NOTICES OF EXEMPT RULEMAKING

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

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 31. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) CHILDREN'S HEALTH INSURANCE PROGRAM

PREAMBLE

1. Sections Affected — **Rulemaking Action**

R9-31-101	Amend
R9-31-112	Amend
R9-31-1201	Repeal
R9-31-1201	New Section
R9-31-1202	Repeal
R9-31-1202	New Section
R9-31-1203	Repeal
R9-31-1203	New Section
R9-31-1204	Repeal
R9-31-1204	New Section
R9-31-1205	Repeal
R9-31-1205	New Section
R9-31-1206	Repeal
R9-31-1206	New Section
R9-31-1207	Repeal
R9-31-1207	New Section
R9-31-1208	New Section

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

Authorizing statute:	A.R.S. § 36-2986
Implementing statute:	A.R.S. § 36-2986

3. The effective date of the rules:

December 16, 1999

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

Notice of Rulemaking Docket Opening:	5 A.A.R. 2742, August 13, 1999
Notice of Proposed Rulemaking:	5 A.A.R. 2630, August 13, 1999
Notice of Public Information:	5 A.A.R. 3239, September 17, 1999

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

Name:	Cheri Tomlinson, Federal and State Policy Administrator
Address:	801 East Jefferson, Mail Drop 4200 Phoenix, AZ 85034
Telephone Number:	(602) 417-4198
Fax Number:	(602) 256-6756

6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:

9 A.A.C. 31, Article 12 has been opened for the following reasons:

To make the language comply with Laws 1999, Ch. 313, § 8, which shifts the responsibility for behavioral health services for non-seriously mentally ill (non-SMI) 18-, 19-, and 20-year-old members from the AHCCCS health plans to the Arizona Department of Health Services (ADHS).
To make the language conform with current agency practice regarding behavioral health services;
To make the language comply with the Secretary of State's requirements; and
To make the language more clear, concise, and understandable.

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:

The AHCCCS Administration, ADHS, each Regional Behavioral Health Authority (RBHA), each AHCCCS health plan, AHCCCS providers, and AHCCCS acute care members will be moderately impacted by the changes in rule language due to the shift in responsibility for the 18-year-old non-SMI population from the health plans to ADHS. This change, which is required by state statute, integrates behavioral health services for all acute care AHCCCS members into 1 delivery system. The Administration will have to implement several operational changes as well as monitor the transition of this population from 1 delivery system to another. ADHS will have to amend its contract with each RBHA as well as coordinate and monitor the transition of members from the health plans to the RBHAs. Each RBHA will have to update its contracts with its providers as well as ensure transition of members from 1 provider to another in some instances.

AHCCCS providers that are business entities may be moderately affected because they could lose or gain members due to the change. AHCCCS 18-year-old non-SMI members who receive behavioral health services when the change goes into effect may be moderately impacted due to the transition from the health plan system to the RBHA system.

In addition, the ADHS and each RBHA will be impacted by the change in state law that mandates the Office of Administrative Hearings (OAH) shall be responsible for conducting evidentiary hearings involving the AHCCCS program effective July 1, 1999. The Administration anticipates the change will have a minimal impact to ADHS and the RBHAs with regard to behavioral health services. The current law allows for a complex dual grievance process. The Administration and ADHS are seeking a legislative remedy during the upcoming session to alleviate any inconsistencies in law. The rule allows the existing grievance process to remain in place until a permanent solution is achieved.

The AHCCCS Administration, ADHS, the RBHAs, provider agencies, individual providers and members may be impacted by the rule language change which states that initial behavioral health evaluations performed by behavioral health professionals and behavioral health technicians must now only be conducted by a behavioral health professional. However, the impact should be minimal in Maricopa County because the rule reflects the language in the existing agency contract between ADHS and AHCCCS. In the other counties the impact could be minimal to significant depending on the number of behavioral health professionals already in the RBHA's network for each county.

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

The changes between the proposed rule and the final rule include:
Added the word "initial" before evaluation in R9-31-112;
Added cross-reference citations to Title 20 rules for partial care;
Corrected grammar to make the language more clear, concise, and understandable.

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

The Administration received comments from 2 entities. The Administration cross-referenced to the provider contract when necessary to clarify provider requirements and agency practice. The Administration added the citation to the statutes to clarify the appeal process for disputes and how it applies to ADHS.

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:

42 CFR 456, August 23, 1996, incorporated in R9-31-1206.

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

No.

14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 31. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
CHILDREN'S HEALTH INSURANCE PROGRAM
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ARTICLE 1. DEFINITIONS

~~**ARTICLE 12. COVERED BEHAVIORAL HEALTH SERVICES**~~

ARTICLE 12. BEHAVIORAL HEALTH SERVICES

ARTICLE 1. DEFINITIONS

R9-31-101. Location of Definitions

A. For purposes of this Article the term member shall be substituted for the term eligible person.

B. Location of definitions. Definitions applicable to Chapter 31 are found in the following.

Definition	Section or Citation
1. "1st-party liability"	R9-22-110
2. "3rd-party"	R9-22-110
3. "3rd-party liability"	R9-22-110
4. "Accommodation"	R9-22-107
5. "Action"	R9-31-113
6. "Acute mental health services"	R9-22-112
7. "Administration"	A.R.S. § 36-2901
8. "Aggregate"	R9-22-107
9. "AHCCCS"	R9-31-101
10. "AHCCCS hearing officer"	R9-22-108
11. "Ambulance"	R9-22-102
12. "Ancillary department"	R9-22-107
13. "Appeal"	R9-22-108
14. "Appellant"	R9-31-108
15. "Applicant"	R9-31-101
16. "Application"	R9-31-101
17. "ADHS"	R9-31-112
18. "Behavior management services"	R9-31-112
19. "Behavioral health paraprofessional"	R9-31-112
~~18.~~20. "Behavioral health professional"	R9-31-112

