

January 28, 2020

The Honorable Karen Fann, President  
Arizona State Senate  
1700 W. Washington  
Phoenix, AZ 85007

The Honorable Russell Bowers, Speaker  
Arizona State House of Representatives  
1700 W. Washington  
Phoenix, AZ 85007

Dear President Fann and Speaker Bowers:

A.R.S. 41-1092.08(B) provides that, within thirty days of receiving an administrative law judge's decision, the head of the agency may review the decision and accept, reject or modify it. If the head of the agency rejects or modifies the decision, the agency head must provide a written justification for the rejection or modification of each finding of fact or conclusion of law.

Subsection (B) also requires that if the agency head rejects or modifies a conclusion of law, the written justification shall be sent to the President of the Senate and the Speaker of the House of Representatives.

Most, if not all, administrative law judge decisions and the associated decision of the agency head regarding the AHCCCS program include information that is confidential under State and federal law. See 45 CFR Part 164 and AAC R9-22-309. As such, AHCCCS cannot provide the full text of the administrative law judge decisions or the agency decision. As a practical matter, redacted versions of the justification for a modification or rejection of an administrative law judge's conclusion of law are not comprehensible without the full context of findings of fact and conclusion of law made by the administrative law judge.

For that reason, AHCCCS is providing quarterly summary information. For the quarter ending December 31, 2019, AHCCCS has identified 7 matters where the agency had rejected or modified an administrative law judge's conclusions of law. During that same quarter, AHCCCS reviewed 173 administrative law judge decisions. The following Conclusions of Law were modified or rejected:

- Rejected a Conclusion of Law that the member failed to establish that a medication/device was not experimental based on FDA approval; rejected the recommended decision and required the health plan to provide coverage.
- Modified a Conclusion of Law to include more complete legal citations regarding determining the amount of a member's obligation to pay for a portion of long-term care services.
- Modified a Conclusion of Law to delete references to emergency services and included reference to State rules regarding prior period coverage, the DRG payment methodology, and contractual obligation to cover newborn care.

- Modified a Conclusion of Law to correct legal citations regarding the deeming of sponsor income.
- Modified Conclusion of Law to clarify the deficiencies in the health plan's assessment of the need for HCBS.
- Rejected a Conclusion of Law that claim should be paid based on diagnosis of sepsis; rejected recommended decision based on clinical review by the agency and denied the provider's claim dispute
- Modified a Conclusion of Law to correct a legal citation to the requirement for prior authorization as a condition of payment by a health plan to a provider.

Please feel free to contact me if you have any questions about this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Jami Snyder". The signature is fluid and cursive, with the first name "Jami" and last name "Snyder" clearly distinguishable.

Jami Snyder  
Director

cc: Richard Stavneak, Director, Joint Legislative Budget Committee  
Matt Gress, Director, Governor's Office of Strategic Planning and Budgeting  
Christina Corieri, Governor's Office, Senior Policy Advisor