

REFERENCE TITLE: behavioral health services; direct contracts

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

HB 2796

Introduced by
Representatives Hobbs, Ableser, Patterson, Senator Lujan: Representatives
Alston, Chabin, Hale, Heinz, McCune Davis, Pancrazi, Tovar, Senator
Gallardo

AN ACT

AMENDING SECTIONS 8-512 AND 36-2907, ARIZONA REVISED STATUTES; RELATING TO
BEHAVIORAL HEALTH SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-512, Arizona Revised Statutes, is amended to
3 read:

4 8-512. Comprehensive medical and dental care; guidelines

5 A. The department shall provide comprehensive medical and dental care,
6 as prescribed by rules of the department, for each child WHO IS:

7 1. Placed in a foster home.

8 2. In the custody of the department and placed with a relative.

9 3. In the custody of the department and placed in a certified adoptive
10 home before the entry of the final order of adoption.

11 4. In the custody of the department and in an independent living
12 program as provided in section 8-521.

13 5. In the custody of a probation department and placed in foster care.
14 The department shall not provide this care if the cost exceeds funds
15 currently appropriated and available for that purpose.

16 B. BEGINNING OCTOBER 1, 2013, IN A COUNTY WITH A POPULATION OF MORE
17 THAN FIVE HUNDRED THOUSAND PERSONS, THE DEPARTMENT, BY RULE, SHALL PROVIDE
18 BEHAVIORAL HEALTH SERVICES FOR CHILDREN WHO ARE PROVIDED CARE PURSUANT TO
19 SUBSECTION A OF THIS SECTION.

20 ~~B.~~ C. The care may include, ~~but is not limited to~~ FOR EXAMPLE:

21 1. A program of regular health examinations and immunizations,
22 including as minimums:

23 (a) Vaccinations to prevent mumps, rubella, smallpox and polio.

24 (b) Tests for anemia, coccidioidomycosis and tuberculosis.

25 (c) Urinalysis, blood count and hemoglobin tests.

26 (d) Regular examinations for general health, hearing and vision,
27 including providing corrective devices when needed.

28 2. Inpatient and outpatient hospital care.

29 3. Necessary services of physicians, surgeons, psychologists and
30 psychiatrists.

31 4. Dental care consisting of at least oral examinations, including
32 diagnostic radiographs, oral prophylaxis and topical fluoride applications,
33 restoration of permanent and primary teeth, pulp therapy, extraction when
34 necessary, fixed space maintainers where needed and other services for relief
35 of pain and infection.

36 5. Drug prescription service.

37 ~~C.~~ D. The facilities of any hospital or other institution within the
38 state, public or private, may be employed by the foster parent, relative,
39 certified adoptive parent, agency or division having responsibility for the
40 care of the child.

41 ~~D.~~ E. For inpatient hospital admissions and outpatient hospital
42 services on or after March 1, 1993, the department shall reimburse a hospital
43 according to the tiered per diem rates and outpatient cost-to-charge ratios
44 established by the Arizona health care cost containment system ADMINISTRATION
45 pursuant to section 36-2903.01, subsection H.

1 ~~E~~. F. The department shall use the Arizona health care cost
2 containment system ADMINISTRATION rates as identified in subsection ~~D~~- E of
3 this section for any child eligible for services under this section.

4 ~~F~~. G. A hospital bill is considered received for purposes of
5 subsection ~~H~~- I of this section upon ON initial receipt of the legible,
6 error-free claim form by the department if the claim includes the following
7 error-free documentation in legible form:

- 8 1. An admission face sheet.
- 9 2. An itemized statement.
- 10 3. An admission history and physical.
- 11 4. A discharge summary or an interim summary if the claim is split.
- 12 5. An emergency record, if admission was through the emergency room.
- 13 6. Operative reports, if applicable.
- 14 7. A labor and delivery room report, if applicable.

15 ~~G~~. H. The department shall require that the hospital pursue other
16 third-party payors before submitting a claim to the department. Payment
17 received by a hospital from the department is considered payment by the
18 department of the department's liability for the hospital bill. A hospital
19 may collect any unpaid portion of its bill from other third-party payors or
20 in situations covered by title 33, chapter 7, article 3.

21 ~~H~~. I. For inpatient hospital admissions and outpatient hospital
22 services rendered on and after October 1, 1997, the department shall pay a
23 hospital's rate established according to this section subject to the
24 following:

- 25 1. If the hospital's bill is paid within thirty days of the date the
26 bill was received, the department shall pay ninety-nine per cent of the rate.
- 27 2. If the hospital's bill is paid after thirty days but within sixty
28 days of the date the bill was received, the department shall pay one hundred
29 per cent of the rate.
- 30 3. If the hospital's bill is paid any time after sixty days of the
31 date the bill was received, the department shall pay one hundred per cent of
32 the rate plus a fee of one per cent per month for each month or portion of a
33 month following the sixtieth day of receipt of the bill until the date of
34 payment.

35 ~~I~~. J. For medical services other than those for which a rate has been
36 established pursuant to section 36-2903.01, subsection H, the department
37 shall pay according to the Arizona health care cost containment system capped
38 fee-for-service schedule adopted pursuant to section 36-2904, subsection K.

