

November 10, 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

Re: Report on Modified or Rejected Administrative Law Judge Conclusions of Law

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 Conclusions of Law made by the administrative law judge.

For that reason, AHCCCS is providing quarterly summary information. For the quarter ending September 30, 2020, AHCCCS has identified 4 matters where the agency had rejected or modified an administrative law judge's Conclusions of Law. During that same quarter, AHCCCS reviewed 117 administrative law judge decisions. The following Conclusions of Law were modified or rejected:

- Modified Conclusion of Law to add a reference to AHCCCS policy regarding coverage of orthotics.

- Modified Conclusions of Law to include additional conclusions regarding the validity of a trust created by a person without legal authority to create a trust and regarding the legal requirements under Arizona law for the creation of a qualifying income-only trust.
- Modified Conclusion of Law to correct legal citation and to reflect that ARS 36-2239 regarding ambulance rates refers to the director of ADHS and not the director of AHCCCS, to correct a legal citation, and to clarify the legal basis for requiring prior authorization for non-emergency ambulance transportation.
- Rejected Conclusions of Law and added citation explaining that coverage of surgery solely for cosmetic purposes not covered by AHCCCS.

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

Sincerely,

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