NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - ADMINISTRATION

ARTICLE 19. FREEDOM TO WORK

PREAMBLE

1. Article, Part, or Section Affected (as applicable)	Rulemaking Action
R9-22-1901	Amend
R9-22-1903	Amend
R9-22-1904	Amend
R9-22-1905	Amend
R9-22-1907	Amend
R9-22-1909	Amend
R9-22-1913	Amend
R9-22-1915	Amend
R9-22-1919	Amend
R9-22-1922	Amend

2. 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. § 36-2929

3. The effective date of the rule and the agency's reason it selected the effective date:

As specified in A.R.S. § 41-1032, the agency requests a sixty-day effective date.

4. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Rulemaking Docket Opening: 30 A.A.R. 778, April 19, 2024

Notice of Proposed Rulemaking: 30 A.A.R. 761, April 19, 2024

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

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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 An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking: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 proposed rulemaking is submitted in response to the Five-Year Review Report submitted on January 23, 2018, and on May 30, 2023, which are intended to clarify the current rules. The rule amendments are proposed to promulgate rules that are clear, concise, and understandable for members of the public. The proposed rules do not impose any additional burdens or costs to regulated persons, and failure to conduct this rulemaking will promote unnecessary utilization of resources, and the incurring of unnecessary costs.

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:

No studies were conducted relevant to the rule.

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

None of the changes proposed in this 5YRR have any effect on the economic impact of this chapter. Substantive and procedural rights of members are not affected, nor are any of the programs of the Administration. These proposed changes are merely clarifying.

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):

No changes were made between the proposed and final rulemakings.

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

No public comments were made.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

No other matters have been prescribed.

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:

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 rulemaking must be established consistent with 42 CFR § 1003.200. 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 rules:

Not applicable.

14. Weather the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt 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 19. FREEDOM TO WORK

Sections

R9-22-1901. General Freedom to Work Requirements

~~Under 42 U.S.C. 1396a(a)(10)(A)(ii)(XV) and (XVI), t~~The Administration shall determine eligibility for AHCCCS medical services, under Article 2 of this Chapter, using the eligibility criteria and requirements under this Article for an applicant or member who is:

1. At least 16 years of age, but less than 65 years of age,
2. Employed, and
3. Not income eligible under A.R.S. § 36-2901(6)(a).

R9-22-1903. Application for Coverage

A. A person may apply by submitting an application to an Administration office.

B. The application date is the date the application is received at an Administration office or outstation location approved by the Director as described under R9-22-1406(A).

C. The provisions in ~~R9-22-1406(B) and (D)~~ R9-22-302 apply to this Section.

D. The applicant or representative who files the application may withdraw the application for coverage either orally or in writing. An applicant withdrawing an application shall receive a denial notice under R9-22-1904.

E. Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 45 days.

R9-22-1904. Notice of Approval or Denial

The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the action, and:

1. If approved, the notice shall contain:
   a. The effective date of eligibility,
   b. The amount the person shall pay, and
   c. An explanation of the person's hearing rights specified in 9 A.A.C. 34.
2. If denied, ~~R9-22-1501(G)(3)~~ R9-22-307 applies.

R9-22-1905. Reporting and Verifying Changes

An applicant or member shall report and verify changes, as described under ~~R9-22-1501(H)~~ R9-22-306, to the Administration.

R9-22-1907. Notice of Adverse Action Requirements

A. The requirements under ~~R9-22-1501(K)(1)~~ R9-22-312 apply.

B. Advance notice of a change in eligibility or premium amount. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (C), advance notice shall be issued whenever an adverse action is taken to discontinue eligibility, or increase the premium amount.

C. Exceptions from advance notice. A notice shall be issued to the member to discontinue eligibility no later than the effective date of action if:

1. A member provides a clearly written statement, signed by that member, that services are no longer wanted.
2. A member provides information that requires termination of eligibility or reduction of services, indicates that the member understands that this must be the result of supplying that information, and the member signs a written statement waiving advance notice;
3. A member cannot be located and mail sent to the member's last known address has been returned as undeliverable subject to reinstatement of discontinued services under 42 CFR 431.231(d);
4. A member has been admitted to a public institution where a person is ineligible for coverage;
5. A member has been approved for Medicaid in another state; or
6. The Administration receives information confirming the death of a member.

R9-22-1909. Conditions of Eligibility

An applicant or member shall meet the following conditions to qualify for the Freedom to Work program:

1. Furnish a valid Social Security Number (SSN);
2. Be a resident of Arizona;
3. Be a citizen of the United States, or meet requirements for a qualified alien under A.R.S. § 36-2903.03(B);
4. Be at least 16 years of age, but less than 65 years of age;
5. Have countable income that does not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:
    a. The unearned income of the applicant or member shall be disregarded,

b. The income of a spouse or other family member shall be disregarded, and

c. The deduction for a minor child shall not apply;

6. Comply with the member responsibility provisions under ~~R9-22-1502(D) and (F)~~ R9-22-306.

R9-22-1913. Premium Requirements

A. As a condition of eligibility, an applicant or member shall:

1. Pay the premium required under subsection (B).

2. Not have any unpaid premiums for more than one month's premium amount.

B. ~~The Administration shall process premiums under 9 A.A.C. 31, Article 14~~The Administration shall process premiums under R9-31-1409 through R9-31-1419 with the following exceptions:

1. A member who has countable income:

a. Under $500, the monthly premium payment shall be $0.

b. Over $500 but not greater than $750, the monthly premium payment shall be $10.

2. The premium for a member shall be increased by $5 for each $250 increase in countable income above $750.

R9-22-1915. Institutionalized Person

A. person is not eligible for AHCCCS medical coverage if the person is:

1. An inmate of a public institution if federal financial participation (FFP) is not available, or

2. ~~Age 21 through age 64 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except when allowed under the Administration's Section 1115 IMD Waiver or allowed under a managed care contract approved by CM~~S. Age 22 through age 64 and is residing in an ICF/IID except when allowed under the Administration's Section 1115 Demonstration Project or allowed under a managed care contract approved by CMS.

R9-22-1919. Additional Eligibility Criteria for the Medically Improved Group

As a condition of eligibility for the Medically Improved Group, a member shall:

1. Be employed. Under this Section, employed means an individual who:

a. Earns at least the minimum wage and works at least 40 hours per month, or

b. Has gross monthly earnings at least equal to those earned by an individual who is earning the minimum wage working 40 hours per month.

2. Cease to be eligible for medical coverage under R9-22-1918 or a similar Basic Coverage Group program administered by another state because the member, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer be disabled; and

3. ~~Continues to have a severe medically determinable impairment, as determined under Social Security Act section 1902(a)(10)(A)(ii)(XVI).~~ Continues to have a severe medically determinable impairment, as determined under 42 U.S.C. 1396d(v)(1).

R9-22-1922. Redetermination of Eligibility

A. Redetermination. Except as provided in subsection (B), the Administration shall complete a redetermination of eligibility at least once a year.

B. ~~Change in circumstance. The Administration may complete a redetermination of eligibility if there is a change in the member's circumstances, including a change in disability or employment that may affect eligibility~~. Change in circumstance. The Administration shall complete a redetermination of eligibility if there is a change in the member's circumstances, including a change in disability or employment that may affect eligibility.

C. Medical Improvement. If a member is no longer disabled under R9-22-1918, the Administration shall determine if the member is eligible under other coverage groups including the medically improved group.