

REFERENCE TITLE: AHCCCS coverage; ALTCS; medical services

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HB 2492

Introduced by
Representatives Carter, Brophy McGee

AN ACT

AMENDING SECTIONS 36-2907 AND 36-2939, 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. Persons who are dually
23 eligible for title XVIII and title XIX services must obtain available
24 medications through a medicare licensed or certified medicare advantage
25 prescription drug plan, a medicare prescription drug plan or any other entity
26 authorized by medicare to provide a medicare part D prescription drug
27 benefit.

28 5. Medical supplies, durable medical equipment, insulin pumps and
29 prosthetic devices ordered by a physician or a primary care practitioner.
30 Suppliers of durable medical equipment shall provide the administration with
31 complete information about the identity of each person who has an ownership
32 or controlling interest in their business and shall comply with federal
33 bonding requirements 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 **THAT ARE PERFORMED BY A PODIATRIST LICENSED**
4 **PURSUANT TO TITLE 32, CHAPTER 7 AND** ordered by a primary care physician or
5 primary care practitioner.

6 10. Nonexperimental transplants approved for title XIX reimbursement.

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

9 12. Hospice care.

10 13. **EMERGENCY DENTAL CARE AND EXTRACTIONS FOR PERSONS WHO ARE AT LEAST**
11 **TWENTY-ONE YEARS OF AGE.**

12 14. **ORTHOTIC DEVICES ORDERED BY A PHYSICIAN.**

13 15. **CHIROPRACTIC SERVICES AS DESCRIBED IN SECTION 32-925 THAT ARE**
14 **ORDERED BY A PRIMARY CARE PHYSICIAN PURSUANT TO RULES ADOPTED BY THE**
15 **ADMINISTRATION.**

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

18 1. Circumcision of newborn males is not a covered health and medical
19 service.

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

21 (a) Outpatient health services do not include occupational therapy or
22 speech therapy.

23 (b) Prosthetic devices do not include hearing aids, dentures,
24 bone-anchored hearing aids or cochlear implants. Prosthetic devices, except
25 prosthetic implants, may be limited to twelve thousand five hundred dollars
26 per contract year.

27 (c) Percussive vests ~~and orthotics~~ are not **A** covered health and
28 medical ~~services~~ **SERVICE**.

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

30 ~~(e) Podiatry services do not include services performed by a~~
31 ~~podiatrist.~~

32 ~~(f)~~ (e) Nonexperimental transplants do not include pancreas-only
33 transplants.

34 ~~(g)~~ (f) Bariatric surgery procedures, including laparoscopic and open
35 gastric bypass and restrictive procedures, are not covered health and medical
36 services.

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 that 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 except for stretcher vans and ambulance transportation. Prior
31 authorization is required for transportation by stretcher van and for
32 medically necessary ambulance transportation initiated pursuant to a
33 physician's direction. Prior authorization is not required for medically
34 necessary ambulance transportation services rendered to members or eligible
35 persons initiated by dialing telephone number 911 or other designated
36 emergency response systems.

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

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

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

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

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

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

18 2. That the director may permit the delivery of health and medical
19 services in other than the geographic service area in this state or in an
20 adjoining state if the director determines that medical practice patterns
21 justify the delivery of services or a net reduction in transportation costs
22 can reasonably be expected. Notwithstanding the definition of physician as
23 prescribed in section 36-2901, if services are procured from a physician or
24 primary care practitioner in an adjoining state, the physician or primary
25 care practitioner shall be licensed to practice in that state pursuant to
26 licensing statutes in that state similar to title 32, chapter 13, 15, 17 or
27 25 and shall complete a provider agreement for this state.

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

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

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

39 Sec. 2. Section 36-2939, Arizona Revised Statutes, is amended to read:
40 36-2939. Long-term care system services

41 A. The following services shall be provided by the program contractors
42 to members WHO ARE determined to need institutional services pursuant to this
43 article:

44 1. Nursing facility services other than services in an institution for
45 tuberculosis or mental disease.

