

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 30. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
MEDICARE PART D PRESCRIPTION COVERAGE EXTRA HELP SUBSIDY PROGRAM**

**PREAMBLE**

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

R9-30-201	Amend
R9-30-202	Repeal
R9-30-203	Amend
R9-30-204	Repeal
R9-30-204	New Section
R9-30-205	Repeal
R9-30-206	Repeal
R9-30-207	Amend
R9-30-208	Repeal
R9-30-209	Amend
R9-30-210	Repeal
R9-30-211	Repeal
R9-30-212	Amend
R9-30-213	Amend
R9-30-214	Amend
R9-30-215	Amend
R9-30-216	Amend
R9-30-218	Amend
Article 4	Repeal
R9-30-401	Repeal
R9-30-402	Repeal

**2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. §§ 36-2903(O) and 36-2903.01(F)

Implementing statute: A.R.S. § 36-2907(A)(4)

**3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening: [to be filled in by SOS editor]

**4. The agency’s contact person who can answer questions about the rulemaking:**

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  
Web site: www.azahcccs.gov

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 An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The proposed rulemaking will amend and clarify rules to ensure consistency with federal requirements. In part, the rules will be revised to specify that “in kind support” and “maintenance” are not counted as part of the income calculation for purposes of eligibility determination. The current rules will also be amended to state that the value of any life insurance policy is not counted as part of the resource calculation. These provisions are necessary to comply with federal eligibility requirements. Consolidation of rules containing the same subject matter for conciseness, better organization, and improved understanding will be proposed. Technical changes such as cross-reference updates and general clarifying changes will be made along with removal of antiquated language.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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 referenced or relied upon when revising these regulations.

**7. 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.

**8. The preliminary summary of the economic, small business, and consumer impact:**

The Administration anticipates no economic impact on the implementing agency, small businesses and consumers since this rulemaking is intended to provide conciseness and alignment with current federal regulations. The changes made are currently in practice.

**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

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  
Web site: www.azahcccs.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Proposed rule language will be available on the AHCCCS website [www.azahcccs.gov](http://www.azahcccs.gov) the week of April 4, 2016. Please send written or email comments to the above address by the close of the comment period, 5:00 p.m., May 23, 2016.

Date: May 23, 2016  
Time: 1:30 p.m.  
Location: AHCCCS

701 East Jefferson  
Phoenix, AZ 85034

Nature: Public Hearing

Date: May 23, 2016

Time: 1:30 p.m.

Location: ALTCS: Arizona Long-Term Care System  
1010 N. Finance Center Dr, Suite 201  
Tucson, AZ 85710

Nature: Public Hearing

Date: May 23, 2016

Time: 1:30 p.m.

Location: 2717 N. 4th St. STE 130  
Flagstaff, AZ 86004

Nature: Public Hearing

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

No other matters have been prescribed.

**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 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:**

No analysis was submitted.

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

None

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 30. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
MEDICARE PART D PRESCRIPTION COVERAGE EXTRA HELP SUBSIDY PROGRAM**

**ARTICLE 2. ELIGIBILITY**

Section

- R9-30-201. General requirements
- R9-30-202. ~~Opportunity to Apply~~ Repeal
- R9-30-203. How to File an Application
- R9-30-204. ~~Assistance with an Application~~ Repeal
- R9-30-204. Eligibility requirements
- R9-30-205. ~~Social Security Number (SSN)~~ Repeal
- R9-30-206. ~~Residency~~ Repeal
- R9-30-207. Income
- R9-30-208. ~~Ineligible Person~~ Repeal
- R9-30-209. Resources
- R9-30-210. ~~Verification~~ Repeal
- R9-30-211. ~~Medicare Requirements~~ Repeal
- R9-30-212. Eligibility Determination
- R9-30-213. Determination of Extra Help Amount
- R9-30-214. Notice of Eligibility Determination by AHCCCS
- R9-30-215. Effective Date of Eligibility
- R9-30-216. Discontinuance of Eligibility or Change in the Extra Help Amount
- R9-30-218. Reporting Changes

**ARTICLE 4. ~~GRIEVANCE SYSTEM~~ Repeal**

Section

- R9-30-401. ~~State Fair Hearing Request~~ Repeal

R9-30-402. ~~State Fair Hearing for an Applicant or a Member~~ Repeal

## ARTICLE 2. ELIGIBILITY

### R9-30-201. General requirements

- A. In accordance with the requirements of Section 1860D-14(a)(3) of the Act (42 U.S.C. 1395w-114(a)(3)), the applicant may apply for Extra Help with the ~~SSA~~ Social Security Administration (SSA) or with AHCCCS. AHCCCS shall offer to help an applicant complete the SSA's application for Extra Help. If the applicant declines to apply with SSA for the Extra Help program, AHCCCS shall determine eligibility for Extra Help under this Article.
- B. Confidentiality. The Administration shall maintain the confidentiality of an Extra Help applicant's or member's records and limit the release of safeguarded information under R9-22-512.
- C. A person is automatically eligible for the Extra Help program when receiving:
1. Full Medicaid coverage.
  2. Supplemental Security Income (SSI).
  3. Help from Medicaid paying the person's Medicare premiums.
- D. A person residing in a penal institution is not eligible under this Article.
- E. A member or an applicant and the Administration shall comply with 9 A.A.C. 34, when a request for a State Fair Hearing is submitted.

