

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. 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 making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) ARIZONA LONG-TERM CARE SYSTEM

PREAMBLE

1. Sections Affected

Article 3
R9-28-301
R9-28-302
R9-28-303
R9-28-303
R9-28-304
R9-28-304
R9-28-304
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R9-28-307

Rulemaking Action

Amend
Amend
Amend
Renumber
New Section
Renumber
New Section
Amend
Renumber
New Section
Amend
Renumber
New Section
Amend
Renumber
New Section
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. § 36-2936

Implementing statutes: A.R.S. §§ 36-2936, 36-559, 36-2901, 36-2933(B)

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 7 A.A.R. 2526, June 15, 2001

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, AZ 85034

Telephone: (602) 417-4534

Fax: (602) 256-6756

Arizona Administrative Register
Notices of Proposed Rulemaking

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

9 A.A.C. 28, Article 3 defines the preadmission screening process (PAS) used by the AHCCCS Administration in determining the persons eligible for receiving Arizona Long Term Care System (ALTCS) services. The six Sections in the Article will be expanded to seven Sections. The agency is amending the Article to:

- Comply with A.R.S. § 41-1056 requiring that a rule be reviewed at least once every five years. AHCCCS is making changes to the Article in lieu of submitting a five year review report to the GRRC by January 2002;
- Provide additional clarity and conciseness to existing rule language. For example, the use of the term “immediate risk of institutionalization” does not change the qualifications for coverage for the ALTCS program. The substitution of the word “item” for “question” in the PAS rule language will not change or affect the scoring of the PAS; and
- Clarify that the Administration will determine a person to be physically disabled using the PAS in lieu of the Social Security disability determination as permitted under AHCCCS’ 1115 Waiver with the federal government.

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 economic impact of these provisions is nominal to minimal. The Article complies with the implementation of A.R.S. § 36-2936, which was adopted by the Administration to comply with federal law and regulation and the provisions of AHCCCS’ 1115 Waiver with the federal government.

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

a. The Administration’s use of the PAS in lieu of the SSA’s disability determination will benefit potential applicants, providers including nursing facilities, health plans and program contractors. The rationale is as follows:

- Eliminates a duplicative medical evaluation process,
- Reduces application processing time,
- Eliminates costs associated with Social Security disability determination,
- Provides essential services to applicants more expediently,
- Decreases the amount of time nursing facilities wait for reimbursement by expediting the ALTCS population, and
- Decreases the amount of prior period coverage for program contractors.

b. Chronic members, family members and representatives and the Administration will benefit from the change in reassessment time-frames. Time-frames will be lengthened thereby decreasing the number of reassessments for the members.

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, AZ 85034

Telephone: (602) 417-4534

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: September 11, 2001

Time: 1:00 p.m.

Arizona Administrative Register
Notices of Proposed Rulemaking

Location: AHCCCS
701 East Jefferson
Phoenix, AZ 85034
Gold Room

Nature: Public Hearing

Date: September 11, 2001

Time: 1:00 p.m.

Location: ALTCS: Arizona Long Term Care System
110 South Church, Suite 3250
Tucson, AZ 85701

Nature: Video Conference Oral Proceeding

Date: September 11, 2001

Time: 1:00 p.m.

Location: ALTCS: Arizona Long-Term Care System
3480 East Route 66
Flagstaff, AZ 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:

Section 1902(e)(9) of SSA, January 1, 1995 R9-28-303(C)

PAS instrument for EPD, October, 1992 R9-28-304(B)

PAS instrument for DD, August, 1995 R9-28-305(C)

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)

ARIZONA LONG-TERM CARE SYSTEM

ARTICLE 3. PREADMISSION SCREENING (PAS)

Section

R9-28-301. Definitions

R9-28-302. General Provisions

R9-28-303. Preadmission Screening (PAS) Process

~~R9-28-303~~~~R9-28-304~~. Preadmission Screening for Elderly and Physically Disabled Individuals Criteria for an Applicant or Member who is Elderly and Physically Disabled (EPD)

~~R9-28-304~~~~R9-28-305~~. Preadmission Screening for Individuals with Developmental Disabilities Criteria for an Applicant or Member who is Developmentally Disabled (DD)

~~R9-28-305~~~~R9-28-306~~. Reassessments

~~R9-28-306~~~~R9-28-307~~. Transitional Program for Elderly and Physically Disabled and Developmentally Disabled Members and Eligible Persons a Member who is Elderly and Physically Disabled (EPD) or Developmentally Disabled (DD)

ARTICLE 3. PREADMISSION SCREENING (PAS)

R9-28-301. Definitions

- A. Common definitions. In addition to definitions contained in A.R.S. Title 36, Chapter 29, and 9 A.A.C. 28, Article 1, ~~the words and phrases in this Chapter have the following meanings for elderly and physically disabled individuals and individuals with developmental disabilities~~ an individual who is elderly and physically disabled (EPD) or developmentally disabled (DD) unless the context explicitly requires another meaning:
1. "Acute" means an active medical condition having a sudden onset, lasting a short time, and requiring immediate medical intervention.
 2. "Applicant" is defined in R9-22-101.
 3. "Assessor" means a social worker as defined in subsection (17) or a licensed registered nurse (RN) who:
 - a. Is employed by the Administration to conduct PAS assessments.
 - b. Completes a minimum of 30 hours of classroom training in both EPD and DD preadmission screening (PAS) for a total of 60 hours, and
 - c. Receives intensive oversight and monitoring by the Administration during the first 30 days of employment with ongoing oversight.
 - ~~2-4.~~ "Chronic" means a medical condition that is always present, occurs periodically, or is marked by a long duration.
 - ~~3-5.~~ "Constant/constantly" means at least once a day.
 - ~~4-6.~~ "Current" means belonging to the present time.
 - ~~5-7.~~ "Disruptive behavior" means inappropriate behavior that interferes with ~~an individual's~~ an applicant or member's normal activities or the activities of others and requires intervention to stop or interrupt the behavior.
 - ~~6-8.~~ "Frequent/frequently" means weekly to every other day.
 - ~~7-9.~~ "Functional assessment" means an evaluation of information about an ~~individual's~~ applicant or member's ability to perform activities related to: ~~developmental milestones, activities of daily living, communication, and behaviors.~~
 - a. Developmental milestones.
 - b. Activities of daily living.
 - c. Communication, and
 - d. Behaviors.
 - ~~8-10.~~ "History" means a medical condition that occurred in the past and may or may not have required treatment and is not now active.
 11. "Immediate risk of institutionalization" as specified in the Administration's Section 1115 Waiver with CMS means an applicant or member who meets the qualifications for coverage in A.R.S. § 36-2934(A)(5).
 - ~~9-12.~~ "Intervention" means therapeutic treatment, including the use of medication, behavior modification, and physical restraints to control behavior. Intervention may be formal or informal and includes actions taken by friends/family to control the behavior.
 - ~~10-13.~~ "Medical assessment" means an evaluation of an ~~individual's~~ applicant or member's medical condition and the ~~individual's~~ applicant or member's need for medical services.
 - ~~11-14.~~ "Medical/nursing services and treatments" also referred to as "services and treatments" in this Article means specific, ongoing medical, psychiatric, or nursing intervention used actively to resolve or prevent deterioration of a medical condition/~~diagnosis~~. Durable medical equipment and activities of daily living assistive devices are not considered to be treatment unless the equipment or devices are used specifically and actively to resolve the existing medical condition.
 - ~~12-15.~~ "Occasional/occasionally" means less than once per week.
 - ~~13-16.~~ "Physical participation" means active participation, not just being passive or cooperative.
 - ~~14-17.~~ "Physically lift" means actively bearing some part of an ~~individual's~~ applicant or member's weight during movement or activity and excludes bracing or guiding activity.
 18. "Physician consultant" means a physician contracted by the Administration.
 - ~~15-19.~~ "Social worker" means an individual with two years of case management related experience or a baccalaureate or master's degree in: social work, rehabilitation, counseling, education, sociology, psychology, or other closely related field, or 2 two years of case management related experience.
 - a. Social work.
 - b. Rehabilitation.
 - c. Counseling.
 - d. Education.
 - e. Sociology.
 - f. Psychology, or
 - g. Other closely related field.
 - ~~16-20.~~ "Special diet" means a diet planned by a dietitian, nutritionist, or nurse such as high fiber, low sodium, or pureed.
 - ~~17-21.~~ "Toileting" means the process involved in managing the elimination of urine and feces in an appropriate place.

Arizona Administrative Register
Notices of Proposed Rulemaking

18-22. "Vision" means the ability to perceive objects with one's eyes.

B. ~~Elderly and physically disabled EPD.~~ In addition to definitions contained in subsection (A), for the following also applies to an applicant or member who is EPD: elderly and physically disabled individuals only:

1. "Aggression" means physically attacking another, including, but not limited to: ~~throwing objects, punching, biting, pushing, pinching, pulling hair, scratching, and physically threatening behavior.~~
 - a. Throwing objects.
 - b. Punching.
 - c. Biting.
 - d. Pushing.
 - e. Pinching.
 - f. Pulling hair.
 - g. Scratching, and
 - h. Physically threatening behavior.
2. "Bathing" means the process of washing, rinsing, and drying all parts of the body, including an ~~individual's applicant or member's~~ ability to transfer to a tub or shower and to obtain bath water and equipment.
3. "Contenance" means the ability to control the discharge of body waste from bladder or bowel.
4. "Dressing" means the physical process of: ~~choosing, putting on, securing fasteners, and removing clothing and footwear, including weather appropriate articles but excluding aesthetic concerns such as matching colors. This includes artificial limbs, braces, and other appliances that are needed daily.~~ choosing, putting on, securing fasteners, and removing clothing and footwear. This includes choosing weather appropriate articles but excludes aesthetic concerns. This includes artificial limbs, braces, and other appliances that are needed daily.
5. "Eating" means the process of putting food and fluids by any means into the digestive system.
6. "Elderly" means an applicant or member who is age 65 or older.
7. "Emotional and cognitive functioning" means an ~~individual's~~ applicant or member's orientation and mental state, as evidenced by overt behaviors.
8. "EPD" means an applicant or member who is elderly and physically disabled.
9. "Grooming" means the process of tending to one's appearance. ~~This does not include aesthetics such as styling hair, skin care, and applying make-up. This may include, but is not limited to, combing or brushing hair, washing face and hands, shaving, and performing routine nail care, oral hygiene (including denture care), and menstrual care. Grooming does not include aesthetics such as styling hair, skin care, and applying make-up. Grooming may include, but is not limited to:~~
 - a. Combing or brushing hair.
 - b. Washing face and hands.
 - c. Shaving.
 - d. Performing routine nail care.
 - e. Oral hygiene (including denture care), and
 - f. Menstrual care.
10. "Mobility" means the extent of an ~~individual's~~ applicant or member's purposeful movement within a residential environment.
11. "Orientation" means an ~~individual's~~ applicant or member's awareness of self in relation to person, place, and time.
12. "Physically disabled" means ~~the inability to do any substantial gainful activity by reason of any medically determinable physical impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months~~ an applicant or member who is determined physically impaired by the Administration through the PAS as allowed under the Administration's Section 1115 Waiver with CMS.
13. "Self-injurious behavior" means repeated self-induced, abusive behavior that is directed toward infliction of immediate physical harm to the body.
14. "Sensory" means of or relating to the senses.
15. "Suicidal behavior" means an act or intent to take one's life voluntarily.
16. "Transferring" means an ~~individual's~~ applicant or member's ability to move horizontally or vertically between ~~2~~ two surfaces within a residential environment, excluding transfer for toileting or bathing.
17. "Wandering" means moving about with no rational purpose and with a tendency to go beyond physical parameters of the environment, ~~in a manner that may jeopardize safety.~~

