NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

PREAMBLE

1. Article, Part, or Section Affected (as applicable)	Rulemaking Action:
Article 16	New Article
R9-22-1601	New Section

2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. §§ 36-2903, 36-2903.01

Implementing statute: A.R.S. § 36-2901,

Federal authority: 42 USC 1396a(a)(47)(B); 42 CFR 435.1110

3. The effective date of the rule:

The agency requests an effective date of January 1, 2015, this effective date is prior to the normal 60 day timeframe specified in A.R.S. § 41-1032(A), the Administration believes that this rulemaking meets the requirements as specified under A.R.S. § 41-1032(A)(1) by providing the opportunity to apply at the time the person presents themselves for care, therefore, preserving the public health and A.R.S. § 41-1032(A)(3) to comply with federal requirements as listed under item 2 requiring the Administration to implement the Hospital Presumptive Eligibility. The proposed rulemaking was made without a delay or inaction on part of the Administration.

4. Citations to all related notices published in the Register to include the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 20 A.A.R. 2263, August 22, 2014

Notice of Proposed Rulemaking: 20 A.A.R. 2229, August 22, 2014

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

Name:	Mariaelena Ugarte
Address:	701 E. Jefferson St.
Telephone:	(602) 417-4693
Fax:	(602) 253-9115
E-mail:	AHCCCSrules@azahcccs.gov
Web site:	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 An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The Administration is promulgating rules to comply with the Affordable Care Act of 2010, which added 42 USC 1396a(a)(47)(B), and 42 CFR 435.1110 which requires the State Medicaid agency to allow qualifying hospitals the option to determine presumptive eligibility for Medicaid for certain individuals. This process is referred to as Hospital Presumptive Eligibility (HPE). These proposed rules are to be effective January 1, 2015.

To be a hospital qualified to make a presumptive eligibility determination, the hospital must agree to make the determination in accordance with policies and procedures established by AHCCCS. 42 CFR 435.1110(b)(1). The details of the terms and conditions for qualifying hospitals will be included in a written agreement between AHCCCS and the hospital, and the terms of such contracts are exempt from the requirements for rule-making. A.R.S. § 41-1005(a)(15).

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not 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:

A study was not referenced or relied upon when revising the regulations.

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. A summary of the economic, small business, and consumer impact:

It is extremely difficult to predict the impact of the proposed rule change. HPE is a new federal requirement as of January 1, 2014. It is unknown how many hospitals will be become qualified hospitals, how many individuals will apply for HPE through qualified hospitals, and how many individuals who are provided HPE will fail to file a full application or be determined ineligible following submission of a full application. However the agency is assuming a budget impact of $5M in total fund payments for health care services provided to individuals who do not file a full application within the required timeframe or who are determined ineligible following submission of the full application. These payments will be made to health care providers including but not limited to hospitals.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

No significant changes were made between the proposed rulemaking and the final rulemaking. Technical changes have been made for clarification as result of the Governor's Regulatory Review Council staff recommendations.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

No comments were received as of the close of the comment period of September 29, 2014.

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:

No other matters are applicable.

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 a permit.

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:

This rule-making arises from a requirement of federal law, specifically 42 USC 1396a(a)(47)(B) and 42 CFR Part 435.1110 which require every State Medicaid program (including AHCCCS) to establish a Hospital Presumptive Eligibility process as a condition of receiving federal funding for the Medicaid program in the State. The rule is not more stringent than 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:

No analysis was submitted.

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

None

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable.

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

ARTICLE 16. ~~SOCIAL SECURITY DISABILITY INSURANCE - TEMPORARY MEDICAL COVERAGE~~ HOSPITAL PRESUMPTIVE ELIGIBILITY

Section.