1 2. Notwithstanding any other law, behavioral health services if these
2 services are not duplicative of long-term care services provided as of
3 January 30, 1993 under this subsection and are authorized by the program
4 contractor through the long-term care case management system. If the
5 administration is the program contractor, the administration may authorize
6 these services.

7 3. Hospice services. For the purposes of this paragraph, "hospice"
8 means a program of palliative and supportive care for terminally ill members
9 and their families or caregivers.

10 4. Case management services as provided in section 36-2938.

11 5. Health and medical services as provided in section 36-2907.

12 6. EMERGENCY AND PREVENTATIVE DENTAL SERVICES.

13 B. In addition to the services prescribed in subsection A of this
14 section, the department, as a program contractor, shall provide the following
15 services if appropriate to members who ~~are defined as persons with~~ HAVE A
16 developmental ~~disabilities pursuant to~~ DISABILITY AS DEFINED IN section
17 36-551 and are determined to need institutional services pursuant to this
18 article:

19 1. Intermediate care facility services for a member who has a
20 developmental disability as defined in section 36-551. For purposes of this
21 article, such a facility shall meet all federally approved standards and may
22 only include the Arizona training program facilities, a state owned and
23 operated service center, state owned or operated community residential
24 settings or existing licensed facilities operated by this state or under
25 contract with the department on or before July 1, 1988.

26 2. Home and community based services that may be provided in a
27 member's home or an alternative residential setting as prescribed in section
28 36-591 or other behavioral health alternative residential facilities licensed
29 by the department of health services and approved by the director of the
30 Arizona health care cost containment system administration and that may
31 include:

32 (a) Home health, which means the provision of nursing services or home
33 health aide services or medical supplies, equipment and appliances, which are
34 provided on a part-time or intermittent basis by a licensed home health
35 agency within a member's residence based on a physician's orders and in
36 accordance with federal law. Physical therapy, occupational therapy, or
37 speech and audiology services provided by a home health agency may be
38 provided in accordance with federal law. Home health agencies shall comply
39 with federal bonding requirements in a manner prescribed by the
40 administration.

41 (b) Home health aide, which means a service that provides intermittent
42 health maintenance, continued treatment or monitoring of a health condition
43 and supportive care for activities of daily living provided within a member's
44 residence.

1 (c) Homemaker, which means a service that provides assistance in the
2 performance of activities related to household maintenance within a member's
3 residence.

4 (d) Personal care, which means a service that provides assistance to
5 meet essential physical needs within a member's residence.

6 (e) Day care for persons with DEVELOPMENTAL disabilities, which means
7 a service that provides planned care supervision and activities, personal
8 care, activities of daily living skills training and habilitation services in
9 a group setting during a portion of a continuous twenty-four-hour period.

10 (f) Habilitation, which means the provision of physical therapy,
11 occupational therapy, speech or audiology services or training in independent
12 living, special developmental skills, sensory-motor development, behavior
13 intervention, and orientation and mobility in accordance with federal law.

14 (g) Respite care, which means a service that provides short-term care
15 and supervision available on a twenty-four-hour basis.

16 (h) Transportation, which means a service that provides or assists in
17 obtaining transportation for the member.

18 (i) Other services or licensed or certified settings approved by the
19 director.

20 C. In addition to services prescribed in subsection A of this section,
21 home and community based services may be provided in a member's home, in an
22 adult foster care home as prescribed in section 36-401, in an assisted living
23 home or assisted living center as defined in section 36-401 or in a level one
24 or level two behavioral health alternative residential facility approved by
25 the director by program contractors to all members who ~~are not defined as~~
26 ~~persons with~~ DO NOT HAVE A developmental ~~disabilities pursuant to~~ DISABILITY
27 AS DEFINED IN section 36-551 and are determined to need institutional
28 services pursuant to this article. Members residing in an assisted living
29 center must be provided the choice of single occupancy. The director may
30 also approve other licensed residential facilities as appropriate on a
31 case-by-case basis for traumatic brain injured members. Home and community
32 based services may include the following:

33 1. Home health, which means the provision of nursing services or home
34 health aide services or medical supplies, equipment and appliances, which are
35 provided on a part-time or intermittent basis by a licensed home health
36 agency within a member's residence based on a physician's orders and in
37 accordance with federal law. Physical therapy, occupational therapy, or
38 speech and audiology services provided by a home health agency may be
39 provided in accordance with federal law. Home health agencies shall comply
40 with federal bonding requirements in a manner prescribed by the
41 administration.

