

-Preface-

Arizona 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 (GRRC). 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 5
Article 33 - ACHIEVING A BETTER LIFE EXPERIENCE
FIVE-YEAR REVIEW REPORT

1. Authorization of the rule by existing statutes:

General Statutory Authority: A.R.S. §§ 41-1954(A)(3) and 46-202

Specific Statutory Authority: A.R.S. § 46-902(1)

2. Analysis of rules:

Rule Analysis

R6-5-3301 Title: Definitions

Objective: The objective of this rule is to define the terms used in this Article and promote a uniform understanding of terms used by the Department.

- Is this rule effective in meeting the objective? Yes No
- Is this rule consistent with other rules and statutes? Yes No
- Is this rule enforced as written? Yes No
- Is this rule clear, concise, and understandable? Yes No

Rule Analysis

R6-5-3302 Title: Program Manager

Objective: The objective of this rule is to explain the responsibilities of the program manager.

- Is this rule effective in meeting the objective? Yes No
 - Is this rule consistent with other rules and statutes? Yes No
 - Is this rule enforced as written? Yes No
 - Is this rule clear, concise, and understandable? Yes No
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Rule **Analysis**
R6-5-3303 Title: Fees
 Objective: The objective of this rule is to explain the different types of fees the program manager may impose on designated beneficiaries.

- Is this rule effective in meeting the objective? Yes No
 - Is this rule consistent with other rules and statutes? Yes No
 - Is this rule enforced as written? Yes No
 - Is this rule clear, concise, and understandable? Yes No
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Rule **Analysis**
R6-5-3304 Title: Opening an Account
 Objective: The objective of this rule is to explain how to open an account, the fees included in the application process, the information required in the application, and the applicant's right to reapply if an application is denied.

- Is this rule effective in meeting the objective? Yes No
 - Is this rule consistent with other rules and statutes? Yes No
 - Is this rule enforced as written? Yes No
 - Is this rule clear, concise, and understandable? Yes No
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Rule **Analysis**
R6-5-3305 Title: Contribution
 Objective: The objective of this rule is to explain who can make a contribution to an account, the exception to when cash or a cash equivalent contribution can be made, the limit amount of annual contributions made to an account, and that excess contributions will be returned to the contributors.

- Is this rule effective in meeting the objective? Yes No
 - Is this rule consistent with other rules and statutes? Yes No
 - Is this rule enforced as written? Yes No
 - Is this rule clear, concise, and understandable? Yes No
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Rule

Analysis

R6-5-3306

Title: Statements

Objective: The objective of this rule is to explain who can receive an account statement and how the account statement will be provided.

- Is this rule effective in meeting the objective? Yes No
 - Is this rule consistent with other rules and statutes? Yes No
 - Is this rule enforced as written? Yes No
 - Is this rule clear, concise, and understandable? Yes No
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Rule

Analysis

R6-5-3307

Title: Program-to-Program Transfers and Rollovers

Objective: The objective of this rule is to explain that, subject to federal law, the ABLE Program allows the transfer of the account balance to or from another state's ABLE program and the criteria for which rollovers are allowed to occur.

- Is this rule effective in meeting the objective? Yes No
- Is this rule consistent with other rules and statutes? Yes No
- Is this rule enforced as written? Yes No

- Is this rule clear, concise, and understandable? Yes No
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3. **Has the Department received written criticisms of the rules within the last five years?**

Yes No

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

In December 2019, the total number of accounts opened, including those pending opening, totaled 913. As of March 2024, the number of accounts has increased to 3,249. An additional full time employee has been added to the program in that time to account for the increased workload, and the total projected costs to the Department for the State Fiscal Year 2024 is \$228,111. In the same time period, the program was able to reduce its account maintenance fee from \$39 per year to \$27, a cost savings of 31% to the client. The Department has not identified any other economic impact that is significantly different from that projected in the economic impact statement for the rulemaking it promulgated in 2019 (25 A.A.R. 885, May 20, 2019).

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

Yes No

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

Yes No N/A

The rules for A.A.C. Title 6, Chapter 5, Article 33 - Achieving a Better Life Experience were made by final rulemaking and became effective May 20, 2019. This is the first Five-Year Review Report from the Department for A.A.C. Title 6, Chapter 5, Article 33 - Achieving a Better Life Experience as required under A.R.S. § 41-1056.

7. **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:

These rules govern all aspects of the ABLE Program. The benefits of these rules outweigh any costs associated with the rules and impose the least burden on individuals regulated by these rules. The Department does not anticipate any negative impacts on small businesses or individuals regulated by these rules.

8. Are the rules more stringent than corresponding federal laws?

Yes No

9. 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 A.R.S. § 41-1037 does not apply to these rules because they do not require a regulatory permit, license, or agency authorization.

10. Proposed course of action:

During this review, the Department has determined the existing rules under Article 33 are effective in meeting their objective, are consistent with other rules and statutes, are enforced as written, and are clear, concise, and understandable. The Department does not propose to take any action at this time.