

**NOTICE OF FINAL RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 29. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM**

**MEDICARE COST SHARING PROGRAM**

**PREAMBLE**

- |                                                                     |                                  |
|---------------------------------------------------------------------|----------------------------------|
| <b><u>1. Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action:</u></b> |
| R9-29-210                                                           | Amend                            |

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

Authorizing statute: A.R.S. § 36-2972

Implementing statute: A.R.S. § 36-2972

**3. The effective date of the rule:**

The agency selected an effective date of 60 days from the date of filing with the Secretary of State as specified in A.R.S. § 41-1032(A), but no later than December 31, 2013.

**4. Citations to all related notices published in the Register to include the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**

Notice of Rulemaking Docket Opening: 19 A.A.R. 1457, May 31, 2013

Notice of Proposed Rulemaking: 19 A.A.R. 1415, May 31, 2013

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

Name: Mariaelena Ugarte  
Address: 701 E. Jefferson St.  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSrules@azahcccs.gov  
Web site: [www.azahcccs.gov](http://www.azahcccs.gov)

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 An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

42 CFR 435.914 requires the Administration to provide Prior Quarter (PQ) eligibility. PQ eligibility is when a person who applies for AHCCCS may also qualify in any one of the three previous months prior to application. A.R.S. § 36-2903 (A) provides reimbursement responsibility for care provided during an eligibility period. Currently, the Administration is waived from providing PQ eligibility. The waiver does not require the Administration to provide eligibility in any of the three previous months prior to application, and this waiver expires December 31, 2013. Therefore, the Administration will begin to process eligibility for the PQ period effective January 1, 2014.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not 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 implementing PQ eligibility.

**8. 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.

**9. A summary of the economic, small business, and consumer impact:**

The Administration anticipates a moderate economic impact on the implementing agency, small businesses and consumers. The extended eligibility period associated with PQ is estimated to result in payment of approximately \$557,400, for covered services provided during PQ in calendar year 2014.

AHCCCS estimates a substantial reduction in payments associated with PQ eligibility during SFY 2014 attributable to increased AHCCCS enrollment and less churn in eligibility.

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

No significant changes were made between the proposed rulemaking and the final rulemaking. Technical and grammatical changes have been made.

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

The following comment was received as of the close of the comment period of July 1, 2013.

On June 6, 2013, received written comment from Alexa Lawrence, Elder Law Benefits Processor with JacksonWhite Elder Law Attorneys.

If prior quarter is initiated in January 2014, would ALTCS pay for long term care services three months prior to the application month (such as in a nursing home) OR will it only cover acute care services three months prior to the application month?

Will it be mandatory for the applicant to provide financial information for the three months prior to the application month OR can they opt out of prior quarter coverage?

Administration's response:

It is not mandatory to apply for prior quarter eligibility. The first available month for PQ eligibility would be no earlier than January 2014 for eligibility applications initiated Feb. 2014. The applicant must be both financially and medically eligible in each of the prior quarter months in order to be approved for ALTCS in those months. Both nursing facility services and acute care services could potentially be covered depending upon what information/services are provided.

**12. 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 are applicable.

**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:**

The rule is not more stringent than federal law.

**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.

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

None

**14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

Not applicable.

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

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**ARTICLE 2. ELIGIBILITY**

Section

R9-29-210. Effective Date of Eligibility

## ARTICLE 2. ELIGIBILITY

### R9-29-210. Effective Date of Eligibility

- A. QMB. The effective date of eligibility is the first day of the month following the month in which AHCCCS makes the eligibility decision.
- B. SLMB. ~~The effective date of eligibility is the first day of the first month AHCCCS determines the person is eligible under this Article, but no earlier than the first day of the month of application.~~ Eligibility is effective on the first day of the month that all eligibility requirements are met, including the prior quarter period.
- C. QI-1. ~~The effective date of eligibility is the first day of the first month AHCCCS determines the person is eligible under this Article, but no earlier than the first day of the month of application.~~ Eligibility is effective on the first day of the month that all eligibility requirements are met, including the prior quarter period and no earlier than the first day of the current calendar year. QI-1 members are entitled to receive cost sharing assistance through the end of the calendar year in which they qualified for the program.