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Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

HOUSE BILL 2400

AN ACT

AMENDING TITLE 8, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-514.05; AMENDING SECTIONS 36-557, 36-559 AND 36-562, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 5.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-568.02; RELATING TO DEVELOPMENTAL DISABILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 8, chapter 5, article 1, Arizona Revised Statutes, is
3 amended by adding section 8-514.05, to read:

4 8-514.05. Foster care provider access to child health
5 information; consent to treatment

6 A. ANY HEALTH PLAN, ANY HEALTH CARE PROVIDER WHO IS LICENSED OR
7 CERTIFIED PURSUANT TO TITLE 32 OR TITLE XIX OF THE SOCIAL SECURITY ACT AND
8 ANY HEALTH CARE INSTITUTION LICENSED PURSUANT TO TITLE 36, CHAPTER 4 AND WHO
9 HAS PROVIDED OR IS PROVIDING SERVICES TO, AND HAS CUSTODY OR CONTROL OF,
10 MEDICAL OR BEHAVIORAL HEALTH RECORDS, OR BOTH, OF A CHILD WHO THE DEPARTMENT
11 OR A COURT HAS PLACED IN AN OUT-OF-HOME PLACEMENT, AS DEFINED IN SECTION
12 8-501, SHALL PROVIDE MEDICAL OR BEHAVIORAL HEALTH RECORDS, OR BOTH, AND
13 INFORMATION PERTAINING TO THE CHILD'S CONDITION AND TREATMENT, AS WELL AS
14 PRESCRIPTION AND NONPRESCRIPTION DRUGS, MEDICATIONS, DURABLE MEDICAL
15 EQUIPMENT AND DEVICES, TO THE FOSTER PARENT, GROUP OR FOSTER HOME STAFF,
16 RELATIVE OR OTHER PERSON OR AGENCY IN WHOSE CARE THE CHILD IS CURRENTLY
17 PLACED PURSUANT TO TITLE 8, CHAPTER 5, ARTICLE 1 OR 4.

18 B. ANY HEALTH PLAN, ANY HEALTH CARE PROVIDER WHO IS LICENSED OR
19 CERTIFIED PURSUANT TO TITLE 32 OR TITLE XIX OF THE SOCIAL SECURITY ACT AND
20 ANY HEALTH CARE INSTITUTION LICENSED PURSUANT TO TITLE 36, CHAPTER 4 AND WHO
21 HAS PROVIDED OR IS PROVIDING SERVICES TO, AND HAS CUSTODY OR CONTROL OF
22 MEDICAL OR BEHAVIORAL HEALTH RECORDS, OR BOTH, OF A CHILD FOR WHOM THE
23 DEPARTMENT IS THE LEGAL GUARDIAN, OR IS PROVIDING FOSTER CARE OR SUBSTANCE
24 ABUSE SERVICES, SHALL PROVIDE MEDICAL OR BEHAVIORAL HEALTH RECORDS, OR BOTH,
25 AND INFORMATION PERTAINING TO THE CHILD'S CONDITION AND TREATMENT, AS WELL AS
26 PRESCRIPTION AND NONPRESCRIPTION DRUGS, MEDICATIONS, DURABLE MEDICAL
27 EQUIPMENT AND DEVICES, TO EMPLOYEES OF THE DEPARTMENT INVOLVED IN THE CHILD'S
28 CASE MANAGEMENT.

29 C. THE FOSTER PARENT, GROUP OR FOSTER HOME STAFF, RELATIVE OR OTHER
30 PERSON OR AGENCY IN WHOSE CARE THE CHILD IS CURRENTLY PLACED PURSUANT TO
31 TITLE 8, CHAPTER 5, ARTICLE 1 OR 4 IS AUTHORIZED TO CONSENT TO EVALUATION AND
32 TREATMENT FOR NONLIFE THREATENING EMERGENCY CONDITIONS. THE FOSTER PARENT,
33 GROUP OR FOSTER HOME STAFF, RELATIVE OR OTHER PERSON OR AGENCY IN WHOSE CARE
34 THE CHILD IS CURRENTLY PLACED MAY ALSO CONSENT TO ROUTINE MEDICAL AND DENTAL
35 TREATMENTS AND PROCEDURES INCLUDING EARLY PERIODIC SCREENING DIAGNOSIS AND
36 TREATMENT SERVICES AND SERVICES BY HEALTH CARE PROVIDERS TO RELIEVE PAIN OR
37 TREAT SYMPTOMS OF COMMON CHILDHOOD ILLNESSES OR CONDITIONS.

