NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 30. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM PREMIUM SHARING DEMONSTRATION PROJECT

PREAMBLE

1. **Sections Affected** / **Rulemaking Action**

Sections Affected	Rulemaking Action
R9-30-101	Amend
R9-30-106	Amend
Article 6	Amend
R9-30-601	Repeal
R9-30-601	New Section
R9-30-602	Repeal
R9-30-602	New Section
R9-30-603	Repeal
R9-30-603	New Section
Exhibit A	New Exhibit
Article 8	Amend
R9-30-801	Amend
R9-30-802	Amend
R9-30-803	Amend
R9-30-804	Amend
R9-30-805	Amend
R9-30-807	Amend
R9-30-808	Amend
R9-30-809	Amend

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

   Authorizing statutes: Laws 1997, Ch. 186, § 3, as amended by Laws 1997, 2nd Special Session, Ch. 1, § 1, Laws 1998, Ch. 214, § 21, and Laws 1999, Ch. 313, § 31

   Implementing statutes: Laws 1997, Ch. 186, § 3, as amended by Laws 1997, 2nd Special Session, Ch. 1, § 1, Laws 1998, Ch. 214, § 21, and Laws 1999, Ch. 313, § 31; and A.R.S. § 41-1092.02 et. seq.

3. **The effective date of the rules:**

   August 4, 2000

4. **A list of all previous notices appearing in the Register addressing the final rule:**

   Notice of Rulemaking Docket Opening: 6 A.A.R. 662, February 11, 2000

   Notice of Proposed Rulemaking: 6 A.A.R. 1388, April 14, 2000

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Cheri Tomlinson, Federal and State Policy Administrator

Address: AHCCCS
Office of Policy Analysis and Coordination
801 East Jefferson, Mail Drop 4200
Phoenix, Arizona 85034

Telephone: (602) 417-4198

Fax: (602) 256-6756

6. An explanation of the rule, including the agency's reasons for initiating the rule:

The Administration amended 3 Articles in 9 A.A.C. 30 to comply with changes to state statute. The changes were implemented on July 1, 1999, when the hearing process moved from the Premium Sharing Administration (PSA) Office of Legal Assistance to the Office of Administrative Hearings (OAH). In addition, whenever possible, the language was cross-referenced to 9 A.A.C. 22 to streamline and enhance the uniformity of rule language. The Administration added Exhibit A in Article 6 to illustrate the grievance and request for hearing processes.

7. Reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

Not applicable

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule 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:

The following entities will benefit from the changes which clarify their roles in the grievance and request for hearing process:

a. Premium Share Administration (PSA);

b. Office of Administrative Hearings (OAH);

c. Premium Share members and applicants;

d. Premium Sharing Plans; and

e. Premium Share providers.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

:

#	Subsection	Change
1.	General	The Administration made the rules more clear, concise, and understandable by making grammatical, verb tense, and punctuation changes throughout the rules.
2.	9 A.A.C. 30, Article 6, Exhibit A	The Administration amended the Exhibit to read only "Grievance for claim denial filed 12 months from date of service. A.R.S. § 36-2904" because the anticipated change to A.R.S. § 36-2903.01 did not pass. The Administration corrected the statutory references throughout the rules.
3.	R9-30-801(B)	The Administration amended the language by to clarify that "Action" means a denial, termination, suspension, or reduction of a service, rather than a "covered" service. A member may file a grievance regarding a denial of a noncovered service. This may be necessary to determine if a health plan properly denied a service as noncovered.
4.	R9-30-804	The Administration amended the language regarding the reasons and authority for an action to ensure that a member has sufficient information to understand why a service is being denied or reduced.
5.	R9-30-807(A)	The Administration made several structural changes to this Section to make the language more clear, concise, and easy to understand: 1. Moved R9-30-807(A) to the new subsection R9-30-807(I); 2. Moved part of R9-39-807(B) to R9-30-807(A);
6.	R9-30-807(E)	The Administration amended the language to clarify that if a member requests an expedited hearing and requests continued services, a contractor must continue the service during the hearing process.
7.	R9-30-807(B)	The Administration amended the language to clarify that a member may file a request for hearing with the Administration or a contractor.
8.	R9-30-807(F)	The Administration amended the language to clarify that a member must request continued services and to be consistent.

11. A summary of the principal comments and the agency response to them:

The Administration conducted a videoconference public hearing in Phoenix, Flagstaff, and Tucson, Arizona and an additional public hearing in Casa Grande, Arizona on May 16 and 17, 2000. No one attended either public hearing.

Before the close of record, 5:00 p.m., Wednesday, May 17, 2000, the Administration received written comments from the Department of Economic Security and Phoenix Health Plan. The Administration conducted conference calls with each entity that submitted written comments to discuss the Administration's response to each comment.

The Department of Economic Security commented that "Exhibit A clearly outlines the grievance and hearing procedures, the appropriate time-frames associated with specific types of grievances, the requirements necessary to receive continued coverage, and the process as it involves the Office of Administrative Hearings. In addition, the references linking Exhibit A to the rules document were easy to follow and well-labeled."

Phoenix Health Plan commented that the proposed rules were "streamlined," "more clear and concise," and that time-frames were "standardized so they are more consistent." Phoenix Health Plan also commented that Exhibit A was an "excellent idea" and "a good view of the process." Phoenix Health Plan had several questions regarding expedited hearings in 9 A.A.C. 30, Article 8. The Administration responded by amending the definition of "Action" to clarify that a member may file a grievance regarding the denial of a noncovered service. The Administration also amended the language to clarify that if a member requests an expedited hearing and continued services, a contractor must continue services at the same level in effect on the date the contractor issues the notice.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:
None

14. Was this rule previously adopted as an emergency rule?
No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 30. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM PREMIUM SHARING DEMONSTRATION PROJECT

ARTICLE 1. DEFINITIONS

Sections
R9-30-101. Location of Definitions
R9-30-106. Grievance and ~~Appeals~~ Request for Hearing Related Definitions

ARTICLE 6. ~~GRIEVANCES AND APPEALS~~ GRIEVANCE AND REQUEST FOR HEARING

Sections
~~R9-30-601. General Provisions for all Grievances and Appeals~~ Repealed
R9-30-601. General Provisions for a Grievance and a Request for Hearing
~~R9-30-602. Eligibility Appeals and Hearing Requests for an Applicant and a Premium Share Member~~ Repealed
R9-30-602. Grievance
~~R9-30-603. Grievances~~ Repealed
R9-30-603. Eligibility Hearing for an Applicant and a Premium Share Member
Exhibit A. Grievance and Request for Hearing Process

ARTICLE 8. MEMBERS' RIGHTS AND RESPONSIBILITIES FOR EXPEDITED HEARINGS

Sections
R9-30-801. General Intent and Definitions
R9-30-802. Denial of a Request for a Service
R9-30-803. Reduction, Suspension, or Termination of a Service
R9-30-804. Content of Notice
R9-30-805. Exceptions from an Advance of Notice
R9-30-807. Expedited Hearing Process
R9-30-808. Maintenance of Records
R9-30-809. Member Handbook

ARTICLE 1. DEFINITIONS

R9-30-101. Location of Definitions

A. Location of definitions. Definitions applicable to Chapter 30 are found in the following:

Definition	Section or Citation
~~1.~~ "AHCCCS"	R9-22-101
~~2.~~ "Ambulance"	R9-22-102
~~3.~~ "Applicant"	R9-30-101
~~4.~~ "Chronic disease"	R9-30-102
~~5.~~ "Chronically ill member"	R9-30-102
~~6.~~ "Clean claim"	A.R.S. § 36-2904
~~7.~~ "Contract year"	R9-30-101
~~8.~~ "Contractor"	R9-22-101
~~9.~~ "Copayment"	R9-30-107
~~10.~~ "Covered services"	R9-30-102
~~11.~~ "Date of application"	R9-30-103
"Date of notice"	R9-22-108
~~12.~~ "Day"	R9-22-101
~~13.~~ "Eligible for AHCCCS benefits"	R9-30-103
~~14.~~ "Eligible household member"	R9-30-101