~~19.~~21.	"Behavioral health ~~services~~ service"	R9-31-112
~~20.~~22.	"Behavioral health technician"	R9-31-112
~~21.~~23.	"Billed charges"	R9-22-107
24.	"Board eligible for psychiatry"	R9-31-112
~~22.~~25.	"Capital costs"	R9-22-107
~~23.~~26.	"Case management~~"~~ services"	R9-31-112
~~24.~~27.	"Certified nurse practitioner"	R9-31-102
~~25.~~28.	"Certified psychiatric nurse practitioner"	R9-31-112
~~26.~~29.	"Child"	42 U.S.C. 1397jj
~~27.~~30.	"Clean claim"	A.R.S. § 36-2904
31.	"Clinical supervision"	R9-31-112
~~28.~~32.	"CMDP"	R9-31-103
~~29.~~33.	"Continuous stay"	R9-22-101
~~30.~~34.	"Contract"	R9-22-101
~~31.~~35.	"Contractor"	R9-31-101
~~32.~~36.	"Contract year"	R9-31-101
~~33.~~37.	"Copayment"	R9-22-107
~~34.~~38.	"Cost avoidance"	R9-31-110
~~35.~~39.	"Cost-to-charge ratio"	R9-22-107
~~36.~~40.	"Covered charges"	R9-31-107
~~37.~~41.	"Covered services"	R9-22-102
~~38.~~42.	"CPT"	R9-22-107
~~39.~~43.	"CRS"	R9-31-103
~~40.~~44.	"Date of action"	R9-31-113
~~41.~~45.	"Day"	R9-22-101
~~42.~~46.	"Denial"	R9-31-113
47.	"De novo hearing"	R9-31-112
~~43.~~48.	"Dentures"	R9-22-102
~~44.~~49.	"DES"	R9-31-103
~~45.~~50.	"Determination"	R9-31-103
~~46.~~51.	"Diagnostic services"	R9-22-102
~~47.~~52.	"Director"	A.R.S. § 36-2981
~~48.~~53.	"DME"	R9-22-102
~~49.~~54.	"DRI inflation factor"	R9-22-107
~~50.~~55.	"EAC"	A.R.S. § 36-2905.03(B)
~~51.~~56.	"ELIC"	A.R.S. § 36-2905.03(C) and (D)
~~52.~~57.	"Emergency medical condition"	42 U.S.C. 1396(v)
~~53.~~58.	"Emergency medical services"	R9-22-102
~~54.~~59.	"Encounter"	R9-22-107
~~55.~~60.	"Enrollment"	R9-31-103
61.	"Evaluation"	R9-31-112
~~56.~~62.	"Facility"	R9-22-101
~~57.~~63.	"Factor"	R9-22-101
~~58.~~64.	"FPL"	A.R.S. § 36-2981
~~59.~~65.	"Grievance"	R9-22-108
~~60.~~66.	"Group Health Plan"	42 U.S.C. 1397jj
~~61.~~67.	"GSA"	R9-22-101
~~62.~~68.	"Guardian"	R9-22-103
~~63.~~69.	"Head of Household"	R9-31-103
~~64.~~70.	"Health plan"	A.R.S. § 36-2981
~~65.~~71.	"Hearing aid"	R9-22-102
~~66.~~72.	"Home health services"	R9-22-102
~~67.~~73.	"Hospital"	R9-22-101
~~68.~~74.	"Household income"	R9-31-103
~~69.~~75.	"ICU"	R9-22-107
~~70.~~76.	"IGA"	R9-31-116
~~71.~~77.	"IHS"	R9-31-116
~~72.~~78.	"IHS" or "Tribal Facility Provider"	R9-31-116
79.	"IMD"	R9-31-112

~~73.~~80.	"Inmate of a public institution"	42 CFR 435.1009
~~74.~~81.	"Inpatient hospital services"	R9-31-101
82.	"Inpatient psychiatric facilities for individuals under age 21"	R9-31-112
~~75.~~83.	"License" or "licensure"	R9-22-101
~~76.~~84.	"Medical record"	R9-22-101
~~77.~~85.	"Medical review"	R9-31-107
~~78.~~86.	"Medical services"	R9-22-101
~~79.~~87.	"Medical supplies"	R9-22-102
~~80.~~88.	"Medically necessary"	R9-22-101
~~81.~~89.	"Member"	A.R.S. § 36-2981
90.	"Mental Disorder"	R9-31-112
~~82.~~91.	"MI/MN"	A.R.S. § 36-2901(4)(a) and (c)
~~83.~~92.	"New hospital"	R9-22-107
~~84.~~93.	"NF"	42 U.S.C. 1396r(a)
~~85.~~94.	"NICU"	R9-22-107
~~86.~~95.	"Noncontracting provider"	A.R.S. § 36-2981
~~87.~~96.	"Occupational therapy"	R9-22-102
~~88.~~97.	"Offeror"	R9-31-106
~~89.~~98.	"Operating costs"	R9-22-107
~~90.~~99.	"Outlier"	R9-31-107
~~91.~~100.	"Outpatient hospital service"	R9-22-107
~~92.~~101.	"Ownership change"	R9-22-107
102.	"Partial care"	R9-31-112
~~93.~~103.	"Peer group"	R9-22-107
~~94.~~104.	"Pharmaceutical service"	R9-22-102
~~95.~~105.	"Physical therapy"	R9-22-102
~~96.~~106.	"Physician"	A.R.S. § 36-2981
~~97.~~107.	"Post stabilization services"	42 CFR 438.114
~~98.~~108.	"Practitioner"	R9-22-102
~~99.~~109.	"Pre-existing condition"	R9-31-105
~~100.~~110.	"Prepaid capitated"	A.R.S. § 36-2981
~~101.~~111.	"Prescription"	R9-22-102
~~102.~~112.	"Primary care physician"	A.R.S. § 36-2981
~~103.~~113.	"Primary care practitioner"	A.R.S. § 36-2981
~~104.~~114.	"Primary care provider"	R9-22-102
~~105.~~115.	"Primary care provider services"	R9-22-102
~~106.~~116.	"Prior authorization"	R9-22-102
~~107.~~117.	"Private duty nursing services"	R9-22-102
~~108.~~118.	"Program"	A.R.S. § 36-2981
~~109.~~119.	"Proposal"	R9-31-106
~~110.~~120.	"Prospective rates"	R9-22-107
~~111.~~121.	"Prudent layperson standard"	42 U.S.C. 1396u-2
~~112.~~122.	"PSP"	R9-31-103
~~113.~~123.	"Psychiatrist"	R9-31-112
~~114.~~124.	"Psychologist"	R9-31-112
125.	"Psychosocial rehabilitation"	R9-31-112
~~115.~~126.	"Qualified alien"	P.L. 104-193
~~116.~~127.	"Qualifying Health Center"	A.R.S. § 36-2981
~~117.~~128.	"Qualifying plan"	A.R.S. § 36-2981
~~118.~~129.	"Quality management"	R9-22-105
~~119.~~130.	"Radiology services"	R9-22-102
~~120.~~131.	"Rebasing"	R9-22-107
~~121.~~132.	"Redetermination"	R9-31-103
~~122.~~133.	"Referral"	R9-22-101
~~123.~~134.	"RBHA"	R9-31-112
135.	"Registered nurse"	R9-31-112
~~124.~~136.	"Rehabilitation services"	R9-22-102
~~125.~~137.	"Reinsurance"	R9-22-107

