

REFERENCE TITLE: AHCCCS; children's health share program

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2768

Introduced by
Representatives Alston, Gallego, Hobbs, Pancrazi, Patterson, Tovar:
Arredondo, Gonzales, McCune Davis, Saldate

AN ACT

AMENDING SECTIONS 36-2981, 36-2983, 36-2985 AND 36-2995, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 29, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2996; RELATING TO THE CHILDREN'S HEALTH SHARE PROGRAM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 36-2981, Arizona Revised Statutes, is amended to
3 read:
4 36-2981. Definitions
5 In this article, unless the context otherwise requires:
6 1. "Administration" means the Arizona health care cost containment
7 system administration.
8 2. "Contractor" means a health plan that contracts with the
9 administration for the provision of hospitalization and medical care to
10 members according to ~~the provisions of~~ this article or a qualifying plan.
11 3. "Director" means the director of the administration.
12 4. "Federal poverty level" means the federal poverty level guidelines
13 published annually by the United States department of health and human
14 services.
15 5. "Health plan" means an entity that contracts with the
16 administration for services provided pursuant to article 1 of this chapter.
17 6. "Member" means a person who is eligible for and enrolled in the
18 program, who is under nineteen years of age and whose gross household income
19 meets the following requirements:
20 ~~(a) Beginning on November 1, 1998 through September 30, 1999, has~~
21 ~~income at or below one hundred fifty per cent of the federal poverty level.~~
22 ~~(b)~~ (a) Beginning on October 1, 1999 and for each fiscal year
23 thereafter, has income at or below two hundred per cent of the federal
24 poverty level.
25 (b) BEGINNING JULY 1, 2013, AND FOR EACH FISCAL YEAR THEREAFTER, HAS
26 INCOME AT OR BELOW THREE HUNDRED FIFTY PER CENT OF THE FEDERAL POVERTY
27 GUIDELINES AND MEETS THE REQUIREMENTS PRESCRIBED PURSUANT TO SECTION 36-2996.
28 7. "Noncontracting provider" means an entity that provides hospital or
29 medical care but does not have a contract or subcontract with the
30 administration.
31 8. "Physician" means a person licensed pursuant to title 32, chapter
32 13 or 17.
33 9. "Prepaid capitated" means a method of payment by which a contractor
34 delivers health care services for the duration of a contract to a specified
35 number of members based on a fixed rate per member, per month without regard
36 to the number of members who receive care or the amount of health care
37 services provided to a member.
38 10. "Primary care physician" means a physician who is a family
39 practitioner, general practitioner, pediatrician, general internist,
40 obstetrician or gynecologist.
41 11. "Primary care practitioner" means a nurse practitioner who is
42 certified pursuant to title 32, chapter 15 or a physician assistant who is
43 licensed pursuant to title 32, chapter 25 and who is acting within the
44 respective scope of practice of those chapters.

1 12. "Program" means the children's health insurance program AND
2 INCLUDES THE CHILDREN'S HEALTH SHARE PROGRAM ESTABLISHED BY SECTION 36-2996.

3 13. "Qualifying plan" means a contractor that contracts with the state
4 pursuant to section 38-651 to provide health and accident insurance for state
5 employees and that provides services to members pursuant to section 36-2989,
6 subsection A.

7 14. "Special health care district" means a special health care district
8 organized pursuant to title 48, chapter 31.

9 15. "Tribal facility" means a facility that is operated by an Indian
10 tribe and that is authorized to provide services pursuant to Public Law
11 93-638, as amended.

12 Sec. 2. Section 36-2983, Arizona Revised Statutes, is amended to read:
13 36-2983. Eligibility for the program

14 A. The administration shall establish a streamlined eligibility
15 process for applicants to the program and shall issue a certificate of
16 eligibility at the time eligibility for the program is determined.
17 Eligibility shall be based on gross household income for a member as defined
18 in section 36-2981. The administration shall not apply a resource test in
19 the eligibility determination or redetermination process.

20 B. The administration shall use a simplified eligibility form that may
21 be mailed to the administration. Once a completed application is received,
22 including adequate verification of income, the administration shall expedite
23 the eligibility determination and enrollment on a prospective basis.

