

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 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

PREAMBLE

- 1. Sections Affected**
R9-22-718
- Rulemaking Action**
Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**
Authorizing statutes: A.R.S. §§ 36-2903.01 and 36-2905.01
Implementing statute: A.R.S. § 36-2905.01
- 3. The effective date of the rule:**
February 1, 2004
- 4. A list of all previous notices appearing in the Register addressing the exempt rule:**
Notice of Rulemaking Docket Opening: 10 A.A.R. 28, January 2, 2004
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Barbara Ledder
Address: AHCCCS
Office of Legal Assistance
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4580
Fax: (602) 253-9115
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- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**
A.R.S. § 36-2905.01 requires AHCCCS contractors to enter into a contract for reimbursement for inpatient hospital services with one or more hospitals located in each county with a population of more than 500,000 people. The amended rule conforms to statute. The rulemaking is exempt from the provisions of Title 41, Chapter 6 under Laws 2003, Ch. 265, § 54.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
AHCCCS did not review any study relevant to these rules.
- 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:**
Not applicable

Notices of Exempt Rulemaking

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

Not applicable

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

Commenter	Comment	Agency Response
Joel Wakefield, Coppersmith Gorden Schermer Owens & Nelson	Requested that the rule allow the discount to only those residents of Maricopa or Pima County rather than applying to all members of the plan regardless of the member's residency.	Disregarding a member's residency for purposes of a discounted rate is not a change in interpretation, i.e., a non-contracted urban hospital admitting a patient from Safford who belongs to a plan that serves Safford and Maricopa would be paid the discounted rate. Rule clarifies interpretation and only requires Urban contractors to contract with urban hospitals in the same county as the contractor (Maricopa and Pima counties) without regard to residency of member. The agency has determined that this creates the appropriate incentive for hospitals to contract with contractors who have sufficient volume to justify contracts.

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 rule:

No incorporations by reference

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ADMINISTRATION**

ARTICLE 7. STANDARDS FOR PAYMENTS

Section

R9-22-718. ~~Inpatient Urban Hospital Inpatient Reimbursement Pilot Program~~

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-22-718. ~~Inpatient Urban Hospital Inpatient Reimbursement Pilot Program~~

A. Definitions. ~~In this Section, the~~ The following definitions apply to this Section:

1. ~~“Contractor” means Maricopa and Pima organizations or entities as defined in Laws 1996, Ch. 288, § 20, which agree through a direct contracting relationship with the Administration to provide services as described by A.R.S. § 36-2901 or 36-2902. A contractor also includes the Department of Economic Security – Developmental Disabilities, who delivers medical and long-term care services to eligible Arizona Long-term Care members.~~
2. ~~“Hospital contracts” means a contract between a contractor and hospital provider.~~
3. ~~“RFP” means a request for proposal as prescribed by A.A.C. R9-28-101(54), R9-22-603, and R9-28-604.~~
1. “Noncontracted Hospital” means an urban hospital which does not have a contract under this Section with an urban contractor in the same county.
2. “Rural Contractor” means a contractor or program contractor as defined in A.R.S. Title 36, Chapter 29 that does not provide services to members residing in either Maricopa or Pima County.
3. “Urban Contractor” means a contractor or program contractor as defined in A.R.S. Title 36, Chapter 29 that provides services to members residing in Maricopa or Pima County and may also provide services to members who reside in other counties. An urban contractor does not include BHS, CRS, CMDP, HCG or a Tribal government.
4. “Rural Hospital” means a hospital, as defined in Article 1, that is physically located in Arizona but in a county other than Maricopa and Pima County.
5. “Urban Hospital” means a hospital, as defined in Article 1, that is physically located in Maricopa or Pima County.

Arizona Administrative Register / Secretary of State
Notices of Exempt Rulemaking