C. ~~Developmentally disabled DD.~~ In addition to definitions contained in subsection (A), the following also applies to an applicant or member for only individuals with developmental disabilities who is DD:

1. "Aggression" means physically attacking another, including, but not limited to: ~~throwing objects, punching, biting, pushing, pinching, pulling hair, and scratching.~~
 - a. Throwing objects.
 - b. Punching.
 - c. Biting.

Arizona Administrative Register
Notices of Proposed Rulemaking

- d. Pushing.
 - e. Pinching.
 - f. Pulling hair, and
 - g. Scratching.
2. "Ambulation" means the ability to walk and includes the quality of the walking and the degree of independence in walking.
 3. "Associating time with events and actions" means an individual's applicant or member's ability to associate regular events with specific time-frames.
 4. "Bathing or showering" means an individual's applicant or member's ability to complete the bathing process including drawing the bath water, washing, rinsing, and drying all parts of the body, and washing the hair.
 5. "Caregiver training" means a direct care staff or caregiver trained in special health care procedures normally performed or monitored by a licensed professional, such as a registered nurse. These procedures may include, but are not limited to, ostomy care, positioning for medical necessity, use of adaptive devices, or respiratory services such as suctioning or small volume nebulizer treatments.
 6. "Clarity of communication" means an ability to speak in a recognizable language or use a formal symbolic substitution, ~~such as American Sign Language.~~
 7. "Climbing stairs or ramps" means an individual's applicant or member's ability to move up and down stairs or ramps.
 8. "Community mobility" means the ability to move about the neighborhood or community independently, by any mode of transportation.
 - ~~8-9.~~ "Crawling and standing" means an individual's applicant or member's ability to crawl and stand with or without support.
 10. "DD" means developmentally disabled.
 - ~~9-11.~~ "Developmental milestone" means a measure of an individual's applicant or member's functional abilities including: fine and gross motor skills, expressive and receptive language, social and self-help skills, and emotional/affective development.
 - a. Fine and gross motor skills,
 - b. Expressive and receptive language,
 - c. Social and self-help skills, and
 - d. Emotional/affective development.
 - ~~10.~~ "DD" means developmentally disabled.
 - ~~11-12.~~ "Dressing" means the ability to put on and remove articles of clothing and does not include braces nor does it reflect an individual's applicant or member's ability to match colors or choose clothing appropriate for the weather.
 - ~~12-13.~~ "Eating/drinking" means the process of putting food and fluid by any means into the digestive system.
 - ~~13-14.~~ "Expressive verbal communication" means an individual's applicant or member's ability to communicate thoughts with words or sounds.
 - ~~14-15.~~ "Food preparation" means the ability to prepare simple meals.
 - ~~15-16.~~ "Hand use" means the ability to use the hands, or hand if an individual applicant or member has only one hand, or has the use of only one hand.
 - ~~16-17.~~ "Limited/occasional" means a small portion of an entire task or assistance required less than daily.
 - ~~17-18.~~ "Personal hygiene" means the process of tending to one's appearance. This does not include aesthetics such as styling hair, skin care, and applying make-up. This Personal hygiene may include, but is not limited to: ,combing or brushing hair, washing face and hands, shaving, and performing routine nail care, oral hygiene (including denture care), and menstrual care. Personal hygiene does not include aesthetics such as styling hair, skin care, and applying make-up.
 - a. Combing or brushing hair,
 - b. Washing face and hands,
 - c. Shaving,
 - d. Performing routine nail care,
 - e. Oral hygiene including denture care, and
 - f. Menstrual care.
 - ~~18-19.~~ "Physical interruption" means immediate hands-on interaction to stop a behavior.
 - ~~19-20.~~ "Remembering instructions and demonstrations" means an individual's applicant or member's ability to recall instructions or demonstrations on how to complete specific tasks.
 - ~~20-21.~~ "Resistiveness/rebelliousness" means any inappropriate, stubborn, or uncooperative behavior excluding difficulty with processing information or reasonable expression of self-advocacy.
 - ~~21-22.~~ "Rolling and sitting" means an individual's applicant or member's ability to roll and sit independently or with the physical support of another person or with a device such as a pillow or specially designed chair.
 - ~~22-23.~~ "Running or wandering away" means to leave a situation or environment without either notifying or receiving permission from appropriate individuals as would normally be expected.

Arizona Administrative Register
Notices of Proposed Rulemaking

~~23-24.~~ “Self-injurious behavior” means an ~~individual’s applicant or member’s~~ repeated behavior that causes injury to the ~~individual applicant or member~~, and may include, but is not limited to, biting, scratching, putting inappropriate objects into ear, mouth, or nose, repeatedly picking at skin, and head slapping or banging.

~~24-25.~~ “Verbal or physical threatening” means any behavior in which an ~~individual applicant or member~~ uses words, sounds, or action to threaten harm to self, others, or objects.

~~25-26.~~ “Wheelchair mobility” means an ~~individual’s applicant or member’s~~ mobility using a wheelchair and does not include the ability to transfer to the wheelchair.

R9-28-302. General Provisions

To qualify for services described in A.R.S. § 36-2939 under Arizona Long-term Care System (ALTCS), an applicant shall meet the criteria described in Article 4 and shall be determined at immediate risk of institutionalization under the PAS process as specified in this Article.

- ~~A.~~ To qualify for services described in A.R.S. § 36-2939 under the Arizona Long-term Care System (ALTCS), an individual shall meet the criteria described in Article 4 and shall be determined to require care at the level of a nursing facility or an intermediate care facility for the mentally retarded (ICF-MR) in accordance with the preadmission screening (PAS) process described in this Article.
- ~~B.~~ An elderly or physically disabled (EPD) individual shall be assessed using the PAS instrument prescribed in R9-28-303 with the exception of physically disabled children less than 6 years of age who shall be assessed using the age-specific PAS instrument prescribed in R9-28-304 and then referred for physician review in accordance with R9-28-302(J). An individual with developmental disabilities shall be assessed using the PAS instrument prescribed in R9-28-304 with the exception of an individual with developmental disabilities residing in a nursing facility who shall be assessed using the PAS instrument prescribed in R9-28-303. An individual with developmental disabilities less than 6 months of age, shall be assessed using the PAS instrument described in R9-28-304, and then referred for physician review in accordance with R9-28-302(J).
- ~~C.~~ The PAS instrument shall be completed by an Administration assessor who is a registered nurse or a social worker and who has attended a minimum of 24 hours of classroom training for each type of preadmission screening (for EPD individuals and individuals with developmental disabilities). In addition, the Administration shall provide intensive oversight and mentoring for the assessor during the assessor’s first 30 days of employment, and ongoing oversight for the assessor’s subsequent period of employment.
 - ~~1.~~ For initial assessments of EPD individuals, the PAS instrument shall be completed by a registered nurse or by a social worker.
 - ~~2.~~ For initial assessments of individuals with developmental disabilities, the PAS instrument shall be completed by a registered nurse or by a social worker.
 - ~~3.~~ For initial assessments on hospitalized individuals, the PAS instrument shall be completed by a registered nurse or a team of a registered nurse and social worker.
 - ~~4.~~ For initial assessments and reassessments of individuals who use a ventilator, the PAS instrument shall be completed by a team composed of a registered nurse and a social worker.
- ~~D.~~ Individuals classified as ventilator dependent, as specified in Section 1902 (e)(9) of the Social Security Act, January 1, 1995 (and no future editions), which is incorporated by reference and is on file with the Administration and the Office of the Secretary of State, shall be determined to require care that is provided at a nursing facility or ICF MR level.
- ~~E.~~ Except as provided in subsection (I), an assessor shall conduct the PAS assessment face to face with an individual. The assessor shall make reasonable efforts to obtain available medical records. In addition, the assessor may obtain information for the PAS assessment from interviews with the individual, parent, guardian, caregivers, or others familiar with the individual’s functional or medical conditions.
- ~~F.~~ Except as provided in subsections (L) and (M), the PAS assessment determines an individual’s current need for long-term care.
- ~~G.~~ Using the information described in subsection (E), and professional judgment, based on education, training, and experience, an assessor shall complete the questions on the PAS instrument.
- ~~H.~~ After the PAS instrument is completed, a PAS score is calculated. The calculated PAS score is compared to an established threshold score which is based on statistical analyses of the results of pilot studies completed before implementation of the PAS instrument. Except as provided in subsection (I), the threshold score represents the point at which an individual is determined to require the level of care that is provided at a nursing facility or ICF-MR. The scoring methodology and threshold scores are specified in R9-28-303 and R9-28-304.
- ~~I.~~ The Administration shall request that an AHCCCS physician consultant review an individual’s file if:
 - ~~1.~~ An EPD individual’s PAS score is less than the threshold specified in R9-28-303, but is not less than 56;
 - ~~2.~~ The PAS score of an individual with developmental disabilities is less than the threshold specified in R9-28-304, but is not less than 38;
 - ~~3.~~ Notwithstanding the fact that an individual scores below the threshold, the Administration determines in the course of the preadmission screening that it has reasonable cause to believe that the individual’s unique functional abilities or

Arizona Administrative Register
Notices of Proposed Rulemaking

medical condition are such that a physician review is necessary to determine whether the items contained in the scored portions of the PAS instrument would indicate that the individual's condition necessitates the level of care provided in a nursing facility or ICF-MR;

4. An individual has a documented diagnosis as seriously mentally ill as defined in A.R.S. § 36-550, and the Administration determines that the individual has no medical diagnosis that in combination with the serious mental illness could necessitate the level of care provided in a nursing facility or ICF-MR. The review can result in a determination of ineligibility only if the physician determines that despite a score at or above the threshold, the individual does not meet the requirements of A.R.S. § 36-2936; or
5. An individual has a documented diagnosis of Autism, autistic-like behaviors or pervasive developmental disorder, if the individual is not eligible by score.