38 D. FOSTER PARENTS, GROUP OR FOSTER HOME STAFF, RELATIVES OR OTHER
39 PERSONS OR AGENCIES IN WHOSE CARE A CHILD IS PLACED PURSUANT TO TITLE 8,
40 CHAPTER 5, ARTICLE 1 OR 4 MAY NOT CONSENT TO GENERAL ANESTHESIA, SURGERY, HIV
41 TESTING, BLOOD TRANSFUSIONS OR ABORTIONS.

1 purchased by the department, shall provide services to a developmentally
2 disabled client who has been evaluated and placed by the department.

3 3. All contractors must carry liability insurance in amounts approved
4 by the risk management section of the department of administration and file
5 proof of ~~such~~ insurance with the risk management section. The director may
6 waive ~~such~~ THIS requirement on a case by case basis ~~upon~~ ON a finding that
7 insurance for ~~such~~ THE program or service is not practicably available at
8 affordable rates and that it is necessary that the program or service be
9 provided by the contractor.

10 4. All clients enrolled in programs ~~shall~~ have all the same specified
11 rights as they would have if enrolled in a program operated directly by the
12 state.

13 5. Except for emergency placement pursuant to section 36-560,
14 subsection N, payment shall not be made based on program services provided to
15 a client if a placement evaluation has not been made, and no individual
16 program has been prepared and when, ~~upon~~ ON such placement evaluation, no
17 recommendation has been made to enroll the client in the particular program
18 service.

19 ~~This article does not require a contracted agency to provide unreimbursed~~
20 ~~services to the department or a client of the department.~~

21 F. Contracts for the purchase of residential care services other than
22 those community residential settings licensed pursuant to this chapter ~~shall~~,
23 in addition to other general requirements applicable to purchase of care
24 contractors, **SHALL:**

25 1. Provide for mandatory inspection by the department every two years
26 for facilities other than group homes.

27 2. Provide for mandatory monitoring by the department for health,
28 safety, contractual and programmatic standards at least every ~~six~~ TWELVE
29 months **BY UNANNOUNCED VISITS.**

30 3. Provide for mandatory investigation by the department in response
31 to complaints within ten working days, except that in those instances ~~which~~
32 **THAT** pose a danger to the client, the department shall conduct the
33 investigation immediately. Health and safety complaints related to group
34 homes shall be referred to the department of health services on receipt. The
35 department of health services shall share all incident reports related to
36 health and safety with the division of developmental disabilities.

37 4. Except for group homes licensed by the department of health
38 services, specify the health and safety and sanitation codes and other codes
39 or standards applicable to the facility or to the operation of the facility
40 by the contractor other than group homes.

41 5. Provide for mandatory periodic reports to be filed by the provider
42 contractor with the department with respect to the operation of the facility.

43 6. Provide that the facility and the books and records of the facility
44 and of the provider are subject to inspection at any time by employees of the
45 department or designees of the department.

1 7. Provide that parents and guardians of developmentally disabled
2 persons residing at the facility, members of the developmental disabilities
3 advisory council, ~~—~~ and members of other recognized and ongoing advocacy
4 groups for developmentally disabled persons may inspect the facility at
5 reasonable times.

6 G. Contracts for purchase of residential care services shall require a
7 community residential setting, as defined in section 36-551, to be licensed
8 pursuant to this chapter other than group homes licensed by the department of
9 health services.

10 H. **CONTRACTS FOR DAY OR WORK PROGRAMS SHALL BE MONITORED ANNUALLY BY**
11 **DEPARTMENT STAFF OR VOLUNTARY ACCREDITING BODIES. THE DIVISION MAY WAIVE THE**
12 **REQUIREMENT FOR AN ANNUAL MONITOR IF THE CONTRACTING AGENCY PROVIDES THE**
13 **DIVISION WITH EVIDENCE OF ACCREDITATION IN GOOD STANDING.**

14 I. **THE DIVISION SHALL ADOPT RULES THAT PRESCRIBE THE QUALIFICATIONS**
15 **FOR ACCREDITATION BODIES AND GOOD STANDING STATUS.**

16 ~~H.~~ J. The division shall ensure that all contracted developmental
17 disabilities service providers rendering services pursuant to this chapter
18 are reimbursed in accordance with title XIX of the social security act.

