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 13 L. Riddle, III, Valle Luna, Charlotte Chester, Ian
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 14 Association*

15 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
 16 IN AND FOR THE COUNTY OF MARICOPA

18 JANE ANN RIDDLE, an individual;
 19 WILLIAM L. RIDDLE, III, an individual;
 VALLE LUNA, an Arizona corporation;
 20 CHARLOTTE CHESTER, an individual;
 IAN McCARTHY, an individual; the
 21 ARIZONA CHAMBER OF COMMERCE
 & INDUSTRY, an Arizona non-profit
 22 corporation; the GREATER PHOENIX
 CHAMBER OF COMMERCE, an Arizona
 23 non-profit corporation; the TUCSON
 HISPANIC CHAMBER OF COMMERCE,
 24 an Arizona non-profit corporation; the
 GREATER FLAGSTAFF CHAMBER OF
 25 COMMERCE, an Arizona non-profit
 corporation; and the ARIZONA
 26 LICENSED BEVERAGE ASSOCIATION,
 an Arizona non-profit organization,

27 Plaintiffs,
 28

No.

**PLAINTIFFS' JOINT VERIFIED
 COMPLAINT FOR SPECIAL
 ACTION**

(Special Action Petition for Injunctive
 Relief enjoining A.R.S. § 23-363 and
 23-371 through 23-381)

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v.

STATE OF ARIZONA; INDUSTRIAL COMMISSION OF ARIZONA, a public entity; DALE L. SCHULTZ, in his official capacity as a Commissioner for the Industrial Commission of Arizona; JOSEPH M. HENNELLY, JR., in his official capacity as a Commissioner for the Industrial Commission of Arizona; SCOTT P. LeMARR, in his official capacity as a Commissioner for the Industrial Commission of Arizona; ROBIN S. ORCHARD, in her official capacity as a Commissioner for the Industrial Commission of Arizona; ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM, a public entity; THOMAS J. BETLACH, in his official capacity as Director of the Arizona Health Care Cost Containment System; ARIZONA DEPARTMENT OF ADMINISTRATION, a public entity; CRAIG C. BROWN, in his official capacity as the Director of the Arizona Department of Administration, ARIZONA STATE PROCUREMENT OFFICE, a public entity; and ASHOKE SETH, in his official capacity as the State Procurement Administrator,

Defendants.

For their Joint Verified Complaint, Plaintiffs allege as follows:

PRELIMINARY STATEMENT

1. This is a challenge to the constitutionality of a proposition titled “The Fair Wages and Healthy Families Act” (the “Proposition”) with the initiative serial number I-24-2016 provided by the Arizona Secretary of State, the application for which was filed on March 30, 2016, and approved by voters as Proposition 206 on November 8, 2016. An accurate copy of the Proposition is attached as Exhibit A.

2. This action seeks a Declaratory Judgment that the Proposition is unconstitutional because it violates the Revenue Source Rule in the Arizona Constitution (ARIZ. CONST. art. 9, § 23) by failing to include a revenue source for the Defendants’ implementation of the new minimum wage rate and mandated paid sick leave regulations and enforcements and by failing to establish a revenue source for the related increase in

1 the necessary State's general funding required to fund the significant increases in
2 appropriations necessary to meet the State's government contracting and compliance with
3 Arizona Supreme Court orders and federal law obligations regarding AHCCCS.

4 3. The Proposition is also unconstitutional because it violates the Separate
5 Amendment Rule in the Arizona Constitution (ARIZ. CONST. art. 21, § 1) by containing
6 two separate and unrelated provisions – one gradually raises the Arizona minimum wage
7 starting January 1, 2017, and a second requires paid sick leave benefits for a segment of
8 the community. As the Legislature can only make minor modifications to voter-passed
9 initiatives under Ariz. Const. art 4, pt. 1, § 1(6)(C), these initiatives operate similarly to
10 constitutional amendments, and should be subject to the same constitutional requirements.

11 **PARTIES**

12 4. Plaintiff Jane Ann Riddle is a qualified elector and taxpayer in the State of
13 Arizona.

14 5. Plaintiff William L. Riddle, III is a qualified elector and taxpayer in the
15 State of Arizona.

16 6. Plaintiff Valle Luna, Inc., is a taxpaying Arizona corporation in good
17 standing. Valle Luna operates several restaurants throughout the metropolitan Phoenix
18 area. Plaintiffs Jane Ann Riddle and William L. Riddle, III are the sole owners and
19 corporate officers of Valle Luna, Inc.

20 7. Plaintiff Charlotte Chester is a qualified elector and taxpayer in the State of
21 Arizona. She is employed by Valle Luna, Inc.

22 8. Plaintiff Ian McCarthy is a qualified elector and taxpayer in the State of
23 Arizona. He is employed by Valle Luna, Inc.

24 9. Plaintiff Arizona Chamber of Commerce & Industry (the "Arizona
25 Chamber") is an Arizona non-profit corporation. Most Arizona Chamber members are
26 corporate taxpayers in the State of Arizona, and some of the members also provide
27 services to the Defendant State of Arizona through state contracts. Furthermore, other
28 members are subject to the hospital assessment to supplement federal Medicaid funding to

1 the Defendant Arizona Health Care Cost Containment System (AHCCCS) pursuant to
2 A.R.S. § 36-2901.08.

3 10. Plaintiff Greater Phoenix Chamber of Commerce (the “Phoenix Chamber”)
4 is an Arizona non-profit corporation. Most Phoenix Chamber members are corporate
5 taxpayers in the State of Arizona. Some of the Phoenix Chamber members also provide
6 services to the Defendant State of Arizona through state contracts, and other members are
7 subject to the hospital assessment to supplement federal Medicaid funding to Defendant
8 AHCCCS pursuant to A.R.S. § 36-2901.08.

9 11. Plaintiff Tucson Hispanic Chamber of Commerce (the “Tucson Chamber”)
10 is an Arizona non-profit corporation. Most Tucson Chamber members are corporate
11 taxpayers in the State of Arizona. Some of the Tucson Chamber members also provide
12 services to the Defendant State of Arizona through state contracts, and other members are
13 subject to the hospital assessment to supplement federal Medicaid funding to Defendant
14 AHCCCS pursuant to A.R.S. § 36-2901.08.

15 12. Plaintiff Greater Flagstaff Chamber of Commerce (the “Flagstaff Chamber”)
16 is an Arizona non-profit corporation. Most Flagstaff Chamber members are corporate
17 taxpayers in the State of Arizona. Some of the Flagstaff Chamber members also provide
18 services to the Defendant State of Arizona through state contracts, and other members are
19 subject to the hospital assessment to supplement federal Medicaid funding to Defendant
20 AHCCCS pursuant to A.R.S. § 36-2901.08.

21 13. Plaintiff Arizona Licensed Beverage Association (“ALBA”) is an Arizona
22 non-profit organization. The ALBA has over 600 member businesses that hold liquor
23 licenses issued by the State of Arizona. Most of these members are corporate taxpayers in
24 the State of Arizona.

25 14. Defendant State of Arizona is a body politic.

26 15. Defendant Industrial Commission of Arizona is a jural entity of the State of
27 Arizona and is tasked by the Proposition to enforce its requirements. *See* Amended A.R.S.
28 § 23-364.

1 16. Defendant Dale L. Schultz is a duly appointed Commissioner of Defendant
2 Industrial Commission of Arizona and is sued in his official capacity.

3 17. Defendant Joseph M. Hennelly, Jr. is a duly appointed Commissioner of
4 Defendant Industrial Commission of Arizona and is sued in his official capacity.

5 18. Defendant Scott P. LeMarr is a duly appointed Commissioner of Defendant
6 Industrial Commission of Arizona and is sued in his official capacity.

7 19. Defendant Robin S. Orchard is a duly appointed Commissioner of
8 Defendant Industrial Commission of Arizona and is sued in her official capacity.

9 20. Defendant AHCCCS is a jural entity of the State of Arizona tasked with
10 complying with federal laws and regulations concerning the grants paid by Medicaid, the
11 setting and collection of hospital assessments pursuant to A.R.S. § 36-2901.08, the
12 entering into and modification of cost-reimbursement state contracts for services, the
13 determination of allowable cost reimbursements for such services, and the direction of
14 payment for such services rendered.

15 21. Defendant Thomas J. Betlach is the appointed Director of Defendant of
16 AHCCCS and is sued in his official capacity.

17 22. Defendant Arizona Department of Administration (ADOA) is tasked with
18 procurement and management of all materials, services, and construction to be procured
19 by the state and the disposal of materials and is authorized to enter into contracts with
20 private parties.

21 23. Defendant Craig C. Brown, Director of ADOA, is a duly appointed official
22 and is sued in his official capacity.

23 24. Defendant Arizona State Procurement Office (SPO) is a division of
24 Defendant ADOA and serves as the central procurement authority for the State of
25 Arizona.

26 25. Defendant Ashoke Seth, State Procurement Administrator for the Defendant
27 SPO and the Deputy Director of ADOA, is a duly appointed official and is sued in his
28 official capacity.

JURISDICTION AND VENUE

1
2 26. This Court has jurisdiction and venue pursuant to Article 9, § 23 of the
3 Arizona Constitution; A.R.S. §§ 12-123, 12-1801, *et seq.*, 12-1831, *et seq.*; 12-2021, *et*
4 *seq.*, and Rule 4(a) of the Arizona Rules of Procedure for Special Actions.

5 27. A justiciable controversy exists because, without Court intervention, the
6 Defendants stands to violate under color of state law the rights of Plaintiffs under the
7 Arizona Constitution and Plaintiffs will suffer immediate and irreparable injury and loss
8 of rights.

9 28. This Court has personal jurisdiction over Defendants.

10 29. Venue is proper in Maricopa County pursuant to A.R.S. §12-401.

GENERAL ALLEGATIONS

11
12 30. The Proposition amends existing law and mandates an increase of the
13 Arizona minimum wage starting on January 1, 2017. *See* Amended A.R.S. § 23-363. The
14 Proposition requires an incremental increase of the hourly minimum wage over the next
15 several years, with the hourly minimum wage on January 1, 2020, rising to \$12 an hour
16 for non-tipped hourly employees, and \$9 an hour for tipped hourly employees. *Id.* After
17 2020, the minimum wage is indexed to the rate of inflation. *Id.*

18 31. Whereas the Proposition mandates one minimum wage for all employers,
19 the Proposition also creates a completely new statutory article that separately mandates
20 two unequal amounts of earned paid sick time based on the number of employees
21 employed by an employer. *See* A.R.S. § 23-372.