J. Conducting a review.

1. When conducting a review, the physician shall use the information set out in the PAS instrument to determine whether an individual has a nonpsychiatric medical condition or has a developmental disability that, by itself or in combination with other medical conditions, necessitates the level of care which is provided in a nursing facility or intermediate care facility for the mentally retarded. The physician shall review the PAS instrument and available medical records and use his or her professional judgment to determine whether the individual is at risk of institutionalization. At minimum the physician shall consider the following:
 - a. ADL dependence; and delays in development;
 - b. Continence;
 - c. Orientation;
 - d. Behavior;
 - e. Medical conditions; stability, prognosis;
 - f. Medical nursing treatments including skilled monitoring, medications, therapeutic regimens;
 - g. Supervision requirements;
 - h. Caregiver skill, training requirements; and
 - i. Other factors of significance to the individual case.
2. If the physician is unable to determine eligibility from the PAS instrument and available medical records, the physician may conduct a face-to-face review with the individual or contact others familiar with the individual's needs, including primary care physicians or other caregivers. If the reviewing physician recommends overturning the eligibility determination of the initial assessor, the physician shall state the reasons for that decision in the comments section of the instrument.

K. For initial assessments of individuals who are in a hospital or an intensive rehabilitation facility:

1. If the individual's discharge is planned to occur within 7 days, a PAS assessment shall be performed and medical eligibility determined; or
2. If the individual's discharge is not planned to occur within 7 days, a PAS assessment shall not be done and the individual shall be denied for ALTCS. Using the age and disability of the individual to determine which is appropriate, the Administration shall:
 - a. Determine whether the individual's income is equal to or less than the Supplemental Security Benefit amount in effect and forward the individual's records to the Department of Economic Security for determining AFDC-related acute care eligibility for AHCCCS, or
 - b. Evaluate the individual's records for an acute care only determination.

L. Upon request, the Administration shall conduct a PAS assessment to determine whether an individual who has been in a nursing or ICF-MR facility within the 3 months before the month of application, is entitled to receive retroactive benefits for that 3-month period.

M. Upon request, the Administration shall conduct a PAS assessment to determine whether a deceased individual who had been in a nursing facility or ICF-MR during the months covered by the application, would have been eligible to receive ALTCS benefits for those months.

R9-28-303. PAS Process

A. An assessor as defined in R9-28-301 shall complete the PAS instrument:

1. For initial assessment of an applicant who is DD or EPD;
2. For initial assessment of a hospitalized applicant, a registered nurse assessor shall complete the PAS instrument. In the event that a registered nurse assessor is not available, a social worker assessor shall complete the PAS; and
3. For initial assessment and reassessments of an applicant or member who uses a ventilator, a registered nurse assessor shall complete the PAS instrument.

B. The assessor shall use the PAS instrument to assess whether the following applicants are at immediate risk of institutionalization:

1. The assessor shall use the PAS instrument prescribed in R9-28-304 to assess an applicant or member who is EPD with the exception of a physically disabled applicant or member who is less than six years of age. For a physically

Arizona Administrative Register
Notices of Proposed Rulemaking

- disabled applicant or member who is less than six years of age, the assessor shall use the age-specific PAS instrument prescribed in R9-28-305 and then refer the applicant or member for physician consultant review under R9-28-303.
2. The assessor shall use the PAS instrument prescribed in R9-28-305 to assess an applicant or member who is DD, except for an applicant or member who is:
 - a. DD and residing in a NF, the assessor shall use the PAS instrument prescribed in R9-28-304.
 - b. DD and less than six months of age, the assessor shall use the PAS instrument described in R9-28-305 and then refer the applicant or member for physician consultant review under R9-28-303.
 - C. An applicant or member classified as ventilator dependent, as specified in Section 1902 (e)(9) of the Social Security Act, January 1, 1995, which is incorporated by reference and is on file with the Administration and the Office of the Secretary of State, shall be determined at immediate risk of institutionalization. This incorporation by reference contains no future editions or amendments.
 - D. For an initial assessment of an applicant who is in a hospital or an intensive rehabilitation facility:
 1. The assessor shall conduct the PAS assessment and determine medical eligibility if the applicant's discharge is planned to occur within seven days; or
 2. The assessor shall not conduct the PAS assessment and shall deny the applicant for ALTCS if the applicant's discharge is not planned to occur within seven days.
 - E. An assessor shall conduct a face-to-face PAS assessment with an applicant or member, except as provided in subsection (H). The assessor shall make reasonable efforts to obtain available medical records. In addition, the assessor may obtain information for the PAS assessment from interviews with the:
 1. Applicant or member.
 2. Parent.
 3. Guardian.
 4. Caregivers, or
 5. Others familiar with the applicant's functional or medical conditions.
 - F. Using the information obtained as described in subsection (E), an assessor shall complete the items on the PAS instrument based on professional judgment, education, and experience.
 - G. After the PAS instrument is completed, a PAS score is calculated. The calculated PAS score is compared to an established threshold score, which is calculated from statistical analyses of the results of pilot studies completed before implementation of the PAS instrument. Except as determined by physician consultant review as provided in subsections (I) and (J), the threshold score represents the point at which an applicant is determined at immediate risk of institutionalization. The scoring methodology and threshold scores are specified in R9-28-304 and R9-28-305.
 - H. Upon request, the Administration shall conduct a PAS assessment to determine whether a deceased applicant who had been in a NF or ICF-MR any time during the months covered by the application would have been eligible to receive ALTCS benefits for those months.
 - I. The Administration shall request that an AHCCCS physician consultant review the file when:
 1. The PAS score of an applicant or member who is EPD is less than the threshold specified in R9-28-304, but is not less than 56;
 2. The PAS score of an applicant or member who is DD is less than the threshold specified in R9-28-305, but is not less than 38;
 3. An applicant or member scores below the threshold, but the Administration has reasonable cause to believe that the applicant or member's unique functional abilities or medical condition places the applicant or member at immediate risk of institutionalization;
 4. An applicant or member scores below the threshold and has a documented diagnosis of Autism, autistic-like behaviors or pervasive developmental disorder; or
 5. An applicant or member with a documented diagnosis of seriously mentally ill as defined in A.R.S. § 36-550 achieves a score at or above the threshold, but does not meet the requirements of A.R.S. § 36-2936.
 - J. A physician conducting a review shall use the information contained in the PAS instrument, available medical records, and professional judgement to determine whether an applicant or member is DD or has a nonpsychiatric medical condition that, by itself or in combination with other medical conditions, places an applicant or member at immediate risk of institutionalization. At minimum the physician shall consider the following:
 1. ADL dependence;
 2. delays in development;
 3. Continence;
 4. Orientation;
 5. Behavior;
 6. Medical conditions including stability, prognosis;
 7. Medical nursing treatments including skilled monitoring, medications, therapeutic regimens;
 8. Supervision requirements;
 9. Caregiver skill, training requirements; and

Arizona Administrative Register
Notices of Proposed Rulemaking

10. Other factors of significance to the individual case.

K. The physician shall state the reasons for the recommended decision in the comments section of the PAS instrument.

L. If the physician is unable to determine eligibility from the PAS instrument and available medical records, the physician may conduct a face-to-face review with the applicant or member or contact others familiar with the applicant's needs, including primary care physicians or other caregivers.

R9-28-303, R9-28-304. Preadmission Screening for Elderly or Physically Disabled Individuals PAS Criteria for an Applicant or Member who is EPD

A. The PAS instrument for EPD individuals an applicant or member who is EPD includes 4 four major categories: intake information, functional assessment, emotional and cognitive functioning, and medical assessment.

1. The intake information category solicits information on an individual's applicant or member's demographic background. No components of the intake information category are included in the calculated PAS score.

2. The functional assessment category solicits information on an individual's applicant or member's:

a. Need for assistance with activities of daily living, including: bathing, dressing, grooming, eating, mobility, transferring, and toileting in the residential environment or other routine setting;

i. Bathing,

ii. Dressing,

iii. Grooming,

iv. Eating,

v. Mobility,

vi. Transferring, and

vii. Toileting in the residential environment or other routine setting;

b. Communication and sensory skills, including hearing, expressive communication, and vision; and

c. Continence, including bowel and bladder functioning. A history of transitory incontinence caused by an acute or temporary condition or illness shall not be considered for rating.

3. The emotional and cognitive functioning category solicits information on an individual's applicant or member's:

a. Orientation to person, place, and time; and

b. Behavior, including: wandering, self-injurious behavior, aggression, suicidal behavior, and disruptive behavior. Some questions in the behavior section refer to intervention and to medical attention. For the purposes of this subsection, medical attention means an examination by a physician, primary care provider, or both, and treatment if necessary.

i. Wandering,

ii. Self-injurious behavior,

iii. Aggression,

iv. Suicidal behavior, and

v. Disruptive behavior.

4. The medical assessment category solicits information on an individual's applicant or member's:

a. Medical conditions and the medical condition's impact on the individual's applicant or member's ability to perform activities of daily living independently or whether the conditions require medical or nursing treatments;

b. Medical conditions which require medical/nursing services and treatments;

b-c. Medications, treatments, and allergies;

e-d. Specific services and treatments that the individual applicant receives or needs and the frequency of those services and treatments; and

d-e. A description of the individual's physical characteristics Physical measurements, hospital hospitalization history, and ventilator dependency.

B. The PAS instrument for EPD individuals an applicant or member who is EPD, October, 1992, (and no future amendments or editions), is incorporated by reference and is on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. When the PAS instrument is completed, the responses answers selected by the assessor are used to calculate 3 three scores: a functional score, a medical score, and a total score.

