
NOTICES OF RULEMAKING DOCKET OPENING

This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening.

A docket opening is the first part of the administrative rulemaking process. It is an “announcement” that the agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. Many times an agency may file the Notice of Rulemaking Docket Opening with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

NOTICE OF RULEMAKING DOCKET OPENING**ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)**

[R16-49]

1. Title and its heading:**Chapter and its heading:****Article and its heading:****Section numbers:**

9, Health Services

21, Arizona Health Care Cost Containment System - Behavioral Health Services for Persons with Serious Mental Illness

1, General Provisions

2, Rights Of Persons With Serious Mental Illness

3, Individual Service Planning For Behavioral Health Services For Persons With Serious Mental Illness

4, Appeals, Grievances, and Requests For Investigation For Persons With Serious Mental Illness

R9-21-101 through R9-21-106, R9-21-201, R9-21-203 through R9-21-206.01, R9-21-208, R9-21-209, Exhibit A, R9-21-301, R9-21-303, R9-21-307, R9-21-309 through R9-21-311, and R9-21-401 through R9-21-410 (*As part of this rulemaking, the Administration may add, delete, or modify Sections as necessary.*)

2. The subject matter of the proposed rule:

The Administration is proposing rule to implement the statutory “behavioral health simplification and integration” where the AHCCCS Administration assumes full administrative and operational responsibility for the provision of behavioral health services effective July 1, 2016. Senate Bill 1257 (Laws 2015, Chapter 195) provides for the statutory transfer of behavioral health responsibilities from the Arizona Department of Health Services (ADHS) to AHCCCS. This rulemaking delineates the responsibilities of the AHCCCS Administration to oversee the provision of behavioral health services under Title 9 Chapter 21 of the Arizona Administrative Code (AAC) for persons with a serious mental illness (SMI) as defined under R9-21-101 and A.R.S. § 36-550.

Rules under Title 9, Chapter 21 of the AAC, first enacted in October 1993 and last amended in June 2003; apply to persons with a SMI diagnosis, regardless of Medicaid eligibility. The Administration has chosen to make changes to this Chapter in two phases. This rulemaking is the first phase, and because the Administration is assuming administrative and operational responsibility for the provision of behavioral health services to persons with a SMI diagnosis, within all rules, the terms “department”, “division”, or “director” were changed to “Administration” or “mental health agency”, where applicable, and cross-references were updated to statutes or other rule sections, as appropriate. More significant of these proposed changes includes alignment of the hearing process with the Administrative Procedure Act (APA), A.R.S. §41-1092, deletion of antiquated or inaccurate language, updating of language to reflect AHCCCS terminology, and updating of language to reflect AHCCCS organizational structure.

• Article 1’s objective is to describe General Provisions that apply to this Chapter. This Article describes definitions, the applicability of the SMI requirements, how time is computed when actions are made, the establishment of the Human Rights Committees, requirements of the Office of Human Rights and Advocates, and the state protection and Advocacy system. Within this Article, we have verified the use of the definitions described, updated cross-references, and added a section to guide the person to where the definitions can be found. The Article was updated to reflect that this Chapter will apply to the Administration and all mental health agencies. Sections were stricken that are no longer applicable, such as licensing (the Administration does not license or certify these agencies)



- Article 2's objective is to describe the rights of persons with SMI. This Article describes Civil and Other Legal Rights, Right to Support and Treatment, Protection from Abuse, Neglect, Exploitation and Mistreatment, Restraint and Seclusion, Labor, Competency and Consent, Informed Consent, Medication, Property and Possessions, Records, Policies and Procedures of Service Providers, Notice of Rights, and Exhibits. Within this Article, no significant changes were made, except for the terms relative to the Administration assuming responsibility, cross-reference updates, and minor clarifications.

- Article 3's objective is to describe the Individual Service Planning for behavioral health services for person with SMI. This Article describes General Provisions, Identification, Application, and Referral for Services of Persons with Serious Mental Illness, Eligibility Determination and Initial Assessment, Interim and Emergency Services, Assessments, Identification of Potential Service Providers, Selection of Service Providers, Implementation of the Individual Service Plan, Interim Services, Inpatient Treatment and Discharge Plan, Periodic Review of Individual Service Plans, and Modification or Termination of Plans. Within this Article, no significant changes were made, except for the terms relative to the Administration assuming responsibility.

- Article 4's objective is to describe appeals, grievances, and requests for investigation for persons with SMI. This Article describes Appeals, General requirements, Initiating a Grievance or Investigation, Persons Responsible for Resolving Grievances and Requests for Investigations, Preliminary Disposition, Conduct of Investigation, Administrative Appeal, Further Appeal to Administrative Hearing, Notice and Records, and Miscellaneous requirements. Within this Article, there were several changes. Like the other Articles, there were updates made to reflect the terms relative to the Administration assuming responsibility, cross-reference updates, and minor clarifications. This Article, on its face, appears to have significant changes made. However, the Administration adheres to timelines and processes set forth in the APA (A.R.S. §41-1092), and much of the previous language in this Article relating to timelines was stricken and replaced with cross-references to the APA. There are also the removal of some of the processes that were used when ADHS had the responsibility, but to which the Administration does not adhere.

- Article 5 – Article 5's objective is to describe Court-Ordered Evaluation and Treatment for persons with SMI. This Article describes Court-Ordered Evaluations, Emergency Admissions for evaluation, Voluntary Admission, Court-Ordered Treatment, Coordination of Court-Ordered Treatment with ISP's and ITDP's, Review and Transfers of Court-Ordered Individuals, Requests for Notification, Voluntary Admission for Treatment, Informed Consent, Use of Psychotropic Medication, Seclusion and Restraint, and Exhibits. No changes were made to this Article.