22 32. Unlike the mandated minimum wage, which is paid by an employer within a
23 set pay period for specific hours worked during that period by an employee, the
24 Proposition requires that employers allow employees to accumulate and accrue the
25 separate paid sick leave over the employee’s entire term of employment. *Id.*

26 33. Unlike the minimum wage law that applies to all non-governmental
27 employees, the mandatory paid sick leave provisions also excludes such new benefits to
28 those employees covered by union collective bargaining agreements. *See* A.R.S. § 23-381.

1 34. The Proposition mandates that the minimum wage provisions go into effect
2 on January 1, 2017, whereas the separate and unrelated new paid sick leave provisions go
3 into effect on July 1, 2017. *See* Amended A.R.S. § 23-363, A.R.S. § 23-372.

4 35. Without providing a revenue source for necessary appropriations, the
5 Proposition mandates that the Industrial Commission establish mandated notices for use
6 by employers and is also mandated to create guidelines and regulations related to the new
7 paid sick leave provisions. *See* A.R.S. § 23-376. Upon information and belief, these
8 guidelines and regulations are completely new and separate from those relating to
9 minimum wage enforcement.

10 36. As set forth above, and in more detail below, the Proposition's provisions
11 embrace far too many subjects than allowed in a single ballot initiative.

12 37. The Proposition does not address the increased costs for Arizona businesses,
13 particularly for those with employees receiving tip income. Plaintiff Valle Luna has some
14 employees who will make less than the hourly tipped minimum wage, as it will be
15 mandated on January 1, 2017, unless implementation is stayed. Plaintiff Valle Luna will
16 be required to raise the wages of numerous employees who, when accounting for tip
17 income, already make more than the new minimum wage.

18 38. Similarly, Valle Luna also currently offers leave time for its employees to
19 take time off of work. The Proposition, however, would require Valle Luna to change its
20 leave policy in several ways. For example, it will shorten the time that an employee must
21 work at the company before he or she may begin using accrued leave time.

22 39. The increased costs imposed by the Proposition will cost Valle Luna over
23 \$400,000.00 in 2017 alone, with costs expected to continue to increase in future years.
24 These looming increased costs have forced Valle Luna to decide that it will wind up its
25 operations once its current leases expire, if the Proposition takes effect.

26 40. The Proposition also violates the Revenue Source Rule in Arizona's
27 Constitution. *See* ARIZ. CONST. art. 9, § 23.

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1 41. Upon information and belief, Defendants State of Arizona, AHCCCS,
2 ADOA, and SPO currently are engaged as parties in extensive government contracts,
3 including with several members of the Arizona Chamber and Tucson Chamber. These
4 contracts require the State to pay or reimburse its vendors for the wages and benefits that
5 the vendors must pay their employees. The Proposition's mandatory application to these
6 state contracts will result in massive new expenditures to meet the State's new, more
7 expensive contractual obligations.

8 42. A.R.S. § 36-2903(M) mandates that Defendant AHCCCS comply with all
9 applicable federal regulations and grant requirements to ensure continued federal funding
10 for AHCCCS programs.

11 43. 42 Code of Federal Regulations (C.F.R.) § 447.200, *et seq.*, are the federal
12 regulations that require AHCCCS to ensure that any service provider payment is
13 economical and that AHCCCS maintain a service provider network to meet the needs of
14 those eligible to receive medical benefits under AHCCCS. Upon information and belief,
15 these federal regulations mandate Defendant AHCCCS to reimburse the costs for services
16 rendered by its approved service providers of at least minimum wage and for costs
17 associated with the paid sick leave provisions of the Proposition. A portion of such
18 funding, as increased pursuant to the Proposition, is appropriated from the General Fund.

19 44. Pursuant to federal regulation, Defendants State of Arizona and AHCCCS
20 have entered into a contract with the United States Government in regard to the
21 administration of the federal Medicaid grant program in Arizona. Upon information and
22 belief, the contract between AHCCCS and the United States Government is referred to as
23 the "State Plan" and, upon information and belief, it mandates that Defendant AHCCCS
24 guarantee that the payments to providers and caretakers are sufficient enough to ensure
25 enough providers to meet the needs of those eligible to receive medical benefits. A copy
26 of excerpts of the State Plan is attached as Exhibit B. Upon information and belief, this
27 contractual requirement mandates Defendant AHCCCS to reimburse costs of at least
28 minimum wage for services rendered and for costs associated with the paid sick leave

1 provisions of the Proposition. A portion of such funding, as now increased pursuant to the
2 Proposition, is appropriated from the General Fund.

3 45. Pursuant to *Arnold v. Ariz. Dep't of Health Servs.*, 160 Ariz. 593 (1989),
4 Defendants have a mandated duty to provide a treatment system that coordinates with all
5 available treatment services and resources, which includes the requirement to maintain a
6 medical network provider system pursuant to government contract to meet the needs of
7 such treatment, including care takers and employment opportunities for the
8 developmentally disabled. Upon information and belief, to meet the requirements
9 mandated by the Arizona Supreme Court, the Defendants are required to pay network
10 providers, caretakers, and developmentally disabled qualified participants the applicable
11 minimum wage. As recognized by the Arizona Supreme Court, the Arizona laws that
12 mandate such a system are paid for by appropriations from the General Fund.

13 46. On December 14, 2016, Defendant AHCCCS published a notice of public
14 information describing the proposed changes for its fee for service rates and related
15 capitation rate adjustments resulting from the implementation of the Proposition. A copy
16 of this notice is attached as Exhibit C. These proposed changes reflect Defendants' intent
17 to appropriate and pay for the "mandatory" compliance with pay and sick leave provisions
18 of the Proposition.

19 47. Pursuant to A.R.S. § 41-2531, Defendants State of Arizona, ADOA, SPO,
20 and AHCCCS, directly and through Chief Procurement Officers assigned to other
21 individual Arizona state agencies, are authorized to enter into cost-reimbursement
22 contracts with third-parties service providers.

23 48. Pursuant to A.A.C. § R2-7-C317, any state government cost-reimbursable
24 contract automatically authorizes costs that are allowable and reasonable. Pursuant to
25 A.A.C. § R2-7-701, the Defendants determine what costs are allowable by referencing
26 federal regulations, specifically 48 C.F.R. Part 31 (September 2001).

27 49. Pursuant to 48 C.F.R. § 31.205-6, the Defendants' cost-reimbursement of
28 minimum wages and any cost associated with the Proposition's paid sick leave provisions

1 to state government contractors is an automatic allowable cost. Upon information and
2 belief, the costs associated with the compliance of the Proposition by state government
3 contractors and the payment of increased wages and paid sick leave as authorized by the
4 Defendants related to such cost-reimbursement contracts primarily will be funded by
5 appropriations from the General Fund.

6 50. Upon information and belief, third-party government contractors with the
7 Defendants are seeking modifications of existing firm-fixed fee type government contracts
8 due to the fact that a significant and cardinal change to the scope and costs of the
9 government contract has occurred associated with implementation and application of the
10 Proposition. Upon information and belief, any costs associated with the compliance of the
11 Proposition by state government contractors and the payment of increased wages and paid
12 sick leave related to such changes to firm-fixed price government contracts will primarily
13 be funded by appropriations from the General Fund.

14 51. Upon information and belief, appropriations from the General Fund to meet
15 the governmental contract requirements for just Defendant AHCCCS and the Department
16 of Economic Security are approximately \$46.8 million for the remainder of this fiscal
17 year, let alone future fiscal years and the inclusion of cost increases paid from the General
18 Fund associated with other state agencies. *See Exhibit C; see also Exhibit D, B. Giles,*
19 *“State will provide emergency funds to offset minimum wage hike,” Capital Times (Dec.*
20 *14, 2016).*

21 FIRST CLAIM FOR RELIEF

22 **Declaratory and Injunctive Relief (A.R.S. §§ 12-1801, *et seq.*; 12-1831, *et seq.*)** 23 **Inadequate Self-Funding (violation of Ariz. Const. art. 9, § 23)**

24 52. Plaintiffs incorporate the allegations set forth above as if fully set forth
25 herein.

26 53. The Revenue Source Rule in Article IX, § 23 requires that “[a]n initiative or
27 referendum measure that proposes a mandatory expenditure of state revenues for any
28 purpose . . . must also provide for an increased source of revenues sufficient to cover the
entire immediate and future costs of the proposal.”

1 54. The Revenue Source Rule further requires that “[t]he increased revenues
2 may not be derived from the state general fund or reduce or cause a reduction in general
3 fund revenues.”

4 55. The Proposition does not have a mechanism to pay for the necessary
5 increased costs for the State associated with the payment of private government
6 contractors who are mandated to (1) pay their employees the increased minimum wage
7 and (2) provide the mandated paid sick leave. As a result, the Proposition will require the
8 immediate payment of reserve General Funds to meet the government cost requirements
9 and also require numerous state agencies to request increased financial appropriations
10 from the Legislature, resulting in the expenditure of revenues from the General Fund.

11 56. The Arizona Supreme Court has ruled that Revenue Source Rule challenges
12 must be considered after an initiative becomes law, to understand the actual financial
13 implications of the initiative. *See League of Ariz. Cities and Towns v. Brewer*, 213 Ariz.
14 557, 560-61 (2006).

15 57. The Proposition is not self-funded as required by the Revenue Source Rule,
16 which renders the Proposition unconstitutional in the following manner:

- 17 a. Mandates that Defendant Industrial Commission of Arizona create
18 mandated notices for use by employers and is also mandated to create
19 guidelines and regulations related to the new paid sick leave
20 provisions without an independent revenue source to take such
21 action.
- 22 b. Has the direct impact, pursuant to contract and the Arizona
23 Procurement Code, A.R.S. §§ 41-2501, *et seq.*, of immediately
24 increasing minimum wage and paid sick leave costs for services
25 associated with state government cost-reimbursement contracts and
26 other types of contracts, as modified, with service providers that are
27 paid from General Fund appropriations via approval of Defendants,
28 including ADOA and SPO.

