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

[R06-382]

PREAMBLE

1. Sections Affected — **Rulemaking Action**

R9-22-101	Amend
R9-22-102	Amend
R9-22-112	Repeal
R9-22-1201	Amend
R9-22-1202	Amend
R9-22-1203	Amend
R9-22-1204	Amend
R9-22-1205	Amend
R9-22-1206	Amend
R9-22-1207	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: A.R.S. § 36-2907(F)

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

Notice of Rulemaking Docket Opening: 11 A.A.R. 5546, December 30, 2005

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

Name: Jane McVay

Address: AHCCCS
Office of Administrative Legal Assistance
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034

Telephone: (602) 417-4135

Fax: (602) 253-9115

E-mail: AHCCCSRules@azahcccs.gov

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

These rules make needed changes in the behavioral health rules for the acute care program as a result of the Five-Year Review Report prepared on these rules. The Administration is amending these behavioral health rules to make them clear, concise, and understandable. The changes update the rules to make them consistent with the current program operation and requirements, and the claims submission process. Definitions relating specifically to the behavioral health service program detailed in Article 12 are moved from R9-22-101 or R9-22-112 to R9-22-1201. The rules repeal R9-22-112.

The Administration contracts with the Arizona Department of Health Services/Division of Behavioral Health Services (ADHS/DBHS) to provide behavioral health services to Title XIX members in the acute care system. ADHS

contracts with Regional Behavioral Health Agencies (RBHA's) to provide behavioral health services. RBHA's are organizations under contract with ADHS that coordinate the delivery of behavioral health services in a Geographic Service Area (GSA) of the state for eligible services. The Administration capitates ADHS to provide behavioral health services to members. Members who are enrolled with a contractor enroll with a RBHA to receive behavioral health services. The responsibility for behavioral health services in the acute care program rests with either the contractors or the RBHA's, with the exception of Native Americans.

In the acute care program, Native Americans may choose to receive all services, including behavioral health services, from a Tribal Regional Behavioral Health Agency (TRBHA), an Indian Health Service facility, or a RBHA. A TRBHA is a Native American Indian tribe under contract with ADHS/DBHS to coordinate the delivery of behavioral health services to eligible, enrolled members of the tribal nation. Behavioral health services are provided to Native Americans through Indian Health Service (IHS) facilities. If a covered behavioral health service is not available from an IHS facility, the Native American member must enroll with a Tribal Regional Behavioral Health Authority (TRBHA), if available, or a Regional Behavioral Health Authority (RBHA), to receive services.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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:

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 rules do not impose additional costs on small businesses and members. The Administration has incurred minimal costs to perform the rule writing function. The revision of the rules to make them clear, concise, and understandable helps members in the acute care program who receive behavioral health services gain a better understanding of the behavioral health service delivery system. Providers and contractors also benefit from rules that clarify the current program operation, service delivery system, and payment submittal provisions. Neither members, contractors, nor providers will incur any additional costs as a result of the rulemaking.

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:	Jane McVay
Address:	AHCCCS Office of Administrative Legal Assistance 701 E. Jefferson, Mail Drop 6200 Phoenix, AZ 85034
Telephone:	(602) 417-4135
Fax:	(602) 253-9115
E-mail:	AHCCCSRules@azahcccs.gov

Proposed rule language will be available on the AHCCCS web site www.ahcccs.state.az.us the week of October 9, 2006. Please send written comments to the above address by 5:00 p.m., November 29**,** 2006. E-mail comments will be accepted.

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:	November 29, 2006
Time:	10:00 a.m.
Location:	AHCCCS 701 East Jefferson Phoenix, AZ 85034 Gold Room
Nature:	Public Hearing
Date:	November 29, 2006
Time:	10:00 a.m.
Location:	ALTCS: Arizona Long-term Care System 110 South Church, Suite 1360 Tucson, AZ 85701

Nature:	Public Hearing
Date:	November 29, 2006
Time:	10:00 a.m.
Location:	ALTCS Arizona Long-term Care System 3480 East Route 66 Flagstaff, AZ 86004
Nature:	Public Hearing

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 9. HEALTH SERVICES

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

ARTICLE 1. DEFINITIONS

Section
R9-22-101. Location of Definitions
R9-22-102. Scope of Services-related Definitions
R9-22-112. ~~Behavioral Health Services Related Definitions~~ Repealed

ARTICLE 12. BEHAVIORAL HEALTH SERVICES

Section
R9-22-1201. General Requirements
R9-22-1202. ADHS and Contractor Responsibilities
R9-22-1203. Eligibility for Covered Services
R9-22-1204. General Service Requirements
R9-22-1205. Scope and Coverage of Behavioral Health Services
R9-22-1206. General Provisions and Standards for Service Providers
R9-22-1207. ~~Standards for Payments~~ General Provisions for Payment

ARTICLE 1. DEFINITIONS

R9-22-101. Location of Definitions

A. Location of definitions. Definitions applicable to this Chapter are found in the following:

Definition	Section or Citation
"Accommodation"	R9-22-701
"Act"	R9-22-101
"Active case"	R9-22-109
"ADHS"	R9-22-102
"Administration"	A.R.S. § 36-2901
"Adverse action"	R9-22-101
"Affiliated corporate organization"	R9-22-101
"Aged"	42 U.S.C. 1382c(a)(1)(A) and R9-22-1501
"Aggregate"	R9-22-701
"AHCCCS"	R9-22-101
"AHCCCS inpatient hospital day or days of care"	R9-22-701
"AHCCCS registered provider"	R9-22-101

"Ambulance"	A.R.S. § 36-2201
"Ancillary department"	R9-22-701
"Annual assessment period"	R9-22-109
"Annual assessment period report"	R9-22-109
"Annual enrollment choice"	R9-22-117
"APC"	R9-22-701
"Appellant"	R9-22-101
"Applicant"	R9-22-101
"Application"	R9-22-101
"Assignment"	R9-22-101
"Attending physician"	R9-22-101
"Authorized representative"	R9-22-101
"Auto-assignment algorithm"	R9-22-117
"Baby Arizona"	R9-22-1401
"Behavior management services"	~~R9-22-112~~ R9-22-1201
"Behavioral health evaluation"	~~R9-22-112~~ R9-22-1201
"Behavioral health medical practitioner"	~~R9-22-112~~ R9-22-1201
"Behavioral health professional"	~~R9-20-101~~ R9-22-1201
"Behavioral health recipient"	R9-22-102
"Behavioral health service"	~~R9-22-112~~ R9-22-1201
"Behavioral health technician"	~~R9-20-101~~ R9-22-1201
~~"Behavior management services"~~	~~R9-22-112~~
"BHS"	R9-22-1401
"Billed charges"	R9-22-701
"Blind"	R9-22-1501
~~"Board-eligible for psychiatry"~~	~~R9-22-112~~
"Burial plot"	R9-22-1401
"Capital costs"	R9-22-701
"Capped fee-for-service"	R9-22-101
"Caretaker relative"	R9-22-1401
"Case"	R9-22-109
"Case management"	R9-22-1201
"Case record"	R9-22-109
"Case review"	R9-22-109
"Cash assistance"	R9-22-1401
"Categorically-eligible"	R9-22-101
"Certified psychiatric nurse practitioner"	~~R9-22-112~~ R9-22-1201
"Children's Rehabilitative Services" or "CRS"	R9-22-102
"Clean claim"	A.R.S. § 36-2904
"Clinical supervision"	~~R9-22-112~~ R9-22-102
"CMDP"	R9-22-117
"CMS"	R9-22-101
"Continuous stay"	R9-22-101
"Contract"	R9-22-101
"Contractor"	A.R.S. § 36-2901
"Corrective action plan"	R9-22-109
"Cost-to-charge ratio"	R9-22-701
"Covered charges"	R9-22-701
"Covered services"	R9-22-102
"CPT"	R9-22-701
~~"Critical Access Hospitals"~~ "Critical Access Hospital"	R9-22-701
"Cryotherapy"	R9-22-120
"Date of eligibility posting"	R9-22-701
~~"Date of notice"~~	~~R9-22-108~~
"Day"	R9-22-101
"DBHS"	R9-22-102

"DCSE"	R9-22-1401
"De novo hearing"	42 CFR 431.201
"Dentures~~"~~ and "Denture Services"	R9-22-102
"Department"	A.R.S. § 36-2901
"Dependent child"	A.R.S. § 46-101
"DES"	R9-22-101
"Diagnostic services"	R9-22-102
"Director"	R9-22-101
"Disabled"	R9-22-1501
"Discussion"	R9-22-101
"Disenrollment"	R9-22-117
"District"	R9-22-109
"DME"	R9-22-102
"DRI inflation factor"	R9-22-701
"E.P.S.D.T. services"	42 CFR 441 Subpart B
"Eligible person"	A.R.S. § 36-2901
"Emergency behavioral health condition for the non-FES member"	R9-22-102
"Emergency behavioral health services for the non-FES member"	R9-22-102
"Emergency medical condition for the non-FES member"	R9-22-102
"Emergency medical services for the non-FES member"	R9-22-102
"Emergency services costs"	A.R.S. § 36-2903.07
"Encounter"	R9-22-701
"Enrollment"	R9-22-117
"Enumeration"	R9-22-101
"Equity"	R9-22-101
"Error"	R9-22-109
"Experimental services"	R9-22-101
"Existing outpatient services"	R9-22-701
"FAA"	R9-22-1401
"Facility"	R9-22-101
"Factor"	42 CFR 447.10
"FBR"	R9-22-101
"Federal financial participation" or "FFP"	42 CFR 400.203
"Federal poverty level" or "FPL"	A.R.S. § 36-2981
"Fee-For-Service" or "FFS"	R9-22-102
"FES member"	R9-22-102
"FESP"	R9-22-101
"Finding"	R9-22-109
"First-party liability"	R9-22-1001
"Foster care maintenance payment"	42 U.S.C. 675(4)(A)
~~"Federal poverty level" or "FPL"~~	~~A.R.S. § 36-2981~~
"FQHC"	R9-22-101
"Freestanding children's hospital"	R9-22-701
"Global Insights Prospective Hospital Market Basket"	R9-22-701
"Grievance"	R9-34-202
"GSA"	R9-22-101
"HCPCS"	R9-22-701
"Health care practitioner"	R9-22-112
"Hearing aid"	R9-22-102
~~"HCPCS"~~	~~R9-22-701~~
"HIPAA"	R9-22-701
"Home health services"	R9-22-102
"Homebound"	R9-22-1401
"Hospital"	R9-22-101
"Intermediate Care Facility for the Mentally Retarded" or "ICF-MR"	42 CFR 483 Subpart I
"ICU"	R9-22-701
"IHS"	R9-22-117

"IMD" or "Institution for Mental Diseases"	42 CFR 435.1009 and ~~R9-22-112~~ R9-22-102
"Income"	R9-22-1401
"Inmate of a public institution"	42 CFR 435.1009
"Interested party"	R9-22-101
"LEEP"	R9-22-120
"Legal representative"	R9-22-101
"Level I trauma center"	R9-22-2101
"License" or "licensure"	R9-22-101
"Liquid assets"	R9-22-1401
"Mailing date"	R9-22-101
"Management evaluation review"	R9-22-109
"Medical education costs"	R9-22-701
"Medical expense deduction~~"~~ or "MED"	R9-22-1401
"Medical record"	R9-22-101
"Medical review"	R9-22-701
"Medical services"	A.R.S. § 36-401
"Medical supplies"	R9-22-102
"Medical support"	R9-22-1401
"Medically necessary"	R9-22-101
"Medicare claim"	R9-22-101
"Medicare HMO"	R9-22-101
"Member"	A.R.S. § 36-2901
"Mental disorder"	A.R.S. § 36-501
"National Standard code sets"	R9-22-701
"New hospital"	R9-22-701
"Nursing facility" or "NF"	42 U.S.C. 1396r(a)
"NICU"	R9-22-701
"Non-IHS Acute Hospital"	R9-22-701
"Non-FES member"	R9-22-102
"Noncontracting provider"	A.R.S. § 36-2901
"Nonparent caretaker relative"	R9-22-1401
"Notice of Findings"	R9-22-109
"Occupational therapy"	R9-22-102
"Offeror"	R9-22-101
"Ownership interest"	42 CFR 455.101
"Operating costs"	R9-22-701
"Outlier"	R9-22-701
"Outpatient hospital service"	R9-22-701
"Ownership change"	R9-22-701
"Partial Care"	~~R9-22-112~~ R9-22-1201
"Peer group"	R9-22-701
"Performance measures"	R9-22-109
"Pharmaceutical service"	R9-22-102
"Physical therapy"	R9-22-102
"Physician"	R9-22-102
"Physician assistant"	R9-22-1201
"Post-stabilization services"	R9-22-102 or 42 CFR 422.113
"PPC"	R9-22-101
"Practitioner"	R9-22-102
"Pre-enrollment process"	R9-22-1401
"Preponderance of evidence"	R9-22-109
"Prescription"	R9-22-102
"Primary care provider (PCP)"	R9-22-102
"Primary care provider services"	R9-22-102
"Prior authorization"	R9-22-102
"Procedure code"	R9-22-701
"Proposal"	R9-22-101
"Prospective rates"	R9-22-701
"Psychiatrist"	~~R9-22-112~~ R9-22-1201
"Psychologist"	~~R9-22-112~~ R9-22-1201
"Psychosocial rehabilitation services"	~~R9-22-112~~ R9-22-102
"Public hospital"	R9-22-701

"Qualified alien"	A.R.S. § 36-2903.03
"Quality management"	R9-22-501
"Radiology"	R9-22-102
"Random sample"	R9-22-109
"RBHA" or "Regional Behavioral Health Authority"	~~R9-22-112~~ R9-22-102
"Rebase"	R9-22-701
"Referral"	R9-22-101
"Rehabilitation services"	R9-22-102
"Reinsurance"	R9-22-701
"Remittance advice"	R9-22-701
"Resources"	R9-22-1401
"Respiratory therapy"	R9-22-102
"Respite"	R9-22-1201
"Responsible offeror"	R9-22-101
"Responsive offeror"	R9-22-101
"Revenue code"	R9-22-701
"Review"	R9-22-101
"Review period"	R9-22-109
"RFP"	R9-22-101
"Scope of services"	R9-22-102
"Section 1115 Waiver"	A.R.S. § 36-2901
"Service location"	R9-22-101
"Service site"	R9-22-101
"Specialist"	R9-22-102
"Speech therapy"	R9-22-102
"Spendthrift restriction"	R9-22-1401
"Spouse"	R9-22-101
"SSA"	42 CFR 1000.10
"SSI"	42 CFR 435.4
"SSN"	R9-22-101
"Stabilize"	42 U.S.C. 1395dd
"Standard of care"	R9-22-101
"Sterilization"	R9-22-102
"Subcontract"	R9-22-101
"Submitted"	A.R.S. § 36-2904
"Substance Abuse"	R9-22-102
"Summary report"	R9-22-109
"SVES"	R9-22-1401
"Therapeutic foster care services"	R9-22-1201
"Third-party"	R9-22-1001
"Third-party liability"	R9-22-1001
"Tier"	R9-22-701
"Tiered per diem"	R9-22-701
"Title IV-D"	R9-22-1401
"Title IV-E"	R9-22-1401
"Tolerance level"	R9-22-109
"Trauma and Emergency Services Fund"	A.R.S. § 36-2903.07
"TRBHA" or "Tribal Regional Behavioral Health Authority"	R9-22-1201
"Tribal Facility"	~~R9-22-101~~ A.R.S. § 36-2981
"Unrecovered trauma readiness costs"	R9-22-2101
"Utilization management"	R9-22-501
"WWHP"	R9-22-120

B. General definitions. In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

"Act" means the Social Security Act.

"Adverse action" means an action taken by the Department or Administration to deny, discontinue, or reduce medical assistance.

"Affiliated corporate organization" means any organization that has ownership or control interests as defined in 42 CFR 455.101, and includes a parent and subsidiary corporation relationships.

"AHCCCS" means the Arizona Health Care Cost Containment System, which is composed of the Administration, contractors, and other arrangements through which health care services are provided to a member.

