



Notices of Exempt Rulemaking

Amends R2-20-101(14) to renumber, no substantive change.  
Amends R2-20-101(15) to renumber, no substantive change.  
Amends R2-20-101(16) to renumber, no substantive change.  
Amends R2-20-101(17) to renumber, no substantive change.  
Amends R2-20-101(18) to renumber, no substantive change.  
Adds R2-20-101(19) to define a “legislative candidate.”  
Amends R2-20-101(20) to renumber, no substantive change.  
Adds R2-20-101(21) to define a “person.”  
Amends R2-20-101(22) to renumber, no substantive change.  
Amends R2-20-101(23) to renumber, no substantive change.  
Amends R2-20-101(24) to renumber, no substantive change.  
Amends R2-20-101(25) to renumber, no substantive change.

7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
Not applicable
8. **A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
9. **The summary of the economic, small business, and consumer impact, if applicable:**  
Not applicable
10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):**  
There were no substantive changes between rules as initially proposed and as finally adopted by the Commission.
11. **An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**  
The Commissioners solicited public comment throughout the rulemaking process.  
The Commissioners considered the rule in open meetings and took actions they deemed appropriate.
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. **A list of any incorporated by reference material and its location in the rule:**  
Not applicable
14. **Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**  
Not applicable
15. **The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section  
R2-20-101. Definitions

ARTICLE 1. GENERAL PROVISIONS

**R2-20-101. Definitions**

In addition to the definitions provided in A.R.S. §§ 16-901 and 16-961, the following shall apply to the Chapter, unless the context otherwise requires:

1. “Act” means the Citizens Clean Elections Act set forth in the Arizona Revised Statutes, Title 16, Chapter 6, Article 2.
2. “Audit” means a written report pertaining to an examination of a candidate’s campaign finances that is reviewed by the Commission in accordance with A.A.C. Title 2, Chapter 20, Article 4.
3. “Campaign account” means an account designated by a political committee that is used solely for political campaign purposes as required in A.R.S. § 16-902(C).