24 C. The date of eligibility is the first day of the month following a
25 determination of eligibility if the decision is made by the twenty-fifth day
26 of the month. A person who is determined eligible for the program after the
27 twenty-fifth day of the month is eligible for the program the first day of
28 the second month following the determination of eligibility.

29 D. An applicant for the program who appears to be eligible pursuant to
30 section 36-2901, paragraph 6, subdivision (a) shall have a social security
31 number or shall apply for a social security number within thirty days after
32 the applicant submits an application for the program.

33 E. In order to be eligible for the program, a person shall be a
34 resident of this state and shall meet title XIX requirements for United
35 States citizenship or qualified alien status in the manner prescribed in
36 section 36-2903.03.

37 F. In determining the eligibility for all qualified aliens pursuant to
38 this article, the income and resources of a person who executed an affidavit
39 of support pursuant to section 213A of the immigration and nationality act on
40 behalf of the qualified alien and the income and resources of the spouse, if
41 any, of the sponsoring individual shall be counted at the time of application
42 and for the redetermination of eligibility for the duration of the
43 attribution period as specified in federal law.

44 G. Pursuant to federal law, a person is not eligible for the program
45 if that person is:

1 1. Eligible for title XIX or other federally operated or financed
2 health care insurance programs, except the Indian health service.

3 2. Covered by any group health plan or other health insurance coverage
4 as defined in section 2791 of the public health service act. Group health
5 plan or other health insurance coverage does not include coverage to persons
6 who are defined as eligible pursuant to ~~the A~~ premium ~~sharing~~ ASSISTANCE
7 program.

8 3. A member of a family that is eligible for health benefits coverage
9 under a state health benefit plan based on a family member's employment with
10 a public agency in this state.

11 4. An inmate of a public institution or a patient in an institution
12 for mental diseases. This paragraph does not apply to services furnished in
13 a state operated mental hospital or to residential or other twenty-four hour
14 therapeutically planned structured services.

15 H. A child who is covered under an employer's group health insurance
16 plan or through family or individual health care coverage shall not be
17 enrolled in the program IF THE CHILD IS ELIGIBLE PURSUANT TO SECTION 36-2981,
18 PARAGRAPH 6, SUBDIVISION (a). If the health insurance coverage is
19 voluntarily discontinued for any reason, except for the loss of health
20 insurance due to loss of employment or other involuntary reason, the child is
21 not eligible for the program PURSUANT TO SECTION 36-2981, PARAGRAPH 6,
22 SUBDIVISION (a) for a period of three months from the date that the health
23 care coverage was discontinued. The administration may waive the three month
24 period for any child who is seriously or chronically ill. For the purposes
25 of the waiver, "chronically ill" means a medical condition that requires
26 frequent and ongoing treatment and that if not properly treated will
27 seriously affect the child's overall health. The administration shall
28 establish rules to further define conditions that constitute a serious or
29 chronic illness.

30 I. Pursuant to federal law, a private insurer, as defined by the
31 secretary of the United States department of health and human services, shall
32 not limit enrollment by contract or any other means based on the presumption
33 that a child may be eligible for the program.

34 Sec. 3. Section 36-2985, Arizona Revised Statutes, is amended to read:
35 36-2985. Enrollment cap; program termination; spending
36 limitation

37 A. If the director determines that monies may be insufficient for ~~the~~
38 A program ESTABLISHED PURSUANT TO THIS ARTICLE, the director shall
39 immediately notify the governor, the president of the senate and the speaker
40 of the house of representatives. After consulting with the governor, the
41 administration shall stop processing new applications for the program until
42 the administration is able to verify that funding is sufficient to begin
43 processing applications and the governor agrees that the administration may
44 begin processing applications.

1 B. If the federal government eliminates federal funding for ~~the~~ A
2 program ESTABLISHED PURSUANT TO THIS ARTICLE or significantly reduces the
3 federal funding below the estimated federal expenditures, the administration
4 shall immediately stop processing all applications and shall provide at least
5 thirty days' advance notice to contractors and members that the program will
6 terminate.

7 C. The total amount of state monies that may be spent in any fiscal
8 year by the administration for health care provided under this article shall
9 not exceed the amount appropriated or authorized by section 35-173.