"AHCCCS registered provider" means a provider or noncontracting provider who:
Enters into a provider agreement with the Administration under R9-22-703(A); and
Meets license or certification requirements to provide covered services.
"Appellant" means an applicant or member who is appealing an adverse action by the Department or Administration.
"Applicant" means a person who submits or whose authorized representative submits, a written, signed, and dated application for AHCCCS benefits.
"Application" means an official request for AHCCCS medical coverage made under this Chapter.
"Assignment" means enrollment of a member with a contractor by the Administration.
"Attending physician" means a licensed allopathic or osteopathic doctor of medicine who has primary responsibility for providing or directing preventive and treatment services for a fee-for-service member.
"Authorized representative" means a person who is authorized to apply for medical assistance or act on behalf of another person.
"Capped fee-for-service" means the payment mechanism by which a provider of care is reimbursed upon submission of a valid claim for a specific covered service or equipment provided to a member. A payment is made in accordance with an upper, or capped, limit established by the Director. This capped limit can be either a specific dollar amount or a percentage of billed charges.
"Categorically-eligible" means a person who is eligible under A.R.S. §§ 36-2901(6)(a)(i), (ii), or (iii) or 36-2934.
"CMS" means the Centers for Medicare and Medicaid Services.
"Continuous stay" means a period during which a member receives inpatient hospital services without interruption beginning with the date of admission and ending with the date of discharge or date of death.
"Contract" means a written agreement entered into between a person, an organization, or other entity and the Administration to provide health care services to a member under A.R.S. Title 36, Chapter 29, and this Chapter.
"Day" means a calendar day unless otherwise specified.
"DES" means the Department of Economic Security.
"Discussion" means an oral or written exchange of information or any form of negotiation.
"Director" means the Director of the Administration or the Director's designee.
"Eligible person" means the same as in A.R.S. § 36-2901.
"Enumeration" means the assignment of a nine-digit identification number to a person by the Social Security Administration.
"Equity" means the county assessor full cash value or market value of a resource minus valid liens, encumbrances, or both.
"Experimental services" means services that are associated with treatment or diagnostic evaluation and that are not generally and widely accepted as a standard of care in the practice of medicine in the United States unless:
The weight of the evidence in peer-reviewed articles in medical journals published in the United States supports the safety and effectiveness of the service; or
In the absence of peer-reviewed articles, for services that are rarely used, novel, or relatively unknown in the general professional medical community, the weight of opinions from specialists who provide the service attests to the safety and effectiveness of the service.
"Facility" means a building or portion of a building licensed or certified by the Arizona Department of Health Services as a health care institution under A.R.S. Title 36, Chapter 4~~,~~ to provide a medical service, a nursing service, or other health care or health-related service.
"FBR" means Federal Benefit Rate, the maximum monthly Supplemental Security Income payment rate for a member or a married couple.
"FESP" means the federal emergency services program under R9-22-217 which covers services to treat an emergency medical or behavioral health condition for a member who is determined eligible under A.R.S. § 36-2903.03(D).
"FQHC" means federally qualified health center.
"GSA" means a geographical service area designated by the Administration within which a contractor provides, directly or through a subcontract, a covered health care service to a member enrolled with the contractor.
"Hospital" means a health care institution that is licensed as a hospital by the Arizona Department of Health Services under A.R.S. Title 36, Chapter 4, Article 2, and certified as a provider under Title XVIII of the Social Security Act, as amended, or is currently determined, by the Arizona Department of Health Services as the CMS designee, to meet the requirements of certification.
"Interested party" means an actual or prospective offeror whose economic interest may be directly affected by the issuance of an RFP, the award of a contract, or by the failure to award a contract.
"Legal representative" means a custodial parent of a child under 18, a guardian, or a conservator.
"License" or "licensure" means a nontransferable authorization that is granted based on established standards in law by a state or a county regulatory agency or board and allows a health care provider to lawfully render a health care service.
"Mailing date" when used in reference to a document sent first class, postage prepaid, through the United States mail,

means the date:
Shown on the postmark;
Shown on the postage meter mark of the envelope, if no postmark; or
Entered as the date on the document if there is no legible postmark or postage meter mark.
"Medical record" means a document that relates to medical or behavioral health services provided to a member by a physician or other licensed practitioner of the healing arts and is kept at the site of the provider.
"Medically necessary" means a covered service is provided by a physician or other licensed practitioner of the healing arts within the scope of practice under state law to prevent disease, disability, or other adverse health conditions or their progression, or prolong life.
"Medicare claim" means a claim for Medicare covered services for a member with Medicare coverage.
"Medicare HMO" means a health maintenance organization that has a current contract with Centers for Medicare and Medicaid Services for participation in the Medicare program under 42 CFR 417 Subpart L.
"Offeror" means an individual or entity that submits a proposal to the Administration in response to an RFP.
"PPC" means prior period coverage. PPC is the period of time, prior to the member's enrollment, during which a member is eligible for covered services. The time-frame is the first day of the month of application or the first eligible month, whichever is later, to the day a member is enrolled with a contractor.
"Proposal" means all documents, including best and final offers, submitted by an offeror in response to an RFP by the Administration.
"Referral" means the process by which a member is directed by a primary care provider or an attending physician to another appropriate provider or resource for diagnosis or treatment.
"Responsible offeror" means an individual or entity that has the capability to perform the requirements of a contract and that ensures good faith performance.
"Responsive offeror" means an individual or entity that submits a proposal that conforms in all material respects to an RFP.
"Review" means a review of all factors affecting a member's eligibility.
"RFP" means Request for Proposals, including all documents, whether attached or incorporated by reference, that are used by the Administration for soliciting a proposal under 9 A.A.C. 22, Article 6.
"Service location" means a location at which a member obtains a covered service provided by a physician or other licensed practitioner of the healing arts under the terms of a contract.
"Service site" means a location designated by a contractor as the location at which a member is to receive covered services.
"Spouse" means a person who has entered into a contract of marriage~~,~~ recognized as valid by this state.
"SSN" means Social Security number.
"Standard of care" means a medical procedure or process that is accepted as treatment for a specific illness, injury or medical condition through custom, peer review, or consensus by the professional medical community.
"Subcontract" means an agreement entered into by a contractor with any of the following:
A provider of health care services who agrees to furnish covered services to a member;
A marketing organization; or
Any other organization or person who agrees to perform any administrative function or service for the contractor specifically related to securing or fulfilling the contractor's obligation to the Administration under the terms of a contract.
~~"Tribal Facility" means a facility that is operated by an Indian tribe and that is authorized to provide services pursuant to Public Law 93-638, as amended.~~

R9-22-102. Scope of Services-related Definitions
In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:
"ADHS" means the Arizona Department of Health Services.
"Behavioral health recipient" means a Title XIX or Title XXI acute care member who is eligible for, and is receiving, behavioral health services through ADHS/DBHS.
"Children's Rehabilitative Services~~"~~ "or CRS" means the program within ADHS that provides covered medical services and covered support services in accordance with A.R.S. § 36-261.
"Clinical supervision" means a review of skills and knowledge and guidance in improving or developing skills and knowledge provided by a Clinical Supervisor under 9 A.A.C. 20, Article 2.
"Covered services" means the health and medical services described in Articles 2 and 12 of this Chapter as being eligible for reimbursement by AHCCCS.
"DBHS" means the Division of Behavioral Health Services within the Arizona Department of Health Services.
"Dentures" and "Denture services" means a partial or complete set of artificial teeth and related services that are determined to be medically necessary and the primary treatment of choice, or an essential part of an overall treatment plan, and designed to alleviate a medical condition as determined by the primary care provider in consultation with the dental ser-

vice provider.
"Diagnostic services" means services provided for the purpose of determining the nature and cause of a condition, illness, or injury.
"DME" means durable medical equipment, which is an item or appliance that can withstand repeated use, is designed to serve a medical purpose, and is not generally useful to a person in the absence of a medical condition, illness, or injury.
"Emergency behavioral health condition for the non-FES member" means a condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in:

1. Placing the health of the person, including mental health, in serious jeopardy;
2. Serious impairment to bodily functions;
3. Serious dysfunction of any bodily organ or part; or
4. Serious physical harm to another person.

"Emergency behavioral health services for the non-FES member" means those behavioral health services provided for the treatment of an emergency behavioral health condition.
"Emergency medical condition for the non-FES member" means treatment for a medical condition, including labor and delivery, which manifests itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

1. Placing the member's health in serious jeopardy;
2. Serious impairment to bodily functions; or
3. Serious dysfunction of any bodily organ or part.

"Emergency medical services for the non-FES member" means services provided for the treatment of an emergency medical condition.
"FES member" means a person who is eligible to receive emergency medical and behavioral health services through the FESP under R9-22-217.
"Fee-For-Service" or "FFS" means a method of payment by the AHCCCS Administration to a registered provider on an amount per service basis for a ~~person~~ member not enrolled with a contractor.
"Hearing aid" means an instrument or device designed for, or represented by the supplier as~~,~~ aiding or compensating for impaired or defective human hearing, and includes any parts, attachments, or accessories of the instrument or device.
"Home health services" means services and supplies that are provided by a home health agency that coordinates in-home intermittent services for curative, habilitative care, including home-health aide services, licensed nurse services, and medical supplies, equipment, and appliances.
"IMD" or "Institution for Mental Diseases" means an Institution for Mental Diseases as described in 42 CFR 435.1009 and licensed by ADHS.
"Medical supplies" means consumable items that are designed specifically to meet a medical purpose.
"Non-FES member" means a person who is AHCCCS eligible and entitled to full AHCCCS services.
"Occupational therapy" means medically prescribed treatment provided by or under the supervision of a licensed occupational therapist, to restore or improve an individual's ability to perform tasks required for independent functioning.
"Pharmaceutical service" means medically necessary medications that are prescribed by a physician, practitioner, or dentist under R9-22-209.
"Physical therapy" means treatment services to restore or improve muscle tone, joint mobility, or physical function provided by or under the supervision of a registered physical therapist.
"Physician" means a person licensed as an allopathic or osteopathic physician under A.R.S. Title 32, Chapter 13 or Chapter 17.
"Post-stabilization services" means covered services related to an emergency medical or behavioral health condition provided after the condition is stabilized.
"Practitioner" means a physician assistant licensed under A.R.S. Title 32, Chapter 25, or a certified nurse practitioner licensed under A.R.S. Title 32, Chapter 15.
"Prescription" means an order to provide covered services that is signed or transmitted by a provider authorized to prescribe the services.
"Primary care provider" or "PCP" means an individual who meets the requirements of A.R.S. § 36-2901(12) and (13), and who is responsible for the management of a member's health care.
"Primary care provider services" means healthcare services provided by and within the scope of practice, as defined by law, of a licensed physician, certified nurse practitioner, or licensed physician assistant.
"Prior authorization" means the process by which the Administration or contractor, whichever is applicable, authorizes, in advance, the delivery of covered services contingent on the medical necessity of the services.
"Psychosocial rehabilitation services" means those services that include the provision of education, coaching, training, and demonstration to remediate residual or prevent anticipated functional deficits and may include services that may assist a member to secure and maintain employment. Psychosocial rehabilitation services may include:

Living skills training,
Cognitive rehabilitation,
Health promotion,
Supported employment, and
Other services which increase social and communication skills in order to maximize a member's ability to participate in the community and function independently.

"Radiology" means professional and technical services rendered to provide medical imaging, radioisotope services, and radiation oncology.

"RBHA" or "Regional Behavioral Health Authority" means the Regional Behavioral Health Authority defined in A.R.S. § 36-3401.

"Rehabilitation services" means physical, occupational, and speech therapies, and items to assist in improving or restoring a person's functional level.

"Respiratory therapy" means treatment services to restore, maintain, or improve respiratory functions that are provided by, or under the supervision of, a respiratory therapist licensed according to A.R.S. Title 32, Chapter 35.

"Scope of services" means the covered, limited, and excluded services under Articles 2 and 12 of this Chapter.

"Specialist" means a Board-eligible or certified physician who declares himself or herself as a specialist and practices a specific medical specialty. For the purposes of this definition, Board-eligible means a physician who meets all the requirements for certification but has not tested for, or has not been issued certification.

"Speech therapy" means medically prescribed diagnostic and treatment services provided by, or under the supervision of, a certified speech therapist.

"Sterilization" means a medically necessary procedure, not for the purpose of family planning, to render an eligible person or member barren in order to:

Prevent the progression of disease, disability, or adverse health conditions; or
Prolong life and promote physical health.

"Substance abuse" means the chronic, habitual, or compulsive use of any chemical matter which, when introduced into the body, is capable of altering human behavior or mental functioning and, with extended use, may cause psychological dependence and impaired mental, social or educational functioning. Nicotine addiction is not considered substance abuse for adults who are 21 years of age or older.

R9-22-112. ~~Behavioral Health Services Related Definitions~~ Repealed

~~In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:~~

~~"ADHS" means the Arizona Department of Health Services, the state agency mandated to serve the public health needs of all Arizona residents.~~

~~"Behavior management services" means those services that assist the member in carrying out daily living tasks and other activities essential for living in the community, including peer support, family support, and personal assistance.~~

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

~~"Behavioral health medical practitioner" means a health care practitioner with at least one year of full time behavioral health work experience.~~

~~"Behavioral health professional" defined in 9 A.A.C. 20.~~

~~"Behavioral health service" means those services provided for the evaluation and diagnosis of a mental health or substance abuse condition, and the planned care, treatment, and rehabilitation of the member.~~

~~"Behavioral health technician" defined in 9 A.A.C. 20.~~

~~"Board eligible for psychiatry" means completion of an accredited psychiatry residency program approved by the American College of Graduate Medical Education, or the American Osteopathic Association. Documentation of completion of a residency program includes a certificate of residency training including exact dates of residency, or a letter of verification of residency training from the training director including the exact dates of training period.~~

~~"Certified psychiatric nurse practitioner" under A.R.S. § 32-1601 and certified under the American Nursing Association's Statement and Standards for Psychiatric-Mental Health Clinical Nursing Practice under A.A.C. R4-19-505.~~

~~"Clinical supervision" means a review of skills and knowledge and guidance in improving or developing skills and knowledge provided by a clinical supervisor under 9 A.A.C. 20, Article 2.~~

~~"De novo hearing" defined in 42 CFR 431.201.~~

~~"Health care practitioner" means a:~~

~~Physician;~~
~~Physician assistant;~~
~~Nurse practitioner; or~~
~~Other individual licensed and authorized by law to use and prescribe medication and devices, as defined in A.R.S. §~~

~~32-1901.~~
~~"IMD" means an Institution for Mental Diseases as described in 42 CFR 435.1009 and licensed by ADHS.~~
~~"Mental disorder" defined in A.R.S.§ 36-501.~~
~~"Partial care" means a day program of services provided to individual members or groups designed to improve the ability of a person to function in the community.~~
~~"Psychiatrist" under A.R.S. § § 32-1401 or 32-1800 and 36-501.~~
~~"Psychologist" under A.R.S. § 32-2061 and 36-501.~~
~~"Psychosocial rehabilitation services" means those services that include the provision of education, coaching, training, and demonstration to remediate residual or prevent anticipated functional deficits and may include services that may assist a member to secure and maintain employment. Psychosocial rehabilitation services may include:~~
~~Living skills training,~~
~~Cognitive rehabilitation,~~
~~Health promotion,~~
~~Supported employment, and~~
~~Other services which increase social and communication skills in order to maximize a member's ability to participate in the community and function independently.~~
~~"RBHA" means the Regional Behavioral Health Authority defined in A.R.S. § 36-3401.~~

ARTICLE 12. BEHAVIORAL HEALTH SERVICES

R9-22-1201. General Requirements

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

1. Administration. The program shall be administered as specified in A.R.S. § 36-2903.
2. Provision of services. Behavioral health services shall be provided as specified in A.R.S. § 36-2907 and this Chapter.
3. Definitions. The following definitions apply to this Article:
   - ~~a.~~ ~~"Case management" means supportive services and activities that enhance treatment, compliance, and effectiveness of treatment.~~
   - ~~b.~~ ~~"Physician assistant" specified in A.R.S. § 32-2501. In addition, a physician assistant providing a behavioral health service shall be supervised by an AHCCCS-registered psychiatrist.~~
   - ~~c.~~ ~~"Respite" means a period of care and supervision of a member to provide an interval of rest or relief to a family member or other person caring for the member. Respite provides activities and services to meet the social, emotional, and physical needs of the member during the respite period.~~
   - ~~d.~~ ~~"Substance abuse" means the chronic, habitual, or compulsive use of any chemical matter which, when introduced into the body, is capable of altering human behavior or mental functioning and, with extended use, may cause psychological dependence and impaired mental, social or educational functioning. Nicotine addiction is not a considered substance abuse for adults who are 21 years of age or older.~~
   - ~~e.~~ ~~"TRBHA" means a Tribal Regional Behavioral Health Authority.~~
   - ~~f.~~ ~~"Therapeutic foster care services" means services provided in a licensed foster home by qualified care givers who implement the in-home portion of a member's behavioral health treatment plan. The implementation of the plan allows the member to remain in the community versus requiring a more intensive level of services.~~
   - a. "Behavior management services" means those services that assist the member in carrying out daily living tasks and other activities essential for living in the community, including peer support, family support, and personal assistance.
   - b. "Behavioral health evaluation" means the assessment of a member's medical, psychological, psychiatric, or social condition to determine if a behavioral health disorder exists and, if so, to establish a treatment plan for all medically necessary services.
   - c. "Behavioral health medical practitioner" means a health care practitioner with at least one year of full-time behavioral health work experience.
   - d. "Behavioral health professional" has the same meaning as prescribed in 9 A.A.C. 20.
   - e. "Behavioral health service" means a service provided for the evaluation and diagnosis of a mental health or substance abuse condition, and the planned care, treatment, and rehabilitation of the member.
   - f. "Behavioral health technician" has the same meaning as in 9 A.A.C. 20.
   - g. "Case management" means supportive services and activities that enhance treatment, compliance, and effectiveness of treatment.
   - h. "Certified psychiatric nurse practitioner" has the same meaning as in A.R.S. § 32-1601 and includes certification under the American Nursing Association's Statement and Standards for Psychiatric-Mental Health Clinical Nursing Practice under A.A.C. R4-19-505.
   - i. "Health care practitioner" means a:

Physician;
Physician assistant;
Nurse practitioner; or
Other individual licensed and authorized by law to use and prescribe medication and devices, as defined in A.R.S. § 32-1901.

j. "Partial care" means a day program of services provided to individual members or groups designed to improve the ability of a person to function in a community, including basic, therapeutic, and medical day programs.
k "Physician assistant" has the same meaning as in A.R.S. § 32-2501. In addition, a physician assistant providing a behavioral health service shall be supervised by an AHCCCS-registered psychiatrist.
l. "Post-stabilization services" means covered services related to an emergency medical or behavioral health condition provided after the condition is stabilized.
m. "Psychiatrist" under A.R.S. §§ 32-1401 or 32-1800 and 36-501.
n. "Psychologist" under A.R.S. §§ 32-2061 and 36-501.
o. "Respite" means a period of care and supervision of a member to provide an interval of rest or relief to a family member or other person caring for the member. Respite provides activities and services to meet the social, emotional, and physical needs of the member during respite.
p. "Therapeutic foster care services" means services provided in a licensed foster home by qualified care givers who implement the in-home portion of a member's behavioral health treatment plan. The implementation of the plan allows the member to remain in the community versus requiring a more intensive level of services.
q. "TRBHA" or "Tribal Regional Behavioral Health Authority" means a Native American Indian tribe under contract with ADHS/DBHS to coordinate the delivery of behavioral health services to eligible and enrolled members of the federally recognized tribal nation.

R9-22-1202. ADHS and Contractor Responsibilities

A. ADHS responsibilities. ~~Behavioral~~ Except as provided in subsection (B), behavioral health services shall be provided by a RBHA through a contract with ADHS/DBHS. ADHS/DBHS shall:
1. Be responsible for providing all inpatient emergency behavioral health services for a non-FES member with a psychiatric or substance abuse diagnosis who is enrolled with a contractor in accordance with R9-22-210.01(A)(3).
2. Be responsible for providing all inpatient emergency behavioral health services for a FFS member with a psychiatric or substance abuse diagnosis who is not enrolled with a contractor in accordance with R9-22-210.01(A)(3).
3. Be responsible for providing all non-inpatient emergency behavioral health services for a non-FES member in accordance with R9-22-210.01.
4. Be responsible for providing all non-emergency behavioral health services for a non-FES member.
~~1~~5. Contract with a RBHA for the provision of behavioral health services in R9-22-1205 for all Title XIX members under A.R.S. § 36-2907. ADHS/DBHS shall ensure that a RBHA provides behavioral health services to members directly, or through subcontracts, with qualified service providers who meet the qualifications specified in R9-22-1206. If behavioral health services are unavailable within a RBHA's ~~service area,~~ GSA, ADHS/DBHS shall ensure that a RBHA provides behavioral health services to a Title XIX member outside the RBHA's ~~service area~~. GSA.
~~2~~6. Ensure that a member's behavioral health service is provided in collaboration with a member's primary care provider.
~~3~~.7. Coordinate the transition of care and medical records, under A.R.S. §§ 36-2903, 36-509, A.A.C. R9-22-512, and in contract, when a member transitions from:
   a. A behavioral health provider to another behavioral health provider,
   b. A RBHA to another RBHA,
   c. A RBHA to a ~~health plan~~ contractor,
   d. A contractor to ~~an~~ a RBHA, or
   e. A contractor to another ~~health plan~~ contractor.

