

REFERENCE TITLE: AHCCCS eligibility; hospital assessment; repeal

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2234

Introduced by
Representatives Kwasman, Allen, Barton, Seel; Livingston, Olson, Smith,
Townsend, Senator Ward

AN ACT

AMENDING SECTIONS 9-499.15, 36-427 AND 36-2901, ARIZONA REVISED STATUTES; REPEALING SECTIONS 36-2901.07, 36-2901.08 AND 36-2901.09, ARIZONA REVISED STATUTES; AMENDING SECTION 41-1005, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, FIRST SPECIAL SESSION, CHAPTER 10, SECTION 10; REPEALING LAWS 2013, CHAPTER 231, SECTION 3; REPEALING SECTION 41-1005, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 231, SECTION 4; REPEALING LAWS 2013, FIRST SPECIAL SESSION, CHAPTER 10, SECTIONS 35, 36, 37, 38, 39, 43, 44, 45, 50, 51 AND 52; 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 9-499.15, Arizona Revised Statutes, is amended to
3 read:
4 9-499.15. Proposed municipal taxes and fees: notification
5 required; exception
6 A. A municipality may not levy or assess any new taxes or fees or
7 increase existing taxes or fees pursuant to statute on a business without
8 complying with this section.
9 B. A municipality that proposes to levy or assess a tax or fee shall:
10 1. If the imposition of the proposed tax or fee is a new charge,
11 provide written notice of the proposed charge on the home page of the
12 municipality's website at least sixty days before the date the proposed new
13 tax or fee is approved or disapproved by the governing body of the
14 municipality.
15 2. If the municipality proposes to increase the rate of an existing
16 tax or fee on a business, provide written notice of the proposed increase on
17 the home page of the municipality's website at least sixty days before the
18 date the proposed new rate is approved or disapproved by the governing body
19 of the municipality.
20 C. A municipality shall demonstrate that the taxes or fees are imposed
21 pursuant to statute.
22 D. This section does not apply to any fee adopted pursuant to section
23 9-463.05.
24 ~~E. In addition to any other limitation that may be imposed by law, a~~
25 ~~municipality shall not levy or impose an assessment, fee or tax on hospital~~
26 ~~revenues, discharges, beds or services for the purpose of receiving services~~
27 ~~or payments pursuant to title 36, chapter 29.~~
28 Sec. 2. Section 36-427, Arizona Revised Statutes, is amended to read:
29 36-427. Suspension or revocation; intermediate sanctions
30 A. The director, pursuant to title 41, chapter 6, article 10, may
31 suspend or revoke, in whole or in part, the license of any health care
32 institution if its owners, officers, agents or employees:
33 1. Violate this chapter or the rules of the department adopted
34 pursuant to this chapter.
35 2. Knowingly aid, permit or abet the commission of any crime involving
36 medical and health related services.
37 3. Have been, are or may continue to be in substantial violation of
38 the requirements for licensure of the institution, as a result of which the
39 health or safety of one or more patients or the general public is in
40 immediate danger.
41 ~~4. Fail to comply with section 36-2901.08.~~
42 B. If the licensee, the chief administrative officer or any other
43 person in charge of the institution refuses to permit the department or its
44 employees or agents the right to inspect its premises as provided in section

1 36-424, such action shall be deemed reasonable cause to believe that a
2 substantial violation under subsection A, paragraph 3 of this section exists.

3 C. If the director reasonably believes that a violation of subsection
4 A, paragraph 3 of this section has occurred and that life or safety of
5 patients will be immediately affected, the director, on written notice to the
6 licensee, may order the immediate restriction of admissions or readmissions,
7 selected transfer of patients out of the facility, reduction of capacity and
8 termination of specific services, procedures, practices or facilities.

9 D. The director may rescind, in whole or in part, sanctions imposed
10 pursuant to this section upon correction of the violation or violations for
11 which the sanctions were imposed.

12 Sec. 3. Section 36-2901, Arizona Revised Statutes, is amended to read:

13 36-2901. Definitions

14 In this article, unless the context otherwise requires:

15 1. "Administration" means the Arizona health care cost containment
16 system administration.