- B.** ~~General Provisions. The Administration shall operate a hospital reimbursement pilot program in which contractors in Maricopa and Pima counties shall enter into hospital contracts with one or more hospitals in geographical service areas within these counties. The geographic service area may vary from official county boundaries in certain zip codes bordering Maricopa and Pima counties. The Administration shall specify any variations in its RFP. These hospital contracts shall cover inpatient acute care hospital services for eligible persons with admissions on and after October 1, 1997, as follows:~~
- ~~1. Expiration date. The Hospital Reimbursement Pilot shall be effective until September 30, 2000.~~
 - ~~2. Outpatient hospital services. As prescribed in A.A.C. R9-22-705 and R9-28-705, outpatient hospital services, including observation days and emergency room treatments that do not result in an admission, may be reimbursed either through a hospital contract negotiated between a contractor and a hospital, or the reimbursement rates set forth in A.R.S. § 36-2903.01(J). Outpatient hospital services that result in an admission shall be included in this pilot.~~
 - ~~3. Out-of-area hospital services. Payment to hospitals outside of Maricopa and Pima counties are not included in the pilot.~~
 - ~~4. Exclusions. A contractor shall not be:
 - a. The Department of Health Services, Behavioral Health and Children Rehabilitative Services;
 - b. Tribal governments;
 - e. Department of Economic Security – Comprehensive Medical Dental Plan; and
 - d. Health Care Group.~~
1. This Section applies to an urban hospital who receives payment for inpatient hospital services under A.R.S. §§ 36-2903.01 and 36-2904.
 2. AHCCCS shall operate an inpatient hospital reimbursement program under A.R.S. § 36-2905.01 and this Section.
 3. Residency of the member receiving inpatient AHCCCS covered services is not a factor in determining which hospitals are required to contract with which contractors.
 4. An urban contractor shall enter into a contract for reimbursement for inpatient AHCCCS covered services with one or more urban hospitals located in the same county as the urban contractor.
 5. A noncontracted urban hospital shall be reimbursed for inpatient services by an urban contractor based on the tiered per diem rates for that hospital as defined in A.R.S. § 36-2903.01 and R9-22-712, multiplied by 95% unless otherwise negotiated by both parties.
- C.** Contract Begin Date. A contract under this Article shall cover inpatient acute care hospital services for members with hospital admissions on and after October 1, 2003.
- D.** Outpatient urban hospital services. Outpatient urban hospital services, including observation days and emergency room treatments that do not result in an admission, shall be reimbursed either through an urban hospital contract negotiated between a contractor and an urban hospital, or the reimbursement rates set forth in A.R.S. § 36-2903.01. Outpatient services in an urban hospital that result in an admission shall be paid as inpatient services in accordance with this Section.
- ~~**E.** Urban Hospital Contracts. The AHCCCS Director may approve or disapprove hospital contracts.~~
- ~~1. Provisions of an urban hospital contracts. ~~The provisions of the The urban hospital contract must shall contain but are is not limited to the following provisions:~~
 - ~~a. Required provisions as described in A.A.C. R9-22-403 or R9-28-603 the Request for Proposals (RFP);~~
 - ~~b. Dispute settlement procedures. If the grievance and appeal procedure AHCCCS Grievance System prescribed in A.R.S. § 36-2903.01(B) and A.A.C. R9-22-801 through R9-22-805 and R9-28-801 through R9-28-804 rule is not used, then arbitration shall be used.~~
 - ~~c. Arbitration procedure. If arbitration is ~~to be~~ used, the urban hospital contract shall identify:
 - i. The parties' agreement on arbitrating claims arising from the contract,
 - ii. Whether arbitration is nonbinding or binding,
 - iii. Timeliness of arbitration,
 - iv. What contract provisions may be appealed,
 - v. What rules will govern arbitrations,
 - vi. The number of arbitrators that ~~will~~ shall be used,
 - vii. How arbitrators ~~will~~ shall be selected, and
 - viii. How arbitrators ~~will~~ shall be compensated.~~
 - ~~d. Timeliness of claims submission and payment;~~
 - ~~e. Prior authorization;~~
 - ~~f. Concurrent review;~~
 - ~~g. Electronic submission of claims;~~
 - ~~h. Claims review criteria;~~
 - ~~i. Payment of discounts or penalties such as quick-pay and slow-pay provisions;~~
 - ~~j. Payment of outliers;~~
 - ~~k. Claim documentation specifications under A.R.S. § 36-2904, which meet the requirements of Laws 1996, Ch. 288, § 20;~~~~

Arizona Administrative Register / Secretary of State
Notices of Exempt Rulemaking

