

NOTICES OF EXEMPT RULEMAKING

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

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

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

Editor's Note: The following Notice of Exempt Rulemaking was reviewed per the Governor's Regulatory Review Plan memorandum, January 22, 2009 and the continuation issued April 30, 2009. (See a copy of the memoranda in this issue on pages 914 and 915.) The Governor's Office authorized the notice to proceed through the rulemaking process on March 6, 2009.

[R09-45]

PREAMBLE

- 1. Sections Affected**

R9-31-1402	<u>Rulemaking Action</u>
R9-31-1724	Amend
	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. § 36-2903.01, amended by SB1004, 49th Legislature, First Special Session 2009
- 3. The effective date of the rules:**

June 1, 2009
- 4. A list of all previous notices appearing in the Register addressing the exempt rule:**

Notice of Public Information: 15 A.A.R. 499, March 13, 2009
Notice of Proposed Exempt Rulemaking: 15 A.A.R. 522, March 20, 2009
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Mariaelena Ugarte
Address: AHCCCS
Office of Administrative and Legal Services
701 E. Jefferson St., Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4693
Fax: (602) 253-9115
E-mail: AHCCCSrules@azahcccs.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**

As described in SB1004, 49th Legislature First Special Session of 2009, the monthly premiums must be charged up to the maximum amount allowed by federal law to all populations of eligible persons who may be charged. The Administration is proposing changes in premiums to Kids Care eligible children and Kids Care eligible parents.
SB1004, 49th Legislature, First Special Session 2009, § 11 exempts the AHCCCS Administration from the rulemaking requirements of Title 41, Chapter 6, until May 1, 2010.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting mate-**

Notices of Exempt Rulemaking

rial:

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

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

The Administration estimates that approximately 25,089 children enrolled in Kids Care could be impacted by this change and 3,218 parents. The General Fund impact is estimated to be \$270,000 for FY09 (\$26,900 for Parents; \$243,100 for Children) and \$1,344,800 for FY10 (\$98,000 for Parents; \$1,246,800 for Children).

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

Not applicable

11. A summary of the comments made regarding rule, and the agency response to them:

The following public comments were received by close of record March 31, 2009:

Commenter:	Comment	AHCCCS Response:
03/31/09 Elizabeth McKenna, MD	Opposed to the increase, states that an increase in premiums will have a drastic negative impact on the children of Arizona and will be more costly in the end.	The legislature mandated an increase to the premiums at the maximum allowed by federal law. The Administration does not have the discretion not to increase the premium.
03/31/09 Ronald Fischler, MD	Opposed to the increase, states that the increase will lead to cost shifting and actually increase the cost of care.	The legislature mandated an increase to the premiums at the maximum allowed by federal law. The Administration does not have the discretion not to increase the premium.
03/31/09 Roni Grad, MD	Opposed to the increase, states the increase will cause a likelihood of acute illness in these children, increased usage of acute care facilities, and ultimately increase health care costs to society.	The legislature mandated an increase to the premiums at the maximum allowed by federal law. The Administration does not have the discretion not to increase the premium.
03/31/09 Dana Naimark, Children's Action Alliance	Opposed to the increase, states it will result in more children becoming uninsured, will harm children's health, will move dollars from the Arizona economy to the federal treasury, and will impose higher costs on our overall health care system.	The legislature mandated an increase to the premiums at the maximum allowed by federal law. The Administration does not have the discretion not to increase the premium.