10 D. This article does not impose a duty on an officer, agent or
11 employee of this state to discharge a responsibility or to create any right
12 in a person or group if the discharge or right would require an expenditure
13 of state monies in excess of the expenditure authorized by legislative
14 appropriation for that specific purpose.

15 Sec. 4. Section 36-2995, Arizona Revised Statutes, is amended to read:

16 36-2995. Children's health insurance program fund; sources of
17 monies; use; reversion; claims

18 A. The children's health insurance program fund is established. The
19 administration shall administer the fund and shall use fund monies to pay
20 administrative and program costs associated with the operation of the
21 CHILDREN'S HEALTH INSURANCE program established by this article.

22 B. Separate accounting shall be made for each source of monies
23 received pursuant to subsection C of this section for expenses and income
24 activity associated with the CHILDREN'S HEALTH INSURANCE program established
25 ~~pursuant to~~ BY this article.

26 C. Monies in the fund are comprised of:

27 1. Federal monies available to this state for the operation of the
28 program.

29 2. Tobacco tax and state general fund monies appropriated as state
30 matching monies.

31 3. Gifts, donations and grants from any source.

32 4. Interest paid on monies deposited in the fund.

33 5. Third-party liability recoveries.

34 D. If a gift, a donation or a grant of over ten thousand dollars
35 received from any private source contains a condition, the administration
36 shall first meet with the joint legislative study committee on the
37 integration of health care services to review the condition before it spends
38 that gift, donation or grant.

39 E. All monies in the fund other than monies appropriated by this state
40 do not lapse.

41 F. Monies appropriated from the medically needy account of the tobacco
42 tax and health care fund are exempt from section 35-190 relating to lapsing
43 of appropriations. Notwithstanding section 35-191, subsection B, the period
44 for administrative adjustments extends for only six months for appropriations
45 made for administration covered services.

1 G. Notwithstanding sections 35-190 and 35-191, all approved claims for
2 system covered services presented after the end of the fiscal year in which
3 they were incurred shall be paid either in accordance with this section or in
4 the current fiscal year with the monies available in the funds established by
5 this section.

6 H. Claims for covered services that are determined to be valid by the
7 director and the grievance and appeal procedure shall be paid from the
8 children's health insurance program fund.

9 I. All payments for claims from the children's health insurance
10 program fund shall be accounted for by the administration by the fiscal year
11 in which the claims were incurred, regardless of the fiscal year in which the
12 payments were made.

13 J. Notwithstanding any other law, county owned or contracted providers
14 and special health care district owned or contracted providers are subject to
15 all claims processing and payment requirements or limitations of this chapter
16 that are applicable to noncounty providers.

17 Sec. 5. Title 36, chapter 29, article 4, Arizona Revised Statutes, is
18 amended by adding section 36-2996, to read:

19 36-2996. Children's health share program; fund; program
20 termination

21 A. THE CHILDREN'S HEALTH SHARE PROGRAM IS ESTABLISHED. BEGINNING JULY
22 1, 2013, AN ELIGIBLE CHILD WHOSE FAMILY INCOME IS MORE THAN THE MAXIMUM LEVEL
23 FOR A MEMBER MAY PURCHASE A BENEFITS PACKAGE, AS ESTABLISHED BY THE
24 ADMINISTRATION FOR A MONTHLY PREMIUM THAT IS DERIVED INDEPENDENTLY FROM OTHER
25 ELIGIBILITY CATEGORIES IN THIS ARTICLE.

26 B. A CHILD IS ELIGIBLE PURSUANT TO THIS SECTION IF THE CHILD:

27 1. IS A RESIDENT OF THIS STATE.

28 2. IS A CITIZEN OF THE UNITED STATES OR A LEGAL RESIDENT WHO MEETS THE
29 REQUIREMENTS OF SECTION 36-2903.03, SUBSECTION B OR C.

30 3. NOTWITHSTANDING SECTION 36-2983, SUBSECTION B, SUBMITS AN
31 APPLICATION AS PRESCRIBED BY THE ADMINISTRATION. THE ADMINISTRATION MAY
32 REQUIRE SUBMISSION THROUGH AN ELECTRONIC FORMAT AND ESTABLISH EXCEPTIONS TO
33 THIS REQUIREMENT IN HARDSHIP CASES.