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4. "Candidate" means ~~an individual natural person~~ a natural person who receives or gives consent for receipt of a contribution for the ~~candidate's person's~~ nomination for or election to any office in this state, and includes ~~a candidate's~~ the person's campaign committee, the political committee designated and authorized by ~~a candidate~~ the person, or any agents or personnel of the ~~candidate~~ person. When not otherwise specified by statute or these rules, "Candidate" includes a Candidate for Statewide Office or a Legislative Candidate.
5. "Candidate for Statewide Office" means: A natural person seeking the office of governor, attorney general, secretary of state, treasurer, superintendent of public instruction, or mine inspector.
56. "Current campaign account" means a campaign account used solely for election campaign purposes in the present election cycle.
67. "Direct campaign purpose" includes, but is not limited to, materials, communications, transportation, supplies and expenses used toward the election of a candidate. This does not include the candidate's personal appearance, support, or support of a candidate's family member.
78. "Early contributions" means private contributions that are permitted pursuant to A.R.S. § 16-945.
89. "Examination" means an inspection by the Commission or agent of the Commission of a candidate's books, records, accounts, receipts, disbursements, debts and obligations, bank account records, and campaign finance reports related to the candidate's campaign, which may include fieldwork, or a visit to the campaign headquarters, to ensure compliance with campaign finance laws and rules.
910. "Executive Director" means the highest ranking Commission staff member, who is appointed pursuant to A.R.S. § 16-955(J) and is responsible for directing the day-to-day operations of the Commission.
4011. "Expressly advocates" means:
  - a. Conveying a communication containing a phrase such as "vote for," "elect," "re-elect," "support," "endorse," "cast your ballot for," "(name of candidate) in (year)," "(name of candidate) for (office)," "vote against," "defeat," "reject," or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates.
  - b. Making a general public communication, such as in broadcast medium, newspaper, magazine, billboard, or direct mailer referring to one or more clearly identified candidates and targeted to the electorate of that candidate(s):
    - i. that in context can have no reasonable meaning other than to advocate the election or defeat of the candidate(s), as evidenced by factors such as the presentation of the candidate(s) in a favorable or unfavorable light, the targeting, placement, or timing of the communication, or the inclusion of statements of the candidate(s) or opponents; ~~or,~~
    - ii. ~~In the 16 week period immediately preceding a general election.~~
  - c. A communication within the scope of subsection (10)(b) shall not be considered as one that "expressly advocates" merely because it presents information about the voting record or position on a campaign issue of three or more candidates, so long as it is not made in coordination with a candidate, political party, agent of the candidate or party, or a person who is coordinating with a candidate or candidate's agent.
4412. "Extension of credit" means the delivery of goods or services or the promise to deliver goods or services to a candidate in exchange for a promise from the candidate to pay for such goods or services at a later date.
4213. "Family member" means parent, grandparent, spouse, child, or sibling of the candidate or a parent or spouse of any of those persons.
4314. "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.
4415. "Fixed Asset" means tangible property usable in a capacity that will benefit the candidate for a period of more than one year from the date of acquisition.
4516. "Fund" means the Citizens Clean Elections Fund established pursuant to A.R.S. § 16-949(D).
4617. "Future campaign account" means a campaign account that is used solely for campaign election purposes in an election that does not include the present or prior primary or general elections.
4718. "Independent candidate" means a candidate who is registered as an independent or with no party preference or who is registered with a political party that is not eligible for recognition on the ballot.
19. "Legislative Candidate" means: A natural person seeking the office of state senator or state representative.
4820. "Officeholder" means a person who has been elected to a statewide office or the legislature in the most recent election, as certified by the Secretary of State, or who is appointed to or otherwise fills a vacancy in such office.
21. "Person," unless stated otherwise, or having context requiring otherwise, means: A corporation, company, partnership, firm, association or society, as well as a natural person.
4922. "Prior campaign account" means a campaign account used solely for campaign election purposes in a prior election.
2023. "Public funds" includes all funds deposited into the Citizens Clean Elections Fund and all funds disbursed by the Commission to a participating candidate.
2424. "Solicitor" means a person who is eligible to be registered to vote in this state and seeks qualifying contributions from qualified electors of this state.
2225. "Unopposed" means in reference to state senate candidates and statewide candidates other than Corporation Com-





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**6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**

R2-20-109. Reporting Requirements

Amends subsection (A) to include all persons obligated to file any campaign finance report.

Eliminates R2-20-109(A)(3).

Recodifies R2-20-109(A)(1) through (6) as R2-20-109(B)(1) through (5)

Amends subsection (B) to further define joint expenditures and the allocation and reimbursement for joint expenditures.

Recodifies subsection (B) as subsection (C).

Amends subsection (C) to clarify the timing of reporting expenditures are for participating candidates.

Recodifies R2-20-109(C) as R2-20-109(D).

Amends subsection (D) to clarify the transportation requirements are for participating candidates.

Recodifies R2-20-109(D) as R2-20-109(E).

Amends subsection (E) to clarify participating candidates' reports and refunds of excess monies.

Adds subsection (F) to clarify reporting requirements for independent expenditures.

Adds subsection (G) to clarify reporting requirements for non-participating candidates.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Not applicable

**8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact, if applicable:**

Not applicable

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

There were no substantive changes between rules as initially proposed and as finally adopted by the Commission.

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

The Commissioners solicited public comment throughout the rulemaking process.

The Commissioners considered the rule in open meetings and took actions they deemed appropriate.

