NOTICE OF EMERGENCY RULEMAKING (RENEWAL)

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - ARIZONA LONG-TERM CARE SYSTEM

PREAMBLE

1. **Permission to proceed with this emergency rulemaking (renewal) was granted under A.R.S. § 41-1039 by the governor on:**

   March 26, 2026

2. **Article, Part, or Section Affected (as applicable)** — **Rulemaking Action**

Article 12	New Article
R9-28-1201	New Section
R9-28-1202	New Section
R9-28-1203	New Section
R9-28-1204	New Section
R9-28-1205	New Section
R9-28-1206	New Section
R9-28-1207	New Section

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

   Authorizing statute: A.R.S. § 36-2970.01(D)

   Implementing statute: A.R.S. § 36-2970.01(D)

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

   April 7, 2026 (immediately upon filing with the Office of the Secretary of State); effective for 180 days

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

   Notice of Emergency Rulemaking: 31 A.A.R. 4227, Issue date: October 31, 2025, File Number: (R25-247)

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

   Name: Ivy Voss

   Title: Deputy General Counsel

   Division: AHCCCS Office of General Counsel

   Address: 150 N. 18th Ave

   Phoenix, AZ 85007

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 **An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The Arizona Long Term Care System (ALTCS) is Arizona's Medicaid program administered by the AHCCCS Administration pursuant to Arizona Revised Statutes, Title 36, Chapter 29, Article 2 for individuals who are elderly or have physical or developmental disabilities. Individuals eligible for ALTCS are determined to be at risk of institutionalization. A.R.S. § 36-2970.01(D) directed AHCCCS, "[o]n or before October 1, 2025," to adopt "a strengthened standardized assessment tool to determine the need for extraordinary care for minor children." For this reason, AHCCCS initiated emergency rulemaking for the HCBS Needs Tool (HNT) for ALTCS members which became effective October 15, 2025 and which rules will remain in effect until April 13, 2026. This renewal of emergency rulemaking describes the strengthened assessment process for direct care and habilitation services for ALTCS members through use of the HNT as required by A.R.S. § 36-2970.01(D), incorporating

modifications to the initial emergency rules as a result of robust public input. As noted above (see section 4), AHCCCS is renewing the emergency rules currently in effect to maintain the strengthened standardized assessment tool required under A.R.S. § 36-2970.01(D) while it proceeds with regular rulemaking and finalizes policies as a result of extensive public feedback from the stakeholder community. The renewal of emergency rulemaking will improve care delivery for ALTCS members, promote uniformity in the assessment process, and further compliance with Arizona statute.

8. **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:**

Not applicable

9. **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

10. **A summary of the economic, small business, and consumer impact statement as required under A.R.S. § 45-1055(D)(1):**

The proposed rule is estimated to have an annualized average fiscal impact of $90 million Total Funds in medical expenditure savings for the program, with an 80% confidence that the annualized savings will range from approximately $64 million to $134 million statewide.

11. **All matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include but are not limited to:**

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:**

Federal law sets forth general provisions for an annual assessment and a person-centered planning process.

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:

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. An agency explanation about the situation justifying the rulemaking as an emergency rule:

A.R.S. § 36-2970.01(D) directed AHCCCS, "[o]n or before October 1, 2025," to adopt "a strengthened standardized assessment tool to determine the need for extraordinary care for minor children." For this reason, AHCCCS initiated emergency rulemaking and currently has emergency rules in effect until April 13, 2026. Renewal of these emergency rules is necessary to ensure continued compliance with state law while AHCCCS proceeds with regular rulemaking and finalizes crucial policies. In addition, AHCCCS has conducted extensive public engagement and collaboration regarding the Home and Community Based Services (HCBS) Needs Tool (HNT) and has developed a strengthened assessment tool. Renewal of these emergency rules allows HNT rules to remain in effect, including provisions informed by public input, while stakeholder comments continue to be evaluated through the regular rulemaking process. Specifically, the renewal emergency rulemaking will incorporate updates to various direct care and habilitation service provisions, including adjustments to service eligibility parameters associated with HNT services that reflect many stakeholder comments and which benefit members. The renewed emergency rulemaking reflects the following modifications to services specified in R9-28-1204 and which are all favorable to members: Six direct care services tasks will have modifications to the age limitations, permitting more children to be assessed for the services. Those direct care services include eating and feeding, bathing, dressing, grooming, mobility, and transferring. Specialty supervision and incontinence based laundry will be added as tasks, and no age limit is associated with specialty supervision. The number of weekly habilitation service hours for children ages 3 and older will also be expanded to no more than 14 hours of habilitation in a seven-day period. The emergency rulemaking will also include clarifications to the Extraordinary Care Review (ECR) process to reflect adherence to federal requirements. Renewal of the HNT emergency rulemaking serves the public interest and welfare by improving care delivery, promoting uniformity in the assessment process, and ensuring the Arizona Long-term Care System remains compliant with Arizona statute. Also, refer to item 7 of this notice for additional justification for the rulemaking. As stated in item 4 of this notice, the emergency rules will be effective for another 180 days in accordance with A.R.S. § 41-1026.