The second phase, which will be initiated at a later date, is intended to address more substantive changes through further review of statute and relevant litigation as well as consideration of best practices for the treatment and support of persons with SMI, with particular emphasis on patient outcomes.

3. A citation to all published notices relating to the proceeding:

Notice of Proposed Rulemaking: 22 A.A.R. 731, April 8, 2016 (*in this issue*).

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

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

5. The time which the agency will accept written comments and the time and place where oral comments may be made:

The Administration will accept written comments Monday through Friday, 8 a.m. to 5 p.m., at the address indicated in question #4. Public hearings will be scheduled later to provide a forum for interactive discussion with interested parties. E-mail comments will be accepted.

6. A timetable for agency decisions or other action on the proceeding, if known:

The Administration has initiated this rulemaking within the 60-day time period as stated under A.R.S. § 41-1033. The Notice of Proposed Rulemaking is published along with this notice (see page 731).

NOTICE OF RULEMAKING DOCKET OPENING

ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)

[R16-50]

1. **Title and its heading:** 9, Health Services
Chapter and its heading: 22, Arizona Health Care Cost Containment System - Administration
Article and its heading: 7, Standards For Payments
Section numbers: R9-22-701, R9-22-712.35, R9-22-712.61, R9-22-712.66, R9-22-712.67, R9-22-712.71, R9-22-712.75 (*As part of this rulemaking, the Administration may add, delete, or modify Sections as necessary.*)
2. **The subject matter of the proposed rule:**

The proposed rulemaking will amend and clarify rules specifying payments to hospitals for inpatient services under the Diagnostic Related Group (DRG) methodology. Significantly, this rulemaking will also include the addition of differential adjusted payments made to hospitals for both inpatient and outpatient services which satisfy specific criteria for receipt of VBP Differential Adjusted Payments by the AHCCCS Administration as well as Managed Care Contractors. The purpose of VBP Differential Adjusted Payments is to reward hospital providers that have taken designated actions to improve patients' care experience, improve members' health, and reduce the growth of the cost of care. Facilities which satisfy the criteria will receive increased payments for inpatient and outpatient services. Other topics of the proposed rulemaking include addition of a high acuity pediatric policy adjustor and clarification of payments for hospitalization of members who no longer meet inpatient criteria when they cannot be safely discharged, when no other setting is available, or when members must be transferred to another hospital for sub-acute services.
3. **A citation to all published notices relating to the proceeding:**

Notice of Proposed Rulemaking: 22 A.A.R. 761, April 8, 2016 (*in this issue*).
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**

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Telephone: (602) 417-4693
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E-mail: AHCCCSrules@azahcccs.gov
5. **The time which the agency will accept written comments and the time and place where oral comments may be made:**

The Administration will accept written comments Monday through Friday, 8 a.m. to 5 p.m., at the address indicated in question #4. Public hearings will be scheduled later to provide a forum for interactive discussion with interested parties. E-mail comments will be accepted.
6. **A timetable for agency decisions or other action on the proceeding, if known:**

The Administration has initiated this rulemaking within the 60-day time period as stated under A.R.S. § 41-1033. The Notice of Proposed Rulemaking is published along with this notice (see page 761).

NOTICE OF RULEMAKING DOCKET OPENING

ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)

[R16-51]

1. **Title and its heading:** 9, Health Services
Chapter and its heading: 22, Arizona Health Care Cost Containment System - Administration
Article and its heading: 7, Standards For Payments
Section numbers: R9-22-712.15 (*As part of this rulemaking, the Administration may add, delete, or modify Sections as necessary.*)
2. **The subject matter of the proposed rule:**

The proposed rulemaking clarifies that the AHCCCS Outpatient Capped Fee-For-Service Schedule delineated in



A.A.C. R9-22-712.10 through R9-22-712.50 shall apply only to payments for outpatient hospital services provided by non-IHS acute hospitals and not to payments for outpatient services of freestanding outpatient treatment centers that are affiliated with hospitals (“provider-based”) and provide emergency services. Outpatient treatment centers are a class of health care institutions without inpatient beds as defined in A.A.C. R9-10-101(130). A subclass of outpatient treatment centers provides emergency services under A.A.C R9-10-1019 and may be subject to 42 CFR 489.24, implementing the Emergency Medical Treatment and Active Labor Act (EMTALA). Such institutions are also referred to as freestanding emergency rooms or freestanding emergency departments. Some are licensed separately from the hospital they are affiliated with while others operate under a single group license with the hospital. This proposed rulemaking clarifies that services provided by outpatient treatment centers, including provider-based freestanding outpatient treatment centers, are not outpatient hospital services which are reimbursed as specified in A.A.C. R9-22-712.10 through R9-22-710.50. Instead, those services are reimbursed under the capped fee schedule established by the AHCCCS Administration which schedule is exempt from the requirements of rule-making under A.R.S. 41-1005(A)(9).

3. A citation to all published notices relating to the proceeding:

Notice of Proposed Rulemaking: 22 A.A.R. 770, April 8, 2016 (*in this issue*).

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

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5. The time which the agency will accept written comments and the time and place where oral comments may be made:

The Administration will accept written comments Monday through Friday, 8 a.m. to 5 p.m., at the address indicated in question #4. Public hearings will be scheduled later to provide a forum for interactive discussion with interested parties. E-mail comments will be accepted.

6. A timetable for agency decisions or other action on the proceeding, if known:

The Administration has initiated this rulemaking within the 60-day time period as stated under A.R.S. § 41-1033. The Notice of Proposed Rulemaking is published along with this notice (see page 770).