R9-22-1601. ~~Expired~~ HPE General Eligibility Requirements

ARTICLE 16. ~~SOCIAL SECURITY DISABILITY INSURANCE - TEMPORARY MEDICAL COVERAGE~~ HOSPITAL PRESUMPTIVE ELIGIBILITY

R9-22-1601. ~~Expired~~ HPE General Eligibility Requirements

A. Notwithstanding Article 3, a qualified hospital may determine Hospital Presumptive Eligibility (HPE), on the basis of preliminary information, that an individual is eligible for AHCCCS medical coverage during the presumptive eligibility period described in this section, if the individual is a United States citizen or eligible qualified alien, and the individual is:

1. Pregnant with gross household income that does not exceed 156% of the FPL;
2. An adult who meets the requirements of R9-22-1427(E);
3. A caretaker relative as defined in R9-22-1401(B) with gross household income that does not exceed 106% of the FPL;
4. Under age 19 with gross household income that does not exceed the limit set in R9-22-1427(D) for the child's age;
5. A woman screened for breast or cervical cancer by an Arizona program of the National Breast and Cervical Cancer Early Detection Program who meets the requirements of R9-22-2003(A); or
6. A former foster care child who meets the requirements of R9-22-1432.

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

"Qualified hospital" means a hospital that has signed an agreement with the Administration to process HPE applications and has not been disqualified.

C. Application Process:

1. Right to apply. A person may apply for presumptive eligibility for AHCCCS medical coverage by submitting an Administration-approved application to the qualified hospital.
2. Application. To initiate the application process, the qualified hospital 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.

D. To establish presumptive eligibility, an applicant must complete and submit an AHCCCS-approved presumptive eligibility application signed under penalty of perjury to a qualified hospital. The applicant must attest to the name(s), relationship(s), and income of all persons in the household. In addition, the applicant must provide and attest to the following information regarding each household member on whose behalf AHCCCS medical coverage is sought:

1. The individual's date of birth;
2. Whether the individual is pregnant;
3. Whether the individual has been determined eligible for Breast and Cervical Cancer Treatment Program, described under Article 20;
4. Whether the individual is a former foster child, described under R9-22-1432;
5. The U.S. citizenship status or eligible qualified alien status under A.R.S. 36-2903.03 of the individual; and
6. The individual's permanent and mailing addresses;
7. The individual's Arizona residency status; and
8. Whether the individual has Medicare coverage.

E. Presumptive eligibility begins on the date the hospital determines an individual's presumptive eligibility and ends with the earlier of:

1. In the case of an individual on whose behalf an application has been submitted to AHCCCS or its designee under Article 3, the day on which AHCCCS or its designee makes a determination on that application; or
2. In the case of an individual on whose behalf an application has not been submitted to AHCCCS or its designee under Article 3, on the last day of the following month in which the determination of presumptive eligibility was made by the qualified hospital.

F. An individual may not be determined presumptively eligible more often than once every two years.

G. Coverage and reimbursement of services.

1. The Administration shall provide coverage of medically necessary services described under Article 2 to persons determined eligible for HPE on a fee-for-service basis.
2. Providers shall submit claims for services provided to persons determined eligible for HPE to the Administration as described under Article 7.

H. A member may withdraw from HPE coverage by notifying the Administration or its designee.

I. Upon determining an individual presumptively eligible, the qualified hospital shall:

1. Notify the applicant at the time a determination regarding presumptive eligibility is made, in writing and orally if appropriate, of the determination for each individual on whose behalf presumptive eligibility was requested and the effective date of the presumptive eligibility;
2. Provide the applicant with a regular AHCCCS-approved application form and inform the applicant that the applicant may file an application for Medicaid with the Administration or its designee;
3. Notify AHCCCS of the presumptive eligibility determination;
4. Notify the applicant at the time the determination is made that presumptive eligibility ends with the earlier of:

a. In the case of an individual on whose behalf an application has been submitted to AHCCCS or its designee under Article 3, the day on which AHCCCS or its designee makes a determination on that application; or

b. In the case of an individual on whose behalf an application has not been submitted to AHCCCS or its designee under Article 3, on the last day of the following month in which the determination of presumptive eligibility was made by the qualified hospital.

J. A determination by a qualified hospital that an individual is not presumptively eligible is not appealable under Chapter 34. If a qualified hospital denies an individual presumptive eligibility, the individual may apply for coverage by submitting an application to the Administration or its designee.