

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the Register before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

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

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R9-22-802 | Amend |
- 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. § 36-2903.01
Implementing statutes: A.R.S. §§ 36-2903.01 and 41-1092.02
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 6 A.A.R. 4611, December 8, 2000
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Cheri Tomlinson, Federal and State Policy Administrator
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
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
The Administration is amending Article 8 in 9 A.A.C. 22 to comply with state statute. The Administration amended the rule to define the agency's practice for rendering informal decisions concerning requests for hearing of contractor decisions.
- 6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**
Not applicable
- 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

Arizona Administrative Register
Notices of Proposed Rulemaking

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

The following entities will be impacted by the changes to the rule language:

The Administration and the Office of Administrative Hearings (OAH) will benefit from the changes, which resolve grievance and requests for hearings expeditiously. In addition, the state may reduce expenditures as a result of the change to R9-22-802(B)(4) under which an informal decision is issued prior to the formal process.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Cheri Tomlinson, Federal and State Policy Administrator
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

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: January 16, 2001
Time: 10:30 a.m.
Location: AHCCCS
Salmon Room
701 East Jefferson
Phoenix, Arizona 85034
Nature: Public Hearing

Date: January 16, 2001
Time: 10:30 a.m.
Location: ALTCS: Arizona Long-Term Care System
110 South Church, Suite 3250
Tucson, Arizona 85701
Nature: Video Conference Oral Proceeding

Date: January 16, 2001
Time: 10:30 a.m.
Location: ALTCS: Arizona Long-Term Care System
3480 East Route 66
Flagstaff, Arizona 86004
Nature: Video Conference Oral Proceeding

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:

None

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

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

ARTICLE 8. GRIEVANCE AND APPEAL PROCESS

R9-22-802. Grievance and Request for Hearing

ARTICLE 8. GRIEVANCE AND APPEAL PROCESS

R9-22-802. Grievance and Request for Hearing

A. General.

1. This Section provides the exclusive manner for filing a grievance against the Administration, its contractors, or both for any adverse action. The grievance process is illustrated in Exhibit A.
2. This Section shall not apply to an adverse action affecting a member's eligibility or to an adverse action that reduces a member's services as a result of a change in state or federal law.
3. If a hearing is requested, the hearing shall be conducted under A.R.S. § 41-1092.

B. Grievance to the Administration or a contractor.

1. Respondent.
 - a. Administration. When grieving the Administration's adverse action, the Administration is the respondent.
 - b. Contractor. When grieving a contractor's adverse action, the contractor is the respondent. The complainant shall file a grievance with the contractor responsible for the adverse action being grieved to allow the contractor to investigate and resolve the grievance.
2. Filing a grievance.
 - a. Member grievance.
 - i. A complainant shall file a grievance with the Administration or a contractor in writing or orally. An oral grievance shall be considered filed as of the date of the oral communication.
 - ii. A complainant shall file a grievance with the Administration or a contractor no later than 60 days after the date of notice of the adverse action.
 - iii. A grievance is not required to specify in detail the factual and legal basis for the grievance and the relief requested.
 - b. Grievance other than a member grievance.
 - i. A complainant shall file a grievance with the Administration or a contractor in writing.
 - ii. A complainant shall file a grievance with the Administration or a contractor no later than 60 days after the date of notice of the adverse action except as provided in subsection (B)(2)(b)(iii).
 - iii. A complainant shall file a grievance regarding a claim denial under the time-frames in A.R.S. § 36-2904.
 - iv. A grievance shall specify in detail the factual and legal basis for the grievance and the relief requested. Failure to detail the factual or legal basis may result in the denial of a grievance.
3. Contractor's final decision of a grievance.
 - a. Contractor's final decision. The contractor shall issue its final decision of the grievance to the complainant no later than 30 days after the filing of the grievance with the contractor, unless the complainant and contractor agree, in writing, to a longer period.
 - b. Contents of contractor's final decision. The contractor's final decision shall include:
 - i. The date of the decision;
 - ii. The factual and legal basis for the decision;
 - iii. The complainant's right to request a hearing under A.R.S. § 41-1092 et seq.; ~~and~~
 - iv. The manner in which a request for hearing may be filed under A.R.S. § 41-1092 et seq. and
 - v. That the Administration may issue an informal decision under A.R.S. § 36-2903.01(4) as specified in subsection (B)(4).
 - c. Request for hearing of contractor's final decision of grievance. A complainant may request a hearing under A.R.S. § 41-1092 et seq. on the contractor's final decision of the grievance if:
 - i. The complainant files a written request for hearing with the ~~Administration~~ Contractor no later than 30 days after the date ~~of that~~ the contractor's final decision of the grievance is served on a party under R2-19-108; or
 - ii. A final decision of the grievance under subsection (B)(3)(a) is not rendered by the contractor within 30 days after the filing of the grievance with the contractor, and the complainant files a written request for hearing under A.R.S. § 41-1092 et seq. based on the contractor's failure or refusal to decide the grievance.