39 ~~J~~. K. For any hospital or medical claims not covered under subsection
40 ~~D~~- E or ~~I~~- J of this section, the department shall establish and adopt a
41 schedule setting out maximum allowable fees that the department deems
42 reasonable for such services after appropriate study and analysis of usual
43 and customary fees charged by providers. The department shall not pay to any
44 plan or intermediary that portion of the cost of any service provided that

1 exceeds allowable charges prescribed by the department pursuant to this
2 subsection.

3 ~~K.~~ L. The department shall not pay claims for services pursuant to
4 this section that are submitted more than one hundred eighty days after the
5 date of the service for which the payment is claimed.

6 ~~L.~~ M. The department may provide for payment through an insurance
7 plan, hospital service plan, medical service plan, or any other health
8 service plan authorized to do business in this state, fiscal intermediary or
9 a combination of such plans or methods. The state shall not be liable for
10 and the department shall not pay to any plan or intermediary any portion of
11 the cost of comprehensive medical and dental care in excess of funds
12 appropriated and available for such purpose at the time the plan or
13 intermediary incurs the expense for such care.

14 ~~M.~~ N. The total amount of state monies that may be spent in any
15 fiscal year by the department for comprehensive medical and dental care shall
16 not exceed the amount appropriated or authorized by section 35-173 for that
17 purpose. This section shall not be construed to impose a duty on an officer,
18 agent or employee of this state to discharge a responsibility or to create
19 any right in a person or group if the discharge or right would require an
20 expenditure of state monies in excess of the expenditure authorized by
21 legislative appropriation for that specific purpose.

22 Sec. 2. Section 36-2907, Arizona Revised Statutes, is amended to read:
23 36-2907. Covered health and medical services; modifications;
24 related delivery of service requirements; definition

25 A. Subject to the limitations and exclusions specified in this
26 section, contractors shall provide the following medically necessary health
27 and medical services:

28 1. Inpatient hospital services that are ordinarily furnished by a
29 hospital for the care and treatment of inpatients and that are provided under
30 the direction of a physician or a primary care practitioner. For the
31 purposes of this section, inpatient hospital services exclude services in an
32 institution for tuberculosis or mental diseases unless authorized under an
33 approved section 1115 waiver.

34 2. Outpatient health services that are ordinarily provided in
35 hospitals, clinics, offices and other health care facilities by licensed
36 health care providers. Outpatient health services include services provided
37 by or under the direction of a physician or a primary care practitioner.

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

40 4. Medications that are ordered on prescription by a physician or a
41 dentist licensed pursuant to title 32, chapter 11. Persons who are dually
42 eligible for title XVIII and title XIX services must obtain available
43 medications through a medicare licensed or certified medicare advantage
44 prescription drug plan, a medicare prescription drug plan or any other entity

1 authorized by medicare to provide a medicare part D prescription drug
2 benefit.

3 5. Medical supplies, durable medical equipment and prosthetic devices
4 ordered by a physician or a primary care practitioner. Suppliers of durable
5 medical equipment shall provide the administration with complete information
6 about the identity of each person who has an ownership or controlling
7 interest in their business and shall comply with federal bonding requirements
8 in a manner prescribed by the administration.

9 6. For persons who are at least twenty-one years of age, treatment of
10 medical conditions of the eye, excluding eye examinations for prescriptive
11 lenses and the provision of prescriptive lenses.

12 7. Early and periodic health screening and diagnostic services as
13 required by section 1905(r) of title XIX of the social security act for
14 members who are under twenty-one years of age.

15 8. Family planning services that do not include abortion or abortion
16 counseling. If a contractor elects not to provide family planning services,
17 this election does not disqualify the contractor from delivering all other
18 covered health and medical services under this chapter. In that event, the
19 administration may contract directly with another contractor, including an
20 outpatient surgical center or a noncontracting provider, to deliver family
21 planning services to a member who is enrolled with the contractor that elects
22 not to provide family planning services.

23 9. Podiatry services ordered by a primary care physician or primary
24 care practitioner.

25 10. Nonexperimental transplants approved for title XIX reimbursement.

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

28 12. Hospice care.

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

31 1. Circumcision of newborn males is not a covered health and medical
32 service.

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

34 (a) Outpatient health services do not include occupational therapy or
35 speech therapy.

36 (b) Prosthetic devices do not include hearing aids, dentures, bone
37 anchored hearing aids or cochlear implants. Prosthetic devices, except
38 prosthetic implants, may be limited to twelve thousand five hundred dollars
39 per contract year.

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

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

43 (e) Podiatry services do not include services performed by a
44 podiatrist.