1. Functional score.

a. The functional score is based on calculated from responses answers to scored questions items in the functional assessment and emotional and cognitive functioning categories. Each answer is assigned For each response to a scored item, a number of points is assigned, a number of points. For each scored question, the number of assigned points which is multiplied by a weighted numerical value. The result is resulting in a weighted score for each question response. The weighted numerical values are based on calculated from statistical analyses of the results of pilot study results studies completed before implementation of the PAS instrument and reflect the importance reliability and validity of information on the PAS instrument in predicting whether an individual applicant meets the criteria of A.R.S. § 36-2936.

Arizona Administrative Register
Notices of Proposed Rulemaking

- b. For ~~EPD individuals~~ an applicant or member who is EPD, ~~some questions~~ designated items in the categories noted below are scored, as indicated in subsection (C), under the ~~Functional~~ Assessment matrices:
 - i. Sensory skills;
 - ii. Medical conditions; and
 - iii. Medical/nursing services and treatments.
 - c. For ~~EPD individuals~~ an applicant or member who is EPD, all ~~questions~~ items in categories noted below are scored, as indicated in subsection (C), under the following Functional Assessment matrices:
 - i. Activities of daily living;
 - ii. Continence;
 - iii. Orientation; and
 - iv. Behavior.
 - d. The sum of the weighted scores equals the functional score. The weighted score per ~~question~~ item can range from 0 to 15. The maximum functional score attainable by an ~~individual~~ applicant or member is 141. There is no minimum functional score ~~that needs to be attained~~ required except as prescribed in subsections (B)(3)(c) and (B)(3)(d).
2. Medical score.
- a. The EPD population is divided into ~~2~~ two groups for purposes of calculating the medical score. The primary ~~distinction~~ distinctions between the ~~2~~ two groups ~~is~~ are differences in medical needs as specified below.
 - i. Group 1 includes ~~individuals~~ an applicant or member diagnosed with paralysis, head trauma, multiple sclerosis, amyotrophic lateral sclerosis, or Parkinson's disease that either impacts the ~~individual's~~ applicant or member's ability to perform activities of daily living independently or requires the applicant or member to receive nursing services or treatments.
 - ii. Group 2 includes ~~individuals~~ an applicant or member diagnosed with Alzheimer's disease, dementia, or an organic brain syndrome that either impacts the ~~individual's~~ applicant or member's ability to perform activities of daily living independently or requires medical/nursing services and treatments. If an ~~individual~~ applicant or member does not meet ~~+~~ one of the criteria for Group 2, the ~~individual~~ applicant or member is considered to be in Group 1.
 - b. Scoring methodology: Group 1 individuals.
 - i. The medical score is ~~based on~~ calculated from information obtained from the medical conditions and the services and treatments sections of the PAS instrument.
 - ii. Each response to a scored item in the medical assessment category is assigned a certain number of points, ranging from 0 to 4 points per item.
 - iii. The sum of the points equals the medical score, with a maximum score of 63. There is no minimum medical score ~~that needs to be attained~~ required, except as prescribed in subsection (B)(3)(c).
 - c. Scoring Methodology: Group 2 individuals.
 - i. The medical score is ~~based on~~ calculated from information obtained from the services and treatments section of the PAS instrument.
 - ii. Each response to a scored item in the medical assessment category is assigned a number of points, ranging from 0 to 16 points per item.
 - iii. The sum of the points equals the medical score, with a maximum score of 42. There is no minimum medical score ~~that needs to be attained~~ required, except as prescribed in subsection (B)(3)(d).
3. Total score.
- a. The sum of an ~~individual's~~ applicant or member's functional and medical scores equals the total score.
 - b. The total score is compared to an established threshold score. For ~~all EPD individuals~~ an applicant or member who is EPD, regardless of whether ~~the individual is~~ in Group 1 or in Group 2, the threshold score is 60. Thus, an ~~individual~~ applicant or member with a total score equal to or greater than 60 is ~~deemed to require care that is provided at the nursing facility or ICF-MR level~~ determined at immediate risk of institutionalization, except as defined in R9-28-303.
 - c. If an ~~individual~~ applicant or member is in Group 1 and has a total score less than 60, a functional score equal to or greater than 30 and a medical score equal to or greater than 13, the ~~individual~~ applicant or member is ~~deemed to require care that is provided at the nursing facility or ICF-MR level~~ determined at immediate risk of institutionalization, except as defined in R9-28-303.
 - d. If an ~~individual~~ applicant or member is in Group 2 and has a total score less than 60 and:
 - i. A functional score equal to or greater than 30 and a weighted score from the orientation section equal to or greater than 5, the ~~individual~~ applicant or member is ~~deemed to require care that is provided at the nursing facility or ICF-MR level~~ determined at immediate risk of institutionalization, except as defined in R9-28-303; or
 - ii. A functional score equal to or greater than 30 and the ~~individual~~ applicant or member is assigned at least ~~2~~ two points for any ~~+~~ one ~~item~~ question in the behavior section, the ~~individual~~ applicant or member is ~~deemed~~

Arizona Administrative Register
Notices of Proposed Rulemaking

to require care that is provided at the nursing facility or ICF-MR level determined at immediate risk of institutionalization, except as defined in R9-28-303.

- C. The following tables represent the number of points available and the weight for each scored question item.
1. Functional assessment points. The lowest value in the range of points available per item in the functional assessment category indicates minimal or no impairment. Conversely, the highest value indicates severe impairment.
 2. Medical assessment points. The lowest value in the range of points available per item in the medical assessment category, 0, indicates that the applicant or member does not have the medical condition or does not need or receive the medical or nursing service treatment. Conversely, the highest value, 1, indicates that the applicant or member does have the medical condition or does need or receive the medical or nursing service or treatment.

Functional Assessment	# of Points Available Per Question Item¹ (P)	Weight (W)	Range of Possible Weighted Score per Question Item (P)x(W)
Activities of Daily Living Section			
Bathing, Dressing, Grooming, Mobility, Toileting	0-5	3.00	0-15
Eating	0-6	2.50	0-15
Transfer	0-4	3.75	0-15
Continence Section			
Bowel	0-2	0	0
	3	.167	.5
Bladder	0-4	0.50	0-2
Sensory Section			
Vision	0-1	0	0
	2	1.75	3.5
	3	1.167	3.5
Orientation Section			
Person, Place, Time	0-3	1.00	0-3
Emotional/Cognitive Behavior Section			
Aggression, Self-injurious, Suicidal, Wandering	0-3	1.00	0-3
Disruptive	0-3	3.00	0-9

¹The lowest value in the range of points available per question the functional assessment category indicates minimal or no impairment and, conversely, the highest value indicates severe impairment.

Medical Assessment Group 1	# of Points Available Per Question Item¹ (P)	Weight (W)	Range of Possible Weighted Score Per Question Item (P)x(W)
Medical Conditions Section			
Paralysis/Sclerosis	0-1	3.00	0 - 3

Arizona Administrative Register
Notices of Proposed Rulemaking

Alzheimer's/OBS/ Dementia	0-1	3.50	0 - 3.5
Services and Treatments Section			
Physical Therapy, Occupational Therapy, Speech Therapy	0-1	0.50	0 - .5
Suctioning, Oxygen, Small Volume Nebulizer, Tra- cheostomy Care, Postural Drain age, Respiratory Therapy	0-1	1.50	0 or 1.5
Drug Regulation	0-1	2.00	0 or 2
Decubitus Care, Wound Care, Ostomy Care, Feed- ings-Tube and/or Parenteral, Catheter Care, Other Ostomy Care, Dial- ysis, Fluid Intake/Out put	0-1	3.00	0 or 3
Teaching/Training Pro- gram, Bowel/ Bladder Pro- gram, Range of Motion, Other Rehabilitative Nurs- ing, Restraints	0-1	4.00	0 or 4
Medical Assessment Group 2	# of Points Available per Question Item (P)	Weight (W)	Range of Possible Weighted Score Per Question Item[†]
Drug Regulation	0-1	2.00	0 or 2
Teaching/Training Pro- gram, Bowel/ Bladder Pro- gram, Range of Motion, Other Rehabilitative Nurs- ing	0-1	6.00	0 or 6
Restraints (Physical/ Chemical)	0-1	16.00	0 or 16

[†]The lowest value in the range of points available per question in the medical assessment category, 0, indicates that the individual does not have the medical condition or does not need or receive the medical or nursing service treatment. Conversely, the highest value, 1, indicates that the individual does have the medical condition or does need or receive the medical or nursing service or treatment.

R9-28-304, R9-28-305. Preadmission Screening for Individuals with Developmental Disabilities PAS Criteria for an Applicant or Member who is DD

- A. The Administration shall conduct a PAS of preadmission screening of individuals with developmental disabilities an applicant or member who is DD using ± one of 4 four PAS instruments specifically designed to assess individuals an applicant or member in the following age groups: individuals 12 years of age and older; children 6 to 11 years of age; children 3 to 5 years of age; and children less than 3 years of age.
1. 12 years of age and older.
 2. Six to 11 years of age.
 3. Three to five years of age, and
 4. Less than three years of age.
- B. The PAS instruments for individuals with developmental disabilities an applicant or member who is DD include 3 three major categories: intake information, functional assessment, and medical assessment.

