

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SENATE BILL 1375

AN ACT

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

(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. ON OR BEFORE OCTOBER 1, 2015, THE DEPARTMENT OF ECONOMIC SECURITY,
17 IN COLLABORATION WITH THE DEPARTMENT OF HEALTH SERVICES AND THE ARIZONA
18 HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION, SHALL DETERMINE THE MOST
19 EFFICIENT AND EFFECTIVE WAY TO PROVIDE COMPREHENSIVE MEDICAL, DENTAL AND
20 BEHAVIORAL HEALTH SERVICES, INCLUDING BEHAVIORAL HEALTH DIAGNOSTIC,
21 EVALUATION AND TREATMENT SERVICES FOR CHILDREN WHO ARE PROVIDED CARE PURSUANT
22 TO SUBSECTION A OF THIS SECTION AND SHALL SUBMIT A REPORT OF ITS
23 RECOMMENDATIONS FOR PROVIDING INTEGRATED SERVICES PURSUANT TO THIS SUBSECTION
24 TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE
25 PRESIDENT OF THE SENATE AND SHALL PROVIDE A COPY OF ITS REPORT TO THE
26 SECRETARY OF STATE. THE COLLABORATIVE DETERMINATION SHALL CONSIDER AN
27 ADMINISTRATIVELY INTEGRATED SYSTEM.

28 ~~B. C.~~ C. The care may include, ~~but is not limited to:~~

29 1. A program of regular health examinations and immunizations
30 including as minimums:

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

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

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

34 (d) Regular examinations for general **PHYSICAL** health, hearing and
35 vision, including providing corrective devices when needed.

36 2. Inpatient and outpatient hospital care.

37 3. Necessary services of physicians, surgeons, psychologists and
38 psychiatrists.

39 4. Dental care consisting of at least oral examinations including
40 diagnostic radiographs, oral prophylaxis and topical fluoride applications,
41 restoration of permanent and primary teeth, pulp therapy, extraction when
42 necessary, fixed space maintainers where needed and other services for relief
43 of pain and infection.

44 5. Drug prescription service.

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

5 ~~D~~ E. For inpatient hospital admissions and outpatient hospital
6 services on or after March 1, 1993, the department shall reimburse a hospital
7 according to the rates established by the Arizona health care cost
8 containment system ADMINISTRATION pursuant to section 36-2903.01,
9 subsection G.

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

13 ~~F~~ G. A hospital bill is considered received for purposes of
14 subsection ~~H~~ I of this section on initial receipt of the legible, error-free
15 claim form by the department if the claim includes the following error-free
16 documentation in legible form:

- 17 1. An admission face sheet.
- 18 2. An itemized statement.
- 19 3. An admission history and physical.
- 20 4. A discharge summary or an interim summary if the claim is split.
- 21 5. An emergency record, if admission was through the emergency room.
- 22 6. Operative reports, if applicable.
- 23 7. A labor and delivery room report, if applicable.

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

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

- 34 1. If the hospital's bill is paid within thirty days of the date the
35 bill was received, the department shall pay ninety-nine per cent of the rate.
- 36 2. If the hospital's bill is paid after thirty days but within sixty
37 days of the date the bill was received, the department shall pay one hundred
38 per cent of the rate.
- 39 3. If the hospital's bill is paid any time after sixty days of the
40 date the bill was received, the department shall pay one hundred per cent of
41 the rate plus a fee of one per cent per month for each month or portion of a
42 month following the sixtieth day of receipt of the bill until the date of
43 payment.

44 ~~I~~ J. For medical services other than those for which a rate has been
45 established pursuant to section 36-2903.01, subsection G, the department

1 shall pay according to the Arizona health care cost containment system capped
2 fee-for-service schedule adopted pursuant to section 36-2904, subsection K.

3 ~~J~~ K. For any hospital or medical claims not covered under subsection
4 ~~D~~ E or ~~F~~ J of this section, the department shall establish and adopt a
5 schedule setting out maximum allowable fees that the department deems
6 reasonable for such services after appropriate study and analysis of usual
7 and customary fees charged by providers. The department shall not pay to any
8 plan or intermediary that portion of the cost of any service provided that
9 exceeds allowable charges prescribed by the department pursuant to this
10 subsection.

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

14 ~~L~~ M. The department may provide for payment through an insurance
15 plan, hospital service plan, medical service plan, or any other health
16 service plan authorized to do business in this state, fiscal intermediary or
17 a combination of such plans or methods. The state shall not be liable for
18 and the department shall not pay to any plan or intermediary any portion of
19 the cost of comprehensive medical and dental care in excess of funds
20 appropriated and available for such purpose at the time the plan or
21 intermediary incurs the expense for such care.

