

REFERENCE TITLE: children's health insurance program.

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

SB 1385

Introduced by
Senator Begay; Representatives Carter, Cobb

AN ACT

AMENDING SECTION 36-2982, ARIZONA REVISED STATUTES; REPEALING SECTION 36-2985, ARIZONA REVISED STATUTES; AMENDING SECTION 36-2986, ARIZONA REVISED STATUTES; RELATING TO THE CHILDREN'S HEALTH INSURANCE PROGRAM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-2982, Arizona Revised Statutes, is amended to
3 read:

4 36-2982. Children's health insurance program; administration;
5 nonentitlement; enrollment; eligibility

6 A. The children's health insurance program is established for children
7 who are eligible pursuant to section 36-2981, paragraph 6. The
8 administration shall administer the program. All covered services shall be
9 provided by health plans that have contracts with the administration pursuant
10 to section 36-2906, by a qualifying plan or by either tribal facilities or
11 the Indian health service for Native Americans who are eligible for the
12 program and who elect to receive services through the Indian health service
13 or a tribal facility.

14 B. This article does not create a legal entitlement for any applicant
15 or member who is eligible for the program. ~~Total enrollment is limited based~~
16 ~~on the annual appropriations made by the legislature and the enrollment cap~~
17 ~~prescribed in section 36-2985.~~

18 C. The director shall take all steps necessary to implement the
19 administrative structure for the program and to begin delivering services to
20 persons within sixty days after approval of the state plan by the United
21 States department of health and human services.

22 D. The administration shall perform eligibility determinations for
23 persons applying for eligibility and annual redeterminations for continued
24 eligibility pursuant to this article.

25 E. The administration shall adopt rules for the collection of
26 copayments from members whose income does not exceed one hundred fifty ~~per~~
27 ~~cent~~ PERCENT of the federal poverty level and for the collection of
28 copayments and premiums from members whose income exceeds one hundred fifty
29 ~~per cent~~ PERCENT of the federal poverty level. The director shall adopt
30 rules for disenrolling a member if the member does not pay the premium
31 required pursuant to this section. The director shall adopt rules to
32 prescribe the circumstances under which the administration shall grant a
33 hardship exemption to the disenrollment requirements of this subsection for a
34 member who is no longer able to pay the premium.

35 F. Before enrollment, a member, or if the member is a minor, that
36 member's parent or legal guardian, shall select an available health plan in
37 the member's geographic service area or a qualifying health plan offered in
38 the county, and may select a primary care physician or primary care
39 practitioner from among the available physicians and practitioners
40 participating with the contractor in which the member is enrolled. The
41 contractors shall only reimburse costs of services or related services
42 provided by or under referral from a primary care physician or primary care
43 practitioner participating in the contract in which the member is enrolled,
44 except for emergency services that shall be reimbursed pursuant to section

1 36-2987. The director shall establish requirements as to the minimum time
2 period that a member is assigned to specific contractors.

3 G. Eligibility for the program is creditable coverage as defined in
4 section 20-1379.

5 ~~H. On application for eligibility for the program, the member, or if
6 the member is a minor, the member's parent or guardian, shall receive an
7 application for and a program description of the premium sharing program.~~

8 ~~I.~~ H. Notwithstanding section 36-2983, the administration may
9 purchase for a member ~~employer-sponsored~~ EMPLOYER-SPONSORED group health
10 insurance with state and federal monies available pursuant to this article,
11 subject to any restrictions imposed by the ~~federal health care financing~~
12 ~~administration~~ CENTERS FOR MEDICARE AND MEDICAID SERVICES. This subsection
13 does not apply to members who are eligible for health benefits coverage under
14 a state health benefits plan based on a family member's employment with a
15 public agency in this state.

16 Sec. 2. Repeal

17 Section 36-2985, Arizona Revised Statutes, is repealed.

18 Sec. 3. Section 36-2986, Arizona Revised Statutes, is amended to read:

19 36-2986. Administration; powers and duties of director

20 A. The director has full operational authority to adopt rules or to
21 use the appropriate rules adopted for article 1 of this chapter to implement
22 this article, including any of the following:

23 1. Contract administration and oversight of contractors.