19 ~~I.~~ K. Any contract issued by the division shall include language
20 outlining the provisions for the grievance and appeal procedure. The
21 grievance process applicable to these contracts shall comply with title XIX
22 of the social security act as implemented by department rules and section
23 36-563.

24 ~~J.~~ L. As a condition of contracts with any developmental disabilities
25 service provider, the director shall require terms that conform with state
26 and federal laws, title XIX statutes and regulations and quality
27 standards. The director shall further require contract terms that ensure
28 performance by the provider of the provisions of each contract executed
29 pursuant to this article.

30 ~~K.~~ M. The division may establish a rate structure that ensures an
31 equitable funding basis for private nonprofit or for profit agencies for
32 services pursuant to subsection B of this section and section 36-2943. In
33 each fiscal year, the division shall review and may adjust the rate structure
34 based on the provisions of section 36-2959.

35 ~~L.~~ N. The division shall disclose to a service provider in the
36 individual program plan defined by section 36-551 any historical and
37 behavioral information necessary for the provider to be able to anticipate
38 the client's future behaviors and needs.

39 Sec. 3. Section 36-559, Arizona Revised Statutes, is amended to read:

40 36-559. Eligibility for developmental disabilities programs,
41 services and facilities

42 A. ~~Except as provided in subsection B of this section, a~~
43 ~~developmentally disabled person is eligible to apply~~ **AN APPLICANT** for
44 developmental disabilities programs, services and facilities operated by,

1 licensed and supervised by, ~~or supported by the department if such person~~
2 MUST BE A RESIDENT OF THIS STATE AND EITHER:

3 ~~1. Is a bona fide resident of the state of Arizona.~~

4 ~~2.~~ 1. A CHILD UNDER SIX YEARS OF AGE WHO is developmentally disabled
5 ~~as defined in this chapter and provides medical and psychological~~
6 ~~documentation of such developmental disability utilizing tests which are~~
7 ~~culturally appropriate and valid, or is an infant and as a result of OR WHO~~
8 DEMONSTRATES A STRONG POTENTIAL OF BECOMING DEVELOPMENTALLY DISABLED BASED ON
9 tests performed pursuant to section 36-694, ~~or other appropriate tests,~~
10 ~~there is strongly demonstrated potential that the infant is developmentally~~
11 ~~disabled or will become developmentally disabled~~ ANOTHER RECOGNIZED
12 DEVELOPMENTAL ASSESSMENT TOOL.

13 2. A CHILD BETWEEN SIX AND EIGHTEEN YEARS OF AGE WHO HAS MEDICAL AND
14 PSYCHOLOGICAL DOCUMENTATION OF A DEVELOPMENTAL DISABILITY THAT IS BASED ON
15 TESTS THAT ARE CULTURALLY APPROPRIATE, VALID AND PERFORMED BY QUALIFIED
16 PROFESSIONALS.

17 3. AN ADULT WHO HAS MEDICAL AND PSYCHOLOGICAL DOCUMENTATION OF A
18 DEVELOPMENTAL DISABILITY THAT IS BASED ON TESTS THAT ARE CULTURALLY
19 APPROPRIATE, VALID AND PERFORMED BY QUALIFIED PROFESSIONALS AND WHO IS
20 EITHER:

21 (a) ELIGIBLE FOR INSTITUTIONAL SERVICES OR HOME AND COMMUNITY BASED
22 SERVICES PURSUANT TO SECTION 36-2936 AND ENROLLED IN THE ARIZONA LONG-TERM
23 CARE SYSTEM

24 (b) NOT ELIGIBLE FOR THE ARIZONA LONG-TERM CARE SYSTEM PURSUANT TO
25 SECTION 36-2931 BUT MEETS THE ARIZONA LONG-TERM CARE SYSTEM INCOME AND
26 RESOURCE CRITERIA PRESCRIBED IN SECTION 36-2934.

27 B. ASSETS HELD IN TRUST PURSUANT TO SECTION 36-2934.01 ARE NOT COUNTED
28 AS INCOME OR RESOURCES FOR THE PURPOSES OF SUBSECTION A OF THIS SECTION.