### R9-30-202. ~~Opportunity to Apply~~ Repeal

~~The Administration shall provide the opportunity to apply without delay.~~

### R9-30-203. How to File an Application

- A. To apply for the Extra Help with AHCCCS, a person shall submit a written application form prescribed by AHCCCS to any AHCCCS office or outstation location.
- B. The application is considered filed and complete under ~~R9-22-1501(D)~~ R9-22-302.
- C. An application shall be submitted by:
1. The applicant, or

2. The applicant's personal representative. AHCCCS shall allow a personal representative of the applicant's choice to accompany, assist, and represent the applicant in the application process.

**D. The Administration shall provide the opportunity to apply without delay.**

**R9-30-204. ~~Assistance with an Application~~ Repeal**

**~~A. AHCCCS shall allow a personal representative of an applicant's choice to accompany, assist, and represent the applicant in the application process.~~**

**~~B. Assistance by AHCCCS. If requested, AHCCCS shall help a person complete an application.~~**

**R9-30-204. Eligibility requirements**

The AHCCCS Administration shall require the following for the determination of eligibility of the Extra Help program, an applicant shall:

1. Furnish a SSN or apply for a SSN;
2. Reside in Arizona;
3. Provide verification, or authorize the release of verification, for all information necessary to complete the determination of eligibility; or
4. Be a Medicare beneficiary as defined in 20 CFR 418.3010, March 1, 2016, which is 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.

**R9-30-205. ~~Social Security Number (SSN)~~ Repeal**

~~To be eligible for Extra Help, a person shall furnish a SSN or apply for a SSN.~~

**R9-30-206. Residency Repeal**

~~To be eligible for Extra Help, a person shall reside in Arizona.~~

**R9-30-207. Income**

A. AHCCCS shall calculate countable income under 20 CFR 418.3301 through 418.3350, as of ~~December 30, 2005~~ March 1, 2016, which is 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. AHCCCS shall not count “in-kind support” and “maintenance” as part of the income calculation, specified under 20 CFR 418.3335.

B. AHCCCS shall determine income eligibility under 42 CFR 423.773 as of ~~January 28, 2005~~ March 1, 2016, which is 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.

**R9-30-208. ~~Ineligible Person~~ Repeal**

~~A person residing in a penal institution is not eligible under this Article.~~

**R9-30-209. Resources**

A. AHCCCS shall calculate countable resources under 20 CFR 418.3401 through 418.3425, as of ~~December 30, 2005~~ March 1, 2016, which is 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. AHCCCS shall not count the value of any life insurance policy as part of the resource calculation, as described under 20 CFR 418.3425.

B. AHCCCS shall determine resource eligibility under 42 CFR 423.773, as of ~~January 28, 2005~~ March 1, 2016, which is 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.

**R9-30-210. ~~Verification~~ Repeal**

~~To be eligible for Extra Help, a person shall provide verification, or authorize the release of verification, for all information necessary to complete the determination of eligibility.~~

**R9-30-211. ~~Medicare Requirements~~ Repeal**

~~A person is not eligible for Extra Help unless the person is a Medicare beneficiary as defined in 20 CFR 418.3010, December 30, 2005, which is 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.~~

**R9-30-212. Eligibility Determination**

Determinations of eligibility for Extra Help under this Article are made by AHCCCS within ~~45 days of the date of the application being filed~~ the timeframes specified under 42 CFR 435.911, as of March, 2016, which is 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, if the individual applies with AHCCCS.

**R9-30-213. Determination of Extra Help Amount**

AHCCCS shall determine the amount of an applicant or member's Extra Help under 42 CFR 423.773, 42 CFR 423.780, and 42 CFR 423.782, as of ~~January 28, 2005~~ March 1, 2016, which are 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.

**R9-30-214. Notice of Eligibility Determination by AHCCCS**

- A. Notice. The administration shall send an applicant written notice of the eligibility decision. The notice shall include a statement of the action and an explanation of an applicant or member's hearing rights under 9 A.A.C. 34, ~~Article 4~~.
- B. Approval. If AHCCCS determines that the applicant is eligible, the notice shall contain the effective date of eligibility and the amount of the Extra Help.
- C. Denial. If AHCCCS determines that the applicant is not eligible, the notice shall contain:
  - 1. The effective date of the decision;
  - 2. A statement detailing the reason for the decision, including specific financial calculations and the financial eligibility standard, if applicable; and
  - 3. The legal authority supporting the decision.

**R9-30-215. Effective Date of Eligibility**

The effective date of eligibility is the first day of the first month that the applicant is eligible for Extra Help under this Article, ~~but no earlier than the month in which the applicant applies or January 1, 2006, whichever is later.~~

**R9-30-216. Discontinuance of Eligibility or Change in the Extra Help Amount**

- A. Discontinuance. AHCCCS shall discontinue a person's eligibility if any of the conditions of eligibility under this Article are not met.
- B. Change in the amount of subsidy. AHCCCS will adjust the amount of the Extra Help, if a change in countable income or a change in countable resources causes the subsidy amount to change.
- C. Notice.
  - 1. AHCCCS shall follow the discontinuance notice requirements under ~~R9-22-1501(K)~~ R9-22-306(A)(19).
  - 2. AHCCCS will issue a notice if there is a change in the amount of the Extra Help.

**R9-30-218. Reporting Changes**

A member shall report any changes to AHCCCS, under ~~R9-22-1501(H)~~ R9-22-306.

**ARTICLE 4. ~~GRIEVANCE SYSTEM~~ Repeal**

**R9-30-401. ~~State Fair Hearing Request~~ Repeal**

~~A request for State Fair Hearing under this Chapter shall comply with 9 A.A.C. 34, Article 1.~~

**R9-30-402. ~~State Fair Hearing for an Applicant or a Member~~ Repeal**

~~A State Fair Hearing for a member or an applicant under this Chapter shall comply with 9 A.A.C. 34, Article 1.~~