCCCS Services

- A. A person who applies to be a member or an eligible but non-enrolled individual, and a person who applies for eligibility may request a hearing by filing a written grievance with the AHCCCS Administration, Office of Grievance and Appeals.
- B. The written grievance shall be filed with and received by the Administration not later than 35 days after the date of adverse decision or action being grieved. A copy of a grievance that involves issues related to payment or reimbursement for services also shall be personally delivered or mailed by regular mail by the grievant to the provider or nonprovider that rendered such services.
- C. The Administration, in its sole discretion, may investigate the grievance and render a written decision prior to scheduling a hearing. A hearing shall be scheduled in the event the Administration elects not to investigate the grievance, or upon the request for a hearing by any grievant subsequent to any such investigation by the Administration.
- D. Grievances that involve issues related to continuity or delivery of medical services shall be resolved as expeditiously as practicable considering the medical needs presented by the grievant.
- E. Failure to submit a grievance and appeal in a timely manner shall constitute a failure to exhaust administrative remedies required as a condition to seeking judicial relief.
- F. This Section shall not apply to actions or decisions affecting an individual's eligibility; or to actions or decisions that reduce a categorically eligible individual's benefits as a result of changes in state or federal law.
- A. Adverse eligibility actions. An applicant, eligible person, or member receiving SSI-related medical assistance only AHCCCS services may appeal and request a hearing concerning any of the following adverse eligibility actions:
 1. Denial of eligibility.
 2. Discontinuance of eligibility, or
 3. Delay in the eligibility determination beyond the 45- or 90-day timeframe prescribed in federal law from the date of application unless the applicant or representative agrees to an extension in writing.
- B. Notice of an adverse eligibility action shall be personally delivered or mailed to the affected individual by regular mail. For purposes of this Section, the date of the Notice of Action shall be the date of personal delivery to the individual or the postmark date, if mailed.
- C. Appeals and requests for hearing.
 1. An applicant, eligible person, member, or designated representative may appeal and request a hearing regarding an adverse eligibility action by completing and submitting the AHCCCS Request for Hearing form or by submitting a written request containing the following information:
 - a. The case name
 - b. The adverse eligibility action being appealed and
 - c. The reason for appeal.
 2. For denials, the request for hearing shall be filed not later than 20 days from the date of the notice of adverse action. For discontinuances, the request for hearing shall be filed not later than 10 days after the effective date of action.

The request for hearing shall be filed by mailing or delivering it to either the AHCCCS eligibility office or the Administration, Office of Grievance and Appeals. For this Section only, the date of the request for hearing shall be the postmark date, if mailed, or the date of personal delivery.

D. Eligibility office responsibilities.

1. The eligibility office shall maintain a register that documents the dates on which requests for hearings are submitted.
2. If requested, the eligibility office shall assist an appellant or designated representative to complete a Request for Hearing form.
3. A Pre-hearing Summary shall summarize the facts and factual basis for the adverse eligibility action.
4. The eligibility office shall send to the Administration, Office of Grievance and Appeals, the Pre-hearing Summary, a copy of the case file, and the Request for Hearing, which must be received by the Administration, Office of Grievance and Appeals, not later than 10 days from the date the eligibility office received the request for hearing. If the request for hearing is submitted directly to the Administration, Office of Grievance and Appeals, the eligibility office shall send the materials to the office of Grievance and Appeals not later than 10 days from the date of a request for the materials.

E. AHCCCS coverage during the appeal process.

1. Eligible persons or members appealing a discontinuance. A discontinuance is a termination of AHCCCS benefits. For actions requiring 10 days' advance notice, an eligible person or member requesting a hearing before the effective date of the adverse action shall continue to receive AHCCCS benefits until an adverse decision on the appeal is rendered.
2. Applicants appealing a denial of AHCCCS coverage.
 - a. A denial is an adverse eligibility decision that finds an applicant ineligible for AHCCCS benefits.
 - b. An applicant may appeal a denial within the timeframes specified in subsection (C)(2). If the denial is overturned, the effective date of AHCCCS coverage shall be established by the Director in accordance with applicable law.
3. An eligible person or member whose benefits are continued shall be financially liable for all AHCCCS benefits received during a period of ineligibility if a discontinuance decision is upheld by the Director.

