

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
Seventh Special Session  
2010

# HOUSE BILL 2010

## AN ACT

AMENDING SECTIONS 36-2903, 36-2903.01, 36-2905, 36-2905.08, 36-2907, 36-2907.04, 36-2907.10, 36-2907.11 AND 36-2912, ARIZONA REVISED STATUTES; REPEALING TITLE 36, CHAPTER 29, ARTICLE 4, ARIZONA REVISED STATUTES; AMENDING SECTION 36-3408, ARIZONA REVISED STATUTES; AMENDING LAWS 2009, THIRD SPECIAL SESSION, CHAPTER 3, SECTION 2; MAKING APPROPRIATIONS, REVERSIONS AND TRANSFERS; RELATING TO HEALTH BUDGET RECONCILIATION.

(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.

- 1           7. Development and management of a contractor payment system.
- 2           8. Establishment and management of a comprehensive system for assuring  
3 the quality of care delivered by the system.
- 4           9. Establishment and management of a system to prevent fraud by  
5 members, subcontracted providers of care, contractors and noncontracting  
6 providers.
- 7           10. Coordination of benefits provided under this article to any member.  
8 The administrator may require that contractors and noncontracting providers  
9 are responsible for the coordination of benefits for services provided under  
10 this article. Requirements for coordination of benefits by noncontracting  
11 providers under this section are limited to coordination with standard health  
12 insurance and disability insurance policies and similar programs for health  
13 coverage.
- 14           11. Development of a health education and information program.
- 15           12. Development and management of an enrollment system.
- 16           13. Establishment and maintenance of a claims resolution procedure to  
17 ensure that ninety per cent of the clean claims shall be paid within thirty  
18 days of receipt and ninety-nine per cent of the remaining clean claims shall  
19 be paid within ninety days of receipt. For the purposes of this paragraph,  
20 "clean claims" has the same meaning ~~as~~ prescribed in section 36-2904,  
21 subsection G.
- 22           14. Establishment of standards for the coordination of medical care and  
23 patient transfers pursuant to section 36-2909, subsection B.
- 24           15. Establishment of a system to implement medical child support  
25 requirements, as required by federal law. The administration may enter into  
26 an intergovernmental agreement with the department of economic security to  
27 implement this paragraph.
- 28           16. Establishment of an employee recognition fund.
- 29           17. Establishment of an eligibility process to determine whether a  
30 medicare low income subsidy is available to persons who want to apply for a  
31 subsidy as authorized by title XVIII.
- 32           C. If an agreement is not entered into with an independent contractor  
33 to serve as statewide administrator of the system pursuant to subsection B of  
34 this section, the director shall ensure that the operational responsibilities  
35 set forth in subsection B of this section are fulfilled by the administration  
36 and other contractors as necessary.
- 37           D. If the director determines that the administrator will fulfill some  
38 but not all of the responsibilities set forth in subsection B of this  
39 section, the director shall ensure that the remaining responsibilities are  
40 fulfilled by the administration and other contractors as necessary.
- 41           E. The administrator or any direct or indirect subsidiary of the  
42 administrator is not eligible to serve as a contractor.
- 43           F. Except for reinsurance obtained by contractors, the administrator  
44 shall coordinate benefits provided under this article to any eligible person

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

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

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

36 I. Subject to existing law relating to privilege and protection, the  
37 director shall prescribe by rule the types of information that are  
38 confidential and circumstances under which such information may be used or  
39 released, including requirements for physician-patient confidentiality.  
40 Notwithstanding any other provision of law, such rules shall be designed to  
41 provide for the exchange of necessary information among the counties, the  
42 administration and the department of economic security for the purposes of  
43 eligibility determination under this article. Notwithstanding any law to the  
44 contrary, a member's medical record shall be released without the member's

1 consent in situations or suspected cases of fraud or abuse relating to the  
2 system to an officer of the state's certified Arizona health care cost  
3 containment system fraud control unit who has submitted a written request for  
4 the medical record.

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

6 1. The transition of members between system contractors and  
7 noncontracting providers.

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

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

13 L. To the extent that services are furnished pursuant to this article,  
14 and unless otherwise required pursuant to this chapter, a contractor is not  
15 subject to ~~the provisions of~~ title 20.