17 2. "Administrator" means the administrator of the Arizona health care
18 cost containment system.

19 3. "Contractor" means a person or entity that has a prepaid capitated
20 contract with the administration pursuant to section 36-2904 to provide
21 health care to members under this article either directly or through
22 subcontracts with providers.

23 4. "Department" means the department of economic security.

24 5. "Director" means the director of the Arizona health care cost
25 containment system administration.

26 6. "Eligible person" means any person who is:

27 (a) Any of the following:

28 (i) Defined as mandatorily or optionally eligible pursuant to title
29 XIX of the social security act as authorized by the state plan.

30 (ii) Defined in title XIX of the social security act as an eligible
31 pregnant woman with a family income that does not exceed one hundred fifty
32 per cent of the federal poverty guidelines, as a child under the age of six
33 years and whose family income does not exceed one hundred thirty-three per
34 cent of the federal poverty guidelines or as children who have not attained
35 nineteen years of age and whose family income does not exceed one hundred
36 thirty-three per cent of the federal poverty guidelines.

37 (iii) Under twenty-six years of age and who was in the custody of the
38 department of economic security pursuant to title 8, chapter 5 or 10 when the
39 person became eighteen years of age.

40 (iv) Defined as eligible pursuant to section 36-2901.01.

41 (v) Defined as eligible pursuant to section 36-2901.04.

42 ~~(vi) Defined as eligible pursuant to section 36-2901.07.~~

43 (b) A full-time officer or employee of this state or of a city, town
44 or school district of this state or other person who is eligible for
45 hospitalization and medical care under title 38, chapter 4, article 4.

1 (c) A full-time officer or employee of any county in this state or
2 other persons authorized by the county to participate in county medical care
3 and hospitalization programs if the county in which such officer or employee
4 is employed has authorized participation in the system by resolution of the
5 county board of supervisors.

6 (d) An employee of a business within this state.

7 (e) A dependent of an officer or employee who is participating in the
8 system.

9 (f) Not enrolled in the Arizona long-term care system pursuant to
10 article 2 of this chapter.

11 (g) Defined as eligible pursuant to section 1902(a)(10)(A)(ii)(XV) and
12 (XVI) of title XIX of the social security act and who meets the income
13 requirements of section 36-2929.

14 7. "Graduate medical education" means a program, including an approved
15 fellowship, that prepares a physician for the independent practice of
16 medicine by providing didactic and clinical education in a medical discipline
17 to a medical student who has completed a recognized undergraduate medical
18 education program.

19 8. "Malice" means evil intent and outrageous, oppressive or
20 intolerable conduct that creates a substantial risk of tremendous harm to
21 others.

22 9. "Member" means an eligible person who enrolls in the system.

23 ~~10. "Modified adjusted gross income" has the same meaning prescribed in~~
24 ~~42 United States Code section 1396a(e)(14).~~

25 ~~11.~~ 10. "Noncontracting provider" means a person who provides health
26 care to members pursuant to this article but not pursuant to a subcontract
27 with a contractor.

28 ~~12.~~ 11. "Physician" means a person licensed pursuant to title 32,
29 chapter 13 or 17.

30 ~~13.~~ 12. "Prepaid capitated" means a mode of payment by which a health
31 care contractor directly delivers health care services for the duration of a
32 contract to a maximum specified number of members based on a fixed rate per
33 member notwithstanding:

34 (a) The actual number of members who receive care from the contractor.

35 (b) The amount of health care services provided to any member.

36 ~~14.~~ 13. "Primary care physician" means a physician who is a family
37 practitioner, general practitioner, pediatrician, general internist, or
38 obstetrician or gynecologist.

39 ~~15.~~ 14. "Primary care practitioner" means a nurse practitioner
40 certified pursuant to title 32, chapter 15 or a physician assistant certified
41 pursuant to title 32, chapter 25. This paragraph does not expand the scope
42 of practice for nurse practitioners as defined pursuant to title 32, chapter
43 15, or for physician assistants as defined pursuant to title 32, chapter 25.