- l. Treatment and payment of emergency room services; and
- m. Provisions for rate changes and adjustments.
2. AHCCCS review and approval of urban hospital contracts.
 - a. ~~The Administration~~ AHCCCS may review, approve, or disapprove the hospital contract rates, terms, ~~and~~ conditions, ~~as well as any~~ and amendments to the contract.
 - b. ~~The An urban~~ contractor shall submit urban hospital contracts and amendments as specified in the RFPs for the contract year beginning October 1, ~~1997~~ 2003, or as specified in the RFP for a new urban hospital ~~contracts~~ contract negotiated after October 1, ~~1997~~ 2003.
 - c. The AHCCCS evaluation of each urban hospital contract shall include but not be limited to the following areas:
 - i. Availability and accessibility of services to members,
 - ii. Related party interests,
 - iii. Inclusion of required terms pursuant to this Section, and
 - iv. Reasonableness of the rates.
3. Evaluation of urban contractor's use of a noncontracted hospital's hospital. ~~The Administration~~ AHCCCS shall evaluate the contractor's use of a contracted versus noncontracted hospital's hospital. ~~pursuant to A.A.C. R9-22-603 or R9-28-604. The purpose of this evaluation is to encourage use of contracted facilities as opposed to noncontracted facilities.~~
4. ~~Marketing materials. The Administration shall monitor the marketing of hospital networks in accordance with R9-22-504 and R9-22-505. A contractor must have an AHCCCS approved contract with a hospital to include the hospital in that contractor's marketing materials.~~
- D.** ~~Transplants. In no case may a contractor's rate exceed the rate established by the Administration for an acute care inpatient stay in which a covered transplant was performed that qualified for catastrophic reinsurance. The contractor may either reimburse the hospitals through the terms of the hospital contract or, in the absence of a hospital contract, at the specialty hospital contract rate established by the Administration pursuant to R9-22-712(A)(4).~~
- E.** ~~Noncontracted hospital provider. In the absence of a hospital contract between a Maricopa or Pima county contractor and hospital, the contractor shall pay the hospital for inpatient services based on the tiered per diem rates for that hospital as defined in A.R.S. § 36-2903.01 and A.A.C. R9-22-712, as of September 30, 1997, multiplied by 95%, unless otherwise negotiated by both parties. If at any time graduate medical education is reimbursed by the Administration outside of the tier rates, the Administration shall adjust the tier rates in effect as of September 30, 1997, accordingly. The contractors shall meet the requirements prescribed in A.A.C. R9-22-705 and R9-28-705.~~
 1. ~~No annual adjustments. The Administration AHCCCS shall make no annual adjustments to these tiered per diem rates for:~~
 - a. ~~Inflation,~~
 - b. ~~Capital costs,~~
 - c. ~~Changes in length of stay, and~~
 - d. ~~Changes made in the rates as a result of rebasing the tiered per diems system pursuant to A.R.S. § 36-2903.01(J).~~
 2. ~~Outlier policy. When there is no pilot negotiated hospital contract, reimbursement of outliers is based upon updated outlier thresholds, and 95% of the statewide average cost-to-charge ratio in effect on September 30, 1997.~~
 3. ~~Quick-pay/slow-pay policy. Payments made to noncontracted hospitals shall be subject to quick-pay discounts and slow-pay penalties in accordance with Laws 1993, Ch. 6, § 29; Laws 1992, Ch. 302, § 14, as amended by Laws 1993, Ch. 6, § 27; and A.R.S. § 36-2904.~~
 4. ~~New hospitals or hospital tiers. For any new hospitals or hospital tiers that are established after September 30, 1997, the tiered per diem rate that would have been established for new hospitals on September 30, 1997, as prescribed in R9-22-712, will be paid at 95%.~~
- F.** ~~Reinsurance. For contractors in Maricopa and Pima counties, reinsurance thresholds shall be calculated pursuant to A.A.C. R9-22-503 or R9-28-709.~~
- F.** Outlier Policy. When there is no hospital contract between an urban contractor and an urban hospital, reimbursement of an outlier is based upon the effective FFS outlier thresholds at 95% of the statewide average cost-to-charge ratio in effect.
- G.** Quick-Pay/Slow-Pay. A payment made by urban contractor to a noncontracted hospital shall be subject to quick-pay discounts and slow-pay penalties under A.R.S. § 36-2904.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

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

PREAMBLE

1. **Sections Affected** **Rulemaking Action**
R9-31-1402 Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**
Authorizing statutes: A.R.S. §§ 36-2903.01 and 36-2983
Implementing statute: A.R.S. § 36-2903.01
3. **The effective date of the rule:**
February 1, 2004
4. **A list of all previous notices appearing in the Register addressing the exempt rule:**
None
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Barbara Ledder
Address: AHCCCS
Office of Legal Assistance
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4580
Fax: (602) 253-9115
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6. **An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**
AHCCCS has amended R9-31-1402 to comply with A.R.S. § 36-2903.01, which requires the agency to promulgate rules for the implementation of cost sharing and premiums. The rulemaking is exempt from the provisions of Title 41, Ch. 6 under Laws 2003, Ch. 265, § 54.
7. **A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
AHCCCS did not review any study relevant to these rules.
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:**
Not applicable
10. **A description of the changes between the proposed rule, including supplemental notices, and final rule (if applicable):**
Not applicable
11. **A summary of the principal comments and the agency response to them:**
The agency did not receive any comments from the public.
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 rule:**
No incorporations by reference

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 31. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
CHILDREN'S HEALTH INSURANCE PROGRAM**

ARTICLE 14. PREMIUMS

Section

R9-31-1402. Premium Amount for a Member who is a Child Determined Eligible Under Article 3 of This Chapter

ARTICLE 14. PREMIUMS

R9-31-1402. Premium Amount for a Member who is a Child Determined Eligible Under Article 3 of This Chapter

- A. For the purposes of this Article, a premium is a monthly amount that an enrolled member pays to the Administration to remain eligible for Title XIX or XXI.
- B. When household income is greater than 150 percent of the FPL and less than or equal to 175 percent of the FPL, the monthly premium payment is ~~\$10~~ \$20 for one eligible child and ~~\$15~~ \$30 for two or more eligible children.
- C. When household income is greater than 175 percent of the FPL and less than or equal to 200 percent of the FPL, the monthly premium is ~~\$20~~ \$25 for one eligible child and ~~\$25~~ \$35 for two or more eligible children.
- D. A household's premium payments as specified in this Section and R9-31-1408, when combined with a household's copayments as specified in R9-22-711, shall not exceed five percent of a household's gross income.
- E. A member's newborn is enrolled immediately upon the Administration receiving notification of the child's birth. Upon enrollment, the household's premium is redetermined.