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

C. Contractor responsibilities. A ~~health plan~~ contractor shall:
1. Refer a member to a RBHA under the contract terms;
2. Provide EPSDT developmental and behavioral health screening specified in R9-22-213;
3. Provide inpatient emergency behavioral health services specified in R9-22-1205 and R9-22-210.01 for a member not yet enrolled with a RBHA~~;~~ or TRBHA;
4. Provide psychotropic medication services for a member, in consultation with the member's RBHA as needed, for

behavioral health conditions specified in contract and within the primary care provider's scope of practice; and
5. Coordinate a member's transition of care and medical records under R9-22-1202.

R9-22-1203. Eligibility for Covered Services

A. Title XIX members. A member determined eligible under A.R.S. § 36-2901(6)(a), shall receive medically necessary covered services under R9-22-1205.

B. FES members. A person who would be eligible under A.R.S. § 36-2901(6)(a)(i), A.R.S. § 36-2901(6)(a)(ii), and A.R.S. § 36-2901(6)(a)(iii) except for the failure to meet the U.S. citizenship or qualified alien status requirements under A.R.S. § 36-2903.03(A) and A.R.S. § 36-2903.03(B) ~~or A.R.S. § 36-2903.03(C)~~ is eligible for emergency services only.

~~**C.** Ineligibility. A person is not eligible for behavioral health services if the person is:~~
~~1. An inmate of a public institution as defined in 42 CFR 435.1009,~~
~~2. A resident of an institution for the treatment of tuberculosis, or~~
~~3. Age 21 through 64 who is a resident of an IMD, and exceeds the limits under R9-22-1205.~~

C. Limitations. Behavioral health services are covered as specified in R9-22-201 and R9-22-1205.

R9-22-1204. General Service Requirements

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

B. Medical necessity. A service shall be medically necessary as under R9-22-201.

C. Prior authorization. A service shall be provided to a member under Title 36, Chapter 29, Article 1, by contractors, subcontractors, and providers consistent with the prior authorization requirements established by the Director, by contract, and ~~under R9-22-210 and R9-22-1205.~~ the following:
1. Emergency behavioral health services. A provider is not required to obtain prior authorization for emergency behavioral health services.
2. Non-emergency behavioral health services. When a member's behavioral health condition is determined by the provider not to require emergency behavioral health services, the provider shall follow the prior authorization requirements of a contractor.

D. EPSDT. For Title XIX members under age 21, EPSDT services shall include all medically necessary Title XIX-covered ~~services that are necessary to provide behavioral health services to a member.~~ behavioral health services to a member.

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

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

G. ~~Service area.~~ GSA. Behavioral health services rendered to a member shall be provided within the RBHA's ~~service area~~ GSA except when:
1. A contractor's primary care provider refers a member to another area for medical specialty care,
2. A member's medically necessary covered service is not available within the ~~service area,~~ GSA, or
3. A net savings in behavioral health service delivery costs can be documented by the RBHA for a member. Undue travel time or hardship shall be considered for a member or a member's family.

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

I. Non-covered services. If a member requests a behavioral health service that is not covered by AHCCCS or is not authorized by a RBHA~~,~~ or TRBHA, the behavioral health service may be provided by an ~~AHCCCS-registered behavioral health service provider~~ AHCCCS registered behavioral health service provider under the ~~following conditions:~~ provisions of R9-22-702.
~~1. The requested service and the itemized cost of each service is documented and provided to the member or member's guardian; and~~
~~2. The member or the member's guardian signs a statement acknowledging:~~
~~a. Services have been explained to the member or member's guardian, and~~
~~b. The member or member's guardian accepts responsibility for payment.~~

J. Referral. If a member is referred ~~out~~ outside of a RBHA or TRBHA ~~service area~~ GSA to receive ~~an~~ authorized medically necessary behavioral health ~~service, or a medically necessary covered service~~ services, ~~the services shall be provided by the contractor or RBHA.~~ the TRBHA or RBHA is responsible for reimbursement, if the claim is otherwise payable under these rules.

K. Restrictions and limitations.
1. The restrictions, limitations, and exclusions in this Article ~~shall~~ do not apply to a contractor or a RBHA when electing to provide a noncovered service.
2. Room and board is not a covered service unless provided in an inpatient Level I, sub-acute, or residential facility under R9-22-1205.

R9-22-1205. Scope and Coverage of Behavioral Health Services

A. Inpatient behavioral health services. The following inpatient services are covered subject to the limitations and exclusions in this Article.
1. Covered inpatient behavioral health services include all behavioral health services, medical detoxification, accommodations and staffing, supplies, and equipment, if the service is provided under the direction of a physician in a Medicare-certified:
   a. General acute care hospital, or
   b. Inpatient psychiatric hospital.
2. Inpatient service limitations:
   a. Inpatient services, other than emergency services specified in this Section, are not covered unless prior authorized.
   b. Inpatient services and room and board are reimbursed on a per diem basis. The per diem rate includes all services, except the following licensed or certified providers may bill independently for services:
      i. A licensed psychiatrist,
      ii. A certified psychiatric nurse practitioner,
      iii. A licensed physician assistant,
      iv. A licensed psychologist,
      v. A licensed clinical social worker,
      vi. A licensed marriage and family therapist,
      vii. A licensed professional counselor,
      viii. A licensed independent substance abuse counselor, or
      ix. A behavioral health medical practitioner.
   c. A member age 21 through 64 is eligible for behavioral health services provided in a hospital listed in subsection (A)(1)(b) that meets the criteria for an IMD up to 30 days per admission and no more than 60 days per contract year as allowed under the Administration's Section 1115 Waiver with CMS.

B. Level 1 residential treatment center services. Services provided in a residential treatment center as defined in ~~R9-20-101~~ A.A.C. R9-20-101 are covered subject to the limitations and exclusions under this Article.
1. Level 1 residential treatment center services are not covered unless provided under the direction of a licensed physician in a licensed Level 1 residential treatment center accredited by an AHCCCS-approved accrediting body as specified in contract.
2. Covered residential treatment center services include room and board and treatment services for behavioral health and substance abuse conditions.
3. Residential treatment center service limitations.
   a. Services are not covered unless prior authorized, except for emergency services as specified in this Section.
   b. Services are reimbursed on a per diem basis. The per diem rate includes all services, except the following licensed or certified providers may bill independently for services:
      i. A licensed psychiatrist,
      ii. A certified psychiatric nurse practitioner,
      iii. A licensed physician assistant,
      iv. A licensed psychologist,
      v. A licensed clinical social worker,
      vi. A licensed marriage and family therapist,
      vii. A licensed professional counselor,
      viii. A licensed independent substance abuse counselor, or
      ix. A behavioral health medical practitioner.
4. The following may be billed independently if prescribed by a provider as specified in this Section who is operating within the scope of practice:
   a. Laboratory services,
   b. Radiology services, and
   c. Psychotropic medication.

C. Covered level 1 sub-acute agency services. Services provided in a sub-acute agency as defined in ~~R9-22-101~~ A.A.C. R9-20-101 are covered subject to the limitations and exclusions under this Article.
1. Level 1 sub-acute agency services are not covered unless provided under the direction of a licensed physician in a licensed Level 1 sub-acute agency that is accredited by an AHCCCS-approved accrediting body as specified in contract.
2. Covered level 1 sub-acute agency services include room and board and treatment services for behavioral health and substance abuse conditions.
3. Services are reimbursed on a per diem basis. The per diem rate includes all services, except the following licensed or certified providers may bill independently for services:

a. A licensed psychiatrist,
b. A certified psychiatric nurse practitioner,
c. A licensed physician assistant,
d. A licensed psychologist,
e. A licensed clinical social worker,
f. A licensed marriage and family therapist,
g. A licensed professional counselor,
h. A licensed independent substance abuse counselor, or
i. A behavioral health medical practitioner.

4. The following may be billed independently if prescribed by a provider as specified in this Section who is operating within the scope of practice:
   a. Laboratory services,
   b. Radiology services, and
   c. Psychotropic medication.
5. A member age 21 through 64 is eligible for behavioral health services provided in a level 1 sub-acute agency that meets the criteria for an IMD for up to 30 days per admission and no more than 60 days per contract year as allowed under the Administration's Section 1115 Waiver with CMS. These limitations do not apply to a member under age 21 and age 65 or over.

D. Level 2 behavioral health residential agency services. Services provided in a level 2 behavioral health residential agency are covered subject to the limitations and exclusions in this Article.
1. Level 2 behavioral health residential agency services are not covered unless provided by a licensed Level 2 behavioral health residential agency as defined in ~~R9-20-101.~~ A.A.C. R9-20-101
2. Covered services include all services except room and board.
3. The following licensed or certified providers may bill independently for services:
   a. A licensed psychiatrist,
   b. A certified psychiatric nurse practitioner,
   c. A licensed physician assistant,
   d. A licensed psychologist,
   e. A licensed clinical social worker,
   f. A licensed marriage and family therapist,
   g. A licensed professional counselor, ~~or~~
   h. A licensed independent substance abuse counselor, or
   i. A behavioral health medical practitioner.

E. Level 3 behavioral health residential agency services. Services provided in a licensed Level 3 behavioral health residential agency as defined in ~~R9-22-101~~ A.A.C. R9-20-101 are covered subject to the limitations and exclusions under this Article.
1. Level 3 behavioral health residential agency services are not covered unless provided by a licensed Level 3 behavioral health residential agency.
2. Covered services include all non-emergency travel, ~~non-legend~~ non-prescription drugs as defined in ~~A.R.S. § 32-1975,~~ A.R.S. § 32-1901, non-customized medical supplies, and clinical supervision of the level 3 behavioral health residential agency staff. Room and board are not covered services.
3. The following licensed and certified providers may bill independently for services:
   a. A licensed psychiatrist,
   b. A certified psychiatric nurse practitioner,
   c. A licensed physician assistant,
   d. A licensed psychologist,
   e. A licensed clinical social worker,
   f. A licensed marriage and family therapist,
   g. A licensed professional counselor,
   h. A licensed independent substance abuse counselor, or
   i. A behavioral health medical practitioner.

F. Partial care. Partial care services are covered subject to the limitations and exclusions in this Article.
1. Partial care services are not covered unless provided by a licensed and AHCCCS-registered behavioral health agency that provides a regularly scheduled day program of individual member, group, or family activities that are designed to improve the ability of the member to function in the community. Partial care services include basic, therapeutic, and medical day programs.
2. Partial care ~~service exclusions.~~ services. Educational services that are ~~not~~ therapeutic and are ~~not~~ included in the member's behavioral health treatment plan are ~~excluded~~ included in ~~from~~ per diem reimbursement for partial care services.

G. Outpatient services. Outpatient services are covered subject to the limitations and exclusions in this Article.
1. Outpatient services include the following:
   a. Screening provided by a behavioral health professional or a behavioral health technician~~;~~ as defined in ~~R9-22-101;~~ R9-22-1201;
   b. A behavioral health evaluation provided by a behavioral health professional~~;~~ or a behavioral health technician;
   c. Counseling including individual therapy, group, and family therapy provided by a behavioral health professional or a behavioral health technician;
   d. Behavior management services as defined in ~~R9-22-112;~~ R9-22-1201; and
   e. Psychosocial rehabilitation services as defined in ~~R9-22-112.~~ R9-22-102.
2. Outpatient service limitations.
   a. The following licensed or certified providers may bill independently for outpatient services:
      i. A licensed psychiatrist,
      ii. A certified psychiatric nurse practitioner,
      iii. A licensed physician assistant as defined in R9-22-1201~~.~~,
      iv. A licensed psychologist,
      v. A licensed clinical social worker,
      vi. A licensed professional counselor,
      vii. A licensed marriage and family therapist,
      viii. A licensed independent substance abuse counselor,
      ix. A behavioral health medical practitioner,
      x. A therapeutic foster parent, and
      xi. An outpatient clinic or a Level IV transitional agency licensed under 9 A.A.C. 20, Article 1, that is an AHCCCS-registered provider.
   b. A behavioral health practitioner not specified in subsection (G)(2)(a)(i) through (G)(2)(x), who is contracted with or employed by an ~~AHCCCS-registered behavioral health agency,~~ AHCCCS registered behavioral health agency shall not bill independently.

H. Emergency behavioral health services. The following emergency behavioral health services are covered subject to the limitations and exclusions under this Article.
1. ADHS shall ensure that emergency behavioral health services are provided by qualified service providers under R9-22-1206. ADHS shall ensure that emergency behavioral health services are available 24 hours-per-day, seven days-per-week in each GSA for an emergency behavioral health condition as defined in R9-22-102.
2. Emergency behavioral health services for non-FES members are provided under R9-22-210.01. Emergency behavioral health services for FES members are provided under R9-22-217.

I. Other covered behavioral health services. Other covered behavioral health services include:
1. Case management as defined in R9-22-1201;
2. Laboratory and radiology services for behavioral health diagnosis and medication management;
3. Psychotropic medication and related medication;
4. Monitoring, administration, and adjustment for psychotropic medication and related medications;
5. Respite care;
6. Therapeutic foster care services provided in a professional foster home defined in 6 A.A.C. 5, Article 58 or an adult therapeutic foster home as defined in 9 A.A.C. 20, Article 1;
7. Personal care services, including assistance with daily living skills and tasks, homemaking, bathing, dressing, food preparation, oral hygiene, self-administration of medications, and monitoring of the behavioral health recipient's condition and functioning level provided by a licensed and AHCCCS-registered behavioral health agency or a behavioral health professional, behavioral health technician, or behavioral health paraprofessional as defined in 9 A.A.C. 20, Article 1; and~~.~~
8. Other support services to maintain or increase the member's self-sufficiency and ability to live outside an institution.

J. Transportation services.
1. Emergency transportation is covered for a behavioral health emergency under R9-22-211. Coverage for emergency transportation is limited to behavioral health emergencies.
2. Non-emergency transportation is covered if used to travel to and from a registered provider of behavioral health services.

R9-22-1206. General Provisions and Standards for Service Providers

A. Qualified service provider. A qualified behavioral health service provider shall:
~~1. Be a non-contracting provider or employed by, or contracted in writing with, a RBHA or a contractor to provide behavioral health services to a member;~~
~~2.~~1. Have all applicable state licenses or certifications~~,~~ or comply with alternative requirements established by the Administration;

~~3.~~2. Register with the Administration as a service provider; and
~~4.~~3. Comply with all requirements under Article 5 and this Article.

B. Quality and utilization management.
1. Service providers shall cooperate with the quality and utilization management programs of a RBHA, a TRBHA, a contractor, ADHS/DBHS, and the Administration ~~under R9-22-522 and contract.~~ as specified in these rules and in contract.
2. Service providers shall comply with applicable procedures under 42 CFR 456.

R9-22-1207. ~~Standards for Payments~~ General Provisions for Payment

A. Payment to ~~ADHS.~~ ADHS/DBHS. ADHS/DBHS shall receive a monthly capitation payment~~,~~ based on the number of acute care members at the beginning of each month. ADHS/DBHS' administrative costs shall be incorporated into the capitation payment.

B. Claims submissions.
1. ADHS/DBHS shall require all ~~contracted~~ service providers to submit clean claims no later than the time-frame specified in the ADHS/DBHS contract with the Administration.
~~2. A claim for emergency services for a member not yet enrolled with an RBHA shall be submitted to a health plan by a provider and shall comply with the time-frames and other applicable payment procedures in Article 7 of this Chapter.~~
2. A provider of behavioral health services shall submit a claim for non-emergency behavioral health services provided to a member enrolled in a RBHA to the appropriate RBHA, and if not enrolled in a RBHA, to ADHS/DBHS.
3. A provider of behavioral health services shall submit a claim for non-inpatient emergency behavioral health services provided to a member enrolled in a RBHA to the appropriate RBHA, and if not enrolled in a RBHA, to ADHS/DBHS.
4. A provider of behavioral health services shall submit a claim for non-inpatient emergency behavioral health services provided to a member enrolled in a TRBHA to the Administration.
5. A provider of behavioral health services shall submit a claim for non-emergency behavioral health services provided to a member enrolled in a TRBHA to the Administration.
6. A provider of emergency behavioral health services, which are the responsibility of ADHS/DBHS or its contractor, shall submit a claim to the entity responsible for emergency behavioral health services under A.A.C. R9-22-210.01(A).
7. A contractor shall comply with the time-frames and other payment procedures in Article 7 of this Chapter, if applicable, and A.R.S. § 36-2904.
8. ADHS/DBHS or a contractor, whichever entity is responsible for covering behavioral health services, shall cost avoid any behavioral health service claims if it establishes the probable existence of first-party liability or third-party liability or has information that establishes that first-party liability or third-party liability exists.

C. Prior authorization. Payment to a provider for behavioral health services or items requiring prior authorization may be denied if a provider does not obtain prior authorization ~~is not obtained~~ from ~~the Administration,~~ ~~an~~ a RBHA, ADHS/DBHS, ~~or a health plan as specified in R9-22-705.~~ a TRBHA, or a contractor.

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

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

[R06-383]

PREAMBLE

1. Sections Affected — **Rulemaking Action**

R9-28-101	Amend
R9-28-1101	Amend
R9-28-1102	Amend
R9-28-1103	Amend
R9-28-1104	Amend
R9-28-1105	Amend
R9-28-1106	Amend
R9-28-1107	Amend
R9-28-1108	Repeal

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: A.R.S. § 36-2907(F)

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

Notice of Rulemaking Docket Opening: 11 A.A.R. 5546, December 30, 2005

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

Name:	Jane McVay
Address:	AHCCCS Office of Administrative Legal Services 701 E. Jefferson, Mail Drop 6200 Phoenix, AZ 85034
Telephone:	(602) 417-4135
Fax:	(602) 253-9115
E-mail:	AHCCCSRules@azahcccs.gov

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

These rules were prepared to make needed changes in the behavioral health rules for the Arizona Long-term Care Services (ALTCS) program as a result of the Five-Year Review Report prepared on these rules. The Administration is amending these behavioral health services rules to make them clear, concise, and understandable. In addition, the Administration is updating the rules to make them consistent with the current scope of services and operation of the behavioral health services program for ALTCS members. Members who may receive behavioral health services through the ALTCS program will have a better understanding of the behavioral health service delivery system because of the rule revision.