- 1 (f) Nonexperimental transplants do not include the following:
2 (i) Pancreas only transplants.
3 (ii) Pancreas after kidney transplants.
4 (iii) Lung transplants.
5 (iv) Hemopoetic cell allogenic unrelated transplants.
6 (v) Heart transplants for non-ischemic cardiomyopathy.
7 (vi) Liver transplants for diagnosis of hepatitis C.
8 (g) Beginning October 1, 2011, bariatric surgery procedures, including
9 laparoscopic and open gastric bypass and restrictive procedures, are not
10 covered health and medical services.
11 (h) Well exams are not a covered health and medical service, except
12 mammograms, pap smears and colonoscopies.
13 C. The system shall pay noncontracting providers only for health and
14 medical services as prescribed in subsection A of this section and as
15 prescribed by rule.
16 D. The director shall adopt rules necessary to limit, to the extent
17 possible, the scope, duration and amount of services, including maximum
18 limitations for inpatient services that are consistent with federal
19 regulations under title XIX of the social security act (P.L. 89-97; 79 Stat.
20 344; 42 United States Code section 1396 (1980)). To the extent possible and
21 practicable, these rules shall provide for the prior approval of medically
22 necessary services provided pursuant to this chapter.
23 E. The director shall make available home health services in lieu of
24 hospitalization pursuant to contracts awarded under this article. For the
25 purposes of this subsection, "home health services" means the provision of
26 nursing services, home health aide services or medical supplies, equipment
27 and appliances, which are provided on a part-time or intermittent basis by a
28 licensed home health agency within a member's residence based on the orders
29 of a physician or a primary care practitioner. Home health agencies shall
30 comply with the federal bonding requirements in a manner prescribed by the
31 administration.
32 F. The director shall adopt rules for the coverage of behavioral
33 health services for persons who are eligible under section 36-2901, paragraph
34 6, subdivision (a). EXCEPT FOR ELIGIBLE CHILDREN WHO RECEIVE BEHAVIORAL
35 HEALTH SERVICES PURSUANT TO SECTION 8-512, the administration shall contract
36 with the department of health services for the delivery of all medically
37 necessary behavioral health services to persons who are eligible under rules
38 adopted pursuant to this subsection. The division of behavioral health in
39 the department of health services shall establish a diagnostic and evaluation
40 program to which other state agencies shall refer children who are not
41 already enrolled pursuant to this chapter and who may be in need of
42 behavioral health services. In addition to an evaluation, the division of
43 behavioral health shall also identify children who may be eligible under
44 section 36-2901, paragraph 6, subdivision (a) or section 36-2931, paragraph 5

1 and shall refer the children to the appropriate agency responsible for making
2 the final eligibility determination.

3 G. The director shall adopt rules for the provision of transportation
4 services and rules providing for copayment by members for transportation for
5 other than emergency purposes. Subject to approval by the centers for
6 medicare and medicaid services, nonemergency medical transportation shall not
7 be provided except for stretcher vans and ambulance transportation. Prior
8 authorization is required for transportation by stretcher van and for
9 medically necessary ambulance transportation initiated pursuant to a
10 physician's direction. Prior authorization is not required for medically
11 necessary ambulance transportation services rendered to members or eligible
12 persons initiated by dialing telephone number 911 or other designated
13 emergency response systems.

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

19 I. If the director does not receive bids within the amounts budgeted
20 or if at any time the amount remaining in the Arizona health care cost
21 containment system fund is insufficient to pay for full contract services for
22 the remainder of the contract term, the administration, on notification to
23 system contractors at least thirty days in advance, may modify the list of
24 services required under subsection A of this section for persons defined as
25 eligible other than those persons defined pursuant to section 36-2901,
26 paragraph 6, subdivision (a). The director may also suspend services or may
27 limit categories of expense for services defined as optional pursuant to
28 title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United
29 States Code section 1396 (1980)) for persons defined pursuant to section
30 36-2901, paragraph 6, subdivision (a). Such reductions or suspensions do not
31 apply to the continuity of care for persons already receiving these services.

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

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

38 1. Emergency services and specialty services provided pursuant to
39 section 36-2908.

40 2. That the director may permit the delivery of health and medical
41 services in other than the geographic service area in this state or in an
42 adjoining state if the director determines that medical practice patterns
43 justify the delivery of services or a net reduction in transportation costs
44 can reasonably be expected. Notwithstanding the definition of physician as
45 prescribed in section 36-2901, if services are procured from a physician or

1 primary care practitioner in an adjoining state, the physician or primary
2 care practitioner shall be licensed to practice in that state pursuant to
3 licensing statutes in that state similar to title 32, chapter 13, 15, 17 or
4 25 and shall complete a provider agreement for this state.

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

10 M. The director shall adopt rules that prescribe the coordination of
11 medical care for persons who are eligible for system services. The rules
12 shall include provisions for the transfer of patients, the transfer of
13 medical records and the initiation of medical care.

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

16 Sec. 3. Appropriation; the purposes of this act; exemption

17 A. Of the monies appropriated to the department of health services
18 pursuant to Laws 2011, first regular session, chapter --, section --, the
19 sum of \$_____ is transferred and appropriated in fiscal year 2012-2013 to
20 the department of economic security for the purposes of this act.

21 B. The appropriation made in subsection A of this section is exempt
22 from the provisions of section 35-190, Arizona Revised Statutes, relating to
23 lapsing of appropriations.