~~15.~~	“Emergency medical services”	R9-22-102
~~16.~~	“Enrollment”	R9-30-103
~~17.~~	“E.P.S.D.T. services”	R9-22-102
~~18.~~	“FPL”	R9-30-103
~~19.~~	“Fund”	A.R.S. § 36-2923
~~20.~~	“Grievance”	~~R9-30-106~~ R9-22-108
~~21.~~	“Head-of-household”	R9-30-103
	“Hearing”	R9-22-108
~~22.~~	“Hospital”	R9-22-101
~~23.~~	“Household income”	R9-30-103
~~24.~~	“Household unit”	R9-30-103
~~25.~~	“Inpatient hospital services”	R9-30-101
~~26.~~	“Life threatening”	R9-27-102
~~27.~~	“Medical record”	R9-22-101
~~28.~~	“Medical services”	R9-22-101
~~29.~~	“Medically necessary”	R9-22-101
~~30.~~	“Month of application”	R9-30-103
~~31.~~	“Noncontracting provider”	A.R.S. § 36-2931
~~32.~~	“Offeror”	R9-22-106
~~33.~~	“Other health care practitioner”	R9-27-101
~~34.~~	“Outpatient hospital services”	R9-22-107
~~35.~~	“Pharmaceutical services”	R9-22-102
~~36.~~	“Plan”	Laws 1997, Ch.186, § 3, as amended by Laws 1997, 2nd Special Session, Ch. 1, § 1; Laws 1998, Ch. 214, § 21
~~37.~~	“Population”	Laws 1997, Ch. 186, § 3, as amended by Laws 1997, 2nd Special Session, Ch. 1, § 1; Laws 1998, Ch. 214, § 21
~~38.~~	“Practitioner”	R9-22-102
~~39.~~	“Premium”	R9-30-107
~~40.~~	“Premium Share”	R9-30-107
~~41.~~	“Premium Share member”	R9-30-103
~~42.~~	“Pre-payment”	R9-30-107
~~43.~~	“Prescription”	R9-22-102
~~44.~~	“Primary care provider”	R9-22-102
~~45.~~	“Prior authorization”	R9-22-102
~~46.~~	“Providers”	A.R.S. § 36-2901
~~47.~~	“PSA”	R9-30-101
~~48.~~	“PSDP”	R9-30-101
~~49.~~	“Quality management”	R9-22-105
~~50.~~	“Redetermination”	R9-30-103
~~51.~~	“Referral”	R9-22-101
	“Respondent”	R9-22-108
~~52.~~	“RFP”	R9-22-105
~~53.~~	“Service area”	R9-30-103
~~54.~~	“Scope of services”	R9-22-101
~~55.~~	“Subcontract”	R9-22-101
~~56.~~	“System”	A.R.S. § 36-2901
~~57.~~	“Utilization management”	R9-22-105

B. General definitions. The words and phrases in this Chapter have the following meanings unless the context of the Chapter explicitly requires another meaning.
~~1.~~ "Applicant" means a person who submits, or on whose behalf is submitted, a signed and dated application for enrollment in the PSDP.
~~2.~~ "Contract year" means October 1 through September 30.
~~3.~~ "Eligible household member" means a person in a household unit that is eligible for PSDP coverage under this Chapter.
~~4.~~ "Inpatient hospital services" means medically necessary services that require an inpatient stay in an acute hospital. Inpatient hospital services are provided by or under the direction of a physician or other health care practitioner upon referral from a Premium Share member's primary care provider.
~~5.~~ "PSA" means the Premium Sharing Administration, which is the entity designated by the AHCCCS Director to carry out the administrative functions of the PSDP under Laws 1997, Ch. 186, § 3, as amended by Laws 1997, 2nd Special Session, Ch. 1, § 1; Laws 1998, Ch. 214, § 21.
~~6.~~ "PSDP" means Premium Sharing Demonstration Project, which is a 3-year pilot program established under A.R.S. § 36-2923.

R9-30-106. Grievance and ~~Appeals~~ Request for Hearing Related Definitions

Definitions. The words and phrases in this Chapter have the following meanings unless the context of the Chapter explicitly requires another meaning: ~~"Grievance" means a complaint initiated in accordance with Article 6 of this Chapter.~~

"Date of notice" is defined in 9 A.A.C. 22, Article 1.

"Grievance" is defined in 9 A.A.C. 22, Article 1.

"Hearing" is defined in 9 A.A.C. 22, Article 1.

"Respondent" is defined in 9 A.A.C. 22, Article 1.

ARTICLE 6. ~~GRIEVANCES AND APPEALS~~ GRIEVANCE AND REQUEST FOR HEARING

~~R9-30-601. General Provisions for all Grievances and Appeals~~ Repealed

~~**A.** General Requirements. All grievances and appeals regarding Premium Sharing shall be filed and processed in accordance with A.A.C. R9-22-801. All references in that rule to AHCCCS also shall apply to PSA, and all references to health plans and system providers shall also apply to Premium Sharing Plans. In eligibility appeals, PSA is the respondent.~~
~~**B.** The AHCCCS Chief Hearing Officer or designee may deny a request for hearing if the sole issue presented is a state law requiring an automatic change adversely affecting some or all applicants or Premium Share members.~~

R9-30-601. General Provisions for a Grievance and a Request for Hearing

A. A grievance and a request for hearing under this Chapter shall comply with R9-22-801. All references in that rule to AHCCCS shall apply to PSA, and all references to health plans and system providers shall apply to Premium Sharing Plans. The grievance and request for hearing process is illustrated in Exhibit A.
B. When requesting a hearing regarding an adverse action under this Chapter, PSA is the respondent.

~~R9-30-602. Eligibility Appeals and Hearing Requests for an Applicant and a Premium Share Member~~ Repealed

~~**A.** Adverse eligibility action. An applicant and a Premium Share member may appeal and request a hearing concerning any of the following adverse eligibility actions:~~
~~1. Denial of eligibility;~~
~~2. Discontinuance of eligibility;~~
~~3. Determination of premium amount; or~~
~~4. Chronic illness determination.~~
~~**B.** Notice of an adverse eligibility action. Notice of an adverse eligibility action shall be personally delivered or mailed to the affected person by regular mail. For purposes of this Section, the date of the notice of action shall be the date of personal delivery to the person or the postmark date, if mailed.~~
~~**C.** Appeals and requests for hearing.~~
~~1. The applicant or a Premium Share member may appeal and request a hearing regarding any adverse eligibility action by completing and submitting the premium sharing request for hearing form or by submitting a written request containing the following information:~~
~~a. The case name;~~
~~b. The adverse eligibility action being appealed; and~~
~~c. The reason for appeal.~~

2. ~~The Request for Hearing shall be filed not later than 15 days after the date of the notice of adverse action by mailing or delivering it to the PSA, Office of Legal Assistance. For this Section only, the date of the request for hearing shall be the postmark date, if mailed, or the date of personal delivery.~~

D. ~~PSA responsibilities.~~
1. ~~The PSA shall maintain a register which documents the dates on which requests for hearings are submitted.~~
2. ~~If requested, the PSA shall assist the applicant or a Premium Share member in the completion of the request for hearing form.~~
3. ~~The pre-hearing summary shall be completed by the PSA and shall summarize the facts and factual basis for the adverse eligibility action.~~
4. ~~The PSA shall send to the Office of Legal Assistance, the pre-hearing summary, a copy of the case file, documents pertinent to the adverse action, and the request for hearing, which must be received by the Office of Legal Assistance not later than 10 days from the date of the receipt of the request. If the request is submitted directly to the Office of Legal Assistance, the PSA shall send the materials to the Office of Legal Assistance, not later than 10 days from the date of a request for the materials.~~

E. ~~PSDP coverage during the appeal process.~~
1. ~~A Premium Share member appealing a discontinuance. A discontinuance is a termination of Premium Sharing benefits. If a Premium Share member requests a timely hearing, the Premium Share member shall receive continued Premium Sharing benefits until an adverse decision on appeal is rendered only if the Premium Share member pays for 3 months worth of premiums, by cashier's check, personal check, or money order, within 15 days of the mailing of the notice of discontinuance.~~
2. ~~An applicant appealing a denial of Premium Sharing coverage. A denial is an adverse eligibility decision which finds the applicant ineligible for PSDP benefits. In the event that a timely request for hearing is filed, and the denial is overturned, the effective date of PSDP coverage shall be established by the Director in accordance with applicable law.~~
3. ~~A Premium Share member whose benefits have been continued shall be financially liable for all PSDP benefits received during a period of ineligibility, if a discontinuance decision is upheld by the Director.~~

R9-30-602. Grievance

General requirements. A grievance under this Chapter shall be filed and processed under R9-22-802. All references in that rule to AHCCCS shall apply to the PSA and all references to contractors shall apply to Premium Sharing Plans. The grievance process is illustrated in Exhibit A.

