

TITLE 9. HEALTH SERVICES

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ADMINISTRATION

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ARTICLE 1. RULES OF PRACTICE AND PROCEDURE

R9-1-101. Definitions

- A. In this Chapter, unless otherwise specified:
1. "Day" means a calendar day, and excludes the:
 - a. Day of the act or event from which a designated period of time begins to run; and
 - b. Last day of the period if a Saturday, Sunday, or official state holiday.
 2. "Department" means the Arizona Department of Health Services.
 3. "Director" means the Director of the Arizona Department of Health Services or an individual designated by the Director.
 4. "Rule" has the same meaning as in A.R.S. § 41-1001(17).
- B. In this Article, unless otherwise specified:
1. "Administrative law judge" has the same meaning as in A.R.S. § 41-1092.
 2. "Appealable agency action" has the same meaning as in A.R.S. § 41-1092.
 3. "Contested case" has the same meaning as in A.R.S. § 41-1001.
 4. "Final administrative decision" has the same meaning as in A.R.S. § 41-1092.
 5. "Party" has the same meaning as in A.R.S. § 41-1001.

6. “Recommended decision” means the written ruling made by an administrative law judge regarding a contested case or appealable agency action within 20 days after a hearing under A.R.S. § 41-1092.07

Historical Note

Adopted effective April 13, 1990 (Supp. 90-2). Amended by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-102. Objection to a Recommended Decision

- A.** Upon receipt of a copy of a recommended decision for a contested case or an appealable agency action, the Director may mail a copy of the recommended decision to each party.
- B.** A party has ten days from the date the Director mails the recommended decision to submit a memorandum of objections that states each reason why the recommended decision is in error, with information supporting the reason.
- C.** The Director may consider the memorandum of objections in determining whether to accept, reject, or modify the recommended decision.

Historical Note

Adopted effective April 13, 1990 (Supp 90-2). Section repealed; new Section made by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-103. Rehearing or Review of a Final Administrative Decision

- A.** A party who is aggrieved by a final administrative decision may file with the Director, not later than 30 days after service of the final administrative decision, a written motion for rehearing or review of the decision specifying the grounds for rehearing or review.
- B.** A party filing a motion for rehearing or review under this Section may amend the motion at any time before it is ruled upon by the Director. Any other party may file a response to the motion for rehearing or review within 15 days after the date the motion is filed with the Director. The director may require that the parties file supplemental memoranda explaining the issues raised in the motion and may permit oral argument.
- C.** The Director may grant a rehearing or review of the final administrative decision for any of the following reasons materially affecting the requesting party’s rights:
1. Irregularity in the proceedings of the hearings or an abuse of discretion, that deprived the party of a fair hearing.
 2. Misconduct by the administrative law judge or the prevailing party,
 3. Accident or surprise that could not have been prevented by ordinary prudence,
 4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing,
 5. Excessive or insufficient penalties,
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing, or
 7. That the decision is not supported by the evidence or is contrary to law.
- D.** The Director shall rule on the motion within 15 days after the response to the motion is filed. If no response to the motion is filed, the Director shall rule on the motion within five days after the expiration of the response period.
- E.** An order issued by the Director granting a rehearing or review shall specify the grounds for the rehearing or review.

Historical Note

Adopted effective April 13, 1990 (Supp 90-2). Section repealed; new Section made by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-104. Repealed

Historical Note

Adopted effective April 13, 1990 (Supp 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-105. Repealed

Historical Note

Adopted effective April 13, 1990 (Supp 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-106. Repealed

Historical Note

Adopted effective April 13, 1990 (Supp 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-107. Repealed

Historical Note

Adopted effective April 13, 1990 (Supp 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-108. Repealed

Historical Note

Adopted effective April 13, 1990 (Supp 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-109. Repealed

Historical Note

Adopted effective April 13, 1990 (Supp 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-110. Repealed

Historical Note

Adopted effective April 13, 1990 (Supp 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-111. Repealed

Historical Note

Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-112. Repealed

Historical Note

Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-113. Repealed

Historical Note

Amended Regulation 10-71. Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-114. Repealed**Historical Note**

Amended Regulation 1-74. Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-115. Repealed**Historical Note**

Amended Regulation 10-71. Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-116. Repealed**Historical Note**

Amended Regulation 10-71. Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-117. Repealed**Historical Note**

Amended Regulation 10-71. Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-118. Repealed**Historical Note**

Amended Regulation 10-71. Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-119. Repealed**Historical Note**

Amended Regulation 10-71 and 1-74. Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-120. Repealed**Historical Note**

Amended Regulation 10-71. Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-121. Repealed**Historical Note**

Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-122. Repealed**Historical Note**

Amended Regulation 10-71 and 1-74. Repealed effective April 13, 1990 (Supp. 90-2).

R9-1-123. Repealed**Historical Note**

Amended Regulation 10-71. Repealed effective April 13, 1990 (Supp. 90-2).

R9-1-124. Repealed**Historical Note**

Repealed effective April 13, 1990 (Supp. 90-2).

R9-1-125. Repealed**Historical Note**

Former Section R9-1-125 renumbered as Section R9-1-126, new Section R9-1-125 adopted effective May 12, 1977 (Supp. 77-3). Repealed effective April 13, 1990 (Supp. 90-2).

R9-1-126. Repealed**Historical Note**

Former Section R9-1-125 renumbered as Section R9-1-126 effective May 12, 1977 (Supp. 77-3). Repealed effective April 13, 1990 (Supp. 90-2).

ARTICLE 2. PUBLIC PARTICIPATION IN RULEMAKING**R9-1-201. Definitions**

In addition to the definitions in R9-1-101(A), the following definitions apply in this Article, unless otherwise specified:

1. "Amendment" means a change to a rule, including added or deleted text.
2. "Arizona Administrative Code" means the publication described in A.R.S. § 41-1012.
3. "Citation" means the number that identifies a rule.
4. "Person" means the same as in A.R.S. § 41-1001(13).
5. "Rulemaking" means the same as in A.A.C. R1-1-101.
6. "Rulemaking record" means a file maintained by the Department as specified in A.R.S. § 41-1029.
7. "Substantive policy statement" means the same as in A.R.S. § 41-1001(20).
8. "Text" means a letter, number, symbol, table, or punctuation in a rule.

Historical Note

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed; new Section made by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 12 A.A.R. 3699, effective November 11, 2006 (Supp. 06-3).

R9-1-202. Rulemaking Record

Except on a state holiday, an individual may review a rulemaking record at the Office of the Director, Monday through Friday, from 8:00 a.m. until 5:00 p.m.

