

*-Preface-*

# **Department of Economic Security**

## **Five – Year Review Reports**

A.R.S. § 41-1056 requires that at least once every five years, each agency shall review its administrative rules and produce reports that assess the rules with respect to considerations including the rule’s effectiveness, clarity, conciseness, and understandability. The reports also describe the agency’s proposed action to respond to any concerns identified during the review. The reports are submitted in compliance with the schedule provided by the Governor’s Regulatory Review Council. A.R.S. § 18-305, enacted in 2016, requires that statutorily required reports be posted on the agency’s website.

**Department of Economic Security  
Title 6, Chapter 6  
Five-Year Review Report**

**1. Authorization of the rule by existing statutes:**

General Statutory Authority: A.R.S. §§ 41-1954(A)(3) and 46-134(10)

Specific Statutory Authority: A.R.S. §§ 36-554(A)(6), 36-554(A)(11), 36-554(C)(6), 36-557(O), 36-557(P), 36-560(A), 36-561(B), 36-562(C), 36-562(G), 36-562(M), 36-563(C), 36-565(D), 36-568, 36-592(B), 36-595(B), 36-596.01(G)

**2. The objective of each rule:**

| Rule     | Objective   |
|----------|---|
| R6-6-101 | The objective of this rule is to define terms used in Chapter 6.  |
| R6-6-102 | The objective of this rule is to guarantee the rights of clients when services are being provided.  |
| R6-6-103 | The objective of this rule is to designate a confidentiality officer who administers and supervises the use and maintenance of all personally identifiable information.                           |
| R6-6-104 | The objective of this rule is to identify individuals or titles authorized to access personally identifiable information and where it is kept.  |
| R6-6-105 | The objective of this rule is to ensure personally identifiable information is only released with the consent of the client or responsible person.  |
| R6-6-106 | The objective of this rule is to ensure an employee of the Division (DDD) who makes an unlawful disclosure of personally identifiable information is subject to disciplinary action or dismissal. |
| R6-6-107 | The objective of this rule is to state the client's right to live in the least restrictive environment.   |
| R6-6-108 | The objective of this rule is to ensure a written plan for meeting potential emergencies and disasters is posted in non-licensed settings.  |
| R6-6-301 | The objective of this rule is to define terms used in Article 3.  |

| Rule     | Objective   |
|----------|---|
| R6-6-302 | The objective of this rule is to establish general criteria regarding eligibility for DDD services.   |
| R6-6-303 | The objective of this rule is to identify the diagnoses used to determine eligibility for Division services.  |
| R6-6-304 | The objective of this rule is to explain the process for eligibility under Arizona Long-term Care System (ALTCS).   |
| R6-6-305 | The objective of this rule is to require the Support Coordinator, along with the Planning Team, to complete a Planning Document to document any necessary supports and services when the Department determines an individual is eligible and enrolls the individual in the program. |
| R6-6-306 | The objective of this rule is to clarify that in an emergency, the Department may provide DDD services to an individual who has been enrolled in the program without a Planning Document.   |
| R6-6-307 | The objective of this rule is to outline when the Department may redetermine eligibility for the program.   |
| R6-6-308 | The objective of this rule is to enumerate the responsibilities of a member.  |
| R6-6-309 | The objective of this rule is to identify under what circumstances a member may be terminated from DDD services, and time-frames for notification of termination from DDD services.   |
| R6-6-401 | The objective of this rule is to define terms used in Article 4.  |
| R6-6-402 | The objective of this rule is to describe the application process for DDD services, the information required on the application, and what happens if an application is incomplete.  |
| R6-6-403 | The objective of this rule is to identify the required documents for lawful presence, residency, and health insurance coverage while applying for admission to services.  |
| R6-6-404 | The objectives of this rule are to require DDD to refer individuals with developmental disabilities who may be eligible for ALTCS to the Arizona Health Care Cost Containment System (AHCCCS) to determine eligibility under ALTCS.   |

| Rule     | Objective  |
|----------|--|
| R6-6-601 | The objective of this rule is to clarify that an assigned case manager will assist the client and the client's family in all aspects of the service delivery system.   |
| R6-6-602 | The objective of this rule is to describe how appropriate services for the individual and family are determined and requires the Individual Service and Program Plan (ISPP) team to develop an ISPP for the client based on an evaluation.                                       |
| R6-6-603 | The objective of this rule is to describe the client's assignment to appropriate services and describes the circumstances in which the client may be assigned to a waiting list when appropriate services are not available.   |
| R6-6-604 | The objective of this rule is to clarify how often the case manager and the ISPP team will review the client's ISPP.   |
| R6-6-605 | The objective of this rule is to describe the right of responsible persons to request a transfer or change to services and the responsibility of DDD to review each request.   |
| R6-6-606 | The objective of this rule is to explain that admission or assignment of any client to a program, service, or facility requires consent of the responsible person and, if not obtained, those services shall be terminated.  |
| R6-6-801 | The objective of this rule is to describe the applicability of Article 8 to community residential settings with the exception to developmental homes.  |
| R6-6-802 | The objective of this rule is to describe the roles of the licensee and DDD in complying with and determining compliance with A.R.S. Title 36, Chapter 5.  |
| R6-6-803 | The objective of this rule is to explain the types of incidents that must be reported to DDD immediately; the requirement for the licensee to cooperate in investigations; and the requirement for the licensee to maintain staff-to-client ratios that conform to the contract. |
| R6-6-804 | The objective of this rule is to describe the rights of clients who live in community residential settings.  |
| R6-6-805 | The objective of this rule is to describe the requirements for developing and amending an ISPP.  |

| Rule     | Objective   |
|----------|---|
| R6-6-806 | The objective of this rule is to explain the requirements for obtaining consent for emergency medical care, documentation of health status, medical records, medications, medication administration, use of protective restraints, nutrition, storage of toxins, and fencing of bodies of water for community residential settings. |
| R6-6-807 | The objective of this rule is to describe what programmatic records a licensee shall maintain in a client's place of residence and the requirement to ensure that the records are legible, typed or written in ink, dated, and properly corrected, as necessary.  |
| R6-6-808 | The objective of this rule is to describe the qualifications, training, and responsibilities of staff, and to explain the documentation that a licensee shall maintain.   |
| R6-6-809 | The objective of this rule is to describe the policies and procedures that the licensee must develop and implement to address incidents that occur in the operation of the setting.   |
| R6-6-810 | The objective of this rule is to explain that a licensee shall obtain consent from the responsible person before releasing personally identifiable information for a client residing in a community residential setting.  |
| R6-6-811 | The objective of this rule is to explain that a licensee may request an exemption from a rule in Article 8 and provide how the licensee otherwise intends to meet the requirements of that rule.  |
| R6-6-901 | The objective of this rule is to describe the applicability of Article 9 to all programs operated, licensed, certified, supervised or financially supported by DDD, as well as to all habilitation programs.  |
| R6-6-902 | The objective of this rule is to establish limits on the use of certain behavioral intervention techniques.   |
| R6-6-903 | The objective of this rule is to describe the responsibilities and composition of the Program Review Committee.   |
| R6-6-904 | The objective of this rule is to describe the role of the ISPP team.  |

