

REFERENCE TITLE: AHCCCS; covered services

State of Arizona  
House of Representatives  
Fiftieth Legislature  
First Regular Session  
2011

# HB 2522

Introduced by  
Representative Heinz

AN ACT

AMENDING SECTIONS 36-2907 AND 36-2989, ARIZONA REVISED STATUTES; RELATING TO  
THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 36-2907, Arizona Revised Statutes, is amended to  
3 read:  
4 36-2907. Covered health and medical services; modifications;  
5 related delivery of service requirements; definition  
6 A. Subject to the limitations and exclusions specified in this  
7 section, contractors shall provide the following medically necessary health  
8 and medical services:  
9 1. Inpatient hospital services that are ordinarily furnished by a  
10 hospital for the care and treatment of inpatients and that are provided under  
11 the direction of a physician or a primary care practitioner. For the  
12 purposes of this section, inpatient hospital services exclude services in an  
13 institution for tuberculosis or mental diseases unless authorized under an  
14 approved section 1115 waiver.  
15 2. Outpatient health services that are ordinarily provided in  
16 hospitals, clinics, offices and other health care facilities by licensed  
17 health care providers. Outpatient health services include services provided  
18 by or under the direction of a physician or a primary care practitioner.  
19 3. Other laboratory and x-ray services ordered by a physician or a  
20 primary care practitioner.  
21 4. Medications that are ordered on prescription by a physician or a  
22 dentist licensed pursuant to title 32, chapter 11. ~~Beginning January 1,~~  
23 ~~2006.~~ Persons who are dually eligible for title XVIII and title XIX services  
24 must obtain available medications through a medicare licensed or certified  
25 medicare advantage prescription drug plan, a medicare prescription drug plan  
26 or any other entity authorized by medicare to provide a medicare part D  
27 prescription drug benefit.  
28 5. Medical supplies, durable medical equipment and prosthetic devices  
29 ordered by a physician or a primary care practitioner. Suppliers of durable  
30 medical equipment shall provide the administration with complete information  
31 about the identity of each person who has an ownership or controlling  
32 interest in their business and shall comply with federal bonding requirements  
33 in a manner prescribed by the administration.  
34 6. For persons who are at least twenty-one years of age, treatment of  
35 medical conditions of the eye, excluding eye examinations for prescriptive  
36 lenses and the provision of prescriptive lenses.  
37 7. Early and periodic health screening and diagnostic services as  
38 required by section 1905(r) of title XIX of the social security act for  
39 members who are under twenty-one years of age.  
40 8. Family planning services that do not include abortion or abortion  
41 counseling. If a contractor elects not to provide family planning services,  
42 this election does not disqualify the contractor from delivering all other  
43 covered health and medical services under this chapter. In that event, the  
44 administration may contract directly with another contractor, including an  
45 outpatient surgical center or a noncontracting provider, to deliver family

1 planning services to a member who is enrolled with the contractor that elects  
2 not to provide family planning services.

3 9. Podiatry services ordered by a primary care physician or primary  
4 care practitioner.

5 10. Nonexperimental transplants approved for title XIX reimbursement.

6 11. Ambulance and nonambulance transportation, except as provided in  
7 subsection G of this section.

8 **12. HOSPICE CARE.**

9 B. The limitations and exclusions for health and medical services  
10 provided under this section are as follows:

11 1. ~~Beginning on October 1, 2002,~~ Circumcision of newborn males is not  
12 a covered health and medical service.

13 2. For eligible persons who are at least twenty-one years of age:

14 (a) Outpatient health services do not include occupational therapy or  
15 speech therapy.

16 (b) Prosthetic devices do not include hearing aids, dentures, bone  
17 anchored hearing aids or cochlear implants. Prosthetic devices, except  
18 prosthetic implants, may be limited to twelve thousand ~~five hundred~~ **FIVE**  
19 **HUNDRED** dollars per contract year.

20 (c) Insulin pumps, percussive vests and orthotics are not covered  
21 health and medical services.