Historical Note

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed; new Section made by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-203. Petition for Department Rulemaking and Petition for Review of a Department Practice or Substantive Policy Statement

A. A petition to the Department for rulemaking under A.R.S. § 41-1033 shall include:

1. The name and address of the individual who submits the petition;
2. An identification of the rulemaking, including:
 - a. A statement of the rulemaking sought,
 - b. The Arizona Administrative Code citation of each existing rule included in the petition, and
 - c. A description of each new rule included in the petition;
3. The specific text of each new rule or amendment;
4. The reasons for requesting the rulemaking, supported by:

- a. Statistical data;
 - b. If the statistical data refers to exhibits, the exhibits;
 - c. An identification of the persons who would be affected by the rulemaking and the type of effect; and
 - d. Other information supporting the rulemaking;
5. The signature of the individual who submits the petition;
 6. The date the petition is signed; and
 7. A copy of each existing rule included in the petition.
- B.** A petition to the Department under A.R.S. § 41-1033 for review of a Department practice or substantive policy statement that allegedly constitutes a rule shall include:
1. The name and address of the individual who submits the petition,
 2. The reasons why the Department's practice or substantive policy statement allegedly constitutes a rule,
 3. The signature of the individual who submits the petition,
 4. The date the petition is signed, and
 5. A copy of the Department's substantive policy statement or a description of the Department's practice.
- C.** According to A.R.S. § 41-1033(A), the Department shall notify an individual who submits a subsection (A) or subsection (B) petition of the Department's decision in writing within 60 days after receipt of the petition.
- D.** If the Department denies a subsection (A) or subsection (B) petition, the individual who submitted the petition may proceed according to either A.R.S. § 41-1033(B) or A.R.S. § 41-1034 or according to both A.R.S. § 41-1033(B) and A.R.S. § 41-1034.

Historical Note

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed; new Section made by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 12 A.A.R. 3699, effective November 11, 2006 (Supp. 06-3).

R9-1-204. Repealed**Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-205. Repealed**Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-206. Repealed**Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

ARTICLE 3. DISCLOSURE OF MEDICAL RECORDS, PAYMENT RECORDS, AND PUBLIC HEALTH RECORDS**R9-1-301. Definitions**

In addition to the definitions in R9-1-101(A), the following definitions apply in this Article, unless otherwise specified:

1. "Behavioral health services" means the assessment, diagnosis, or treatment of an individual's mental, emotional, psychiatric, psychological, psychosocial, or substance abuse issues.
2. "Business day" means the same as in A.R.S. § 10-140.
3. "Commercial purpose" means the same as in A.R.S. § 39-121.03(D).
4. "Consent" means permission by an individual or by the individual's parent, legal guardian, or other health care decision maker to have medical services provided to the individual.
5. "Correctional facility" means the same as in A.R.S. § 13-2501(2).
6. "Court of competent jurisdiction" means a court with the authority to enter an order.
7. "De-identified" means a public health record from which the information listed in 45 CFR 164.514(b)(2)(i) for an individual and the individual's relatives, employers, or household members has been removed.
8. "Diagnosis" means an identification of a disease or an injury by an individual authorized by law to make the identification.
9. "Disclose" means to release, transfer, provide access to, or divulge information in any other manner.
10. "Disclosure" means the release, transfer, provision of access to, or divulging of information in any other manner by the person holding the information.
11. "Disease" means a condition or disorder that causes the human body to deviate from its normal or healthy state.
12. "Documentation" means written supportive evidence.
13. "Emancipated minor" means an individual less than age 18 who:
 - a. Is determined to be independent of parents or legal guardians under A.R.S. Title 12, Chapter 15, Article 1, as added by Laws 2005, Chapter 137, § 3, effective August 12, 2005;
 - b. Meets the requirements for recognition as an emancipated minor in A.R.S. § 12-2455, as added by Laws 2005, Chapter 137, § 3, effective August 12, 2005;
 - c. Has the ability to make a contract under A.R.S. § 44-131 or to consent to medical services under A.R.S. § 44-132; or
 - d. Is married or is a U.S. armed forces enlisted member.
14. "Employee" means an individual who works for the Department for compensation.
15. "Enlisted member" means the same as in 32 U.S.C. 101(9).
16. "Epidemic" means a disease that affects a disproportionately large number of individuals in a population, community, or region at the same time.
17. "Estate" means the same as in A.R.S. § 14-1201(16).
18. "Financial institution" means a bank, a savings and loan association, a credit union, or a consumer lender.
19. "Halfway house" means a residential facility that temporarily provides shelter, food, and other services to an individual after the individual completes a confinement in a correctional facility or a stay in a health care institution.
20. "Health care decision maker" means the same as in A.R.S. § 12-2291(3).
21. "Health care institution" means the same as in A.R.S. § 36-401(23).
22. "Health care system" means the facilities, personnel, and financial resources in place in a state or other geographic area for delivering behavioral health services, medical services, nursing services, and health-related services to individuals in the state or other geographic area.
23. "Health oversight activity" means:
 - a. Supervision of the health care system,

- b. Determining eligibility for health-related government benefit programs,
 - c. Determining compliance with health-related government regulatory programs, or
 - d. Determining compliance with civil rights laws for which health-related information is relevant.
24. "Health-related services" means the same as in A.R.S. § 36-401(24).
25. "Homeless minor" means an individual described in A.R.S. § 44-132(C).
26. "Homeless shelter" means the same as in A.R.S. § 16-121(D).
27. "Human Subjects Review Board" means individuals designated by the Director to:
- a. Review human subjects research that is conducted, funded, or sponsored by the Department for consistency with 45 CFR Part 46, Subpart A, dealing with the protection of the human subjects;
 - b. Review requests for Department information from external entities conducting or planning to conduct human subjects research; and
 - c. Establish guidelines for the submission and review of human subjects research.
28. "Incapacitated person" means the same as in A.R.S. § 14-5101(1).
29. "Incidence" means the rate of cases of a disease or an injury in a population, community, or region during a specified period.
30. "Individually identifiable health information" means the information described in 42 U.S.C. 1320d(6).
31. "Injury" means trauma or damage to a part of the human body.
32. "Jurat" means the same as in A.R.S. § 41-311(6).
33. "Legal guardian" means an individual:
- a. Appointed by a court of competent jurisdiction under A.R.S. Title 8, Chapter 10, Article 5 or A.R.S. Title 14, Chapter 5;
 - b. Appointed by a court of competent jurisdiction under another state's laws for the protection of minors and incapacitated persons; or
 - c. Appointed for a minor or an incapacitated person in a probated will.
34. "Medical records" means the same as in A.R.S. § 12-2291(5).
35. "Medical services" means the same as in A.R.S. § 36-401(31).
36. "Minor" means the same as in A.R.S. § 36-798(5).
37. "Nursing services" means the same as in A.R.S. § 36-401(35).
38. "Outbreak" means an unexpected increase in the incidence of a disease as determined by the Department or a health agency defined in A.R.S. § 36-671(5).
39. "Parent" means a biological or adoptive mother or father of an individual.
40. "Patient" means an individual receiving behavioral health services, medical services, nursing services, or health-related services.
41. "Payment records" means the same as in A.R.S. § 12-2291(6).
42. "Person" means the same as in A.R.S. § 41-1001(13).
43. "Personal representative" means the same as in A.R.S. § 14-1201(38).
44. "Probated will" means a will that has been proved as valid in a court of competent jurisdiction.
45. "Public health intervention" means responding to and containing:
- a. Outbreaks or epidemics of disease, or
 - b. The incidence of injury.
46. "Public health investigation" means identifying and examining:
- a. Outbreaks or epidemics of disease, or
 - b. The incidence of injury.
47. "Public health records" means information created, obtained, or maintained by the Department for:
- a. Public health surveillance, public health investigation, or public health intervention;
 - b. A system of public health statistics;
 - c. A system of vital records; or
 - d. Health oversight activities.
48. "Public health surveillance" means monitoring the incidence and spread of a disease or an injury.
49. "Research" means the same as in 45 CFR 164.501.
50. "State" means the same as in A.R.S. § 36-841.
51. "Surviving spouse" means the individual:
- a. To whom a deceased individual was married at the time of death, and
 - b. Who is currently alive.
52. "System of public health statistics" means the same as in A.R.S. § 36-301(31).
53. "System of vital records" means the same as in A.R.S. § 36-301(32).
54. "Third person" means a person other than:
- a. The individual identified by medical records; or
 - b. The individual's parent, legal guardian, or other health care decision maker:
55. "Treatment" means a procedure or method to cure, improve, or palliate a disease or an injury.
56. "Valid authorization" means written permission to disclose individually identifiable health information that contains all the elements described in 45 CFR 164.508(c)(1).
57. "Veteran" means the same as in 38 U.S.C. 101(2).
58. "Vital record" means the same as in A.R.S. § 36-301(33).
59. "Volunteer" means an individual who works for the Department without compensation.
60. "Will" means the same as in A.R.S. § 14-1201(59).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 3699, effective November 11, 2006 (Supp. 06-3).