| <b>Rule</b>  | <b>Objective</b>   |
|--------------|--|
| R6-6-905     | The objective of this rule is to establish the standards for monitoring behavior treatment plans.  |
| R6-6-906     | The objective of this rule is to describe the minimum training requirements for any person involved in the use of a behavior treatment plan.                                       |
| R6-6-907     | The objective of this rule is to describe the sanctions for non-compliance with Article 9.   |
| R6-6-908     | The objective of this rule is to describe both the limits and requirements for physical management of a client in an emergency situation.  |
| R6-6-909     | The objective of this rule is to describe the requirements for how behavior-modifying medications shall be prescribed and administered.  |
| R6-6-1001    | The objective of this rule is to describe the requirements for a person applying for a child developmental foster home license.  |
| R6-6-1002    | The objective of this rule is to describe the criteria for issuing an initial license and the length of time a license is effective.   |
| R6-6-1003    | The objective of this rule is to establish the requirements and criteria to renew a child developmental foster home license.   |
| R6-6-1004    | The objective of this rule is to establish the criteria for a provisional license for a child developmental foster home and the length of time a provisional license is effective. |
| R6-6-1004.01 | The objective of this rule is to establish the time-frame for granting or denying a child developmental foster home license.   |
| R6-6-1004.02 | The objective of this rule is to describe the administrative completeness and substantive review process.  |
| R6-6-1004.03 | The objective of this rule is to explain the contents of a complete application package for an initial child developmental foster home license.                                    |
| R6-6-1004.04 | The objective of this rule is to explain the contents of a complete child developmental foster home license renewal application package.   |

| Rule         | Objective  |
|--------------|--|
| R6-6-1004.05 | The objective of this rule is to explain the contents of a complete request for an amended child developmental foster home license.  |
| R6-6-1005    | The objective of this rule is to describe training requirements for a child developmental foster home licensee and applicant.  |
| R6-6-1006    | The objective of this rule is to describe the responsibilities of a licensee in a child developmental foster home.   |
| R6-6-1007    | The objective of this rule is to require a licensee to comply with behavior management, as specified in Article 9 of this Chapter, establish rules for behavior, provide appropriate discipline, and identify and report behavioral issues to DDD. |
| R6-6-1008    | The objective of this rule is to describe the requirement of a licensee to provide appropriate, comfortable, and safe sleeping arrangements for children in a child developmental foster home.   |
| R6-6-1009    | The objective of this rule is to describe the types of events a licensee shall report to DDD or placing agency.  |
| R6-6-1010    | The objective of this rule is to describe a licensee's recordkeeping requirements in a child developmental foster home.  |
| R6-6-1011    | The objective of this rule is to prescribe the health and safety standards with which a child developmental foster home shall comply.  |
| R6-6-1012    | The objective of this rule is to establish standards for a licensee who provides transportation to foster children.  |
| R6-6-1013    | The objective of this rule is to establish dual licensure or certification requirements for foster parents residing off-reservation and licensed by a tribal jurisdiction.   |
| R6-6-1014    | The objective of this rule is to establish the rights of clients in a child developmental foster home.   |
| R6-6-1015    | The objective of this rule is to explain that a licensee may request an exemption from a rule in Article 10 and explain how the licensee otherwise intends to meet the requirements of that rule.  |

| <b>Rule</b>  | <b>Objective</b>  |
|--------------|---|
| R6-6-1016    | The objective of this rule is to describe the requirement for a licensee to cooperate in home inspections and monitoring of a child developmental foster home and to specify the minimum frequency of inspections and monitoring. |
| R6-6-1017    | The objective of this rule is to describe the process for receiving and investigating complaints about a child developmental foster home.   |
| R6-6-1018    | The objective of this rule is to describe under what conditions a child developmental foster home license may be denied, suspended, or revoked.   |
| R6-6-1019    | The objective of this rule is to describe the appeal rights of a licensee or applicant when a license for a child developmental foster home is denied, suspended, or revoked.   |
| R6-6-1101    | The objective of this rule is to list the requirements for a person applying for an adult developmental home license.   |
| R6-6-1102    | The objective of this rule is to describe the criteria for issuing an initial license and to set the length of time a license is effective.   |
| R6-6-1103    | The objective of this rule is to establish the requirements and criteria to renew an adult developmental home license.  |
| R6-6-1104    | The objective of this rule is to establish the criteria for a provisional license for an adult developmental home license and the length of time a provisional license is effective.  |
| R6-6-1104.01 | The objective of this rule is to establish the time frame for granting or denying an adult developmental home license.  |
| R6-6-1104.02 | The objective of this rule is to describe the administrative completeness and substantive review process.   |
| R6-6-1104.03 | The objective of this rule is to explain the contents of a complete application package for an initial adult developmental home license.  |
| R6-6-1104.04 | The objective of this rule is to list the required contents of a complete adult developmental home license renewal application package.   |



| Rule         | Objective  |
|--------------|--|
| R6-6-1104.05 | The objective of this rule is to list the required contents of a complete request for an amended adult developmental home license.   |
| R6-6-1105    | The objective of this rule is to describe the training requirements for an adult developmental home licensee and applicant.  |
| R6-6-1106    | The objective of this rule is to describe the responsibilities of a licensee in an adult developmental home.   |
| R6-6-1107    | The objective of this rule is to require a licensee to comply with behavior management, as specified in Article 9 of this Chapter, establish rules for behavior, provide appropriate discipline, and identify and report behavioral issues to DDD. |
| R6-6-1108    | The objective of this rule is to describe the requirement of a licensee to provide appropriate, comfortable, private, and safe sleeping arrangements for adult clients in an adult developmental home.   |
| R6-6-1109    | The objective of this rule is to describe the types of events and incidents in an adult developmental home a licensee shall report to DDD.   |
| R6-6-1110    | The objective of this rule is to describe the records for each adult a licensee shall maintain in an adult developmental home.   |
| R6-6-1111    | The objective of this rule is to prescribe the health and safety standards with which an adult developmental home shall comply.  |
| R6-6-1112    | The objective of this rule is to define the standards for adult developmental home providers who supply transportation.  |
| R6-6-1113    | The objective of this rule is to establish dual licensure or certification requirements for an adult developmental home provider licensed by another jurisdiction.   |
| R6-6-1114    | The objective of this rule is to establish the rights of clients in an adult developmental home.   |
| R6-6-1115    | The objective of this rule is to explain that an adult developmental home licensee or applicant may request an exemption from a rule in Article 11 and how the licensee or applicant otherwise intends to meet the requirements of that rule.      |

| Rule                   | Objective   |
|------------------------|---|
| R6-6-1116              | The objective of this rule is to describe the requirement for a licensee to cooperate in home inspections and monitoring of an adult developmental home and to specify the minimum frequency of inspections and monitoring. |
| R6-6-1117              | The objective of this rule is to describe the process for receiving and investigating complaints about an adult developmental home.   |
| R6-6-1118              | The objective of this rule is to describe under what conditions an adult developmental home license may be denied, suspended, or revoked.   |
| R6-6-1119              | The objective of this rule is to describe the appeal rights of a licensee or applicant when a license for an adult developmental home is denied, suspended, or revoked.   |
| R6-6-1201              | The objective of this rule is to prescribe the cost of care contribution requirements for clients, parents of minor clients, and trusts, estates, and annuities of which a client is a beneficiary.                         |
| R6-6-1202              | The objective of this rule is to describe how DDD determines a client's cost of care portion for services.  |
| R6-6-1203              | The objective of this rule is to describe how DDD determines the client's cost for services based on the client's income from an estate, trust, or annuity.   |
| R6-6-1204              | The objective of this rule is to describe how DDD determines the cost of care portion for clients receiving residential services.   |
| R6-6-1205              | The objective of this rule is to describe the method DDD uses for collecting financial information, billing, and referrals for collections regarding non-payment.   |
| R6-6-1206              | The objective of this rule is to explain the review and appeal process for the cost of care portion.  |
| Article 12, Appendix A | The objective of Article 12, Appendix A is to establish the cost of care portion for which a responsible person is liable based on the cost of services, monthly family income, and family size.                            |
| R6-6-1301              | The objective of this rule is to describe the health insurance information required to complete an initial application or an application for redetermination for eligibility.   |

