

May 16, 2018

The Honorable Steve Yarborough, President  
Arizona State Senate  
1700 West Washington  
Phoenix, Arizona 85007

The Honorable J.D. Mesnard, Speaker  
Arizona State House of Representatives  
1700 West Washington  
Phoenix, Arizona 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 March 31, 2018, AHCCCS has identified 7 matters where the agency head rejected or modified an administrative law judge's conclusions of law. During that same quarter, AHCCCS reviewed 169 administrative law judge decisions. The relevant cases involved the following modifications of conclusions of law:

- Correcting the legal standard for coverage of services for persons under the age of 21, and reversing the Administrative Law Judge's determination that addition occupational therapy was not medically necessary (matter 190287)

- Correcting the Administrative Law Judge's conclusion of law which did not take into consideration a recent change in federal law impacting the determination of the agency's claim to a lien against a private insurance claim (matter 191902)
- Correcting legal citations and standards related to the rights of persons with a serious mental illness (matters 180622)
- Correcting legal citations and standards related to the determination of whether a person meets the definition of a person a serious mental illness (matters 191779)
- Reversing the Administrative Law Judge's conclusion that the appeal should be dismissed for failure to appear based on the agency's determination that good cause existed for the non-appearance (matter 190749)
- Reversing the Administrative Law Judge's conclusion that the appeal should be dismissed for failure to appear based on the agency's determination that the notice of hearing was sent to an incomplete mailing address (matter 189447)
- Correcting legal citations and standards related to the burden of proof when a party other than the party asserting a claim fails to appear at hearing (matter 190124)

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

Sincerely,



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