24 2. Development of a complete system of accounts and controls for the
25 program, including provisions designed to ensure that covered health and
26 medical services provided through the system are not used unnecessarily or
27 unreasonably, including inpatient behavioral health services provided in a
28 hospital.

29 3. Establishment of peer review and utilization review functions for
30 all contractors.

31 4. Development and management of a contractor payment system.

32 5. Establishment and management of a comprehensive system for assuring
33 quality of care.

34 6. Establishment and management of a system to prevent fraud by
35 members, contractors and health care providers.

36 7. Development of an outreach program. The administration shall
37 coordinate with public and private entities to provide outreach services for
38 children under this article. Priority shall be given to those families who
39 are moving off welfare. Outreach activities shall include strategies to
40 inform communities, including tribal communities, about the program, ensure a
41 wide distribution of applications and provide training for other entities to
42 assist with the application process.

1 8. Coordination of benefits provided under this article for any
2 member. The director may require that contractors and noncontracting
3 providers are responsible for the coordination of benefits for services
4 provided under this article. Requirements for coordination of benefits by
5 noncontracting providers under this section are limited to coordination with
6 standard health insurance and disability insurance policies and similar
7 programs for health coverage. The director may require members to assign to
8 the administration rights to all types of medical benefits to which the
9 person is entitled, including ~~first party~~ FIRST-PARTY medical benefits under
10 automobile insurance policies. The state has a right of subrogation against
11 any other person or firm to enforce the assignment of medical benefits. The
12 provisions of this paragraph are controlling over the provisions of any
13 insurance policy that provides benefits to a member if the policy is
14 inconsistent with this paragraph.

15 9. Development and management of an eligibility, enrollment and
16 redetermination system, including a process for quality control.

17 10. Establishment and maintenance of an encounter claims system that
18 ensures that ninety ~~per cent~~ PERCENT of the clean claims are paid within
19 thirty days after receipt and ninety-nine ~~per cent~~ PERCENT of the remaining
20 clean claims are paid within ninety days after receipt by the administration
21 or contractor unless an alternative payment schedule is agreed to by the
22 contractor and the provider. For the purposes of this paragraph, "clean
23 claims" has the same meaning prescribed in section 36-2904, subsection G.

24 11. Establishment of standards for the coordination of medical care and
25 member transfers.

26 12. Requiring contractors to submit encounter data in a form specified
27 by the director.

28 13. Assessing civil penalties for improper billing as prescribed in
29 section 36-2903.01, subsection K.

30 B. Notwithstanding any other law, if Congress amends title XXI of the
31 social security act and the administration is required to make conforming
32 changes to rules adopted pursuant to this article, the administration shall
33 request a hearing with the joint health committee of reference for review of
34 the proposed rule changes.

35 C. The director may subcontract distinct administrative functions to
36 one or more persons who may be contractors within the system.

37 D. The director shall require as a condition of a contract with any
38 contractor that all records relating to contract compliance are available for
39 inspection by the administration and that these records be maintained by the
40 contractor for five years. The director shall also require that these
41 records are available by a contractor on request of the secretary of the
42 United States department of health and human services.

1 E. Subject to existing law relating to privilege and protection, the
2 director shall prescribe by rule the types of information that are
3 confidential and circumstances under which this information may be used or
4 released, including requirements for physician-patient confidentiality.
5 Notwithstanding any other law, these rules shall be designed to provide for
6 the exchange of necessary information for the purposes of eligibility
7 determination under this article. Notwithstanding any other law, a member's
8 medical record shall be released without the member's consent in situations
9 of suspected cases of fraud or abuse relating to the system to an officer of
10 this state's certified Arizona health care cost containment system fraud
11 control unit who has submitted a written request for the medical record.

12 F. The director shall provide for the transition of members between
13 contractors and noncontracting providers and the transfer of members who have
14 been determined eligible from hospitals that do not have contracts to care
15 for these persons.

16 G. To the extent that services are furnished pursuant to this article,
17 a contractor is not subject to title 20 unless the contractor is a qualifying
18 plan and has elected to provide services pursuant to this article.