~~R9-30-603. Grievances~~ Repealed

~~General Requirements. All grievances regarding PSDP shall be filed and processed in accordance with A.A.C. R9-22-804. All references in that rule to AHCCCS also shall apply to the PSA, and all references to contractors shall also apply to PSDP contractors.~~

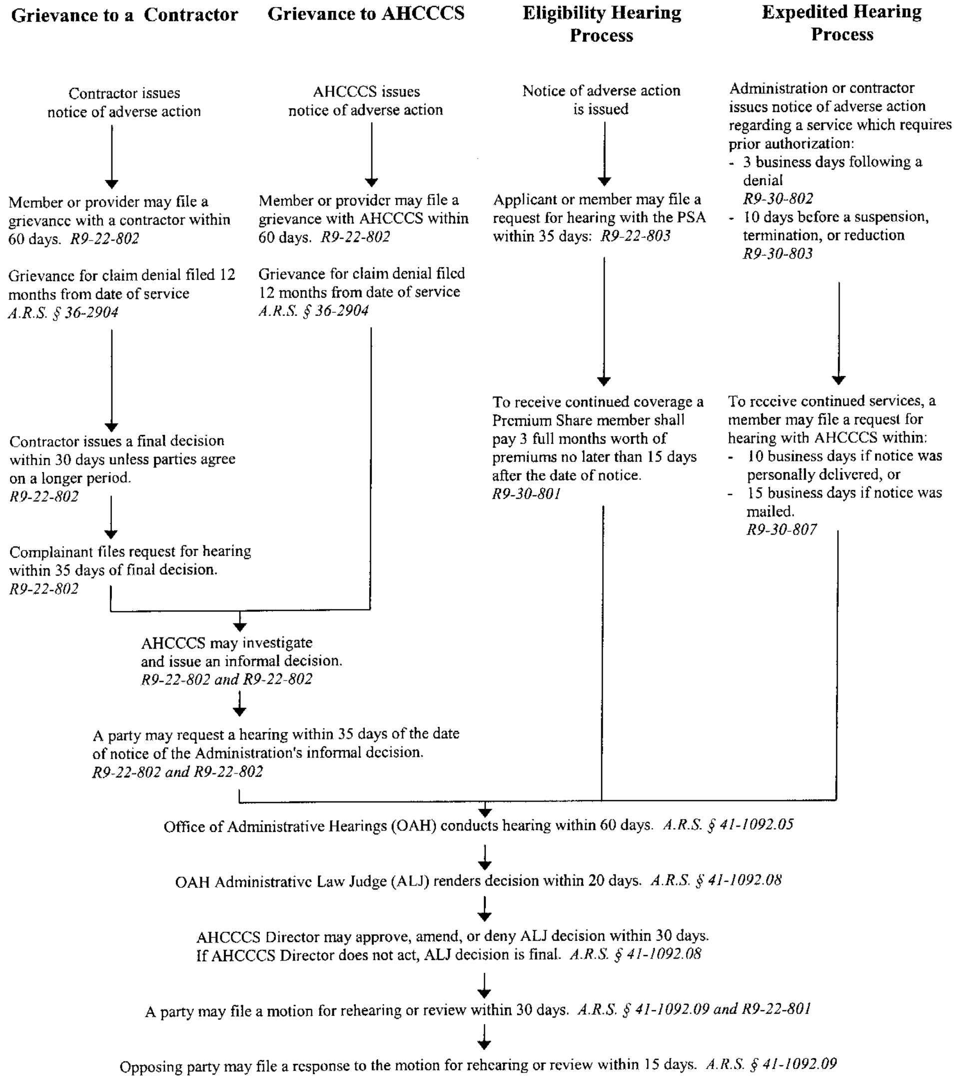
R9-30-603. Eligibility Hearing for an Applicant and a Premium Share Member

A. Except as provided in this Section, an eligibility hearing for an applicant or a Premium Share member shall comply with R9-22-803.

B. Adverse eligibility action. An applicant and a Premium Share member may request a hearing concerning any of the following adverse eligibility actions:
1. Denial of eligibility. A denial of eligibility is an adverse decision that determines an applicant ineligible for PSDP;
2. Discontinuance of eligibility. A discontinuance of eligibility is a termination of a Premium Share member's eligibility;
3. Determination of premium amount; or
4. Determination of chronic illness.

C. PSDP coverage during the hearing process. A Premium Share member who requests a hearing regarding a discontinuance shall receive continued Premium Sharing coverage until a final administrative decision is rendered only if the Premium Share member pays for 3 full months worth of premiums under R9-30-701, which shall be received no later than 15 days after the date of notice.

D. Non-refundable premium. The Administration shall not refund any portion of the advance premiums paid.
1. If a Premium Share member's discontinuance is upheld, any remaining advance premium paid shall be applied toward the cost to the system.
2. If a Premium Share member's discontinuance is overturned, any remaining advance premium paid shall be applied to the next month's premium charge.



ARTICLE 8. MEMBERS' RIGHTS AND RESPONSIBILITIES FOR EXPEDITED HEARINGS

R9-30-801. General Intent and Definitions

A. This Article defines the notice and ~~appeal~~ expedited hearing process when a Premium Share contractor denies, reduces, suspends, or terminates a service ~~and provides a party with the opportunity for an expedited hearing.~~ that requires prior authorization. This Article provides an expedited hearing process and opportunity for continued services as an alternative to the provisions of 9 A.A.C. 30, Article 6. The expedited hearing process is illustrated in 9 A.A.C. 30, Article 6, Exhibit A.

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

~~1.~~ "Action" means a denial, termination, suspension, or reduction of a ~~covered service as defined in R9-30-102.~~ service.

~~2.~~ "Contractor" means a health plan, Arizona Department of Health ~~Services,~~ Services Division of Behavioral Health Services, or a Tribal or Regional Behavioral Health Authority.

~~3.~~ ~~“Date of action” means the effective date for a termination, suspension, or reduction.~~
~~4.~~ ~~“Denial” means the decision not to authorize a requested service.~~
~~5.~~ “Notice” means a written statement that meets the requirements specified in R9-30-804.
~~6.~~ “Party” means a member or contractor.
~~7.~~ ~~“Request for a hearing” means a clear expression by a Premium Share member or a member’s authorized representative that the Premium Share member wants the opportunity to present the Premium Share member’s case to a reviewing authority.~~

R9-30-802. Denial of a Request for a Service

A Premium Share contractor shall provide a Premium Share member with written notice no later than 3 business days ~~from~~ after the date ~~when~~ the Administration or a contractor denies authorization for a requested service ~~is denied by the party giving notice.~~ that the Premium Share member does not currently receive.

R9-30-803. Reduction, Suspension, or Termination of a Service

Except as permitted under R9-30-805 and R9-30-806, if the Premium Share contractor reduces, suspends, or terminates a service currently provided by the Premium Share contractor, the Premium Share contractor shall provide the member written ~~Notice of Intended Action~~ notice at least 10 days ~~prior to~~ before the effective date of the intended action.

R9-30-804. Content of Notice

A ~~Notice of Intended Action,~~ notice required under R9-30-802 or R9-30-803 ~~of this Article,~~ shall contain the following:

1. A statement of the action the Premium Share contractor has taken or intends to take;
2. The ~~succinct and~~ specific reason for the ~~intended action;~~ action, including the specific facts, personal to the member, that support the action;
3. The specific ~~law or rule~~ law, rule, or other written policy, standards, or criteria that supports the action, or the specific change in federal or state law that authorizes the action;

~~4.~~ ~~A change in federal or state law that requires an action;~~
~~5.~~4. An explanation of:
   a. A Premium Share member’s right to request an evidentiary hearing; and
   b. The circumstances under which the Premium Share contractor shall grant a hearing for an action based on a change in the law; and

~~6.~~5. An explanation of the circumstance under which the Premium Share contractor shall continue a covered service if a Premium Share member ~~appeals an action for a:~~ requests a hearing regarding a service that is:
   a. ~~Reduction,~~ Reduced,
   b. ~~Suspension,~~ Suspended, or
   c. ~~Termination of a service.~~ Terminated.

R9-30-805. Exceptions from an Advance Notice

A Premium Share contractor may mail a ~~Notice of Intended Action~~ notice for a reduction, suspension, or termination of a service ~~not~~ no later than the date of action if the Premium Share contractor:

1. Has factual information confirming the death of a Premium Share member;
2. Receives a written statement signed by the Premium Share member that:
   a. States services are no longer wanted; or
   b. Provides information ~~which~~ that requires a reduction or a termination of a service and indicates that the Premium Share member understands that a reduction or ~~a~~ termination of a service shall be the result of ~~providing~~ that information;
3. Learns that a Premium Share member has been admitted to an institution ~~which~~ that makes the Premium Share member ineligible for ~~further~~ services;
   4. Does not know the Premium Share member’s whereabouts and mail directed to the Premium Share member is returned by the post office and no forwarding address is provided;
   5. Has established the fact that a Premium Share member has been approved for Medicaid;
   6. Knows that the Premium Share member’s primary care provider has prescribed a change in the level of medical care.

R9-30-807. Expedited Hearing Process

~~**A.** Alternative hearing process. This Section provides an alternative expedited hearing process for denials defined in R9-30-801(B)(4) and an alternative expedited hearing process and continued services for an action defined in R9-30-801(B)(1). Except as stated in this Section, the provisions of 9 A.A.C. 30, Article 6 do not apply. If the PSA determines that a request for hearing filed according to this Section is not timely or not a proper appeal of a denial or action defined in R9-30-801(B), the request for expedited hearing shall instead be considered a grievance according to 9 A.A.C. 30, Article 6 and, if appropriate, forwarded to the Premium Share contractor within 10 business days from the date the PSA receives the request for processing according to 9 A.A.C. 30, Article 6. In this event, services shall not be continued as provided in this Section. If a Premium Share member does not seek continued services or an expedited hearing, the Premium Share member may file a grievance according to 9 A.A.C. 30, Article 6.~~

A. Request for expedited hearing.
1. If a Premium Share contractor denies, reduces, suspends, or terminates a service that requires authorization, a member is entitled to an expedited hearing if a member files a request for hearing under the time-frames in subsection (B).
2. A member shall file a request for expedited hearing or a request for expedited hearing and continued services in the same manner as provided in R9-22-803.