R9-1-302. Medical Records or Payment Records Disclosure

- A.** Except as provided in subsection (B), an employee or volunteer shall not disclose to a third person medical records or payment records containing individually identifiable health information that the employee or volunteer obtained or accessed as a result of the employment or volunteering.
- B.** Unless otherwise prohibited by law, an employee or volunteer may disclose to a third person medical records or payment records containing individually identifiable health information:
 - 1. With the valid authorization of the individual identified by the information in the medical records or payment records, if the individual:
 - a. Is at least age 18 or an emancipated minor, and
 - b. Is not an incapacitated person;
 - 2. With the valid authorization of the parent, legal guardian, or other health care decision maker of the individual identified by the information in the medical records or payment records, if the individual is:
 - a. Less than age 18, other than an emancipated minor; or
 - b. An incapacitated person;

3. With the valid authorization of the individual identified by the information in the medical records or payment records, regardless of age, if:
 - a. The information to be disclosed resulted from the consent given by the individual under A.R.S. § 44-132.01 or A.R.S. § 36-663; and
 - b. The individual is not an incapacitated person;
 4. With the valid authorization of the individual identified by information in the medical records or payment records if:
 - a. The information to be disclosed resulted from the individual's treatment under A.R.S. § 44-133.01;
 - b. The individual was at least age 12 at the time of the treatment under A.R.S. § 44-133.01 as established by documentation, such as a copy of the individual's:
 - i. Driver license issued by a state, or
 - ii. Birth certificate; and
 - c. The individual is not an incapacitated person;
 5. If the individual identified by the information in the medical records or payment records is deceased, upon the written request to the Department according to subsection (D) for disclosure of the deceased individual's medical records or payment records to:
 - a. The deceased individual's health care decision maker at the time of death;
 - b. The personal representative of the deceased individual's estate; or
 - c. If the deceased individual's estate has no personal representative, a person listed in A.R.S. §§ 12-2294(D)(1) through 12-2294(D)(6);
 6. At the direction of the Human Subjects Review Board, if the medical records or payment records are sought for research and the disclosure meets the requirements of 45 CFR 164.512(i)(2); or
 7. As required by an order issued by a court of competent jurisdiction.
- C.** For purposes of subsection (B)(1), an individual less than age 18 who claims emancipated minor status shall submit to the Department a valid authorization signed by the individual less than age 18 and:
1. A copy of an order emancipating the individual issued by the Superior Court of Arizona;
 2. If the individual was an emancipated minor in a state other than Arizona:
 - a. Documentation establishing that the individual is at least age 16, such as a copy of the individual's:
 - i. Driver license issued by a state, or
 - ii. Birth certificate; and
 - b. Documentation of the individual's emancipation, such as a copy of:
 - i. An order emancipating the individual issued by a court of competent jurisdiction of a state other than Arizona,
 - ii. A real property purchase agreement signed by the individual as the buyer or the seller in a state other than Arizona,
 - iii. An order for the individual to pay child support issued by a court of competent jurisdiction of a state other than Arizona, or
 - iv. A financial institution loan agreement signed by the individual as the borrower in a state other than Arizona;
 3. A copy of the individual's marriage certificate issued by a state;
4. If the individual is a homeless minor, documentation such as:
 - a. A statement on the letterhead of a homeless shelter or halfway house that:
 - i. Is dated within 10 days before the date the Department receives the document,
 - ii. States the homeless shelter or halfway house is the individual's primary residence,
 - iii. Is signed by an authorized signer for the homeless shelter or halfway house, and
 - iv. States the authorized signer's title or position at the homeless shelter or halfway house; or
 - b. A statement signed by the individual that:
 - i. The individual does not live with the individual's parents, and
 - ii. The individual lacks a fixed nighttime residence;
 5. If the individual is a U.S. armed forces enlisted member, a copy of the individual's U.S. armed forces:
 - a. Enlistment document, or
 - b. Identification card; or
 6. If the individual is a U.S. armed forces veteran, a copy of the individual's discharge certificate.
- D.** A request to the Department under subsection (B)(5) to disclose medical records or payment records shall include:
1. The name of the individual identified by the information in the medical records or payment records;
 2. A statement that the individual identified by the information in the medical records or payment records is deceased;
 3. The description and dates of the medical records or payment records requested;
 4. The name, address, and telephone number of the person requesting the medical records or payment records disclosure;
 5. Whether the person requesting the medical records or payment records disclosure:
 - a. Was the deceased individual's health care decision maker at the time of death,
 - b. Is the personal representative of the deceased individual's estate, or
 - c. Is a person listed in A.R.S. § 12-2294(D);
 6. The signature of the individual requesting the medical records or payment records disclosure;
 7. Documentation that the individual identified by the information in the medical records or payment records is deceased, such as a copy of:
 - a. The individual's death certificate,
 - b. A published obituary notice for the individual, or
 - c. Written notification of the individual's death; and
 8. Documentation establishing the relationship to the deceased individual indicated under subsection (D)(5), such as a copy of:
 - a. Appointment as the deceased individual's legal guardian by a court of competent jurisdiction,
 - b. Appointment as the personal representative of the deceased individual's estate by a court of competent jurisdiction,
 - c. The deceased individual's birth certificate naming the person requesting the medical records or payment records as a parent,
 - d. The birth certificate of the person requesting the medical records or payment records naming the deceased individual as a parent, or

- e. If the person requesting the medical records or payment records disclosure is the deceased individual's surviving spouse:
 - i. A copy of the person's marriage certificate naming the deceased individual as spouse, and
 - ii. The person's statement that the person and the deceased individual were not divorced or legally separated at the time of the deceased individual's death, or
 - iii. A copy of the deceased individual's probated will naming the person as the deceased individual's surviving spouse.
- E. The Department shall send a response to a request for medical records or payment records disclosure under subsection (B)(5) that meets the requirements of subsection (D):
 - 1. By regular mail,
 - 2. To the address provided under subsection (D)(4), and
 - 3. Within 30 days after the date the Department receives the request.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 3699, effective November 11, 2006 (Supp. 06-3).

