NOTICES OF EXEMPT RULEMAKING

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

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

PREAMBLE

1. **Section** — **Rulemaking Action**

Section	Rulemaking Action
R9-22-711	Amend

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

   Authorizing statute: A.R.S. § 36-2903.01

   Implementing statute: Laws 2003, Ch. 265, § 16

3. **The effective date of the rules:**

   May 3, 2004

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

   Notice of Exempt Rulemaking: Volume #9 A.A.R. Page #4557, October 24, 2003

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

Name:	Barbara Ledder
Address:	AHCCCS Office of Legal Assistance 701 E. Jefferson, Mail Drop 6200 Phoenix, AZ 85034
Telephone:	(602) 417-4580
Fax:	(602) 253-9115
E-mail:	proposedrules@ahcccs.state.az.us

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

   On April 20, 2004, the United States District Court for the District of Arizona issued a preliminary injunction prohibiting enforcement of increased copayments for Medicaid services as authorized per Laws 2003, Chapter 265, § 16. This rule clarifies that individuals who were subject to increased copayments are now only required to pay nominal copayments.

   The rulemaking is exempt from the provisions of Title 41, Chapter 6 under Laws 2003, Chapter 265, § 54.

7. **A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

   AHCCCS did not review any study relevant to these rules.

8. **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

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

   AHCCCS is waived from this requirement per Laws 2003, Ch. 265, § 54

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):
Not applicable

11. A summary of the comments made regarding rule, and the agency response to them:
Not applicable

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
None

13. Incorporations by reference and their location in the rules:
There are no incorporations by reference.

14. Was this rule previously adopted as an emergency rule?
No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

ARTICLE 7. STANDARDS FOR PAYMENTS

Section
R9-22-711. Copayments

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-22-711. Copayments

A. For purposes of this Article:
1. A copayment is a monetary amount that a member pays directly to a provider at the time a covered service is rendered.
2. An eligible individual is assigned to a hierarchy established in subsections (B) through (E), for the purposes of establishing a copayment amount.
3. A copayment is assessed prospectively. No refunds shall be made for a retroactive period if there is a change in a person's status altering the amount of a copayment.
4. Family planning services and supplies are exempt from copayments for all members.

B. The following individuals are exempt from all AHCCCS copayments:
1. An individual under age 19 including individuals eligible for the KidsCare Program in A.R.S. § 36-2982;
2. An individual determined to be Seriously Mentally Ill (SMI) by the Arizona Department of Health Services;
3. A Native American eligible under the parent program in A.R.S. § 36-2981.01;
4. A Native American enrolled with IHS;
5. An eligible individual not enrolled with a contractor and classified as fee-for-service;
6. A pregnant woman eligible for any AHCCCS program;
7. An individual eligible for the family planning services program in A.R.S. § 36-2907.04;
8. An individual eligible for the Arizona Long Term Care Program in A.R.S. § 36-2931;
9. An individual eligible for Medicare Cost Sharing in A.R.S. § 36-2972; and
10. An individual eligible for the Children's Rehabilitative Services program under A.R.S. § 36-2906(E).
11. An institutionalized person under R9-22-216.

C. Unless otherwise listed in subsection (B), an individual eligible for the parent program in A.R.S. § 36-2981.01 is subject to a $5.00 per visit copayment for a nonemergency use of the emergency room. A provider shall not deny service because of the member's inability to pay a copayment.

D. Unless otherwise listed in subsection (B) or (C), the following individuals are subject to the copayments listed in this subsection. A provider shall not deny a service because of the member's inability to pay a copayment.
1. A family eligible under Section 1931 of the Act;
2. An individual eligible for Young Adult Transitional Insurance (YATI) in A.R.S. § 36-2901(6)(iii);
3. An individual eligible for State Adoption Assistance in R9-22-1426;
4. An individual eligible for Supplemental Security Income (SSI);
5. An individual eligible for SSI Medical Assistance Only (SSI/MAO) in R9-22-1500;

6. An individual eligible for the Transitional Medical Assistance (TMA) in A.R.S. § 36-2924;
7. An individual eligible for the Freedom to Work program in A.R.S. § 36-2901(6)(g); and
8. An individual eligible for the Breast and Cervical Cancer Treatment program in A.R.S. § 36-2901.05.
9. An individual enrolled for behavioral health services in A.R.S. § 36-2907.

Covered Services	**Copayment**
Physician office visit	$1.00 per office visit
Nonemergency use of the emergency room	$5.00 per visit

E. Unless otherwise listed in subsection (B), (C) or (D) the following individuals are required to pay the copayments listed in this subsection. The provider may deny a service if the member does not pay the required copayment.
1. An individual whose income is under 100% of the Federal Poverty Level in A.R.S. § 36-2901.01, or
2. An individual eligible for the Medical Expense Deduction program in A.R.S. § 36-2901.04.

Covered Services	**Copayment**
Generic prescriptions or brand name prescriptions if generic is not available	$4.00 per prescription
Brand name prescriptions when generic is available	$10.00 per prescription
Nonemergency use of the emergency room	$30.00 per visit
Physician office visit	$5.00 per office visit

F. A provider is responsible for collecting any copayment.
G. On April 20, 2004, the United States District Court for the District of Arizona issued a preliminary injunction prohibiting enforcement of subsection (E) of this rule. For so long as the injunction is in effect, persons who would, but for the injunction, be subject to the copayment requirements and other provisions of subsection (E) shall be subject to the copayment requirements and other provisions of subsection (D).