~~126.~~138. "Request for hearing"	R9-31-108
~~127.~~139. "RFP"	R9-31-106
~~128.~~140. "Respiratory therapy"	R9-22-102
~~129.~~141. "Respondent"	R9-31-108
~~130.~~142. "Scope of services"	R9-22-102
143. "Screening"	R9-31-112
~~131.~~144. "SDAD"	R9-22-107
~~132.~~145. "SMI"	A.R.S. § 36-550
~~133.~~146. "Service location"	R9-22-101
~~134.~~147. "Service site"	R9-22-101
~~135.~~148. "Specialist"	R9-22-102
~~136.~~149. "Speech therapy"	R9-22-102
~~137.~~150. "Spouse"	R9-31-103
~~138.~~151. "SSI-MAO"	R9-31-103
~~139.~~152. "Sterilization"	R9-22-102
~~140.~~153. "Subcontract"	R9-22-101
~~141.~~154. "Substance abuse"	R9-31-112
~~142.~~155. "TRBHA"	R9-31-116
~~143.~~156. "Tier"	R9-22-107
~~144.~~157. "Tiered per diem"	R9-31-107
~~145.~~158. "Title XIX"	42 U.S.C. 1396
~~146.~~159. "Title XXI"	42 U.S.C. 1397jj
~~147.~~160. "Treatment"	R9-31-112
~~148.~~161. "Tribal facility"	A.R.S. § 36-2981
~~149.~~162. "Utilization management"	R9-22-105

C. General definitions. The words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

1. "AHCCCS" means the Arizona Health Care Cost Containment System, which is composed of the Administration, contractors, and other arrangements through which health care services are provided to a member.
2. "Applicant" means a person who submits, or on whose behalf is submitted, a written, signed, and dated application for Title XXI benefits which has not been completed or denied.
3. "Application" means an official request for Title XXI benefits made in accordance with Article 3.
4. "Contractor" means a health plan that contracts with the Administration for the provision of hospitalization and medical care to members according to the provisions of this Article or a qualifying plan.
5. "Contract year" means the date beginning on October 1 and continuing until September 30 of the following year.
6. "Inpatient hospital services" means medically necessary services that require an inpatient stay in an acute hospital. Inpatient hospital services are provided by or under the direction of a physician or other health care practitioner upon referral from a member's primary care provider.

R9-31-112. Covered Behavioral Health Services Related Definitions

Definitions. The words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

1. "ADHS" means the Arizona Department of Health Services, ~~which is~~ the ~~department~~ agency mandated to serve the public health needs of all Arizona residents.
2. "Behavior management services" specified in 9 A.A.C. 20.
3. "Behavioral health paraprofessional" defined in 9 A.A.C. 20, Article 1.

~~2.~~4. "Behavioral health professional" ~~means a psychiatrist, psychologist, social worker, counselor, certified nurse practitioner, registered nurse, or physician's assistant who meets appropriate licensure requirements or certification requirements.~~ defined in 9 A.A.C. 20, Article 1.

~~3.~~5. "Behavioral health ~~services~~ service" ~~means those Title XXI covered and medically necessary treatment services for behavioral health or substance abuse disorders as specified in this Chapter.~~ defined in 9 A.A.C. 20, Article 1.

~~4.~~6. "Behavioral health technician" ~~means an individual with a:~~

- ~~a. Bachelor's degree in a behavioral health-related field;~~
- ~~b. Bachelor's degree in any field, plus 1 year of experience in a behavioral health service delivery;~~
- ~~c. A high school diploma or GED and a combination of behavioral health education and experience totaling 4 years. Behavioral health technicians shall be supervised by a behavioral health professional or a clinical supervisor.~~ defined in 9 A.A.C. 20, Article 1.