16 M. As a condition of the contract with any contractor, the director  
17 shall require contract terms as necessary in the judgment of the director to  
18 ensure adequate performance and compliance with all applicable federal laws  
19 by the contractor of the provisions of each contract executed pursuant to  
20 this chapter. Contract provisions required by the director shall include at  
21 a minimum the maintenance of deposits, performance bonds, financial reserves  
22 or other financial security. The director may waive requirements for the  
23 posting of bonds or security for contractors that have posted other security,  
24 equal to or greater than that required by the system, with a state agency for  
25 the performance of health service contracts if funds would be available from  
26 such security for the system on default by the contractor. The director may  
27 also adopt rules for the withholding or forfeiture of payments to be made to  
28 a contractor by the system for the failure of the contractor to comply with a  
29 provision of the contractor's contract with the system or with the adopted  
30 rules. The director may also require contract terms allowing the  
31 administration to operate a contractor directly under circumstances specified  
32 in the contract. The administration shall operate the contractor only as  
33 long as it is necessary to assure delivery of uninterrupted care to members  
34 enrolled with the contractor and accomplish the orderly transition of those  
35 members to other system contractors, or until the contractor reorganizes or  
36 otherwise corrects the contract performance failure. The administration  
37 shall not operate a contractor unless, before that action, the administration  
38 delivers notice to the contractor and provides an opportunity for a hearing  
39 in accordance with procedures established by the director. Notwithstanding  
40 the provisions of a contract, if the administration finds that the public  
41 health, safety or welfare requires emergency action, it may operate as the  
42 contractor on notice to the contractor and pending an administrative hearing,  
43 which it shall promptly institute.

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

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

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

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

25 1. The contractor or program contractor shall provide a written  
26 request to the laboratory in a format mutually agreed to by the laboratory  
27 and the requesting health plan or program contractor. The request shall  
28 include the member's name, the member's plan identification number, the  
29 specific test results that are being requested and the time periods and the  
30 quality improvement activity that prompted the request.

31 2. The laboratory data may be provided in written or electronic format  
32 based on the agreement between the laboratory and the contractor or program  
33 contractor. If there is no contract between the laboratory and the  
34 contractor or program contractor, the laboratory shall provide the requested  
35 data in a format agreed to by the noncontracted laboratory.

36 3. The laboratory test results provided to the member's contractor or  
37 program contractor shall only be used for quality improvement activities  
38 authorized by the administration and health care outcome studies required by  
39 the administration. The contractors and program contractors shall maintain  
40 strict confidentiality about the test results and identity of the member as  
41 specified in contractual arrangements with the administration and pursuant to  
42 state and federal law.

43 4. The administration, after collaboration with the department of  
44 health services regarding quality improvement activities, may prohibit the

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

8 5. The administration shall provide contracted laboratories and the  
9 department of health services with an annual report listing the quality  
10 improvement activities that will require laboratory data. The report shall  
11 be updated and distributed to the contracting laboratories and the department  
12 of health services when laboratory data is needed for new quality improvement  
13 activities.

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

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

24 Sec. 2. Section 36-2903.01, Arizona Revised Statutes, is amended to  
25 read:

26 36-2903.01. Additional powers and duties: report

27 A. The director of the Arizona health care cost containment system  
28 administration may adopt rules that provide that the system may withhold or  
29 forfeit payments to be made to a noncontracting provider by the system if the  
30 noncontracting provider fails to comply with this article, the provider  
31 agreement or rules that are adopted pursuant to this article and that relate  
32 to the specific services rendered for which a claim for payment is made.

33 B. The director shall:

34 1. Prescribe uniform forms to be used by all contractors. The rules  
35 shall require a written and signed application by the applicant or an  
36 applicant's authorized representative, or, if the person is incompetent or  
37 incapacitated, a family member or a person acting responsibly for the  
38 applicant may obtain a signature or a reasonable facsimile and file the  
39 application as prescribed by the administration.

40 2. Enter into an interagency agreement with the department to  
41 establish a streamlined eligibility process to determine the eligibility of  
42 all persons defined pursuant to section 36-2901, paragraph 6,  
43 subdivision (a). At the administration's option, the interagency agreement  
44 may allow the administration to determine the eligibility of certain persons,

1 including those defined pursuant to section 36-2901, paragraph 6,  
2 subdivision (a).

