

-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 agency’s website.

**Department of Economic Security
Title 6, Chapter 17
Five-Year Review Report**

1. Authorization of the rule by existing statutes:

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

Specific Statutory Authority: The Statute authorizing the exempt rulemaking that established Chapter 17 is Laws 2002, Chapter 329, Section 35. Laws 2009, First Special Session, Chapter 4, Section 4 repealed the program described and administered in accordance with Chapter 17.

2. The objective of each rule:

Rule	Objective
R6-17-101	This rule describes the purpose of the General Assistance (GA) program for individuals whom the assistance was available, and the administration within the Department that was responsible for completing eligibility determinations for the program.
R6-17-102	This rule describes and defines essential terms used throughout this Chapter.
R6-17-306	This rule describes the Department's responsibilities for maintaining an applicant's or recipient's case record, including what information is required to be included in the case record and applicable timeframes for retaining such information.
R6-17-307	This rule describes the Department's responsibilities for protecting the confidential information provided to the Department by an applicant or recipient, including confidential information obtained by the Department in the eligibility and case maintenance functions.
R6-17-407	This rule establishes the requirement that an applicant apply for federal disability benefits with the Social Security Administration and that the applicant authorize the Social Security Administration to send the initial federal disability benefit to the Department in order for reimbursement of General Assistance to be made for recipients who are eligible for federal disability benefits.
R6-17-709	This rule allows the Department to pursue collection of all overpayments, under state law, and establishes timeframes for initiating an overpayment claim.
R6-17-710	This rule lists the repayment methods the Department may require of an assistance unit in the recovery of an overpayment.

Rule	Objective
R6-17-711	This rule specifies what the begin date is for an overpayment period.
R6-17-805	This rule requires the Department to provide the assistance unit with a notice that contains a specific time frame, when benefits are to be decreased or terminated.
R6-17-807	This rule specifies the Department's responsibilities when the Social Security Administration provides the Department with the initial federal disability payment for a current or former recipient. This rule also requires the Department to pay the claim of any attorney, for representing a GA recipient in an appeal of any claim. The claim can be for federal disability benefits before an administrative law judge or for a subsequent adjudication or appeal that is decided in favor of the recipient, as required in state law.
R6-17-901	This rule requires the Department to provide an administrative hearing to an applicant or recipient who appeals an adverse action.
R6-17-902	This rule clarifies the terms "day" and "work day" and other time related factors in the appeals process.
R6-17-903	This rule specifies the methods by which an applicant or recipient may request an appeal and both the applicant or recipient's and the Department's responsibilities in the appeal request process.
R6-17-904	This rule specifies the responsibilities of the Family Assistance Administration in transmitting an appeals request to the Office of Appeals.
R6-17-905	This rule requires the Department to not implement an adverse action until the hearing officer renders a decision on the appeal if the appellant made a request for a hearing within 10 days from the date the Department mailed a notice of adverse action. The rule also lists circumstances in which implementing the adverse action was required.
R6-17-906	This rule specifies the responsibilities of the Office of Appeals when scheduling a hearing.
R6-17-907	This rule specifies the responsibilities of both the appellant and the Office of Appeals when rescheduling a hearing.
R6-17-908	This rule specifies the qualifications and responsibilities of a Hearing Officer.
R6-17-909	This rule specifies the qualifications and responsibilities of a Hearing Officer.
R6-17-910	This rule specifies the process required by a party seeking a subpoena and the responsibilities of the parties, the hearing officer and the Office of Appeals in subpoena related matters.
R6-17-911	This rule specifies the rights of a party in the appeals process.

Rule	Objective
R6-17-912	This rule specifies the process by which an appellant could withdraw an appeal and the responsibilities of the Department and the Office of Appeals in processing the withdrawal request.
R6-17-913	This rule specifies the responsibilities of the hearing officer when an appellant fails to appear at a scheduled hearing and the process for an appellant to file a request to reopen the proceedings.
R6-17-914	This rule specifies the procedures for conducting a hearing.
R6-17-915	This rule specifies the responsibilities of the hearing officer when rendering a decision.
R6-17-916	This rule specifies the responsibilities of the Family Assistance Administration when implementing the hearing decision.
R6-17-917	This rule specifies the rights of a party to appeal an adverse decision issued by a hearing officer to the Department's Appeals Board and the procedures for filing an appeal.
R6-17-918	This rule specifies the responsibilities of the Appeals Board when conducting an Administrative Appeal.
R6-17-919	This rule specifies the rights of a party that is adversely affected by an Appeals Board decision who may seek judicial review as prescribed in state law.