7. "Board-eligible for psychiatry" means completion of an accredited psychiatry residency program approved by the American College of Graduate Medical Education, or the American Osteopathic Association. Documentation of

completion of a residency program includes a certificate of residency training including exact dates of residency, or a letter of verification of residency training from the training director including the exact dates of training period.

~~5.~~8. "Case management services" means ~~a~~ supportive ~~service~~ services and activities ~~to~~ that enhance treatment, compliance, and effectiveness of treatment. ~~Case management services may be telephonic, may vary in frequency and intensity based on member need, and are ordered by or provided by or under the clinical supervision of the assigned behavioral health professional.~~ This definition shall only be applicable for purposes of 9 A.A.C. 31, Article 12.

~~6.~~9. "Certified psychiatric nurse practitioner" ~~means a registered nurse certified by the Arizona Board of Nursing in A.R.S. Title 32, Chapter 15 as having a specialty in psychiatric care. Only a certified psychiatric nurse practitioner with a psychiatric and mental health certification may bill for covered behavioral health services.~~ as specified in A.R.S. § 32-1601 and certified under the American Nursing Association's Statement and Standards for Psychiatric-Mental Health Clinical Nursing Practice under in R4-19-505.

10. "Clinical supervision" specified in 9 A.A.C. 20.

11. "De novo hearing" defined in 42 CFR 431.202.

12. "Evaluation" means the initial assessment of a member's medical, psychological, psychiatric, or social condition to determine if a behavioral health disorder exists and if so, to establish a treatment plan for all medically necessary services.

13. "IMD" means an Institution for Mental Diseases as described in 42 CFR 435.1009 and licensed by ADHS.

14. "Inpatient psychiatric facilities for individuals under age 21" means a licensed hospital or a psychiatric hospital or a Residential Treatment Center (RTC) licensed as a Level I behavioral health facility by ADHS and accredited by an AHCCCS approved accrediting body as specified in contract and authorized by federal law or regulations. These facilities provide room and board and treatment for behavioral health problems of an individual who is under 21 years of age.

15. "Mental disorder" defined in A.R.S. § 36-501.

16. "Partial Care" means:
    a. "Basic partial care" specified in 9 A.A.C. 20.
    b. "Intensive partial care services" specified in 9 A.A.C. 20.

~~7.~~17. "Psychiatrist" ~~means a psychiatrist who is professionally licensed according to A.R.S. Title 32, Chapter 13 or Chapter 17, Board certified or Board eligible under the standards of the American Board of Psychiatry and Neurology or the Osteopathic Board of Neurology and Psychiatry.~~ specified in A.R.S. §§ 32-1401 or 32-1800 and 36-501.

~~8.~~18. "Psychologist" ~~means a person who is licensed by the Arizona Board of Psychologist Examiners according to A.R.S. Title 32, Chapter 19.1.~~ specified in A.R.S. §§ 32-2061 and 36-501.

19. "Psychosocial rehabilitation" specified in 9 A.A.C. 20.

20. "RBHA" means the Regional Behavioral Health Authority ~~which is an organization under contract with ADHS to coordinate the delivery of behavioral health services in a geographically specific service area of the state.~~ defined in 9 A.A.C. 21, Article 1.

~~9.~~21. "Screening" means a face-to-face interaction with a member to determine the need for behavioral health services and the referral of the member for further evaluation, diagnosis, or care and treatment.

~~10.~~22. "Substance abuse" ~~means the chronic, habitual or compulsive use of any chemical matter which, when introduced into the body, is capable of altering human behavior or mental functioning and, with extended use, may cause psychological or physiological dependence and/or impaired mental, social or educational functioning. Nicotine addiction is not considered substance abuse.~~ defined in 9 A.A.C. 20, Article 1.

~~11.~~23. "Treatment" ~~means the range of behavioral health care received by a member that is consistent with the therapeutic goals outlined in the individual service plan.~~ defined in 9 A.A.C. 20, Article 1.

~~ARTICLE 12. COVERED BEHAVIORAL HEALTH SERVICES~~

ARTICLE 12. BEHAVIORAL HEALTH SERVICES

~~**R9-31-1201. General Requirements**~~

~~**A.** The Administration shall administer the program as specified in A.R.S. § 36-2982 and behavioral health services shall be provided in compliance with A.R.S. § 36-2989 and this Chapter.~~

~~**B.** The Director has full operational authority to adopt rules or to use the appropriate rules adopted as specified in A.R.S. § 36-2986. Specifications in this Article shall apply to:~~

~~1. ADHS, RBHAs and a behavioral health provider under contract with a RBHA; and~~

~~2. A contractor and its subcontracted behavioral health providers.~~

~~**C.** Behavioral health services shall be provided through an IGA with ADHS for a member enrolled with a RBHA and who is under 18 years of age, or is 18 years of age and determined SMI. ADHS shall:~~

~~1. Contract with a RBHA for the provision of, at a minimum, behavioral health services specified in this Article and in contract. A RBHA shall provide services directly or through subcontract with qualified service providers within and, if unavailable, outside their service areas.~~

2. Use its established diagnostic and evaluation program for referral of a child who is not already enrolled and who may be in need of behavioral health services. In addition to an evaluation, the ADHS shall also identify a child who may be eligible under A.R.S. §§ 36-2901 or 36-2931 and shall refer the child to the appropriate agency responsible for making the final eligibility determination.
3. Refer a member who is 18 years old who is not SMI to a member's assigned contractor for behavioral health services.

D. A contractor shall provide, at a minimum, behavioral health services specified in this Article and in contract for a member who is 18 years of age and is not SMI. A contractor shall:
1. Provide services directly or through subcontract with qualified behavioral health providers within and, if unavailable, outside their service areas.
2. Refer a member who is under 18 years of age, or who is 18 years old and SMI, to a RBHA for behavioral health services.
3. For a member other than an 18 year old non-SMI, emergency crisis stabilization services not to exceed three days per episode and 12 days per year contract year for a member not yet enrolled with a RBHA.