3 3. Enter into an intergovernmental agreement with the department to:

4 (a) Establish an expedited eligibility and enrollment process for all  
5 persons who are hospitalized at the time of application.

6 (b) Establish performance measures and incentives for the department.

7 (c) Establish the process for management evaluation reviews that the  
8 administration shall perform to evaluate the eligibility determination  
9 functions performed by the department.

10 (d) Establish eligibility quality control reviews by the  
11 administration.

12 (e) Require the department to adopt rules, consistent with the rules  
13 adopted by the administration for a hearing process, that applicants or  
14 members may use for appeals of eligibility determinations or  
15 redeterminations.

16 (f) Establish the department's responsibility to place sufficient  
17 eligibility workers at federally qualified health centers to screen for  
18 eligibility and at hospital sites and level one trauma centers to ensure that  
19 persons seeking hospital services are screened on a timely basis for  
20 eligibility for the system, including a process to ensure that applications  
21 for the system can be accepted on a twenty-four hour basis, seven days a  
22 week.

23 (g) Withhold payments based on the allowable sanctions for errors in  
24 eligibility determinations or redeterminations or failure to meet performance  
25 measures required by the intergovernmental agreement.

26 (h) Recoup from the department all federal fiscal sanctions that  
27 result from the department's inaccurate eligibility determinations. The  
28 director may offset all or part of a sanction if the department submits a  
29 corrective action plan and a strategy to remedy the error.

30 4. By rule establish a procedure and time frames for the intake of  
31 grievances and requests for hearings, for the continuation of benefits and  
32 services during the appeal process and for a grievance process at the  
33 contractor level. Notwithstanding sections 41-1092.02, 41-1092.03 and  
34 41-1092.05, the administration shall develop rules to establish the procedure  
35 and time frame for the informal resolution of grievances and appeals. A  
36 grievance that is not related to a claim for payment of system covered  
37 services shall be filed in writing with and received by the administration or  
38 the prepaid capitated provider or program contractor not later than sixty  
39 days after the date of the adverse action, decision or policy implementation  
40 being grieved. A grievance that is related to a claim for payment of system  
41 covered services must be filed in writing and received by the administration  
42 or the prepaid capitated provider or program contractor within twelve months  
43 after the date of service, within twelve months after the date that  
44 eligibility is posted or within sixty days after the date of the denial of a



1 timely claim submission, whichever is later. A grievance for the denial of a  
2 claim for reimbursement of services may contest the validity of any adverse  
3 action, decision, policy implementation or rule that related to or resulted  
4 in the full or partial denial of the claim. A policy implementation may be  
5 subject to a grievance procedure, but it may not be appealed for a hearing.  
6 The administration is not required to participate in a mandatory settlement  
7 conference if it is not a real party in interest. In any proceeding before  
8 the administration, including a grievance or hearing, persons may represent  
9 themselves or be represented by a duly authorized agent who is not charging a  
10 fee. A legal entity may be represented by an officer, partner or employee  
11 who is specifically authorized by the legal entity to represent it in the  
12 particular proceeding.

13 5. Apply for and accept federal funds available under title XIX of the  
14 social security act (P.L. 89-97; 79 Stat. 344; 42 United States Code section  
15 1396 (1980)) in support of the system. The application made by the director  
16 pursuant to this paragraph shall be designed to qualify for federal funding  
17 primarily on a prepaid capitated basis. Such funds may be used only for the  
18 support of persons defined as eligible pursuant to title XIX of the social  
19 security act or the approved section 1115 waiver.

20 6. At least thirty days before the implementation of a policy or a  
21 change to an existing policy relating to reimbursement, provide notice to  
22 interested parties. Parties interested in receiving notification of policy  
23 changes shall submit a written request for notification to the  
24 administration.

25 7. In addition to the cost sharing requirements specified in  
26 subsection D, paragraph 4 of this section:

27 (a) Charge monthly premiums up to the maximum amount allowed by  
28 federal law to all populations of eligible persons who may be charged.

29 (b) Implement this paragraph to the extent permitted under the federal  
30 deficit reduction act of 2005 and other federal laws, subject to the approval  
31 of federal waiver authority and to the extent that any changes in the cost  
32 sharing requirements under this paragraph would permit this state to receive  
33 any enhanced federal matching rate.