Arizona Administrative Register
Notices of Proposed Rulemaking

4. Administration's informal decision of contractor's final decision
- a. The Administration shall issue an informal decision of a contractor's final decision under A.R.S. § 36-2903.01(4) in accordance with subsection (B)(5) when:
 - i. The request for hearing is submitted untimely by the complainant.
 - ii. The complainant voluntarily withdraws the request for hearing before a hearing is scheduled by the Administration under A.R.S. § 41-1092.
 - iii. The request for hearing identifies an error in the contractor's final decision that materially affects the denial of a claim for payment.
 - iv. New evidence is submitted with the request for hearing that substantiates payment of a claim.
 - v. The complainant indicates a desire to negotiate a settlement, or
 - vi. The contractor's final decision is not based on statute, rule, regulation or contract requirements.
 - b. The Administration shall issue a Notice for Hearing under A.R.S. § 41-1092 for a request for hearing of the contractor's final decision under a situation not identified in subsection (B)(4)(a).
45. Administration's ~~final~~ informal decision of grievance.
- a. Administration's ~~final~~ informal decision. The Administration shall:
 - i. Issue its ~~final~~ informal decision of the grievance to the complainant no later than 30 days after the filing of the grievance with the Administration, unless the complainant and Administration agree, in writing, to a longer period; or
 - ii. A notice of hearing under A.R.S. § 41-1092.03.
 - b. Contents of Administration's ~~final~~ informal decision. The Administration's ~~final~~ informal decision shall include:
 - i. The date of the decision;
 - ii. The factual and legal basis for the decision;
 - iii. The complainant's right to request a hearing under A.R.S. § 41-1092 et seq.; and
 - iv. The manner in which a request for hearing may be filed under A.R.S. § 41-1092 et seq.
 - c. Request for hearing of Administration's ~~final~~ informal decision of the grievance. A complainant may request a hearing under A.R.S. § 41-1092 et seq. on the Administration's ~~final~~ informal decision of the grievance if:
 - i. The complainant files a written request for hearing with the Administration no later than 30 days after the date of that the Administration's ~~final~~ informal decision of the grievance is served on a party under R2-19-108; or
 - ii. A ~~final~~ An informal decision of the grievance under subsection (B)(4)(a) is not rendered by the Administration within 30 days after the filing of the grievance with the Administration, and the complainant files a written request for hearing with the Administration based on the Administration's failure or refusal to decide the grievance.
56. Notice of hearing. The Administration shall issue a notice of hearing under A.R.S. § 41-1092.05 if the Administration or a contractor receives a timely request for hearing after the Administration or a contractor issues its final decision of grievance.

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 27. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
HEALTH CARE FOR PRIVATE EMPLOYER GROUPS/AHCCCS ADMINISTERED**

PREAMBLE

- | | |
|--|--|
| <u>1. Sections Affected</u>
R9-27-601 | <u>Rulemaking Action</u>
Amend |
| <u>2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):</u>
Authorizing statute: A.R.S. § 36-2912(G)(6)
Implementing statutes: A.R.S. §§ 36-2912(G)(6) and 41-1092.02 | |
| <u>3. A list of all previous notices appearing in the Register addressing the proposed rule:</u>
Notice of Rulemaking Docket Opening: 6 A.A.R. 4612, December 8, 2000 | |

Arizona Administrative Register
Notices of Proposed Rulemaking

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

Name: Cheri Tomlinson, Federal and State Policy Administrator
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

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

The Administration is amending Article 6 in 9 A.A.C. 27 to comply with state statute. The Administration amended the rule to define the agency's practice for rendering informal decisions concerning requests for hearing of contractor decisions.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

Not applicable

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 preliminary summary of the economic, small business, and consumer impact:

The following entities will be impacted by the changes to the rule language:

The Administration and the Office of Administrative Hearings (OAH) will benefit from the changes, which resolve grievance and requests for hearings expeditiously. In addition, the state may reduce expenditures as a result of the change to R9-22-802(B)(4) under which an informal decision is issued prior to the formal process.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Cheri Tomlinson, Federal and State Policy Administrator
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

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: January 16, 2001
Time: 10:30 a.m.
Location: AHCCCS
Salmon Room
701 East Jefferson
Phoenix, Arizona 85034
Nature: Public Hearing