44 ~~16.~~ 15. "Section 1115 waiver" means the research and demonstration
45 waiver granted by the United States department of health and human services.

1 ~~17-~~ 16. "Special health care district" means a special health care
2 district organized pursuant to title 48, chapter 31.

3 ~~18-~~ 17. "State plan" has the same meaning prescribed in section
4 36-2931.

5 ~~19-~~ 18. "System" means the Arizona health care cost containment system
6 established by this article.

7 Sec. 4. Repeal

8 Sections ~~36-2901.07~~, ~~36-2901.08~~ and ~~36-2901.09~~, Arizona Revised
9 Statutes, are repealed.

10 Sec. 5. Section 41-1005, Arizona Revised Statutes, as amended by Laws
11 2013, first special session, chapter 10, section 10, is amended to read:

12 ~~41-1005~~. Exemptions

13 A. This chapter does not apply to any:

14 1. Rule that relates to the use of public works, including streets and
15 highways, under the jurisdiction of an agency if the effect of the order is
16 indicated to the public by means of signs or signals.

17 2. Order or rule of the Arizona game and fish commission ~~adopted~~
18 ~~pursuant to section 5-321 or 5-327 that establishes a fee or section 17-333~~
19 ~~that establishes a license classification, fee or application fee~~ THAT DOES
20 THE FOLLOWING:

21 (a) ~~OPENS, CLOSSES OR ALTERS SEASONS OR ESTABLISHES BAG OR POSSESSION~~
22 ~~LIMITS FOR WILDLIFE.~~

23 (b) ~~ESTABLISHES A FEE PURSUANT TO SECTION 5-321, 5-322 OR 5-327.~~

24 (c) ~~ESTABLISHES A LICENSE CLASSIFICATION, FEE OR APPLICATION FEE~~
25 ~~PURSUANT TO TITLE 17, CHAPTER 3, ARTICLE 2.~~

26 3. Rule relating to section 28-641 or to any rule regulating motor
27 vehicle operation that relates to speed, parking, standing, stopping or
28 passing enacted pursuant to title 28, chapter 3.

29 4. Rule concerning only the internal management of an agency that does
30 not directly and substantially affect the procedural or substantive rights or
31 duties of any segment of the public.

32 5. Rule that only establishes specific prices to be charged for
33 particular goods or services sold by an agency.

34 6. Rule concerning only the physical servicing, maintenance or care of
35 agency owned or operated facilities or property.

36 7. Rule or substantive policy statement concerning inmates or
37 committed youths of a correctional or detention facility in secure custody or
38 patients admitted to a hospital, if made by the state department of
39 corrections, the department of juvenile corrections, the board of executive
40 clemency or the department of health services or a facility or hospital under
41 the jurisdiction of the state department of corrections, the department of
42 juvenile corrections or the department of health services.

43 8. Form whose contents or substantive requirements are prescribed by
44 rule or statute, and instructions for the execution or use of the form.

- 1 9. Capped fee-for-service schedule adopted by the Arizona health care
- 2 cost containment system administration pursuant to title 36, chapter 29.
- 3 10. Fees prescribed by section 6-125.
- 4 11. Order of the director of water resources adopting or modifying a
- 5 management plan pursuant to title 45, chapter 2, article 9.
- 6 12. Fees established under section 3-1086.
- 7 13. Fee-for-service schedule adopted by the department of economic
- 8 security pursuant to section 8-512.
- 9 14. Fees established under sections 41-2144 and 41-2189.
- 10 15. Rule or other matter relating to agency contracts.
- 11 16. Fees established under section 32-2067 or 32-2132.
- 12 17. Rules made pursuant to section 5-111, subsection A.
- 13 18. Rules made by the Arizona state parks board concerning the
- 14 operation of the Tonto natural bridge state park, the facilities located in
- 15 the Tonto natural bridge state park and the entrance fees to the Tonto
- 16 natural bridge state park.
- 17 19. Fees or charges established under section 41-511.05.
- 18 20. Emergency medical services protocols except as provided in section
- 19 36-2205, subsection B.
- 20 21. Fee schedules established pursuant to section 36-3409.
- 21 22. Procedures of the state transportation board as prescribed in
- 22 section 28-7048.
- 23 23. Rules made by the state department of corrections.
- 24 24. Fees prescribed pursuant to section 32-1527.
- 25 25. Rules made by the department of economic security pursuant to
- 26 section 46-805.
- 27 26. Schedule of fees prescribed by section 23-908.
- 28 27. Procedure that is established pursuant to title 23, chapter 6,
- 29 article 6.
- 30 28. Rules, administrative policies, procedures and guidelines adopted
- 31 for any purpose by the Arizona commerce authority pursuant to chapter 10 of
- 32 this title if the authority provides, as appropriate under the circumstances,
- 33 for notice of an opportunity for comment on the proposed rules,
- 34 administrative policies, procedures and guidelines.
- 35 29. Rules made by a marketing commission or marketing committee
- 36 pursuant to section 3-414.
- 37 30. Administration of public assistance program monies authorized for
- 38 liabilities that are incurred for disasters declared pursuant to sections
- 39 26-303 and 35-192.
- 40 31. User charges, tolls, fares, rents, advertising and sponsorship
- 41 charges, services charges or similar charges established pursuant to section
- 42 28-7705.