Native Americans who are living on a reservation or who are living on the reservation prior to placement in either a nursing facility or an alternative HCBS (Home and community based services) setting are enrolled with a tribal contractor or with Native American Community Health (NACH). Tribal contractors and NACH are responsible for providing case management services specified in the inter-governmental agreement. Case management services include an assessment of the Native American member to determine the medical necessity for services and, if appropriate, authorization of specific ALTCS services in the inter-governmental agreement. For FFS Native Americans, the AHCCCS Administration is responsible for reimbursement for behavioral health services authorized by a tribal contractor or the Administration under an inter-governmental agreement.

The AHCCCS Administration has exclusive authority to provide authorization for certain ALTCS services, such as incontinence supplies, home modifications, and durable medical equipment in excess of $500. The remaining ALTCS services are authorized by tribal contractors and NACH. If a service is determined to be medically necessary, a tribal contractor or NACH, or alternatively, the AHCCCS Administration for those services it evaluates, issues prior authorization. Once services are prior authorized, ALTCS services, including behavioral health services, may be provided by any AHCCCS FFS registered provider. In addition, Native Americans may obtain acute behavioral health services at any Indian Health Service (IHS) facility. (IHS also does not provide case management services).

Native Americans who are developmentally disabled are enrolled with the Department of Economic Security's Division of Developmental Disability (DES/DDD) irrespective of whether the Native American is residing on or off reservation. DDD subcontracts with ADHS for the provision of behavioral health services. Additionally, Native Americans may obtain services at an IHS facility although IHS only provides acute care services.

Native Americans who are living off reservation are enrolled with a program contractor for the provision of all ALTCS services, including all covered behavioral health services. If there is more than one program contractor available in the Geographical Service Area (GSA), a Native American may choose the program contractor. Irrespective of enrollment with a program contractor, these individuals may always receive services at an IHS facility notwithstanding capitation payments to the program contractor.

Native Americans who are developmentally disabled and living off reservation are enrolled with DES/DDD for the provision of all ALTCS services, including behavioral health services. DES/DDD, through an intergovernmental agreement with ADHS, is responsible for the provision of behavioral health services to this population. Irrespective of enrollment with DES/DDD, these individuals may receive services at IHS, notwithstanding capitation payments to DES/DDD for services which may be provided by IHS.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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:

Not applicable

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previ-

ous 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 rules do not impose additional costs on small businesses and members. The Administration has incurred minimal costs to perform the rule writing function. The revision of the rules to make them clear, concise, and understandable helps members in the Arizona Long-term Care System who receive behavioral health services gain a better understanding of the behavioral health service delivery system. Providers and contractors also benefit from rules that clarify the current program operation, service delivery system, and payment submittal provisions. Neither members, contractors, nor providers are expected to incur any additional costs as a result of the rulemaking.

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:	Jane McVay
Address:	AHCCCS Office of Administrative Legal Services 701 E. Jefferson, Mail Drop 6200 Phoenix, AZ 85034
Telephone:	(602) 417-4135
Fax:	(602) 253-9115
E-mail:	AHCCCSRules@azahcccs.gov

Proposed rule language will be available on the AHCCCS web site www.ahcccs.state.az.us the week of October 9, 2006. Please send written comments to the above address by 5:00 p.m., November 29**,** 2006. E-mail comments will be accepted.

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:	November 29, 2006
Time:	10:00 a.m.
Location:	AHCCCS 701 East Jefferson Phoenix, AZ 85034 Gold Room
Nature:	Public Hearing
Date:	November 29, 2006
Time:	10:00 a.m.
Location:	ALTCS: Arizona Long-term Care System 110 South Church, Suite 1360 Tucson, AZ 85701
Nature:	Public Hearing
Date:	November 29, 2006
Time:	10:00 a.m.
Location:	ALTCS Arizona Long-term Care System 3480 East Route 66 Flagstaff, AZ 86004
Nature:	Public Hearing

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable

12. Incorporations by reference and their location in the rules:
None

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

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

ARTICLE 1. DEFINITIONS

Section
R9-28-101. Definitions

ARTICLE 11. BEHAVIORAL HEALTH SERVICES

Section
R9-28-1101. General Requirements
R9-28-1102. ~~Contractor Responsibilities~~ Program or Tribal Contractor Responsibilities
R9-28-1103. Eligibility for Covered Services
R9-28-1104. General Service Requirements
R9-28-1105. Scope of Behavioral Health Services
R9-28-1106. General Provisions and Standards for Service Providers
R9-28-1107. ~~Standards for Payments~~ General Provisions for Payment
R9-28-1108. ~~Grievance and Request for Hearing Process~~ Repealed

ARTICLE 1. DEFINITIONS

R9-28-101. General Definitions

A. Location of definitions. Definitions applicable to Chapter 28 are found in the following:

Definition	Section or Citation
"Acute"	R9-28-301
"Administration"	A.R.S. § 36-2931
"ADHS"	~~R9-22-112~~ R9-22-102
"Aggregate"	~~R9-22-701~~ R9-22-701
"AHCCCS"	R9-22-101
"AHCCCS registered provider"	R9-22-101
"Algorithm"	R9-28-104
"ALTCS"	R9-28-101
"ALTCS acute care services"	R9-28-104
"Alternative HCBS setting"	R9-28-101
"Ambulance"	A.R.S. § 36-2201
"Applicant"	R9-22-101
"Bed hold"	R9-28-102
"Behavior intervention"	R9-28-102
"Behavior management services"	~~R9-22-112~~ R9-22-1201
"Behavioral health evaluation"	~~R9-22-112~~ R9-22-1201
"Behavioral health medical practitioner"	~~R9-22-112~~ R9-22-1201
"Behavioral health professional"	~~R9-20-101~~ R9-22-1201
"Behavioral health service"	~~R9-20-101~~ R9-22-1201
"Behavioral health technician"	R9-20-101
"Billed charges"	R9-22-701
~~"Board-eligible for psychiatry"~~	~~R9-22-112~~
"Capped fee-for-service"	R9-22-101
"Case management"	R9-22-1201
"Case management plan"	R9-28-101
"Case manager"	R9-28-101
"Case record"	R9-22-101
"Categorically-eligible"	R9-22-101
"Certification"	R9-28-501

"Certified psychiatric nurse practitioner"	~~R9-22-112~~ R9-22-1201
"CFR"	R9-28-101
"Clean claim"	A.R.S. § 36-2904
"Clinical supervision"	~~R9-22-112~~ R9-22-102
"CMS"	R9-22-101
"Community spouse"	R9-28-104
"Contract"	R9-22-101
"Contract year"	R9-28-101
"Contractor"	A.R.S. § 36-2901
"County of fiscal responsibility"	R9-28-701
"Covered services"	R9-28-101
"CPT"	R9-22-701
"CSRD"	R9-28-104
"Day"	R9-22-101
"Department"	A.R.S. § 36-2901
"De novo hearing"	42 CFR 431.201
"Developmental disability"	A.R.S. § 36-551
"Diagnostic services"	R9-22-102
"Director"	R9-22-101
"Disenrollment"	R9-22-117
"DME"	R9-22-102
"EPD"	R9-28-301
"Emergency medical services for the non-FES member"	R9-22-102
"Encounter"	R9-22-701
"Enrollment"	R9-22-117
"Estate"	A.R.S. § 14-1201
"Facility"	R9-22-101
"Factor"	42 CFR 447.10
"Fair consideration"	R9-28-104
"FBR"	R9-22-101
"Federal financial participation" or "FFP"	42 CFR 400.203
"Fee-For-Service" or "FFS"	~~R9-28-101~~ R9-22-102
"Frequency"	R9-28-301
"Grievance"	~~R9-22-108~~ R9-34-202
"GSA"	R9-22-101
"Guardian"	A.R.S. § 14-5311
"HCBS" or "Home and community based services"	A.R.S. §§ 36-2931 and 36-2939
"Health care practitioner"	~~R9-22-112~~ R9-22-1201
"Home"	R9-28-101
"Home health services"	R9-22-102
"Hospital"	R9-22-101
"ICF-MR" or "Intermediate care facility for the mentally retarded"	42 CFR 483 Subpart I
"IHS"	R9-28-101
"IMD" or "Institution for mental diseases"	42 CFR 435.1009
"Institutionalized"	R9-28-104
"Interested Party"	R9-28-106
"JCAHO"	R9-28-101
"License" or "licensure"	R9-22-101
"Limited or occasional"	R9-28-301
"Medical record"	R9-22-101
"Medical services"	A.R.S. § 36-401
"Medical supplies"	R9-22-102
"Medically eligible"	R9-28-104

"Medically necessary"	R9-22-101
"Member"	A.R.S. § 36-2931
"Mental disorder"	A.R.S. § 36-501
"MMMNA"	R9-28-104
"Nursing facility" or "NF"	42 U.S.C. 1396r(a)
"Noncontracting provider"	A.R.S. § 36-2931
"Occupational therapy"	R9-22-102
"Partial care"	~~R9-22-112~~ R9-22-1201
"PAS"	R9-28-103
"Pharmaceutical service"	R9-22-102
"Physical therapy"	R9-22-102
"Physician"	R9-22-102
"Post-stabilization care services"	42 CFR 438.114
"Practitioner"	R9-22-102
"Primary care provider (PCP)"	R9-22-102
"Primary care provider services"	R9-22-102
"Prior authorization"	R9-22-102
"Prior period coverage" or "PPC"	~~R9-22-701~~ R9-22-101
"Private duty nursing services"	R9-22-102
"Program contractor"	A.R.S. § 36-2931
"Provider"	A.R.S. § 36-2931
"Psychiatrist"	~~R9-22-112~~ R9-22-1201
"Psychologist"	~~R9-22-112~~ R9-22-1201
"Psychosocial rehabilitation services"	~~R9-22-112~~ R9-22-102
"Quality management"	R9-22-501
"Regional behavioral health authority" or "RBHA"	A.R.S. § 36-3401
"Radiology"	R9-22-102
"Reassessment"	R9-28-103
"Redetermination"	R9-28-104
"Referral"	R9-22-101
"Reinsurance"	R9-22-701
"Representative"	R9-28-104
"Respiratory therapy"	R9-22-102
"Respite care"	R9-28-102
"RFP"	R9-22-106
"Room and board"	R9-28-102
"Scope of services"	R9-28-102
"Section 1115 Waiver"	A.R.S. § 36-2901
"Speech therapy"	R9-22-102
"Spouse"	R9-28-104
"SSA"	42 CFR 1000.10
"SSI"	42 CFR 435.4
"Subcontract"	R9-22-101
"Therapeutic Leave"	R9-28-501
"Tribal facility"	A.R.S. § 36-2981
"Utilization management"	R9-22-501
"Ventilator dependent"	R9-28-102

B. General definitions. In addition to definitions contained in A.R.S. §§ 36-551, 36-2901, 36-2931, and 9 A.A.C. 22, Article 1, the following words and phrases have the following meanings unless the context of the Chapter explicitly requires another meaning:

"ALTCS" means the Arizona Long-term Care System as authorized by A.R.S. § 36-2932.

"Alternative HCBS setting" means a living arrangement approved by the Director and licensed or certified by a regulatory agency of the state, where a member may reside and receive HCBS including:

For a person with a developmental disability specified in A.R.S. § 36-551:

Community residential setting defined in A.R.S. § 36-551;

Group home defined in A.R.S. § 36-551;

State-operated group home under A.R.S. § 36-591;

Group foster home under R6-5-5903;
Licensed residential facility for a person with traumatic brain injury under A.R.S. § 36-2939;
Adult therapeutic foster home under 9 A.A.C 20, Articles 1 and 15;
Level 2 and Level 3 behavioral health agencies under 9 A.A.C. 20, Articles 1, 4, 5, and 6; and
Rural substance abuse transitional agencies under 9 A.A.C. 20, Articles 1 and 14; and

For a person who is elderly or physically disabled under R9-28-301, and the facility, setting, or institution is registered with AHCCCS:

Adult foster care homes defined in A.R.S. § 36-401 and as authorized in A.R.S. § 36-2939;
Assisted living home or assisted living center, units only, under A.R.S. § 36-401, and as authorized in A.R.S. § 36-2939;
Licensed residential facility for a person with a traumatic brain injury specified in A.R.S. § 36-2939;
Adult therapeutic foster home under 9 A.A.C. 20, Articles 1 and 15;
Level II and Level III behavioral health agencies under 9 A.A.C. 20, Articles 1, 4, 5, and 6;
Rural Substance Abuse Transitional Agencies under 9 A.A.C. 20, Articles 1 and 14; and
Alzheimer's treatment assistive living facility demonstration pilot project as specified in Laws 1999, Ch. 313, § 35 as amended by Laws 2001, Ch. 140, § 1 and Laws 2003, Ch. 76, § 1~~.~~, and amending Laws 1999, Chapter 313, § 41, as amended by Laws 2001, Chapter 140, § 2.

"Case management plan" means a service plan developed by a case manager that involves the overall management of a member's care, and the continued monitoring and reassessment of the member's need for services.
"Case manager" means a person who is either a degreed social worker, a licensed registered nurse, or a person with a minimum of two years of experience in providing case management services to a person who is elderly ~~and physically disabled or has developmental disabilities.~~ or who has physical or developmental disabilities.
"Contract year" means the period beginning on October 1 and continuing until September 30 of the following year.
"CFR" means Code of Federal Regulations, unless otherwise specified in this Chapter.
"Covered Services" means the health and medical services described in Articles 2 and 11 of this Chapter as being eligible for reimbursement by AHCCCS.
~~"Fee For Service" or "FFS" means a method of payment by the AHCCCS Administration to a registered provider on an amount per service basis.~~
"Home" means a residential dwelling that is owned, rented, leased, or occupied by a member, at no cost to the member, including a house, a mobile home, an apartment, or other similar shelter. A home is not a facility, a setting, or an institution, or a portion of any of these that is licensed or certified by a regulatory agency of the state as a:

Health care institution under A.R.S. § 36-401;
Residential care institution under A.R.S. § 36-401;
Community residential setting under A.R.S. § 36-551; or
Behavioral health service under 9 A.A.C. 20, Articles 1, 4, 5, and 6.

"IHS" means the Indian Health Service.
"JCAHO" means the Joint Commission on Accreditation of Healthcare Organizations.

ARTICLE 11. BEHAVIORAL HEALTH SERVICES

R9-28-1101. General Requirements

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

1. Administration. The program shall be administered under A.R.S. § 36-2932.
2. Provision of services. Behavioral health services shall be provided under A.R.S. § 36-2939, ~~and~~ this Chapter~~.~~ and Chapter 22, Article 12 of this Title, as applicable.
3. Definitions. The ~~following~~ definitions in A.A.C. R9-22-1201 and A.A.C. R9-22-102 apply to this Article~~:~~, ~~-~~in addition to the following definition: "Tribal contractor" means a Tribal Organization (The Tribe) or Urban Indian Organization defined in 25 U.S.C. 1603 and recognized by CMS as meeting the requirements of 42 U.S.C. 1396(d)(b), that provides or is accountable for providing the services or delivering the items described in the IGA.
4. Enrollment.
   a. On-reservation. An elderly or physically disabled Native American who resides on-reservation shall be enrolled with an ALTCS tribal contractor under A.A.C. R9-28-415 and shall be FFS. A tribal contractor provides case management services to FFS Native American members on or off-reservation who are enrolled with a tribal contractor as delineated in the IGA. A tribal contractor or the Administration may authorize behavioral health services for FFS Native American members enrolled with a tribal contractor as delineated in the IGA.
   b. Off-reservation. An elderly or physically disabled Native American who resides off-reservation shall be enrolled with an ALTCS program contractor under A.A.C R9-28-415.
   c. Developmentally disabled. A Native American who is developmentally disabled and resides on or off-reserva-

tion shall be enrolled with the Department of Economic Security's Division of Developmental Disabilities under A.A.C.R9-28-414 and shall receive behavioral health services from a program contractor of the Department of Economic Security's Division of Developmental Disabilities.

5. Reimbursement. For FFS Native Americans, the Administration is exclusively responsible for providing reimbursement for behavioral health services that are authorized by a tribal contractor or the Administration under the IGA.
   a. ~~"Physician assistant" under A.R.S. § 32-2501. In addition, a physician assistant providing a behavioral health service shall be supervised by an AHCCCS-registered psychiatrist.~~
   b. ~~"Respite" as defined under A.A.C. R9-22-1201.~~
   c. ~~"Substance abuse" as defined under A.A.C. R9-22-1201.~~
   d. ~~"Therapeutic foster care services" as defined under A.A.C. R9-22-1201.~~

R9-28-1102. ~~Contractor Responsibilities~~ Program or Tribal Contractor Responsibilities

~~A. Contractor responsibilities. Contractors shall provide behavioral health services for members as specified in this Article.~~
   ~~1. A contractor shall determine whether a member needs behavioral health services and, if medically necessary, may subcontract through its service provider network for the behavioral health services in R9-28-1105.~~
   ~~2. A contractor shall coordinate the transition of care and medical records as specified in A.R.S. §§ 36-2932, and 36-509 A.A.C. R9-28-514, and in contract when a member transitions from:~~
      ~~a. A behavioral health provider to another behavioral health provider,~~
      ~~b. An RBHA to a contractor,~~
      ~~c. A contractor to an RBHA, or~~
      ~~d. A contractor to a contractor.~~
   ~~3. A contractor shall ensure that the member's medical records are transferred during the transition in this Section.~~

~~B. Administration responsibilities. If a contractor is not available to provide behavioral health services in a county, the Administration shall provide the service.~~

A program or tribal contractor shall provide behavioral health services for a member enrolled under R9-28-1101.

1. A program contractor is responsible for providing behavioral health services to a member who is not enrolled with a tribal contractor.
2. When a tribal contractor determines that an elderly or physically disabled Native American member residing on a reservation under R9-28-415 needs behavioral health services, the member shall receive services as authorized by the Administration or a tribal contractor under A.A.C. R9-22-1205 from any AHCCCS registered provider.
3. A program or tribal contractor shall cooperate when a transition of care occurs and ensure that medical records are transferred in accordance with A.R.S. § § 36-2932, 36-509, and R9-28-514 when a member transitions from:
   a. A behavioral health provider to another behavioral health provider,
   b. A RBHA or TRBHA to a program contractor,
   c. A program or tribal contractor to a RBHA or TRBHA, or
   d. A program contractor to a tribal contractor or vice versa.