1 c. Has the immediate direct impact, pursuant to contract and federal
2 regulation, of mandating an increase in minimum wage and paid sick
3 leave costs for medical providers and other services related to third-
4 party contracts and subcontracts administered and paid by Defendant
5 AHCCCS using General Fund appropriations. *See* Exhibits C and D.

6 58. The balance of equities and considerations of public policy strongly support
7 the issuance of injunctive relief.

8 59. Accordingly, the Plaintiffs seek declaratory relief establishing that
9 Proposition 206 violates the Arizona Constitution and an order enjoining its enforcement.

10 SECOND CLAIM FOR RELIEF

11 **Declaratory and Injunctive Relief (A.R.S. §§ 12-1801, *et seq.*; 12-1831, *et seq.*)** 12 **Violation of Separate Amendment Rule (violation of ARIZ. CONST. art. 21, § 1)**

13 60. Plaintiffs incorporate the allegations set forth above as if fully set forth
14 herein.

15 61. Ariz. Const. art. 21, § 1 provides, in part:

16 If more than one proposed amendment shall be submitted at
17 any election, such proposed amendments shall be submitted
18 in such manner that the electors may vote for or against such
19 proposed amendments separately.

20 62. The Separate Amendment Rule is designed to prevent the “pernicious
21 practice of ‘log-rolling’” unrelated topics up into one constitutional amendment so that
22 voters can express their separate opinions regarding each constitutional change.
23 *McLaughlin v. Bennett*, 225 Ariz. 351, 353-54, 238 P.3d 619, 621-22 (2010).

24 63. Although Arizona courts have not previously applied the Separate
25 Amendment Rule when addressing ballot measures for ordinary legislation,¹ it should
26 apply in this situation, given the strong constitutional protections for voter-passed
27 initiatives. Proposition 105, codified at Ariz. Const. art. 4, pt. 1, § 1(6)(C), prevents the
28 Legislature from amending a voter-approved initiative measure unless the modification

¹ *See Bentley v. Building Our Future*, 217 Ariz. 265, 271-72 (App. 2007).

1 “furthers the purposes of such measure” and is approved by at least three-fourths of the
2 members of each house. As a result, it is nearly – if not completely – impossible for any
3 changes to be made to the Proposition without a new ballot measure approved by the
4 voters, just like a constitutional amendment.

5 64. The Proposition fails to comply with the Separate Amendment Rule.
6 Instead, it cobbles together two separate and distinct matters – minimum wage for hours
7 worked, and paid sick leave time. These topics should have been addressed in two
8 separate ballot measures, rather than combined to encourage voters for one proposal to
9 accept changes in the other. This attempt to combine votes based on disparate provisions
10 is precisely what the Separate Amendment Rule is designed to prevent.

11 65. The balance of equities and considerations of public policy strongly support
12 the issuance of injunctive relief.

13 66. Accordingly, the Plaintiffs seek declaratory relief establishing that
14 Proposition 206 violates the Arizona Constitution and an order enjoining its enforcement.

15 **REQUEST FOR RELIEF**

16 WHEREFORE, Plaintiffs pray for:

17 A. A declaration pursuant to A.R.S. § 12-1831 that the Proposition violates
18 Article 9, § 23 of the Arizona Constitution.

19 B. A declaration pursuant to A.R.S. § 12-1831 that the Proposition violates
20 Article 21, § 1 of the Arizona Constitution.

21 C. An injunction pursuant to A.R.S. § 12-1801, Ariz. R. Civ. P. 65, and other
22 applicable law prohibiting Defendants from taking any action to implement or enforce the
23 Proposition, to modify existing state contracts to provide for an increase of costs
24 associated with government contractor compliance with the Proposition, or to appropriate
25 or pay public monies from the General Fund to reimburse costs associated with
26 compliance with the Proposition;

27 D. An order awarding Plaintiffs’ attorney’s fees and nontaxable expenses
28 incurred in this action under:

1 1. the private attorney general doctrine as established in *Arnold v. Ariz.*
2 *Dep't of Health Servs.*, 160 Ariz. 593 (1989), because the rights sought to be vindicated
3 here benefit a large number of people, require private enforcement, and are of societal
4 importance;

5 2. A.R.S. § 12-348, and

6 3. any other applicable law or common law authorizing the award of
7 attorney's fees and nontaxable expenses to Plaintiffs.

8 E. An order awarding Plaintiffs their taxable costs.

9 F. Such other relief as the Court deems necessary, equitable, proper, and just.

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DATED this 15th day of December, 2016.

SNELL & WILMER L.L.P.

By: 

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Sarah E. Delaney
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Commerce, the Tucson Hispanic
Chamber of Commerce, and the
Greater Flagstaff Chamber of
Commerce*

TIMOTHY A. LA SOTA, PLC

By:  with permission for

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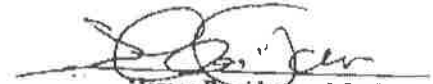
*Attorneys for Plaintiffs Jane Ann
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Luna, Charlotte Chester, Ian McCarthy,
and the Arizona Licensed Beverage
Association*

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VERIFICATION

I, Glenn Hamer, on behalf of the Arizona Chamber of Commerce and Industry, a Plaintiff in this action, have reviewed the foregoing Verified Complaint and verify under penalty of perjury that it is true and correct.

Dated: 12/15/16



President and CEO.


Glenn Hamer, President and CEO,
Arizona Chamber of Commerce and
Industry

VERIFICATION

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I, William L. Riddle, III, individually and on-behalf of Valle Luna, Plaintiffs in this action, have reviewed the foregoing Verified Complaint and verify under penalty of perjury that it is true and correct.

Dated: 12/15/2016


William L. Riddle, III, individually and as Owner, Valle Luna

Snell & Wilmer
LLP
LAW OFFICES
One Arizona Center, 400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
602.352.6600

EXHIBIT A


APPLICATION FOR INITIATIVE OR REFERENDUM PETITION SERIAL NUMBER

Secretary of State
1700 W. Washington Street, 7th Floor
Phoenix, AZ 85007

The undersigned intends to circulate and file an **INITIATIVE** or a **REFERENDUM** (circle the appropriate word) petition and hereby makes application for the issuance of an official serial number to be printed in the lower right-hand corner of each side of each signature sheet of such petition. Pursuant to Arizona Revised Statutes § 19-111, attached hereto is the full text, in no less than eight point type, of the **MEASURE** or **CONSTITUTIONAL AMENDMENT** (circle appropriate word) intended to be **INITIATED** or **REFERRED** (circle appropriate word) at the next general election.

SUMMARY: A description of no more than one hundred words of the principal provisions of the proposed law, constitutional amendment or measure that will appear in no less than eight point type on the face of each petition signature sheet to be circulated.

The Fair Wages and Healthy Families Initiative increases minimum wage to \$10 in 2017 then gradually to \$12 by 2020; provides 40 hours annual "earned paid sick time" for employees of large employers (24 hours for those of small employers); time accrues at one hour earned for every 30 hours worked; time may be used to address circumstances caused by illness of employee or employee's family, public health emergencies, or domestic violence; prohibits retaliating against employees using the benefit; allows for more generous paid time-off policies; and exempts employees who expressly waive the benefit under collective bargaining agreements.



Signature of Applicant
Tomas Robles

Printed Name of Applicant
3120 North 19th Avenue

Address
Phoenix, AZ 85015

City State Zip
(520) 775-3247

Telephone Number

Arizonans for Fair Wages and Healthy Families

Name of Organization (if any)
3120 North 19th Avenue

Address
Phoenix, AZ 85015

City State Zip
(520) 775-3247

Telephone Number
Tomas Robles, Chairman

Name of Officer and Title
3120 North 19th Avenue

Address
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City State Zip
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Telephone Number
Darryl Tattrie, Treasurer

Name of Officer and Title
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Address
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SECRETARY OF STATE

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OFFICIAL TITLE
AN INITIATIVE MEASURE

AMENDING TITLE 23, CHAPTER 2, ARTICLE 8, ARIZONA REVISED STATUTES, BY AMENDING SECTIONS 23-363 and 23-364; AMENDING TITLE 23, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8.1; RELATING TO ARIZONA'S MINIMUM WAGE AND EARNED PAID SICK TIME BENEFITS.

TEXT OF PROPOSED AMENDMENT

Be it enacted by the People of the State of Arizona:

Section 1. Short Title

This act may be cited as the "The Fair Wages and Healthy Families Act"

Sec. 2. Heading change

The article heading of title 23, chapter 2, article 8, Arizona Revised Statutes, is changed from "MINIMUM WAGE" to "MINIMUM WAGE AND EMPLOYEE BENEFITS".

Sec 3. Section 23-363, Arizona Revised Statutes, is amended to read:

23-363. Minimum wage

A. Employers shall pay employees no less than the minimum wage, which shall be ~~six dollars and seventy-five cents (\$6.75) an hour beginning on January 1, 2007~~, NOT LESS THAN:

1. \$10 ON AND AFTER JANUARY 1, 2017.
2. \$10.50 ON AND AFTER JANUARY 1, 2018.
3. \$11 ON AND AFTER JANUARY 1, 2019.
4. \$12 ON AND AFTER JANUARY 1, 2020.

B. The minimum wage shall be increased on January 1, 2008~~21~~ and on January 1 of successive years, by the increase in the cost of living. The increase in the cost of living shall be measured by the percentage increase as of August of the immediately preceding year over the level as of August of the previous year of the consumer price index (all urban consumers, U.S. city average for all items) or its successor index as published by the U.S. department of labor or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of five cents.

C. For any employee who customarily and regularly receives tips or gratuities from patrons or others, the employer may pay a wage up to \$3.00 per hour less than the minimum wage if the employer can establish by its records of charged tips or by the employee's declaration for federal insurance contributions act (FICA) purposes that for each week, when adding tips received to wages paid, the employee received not less than the minimum wage for all hours worked. Compliance with this provision will be determined by averaging tips received by the employee over the course of the employer's payroll period or any other period selected by the employer that complies with regulations adopted by the commission.

