

November 14, 2019

The Honorable Karen Fann, President  
Arizona State Senate  
1700 W. Washington  
Phoenix, AZ 85007

The Honorable Russell Bowers, Speaker  
Arizona State House of Representatives  
1700 W. Washington  
Phoenix, AZ 85007

Dear President Fann and Speaker Bowers:

A.R.S. 41-1092.08(B) provides that, within thirty days of receiving an administrative law judge's decision, the head of the agency may review the decision and accept, reject or modify it. If the head of the agency rejects or modifies the decision, the agency head must provide a written justification for the rejection or modification of each finding of fact or conclusion of law.

Subsection (B) also requires that if the agency head rejects or modifies a conclusion of law, the written justification shall be sent to the President of the Senate and the Speaker of the House of Representatives.

Most, if not all, administrative law judge decisions and the associated decision of the agency head regarding the AHCCCS program include information that is confidential under State and federal law. See 45 CFR Part 164 and AAC R9-22-309. As such, AHCCCS cannot provide the full text of the administrative law judge decisions or the agency decision. As a practical matter, redacted versions of the justification for a modification or rejection of an administrative law judge's conclusion of law are not comprehensible without the full context of findings of fact and conclusion of law made by the administrative law judge.

For that reason, AHCCCS is providing quarterly summary information. For the quarter ending September 30, 2019, AHCCCS has identified 15 matters where the agency modified an administrative law judge's conclusions of law and 4 matters where the agency rejected the administrative law judge's recommended decision. During that same quarter, AHCCCS reviewed 121 administrative law judge decisions. The following Conclusions of Law and/or Recommended Decisions were modified or rejected:

- Modified Conclusions of Law to reflect law and legal standard.
- Modified Conclusion of Law to include federal citation relevant to obtaining applicant's income documentation to determine eligibility for Supplemental Security Income Medical Assistance Only program.
- Modified Conclusion of Law to add statute relevant to Share of Cost calculation.
- Modified Conclusion of Law to correct legal citation.
- Modified Conclusion of Law to add legal citations relevant to 5 day mailing rule.

- Modified Conclusions of Law to correct typographical error.
- Rejected ALJ determination that the MCO could require notification from the health care provider that was inconsistent with federal and State Law.
- Rejected the ALJ determination that the income of estranged husband must be included in the eligibility determination of the wife; added references to the applicable federal regulations and policy; struck conflicting Conclusion of Law.
- Modified Conclusion of Law to strike irrelevant reference to the PASRR; added reference to AAC regarding physician review of cases involving persons with a Serious Mental Illness.
- Modified Conclusions of Law to include a type of income deduction and test applied in reaching complainant's final countable income amount for Supplemental Security Income Medical Assistance Only program.
- Modified Conclusion of Law to add legal citation relevant to outstanding debt, making Complainant ineligible for Freedom to Work program.
- Modified Conclusion of Law to include reference to cost effectiveness in R9-22-201.
- Modified Conclusion of Law to add legal reference to PAS score requirement for ALTCS Transitional program.
- Rejected ALJ determination that the MCO could require notification from the health care provider that was inconsistent with federal and State Law.
- Modified Conclusion of Law finding that Complainant's PAS score was the basis for ineligibility because it is inconsistent with the Findings of Fact and because it did not refer to the method of assessment for persons with a Serious Mental Illness.
- Modified Conclusion of Law adding a sentence that Complainant failed to provide evidence for Freedom to Work program eligibility.
- Modified Conclusions of Law to add Conclusion regarding physician review and impact of psychiatric diagnosis.
- Rejected ALJ determination that MCO was permitted to set its own criteria for pharmacy coverage that are more stringent than the AHCCCS Drug List.
- Modified Conclusions of Law to add Conclusion regarding requirements for MCO approval of prescriptions.

Please feel free to contact me if you have any questions about this report.

Sincerely,



Jami Snyder  
Director

cc: Richard Stavneak, Director, Joint Legislative Budget Committee  
Matt Gress, Director, Governor's Office of Strategic Planning and Budgeting  
Christina Corieri, Governor's Office, Senior Policy Advisor