42 2. Home health aide, which means a service that provides intermittent
43 health maintenance, continued treatment or monitoring of a health condition
44 and supportive care for activities of daily living provided within a member's
45 residence.

1 3. Homemaker, which means a service that provides assistance in the
2 performance of activities related to household maintenance within a member's
3 residence.

4 4. Personal care, which means a service that provides assistance to
5 meet essential physical needs within a member's residence.

6 5. Adult day health, which means a service that provides planned care
7 supervision and activities, personal care, personal living skills training,
8 meals and health monitoring in a group setting during a portion of a
9 continuous twenty-four-hour period. Adult day health may also include
10 preventive, therapeutic and restorative health related services that do not
11 include behavioral health services.

12 6. Habilitation, which means the provision of physical therapy,
13 occupational therapy, speech or audiology services or training in independent
14 living, special developmental skills, sensory-motor development, behavior
15 intervention, and orientation and mobility in accordance with federal law.

16 7. Respite care, which means a service that provides short-term care
17 and supervision available on a twenty-four-hour basis.

18 8. Transportation, which means a service that provides or assists in
19 obtaining transportation for the member.

20 9. Home delivered meals, which means a service that provides for a
21 nutritious meal ~~containing~~ THAT CONTAINS at least one-third of the
22 recommended dietary allowance for an individual and ~~which~~ THAT is delivered
23 to the member's residence.

24 10. Other services or licensed or certified settings approved by the
25 director.

26 D. The amount of money expended by program contractors on home and
27 community based services pursuant to subsection C of this section shall be
28 limited by the director in accordance with the federal monies made available
29 to this state for home and community based services pursuant to subsection C
30 of this section. The director shall establish methods for the allocation of
31 monies for home and community based services to program contractors and shall
32 monitor expenditures on home and community based services by program
33 contractors.

34 E. Notwithstanding subsections A, B, C and F of this section, no
35 service may be provided that does not qualify for federal monies available
36 under title XIX of the social security act or the section 1115 waiver.

37 F. In addition to services provided pursuant to subsections A, B and C
38 of this section, the director may implement a demonstration project to
39 provide home and community based services to special populations, including
40 persons with disabilities who are eighteen years of age or younger, ARE
41 medically fragile, reside at home and would be eligible for supplemental
42 security income for the aged, blind or disabled or the state supplemental
43 payment program, except for the amount of their parent's income or resources.
44 In implementing this project, the director may provide for parental
45 contributions for the care of their child.

1 G. Subject to section 36-562, the administration by rule shall
2 prescribe a deductible schedule for programs provided to members who are
3 eligible pursuant to subsection B of this section, except that the
4 administration shall implement a deductible based on family income. In
5 determining deductible amounts and whether a family is required to have
6 deductibles, the department shall use adjusted gross income. Families whose
7 adjusted gross income is at least four hundred ~~per cent~~ PERCENT and less than
8 or equal to five hundred ~~per cent~~ PERCENT of the federal poverty guidelines
9 shall have a deductible of two ~~per cent~~ PERCENT of adjusted gross income.
10 Families whose adjusted gross income is more than five hundred ~~per cent~~
11 PERCENT of adjusted gross income shall have a deductible of four ~~per cent~~
12 PERCENT of adjusted gross income. Only families whose children are under
13 eighteen years of age and who are members who are eligible pursuant to
14 subsection B of this section may be required to have a deductible for
15 services. For the purposes of this subsection, "deductible" means an amount
16 a family, whose children are under eighteen years of age and who are members
17 who are eligible pursuant to subsection B of this section, pays for services,
18 other than departmental case management and acute care services, before the
19 department will pay for services other than departmental case management and
20 acute care services.