| Rule         | Objective   |
|--------------|---|
| R6-6-1302    | The objective of this rule is to describe the requirements for the assignment of rights to benefits.  |
| R6-6-1303    | The objective of this rule is to describe the process for collecting third party insurance reimbursements.  |
| R6-6-1304    | The objective of this rule is to describe the process for monitoring service providers for compliance with Article 13.  |
| R6-6-1305    | The objective of this rule is to describe the process a service provider shall use to notify DDD of the need for a lien.  |
| R6-6-1501    | The objective of this rule is to define terms used in Article 15.   |
| R6-6-1502    | The objective of this rule is to clarify that the rules in Article 15 apply to Home and Community-based Service (HCBS) providers.                                       |
| R6-6-1503    | The objective of this rule is to describe the requirements for a HCBS certificate.  |
| R6-6-1504    | The objective of this rule is to explain how to become certified as a HCBS provider and establish the documentation required for application to become HCBS certified.  |
| R6-6-1504.01 | The objective of this rule is to establish the time-frames for granting or denying a HCBS certificate.  |
| R6-6-1504.02 | The objective of this rule is to describe the administrative completeness and substantive review process.   |
| R6-6-1504.03 | The objective of this rule is to explain the contents of a complete application package for an initial HCBS certificate.  |
| R6-6-1504.04 | The objective of this rule is to explain the contents of a complete application package for a HCBS renewal certificate.   |
| R6-6-1504.05 | The objective of this rule is to explain the contents of a complete request for an amended HCBS certificate.  |
| R6-6-1505    | The objective of this rule is to establish health and safety standards a HCBS provider shall provide in a residence or facility where HCBS services are to be provided. |

| Rule      | Objective   |
|-----------|---|
| R6-6-1506 | The objective of this rule is to establish fingerprint requirements for HCBS applicants.  |
| R6-6-1507 | The objective of this rule is to establish the requirements to renew a HCBS certificate.  |
| R6-6-1508 | The objective of this rule is to describe DDD's requirements when issuing an initial or renewal HCBS certificate.   |
| R6-6-1509 | The objective of this rule is to identify how long a HCBS certificate is valid.   |
| R6-6-1510 | The objective of this rule is to describe the requirements for amending a HCBS certificate.   |
| R6-6-1511 | The objective of this rule is to explain the requirements a service provider shall maintain during the term of a HCBS certificate.  |
| R6-6-1512 | The objective of this rule is to describe the audit process to review provider records and to ensure compliance with HCBS rules.  |
| R6-6-1513 | The objective of this rule is to describe how complaints against a HCBS service provider are registered and the subsequent action that may be taken.  |
| R6-6-1514 | The objective of this rule is to describe under what conditions a HCBS certificate may be denied, suspended, or revoked.  |
| R6-6-1515 | The objective of this rule is to establish the conditions under which a corrective action plan may be required to enforce compliance with these rules.                                      |
| R6-6-1516 | The objective of this rule is to explain an applicant's or service provider's right to an administrative review and appeal rights when a HCBS certificate is denied, revoked, or suspended. |
| R6-6-1517 | The objective of this rule is to identify the types of incidents that a HCBS provider shall report to DDD while a client is in the direct care of a HCBS provider.                          |
| R6-6-1518 | The objective of this rule is to explain that HCBS providers shall observe the rights of clients listed in A.R.S. § 36-551.01 and A.A.C. R6-6-102.  |

| Rule      | Objective   |
|-----------|---|
| R6-6-1519 | The objective of this rule is to describe records a provider shall maintain for compliance with HCBS rules.           |
| R6-6-1520 | The objective of this rule is to describe the basic qualifications, training, and responsibilities of HCBS providers. |
| R6-6-1521 | The objective of this rule is to describe additional qualifications for attendant care services.                      |
| R6-6-1522 | The objective of this rule is to describe additional qualifications for day treatment and training services.          |
| R6-6-1523 | The objective of this rule is to describe additional qualifications for habilitation services.                        |
| R6-6-1524 | The objective of this rule is to describe additional qualifications for home health aide services.                    |
| R6-6-1525 | The objective of this rule is to describe additional qualifications for home health nurse services.                   |
| R6-6-1526 | The objective of this rule is to describe additional qualifications for hospice services.                             |
| R6-6-1527 | The objective of this rule is to describe additional qualifications for housekeeping services.                        |
| R6-6-1528 | The objective of this rule is to describe additional qualifications for occupational therapy services.                |
| R6-6-1529 | The objective of this rule is to describe additional qualifications for personal care services.                       |
| R6-6-1530 | The objective of this rule is to describe additional qualifications for physical therapy services.                    |
| R6-6-1531 | The objective of this rule is to describe additional qualifications for respiratory therapy services.                 |
| R6-6-1532 | The objective of this rule is to describe additional qualifications for respite services.                             |

| <b>Rule</b> | <b>Objective</b>  |
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| R6-6-1533   | The objective of this rule is to describe additional qualifications for speech/hearing therapy services.  |
| R6-6-1601   | The objective of this rule is to establish reporting procedures for an employee of a service provider regarding allegations of abuse and neglect.                                     |
| R6-6-1602   | The objective of this rule is to describe how reports of abuse and neglect are investigated.  |
| R6-6-1603   | The objective of this rule is to describe requirements for service providers to refer a client for a medical evaluation when there is suspected abuse or neglect.                     |
| R6-6-1801   | The objective of this rule is to define terms used in Article 18.   |
| R6-6-1802   | The objective of this rule is to describe the applicability of Article 18.  |
| R6-6-1803   | The objective of this rule is to explain to whom DDD needs to give written notice when taking action and to specify the contents of the notice.                                       |
| R6-6-1804   | The objective of this rule is to describe who may file a request for an Administrative Review.  |
| R6-6-1805   | The objective of this rule is to explain the process for filing a request for an Administrative Review.   |
| R6-6-1806   | The objective of this rule is to describe contents that shall be included in a request for an Administrative Review.  |
| R6-6-1807   | The objective of this rule is to explain when DDD shall deny a request for an Administrative Review.  |
| R6-6-1808   | The objective of this rule is to describe the time-frame for completing an Administrative Review.   |
| R6-6-1809   | The objective of this rule is to explain the content of an Administrative Decision.   |
| R6-6-1810   | The objective of this rule is to explain that DDD shall not authorize services until a final administrative or judicial decision of an Administrative Review establishes eligibility. |

| Rule      | Objective  |
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| R6-6-1811 | The objective of this rule is to describe conditions under which DDD shall continue authorizing a Member's service during an Administrative Review.                                      |
| R6-6-1812 | The objective of this rule is to explain when HCBS Certificates shall be continued during an Administrative Review Process.  |
| R6-6-1813 | The objective of this rule is to explain a Requestor's appeal rights under Article 22 of this Chapter.   |
| R6-6-2001 | The objective of this rule is to define terms used in Article 20.  |
| R6-6-2002 | The objective of this rule is to describe DDD's contracting process for procuring goods and services.  |
| R6-6-2003 | The objective of this rule is to describe DDD's process when there is an insufficient response to a competitive solicitation.  |
| R6-6-2004 | The objective of this rule is to describe the process DDD shall use when DDD identifies an immediate or emergency need for service and current providers cannot meet the service needed. |
| R6-6-2005 | The objective of this rule is to describe the Acute Care solicitation process and the information that providers shall include in a request for proposal.                                |
| R6-6-2006 | The objective of this rule is to describe the process for evaluating Acute Care proposals, and the circumstances under which a proposal may be cancelled or rejected.                    |
| R6-6-2007 | The objective of this rule is to describe the circumstances under which DDD shall award an Acute Care contract.  |
| R6-6-2008 | The objective of this rule is to describe the circumstances under which a protest regarding an Acute Care contract proposal or award may be filed and how a protest is resolved.         |
| R6-6-2009 | The objective of this rule is to describe how DDD recruits individual providers for Acute Care services in a geographic area without a health plan.                                      |