Arizona Administrative Register
Notices of Proposed Rulemaking

1. The intake information category solicits information on an ~~individual's~~ applicant or member's demographic background. No components of the intake information category are ~~scored~~ included in the calculated PAS score.
2. The functional assessment category differs by age group, as indicated in subsections (B)(2)(a) through (B)(2)(e) ~~below:~~
 - a. For ~~individuals~~ an applicant or member 12 years of age and older, the functional assessment category solicits information on an ~~individual's~~ applicant or member's:
 - i. Need for assistance with independent living skills, including hand use, ambulation, wheelchair mobility, transfer, eating/drinking, dressing, personal hygiene, bathing or showering, food preparation, community mobility, and toileting;
 - ii. Communication skills and cognitive abilities, including expressive verbal communication, clarity of communication, associating time with events and actions, and remembering instructions and demonstrations; and
 - iii. Behavior, including aggression, verbal or physical threatening ~~behavior~~, self-injurious behavior, and resistive/rebellious behavior.
 - b. For ~~individuals~~ an applicant or member ~~6~~ six through 11 years of age, the functional assessment category solicits information on an ~~individual's~~ applicant or member's:
 - i. Need for assistance with independent living skills, including rolling and sitting, crawling and standing, ambulation, climbing stairs or ramps, wheelchair mobility, dressing, personal hygiene, bathing or showering, toileting, level of bladder control, and orientation to familiar settings;
 - ii. Communication, including expressive verbal communication and clarity of communication; and
 - iii. Behavior, including aggression, verbal or physical threatening ~~behavior~~, self-injurious behavior, running or wandering away, and disruptive behavior.
 - c. For ~~individuals~~ 3 ~~an applicant or member~~ three through ~~5~~ five years of age, the functional assessment category solicits information on an ~~individual's~~ applicant or member's:
 - i. ~~Status Performance~~ with respect to a series of developmental milestones; ~~including 50 factors~~ that measure an ~~individual's~~ an applicant or member's degree of functional growth;
 - ii. Need for assistance with independent living skills, including toileting and dressing, and the ~~individual's~~ applicant or member's orientation to familiar settings;
 - iii. Communication, including clarity of communication; and
 - iv. Behavior, including aggression, verbal or physical threatening ~~behavior~~, and self-injurious behavior.
 - d. For ~~individuals~~ 6 ~~an applicant or member~~ six months of age and up to ~~3~~ three years of age, the functional assessment category solicits information on ~~the individual's degree of functional growth using age specific factors~~ developmental milestones.
 - e. For ~~individuals~~ an applicant or member less than ~~6~~ six months of age, a functional assessment is not completed. A description of development is included in the PAS instrument narrative summary.
3. ~~Function assessment scoring:~~
 - a. For individuals 12 years of age and older, all questions in the behavior section are scored, and some questions in the independent living skills, communication skills, and cognitive abilities sections are scored, as indicated in subsection (D), under the Functional Assessment matrix.
 - b. For individuals 6 through 11 years of age, all questions in the communication section are scored, and some questions in the independent living skills and behavior sections are scored, as indicated in subsection (D), under the Functional Assessment matrix.
 - c. For individuals 3 through 5 years of age, all questions in the developmental milestones and behavior section are scored, and some questions in the independent living skills are scored, as indicated in subsection (D), under the Functional Assessment matrix.
 - d. For individuals 6 months of age up to 3 years of age, all questions regarding specific factors measuring the degree of functional growth are scored, as indicated in subsection (D), under the Functional Assessment matrix.
- 4.3. The medical assessment category solicits information on an ~~individual's~~ applicant or member's:
 - a. Medical conditions;
 - b. Specific services and treatments the ~~individual~~ applicant or member receives or needs and the frequency of those services and treatments;
 - c. Current medications; ~~and treatments, medical stability, sensory functioning and physical measurements; and~~
 - d. Medical stability;
 - e. Sensory functioning;
 - f. Physical measurements; and
 - ~~d-g.~~ Current placement, ventilator dependency and ~~DD~~ status of the individual, as determined by the Department of Economic Security eligibility for DES Division of Developmental Disabilities program services.
5. ~~Medical assessment scoring.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

- a. For individuals 12 years of age and older, some questions in the medical conditions section are scored, as indicated in subsection (D), under the Medical Assessment matrix.
 - b. For individuals 6 years through 11 years of age, some questions in the medical conditions section are scored, as indicated in subsection (D), under the Medical Assessment matrix.
 - c. For individuals 3 years of age up to 6 years of age, some questions in the medical conditions and medical stability sections are scored, as indicated in subsection (D), under the Medical Assessment matrix.
 - d. For individuals 6 months of age up to 3 years of age, some questions in the medical conditions, services and treatments, and medical stability sections are scored, as indicated in subsection (D), under the Medical Assessment matrix.
 - e. For individuals less than 6 months of age, a medical assessment is completed; however, no questions are scored. These individuals are referred for physician review.
- C. The PAS instruments for individuals with developmental disabilities an applicant or member who is DD, August, 1995, (and no future editions or amendments), are incorporated by reference and are on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. When the PAS instrument is completed, the answers responses selected by the assessor are used to calculate 3 three scores: a functional score, a medical score, and a total score.
- 1. Functional score.
 - a. The functional score is based on calculated from responses answers to scored questions items in the functional assessment category. Each answer is assigned For each response to a scored item, a number of points is assigned, a number of points. For each scored question, the number of points which is multiplied by a weighted numerical value. The result is resulting in a weighted score for each question response. The weighted numerical values are based on calculated from statistical analyses of the results of pilot studies completed before implementation of the PAS instrument and reflect the importance reliability and validity of information on that the PAS instrument in predicting whether an individual applicant or member meets the criteria of A.R.S. § 36-2936.
 - b. The following items are scored as indicated in subsection (D), under the Functional Assessment matrix:
 - i. For an applicant or member 12 years of age and older, all items in the behavior section are scored. Designated items in the independent living skills, communication skills, and cognitive abilities sections are scored.
 - ii. For an applicant or member six through 11 years of age, all items in the communication section are scored. Designated items in the independent living skills and behavior sections are scored.
 - iii. For an applicant or member three through five years of age, all items in the developmental milestones and behavior section are scored. Designated items in the independent living skills are scored.
 - iv. For an applicant or member six months of age up to three years of age, all items regarding age specific milestones are scored.
 - b.c. The sum of the weighted scores equals the functional score. The range of weighted score per question item and maximum functional score for each age group is presented below:

AGE GROUP	RANGE FOR WEIGHTED SCORE PER QUESTION ITEM	MAXIMUM FUNCTIONAL SCORE ATTAINABLE
12+	0 - 11.2	124.1
6-11	0 - 24.0	112.5
3-5	0 - 15.6	78.2
0-2	0 - 1.4	70.0

- e.d. There is no minimum functional score that needs to be attained required.
- 2. Medical score.
 - a. Items (C)(2)(a)(i) through (iii) are scored as indicated in subsection (D), under the Medical Assessment matrix:
 - i. For an applicant or member 12 years of age and older and six years of age through 11 years of age, designated items in the medical conditions section are scored.
 - ii. For an applicant or member three years of age up to six years of age, designated items in the medical conditions and medical stability sections are scored.
 - iii. For an applicant or member six months of age up to three years of age, designated items in the medical conditions, services and treatments, and medical stability sections are scored.

Arizona Administrative Register
Notices of Proposed Rulemaking

iv. For an applicant or member less than six months of age, a medical assessment is completed; however, no items are scored. These individuals are referred for physician consultant review.

a-b. The medical score is ~~based on~~ calculated from information obtained in the medical assessment category. Each response to a scored item is assigned a number of points. The sum of the points equals the medical score. The range of points per item and the maximum medical score attainable by an ~~individual~~ applicant or member is presented below:

AGE GROUP	RANGE OF POINTS PER ITEM	MAXIMUM MEDICAL SCORE ATTAINABLE
12+	0 - 20.6	21.4
6-11	0 - 2.5	5.0
3-5	0 - 14.8	23.0
0-2	0 - 7.0	44.3

b-c. There is no minimum medical score ~~that needs to be attained~~ required.

3. Total score.

- a. The sum of an ~~individual's~~ applicant or member's functional and medical scores equals the total score.
- b. The total score is compared to an established threshold score. For ~~all individuals with developmental disabilities~~ an applicant or member who is DD, the threshold score is 40. Thus, an ~~individual~~ applicant or member with a total score equal to or greater than 40 is ~~deemed to require care that is provided at the nursing facility or ICF-MR level~~ determined at immediate risk of institutionalization.

D. The following tables represent the number of points available and the weight for each scored ~~question~~ item.

1. Functional assessment points. The lowest value in the range of points available per item in the functional assessment category indicates minimal to no impairment. Conversely, the highest value indicates severe impairment.
2. Medical assessment points. The lowest value in the range of points available per item in the medical assessment category, 0, indicates that the applicant or member does not have the medical condition or does not need or receive the medical or nursing service or treatment. Conversely, the highest value, 1, indicates that the applicant or member does have the medical condition or does need or receive the medical or nursing service or treatment.

AGE GROUP 12 AND OLDER	# of Points Available Per Question [†] <u>Item (P)</u>	Weight (W)	Range of Possible Weighted Score Per Question <u>Item (P) x (W)</u>
Functional Assessment			
Independent Living Skills Section			
Hand Use, Food Preparation	0-3	3.50	0-10.5
Ambulation, Toileting, Eating, Dressing, Personal Hygiene	0-4	2.80	0-11.2
Communicative Skills and Cognitive Abilities Section			
Associating Time, Remembering Instructions	0-3	0.50	0 - 1.5
Behavior Section			
Aggression, Threatening, Self Injurious	0-4	2.80	0-11.2
Resistive	0-3	3.50	0-10.5

[†]The lowest value in the range of points available per question in the functional assessment category indicates minimal to no impairment and, conversely, the highest value indicates severe impairment.

Arizona Administrative Register
Notices of Proposed Rulemaking

AGE GROUP 12 AND OLDER	# of Points Available Per Question[†] Item (P)	Weight (W)	Range of Possible Weighted Score Per Question Item (P) x (W)
Medical Assessment			
Medical Conditions Section			
Cerebral Palsy, Epilepsy	0-1	0.40	0-.4
Moderate, Severe, Profound Mental Retardation	0-1	20.60	0-20.6

[†]The lowest value in the range of points available per question in the medical assessment category, 0, indicates that the individual does not have the medical condition or does not need or receive the medical or nursing service or treatment. Conversely, the highest value, 1, indicates that the individual does have the medical condition or does need or receive the medical or nursing service or treatment.

AGE GROUP 6-11	# of Points Available Per Question[†] Item (P)	Weight (W)	Range of Possible Weighted Score Per Question Item (P) x (W)
Functional Assessment			
Independent Living Skills Section			
Climbing Stairs, Wheelchair Mobility, Bladder Control	0-3	1.875	0-5.625
Ambulation, Dressing, Bathing, Toileting	0-4	1.50	0-6
Crawling/Standing	0-5	1.25	0-6.25
Rolling/Sitting	0-8	0.833	0-6.66
Communication Section			
Clarity	0-4	1.50	0-6
Expressive Communication	0-5	1.25	0-6.25
Behavior Section			
Wandering	0-4	6.00	0-24
Disruptive	0-3	7.50	0-22.5

[†]The lowest value in the range of points available per question in the functional assessment category indicates minimal to no impairment and, conversely, the highest value indicates severe impairment.