R9-28-1103. Eligibility for Covered Services

~~A.~~ Eligibility for covered services. A member determined eligible under A.R.S. § 36-2934 shall receive medically necessary covered services specified in ~~R9-28-1105.~~ A.A.C. R9-22-1205 and R9-28-202.

~~B. Ineligibility. A person is not eligible for behavioral health services if the person is:~~
   ~~1. An inmate of a public institution as defined in 42 CFR 435.1009,~~
   ~~2. A resident of an institution for the treatment of tuberculosis, or~~
   ~~3. Age 21 through 64, who is a resident of an IMD, and who exceeds the limits under Article 11.~~

B. Limitations. Behavioral health services are covered as specified in A.A.C.R9-22-201 and A.A.C.R9-22-1205.

R9-28-1104. General Service Requirements

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

~~B. Medical necessity. A service shall be medically necessary as specified in R9-28-201.~~

~~C. Prior authorization. A service shall be provided by contractors, subcontractors, and providers consistent with prior authorization requirements established by the Director, and under R9-28-1105.~~

B. Prior authorization for emergency behavioral health services. A provider is not required to obtain prior authorization for emergency behavioral health services.

C. Prohibition against denial of payment. A program contractor, tribal contractor, or the Administration shall not limit or deny payment to an emergency behavioral health provider for emergency behavioral health services to a member for the following reasons:
   1. On the basis of lists of diagnoses or symptoms;
   2. Prior authorization was not obtained; or
   3. The provider does not have a contract;

D. A program contractor or the Administration shall not limit or deny payment to an emergency behavioral health provider

for emergency behavioral health services provided to a member when the member received those services as directed by an employee of the program contractor or the Administration.

E. Grounds for denial for persons enrolled with a program or tribal contractor. A program contractor or the Administration may deny payment to an emergency behavioral health provider for emergency behavioral health services for reasons including but not limited to the following:
1. The claim was not a clean claim,
2. The claim was not submitted timely, or
3. The provider failed to provide timely notification to the Administration or the program contractor, as applicable.

F. Notification to program contractor for persons enrolled with a program contractor. A hospital, emergency room provider, or fiscal agent shall notify a program contractor no later than the 11th day from presentation of the member enrolled with a program contractor for emergency inpatient behavioral health services.

G. Notification to Administration for Native Americans enrolled with a tribal contractor. A provider shall notify the Administration no later than 72 hours after a Native American member enrolled with a tribal contractor presents to a hospital for inpatient emergency behavioral health services.

H. Behavioral health evaluation. Subject to A.R.S. § 36-545.06 and R9-28-903, an emergency behavioral health evaluation is covered as an emergency service for a member under this Section if:
1. Required to evaluate or stabilize an acute episode of mental disorder or substance abuse; and
2. Provided by a qualified provider who is a behavioral health medical practitioner as defined in A.A.C.R9-22-1201, including a licensed psychologist, a licensed clinical social worker, a licensed professional counselor, a licensed marriage and family therapist.

I. Post-stabilization requirements for members enrolled with a program contractor.
1. A program contractor is financially responsible for behavioral health post-stabilization services obtained within or outside the network that have been prior authorized by the program contractor.
2. The program contractor is financially responsible for behavioral health post-stabilization services obtained within or outside the network that are not prior authorized by the program contractor, but are administered to maintain the member's stabilized condition within one hour of a request to the program contractor for prior authorization of further post-stabilization services;
3. The program contractor is financially responsible for behavioral health post-stabilization services obtained within or outside the network that are not prior authorized by the program contractor, but are administered to maintain, improve, or resolve the member's stabilized condition if:
   a. The program contractor does not respond to a request for prior authorization within one hour;
   b. The program contractor authorized to give the prior authorization cannot be contacted; or
   c. The representative of the program contractor and the treating physician cannot reach an agreement concerning the member's care and the program contractor's physician, is not available for consultation. The treating physician may continue with care of the member until the program contractor's physician is reached, or:
      i. A program contractor's physician with privileges at the treating hospital assumes responsibility for the member's care;
      ii. A program contractor's physician assumes responsibility for the member's care through transfer;
      iii. A representative of the program contractor and the treating physician reach agreement concerning the member's care; or
      iv. The member is discharged.
4. Transfer or discharge. The attending physician or the provider actually treating the member for the emergency behavioral health condition shall determine when the member is sufficiently stabilized for transfer or discharge and that decision shall be binding on the program contractor.

J. Prior authorization for non-emergency behavioral health services. When a member's behavioral health condition is determined by the provider not to require emergency behavioral health services, the provider shall follow the program contractor's or the Administration's prior authorization requirements.

~~**D.**~~**K.** EPSDT. For Title XIX members~~,~~ under age 21, EPSDT services shall include all medically necessary Title XIX-covered behavioral health services. ~~for a member.~~

~~**E.**~~**L.** Experimental services. ~~The Director shall determine whether a service is experimental or whether a service is provided primarily for the purpose of research. Those services shall not be covered.~~ Experimental services and services that are provided primarily for the purpose of research are not covered.

~~**F.**~~**M.** Gratuities. A service or an item, if furnished gratuitously to a member by a provider, is not covered and payment ~~shall be denied.~~ to a provider shall be denied.

~~**G.**~~**N.** ~~Service area.~~ GSA. Behavioral health services rendered to a member enrolled with a program contractor shall be provided within the program contractor's ~~service area~~ GSA except when:
1. A ~~contractor's~~ primary care provider refers a member to another area for medical specialty care;
2. A member's medically necessary covered service is not available within the ~~service area;~~ GSA;
3. A net savings in behavioral health service delivery costs can be documented by the program contractor for a member.

Undue travel time or hardship shall be considered for a member or a member's family; or

4. A member is placed by the program contractor in an NF or Alternative HCBS setting located out of the program contractor's ~~service area.~~ GSA, but remains enrolled with that program contractor.

~~H.~~**Q.** Travel. If a member travels or temporarily resides ~~out~~ outside of ~~a behavioral health service area,~~ a program contractor's GSA, covered services are restricted to emergency behavioral health care, unless authorized by the member's program contractor.

~~I.~~**P.** Non-covered services. If a member requests a behavioral health service that is not covered ~~by the Administration~~ or is not authorized by a program contractor, the tribal contractor, or the Administration, the behavioral health service may be provided by an AHCCCS-registered behavioral health service provider ~~under the following conditions:~~ according to A.A.C.R9-22-702.

~~1. The requested service and the itemized cost of each service is documented by a the program contractor and provided to the member or the member's guardian; and~~

~~2. The member or member's guardian signs a statement acknowledging:~~

~~a. Services have been explained to the member or member's guardian, and~~

~~b. The member or member's guardian accepts responsibility for payment.~~

~~J. Referral. If a member is referred out of a program contractor's service area to receive a prior authorized, medically necessary, behavioral health service or a medically necessary covered service, the service shall be provided.~~

~~K.~~**Q.** Restrictions and limitations.

1. The restrictions, limitations, and exclusions in this Article ~~shall~~ do not apply to a program contractor when electing to provide a noncovered service.
2. Room and board is not a covered service unless provided by the Administration or a program contractor in ~~an~~ a Level I, inpatient, sub-acute, or residential center under ~~R9-28-1105.~~ A.A.C. R9-22-1205.

~~L. Residential placement. Behavioral health services are covered in an Alternative HCBS setting or home as specified in R9-28-101(B).~~

~~M. Appropriate settings. A behavioral health service shall be provided in an allowable Alternative HCBS setting that meets state and federal licensing standards and that is allowable under A.R.S. § 36-2939.~~

R9-28-1105. Scope of Behavioral Health Services

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

~~1. Inpatient behavioral health services provided in a medicare (Title XVIII) certified hospital include all behavioral health services, medical detoxification, accommodations and staffing, supplies, and equipment. The behavioral health service shall be provided under the direction of a physician in:~~

~~a. A general acute care hospital, or~~

~~b. An inpatient psychiatric hospital.~~

~~2. Inpatient service limitations:~~

~~a. Inpatient services, other than emergency services specified in this Section, shall be prior authorized.~~

~~b. Inpatient services shall be reimbursed on a per diem basis and shall be inclusive of all services and room and board, except the following may bill independently for services:~~

~~i. A psychiatrist,~~

~~ii. A certified psychiatric nurse practitioner,~~

~~iii. A physician assistant,~~

~~iv. A psychologist,~~

~~v. A certified independent social worker,~~

~~vi. A certified marriage and family therapist,~~

~~vii. A certified professional counselor, or~~

~~viii. A behavioral health medical practitioner.~~

~~c. A member age 21 through 64 is eligible for behavioral health services provided in an IMD except as specified in 42 CFR 441.151 and under this Section up to 30 days per admission and no more than 60 days per contract year as allowed under the Administration's Section 1115 Waiver with CMS. These limitations do not apply to a member under age 21 and age 65 or over.~~

~~B. Level I Residential Treatment Center Services. The following Residential Treatment Center services shall be covered subject to the limitations and exclusions in this Article.~~

~~1. Level I 1 Residential Treatment Center services shall be provided under the direction of a physician in a Level I Residential Treatment Center accredited by an AHCCCS approved accrediting body as specified in contract.~~

~~2. Residential Treatment Center services include room and board and treatment services for mental health and substance abuse conditions.~~

~~3. Residential Treatment Center service limitations:~~

~~a. Services shall be prior authorized, except for emergency services as specified in this Section.~~

b. Services shall be reimbursed on a per diem basis and shall be inclusive of all services, except the following may bill independently for services:
   i. A psychiatrist,
   ii. A certified psychiatric nurse practitioner,
   iii. A physician assistant,
   iv. A psychologist,
   v. A certified independent social worker,
   vi. A certified marriage and family therapist,
   vii. A certified professional counselor, or
   viii. A behavioral health medical practitioner.

4. The following services may be billed independently if prescribed by a provider specified in this Section who is operating within the scope of practice:
   a. Laboratory,
   b. Radiology, and
   c. Psychotropic medication.

C. Covered Level Sub-acute Facility Services. The following sub-acute services shall be covered subject to the limitations and exclusions under this Article.

1. Level I sub-acute facility services shall be provided under the direction of a physician in a Level I sub-acute facility accredited by an AHCCCS approved accrediting body as specified in contract.
2. Level I sub-acute services include room and board and treatment services for mental health and substance abuse conditions.
3. Services shall be reimbursed on a per diem basis and shall be inclusive of all services, except the following may bill independently for services:
   a. A psychiatrist,
   b. A certified psychiatric nurse practitioner,
   c. A physician assistant,
   d. A psychologist,
   e. A certified independent social worker,
   f. A certified marriage and family therapist,
   g. A certified professional counselor, or
   h. A behavioral health medical practitioner.
4. The following services may be billed independently if prescribed by a provider specified in this Section:
   a. Laboratory,
   b. Radiology, and
   c. Psychotropic medication.
5. A member age 21 through 64 is eligible for behavioral health services provided in a an IMD except as specified in 42 CFR441.151 as defined in this Section for up to 30 days per admission and no more than 60 days per contract year as allowed under the Administration's Section 1115 Waiver with CMS. These limitations do not apply to a member under age 21 and age 65 or over.

D. ADHS licensed Level II Behavioral Health Residential Services. The following Level II Behavioral Health Residential services shall be covered subject to the limitations and exclusions in this Article.

1. Level II Behavioral Health services shall be provided by a licensed Level II agency.
2. Services shall be inclusive of all covered services except room and board.
3. The following may bill independently for services:
   a. A psychiatrist,
   b. A certified psychiatric nurse practitioner,
   c. A physician assistant,
   d. A psychologist,
   e. A certified independent social worker,
   f. A certified marriage and family therapist,
   g. A certified professional counselor, or
   h. A behavioral health medical practitioner.

E. ADHS licensed Level III Behavioral Health Residential Services. The following Level III Behavioral Health Residential services shall be covered subject to the limitations and exclusions in this Article.

1. Level III Behavioral Health services shall be provided by a licensed Level III agency.
2. Services shall be inclusive of all covered services except room and board.
3. The following may bill independently for services:
   a. A psychiatrist,
   b. A certified psychiatric nurse practitioner,

e. A physician assistant,
d. A psychologist,
e. A certified independent social worker,
f. A certified marriage and family therapist,
g. A certified professional counselor, or
h. A behavioral health medical practitioner.

F. Partial care. The following care services shall be covered subject to the limitations and exclusions in this Article.
1. Partial care shall be provided by an agency qualified to provide a regularly scheduled day program of individual member, group, or family activities that are designed to improve the ability of the member to function in the community.
2. Partial care service exclusions. School attendance and educational hours shall not be included as a partial care service and shall not be billed concurrently with these services.

G. Outpatient services. The following outpatient services shall be covered subject to the limitations and exclusions in this Article.
1. Outpatient services shall include the following:
a. Screening provided by a behavioral health professional or a behavioral health technician;
b. Initial behavioral health evaluation provided by a behavioral health professional;
c. Ongoing behavioral health evaluation by a behavioral health professional or a behavioral health technician;
d. Counseling including individual therapy, group, and family therapy provided by a behavioral health professional or a behavioral health technician;
e. Behavior management services provided by qualified individuals or agencies as specified in contract; and
f. Psychosocial rehabilitation services provided by qualified individuals or agencies as specified in contract.
2. Outpatient service limitations:
a. The following practitioners may bill independently:
i. A psychiatrist,
ii. A certified psychiatric nurse practitioner,
iii. A physician assistant as defined in this Article,
iv. A psychologist,
v. A certified independent social worker,
vi. A certified professional counselor,
vii. A certified marriage and family therapist,
viii. A behavioral health medical practitioner,
ix. A therapeutic foster parent, and
x. Other AHCCCS registered providers as specified in contract.
b. Other behavioral health professionals and qualified persons not specified in subsection (G)(2)(a) shall be employed by, or contracted with, an AHCCCS registered behavioral health agency.

H. Behavioral health emergency services. The following emergency services are covered subject to the limitations and exclusions under this Article.
1. Behavioral health emergency services may be provided on either an inpatient or outpatient basis. A contractor shall ensure services are provided by the qualified personnel service providers specified in under R9-28-1106. The emergency services shall be available 24 hours-per-day, seven days-per-week in the contractor's service area in situations when a member is a danger to self or others or is otherwise determined in need of immediate unscheduled behavioral health services.
2. An inpatient emergency service provider shall verify the eligibility and enrollment of a member through the Administration to determine the need for notification to a contractor, and to determine the party responsible for payment of services under Article 7.
3. Prior authorization for a consultation provided by a psychiatrist, a certified psychiatric nurse practitioner, a physician assistant, or a psychologist is not required if necessary to evaluate or stabilize a behavioral health emergency.
4. Inpatient behavioral health service limitations as specified in this Section apply to emergency services provided to a member on an inpatient basis.

I. Other behavioral health services. Other behavioral health services include:
1. Laboratory and radiology services for behavioral health diagnosis and medication management;
2. Psychotropic medication and related medication;
3. Medication monitoring, administration, and adjustment for psychotropic medication and related medications;
4. Respite care as defined in R9-28-1101;
5. Therapeutic foster care;
6. Personal assistance; and
7. Other support services to maintain or increase the member's self-sufficiency and ability to live outside an institution.

J. Transportation services.

~~1. Emergency transportation shall be covered for a behavioral health emergency under R9-22-211. Emergency transportation is limited to behavioral health emergencies.~~
~~2. Non-emergency transportation shall be covered to and from covered behavioral health service providers.~~

A. Scope of Services. The provisions of A.A.C. R9-22-1205 apply to the scope of behavioral health services for a member under this Article.

B. Applicability. References in A.A.C. R-9-22-1205 to ADHS/DBHS or to RBHA apply to a program contractor.

R9-28-1106. General Provisions and Standards for Service Providers

A. Applicability. The provisions of R9-22-1206 apply to the general provisions and standards for service providers. References to ADHS/DBHS or a RBHA apply to the program contractor.

~~**A.**~~**B.** Qualified service provider. A qualified behavioral health service provider shall:

~~1. Be a non-contracting provider or employed by, or contracted in writing with, a contractor or a subcontractor to provide behavioral health services to a member;~~
~~2.~~1. Have all applicable state licenses or certifications, or comply with alternative requirements established by the Administration;
~~3~~2. Register with the Administration as a behavioral health service provider; and
~~4.~~3. Comply with all requirements under Article 5 and this Article.

~~**B.**~~**C.** Quality and utilization management.

1. Service providers shall cooperate with the program contractor's quality and utilization management~~, ADHS~~, programs and the Administration as under R9-28-511 and in contract.
2. Service providers shall comply with applicable procedures under 42 CFR 456.

R9-28-1107. ~~Standards for Payments~~ General Provisions for Payment

~~**A.** Payment to contractors. A payment to a contractor shall be made according to the terms and conditions of the contract executed with the Administration. as specified in Article 7, unless otherwise specified in this Article~~.

~~**B.**~~**A.** Prior authorization. Payment to a provider for behavioral health services or items requiring prior authorization may be denied if a provider does not obtain prior authorization ~~is not obtained~~ from the Administration, or a program or tribal contractor, whichever is applicable, as specified in R9-28-705.

B. In accordance with A.A.C.R9-28-903, the Administration or a program contractor shall cost avoid any behavioral health service claims if the Administration or the program contractor establishes the probable existence of first-party liability or third-party liability, or has information that establishes that first-party liability or third-party liability exists.

R9-28-1108. ~~Grievance and Request for Hearing Process~~ Repealed

~~**A.** Processing a grievance. A grievance for an adverse action for a behavioral health service shall be processed as specified in 9 A.A.C. 22, Articles 8 and 13 and under A.R.S. §§ 36-2932, 36-3413, and 41-1092 et seq. The grievance and request for hearing process is illustrated in 9 A.A.C. 22, Article 8, Exhibit A.~~

~~**B.** Member request for hearing. A member's request for hearing for a grievance under this Article shall be conducted as specified in 9 A.A.C. 22, Article 8~~.

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

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

[R06-384]

PREAMBLE

1. Sections Affected	Rulemaking Action
R9-31-101	Amend
R9-31-102	Amend
R9-31-112	Repeal
R9-31-1201	Amend
R9-31-1202	Amend
R9-31-1203	Amend
R9-31-1204	Amend
R9-31-1205	Amend
R9-31-1206	Amend

R9-31-1207	Amend
R9-31-1208	Repeal

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(F)

Implementing statute: A.R.S. § 36-2907(F)

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

Notice of Rulemaking Docket Opening: 11A.A.R. 5547, December 30, 2006

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

Name: Jane McVay

Address: AHCCCS
Office of Administrative Legal Services
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034

Telephone: (602) 417-4135

Fax: (602) 253-9115

E-mail: AHCCCSRules@azahcccs.gov

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

These rules make needed changes in the behavioral health rules for the KidsCare Program as a result of the Five-Year Review Report prepared on these rules. The Administration is amending these behavioral health rules to make them clear, concise, and understandable. The changes update the rules to make them consistent with the current program operation and requirements, and the claims submission process. Definitions relating specifically to the behavioral health service program detailed in Article 12 are moved from R9-31-101 or R9-31-112 to R9-22-1201. The rules repeal R9-22-112.