**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. A list of any incorporated by reference material and its location in the rule:**

Not applicable

**14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**

Not applicable

**15. The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section

R2-20-109. Reporting Requirements

ARTICLE 1. GENERAL PROVISIONS

R2-20-109. Reporting Requirements

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- A.** ~~Reporting of transactions: All campaign finance reports shall be filed in electronic format in~~ In accordance with A.R.S. § 16-958(E), all persons obligated to file any campaign finance report under any provisions of Chapter 6, Article 2 of the Arizona Revised Statutes shall file such reports using the Secretary of State's Internet-based finance-reporting system, except if expressly provided otherwise by another Commission rule. Campaign finance reports shall be available on the Secretary of State's web site.
- B.** All participating candidates shall file campaign finance reports that include all receipts and disbursements for their current campaign account ~~using the Secretary of State's Internet-based finance-reporting system~~ as follows:
1. Expenditures for consulting, advising, or other such services to a candidate shall include a detailed description of what is included in the service, including an allocation of services to a particular election. When appropriate, the Commission may treat such expenditures as though made during the general election period.
  2. If a participating candidate makes an expenditure on behalf of the campaign using personal funds, the candidate's campaign shall reimburse the candidate within seven calendar days of the expenditure. After the 7 day period has passed, the expenditure shall be deemed an in-kind contribution subject to all applicable limits.
  3. ~~Original and supplemental campaign finance reports filed pursuant to A.R.S. §§ 16-941 and 16-958 shall include the same information regarding receipts and disbursements as required by A.R.S. § 16-915.~~
  - 4.3. A candidate may authorize an agent to purchase goods or services on behalf of such candidate, provided that:
    - a. Expenditures shall be reported as of the date that the agent promises, agrees, contracts or otherwise incurs an obligation to pay for the goods or services;
    - b. The candidate shall have sufficient funds in the candidate's campaign account to pay for the amount of such expenditure at the time it is made and all other outstanding obligations of the candidate's campaign committee; and
    - c. Within seven calendar days of the date upon which the amount of the expenditure is known, the candidate shall pay such amount from the candidate's campaign account to the agent who purchases the goods or services.
  - 5.4. A joint expenditure is made when two or more candidates agree to share the cost of goods or services. Candidates may make a joint expenditure on behalf of one or more other campaigns, but must be authorized in advance by the other candidates involved in the expenditure, and must be reimbursed within seven days. Participating candidates may participate in joint expenditures for the cost of goods and services with one or more candidates, subject to the following:
    - a. Joint expenditures must be authorized in advance by all candidates sharing in the expenditure and allocated fairly among candidates. An allocated share of a joint expenditure paid by one candidate pursuant to such an agreement must be reimbursed within seven days.
    - b. Any violator of part (a) shall be liable for a penalty pursuant to R2-20-222, in addition to penalties prescribed by any other law.
    - c. If a fairly allocated share of any joint expenditure is not reimbursed to a candidate, the unreimbursed amount of the joint expenditure fairly allocated to that candidate shall be deemed a contribution to that candidate by the campaign committee of the candidate obligated to reimburse the share.
    - d. If a fairly allocated share of any joint expenditure is not reimbursed to a participating candidate, the candidate obligated to reimburse the share shall reimburse the fund for the unreimbursed amount of the joint expenditure fairly allocated to the obligated candidate, in addition to any penalty specified by law.
  - 6.5. For the purposes of the Act and Commission rules, a candidate or campaign shall be deemed to have made an expenditure as of the date upon which the candidate or campaign promises, agrees, contracts or otherwise incurs an obligation to pay for goods or services.
- ~~B-C.~~** Timing of reporting expenditures.
1. Except as set forth in subsection ~~(FB)(2) below~~ above, a participating candidate shall report a contract, promise or agreement to make an expenditure resulting in an extension of credit as an expenditure, in an amount equal to the full future payment obligation, as of the date the contract, promise or agreement is made.
  2. In the alternative to reporting in accordance with subsection ~~(FB)(1) above~~, a participating candidate may report a contract, promise or agreement to make an expenditure resulting in an extension of credit as follows:
    - a. For a month-to-month or other such periodic contract or agreement that is terminable by a candidate at will and without any termination penalty or payment, the candidate may report an expenditure, in an amount equal to each future periodic payment, as of the date upon which the candidate's right to terminate the contract or agreement and avoid such future periodic payment elapses.
    - b. For a contract, promise or agreement to provide goods or services during the general election period that is contingent upon a candidate advancing to the general election period, the candidate may report an expenditure, in an amount equal to the general election period payment obligation, as of the date upon which such contingency is satisfied.
    - c. For a contract, promise or agreement to pay rent, utility charges or salaries payable to individuals employed by a candidate's campaign committee as staff, the candidate may report an expenditure, in an amount equal to each periodic payment, as of the date that is the sooner of (i) the date upon which payment is made; or (ii) the date

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upon which payment is due.