34 C. The director is authorized to apply for any federal funds available  
35 for the support of programs to investigate and prosecute violations arising  
36 from the administration and operation of the system. Available state funds  
37 appropriated for the administration and operation of the system may be used  
38 as matching funds to secure federal funds pursuant to this subsection.

39 D. The director may adopt rules or procedures to do the following:

40 1. Authorize advance payments based on estimated liability to a  
41 contractor or a noncontracting provider after the contractor or  
42 noncontracting provider has submitted a claim for services and before the  
43 claim is ultimately resolved. The rules shall specify that any advance  
44 payment shall be conditioned on the execution before payment of a contract

1 with the contractor or noncontracting provider that requires the  
2 administration to retain a specified percentage, which shall be at least  
3 twenty per cent, of the claimed amount as security and that requires  
4 repayment to the administration if the administration makes any overpayment.

5 2. Defer liability, in whole or in part, of contractors for care  
6 provided to members who are hospitalized on the date of enrollment or under  
7 other circumstances. Payment shall be on a capped fee-for-service basis for  
8 services other than hospital services and at the rate established pursuant to  
9 subsection G or H of this section for hospital services or at the rate paid  
10 by the health plan, whichever is less.

11 3. Deputize, in writing, any qualified officer or employee in the  
12 administration to perform any act that the director by law is empowered to do  
13 or charged with the responsibility of doing, including the authority to issue  
14 final administrative decisions pursuant to section 41-1092.08.

15 4. Notwithstanding any other law, require persons eligible pursuant to  
16 section 36-2901, paragraph 6, subdivision (a), ~~OR section 36-2931, paragraph~~  
17 ~~5 and section 36-2981, paragraph 6~~ to be financially responsible for any cost  
18 sharing requirements established in a state plan or a section 1115 waiver and  
19 approved by the centers for medicare and medicaid services. Cost sharing  
20 requirements may include copayments, coinsurance, deductibles, enrollment  
21 fees and monthly premiums for enrolled members, including households with  
22 children enrolled in the Arizona long-term care system.

23 E. The director shall adopt rules that further specify the medical  
24 care and hospital services that are covered by the system pursuant to section  
25 36-2907.

26 F. In addition to the rules otherwise specified in this article, the  
27 director may adopt necessary rules pursuant to title 41, chapter 6 to carry  
28 out this article. Rules adopted by the director pursuant to this subsection  
29 shall consider the differences between rural and urban conditions on the  
30 delivery of hospitalization and medical care.

31 G. For inpatient hospital admissions and all outpatient hospital  
32 services before March 1, 1993, the administration shall reimburse a  
33 hospital's adjusted billed charges according to the following procedures:

34 1. The director shall adopt rules that, for services rendered from and  
35 after September 30, 1985 until October 1, 1986, define "adjusted billed  
36 charges" as that reimbursement level that has the effect of holding constant  
37 whichever of the following is applicable:

38 (a) The schedule of rates and charges for a hospital in effect on  
39 April 1, 1984 as filed pursuant to chapter 4, article 3 of this title.

40 (b) The schedule of rates and charges for a hospital that became  
41 effective after May 31, 1984 but before July 2, 1984, if the hospital's  
42 previous rate schedule became effective before April 30, 1983.

43 (c) The schedule of rates and charges for a hospital that became  
44 effective after May 31, 1984 but before July 2, 1984, limited to five per

1 cent over the hospital's previous rate schedule, and if the hospital's  
2 previous rate schedule became effective on or after April 30, 1983 but before  
3 October 1, 1983. For the purposes of this paragraph, "constant" means equal  
4 to or lower than.

5 2. The director shall adopt rules that, for services rendered from and  
6 after September 30, 1986, define "adjusted billed charges" as that  
7 reimbursement level that has the effect of increasing by four per cent a  
8 hospital's reimbursement level in effect on October 1, 1985 as prescribed in  
9 paragraph 1 of this subsection. Beginning January 1, 1991, the Arizona  
10 health care cost containment system administration shall define "adjusted  
11 billed charges" as the reimbursement level determined pursuant to this  
12 section, increased by two and one-half per cent.

13 3. In no event shall a hospital's adjusted billed charges exceed the  
14 hospital's schedule of rates and charges filed with the department of health  
15 services and in effect pursuant to chapter 4, article 3 of this title.

