

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM – ARIZONA LONG-TERM CARE SYSTEM

PREAMBLE

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

November 25, 2024

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

R9-28-11

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 and 36-2932

Implementing statute: A.R.S. §§ 36-2903.01 and 36-2907

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 An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

Title 9, Chapter 28, Article 11 of the Arizona Administrative Code (A.A.C.) establishes the regulations for administering behavioral health services to AHCCCS long-term care members and determining eligibility for such coverage. These rules define key terms, outline the roles and responsibilities of AHCCCS and its contractors, and specify eligibility criteria, service requirements, and the scope of covered services. The proposed revisions are based on a Five-Year Review Report submitted to the Governor’s Regulatory Review Council on September 27, 2024.

Complete proposed revisions include:

R9-28-1106(A) – correcting A.A.C. reference, replacing “RHBA” with “health plan” and removing reference to “ADHS/DBHS” as Department of Behavioral Health Services (DBHS) is no longer at Arizona Department of Health Services (ADHS).

These proposed changes are intended solely for clarification and do not create any new obligations or expenses for regulated individuals. They do not impact the substantive or procedural rights of members or alter any programs of the Administration.

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:

The proposed modifications to the rule language are expected to have a minimal impact on small businesses, consumers, members, and providers, as the changes are budget neutral. These regulations oversee the administration of behavioral health services for AHCCCS members and determine eligibility for such coverage. There are no additional economic, small business, or consumer financial effects beyond the current operational costs of the agency. The revisions outlined in this Five-Year Review Report are intended for clarification purposes only and do not alter the overall economic impact.

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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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: April 21, 2025
Time: 2:00 p.m.
Location: (meet.google.com/dzr-geek-iwt)
Nature: Public Hearing

Public comment period ends: April 21, 2025 at 5:00 p.m.

Close of record: April 21, 2025 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 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - ARIZONA LONG-TERM CARE SYSTEM

ARTICLE 11. BEHAVIORAL HEALTH SERVICES

Section

R9-28-1106. Standards for Service Providers

ARTICLE 11. BEHAVIORAL HEALTH SERVICES

R9-28-1106. Standards for Service Providers

- A. Applicability. The provisions of A.A.C. ~~R9-22-1206~~ R9-22-12 are the general provisions and standards for service providers. References in A.A.C. ~~R9-22-1206~~ R9-22-12 to ADHS/DBHS or to a RBHA health plan apply to a contractor.
- B. The Administration or a contractor shall cost avoid any behavioral health service claims if the Administration or the contractor establishes the probable existence of first-party liability or third-party liability.