22 (d) Durable medical equipment is limited to items covered by medicare.

23 (e) Podiatry services do not include services performed by a  
24 podiatrist.

25 ~~(f) Nonexperimental transplants do not include the following:~~

26 ~~(i) Pancreas only transplants.~~

27 ~~(ii) Pancreas after kidney transplants.~~

28 ~~(iii) Lung transplants.~~

29 ~~(iv) Hemopoetic cell allogenic unrelated transplants.~~

30 ~~(v) Heart transplants for non ischemic cardiomyopathy.~~

31 ~~(vi) Liver transplants for diagnosis of hepatitis C.~~

32 ~~(g)~~ (f) Beginning October 1, 2011, bariatric surgery procedures,  
33 including laparoscopic and open gastric bypass and restrictive procedures,  
34 are not covered health and medical services.

35 ~~(h)~~ (g) Well exams are not a covered health and medical service,  
36 except mammograms, pap smears and colonoscopies.

37 C. The system shall pay noncontracting providers only for health and  
38 medical services as prescribed in subsection A of this section and as  
39 prescribed by rule.

40 D. The director shall adopt rules necessary to limit, to the extent  
41 possible, the scope, duration and amount of services, including maximum  
42 limitations for inpatient services that are consistent with federal  
43 regulations under title XIX of the social security act (P.L. 89-97; 79 Stat.  
44 344; 42 United States Code section 1396 (1980)). To the extent possible and

1 practicable, these rules shall provide for the prior approval of medically  
2 necessary services provided pursuant to this chapter.

3 E. The director shall make available home health services in lieu of  
4 hospitalization pursuant to contracts awarded under this article. For the  
5 purposes of this subsection, "home health services" means the provision of  
6 nursing services, home health aide services or medical supplies, equipment  
7 and appliances, which are provided on a part-time or intermittent basis by a  
8 licensed home health agency within a member's residence based on the orders  
9 of a physician or a primary care practitioner. Home health agencies shall  
10 comply with the federal bonding requirements in a manner prescribed by the  
11 administration.

12 F. The director shall adopt rules for the coverage of behavioral  
13 health services for persons who are eligible under section 36-2901, paragraph  
14 6, subdivision (a). The administration shall contract with the department of  
15 health services for the delivery of all medically necessary behavioral health  
16 services to persons who are eligible under rules adopted pursuant to this  
17 subsection. The division of behavioral health in the department of health  
18 services shall establish a diagnostic and evaluation program to which other  
19 state agencies shall refer children who are not already enrolled pursuant to  
20 this chapter and who may be in need of behavioral health services. In  
21 addition to an evaluation, the division of behavioral health shall also  
22 identify children who may be eligible under section 36-2901, paragraph 6,  
23 subdivision (a) or section 36-2931, paragraph 5 and shall refer the children  
24 to the appropriate agency responsible for making the final eligibility  
25 determination.

26 G. The director shall adopt rules for the provision of transportation  
27 services and rules providing for copayment by members for transportation for  
28 other than emergency purposes. Subject to approval by the centers for  
29 medicare and medicaid services, nonemergency medical transportation shall not  
30 be provided to persons who are eligible pursuant to sections 36-2901.01 and  
31 36-2901.04 and who reside in a county with a population of more than five  
32 hundred thousand persons. Prior authorization is not required for medically  
33 necessary ambulance transportation services rendered to members or eligible  
34 persons initiated by dialing telephone number 911 or other designated  
35 emergency response systems.

36 H. The director may adopt rules to allow the administration, at the  
37 director's discretion, to use a second opinion procedure under which surgery  
38 may not be eligible for coverage pursuant to this chapter without  
39 documentation as to need by at least two physicians or primary care  
40 practitioners.