**E.D.** Transportation expenses.

1. Except as otherwise provided in this subsection (**E.D.**), the costs of transportation relating to the election of a participating statewide or legislative office candidate shall not be considered a direct campaign expense and shall not be reported by the candidate as expenditures or as in-kind contributions.
2. If a participating candidate travels for campaign purposes in a privately owned automobile, the candidate may use campaign funds to reimburse the owner of the automobile at a rate not to exceed the state mileage reimbursement rate in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure. If a candidate chooses to use campaign funds to reimburse, the candidate shall keep an itinerary of the trip, including name and type of events(s) attended, miles traveled and the rate at which the reimbursement was made. Traditional candidates may reimburse in a similar fashion, but are not required to stay within the State mileage rate.
3. Use of airplanes.
  - a. If a participating candidate travels for campaign purposes in a privately owned airplane, within 7 days from the date of travel, the candidate shall use campaign funds to reimburse the owner of the airplane at a rate of \$150 per hour of flying time, in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure. If the owner of the airplane is unwilling or unable to accept reimbursement, the participating candidate shall remit to the fund an amount equal to \$150 per hour of flying time.
  - b. If a participating candidate travels for campaign purposes in a state-owned airplane, within 7 days from the date of travel, the candidate shall use campaign funds to reimburse the state for the portion allocable to the campaign in accordance with subsection 3a, above. The portion of the trip attributable to state business shall not be reimbursed. If payment to the State is not possible, the payment shall be remitted to the Clean Elections Fund.
4. If a participating candidate rents a vehicle or purchases a ticket or fare on a commercial carrier for campaign purposes, the actual costs of such rental (including fuel costs), ticket or fare shall be considered a direct campaign expense and shall be reported as an expenditure.

**D.E.** Reports and Refunds of Excess Monies by Participating Candidates

1. ~~Participating candidate reporting requirements.~~ In addition to the campaign finance reports filed pursuant to A.R.S. §16-913, participating candidates shall file the following campaign finance reports and dispose of excess monies as follows:
  - a. Prior to filing the application for funding pursuant to A.R.S. §16-950, participating candidates shall file a campaign finance report with the names of the persons who have made qualifying contributions to the candidate.
  - b. At the end of the qualifying period, a participating candidate shall file a campaign finance report consisting of all early contributions received, including personal monies and the expenditures of such monies.
    - i. The campaign finance report shall be filed with the Secretary of State no later than five days after the last day of the qualifying period and shall include all campaign activity through the last day of the qualifying period.
    - ii. If the campaign finance report shows any amount unspent monies, the participating candidate, within five days after filing the campaign finance report, shall remit all unspent contributions to the Fund, pursuant to A.R.S. §16-945(B). Any unspent personal monies shall be returned to the candidate or the candidates' family member within five days.
2. ~~Primary election and general election campaign finance reports.~~ Each participating candidate shall file a campaign finance report consisting of all expenditures made in connection with an election, all contributions received in the election cycle in which such election occurs, and all payments made to the Clean Elections Fund. If the campaign finance report shows any amount unspent, the participating candidate, within five days after filing the campaign finance report, shall send a check from the candidate's campaign account to the Commission in the amount of all unspent monies to be deposited the Fund.
  - a. The campaign finance report for the primary election shall be filed within five days after the primary election day and shall reflect all activity through the primary election day.
  - b. The campaign finance report for the general election shall be considered filed upon the filing of the post-general campaign finance report filed in accordance with A.R.S. § 16-913(B)(3).
3. In the event that a participating candidate purchases goods or services from a subcontractor or other vendor through an agent pursuant to subsection (A)(3), the candidate's campaign finance report shall include the same detail as required in A.R.S. § 16-948(C) for each such subcontractor or other vendor. Such detail is also required when petty cash funds are used for such expenditures.