16 4. For services rendered the administration shall not pay a hospital's  
17 adjusted billed charges in excess of the following:

18 (a) If the hospital's bill is paid within thirty days of the date the  
19 bill was received, eighty-five per cent of the adjusted billed charges.

20 (b) If the hospital's bill is paid any time after thirty days but  
21 within sixty days of the date the bill was received, ninety-five per cent of  
22 the adjusted billed charges.

23 (c) If the hospital's bill is paid any time after sixty days of the  
24 date the bill was received, one hundred per cent of the adjusted billed  
25 charges.

26 5. The director shall define by rule the method of determining when a  
27 hospital bill will be considered received and when a hospital's billed  
28 charges will be considered paid. Payment received by a hospital from the  
29 administration pursuant to this subsection or from a contractor either by  
30 contract or pursuant to section 36-2904, subsection I shall be considered  
31 payment of the hospital bill in full, except that a hospital may collect any  
32 unpaid portion of its bill from other third party payors or in situations  
33 covered by title 33, chapter 7, article 3.

34 H. For inpatient hospital admissions and outpatient hospital services  
35 on and after March 1, 1993 the administration shall adopt rules for the  
36 reimbursement of hospitals according to the following procedures:

37 1. For inpatient hospital stays, the administration shall use a  
38 prospective tiered per diem methodology, using hospital peer groups if  
39 analysis shows that cost differences can be attributed to independently  
40 definable features that hospitals within a peer group share. In peer  
41 grouping the administration may consider such factors as length of stay  
42 differences and labor market variations. If there are no cost differences,  
43 the administration shall implement a stop loss-stop gain or similar  
44 mechanism. Any stop loss-stop gain or similar mechanism shall ensure that

1 the tiered per diem rates assigned to a hospital do not represent less than  
2 ninety per cent of its 1990 base year costs or more than one hundred ten per  
3 cent of its 1990 base year costs, adjusted by an audit factor, during the  
4 period of March 1, 1993 through September 30, 1994. The tiered per diem  
5 rates set for hospitals shall represent no less than eighty-seven and  
6 one-half per cent or more than one hundred twelve and one-half per cent of  
7 its 1990 base year costs, adjusted by an audit factor, from October 1, 1994  
8 through September 30, 1995 and no less than eighty-five per cent or more than  
9 one hundred fifteen per cent of its 1990 base year costs, adjusted by an  
10 audit factor, from October 1, 1995 through September 30, 1996. For the  
11 periods after September 30, 1996 no stop loss-stop gain or similar mechanisms  
12 shall be in effect. An adjustment in the stop loss-stop gain percentage may  
13 be made to ensure that total payments do not increase as a result of this  
14 provision. If peer groups are used the administration shall establish  
15 initial peer group designations for each hospital before implementation of  
16 the per diem system. The administration may also use a negotiated rate  
17 methodology. The tiered per diem methodology may include separate  
18 consideration for specialty hospitals that limit their provision of services  
19 to specific patient populations, such as rehabilitative patients or children.  
20 The initial per diem rates shall be based on hospital claims and encounter  
21 data for dates of service November 1, 1990 through October 31, 1991 and  
22 processed through May of 1992.

23 2. For rates effective on October 1, 1994, and annually thereafter,  
24 the administration shall adjust tiered per diem payments for inpatient  
25 hospital care by the data resources incorporated market basket index for  
26 prospective payment system hospitals. For rates effective beginning on  
27 October 1, 1999, the administration shall adjust payments to reflect changes  
28 in length of stay for the maternity and nursery tiers.

29 3. Through June 30, 2004, for outpatient hospital services, the  
30 administration shall reimburse a hospital by applying a hospital specific  
31 outpatient cost-to-charge ratio to the covered charges. Beginning on July 1,  
32 2004 through June 30, 2005, the administration shall reimburse a hospital by  
33 applying a hospital specific outpatient cost-to-charge ratio to covered  
34 charges. If the hospital increases its charges for outpatient services filed  
35 with the Arizona department of health services pursuant to chapter 4, article  
36 3 of this title, by more than 4.7 per cent for dates of service effective on  
37 or after July 1, 2004, the hospital specific cost-to-charge ratio will be  
38 reduced by the amount that it exceeds 4.7 per cent. If charges exceed 4.7  
39 per cent, the effective date of the increased charges will be the effective  
40 date of the adjusted Arizona health care cost containment system  
41 cost-to-charge ratio. The administration shall develop the methodology for a  
42 capped fee-for-service schedule and a statewide cost-to-charge ratio. Any  
43 covered outpatient service not included in the capped fee-for-service  
44 schedule shall be reimbursed by applying the statewide cost-to-charge ratio