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

30 Sec. 2. Section 36-2907, Arizona Revised Statutes, is amended to read:

31 36-2907. Covered health and medical services; modifications;
32 related delivery of service requirements; definition

33 A. Subject to the limitations and exclusions specified in this
34 section, contractors shall provide the following medically necessary health
35 and medical services:

36 1. Inpatient hospital services that are ordinarily furnished by a
37 hospital for the care and treatment of inpatients and that are provided under
38 the direction of a physician or a primary care practitioner. For the
39 purposes of this section, inpatient hospital services exclude services in an
40 institution for tuberculosis or mental diseases unless authorized under an
41 approved section 1115 waiver.

42 2. Outpatient health services that are ordinarily provided in
43 hospitals, clinics, offices and other health care facilities by licensed
44 health care providers. Outpatient health services include services provided
45 by or under the direction of a physician or a primary care practitioner.

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

3 4. Medications that are ordered on prescription by a physician or a
4 dentist licensed pursuant to title 32, chapter 11. Persons who are dually
5 eligible for title XVIII and title XIX services must obtain available
6 medications through a medicare licensed or certified medicare advantage
7 prescription drug plan, a medicare prescription drug plan or any other entity
8 authorized by medicare to provide a medicare part D prescription drug
9 benefit.

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

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

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

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

30 9. Podiatry services ordered by a primary care physician or primary
31 care practitioner.

32 10. Nonexperimental transplants approved for title XIX reimbursement.

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

35 12. Hospice care.

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

38 1. Circumcision of newborn males is not a covered health and medical
39 service.

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

41 (a) Outpatient health services do not include occupational therapy or
42 speech therapy.

43 (b) Prosthetic devices do not include hearing aids, dentures, bone
44 anchored hearing aids or cochlear implants. Prosthetic devices, except

1 prosthetic implants, may be limited to twelve thousand five hundred dollars
2 per contract year.

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

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

6 (e) Podiatry services do not include services performed by a
7 podiatrist.

8 (f) Nonexperimental transplants do not include the following:

9 (i) Pancreas only transplants.

10 (ii) Pancreas after kidney transplants.

11 (iii) Lung transplants.

12 (iv) Hemopoetic cell allogenic unrelated transplants.

13 (v) Heart transplants for non-ischemic cardiomyopathy.

14 (vi) Liver transplants for diagnosis of hepatitis C.

15 (g) ~~Beginning October 1, 2011,~~ Bariatric surgery procedures, including
16 laparoscopic and open gastric bypass and restrictive procedures, are not
17 covered health and medical services.

18 (h) Well exams are not a covered health and medical service, except
19 mammograms, pap smears and colonoscopies.

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

23 D. The director shall adopt rules necessary to limit, to the extent
24 possible, the scope, duration and amount of services, including maximum
25 limitations for inpatient services that are consistent with federal
26 regulations under title XIX of the social security act (P.L. 89-97; 79 Stat.
27 344; 42 United States Code section 1396 (1980)). To the extent possible and
28 practicable, these rules shall provide for the prior approval of medically
29 necessary services provided pursuant to this chapter.

30 E. The director shall make available home health services in lieu of
31 hospitalization pursuant to contracts awarded under this article. For the
32 purposes of this subsection, "home health services" means the provision of
33 nursing services, home health aide services or medical supplies, equipment
34 and appliances, ~~which~~ THAT are provided on a part-time or intermittent basis
35 by a licensed home health agency within a member's residence based on the
36 orders of a physician or a primary care practitioner. Home health agencies
37 shall comply with the federal bonding requirements in a manner prescribed by
38 the administration.

39 F. The director shall adopt rules for the coverage of behavioral
40 health services for persons who are eligible under section 36-2901, paragraph
41 6, subdivision (a). The administration shall contract with the department of
42 health services for the delivery of all medically necessary behavioral health
43 services to persons who are eligible under rules adopted pursuant to this
44 subsection. The division of behavioral health in the department of health
45 services shall establish a diagnostic and evaluation program to which other

1 state agencies shall refer children who are not already enrolled pursuant to
2 this chapter and who may be in need of behavioral health services. In
3 addition to an evaluation, the division of behavioral health shall also
4 identify children who may be eligible under section 36-2901, paragraph 6,
5 subdivision (a) or section 36-2931, paragraph 5 and shall refer the children
6 to the appropriate agency responsible for making the final eligibility
7 determination. ON OR BEFORE OCTOBER 1, 2015, THE ADMINISTRATION, IN
8 COLLABORATION WITH THE DEPARTMENT OF HEALTH SERVICES AND THE DEPARTMENT OF
9 ECONOMIC SECURITY, SHALL DETERMINE THE MOST EFFICIENT AND EFFECTIVE WAY TO
10 DELIVER ALL MEDICALLY NECESSARY MEDICAL, DENTAL AND BEHAVIORAL HEALTH
11 SERVICES TO CHILDREN WHO ARE ELIGIBLE PURSUANT TO SECTION 36-2901, PARAGRAPH
12 6, SUBDIVISION (a). THE COLLABORATIVE DETERMINATION SHALL CONSIDER AN
13 ADMINISTRATIVELY INTEGRATED SYSTEM.