| <b>Rule</b> | <b>Objective</b>   |
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| R6-6-2010   | The objective of this rule is to describe the process DDD shall follow when statute, regulation, rules, or program changes occur.  |
| R6-6-2011   | The objective of this rule is to describe record retention for Acute Care services procurement.  |
| R6-6-2101   | The objective of this rule is to define terms used in Article 21.  |
| R6-6-2102   | The objective of this rule is to describe the applicability of Article 21.   |
| R6-6-2103   | The objective of this rule is to describe the Qualified Vendor application process.  |
| R6-6-2104   | The objective of this rule is to describe the criteria required for Qualified Vendor Agreements.   |
| R6-6-2105   | The objective of this rule is to describe the circumstances under which DDD shall enter a Qualified Vendor Agreement with an applicant.  |
| R6-6-2106   | The objective of this rule is to explain that DDD shall maintain a list of services as a means of providing information to service providers and interested parties.   |
| R6-6-2107   | The objective of this rule is to explain how a consumer or a consumer's representative shall select a service provider from the Qualified Vendor Directory, Individual Independent Provider list, or by requesting DDD post a Vendor Call for Services on the DDD website. |
| R6-6-2108   | The objective of this rule is to describe DDD's emergency procurement procedures.  |
| R6-6-2109   | The objective of this rule is to describe consumer choice and the process for selecting and changing vendors.  |
| R6-6-2110   | The objective of this rule is to describe procedures for DDD service authorization, payment rates, reimbursement, non-reimbursement, and Qualified Vendor notification requirements for necessary emergency services.  |
| R6-6-2111   | The objective of this rule is to describe the basis for terminating a Qualified Vendor Agreement and the criteria for removing providers from the Qualified Vendor List.   |
| R6-6-2112   | The objective of this rule is to grant the DDD Assistant Director authority to totally or partially cancel a Request for Qualified Vendor Applications or a Vendor Call for  |



| Rule      | Objective   |
|-----------|---|
|           | Services, and to give the rationale for such action if it is deemed to be in the state's best interest.   |
| R6-6-2114 | The objectives of this rule are to establish a rate structure for reimbursing providers of community developmental disability services; describe the process to annually review the adequacy of rates; describe the process to phase in new rates; and describe the process for negotiating rates.                      |
| R6-6-2115 | The objective of this rule is to describe the problem solving and appeal process for protests by applicants and Qualified Vendors regarding posting of requests for services and denials of applications in whole or in part.   |
| R6-6-2116 | The objectives of this rule are to: describe the process for resolving payment disputes by mutual agreement; grant the Department procurement officer the authority to settle claims; provide timelines for decisions; and explain the appeal process and procedures for unresolved claims regarding Qualified Vendors. |
| R6-6-2117 | The objective of this rule is to define the process for handling controversies involving state claims against a Qualified Vendor.   |
| R6-6-2118 | The objective of this rule is to explain how hearings on appeals of claims decisions shall be conducted as contested cases under A.R.S. Title 41, Chapter 6, Article 1.   |
| R6-6-2119 | The objective of this rule is to explain a protester's right to seek relief through the Superior Court after receiving a decision from the Department's Office of Appeals.  |
| R6-6-2201 | The objective of this rule is to describe who may file an appeal and to specify the timelines for filing an appeal.   |
| R6-6-2202 | The objectives of this rule are to explain the process and requirements for filing an appeal.   |
| R6-6-2203 | The objective of this rule is to explain how service on a party is accomplished.  |
| R6-6-2204 | The objective of this rule is to explain the method for calculating days as referenced in Article 22.   |
| R6-6-2205 | The objective of this rule is to explain who may represent an appellant at a hearing.   |

| Rule      | Objective   |
|-----------|---|
| R6-6-2206 | The objective of this rule is to explain that reduction or termination of services may be done prior to a hearing only as provided by federal and state law, regulations, or rules.   |
| R6-6-2207 | The objective of this rule is to describe hearing locations, scheduling responsibilities, and timelines for providing a notice of hearing.  |
| R6-6-2208 | The objective of this rule is to describe the process and specify a timeline for changing hearing officers.   |
| R6-6-2209 | The objective of this rule is to explain what occurs if a party fails to appear for a hearing and to allow rescheduling under certain circumstances.  |
| R6-6-2210 | The objective of this rule is to require the Division to prepare a prehearing summary and to provide timelines for submission.  |
| R6-6-2211 | The objective of this rule is to grant authority to the hearing officer to subpoena witnesses or documents.   |
| R6-6-2212 | The objectives of this rule are to: describe the way a hearing shall be conducted; allow for a closed hearing if in the best interest of the parties; and specify the duties of the hearing officer regarding the proceeding. |
| R6-6-2213 | The objective of this rule is to explain the method for making a hearing decision, the impact of a decision, and further appeal rights.   |
| R6-6-2214 | The objective of this rule is to establish the criteria for terminating an appeal.  |
| R6-6-2215 | The objective of this rule is to describe how an appeal of a hearing officer's decision is filed and to allow the Department to request a review by the Appeals Board before a decision is made final.                        |
| R6-6-2216 | The objective of this rule is to explain how an appeal of an AHCCCS hearing officer's decisions are filed and to provide a timeline for filing.   |
| R6-6-2301 | The objective of this rule is to define terms used in Article 23.   |
| R6-6-2302 | The objective of this rule is to establish the criteria for deemed status eligibility.  |

| <b>Rule</b> | <b>Objective</b>  |
|-------------|---|
| R6-6-2303   | The objective of this rule is to establish the Department's time frames for reviewing an application for deemed status.   |
| R6-6-2304   | The objective of this rule is to describe the responsibilities of a provider with deemed status and how deemed status may be renewed.   |
| R6-6-2305   | The objective of this rule is to describe the expiration date of deemed status and how deemed status may be renewed.  |
| R6-6-2306   | The objective of this rule is to describe the responsibility of a provider with deemed status to report changes in the provider's accreditation.                                      |
| R6-6-2307   | The objective of this rule is to explain that deemed status is not assignable or transferable.  |
| R6-6-2308   | The objective of this rule is to describe the programmatic and contractual monitoring requirements of a provider with deemed status.  |
| R6-6-2309   | The objective of this rule is to explain when the Department shall revoke deemed status of a provider.  |
| R6-6-2310   | The objective of this rule is to describe the process and time-frames for a provider seeking administrative review of the Department's decision to revoke a provider's deemed status. |
| R6-6-2311   | The objective of this rule is to explain judicial review rights for any person adversely affected by an Appeals Board decision.   |

**3. Are the rules effective in achieving their objectives? Yes  No**

*If not, please identify the rule(s) that is not effective and provide an explanation for why the rule(s) is not effective.*

| <b>Rule</b> | <b>Explanation</b>  |
|-------------|---|
| R6-6-101    | R6-6-101 is ineffective because it is missing definitions that apply across all Articles, including "member" and "support coordinator". |

| <b>Rule</b> | <b>Explanation</b>  |
|-------------|---|
| R6-6-105    | R6-6-105 is ineffective because it does not conform to relevant requirements of Health Insurance Portability and Accountability Act of 1996 (HIPAA) as specified in (Public Law 107-191 Statutes 1936), 45 CFR parts 160 and 164.   |
| R6-6-106    | R6-6-106 is ineffective because it does not conform to relevant requirements of HIPAA as specified in (Public Law 107-191 Statutes 1936), 45 CFR parts 160 and 164.   |
| R6-6-801    | R6-6-801 is ineffective because applicability does not include group home settings.   |
| R6-6-802    | R6-6-802 is ineffective because the Department does not have the authority to enforce corrective action for group homes through licensing. The licensing authority for Division group homes is the Arizona Department of Health Services (ADHS). The Department uses the rules in Article 8 for contract monitoring, pursuant to A.R.S. § 36-595. |
| R6-6-803    | R6-6-803 is ineffective because reporting of incidents does not include reporting of incidents by email.  |
| R6-6-808    | R6-6-808 is ineffective because it references expired Article 7 requirements for meeting potential emergencies and disasters.   |
| R6-6-809    | R6-6-809 is ineffective because it does not address the requirement in A.R.S. § 36-554(A)(7) to inform parents or guardians in writing of the complaint handling procedure; A.R.S. § 36-554(A)(6) requires a rule outlining a procedure for handling complaints about community residential settings.   |
| R6-6-810    | R6-6-810 is ineffective because it does not conform to relevant requirements of HIPAA as specified in (Public Law 107-191 Statutes 1936), 45 CFR parts 160 and 164.   |
| R6-6-903    | R6-6-903 is ineffective because it contains an outdated reference to Article 17, which expired effective August 30, 2005.   |
| R6-6-1001   | R6-6-1001(B) is ineffective because the wording pertaining to fingerprinting is obsolete. The rule makes no mention of fingerprint clearance cards.   |