The Administration contracts with the Arizona Department of Health Services/Division of Behavioral Health Services (ADHS/DBHS) to provide behavioral health services to Title XXI members in the KidsCare Program. Behavioral health services for the KidsCare population are delivered by the Arizona Department of Health Services (ADHS) under a capitation arrangement with AHCCCS. ADHS contracts with Regional Behavioral Health Agencies (RBHA's) to provide behavioral health services. RBHA's are organizations under contract with ADHS that coordinate the delivery of behavioral health services in a geographically specific service area of the state for eligible services. The Administration capitates ADHS to provide behavioral health services to members. Members who are enrolled with a contractor enroll with a RBHA to receive behavioral health services. The responsibility for behavioral health services in the KidsCare Program rests with either the contractors or the RBHA's, with the exception of Native Americans.

In the KidsCare Program, Native Americans may choose to receive all services, including behavioral health services, from a Tribal Regional Behavioral Health Agency (TRBHA), an Indian Health Service facility, or a RBHA. TRBHA's are Native American Indian tribes under contract with ADHS/DBHS to coordinate the delivery of behavioral health services to eligible, enrolled members of the tribal nation. (IHS does not provide case management services.) If a covered behavioral health service is not available from an IHS facility, the Native American member must enroll with a Tribal Regional Behavioral Health Authority (TRBHA), if available, or a Regional Behavioral Health Authority (RBHA), to receive services.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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:

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 rules do not impose additional costs on small businesses and members. The Administration has incurred minimal costs to perform the rule writing function. The revision of the rules to make them clear, concise, and understandable helps members in the KidsCare program who receive behavioral health services gain a better understanding of the behavioral health service delivery system. Providers and contractors also benefit from rules that clarify the current program operation, service delivery system, and payment submittal provisions. Neither members, contractors, nor providers are expected to incur any additional costs as a result of the rulemaking.

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: Jane McVay

Address: AHCCCS
Office of Administrative Legal Assistance
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034

Telephone: (602) 417-4135

Fax: (602) 253-9115

E-mail: AHCCCSRules@azahcccs.gov

Proposed rule language will be available on the AHCCCS web site www.ahcccs.state.az.us the week of October 9, 2006. Please send written comments to the above address by 5:00 p.m., November 29, 2006. E-mail comments will be accepted.

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: November 29, 2006

Time: 10:00 a.m.

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

Nature: Public Hearing

Date: November 29, 2006

Time: 10:00 a.m.

Location: ALTCS: Arizona Long-term Care System
110 South Church, Suite 1360
Tucson, AZ 85701

Nature: Public Hearing

Date: November 29, 2006

Time: 10:00 a.m.

Location: ALTCS: Arizona Long-term Care System
3480 East Route 66
Flagstaff, AZ 86004

Nature: Public Hearing

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

Not applicable

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

None

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

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

ARTICLE 1. DEFINITIONS

Section
R9-31-101. Location of Definitions
R9-31-102. Scope of ~~Services Related~~ Services-related Definitions
R9-31-112. ~~Behavioral Health Definitions~~ Repealed

ARTICLE 12. BEHAVIORAL HEALTH SERVICES

Section
R9-31-1201. General Requirements
R9-31-1202. ADHS and Contractor Responsibilities
R9-31-1203. Eligibility for Covered Services
R9-31-1204. General Service Requirements
R9-31-1205. Scope of Behavioral Health Services
R9-31-1206. General Provisions and Standards for Service Providers
R9-31-1207. ~~Standards for Payments~~ General Provisions for Payment
R9-31-1208. ~~Grievance and Request for Hearing Process~~ Repealed

ARTICLE 1. DEFINITIONS

R9-31-101. Location of Definitions

A. Location of definitions. Definitions applicable to 9 A.A.C. 31 are found in the following~~.~~:

Definition	Section or Citation
"ADHS"	~~R9-31-112~~ R9-31-101
"Administration"	A.R.S. § 36-2901
"Adverse action"	R9-34-102
"Aggregate"	R9-22-701
"AHCCCS"	R9-31-101
"AHCCCS registered provider"	R9-22-101
"Ambulance"	R9-22-102
~~"American Indian"~~	~~R9-31-101~~
"Ancillary department"	R9-22-701
"Applicant"	R9-31-101
"Application"	R9-31-101
"Behavior management service"	~~R9-31-112~~ R9-31-1201
"Behavioral health evaluation"	~~R9-31-112~~ R9-31-1201
"Behavioral health medical practitioner"	~~R9-31-112~~ R9-31-1201
"Behavioral health professional"	~~R9-31-112~~ R9-31-1201
~~"Behavioral health evaluation"~~	~~R9-31-112~~
~~"Behavioral health medical practitioner"~~	~~R9-31-112~~
"Behavioral health service"	R9-31-1201
"Behavioral health technician"	~~R9-20-101~~ R9-31-1201
"Billed charges"	R9-22-701
~~"Board-eligible for psychiatry"~~	~~R9-31-112~~
"Capital costs"	R9-22-701
"Case management services"	R9-31-1201
"Certified nurse practitioner"	R9-31-102
"Certified psychiatric nurse practitioner"	~~R9-31-112~~ R9-31-1201
"Child"	42 U.S.C. 1397jj
"Chronically ill"	A.R.S. § 36-2983
"Clean claim"	A.R.S. § 36-2904
"Clinical supervision"	~~R9-31-112~~ R9-22-102
"CMDP"	R9-31-103
"Continuous stay"	R9-22-101
"Contract"	R9-22-101
"Contractor"	A.R.S. § 36-2901
"Contract year"	R9-31-101
~~"Copayment"~~	~~R9-22-701~~

"Cost avoidance"	R9-22-1001
"Cost-to-charge ratio"	R9-22-701
"Covered charges"	~~R9-31-107~~ R9-31-701
"Covered services"	R9-22-102
"CPT"	R9-22-701
"CRS"	R9-31-103
"Date of eligibility posting"	R9-22-701
"Day"	R9-22-101
"De novo hearing"	42 CFR 431.201
"Dentures~~2~~ and Denture services"	R9-22-102
"DES"	R9-31-103
"Determination"	R9-31-103
"Diagnostic services"	R9-22-102
"Director"	A.R.S. § 36-2981
"DME"	R9-22-102
"DRI inflation factor"	R9-22-701
"Emergency medical condition"	42 U.S.C. 1396b(v)
"Emergency medical services"	R9-22-102
"Encounter"	R9-22-701
"Enrollment"	R9-31-103
"Experimental services"	R9-22-101
"Facility"	R9-22-101
"Factor"	R9-22-101
~~"First-party liability"~~	~~R9-22-1001~~
"Federal Poverty Level or FPL"	A.R.S. § 36-2981
"First-party liability"	R9-22-1001
"FPL"	A.R.S. § 36-2981
"Grievance"	R9-34-202
"Group Health Plan"	42 U.S.C. 1397jj
"GSA"	R9-22-101
"Head of Household"	R9-31-103
"Health care practitioner"	~~R9-31-112~~ R9-31-1201
"Hearing aid"	R9-22-102
"Home health services"	R9-22-102
"Hospital"	R9-22-101
"Household income"	R9-31-103
"ICU"	R9-22-701
"IGA"	R9-31-116
"IHS"	R9-31-116
"IHS" or "Tribal Facility Provider"	R9-31-116
~~"Indian"~~	~~42 CFR 137.10~~
"Information"	R9-31-103
"Institution for Mental Diseases" or "IMD"	42 CFR 435.1009 and ~~R9-22-112~~ R9-22-101
"Inmate of a public institution"	42 CFR 435.1009
"Inpatient hospital services"	R9-31-101
"License" or "licensure"	R9-22-101
"Medical record"	R9-22-101
"Medical review"	R9-31-107
"Medical services"	R9-22-101
"Medical supplies"	R9-22-101
"Member"	A.R.S. § 36-2981
"Mental disorder"	A.R.S. § 36-501
"Native American"	R9-31-101
"New hospital"	R9-22-701
"NF" or "nursing facility"	42 U.S.C. 1396r(a)
"Noncontracting provider"	A.R.S. § 36-2981
"Occupational therapy"	R9-22-102
"Offeror"	R9-31-106

"Operating costs"	R9-22-701
"Outlier"	R9-31-107
"Outpatient hospital service"	R9-22-701
"Ownership change"	R9-22-701
"Partial care"	~~R9-22-112~~ R9-31-1201
"Peer group"	R9-22-701
"Pharmaceutical service"	R9-22-102
"Physical therapy"	R9-22-102
"Physician"	A.R.S. § 36-2981
"Post stabilization care services"	42 CFR 438.114
"Practitioner"	R9-22-102
"Pre-existing condition"	R9-31-501
"Prepaid capitated"	A.R.S. § 36-2981
"Prescription"	R9-22-102
"Primary care physician"	A.R.S. § 36-2981
"Primary care practitioner"	A.R.S. § 36-2981
"Primary care provider (PCP)"	R9-22-102
"Primary care provider services"	R9-22-102
"Prior authorization"	R9-22-102
"Private duty nursing services"	R9-22-102
"Program"	A.R.S. § 36-2981
"Proposal"	R9-31-106
"Prospective rates"	R9-22-701
"Provider"	A.R.S. § 36-2931
"Psychiatrist"	A.R.S. § 36-501
"Psychologist"	A.R.S. § 36-501
"Psychosocial rehabilitation"	~~R9-22-112~~ R9-22-102
"Qualified alien"	A.R.S. § 36-2903.03
"Qualifying plan"	A.R.S. § 36-2981
"Quality management"	R9-22-501
"Radiology"	R9-22-102
~~"Regional Behavior Health Authority" or "RBHA"~~	~~A.R.S. § 36-3401~~
"Rebasing"	R9-22-701
"Redetermination"	R9-31-103
"Referral"	R9-22-101
"Regional Behavior Health Authority" or "RBHA"	A.R.S. § 36-3401
"Rehabilitation services"	R9-22-102
"Reinsurance"	R9-22-701
"Remittance advice"	R9-22-701
"RFP"	R9-31-106
"Respiratory therapy"	R9-22-102
"Scope of services"	R9-22-102
"Seriously ill"	R9-31-101
"Service location"	R9-22-101
"Service site"	R9-22-101
"SMI" or "Seriously mentally ill"	A.R.S. § 36-550
"Specialist"	R9-22-102
"Speech therapy"	R9-22-102
"Spouse"	R9-31-103
"SSI-MAO"	R9-31-103
"Stabilize"	42 U.S.C. 1395dd
"Standard of care"	R9-22-101
"Sterilization"	R9-22-102
"Subcontract"	R9-22-101
"Subcontractor"	R9-31-101
"Third-party"	R9-22-1001
"Third-party liability"	R9-22-1001

"Tier"	R9-22-701
"Tiered per diem"	R9-31-107
"TRBHA" or "Tribal Regional Behavioral Health Authority"	~~R9-31-116~~ R9-31-1201
"Tribal facility"	A.R.S. § 36-2981
"Utilization management"	R9-22-501

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

"ADHS" means the Arizona Department of Health Services, the agency mandated to serve the public health needs of all Arizona residents.

"AHCCCS" means the Arizona Health Care Cost Containment System, which is composed of the Administration, contractors, and other arrangements through which health care services are provided to a member.

~~"American Indian" means Indian as specified in 42 CFR 137.10.~~

"Applicant" means a person who submits, or whose representative submits, a written, signed, and dated application for Title XXI medical coverage.

"Application" means an official request for Title XXI medical coverage made under this Chapter.

"Contract year" means the period beginning on October 1 and continuing until September 30 of the following year.

"Inpatient hospital services" means medically necessary services that require an inpatient stay in an acute care hospital and that are provided by or under the direction of a physician or other health care practitioner upon referral from a member's primary care provider.

"Native American" means Indian as specified in 42 CFR 137.10.

"Seriously ill" means a medical or psychiatric condition manifesting itself by acute symptoms that left untreated may result in:

Death,
Disability,
Disfigurement, or
Dysfunction.

"Subcontractor" means a person, agency, or organization that enters into an agreement with a contractor or subcontractor to provide services.

R9-31-102. Scope of ~~Services Related~~ Services-related Definitions

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

"Certified nurse practitioner" means a registered nurse practitioner as certified by the Arizona Board of Nursing according to A.R.S. Title 32, Ch. 15.

"Psychosocial rehabilitation" defined in 9 A.A.C. 22, Article 1.

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

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

~~"ADHS" means the Arizona Department of Health Services, the agency mandated to serve the public health needs of all Arizona residents.~~

~~"Behavior management service" means those services that assist the member in carrying out daily living tasks and other activities essential for living in the community.~~

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

~~"Behavioral health medical practitioner" means a health care practitioner with at least one year of full-time behavioral health work experience.~~

~~"Behavioral health professional" defined in 9 A.A.C. 20.~~

~~"Behavioral health service" means those services provided for the evaluation and diagnosis of a mental health or substance abuse condition, and the planned care, treatment, and rehabilitation of the member.~~

~~"Behavioral health technician" defined in 9 A.A.C. 20.~~

~~"Board-eligible for psychiatry" means completion of an accredited psychiatry residency program approved by the American College of Graduate Medical Education, or the American Osteopathic Association defined in 9 A.A.C. 22, Article 1.~~

~~"Certified psychiatric nurse practitioner" defined in 9 A.A.C. 22, Article 1.~~

~~"Clinical supervision" specified in A.A.C. 22, Article 1.~~

~~"De novo hearing" defined in 42 CFR 431.201.~~

~~"Health care practitioner" means a:~~

~~Physician;~~
~~Physician assistant;~~
~~Nurse practitioner; or~~
~~Other individual licensed and authorized by law to dispense and prescribe medication and devices, as defined in A.R.S. § 32-1901.~~
~~"IMD" defined in 9 A.A.C. 22, Article 1.~~
~~"Mental disorder" defined in A.R.S. § 36-501.~~
~~"Partial Care" defined in 9 A.A.C. 22, Article 1.~~
~~"Psychiatrist" specified in A.R.S. §§ 32-1401 or 32-1800 and 36-501.~~
~~"Psychologist" specified in A.R.S. §§ 32-2061 and 36-501.~~
~~"Psychosocial rehabilitation" R9-22-112~~
~~"RBHA" means the Regional Behavioral Health Authority defined in A.R.S. § 36-3401.~~

ARTICLE 12. BEHAVIORAL HEALTH SERVICES

R9-31-1201. General Requirements

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

1. Administration. The program shall be administered as specified in A.R.S. § 36-2982.
2. Provision of services. Behavioral health services shall be provided as specified in A.R.S. § 36-2989 and this Chapter.
3. Definitions. The following definitions apply to this Article:
   - ~~a. "Case management services" defined in 9 A.A.C. 22, Article 12.~~
   - ~~b. "Health plan" means a "Contractor" as defined in A.R.S. § 36-2901.~~
   - ~~e~~. "~~Physician assistant" as specified in A.R.S. § 32-2501. In addition, a physician assistant providing a behavioral health service shall be supervised by an AHCCCS-registered psychiatrist.~~
   - ~~d. "Respite" as defined in 9 A.A.C. 22, Article 12.~~
   - ~~e. "Substance abuse" as defined in 9 A.A.C. 22, Article 12. Article 1.~~
   - ~~f. "TRBHA" means the Tribal Regional Behavioral Health Authority.~~
   - ~~g. "Therapeutic foster care services" as defined in 9 A.A.C. 22, Article 12.~~
   - a. "Behavior management service" means those services that assist the member in carrying out daily living tasks and other activities essential for living in the community.
   - b. "Behavioral health evaluation" means the assessment of a member's medical, psychological, psychiatric, or social condition to determine if a behavioral health disorder exists and, if so, to establish a treatment plan for all medically necessary services.
   - c. "Behavioral health medical practitioner" means a health care practitioner with at least one year of full-time behavioral health work experience.
   - d. "Behavioral health professional" defined in 9 A.A.C. 20.
   - e. "Behavioral health service" means those services provided for the evaluation and diagnosis of a mental health or substance abuse condition, and the planned care, treatment, and rehabilitation of the member.
   - f. "Behavioral health technician" defined in 9 A.A.C. 20.
   - g. "Case management" services" as defined in 9 A.A.C. 22, Article 12.
   - h. "Certified psychiatric nurse practitioner" defined in 9 A.A.C. 22, Article 1.
   - i. "Health care practitioner" means a:
     - Physician;
     - Physician assistant;
     - Nurse practitioner; or
     - Other individual licensed and authorized by law to dispense and prescribe medication and devices, as defined in A.R.S. § 32-1901.
   - j. "Partial care" defined in 9 A.A.C. 22, Article 1.
   - k. "Physician assistant" as specified in A.R.S. § 32-2501. In addition, a physician assistant providing a behavioral health service shall be supervised by an AHCCCS-registered psychiatrist.
   - l. "Psychiatrist" specified in A.R.S. § § 32-1401 or 32-1800 and 36-501.
   - m. "Psychologist" specified in A.R.S. § § 32-2061 and 36-501.
   - n. "Respite" as defined in 9 A.A.C. 22, Article 12.
   - o. "Substance abuse" as defined in 9 A.A.C. 22, Article 1.
   - p. "TRBHA" or "Tribal Regional Behavioral Health Authority" means a Native American Indian tribe under contract with ADHS/DBHS to coordinate the delivery of behavioral health services to eligible and enrolled persons who are members of the federally recognized tribal nation.
   - q. "Therapeutic foster care services" as defined in 9 A.A.C. 22, Article 12.

R9-31-1202. ADHS and Contractor Responsibilities

A. ADHS responsibilities. Behavioral health services shall be provided by a RBHA through a contract with ADHS/DBHS. ADHS/DBHS shall~~:~~ contract with a RBHA for the provision of behavioral health services in R9-22-1205 for all Title XXI members as specified in A.R.S. § 36-2989. ADHS/DBHS, the RBHA's, TRBHA's or subcontractors shall provide behavioral health services to Title XXI members in accordance with R9-22-1202.