34 4. DEMONSTRATES ON AN ANNUAL BASIS AND IN A MANNER DETERMINED BY THE
35 ADMINISTRATION ONE OF THE FOLLOWING:

36 (a) THE CHILD DOES NOT HAVE COVERAGE AVAILABLE THROUGH A PARENT'S OR
37 LEGAL GUARDIAN'S CURRENT EMPLOYER OR IS NOT ELIGIBLE FOR AVAILABLE COVERAGE.

38 (b) THE CHILD'S FAMILY IS UNABLE TO AFFORD INDIVIDUAL OR GROUP
39 COVERAGE BECAUSE THE CHILD'S COVERAGE WOULD EXCEED FIVE PER CENT OF THE
40 FAMILY INCOME OR BECAUSE THE TOTAL COST OF COVERAGE FOR THE CHILD IS GREATER
41 THAN ONE HUNDRED FIFTY PER CENT OF THE MONTHLY PREMIUM COST ESTABLISHED UNDER
42 THIS SECTION.

43 (c) THE CHILD OR A MEMBER OF THE CHILD'S IMMEDIATE FAMILY IS SUBJECT
44 TO A PREEXISTING CONDITION EXCLUSION.

45 (d) THE CHILD IS TRANSFERRING FROM ANOTHER PROGRAM UNDER THIS CHAPTER.

1 (e) THE CHILD IS A SIBLING OF A CHILD WHO IS ELIGIBLE PURSUANT TO THIS
2 SECTION.

3 C. THE DIRECTOR SHALL ADOPT RULES TO IMPLEMENT THIS SECTION AND TO
4 PRESCRIBE THE FOLLOWING:

5 1. THE APPLICATION PROCESS.

6 2. THE COLLECTION OF ENROLLMENT FEES, COPAYMENTS AND MONTHLY PREMIUMS
7 FOR PROGRAM ENROLLEES. THE ADMINISTRATION MAY REQUIRE PAYMENT FOR COST
8 SHARING IN AN ELECTRONIC FORMAT.

9 3. COVERED SERVICES AND SERVICE AND BENEFIT LIMITATIONS.

10 D. ALL COVERED SERVICES SHALL BE PROVIDED BY HEALTH PLANS THAT HAVE
11 CONTRACTS WITH THE ADMINISTRATION PURSUANT TO SECTION 36-2906. THE
12 ADMINISTRATION MAY SELECT A LIMITED NUMBER OF HEALTH PLANS TO PARTICIPATE IN
13 THE PROGRAM BASED ON A METHODOLOGY THAT CONSIDERS COST MANAGEMENT AND QUALITY
14 MEASUREMENT AS DETERMINED BY THE ADMINISTRATION. THE ADMINISTRATION SHALL
15 CONSIDER FOR PARTICIPATION ONLY PLANS THAT AGREE TO ACCEPT FULL FINANCIAL
16 RISK FOR SERVICES PROVIDED. THE ADMINISTRATION MAY FACILITATE PURCHASE OF
17 REINSURANCE.

18 E. UNLESS OTHERWISE DIRECTED BY THE ADMINISTRATION, THE HEALTH PLANS
19 SHALL PROVIDE COVERED MEDICALLY NECESSARY HEALTH AND MEDICAL SERVICES, WHICH
20 MAY INCLUDE SERVICES LISTED IN SECTION 36-2989. THE ADMINISTRATION SHALL
21 DETERMINE COVERED SERVICES BUT SHALL NOT INCLUDE SERVICES FOR PREGNANCY,
22 LABOR AND DELIVERY. THE ADMINISTRATION SHALL ESTABLISH ACTUARIALLY SOUND
23 CAPITATION RATES. PARTICIPATING PLANS SHALL USE THE ADMINISTRATION'S
24 REIMBURSEMENT RATES ESTABLISHED PURSUANT TO SECTION 36-2903.01, SUBSECTION H
25 PLUS FOURTEEN PER CENT AS A DEFAULT RATE IF A CONTRACT DOES NOT EXIST BETWEEN
26 A CONTRACTOR AND A PROVIDER.