B. Time-frames. ~~If the Premium Share contractor denies a service that requires authorization or reduces, suspends, or terminates existing service; and the Premium Share member appeals the action and requests continued services during the hearing process or requests an expedited hearing of a denial for authorization, the Premium Share member must file a request for hearing:~~ A member shall file a request for hearing with the Administration or the contractor:
1. No later than 10 business days ~~from~~ after the date of personal delivery of the N~~otice of Intended Action~~ notice to the Premium Share member; or
2. No later than 15 business days ~~from~~ after the postmark date, if mailed, of the ~~Notice of Intended Action.~~ notice.

C. Expedited hearing. A hearing under this Section shall be held no sooner than 20 ~~days~~ days, and not later than 40 ~~days from~~ days, after the PSA's receipt of the request for hearing. ~~Alternatively, the~~ The hearing may be held sooner than 20 days after the Administration's receipt of the request for hearing upon the agreement of all of the parties or upon written motion of 1 of the parties ~~establishing, in the discretion of the PSA,~~ ~~extraordinary circumstances~~ establishing:
1. Extraordinary circumstances, or ~~the~~
2. The possibility of irreparable harm if the hearing is not held sooner.

D. Notice of hearing date. The PSA shall provide notice of the hearing date to the Premium Share member or the authorized representative and to all other parties to the ~~appeal.~~ hearing.

E. ~~Responsibilities of the PSA or a contractor. The~~ Continued services. If a request for expedited hearing and a request for continued services is filed in a timely manner under this Section, the Premium Share contractor shall ~~provide the current level of an existing service~~ not terminate, reduce, or suspend the service during the expedited hearing ~~process, if a request for hearing and request to continue services are properly filed according to this Section.~~ process.

F. Previously authorized service.
1. ~~If a Premium Share member's primary care provider orders requests authorization for a service that was previously authorized for the Premium Share member, the Premium Share contractor may issue a written denial according to under R9-30-802, if the Premium Share contractor considers the request new and independent of any previous authorization. If the Premium Share member's primary care provider asserts that the requested service or treatment is a necessary continuation of the previous authorization, and the member challenges the denial on this basis, then the service shall be continued pending appeal, unless:~~ In addition to services which are continued under subsection (E), the Premium Share contractor shall continue services pending a hearing decision if:
   a. The Premium Share contractor denies an authorization for a previously authorized service for the Premium Share member because Premium Share contractor considers the service new and independent of any previous authorization;
   b. The Premium Share member's primary care physician asserts that the requested service is a necessary continuation of the previous authorization; and
   c. The Premium Share member challenges the denial on this basis and timely requests continued services.
2. Services shall not be continued if:
   a. The parties reach some other agreement, or
   b. The Premium Share contractor believes the primary care provider's request endangers the Premium Share member.

~~2. Any dispute regarding reimbursement of a service under this Section is reserved until the provider submits a claim.~~

G. ~~Responsibility~~ Financial liability of a Premium Share member. A Premium Share member whose service is continued during the expedited hearing process is financially liable for the service received if the Director upholds the decision to reduce, suspend, or terminate the service.

H. General provisions. ~~The~~ If an expedited hearing ~~process~~ is requested, a hearing shall be conducted ~~according to R9-30-601 and R9-22-801, subsections (A) through (E) and (G) through (M).~~ under A.R.S. § 41-1092.

I. Alternative hearing process. A request for expedited hearing shall be considered a grievance under 9 A.A.C. 30, Article 6, and the PSA shall forward the request to the Premium Share contractor within 10 business days after the day the Administration receives the request if:
1. The Administration determines that a request for hearing filed under this Section is not timely, as determined by the Office of Legal Assistance's date stamp on the document; or
2. The request for hearing does not involve the denial, reduction, suspension, or termination of a service.

R9-30-808. Maintenance of Records

The Premium Share contractor providing ~~Notice of Intended Action~~ notice of denial, reduction, suspension, or termination of a service shall maintain records of the written notification and the date of the notice given to the Premium Share member.

R9-30-809. Member Handbook

A Premium Share contractor shall furnish each Premium Share member with a handbook, as specified in contract, that ~~clearly~~ explains a Premium Share member's right to file a grievance or ~~appeal~~ request a hearing concerning ~~a denial or~~ an action that affects a Premium Share member's receipt of medical services.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 31. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) CHILDREN'S HEALTH INSURANCE PROGRAM

PREAMBLE

1. Sections Affected / **Rulemaking Action**

Sections Affected	Rulemaking Action
R9-31-101	Amend
R9-31-108	Amend
R9-31-113	Repeal
Article 8	Amend
R9-31-801	Repeal
R9-31-801	New Section
R9-31-802	Repeal
R9-31-802	New Section
R9-31-803	Repeal
R9-31-803	New Section
R9-31-804	Repeal
Exhibit A	New Exhibit
Article 12	
R9-31-1208	Amend
Article 13	Amend
R9-31-1301	Amend
R9-31-1302	Amend
R9-31-1303	Amend
R9-31-1304	Amend
R9-31-1305	Amend
R9-31-1306	Amend
R9-31-1307	Amend
R9-31-1308	Amend
R9-31-1309	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 36-2986(L)(2)

Implementing statutes: A.R.S. §§ 36-2903.01(B)(4), and 41-1092.02 et. seq.

3. The effective date of the rules:

August 4, 2000

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 662, February 11, 2000

Notice of Proposed Rulemaking: 6 A.A.R. 1397, April 14, 2000

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Cheri Tomlinson, Federal and State Policy Administrator

Address: AHCCCS
Office of Policy Analysis and Coordination
801 East Jefferson, Mail Drop 4200
Phoenix, Arizona 85034

Telephone: (602) 417-4198

Fax: (602) 256-6756

6. An explanation of the rule, including the agency's reasons for initiating the rule:

The Administration amended 4 Articles in 9 A.A.C. 31 to comply with changes to state statute. The changes were implemented on July 1, 1999, when the hearing process moved from AHCCCS to the Office of Administrative Hearings (OAH). In addition, whenever possible, the language was cross-referenced to 9 A.A.C. 22 to streamline and enhance the uniformity of rule language.

The Administration added Exhibit A in Article 8 to illustrate the grievance and request for hearing processes.

7. Reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

Not applicable

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule 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:

The following entities will benefit from the changes which clarify their roles in the grievance and request for hearing process:

a. AHCCCS Administration;
b. Office of Administrative Hearings (OAH);
c. KidsCare members and applicants;
d. KidsCare contractors; and
e. KidsCare providers.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

:

#	Subsection	Recommendation
1.	General	The Administration made the rules more clear, concise, and understandable by making grammatical, verb tense, and punctuation changes throughout the rules.
2.	9 A.A.C. 31, Article 8, Exhibit A	The Administration amended the Exhibit to read only “Grievance for claim denial filed 12 months from date of service. ARS § 36-2904” because the anticipated change to A.R.S. § 36-2903.01 did not pass. The Administration corrected the statutory references throughout the rules.
3.	R9-31-1301(D)	The Administration amended the language by to clarify that “Action” means a denial, termination, suspension, or reduction of a service, rather than a “covered” service. A member may file a grievance regarding a denial of a noncovered service. This may be necessary to determine if a health plan properly denied a service as noncovered.
4.	R9-31-1304	The Administration amended the language regarding the reasons and authority for an action to ensure that a member has sufficient information to understand why a service is being denied or reduced.
5.	R9-31-1307(E)	The Administration amended the language to clarify that if a member requests an expedited hearing and requests continued services, a contractor must continue the service during the hearing process.
6.	R9-31-1307(B)	The Administration amended the language to clarify that a member may file a request for hearing with the Administration or a contractor.
7.	R9-31-1307(F)	The Administration amended the language to clarify that a member must request continued services and to be consistent.
8.	R9-31-1307(A)	The Administration made several structural changes to this Section to make the language more clear, concise, and easy to understand: 1. Moved R9-31-1307(A) to the new subsection R9-31-1307(H); 2. Moved part of R9-31-1307(B) to R9-31-1307(A);

11. A summary of the principal comments and the agency response to them:

The Administration conducted a videoconference public hearing in Phoenix, Flagstaff, and Tucson, Arizona and an additional public hearing in Casa Grande, Arizona on May 16 and 17, 2000. No one attended either public hearing.

Before the close of record, 5:00 p.m., Wednesday, May 17, 2000, the Administration received written comments from the Department of Economic Security, Phoenix Health Plan, and Coconino County. The Administration conducted conference calls with each person or entity that submitted written comments to discuss the Administration’s response to each comment.

The Department of Economic Security commented that “Exhibit A clearly outlines the grievance and hearing procedures, the appropriate time-frames associated with specific types of grievances, the requirements necessary to receive continued coverage, and the process as it involves the Office of Administrative Hearings. In addition, the references linking Exhibit A to the rules document were easy to follow and well-labeled.”

