

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM – ADMINISTRATION

PREAMBLE

1. Permission to proceed with this proposed rulemaking was granted under A.R.S. § 41-1039 by the governor on:

September 17, 2024

2. Article, Part, or Section Affected (as applicable) Rulemaking Action

R9-22-301	Amend
R9-22-302	Amend
R9-22-304	Amend
R9-22-305	Amend
R9-22-315	Amend

3. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 36-2903.01

Implementing statute: A.R.S. §§ 36-2904, 36-2933

4. Citations to all related notices published in the Register that pertain to the current record of the proposed rule:

Notice of Rulemaking Docket Opening: (volume #) A.A.R. (page #), Issue Date: (date published), Issue Number: (number), File number: (R2#-###)

5. The agency’s contact person who can answer questions about the rulemaking:

Name: Sladjana Kuzmanovic
Title: Sr. Rules Analyst
Division: AHCCCS Office of the General Counsel
Address: 801 E. Jefferson Street, MD 6200, Phoenix, AZ 85034
Telephone: (602) 417-4232
Fax: (602) 253-9115
Email: AHCCCSRules@azahcccs.gov
Website: www.azahcccs.gov

6. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

Rules in R9-22-Article 3 outline general eligibility requirements for individuals seeking AHCCCS coverage. These rules establish the basic criteria for enrollment, including residency, financial need, and citizenship or legal status. Additionally, they specify documentation and verification needed to determine if an applicant qualifies for AHCCCS programs. Although effective, certain current rules do not align with some of the language in federal regulations or provide true clarity to individuals utilizing them in

determining eligibility.

7. 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:

The Administration did not review or rely on any study for this rulemaking.

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

Not applicable.

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

These regulations govern eligibility of members and AHCCCS and other State responsibilities to them. The Administration does not anticipate any economic, small business, and consumer impact with the currently proposed changes. Proposed changes are merely clarifying including updating definitions for “BHS” and “USCIS”, extending the timeframe an applicant or member has to provide the required verification when requested, updating a rule to state that a written declaration is not required in order for the rule to be aligned with federal regulation, and adding information regarding electronic notification delivery option. Substantive and procedural rights of members are not affected, nor are any of the programs of the Administration.

10. The agency’s contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Sladjana Kuzmanovic
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Address: 801 E. Jefferson Street, MD 6200, Phoenix, AZ 85034
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11. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Written comments about this proposed rulemaking will be accepted in person at the address provided under Item #5, Monday through Friday from 8 a.m. to 5 p.m. except for state holidays. Comments will also be accepted via email at the email address provided under Item #5. Mailed written comments shall be postmarked within 30 days of this published notice.

An oral proceeding is scheduled on this proposed rulemaking.

Date: December 16, 2024
Time: 2:00 p.m.
Location: (meet.google.com/nxt-gxth-gni)
Nature: Public Hearing

Public comment period ends: December 16, 2024 at 5:00 p.m.

Close of record: December 16, 2024 at 5:00 p.m.

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

There are not other matters prescribed by statute applicable specifically to the Administration or this specific rulemaking.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rule does not require the issuance of a regulatory permit. Therefore, a general permit is not applicable.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

The rules are not more stringent than the federal law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

Not applicable.

14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES
CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM – ADMINISTRATION
ARTICLE 3. GENERAL ELIGIBILITY REQUIREMENTS

Section

- R9-22-301. General Eligibility Definitions
- R9-22-302. AHCCCS Eligibility Application
- R9-22-304. Verification of Eligibility Information
- R9-22-305. Eligibility Requirements
- R9-22-315. Notice of Adverse Action

ARTICLE 3. GENERAL ELIGIBILITY REQUIREMENTS

R9-22-301. GENERAL ELIGIBILITY DEFINITIONS

Definitions. In addition to definitions contained in R9-22-101 and A.R.S. § 36-2901, the words and phrases in this Article, Article 14 and Article 15 have the following meanings unless the context explicitly requires another meaning:

“Applicant,” notwithstanding R9-22-101, means a person listed on an application for whom AHCCCS coverage is being sought.

“BHS” means ~~the division of Behavioral Health Services within the Arizona Department of Health Services.~~

“CRS” means the program administered by the Administration or its designee that provides covered medical services and covered support services in accordance with A.R.S. 36-261.