**F.** Independent Expenditure Reporting Requirements.

1. Any person making independent expenditures cumulatively exceeding the amount prescribed in A.R.S. § 16-941(D) in an election cycle shall file campaign finance reports in accordance with A.R.S. § 16-958 and Commission rules.
2. Any person required to comply with A.R.S. § 16-917 shall provide a copy of the literature and advertisement to the Commission at the same time and in the same manner as prescribed by A.R.S. § 16-917(A) and (B). For purposes of this subsection (F), "literature and advertisement" includes electronic communications, including emails and social



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- media messages or postings, sent to more than 1,000 people.
3. Any person making an independent expenditure on behalf of a candidate and not timely filing a campaign finance report as required by A.R.S. § 16-941(D), A.R.S. § 16-958, or A.R.S. § 16-913 shall be subject to a civil penalty as described in A.R.S. § 16-942(B). Penalties imposed pursuant to this subsection shall not exceed twice the amount of expenditures not reported. Penalties shall be assessed as follows:
    - a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
    - b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
    - c. The penalties shall be doubled if the amount not reported for a particular election cycle exceeds the applicable primary or general spending limit.
  4. Any corporation, limited liability company, or labor organization that is in compliance with or intends to comply with A.R.S. § 16-920(A)(6) and A.R.S. § 16-914.02(A)(2) may seek an exemption from the reporting requirements of A.R.S. § 16-941(D) and A.R.S. § 16-958(A) and (B) by applying to the Commission for certification using a form specified by the Commission's Executive Director.
  5. The form shall contain, at a minimum, a sworn statement by a natural person authorized to bind the corporation, limited liability company, or labor organization certifying that the corporation, limited liability company, or labor organization:
    - a. Was not organized primarily for the purpose of influencing an election;
    - b. Does not accept, and does not intend during the election cycle to accept, any donations or contributions for the purpose of influencing elections;
    - c. Is in compliance with, and intends to remain in compliance with, the reporting requirements of A.R.S. § 16-914.02, other than subsection (K); and
    - d. Has or intends to spend more than the applicable threshold prescribed by A.R.S. § 16-914.02(A)(1) and (A)(2).
  6. A corporation, limited liability company, or labor organization that does not receive an exemption from the Commission must comply with A.R.S. § 16-941(D) and A.R.S. § 16-958.
  7. Unless the request for an exemption is incomplete or the Executive Director is aware that any required statement is untrue or incorrect, the Executive Director shall grant the exemption. Civil penalties shall not accrue during the pendency of a request for exemption.
    - a. If the Executive Director deems the application for exemption is incomplete the person may reapply within two weeks of the Executive Director's decision by filing a completed application for exemption.
    - b. The denial of an exemption pursuant to this subsection is an appealable agency action. The Executive Director shall draft and serve notice of an appealable agency action pursuant to A.R.S. § 41-1092.03 and § 41-1092.04 on the respondent. The notice shall identify the following:
      - i. The specific facts constituting the denial;
      - ii. A description of the respondent's right to request a hearing and to request an informal settlement conference;  
and
      - iii. A description of what the respondent may do if the respondent wishes to remedy the situation without appealing the Commission's decision.
  8. A corporation, limited liability company, or labor organization that has received an exemption is exempt from the filing requirements of A.R.S. § 16-941(D) and A.R.S. § 16-958 and the civil penalties outlined in A.R.S. § 16-942, provided that the exempt entity, during the election cycle (i) does not accept any donations or contributions for the purpose of influencing any election, (ii) remains in compliance with the reporting requirements of A.R.S. § 16-914.02, other than subsection (K), and (iii) remains in compliance with subsection (2) of this subsection (F). All Commission rules and statutes related to enforcement apply to exempt entities. The Commission may audit any exempt entity pursuant to Article 4 of these rules.
  9. Any person may file a complaint with the Commission alleging that (i) any corporation, limited liability company, or labor organization that has applied for or received an exemption under this subsection has provided false information in an application or violated the terms of the exemption stated in subsection (8) of this subsection (F); or (ii) any person that has not applied for or received an exemption has violated A.R.S. § 16-941(D), § 16-958, or subsections (1), (2), (6), or (8) of this subsection (F). Complaints shall be processed as prescribed in Article 2 of these rules. If the Commission finds that a complaint is valid, the person complained of shall be liable as outlined in A.R.S. § 16-942(B) and subsection (3) of this subsection (F), in addition to any other penalties applicable pursuant to rule or statute.
- G. Non-participating Candidate Reporting Requirements.** Any person may file a complaint with the Commission alleging that any person has failed to comply with or violated A.R.S. § 16-941(B). Complaints shall be processed as prescribed in Article 2 of these rules. In addition to those penalties outlined in R2-20-222, a candidate or candidate's committee violating §16-941(B) shall be subject to penalties prescribed in A.R.S. § 16-905 and A.R.S. § 16-942(B) and (C) as follows:
1. Penalties under A.R.S. § 16-942(B):
    - a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
    - b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.