Arizona Administrative Register
Notices of Proposed Rulemaking

Date: January 16, 2001
Time: 10:30 a.m.
Location: ALTCS: Arizona Long-Term Care System
110 South Church, Suite 3250
Tucson, Arizona 85701
Nature: Video Conference Oral Proceeding

Date: January 16, 2001
Time: 10:30 a.m.
Location: ALTCS: Arizona Long-Term Care System
3480 East Route 66
Flagstaff, Arizona 86004
Nature: Video Conference Oral Proceeding

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:

None

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 27. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
HEALTH CARE FOR PRIVATE EMPLOYER GROUPS/AHCCCS ADMINISTERED**

ARTICLE 6. GRIEVANCE AND REQUEST FOR HEARING

R9-27-601. Grievance and Request for Hearing

ARTICLE 6. GRIEVANCE AND REQUEST FOR HEARING

R9-27-601. Grievance and Request for Hearing

A. General.

1. This Article provides the exclusive manner for filing a grievance or request for hearing against the HCGA, the HCG Plans, or both for any adverse action.

2. If a hearing is requested, the hearing shall be conducted under A.R.S. § 41-1092 et. seq.

B. Filing a grievance and a request for hearing. Unless provided elsewhere in this Chapter, a written grievance or a request for hearing under A.R.S. § 41-1092 et. seq., or other written statements shall be considered filed when received by the HCGA, as established by the HCGA's date stamp on the grievance, request for hearing, or other written statement.

C. Computation of time.

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

2. Timeliness for filing a request for hearing under A.R.S. § 41-1092 et. seq. is computed under R2-19-107.

D. Complainant's hearing rights. The HCGA shall allow a complainant the right to:

1. A hearing under A.R.S. § 41-1092 et. seq.; and

2. Copies of any relevant document from the respondent not protected from disclosure by law at the complainant's expense.

E. Withdrawal or denial of a request for hearing.

1. Withdrawal of a request for hearing.

a. The HCGA shall accept a written request for withdrawal if the written request for withdrawal is received from the complainant before the HCGA or its designee issues a notice of hearing under A.R.S. § 41-1092 et. seq.

Arizona Administrative Register
Notices of Proposed Rulemaking

- b. If the HCGA or its designee issued a notice of hearing under A.R.S. § 41-1092 et. seq., a complainant shall send a request for withdrawal to OAH.
2. Denial of a request for hearing. The HCGA or its designee may deny a request for hearing under A.R.S. § 41-1092 et. seq. upon written determination that:
 - a. The request for hearing is untimely;
 - b. The request for hearing is not for an adverse action permitted under this Article;
 - c. The complainant waives the right to hearing;
 - d. The request for hearing is moot, as determined by HCGA or its designee based on the factual circumstances of each case;
 - e. The subject matter of the grievance is a policy that is not subject to OAH's jurisdiction under A.R.S. § 41-1092 et seq.; or
 - f. The sole issue presented is a federal or state law requiring an automatic change adversely affecting some or all members.
- F. Motion for rehearing or review. Under A.R.S. § 41-1092.09, the HCGA may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
 1. Irregularity in the proceedings of a hearing that deprived an aggrieved party of a fair hearing;
 2. Misconduct of the HCGA, OAH, or a party;
 3. Newly discovered material evidence, that could not, with reasonable diligence, have been discovered and produced at the hearing;
 4. The decision is the result of passion or prejudice;
 5. The decision is not justified by the evidence or is contrary to law; or
 6. Good cause is established for the nonappearance of a party at the hearing.
- G. Grievance to the HCGA or an HCG Plan.
 1. Respondent.
 - a. HCGA. When grieving the HCGA's adverse action, the HCGA is the respondent.
 - b. HCG Plan. When grieving an HCG Plan's adverse action, the HCG Plan is the respondent. The complainant shall file a grievance with the HCG Plan responsible for the adverse action being grieved to allow the HCG Plan to investigate and resolve the grievance.
 2. Filing a grievance.
 - a. Member grievance.
 - i. A complainant shall file a grievance with the HCGA or an HCG Plan in writing or orally. An oral grievance shall be considered filed as of the date of the oral communication.
 - ii. A complainant shall file a grievance with the HCGA or an HCG Plan no later than 60 days after the date of notice of the adverse action.
 - iii. A grievance is not required to specify in detail the factual and legal basis for the grievance and the relief requested.
 - b. Grievance other than a member grievance.
 - i. A complainant shall file a grievance with the HCGA or an HCG Plan in writing.
 - ii. A complainant shall file a grievance with the HCGA or an HCG Plan no later than 60 days after the date of notice of the adverse action except as provided in subsection (G)(2)(b)(iii).
 - iii. A complainant shall file a grievance regarding a claim denial under the time-frames in A.R.S. § 36-2904.
 - iv. A grievance shall specify in detail the factual and legal basis for the grievance and the relief requested. Failure to detail the factual or legal basis may result in the denial of a grievance.
 3. HCG Plan's final decision of a grievance.
 - a. HCG Plan's final decision. The HCG Plan shall issue its final decision of the grievance to the complainant no later than 30 days after the filing of the grievance with the HCG Plan, unless the complainant and HCG Plan agree, in writing, to a longer period.
 - b. Contents of HCG Plan's final decision. The HCG Plan's final decision shall include:
 - i. The date of the decision;
 - ii. The factual and legal basis for the decision;
 - iii. The complainant's right to request a hearing under A.R.S. § 41-1092 et. seq.; ~~and~~
 - iv. The manner in which a request for hearing may be filed under A.R.S. § 41-1092 et. seq. and
 - v. That the HCGA may issue an informal decision as specified in subsection (G)(4).
 - c. Request for hearing of HCG Plan's final decision of grievance. A complainant may request a hearing under A.R.S. § 41-1092 et. seq. on the HCG Plan's final decision of the grievance if:
 - i. The complainant files a written request for hearing with the ~~HCGA~~ HCG Plan no later than 30 days after the date ~~of that~~ the HCG Plan's final decision of the grievance is served on a party under R2-19-108; or