14. A list of any changes between the renewal of the emergency rulemaking and the emergency rulemaking as specified under R1-1-701(H):

The following changes are proposed in this Emergency Rulemaking Renewal:

R9-28-1204. HCBS Needs Tool Criteria for ALTCS Members Under the Age of 18	
Subsections B and C	Lowered age thresholds for assessment of Direct Care Services and Habilitation Service.

	• Age limitation for tasks including eating and feeding, bathing, dressing, and grooming were reduced from ages 7-8 to age 5. • Mobility and transferring were reduced from age 4 to age 2.
Table 1	Direct Care Services for Members Under the Age of 18 • Amended to reflect revised age limitations across multiple service tasks. • Added and clarified service categories not subject to age limitations, including specialty supervisions, specialty eating and feeding, and specialty toileting needs.
Table 2	Habilitation Service for Members Under the Age of 18 • Revised to remove tiered age-based weekly service limits. • The original rule established tiered limits (5, 9,11) and 14 hours per week based on age ranges. • The amended rule eliminates tiered limits and establishes a uniform weekly limit of up to 14 hours in a 7-day period for members aged 3 through 17.
R9-28-1206. Extraordinary Care Review	
Subsection B	Expands required components of the ECR process, including: • Purpose of the ECR process • Notification requirements to members • Procedures for submitting a request and required information • Clinician qualifications • Record maintenance requirements
Subsection C	Requires that the ECR process be conducted by a clinician with appropriate professional experience and licensure or certification
Subsection D	Added requirement that members be notified in writing of the ECR process when there is disagreement with assessed service hours
Subsection E	Establishes formal written request requirements, including: • Identification of requested services • Specification of additional hours requested • Requirement for task-specific rationale and supporting documentation
Subsection F(3):	Added requirement to comply with applicable federal timelines for decision-making and notification.

R9-28-1207 Reporting and Oversight	
Subsection A	Added requirement that contractors maintain records of all ECR requests and outcomes.
Subsection B	Added requirement that the Administration conduct periodic audits to ensure compliance with the rule and evaluate effectiveness of the ECR process.

15. The date the Attorney General approved the rule:

April 7, 2026

15. The full text of the rules follows:

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ARTICLE 12. ~~REPEALED~~HCBS NEEDS TOOL AND EXTRAORDINARY CARE REVIEW

Section

R9-28-1201. ~~Repealed~~ Definitions

R9-28-1202. General Provisions

R9-28-1203. HCBS Needs Tool Process

R9-28-1204. HNT Criteria for ALTCS Members Under the Age of 18

R9-28-1205. HNT Criteria for ALTCS Members Age 18 and Older

R9-28-1206. Extraordinary Care Review

R9-28-1207. Reporting and Oversight

ARTICLE 12. ~~REPEALED~~ HCBS NEEDS TOOL AND EXTRAORDINARY CARE REVIEW

R9-28-1201. ~~Repealed~~ Definitions

1. "Activities of Daily Living" or "ADLs" means activities a member shall perform daily for the member's regular day-to-day necessities, including but not limited to mobility, transferring, bathing, dressing, grooming, eating, and toileting as specified in Title 9 Chapter 28 Article 1.
2. "Arizona Long Term Care System" or "ALTCS" means a Medicaid program administered by the AHCCCS Administration pursuant to Arizona Revised Statutes, Title 36, Chapter 29, Article 2 for an individual who is elderly or who has a physical or developmental disability.
3. "Case Manager" means an individual assigned as responsible for locating, accessing, and monitoring the provision of service to an individual in conjunction with a clinical team as specified in A.A.C. Title 9, Chapter 28, and Title 6, Chapter 6.
4. "Direct Care Services" means the services provided by Direct Care Workers or "DCWs" that are collectively known as Direct Care Services. There are three types of services within ALTCS that are provided by DCWs which consist of Attendant Care, Personal Care, and Homemaker services.