41 I. If the director does not receive bids within the amounts budgeted  
42 or if at any time the amount remaining in the Arizona health care cost  
43 containment system fund is insufficient to pay for full contract services for  
44 the remainder of the contract term, the administration, on notification to  
45 system contractors at least thirty days in advance, may modify the list of

1 services required under subsection A of this section for persons defined as  
2 eligible other than those persons defined pursuant to section 36-2901,  
3 paragraph 6, subdivision (a). The director may also suspend services or may  
4 limit categories of expense for services defined as optional pursuant to  
5 title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United  
6 States Code section 1396 (1980)) for persons defined pursuant to section  
7 36-2901, paragraph 6, subdivision (a). Such reductions or suspensions do not  
8 apply to the continuity of care for persons already receiving these services.

9 J. Additional, reduced or modified hospitalization and medical care  
10 benefits may be provided under the system to enrolled members who are  
11 eligible pursuant to section 36-2901, paragraph 6, subdivision (b), (c), (d)  
12 or (e).

13 K. All health and medical services provided under this article shall  
14 be provided in the geographic service area of the member, except:

15 1. Emergency services and specialty services provided pursuant to  
16 section 36-2908.

17 2. That the director may permit the delivery of health and medical  
18 services in other than the geographic service area in this state or in an  
19 adjoining state if the director determines that medical practice patterns  
20 justify the delivery of services or a net reduction in transportation costs  
21 can reasonably be expected. Notwithstanding the definition of physician as  
22 prescribed in section 36-2901, if services are procured from a physician or  
23 primary care practitioner in an adjoining state, the physician or primary  
24 care practitioner shall be licensed to practice in that state pursuant to  
25 licensing statutes in that state similar to title 32, chapter 13, 15, 17 or  
26 25 and shall complete a provider agreement for this state.

27 L. Covered outpatient services shall be subcontracted by a primary  
28 care physician or primary care practitioner to other licensed health care  
29 providers to the extent practicable for purposes including, but not limited  
30 to, making health care services available to underserved areas, reducing  
31 costs of providing medical care and reducing transportation costs.

32 M. The director shall adopt rules that prescribe the coordination of  
33 medical care for persons who are eligible for system services. The rules  
34 shall include provisions for the transfer of patients, the transfer of  
35 medical records and the initiation of medical care.

36 N. For the purposes of this section, "ambulance" has the same meaning  
37 prescribed in section 36-2201.

38 Sec. 2. Section 36-2989, Arizona Revised Statutes, is amended to read:

39 36-2989. Covered health and medical services; modifications;  
40 related delivery of service requirements

41 A. Except as provided in this section, ~~beginning on October 1, 2001,~~  
42 health and medical services as ~~defined~~ PRESCRIBED in section 36-2907 are  
43 covered services and include:

44 1. Inpatient hospital services that are ordinarily furnished by a  
45 hospital for the care and treatment of inpatients, that are medically

1 necessary and that are provided under the direction of a physician or a  
2 primary care practitioner. For the purposes of this paragraph, inpatient  
3 hospital services exclude services in an institution for tuberculosis or  
4 mental diseases unless authorized by federal law.

5 2. Outpatient health services that are medically necessary and  
6 ordinarily provided in hospitals, clinics, offices and other health care  
7 facilities by licensed health care providers. For the purposes of this  
8 paragraph, "outpatient health services" includes services provided by or  
9 under the direction of a physician or a primary care practitioner.

10 3. Other laboratory and x-ray services ordered by a physician or a  
11 primary care practitioner.

12 4. Medications that are medically necessary and ordered on  
13 prescription by a physician, a primary care practitioner or a dentist  
14 licensed pursuant to title 32, chapter 11.

15 5. Medical supplies, equipment and prosthetic devices.

16 6. Treatment of medical conditions of the eye, including eye  
17 examinations for prescriptive lenses and the provision of prescriptive lenses  
18 for members.

19 7. Medically necessary dental services.

20 8. Well child services, immunizations and prevention services.