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

Not applicable

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

None

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

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

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

ARTICLE 14. PREMIUMS FOR A CHILD DETERMINED ELIGIBLE UNDER ARTICLE 3

Section

R9-31-1402. Premium Amount for a Member who is a Child Determined Eligible Under Article 3 of This Chapter

ARTICLE 17. ELIGIBILITY, ENROLLMENT AND COST SHARING FOR A PARENT

Section

R9-31-1724. Premium and Enrollment Fees

ARTICLE 14. PREMIUMS FOR A CHILD DETERMINED ELIGIBLE UNDER ARTICLE 3

R9-31-1402. Premium Amount for a Member who is a Child Determined Eligible Under Article 3 of This Chapter

- A. For the purposes of this Article, a premium is a monthly amount that an enrolled member pays to the Administration to remain eligible for Title XXI.
- B. When the household income is greater than 100 percent of the FPL and less than or equal to 150 percent of the FPL, the monthly premium is \$10 for one eligible child and \$15 for two or more eligible children.
- C. When household income is greater than 150 percent of the FPL and less than or equal to 175 percent of the FPL, the monthly premium payment is ~~\$20~~ \$40 for one eligible child and ~~\$30~~ \$60 for two or more eligible children.
- D. When household income is greater than 175 percent of the FPL and less than or equal to 200 percent of the FPL, the monthly premium is ~~\$25~~ \$50 for one eligible child and ~~\$35~~ \$70 for two or more eligible children.
- E. A household's premium payments as specified in this Section shall not exceed five percent of a household's gross income.
- F. A member's newborn is enrolled immediately upon the Administration receiving notification of the child's birth. Upon enrollment, the household's premium is redetermined.
- G. To remain eligible, the premium amount shall be paid according to this Article.
- H. Native Americans are exempt from paying premiums.
- I. When a premium is paid for a household including the parents of a child eligible under Article 3 as described in Article 17, no separate premium is charged for the child under this Section.

ARTICLE 17. ELIGIBILITY, ENROLLMENT AND COST SHARING FOR A PARENT

R9-31-1724. Premium and Enrollment Fees

- A. For the purposes of this Article:
 - 1. A premium is a monthly payment that an enrolled member pays to the Administration to remain eligible.
 - 2. An enrollment fee is ~~a payment equal to the amount of one month's premium required by subsection (C)(4)~~, which shall be paid to the Administration by a member who is a parent determined eligible under this Article. The enrollment fee and the first month's premium will be billed and due concurrently with the first month's payment.
 - 3. To remain eligible, a parent shall pay the premium amount and enrollment fee according to this Article.
- B. Premiums
 - 1. When countable income is equal to or greater than 100 percent but less than 150 percent of the FPL, the monthly premium for the family is three percent of the countable income.
 - 2. When countable income is equal to or greater than 150 percent but less than 175 percent of the FPL, the monthly premium for the family is ~~four~~ five percent of the countable income.
 - 3. When countable income is equal to or greater than 175 percent but less than or equal to 200 percent of the FPL, the monthly premium for the family is five percent of the countable income.
 - 4. Native Americans are exempt from paying premiums.
 - 5. When a premium is paid for a household including the parents of a child eligible under Article 3 as described in Article 17, no separate premium is charged for the child under this Section.
- C. Enrollment Fees
 - 1. A parent enrolled on or after January 1, 2005 will be charged an enrollment fee.
 - a. If a parent who has paid the enrollment fee does not receive coverage under this Article for a period of at least 24 months, the parent will be charged another enrollment fee if the parent is approved again under this Article.
 - b. If a parent who has paid the enrollment fee is discontinued under this Article for a period of less than 24 months, the parent will not be charged an enrollment fee when the parent is approved again.
 - 2. A parent who was enrolled before January 1, 2005 will not be charged an enrollment fee unless the parent is discontinued under this Article and approved again.
 - 3. Native Americans are exempt from paying the enrollment fee.
 - 4. The enrollment fee amount:
 - a. For each eligible parent is \$15 when countable income is less than or equal to 150 percent of the FPL.
 - b. For each eligible parent is \$20 when countable income is greater than 150 percent of the FPL and less than or equal to 175 percent of the FPL.
 - c. For each eligible parent is \$25 when countable income is greater than 175 percent of the FPL and less than or equal to 200 percent of the FPL.