| Rule          | Explanation   |
|---------------|---|
|               | R6-6-1001(C) is ineffective because the wording pertaining to Department of Child Safety (DCS) and Adult Protective Service (APS) checks is obsolete. The rule requires checks of CPS and APS "referral files" with no mention of the registries.   |
| R6-6-1002     | R6-6-1002 is ineffective because there is no mention of what criteria may be considered when determining the bed capacity of a home.  |
| R6-6-1003     | R6-6-1003(B)(3) is ineffective because it requires a criminal check every three years, rather than every six years per the fingerprint clearance card system.   |
| R6-6-1004     | R6-6-1004 is not effective due to a conflict with A.R.S. § 36-593. While the rule states that a provisional license is valid for six months, statute sets the length of a provisional license at three months.  |
| R6-6-1004.02  | R6-6-1004.02 is ineffective because it mentions an address and a process that is obsolete.  |
| R6-6- 1004.03 | R6-6-1004.03 is ineffective because it does not account for the vendor supported model of licensing employed for 98 percent of the developmental homes. In addition to information supplied by the applicant, a licensing agency completes a detailed home/social study and submits the home study to DDD on the applicant's behalf.                        |
| R6-6-1011     | R6-6-1011(D) and R6-6-1011(K) are ineffective because they refer to an inspection by the Department of Health Services which is not reflective of current practice.   |
| R6-6-1013     | R6-6-1013 is not effective because it does not reflect the Child Developmental Certified home provisions outlined in A.R.S. § 36-593.01.  |
| R6-6-1101     | <p>R6-6-1101(B) is ineffective because the wording pertaining to fingerprinting is obsolete. The rule makes no mention of fingerprint clearance cards.</p> <p>R6-6-1101(C) is ineffective because the wording pertaining to DCS and APS checks is obsolete. The rule requires checks of CPS and APS "referral files" with no mention of the registries.</p> |

| Rule                   | Explanation  |
|------------------------|--|
| R6-6-1102              | R6-6-1102 is ineffective because there is no mention of what criteria may be considered when determining the bed capacity of a home.   |
| R6-6-1103              | R6-6-1103(B)(3) is ineffective because it requires a criminal check every three years, rather than every six years per the fingerprint clearance card system.  |
| R6-6-1104              | R6-6-1104 is not effective due to a conflict with A.R.S. § 36-593. While the rule states that a provisional license is valid for six months, statute sets the length of a provisional license at three months.   |
| R6-6-1104.02           | R6-6-1104.02 is ineffective because it mentions an address and a process that is obsolete.   |
| R6-6-1104.03           | R6-6-1104.03 is ineffective because it does not account for the vendor supported model of licensing employed for 98 percent of the developmental homes. In addition to information supplied by the applicant, a licensing agency completes a detailed home/social study and submits to the Division on the applicant's behalf. |
| R6-6-1111              | R6-6-1111(D) and R6-6-1111(K) are ineffective because they refer to an inspection by ADHS, which is not reflective of current practice.  |
| R6-6-1204              | R6-6-1204 is ineffective because it allows a client to retain a minimum of twelve percent of the client's income or benefits for personal use whereas A.R.S. § 36-562(M) allows the client to retain a minimum of thirty percent.  |
| Article 12, Appendix A | Article 12, Appendix A is not effective because it does not conform to the new federal poverty guidelines.   |
| R6-6-1305              | R6-6-1305 is ineffective because the requirement to disclose a SSN is prohibited by the Federal Privacy Act of 1974, 5 U.S.C. 552a.  |
| R6-6-1501              | R6-6-1501 is ineffective because an applicant may be an individual or an agency. In practice, certifying an individual requires a different process than certifying an agency.   |
| R6-6-1503              | R6-6-1503 will become obsolete and ineffective when AHCCCS launches the provider enrollment portal later this year.  |
| R6-6-1504              | R6-6-1504 is ineffective because it requires DCS and APS background checks, "only when the application indicates a past history of child or elder abuse." It is  |

| Rule         | Explanation   |
|--------------|---|
|              | unclear how or if this rule applies when the "applicant" is an agency. Some of the requirements include self-declaration of criminal history, description of work experience, description of educational background, and three references.  |
| R6-6-1504.02 | R6-6-1504.02(F) is ineffective because the address is outdated.   |
| R6-6-1505    | <p>R6-6-1505(A) is ineffective because it does not provide an adequate inspection cycle. Per the current rule, a setting only needs to be inspected one time. Current practice is that sites are inspected every two years.</p> <p>R6-6-1505(B) is ineffective because it is not reflective of current practice. Current practice is that HCBS settings are inspected for general safety and fire safety by DDD every two years.</p>  |
| R6-6-1506    | <p>R6-6-1506 is ineffective because it details a fingerprinting process that is in conflict with A.R.S. § 36-594.01. The rule does not reflect our current statute § 36-594.01 and lists current specific crimes that may preclude someone from passing a fingerprint background check. Furthermore, it does not mention the process by which a card can be suspended by the Department of Public Safety (DPS) based on a recent arrest by virtue of a file stop which suspends the clearance card and therefore stops the person from providing direct care. The time-frames mentioned in the rule are not applicable based on current statutes and contract compliance requirements. The rule states an individual shall have a background check every three years. The current clearance cards are good for six years and are renewed on expiration. Clearance cards are portable and can be used at any DES program as long as they are valid. The current rule mentions a clearance letter, which is not portable. The Office of Special Investigation is no longer involved with the background check process. Current notifications of denied, suspended, and driving restricted statuses are sent to contracted agencies and Individual Independent Provider applicants. The contracted agency must respond within 10 business days that the employee is no longer providing direct care. If a contracted agency hires someone with a Level I fingerprint clearance card the agency must update the DPS database during the hiring and employment process using the form supplied by DPS.</p> |
| R6-6-1508    | R6-6-1508 is ineffective because it fails to account for the current practice of "certifying" group homes. Currently, DDD issues a certificate to each individual   |

| Rule      | Explanation   |
|-----------|---|
|           | group home upon verification that the group home is licensed by ADHS and operated by an HCBS certified qualified vendor (agency).   |
| R6-6-1512 | R6-6-1512(1)(d) is ineffective because it only requires a "review" of Article 9. However, DDD has a well-established training and certification structure for Article 9.  |
| R6-6-1601 | R6-6-1601 is ineffective because it needs to include "exploitation" to be consistent with A.R.S. § 46-454. Additionally, the rule needs to be amended to reflect the requirement of reporting to appropriate agencies (for example, law enforcement, DCS, or APS.)  |
| R6-6-1602 | R6-6-1602 is ineffective because it needs to include "exploitation" to be consistent with A.R.S. § 46-454. Additionally, the rule needs to be amended to reflect the requirement of reporting to appropriate agencies (for example, law enforcement, DCS, Safety, or APS.)  |
| R6-6-1603 | R6-6-1603 is ineffective because it needs to include "exploitation" to be consistent with A.R.S. § 46-454. Additionally, the rule needs to be amended to reflect the requirement of reporting to appropriate agencies (for example, law enforcement, DCS, or APS.)  |
| R6-6-2111 | R6-6-2111 is ineffective because it requires DDD to terminate a Qualified Vendor Agreement (QVA) for any of the following reasons: (3) when a vendor no longer meets the criteria defined in the Request for Qualified Vendor Application, (4) for non-compliance with the QVA requirements, and (6) as determined by DDD after the Qualified Vendor (QV) has been given notice and the opportunity to be heard. This rule appears to indicate that a QVA must be terminated immediately when a QV is non-compliant or no longer meets the criteria (not taking into account contract actions that can be taken prior to termination (for example, demand for assurances, enrollment suspense, etc.). Also, subsection (6) seems to contradict subsections (3) and (4). |
| R6-6-2115 | R6-6-2115 is confusing as written and therefore ineffective. For example, during recent appeals involving DDD action in terminating QVAs, the providers' attorneys, DDD Contracts Unit and their attorneys, and DES Procurement and   |