29 ~~B.~~ C. After The department ~~conducts preadmission~~ SHALL DETERMINE
30 ELIGIBILITY. DURING THE ELIGIBILITY PROCESS, THE DEPARTMENT SHALL CONDUCT a
31 screening ~~pursuant to section 36-2936 and determines that a developmentally~~
32 ~~disabled person may be~~ DETERMINE IF AN APPLICANT IS potentially eligible for
33 the Arizona long-term care system pursuant to chapter 29, article 2 of this
34 title, ~~the person shall be referred.~~ IF THE PERSON IS POTENTIALLY ELIGIBLE,
35 THE DEPARTMENT SHALL REFER THE PERSON to the Arizona health care cost
36 containment system administration for an eligibility determination pursuant
37 to section 36-2933, if either of the following applies:

38 1. The person is a new applicant who is not receiving services and
39 applies for services pursuant to this chapter.

40 2. The person is eligible for services pursuant to this chapter and
41 would receive services, other than case management, if state funding were
42 available.

43 ~~C.~~ D. A person who is referred to the Arizona health care cost
44 containment system administration shall first be determined eligible or
45 ineligible for the Arizona long-term care system, pursuant to chapter 29,

1 article 2 of this title, before receiving services pursuant to this
2 chapter. Applicants who voluntarily refuse to cooperate in the eligibility
3 process are not eligible for services pursuant to this chapter. **THE**
4 **APPLICANT SHALL SIGN** a form explaining loss of benefits due to a voluntary
5 refusal to cooperate ~~shall be signed by the applicant~~. Voluntary refusal to
6 cooperate shall not be construed to mean the ~~applicant's inability~~ **APPLICANT**
7 **IS UNABLE** to obtain documentation required for eligibility determination.

8 ~~D. E. The department shall determine eligibility.~~ If the person is
9 not eligible **FOR DEVELOPMENTAL DISABILITIES PROGRAMS, SERVICES OR FACILITIES**,
10 the department of economic security shall refer the person to the department
11 of health services for treatment as directed by the court to coordinate
12 necessary and reasonable services. Services provided pursuant to this
13 subsection are subject to the availability of funding.

14 Sec. 4. Section 36-562, Arizona Revised Statutes, is amended to read:
15 36-562. Schedule of financial contribution; review of billings

16 ~~A. Money for the support of a developmentally disabled person in a~~
17 ~~residential program operated or supported by the department, except for~~
18 ~~children placed in special foster homes as described in section 36-558.01,~~
19 ~~pursuant to sections 8-242, 8-514.01 and 8-845, shall be paid to the~~
20 ~~department, and by it deposited, pursuant to sections 35-146 and 35-147, and~~
21 ~~shall continue to be paid unless the person is terminated from such~~
22 ~~residential program. Credit shall be given for any periods of temporary~~
23 ~~absence, such as for home visits, vacations or other purposes.~~

24 ~~B. The financial contribution by the parent of a developmentally~~
25 ~~disabled minor shall terminate upon the eighteenth birthday of such person.~~
26 ~~The financial contribution by parents on behalf of two or more~~
27 ~~developmentally disabled persons receiving developmental disabilities~~
28 ~~programs or services shall not exceed the maximum amount such parents~~
29 ~~would be required to pay if only one of such children were receiving the programs~~
30 ~~or services.~~

31 ~~C. A.~~ The department shall by rule **SHALL** prescribe a fee schedule for
32 developmental disability residential programs **AND SERVICES** provided directly
33 or indirectly by the department. The amount of annual liability of a
34 developmentally disabled person or ~~his~~ **THAT PERSON'S** estate or parent ~~for~~
35 ~~residential programs provided~~ shall be based on the percentage of gross
36 income of the developmentally disabled person, ~~his~~ **THAT PERSON'S** estate or
37 parent, as defined by section 61 of the United States internal revenue code,
38 except that part of the gross income of a self-employed person ~~which~~ **THAT**
39 results from the operation of ~~his~~ **THAT PERSON'S** business shall be adjusted by
40 the deductions allowed in the internal revenue code relating to ~~such~~ **THAT**
41 income in computing adjusted gross income. **FOR A PERSON IN A RESIDENTIAL**
42 **PROGRAM, ALL OF THE FOLLOWING APPLY:**