Phoenix Health Plan commented that the proposed rules were “streamlined,” “more clear and concise,” and that time-frames were “standardized so they are more consistent.” Phoenix Health Plan also commented that Exhibit A was an “excellent idea” and “a good view of the process.” Phoenix Health Plan had several questions regarding expedited hearings in 9 A.A.C. 31, Article 13. The Administration responded by amending the definition of “Action” to clarify that a member may file a grievance regarding the denial of a noncovered service. The Administration also amended the language to clarify that if a member requests an expedited hearing and continued services, a contractor must continue services at the same level in effect on the date the contractor issues the notice. Phoenix Health Plan also commented on the operational challenges of providing advance notice of reduction, suspension, or termination of an inpatient hospital stay. The Administration discussed these challenges with Phoenix Health Plan, but the Administration can not amend the rules because the Administration is required by court order to implement these rules.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable

13. Incorporations by reference and their location in the rules:
None

14. Was this rule previously adopted as an emergency rule?
No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 31. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) CHILDREN'S HEALTH INSURANCE PROGRAM

ARTICLE 1. DEFINITIONS

Sections
R9-31-101. Location of Definitions
R9-31-108. Grievance and ~~Appeal~~ Request for Hearing Related Definitions
R9-31-113. ~~Members' Rights and Responsibilities Related Definitions~~ Repealed

ARTICLE 8. GRIEVANCE AND ~~APPEAL PROCESS~~ REQUEST FOR HEARING

Sections
~~R9-31-801.~~ ~~General Provisions for All Grievances and Appeals~~ Repealed
R9-31-801. General Provisions For a Grievance and Request for Hearing
~~R9-31-802.~~ ~~Eligibility Appeals and Hearing Requests for an Applicant and a Member~~ Repealed
R9 31 802. Grievance
~~R9-31-803.~~ ~~Grievances~~ Repealed
R9-31-803. Eligibility Hearing for an Applicant and a Member Under 9 A.A.C. 31 Article 3
~~R9-31-804.~~ ~~Grievance and Appeal Process for Behavioral Health~~ Repealed
Exhibit A. Grievance and Request for Hearing Process

ARTICLE 12. COVERED BEHAVIORAL HEALTH SERVICES

Section
R9-31-1208. Grievance and ~~Appeal~~ Request for Hearing Process

ARTICLE 13. MEMBERS' RIGHTS AND RESPONSIBILITIES FOR EXPEDITED HEARINGS

Sections
R9-31-1301. General Provisions
R9-31-1302. Denial of a Request for a Service
R9-31-1303. Reduction, Suspension, or Termination of a Service
R9-31-1304. Content of Notice
R9-31-1305. Exceptions from an Advance Notice
R9-31-1306. Notice in a Case of Probable Fraud
R9-31-1307. Expedited Hearing Process
R9-31-1308. Maintenance of Records
R9-31-1309. Member Handbook

ARTICLE 1. DEFINITIONS

R9-31-101. Location of Definitions

A. For purposes of this Article the term member shall be substituted for the term eligible person.

B. Location of definitions. Definitions applicable to Chapter 31 are found in the following.

	Definition	Section or Citation
~~1.~~	"1st-party liability"	R9-22-110
~~2.~~	"3rd-party"	R9-22-110
~~3.~~	"3rd-party liability"	R9-22-110
~~4.~~	"Accommodation"	R9-22-107

~~5.~~ “Action” R9-31-113
~~6.~~ “Acute mental health services” R9-22-112
~~7.~~ “Administration” A.R.S. § 36-2901
<u>“Adverse action”</u> <u>R9-31-108</u>
~~8.~~ “Aggregate” R9-22-107
~~9.~~ “AHCCCS” R9-31-101
~~10.~~ ~~“AHCCCS hearing officer”~~ ~~R9-22-108~~
~~11.~~ “Ambulance” R9-22-102
~~12.~~ “Ancillary department” R9-22-107
~~13.~~ ~~“Appeal”~~ ~~R9-22-108~~
~~14.~~ ~~“Appellant”~~ ~~R9-31-108~~
~~15.~~ “Applicant” R9-31-101
~~16.~~ “Application” R9-31-101
~~17.~~ “ADHS” R9-31-112
~~18.~~ “Behavior management services” R9-31-112
~~19.~~ “Behavioral health paraprofessional” R9-31-112
~~20.~~ “Behavioral health professional” R9-31-112
~~21.~~ “Behavioral health service” R9-31-112
~~22.~~ “Behavioral health technician” R9-31-112
~~23.~~ “Billed charges” R9-22-107
~~24.~~ “Board eligible for psychiatry” R9-31-112
~~25.~~ “Capital costs” R9-22-107
~~26.~~ “Case management services” R9-31-112
~~27.~~ “Certified nurse practitioner” R9-31-102
~~28.~~ “Certified psychiatric nurse practitioner” R9-31-112
~~29.~~ “Child” 42 U.S.C. 1397jj
~~30.~~ “Clean claim” A.R.S. § 36-2904
~~31.~~ “Clinical supervision” R9-31-112
~~32.~~ “CMDP” R9-31-103
~~33.~~ “Continuous stay” R9-22-101
~~34.~~ “Contract” R9-22-101
~~35.~~ “Contractor” R9-31-101
~~36.~~ “Contract year” R9-31-101
~~37.~~ “Copayment” R9-22-107
~~38.~~ “Cost avoidance” R9-31-110
~~39.~~ “Cost-to-charge ratio” R9-22-107
~~40.~~ “Covered charges” R9-31-107
~~41.~~ “Covered services” R9-22-102
~~42~~. “CPT” R9-22-107
~~43.~~ “CRS” R9-31-103
~~44.~~ “Date of action” R9-31-113
~~45.~~ “Day” R9-22-101
~~46.~~ “Denial” R9-31-113
~~47.~~ “De novo hearing” R9-31-112
~~48.~~ “Dentures” R9-22-102
~~49.~~ “DES” R9-31-103
~~50.~~ “Determination” R9-31-103
~~51.~~ “Diagnostic services” R9-22-102
~~52.~~ “Director” A.R.S. § 36-2981
~~53.~~ “DME” R9-22-102
~~54.~~ “DRI inflation factor” R9-22-107
~~55.~~ “EAC” A.R.S. § 36-2905.03(B)
~~56.~~ “ELIC” A.R.S. § 36-2905.03(C) and (D)
~~57.~~ “Emergency medical condition” 42 U.S.C. 1396(v)

~~58.~~	“Emergency medical services”	R9-22-102
~~59.~~	“Encounter”	R9-22-107
~~60.~~	“Enrollment”	R9-31-103
~~61.~~	“Evaluation”	R9-31-112
~~62.~~	“Facility”	R9-22-101
~~63.~~	“Factor”	R9-22-101
~~64.~~	“FPL”	A.R.S. § 36-2981
~~65.~~	“Grievance”	R9-22-108
~~66.~~	“Group Health Plan”	42 U.S.C. 1397jj
~~67.~~	“GSA”	R9-22-101
~~68.~~	“Guardian”	R9-22-103
~~69.~~	“Head of Household”	R9-31-103
~~70.~~	“Health plan”	A.R.S. § 36-2981
	“Hearing”	R9-22-108
~~71.~~	“Hearing aid”	R9-22-102
~~72.~~	“Home health services”	R9-22-102
~~73.~~	“Hospital”	R9-22-101
~~74.~~	“Household income”	R9-31-103
~~75.~~	“ICU”	R9-22-107
~~76.~~	“IGA”	R9-31-116
~~77.~~	“IHS”	R9-31-116
~~78.~~	“IHS” or “Tribal Facility Provider”	R9-31-116
~~79.~~	“IMD”	R9-31-112
~~80.~~	“Inmate of a public institution”	42 CFR 435.1009
~~81.~~	“Inpatient hospital services”	R9-31-101
~~82.~~	“Inpatient psychiatric facilities for individuals under age 21”	R9-31-112
~~83.~~	“License” or “licensure”	R9-22-101
~~84.~~	“Medical record”	R9-22-101
~~85.~~	“Medical review”	R9-31-107
~~86.~~	“Medical services”	R9-22-101
~~87.~~	“Medical supplies”	R9-22-102
~~88.~~	“Medically necessary”	R9-22-101
~~89.~~	“Member”	A.R.S. § 36-2981
~~90.~~	“Mental Disorder”	R9-31-112
~~91.~~	“MI/MN”	A.R.S. § 36-2901(4)(a) and (c)
~~92.~~	“New hospital”	R9-22-107
~~93.~~	“NF”	42 U.S.C. 1396r(a)
~~94.~~	“NICU”	R9-22-107
~~95.~~	“Noncontracting provider”	A.R.S. § 36-2981
~~96.~~	“Occupational therapy”	R9-22-102
~~97.~~	“Offeror”	R9-31-106
~~98.~~	“Operating costs”	R9-22-107
~~99.~~	“Outlier”	R9-31-107
~~100.~~	“Outpatient hospital service”	R9-22-107
~~101.~~	“Ownership change”	R9-22-107
~~102.~~	“Partial care”	R9-31-112
~~103.~~	“Peer group”	R9-22-107
~~104.~~	“Pharmaceutical service”	R9-22-102
~~105.~~	“Physical therapy”	R9-22-102
~~106.~~	“Physician”	A.R.S. § 36-2981
~~107.~~	“Post stabilization services”	42 CFR 438.114
~~108.~~	“Practitioner”	R9-22-102
~~109.~~	“Pre-existing condition”	R9-31-105
~~110.~~	“Prepaid capitated”	A.R.S. § 36-2981