| Rule      | Explanation  |
|-----------|--|
|           | <p>their attorney could not determine whether this rule or what other rule's procedure applied.</p>  |
| R6-6-2116 | <p>R6-6-2116 is confusing as written and therefore ineffective. For example, during recent appeals involving DDD action in terminating QVAs, the providers' attorneys, DDD Contracts Unit and their attorneys, and DES Procurement and their attorney could not determine whether this rule or what other rule's procedure applied.</p> <p>Also, R6-6-2116(D) does not create a deadline by which a party must submit a written request for a final decision. This makes the process ineffective because a provider can potentially request a final decision five years after the problem-solving meeting.</p> |
| R6-6-2117 | <p>R6-6-2117 is confusing as written and therefore ineffective. For example, during recent appeals involving DDD action in terminating QVAs, the providers' attorneys, DDD Contracts Unit and their attorneys, and DES Procurement and their attorney could not determine whether this rule or what other rule's procedure applied.</p>  |
| R6-6-2201 | <p>R6-6-2201 refers to a different process for grievances involving DDD/ALTCS clients; however, the trigger for the different appeals process (R9-34-201 et seq. and R9-34-401 et seq.) is that the dispute is over a Medicaid-funded service. The Department needs to amend these rules to memorialize current practice.</p> <p>R6-6-2201(B) should be repealed because the appeal process for disputes with ALTCS members and ALTCS providers involving Medicaid-funded services is governed by AHCCCS. The process is fully outlined in AHCCCS' rules (Title 9, Chapter 34, Articles 2 and 4).</p>          |
| R6-6-2205 | <p>R6-6-2205 is ineffective because it uses gender specific language. Additionally, language should be added that the person assisting a member designated by the member should do so free of charge (unless an attorney). Otherwise, that is an unauthorized practice of law.</p>   |
| R6-6-2206 | <p>R6-6-2206 is ineffective. A.R.S. § 41-1001 defines a rule as “an agency statement of general applicability that implements, interprets or prescribes law or policy, or</p>  |

| Rule      | Explanation  |
|-----------|--|
|           | describes the procedure or practice requirements of an agency.” However, R6-6-2206 is ineffective because it does not provide specific citation of federal statute, regulation, state statute, or rules when benefits may be reduced or terminated prior to a hearing decision.  |
| R6-6-2212 | R6-6-2212 is ineffective because it does not indicate who has the burden of proof at the different types of administrative hearings held under this Article.   |
| R6-6-2213 | R6-6-2213 is ineffective because it contains inaccurate references to AHCCCS/ALTCS rules, “R9-28-802 and R9-28-804.” The correct citation for AHCCCS rules for grievances and appeals is Title 9, Chapter 34.  |
| R6-6-2215 | R6-6-2215 refers to a different process for grievances involving DDD/ALTCS clients; however, the trigger for the different appeals process (R9-34-201 et seq. and R9-34-401 et seq.) is that the dispute is over a Medicaid-funded service. The Department needs to amend these rules to memorialize current practice. |
| R6-6-2216 | R6-6-2216 refers to a different process for grievances involving DDD/ALTCS clients; however, the trigger for the different appeals process (R9-34-201 et seq. and R9-34-401 et seq.) is that the dispute is over a Medicaid-funded service. The Department needs to amend these rules to memorialize current practice. |
| R6-6-2308 | R6-6-2308 is ineffective because it does not address day programs and employment services in monitoring requirements as specified in A.R.S. § 36-557.  |

**4. Are the rules consistent with other rules and statutes? Yes  No**

*If not, please identify the rule(s) that is not consistent. Also, provide an explanation and identify the provisions that are not consistent with the rule.*

| Rule     | Explanation   |
|----------|---|
| R6-6-105 | R6-6-105 is inconsistent with federal law and needs to be amended to conform to relevant requirements of HIPAA, Pub. L. 104-19, also known as the Kennedy-Kassebaum Act, signed August 21, 1996 as amended and as reflected in the implementing regulations at 45 CFR Parts 160, 162, and 164. For example, R6-6-105 reads “consents for release of information obtained during intake shall expire within 90 days;” however, per HIPAA, authorizations can last until the expiration |

| Rule                   | Explanation  |
|------------------------|--|
|                        | dates memorialized on the authorization as long as it is a definite end date (i.e., 30 days, one year, 10 years, end of 2015 school year, death of individual). Per HIPAA, if no expiration date is provided on the authorization, it is valid for one year from the effective (signed) date.  |
| R6-6-106               | R6-6-106 is inconsistent with federal law and needs to be amended to conform to relevant requirements of HIPAA as amended, and as reflected in the implementing regulations at 45 CFR Parts 160, 162, and 164.   |
| R6-6-802               | R6-6-802 is inconsistent because the licensing authority for Division group homes is ADHS. The Department uses the rules in Article 8 for contract monitoring, pursuant to A.R.S. § 36-595.  |
| R6-6-809               | R6-6-809 is inconsistent with A.R.S. § 36-554(A)(7) regarding the requirement to notify parents or guardians of the complaint handling procedure in the community residential setting program.   |
| R6-6-810               | R6-6-810 is inconsistent with federal law and needs to be amended to conform to relevant requirements in HIPAA, as amended, and as reflected in the implementing regulations at 45 CFR Parts 160, 162, and 164. For example, the rule does not identify language required to be included in the authorization by HIPAA (i.e., individual's right to revoke the authorization; the ability or inability to condition treatment, payment, enrollment or eligibility for benefits on the authorization; and the potential of information disclosed pursuant to the authorization to be subject to redisclosure by the recipient). |
| R6-6-903               | R6-6-903 contains an outdated reference to Article 17, which expired effective August 30, 2005.  |
| R6-6-1204              | R6-6-1204, which allows a client to retain a minimum of 12 percent of the client's income or benefits for personal use, is inconsistent with A.R.S. § 36-562(M), which allows a minimum of thirty percent.   |
| Article 12, Appendix A | Article 12, Appendix A, Cost of Care Portion Table does not conform to the new federal poverty guidelines.   |

| <b>Rule</b> | <b>Explanation</b>   |
|-------------|--|
| R6-6-1305   | In R6-6-1305, the requirement to provide a SSN is inconsistent with the Federal Privacy Act of 1974, 5 § U.S.C. 552a.                      |
| R6-6-1601   | R6-6-1601 needs to be updated to include “exploitation” to be consistent with A.R.S. § 46-454.   |
| R6-6-1602   | R6-6-1602 needs to be updated to include “exploitation” to be consistent with A.R.S. § 46-454.   |
| R6-6-1603   | R6-6-1603 needs to be updated to include “exploitation” to be consistent with A.R.S. § 46-454.   |
| R6-6-2213   | R6-6-2213 contains an inaccurate reference to the AHCCCS Office of Administrative Legal Services.  |
| R6-6-2308   | R6-6-2308 needs to be amended to conform to A.R.S. § 36-557 by adding day programs and employment services to the monitoring requirements. |