43 ~~D. The director shall review his order for payment for residential~~
44 ~~care at least annually, and shall require the responsible person to update~~
45 ~~the financial information provided annually or at any time upon request by~~

1 ~~the county board of supervisors or by the parent, guardian, or other person~~
2 ~~making such payments. The provisions of section 36-563 shall apply to any~~
3 ~~order or change in order for payment.~~

4 ~~E. The responsible person shall furnish current financial information~~
5 ~~to the director and to the appropriate county board of supervisors at the~~
6 ~~times and on the forms and in the manner prescribed by the director, provided~~
7 ~~that such information shall be held by the director and the county board of~~
8 ~~supervisors to be strictly confidential and it shall not be divulged except~~
9 ~~in the instance where it is necessary in connection with legal action.~~

10 ~~F. A financial contribution which shall not exceed the actual cost of~~
11 ~~the programs and services provided may be required from the client or the~~
12 ~~parent, spouse or estate of a developmentally disabled person for the cost of~~
13 ~~any nonresidential developmental disability program or service operated by or~~
14 ~~supported by the department. The department shall by rule adopt a fee~~
15 ~~schedule for financial contributions. The amount of liability of a client or~~
16 ~~the parent, spouse or estate of a client for nonresidential services and~~
17 ~~programs or any combination of residential and nonresidential services and~~
18 ~~programs shall not exceed the amount of the fee prescribed for residential~~
19 ~~services in subsection C of this section. Counties are not required to~~
20 ~~contribute to the cost of nonresidential services or programs provided to~~
21 ~~clients.~~

22 ~~G. The amount payable by the developmentally disabled person or his~~
23 ~~parent or estate for residential services shall be fixed by the director in~~
24 ~~accordance with the fee schedule prescribed in this section.~~

25 1. A FINANCIAL CONTRIBUTION SHALL NOT EXCEED THE ACTUAL COST OF THE
26 PROGRAMS AND SERVICES PROVIDED.

27 2. THE FINANCIAL CONTRIBUTION BY THE PARENT OF A DEVELOPMENTALLY
28 DISABLED MINOR SHALL TERMINATE ON THAT PERSON'S EIGHTEENTH BIRTHDAY.

29 3. THE FINANCIAL CONTRIBUTION BY A PARENT ON BEHALF OF TWO OR MORE
30 DEVELOPMENTALLY DISABLED MINORS RECEIVING DEVELOPMENTAL DISABILITIES PROGRAMS
31 OR SERVICES SHALL NOT EXCEED THE MAXIMUM AMOUNT THE PARENT WOULD BE REQUIRED
32 TO PAY IF ONLY ONE OF THE MINORS WERE RECEIVING THE PROGRAMS OR SERVICES.

33 B. EXCEPT FOR CHILDREN PLACED IN SPECIAL FOSTER HOMES AS DESCRIBED IN
34 SECTION 36-558.01 PURSUANT TO SECTIONS 8-242, 8-514.01 AND 8-845, THE PERSON
35 OR THE PERSON'S PARENT OR ESTATE SHALL PAY THE DEPARTMENT FOR THE SUPPORT OF
36 A DEVELOPMENTALLY DISABLED PERSON WHO IS IN A RESIDENTIAL PROGRAM OPERATED OR
37 SUPPORTED BY THE DEPARTMENT, UNTIL THE PERSON IS TERMINATED FROM THE
38 RESIDENTIAL PROGRAM. THE DEPARTMENT SHALL GIVE CREDIT FOR ANY PERIODS OF
39 TEMPORARY ABSENCE FOR HOME VISITS, VACATIONS OR OTHER PURPOSES.

40 C. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, THE DEPARTMENT MAY
41 REQUIRE A PERSON WHO IS RECEIVING A RESIDENTIAL PROGRAM AND WHO RECEIVES
42 INCOME OR BENEFITS TO CONTRIBUTE TO THE COST OF THE PERSON'S SUPPORT AND
43 MAINTENANCE, SUBJECT TO THE PROVISIONS OF FEDERAL LAWS AND REGULATIONS. THE
44 DEPARTMENT SHALL ADOPT RULES TO DETERMINE THE AMOUNT AND MEANS OF PAYMENT OF
45 THE CONTRIBUTIONS, EXCEPT THAT THE COMBINED CONTRIBUTION MADE ON BEHALF OF A

1 PERSON BY A PERSON OR THE PERSON'S PARENT OR ESTATE SHALL NOT EXCEED THE
2 ACTUAL COST OF THE RESIDENTIAL PROGRAMS PROVIDED. A MINIMUM OF THIRTY PER
3 CENT OF THE CLIENT'S INCOME OR BENEFITS SHALL BE RETAINED FOR THE CLIENT'S
4 PERSONAL USE.