E. ADHS, its subcontractors and AHCCCS acute care contractors shall cooperate as specified in contract when a transition from one entity to another becomes necessary. For a Title XXI member, this transition shall include tracking and reporting of services used by a member toward the annual limitations prior to the transfer of care.

F. Behavioral health services provided to a member shall be medically necessary and provided in collaboration with the member's primary care provider.

G. Services shall be rendered in accordance with state and federal laws and regulations, the Arizona Administrative Code and AHCCCS contractual requirements.

H. Experimental services as determined by the Director, or services provided primarily for the purpose of research, shall not be covered.

I. Services or items, if furnished gratuitously, are not covered and payment shall be denied.

J. Behavioral health services shall not be covered if provided to:
1. An inmate of a public institution;
2. A person who is a resident of an institution for the treatment of tuberculosis; or
3. A person who is in an institution for the treatment of mental diseases at the time of application, or at the time of redetermination.

K. Services shall be provided by personnel or facilities, appropriately licensed or certified to provide the specific service and registered with AHCCCS.

L. Payment for services or items requiring prior authorization may be denied if prior authorization is not obtained.
1. Prior authorization for behavioral health services provided to a RBHA member shall be obtained from a RBHA in which a member is enrolled.
2. A contractor shall provide prior authorization for a behavioral health service to be provided to a member not yet enrolled with a RBHA and an 18 year old non-SMI member.
3. An emergency behavioral health service does not require prior authorization. Services for unrelated conditions, requiring additional diagnostic and treatment procedures, require additional prior authorization from the responsible contractor.

M. Behavioral health services rendered to a member shall be provided within the member's service area except when:
1. A covered service that is medically necessary for a member is not available within the service area;
2. A net savings in behavioral health service delivery costs can be documented without requiring undue travel time or hardship for a member or a member's family;
3. A member is placed in a treatment facility located out of the service area; or
4. The service is otherwise authorized based on practice patterns, and cost or scope of service considerations.

N. When a member is traveling or temporarily residing out of the service area, covered services are restricted to emergency care, unless otherwise authorized by the member's RBHA or contractor.

O. If a member requests the provision of a behavioral health service that is not covered under these rules or is not authorized, the service may be rendered to a member by an AHCCCS-registered behavioral health service provider under the following conditions:
1. A document that lists the requested services and the itemized cost of each is prepared and provided to a member; and
2. The signature of the member, or the member's guardian, is obtained in advance of service provision indicating that the services have been explained to the member or guardian and that the member or guardian accepts responsibility for payment.

P. If a member is referred out of the contractor's service area to receive an authorized medically necessary behavioral health service for an extended period of time, all other medically necessary covered services for the member shall also be provided by the contractor during that time.

~~**Q.** The restrictions, limitations, and exclusions in this Article shall not apply to a contractor and a ADHS/RBHA when electing to provide a noncovered service.~~
~~1. The costs associated with providing any noncovered service to a member shall not be included in development or negotiation of capitation.~~
~~2. Noncovered services shall be paid from administrative revenue or other funds, unrelated to Title XXI services.~~
~~**R.** Behavioral health and substance abuse disorders are covered services in this Article.~~
~~**S.** The grievance and appeal process specified in 9 A.A.C. 31, Article 8 shall apply to behavioral health services.~~
~~**T.** Payment terms and conditions specified in 9 A.A.C. 31, Article 7 shall apply to a contractor and a ADHS/RBHA for behavioral health services.~~
~~**U.** Quality management and utilization management requirements specified in 9 A.A.C. 31, Article 5 shall apply to a behavioral health service delivery.~~

R9-31-1201. General Requirements

General requirements. The following general requirements apply to behavioral health services provided under this Article, subject to all exclusions and limitations.

1. Administration. The program shall be administered as specified in A.R.S. § 36-2982.
2. Provision of services. Behavioral health services shall be provided as specified in A.R.S. § 36-2989 and this Chapter.
3. Definitions. The following definitions apply to this Article:
   a. "Alternative Residential Care Facility" means an ADHS-licensed facility with 16 or fewer beds. Alternative residential care facilities include Level I facilities licensed to provide emergency services, or detoxification services, or Level II and III facilities.
   b. "Emergency or crisis behavioral health services" as specified in 9 A.A.C. 20.
   c. "Health plan" means a plan that contracts directly with AHCCCS to provide services specified by contract and this Article.
   d. "IMD" means an Institution for Mental Diseases which is a facility as described in 42 CFR 435.1009 and licensed by ADHS.
   e. "Physician assistant" specified in A.R.S. § 32-2501. In addition, a physician assistant providing a behavioral health service shall be supervised by an AHCCCS-registered psychiatrist.
   f. "TRBHA" means the Tribal Regional Behavioral Health Authority.

~~**R9-31-1202. Inpatient Behavioral Health Services**~~
~~**A.** Inpatient care shall include accommodations and appropriate staffing, supplies, equipment and behavioral health services. Services shall be provided in:~~
~~1. A general acute care hospital,~~
~~2. A psychiatric hospital, or~~
~~3. An inpatient psychiatric facility for persons under 21 years of age.~~
~~**B.** The following limitations shall apply to inpatient care:~~
~~1. Services are limited to a maximum of 30 days during each contract year.~~
~~2. Only psychiatrists, certified psychiatric nurse practitioners, and psychologists may bill independently for authorized services provided. All other services shall be included in the facility reimbursement rate. Professional services by psychiatrists, certified nurse practitioners, and psychologists, which are provided in an inpatient setting do not count toward the 30 day 30 visit annual limitation.~~
~~3. Medical detoxification services may be initially authorized for up to 4 days. When medically necessary, additional days may be authorized if ordered by a psychiatrist or certified psychiatric nurse practitioner and approved by a Medical Director of a RBHA or a contractor.~~