1 that is based on the services not included in the capped fee-for-service  
2 schedule. Beginning on July 1, 2005, the administration shall reimburse  
3 clean claims with dates of service on or after July 1, 2005, based on the  
4 capped fee-for-service schedule or the statewide cost-to-charge ratio  
5 established pursuant to this paragraph. The administration may make  
6 additional adjustments to the outpatient hospital rates established pursuant  
7 to this section based on other factors, including the number of beds in the  
8 hospital, specialty services available to patients and the geographic  
9 location of the hospital.

10 4. Except if submitted under an electronic claims submission system, a  
11 hospital bill is considered received for purposes of this paragraph on  
12 initial receipt of the legible, error-free claim form by the administration  
13 if the claim includes the following error-free documentation in legible form:

14 (a) An admission face sheet.

15 (b) An itemized statement.

16 (c) An admission history and physical.

17 (d) A discharge summary or an interim summary if the claim is split.

18 (e) An emergency record, if admission was through the emergency room.

19 (f) Operative reports, if applicable.

20 (g) A labor and delivery room report, if applicable.

21 Payment received by a hospital from the administration pursuant to this  
22 subsection or from a contractor either by contract or pursuant to section  
23 36-2904, subsection I is considered payment by the administration or the  
24 contractor of the administration's or contractor's liability for the hospital  
25 bill. A hospital may collect any unpaid portion of its bill from other third  
26 party payors or in situations covered by title 33, chapter 7, article 3.

27 5. For services rendered on and after October 1, 1997, the  
28 administration shall pay a hospital's rate established according to this  
29 section subject to the following:

30 (a) If the hospital's bill is paid within thirty days of the date the  
31 bill was received, the administration shall pay ninety-nine per cent of the  
32 rate.

33 (b) If the hospital's bill is paid after thirty days but within sixty  
34 days of the date the bill was received, the administration shall pay one  
35 hundred per cent of the rate.

36 (c) If the hospital's bill is paid any time after sixty days of the  
37 date the bill was received, the administration shall pay one hundred per cent  
38 of the rate plus a fee of one per cent per month for each month or portion of  
39 a month following the sixtieth day of receipt of the bill until the date of  
40 payment.

41 6. In developing the reimbursement methodology, if a review of the  
42 reports filed by a hospital pursuant to section 36-125.04 indicates that  
43 further investigation is considered necessary to verify the accuracy of the  
44 information in the reports, the administration may examine the hospital's

1 records and accounts related to the reporting requirements of section  
2 36-125.04. The administration shall bear the cost incurred in connection  
3 with this examination unless the administration finds that the records  
4 examined are significantly deficient or incorrect, in which case the  
5 administration may charge the cost of the investigation to the hospital  
6 examined.

7 7. Except for privileged medical information, the administration shall  
8 make available for public inspection the cost and charge data and the  
9 calculations used by the administration to determine payments under the  
10 tiered per diem system, provided that individual hospitals are not identified  
11 by name. The administration shall make the data and calculations available  
12 for public inspection during regular business hours and shall provide copies  
13 of the data and calculations to individuals requesting such copies within  
14 thirty days of receipt of a written request. The administration may charge a  
15 reasonable fee for the provision of the data or information.

16 8. The prospective tiered per diem payment methodology for inpatient  
17 hospital services shall include a mechanism for the prospective payment of  
18 inpatient hospital capital related costs. The capital payment shall include  
19 hospital specific and statewide average amounts. For tiered per diem rates  
20 beginning on October 1, 1999, the capital related cost component is frozen at  
21 the blended rate of forty per cent of the hospital specific capital cost and  
22 sixty per cent of the statewide average capital cost in effect as of  
23 January 1, 1999 and as further adjusted by the calculation of tier rates for  
24 maternity and nursery as prescribed by law. The administration shall adjust  
25 the capital related cost component by the data resources incorporated market  
26 basket index for prospective payment system hospitals.