14 G. The director shall adopt rules for the provision of transportation
15 services and rules providing for copayment by members for transportation for
16 other than emergency purposes. Subject to approval by the centers for
17 medicare and medicaid services, nonemergency medical transportation shall not
18 be provided except for stretcher vans and ambulance transportation. Prior
19 authorization is required for transportation by stretcher van and for
20 medically necessary ambulance transportation initiated pursuant to a
21 physician's direction. Prior authorization is not required for medically
22 necessary ambulance transportation services rendered to members or eligible
23 persons initiated by dialing telephone number 911 or other designated
24 emergency response systems.

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

30 I. If the director does not receive bids within the amounts budgeted
31 or if at any time the amount remaining in the Arizona health care cost
32 containment system fund is insufficient to pay for full contract services for
33 the remainder of the contract term, the administration, on notification to
34 system contractors at least thirty days in advance, may modify the list of
35 services required under subsection A of this section for persons defined as
36 eligible other than those persons defined pursuant to section 36-2901,
37 paragraph 6, subdivision (a). The director may also suspend services or may
38 limit categories of expense for services defined as optional pursuant to
39 title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United
40 States Code section 1396 (1980)) for persons defined pursuant to section
41 36-2901, paragraph 6, subdivision (a). Such reductions or suspensions do not
42 apply to the continuity of care for persons already receiving these services.

43 J. Additional, reduced or modified hospitalization and medical care
44 benefits may be provided under the system to enrolled members who are

1 eligible pursuant to section 36-2901, paragraph 6, subdivision (b), (c), (d)
2 or (e).

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

5 1. Emergency services and specialty services provided pursuant to
6 section 36-2908.

7 2. That the director may permit the delivery of health and medical
8 services in other than the geographic service area in this state or in an
9 adjoining state if the director determines that medical practice patterns
10 justify the delivery of services or a net reduction in transportation costs
11 can reasonably be expected. Notwithstanding the definition of physician as
12 prescribed in section 36-2901, if services are procured from a physician or
13 primary care practitioner in an adjoining state, the physician or primary
14 care practitioner shall be licensed to practice in that state pursuant to
15 licensing statutes in that state similar to title 32, chapter 13, 15, 17 or
16 25 and shall complete a provider agreement for this state.

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

22 M. The director shall adopt rules that prescribe the coordination of
23 medical care for persons who are eligible for system services. The rules
24 shall include provisions for the transfer of patients, the transfer of
25 medical records and the initiation of medical care.

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

28 Sec. 3. Behavioral health services; accountability measures

29 A. Beginning on the last day of the month following the effective date
30 of this act through December 31, 2015, the department of health services
31 shall prepare and issue a monthly financial and program accountability trends
32 report to the governor, the chairpersons of the house of representatives
33 health and reform and human services committees, the chairperson of the
34 senate health and human services committee, the director of the joint
35 legislative budget committee and the director of the governor's office of
36 strategic planning and budgeting. The department shall provide a copy of
37 each report to the secretary of state. The report shall use the following
38 accountability factors by county and by regional behavioral health authority:

39 1. The number and per cent of children in foster care who are enrolled
40 to receive behavioral health services as of the end of the month.

41 2. The number of new cases opened in that month, the total number of
42 cases that remain open from the current and previous months and the total
43 number of cases that have been closed in that month.

44 3. The type of services the children received and the costs of each of
45 those services.

1 4. The number of notices of action received and for what reason and
2 the outcome of those notices.

3 5. The number of notice of appeals filed and for what reason, the
4 outcomes of those appeals by the administrative law judge and the final
5 decisions reached by the director of the Arizona health care cost containment
6 system administration.

7 B. Beginning on the last day of the month following the effective date
8 of this act through December 31, 2015, the department of economic security
9 shall issue a monthly financial and program accountability trend report to
10 the governor, the chairpersons of the house of representatives health and
11 reform and human services committees, the chairperson of the senate health
12 and human services committee, the director of the joint legislative budget
13 committee and the director of the governor's office of strategic planning and
14 budgeting. The department shall submit a copy of each report to the
15 secretary of state. Each report shall use the following accountability
16 factors by county:

17 1. The number and per cent of children who are in foster care and who
18 are title XIX eligible as of the end of that month.

19 2. The number of new title XIX eligible children opened in that month,
20 the total number of children that remain open from the current and previous
21 months and the total number of children who have been closed in that month.

22 3. The number and per cent of title XIX eligible children who have
23 received behavioral health services through the regional behavioral health
24 authorities.

25 4. The amount of nontitle XIX expenditures by service type used by the
26 department to supplement the behavioral health services received through the
27 regional behavioral health authorities.

28 5. The number of disruptions of placements in foster care by age of
29 child due to behavioral health management issues of the child in the
30 placement.

31 6. The number of adopted children who have entered foster care due to
32 the adoptive parents' inability to receive behavioral health services to
33 adequately meet the needs of the child and parents.