**5. Are the rules enforced as written? Yes  No**

*If not, please identify the rule(s) that is not enforced as written and provide an explanation of the issues with enforcement. In addition, include the agency(s) proposal for resolving the issue.*

| <b>Rule</b> | <b>Explanation</b> |
|-------------|--------------------|
| NA          | NA                 |

**6. Are the rules clear, concise, and understandable? Yes  No**

*If not, please identify the rule(s) that is not clear, concise, or understandable and provide an explanation as to how the agency plans to amend the rule(s) to improve clarity, conciseness, and understandability.*

| <b>Rule</b> | <b>Explanation</b>   |
|-------------|--|
| Article 1   | The Department proposes some outdated definitions be removed or amended to reflect current health care law and practice. For example, the following definitions in R6-6-101 are outdated: “Behavior management,” “Case management,” “Community residential setting resident” or “resident,” “Cost of care,” “Cost of care portion,” “Direct care staff,” “Family support voucher,” “Individual service and |

| Rule               | Explanation  |
|--------------------|--|
|                    | <p>program plan” or “ISPP,” “Individual service and program plan team” or “ISPP team,” “Least intrusive” or “least obtrusive,” “Lives independently,” “Main provider record,” “Medication error,” “Overcorrection,” “Physical restraint,” “Protective device,” “Residential service,” “Responsible party,” “Seclusion” or “locked time-out room,” “Service provider,” “Third-party liability,” “Third-party payor,” and “Time-out procedure.” Additionally, the term “Division” needs to be defined for clarity.</p> |
| Article 6          | <p>The Department proposes to amend the rules in this Article to improve clarity and conciseness by providing more comprehensive information relevant to current requirements. R6-6-601 should be amended to reflect the current language of “Support Coordination” instead of “Case Management.” In addition, the Department proposes to update language and remove the provisions in R6-6-606 that are duplicative of A.R.S. § 36-560.</p>   |
| Article 8          | <p>The Department proposes to amend the rules in this Article to improve clarity and conciseness by providing more comprehensive information relevant to current requirements. The Department proposes to update the rules in this Article to reflect new terminology. The use of the term “licensee” is not the most appropriate term to describe the relationship between the Division and the party being monitored.</p>  |
| Article 9          | <p>The Department proposes to update the rules in this Article to reflect the most current evidenced based practices. The Department proposes to amend the rules in this Article to improve clarity and conciseness by providing more comprehensive information relevant to current requirements.</p>  |
| Articles 10 and 11 | <p>The Department proposes to consolidate the rules in Articles 10 and 11 into Article 10. The Department proposes to amend the rules within Articles 10 and 11 to enhance clarity and conciseness by providing more comprehensive information relevant to current requirements.</p>   |
| Article 12         | <p>The Department proposes to amend the rules in this Article to improve clarity and conciseness by providing more comprehensive information relevant to current requirements. Appendix A: Cost of Care Portion Table is outdated due to changes in federal poverty guidelines.</p>  |

| Rule       | Explanation   |
|------------|---|
| Article 13 | The Department proposes to amend the rules in this Article to improve clarity and conciseness by providing more comprehensive information relevant to current requirements.   |
| Article 15 | The Department proposes to amend the rules in this Article to improve clarity and conciseness by providing more comprehensive information relevant to current requirements. For example, the use of the term “licensee” is not the most appropriate term to describe the relationship between the Division and the party being monitored. The current rule does not mention the current practice that an employee or Individual Independent Provider may apply for a Good Cause Exception through the Arizona Board of Fingerprinting to be granted a Clearance Card under A.R.S. § 41-619(53). |
| Article 16 | The Department proposes to amend the rules in this Article to improve clarity and conciseness by providing more comprehensive information relevant to current requirements.   |
| Article 20 | The Department proposes to amend the rules in this Article to improve clarity and conciseness by providing more comprehensive information relevant to current requirements.   |
| Article 21 | The Department proposes to amend the rules in this Article to improve clarity and conciseness by providing more comprehensive information relevant to current requirements.   |
| Article 22 | The Department proposes to amend the rules in this Article to improve clarity and conciseness by providing more comprehensive information relevant to current requirements.   |

**7. Has the agency received written criticisms of the rules within the last five years?**

Yes  No

*If yes, please fill out the table below:*

| Commenter | Comment | Agency's Response |
|-----------|---------|-------------------|
| NA        | NA      | NA                |

8. **Economic, small business, and consumer impact comparison:**

**General**

DDD provides high-quality supports and services for eligible people who have autism, cerebral palsy, epilepsy, or intellectual disability. DDD provides, or contracts to provide, a variety of services, depending on available funding and eligibility, including: attendant care, day treatment and training, habilitation, home health assistance, home nursing, home modifications, housekeeping, services in intermediate care facilities, medical services, services in nursing facilities, respiratory therapy, respite, occupational therapy, physical therapy, speech therapy, and non-emergency transportation.

**Funding**

DDD is funded through state appropriations, federal Medicaid monies from the ALTCS program through AHCCCS, charges for services, and other revenue.

State Only Funds refers to funding for the state’s program for persons with developmental disabilities who are not Medicaid-eligible. “Operating” refers to the money spent to operate or administer each program at the agency level, while “direct” refers to funding that is used directly for client services. The current funding breakdown is as follows:

|   | <b>General Fund</b> | <b>Long Term Care System Fund</b> | <b>Total</b>    |
|---|---------------------|-----------------------------------|-----------------|
| <b><u>Arizona Long Term Care System</u></b> |                     |                                   |                 |
| Total ALTCS Appropriation                   | \$597,559,600       | \$1,396,988,900                   | \$1,994,548,500 |
| ALTCS Operating                             | \$39,767,100        | \$98,252,600                      | \$138,019,700   |
| ALTCS Direct Services                       | \$557,380,400       | \$1,298,736,300                   | \$1,856,116,700 |
|   |                     |                                   |                 |
| <b><u>State Only</u></b>                    |                     |                                   |                 |
| Total State-Only Appropriation              | \$36,513,400        | \$26,559,600                      | \$63,073,000    |
| State-Only Operating                        | \$2,400,000         | \$0                               | \$2,400,000     |
| State-Only Direct Services                  | \$34,113,400        | \$26,559,600                      | \$60,673,000    |
|   |                     |                                   |                 |
| Total FY 2020 FTE Allocation                | 2,299.00            |                                   |                 |

a. **Members**

As of June 1, 2019, DDD was serving 42,504 clients, with the program breakdown as follows:

|                                    |               |
|------------------------------------|---------------|
| Family Home                        | 37,774        |
| Group Home                         | 3,041         |
| Adult Developmental Foster Home    | 1,301         |
| Child Developmental Foster Home    | 186           |
| Institutional                      | 96            |
| Coolidge                           | 75            |
| State-Operated Group Home          | 25            |
| Assisted-Living Centers/Facilities | 6             |
| <b>Total</b>                       | <b>42,504</b> |

b. Contractors

As of June 2019, DDD contracted with 566 HCBS Agencies and currently there are 1,209 Individual Providers. Currently there are 721 licensed Adult Developmental Foster Homes, and 306 licensed Child Developmental Foster Homes.

c. Employees

The total FY20 FTE allocation for DDD is 2,299.00.

d. Advocacy Organizations

Advocacy organizations that work on behalf of DDD members include The Arc of Arizona, Arizona Bridge to Independent Living, Arizona Center for Disability Law, Arizona Consortium for Children with Chronic Illness, Autism Society, Epilepsy Foundation of Arizona, Governor’s Council on Developmental Disabilities, Pilot Parents of Southern Arizona, People First of Arizona, and Raising Special Kids. The Division also has member advocates on staff and publishes direct contact information for those employees on its website.