AGE GROUP 6 - 11	# of Points Available Per Question[†] Item (P)	Weight (W)	Range of Possible Weighted Score Per Question Item (P) x (W)
Medical Assessment			
Medical Conditions Section			
Cerebral Palsy, Epilepsy	0-1	2.50	0-2.5

Arizona Administrative Register
Notices of Proposed Rulemaking

[†]The lowest value in the range of points available per question in the medical assessment category, 0, indicates that the individual does not have the medical condition or does not need or receive the medical or nursing service or treatment. Conversely, the highest value, 1, indicates that the individual does have the medical condition or does need or receive the medical or nursing service or treatment.

AGE GROUP 3-5	# of Points Available Per Question[†] Item (P)	Weight (W)	Range of Possible Weighted Score Per Question Item (P) x (W)
Functional Assessment			
Developmental Milestones Section			
Factors Measuring an Individual's Degree of Functional Growth	0-1	0.70	0-.7
Independent Living Skills Section			
Toileting, Dressing	0-4	3.90	0-15.6
Behavior Section			
Aggression, Threatening, Self Injurious	0-4	1.00	0-4

[†]The lowest value in the range of points available per question in the functional assessment category indicates minimal to no impairment and, conversely, the highest value indicates severe impairment.

AGE GROUP 3 - 5	# of Points Available Per Question[†] Item (P)	Weight (W)	Range of Possible Weighted Score Per Question Item (P) x (W)
Medical Assessment			
Medical Conditions Section			
Moderate, Severe, Pro-found Mental Retardation	0-1	14.80	0-14.8
Medical Stability Section			
Direct Caregiver Required, Special Diet	0-1	4.10	0-4.1

[†]The lowest value in the range of points available per question in the medical assessment category, 0, indicates that the individual does not have the medical condition or does not need or receive the medical or nursing service or treatment. Conversely, the highest value, 1, indicates that the individual does have the medical condition or does need or receive the medical or nursing service or treatment.

AGE GROUP 0-2	# of Points Available Per Question[†] Item (P)	Weight (W)	Range of Possible Weighted Score Per Question Item (P) x (W)
Functional Assessment			
Developmental Milestones Section			
Factors Measuring an Individual's Degree of Functional Growth	0-1	1.40	0-1.4

[†]The lowest value in the range of points available per question in the functional assessment category indicates minimal to no impairment and, conversely, the highest value indicates severe impairment.

Arizona Administrative Register
Notices of Proposed Rulemaking

AGE GROUP 0-2	# of Points Available Per Question ² Item	Weight	Range of Possible Weighted Score Per Question Item (P) x (W)
Medical Assessment			
Services and Treatments Section			
Non-Bladder/Bowel Ostomy, Tube Feeding, Oxygen	0-1	6.10	0-6.1
Medical Conditions Section			
Any Mental Retardation, Epilepsy, Cerebral Palsy	0-1	7.00	0-7
Medical Stability Section			
Trained Direct Caregiver, Special Diet or a Minimum of 2 Hospitalizations	0-1	5.00	0-5

²The lowest value in the range of points available per question in the medical assessment category, 0, indicates that the individual does not have the medical condition or does not need or receive the medical or nursing service or treatment. Conversely, the highest value, 1, indicates that the individual does have the medical condition or does need or receive the medical or nursing service or treatment.

~~R9-28-305.~~ R9-28-306. Reassessments

- A. An ~~Administration~~ assessor as prescribed in R9-28-303 shall reassess each ALTCS member to determine continued need for ALTCS services eligibility. The assessor shall base the determination of continued qualification for ALTCS services on the same criteria used for the initial ~~preadmission screening PAS~~ as prescribed in R9-28-302, R9-28-303, and R9-28-304 R9-28-303.
- B. One or more of the individuals described in ~~R9-28-302(C)~~ R9-28-301 shall conduct each reassessment and may refer the assessment for physician consultant review.
- C. ~~Reassessment by the Administration shall occur~~ An assessor shall conduct a reassessment annually except as follows:
1. ~~Annually, except in the following circumstances:~~ An assessor shall reassess a member every four years when:
 - a. ~~EPD individuals 80 years of age and older who have been ALTCS eligible for 2 consecutive years shall be reassessed every other year;~~ A member who is EPD is 80 years of age or older and has been eligible for at least two consecutive years;
 - b. ~~EPD individuals diagnosed with Alzheimer's disease, dementia, or an organic brain syndrome who have been ALTCS eligible for 2 consecutive years shall be reassessed every other year;~~ A member who is EPD has been eligible for at least two consecutive years and is diagnosed with Alzheimer's disease, dementia, or organic brain syndrome;
 - c. ~~EPD individuals~~ A member who is EPD who have has been eligible for ~~2~~ two or more consecutive years and have has had a SNF-2 level of care on their the last ~~2~~ two PAS assessments shall be reassessed every other year;
 - d. ~~EPD individuals who have been eligible for 3 or more consecutive years and have been continuously institutionalized for 3 or more years shall be reassessed every other year;~~ A member who is EPD has been continuously institutionalized for three or more consecutive years and has been eligible at least three consecutive years; and
 - e. ~~DD individuals with severe or profound mental retardation who have been eligible for 2 or more consecutive years shall be reassessed every other year;~~ and A member who is DD is age 12 or older and is eligible for two or more consecutive years scoring 90 points or more.
 - f. The Administration identifies other EPD and DD population groups within the ALTCS program for which a reassessment period greater than 1 year is appropriate.
 2. An assessor shall reassess a member every three years when a member who is DD is age 12 or older and has been eligible for two or more consecutive years scoring 80 points to less than 90 points.
 3. An assessor shall reassess a member every two years when:
 - a. A member who is EPD has been eligible for two or more consecutive years, has had at least three assessments, and has scored 20 or more points on the last assessment;
 - b. A member who is DD has severe or profound mental retardation and has been eligible for two or more consecutive years; and

Arizona Administrative Register
Notices of Proposed Rulemaking

- c. A member who is DD is age 12 or older, eligible for two or more consecutive years, and has scored 61 points to less than 80 points.
4. The Administration identifies other population groups within the ALTCS program for which a reassessment period greater than one year is appropriate.
- 2.5. In connection with routine audit of the preadmission screening PAS by the Administration in which errors affecting eligibility are discovered.
- 3.6. In connection with an audit of the preadmission screening PAS requested by a nursing facility NF, program contractor, case manager, or other party where the Administration has determined that continued eligibility is uncertain due to substantial evidence of a change in the member's circumstances or error in the preadmission screening PAS; and
- 4.7. At the request of the Administration's physician consultant.

~~R9-28-306, R9-28-307, Transitional Program for a Member who is EPD or DD Elderly and Physically Disabled and Developmentally Disabled Members and Eligible Persons~~

- A. ~~Effective September 1, 1995, a transitional program is established for members and eligible persons meeting the criteria set forth in this Section. The ALTCS transitional program serves members and eligible persons enrolled in the ALTCS program who, at the time of reassessment as described in R9-28-305 R9-28-306, are found to no longer meet the threshold specified in R9-28-303 R9-28-304 for the elderly and physically disabled EPD or in R9-28-304(B) R9-28-305 for DD, the developmentally disabled. Members and eligible persons qualifying for the transitional program may receive appropriate home and community based services. The member must meet all other ALTCS eligibility criteria. The member's PAS assessment will be compared to a second scoring methodology for eligibility in the transitional program as defined in subsections (B) and (C).~~
- B. ~~Developmentally disabled members and eligible persons who are otherwise eligible for ALTCS shall be transferred~~ The Administration shall transfer a member who is DD from the ALTCS program to the ALTCS transitional program if, at the time of a reassessment conducted subsequent to September 1, 1995, the total preadmission score is less than the threshold described in R9-28-304(B) R9-28-305 but is not less than 30, or the member or eligible person is diagnosed with moderate, severe, or profound mental retardation.
- C. ~~Elderly and physically disabled members and eligible persons who are otherwise eligible for ALTCS shall be transferred~~ The Administration shall transfer a member who is EPD from the ALTCS program to the ALTCS transitional program if, at the time of a reassessment conducted subsequent to September 1, 1995, the preadmission screening PAS score is less than the threshold described in R9-28-303 R9-28-304 but the member or eligible person meets one or more of the following criteria:
 1. Has a score of 2 two or more on 3 three of the following 5 five activities for daily living: eating, dressing, bathing, toileting, and transferring;
 - a. Eating,
 - b. Dressing,
 - c. Bathing,
 - d. Toileting, and
 - e. Transferring;
 2. Has a diagnosis of: Alzheimer's disease, organic brain syndrome, dementia, Parkinson's disease, or head trauma which impacts activities of daily living;
 - a. Alzheimer's disease,
 - b. Organic brain syndrome,
 - c. Dementia,
 - d. Parkinson's disease, or
 - e. Head trauma, which impacts activities of daily living;
 3. Has a score of 2 two or more on any of the items in the emotional and cognitive functioning category.
- D. ~~Members and eligible persons An assessor shall conduct a reassessment annually of a member qualifying for the transitional program shall be reassessed annually to determine if they continue the member continues to meet the criteria specified in subsections (B) and (C).~~
- E. ~~For members and eligible persons For a member residing in a NF or nursing facility (NF) or an intermediate care facility for the mentally retarded (ICF-MR), ICF-MR, the program contractor or the Administration has up to 90 continuous days, from the effective enrollment date of the member's or eligible person's eligibility for the transitional program, to move the member or eligible person to an approved home- and community-based setting.~~
- F. ~~Members and eligible persons A member in the transitional program shall continue to receive all medically necessary covered services as specified in Article 2.~~
- G. ~~For members and eligible persons whose condition worsens to the extent that NF or ICF-MR services are medically necessary on a temporary basis, the program contractor or the Administration may place the member or eligible person in a NF or ICF-MR for up to 90 days at any 1 admission. The member is eligible to receive up to 90 continuous days per NF or ICF-MR admission when the member's condition worsens to the extent that an admission is medically necessary.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

- H. For ~~members~~ a member requiring medically necessary NF or ICF-MR services for longer than 90 days, the program contractor shall request the Administration to conduct a reassessment.