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.

The rules in Chapter 17 are effective as written to the extent that program activity continues related to the collection of benefit overpayments and potential Interim Assistance Reimbursement from former recipients who subsequently become eligible for Supplemental Security Income (SSI) payments from the Social Security Administration.

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.

Laws 2009, First Special Session, Chapter 4, Section 4 repealed the program described and administered in accordance with Chapter 17. The rules in Chapter 17 continue to be

necessary to govern the collection of overpayments resulting from the program's operation and potential Interim Assistance Reimbursement from former recipients who subsequently become eligible for SSI payments from the Social Security Administration.

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.

The Department enforces rules in Chapter 17, to the extent that they are necessary to govern the ongoing collection of benefit overpayments and potential Interim Assistance Reimbursement from former recipients who subsequently become eligible for SSI payments from the Social Security Administration.

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.

The rules in Chapter 17 are clear, concise, and understandable.

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:

The Department has not received any written criticisms of these rules.

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

The Department did not prepare an Economic Impact Statement for this Chapter when the rules were initially made, because the rules were exempt from formal rulemaking procedures. The Department prepared an Economic Impact Statement in 2008 while amending R6-17-102 through the regular rulemaking process. However, Laws 2009, First Special Session, Chapter 4, Section 4 repealed the program described and administered in accordance with Chapter 17. The Department believes that the rules have much less economic impact due to the statutory change.

The State benefits by the dollars collected from the debtors, as it continues to collect monthly from General Assistance (GA) program benefit overpayments due to the Department. The following Table shows the amount of GA overpayment collected from former GA recipients by the Department during the past five years, as well as the outstanding receivables:

GA Overpayment Information from FY 2014 through FY 2018:

Fiscal Year	Number of Cases	Outstanding Receivable	Amount Collected
2014	60	\$34,589.85	\$2,909.84
2015	55	\$32,549.13	\$2,035.72
2016	54	\$31,135.96	\$1,905.17
2017	52	\$29,870.46	\$2,507.50
2018	46	\$27,460.02	\$1,358.44

The Department also continues to process Interim Assistance Reimbursement (IAR) payments from former recipients who subsequently become eligible for SSI payments from the Social Security Administration. The Social Security Administration provides initial SSI payments for these former recipients directly to the Department. These payments are used to reimburse GA payments that were made by the Department to the former recipient to “bridge” the gap until the former recipient qualified for and could receive SSI payments. SSI funds in excess of the Department’s reimbursement are transferred to the former recipient.

Collection from GA/SSI/IAR:

Fiscal Year	Amount
2014	\$6,451.36
2015	\$2,187.68
2016	\$0.00
2017	\$0.00
2018	\$0.00

Overpayment collections have a negative short-term economic impact on consumers; however, they are consistent with program requirements.

These rules do not impact small businesses.

The Department has taken action to mitigate the potential confusion to the public of retaining rules for the GA program even though funding for program benefits have been eliminated. The

Department sent notice of the elimination of program benefits to the active caseload at the time when funding was terminated. The Department also included information regarding the elimination of funding for GA benefits on the agency internet site.

The State incurs minimal costs (less than \$1,000) to conduct collection activities under Chapter 17 rules. However, it benefits from the revenue generated under these rules.

The programs under Chapter 17 have no economic impact on political subdivisions and businesses; and therefore, there is no cost or benefit to political subdivisions and businesses by these rules. Also, these rules do not directly impact public and private employment and small businesses.

Overpayment collections have a negative short-term economic impact on consumers; however, they are consistent with program requirements.

State revenues are positively impacted by the collection of GA overpayments and SSI/IAR reimbursements.

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

Yes

No

The Department has not received any analysis by another person comparing the impact of the rules reviewed in this report on this state's business competitiveness or to the impact on business in other states.

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 February 4, 2014, the Department indicated that the rules continue to be necessary to govern the ongoing collection of benefit overpayments and the processing of IAR payments. The Department continues to collect these overpayments and the potential remains for further processing of IAR payments.

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:

The Department believes that maintaining the rules as they currently exist imposes the least burden and costs to persons regulated by these rules, including paperwork and compliance costs, necessary to achieve the underlying regulatory objectives.

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)?

This item is not applicable as there is no corresponding federal law.

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 A.R.S. § 41-1037 does not apply to these rules, because none of the rules were adopted after July 29, 2010.

14. Proposed course of action:

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

The Department will continue to monitor the status of general assistance overpayment collections and the processing of Interim Assistance Reimbursement payments and will take actions to eliminate the rules when they are no longer necessary.