R9-31-1202. ADHS and Health Plan Responsibilities

A. ADHS responsibilities. Behavioral health services shall be provided by an RBHA through a contract with ADHS. ADHS shall:
1. Contract with an RBHA for the provision of behavioral health services in R9-31-1205 for all Title XXI members as specified in A.R.S. § 36-2989. ADHS shall ensure that an RBHA provides behavioral health services directly to members or through subcontracts with qualified service providers who meet the qualifications specified in R9-31-1206. If behavioral health services are unavailable within an RBHA's service area, ADHS shall ensure that an RBHA provides behavioral health services outside the service area.
2. Diagnose and evaluate a child who may be in need of behavioral health services, for an eligibility determination, and who is not already enrolled with Title XXI under A.R.S. § 36-2986.
3. Ensure that a member's behavioral health service is provided in collaboration with a member's primary care provider.
4. Coordinate the transition of care and medical records, as specified in A.R.S. §§ 36-2986, 36-509, R9-31-512 and in contract, when a member transitions from:

a. A behavioral health provider to another behavioral health provider,
b. An RBHA to another RBHA,
c. An RBHA to a health plan,
d. A health plan to an RBHA, or
e. A health plan to another health plan.

B. ADHS may contract with a TRBHA for the provision of behavioral health services for Native American members. In the absence of a contract with ADHS, Native American members may:
1. Receive behavioral health services from an IHS facility or a TRBHA, or
2. Be referred off-reservation to an RBHA for covered behavioral health services.

C. Health plan responsibilities. A health plan shall:
1. Refer a member to an RBHA according to the contract terms;
2. Provide inpatient emergency behavioral health services specified in R9-31-1205 for a member not yet enrolled with an RBHA;
3. Provide psychotropic medication services for a member, in consultation with the member's RBHA as needed, for behavioral health conditions that are specified in contract within the primary care provider's scope of practice; and
4. Coordinate a member's transition of care and medical records specified in R9-31-1202.

D. ADHS, its subcontractors and AHCCCS acute care health plans shall cooperate as specified in contract when a transition from 1 entity to another becomes necessary. For a Title XXI member, this transition shall include tracking and reporting of services used by a member toward the annual limitations prior to the transfer of care.

~~**R9-31-1203. Partial Care**~~

~~**A.** Partial care shall be provided on either an intensive or basic level of care as medically necessary to meet a member's needs for behavioral health treatment and prevent placement in a higher level of care or more restrictive environment.~~

~~**B.** The following limitations shall apply to partial care services:~~
~~1. Services are counted toward the maximum of 30 days during each contract year.~~
~~a. Each full day of partial care, basic or intensive, counts as 1/2 day of inpatient care.~~
~~b. Each 1/2 day of partial care, basic or intensive, counts as 1/4 day of inpatient care.~~
~~2. Intensive partial care services shall be limited to a member whose emotional, behavioral, or substance abuse problems indicates a serious emotional disturbance and or both evidence of abuse or neglect.~~
~~3. Prevocation or vocational activities, school attendance and educational hours shall not be included as an intensive and basic partial care service and shall not be billed simultaneously with these services.~~

R9-31-1203. Eligibility for Covered Services

A. Eligibility for covered services. A member determined eligible according to A.R.S. § 36-2981 shall receive medically necessary covered services specified in R9-31-1205.

B. Ineligibility. A person is not eligible for behavioral health services if the person is:
1. An inmate of a public institution as defined in 42 CFR 435.1009;
2. A resident of an institution for the treatment of tuberculosis; or
3. In an institution for the treatment of mental diseases at the time of application, or at the time of redetermination.

~~**R9-31-1204. Outpatient Services**~~

~~**A.** Outpatient services as specified in contract shall include the following services:~~
~~1. Evaluation and diagnosis;~~
~~2. Counseling including individual therapy, group and family therapy;~~
~~3. Behavior management; and~~
~~4. Psycho-social rehabilitation.~~

~~**B.** The following limitations shall apply to outpatient services:~~
~~1. The total number of all outpatient services shall not exceed a maximum of 30 visits during each contract year.~~
~~2. Each outpatient service except group therapy or group counseling shall count as 1 visit. Each group therapy or group counseling service shall count as 1/2 visit.~~
~~3. Only psychiatrists, certified psychiatric nurse practitioners and psychologists may bill independently for services provided.~~
~~4. Other behavioral health professionals and behavioral health technicians shall be affiliated with, and their services billed through, a licensed behavioral health agency.~~

R9-31-1204. General Service Requirements

A. Services. Behavioral health services include both mental health and substance abuse services.

B. Medical necessity. A service shall be medically necessary as specified in R9-31-201.

C. Prior authorization. A service shall be provided by contractors, subcontractors and providers consistent with the prior authorization requirements established by the Director and specified in R9-31-210 and R9-31-1205.

D. Experimental services. The Director shall determine if a service is experimental, or whether a service is provided primarily for the purpose of research. Those services shall not be covered.

E. Gratuities. A service or an item, if furnished gratuitously to a member, is not covered and payment shall be denied to a provider.

F. Service area. Behavioral health services rendered to a member shall be provided within the RBHA's service area except when:

1. A health plan's primary care provider refers a member to another area for medical specialty care,
2. A member's medically necessary covered service is not available within the service area, or
3. A net savings in behavioral health service delivery costs can be documented by the RBHA for a member. Undue travel time or hardship shall be considered for a member or a member's family.

G. Travel. If a member travels or temporarily resides out of a behavioral health service area, covered services are restricted to emergency behavioral health care, unless otherwise authorized by a member's RBHA.