~~111.~~ “Prescription” R9-22-102
~~112.~~ “Primary care physician” A.R.S. § 36-2981
~~113.~~ “Primary care practitioner” A.R.S. § 36-2981
~~114.~~ “Primary care provider” R9-22-102
~~115.~~ “Primary care provider services” R9-22-102
~~116.~~ “Prior authorization” R9-22-102
~~117.~~ “Private duty nursing services” R9-22-102
~~118.~~ “Program” A.R.S. § 36-2981
~~119.~~ “Proposal” R9-31-106
~~120.~~ “Prospective rates” R9-22-107
~~121.~~ “Prudent layperson standard” 42 U.S.C. 1396u-2
~~122.~~ “PSP” R9-31-103
~~123.~~ “Psychiatrist” R9-31-112
~~124.~~ “Psychologist” R9-31-112
~~125.~~ “Psychosocial rehabilitation” R9-31-112
~~126.~~ “Qualified alien” P.L. 104-193
~~127.~~ “Qualifying Health Center” A.R.S. § 36-2981
~~128.~~ “Qualifying plan” A.R.S. § 36-2981
~~129.~~ “Quality management” R9-22-105
~~130.~~ “Radiology services” R9-22-102
~~131.~~ “Rebasing” R9-22-107
~~132.~~ “Redetermination” R9-31-103
~~133.~~ “Referral” R9-22-101
~~134.~~ “RBHA” R9-31-112
~~135.~~ “Registered nurse” R9-31-112
~~136.~~ “Rehabilitation services” R9-22-102
~~137.~~ “Reinsurance“ R9-22-107
~~138. “Request for hearing” R9-31-108~~
~~139.~~ “RFP” R9-31-106
~~140.~~ “Respiratory therapy” R9-22-102
~~141.~~ “Respondent” ~~R9-31-108~~ R9-22-108
~~142.~~ “Scope of services” R9-22-102
~~143.~~ “Screening” R9-31-112
~~144.~~ “SDAD” R9-22-107
~~145.~~ “SMI” .A.R.S. § 36-550
~~146.~~ “Service location” R9-22-101
~~147.~~ “Service site” R9-22-101
~~148.~~ “Specialist” R9-22-102
~~149.~~ “Speech therapy” R9-22-102
~~150.~~ “Spouse” R9-31-103
~~151.~~ “SSI-MAO” R9-31-103
~~152.~~ “Sterilization” R9-22-102
~~153.~~ “Subcontract” R9-22-101
~~154.~~ “Substance abuse” R9-31-112
~~155.~~ “TRBHA” R9-31-116
~~156.~~ “Tier” R9-22-107
~~157.~~ “Tiered per diem” R9-31-107
~~158.~~ “Title XIX” 42 U.S.C. 1396
~~159.~~ “Title XXI” 42 U.S.C. 1397jj
~~160.~~ “Treatment” R9-31-112
~~161.~~ “Tribal facility” A.R.S. § 36-2981
~~162.~~ “Utilization management” R9-22-105

C. General definitions. The words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

~~1.~~ "AHCCCS" means the Arizona Health Care Cost Containment System, which is composed of the Administration, contractors, and other arrangements through which health care services are provided to a member.
~~2.~~ "Applicant" means a person who submits, or on whose behalf is submitted, a written, signed, and dated application for Title XXI benefits which has not been completed or denied.
~~3.~~ "Application" means an official request for Title XXI benefits made in accordance with Article 3.
~~4.~~ "Contractor" means a health plan that contracts with the Administration for the provision of hospitalization and medical care to members ~~according to~~ under the provisions of this Article or a qualifying plan.
~~5.~~ "Contract year" means the date beginning on October 1 and continuing until September 30 of the following year.
~~6.~~ "Inpatient hospital services" means medically necessary services that require an inpatient stay in an acute hospital. Inpatient hospital services are provided by or under the direction of a physician or other health care practitioner upon referral from a member's primary care provider.

R9-31-108. Grievance and ~~Appeal~~ Request for Hearing Related Definitions
Definitions. The words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

1. ~~"Appellant" means an individual filing any grievance or appeal under this Article.~~
2. ~~"Request for hearing" means an appeal of an adverse eligibility action; an appeal filed after an informal decision has been rendered on a grievance by the Administration; an appeal of a grievance decision rendered by a contractor; or an appeal filed because a contractor has failed to render a timely grievance decision.~~
3. ~~"Respondent" means the party responsible for the action being grieved or appealed. In Title XXI eligibility appeals, the Administration is the respondent. In most member grievances, the contractor generally is the respondent.~~

"Adverse action" means any action under this Chapter for which a party may file a grievance or request a hearing under this 9 A.A.C. 31, Article 8.
"Grievance" is defined in 9 A.A.C. 22, Article 1.
"Hearing" is defined in 9 A.A.C. 22, Article 1.
"Respondent" is defined in 9 A.A.C. 22, Article 1.

~~R9-31-113. Members' Rights and Responsibilities Related Definitions~~ Repealed
~~Definitions. The words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:~~

1. ~~"Action" means a termination, suspension, or reduction of a covered service for the purposes of 9 A.A.C. 31, Article 13 only.~~
2. ~~"Date of action" means the intended date on which a termination, suspension, or reduction becomes effective for the purposes of 9 A.A.C. 31, Article 13 only.~~
3. ~~"Denial" means the decision not to authorize a requested service for the purposes of 9 A.A.C. 31, Article 13 only.~~

ARTICLE 8. GRIEVANCE AND ~~APPEAL PROCESS~~ REQUEST FOR HEARING

~~R9-31-801. General Provisions For All Grievances and Appeals~~ Repealed
~~**A.** As specified in A.R.S. § 36-2986, the Director shall, by rule, establish a grievance and appeal procedure.~~
~~**B.** All grievances and appeals shall be filed and processed according to A.A.C. R9-22-801. In eligibility appeals, the Administration is the respondent.~~
~~**C.** The AHCCCS chief hearing officer or designee may deny a request for a hearing if either of the following occurs:~~
1. ~~The sole issue presented is a federal or state law requiring an automatic change adversely affecting some or all applicants or members, or~~
2. ~~The Administration reaches the maximum number of members the program shall serve as specified in A.R.S. § 36-2985.~~

~~**D.** A parent or legal guardian may file a grievance only over a denial of a covered service or a claim for a covered service, as specified in R9-31-803. A parent or legal guardian may not file an eligibility appeal and is not entitled to receive a continued service on appeal. If the parent or legal guardian prevails in the AHCCCS grievance process, the contractor shall provide any service or pay any claim determined to be medically necessary regardless of whether judicial review is sought. A provider may file a grievance regarding a denial of a covered service or a claim for a covered service of a parent or legal guardian.~~

R9-31-801. General Provisions For a Grievance and Request for Hearing
A. A grievance and a request for hearing under this Chapter shall comply with R9-22-801.
B. In addition to the reasons in R9-22-801, the Administration may deny a request for a hearing if the program reaches the maximum number of members under A.R.S. § 36-2985.

~~R9-31-802.~~ ~~Eligibility Appeals and Hearing Requests for an Applicant and a Member~~ Repealed

~~**A.** Adverse eligibility actions. An applicant or a member may appeal and request a hearing concerning either of the following adverse eligibility actions:~~
   ~~1. Denial of eligibility, or~~
   ~~2. Discontinuance of eligibility.~~

~~**B.** Notice of an adverse eligibility action. Notice of an adverse eligibility action shall be personally delivered or mailed to the affected individual by regular mail. For purposes of this Section, the date of the Notice of Action shall be the date of personal delivery to the individual or the postmark date, if mailed.~~

~~**C.** Appeals and requests for hearing.~~
   ~~1. An applicant or a member may appeal and request a hearing regarding an adverse eligibility action by completing and submitting the AHCCCS Request for Hearing form or by submitting a written request containing the following information:~~
      ~~a. The case name,~~
      ~~b. The adverse eligibility action being appealed, and~~
      ~~c. The reason for appeal.~~
   ~~2. For denials, the request for hearing shall be filed not later than 20 days from the date of the notice of adverse action. For discontinuances, the request for hearing shall be filed not later than 10 days after the effective date of action. The request for hearing shall be filed by mailing or delivering it to either the Title XXI eligibility office or the Administration, Office of Grievance and Appeals. For this Section only, the date of the request for hearing shall be the postmark date, if mailed, or the date of personal delivery.~~