NOTICE OF PROPOSED RULEMAKING

TITLE 13. PUBLIC SAFETY

CHAPTER 5. LAW ENFORCEMENT MERIT SYSTEM COUNCIL

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|------------------------------------|---------------------------------|
| R13-5-101 | Amend |
| R13-5-302 | Amend |
| R13-5-304 | Amend |
| R13-5-305 | Amend |
| R13-5-312 | Amend |
| R13-5-314 | Amend |
| R13-5-316 | Amend |
| R13-5-506 | Amend |
| R13-5-804 | 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. § 41-1830.12(A)
Implementing statutes: A.R.S. § 41-382(19)(a), 41-1714, 41-1830.11, 41-1830.12, 41-1830.13, and 41-1830.14
- 3. A list of all previous notices appearing in the Register addressing the proposed**
None
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Commander C. H. Johnston, Business Manager
Address: Law Enforcement Merit System Council
P.O. Box 6638
Phoenix, AZ 85005
Telephone: (602) 223-2286
Fax: (602) 223-2096
E-mail: Cjohnston@dps.state.az.us
- 5. An explanation of the rules, including the agency's reasons for initiating the rules:**
The Law Enforcement Merit System Council (Council) completed a major rewrite of the rules on May 10, 2000. It was anticipated that some minor revisions would be needed following such a major rewrite. These revisions are intended to clarify the rules.

The previous rules contained a provision for special limited term employment. This rule allowed the agencies to hire and train officers and retain them in a probationary status for one full year after graduation from the Peace officer Standards and Training (P.O.S.T.) Academy. When the new rules were adopted this rule was deleted. A part of this rule revision will place this rule back into the Council rules. This also necessitates a number of revisions to the definitions.

On June 21, 2000, the Council approved a Substantive Policy Statement to clarify the intermittent appointments rule (R13-5-314). This change includes the Substantive Policy Statement approved by the Council.

The Arizona Legislature amended the statutes during the 2001 legislative session authorizing the Council to adopt rules that will permit the transfer of annual leave from an employee within an agency under the rules of the Council to a family member who works for another state agency. This revision will also adopt the rule necessary for this to occur.

Arizona Administrative Register
Notices of Proposed Rulemaking

There are some minor changes in other areas of the rules in order to meet the needs of the Council and the agencies affected by Council rules.

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 rules are necessary to promote a statewide interest if the rules 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 revision in R13-5-302 merely moves a subsection from a specific rule (R13-5-304) into the general rule (R13-5-302). This rule was intended to apply to all examinations. This does not create any additional costs.

The revision in R13-5-305(I) is intended to establish a time limit for an employee to request the Council to review the business manager's decision. This should have a positive impact on everyone involved in that it more clearly defines the parameters for filing such a request but should have no cost impact.

The hiring and retention of good candidates to serve as police officers is one of the greatest responsibilities of the Department of Public Safety. The Council rules governing this process must provide the agency with the ability to hire, train and promote the employee into the classification of officer and still retain the ability to utilize a full probationary period to determine that the employee is qualified to be an officer. The revisions to R13-5-305(R), R13-5-312 and R13-5-136 all relate to the hiring of a cadet officer and the movement of that cadet officer into the classification of officer. This should result in a cost saving to the agency hiring the new officer by giving that agency ample time to evaluate the worth of the officer. It should also provide a major impact upon the citizens of Arizona by giving an agency ample time to verify the employee's ability to function as a police officer in the State of Arizona.

The revision to R13-5-314 clearly defines the method of hiring an intermittent employee, the status of an intermittent employee and the eligibility of an intermittent employee to receive benefits. This rule should result in a cost saving to the agency. It allows an agency to retain a pool of intermittent employees who can respond on short notice. This relieves an agency from the need to have a greater number of full-time employees. There is a negative impact on the intermittent employee by declaring them ineligible to receive benefits. However, this is a positive impact to the agency. An agency will not be responsible for paying sick leave and annual leave benefits to an intermittent employee.

The revision to R13-5-506 brings the Council rules in line with the intent of the legislature. The legislature enacted legislation during the 2001 legislative session authorizing the Council to adopt rules allowing for the transfer of annual leave between agencies of the state. This will have a positive impact on employees of the State of Arizona who need donated leave. Family members may donate annual leave to another family member in another agency. There does not appear to be a major impact on the agencies involved since the agency would have to pay the cost of the annual leave in any event. Any costs involved would have to be transferred with the annual leave to the agency of the receiving employee.

There is no cost involved with the revision to R13-5-804. This is merely a change to accommodate the classification title changes that have occurred.

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: Commander C.H. Johnston, Business Manager
Address: Law Enforcement Merit System Council
P.O. Box 6638
Phoenix, AZ 85005
Telephone: (602) 223-2286
Fax: (602) 223-2096
E-mail: Cjohnston@dps.state.az.us

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

Following submission to the Secretary of State and the rules being published in the *Register*, written comments will be received at the address listed in item #9 for a period of 30 days. A public hearing will be scheduled if one is requested. Otherwise, the record will be closed at the end of the 30-day period following the publication in the *Register*. If a public meeting is requested, the record will be closed at the end of the public meeting.

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:

Not applicable

13. The full text of the rules follows:

TITLE 13. PUBLIC SAFETY

CHAPTER 5. LAW ENFORCEMENT MERIT SYSTEM COUNCIL

ARTICLE 1. GENERAL PROVISIONS

Section

R13-5-101. Definitions

ARTICLE 3. EMPLOYMENT

Section

R13-5-302. Examinations
R13-5-304. Employment
R13-5-305. Promotion
R13-5-312. Limited Term Appointments
R13-5-314. Intermittent Appointments
R13-5-316. Probation

ARTICLE 5. EMPLOYEE LEAVE

Section

R13-5-506. Donated Annual Leave

ARTICLE 8. SEPARATION FROM EMPLOYMENT

Section

R13-5-804. Public Safety Retirement System Eligibility

ARTICLE 1. GENERAL PROVISIONS

R13-5-101. Definitions

In this Chapter, unless otherwise specified, the following terms mean:

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change
10. No change
11. No change
12. No change
13. No change
14. No change
15. No change

Arizona Administrative Register
Notices of Proposed Rulemaking

- 16. No change
- 17. No change
- 18. No change
- 19. No change
- 20. No change
- 21. No change
- 22. No change
- 23. No change
- 24. No change
- 25. No change
- 26. No change
- 27. No change
- 28. No change
- 29. No change
- 30. No change
- 31. No change
- 32. No change
- 33. No change
- 34. No change
- 35. No change
- 36. No change
- 37. No change
- 38. No change
- 39. No change
- 40. No change
- 41. No change
- 42. No change
- 43. No change
- 44. No change
- 45. No change
- 46. "Initial probation" means a probationary period required of a new employee to an agency or an employee appointed to the classification of officer who has completed the terms of a special limited term appointment.
- 47. No change
- 48. No change
- 49. No change
- 50. No change
- 51. No change
- 52. No change
- 53. No change
- 54. No change
- 55. No change
- 56. No change
- 57. No change
- 58. No change
- 59. No change
- 60. No change
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- 62. No change
- 63. No change
- 64. No change
- 65. No change
- 66. No change
- 67. No change
- 68. No change
- 69. No change
- 70. No change
- 71. No change
- 72. No change
- 73. No change

Arizona Administrative Register
Notices of Proposed Rulemaking

- a. No change
- b. No change
- c. No change
- 74. No change
- 75. No change
- 76. No change
- 77. No change
- 78. No change
- 79. No change
- 80. No change
- 81. No change
- 82. “Special limited term appointment” means an appointment to the classification of cadet officer or officer trainee pending the completion of requirements for the classification of officer.
- ~~82-83.~~ “State” means the State of Arizona.
- ~~83-84.~~ “Standard performance” means a rating given to an employee who meets the expected level of performance needed to accomplish the objectives of a position.
- ~~84-85.~~ “Standardized scoring” means a statistical method used to ensure that the various components of a multi-phased examination receive their proper weights.
- ~~85-86.~~ “Suspension of pay” means the disciplinary action of withholding an employee’s pay for a specified period.
- ~~86-87.~~ “Telecommuting” means performing assigned work at a location other than an assigned work location. ~~working from a site away from the office using a telephone or a telephone connection to operate a computer to carry on the function of the job.~~
- ~~87-88.~~ “Transfer” means the movement of an employee from the employee’s current position to another position in the same classification.
- ~~88-89.~~ “Uncovered appointment” means an appointment to a job or function by the Governor or by an agency head with the concurrence of the Governor.
- ~~90-89.~~ “Uncovered employee” means an employee who serves at the pleasure of the Governor.
- ~~90-91.~~ “Veteran” means an individual who served in the armed forces of the U.S. and was discharged from military service under honorable conditions after more than 6 months of active duty and as defined in 37 U.S.C.A. § 101 and A.R.S. § 38-492.
- ~~91-92.~~ “Work week” means a 40-hour time period an employee is assigned to work between Saturday and Friday, including actual time worked and any leave time taken.

R13-4-302. Examinations

- A.** No change
- B.** No change
- C.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- D.** No change
- E.** No change
 - 1. No change
 - 2. No change
 - 3. No change
- F.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- G.** No change
 - 1. No change
 - 2. No change
- H.** No change
 - 1. No change
 - 2. No change
- I.** No change
- J.** No change

Arizona Administrative Register
Notices of Proposed Rulemaking

K. Correcting a manifest error. The business manager shall correct a manifest error that occurs in developing, using, or maintaining an eligibility list. The business manager shall not change the effective date of a list in order to correct an error discovered after posting the eligibility list.

R13-5-304. Employment

- A. No change
- B. No change
- C. No change
- D. No change
- E. No change

- 1. No change
- 2. No change
- 3. No change
- 4. No change

F. No change

- 1. No change
- 2. No change
- 3. No change

~~G.~~ ~~Correcting a manifest error. The business manager shall correct a manifest error that occurs in developing, using, or maintaining an eligibility list. The business manager shall not change the effective date of a list in order to correct an error discovered after posting the eligibility list.~~

R13-5-305. Promotion

A. No change

B. No change

- 1. No change
 - a. No change
 - b. No change
 - c. No change
- 2. No change

C. No change

D. No change

E. No change

F. No change

- 1. No change
- 2. No change
- 3. No change
- 4. No change

G. No change

H. No change

- 1. No change
- 2. No change
- 3. No change

4. Within 10 days of a review, a competitor may file a written notice with the business manager questioning examination results on the basis of irregularity, bias, fraud, or scoring error and explaining the basis for any challenge. The business manager shall correct any error in the scoring of the examination. ~~An employee may request that the Council review the business manager's decision.~~

I. Review of business manager's decision. An employee who is aggrieved by a decision of the business manager may request that the Council review the decision. A request for review of the business manager's decision shall be filed with the Council office no later than 10 days after notice of the decision is given.