Sec. 4. Section 23-364, Arizona Revised Statutes, is amended to read:

23-364. Enforcement

A. The commission is authorized to enforce and implement this article and may promulgate regulations consistent with this article to do so. FOR PURPOSES OF THIS SECTION: (1) "ARTICLE" SHALL MEAN BOTH ARTICLE 8 AND ARTICLE 8.1 OF THIS CHAPTER; (2) "EARNED PAID SICK TIME" IS AS DEFINED IN SECTION 23-371, ARIZONA REVISED STATUTES; (3) "EMPLOYER" SHALL REFER TO THE DEFINITION OF EMPLOYER IN SECTION 23-362, ARIZONA REVISED STATUTES, FOR PURPOSES OF MINIMUM WAGE ENFORCEMENT AND SHALL REFER TO THE DEFINITION OF EMPLOYER IN SECTION 23-371, ARIZONA REVISED STATUTES, FOR PURPOSES OF EARNED PAID SICK TIME ENFORCEMENT; AND (4) "RETALIATION" SHALL MEAN DENIAL OF ANY RIGHT GUARANTEED UNDER ARTICLE 8 AND ARTICLE 8.1 OF THIS CHAPTER AND ANY THREAT, DISCHARGE, SUSPENSION, DEMOTION, REDUCTION OF HOURS, OR ANY OTHER ADVERSE ACTION AGAINST AN EMPLOYEE FOR THE EXERCISE OF ANY RIGHT GUARANTEED HEREIN INCLUDING ANY SANCTIONS AGAINST AN EMPLOYEE WHO IS THE RECIPIENT OF PUBLIC BENEFITS FOR RIGHTS GUARANTEED HEREIN. RETALIATION SHALL ALSO INCLUDE INTERFERENCE WITH OR PUNISHMENT FOR IN ANY MANNER PARTICIPATING IN OR ASSISTING AN INVESTIGATION, PROCEEDING OR HEARING UNDER THIS ARTICLE.

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B. No employer or other person shall DISCRIMINATE OR SUBJECT ANY PERSON TO RETALIATION ~~discharge or take any other adverse action against any person in retaliation~~ for asserting any claim or right under this article, for assisting any other person in doing so, or for informing any person about their rights. Taking adverse action against a person within ninety days of a person's engaging in the foregoing activities shall raise a presumption that such action was retaliation, which may be rebutted by clear and convincing evidence that such action was taken for other permissible reasons.

C. Any person or organization may file an administrative complaint with the commission charging that an employer has violated this article as to any employee or other person. When the commission receives a complaint, the commission may review records regarding all employees at the employer's worksite in order to protect the identity of any employee identified in the complaint and to determine whether a pattern of violations has occurred. The name of any employee identified in a complaint to the commission shall be kept confidential as long as possible. Where the commission determines that an employee's name must be disclosed in order to investigate a complaint further, it may so do only with the employee's consent.

D. Employers shall post notices in the workplace, in such format specified by the commission, notifying employees of their rights under this article. Employers shall provide their business name, address, and telephone number in writing to employees upon hire. Employers shall maintain payroll records showing the hours worked for each day worked, and the wages AND EARNED PAID SICK TIME paid to all employees for a period of four years. Failure to do so shall raise a rebuttable presumption that the employer did not pay the required minimum wage rate OR EARNED PAID SICK TIME. The commission may by regulation reduce or waive the recordkeeping and posting requirements herein for any categories of small employers whom it finds would be unreasonably burdened by such requirements. Employers shall permit the commission or a law enforcement officer to inspect and copy payroll or other business records, shall permit them to interview employees away from the worksite, and shall not hinder any investigation. Such information provided shall keep confidential except as is required to prosecute violations of this article. Employers shall permit an employee or his or her designated representative to inspect and copy payroll records pertaining to that employee.

E. A civil action to enforce this article may be maintained in a court of competent jurisdiction by a law enforcement officer or by any private party injured by a violation of this article.

F. Any employer who violates recordkeeping, posting, or other requirements that the commission may establish under this article shall be subject to a civil penalty of at least \$250 dollars for a first violation, and at least \$1000 dollars for each subsequent or willful violation and may, if the commission or court determines appropriate, be subject to special monitoring and inspections.

G. Any employer who fails to pay the wages OR EARNED PAID SICK TIME required under this article shall be required to pay the employee the balance of the wages OR EARNED PAID SICK TIME owed, including interest thereon, and an additional amount equal to twice the underpaid wages OR EARNED PAID SICK TIME. Any employer who retaliates against an employee or other person in violation of this article shall be required to pay the employee an amount set by the commission or a court sufficient to compensate the employee and deter future violations, but not less than one hundred fifty dollars for each day that the violation continued or until legal judgment is final. The commission and the courts shall have the authority to order payment of such unpaid wages, UNPAID EARNED SICK TIME, other amounts, and civil penalties and to order any other appropriate legal or equitable relief for violations of this article. Civil penalties shall be retained by the agency that recovered them and used to finance activities to enforce this article. A prevailing plaintiff shall be entitled to reasonable attorney's fees and costs of suit.

H. A civil action to enforce this article may be commenced no later than two years after a violation last occurs, or three years in the case of a willful violation, and may encompass all violations that occurred as part of a continuing course of employer conduct regardless of their date. The statute of limitations shall be tolled during any investigation of an employer by the commission or other law enforcement officer, but such investigation shall not bar a person from bringing a civil action under this article. No verbal or written agreement or employment contract may waive any rights under this article.

I. The legislature may by statute raise the minimum wage established under this article, extend coverage, or increase penalties. A county, city, or town may by ordinance regulate minimum wages and benefits within its geographic boundaries but may not provide for a minimum wage lower than that prescribed in this article. State agencies, counties, cities, towns and other political subdivisions of the state may consider violations of this article in determining whether employers may receive or renew public contracts, financial assistance or licenses. This article shall be liberally construed in favor of its purposes and shall not limit the authority of the legislature or any other body to adopt any law or policy that requires payment of higher or supplemental wages or benefits, or that extends such protections to employers or employees not covered by this article.

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Sec. 5. Title 23, chapter 2, Arizona Revised Statutes, is amended by adding article 8.1, to read:

ARTICLE 8.1. EARNED PAID SICK TIME

23-371. Definitions

FOR PURPOSES OF THIS ARTICLE:

A. "ABUSE" MEANS AN OFFENSE PRESCRIBED IN SECTION 13-3623, ARIZONA REVISED STATUTES.

B. "COMMISSION" IS AS DEFINED IN SECTION 23-362, ARIZONA REVISED STATUTES.

C. "DOMESTIC VIOLENCE" IS AS DEFINED IN SECTION 13-3601, ARIZONA REVISED STATUTES.

D. "EARNED PAID SICK TIME" MEANS TIME THAT IS COMPENSATED AT THE SAME HOURLY RATE AND WITH THE SAME BENEFITS, INCLUDING HEALTH CARE BENEFITS, AS THE EMPLOYEE NORMALLY EARNS DURING HOURS WORKED AND IS PROVIDED BY AN EMPLOYER TO AN EMPLOYEE FOR THE PURPOSES DESCRIBED IN SECTION 23-373 OF THIS ARTICLE, BUT IN NO CASE SHALL THIS HOURLY AMOUNT BE LESS THAN THAT PROVIDED UNDER THE FAIR LABOR STANDARDS ACT OF 1938 (29 UNITED STATES CODE SECTION 206(A)(1)) OR SECTION 23-363, ARIZONA REVISED STATUTES.

E. "EMPLOY" IS AS DEFINED IN SECTION 23-362, ARIZONA REVISED STATUTES.

F. "EMPLOYEE" IS AS DEFINED IN SECTION 23-362, ARIZONA REVISED STATUTES. EMPLOYEE INCLUDES RECIPIENTS OF PUBLIC BENEFITS WHO ARE ENGAGED IN WORK ACTIVITY AS A CONDITION OF RECEIVING PUBLIC ASSISTANCE.

G. "EMPLOYER" INCLUDES ANY CORPORATION, PROPRIETORSHIP, PARTNERSHIP, JOINT VENTURE, LIMITED LIABILITY COMPANY, TRUST, ASSOCIATION, POLITICAL SUBDIVISION OF THE STATE, INDIVIDUAL OR OTHER ENTITY ACTING DIRECTLY OR INDIRECTLY IN THE INTEREST OF AN EMPLOYER IN RELATION TO AN EMPLOYEE, BUT DOES NOT INCLUDE THE STATE OF ARIZONA OR THE UNITED STATES.

H. "FAMILY MEMBER" MEANS:

1. REGARDLESS OF AGE, A BIOLOGICAL, ADOPTED OR FOSTER CHILD, STEPCHILD OR LEGAL WARD, A CHILD OF A DOMESTIC PARTNER, A CHILD TO WHOM THE EMPLOYEE STANDS *IN LOCO PARENTIS*, OR AN INDIVIDUAL TO WHOM THE EMPLOYEE STOOD *IN LOCO PARENTIS* WHEN THE INDIVIDUAL WAS A MINOR;

2. A BIOLOGICAL, FOSTER, STEPPARENT OR ADOPTIVE PARENT OR LEGAL GUARDIAN OF AN EMPLOYEE OR AN EMPLOYEE'S SPOUSE OR DOMESTIC PARTNER OR A PERSON WHO STOOD *IN LOCO PARENTIS* WHEN THE EMPLOYEE OR EMPLOYEE'S SPOUSE OR DOMESTIC PARTNER WAS A MINOR CHILD;

3. A PERSON TO WHOM THE EMPLOYEE IS LEGALLY MARRIED UNDER THE LAWS OF ANY STATE, OR A DOMESTIC PARTNER OF AN EMPLOYEE AS REGISTERED UNDER THE LAWS OF ANY STATE OR POLITICAL SUBDIVISION;

4. A GRANDPARENT, GRANDCHILD OR SIBLING (WHETHER OF A BIOLOGICAL, FOSTER, ADOPTIVE OR STEP RELATIONSHIP) OF THE EMPLOYEE OR THE EMPLOYEE'S SPOUSE OR DOMESTIC PARTNER; OR

5. ANY OTHER INDIVIDUAL RELATED BY BLOOD OR AFFINITY WHOSE CLOSE ASSOCIATION WITH THE EMPLOYEE IS THE EQUIVALENT OF A FAMILY RELATIONSHIP.

I. "RETALIATION" IS AS DEFINED IN SECTION 23-364, ARIZONA REVISED STATUTES.

J. "SEXUAL VIOLENCE" MEANS AN OFFENSE PRESCRIBED IN: (A) TITLE 13, CHAPTER 14, ARIZONA REVISED STATUTES, EXCEPT FOR SECTIONS 13-1408 AND 13-1422; OR (B) SECTIONS 13-1304(A)(3), 13-1307, 13-3019, 13-3206, 13-3212, 13-3552, 13-3553, 13-3554, OR 13-3560, ARIZONA REVISED STATUTES.