R9-22-804. Contractor and County Grievances Grievances

- A. The provisions of this Section provide the exclusive manner through which contractors, providers, non-contracting providers, their agents and subcontractors, nonproviders, and the counties, may grieve against the Administration and its contractors in connection with any adverse action, decision, or policy.
- B. Grievances against contractor.
 1. All grievances relating to an adverse decision or action by a contractor shall be filed with the contractor for review, investigation and resolution in accordance with the grievance requirements of this subsection and any applicable contract.
 2. All grievances, excluding those challenging claim denials, shall be filed in writing with the contractor not later than 35 days after the date of such adverse decision or action. All grievances challenging claim denials shall be filed in writing with the contractor not later than 12 months from the date of the service for which payment is claimed. The grievance shall state with particularity the

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factual and legal basis therefor and the relief requested. Failure to comply with the specificity requirement shall result in the denial of the grievance.

3. ~~The contractor shall record and retain information to identify the grievant, date of receipt and nature of the grievance.~~
4. ~~A final decision shall be rendered by the contractor within 30 days of filing, unless the parties agree to a longer period of time. The decision of the contractor shall be personally delivered or mailed by certified mail to the grievant and by regular mail to all other parties and shall state the basis for the decision, as well as the party's right to appeal the decision to the Administration. The contractor's final decision shall specify the manner in which an appeal to the Administration may be filed.~~

C. Grievances to the Administration.

1. ~~Contractors, providers, noncontracting providers, their agents and subcontractors, nonproviders and the counties may grieve to the AHCCCS Administration, Office of Grievance and Appeals if:~~
 - a. ~~The provider, noncontracting provider, its agent or subcontractor, nonprovider or the county files a written notice of appeal with the Administration not more than 15 days after the final decision of the contractor rendered pursuant to subsection (B). The date of the final decision shall be the date of personal delivery or the postmark date of certified mailing, whichever occurred first.~~
 - b. ~~A decision was not timely rendered by the contractor in accordance with subsection (B) and the provider, noncontracting provider, its agent or subcontractor, nonprovider or the county files a written notice of appeal, based upon the contractor's failure or refusal to timely decide the grievance.~~
 - c. ~~The contractor, provider, noncontracting provider, its agent or subcontractor, nonprovider or the county has a grievance against the Administration and files the grievance not more than 35 days after the date of adverse action, decision or policy implementation by the Administration. Provided, however, any grievances challenging claim denials by the Administration shall be filed not more than 12 months after the date of the service for which payment is claimed. Grievances challenging reinsurance claim denials by the Administration shall be filed not more than 12 months after the close of the contract year in which the claim was incurred. If the claim is denied less than 35 days prior to the expiration of the 12 month time period, the dissatisfied party shall have 35 days from the date of the denial to file a grievance. Such grievances shall be in writing and state with particularity the factual and legal basis therefor and the relief requested. Failure to comply with the specificity requirement shall result in the denial of the grievance.~~
2. ~~The Administration, in its sole discretion, may investigate the grievance and render a written decision prior to scheduling a hearing. A hearing shall be scheduled in the event the Administration elects not to investigate the grievance, or upon the request for a hearing by any grievant subsequent to any such investigation by the Administration.~~

- D. Appeals.** ~~A party may appeal the Administration's grievance decision by filing a request for hearing with the Director. The request for hearing shall be filed not later than 15 days after the date of the Administration's grievance decision. The date~~

~~of the grievance decision shall be the date of personal delivery to the grievant or the postmark date, whichever occurs first.~~

1. ~~The hearing shall be conducted before an AHCCCS hearing officer designated by the Director.~~
2. ~~After the conclusion of the hearing, the AHCCCS hearing officer shall prepare written findings of fact and conclusions of law and render a recommended decision to the Director.~~

E. Decision of the Director.

1. ~~After receipt of the hearing officer's recommended decision, the Director shall issue his or her decision in writing, which shall include findings of fact and conclusions of law, and, unless otherwise provided by law personally deliver or mail by certified mail a copy thereof to all parties at their last known residence or place of business.~~
2. ~~Except as provided in subsection (F), the Director's decision made pursuant to this subsection shall be a final administrative decision.~~

F. Request for rehearing or review.

1. ~~Unless the Director incorporates a finding in his decision that good cause exists otherwise, an aggrieved party may petition the Director for rehearing or review of the decision for any of the following causes which materially affects the grievant's rights:~~
 - a. ~~Irregularity in the proceedings of the hearing or appeal whereby the aggrieved party was deprived of a fair hearing or appeal;~~
 - b. ~~Misconduct of a party or the agency;~~
 - c. ~~Newly discovered material evidence, which with reasonable diligence could not have been discovered and produced at the hearing;~~
 - d. ~~That the decision is the result of passion or prejudice, or~~
 - e. ~~That the decision is not justified by the evidence or is contrary to law.~~
2. ~~The Director may open the decision, order the taking of additional testimony or evidence before the hearing officer, amend findings of fact and conclusions of law or make new findings and conclusions, and render a new decision.~~
3. ~~The petition for review or rehearing shall be in writing and shall specify the grounds upon which the petition is based. The Director shall review the sufficiency of the evidence if the petition is made upon the ground that the decision is not justified by the evidence.~~
4. ~~A petition for rehearing or review shall be filed not later than 15 days after the date of the Director's decision. The date of the Director's decision shall be the date of personal delivery to the grievant or the postmark date. In the event that a timely petition for rehearing or review is filed, the Director's decision shall not be considered a final administrative decision until the Director renders a final decision on the petition for rehearing.~~