R9-1-303. Public Health Records Disclosure

- A. A.R.S. Title 39, Chapter 1, Article 2 governs the Department's disclosure of public health records, except for:
 - 1. Disclosure of public health records under A.R.S. §§ 36-104(9) and 36-105;
 - 2. Disclosure of vital records under A.R.S. §§ 36-324, 36-342, and 36-351; and
 - 3. At the direction of the Human Subjects Review Board, disclosure of public health records that are not de-identified when:
 - a. The public health records are sought for research, and
 - b. The disclosure meets the requirements of 45 CFR 164.512(i)(2).
- B. For disclosure of public health records under A.R.S. Title 39, Chapter 1, Article 2, an individual shall submit to the Department a public records request that contains:
 - 1. The request date;
 - 2. The requester's name, address, and telephone number;
 - 3. If applicable, the name, address, and telephone number of the requester's organization;
 - 4. A specific identification of the public health records to be disclosed, including the description and dates of the records;
 - 5. Whether the public health records identified in subsection (B)(4) will be used for commercial purposes;
 - 6. If the requester indicates under subsection (B)(5) that the public health records will be used for commercial purposes, an explanation of each commercial purpose;
 - 7. The requester's signature; and
 - 8. If the requester indicates under subsection (B)(5) that the public health records will be used for a commercial purpose:
 - a. A jurat completed by an Arizona notary; or
 - b. A notarization from another state indicating that the notary:
 - i. Verified the signer's identity,
 - ii. Observed the signing of the document, and
 - iii. Heard the signer swear or affirm the truthfulness of the document.
- C. Within 15 business days after the Department receives a public records request that meets the requirements in subsection (B) or at a later time agreed upon by the Department and the indi-

vidual requesting the records, the Department shall respond to the request by:

- 1. Sending by regular mail to the address provided in subsection (B)(2):
 - a. An acknowledgement that the Department received the public records request;
 - b. A list of categories of public health records that are not subject to disclosure; and
 - c. For the public health records requested that are subject to disclosure, a statement that the Department will notify the individual when disclosure will be provided; or
- 2. Providing:
 - a. A list of categories of public health records that are not subject to disclosure; and
 - b. For the public health records requested that are subject to disclosure, disclosure of the records.
- D. The Department shall ensure that public health records disclosed pursuant to a public records request are de-identified.
- E. For copies of public health records disclosed pursuant to a public records request:
 - 1. If the copies are for a commercial purpose, the Department shall charge:
 - a. The amount determined according to A.R.S. § 39-121.03, and
 - b. Based on the requester's explanation under subsection (B)(6);
 - 2. If the copies are not for a commercial purpose, the Department shall charge twenty-five cents per page; or
 - 3. If the copies are for a purpose stated in A.R.S. § 39-122(A), the Department shall not impose a charge.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 3699, effective November 11, 2006 (Supp. 06-3).

R9-1-304. Reserved**R9-1-305. Reserved****R9-1-306. Reserved****R9-1-307. Reserved****R9-1-308. Reserved****R9-1-309. Reserved****R9-1-310. Reserved****R9-1-311. Repealed****Historical Note**

Amended by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 12 A.A.R. 3699, effective November 11, 2006 (Supp. 06-3).

R9-1-312. Repealed**Historical Note**

Amended by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 12 A.A.R. 3699, effective November 11, 2006 (Supp. 06-3).

R9-1-313. Repealed**Historical Note**

Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-314. Repealed**Historical Note**

Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

R9-1-315. Repealed**Historical Note**

Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

ARTICLE 4. CODES AND STANDARDS REFERENCED**R9-1-401. Reserved****R9-1-402. Reserved****R9-1-403. Reserved****R9-1-404. Reserved****R9-1-405. Reserved****R9-1-406. Reserved****R9-1-407. Reserved****R9-1-408. Reserved****R9-1-409. Reserved****R9-1-410. Reserved****R9-1-411. Scope and Applicability**

- A.** Codes and standards referenced elsewhere in this Title are listed in this Article for convenience in making periodic revisions as new editions become available. Before applying referenced codes and standards, the effective date shown at the end of the applicable regulation within this Article should be checked and the Department or the Secretary of State contacted to assure that the proper edition of the applicable regulation is being utilized.
- B.** Other jurisdictions -- federal, county, city or other state agencies -- may have applicable requirements which may be additional (such as local zoning ordinances, state and federal occupational safety and health standards) or more restrictive than the minimum requirements established by these rules and regulations (such as local building codes and county health standards).
It is the responsibility of the applicant or licensee, or his agent, to assure that he is in compliance with all such requirements.
- C.** Where conflicts occur among the standards established in this Title, the following rules of construction shall apply:
- Standards specified in the narrative portions of the regulations shall govern over the standards adopted by reference.
 - If a conflict occurs among the standards adopted by reference, the more restrictive standard shall govern over the less restrictive.
- D.** Provisions in the structural codes and standards listed in R9-1-412, relating to purpose, scope, enforcement, exceptions and other administrative matters shall be applied except that:
- Provisions specifying penalties are excluded from the provisions adopted as regulations.
 - Provisions relating to buildings, structures or facilities subject to licensure by the Department existing at the time an applicable code is adopted, or at the time an existing facility first becomes subject to such provisions, shall be administered in accordance with the following:
 - Readily correctable deficiencies (those deficiencies posing a hazard which can be corrected to comply

with a code adopted by reference within the period ending one year after the expiration of the institution's then existing license) shall be corrected as soon as practicable and before the expiration of the institution's then existing license or, if the Department determines additional time is needed, before the expiration of the next provisional license. The period of time for correction shall begin with the notification by the Department that a deficiency or deficiencies exist as a result of a code adopted by reference and that the deficiency, or each such deficiency, is determined by the Department to pose a hazard to the welfare of patients or employees of the facility. Following such notice the licensee shall meet a reasonable timetable for correction fixed by the Department which shall specify the periods for:

- Submission of a satisfactory written plan for correction of the deficiencies, if necessary.
 - Submission of preliminary drawings, if necessary.
 - Submission of working drawings, if necessary.
 - Completion of the modification or construction.
- b.** Major deficiencies (those deficiencies posing a hazard which cannot be corrected to comply with a code adopted by reference within the maximum period allowable by subparagraph (2)(a)) shall be corrected within three years after being notified by the Department that a major deficiency or major deficiencies exist as a result of a code adopted by reference and that the deficiency or each such deficiency is determined by the Department to pose a hazard to the welfare of patients or employees of the facility. Following such notice the licensee shall meet a reasonable timetable for correction fixed by the Department. The time for completion of construction shall not exceed three years and shall specify the periods for:
- Submission of a satisfactory written plan for correction of the deficiencies, if necessary.
 - Submission of preliminary drawings, if necessary.
 - Submission of working drawings, if necessary.
 - Completion of the modification or construction.
- c.** If the plan for correction shows that the entire building in which major deficiencies exist will be replaced with a newly-constructed building, the Department may allow up to two additional years for the completion of construction if it determines that maximum time period allowable under subparagraph (2)(b) is insufficient.