K. "STALKING" MEANS AN OFFENSE PRESCRIBED IN SECTION 13-2923, ARIZONA REVISED STATUTES.

L. "YEAR" MEANS A REGULAR AND CONSECUTIVE 12-MONTH PERIOD AS DETERMINED BY THE EMPLOYER.

23-372. Accrual of Earned Paid Sick Time

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A. EMPLOYEES OF AN EMPLOYER WITH 15 OR MORE EMPLOYEES SHALL ACCRUE A MINIMUM OF ONE HOUR OF EARNED PAID SICK TIME FOR EVERY 30 HOURS WORKED, BUT EMPLOYEES SHALL NOT BE ENTITLED TO ACCRUE OR USE MORE THAN 40 HOURS OF EARNED PAID SICK TIME PER YEAR, UNLESS THE EMPLOYER SELECTS A HIGHER LIMIT.

B. EMPLOYEES OF AN EMPLOYER WITH FEWER THAN 15 EMPLOYEES SHALL ACCRUE A MINIMUM OF ONE HOUR OF EARNED PAID SICK TIME FOR EVERY 30 HOURS WORKED, BUT EMPLOYEES SHALL NOT BE ENTITLED TO ACCRUE OR USE MORE THAN 24 HOURS OF EARNED PAID SICK TIME PER YEAR, UNLESS THE EMPLOYER SELECTS A HIGHER LIMIT.

C. IN DETERMINING THE NUMBER OF EMPLOYEES PERFORMING WORK FOR AN EMPLOYER FOR COMPENSATION DURING A GIVEN WEEK, ALL EMPLOYEES PERFORMING WORK FOR COMPENSATION ON A FULL-TIME, PART-TIME OR TEMPORARY BASIS SHALL BE COUNTED. IN SITUATIONS IN WHICH THE NUMBER OF EMPLOYEES WHO WORK FOR AN EMPLOYER FOR COMPENSATION PER WEEK FLUCTUATES ABOVE AND BELOW 15 EMPLOYEES PER WEEK OVER THE COURSE OF THE YEAR, AN EMPLOYER IS REQUIRED TO PROVIDE EARNED PAID SICK TIME PURSUANT TO SUBSECTION A OF THIS SECTION IF IT MAINTAINED 15 OR MORE EMPLOYEES ON THE PAYROLL FOR SOME PORTION OF A DAY IN EACH OF 20 DIFFERENT CALENDAR WEEKS, WHETHER OR NOT THE WEEKS WERE CONSECUTIVE, IN EITHER THE CURRENT OR THE PRECEDING YEAR (IRRESPECTIVE OF WHETHER THE SAME INDIVIDUALS WERE IN EMPLOYMENT IN EACH DAY).

D. ALL EMPLOYEES SHALL ACCRUE EARNED PAID SICK TIME AS FOLLOWS:

1. EARNED PAID SICK TIME AS PROVIDED IN THIS SECTION SHALL BEGIN TO ACCRUE AT THE COMMENCEMENT OF EMPLOYMENT OR ON JULY 1, 2017, WHICHEVER IS LATER. AN EMPLOYER MAY PROVIDE ALL EARNED PAID SICK TIME THAT AN EMPLOYEE IS EXPECTED TO ACCRUE IN A YEAR AT THE BEGINNING OF THE YEAR.

2. AN EMPLOYEE MAY USE EARNED PAID SICK TIME AS IT IS ACCRUED, EXCEPT THAT AN EMPLOYER MAY REQUIRE AN EMPLOYEE HIRED AFTER JULY 1, 2017, TO WAIT UNTIL THE NINETIETH CALENDAR DAY AFTER COMMENCING EMPLOYMENT BEFORE USING ACCRUED EARNED PAID SICK TIME, UNLESS OTHERWISE PERMITTED BY THE EMPLOYER.

3. EMPLOYEES WHO ARE EXEMPT FROM OVERTIME REQUIREMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938 (29 UNITED STATES CODE SECTION 213(A)(1)) WILL BE ASSUMED TO WORK 40 HOURS IN EACH WORK WEEK FOR PURPOSES OF EARNED PAID SICK TIME ACCRUAL UNLESS THEIR NORMAL WORK WEEK IS LESS THAN 40 HOURS, IN WHICH CASE EARNED PAID SICK TIME ACCRUES BASED UPON THAT NORMAL WORK WEEK.

4. EARNED PAID SICK TIME SHALL BE CARRIED OVER TO THE FOLLOWING YEAR, SUBJECT TO THE LIMITATIONS ON USAGE IN SUBSECTIONS A AND B. ALTERNATIVELY, IN LIEU OF CARRYOVER OF UNUSED EARNED PAID SICK TIME FROM ONE YEAR TO THE NEXT, AN EMPLOYER MAY PAY AN EMPLOYEE FOR UNUSED EARNED PAID SICK TIME AT THE END OF A YEAR AND PROVIDE THE EMPLOYEE WITH AN AMOUNT OF EARNED PAID SICK TIME THAT MEETS OR EXCEEDS THE REQUIREMENTS OF THIS ARTICLE THAT IS AVAILABLE FOR THE EMPLOYEE'S IMMEDIATE USE AT THE BEGINNING OF THE SUBSEQUENT YEAR.

5. IF AN EMPLOYEE IS TRANSFERRED TO A SEPARATE DIVISION, ENTITY OR LOCATION, BUT REMAINS EMPLOYED BY THE SAME EMPLOYER, THE EMPLOYEE IS ENTITLED TO ALL EARNED PAID SICK TIME ACCRUED AT THE PRIOR DIVISION, ENTITY OR LOCATION AND IS ENTITLED TO USE ALL EARNED PAID SICK TIME AS PROVIDED IN THIS SECTION. WHEN THERE IS A SEPARATION FROM EMPLOYMENT AND THE EMPLOYEE IS REHIRED WITHIN NINE MONTHS OF SEPARATION BY THE SAME EMPLOYER, PREVIOUSLY ACCRUED EARNED PAID SICK TIME THAT HAD NOT BEEN USED SHALL BE REINSTATED. FURTHER, THE EMPLOYEE SHALL BE ENTITLED TO USE ACCRUED EARNED PAID SICK TIME AND ACCRUE ADDITIONAL EARNED PAID SICK TIME AT THE RE-COMMENCEMENT OF EMPLOYMENT.

6. WHEN A DIFFERENT EMPLOYER SUCCEEDS OR TAKES THE PLACE OF AN EXISTING EMPLOYER, ALL EMPLOYEES OF THE ORIGINAL EMPLOYER WHO REMAIN EMPLOYED BY THE SUCCESSOR EMPLOYER ARE ENTITLED TO ALL EARNED PAID SICK TIME THEY ACCRUED WHEN EMPLOYED BY THE ORIGINAL EMPLOYER, AND ARE ENTITLED TO USE EARNED PAID SICK TIME PREVIOUSLY ACCRUED.

7. AT ITS DISCRETION, AN EMPLOYER MAY LOAN EARNED PAID SICK TIME TO AN EMPLOYEE IN ADVANCE OF ACCRUAL BY SUCH EMPLOYEE.

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E. ANY EMPLOYER WITH A PAID LEAVE POLICY, SUCH AS A PAID TIME OFF POLICY, WHO MAKES AVAILABLE AN AMOUNT OF PAID LEAVE SUFFICIENT TO MEET THE ACCRUAL REQUIREMENTS OF THIS SECTION THAT MAY BE USED FOR THE SAME PURPOSES AND UNDER THE SAME CONDITIONS AS EARNED PAID SICK TIME UNDER THIS ARTICLE IS NOT REQUIRED TO PROVIDE ADDITIONAL PAID SICK TIME.

F. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS REQUIRING FINANCIAL OR OTHER REIMBURSEMENT TO AN EMPLOYEE FROM AN EMPLOYER UPON THE EMPLOYEE'S TERMINATION, RESIGNATION, RETIREMENT OR OTHER SEPARATION FROM EMPLOYMENT FOR ACCRUED EARNED PAID SICK TIME THAT HAS NOT BEEN USED.

23-373. Use of Earned Paid Sick Time

A. EARNED PAID SICK TIME SHALL BE PROVIDED TO AN EMPLOYEE BY AN EMPLOYER FOR:

1. AN EMPLOYEE'S MENTAL OR PHYSICAL ILLNESS, INJURY OR HEALTH CONDITION; AN EMPLOYEE'S NEED FOR MEDICAL DIAGNOSIS, CARE, OR TREATMENT OF A MENTAL OR PHYSICAL ILLNESS, INJURY OR HEALTH CONDITION; AN EMPLOYEE'S NEED FOR PREVENTIVE MEDICAL CARE;

2. CARE OF A FAMILY MEMBER WITH A MENTAL OR PHYSICAL ILLNESS, INJURY OR HEALTH CONDITION; CARE OF A FAMILY MEMBER WHO NEEDS MEDICAL DIAGNOSIS, CARE, OR TREATMENT OF A MENTAL OR PHYSICAL ILLNESS, INJURY OR HEALTH CONDITION; CARE OF A FAMILY MEMBER WHO NEEDS PREVENTIVE MEDICAL CARE;

3. CLOSURE OF THE EMPLOYEE'S PLACE OF BUSINESS BY ORDER OF A PUBLIC OFFICIAL DUE TO A PUBLIC HEALTH EMERGENCY OR AN EMPLOYEE'S NEED TO CARE FOR A CHILD WHOSE SCHOOL OR PLACE OF CARE HAS BEEN CLOSED BY ORDER OF A PUBLIC OFFICIAL DUE TO A PUBLIC HEALTH EMERGENCY, OR CARE FOR ONESELF OR A FAMILY MEMBER WHEN IT HAS BEEN DETERMINED BY THE HEALTH AUTHORITIES HAVING JURISDICTION OR BY A HEALTH CARE PROVIDER THAT THE EMPLOYEE'S OR FAMILY MEMBER'S PRESENCE IN THE COMMUNITY MAY JEOPARDIZE THE HEALTH OF OTHERS BECAUSE OF HIS OR HER EXPOSURE TO A COMMUNICABLE DISEASE, WHETHER OR NOT THE EMPLOYEE OR FAMILY MEMBER HAS ACTUALLY CONTRACTED THE COMMUNICABLE DISEASE; OR

4. NOTWITHSTANDING SECTION 13-4439, ARIZONA REVISED STATUTES, ABSENCE NECESSARY DUE TO DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING, PROVIDED THE LEAVE IS TO ALLOW THE EMPLOYEE TO OBTAIN FOR THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER:

(a) MEDICAL ATTENTION NEEDED TO RECOVER FROM PHYSICAL OR PSYCHOLOGICAL INJURY OR DISABILITY CAUSED BY DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING;

(b) SERVICES FROM A DOMESTIC VIOLENCE OR SEXUAL VIOLENCE PROGRAM OR VICTIM SERVICES ORGANIZATION;

(c) PSYCHOLOGICAL OR OTHER COUNSELING;

(d) RELOCATION OR TAKING STEPS TO SECURE AN EXISTING HOME DUE TO THE DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING; OR

(e) LEGAL SERVICES, INCLUDING BUT NOT LIMITED TO PREPARING FOR OR PARTICIPATING IN ANY CIVIL OR CRIMINAL LEGAL PROCEEDING RELATED TO OR RESULTING FROM THE DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING.