5 D. THE DEPARTMENT SHALL BILL A PERSON WHO IS AT LEAST EIGHTEEN YEARS
6 OF AGE OR THE PERSON'S ESTATE FOR ONE HUNDRED PER CENT OF DEVELOPMENTAL
7 DISABILITIES PROGRAMS IF THE PERSON'S COUNTABLE INCOME AND RESOURCES EXCEED
8 THE INCOME AND RESOURCE LIMITS PRESCRIBED IN SECTION 36-2934. FOR THE
9 PURPOSES OF THIS SUBSECTION, ASSETS OF A PERSON ENROLLED IN THE ARIZONA
10 LONG-TERM CARE SYSTEM THAT ARE HELD IN TRUST PURSUANT TO SECTION 36-2934.01
11 ARE NOT COUNTABLE INCOME OR RESOURCES.

12 ~~H. Money paid by a client, parent or guardian shall be paid to the~~
13 ~~director and deposited, pursuant to sections 35-146 and 35-147, in the state~~
14 ~~general fund.~~

15 E. THE DIRECTOR SHALL REVIEW THE AMOUNT BILLED FOR EACH PERSON
16 RECEIVING DEVELOPMENTAL DISABILITIES PROGRAMS AND SERVICES AT LEAST ANNUALLY
17 AND SHALL REQUIRE THE RESPONSIBLE PERSON TO UPDATE THE FINANCIAL INFORMATION
18 PROVIDED ANNUALLY OR AT ANY TIME ON REQUEST BY THE PARENT, GUARDIAN OR OTHER
19 PERSON MAKING THE PAYMENTS. SECTION 36-563 APPLIES TO ANY BILLING OR CHANGE
20 IN BILLING.

21 F. THE RESPONSIBLE PERSON SHALL FURNISH CURRENT FINANCIAL INFORMATION
22 TO THE DIRECTOR AT THE TIMES, ON THE FORMS AND IN THE MANNER PRESCRIBED BY
23 THE DIRECTOR.

24 ~~I. G. The department shall provide monthly billings to all persons~~
25 ~~responsible for paying for developmentally disabled residential or~~
26 ~~nonresidential DEVELOPMENTAL DISABILITIES services and programs provided~~
27 ~~directly or indirectly by the department. The department shall require all~~
28 ~~purchase of care providers to provide current lists of all persons receiving~~
29 ~~residential or nonresidential services and programs in facilities operated by~~
30 ~~such providers.~~ The department shall forward reports of delinquent billings
31 for residential and nonresidential services and programs provided by the
32 department or by contractors to the attorney general for collection.

33 ~~J. H. The department shall notify each client PERSON and the PERSON'S~~
34 ~~parent or guardian of such client for whom it has determined that~~
35 ~~contributions are required for the cost of residential or nonresidential~~
36 ~~services and programs that it reserves the right to MAY terminate~~
37 ~~developmental disability residential or nonresidential services and programs~~
38 ~~to a client PERSON for nonpayment of fees CONTRIBUTIONS required to be paid~~
39 ~~pursuant to this section.~~

40 ~~K. I. Any person affected by an order of the director for payment of~~
41 ~~costs of care may contest such order and request an administrative hearing~~
42 ~~pursuant to section 36-563.~~ Any person liable for the costs of care of a
43 ~~client PROGRAMS OR SERVICES FOR A DEVELOPMENTALLY DISABLED PERSON~~ may appeal
44 to the director, pursuant to section 36-563, for a reduction in the amount of
45 payment for such costs of care on the basis of hardship. A PERSON RECEIVING