21 9. Family planning services that do not include abortion or abortion  
22 counseling. If a contractor elects not to provide family planning services,  
23 this election does not disqualify the contractor from delivering all other  
24 covered health and medical services under this article. In that event, the  
25 administration may contract directly with another contractor, including an  
26 outpatient surgical center or a noncontracting provider, to deliver family  
27 planning services to a member who is enrolled with a contractor who elects  
28 not to provide family planning services.

29 10. Podiatry services that are performed by a podiatrist licensed  
30 pursuant to title 32, chapter 7 and that are ordered by a primary care  
31 physician or primary care practitioner.

32 11. Medically necessary pancreas, heart, liver, kidney, cornea, lung  
33 and heart-lung transplants and autologous and allogeneic bone marrow  
34 transplants and immunosuppressant medications for these transplants ordered  
35 on prescription by a physician licensed pursuant to title 32, chapter 13  
36 or 17.

37 12. Medically necessary emergency and nonemergency transportation.

38 13. Inpatient and outpatient behavioral health services that are the  
39 same as the least restrictive health benefits coverage plan for behavioral  
40 health services that are offered through a health care services organization  
41 for state employees under section 38-651.

42 **14. HOSPICE CARE.**

43 B. The administration shall pay noncontracting providers only for  
44 health and medical services as prescribed in subsection A of this section.

1 C. To the extent possible and practicable, the administration and  
2 contractors shall provide for the prior approval of medically necessary  
3 services provided pursuant to this article.

4 D. The director shall make available home health services in lieu of  
5 hospitalization pursuant to contracts awarded under this article.

6 E. Behavioral health services shall be provided to members through the  
7 administration's intergovernmental agreement with the division of behavioral  
8 health in the department of health services. The division of behavioral  
9 health in the department of health services shall use its established  
10 diagnostic and evaluation program for referrals of children who are not  
11 already enrolled pursuant to this article and who may be in need of  
12 behavioral health services. In addition to an evaluation, the division of  
13 behavioral health shall also identify children who may be eligible under  
14 section 36-2901, paragraph 6, subdivision (a) or section 36-2931, paragraph 5  
15 and shall refer the children to the appropriate agency responsible for making  
16 the final eligibility determination.

17 F. The director shall adopt rules for the provision of transportation  
18 services for members. Prior authorization is not required for medically  
19 necessary ambulance transportation services rendered to members initiated by  
20 dialing telephone number 911 or other designated emergency response systems.

21 G. The director may adopt rules to allow the administration to use a  
22 second opinion procedure under which surgery may not be eligible for coverage  
23 pursuant to this article without documentation as to need by at least two  
24 physicians or primary care practitioners.

25 H. All health and medical services provided under this article shall  
26 be provided in the geographic service area of the member, except:

27 1. Emergency services and specialty services.

28 2. The director may permit the delivery of health and medical services  
29 in other than the geographic service area in this state or in an adjoining  
30 state if it is determined that medical practice patterns justify the delivery  
31 of services or a net reduction in transportation costs can reasonably be  
32 expected. Notwithstanding section 36-2981, paragraph 8 or 11, if services  
33 are procured from a physician or primary care practitioner in an adjoining  
34 state, the physician or primary care practitioner shall be licensed to  
35 practice in that state pursuant to licensing statutes in that state that are  
36 similar to title 32, chapter 13, 15, 17 or 25.

37 I. Covered outpatient services shall be subcontracted by a primary  
38 care physician or primary care practitioner to other licensed health care  
39 providers to the extent practicable for purposes of making health care  
40 services available to underserved areas, reducing costs of providing medical  
41 care and reducing transportation costs.

42 J. The director shall adopt rules that prescribe the coordination of  
43 medical care for members and that include a mechanism to transfer members and  
44 medical records and initiate medical care.

1           K. The director shall adopt rules for the reimbursement of specialty  
2 services provided to the member if authorized by the member's primary care  
3 physician or primary care practitioner.

4           Sec. 3. Emergency

5           This act is an emergency measure that is necessary to preserve the  
6 public peace, health or safety and is operative immediately as provided by  
7 law.