B. EARNED PAID SICK TIME SHALL BE PROVIDED UPON THE REQUEST OF AN EMPLOYEE. SUCH REQUEST MAY BE MADE ORALLY, IN WRITING, BY ELECTRONIC MEANS OR BY ANY OTHER MEANS ACCEPTABLE TO THE EMPLOYER. WHEN POSSIBLE, THE REQUEST SHALL INCLUDE THE EXPECTED DURATION OF THE ABSENCE.

C. WHEN THE USE OF EARNED PAID SICK TIME IS FORESEEABLE, THE EMPLOYEE SHALL MAKE A GOOD FAITH EFFORT TO PROVIDE NOTICE OF THE NEED FOR SUCH TIME TO THE EMPLOYER IN ADVANCE OF THE USE OF THE EARNED PAID SICK TIME AND SHALL MAKE A REASONABLE EFFORT TO SCHEDULE THE USE OF EARNED PAID SICK TIME IN A MANNER THAT DOES NOT UNDULY DISRUPT THE OPERATIONS OF THE EMPLOYER.

D. AN EMPLOYER THAT REQUIRES NOTICE OF THE NEED TO USE EARNED PAID SICK TIME WHERE THE NEED IS NOT FORESEEABLE SHALL PROVIDE A WRITTEN POLICY THAT CONTAINS PROCEDURES FOR THE EMPLOYEE TO PROVIDE NOTICE. AN EMPLOYER THAT HAS NOT PROVIDED TO THE EMPLOYEE A

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COPY OF ITS WRITTEN POLICY FOR PROVIDING SUCH NOTICE SHALL NOT DENY EARNED PAID SICK TIME TO THE EMPLOYEE BASED ON NON-COMPLIANCE WITH SUCH A POLICY.

E. AN EMPLOYER MAY NOT REQUIRE, AS A CONDITION OF AN EMPLOYEE'S TAKING EARNED PAID SICK TIME, THAT THE EMPLOYEE SEARCH FOR OR FIND A REPLACEMENT WORKER TO COVER THE HOURS DURING WHICH THE EMPLOYEE IS USING EARNED PAID SICK TIME.

F. EARNED PAID SICK TIME MAY BE USED IN THE SMALLER OF HOURLY INCREMENTS OR THE SMALLEST INCREMENT THAT THE EMPLOYER'S PAYROLL SYSTEM USES TO ACCOUNT FOR ABSENCES OR USE OF OTHER TIME.

G. FOR EARNED PAID SICK TIME OF THREE OR MORE CONSECUTIVE WORK DAYS, AN EMPLOYER MAY REQUIRE REASONABLE DOCUMENTATION THAT THE EARNED PAID SICK TIME HAS BEEN USED FOR A PURPOSE COVERED BY SUBSECTION A. DOCUMENTATION SIGNED BY A HEALTH CARE PROFESSIONAL INDICATING THAT EARNED PAID SICK TIME IS NECESSARY SHALL BE CONSIDERED REASONABLE DOCUMENTATION FOR PURPOSES OF THIS SECTION. IN CASES OF DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING, ONE OF THE FOLLOWING TYPES OF DOCUMENTATION SELECTED BY THE EMPLOYEE SHALL BE CONSIDERED REASONABLE DOCUMENTATION:

1. A POLICE REPORT INDICATING THAT THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER WAS A VICTIM OF DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING;

2. A PROTECTIVE ORDER; INJUNCTION AGAINST HARASSMENT; A GENERAL COURT ORDER; OR OTHER EVIDENCE FROM A COURT OR PROSECUTING ATTORNEY THAT THE EMPLOYEE OR EMPLOYEE'S FAMILY MEMBER APPEARED, OR IS SCHEDULED TO APPEAR, IN COURT IN CONNECTION WITH AN INCIDENT OF DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE, OR STALKING;

3. A SIGNED STATEMENT FROM A DOMESTIC VIOLENCE OR SEXUAL VIOLENCE PROGRAM OR VICTIM SERVICES ORGANIZATION AFFIRMING THAT THE EMPLOYEE OR EMPLOYEE'S FAMILY MEMBER IS RECEIVING SERVICES RELATED TO DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE, OR STALKING;

4. A SIGNED STATEMENT FROM A WITNESS ADVOCATE AFFIRMING THAT THE EMPLOYEE OR EMPLOYEE'S FAMILY MEMBER IS RECEIVING SERVICES FROM A VICTIM SERVICES ORGANIZATION;

5. A SIGNED STATEMENT FROM AN ATTORNEY, MEMBER OF THE CLERGY, OR A MEDICAL OR OTHER PROFESSIONAL AFFIRMING THAT THE EMPLOYEE OR EMPLOYEE'S FAMILY MEMBER IS A VICTIM OF DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE, OR STALKING; OR

6. AN EMPLOYEE'S WRITTEN STATEMENT AFFIRMING THAT THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER IS A VICTIM OF DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE, OR STALKING, AND THAT THE LEAVE WAS TAKEN FOR ONE OF THE PURPOSES OF SUBSECTION A, PARAGRAPH 4 OF THIS SECTION. THE EMPLOYEE'S WRITTEN STATEMENT, BY ITSELF, IS REASONABLE DOCUMENTATION FOR ABSENCES UNDER THIS PARAGRAPH. THE WRITTEN STATEMENT DOES NOT NEED TO BE IN AN AFFIDAVIT FORMAT OR NOTARIZED, BUT SHALL BE LEGIBLE IF HANDWRITTEN AND SHALL REASONABLY MAKE CLEAR THE EMPLOYEE'S IDENTITY, AND IF APPLICABLE, THE EMPLOYEE'S RELATIONSHIP TO THE FAMILY MEMBER.

H. THE PROVISION OF DOCUMENTATION UNDER SUBSECTION G DOES NOT WAIVE OR DIMINISH ANY CONFIDENTIAL OR PRIVILEGED COMMUNICATIONS BETWEEN A VICTIM OF DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE, OR STALKING WITH ONE OR MORE OF THE INDIVIDUALS NAMED IN SUBSECTION G.

I. AN EMPLOYER MAY NOT REQUIRE THAT DOCUMENTATION UNDER SUBSECTION G EXPLAIN THE NATURE OF THE HEALTH CONDITION OR THE DETAILS OF THE DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING.

23-374. Exercise of Rights Protected; Retaliation Prohibited

A. IT SHALL BE UNLAWFUL FOR AN EMPLOYER OR ANY OTHER PERSON TO INTERFERE WITH, RESTRAIN, OR DENY THE EXERCISE OF, OR THE ATTEMPT TO EXERCISE, ANY RIGHT PROTECTED UNDER THIS ARTICLE.

B. AN EMPLOYER SHALL NOT ENGAGE IN RETALIATION OR DISCRIMINATE AGAINST AN EMPLOYEE OR FORMER EMPLOYEE BECAUSE THE PERSON HAS EXERCISED RIGHTS PROTECTED UNDER THIS ARTICLE. SUCH RIGHTS INCLUDE BUT ARE NOT LIMITED TO THE RIGHT TO REQUEST OR USE EARNED PAID SICK TIME PURSUANT TO THIS ARTICLE; THE RIGHT TO FILE A COMPLAINT WITH THE

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COMMISSION OR COURTS OR INFORM ANY PERSON ABOUT ANY EMPLOYER'S ALLEGED VIOLATION OF THIS ARTICLE; THE RIGHT TO PARTICIPATE IN AN INVESTIGATION, HEARING OR PROCEEDING OR COOPERATE WITH OR ASSIST THE COMMISSION IN ITS INVESTIGATIONS OF ALLEGED VIOLATIONS OF THIS ARTICLE; AND THE RIGHT TO INFORM ANY PERSON OF HIS OR HER POTENTIAL RIGHTS UNDER THIS ARTICLE.

C. IT SHALL BE UNLAWFUL FOR AN EMPLOYER'S ABSENCE CONTROL POLICY TO COUNT EARNED PAID SICK TIME TAKEN UNDER THIS ARTICLE AS AN ABSENCE THAT MAY LEAD TO OR RESULT IN DISCIPLINE, DISCHARGE, DEMOTION, SUSPENSION, OR ANY OTHER ADVERSE ACTION.

D. PROTECTIONS OF THIS SECTION SHALL APPLY TO ANY PERSON WHO MISTAKENLY BUT IN GOOD FAITH ALLEGES VIOLATIONS OF THIS ARTICLE.

23-375. Notice

A. EMPLOYERS SHALL GIVE EMPLOYEES WRITTEN NOTICE OF THE FOLLOWING AT THE COMMENCEMENT OF EMPLOYMENT OR BY JULY 1, 2017, WHICHEVER IS LATER: EMPLOYEES ARE ENTITLED TO EARNED PAID SICK TIME AND THE AMOUNT OF EARNED PAID SICK TIME, THE TERMS OF ITS USE GUARANTEED UNDER THIS ARTICLE, THAT RETALIATION AGAINST EMPLOYEES WHO REQUEST OR USE EARNED PAID SICK TIME IS PROHIBITED, THAT EACH EMPLOYEE HAS THE RIGHT TO FILE A COMPLAINT IF EARNED PAID SICK TIME AS REQUIRED BY THIS ARTICLE IS DENIED BY THE EMPLOYER OR THE EMPLOYEE IS SUBJECTED TO RETALIATION FOR REQUESTING OR TAKING EARNED PAID SICK TIME, AND THE CONTACT INFORMATION FOR THE COMMISSION WHERE QUESTIONS ABOUT RIGHTS AND RESPONSIBILITIES UNDER THIS ARTICLE CAN BE ANSWERED.