1 A BILLING MAY CONTEST THE BILLING AND REQUEST AN ADMINISTRATIVE HEARING
2 PURSUANT TO SECTION 36-563.

3 ~~L. The provisions of subsections C and G of this section~~
4 ~~notwithstanding, the department may require clients who are receiving~~
5 ~~residential programs and who receive income or benefits to contribute to the~~
6 ~~cost of their support and maintenance, subject to the provisions of federal~~
7 ~~laws and regulations. Such contributions shall not be subject to the~~
8 ~~provisions of subsections A and H of this section. The department shall~~
9 ~~adopt rules which determine the amount and means of payment of such~~
10 ~~contributions, except that in no event shall the combined contribution made~~
11 ~~on behalf of a client by a client or the client's parent or estate exceed the~~
12 ~~actual cost of the residential programs provided. A minimum of thirty per~~
13 ~~cent of the client's income or benefits shall be retained for the client's~~
14 ~~personal use.~~

15 Sec. 5. Title 36, chapter 5.1, article 1, Arizona Revised Statutes, is
16 amended by adding section 36-568.02, to read:

17 36-568.02. Confidentiality of health information

18 A. ANY HEALTH PLAN, ANY HEALTH CARE PROVIDER WHO IS LICENSED OR
19 CERTIFIED PURSUANT TO TITLE 32 OR TITLE XIX OF THE SOCIAL SECURITY ACT AND
20 ANY HEALTH CARE INSTITUTION LICENSED PURSUANT TO TITLE 36, CHAPTER 4 AND WHO
21 HAS PROVIDED OR IS PROVIDING SERVICES TO, AND HAS CUSTODY OR CONTROL OF
22 MEDICAL OR BEHAVIORAL HEALTH RECORDS, OR BOTH, OF AN INDIVIDUAL FOR WHOM THE
23 DEPARTMENT IS PROVIDING SERVICES SHALL PROVIDE MEDICAL OR BEHAVIORAL HEALTH
24 RECORDS, OR BOTH, AND INFORMATION PERTAINING TO THE INDIVIDUAL'S CONDITION
25 AND TREATMENT, AS WELL AS PRESCRIPTION AND NONPRESCRIPTION DRUGS,
26 MEDICATIONS, DURABLE MEDICAL EQUIPMENT AND DEVICES, TO THE SERVICE PROVIDER,
27 RELATIVE OR OTHER PERSON OR AGENCY IN WHOSE CARE THE INDIVIDUAL RECEIVING
28 SERVICES IS CURRENTLY PLACED, EXCEPT THAT A COMPETENT ADULT OR EMANCIPATED
29 MINOR MAY RESTRICT RELEASE OF HIS MEDICAL OR BEHAVIORAL HEALTH RECORDS, OR
30 BOTH, AND INFORMATION AS OTHERWISE ALLOWABLE UNDER STATE AND FEDERAL LAW.

31 B. ANY HEALTH PLAN, ANY HEALTH CARE PROVIDER WHO IS LICENSED OR
32 CERTIFIED PURSUANT TO TITLE 32 OR TITLE XIX OF THE SOCIAL SECURITY ACT AND
33 ANY HEALTH CARE INSTITUTION LICENSED PURSUANT TO TITLE 36, CHAPTER 4 AND WHO
34 HAS PROVIDED OR IS PROVIDING SERVICES TO, AND HAS CUSTODY OR CONTROL OF
35 MEDICAL OR BEHAVIORAL HEALTH RECORDS, OR BOTH, OF AN INDIVIDUAL FOR WHOM THE
36 DEPARTMENT IS PROVIDING SERVICES SHALL PROVIDE MEDICAL OR BEHAVIORAL HEALTH
37 RECORDS, OR BOTH, AND INFORMATION PERTAINING TO THE INDIVIDUAL'S CONDITION OR
38 TREATMENT, AS WELL AS PRESCRIPTION AND NONPRESCRIPTION DRUGS, MEDICATIONS,
39 DURABLE MEDICAL EQUIPMENT AND DEVICES, TO EMPLOYEES OF THE DEPARTMENT
40 INVOLVED IN THE CASE MANAGEMENT OF THE INDIVIDUAL.

1 Sec. 6. Retroactivity

2 Sections 1 and 5 of this act are effective retroactively from and after
3 April 14, 2003.

4 Sec. 7. Exemption from rule making

5 For the purposes of sections 2 and 3 of this act, the department of
6 economic security is exempt from the rule making requirements of title 41,
7 chapter 6, Arizona Revised Statutes, for one year after the effective date of
8 this act.