~~1. Contract with a RBHA for the provision of behavioral health services in R9-31-1205 for all Title XXI members as specified in A.R.S. § 36-2989. DHS shall ensure that a RBHA provides behavioral health services directly to members or through subcontracts with qualified service providers who meet the qualifications specified in R9-31-1206. If behavioral health services are unavailable within a RBHA's service area, ADHS shall ensure that a RBHA provides behavioral health services outside the service area.~~

~~2. Ensure that a member's behavioral health service is provided in collaboration with a member's primary care provider.~~

~~3. Coordinate the transition of care and medical records, as specified in A.R.S. §§ 36-2986, 36-509, A.A.C. R9-31-512, and in contract, when a member transitions from:~~

~~a. A behavioral health provider to another behavioral health provider,~~

~~b. A RBHA to another RBHA,~~

~~c. A RBHA to a contractor,~~

~~d. A contractor to a RBHA, or~~

~~e. A contractor to another contractor.~~

B. ADHS/DBHS may contract with a TRBHA for the provision of covered behavioral health services for Native American members. ~~In the absence of a contract with ADHS,~~ Native American members may~~:~~ receive covered behavioral health services:

1. ~~Receive behavioral health services from~~ From an IHS facility, ~~or a TRBHA, or~~
2. ~~Be referred off-reservation to a RBHA for covered behavioral health services.~~ From a TRBHA, or
3. From a RHBA when referred off reservation.

~~**C.** Contractor responsibilities. A contractor shall:~~

~~1. Refer a member to a RBHA according to the contract terms;~~

~~2. Provide inpatient emergency behavioral health services specified in R9-31-1205 for a member not yet enrolled with a RBHA;~~

~~3. Provide psychotropic medication services for a member, in consultation with the member's RBHA as needed, for behavioral health conditions that are specified in contract within the primary care provider's scope of practice; and~~

~~4. Coordinate a member's transition of care and medical records specified in R9-31-1202.~~

~~**D.**~~**C.** ADHS/DBHS, ~~its subcontractors~~ the RBHA's, TRBHA's, and subcontractors of ADHS/DBHS, and AHCCCS acute care contractors shall cooperate as specified in contract when a transition from one entity to another becomes necessary.

R9-31-1203. Eligibility for Covered Services

A. Eligibility for covered services. A member determined eligible under A.R.S. § 36-2981 shall receive medically necessary covered services specified in ~~R9-31-1205.~~ R9-22-1205.

~~**B.** Ineligibility. A person is not eligible for behavioral health services if the person is:~~

~~1. An inmate of a public institution as defined in 42 CFR 435.1009;,~~

~~2. A resident of an institution for the treatment of tuberculosis;, or~~

~~3. In an institution for mental diseases at the time of application.~~

B. Limitations. Behavioral health services are covered as specified in R9-22-201 and R9-22-1205.

R9-31-1204. General Service Requirements

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

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

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

C. Prior authorization. A provider shall comply with the prior authorization requirements of the contractor and the following:

1. Emergency behavioral health services. A provider is not required to obtain prior authorization for emergency behavioral health services.
2. Non-emergency behavioral health services. When a member's behavioral health condition is determined not to require emergency behavioral health services, the provider shall follow the prior authorization requirements of a contractor.

D. Experimental services. ~~The Director shall determine if a service is experimental as defined in R9-22-102?, or whether a service is provided primarily for the purpose of research. Those services shall not be covered.~~ Experimental services and services that are provided primarily for the purpose of research are not covered.

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

F. Service area. Behavioral health services rendered to a member shall be provided within the RBHA's ~~service area~~ GSA except when:
1. A contractor's primary care provider refers a member to another area for medical specialty care,
2. A member's medically necessary covered service is not available within the ~~service area~~, GSA or
3. A net savings in behavioral health service delivery costs can be documented by the RBHA for a member. Undue travel time or hardship shall be considered for a member or a member's family.

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

H. Non-covered services. If a member requests a behavioral health service that is not covered by Title XXI or is not authorized by a RBHA~~,~~ or TRBHA, the behavioral health service may be provided by an ~~AHCCCS-registered behavioral health service provider~~ AHCCCS registered behavioral health service provider under the ~~following conditions:~~ provisions of R9-22-702.
~~1. The requested service and the itemized cost of each service is documented and provided to the member or member's guardian; and~~
~~2. The member or member's guardian signs a statement acknowledging:~~
~~a. Services have been explained to the member or member's guardian, and~~
~~b. The member or member's guardian accepts responsibility for payment.~~

I. Referral. If a member is referred out ~~of~~ outside of a ~~RBHA's service area~~ RBHA or TRBHA GSA to receive ~~an~~ authorized medically necessary behavioral health ~~service or a medically necessary covered service~~, services, the ~~service shall be provided by the contractor, or~~ RBHA~~.~~ or TRBHA is responsible for reimbursement, if the claim is otherwise payable under these rules. ~~Behavioral health services shall be provided with the limitations specified in R9-31-1205.~~

J. Restrictions and limitations.
1. The restrictions, limitations, and exclusions in this Article ~~shall~~ do not apply to ~~a contractor~~ ADHS/DBHS, or a RBHA when electing to provide a noncovered service.
2. Room and board is not a covered service unless provided in an inpatient, sub-acute, or residential ~~treatment center~~ facility under ~~R9-31-1205.~~ R9-22-1205.

R9-31-1205. Scope of Behavioral Health Services

~~**A.** Inpatient behavioral health services. The following inpatient services shall be covered subject to the limitations and exclusions in this Article.~~
~~1. Inpatient behavioral health services provided in a Medicare (Title XVIII) certified hospital include all behavioral health services, medical detoxification, accommodations and staffing, supplies, and equipment. The behavioral health service shall be under the direction of a physician in:~~
a. ~~A general acute care hospital, or~~
b. ~~An inpatient psychiatric hospital.~~
~~2. Inpatient service limitations:~~
~~a. Inpatient services, other than emergency services specified in this Section, are not covered unless prior authorized.~~
~~b. Inpatient services are reimbursed on a per diem basis. The per diem rate and includes all services and room and board, except the following may bill independently for services:~~
~~i. A licensed psychiatrist,~~
~~ii. A certified psychiatric nurse practitioner,~~
~~iii. A physician assistant,~~
~~iv. A psychologist,~~
~~v. A~~ certified ~~independent worker,~~
~~vi. A certified marriage and family therapist,~~
~~vii. A certified professional counselor, or~~
~~viii.~~ A ~~behavioral health medical practitioner.~~
~~c. A member cannot be in an IMD at the time of application or at the time of redetermination.~~

~~**B.** Level I residential treatment center services. I Level I residential treatment center services under 9 A.A.C. 20, Article 2 and Article 5 are covered subject to the limitations and exclusions in this Article. and:~~
~~1. Are under the direction of a physician in a Level I residential treatment center accredited by an AHCCCS approved accrediting body as specified in contract.~~
~~2. Residential treatment center services are limited as follows:~~
~~3. Residential treatment center service are limited as follows:~~
~~a. Services are prior authorized, except for emergency services as specified in this Section.~~
~~b. Services are reimbursed on a per diem basis and are inclusive of all services, except the following may bill independently for services:~~
~~i. A psychiatrist,~~

~~ii. A certified psychiatric nurse practitioner,~~
~~iii. A physician assistant,~~
~~iv. A psychologist,~~
~~v. A certified independent social worker,~~
~~vi. A certified marriage and family therapist,~~
~~vii. A certified professional counselor, or~~
~~viii. A behavioral health medical practitioner.~~

~~c. An applicant or member cannot be in an IMD at the time of application or at the time of redetermination.~~

~~4. The following services may be billed independently if prescribed by a provider specified in subsection (B)(3)(b)(i), (ii), (iii), and (viii):~~
~~a. Laboratory,~~
~~b. Radiology, and~~
~~c. Psychotropic medication.~~

~~**C.** Level I sub-acute facility services. Level I sub-acute facility services under 9 A.A.C. 20, Article 2 and Article 5 are covered subject to the limitations and exclusions in this Article and:~~
~~1. Are provided under the direction of a physician in a Level I sub-acute facility accredited by an AHCCCS approved accrediting body as specified in contract.~~
~~2. Are room and board and treatment services for mental health and substance abuse conditions.~~
~~3. Are reimbursed on a per diem basis and are inclusive of all services, except the following may bill independently for services:~~
~~a. A psychiatrist,~~
~~b. A certified psychiatric nurse practitioner,~~
~~c.~~ A physician assistant,
~~d. A psychologist,~~
~~e. A certified independent social worker,~~
~~f. A certified marriage and family therapist,~~
~~g. A certified professional counselor, or~~
~~h. A behavioral health medical practitioner.~~
~~4. An applicant or member cannot be in an IMD at the time of application or at the time of redetermination.~~
~~5.~~ The ~~following services may be billed independently if prescribed by a provider specified in subsection (C)(3)(a), (b), (c), and (h):~~
~~a. Laboratory,~~
~~b. Radiology, and~~
~~c. Psychotropic medication.~~

~~**D.** ADHS licensed Level II behavioral health residential services. Level II behavioral health residential services under 9 A.A.C. 20, Article 2 and Article 4 are covered subject to the limitations and exclusions in this Article and:~~
~~1. Are provided by a licensed Level II agency.~~
~~2. Are inclusive of all covered services except room and board.~~
~~3. The following may bill independently for services:~~
~~a. A psychiatrist,~~
~~b. A certified psychiatric nurse practitioner,~~
~~c. A physician assistant,~~
~~d. A psychologist,~~
~~e. A certified independent social worker,~~
~~f. A certified marriage and family therapist,~~
~~g. A certified professional counselor, or~~
~~h. A behavioral health medical practitioner.~~

~~**E.** ADHS licensed Level III behavioral health residential services. Level III Behavioral Health Residential services under 9 A.A.C. 20, Article 2 and Article 4 are covered subject to the limitations and exclusions in this Article and:~~
~~1. Are provided by a licensed Level III agency.~~
~~2. Are inclusive of all covered services except room and board.~~
~~3. The following may bill independently for services:~~
~~a. A psychiatrist,~~
~~b. A certified psychiatric nurse practitioner,~~
~~c. A physician assistant,~~
~~d. A psychologist,~~
~~e. A certified independent social worker,~~
~~f. A certified marriage and family therapist,~~
~~g. A certified professional counselor, or~~

h. ~~A behavioral health medical practitioner.~~

F. ~~Partial care. Partial care services are covered subject to the limitations and exclusions in this Article.~~
1. ~~Partial care service is rendered by an agency qualified to provide a regularly scheduled day program of individual member, group or family activities that are designed to improve the ability of the member to function in the community.~~
2. ~~Partial care service exclusions. School attendance and educational hours are not included as a partial care service and are not billed concurrently with a partial care service.~~

G. ~~Outpatient services. Outpatient services are covered subject to the limitations and exclusions in this Article.~~
1. ~~Outpatient services shall include the following:~~
   a. ~~Screening provided by a behavioral health professional or a behavioral health technician;~~
   b. ~~Initial behavioral health evaluation provided by a behavioral health professional;~~
   c. ~~Ongoing behavioral health evaluation by a behavioral health professional or a behavioral health technician;~~
   d. ~~Counseling including individual therapy, group, and family therapy provided by a behavioral health professional or a behavioral health technician;~~
   e. ~~Behavior management services provided by qualified individuals or agencies as specified in contract; and~~
   f. ~~Psychosocial rehabilitation services provided by qualified individuals or agencies as specified in contract.~~
2. ~~Outpatient service limitations:~~
   a. ~~The following practitioners may bill independently:~~
      i. ~~A psychiatrist,~~
      ii. ~~A certified psychiatric nurse practitioner,~~
      iii. ~~A physician assistant as defined in this Article,~~
      iv. ~~A psychologist,~~
      v. ~~A certified independent social worker,~~
      vi. ~~A certified professional counselor,~~
      vii. ~~A certified marriage and family therapist,~~
      viii. ~~A behavioral health medical practitioner,~~
      ix. ~~A therapeutic foster parent under 6 A.A.C. 5, Article 58, and~~
      x. ~~Other AHCCCS registered providers as specified in contract.~~
   b. ~~A behavioral health professional not specified in subsection (G)(2)(a) shall not bill independently unless employed by, or contracted with, an AHCCCS registered behavioral health agency.~~

H. ~~Behavioral health emergency services.~~
1. ~~A RBHA shall ensure that behavioral health emergency services are provided by qualified personnel specified in R9-31-1206. The emergency services are available 24 hours per day, seven days per week in~~ the RBHA's service area ~~in emergency situations for a member who is a danger to self or others or is otherwise determined to be in need of immediate unscheduled behavioral health services. Behavioral health emergency services are provided on either an inpatient or outpatient basis.~~
2. ~~A contractor shall provide behavioral health emergency services on an inpatient basis not to exceed three days per emergency episode and 12 days per contract year, for a member not yet enrolled with a RBHA.~~
3. ~~An inpatient emergency service provider shall verify the eligibility and enrollment of a member through the Administration to determine the need for notification to a contractor or a RBHA and to determine the party responsible for payment of services under Article 7 of this Chapter.~~
4. ~~Behavioral health emergency service limitations:~~
   a. ~~An emergency behavioral health service does not require prior authorization. The provider shall, however, comply with the notification requirements under R9-31-210.~~
   b. ~~A behavioral health service for an condition unrelated to the behavioral health emergency service that requires diagnosis and treatment shall be prior authorized by a RBHA.~~
   c. ~~Inpatient service limitations specified in subsection (A) of this Section shall apply to emergency services provided on an inpatient basis.~~

I. ~~Other behavioral health services.~~
1. ~~Case management as under R9-31-1201;~~
2. ~~Laboratory and radiology services for behavioral health diagnosis and medication management;~~
3. ~~Psychotropic medication and related medication;~~
4. ~~Monitoring, administration, and adjustment for psychotropic medication and related medications;~~
5. ~~Respite care;~~
6. ~~Therapeutic foster care; and~~
7. ~~Other support services to maintain or increase the member's self-sufficiency and ability to live outside an institution.~~

J. ~~Transportation services. The Administration shall provide transportation services under A.A.C. R9-22-211.~~

The provisions of R9-22-1205 apply to the scope and coverage of behavioral health services, but an applicant or member cannot be in an IMD at the time of application or at the time of redetermination.

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

~~**A.** Qualified service provider. A qualified behavioral health service provider shall:~~
- ~~1. Be a non contracting provider or employed by, or contracted in writing with a RBHA or a contractor to provide behavioral health services to a member;~~
- ~~2. Have all applicable state licenses or certifications, or comply with alternative requirements established by the Administration;~~
- ~~3. Register with the Administration as a service provider; and~~
- ~~4. Comply with all requirements under Article 5 and this Article.~~

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

A. The provisions of R9-22-1206 apply to the general provisions and standards for a behavioral health service provider under this Article.

B. A qualified behavioral service provider shall comply with all requirements under Article 5, R9-22-1206, and this Article.

R9-31-1207. ~~Standards for Payments~~ General Provisions for Payment

A. Payment to ADHS/DBHS. ADHS/DBHS shall receive a monthly capitation payment~~,~~ based on the number of ~~Title XIX members~~ acute care members at the beginning of each month. ADHS/DBHS' administrative costs shall be incorporated into the capitation payment.

B. Claims submissions.
1. ADHS/DBHS shall require all ~~contracted~~ service providers to submit clean claims no later than the time-frame specified in the ADHS/DBHS contract with the Administration.
2. ~~A claim for emergency services for a member not yet enrolled with an RBHA shall be submitted to a by a provider and shall comply with the time-frames and other applicable payment procedures in Article 7 of this Chapter.~~
2. A provider of behavioral health services shall submit a claim for non-emergency behavioral health services provided to a member enrolled in a RBHA to the appropriate RBHA, and if not enrolled in a RBHA, to ADHS/DBHS.
3. A provider of behavioral health services shall submit a claim for non-inpatient emergency behavioral health services provided to a member enrolled in a RBHA to the appropriate RBHA, and if not enrolled in a RBHA, to ADHS/DBHS.
4. A provider of behavioral health services shall submit a claim for non-inpatient emergency behavioral health services provided to a member enrolled in a TRBHA to the Administration.
5. A provider of behavioral health services shall submit a claim for non-emergency behavioral health services provided to a member enrolled in a TRBHA to the Administration.
6. A provider of emergency behavioral health services, which are the responsibility of ADHS/DBHS or its contractor, shall submit a claim to the entity responsible for emergency behavioral health services under A.A.C. R9-22-210.01(A).
7. A provider of behavioral health services shall comply with the time-frames and other payment procedures in Article 7 of this Chapter, if applicable, and A.R.S. § 36-2904.
8. ADHS/DBHS or a contractor, whichever entity is responsible for covering the behavioral health services, shall cost avoid any behavioral health service claims if it establishes the probable existence of first-party liability or third-party liability or has information that establishes that first-party liability or third-party liability exists.

C. Prior authorization. Payment to a provider for behavioral health services or items requiring prior authorization may be denied if a provider does not obtain prior authorization ~~is not obtained~~ from ~~the Administration,~~ a RBHA, ADHS/DBHS, a TRBHA, or a ~~health plan as specified in R9-22-705.~~ contractor.

R9-31-1208. ~~Grievance and Request for Hearing Process~~ Repealed

~~**A.** Processing a grievance. A grievance for an adverse action for a behavioral health service shall be processed under A.R.S. §§ 36-2986, 36-3413, 41-1092.02, and 9 A.A.C. 31, Articles 8 and 13. The grievance and request for hearing process is illustrated in 9 A.A.C. 31, Article 8, Exhibit A.~~

~~**B.** Member request for hearing. A member's request for hearing regarding a grievance under this Article shall be conducted under 9 A.A.C. 31, Article 8.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION TITLE, REGISTRATION, AND DRIVER LICENSES

[R06-372]

PREAMBLE

1. Sections affected: / **Rulemaking Action:**

R17-4-501	Amend
R17-4-502	Amend
Exhibit A	Repeal
R17-4-504	New Section
R17-4-508	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. § 28-366

Implementing statute: A.R.S. §§ 28-3051, 28-3153(A)(11), 28-3165, and 28-3166

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

Notice of Rulemaking Docket Opening: 12 A.A.R. 3244, September 8, 2006

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

Name: Celeste M. Cook, Administrative Rules Unit

Address: Department of Transportation, Motor Vehicle Division
1801 W. Jefferson St., Mail Drop 530M
Phoenix, AZ 85007

Telephone: (602) 712-7624

Fax: (602) 712-3081

E-mail: ccook@ azdot.gov

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at http://mvd.azdot.gov/mvd/MVDRules/rules.asp.