B. THE NOTICE REQUIRED IN SUBSECTION A SHALL BE IN ENGLISH, SPANISH, AND ANY LANGUAGE THAT IS DEEMED APPROPRIATE BY THE COMMISSION.

C. THE AMOUNT OF EARNED PAID SICK TIME AVAILABLE TO THE EMPLOYEE, THE AMOUNT OF EARNED PAID SICK TIME TAKEN BY THE EMPLOYEE TO DATE IN THE YEAR AND THE AMOUNT OF PAY THE EMPLOYEE HAS RECEIVED AS EARNED PAID SICK TIME SHALL BE RECORDED IN, OR ON AN ATTACHMENT TO, THE EMPLOYEE'S REGULAR PAYCHECK.

D. THE COMMISSION SHALL CREATE AND MAKE AVAILABLE TO EMPLOYERS, IN ENGLISH, SPANISH, AND ANY LANGUAGE DEEMED APPROPRIATE BY THE COMMISSION, MODEL NOTICES THAT CONTAIN THE INFORMATION REQUIRED UNDER SUBSECTION A FOR EMPLOYERS' USE IN COMPLYING WITH SUBSECTION A.

E. AN EMPLOYER WHO VIOLATES THE NOTICE REQUIREMENTS OF THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY ACCORDING TO SECTION 23-364(F), ARIZONA REVISED STATUTES.

23-376. Regulations

THE COMMISSION SHALL BE AUTHORIZED TO COORDINATE IMPLEMENTATION AND ENFORCEMENT OF THIS ARTICLE AND SHALL PROMULGATE APPROPRIATE GUIDELINES OR REGULATIONS FOR SUCH PURPOSES.

23-377. Confidentiality and Nondisclosure

AN EMPLOYER MAY NOT REQUIRE DISCLOSURE OF DETAILS RELATING TO DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING OR THE DETAILS OF AN EMPLOYEE'S OR AN EMPLOYEE'S FAMILY MEMBER'S HEALTH INFORMATION AS A CONDITION OF PROVIDING EARNED PAID SICK TIME UNDER THIS ARTICLE. IF AN EMPLOYER POSSESSES HEALTH INFORMATION OR INFORMATION PERTAINING TO DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING ABOUT AN EMPLOYEE OR EMPLOYEE'S FAMILY MEMBER, SUCH INFORMATION SHALL BE TREATED AS CONFIDENTIAL AND NOT DISCLOSED EXCEPT TO THE AFFECTED EMPLOYEE OR WITH THE PERMISSION OF THE AFFECTED EMPLOYEE.

23-378. Encouragement of More Generous Earned Paid Sick Time Policies; No Effect on More Generous Policies or Laws

A. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO DISCOURAGE OR PROHIBIT AN EMPLOYER FROM THE ADOPTION OR RETENTION OF AN EARNED PAID SICK TIME POLICY MORE GENEROUS THAN THE ONE REQUIRED HEREIN.

B. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS DIMINISHING THE OBLIGATION OF AN EMPLOYER TO COMPLY WITH ANY CONTRACT, COLLECTIVE BARGAINING AGREEMENT, EMPLOYMENT BENEFIT PLAN OR OTHER AGREEMENT PROVIDING MORE GENEROUS PAID SICK TIME TO AN EMPLOYEE THAN REQUIRED HEREIN. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS DIMINISHING THE RIGHTS OF PUBLIC EMPLOYEES REGARDING PAID SICK TIME OR USE OF PAID SICK TIME.

C. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO SUPERSEDE ANY PROVISION OF ANY LOCAL LAW THAT PROVIDES GREATER RIGHTS TO PAID SICK TIME THAN THE RIGHTS ESTABLISHED UNDER THIS ARTICLE.

23-379. Other Legal Requirements

A. NOTHING IN THIS ARTICLE SHALL BE INTERPRETED OR APPLIED SO AS TO CREATE A CONFLICT WITH FEDERAL LAW.

B. THIS ARTICLE PROVIDES MINIMUM REQUIREMENTS PERTAINING TO EARNED PAID SICK TIME AND SHALL NOT BE CONSTRUED TO PREEMPT, LIMIT, OR OTHERWISE AFFECT THE APPLICABILITY OF ANY OTHER LAW, REGULATION, REQUIREMENT, POLICY, OR STANDARD THAT PROVIDES FOR GREATER ACCRUAL OR USE BY EMPLOYEES OF EARNED PAID SICK TIME OR THAT EXTENDS OTHER PROTECTIONS TO EMPLOYEES.

23-380. Public Education and Outreach

THE COMMISSION MAY DEVELOP AND IMPLEMENT A MULTILINGUAL OUTREACH PROGRAM TO INFORM EMPLOYEES, PARENTS AND PERSONS WHO ARE UNDER THE CARE OF A HEALTH CARE PROVIDER ABOUT THE AVAILABILITY OF EARNED PAID SICK TIME UNDER THIS ARTICLE. THIS PROGRAM MAY INCLUDE THE DISTRIBUTION OF NOTICES AND OTHER WRITTEN MATERIALS IN ENGLISH, SPANISH, AND ANY LANGUAGE DEEMED APPROPRIATE BY THE COMMISSION TO ALL CHILD CARE AND ELDER CARE PROVIDERS, DOMESTIC VIOLENCE SHELTERS, SCHOOLS, HOSPITALS, COMMUNITY HEALTH CENTERS AND OTHER HEALTH CARE PROVIDERS.

23-381. Collective Bargaining Agreements

ALL OR ANY PORTION OF THE EARNED PAID SICK TIME REQUIREMENTS OF THIS ARTICLE SHALL NOT APPLY TO EMPLOYEES COVERED BY A VALID COLLECTIVE BARGAINING AGREEMENT, TO THE EXTENT THAT SUCH REQUIREMENTS ARE EXPRESSLY WAIVED IN THE COLLECTIVE BARGAINING AGREEMENT IN CLEAR AND UNAMBIGUOUS TERMS. NO PROVISIONS OF ARTICLE 8.1 SHALL APPLY TO EMPLOYEES COVERED BY A COLLECTIVE BARGAINING AGREEMENT IN EFFECT ON THE EFFECTIVE DATE OF THIS ACT UNTIL THE STATED EXPIRATION DATE IN THE COLLECTIVE BARGAINING AGREEMENT.

Sec. 6. Saving Clause

This act does not affect rights and duties that matured, penalties that were incurred and proceedings that were begun before the effective date of this act.

Sec. 7. Severability

If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECRETARY OF STATE
2018 MAR 30 PM 12: 58

EXHIBIT B

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
MEDICAL ASSISTANCE PROGRAM

State/Territory: Arizona

Citation

42 CFR
430.10

As a condition for receipt of Federal funds under
title XIX of the Social Security Act, the

System Cont 5/30/93

Arizona Health Care Cost Containment Administration (AHCCCSA)
(Single State Agency)

submits the following State plan for the medical
assistance program, and hereby agrees to administer
the program in accordance with the provisions of this
State plan, the requirements of titles XI and XIX of
the Act, and all applicable Federal regulations and
other official issuances of the Department.

TN No. 92-25

Supersedes

TN No. 84-2

Approval Date 3/30/93

Effective Date October 1, 1992

HCFA ID: 7982E

Revision: HCFA-AT-80-38 (BPP)
May 22, 1980

State/Territory: ARIZONA

SECTION 1 - SINGLE STATE AGENCY ORGANIZATION

Citation

42 CFR 431.10
AT-79-29

1.1 Designation and Authority

(a) The Arizona Health Care Cost Containment

System (AHCCCS) Administration

is the single State agency designated to administer or supervise the administration of the Medicaid program under title XIX of the Social Security Act. (All references in this plan to "the Medicaid agency" mean the agency named in this paragraph.)

ATTACHMENT 1.1-A is a certification signed by the State Attorney General identifying the single State agency and citing the legal authority under which it administers or supervises administration of the program.

TN # 84-2

Supersedes

Approval Date 07-26-84

Effective Date 05-05-84

TN # _____

Revision: HCFA-AT-80-38
May 22, 1980

(BPP)

OMB No.: 0938-0193

State/Territory: ARIZONACitation

42 CFR 447.201
42 CFR 447.204
AT-78-90

4.19(i) The Medicaid agency's payments are sufficient to enlist enough providers so that services under the plan are available to recipients at least to the extent that those services are available to the general population.

TN No. 95-15
Supersedes
TN No. 82-01

Approval Date

FEB 6 1993Effective Date October 1, 1995

Revision: HCFA-AT-80-60 (BPP)
August 12, 1980

OMB No.: 0938-0193

State/Territory:

Citation

42 CFR 447.201
42 CFR 447.203
AT-78-90

4.19(h) The Medicaid agency meets the requirements
of 42 CFR 447.203 for documentation and
availability of payment rates.

TN No. 95-15
Supersedes
TN No. 82-01

Approval Date FEB 6 1993 Effective Date October 1, 1995

EXHIBIT C

NOTICE OF PUBLIC INFORMATION-PUBLIC NOTICE

1. **Name of the Agency:** Arizona Health Care Cost Containment System (AHCCCS)
2. **The topic of the public information notice:**
 - a. AHCCCS Fee-For-Service (FFS) rates for the Home and Community-Based Services Fee Schedule and the Nursing Facility per diem rates to be effective for dates of service on and after January 1, 2017.
 - b. Capitation rate adjustments.
3. **The public information relating to the topic:**
 - a. This Notice describes proposed changes to the Arizona Health Care Cost Containment System (AHCCCS) Fee-For-Service (FFS) rates to be effective for dates of service on and after January 1, 2017 to address the increased labor costs resulting from the Arizona minimum wage increase and employee benefit provisions mandated by Proposition 206. The total change in FFS payments as a result of the proposed changes is an estimated increase of \$1,424,027 for the time period of January 1, 2017 through June 30, 2017 .
 - b. AHCCCS will adjust capitation rates to reflect additional costs resulting from these rate adjustments. It is estimated that the adjustments will result in increased capitation rate funding of \$20.3 million related to Arizona Long Term Care System Elderly and Physically Disabled (ALTCS EPD) and Behavioral Health services.
 - c. AHCCCS will also adjust capitation rates to reflect the cost of anticipated rate increases effective January 1, 2017 to the Department of Economic Security, Division of Developmental Disabilities fee schedule. This adjustment is expected to total \$25.1 million.
 - d. The following AHCCCS fee schedules will be updated as described below :
 - Select Home and Community-Based Fee Schedule rates will be increased by 7% for an aggregate increase of 6.6% to HCBS fee schedule expenditures. The table below illustrates the rate change.