R9-1-412. Physical Plant Health and Safety Codes and Standards

- A.** The following physical plant health and safety codes and standards are incorporated by reference as modified, are on file with the Department, and include no future editions or amendments:
- Guidelines for Design and Construction of Health Care Facilities (2010 ed.), published by the American Society for Healthcare Engineering and available from The Facility Guidelines Institute at www.fgiguilines.org;
 - The following National Fire Codes (2012), published by and available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269, and at www.nfpa.org/catalog:
 - NFPA70 National Electrical Code,
 - NFPA101 Life Safety Code, and

- c. 2012 Supplements;
3. International Building Code (2012), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at www.iccsafe.org, with the following modifications:
 - a. Section 101.1 is modified by deleting “of [NAME OF JURISDICTION]”;
 - b. Section 101.2 is modified by deleting the “Exception”;
 - c. Sections 103.1 through 103.3 are deleted;
 - d. Sections 104.1 through 104.11.2 are deleted;
 - e. Sections 105.1 through 105.7 are deleted;
 - f. Sections 106.1 through 106.3 are deleted;
 - g. Sections 107.1 through 107.5 are deleted;
 - h. Sections 108.1 through 108.4 are deleted;
 - i. Sections 109.1 through 109.6 are deleted;
 - j. Sections 110.1 through 110.6 are deleted;
 - k. Sections 111.1 through 111.4 are deleted;
 - l. Sections 112.1 through 112.3 are deleted;
 - m. Sections 113.1 through 113.3 are deleted;
 - n. Sections 114.1 through 114.4 are deleted;
 - o. Sections 115.1 through 115.3 are deleted;
 - p. Sections 116.1 through 116.5 are deleted;
 - q. Section 3401.3 is modified by deleting “International Residential Code,” “International Energy Conservation Code,” and “International Property Maintenance Code”; and
 - r. Appendices A, B, C, D, K, L, and M are deleted;
 4. International Mechanical Code (2012), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at www.iccsafe.org, with the following modifications:
 - a. Section 101.1 is modified by deleting “of [NAME OF JURISDICTION]”;
 - b. Sections 103.1 through 103.4 are deleted,
 - c. Sections 104.1 through 104.7 are deleted,
 - d. Sections 105.1 through 105.4 are deleted,
 - e. Sections 106.1 through 106.5.3 are deleted,
 - f. Sections 107.1 through 107.6 are deleted,
 - g. Sections 108.1 through 108.7.3 are deleted,
 - h. Sections 109.1 through 109.7 are deleted,
 - i. Sections 110.1 through 110.4 are deleted, and
 - j. Appendix B is deleted;
 5. International Plumbing Code (2012), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at www.iccsafe.org, with the following modifications:
 - a. Section 101.1 is modified by deleting “of [NAME OF JURISDICTION]”;
 - b. Sections 103.1 through 103.4 are deleted,
 - c. Sections 104.1 through 104.7 are deleted,
 - d. Sections 105.1 through 105.4 are deleted,
 - e. Sections 106.1 through 106.6.3 are deleted,
 - f. Sections 107.1 through 107.7 are deleted,
 - g. Sections 108.1 through 108.7.3 are deleted,
 - h. Sections 109.1 through 109.7 are deleted,
 - i. Sections 110.1 through 110.4 are deleted, and
 - j. Appendix A is deleted;
 6. International Fire Code (2012), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at www.iccsafe.org, with the following modifications:
 - a. Section 101.1 is modified by deleting “of [NAME OF JURISDICTION]”;
 - b. Sections 103.1 through 103.4 are deleted,
 - c. Sections 104.1 through 104.7 are deleted,
 - d. Sections 105.1 through 105.4 are deleted,
 - e. Sections 106.1 through 106.3 are deleted,
 - f. Sections 107.1 through 107.5 are deleted;
 - g. Sections 108.1 through 108.3 are deleted,
 - h. Sections 109.1 through 109.4 are deleted,
 - i. Sections 110.1 through 110.4 are deleted,
 - j. Section 112.1 is deleted,
 - k. Sections 113.1 through 113.5 are deleted, and
 - l. Appendix A is deleted;
 7. ICC/A117.1-2009, American National Standard: Accessible and Usable Buildings and Facilities (2009), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at www.iccsafe.org;
 8. International Fuel Gas Code (2012), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at www.iccsafe.org, with the following modifications:
 - a. Section 101.1 is modified by deleting “of [NAME OF JURISDICTION]”;
 - b. Section 101.2 is modified by deleting the “Exception”;
 - c. Sections 103.1 through 103.4 are deleted,
 - d. Sections 104.1 through 104.7 are deleted,
 - e. Sections 105.1 through 105.5 are deleted,
 - f. Sections 106.1 through 106.6.3 are deleted,
 - g. Sections 107.1 through 107.6 are deleted,
 - h. Sections 108.1 through 108.7.3 are deleted,
 - i. Sections 109.1 through 109.7 are deleted, and
 - j. Sections 110.1 through 110.4 are deleted;
 9. International Private Sewage Disposal Code (2012), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at www.iccsafe.org, with the following modifications:
 - a. Section 101.1 is modified by deleting “of [NAME OF JURISDICTION]”;
 - b. Sections 103.1 through 103.4 are deleted,
 - c. Sections 104.1 through 104.7 are deleted,
 - d. Sections 105.1 through 105.4 are deleted,
 - e. Sections 106.1 through 106.4.3 are deleted,
 - f. Sections 107.1 through 107.7 are deleted,
 - g. Sections 108.1 through 108.7.2 are deleted,
 - h. Sections 109.1 through 109.7 are deleted, and
 - i. Sections 110.1 through 110.4 are deleted.
- B.** The Department shall not assess any penalty or fee specified in the physical plant health and safety codes and standards that are incorporated by reference in this Section.

Historical Note

- Amended effective December 12, 1975 (Supp. 75-2).
 Amended effective February 12, 1981 (Supp. 81-1).
 Amended effective January 5, 1987 (Supp. 87-1).
 Amended effective April 4, 1994 (Supp. 94-2). Amended effective April 3, 1996 (Supp. 96-2). Amended by final rulemaking at 6 A.A.R. 4724, effective November 28, 2000 (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 4459, effective October 2, 2002 (Supp. 02-4).
 Amended by final rulemaking at 13 A.A.R. 4505, effective February 2, 2008 (Supp. 07-4). Amended by exempt rulemaking at 19 A.A.R. 1800, effective October 1, 2013 (Supp. 13-2).