## **Previous Economic Impact Statements**

DDD has previously prepared economic impact statements for Articles 3 (Article 5 was repealed), 18, and 23. Economic Impact Statements were not completed on Articles 1, 4, 6, 8, 9, 10 (except R6-6-1004.01 through R6-6-1004.05), 11 (except R6-6-1104.01 through R6-6-1104.05), 12, 13, 16, 20, 21, and 22 because the rulemakings were exempt from the formal rulemaking process. Economic impact statements were not completed on R6-6-1004.01 through R6-6-1004.05 and R6-6-1104.01 through R6-6-1104.05 (adopted effective February 1, 1998); and Article 15 (adopted effective February 1, 1996) because the rulemakings were conducted prior to the requirement for an economic impact statement or were appropriately purged under public record requirements then in effect. The Department does not anticipate an economic impact for these rules as the rulemaking has been completed for some time.

## **Additional Economic Impact**

Overall, the rules in Chapter 6 have a positive economic impact because they explain to the public the requirements and procedures for accessing DDD services, interacting with DDD as a contractor, and serving as a licensed provider. The rules that are outdated or unclear create a negative economic impact, which the Department intends to rectify by amending these rules, as outlined in this report. To mitigate the negative economic impact, DDD provides supplemental information to its clients through its website, public meetings, workgroups, publications, and other forms of communication.

### **Articles 1, 3, 4, 6, 8, 9, 12, 13, 16, 18, and 22**

Articles 1, 3, 4, 6, 8, 9, 12, 13, 16, 18, and 22 directly impact DDD's 33,925 clients, their families, and advocates.

- Article 1 contains definitions, and addresses the rights of individuals with developmental disabilities, confidentiality, and appropriate environment guidelines for placements and programs. These rules impact all current and prospective clients and contracted providers of DDD.
- Article 3 provides eligibility criteria and contains guidelines for making developmental disability determinations.
- Article 4 describes the process for applying for services.
- Article 6 explains how developmental disabilities services are provided.

- Article 8 describes programmatic standards and contract monitoring for community residential settings.
- Article 9 addresses the Department's requirements for managing inappropriate behaviors.
- Article 12 provides guidelines for the cost of care portion for services for minor client's parents, cost of care portion from a client's estate or trust, special provisions for clients receiving residential services, billing and the review and appeal process for cost of care portion.
- Article 13 describes how coordination of benefits and third-party payments are handled by the Department.
- Article 16 explains how the Department handles allegations of abuse and neglect.
- Article 18 provides a method for review of Department decisions.
- Article 22 describes the process for appeals and hearings.

Articles 10, 11, 15, 20, and 21

Articles 10, 11, 15, 20, and 21 directly impact DDD's 2,496 contractors, and indirectly impact clients, families, and advocates.

- Article 10 describes the process for obtaining a child developmental foster home license.
- Article 11 describes the process for obtaining an adult developmental home license.
- Article 15 describes the requirements for HCBS certification.
- Article 20 explains the Department's contracting process.
- Article 21 describes the procurement process and rate setting for Qualified Vendors.

Although most of the rules in this Chapter are out of date and require revision, the Department communicates regularly with all of its stakeholders and provides comprehensive information to supplement these rules on its website. Because the rules contain outdated terms, references, and procedures, they may be confusing to stakeholders when read in conjunction with current policy and procedure, but the Department communicates regularly with its stakeholders

and provides ample documentation to ensure stakeholders are adequately informed of current activities.

9. **Has the agency received any business competitiveness analyses of the rules?**

Yes  No

10. **Has the agency completed the course of action indicated in the agency's previous five-year review report?**

*Please state what the previous course of action was and if the agency did not complete the action, please explain why not.*

In the previous Five-Year Review Report approved by the Council on December 15, 2015, the Department recommended changes to all Articles in Chapter 6. On July 16, 2014, the Department received an exemption to draft Article 23. On May 16, 2016, the Department received an exemption to proceed with rulemakings on eight Articles (Articles 3, 5, 9, 10, 11, 15, 18, and 21). On November 6, 2017, the Department received an exemption to proceed with rulemakings on Article 4. On May 31, 2018, the Department received an exemption to proceed with rulemakings on Article 20. The Department amended Article 3 and repealed Article 5 effective August 24, 2018. The Department amended Article 18 effective January 27, 2018. Amendments to Article 4 were approved by the Governor's Regulatory Review Council on August 4, 2020. The Department has not yet made any decision regarding the amendment of Article 20. The draft Notices of Proposed Rulemaking on remaining Articles 9, 10, 11, 15, and 21 are in various stages of development. However, revisions to Article 10, 11, 15, and 21 have been delayed until the end of 2020 in an effort to prioritize DDD efforts to complete the transition of the integrated physical and behavioral health contract and emergency preparedness regarding COVID-19. The Department did not take any action to revise Article 23 due to other competing priorities. The Department plans to request an exemption to proceed with Expedited rulemaking to resolve inconsistency in the rules identified in item 4 (Consistency with other rules and statutes) of this Report by December 2020.

Progress on these Articles has been accomplished while balancing resource assignments and competing priorities primarily related to Medicaid funding. The Department is the AHCCCS program contractor responsible for the delivery of

Medicaid services to individuals with developmental disabilities in Arizona. Between 2015 and 2020, implementing continuing changes in Medicaid requirements impacting the Department was a high priority in order not to jeopardize federal funding.

Rulemaking was assigned to the same program unit that is responsible for updating program policy, which is an AHCCCS contract requirement. DDD has designated one position that is responsible to coordinate rule development along with other duties in the Policy Unit. DDD has recognized the lack of resources issues. Nevertheless, DDD is committed to timely implementation of the commitments made in this report.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

Through analysis provided by the Department's program subject matter experts and Financial Services Administration, the Department believes that the rules impose the least burden and cost to persons regulated by these rules, including paperwork and other compliance costs, necessary to achieve the underlying regulator objectives. The amendment seeks to align the rule with statute and to make the rule more clear, concise, and understandable to the public. Program subject matter experts indicate that the amendment to the rule, as proposed in this report, is the most cost-effective way to bring the Department into compliance with state requirements and ensure that the rules reflect current program practice.

12. **Are the rules more stringent than corresponding federal laws?** Yes  No

*Please provide a citation for the federal law(s). And if the rule(s) is more stringent, is there statutory authority to exceed the requirements of the federal law(s)?*

The Department has determined that R6-6-401 and R6-6-1305 are more burdensome than, and in conflict with, corresponding federal statutes and regulations, including federal Privacy Act of 1974, 5 U.S.C. § 552a, because the federal law does not permit the use of members' SSNs by service providers when notifying DDD of third party liens or by applicants for DDD services.

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:**

The Department has determined that, because the licenses under Articles 8, 10, and 11 are issued under A.R.S. §§ 36-592, 36-594.01, 36-595, and 36-595.03, the exception in A.R.S. § 41-1037(A)(5) applies.

**14. Proposed course of action**

*If possible, identify a month and year by which the agency plans to complete the course of action.*

The Department plans to request an exemption to proceed with Expedited Rulemaking to resolve inconsistency in the rules identified in item 4 (Consistency with other rules and statutes) of this Report by December 2020. The Department plans to submit the Notice of Final Expedited Rulemaking to the Governor's Regulatory Council to resolve inconsistency in the rules identified in item 4 (Consistency with other rules and statutes) of this Report by August 2021. The Department plans to submit the Notices of Final Rulemaking to the Governor's Regulatory Council to amend Articles 9, 10, 11, 15, and 21 by December 2021. The Department plans to submit the Notices of Final Rulemaking to the Governor's Regulatory Council to amend Articles 1 and 13 by December 2022.

The Department plans to file a Notice of Final Rulemaking for Articles 6, 8, 12, 16, 22, and 23 by December 2022.

Apart from the rules reviewed in this Report, the Department received a Moratorium exception from the Governor's Office on September 17, 2019 to promulgate new rules to implement A.R.S. § 36-568 (Group homes; intermediate care facilities; electronic monitoring; definition). The Department is drafting the Notice of Proposed Rulemaking for the new rules.