- G.** ~~Pending final resolution of a grievance, appeal, or request for judicial review, a grieving contractor shall proceed diligently with the performance of the contract and in accordance with the Administration's or Director's decision.~~

- H.** ~~Failure to comply with the provisions of this Section shall constitute a failure to exhaust administrative remedies required as a condition to seeking judicial relief.~~

- A.** ~~This Section provides the exclusive manner through which any individual or entity may grieve against the Administration, its contractors, or both in connection with any adverse action, decision, or policy. This Section shall not apply to actions or decisions affecting an eligible person's or member's eligibility or to actions or decisions that reduce a categorically eligible~~

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person's or member's benefits as a result of changes in state or federal law.

B. Direct grievances to the Administration.

1. A grievance may be filed directly with the agency only by individuals not enrolled with a contractor; by contractors; by counties; and by individuals or entities grieving an adverse action, decision, or policy actually made or enacted by the Administration. If the aggrieved adverse action, decision, or policy actually was made by a contractor, the appellant shall first file the grievance with the contractor responsible for the decision, policy, or action being grieved, so the contractor may investigate and resolve the grievance in accordance with this Article and any applicable contracts.
2. Except as provided in subsection (B)(3) a written grievance shall be filed with and received by the Administration not later than 35 days after the date of the adverse action, decision, or policy implementation being grieved.
3. A written grievance regarding a claim denial shall be filed not more than 12 months after the date of the service for which payment is claimed. A grievance challenging a reinsurance claim denial by the Administration shall be filed not more than 12 months after the close of the contract year in which the claim was incurred. If the claim is denied less than 35 days before expiration of the 12-month time period, the dissatisfied party shall have 35 days from the date of the denial to file the grievance.
4. A grievance shall state with particularity the factual and legal basis for the grievance and the relief requested. Failure to comply with this specificity requirement shall result in the denial of the grievance.
5. The Administration, in its sole discretion, may investigate a grievance and render a written informal decision before scheduling a hearing. A hearing shall be scheduled if any party timely requests a hearing within 15 days of the postmark date of the informal decision.
6. If a hearing is requested, it shall be conducted as provided in R9-22-801.

C. Grievances to contractors.

1. Except as provided in subsection (C)(2) a grievance shall be filed with and received by the appropriate contractor not later than 35 days after the date of the adverse action or decision. Members may file grievances orally.

2. A written grievance regarding a claim denial shall be filed not more than 12 months after the date of the service for which payment is claimed.
 3. A grievance shall state with particularity the factual and legal basis for the grievance and the relief requested. Failure to comply with this specificity requirement shall result in the denial of the grievance.
 4. A final decision shall be rendered by the contractor on all grievances within 30 days of filing unless the parties agree on a longer period. The decision by the contractor shall be personally delivered or mailed by certified mail to the parties, and shall state the basis for the decision as well as the grievant's right to appeal the decision to the Administration. The contractor's final decision shall specify the manner in which an appeal to the Administration may be filed.
 5. The contractor shall record and retain information to identify the grievant, date of receipt, and nature of the grievance.
 6. At the time of enrollment, a contractor shall give to a member written information regarding grievance procedures available through the contractor and the Administration.
- D. Appeal of contractor decisions to the Administration.**
1. After first grieving to the appropriate contractor, a grievant may appeal to and request a hearing from the Administration, Office of Grievance and Appeals if:
 - a. The grievant files a written notice of appeal not more than 15 days from the date of final decision of the contractor, which is the earlier of the date of personal delivery or the postmark date of certified mail; or
 - b. A decision is not timely rendered by the contractor until 30 days, and the grievant files a written notice of appeal based upon the contractor's failure or refusal to decide the grievance in a timely manner.
 2. The Administration, in its sole discretion, may investigate a grievance and render a written informal decision before scheduling a hearing. A hearing shall be scheduled if any party timely requests a hearing within 15 days from the postmark date of the informal decision of the Administration.
 3. If a hearing is requested, it shall be conducted as provided in R9-22-801.