27 9. For graduate medical education programs:

28 (a) Beginning September 30, 1997, the administration shall establish a  
29 separate graduate medical education program to reimburse hospitals that had  
30 graduate medical education programs that were approved by the administration  
31 as of October 1, 1999. The administration shall separately account for  
32 monies for the graduate medical education program based on the total  
33 reimbursement for graduate medical education reimbursed to hospitals by the  
34 system in federal fiscal year 1995-1996 pursuant to the tiered per diem  
35 methodology specified in this section. The graduate medical education  
36 program reimbursement shall be adjusted annually by the increase or decrease  
37 in the index published by the global insight hospital market basket index for  
38 prospective hospital reimbursement. Subject to legislative appropriation, on  
39 an annual basis, each qualified hospital shall receive a single payment from  
40 the graduate medical education program that is equal to the same percentage  
41 of graduate medical education reimbursement that was paid by the system in  
42 federal fiscal year 1995-1996. Any reimbursement for graduate medical  
43 education made by the administration shall not be subject to future  
44 settlements or appeals by the hospitals to the administration. The monies

1 available under this subdivision shall not exceed the fiscal year 2005-2006  
2 appropriation adjusted annually by the increase or decrease in the index  
3 published by the global insight hospital market basket index for prospective  
4 hospital reimbursement, except for monies distributed for expansions pursuant  
5 to subdivision (b) of this paragraph.

6 (b) The monies available for graduate medical education programs  
7 pursuant to this subdivision shall not exceed the fiscal year 2006-2007  
8 appropriation adjusted annually by the increase or decrease in the index  
9 published by the global insight hospital market basket index for prospective  
10 hospital reimbursement. Graduate medical education programs eligible for  
11 such reimbursement are not precluded from receiving reimbursement for funding  
12 under subdivision (c) of this paragraph. Beginning July 1, 2006, the  
13 administration shall distribute any monies appropriated for graduate medical  
14 education above the amount prescribed in subdivision (a) of this paragraph in  
15 the following order or priority:

16 (i) For the direct costs to support the expansion of graduate medical  
17 education programs established before July 1, 2006 at hospitals that do not  
18 receive payments pursuant to subdivision (a) of this paragraph. These  
19 programs must be approved by the administration.

20 (ii) For the direct costs to support the expansion of graduate medical  
21 education programs established on or before October 1, 1999. These programs  
22 must be approved by the administration.

23 (c) The administration shall distribute to hospitals any monies  
24 appropriated for graduate medical education above the amount prescribed in  
25 subdivisions (a) and (b) of this paragraph for the following purposes:

26 (i) For the direct costs of graduate medical education programs  
27 established or expanded on or after July 1, 2006. These programs must be  
28 approved by the administration.

29 (ii) For a portion of additional indirect graduate medical education  
30 costs for programs that are located in a county with a population of less  
31 than five hundred thousand persons at the time the residency position was  
32 created or for a residency position that includes a rotation in a county with  
33 a population of less than five hundred thousand persons at the time the  
34 residency position was established. These programs must be approved by the  
35 administration.

36 (d) The administration shall develop, by rule, the formula by which  
37 the monies are distributed.

38 (e) Each graduate medical education program that receives funding  
39 pursuant to subdivision (b) or (c) of this paragraph shall identify and  
40 report to the administration the number of new residency positions created by  
41 the funding provided in this paragraph, including positions in rural areas.  
42 The program shall also report information related to the number of funded  
43 residency positions that resulted in physicians locating their practice in  
44 this state. The administration shall report to the joint legislative budget

1 committee by February 1 of each year on the number of new residency positions  
2 as reported by the graduate medical education programs.

3 (f) Beginning July 1, 2007, local, county and tribal governments may  
4 provide monies in addition to any state general fund monies appropriated for  
5 graduate medical education in order to qualify for additional matching  
6 federal monies for programs or positions in a specific locality and costs  
7 incurred pursuant to a specific contract between the administration and  
8 providers or other entities to provide graduate medical education services as  
9 an administrative activity. These programs, positions and administrative  
10 graduate medical education services must be approved by the administration  
11 and the centers for medicare and medicaid services. The administration shall  
12 report to the president of the senate, the speaker of the house of  
13 representatives and the director of the joint legislative budget committee on  
14 or before July 1 of each year on the amount of money contributed and number  
15 of residency positions funded by local, county and tribal governments,  
16 including the amount of federal matching monies used.