5. "Extraordinary Care" means care that exceeds the range of activities that a spouse or a legally responsible parent of a minor child would ordinarily perform in the household on behalf of the ALTCS member if the member did not have a disability or chronic illness, and which is necessary to assure the health and welfare of the member.
6. "Extraordinary Care Review" or "ECR" means a review process available to each member under the age of 18 who disagrees with the number of assessed hours for Direct Care Services, Habilitation Service, or both as a result of the age limitations set forth in the HNT.
7. "Habilitation Service" means the services that help a person get and keep skills and functioning for daily living.
8. "HCBS Needs Tool" or "HNT" means a standardized assessment instrument created by AHCCCS to evaluate the functional and support needs of ALTCS members who may benefit from receiving certain HCBS to support ADLs and IADLs. The HNT is specific to assessment of member need for Direct Care and Habilitation Service.
9. "Health Care Decision Maker" or "HCDM" means an individual who is authorized to make health care treatment decisions for the patient. As applicable to the situation, this may include a parent of an unemancipated minor or an individual lawfully authorized to make health care treatment decisions as specified in Arizona Revised Statutes, Title 14, Chapter 5, Article 2 or 3 or A.R.S. §§ 8-514.05, 36-3221, 36-3231 or 36-3281.
10. "Home and Community Based Services" or "HCBS" means home and community-based services, as specified in A.R.S. §§ 36-2931 and 36-2939.
11. "Instrumental Activities of Daily Living" or "IADL" means activities a member shall perform that are more complex in nature and necessary for independent living and community participation, such as managing money, preparing meals, shopping, doing laundry, and using transportation as specified in Title 9 Chapter 28 Article 1.
12. "Person-Centered Service Plan" or "PCSP" means a written plan developed through an assessment of functional need that reflects each service and support, both paid and unpaid, that are important for and important to the member in meeting the identified needs and preferences for the delivery of each service and support. The PCSP shall also reflect the member's strengths and preferences that meet the member's social, cultural, and linguistic needs, individually identified and prioritized goals and desired outcomes, and reflect risk factors (including risks to member rights) and measures in place to minimize them, including individualized back-up plans and other strategies as needed.

R9-28-1202. General Provisions

The Administration shall require the ALTCS Case Manager to conduct a PCSP for each ALTCS member in each instance prescribed by 42 CFR § 441.725.

1. The PCSP process is an in-person meeting with the member, the HCDM if applicable, and any other person included in the Planning Team in order to develop a comprehensive PCSP.
2. The PCSP process is used to assess the member's specific HCBS needs which includes assessment for the ADL or IADLs specific to Direct Care Services and Habilitation Service, utilizing the HNT as set forth in A.A.C. R9-28-1203.
3. The member will be assessed for Direct Care Services and Habilitation Service, if applicable, and if the member resides in their own home, the member or HCDM is interested in receiving HCBS, and the care team determines that HCBS services are appropriate.

R9-28-1203. HCBS Needs Tool Process

A. The Case Manager shall utilize the HNT when appropriate as outlined in A.A.C. R9-28-1202 to assess or re-assess need for Direct Care Services and Habilitation Service:

1. At least annually if the member is currently receiving a service,
2. The initial or annual PCSP indicates a potential need for the service,
3. The member experiences a significant change in condition that causes the member's health to improve or decline,
4. At any time the member requests to receive an updated assessment, or
5. When the member or HCDM request to be evaluated for HCBS in lieu of institutional care.

B. The ALTCS Case Manager shall use the HNT to determine if Direct Care Services, Habilitation Service, or both will be authorized as part of the member's HCBS service array.

1. The HNT shall be reviewed during each quarterly case management review meeting.
2. The HNT shall be completed in collaboration with the member, their HCDM or anyone else requested to participate by the member or HCDM.
3. The HNT will include documentation of the member's or HCDM's description of unique need for each task on the tool.
4. The HNT shall identify and document each service need regardless of cost-effectiveness or service delivery method.
5. The completed HNT shall be incorporated by reference into the member's PCSP.