R9-1-413. Repealed**Historical Note**

Amended effective February 12, 1981 (Supp. 81-1).
Section repealed by final rulemaking at 8 A.A.R. 5077,
effective November 22, 2002 (Supp. 02-4).

R9-1-414. Repealed**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Section
repealed by final rulemaking at 8 A.A.R. 5077, effective
November 22, 2002 (Supp. 02-4).

R9-1-415. Repealed**Historical Note**

Amended effective February 12, 1981 (Supp. 81-1).
Correction, subsection (A) DHEW Publication number
from (FDA) 48-2091 to (FDA) 78-2091 (Supp. 83-3).
Section repealed by final rulemaking at 8 A.A.R. 5077,
effective November 22, 2002 (Supp. 02-4).

R9-1-416. Repealed**Historical Note**

Amended effective February 12, 1981 (Supp. 81-1).
Section repealed by final rulemaking at 8 A.A.R. 5077,
effective November 22, 2002 (Supp. 02-4).

R9-1-417. Repealed**Historical Note**

Amended effective February 12, 1981 (Supp. 81-1).
Section repealed by final rulemaking at 8 A.A.R. 5077,
effective November 22, 2002 (Supp. 02-4).

R9-1-418. Repealed**Historical Note**

Repealed effective February 12, 1981 (Supp. 81-1).

ARTICLE 5. SLIDING FEE SCHEDULES**R9-1-501. Definitions**

In this Article, unless otherwise specified:

1. "Administrative fee" means a fee payable by an uninsured individual that is established and charged according to R9-1-506(E).
2. "AHCCCS" means the Arizona Health Care Cost Containment System.
3. "Business day" means the same as in A.R.S. § 10-140.
4. "Calendar year" means January 1 through December 31.
5. "Child" means an individual under age 19.
6. "Consideration" means valuable compensation for something received or to be received.
7. "Correctional facility" means the same as in A.R.S. § 13-2501.
8. "Costs of producing rental income" means payments made by a rental-income recipient that are attributable to the premises or the portion of the premises generating the income, including payments for:
 - a. Property taxes,
 - b. Insurance premiums,
 - c. Mortgage principal and interest,
 - d. Utilities, and
 - e. Maintenance and repair.
9. "Costs of producing self-employment income" means payments made by a self-employment-income recipient that are attributable to generating the income, including payments for:
 - a. Equipment, machinery, and real estate;
 - b. Labor;
 - c. Inventory;
 - d. Raw materials;
 - e. Insurance premiums;
 - f. Rent; and
 - g. Utilities.
10. "Current federal poverty guidelines" means the most recent annual update of the U.S. Department of Health and Human Services' Poverty Guidelines published in the Federal Register.
11. "Deduction" means a dollar amount subtracted from a payment, before an individual receives the payment, for:
 - a. Federal income tax,
 - b. Social Security tax,
 - c. Medicare tax,
 - d. State income tax,
 - e. Insurance other than OASDI,
 - f. Pension, or
 - g. Other dollar amounts required by law or authorized by the individual to be subtracted.
12. "Department" means the Department of Health Services.
13. "Detention facility" means a place of confinement, including:
 - a. A juvenile facility under the jurisdiction of:
 - i. A county board of supervisors, or
 - ii. A county jail district authorized by A.R.S. Title 48, Chapter 25;
 - b. A juvenile secure care facility under the jurisdiction of the Department of Juvenile Corrections; or
 - c. A facility for individuals who are not United States citizens and who are in the custody of the U.S. Immigration and Customs Enforcement, Department of Homeland Security.
14. "Earned income" means work-related payments received by an individual, including:
 - a. Wages,
 - b. Commissions and fees,
 - c. Salary,
 - d. Profit from self-employment,
 - e. Profit from rent received from an individual or entity, and
 - f. Any other work-related monetary payments received by an individual.
15. "Family income" means the dollar amount determined according to R9-1-503(B).
16. "Family member" means an individual, determined according to R9-1-502, whose income is included in family income.
17. "Fee percentage" means a part of a provider's usual charges for medical services that is:
 - a. Expressed in hundredths, and
 - b. Established by a provider in a sliding fee schedule for medical services rendered to an uninsured individual.
18. "Fetus" means the same as in A.R.S. § 36-2152.
19. "Flat fee" means a dollar amount that is:
 - a. Established by a provider in a sliding fee schedule for a medical service or group of medical services rendered to an uninsured individual, and
 - b. Less than the provider's usual charges for the medical service or group of medical services.
20. "Gift" means money, real property, personal property, a service, or anything of value other than unearned income for which the recipient does not provide consideration of equal or greater value.