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

The Commissioners solicited public comment throughout the rulemaking process.

The Commissioners considered the rule in open meetings and took actions they deemed appropriate.

**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. A list of any incorporated by reference material and its location in the rule:**

Not applicable

**14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**

Not applicable

**15. The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 2. COMPLIANCE AND ENFORCEMENT PROCEDURES

Section

R2-20-222. Civil Penalties

ARTICLE 2. COMPLIANCE AND ENFORCEMENT PROCEDURES

**R2-20-222. Civil Penalties**

- A. If the Commission has reason to believe by a preponderance of the evidence that a participating candidate is not in compliance with the Act or Commission rules, then in addition to other penalties under law, the Commission may decertify a candidate, deny or suspend funding, order repayment of funds, or impose a penalty not to exceed \$1,000 for a participating candidate for the legislature and \$5,000 for a participating candidate for statewide office.
- B. If the Commission has reason to believe by a preponderance of the evidence that a person other than a participating candidate is not in compliance with the Act or Commission rules, then in addition to other penalties under law, the Commission may impose a penalty not to exceed \$1,000.
- C. ~~A civil penalty negotiated by the Commission or imposed by a court for a violation of the Act shall not exceed the greater of \$10,000 or an amount equal to any contribution or expenditure involved in the violation. In the case of a knowing and willful violation, the civil penalty shall not exceed the greater of \$15,000 or an amount equal to 200 percent of any contribution or expenditure involved in the violation.~~

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ADMINISTRATION

*Editor's Note: The following Notice of Exempt Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 3534.) The Governor's Office authorized the notice to proceed through the rulemaking process on August 14, 2013.*

[R13-191]

**PREAMBLE**

**1. Article, Part, or Section Affected (as applicable)**

R9-22-710

**Rulemaking Action:**

Amend

**2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**

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

Implementing statute: A.R.S. § 36-2239(H); Arizona Laws 2013, Ch. 10, §§ 3 and 25

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

October 18, 2013 (upon filing with the Secretary of State)

**4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**

None

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

Name: Mariaelena Ugarte  
Address: AHCCCS  
Office of Administrative and Legal Services  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSrules@azahcccs.gov  
Web site: www.azahcccs.gov

**6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**

The recently enacted Health Budget Reconciliation Bill, House Bill 2010 (Arizona Laws 2013, Ch. 10), amended A.R.S. § 36-2239 such that reimbursement of ambulances is no longer tied to rates established by the Arizona Department of Health Services. However, for the contract year beginning October 1, 2013, the bill requires that AHCCCS reimburse ambulance services at 68.59%, and beginning October 1, 2014, the bill requires the ambulance reimbursement in the amount equal to 74.74%, of the rates established by the Department of Health Services. The bill also exempted rules regarding revisions to ambulance reimbursement from the rulemaking requirements of A.R.S. Title 41 (§10). The bill became effective September 15, 2013.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

A study was not relied upon for this rulemaking.