R9-28-1204. HCBS Needs Tool Criteria for ALTCS Members Under the Age of 18

A. A copy of the HNT for a member under the age of 18 shall be made available on the Administration's website.

B. For each Direct Care Services category identified below, a member under the age of 18 will be age-limited by the HNT, except when it is determined that the member requires Extraordinary Care pursuant to A.A.C. R9-28-206.

C. For Habilitation Service, a member under the age of 18 years will be age-limited by the HNT, except when it is determined that the member requires Extraordinary Care pursuant to A.A.C. R9-28-206.

Table 1. Direct Care Services for Members under the Age of 18

Direct Care Services Task	Age Limitation
Housekeeping	Shall not be assessed for children under the age of 18
Laundry	Shall not be assessed for children under the age of 18
Incontinence-Based Laundry	Shall not be assessed for children under the age of 4
Food Shopping	Shall not be assessed for children under the age of 18
Medication Pick Up	No age limitation
Meal Preparation and Clean Up	Shall not be assessed for children under the age of 12
Specialty Meal Preparation	No age limitation
Eating and Feeding	Shall not be assessed for children under the age of 5
Specialty Eating and Feeding	No age limitation
Bathing	Shall not be assessed for children under the age of 5
Dressing	Shall not be assessed for children under the age of 5
Grooming	Shall not be assessed for children under the age of 5
Toileting	Shall not be assessed for children under the age of 4
Specialty Toileting Needs	No age limitation

Mobility	Shall not be assessed for children under the age of 2
Transferring	Shall not be assessed for children under the age of 2
General Supervision	Shall not be assessed for children under the age of 10
Specialty Supervision	No age limitation

Table 2. Habilitation Service for Members under the Age of 18

Member Ages	Weekly Service Limits
Members under the age of 3	Habilitation Service shall not be assessed
Members aged 3-17	Not to exceed 14 hours in a 7-day period

R9-28-1205. HCBS Needs Tool Criteria for ALTCS Members Age 18 and Older

A. A copy of the HNT shall be made available on the Administration's website.

B. Tasks assessed for a member aged 18 and older are not subject to age limitations.

R9-28-1206. Extraordinary Care Review

A. Each ALTCS Contractor, including DES/DDD, shall develop an ECR process to be submitted to the Administration for review prior to implementation.

B. The ECR process shall adhere to the provisions of this Section and shall include:

1. The purpose,
2. The notification process to members of the availability of ECR,
3. How the ECR may be requested, including the information that must be provided,
4. The type of clinician performing the ECR pursuant to Subsection C, and
5. Description of how the ECR records shall be maintained

C. The ECR process shall be conducted by a clinician with relevant professional experience and licensure or certification.

D. When a member or HCDM disagrees with the time assessed on the HNT, the ALTCS Contractor, including DES/DDD, shall notify members, in writing, of the ECR process.

E. A request for ECR shall be made in writing.

1. The request shall be made by the member or HCDM.
2. The request shall include:
   a. Whether the member is seeking additional Direct Care Services, Habilitation Service, or both;
   b. How many additional hours are requested for each service type, and for attendant care services, task-specific rationale must be provided.
   c. The reason the member should be granted additional time for Extraordinary Care. Any additional supporting documentation can be included for review.

F. Upon request for ECR, each ALTCS Contractor, including DES/DDD, shall:

1. Complete an ECR for Direct Care Services, Habilitation Service, or both consistent with the request.
2. Render a decision in writing.
   a. Inform the member, the HCDM, and the member's Case Manager of the ECR determination which shall be incorporated into the member's PCSP by the ALTCS Case Manager.
   b. When the total time assessed for Direct Care Services, Habilitation Service, or both, is increased from the previous

authorized hours, the services shall be authorized for service delivery by the ALTCS Case Manager.

c. When the total time assessed for Direct Care Services and Habilitation Service, or both, is less than the amount of time requested by the member in the ECR process, the ALTCS Contractor, including DES/DDD, shall issue a Notice of Adverse Benefit Determination pursuant to A.A.C. R9-34-205.

3. Adhere to federal timelines regarding decision making and notification of the outcome to members/families.

R9-28-1207. Reporting and Oversight

A. Each ALTCS Contractor, including DES/DDD, shall maintain records of all ECR requests and outcomes, as prescribed by the Administration.

B. The Administration shall conduct a periodic audit to ensure compliance with this rule and evaluate the effectiveness of the ECR process.