

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

SENATE BILL 1241

AN ACT

AMENDING SECTION 36-2903, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA
HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-2903, Arizona Revised Statutes, is amended to
3 read:

4 36-2903. Arizona health care cost containment system;
5 administrator: powers and duties of director and
6 administrator: exemption from attorney general
7 representation; definition

8 A. The Arizona health care cost containment system is established
9 consisting of contracts with contractors for the provision of hospitalization
10 and medical care coverage to members. Except as specifically required by
11 federal law and by section 36-2909, the system is only responsible for
12 providing care on or after the date that the person has been determined
13 eligible for the system, and is only responsible for reimbursing the cost of
14 care rendered on or after the date that the person was determined eligible
15 for the system.

16 B. An agreement may be entered into with an independent contractor,
17 subject to title 41, chapter 23, to serve as the statewide administrator of
18 the system. The administrator has full operational responsibility, subject
19 to supervision by the director, for the system, which may include any or all
20 of the following:

21 1. Development of county-by-county implementation and operation plans
22 for the system that include reasonable access to hospitalization and medical
23 care services for members.

24 2. Contract administration and oversight of contractors, including
25 certification instead of licensure for title XVIII and title XIX purposes.

26 3. Provision of technical assistance services to contractors and
27 potential contractors.

28 4. Development of a complete system of accounts and controls for the
29 system, including provisions designed to ensure that covered health and
30 medical services provided through the system are not used unnecessarily or
31 unreasonably, including but not limited to inpatient behavioral health
32 services provided in a hospital. Periodically the administrator shall
33 compare the scope, utilization rates, utilization control methods and unit
34 prices of major health and medical services provided in this state in
35 comparison with other states' health care services to identify any
36 unnecessary or unreasonable utilization within the system. The administrator
37 shall periodically assess the cost effectiveness and health implications of
38 alternate approaches to the provision of covered health and medical services
39 through the system in order to reduce unnecessary or unreasonable
40 utilization.

41 5. Establishment of peer review and utilization review functions for
42 all contractors.

43 6. Assistance in the formation of medical care consortiums to provide
44 covered health and medical services under the system for a county.

45 7. Development and management of a contractor payment system.

1 8. Establishment and management of a comprehensive system for ~~assuring~~
2 ~~ENSURING~~ the quality of care delivered by the system.

3 9. Establishment and management of a system to prevent fraud by
4 members, subcontracted providers of care, contractors and noncontracting
5 providers.

6 10. Coordination of benefits provided under this article to any member.
7 The administrator may require that contractors and noncontracting providers
8 are responsible for the coordination of benefits for services provided under
9 this article. Requirements for coordination of benefits by noncontracting
10 providers under this section are limited to coordination with standard health
11 insurance and disability insurance policies and similar programs for health
12 coverage.

13 11. Development of a health education and information program.

14 12. Development and management of an enrollment system.

15 13. Establishment and maintenance of a claims resolution procedure to
16 ensure that ninety per cent of the clean claims shall be paid within thirty
17 days of receipt and ninety-nine per cent of the remaining clean claims shall
18 be paid within ninety days of receipt. For the purposes of this paragraph,
19 "clean claims" has the same meaning prescribed in section 36-2904,
20 subsection G.

21 14. Establishment of standards for the coordination of medical care and
22 patient transfers pursuant to section 36-2909, subsection B.

23 15. Establishment of a system to implement medical child support
24 requirements, as required by federal law. The administration may enter into
25 an intergovernmental agreement with the department of economic security to
26 implement this paragraph.

27 16. Establishment of an employee recognition fund.

28 17. Establishment of an eligibility process to determine whether a
29 medicare low income subsidy is available to persons who want to apply for a
30 subsidy as authorized by title XVIII.

31 C. If an agreement is not entered into with an independent contractor
32 to serve as statewide administrator of the system pursuant to subsection B of
33 this section, the director shall ensure that the operational responsibilities
34 set forth in subsection B of this section are fulfilled by the administration
35 and other contractors as necessary.

36 D. If the director determines that the administrator will fulfill some
37 but not all of the responsibilities set forth in subsection B of this
38 section, the director shall ensure that the remaining responsibilities are
39 fulfilled by the administration and other contractors as necessary.

40 E. The administrator or any direct or indirect subsidiary of the
41 administrator is not eligible to serve as a contractor.