Arizona Administrative Register
Notices of Proposed Rulemaking

- ii. A final decision of the grievance under subsection (G)(3)(a) is not rendered by the HCG Plan within 30 days after the filing of the grievance with the HCG Plan, and the complainant files a written request for hearing under A.R.S. § 41-1092 et. seq. based on the HCG Plan's failure or refusal to decide the grievance.
4. HCGA's informal decision of HCG Plan's final decision.
- a. The HCGA shall issue an informal decision of a HCG Plan's final decision in accordance with subsection (G)(5) when:
 - i. The request for hearing is submitted untimely by the complainant.
 - ii. The complainant voluntarily withdraws the request for hearing before a hearing is scheduled by the HCGA under A.R.S. § 41-1092.
 - iii. The request for hearing identifies an error in the HCG Plan's final decision that materially affects the denial of a claim for payment.
 - iv. New evidence is submitted with the request for hearing that substantiates payment of a claim.
 - v. The complainant indicates a desire to negotiate a settlement, or
 - vi. The HCG Plan's final decision is not based on statute, rule, regulation or contract requirements.
 - b. The HCGA shall issue a Notice of Hearing under A.R.S. § 41-1092 for a request for hearing of the contractor's final decision under a situation not identified in subsection (G)(4)(a).
45. HCGA's ~~final~~ informal decision of grievance.
- a. HCGA's ~~final~~ informal decision. The HCGA or its designee shall:
 - i. Issue its ~~final~~ informal decision of the grievance to the complainant no later than 30 days after the filing of the grievance with the HCGA, unless the complainant and HCGA agree, in writing, to a longer period; or
 - ii. Issue a notice of hearing under A.R.S. § 41-1092.03.
 - b. Contents of HCGA's ~~final~~ informal decision. The HCGA's ~~final~~ informal decision shall include:
 - i. The date of the decision;
 - ii. The factual and legal basis for the decision;
 - iii. The complainant's right to request a hearing under A.R.S. § 41-1092 et. seq.; and
 - iv. The manner in which a request for hearing may be filed under A.R.S. § 41-1092 et. seq.
 - c. Request for hearing of HCGA's ~~final~~ informal decision of the grievance. A complainant may request a hearing under A.R.S. § 41-1092 et. seq. on the HCGA's ~~final~~ informal decision of the grievance if:
 - i. The complainant files a written request for hearing with the HCGA no later than 30 days after the date of ~~that~~ the HCGA's final decision of the grievance is served on a party under R2-19-108; or
 - ii. ~~A final~~ An informal decision of the grievance under subsection (G)(4)(a) is not rendered by the HCGA within 30 days after the filing of the grievance with the HCGA, and the complainant files a written request for hearing with the HCGA based on the HCGA's failure or refusal to decide the grievance.
56. Notice of hearing. The HCGA shall issue a notice of hearing under A.R.S. § 41-1092.05 if the HCGA or an HCG Plan receives a timely request for hearing after the HCGA or a HCG Plan issues its final decision of grievance.