1 ~~32. Administration and implementation of the hospital assessment~~
2 ~~pursuant to section 36-2901.08, except that the Arizona health care cost~~
3 ~~containment system administration must provide notice and an opportunity for~~
4 ~~public comment at least thirty days before establishing or implementing the~~
5 ~~administration of the assessment.~~

6 B. Notwithstanding subsection A, paragraph 22 of this section, at such
7 time as the federal highway administration authorizes the privatization of
8 rest areas, the state transportation board shall make rules governing the
9 lease or license by the department of transportation to a private entity for
10 the purposes of privatization of a rest area.

11 C. Coincident with the making of a final rule pursuant to an exemption
12 from the applicability of this chapter under this section, another statute or
13 session law, the agency shall file a copy of the rule with the secretary of
14 state for publication pursuant to section 41-1012 and provide a copy to the
15 council.

16 D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
17 chapter do not apply to the Arizona board of regents and the institutions
18 under its jurisdiction, except that the Arizona board of regents shall make
19 policies or rules for the board and the institutions under its jurisdiction
20 that provide, as appropriate under the circumstances, for notice of and
21 opportunity for comment on the policies or rules proposed.

22 E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
23 chapter do not apply to the Arizona state schools for the deaf and the blind,
24 except that the board of directors of all the state schools for the deaf and
25 the blind shall adopt policies for the board and the schools under its
26 jurisdiction that provide, as appropriate under the circumstances, for notice
27 of and opportunity for comment on the policies proposed for adoption.

28 F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
29 chapter do not apply to the state board of education, except that the state
30 board of education shall adopt policies or rules for the board and the
31 institutions under its jurisdiction that provide, as appropriate under the
32 circumstances, for notice of and opportunity for comment on the policies or
33 rules proposed for adoption. In order to implement or change any rule, the
34 state board of education shall provide at least two opportunities for public
35 comment.

36 Sec. 6. Repeal

37 Laws 2013, chapter 231, section 3 is repealed.

38 Sec. 7. Repeal

39 Section 41-1005, Arizona Revised Statutes, as amended by Laws 2013,
40 chapter 231, section 4, is repealed.

41 Sec. 8. Repeal

42 Laws 2013, first special session, chapter 10, sections 35, 36, 37, 38,
43 39, 43, 44, 45, 50, 51 and 52 are repealed.

1 Sec. 9. Hospital assessment fund balance; refund

2 Any monies remaining in the hospital assessment fund established by
3 section 36-2901.09, Arizona Revised Statutes, as repealed by this act, on the
4 effective date of this act shall be remitted back proportionately to the
5 hospitals from which the assessment was collected pursuant to section
6 36-2901.08, Arizona Revised Statutes, as repealed by this act.

7 Sec. 10. Retroactive application

8 A. Section 5 of this act applies retroactively to September 12, 2013.

9 B. Sections 6 and 7 of this act apply retroactively to September 13,
10 2013.