H. Non-covered services. If a member requests a behavioral health service that is not covered by Title XXI or is not authorized by an RBHA, the behavioral health service may be provided by an AHCCCS-registered behavioral health service provider under the following conditions:

1. The requested service and the itemized cost of each service is documented and provided to the member or member's guardian; and
2. The member or member's guardian signs a statement acknowledging:
   a. Services have been explained to the member or member's guardian, and
   b. Member or member's guardian accepts responsibility for payment.

I. Referral. If a member is referred out of an RBHA's service area to receive an authorized medically necessary behavioral health service or a medically necessary covered service the service shall be provided by the health plan or RBHA. Behavioral health services shall be provided with the limitations specified in R9-31-1205.

J. Restrictions and limitations. The restrictions, limitations, and exclusions in this Article shall not apply to a health plan or an RBHA when electing to provide a non-covered service.

K. Residential settings. Partial care, outpatient, emergency services, and other behavioral health services shall be covered if medically necessary when provided in a residential setting by a licensed provider. Room and board is not a covered service unless provided in an inpatient facility specified in R9-31-1205(B).

~~**R9-31-1205. Behavioral Health Emergency and Crisis Stabilization Services**~~

~~**A.** Behavioral health emergency and crisis stabilization services may be provided on either an inpatient or outpatient basis by qualified personnel and be available 24 hours per day, 7 days per week in each RBHA's service area.~~

~~**B.** Consultation provided by a psychiatrist, a certified psychiatric nurse practitioner, or a psychologist shall be covered as an emergency service if required to evaluate or stabilize an acute episode of mental illness or substance abuse.~~

~~**C.** Limitations on behavioral health emergency or crisis stabilization services:~~

~~1. Contractors shall provide inpatient behavioral health emergency or crisis stabilization services not to exceed 3 days per episode and 12 days per year, from the time of a member's enrollment under Title XXI, for a member who is under age 18 or is 18 years old and SMI, but not enrolled with a RHBA.~~

~~2. Inpatient service limitations shall apply to emergency or crisis stabilization services provided on an inpatient basis as specified in R9-31-1202(B).~~

~~3. Emergency or crisis intervention services provided on an outpatient basis by a psychiatrist, certified psychiatric nurse practitioner, psychologist, or qualified facility shall not count towards the outpatient service limitation as specified in R9-31-1204(B)(1) and (2).~~

R9-31-1205. Scope of Behavioral Health Services

A. Inpatient behavioral health services. The following inpatient services shall be covered subject to the limitations and exclusions in this Article.

1. Inpatient behavioral health services include all behavioral health services, medical detoxification, accommodations and staffing, supplies and equipment. The behavioral health service shall be provided under the direction of a physician in:
   a. A general acute care hospital; or
   b. An inpatient psychiatric facility for a person under 21 years of age, licensed as a psychiatric hospital or a residential treatment center licensed as a Level I Psychiatric Facility and accredited by an AHCCCS-approved accrediting body as specified in contract and as authorized by federal law and regulations.
2. Inpatient service limitations:
   a. Inpatient services, other than emergency services specified in this Section, shall be prior authorized.
   b. Inpatient services shall be reimbursed on a per diem basis and shall be inclusive of all services except, the following may bill independently for services and the services do not count toward the 30 day 30 visit annual limitation:
      i. A psychiatrist,

ii. A certified psychiatric nurse practitioner,
iii. A physician assistant as defined in this Article, or
iv. A psychologist.

c. The following services may be billed independently if prescribed by a provider specified in R9-31-1205(B)(1)(b) for a member residing in a residential treatment center:
i. Laboratory,
ii. Radiology, and
iii. Psychotropic medications and medication monitoring and medication adjustment.

d. Title XXI funding for IMD inpatient services is available only to a member who is under 19 years of age. Title XXI funding shall not exceed 30 days inpatient care after an eligibility determination. A member cannot be in an IMD at the time of application or at the time of redetermination.

e. Inpatient services are limited to a maximum of 30 days per contract year.

B. Partial care. The following partial care services shall be covered subject to the limitations and exclusions in this Article.

1. Partial care shall be provided as either a basic or intensive level of care to:
a. Meet a member's need for behavioral health treatment, and
b. Prevent placing a member in a higher level of care or a more restrictive environment.
i. Basic partial care services shall be provided specified in 9 A.A.C. 20.
ii. Intensive partial care services shall be provided specified in 9 A.A.C. 20.

2. Partial care service limitations. All services shall be included in the partial care reimbursement rate except, the following practitioners may bill independently:
a. A psychiatrist,
b. A certified psychiatric nurse practitioner,
c. A physician assistant as defined in this Article, and
d. A psychologist.

3. Partial care services count toward the 30 day limitation during each contract year. Each full day of partial care, basic or intensive, counts as 1/2 day of inpatient care. Each 1/2 day of partial care, basic or intensive, counts as 1/4 day of inpatient care.

4. Partial care service exclusions. Vocational activities, school attendance, and educational hours shall not be included as a basic or intensive partial care service and shall not be billed concurrently with these services.

C. Outpatient services. The following outpatient services shall be covered subject to the limitations and exclusions in this Article.

1. Outpatient services shall include the following:
a. Screening once every 6 months provided by a behavioral health professional or a behavioral health technician;
b. Evaluation provided by a behavioral health professional;
c. Counseling including individual therapy, group, and family therapy provided by a behavioral health professional or a behavioral health technician under the clinical supervision of a behavioral health professional;
d. Behavior management provided by a behavioral health professional, a behavioral health technician, or a behavioral health paraprofessional; and
e. Psychosocial rehabilitation provided by a behavioral health professional, a behavioral health technician, or a behavioral health paraprofessional.