HCPCS	Mod	Description	10/01/16-12/31/17	01/01/17-09/30/17	Increase
S5100		Day Care Services, Adult; per 15 min.	\$2.56	\$2.74	7.0%
S5101		Day Care Services, Adult; per half day	\$31.02	\$33.19	7.0%
S5102		Day Care Services, Adult; per diem	\$62.03	\$66.36	7.0%
S5125		Attendant Care Services; 15 min.	\$4.16	\$4.45	7.0%
S5125	U2	Attendant Care provided through SDAC service	\$2.99	\$3.20	7.0%
S5130		Homemaker Services, NOS; 15 min.	\$5.23	\$5.60	7.1%
S5135		Companion Care, adult; 15 minutes	\$4.16	\$4.45	7.0%
S5140		Foster Care, adult; per diem	\$60.03	\$64.22	7.0%
S5150		Unskilled Respite Care, not hospice; per 15 min.	\$4.16	\$4.45	7.0%

S5151	Unskilled Respite Care, not hospice; per diem	\$210.31	\$224.98	7.0%
S5170	Home Delivered Meals	\$8.58	\$9.18	7.0%
T1019	Personal Care Services, per 15 min. (not inpatient or residential; not home health aide or CNA)	\$5.52	\$5.91	7.0%
T1021	Home Health Aide or Certified Nurse Assistant, per visit	\$37.45	\$40.07	7.0%
T2018	Habilitation, supported employment, waiver; per diem	\$21.61	\$23.12	7.0%
T2019	Habilitation, supported employment, waiver; per 15 min	\$3.60	\$3.85	7.0%

- Nursing Facility Per Diem rates will be increased by 3.5% across-the-board. The tables below illustrate the rate change.

10/01/2016-12/31/2016						
Revenue Code	Description	Urban Rate	Rural Rate	Value-Based Urban Rate	Value-Based Rural Rate	
0183	LOA/Therapeutic	\$149.31	\$144.67	\$150.80	\$146.12	
0185	LOA/Nursing Home	\$149.31	\$144.67	\$150.80	\$146.12	
0191	Subacute Care Level I	\$149.31	\$144.67	\$150.80	\$146.12	
0192	Subacute Care Level II	\$163.24	\$157.64	\$164.87	\$159.22	
0193	Subacute Care Level III	\$193.62	\$187.43	\$195.56	\$189.30	

01/01/2017-09/30/2017						
Revenue Code	Description	Urban Rate	Rural Rate	Value-Based Urban Rate	Value-Based Rural Rate	Increase
0183	LOA/Therapeutic	\$154.54	\$149.73	\$156.08	\$151.23	3.5%
0185	LOA/Nursing Home	\$154.54	\$149.73	\$156.08	\$151.23	3.5%
0191	Subacute Care Level I	\$154.54	\$149.73	\$156.08	\$151.23	3.5%
0192	Subacute Care Level II	\$168.95	\$163.16	\$170.64	\$164.79	3.5%
0193	Subacute Care Level III	\$200.40	\$193.99	\$202.40	\$195.93	3.5%

- The changes proposed for the rates in this Notice are proposed to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available at least to the extent that such care and services are available to the general population in the geographic area.
- Written comments may be sent to the following address and must be received no later than 5:00 p.m. on January 13, 2017:

Meggan Harley, Contracts and Purchasing Administrator

Arizona Health Care Cost Containment System

701 E. Jefferson St. Phoenix, Arizona 85034

- g. More information regarding these changes to reimbursement can be obtained from the AHCCCS website at:

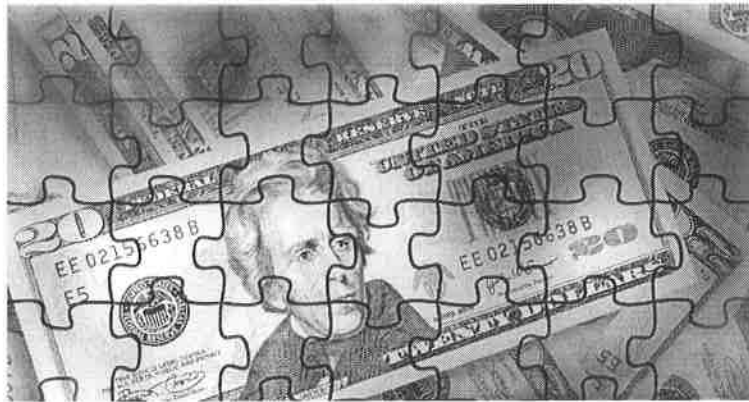
[https://www.azahcccs.gov/PlansProviders/RatesAndBilling/FFS/](https://www.azahcccs.gov/PlansProviders/RatesAndBilling/FFS/AHCCCSprovider_rateanalysis.html)

[AHCCCSprovider_rateanalysis.html](https://www.azahcccs.gov/PlansProviders/RatesAndBilling/FFS/AHCCCSprovider_rateanalysis.html). Many public libraries offer access to the internet. In addition, the information can be obtained at the Offices of the AHCCCS Administration, 701 E. Jefferson, Phoenix, AZ 85034.

EXHIBIT D

State will provide emergency funds to offset minimum wage hike

By: Ben Giles | December 14, 2016, 6:05 pm



Arizona health officials announced an emergency infusion of funds for private contractors serving the elder physically disabled and individuals with developmental disabilities to help offset the costs of the state's new minimum wage.

Roughly \$46.8 million in additional funding will be provided between January 1 and June 30, the end of the year, according to figures released Wednesday afternoon by the Arizona Health Care Cost Containment Sys AHCCCS.

Those dollars will help cover some, but not all, of the cost of a higher minimum wage that must be implemented for private care providers starting January 1 as mandated by the voter-approved Proposition 206.

The new law will raise the minimum wage from \$8.05 to \$10, and also affords full-time workers paid sick leave benefits. By 2020, the minimum wage must rise to \$12 an hour, meaning the issue of new funding for private providers will surface again in each of the next four years.

Rates that dictate how much it costs to provide services for Arizona's vulnerable populations were adjusted to cover the costs of Prop. 206 and ensure that providers can stay open, according to Christina Corieri, a senior policy advisor to Gov. Doug Ducey.

However, that doesn't mean that providers won't still feel the budget crunch of wage increases, she acknowledged. Essentially, the goal was to keep service providers from going out of business on January 1.

"Our overarching concern is making sure the rates are sufficient to ensure the services are available for our vulnerable population come January 1," Corieri said. "We were solely focused on making sure those services remained available and there's not a gap for those who truly need them."

Roughly \$20.3 million will cover new labor costs for providers for the elderly and physically disabled. Another \$1.4 million will be provided to the Department of Economic Security, which distributes funds to private care providers for individuals with developmental disabilities.

Another \$1.4 million will cover labor costs for private care providers who, in special circumstances, contract with AHCCCS.

Those funds are a mix of state and federal dollars, said Beth Kohler, deputy director at AHCCCS, with the federal government picking up about two-thirds of the cost. The state is on the hook for \$11.1 million in funding, and Arizona counties will kick in about \$3 million for services for the elderly and physically disabled, Kohler said. She said her agency's share of the cost will be covered by existing funding available at AHCCCS.

"We believe for the cost for this fiscal year covered that it can be through existing resources," she said. "With more than \$12 billion budget, and so as the year goes on, we are constantly monitoring whether or not we require all of the covered expenses for all of the people enrolled in the program.

DES has a small amount of money available to cover part of the \$11.1 million, but Corieri said she expects her agency will have to ask state lawmakers for an emergency appropriation to fully cover its share.

Tasya Peterson, a spokeswoman for DES, confirmed that "we will need a supplemental (appropriation) during the regular legislative session to get through the remainder of the year."

The infusion of funds is intended to help keep care providers afloat for now and give Arizona lawmakers and Governor Doug Ducey time to find a more permanent solution to an unintended consequence of Prop. 206 during the legislative session. Corieri said such a solution will be part of budget negotiations in the New Year.

State government employees were exempted from the new minimum wage to avoid running afoul of a constitutional requirement that any new voter-mandated spending include a designated funding source. Prop. 206, overwhelmingly approved by voters on the November ballot, includes no such new revenue stream, leaving private businesses and local governments to foot the bill for higher wages for employees making less than \$10 an hour.

Private contractors that provide legally-obligated government care don't have the same capability as private business to increase revenues or cut services to cover the cost of the new minimum wage, they say. While private companies can make adjustments, such as decreasing payroll or passing on costs to customers, care providers must serve their clients based on strict federal and state requirements that must be met, or risk losing their full share of which comes through the state.

Some private care providers warned they'd have to shut down in January unless their contracts with the government were adjusted and more funding was made available by the New Year.

Service rates for the care of the elderly and the physically disabled will be increased by about 7 percent across the board for ALTEC, while nursing facilities will see 3.5 percent rate increases, according to figures provided by AHCCCS.

It's unclear how rates will be adjusted by the Division of Developmental Disabilities at DES. Those figures were not immediately available through DES, but Kohler said the calculation of a \$25.1 million infusion of funds for that division assumed a similar 7 percent rate adjustment for services.

DES is in the process of adjusting its provider rates and will release the amended rates as soon as possible, according to Peterson.

David Schwartz, executive director for the Arizona Association of Providers for People with Disabilities, thanked Governor Ducey's administration for responding to the pending funding crisis for care providers.

However, without knowing how rates would be adjusted by DES, "we do not yet have the necessary information to conduct an analysis of what that funding increase actually will mean to individual service providers and the people we serve," Schwartz said.

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