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

The Arizona Department of Transportation, Motor Vehicle Division, proposes to amend the existing rules to update related citations, reflect modernization in rule drafting style, condense the medical questionnaire language and repeal Exhibit A. Medical Screening Questions and Certification.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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:

None

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, small business, and consumer impact of these rules will be minimal because the rules simply condenses the three medical questions into one medical question and repeals Exhibit A. Medical Screening Questions and Certification.

The small businesses and consumer impact of these rules is nil. Small businesses and consumers are not adversely affected and may benefit from having to answer one medical question as opposed to three.

The Division impact of these rules is minimal. The only costs incurred by the Division are the costs of rulemaking and forms design as the medical questions are printed on the application for a driver license.

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: Celeste M. Cook, Administrative Rules Unit

Address: Department of Transportation, Motor Vehicle Division
1801 W. Jefferson St., Mail Drop 530M
Phoenix, AZ 85007

Telephone: (602) 712-7624

Fax: (602) 712-3081

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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:

An oral proceeding is not scheduled for these proposed rules. To request an oral proceeding or to submit a written faxed or e-mail comments, please contact the Administrative Rule Analyst listed in #4 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays. If no request for an oral proceeding is made, the public record will close on November 28, 2006 at 5:00 p.m.

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

None

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

None

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION TITLE, REGISTRATION, AND DRIVER LICENSES

ARTICLE 5. SAFETY

Section
R17-4-501. Definitions
R17-4-502. General Provisions for Visual, Physical, and Psychological Ability to Operate a Motor Vehicle Safely
Exhibit A. ~~Medical Screening Questions and Certification~~ Repealed
R17-4-504. Medical Alert Conditions
R17-4-508. Commercial Driver License ~~"CDL"~~ Physical Qualifications

ARTICLE 5. SAFETY

R17-4-501. Definitions

~~The following definitions apply to this Article unless otherwise specified~~ In addition to the definitions in A.R.S. §§ 28-101 and 28-3001, in this Article, unless otherwise specified:

~~1.~~ "Adaptation" means a modification of or addition to the standard operating controls or equipment of a motor vehicle.
~~2.~~ "Applicant" or "licensee" means a person:
  ~~a.~~ Applying for an Arizona driver license or driver license renewal, or
  ~~b.~~ Required by the Division to complete an examination successfully or to obtain an evaluation.
~~3.~~ "Application" means the Division form required to be completed by or for an applicant for a driver license or driver license renewal.
~~4.~~ "Arizona Driver License Manual" or "manual" means the reference booklet for applicants, issued by the Division, containing non-technical explanations of the Arizona motor vehicle laws.
~~5.~~ "Aura" means a sensation experienced before the onset of a neurological disorder.
~~6.~~ "Certified substance abuse counselor" is defined in A.R.S. § 28-3005~~(C)(4)~~.
~~7.~~ "Commercial Driver License physical qualifications" ~~or "CDL physical qualifications"~~ means driver medical qualification standards for a person licensed in class A, B, or C to operate a commercial vehicle as prescribed under 49 CFR 391, incorporated by reference under R17-5-202 and R17-5-204.

~~8.~~ "Director" means the Division Director or the Division Director's designee.
~~9.~~ "Disqualifying medical condition" means a visual, physical, or psychological condition, including substance abuse, that impairs functional ability.
~~10.~~ "Division" means the Arizona Department of Transportation, Motor Vehicle Division.
~~11. "Driver license" is defined in A.R.S. § 28-101(19).~~
~~12.~~ "Evaluation" means a medical assessment of an applicant or licensee by a specialist as defined ~~under subsection (22)~~ below to determine whether a disqualifying medical condition exists.
~~13.~~ "Examination" means testing or evaluating an applicant's or licensee's:
~~a.~~ Ability to read and understand official traffic control devices,
~~b.~~ Knowledge of safe driving practices and the traffic laws of this state, and
~~c.~~ Functional ability.
~~14.~~ "Functional ability" means the ability to operate safely a motor vehicle of the type permitted by an Arizona driver license class or endorsement.
~~15.~~ "Identification number" means a distinguishing number assigned by the Division to a person for a license or instruction permit.
~~16.~~ "Licensee" means a person issued a driver license by this state.
~~17.~~ "Licensing action" means an action by the Division to:
~~a.~~ Issue, deny, suspend, revoke, cancel, or restrict a driver license; or
~~b.~~ Require an examination or evaluation of an applicant or licensee.
"Medical code" means a system of numerals or letters indicating the licensee suffers from some type of adverse medical condition.
~~18.~~ ~~"Medical screening questions and certification" means the questions and certification on the application, as shown in Exhibit A following R17-4-502~~ "Medical screening question and certification" means the question and certification on the application.
~~19.~~ "Neurological disorder" means a malfunction or disease of the nervous system.
~~20.~~ "Physician" ~~means a person licensed to practice medicine or osteopathy in any state, territory, or possession of the United States or the Commonwealth of Puerto Rico~~ is defined in A.R.S. § 28-3005.
~~21.~~ "Seizure" means a neurological disorder characterized by a sudden alteration in consciousness, sensation, motor control, or behavior, due to an abnormal electrical discharge in the brain.
~~22.~~ "Specialist" means:
~~a.~~ A physician who is a surgeon or a psychiatrist;
~~b.~~ ~~A physician whose practice is limited to~~ A physician whose practice is limited to a particular anatomical or physiological area or function of the human body, patients with a specific age range; or
~~i. A particular anatomical or physiological area or function of the human body, or~~
~~ii. Patients within a specific age range; or~~
~~c.~~ A psychologist.
~~23.~~ "Substance abuse" means:
~~a.~~ Use of alcohol in a manner that makes the user an alcoholic as defined in A.R.S. § 36-2021~~(1)~~, or
~~b.~~ ~~Drug dependency as described in A.R.S. § 36-2501(A)(5)~~ Use of controlled substance in a manner that makes the user a drug dependant person as defined in A.R.S. § 36-2501.
~~24.~~ "Substance abuse evaluation" means an assessment by a physician, specialist, or certified substance abuse counselor to determine whether the use of alcohol or a drug impairs functional ability.
~~25.~~ "Successful completion of an examination" means an applicant or licensee:
~~a.~~ Establishes the visual, physical, and psychological ability to operate a motor vehicle safely, or
~~b.~~ Achieves a score of at least 80 ~~percent on a written test and road test~~ % on any required written test and road test.

R17-4-502. General Provisions for Visual, Physical, and Psychological Ability to Operate a Motor Vehicle Safely

A. Applicant's or licensee's responsibility. To comply with the Division's screening process for safe operation of a motor vehicle, an applicant or licensee shall:
1. Provide the Division with all requested information about the applicant's or licensee's visual, physical, or psychological condition;
2. Successfully complete all required examinations;
3. Obtain all required evaluations;
4. Ensure timely submission of evaluation reports to the Division; and
5. Appear at all required interviews.

B. Screening process for safe operation of a motor vehicle. This subsection and subsections (C) through subsection (E) state the screening process for safe operation of a motor vehicle.
1. An applicant shall complete the application, including the medical screening ~~questions~~ question and certification.
2. An applicant without a valid driver license, who successfully completes all required examinations, shall obtain an

evaluation if:
a. The Division informs the applicant that the applicant's responses to the medical screening ~~questions~~ question indicate the existence of a disqualifying medical condition; or
b. The applicant comes under subsection (C)(1)(a), subsection (C)(1)(c), or subsection (C)(1)(d).

3. An applicant for license renewal shall successfully complete an examination if the applicant's responses to the medical screening ~~questions~~ question indicate that since the applicant's last driver license renewal:
a. The applicant has developed a visual, physical, or psychological condition that may constitute a disqualifying medical condition; or
b. There has been a change in an existing visual, physical, or psychological condition that may constitute a disqualifying medical condition.
4. As soon as an applicant's medical condition allows, the applicant shall notify the Division, in writing or by telephone, that the applicant has or may have a medical condition not previously reported to the Division that affects the applicant's functional ability.
5. Upon receipt of the notification required under subsection (B)(4), the Division shall require the applicant to:
a. Complete the medical screening ~~questions~~ question and certification on the application, and
b. Continue with the screening process for safe operation of a motor vehicle.

C. Evaluation, interview, and additional evaluation. An applicant or licensee shall submit to an evaluation, attend an interview, or submit to an additional evaluation as required by the Division.
1. The Division shall require an evaluation if the Director notifies the applicant or licensee in writing that:
a. The applicant or licensee comes under the provisions of R17-4-503 or R17-4-506;
b. The applicant or licensee reports a possible disqualifying medical condition or fails to successfully complete an examination;
c. The applicant or licensee ~~exhibits~~ shows unexplained confusion, loss of consciousness, or incoherence that is observed by Division personnel; or
d. A person with direct knowledge submits to the Division written information about specific events or conduct indicating the applicant or licensee may have a disqualifying medical condition.
2. The applicant or licensee shall have the physician, appropriate specialist, or certified substance abuse counselor who performs an evaluation submit, to the Division's Medical Review Program, an evaluation report on a ~~Division-prescribed~~ form provided by the Division.
3. If the evaluation report on the applicant or licensee is inconclusive regarding the existence of a disqualifying medical condition, the Division shall require the applicant or licensee to appear for an interview to explain information in the evaluation report.
4. If the Division is unable to determine whether a disqualifying medical condition exists after an interview with the applicant or licensee, the Division shall require an additional evaluation, performed by an appropriate specialist and reported to the Division's Medical Review Program, on a ~~Division-prescribed~~ form provided by the Division.
5. An applicant or licensee shall pay for any expense incurred by the applicant or licensee to show compliance with the visual, physical, and psychological standards for a driver license.

D. Licensing action. The Division shall take a licensing action after requiring an applicant or licensee to complete an examination successfully, obtain an evaluation and submit an evaluation report, or appear at an interview.
1. The Division shall deny a driver license if an applicant:
a. Fails to complete successfully an examination; or
b. Fails to:
i. Obtain an evaluation;
ii. Have a physician, appropriate specialist, or certified substance abuse counselor submit an evaluation report to the Division within 30 days after the Division notifies the applicant that an evaluation is required; or
iii. Appear at an interview; or
c. Has an evaluation report submitted that indicates a disqualifying medical condition.
2. The Division shall summarily suspend a licensee's driver license under A.R.S. §§ 28-3306~~(A)(5)~~ and 41-1064~~(C)~~ for a reason stated in subsection (D)(1).
3. The Division shall issue a revocation notice with a notice of summary suspension. The revocation notice shall inform the licensee that:
a. Unless the Division receives the licensee's timely hearing request under subsection (F), the revocation becomes effective:
i. Fifteen days after the date the licensee is personally served with the notice; or
ii. Twenty days after the date the notice is mailed to the licensee.
b. A person who wishes to obtain a license after suspension or revocation shall reapply for a license as ~~follows:~~ specified in A.R.S. § 28-3315.
~~i. After suspension as specified in A.R.S. § 28-3315(H), or~~
~~ii. After revocation as specified in A.R.S. § 28-3315(B).~~

4. The Division shall issue a driver license to an applicant or shall not suspend or revoke a licensee's driver license if:
   a. The applicant or licensee successfully completes all required examinations and the Division does not require an evaluation, or
   b. The applicant or licensee obtains all required evaluations and the most recent evaluation report submitted on behalf of the applicant or licensee conclusively indicates no disqualifying medical condition.

E. Driver license restrictions. If an applicant or licensee uses an adaptation, including those listed below to demonstrate functional ability during an examination, the Division shall indicate the adaptation as a restriction on a driver license issued to the applicant or licensee and on the applicant's or licensee's driving record.
1. Automatic transmission,
2. Hand dimmer switch,
3. Left-foot gas pedal,
4. Parking-brake extension,
5. Power steering,
6. Power brakes,
7. Six-way power seat,
8. Right-side directional signal,
9. A device that enables an operator to spin the steering wheel,
10. A device that enables full foot control,
11. Dual outside mirrors,
12. Chest restraints,
13. Shoulder restraints,
14. A device that extends pedals,
15. A device that enables full hand control, and
16. Adapted seat.

F. Hearings. This subsection states the hearing procedure for licensing actions taken by the Division after the screening process for safe operation of a motor vehicle.
1. If the Division takes an adverse licensing action under this Section, an applicant or licensee may request a hearing with the Division's Executive Hearing Office. A hearing request is timely if received by the Division:
   a. Within 15 days after the date the notice is delivered to the applicant or licensee, or
   b. Within 20 days after the date the notice is mailed to the applicant or licensee.
2. A.A.C. R17-1-501 through R17-1-511 and R17-1-513 govern a hearing conducted under this subsection.
3. The administrative law judge shall sustain, modify, or void the Division's licensing action.

G. The Division shall not release information required to be submitted to the Division under this Section by an applicant or licensee except to a person or entity qualified under A.R.S. § ~~28-450(B)~~ 455.

~~**Exhibit A. Medical Screening Questions and Certification**~~ **Repealed**

~~**Medical Screening**~~

~~**(Driver Applicants Only)**~~

~~_____ Yes _____ No Do you have an alcohol or drug dependency that may affect your ability to operate a motor vehicle safely?~~

~~If Yes: _____ Yes _____ No Have you been in recovery for one year or more?~~

~~_____ Yes _____ No Do you have a court appointed guardian because you are incapacitated?~~

~~_____ Yes _____ No Do you have a medical condition (other than a condition requiring vision correction by eye glasses or contact lenses) that may affect your ability to operate a motor vehicle safely?~~

~~If Yes, explain below.~~

~~Medical Conditions_____~~

~~_____~~

~~**Certification**~~

~~All Applicants: I certify that the information above is true and correct. I understand that I must report a change of address or name to the Division within ten days.~~

~~Driver applicants: I understand the laws, rules, and regulations described in the Arizona Driver License Manual, and that I am required to report to the Division in writing, within ten days, any medical condition that develops or worsens that may affect my ability to operate a motor vehicle safely.~~

~~Applicant Signature (If under 18, Legal Guardian certificate on the back must be completed)~~

~~_____~~

R17-4-504. Medical Alert Conditions

A. In this Section, "license" means any class driver license, commercial driver license, non-operating identification license, or instruction permit.

B. The Division shall provide on each license a space to indicate a medical alert condition. A list of recognized medical alert conditions is available at all Motor Vehicle Division Customer Service offices and Authorized Third Party Driver License offices.

C. The Division shall not maintain the medical alert code on the Division computer record unless written authorization is submitted.

D. A person shall submit a signed statement from a physician stating that the person is diagnosed with a medical condition. The signed statement is required every time the person requests a license unless the person authorizes the Division to maintain the medical code in the Division computer.

R17-4-508. Commercial Driver License ~~"CDL"~~ Physical Qualifications

A. Requirements.

1. A ~~CDL~~ Commercial Driver License applicant shall submit to the Division a U.S. Department of Transportation med-

ical examination form completed as prescribed under 49 CFR 391.43:
a. By a professional licensed to practice by the federal government, any state, or U.S. territory with one of the following credentials:
i. Medical Doctor,
ii. Doctor of Osteopathy,
iii. Doctor of Chiropractic,
iv. Nurse Practitioner, or
v. Physician Assistant, and
b. Upon the applicant's initial application and at the time of each 24-month renewal.
2. As prescribed under 49 CFR 391.41(a), a ~~CDL~~ licensee who possesses a Commercial Driver License shall keep an original or photographic copy of the licensee's current medical examination form required under subsection (A)(1) available for law enforcement inspection upon request.
3. A ~~CDL~~ licensee who possesses a Commercial Driver License shall notify the Division of a physical condition that develops or worsens causing noncompliance with the Commercial Driver License physical qualifications ~~within 10 days after the condition develops or worsens~~ as soon as the licensee's medical condition allows.

B. ~~CDL~~ Commercial Driver License suspension and revocation notification procedure. To notify a licensee of any ~~CDL~~ Commercial Driver License suspension and revocation under subsection (C), the Division shall simultaneously mail two notices within 15 days after a medical examination form's due or actual submission date to the licensee's address of record that:
1. Suspends the licensee's ~~CDL~~ Commercial Driver License beginning on the notice's date; and
2. Revokes the licensee's ~~CDL~~ Commercial Driver License 15 days after the date of the suspension notice issued under subsection (B)(1).

C. Noncompliance actions.
1. Initial application denial. If an applicant's initial medical examination form required under subsection (A)(1) shows that the applicant is not in compliance with the ~~CDL~~ Commercial Driver License physical qualifications, the Division shall immediately mail ~~CDL~~ the Commercial Driver License denial notification to the applicant's address of record.
2. 24-month-renewal suspension and revocation. If a renewing ~~CDL~~ Commercial Driver licensee submits:
a. No medical examination form required under subsection (A)(1) or a form indicating noncompliance with ~~CDL~~ Commercial Driver License physical qualifications, the Division shall follow the suspension and revocation notification procedure prescribed under subsection (B).
b. An incomplete medical examination form required under subsection (A)(1), the Division shall immediately return the incomplete form with a letter requesting that the licensee provide missing information to the Division within 45 days after the date of the Division's letter. The Division shall follow the suspension and revocation notification procedure prescribed under subsection (B) if the licensee fails to return requested information in the time-frame prescribed in this subsection.
c. A medical examination form required under subsection (A)(1) that indicates the licensee's blood pressure is greater than 140 systolic or 90 diastolic, the Division shall mail notice to the licensee requiring three additional blood pressure evaluations:
i. Made on three different days,
ii. Performed by a qualified professional as prescribed under subsection (A)(1)(a), and
iii. Returned to the Division within 90 days after the Division's written notification. The Division shall follow the suspension and revocation notification procedure prescribed under subsection (B) if the licensee fails to return requested information prescribed under this subsection.
d. A medical examination form required under subsection (A)(1) that indicates the licensee's blood pressure is greater than 180 systolic or ~~104~~ 110 diastolic, the Division shall follow the suspension and revocation notification procedure prescribed under subsection (B).

D. A ~~CDL~~ Commercial Driver License that remains revoked for longer than 12 months expires. The holder of an expired ~~CDL~~ Commercial Driver License may obtain a new ~~CDL~~ Commercial Driver License by successful completing all ~~CDL~~ Commercial Driver License original-application written, vision, and demonstration-skill testing and submitting the medical examination form prescribed under subsection (A)(1).

E. Administrative hearing. A person who is denied a CDL or whose CDL is suspended or revoked under this Section may request a hearing according to the procedure prescribed under 17 A.A.C. 1, Article 5. The hearing is held in accordance with the procedures prescribed under A.A.C. R17-1-501 through R17-1-511 and R17-1-513.