2. Outpatient service limitations:
a. The following practitioners may bill independently:
i. A psychiatrist,
ii. A certified psychiatric nurse practitioner,
iii. A physician assistant as defined in this Article, and
iv. A psychologist.

b. Other behavioral health professionals, behavioral health technicians and behavioral health paraprofessionals not specified in subsection (C)(2)(a) shall be employed by or contracted with, an AHCCCS-registered behavioral health agency.

c. The total number of all outpatient services shall not exceed a maximum of 30 visits during each contract year. Screening performed once every 6 months shall not count toward the 30 visit maximum.

d. Each outpatient service except group therapy or group counseling shall count as 1 visit. Each group therapy or group counseling service shall count as 1/2 a visit.

D. Behavioral health emergency services.

1. An RBHA shall ensure that behavioral health emergency services are provided by qualified personnel specified in R9-31-1206. The emergency services shall be available 24 hours-per-day, 7 days-per-week in the RBHA's service area in emergency situations where a member is a danger to self or others or is otherwise determined to be in need of immediate unscheduled behavioral health services. Behavioral health emergency services may be provided on either an inpatient or outpatient basis.

2. A health plan shall provide behavioral health emergency services on an inpatient basis not to exceed 3 days per emergency episode and 12 days per contract year, for a member not yet enrolled with an RBHA.
3. An inpatient emergency service provider shall verify the eligibility and enrollment of a member through the Administration to determine the need for notification to a health plan or an RBHA and to determine the party responsible for payment of services under 9 A.A.C. 31, Article 7.
4. Behavioral health emergency service limitations:
   a. An emergency behavioral health service does not require prior authorization. The provider must however, comply with the notification requirements specified in R9-31-210.
   b. A behavioral health service for an unrelated condition, requires diagnoses, and treatment shall be prior authorized by an RBHA.
   c. Inpatient service limitations specified in subsection (B) of this Section shall apply to emergency services provided on an inpatient basis.
   d. Emergency or crisis behavioral health services provided on an outpatient basis by a psychiatrist, a certified psychiatric nurse practitioner, a physician assistant or a psychologist, shall not count toward the outpatient service limitations specified in this Section.

E. Other behavioral health services. The following services are covered but are not included in the visit limitations:
1. Case management as defined in R9-31-112;
2. Laboratory and radiology services for behavioral health diagnosis and medication management;
3. Psychotropic medication and related medication included in a health plan's or an RBHA's formulary; and
4. Medication monitoring, administration, and adjustment for psychotropic medication and related medications.

F. Transportation services.
1. Emergency transportation shall be covered for a behavioral health emergency specified in R9-31-211. Emergency transportation is limited to behavioral health emergencies.
2. Non-emergency transportation for a behavioral health service is excluded.

~~**R9-31-1206. Other Behavioral Health Services**~~
~~The following services are covered but are not included in the visit limitations:~~
~~1. Laboratory and radiology services for behavioral health diagnosis and medication management;~~
~~2. Psychotropic medication(s) included in the Title XXI formulary of a member's RBHA or contractor;~~
~~3. Medication monitoring, administration and adjustment for psychotropic medications; and~~
~~4. Case management to identify, obtain and coordinate Title XXI behavioral health services as specified in contract.~~

R9-31-1206. General Provisions and Standards for Service Providers

A. Qualified service provider. A qualified behavioral health service provider shall:
1. Be employed by, or contracted in writing with, an RBHA or a health plan to provide behavioral health services to a member;
2. Have all applicable state licenses or certifications, or comply with alternative requirements established by the Administration;
3. Register with the Administration as a service provider; and
4. Comply with all requirements specified in 9 A.A.C. 31, Article 5, and this Article.

B. Quality and Utilization management.
1. Service providers shall cooperate with the quality and utilization management programs of an RBHA, a health plan, ADHS, and the Administration which are stated in R9-31-522 and contract.
2. Service providers shall comply with applicable procedures specified in 42 CFR 456, August 23, 1996, 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.

~~**R9-31-1207. Transportation Services**~~
~~**A.** Emergency transportation shall be covered for behavioral health emergencies as specified in R9-31-211 and shall be limited to situations where there is an imminent threat of harm to the member if care is not rendered expeditiously.~~
~~**B.** Non-emergency transportation for behavioral health services is excluded.~~

R9-31-1207. Standards for Payments

A. Payment to ADHS. ADHS shall receive a monthly capitation payment, based on the number of Title XXI members at the beginning of each month. ADHS administrative costs shall be incorporated into the capitation payment.

B. Claims submissions.
1. ADHS shall require all contracted service providers to submit clean claims no later than the time-frame specified in the ADHS contract with the Administration.
2. A claim for emergency inpatient services for a member not yet enrolled with an RBHA shall be submitted to a health plan by a provider and shall comply with the time-frames and other applicable payment procedures in 9 A.A.C. 31, Article 7.

C. Prior authorization. Payment to a provider for services or items requiring prior authorization may be denied if prior authorization is not obtained from the Administration, an RBHA, or a health plan as specified in R9-31-705.

R9-31-1208. Grievance and Appeal Process

A. Processing of a grievance. All grievances regarding any adverse action, decision, or policy regarding behavioral health services shall be reviewed according to A.R.S. §§ 36-2986, 36-3413, 41-1092.02, 9 A.A.C. 31, Article 8, and 9 A.A.C. 31, Article 13.

B. Member appeal. A member's appeal of a grievance under this Article shall be conducted as a contested case according to 9 A.A.C. 31, Article 8.

C. Other appeals. An appeal of the ADHS director's decision after an Office of Administrative Hearing decision other than de novo hearing requests by a member shall be limited to an appellate review by the Administration to determine whether substantial evidence in the record supports the decision.