“DCSS” means the Division of Child Support Services, which is the division within the Department that administers the Title IV-D program and includes a contract agent operating a child support enforcement program on behalf of the Department.

“FAA” means the Family Assistance Administration, the administration within the Department’s Division of Benefits and Medical Eligibility with responsibility for providing cash and food stamp assistance to a member and for determining eligibility for AHCCCS medical coverage.

“Income” means combined earned and unearned income.

“Medical support” means to provide health care coverage in the form of health insurance or court-ordered payment for medical care.

“Member” means an applicant who has been determined to qualify for AHCCCS coverage by the Administration or its designee.

“Pre-enrollment process” means the process that provides an applicant the opportunity to choose an AHCCCS health plan before the determination of eligibility is completed.

“Resources” means real and personal property, including liquid assets.

“Sponsor” means an individual who signs the USCIS I-864 Affidavit of Support agreeing to support a non-citizen as a condition of the non-citizen’s admission for permanent residence in the United States.

“Sponsor deemed income” means the unearned income deemed available to the applicant named on the USCIS I-864 Affidavit of Support.

“SVES” means the State Verification and Exchange System, a system through which the Department exchanges income and benefit information with the Internal Revenue Service, Social Security Administration, and State Wage and Unemployment Insurance Benefit data files.

“USCIS” means the United States ~~Citizen~~ Citizenship and Immigration Services.

R9-22-302. AHCCCS ELIGIBILITY APPLICATION

Application process.

1. Right to apply. A person may apply for AHCCCS medical coverage by submitting an Administration-approved application to the Administration or its designee, an FAA office, or one of the following outstation locations:
 - a. ~~A BHS site;~~
 - b. —A Federally Qualified Health Center or disproportionate share hospital under 42 U.S.C. 1396r-4; or
 - e~~b~~. Any other site, including a hospital, approved by the Administration or its designee.
2. Application. To initiate the application process, the Administration or its designee will accept an application from the applicant, an adult who is in the applicant’s household, as defined in 42 CFR 435.603(f), or family, as defined in section 36B(d)(1) of the

Internal Revenue Service (IRS) Code, an authorized representative, or if the applicant is a minor or incapacitated, someone acting responsibly for the applicant by submitting a written or online application under 42 CFR 435.907.

- a. A phone or written application must contain at least the following to be submitted to the Administration or its designee:
 - i. Applicant's legible name,
 - ii. Address or location where the applicant can be reached,
 - iii. Signature of the person submitting the application,
 - iv. Date the application was signed.
 - v. The Administration or its designee shall require that a third party witness the signing and attest by signing the application if the individual signing the application signs with a mark.
- b. An online application must be completed in full in order to be submitted to the Administration or its designee.
3. Incomplete application. If the application is incomplete, the Administration or its designee shall do at least one of the following:
 - a. Contact an applicant or an applicant's representative by telephone or electronic medium to obtain the missing information required for an eligibility determination;
 - b. Mail a request for additional information to an applicant or an applicant's representative, allowing 10 days from the date of the request to provide the required additional information; or
 - c. Meet with the applicant, representative, or household member.
4. Date of application. The date of application is the date application is received by the Administration or its designee either on-line or at a location listed in subsection (1).
5. Complete application form. The Administration or its designee shall consider an application complete when all questions are answered. The same person as listed under subsection (2) is the person that must sign the completed application. The application shall be witnessed and signed by a third party if the individual signing the application signs with a mark.
6. Assistance with application. The Administration or its designee shall allow a person of the applicant's choice to accompany, assist, and represent the applicant in the application process.

