

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM – ADMINISTRATION

PREAMBLE

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

R9-22-721

Amend

**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. § 36-2905.03

Implementing statutes: A.R.S. § 36-2905.01

**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 DOCKET OPENING: [To be put in by Secretary of State's Staff]

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

Name: Nicole Fries

Address: AHCCCS

Office of Administrative Legal Services

701 E. Jefferson, Mail Drop 6200

Phoenix, AZ 85034

Telephone: (602) 417-4232

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 An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

During the 2018 legislative session, the Arizona legislature enacted A.R.S. § 36-2905.03 which provided that non-contracted behavioral health inpatient facilities (BHIF's) would be reimbursed at 90% of the contracted rate. This rulemaking is an effort to codify and clarify which facilities this statute applies to.

AHCCCS intends to encourage contracting between providers and all contractors to best serve AHCCCS members who require inpatient stays, regardless of whether the BHIF is contracted. The amended rule will encourage competition among BHIF's and Contractors, expand provider networks, promote administrative

efficiencies, and authorize AHCCCS to more efficiently and effectively reimburse BHIF's for inpatient stays. Current federal and state statutory provisions do not prohibit such a change. The proposed rulemaking will also limit AHCCCS Program expenditures to BHIF's in this State by extending applicability of the 90% reimbursement to all AHCCCS Contractors responsible for payments to non-contracted BHIF's. As a result, the rulemaking supports payments to BHIF's that are consistent with efficiency, economy, and quality of care, promoting the fiscal health of the State.

**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:**

This rulemaking creates greater opportunities for contracts between contractors and behavioral health inpatient facilities. Based on these changes, the economic impact of this rulemaking will be a savings due to paying 90% of the reimbursement rate BHIF's stays if they are non-contracting. Since the rulemaking may incentivize urban hospitals to contract at a greater rate, exact savings going forward cannot be predicted; however, it is estimated to be over \$2 million less per year.

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

Name: Nicole Fries  
Address: AHCCCS  
Office of Administrative Legal Services  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4232  
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. Please send written or email comments to the above address by the close of the comment period, 5:00 p.m., September 4, 2018.

Date: September 4, 2018

Time: 2:00 p.m.

Location: AHCCCS  
701 East Jefferson  
Phoenix, AZ 85034

Nature: Public Hearing

Date: September 4, 2018

Time: 2:00 a.m.

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

Nature: Public Hearing

Date: September 4, 2018

Time: 2:00 a.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:**

The rule does not require a permit.

**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:**

Not applicable.

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

Not applicable.

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION**

**ARTICLE 7. STANDARD FOR PAYMENTS**

Section

R9-22-721. Reserved

## ARTICLE 7. STANDARD FOR PAYMENTS

### **R9-22-721. ~~Reserved~~Behavioral Health Inpatient Facilities**

- A.** “Behavioral health inpatient facility” means a health care institution, other than Arizona State Hospital, that meets the following requirements:
1. Provides continuous treatment to an individual experiencing a behavioral health issue that causes the individual to:
    - a. Have a limited or reduced ability to meet the individual's basic physical needs;
    - b. Suffer harm that significantly impairs the individual's judgment, reason, behavior, or capacity to recognize reality;
    - c. Be a danger to self;
    - d. Be a danger to others;
    - e. Be persistently or acutely disabled as defined in A.R.S. § 36-501; or
    - f. Be gravely disabled; and
  2. Is one of the following facility types:
    - a. Psychiatric hospitals;
    - b. Mental health residential treatment centers;
    - c. Secure residential treatment centers with 17 or more beds;
    - d. Non-secure residential treatment centers with 1-16 beds;
    - e. Non-secure residential treatment centers with 17 or more beds;
    - f. Sub-acute facilities with 1-16 beds;
    - g. Sub-acute facilities with 17 or more beds.