**8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact, if applicable:**

Not applicable

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

A proposed rulemaking was not required for this rule change.

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

No comments were received since a proposed rulemaking and comment period were not required.

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

None

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Not applicable

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

An analysis was not submitted.

**13. A list of any incorporated by reference material and its location in the rule:**

None

Notices of Exempt Rulemaking

**14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**

None

**15. The full text of the rules follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ADMINISTRATION**

**ARTICLE 7. STANDARDS FOR PAYMENTS**

Section

R9-22-710. Payments for Non-hospital Services

**ARTICLE 7. STANDARDS FOR PAYMENTS**

**R9-22-710. Payments for Non-hospital Services**

- A.** Capped fee-for-service. The Administration shall provide notice of changes in methods and standards for setting payment rates for services in accordance with 42 CFR 447.205, December 19, 1983, incorporated by reference and on file with the Administration and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
1. Non-contracted services. In the absence of a contract that specifies otherwise, a contractor shall reimburse a provider or noncontracting provider for non-hospital services according to the Administration's capped-fee-for-service schedule.
  2. Procedure codes. The Administration shall maintain a current copy of the National Standard Code Sets mandated under 45 CFR 160 (October 1, 2004) and 45 CFR 162 (October 1, 2004), incorporated by reference and on file with the Administration and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
    - a. A person shall submit an electronic claim consistent with 45 CFR 160 (October 1, 2004) and 45 CFR 162 (October 1, 2004).
    - b. A person shall submit a paper claim using the National Standard Code Sets as described under 45 CFR 160 (October 1, 2004) and 45 CFR 162 (October 1, 2004).
    - c. The Administration may deny a claim for failure to comply with subsection (A) (2) (a) or (b).
  3. Fee schedule. The Administration shall pay providers, including noncontracting providers, at the lesser of billed charges or the capped fee-for-service rates specified in subsections (A)(3)(a) through (A)(3)(d) unless a different fee is specified in a contract between the Administration and the provider, or is otherwise required by law.
    - a. Physician services. Fee schedules for payment for physician services are on file at the central office of the Administration for reference use during customary business hours.
    - b. Dental services. Fee schedules for payment for dental services are on file at the central office of the Administration for reference use during customary business hours.
    - c. Transportation services. Fee schedules for payment for transportation services are on file at the central office of the Administration for reference use during customary business hours. For dates of service beginning:
      - i. October 1, 2012 through September 30, 2013, the Administration and its contractors shall reimburse ambulance services at 68.59 percent of the ADHS rates that are in effect as of August 2, 2012.
      - ii. October 1, 2013 through September 30, 2014, the Administration and its contractors shall reimburse ambulance services at 68.59 percent of the ADHS rates that are in effect as of August 2, 2013.
      - iii. October 1, 2014 through September 30, 2015, the Administration and its contractors shall reimburse ambulance services at 74.74 percent of the ADHS rates that are in effect as of August 2, 2014.
    - d. Medical supplies and durable medical equipment (DME). Fee schedules for payment for medical supplies and DME are on file at the central office of the Administration for reference use during customary business hours. The Administration shall reimburse a provider once for purchase of DME during any two-year period, unless the Administration determines that DME replacement within that period is medically necessary for the member. Unless prior authorized by the Administration, no more than one repair and adjustment of DME shall be reimbursed during any two-year period.
- B.** No change
- C.** No change
1. No change

**Notices of Exempt Rulemaking**

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- a. No change
- b. No change
- c. No change
- d. No change
- e. No change
- f. No change
- g. No change
- h. No change
- i. No change
- 2. No change
  - a. No change
    - i. No change
    - ii. No change
    - iii. No change
  - b. No change
  - c. No change
- 3. No change
  - a. No change
  - b. No change
- 4. No change
- 5. No change
- 6. No change
- 7. No change
- 8. No change