27 F. THE ADMINISTRATION MAY IMPOSE AND ADJUST ENROLLMENT FEES,
28 COPAYMENTS AND PREMIUMS. THE ADMINISTRATION MAY TIER MONTHLY PREMIUMS BASED
29 ON THE MONTHLY CAPITATION RATE, THE BENEFIT LEVEL, THE COSTS OF ADMINISTERING
30 THE PROGRAM AND REINSURING FOR SERVICES AND THE ENROLLEE'S GROSS HOUSEHOLD
31 INCOME. THE ADMINISTRATION MAY DEVELOP ANNUAL CONTRACT REQUIREMENTS WITH
32 EXEMPTIONS TO THOSE REQUIREMENTS. THE ADMINISTRATION MAY REQUIRE PAYMENT FOR
33 COST SHARING IN AN ELECTRONIC FORMAT. MONTHLY PREMIUMS AND ENROLLMENT FEES
34 MUST BE COLLECTED BY THE ADMINISTRATION.

35 G. EXCEPT AS OTHERWISE PROHIBITED BY LAW, THE ADMINISTRATION MAY
36 IMPOSE AND ADJUST COPAYMENTS COLLECTED PURSUANT TO THIS SECTION FOR THE
37 FOLLOWING COVERED SERVICES:

38 1. OUTPATIENT VISITS.

39 2. EMERGENCY ROOM VISITS.

40 3. PRESCRIPTION MEDICATIONS.

41 4. OCCUPATIONAL, PHYSICAL AND SPEECH THERAPY.

42 5. BEHAVIORAL HEALTH SERVICES.

43 6. ANY OTHER SERVICE AS PRESCRIBED BY THE ADMINISTRATION.

44 H. THE ADMINISTRATION MUST NOTIFY THE PARENT OR LEGAL GUARDIAN OF A
45 CHILD WHO IS PAYING A PREMIUM OF ANY CHANGES IN THE PREMIUM, ENROLLMENT FEE

1 OR COPAYMENT. THE ADMINISTRATION, PURSUANT TO ALL APPLICABLE LAWS, MAY
2 CANCEL POLICIES FOR NONPAYMENT OF A PREMIUM.

3 I. IF THE DIRECTOR DETERMINES THAT ESTABLISHED PREMIUMS MAY BE
4 INSUFFICIENT FOR THE SERVICES PROVIDED PURSUANT TO THIS SECTION, THE
5 ADMINISTRATION MAY STOP PROCESSING APPLICATIONS UNTIL THE ADMINISTRATION IS
6 ABLE TO VERIFY THAT FUNDING IS SUFFICIENT TO CONTINUE THE PROGRAM.

7 J. THE ADMINISTRATION AND THE PARTICIPATING PLANS MAY IMPLEMENT
8 PROGRAMS AND INCENTIVES TO PROMOTE WELLNESS, PHYSICAL ACTIVITY AND CHRONIC
9 DISEASE MANAGEMENT.

10 K. THE CHILDREN'S HEALTH SHARE FUND IS ESTABLISHED CONSISTING OF
11 PREMIUMS AND ENROLLMENT FEES COLLECTED PURSUANT TO SUBSECTION C OF THIS
12 SECTION, AS WELL AS GIFTS, GRANTS AND OTHER MONIES RECEIVED BY THE
13 ADMINISTRATION TO PROVIDE SERVICES PURSUANT TO THIS SECTION. THESE MONIES DO
14 NOT REVERT TO THE STATE GENERAL FUND AT THE END OF A FISCAL YEAR. THE
15 ADMINISTRATION SHALL ADMINISTER THE FUND. THE ADMINISTRATION SHALL USE FUND
16 MONIES TO PAY FOR THE SERVICES AND COSTS ASSOCIATED WITH PERSONS WHO ARE
17 ELIGIBLE PURSUANT TO THIS SECTION. ON NOTICE FROM THE ADMINISTRATION, THE
18 STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY
19 SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE
20 FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED.

21 L. THE PROGRAM ESTABLISHED BY THIS SECTION TERMINATES ON JULY 1, 2022
22 PURSUANT TO SECTION 41-3102.

23 Sec. 6. Exemption from rule making

24 For the purposes of this act, the Arizona health care cost containment
25 system administration is exempt from the rule making requirements of title
26 41, chapter 6, Arizona Revised Statutes, for one year after the effective
27 date of this act.