~~**D.** Eligibility office responsibilities.~~
   ~~1. The eligibility office shall maintain a register which documents the date on which a request for hearing is submitted.~~
   ~~2. If requested, the eligibility office shall assist the appellant or designated representative in the completion of the Request for Hearing form.~~
   ~~3. A Pre-Hearing Summary shall be completed by the eligibility office and shall summarize the facts and factual basis for the adverse eligibility action.~~
   ~~4. The eligibility office shall send to the Administration, Office of Grievance and Appeals, the Pre-Hearing Summary, a copy of the case file, documents pertinent to the adverse action, and the Request for Hearing, which must be received by the Administration, Office of Grievance and Appeals, not later than 10 days from the date the request is received. If the request is submitted directly to the Administration, Office of Grievance and Appeals, the eligibility office shall send the materials to the Office of Grievance and Appeals, not later than 10 days from the date of a request for the materials.~~

~~**E.** Title XXI coverage during the appeal process.~~
   ~~1. Applicants appealing a denial of Title XXI coverage. A denial is an adverse eligibility decision which finds the applicant ineligible for Title XXI benefits. In the event that a timely request for hearing is filed and the denial is overturned, the effective date of Title XXI coverage shall be established by the Director in accordance with applicable law.~~
   ~~2. Members appealing a discontinuance. A discontinuance is a termination of Title XXI benefits. For actions requiring 10 days advance notice, a member who requests a hearing before the effective date of the adverse action shall continue to receive Title XXI benefits until an adverse decision on the appeal is rendered, unless the program is suspended or terminated as specified in A.R.S. § 36-2985.~~
   ~~3. Member's financial responsibility for benefits. A member whose benefits have been continued shall be financially liable for all Title XXI benefits received during a period of ineligibility if a discontinuance decision is upheld by the Director.~~

R9-31-802. Grievance

A. General. A grievance under this Chapter shall be filed and processed under R9-22-802. The grievance process is illustrated in Exhibit A.

B. Grievance filed by a parent or a legal guardian.
   1. A parent or a legal guardian of an applicant or a member may file a grievance under R9-22-802 on behalf of the applicant or the member.
   2. A parent or a legal guardian who receives coverage under A.R.S. § 36-2984 may file a grievance on their own behalf regarding a denial of a covered service.

C. Grievance filed by a provider.
   1. A provider may file a grievance regarding a denial of a claim for a covered service for a member.
   2. A provider may file a grievance regarding a denial of a claim for a covered service for a parent or a legal guardian who receives coverage under A.R.S. § 36-2984.

R9-31-803. Grievances Repealed

All grievances regarding Title XXI shall be filed and processed according to A.A.C. R9-22-804. For purposes of this Chapter, a member's grievance does not need to state with particularity the legal or factual basis for the requested relief.

R9-31-803. Eligibility Hearing for an Applicant and a Member Under 9 A.A.C. 31, Article 3

A. General. Except as provided in this Section, an eligibility hearing for an applicant or a member under this Chapter shall comply with R9-22-803.

B. Adverse eligibility actions.

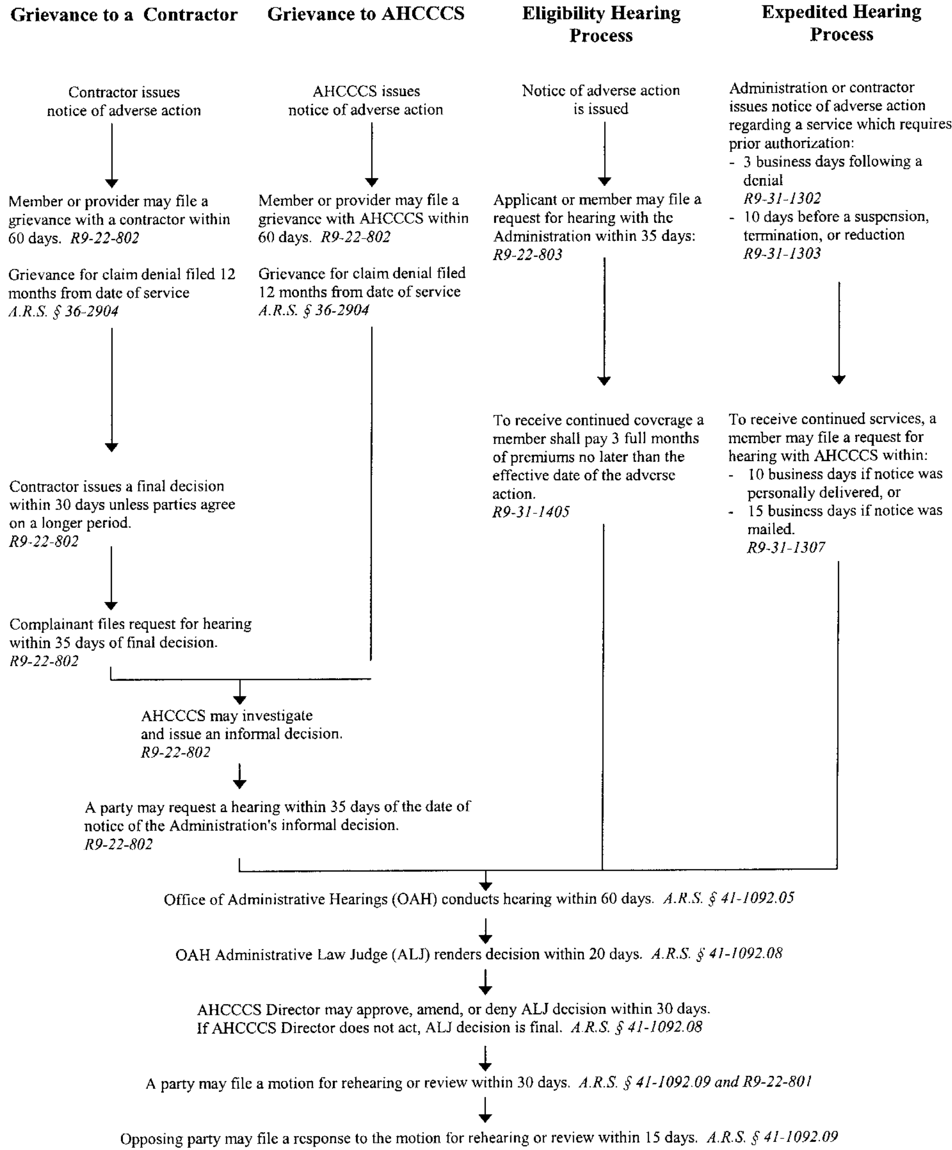
1. In addition to adverse eligibility actions in R9-22-803, an applicant or member may request a hearing for:
   a. A delay in the eligibility determination time-frame under R9-31-302; or,
   b. The determination of or payment of a premium amount under 9 A.A.C. 31, Article 14.
2. Except when filed on behalf of an applicant or member, a parent or legal guardian may not file a request for hearing concerning any adverse eligibility action.

C. Filing a request for hearing. A request for hearing shall be considered filed when received in writing by the Administration, as established by the Office of Legal Assistance's date stamp on the document.

R9-31-804. Grievance and Appeal Process for Behavioral Health Repealed

A. All Title XXI grievances relating to an adverse action, decision, or policy regarding behavioral health issues shall be processed according to the standards set by the Administration, as specified in contract with ADHS, contractors, and provider agreements.

B. An appeal of a grievance decision under subsection (A) shall be conducted as a contested case according to R9-31-801 and R9-31-803.



ARTICLE 12. BEHAVIORAL HEALTH SERVICES

R9-31-1208. Grievance and ~~Appeal~~ Request for Hearing Process

A. Processing ~~of~~ a grievance. ~~All grievances regarding any~~ A grievance for an adverse ~~action, decision, or policy regarding~~ action for a behavioral health ~~services~~ service shall be ~~reviewed~~ processed ~~according to~~ under A.R.S. §§ 36-2986, 36-3413, 41-1092.02, ~~9 A.A.C. 31, Article 8, and 9 A.A.C. 31, Article 13.~~ and 9 A.A.C. 31, Articles 8 and 13. The grievance and request for hearing process is illustrated in 9 A.A.C. 31, Article 8, Exhibit A.

B. Member ~~appeal~~ request for hearing. A member's ~~appeal of~~ request for hearing regarding a grievance under this Article shall be conducted ~~as a contested case according to~~ under 9 A.A.C. 31, Article 8.

~~**C.** Other appeals. An appeal of the ADHS director's decision after an Office of Administrative Hearing decision other than de novo hearing requests by a member shall be limited to an appellate review by the Administration to determine whether substantial evidence in the record supports the decision.~~

ARTICLE 13. MEMBERS' RIGHTS AND RESPONSIBILITIES FOR EXPEDITED HEARINGS

R9-31-1301. General Provisions

A. The Administration shall administer the program as specified in A.R.S. § 36-2982.

B. The Director has full operational authority to adopt rules or to use the appropriate rules adopted as specified in A.R.S. § 36-2986.

C. This Article defines the notice and ~~appeal~~ expedited hearing process when a contractor denies, reduces, suspends or terminates a service ~~and provides a member with the opportunity for an expedited hearing.~~ that requires prior authorization. This Article provides an expedited hearing process and opportunity for continued services as an alternative to the provisions of 9 A.A.C. 31, Article 8. The expedited hearing process is illustrated in 9 A.A.C. 31, Article 8, Exhibit A.

D. For the purpose of this ~~Article:~~ Article,

"Action" means a denial, termination, suspension, or reduction of a service.

