

November 14, 2017

The Honorable Steve Yarborough, President
Arizona State Senate
1700 W. Washington
Phoenix, AZ 85007

The Honorable J.D. Mesnard, Speaker
Arizona State House of Representatives
1700 W. Washington
Phoenix, AZ 85007

Dear President Yarborough and Speaker Mesnard:

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 the 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, 2017, AHCCCS has identified 13 matters where the agency head rejected or modified an administrative law judge's conclusions of law. During that same quarter, AHCCCS reviewed 200 administrative law judge decisions. The relevant cases involved issues regarding

- The agency's legal authority to determine eligibility under the Arizona Long Term Care Program
- Standing to appeal denial of a provider claim
- Member reimbursement for out-of-pocket costs

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- The legal standard for coverage of services under the Early, Periodic, Screening, Diagnosis, and Treatment program under Medicaid
- The limitation of Home and Community Based Services to federally reimbursable services
- The legal standard for timely submission of provider claims
- The legal authority for deductions from income for purposes of determining eligibility
- Enforcement of the National Correct Coding Initiative to prevent unbundled provider claims
- The requirements for the content of notice to a nursing facility resident prior to discharge
- Correcting legal citations and standards related to eligibility for persons with a serious mental illness
- Providing the legal definition of who may file a request for fair hearing and determining if the request was made by an appropriate party

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas J. Betlach', written over a large, light-colored oval shape.

Thomas J. Betlach
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