R9-22-304. VERIFICATION OF ELIGIBILITY INFORMATION

- A. Except as provided in subsection (E), if information provided by or on behalf of an applicant or member on an application, renewal form or otherwise does not conflict with information obtained by the agency through an electronic data match, the Administration or its designee shall determine or renew eligibility based on such information.
- B. The Administration or its designee shall not require an applicant, member, or representative to provide additional verification unless the verification cannot be obtained electronically or the verification obtained electronically conflicts with information provided by or on behalf of the applicant or member.
- C. If information provided by or on behalf of an applicant or member does conflict with information obtained through an electronic data match, the applicant or member shall provide the Administration or its designee with information or documentation necessary to verify eligibility, including evidence originating from an agency, organization, or an individual with actual knowledge of the information.
- D. Income information obtained through an electronic data match shall be considered reasonably compatible with income information provided by or on behalf of an individual if both meet or both exceed the applicable income limit.
- E. The Administration or its designee shall not accept the applicant's or member's statement by itself as verification of:
 1. SSN;

2. Qualified alien status, except as described under 42 USC 1320b-7(d)(4)(A); or
 3. Citizenship, except as described under 42 USC 1396a(ee)(1).
- F. The Administration or its designee shall give an applicant or member at least 105 days from the date of a written or electronic request for information to provide required verification. The Administration or its designee may deny the application or discontinue eligibility if an applicant or a member does not provide the required information timely.

R9-22-305. ELIGIBILITY REQUIREMENTS

As a condition of eligibility, the Administration or its designee must require applicants, and members to do the following:

1. ~~Take all necessary steps to obtain any annuities, pensions, retirement, disability benefits to which they are entitled, unless they can show good cause for not doing so.~~
2. Furnish a SSN under 42 CFR 435.910 and 435.920, or in the absence of an SSN, provide proof of a submitted application of SSN. The Administration or its designee will assist in obtaining or verifying the applicant's SSN under 42 CFR 435.910 if an applicant cannot recall the applicant's SSN or has not been issued a SSN. An applicant is not required to furnish an SSN if the applicant is not able to legally obtain a SSN. The Administration or its designee shall determine eligibility notwithstanding the applicant's lack of a SSN, if the applicant is cooperating with the Administration or its designee to obtain a SSN and obtain a SSN prior to the next scheduled review of eligibility.
3. Provide proof of residency of Arizona. An applicant or a member is not eligible unless the applicant or member is a resident of Arizona under 42 CFR 435.403 effective October 1, 2012, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
4. A written declaration, ~~signed under penalty of perjury,~~ must be provided for each person for whom benefits are being sought stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is a qualified alien. The declaration must be provided by the individual for whom eligibility is being sought or an adult member of the individual's family or household.
5. Each applicant who claims qualified alien status must provide either:
 - a. Alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or
 - b. Other documents that the Administration or its designee accepts as evidence of immigration status, such as:
 - i. A Form I-94 Departure Record issued by the USCIS,
 - ii. A Foreign Passport,
 - iii. A USCIS Parole Notice,
 - iv. A Victim of Trafficking Certification or Eligibility Letter issued by the US DHHS Office of Refugee Resettlement,
 - v. Other documentation consistent with 42 CFR 435.406 or 435.407.
 - c. Sufficient information for the Administration or its designee to obtain electronic verification of immigration status from the USCIS.

65. If a person for whom eligibility is being sought, states that they are an alien, that person is not required to comply with subsections (4) and (5); however, if they do not comply with those sections, and if they meet all other eligibility criteria, benefits will be limited to those necessary to treat an emergency medical condition.

R9-22-315. NOTICE OF ADVERSE ACTION

- A.** Adverse actions. An applicant or member may appeal, as described under Chapter 34, by requesting a hearing from the Administration or its designee concerning any of the following adverse actions:
1. Complete or partial denial of eligibility under R9-22-307 and R9-22-313(E);
 2. Suspension, termination, or reduction of AHCCCS medical coverage under R9-22-307, R9-22-312 and R9-22314;
 3. Delay in the eligibility determination beyond the timeframes under this Article;
 4. The imposition of or increase in a premium or copayment; or
 5. The effective date of eligibility.
- B.** Notice of Adverse Action. The Administration or its designee shall personally deliver or send, by mail, or electronic means a Notice of Adverse Action to the person affected by the action. For the purpose of this Section, the date of the Notice of Adverse Action shall be the date of personal delivery to the applicant, ~~or the postmark date, if mailed,~~ or the email date if emailed.
- C.** Automatic change and hearing rights.
1. An applicant or a member is not entitled to a hearing if the sole issue is a federal or state law requiring an automatic change adversely affecting some or all recipients.
 2. An applicant or a member is entitled to a hearing if a federal or state law requires an automatic change and the applicant or member timely files an appeal that alleges a misapplication of the facts to the law.