42 F. Except for reinsurance obtained by contractors, the administrator
43 shall coordinate benefits provided under this article to any eligible person
44 who is covered by workers' compensation, disability insurance, a hospital and
45 medical service corporation, a health care services organization, an

1 accountable health plan or any other health or medical or disability
2 insurance plan including coverage made available to persons defined as
3 eligible by section 36-2901, paragraph 6, subdivisions (b), (c), (d) and (e),
4 or who receives payments for accident-related injuries, so that any costs for
5 hospitalization and medical care paid by the system are recovered from any
6 other available third-party payors. The administrator may require that
7 contractors and noncontracting providers are responsible for the coordination
8 of benefits for services provided under this article. Requirements for
9 coordination of benefits by noncontracting providers under this section are
10 limited to coordination with standard health insurance and disability
11 insurance policies and similar programs for health coverage. The system
12 shall act as payor of last resort for persons eligible pursuant to section
13 36-2901, paragraph 6, subdivision (a), section 36-2974 or section 36-2981,
14 paragraph 6 unless specifically prohibited by federal law. By operation of
15 law, eligible persons assign to the system and a county rights to all types
16 of medical benefits to which the person is entitled, including first party
17 medical benefits under automobile insurance policies based on the order of
18 priorities established pursuant to section 36-2915. The state has a right to
19 subrogation against any other person or firm to enforce the assignment of
20 medical benefits. The provisions of this subsection are controlling over the
21 provisions of any insurance policy that provides benefits to an eligible
22 person if the policy is inconsistent with the provisions of this subsection.

23 G. Notwithstanding subsection E of this section, the administrator may
24 subcontract distinct administrative functions to one or more persons who may
25 be contractors within the system.

26 H. The director shall require as a condition of a contract with any
27 contractor that all records relating to contract compliance are available for
28 inspection by the administrator and the director subject to subsection I of
29 this section and that such records be maintained by the contractor for five
30 years. The director shall also require that these records be made available
31 by a contractor on request of the secretary of the United States department
32 of health and human services, or its successor agency.

33 I. Subject to existing law relating to privilege and protection, the
34 director shall prescribe by rule the types of information that are
35 confidential and circumstances under which such information may be used or
36 released, including requirements for physician-patient confidentiality.
37 Notwithstanding any other provision of law, such rules shall be designed to
38 provide for the exchange of necessary information among the counties, the
39 administration and the department of economic security for the purposes of
40 eligibility determination under this article. Notwithstanding any law to the
41 contrary, a member's medical record shall be released without the member's
42 consent in situations or suspected cases of fraud or abuse relating to the
43 system to an officer of the state's certified Arizona health care cost
44 containment system fraud control unit who has submitted a written request for
45 the medical record.

1 J. The director shall prescribe rules that specify methods for:

2 1. The transition of members between system contractors and
3 noncontracting providers.

4 2. The transfer of members and persons who have been determined
5 eligible from hospitals that do not have contracts to care for such persons.

6 K. The director shall adopt rules that set forth procedures and
7 standards for use by the system in requesting county long-term care for
8 members or persons determined eligible.

9 L. To the extent that services are furnished pursuant to this article,
10 and unless otherwise required pursuant to this chapter, a contractor is not
11 subject to title 20.

12 M. As a condition of the contract with any contractor, the director
13 shall require contract terms as necessary in the judgment of the director to
14 ensure adequate performance and compliance with all applicable federal laws
15 by the contractor of the provisions of each contract executed pursuant to
16 this chapter. Contract provisions required by the director shall include at
17 a minimum the maintenance of deposits, performance bonds, financial reserves
18 or other financial security. THE DIRECTOR MAY NOT MAKE CONTRACTING OR
19 PAYMENT DECISIONS OR TERMINATE CONTRACTS BASED ON WHETHER CONTRACTORS AND
20 PROVIDERS USE THEIR OWN EMPLOYEES, LEASED EMPLOYEES, EMPLOYEES OF
21 PROFESSIONAL SERVICE OR STAFFING ENTITIES OR INDEPENDENT CONTRACTORS TO
22 PROVIDE SERVICES TO PERSONS WHO ARE ELIGIBLE FOR SERVICES PURSUANT TO THIS
23 ARTICLE. THE DIRECTOR MAY REQUIRE THAT ALL INDIVIDUALS FURNISHING SERVICES
24 MEET THE SAME QUALIFICATION AND CERTIFICATION STANDARDS AND THAT PROVIDERS
25 MAINTAIN EQUIVALENT LIABILITY INSURANCE COVERAGE FOR THE ACTS AND OMISSIONS
26 OF SUCH INDIVIDUALS, REGARDLESS OF WHETHER THE INDIVIDUAL IS AN EMPLOYEE OF
27 THE PROVIDER, AN EMPLOYEE OF A PROFESSIONAL SERVICE OR STAFFING ENTITY OR A
28 CONTRACTOR OF THE PROVIDER. THE DIRECTOR MAY MAKE CONTRACTING DECISIONS FOR
29 GOOD CAUSE, INCLUDING QUALITY OF CARE. The director may waive requirements
30 for the posting of bonds or security for contractors that have posted other
31 security, equal to or greater than that required by the system, with a state
32 agency for the performance of health service contracts if funds would be
33 available from such security for the system on default by the contractor.
34 The director may also adopt rules for the withholding or forfeiture of
35 payments to be made to a contractor by the system for the failure of the
36 contractor to comply with a provision of the contractor's contract with the
37 system or with the adopted rules. The director may also require contract
38 terms allowing the administration to operate a contractor directly under
39 circumstances specified in the contract. The administration shall operate
40 the contractor only as long as it is necessary to assure delivery of
41 uninterrupted care to members enrolled with the contractor and accomplish the
42 orderly transition of those members to other system contractors, or until the
43 contractor reorganizes or otherwise corrects the contract performance
44 failure. The administration shall not operate a contractor unless, before
45 that action, the administration delivers notice to the contractor and