19 H. As a condition of a contract, the director shall require contract
20 terms that are necessary to ensure adequate performance by the contractor.
21 Contract provisions required by the director include the maintenance of
22 deposits, performance bonds, financial reserves or other financial security.
23 The director may waive requirements for the posting of bonds or security for
24 contractors who have posted other security, equal to or greater than that
25 required by the administration, with a state agency for the performance of
26 health service contracts if monies would be available from that security for
27 the system on default by the contractor.

28 I. The director shall establish solvency requirements in contract that
29 may include withholding or forfeiture of payments to be made to a contractor
30 by the administration for the failure of the contractor to comply with a
31 provision of the contract with the administration. The director may also
32 require contract terms allowing the administration to operate a contractor
33 directly under circumstances specified in the contract. The administration
34 shall operate the contractor only as long as it is necessary to assure
35 delivery of uninterrupted care to members enrolled with the contractor and to
36 accomplish the orderly transition of members to other contractors or until
37 the contractor reorganizes or otherwise corrects the contract performance
38 failure. The administration shall not operate a contractor unless, before
39 that action, the administration delivers notice to the contractor providing
40 an opportunity for a hearing in accordance with procedures established by the
41 director. Notwithstanding the provisions of a contract, if the
42 administration finds that the public health, safety or welfare requires
43 emergency action, it may operate as the contractor on notice to the
44 contractor and pending an administrative hearing, which it shall promptly
45 institute.

1 J. For the sole purpose of matters concerning and directly related to
2 this article, the administration is exempt from section 41-192.

3 K. The director may withhold payments to a noncontracting provider if
4 the noncontracting provider does not comply with this article or adopted
5 rules that relate to the specific services rendered and billed to the
6 administration.

7 L. The director shall:

8 1. Prescribe uniform forms to be used by all contractors and furnish
9 uniform forms and procedures, including methods of identification of members.
10 The rules shall include requirements that an applicant personally complete or
11 assist in the completion of eligibility application forms, except in
12 situations in which the person has a disability.

13 2. By rule, establish a grievance and appeal procedure that conforms
14 with the process and the time frames specified in article 1 of this chapter.
15 ~~If the program is suspended or terminated pursuant to section 36-2985, an~~
16 ~~applicant or member is not entitled to contest the denial, suspension or~~
17 ~~termination of eligibility for the program.~~

18 3. Apply for and accept federal monies available under title XXI of
19 the social security act. Available state monies appropriated to the
20 administration for the operation of the program shall be used as matching
21 monies to secure federal monies pursuant to this subsection.

22 M. The administration is entitled to all rights provided to the
23 administration for liens and release of claims as specified in sections
24 36-2915 and 36-2916 and shall coordinate benefits pursuant to section
25 36-2903, subsection F and be a payor of last resort for persons who are
26 eligible pursuant to this article.

27 N. The director shall follow the same procedures for review
28 committees, immunity and confidentiality that are prescribed in article 1 of
29 this chapter.

30 Sec. 4. AHCCCS; children's health insurance program; state plan
31 amendment; request for funding

32 Within five days after the effective date of this section, the Arizona
33 health care cost containment system administration shall do both of the
34 following:

35 1. Submit to the centers for medicare and medicaid services a state
36 plan amendment for this state's title XXI children's health insurance program
37 to resume enrollment in the program.

38 2. Project the enrollment rate for the children's health insurance
39 program for the remainder of federal fiscal years 2015-2016 and 2016-2017 and
40 request from the centers for medicare and medicaid services any additional
41 allotment needed to resume enrollment in the children's health insurance
42 program.

1 Sec. 5. Conditional enactment: notice

2 A. Sections 36-2982 and 36-2986, Arizona Revised Statutes, as amended
3 by this act and the repeal of section 36-2985, Arizona Revised Statutes, by
4 this act do not become effective unless on or before July 1, 2017 the centers
5 for medicare and medicaid services approve this state's state plan amendment
6 to resume enrollment in the children's health insurance program.

7 B. The director of the Arizona health care cost containment system
8 shall notify in writing the director of the Arizona legislative council on or
9 before July 15, 2017 either:

- 10 1. Of the date on which the condition was met.
11 2. That the condition was not met.