21. "Hospital services" means the same as in A.A.C. R9-10-201.
22. "Income" means combined earned and unearned income.
23. "Inpatient services" means hospital services provided to an individual who will receive the services for 24 consecutive hours or more.
24. "Interrupted income" means income that stops for at least 30 continuous days during the current calendar year and then resumes.
25. "KidsCare" means the children's health insurance program, a federally funded program administered by AHC-CCS under A.R.S. Title 36, Chapter 29, Article 4.
26. "Lowest contracted charge" means the smallest reimbursement a provider has agreed to accept for a medical service:
 - a. Determined by the provider's review of all the contracts between the provider and third party payors as defined in A.R.S. § 36-125.07(C), that:
 - i. Cover the medical service, and
 - ii. Are in effect at the time the medical service is provided to an uninsured individual; and
 - b. Subject to limitations of federal or state laws, rules, or regulations.
27. "Medical services" means the same as in A.R.S. § 36-401.
28. "Medicare tax" means the dollar amount subtracted from a payment for the health care insurance program for the aged and disabled under Title XVIII of the Social Security Act, 42 U.S.C. 1395 et seq.
29. "New income" means income that begins at least 30 days after the start of the current calendar year.
30. "OASDI" means old age, survivors, and disability insurance.
31. "Profit" means the remainder after subtracting:
 - a. The costs of producing rental income from the rent received from an individual or entity, or
 - b. The costs of producing self-employment income from the self-employment.
32. "Provider" means an individual or entity that:
 - a. Provides medical services;
 - b. Participates in a program that requires participants to use a sliding fee schedule, such as a program authorized under A.R.S. §§ 36-104(16), 36-2907.06, 36-2172, or 36-2174;
 - c. Includes:
 - i. A dentist licensed under A.R.S. Title 32, Chapter 11;
 - ii. A physician licensed under A.R.S. Title 32, Chapter 13 or Chapter 17;
 - iii. A registered nurse practitioner defined in A.R.S. § 32-1601 and licensed under A.R.S. Title 32, Chapter 15;
 - iv. A physician assistant licensed under A.R.S. Title 32, Chapter 25 and practicing according to A.R.S. § 32-2531;
 - v. A health care institution licensed under A.R.S. Title 36, Chapter 4; or
 - vi. An office or facility that is exempt from licensing under A.R.S. § 36-402(A)(3); and
 - d. Excludes an individual or entity when the individual or entity provides:
 - i. Inpatient services,
 - ii. Medical services at a correctional facility, or
 - iii. Medical services at a detention facility.
33. "Secure care" means the same as in A.R.S. § 41-2801.
34. "Self employment" means earning income from one's own business, trade, or profession rather than receiving a salary or wages from an employer.
35. "Sliding fee" means flat fee or fee percentage that increases or decreases based on one or more factors.
36. "Sliding fee schedule" means a document containing a provider's flat fees or fee percentages based on:
 - a. Family members determined according to R9-1-502, and
 - b. Family income determined according to R9-1-503.
37. "Social Security tax" means the dollar amount subtracted from a payment for OASDI under Title II of the Social Security Act, 42 U.S.C. 401 et seq.
38. "State health benefits risk pool" means:
 - a. A state-established organization qualifying under 26 U.S.C. 501(c)(26);
 - b. A state-established qualified high risk pool described in Section 2744(c)(2) of the Public Health Service Act, 42 U.S.C. 300gg-44(c)(2); or
 - c. A state-sponsored arrangement, for which the state specifies the membership, primarily established and maintained to provide health insurance coverage for state residents with a medical condition or a history of a medical condition that:
 - i. Prevents them from obtaining coverage for the condition through insurance or from a health maintenance organization, or
 - ii. Enables them to obtain coverage for the condition only at a rate substantially more than the rate available through the state-sponsored arrangement.
39. "Support payment" means a dollar amount, received at regular intervals by an individual, for food, shelter, furniture, clothing, and medical expenses.
40. "Terminated income" means income received during the current calendar year that stops and will not resume.
41. "Training stipend" means a dollar amount, received at regular intervals by an individual, during a course or program for the development of the individual's skills.
42. "Unearned income" means payments received by an individual that are not gifts and not earned income, including:
 - a. Unemployment insurance;
 - b. Workers' compensation;
 - c. Disability payments;
 - d. Social Security payments;
 - e. Public assistance payments, excluding food stamps;
 - f. Periodic insurance or annuity payments;
 - g. Retirement or pension payments;
 - h. Strike benefits from union funds;
 - i. Training stipends;
 - j. Child support payments;
 - k. Alimony payments;
 - l. Military family allotments or other support payments from a relative or other individual not residing with the recipient;
 - m. Investment income;
 - n. Royalty payments;
 - o. Periodic payments from estates or trusts; and
 - p. Any other monetary payments received by an individual that are not gifts, earned income, capital gains, lump-sum inheritance or insurance payments, or payments made to compensate for personal injury.
43. "Uninsured individual" means an individual who does not have health care coverage under any of the following:

- a. A group health plan as defined in Section 2792(a)(1) of the Public Health Service Act, 42 U.S.C. 300gg-91(a)(1), including a small employer's group health plan under A.R.S. Title 20, Chapter 13 or under the laws of another state;
 - b. A church plan as defined in section 3(33) of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1002(33);
 - c. Medicare, the health insurance program for the aged and disabled under Title XVIII of the Social Security Act, 42 U.S.C. 1395 et seq.;
 - d. Medicaid, the program that pays for medical assistance for certain individuals and families with low incomes and resources, through AHCCCS or another state's Medicaid agency, under Title XIX of the Social Security Act, 42 U.S.C. 1396 et seq., excluding a state program for distribution of pediatric vaccines under 42 U.S.C. 1396s;
 - e. Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or Tricare, the medical and dental care programs for members of the armed forces, certain former members, and their dependents under 10 U.S.C. 1071 et seq. and 32 CFR 199;
 - f. A medical care program of the Indian Health Service or of a tribal organization;
 - g. The Federal Employees Health Benefits Program for U.S. government employees, certain former employees, and their family members under 5 U.S.C. 8901 et seq. and 5 CFR 890 and 891;
 - h. Peace Corps plans under Section 5(e) of the Peace Corps Act, 22 U.S.C. 2504(e), including:
 - i. Medical and dental care for Peace Corps applicants, Peace Corps volunteers, and minor children living with Peace Corps volunteers under 32 CFR 728.59;
 - ii. Form PC-127C authorization for payment for evaluation of the Peace Corps related conditions of former Peace Corps volunteers;
 - iii. Treatment of the Peace Corps related conditions of former Peace Corps volunteers under 32 CFR 728.53; and
 - iv. CorpsCare coverage for the non-Peace Corps related conditions of former Peace Corps volunteers and their dependents.
 - i. A state health benefits risk pool;
 - j. An individual policy or contract issued by:
 - i. An insurer for medical expenses, including a preferred provider arrangement;
 - ii. A health care services organization under A.R.S. Title 20, Chapter 4, Article 9 or a health maintenance organization as defined in Section 2792(b)(3) of the Public Health Service Act, 42 U.S.C. 300gg-91(b)(3); or
 - iii. A nonprofit hospital, medical, dental, or optometric service corporation as defined in A.R.S. § 20-822, including Blue Cross Blue Shield of Arizona, or organized under the laws of another state;
 - k. An individual policy or contract made available through the Healthcare Group of Arizona administered by AHCCCS under A.R.S. §§ 36-2912, 36-2912.01, and 36-2912.02;
 - l. A health insurance plan of a state or of a political subdivision as defined in A.R.S. § 35-511 or determined under the laws of another state;
 - m. A policy or contract issued to a member of a bona fide association as defined in section 2791(d)(3) of the Public Health Service Act, 42 U.S.C. 300gg-91(d)(3); or
 - n. KidsCare or another state's children's health insurance program under Title XXI of the Social Security Act, 42 U.S.C. 1397aa et seq.
44. "Variable income" means income in a dollar amount that changes from payment to payment.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 3990, effective December 4, 2006 (Supp. 06-4).

R9-1-502. Family Member Determination

A provider shall determine the family members of an uninsured individual seeking medical services.

- 1. A family with one member consists of:
 - a. A non-pregnant child who does not live with:
 - i. A parent;
 - ii. A spouse;
 - iii. An individual with whom the child has a common biological or adopted child;
 - iv. A biological or adopted child; or
 - v. A biological or adopted child of an individual with whom the child has a common biological or adopted child; or
 - b. A non-pregnant individual who is at least age 19 who does not live with:
 - i. A spouse;
 - ii. An individual with whom the individual who is at least age 19 has a common biological or adopted child;
 - iii. A biological or adopted child; or
 - iv. A biological or adopted child of an individual with whom the individual who is at least age 19 has a common biological or adopted child.
- 2. A family with two or more members consists of:
 - a. An individual and:
 - i. The biological or adopted children who live with the individual; and
 - ii. If the individual or a child under subsection (2)(a)(i) is pregnant, each fetus;
 - b. Two individuals, who have a common biological or adopted child and who live together, and:
 - i. The common biological or adopted children living with the two individuals;
 - ii. The biological or adopted children of either individual living with the two individuals; and
 - iii. If an individual or a child under subsection (2)(b)(i) or subsection (2)(b)(ii) is pregnant, each fetus; or
 - c. Two individuals, who are married to each other, who live together, and who do not have a common biological or adopted child, and:
 - i. The biological or adopted children of either individual living with the two individuals; and
 - ii. If an individual or a child under subsection (2)(c)(i) is pregnant, each fetus.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 3990, effective December 4, 2006 (Supp. 06-4).