~~J.~~**J.** Military leave. Human Resources shall allow an employee returning from military leave to take any examination that the employee could have taken if military service had not intervened. If the employee passes the examination, the business manager shall add the employee's name to the appropriate internal eligibility list.

~~J.~~**K.** Establishing an internal list. Human Resources shall prepare an internal list for a promotional classification with competitor's names arranged in descending order of the competitor's final score.

~~K.~~**L.** Establishing a list in case of a tie. If 2 or more competitors receive the same rating in an examination, the competitor's names shall be placed on the list according to their respective ratings on the portion of the examination with the greatest weight. If a tie still exists, the names shall be placed on the list at the same position, in alphabetical order.

~~L.~~**M.** Approval of list. Human Resources shall submit the internal list to the business manager for approval and certification.

Arizona Administrative Register
Notices of Proposed Rulemaking

- ~~M.N.~~** Notifying a candidate When the list is certified by the business manager, Human Resources shall notify a candidate of the exam results and the candidate's relative ranking on the list.
- ~~N.O.~~** Duration of a list. A list shall remain in force consistent with R13-5-304(E).
- ~~O.P.~~** Revising a classification. If the Council orders that a classification be revised, Human Resources shall establish a new list for the revised classification and cancel any existing list.
- ~~P.Q.~~** Removing a candidate from an internal list. The business manager shall remove a candidate from an internal list if:
1. The candidate fails to maintain required qualifications for the classification,
 2. The candidate resigns from agency service, or
 3. The internal list expires.
- R.** Promotion to the classification of officer. An employee shall be promoted to the classification of officer upon successful completion of an agency's training academy and certification by the Peace Officer Standards and Training Board. An employee promoted to officer from a special limited term position shall serve a one year initial probation in the officer classification. An employee who has previously achieved permanent status in a different classification shall serve a one year promotional probation in the officer classification.
- ~~Q.S.~~** Promotion for a commissioned classification. An agency may establish a job-interest card system for a promotion in a commissioned classification. If a candidate submits a job-interest card indicating interest in only a specified position, that candidate shall not be considered for any other position except as outlined in this subsection.
1. An agency head shall offer a promotional position to a candidate ranking highest on the promotional eligibility list who filed a job-interest card for that position.
 2. If there are no job-interest cards for a specific position, an agency head shall offer a promotional position to the candidate ranking highest on the promotional eligibility list. If the employee highest on the promotional list declines the promotion, the agency head shall offer the position to the employee next highest on the list until all candidates on the promotion list are offered the position.
 3. For a location that has 2 or fewer positions, an agency head may appoint any promotional candidate residing in that location.
 4. If a candidate declines an offer of promotion, the business manager shall move that candidate's name to the bottom of the promotional eligibility list.
 5. If all candidates on a promotional eligibility list decline a promotion, an agency head shall make a second offer to all candidates on the list.
 6. If all candidates on the list decline the second offer, the business manager shall cancel the list. Human Resources shall then initiate a process to create a new list for the classification.
- ~~R.T.~~** Promotion for a civilian classification. Civilian promotions are conducted under R13-5-308 and R13-5-309.

R13-5-312. Limited-Term Appointments

- A.** No change
- B.** No change
- C.** No change
- D.** No change
1. No change
 2. No change
- E.** Special limited term. An applicant for classification of officer may be employed in a special limited term position for a maximum of 3 years pending completion of requirements for the classification of officer. A special limited term position will fall within one of the following:
1. Cadet officer. An applicant may be employed as a cadet officer when appointed to attend the agency's training academy. Upon successful completion of the training academy and certification as a peace officer by the Peace Officers Standards and Training Board, the employee will be reclassified to the classification of officer.
 2. Officer trainee. A qualified candidate may be employed as an officer trainee under the following provisions:
 - a. An agency may provide employment as officer trainee to qualified candidates for the classification of officer who are 18 to 21 years of age. Upon reaching the age of 21 years, the employee will be promoted to the classification of cadet officer when the training academy is available and provided that the employee has achieved a performance rating of standard or above for the prior year.
 - b. An agency may provide immediate employment as officer trainee to individuals 21 years of age or older who are on the employment list for the classification of cadet officer and are waiting for an opening in the agency's training academy. Such candidates shall remain on the cadet officer employment list and will be appointed to that classification when the training academy is available.

R13-5-314. Intermittent Appointment

- A. Intermittent position. When an agency head needs a person to work on an intermittent or irregular basis, the agency head shall request a list of candidates for intermittent appointment. An applicant who meets the minimum qualifications and indicates willingness to accept the terms of intermittent employment shall be placed on an eligibility list for selection.
- B. Establishing an intermittent employment list. An intermittent employment list shall be established, as follows:
 - 1. An employee who leaves the agency may be placed on an intermittent employment list for a classification previously held. No examination will be required to be placed on an intermittent employment list, provided the request is received within one year from the time the employee left that classification, and the employee's last evaluation within that classification was standard or above.
 - 2. An employee who is reassigned or promoted to another classification may be placed on an intermittent employment list for a classification previously held. No examination will be required to be placed on an intermittent employment list, provided the request is received within one year from the time the employee left that classification, and the employee's last evaluation within that classification was standard or above.
 - 3. An intermittent employment list may be established in the same manner as an employment eligibility list.
- C. Benefits for an intermittent employee. An intermittent employee is not eligible to receive the benefits afforded a full or part-time employee. An intermittent employee will not acquire annual or sick leave benefits and will not accrue time in the classification.
- D. Eligibility for promotion. An intermittent employee will not be eligible to compete in a promotional process.
- E. Eligibility for employment. An intermittent employee will be allowed to compete for full or part-time employment in a position in the same manner prescribed in R13-5-301.
- F. Rate of pay. The rate of pay for an intermittent employee will be determined by the agency head.

R13-5-316. Probation

- A. Initial probation. An employee shall serve an initial probationary period of 12 months. Time spent in a special limited term position shall not count toward the initial probation in the officer classification.
- B. No change
- C. No change
- D. No change
- E. No change
- F. No change
- G. No change
- H. No change
- I. No change
- J. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- K. No change
- L. No change
- M. No change
- N. No change
 - 1. No change
 - 2. No change
- O. Probation for special limited term employee. A candidate employed as a special limited term employee pending entrance into the officer classification shall serve an initial probation throughout the duration of the special limited term appointment. An employee promoted to officer from a special limited term position shall serve a 1 year initial probation in the officer classification.

ARTICLE 5. EMPLOYEE LEAVE

R13-5-506. Donated Annual Leave

- A. ~~Definitions. In this Section "Recipient employee" means an agency employee who meets the eligibility requirements in A.R.S. § 41-1830.12(C).~~
- B. ~~Qualifications. An employee may give accrued annual leave to a recipient employee.~~
- C. ~~Requesting donated leave. An employee may submit a written request for donated annual leave under the agency's policy.~~
- D. ~~Donating and converting leave. When notified of an employee's need, an employee may donate accrued annual leave by submitting a written notice to Human Resources with the required information under the agency's policies. The donated hours are converted by multiplying the donor's hourly pay by the number of hours donated, and dividing the product by the hourly pay of the recipient employee. Converted hours are added to the recipient's sick leave balance as needed.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

- E.** Surplus donations. When the need for donated leave passes, Human Resources shall return any unused donated leave to the donors on a pro rata basis, unless the donors give written notice to Human Resources to deposit their unused hours into an agency “donated leave bank” to help other employees in the future.
- A.** Definitions for the purposes of this Section:
1. Recipient means an employee in the same agency as the donating employee or a family member of the donating employee who is employed in another agency, department, board, or commission.
 2. Family member means spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, grandparent, grandchild, brother, sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law.
 3. Immediate family means an employee’s spouse, child, brother, sister, and parent by blood, marriage, adoption, or an individual for whom the employee has legal guardianship.
- B.** Donating Leave. An employee may donate accumulated annual leave to a recipient who qualifies for donated leave under the personnel rules of the agency where the recipient is employed and who has exhausted all available leave balances. An employee may donate accrued annual leave by submitting a written notice to Human Resources with the information required under the agency’s policies.
- C.** Qualifying for Donated Leave. An employee may request and use donated annual leave if the employee has a seriously incapacitating and extended illness or injury or a member of the employee’s immediate family has a seriously incapacitating and extended illness or injury and the employee has exhausted all available leave balances.
1. An employee may submit a written request for donated leave under the agency’s policy.
 2. An employee receiving donated leave is limited to using 6 consecutive months of donated leave per occurrence. In the case of an employee’s personal illness or injury where the employee applies for long-term disability (LTD) insurance by the end of the 5th month, the employee may continue to use donated leave until an LTD determination is made.
- D.** Calculating Donated Leave. An agency shall adjust the number of hours of annual leave donated in proportion to the hourly rate of pay of the donating employee and the recipient. Donated hours are converted by multiplying the number of hours donated by the donating employee’s hourly rate of pay and dividing the result by the recipient employee’s rate of pay. Converted hours are added to the recipient’s sick leave balance as needed.
- E.** Distributing Unused Leave. If the recipient separates from state service, recovers before using all donated leave or the need for the donated leave is otherwise abated, the agency shall return unused leave to the contributors on a pro-rata basis, unless the contributors give written notice to Human Resources to deposit their unused leave into an agency “donated-leave bank” to help other employees in the future.

ARTICLE 8. SEPARATION FROM EMPLOYMENT

R13-5-804. Public Safety Retirement System Eligibility

- A.** Membership in the Arizona Public Safety Retirement System is designated by the Council under A.R.S. § 38-842 (19)(a). Commissioned employees in the following classifications shall be eligible for membership in the Public Safety Retirement System:
1. Director
 2. Deputy Director
 3. Assistant Director
 4. Bureau Chief
 5. Commander ~~Major~~
 6. ~~Captain~~
 7. Lieutenant
 8. Sergeant II ~~Sergeant I~~
 9. Sergeant I ~~Sergeant II~~
 10. Officer
 11. Fixed Wing Pilot
 12. Rotary Wing Pilot
- B.** No change
1. No change
 2. No change