~~1.~~ ~~Contractor~~ "Contractor" means a health plan, a qualifying plan, TRBHA, a ~~RBHA~~ RBHA, or ~~ADHS.~~ ADHS Division of Behavioral Health Services.

~~2.~~ ~~Request for hearing means a clear expression by a member or an authorized representative that a member wants the opportunity to present the member's case to a reviewing authority.~~

"Notice" means a written statement that meets the requirements specified in R9-31-1304.

"Party" means a member or a contractor.

R9-31-1302. Denial of a Request for a Service

A contractor shall provide a member with ~~a~~ written notice no later than 3 business days ~~from~~ after the date ~~when~~ a contractor denies authorization for a requested service ~~is denied by the party giving notice.~~ that the member does not currently receive.

R9-31-1303. Reduction, Suspension, or Termination of a Service

Except as permitted under R9-31-1305 and R9-31-1306, if a contractor reduces, suspends, or terminates a service currently provided by the contractor, a contractor shall provide a member with a written ~~Notice of Intended Action~~ notice at least 10 days ~~prior to~~ before the effective date of the ~~action by a contractor when there is a reduction, suspension, or termination of a service currently provided by a contractor.~~ intended action.

R9-31-1304. Content of Notice

A ~~notice,~~ notice required under R9-31-1302 or R9-31-1303 ~~of this Article,~~ shall contain the following:

1. A statement of ~~what~~ the action a contractor has taken or intends to take;
2. The ~~succinct and~~ specific ~~reasons~~ reason for the ~~intended action;~~ action, including the specific facts, personal to the member, that support the action;
3. The specific ~~law or rule~~ law, rule, or other written policy, standards, or criteria that supports the action, or ~~a~~ the specific change in federal or state law that ~~requires an~~ authorizes the action;
4. An explanation of:
   a. A member's right to request an evidentiary hearing; and
   b. The circumstances under which the Administration or a contractor shall grant a hearing ~~in cases of~~ for an action based on a change in the law; and
5. An explanation of the circumstance under which a contractor shall continue a covered service if a member requests a hearing ~~to appeal an action for a:~~ regarding a service that is:
   a. ~~Reduction,~~ Reduced,
   b. ~~Suspension,~~ Suspended, or
   c. ~~Termination of a service.~~ Terminated.

R9-31-1305. Exceptions from an Advance Notice

A contractor may mail a notice of a reduction, suspension, or termination of a service ~~not~~ no later than the date of ~~action if a~~ the ~~contractor~~ contractor's action if the contractor:

1. Has factual information that confirms the death of a ~~member,~~ member;
2. Receives a ~~clear~~ written statement signed by the member that:
   a. ~~Services~~ States services are no longer wanted, or
   b. Provides information ~~which~~ that requires a reduction or termination of a service and indicates that a member understands that a reduction or termination of a service shall be the result of ~~providing~~ that ~~information,~~ information;
3. Learns that a member has been admitted to an institution ~~which~~ that makes a member ineligible for ~~further services,~~ services;
4. Does not know a member's whereabouts and mail directed to the member is returned by the post office ~~returns mail directed to a member indicating~~ and no forwarding ~~address,~~ address is provided;
5. Has established a fact that a member has been accepted for Title XIX or Title XXI services outside the state of ~~Arizona,~~ Arizona; or
6. Knows that a member's primary care provider has prescribed a change in the level of medical care.

R9-31-1306. Notice in a Case of Probable Fraud

A contractor may shorten the period of advance notice to 5 days before the date of action if:

1. The ~~facts~~ circumstances indicate that action should be taken because of probable fraud by a member; and
2. The facts have been verified through secondary resources, if possible.

R9-31-1307. Expedited Hearing Process

~~**A.**~~ ~~Alternative hearing process. This Section provides an alternative expedited hearing process for denials defined in R9-31-113 and an alternative expedited hearing process and continued services for actions defined in R9-31-113. Except as stated in this Section, the provisions of 9 A.A.C. 31, Article 8 do not apply. If the Administration determines that a request for hearing filed according to this Section was not timely or not a proper appeal of a denial or action as defined in R9-31-113, the request for hearing shall instead be considered a grievance according to 9 A.A.C. 31, Article 8 and, if appropriate, forwarded to the contractor for processing according to 9 A.A.C. 31, Article 8. In this event, services shall not be continued as provided in this Section. If a member does not seek continued services or an expedited hearing, a member may file a grievance according to 9 A.A.C. 31, Article 8. A member shall not receive continued behavioral health services on appeal beyond the statutory limitation on such services.~~

A. Request for expedited hearing.

1. If a contractor denies, reduces, suspends, or terminates a service that requires authorization, a member is entitled to an expedited hearing if a member files a request for hearing under the time-frames in subsection (B)
2. A member shall file a request for expedited hearing or a request for expedited hearing and continued services in the same manner as provided in R9-31-803.

B. Time-frames. ~~If a contractor determines to deny a service that requires authorization or determines to reduce, suspend, or terminate existing services; and a member desires to appeal the determination and either requests continued services during the hearing process or requests an expedited hearing of a denial for authorization, a member must file a request for hearing:~~ A member shall file a request for hearing with the Administration or the contractor:

1. No later than 10 business days ~~from~~ after the date of personal delivery of the ~~Notice of Intended Action~~ notice to the member; or
2. No later than 15 business days ~~from~~ after the postmark date, if mailed, of the ~~Notice of Intended Action.~~ notice

C. Expedited hearing. A hearing ~~according to~~ under this Section shall be held no sooner than 20 ~~days~~ days, and not later than 40 ~~days from~~ days, after the Administration's receipt of the request for hearing. ~~Alternatively, the~~ The hearing may be held sooner than 20 days after the Administration's receipt of the request for hearing upon the agreement of all of the parties or upon ~~a~~ written motion of 1 of the parties ~~establishing, in the discretion of the Administration, extraordinary circumstances~~ establishing:

1. Extraordinary circumstances, or ~~the~~
2. The possibility of irreparable harm if the hearing is not held sooner.

D. Notice of hearing date. The Administration shall provide notice of the hearing date to the member or the authorized representative and to all other parties to the ~~appeal.~~ hearing.

E. ~~Responsibilities of a contractor. A~~ Continued services. If a request for expedited hearing and a request for continued services is filed in a timely manner under this Section, a contractor shall ~~provide the current level of an existing service~~ not terminate, reduce, or suspend the service during the expedited hearing ~~process, if a request for hearing and request to continue services are properly filed according to this Section.~~ process.

F. Previously authorized service. ~~If a member's primary care provider orders a service that has been previously authorized for a member, a contractor may issue a written denial according to R9-31-1302, if a contractor considers the request new and independent of any previous authorization. If a member's primary care provider asserts that the requested service or treatment is merely a necessary continuation of the previous authorization, and a member challenges the denial on this basis, then the service will be continued pending appeal, unless~~

1. In addition to services which are continued under subsection (E), the contractor shall continue services pending a hearing decision if:
   a. The contractor denies an authorization for a previously authorized service for the member because the contractor considers the service new and independent of any previous authorization;
   b. The member's primary care physician asserts that the requested service is a necessary continuation of the previous authorization; and
   c. The member challenges the denial on this basis and timely requests continued services.
2. Services shall not be continued if:
   a. ~~the~~ The parties reach ~~some other agreement~~ agreement, or
   b. ~~a~~ The contractor believes the primary care provider's request endangers the member. ~~A contractor and a provider shall reserve any dispute over reimbursement until a later date when a provider submits a claim.~~

G. ~~Responsibility~~ Financial liability of a member. A member whose service is continued ~~during the expedited hearing process~~ pending a hearing decision under A.R.S. § 41-1092 is financially liable for the service received if ~~the Director upholds the~~ a decision to reduce, suspend, or terminate ~~a member's service~~ is upheld under A.R.S. § 41-1092.

H. General provisions. ~~The~~ If an expedited hearing ~~process~~ is requested, a hearing shall be conducted ~~according to A.A.C. R9-22-801(A),(E),(G), and (M).~~ under A.R.S. § 41-1092.

I. Alternative hearing process. A request for expedited hearing shall be considered a grievance under 9 A.A.C. 31, Article 8, and the Administration shall forward the request to the contractor within 10 business days after the day the Administration receives the request if:

1. The Administration determines that a request for hearing filed under this Section is not timely as determined by the Office of Legal Assistance's date stamp on the document; or
2. The request for hearing does not involve the denial, reduction, suspension, or termination of a service.

R9-31-1308. Maintenance of Records

The party providing notice of denial, reduction, suspension, or termination of a service shall ~~ensure that written records are maintained, that~~ maintain records of the written notification ~~was given to the member, including~~ and the date ~~the notification was provided.~~ of the notice given to the member.

R9-31-1309. Member Handbook

A contractor shall furnish each member with a ~~handbook~~ handbook, as specified in contract, that ~~clearly~~ explains a member's right to file a grievance or ~~appeal~~ request a hearing concerning ~~a denial or~~ an action that affects a member's receipt of medical ~~services, as specified in contract.~~ services.