1 provides an opportunity for a hearing in accordance with procedures
2 established by the director. Notwithstanding the provisions of a contract,
3 if the administration finds that the public health, safety or welfare
4 requires emergency action, it may operate as the contractor on notice to the
5 contractor and pending an administrative hearing, which it shall promptly
6 institute.

7 N. The administration for the sole purpose of matters concerning and
8 directly related to the Arizona health care cost containment system and the
9 Arizona long-term care system is exempt from section 41-192.

10 O. Notwithstanding subsection F of this section, if the administration
11 determines that according to federal guidelines it is more cost-effective for
12 a person defined as eligible under section 36-2901, paragraph 6, subdivision
13 (a) to be enrolled in a group health insurance plan in which the person is
14 entitled to be enrolled, the administration may pay all of that person's
15 premiums, deductibles, coinsurance and other cost sharing obligations for
16 services covered under section 36-2907. The person shall apply for
17 enrollment in the group health insurance plan as a condition of eligibility
18 under section 36-2901, paragraph 6, subdivision (a).

19 P. The total amount of state monies that may be spent in any fiscal
20 year by the administration for health care shall not exceed the amount
21 appropriated or authorized by section 35-173 for all health care purposes.
22 This article does not impose a duty on an officer, agent or employee of this
23 state to discharge a responsibility or to create any right in a person or
24 group if the discharge or right would require an expenditure of state monies
25 in excess of the expenditure authorized by legislative appropriation for that
26 specific purpose.

27 Q. Notwithstanding section 36-470, a contractor or program contractor
28 may receive laboratory tests from a laboratory or hospital-based laboratory
29 for a system member enrolled with the contractor or program contractor
30 subject to all of the following requirements:

31 1. The contractor or program contractor shall provide a written
32 request to the laboratory in a format mutually agreed to by the laboratory
33 and the requesting health plan or program contractor. The request shall
34 include the member's name, the member's plan identification number, the
35 specific test results that are being requested and the time periods and the
36 quality improvement activity that prompted the request.

37 2. The laboratory data may be provided in written or electronic format
38 based on the agreement between the laboratory and the contractor or program
39 contractor. If there is no contract between the laboratory and the
40 contractor or program contractor, the laboratory shall provide the requested
41 data in a format agreed to by the noncontracted laboratory.

42 3. The laboratory test results provided to the member's contractor or
43 program contractor shall only be used for quality improvement activities
44 authorized by the administration and health care outcome studies required by
45 the administration. The contractors and program contractors shall maintain

1 strict confidentiality about the test results and identity of the member as
2 specified in contractual arrangements with the administration and pursuant to
3 state and federal law.

4 4. The administration, after collaboration with the department of
5 health services regarding quality improvement activities, may prohibit the
6 contractors and program contractors from receiving certain test results if
7 the administration determines that a serious potential exists that the
8 results may be used for purposes other than those intended for the quality
9 improvement activities. The department of health services shall consult with
10 the clinical laboratory licensure advisory committee established by section
11 36-465 before providing recommendations to the administration on certain test
12 results and quality improvement activities.

13 5. The administration shall provide contracted laboratories and the
14 department of health services with an annual report listing the quality
15 improvement activities that will require laboratory data. The report shall
16 be updated and distributed to the contracting laboratories and the department
17 of health services when laboratory data is needed for new quality improvement
18 activities.

19 6. A laboratory that complies with a request from the contractor or
20 program contractor for laboratory results pursuant to this section is not
21 subject to civil liability for providing the data to the contractor or
22 program contractor. The administration, the contractor or a program
23 contractor that uses data for reasons other than quality improvement
24 activities is subject to civil liability for this improper use.

25 R. For the purposes of this section, "quality improvement activities"
26 means those requirements, including health care outcome studies specified in
27 federal law or required by the centers for medicare and medicaid services or
28 the administration, to improve health care outcomes.