R9-1-503. Family Income Determination

A. A provider shall establish flat fees or fee percentages for medical services rendered to uninsured individuals with family

incomes, including earned and unearned income, equal to or less than 200 percent of the current federal poverty guidelines.

- B.** A provider shall determine an uninsured individual's family income by:
1. Multiplying a weekly payment received by a family member, before deductions, by 52;
 2. Multiplying a biweekly payment received by a family member, before deductions, by 26;
 3. Multiplying a monthly payment received by a family member, before deductions, by 12;
 4. For variable income received by a family member:
 - a. Adding at least four payments, before deductions;
 - b. Dividing the sum obtained in subsection (B)(4)(a) by the number of payments included; and
 - c. Multiplying the quotient obtained in subsection (B)(4)(b) by 52, 26, or 12 as applicable;
 5. Counting the actual payments received by a family member, before deductions, for:
 - a. Interrupted income,
 - b. New income, and
 - c. Terminated income; and
 6. Adding the dollar amounts calculated under subsections (B)(1) through (B)(5).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 3990, effective December 4, 2006 (Supp. 06-4).

R9-1-504. Sliding Fee Schedule Submission and Contents

- A.** By April 1 of each year, a provider shall submit to the Department the provider's sliding fee schedule, including:
1. A sliding fee schedule with fee percentages,
 2. A sliding fee schedule with flat fees, or
 3. A sliding fee schedule with fee percentages and a sliding fee schedule with flat fees.
- B.** A sliding fee schedule with fee percentages shall contain:
1. A statement that the sliding fee schedule applies to charges for all medical services provided to uninsured individuals by or through the provider;
 2. The current federal poverty guidelines;
 3. For an uninsured individual with a family income equal to or less than 100 percent of the current federal poverty guidelines, a 100 percent reduction; and
 4. For uninsured individuals with family incomes more than 100 percent of the current federal poverty guidelines but not more than 200 percent of the current federal poverty guidelines, at least three fee percentage levels that increase as family income increases.
- C.** A sliding fee schedule with flat fees shall contain:
1. The requirements listed in subsections (B)(1) and (B)(2);
 2. The flat fee for each medical service or group of medical services;
 3. For an uninsured individual with a family income equal to or less than 100 percent of the current federal poverty guidelines, a \$0 flat fee for each medical service or group of medical services included under subsection (C)(2); and
 4. For uninsured individuals with family incomes more than 100 percent of the current federal poverty guidelines but not more than 200 percent of the current federal poverty guidelines, at least three flat fee levels that increase as family income increases for each medical service or group of medical services included under subsection (C)(2).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 3990, effective December 4, 2006 (Supp. 06-4).

R9-1-505. Sliding Fee Schedule Approval Time-frames

- A.** The overall time-frame described in A.R.S. § 41-1072(2) for a request for sliding fee schedule approval is 32 days.
1. A provider and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
 2. An extension of the substantive review time-frame and the overall time-frame shall not exceed eight days.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for a request for sliding fee schedule approval is 11 days, beginning on the day the Department receives the request.
1. Except as provided in subsections (B)(3) and (B)(4), the Department shall mail to a provider a written notice of administrative completeness when the provider's request for sliding fee schedule approval is complete.
 2. If a request for sliding fee schedule approval is incomplete, the Department shall mail to the provider a written notice of administrative deficiencies that:
 - a. Lists the missing documents or incomplete information, and
 - b. Suspends the administrative completeness review time-frame and the overall time-frame from the date on the notice of administrative deficiencies:
 - i. Until the date the Department receives a complete request for sliding fee schedule approval; or
 - ii. For 60 days, whichever comes first.
 3. If the Department does not receive all the additional documents or information required under subsection (B)(1) within 60 days after the date on the notice of administrative deficiencies, the Department deems the request for sliding fee schedule approval withdrawn.
 4. If the Department approves a sliding fee schedule during the administrative completeness review time-frame, the Department does not issue a separate written notice of administrative completeness.
- C.** The substantive review time-frame described in A.R.S. § 41-1072(3) for a request for sliding fee schedule approval is 21 days, beginning on the date on the Department's notice of administrative completeness under subsection (B)(1).
1. The Department shall mail to a provider a written notice granting or denying approval according to A.R.S. § 41-1076 by the last day of the substantive review time-frame and the overall time-frame.
 2. If the Department issues to a provider a written request for additional information according to A.R.S. § 41-1075(A), the request for additional information suspends the substantive review time-frame and the overall time-frame from the date on the request for additional information:
 - a. Until the date the Department receives all the information requested; or
 - b. For 60 days, whichever comes first.
 3. If the Department does not receive all the information requested under subsection (C)(2) within 60 days after the postmark date of the request for additional information, the Department shall deny sliding fee schedule approval.
- D.** If a time-frame's last day falls on a Saturday, Sunday, or state service holiday listed in A.A.C. R2-5-402, the Department considers the next business day the time-frame's last day.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 3990, effective December 4, 2006 (Supp. 06-4).

R9-1-506. Fees Payable by Uninsured Individuals Under a Sliding Fee Schedule

- A.** A provider:
1. Shall not charge an uninsured individual with a family income equal to or less than 100 percent of the current federal poverty guidelines the fee determined according to subsection (C) or subsection (D), and
 2. May charge an individual described in subsection (A)(1) only the single administrative fee determined according to subsection (E).
- B.** A provider may charge an uninsured individual with a family income more than 100 percent of the current federal poverty guidelines but not more than 200 percent of the current federal poverty guidelines the fee determined according to subsection (C), subsection (D), or subsection (E).
- C.** If a provider uses a sliding fee schedule with fee percentages, an uninsured individual's fee for medical services shall not exceed the dollar amount calculated by applying the fee percentage for the individual's family income to the lowest contracted charge for each medical service provided.
- D.** If a provider uses a sliding fee schedule with flat fees, an uninsured individual's fee for medical services shall not exceed the lowest contracted charge for each medical service provided.
- E.** A provider may:
1. Establish a single administrative fee that does not exceed \$25; and
 2. Charge the administrative fee to:
 - a. Uninsured individuals with a family income equal to or less than 100 percent of the current federal poverty guidelines; and
 - b. Uninsured individuals with family incomes more than 100 percent of the current federal poverty guidelines but not more than 200 percent of the current federal poverty guidelines only in lieu of the fee calculated under subsection (C) or subsection (D).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 3990, effective December 4, 2006 (Supp. 06-4).