

July 23, 2021

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 June 30, 2021, AHCCCS has identified three matters where the agency rejected or modified an administrative law judge's Conclusions of Law. During that same quarter, AHCCCS reviewed 103 administrative law judge decisions. The following Conclusions of Law were modified or rejected:

- Several Conclusions of Law were modified regarding the burden of proof regarding the value of Complaint's personal injury claim as it related to the Respondent's lien for the cost of medical care paid for by the Respondent. The agency decision rejected the Administrative Law Judge's decision to adopt the Respondent's calculation of a fair and equitable compromise under ARS § 36-2915.
- A Conclusion of Law was modified to conform the conclusion to the facts regarding whether the applicant met the medical standard for ALTCS.

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- A Conclusion of Law was modified to clarify the application of the rule regarding the exclusion of experimental service to off-label use of FDA approved drugs.

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

Sincerely,

A handwritten signature in black ink that reads "Jami Snyder". The signature is written in a cursive style with a large initial "J" and "S".

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