17 (g) Any funds appropriated but not allocated by the administration for  
18 subdivision (b) or (c) of this paragraph may be reallocated if funding for  
19 either subdivision is insufficient to cover appropriate graduate medical  
20 education costs.

21 (h) For the purposes of this paragraph, "graduate medical education  
22 program" means a program, including an approved fellowship, that prepares a  
23 physician for the independent practice of medicine by providing didactic and  
24 clinical education in a medical discipline to a medical student who has  
25 completed a recognized undergraduate medical education program.

26 10. The prospective tiered per diem payment methodology for inpatient  
27 hospital services shall include a mechanism for the payment of claims with  
28 extraordinary operating costs per day. For tiered per diem rates effective  
29 beginning on October 1, 1999, outlier cost thresholds are frozen at the  
30 levels in effect on January 1, 1999 and adjusted annually by the  
31 administration by the global insight hospital market basket index for  
32 prospective payment system hospitals. Beginning with dates of service on or  
33 after October 1, 2007, the administration shall phase in the use of the most  
34 recent statewide urban and statewide rural average medicare cost-to-charge  
35 ratios or centers for medicare and medicaid services approved cost-to-charge  
36 ratios to qualify and pay extraordinary operating costs. Cost-to-charge  
37 ratios shall be updated annually. Routine maternity charges are not eligible  
38 for outlier reimbursement. The administration shall complete full  
39 implementation of the phase-in on or before October 1, 2009.

40 11. Notwithstanding section 41-1005, subsection A, paragraph 9, the  
41 administration shall adopt rules pursuant to title 41, chapter 6 establishing  
42 the methodology for determining the prospective tiered per diem payments.

43 I. The director may adopt rules that specify enrollment procedures,  
44 including notice to contractors of enrollment. The rules may provide for



1 varying time limits for enrollment in different situations. The  
2 administration shall specify in contract when a person who has been  
3 determined eligible will be enrolled with that contractor and the date on  
4 which the contractor will be financially responsible for health and medical  
5 services to the person.

6 J. The administration may make direct payments to hospitals for  
7 hospitalization and medical care provided to a member in accordance with this  
8 article and rules. The director may adopt rules to establish the procedures  
9 by which the administration shall pay hospitals pursuant to this subsection  
10 if a contractor fails to make timely payment to a hospital. Such payment  
11 shall be at a level determined pursuant to section 36-2904, subsection H  
12 or I. The director may withhold payment due to a contractor in the amount of  
13 any payment made directly to a hospital by the administration on behalf of a  
14 contractor pursuant to this subsection.

15 K. The director shall establish a special unit within the  
16 administration for the purpose of monitoring the third party payment  
17 collections required by contractors and noncontracting providers pursuant to  
18 section 36-2903, subsection B, paragraph 10 and subsection F and section  
19 36-2915, subsection E. The director shall determine by rule:

20 1. The type of third party payments to be monitored pursuant to this  
21 subsection.

22 2. The percentage of third party payments that is collected by a  
23 contractor or noncontracting provider and that the contractor or  
24 noncontracting provider may keep and the percentage of such payments that the  
25 contractor or noncontracting provider may be required to pay to the  
26 administration. Contractors and noncontracting providers must pay to the  
27 administration one hundred per cent of all third party payments that are  
28 collected and that duplicate administration fee-for-service payments. A  
29 contractor that contracts with the administration pursuant to section  
30 36-2904, subsection A may be entitled to retain a percentage of third party  
31 payments if the payments collected and retained by a contractor are reflected  
32 in reduced capitation rates. A contractor may be required to pay the  
33 administration a percentage of third party payments that are collected by a  
34 contractor and that are not reflected in reduced capitation rates.

35 L. The administration shall establish procedures to apply to the  
36 following if a provider that has a contract with a contractor or  
37 noncontracting provider seeks to collect from an individual or financially  
38 responsible relative or representative a claim that exceeds the amount that  
39 is reimbursed or should be reimbursed by the system:

40 1. On written notice from the administration or oral or written notice  
41 from a member that a claim for covered services may be in violation of this  
42 section, the provider that has a contract with a contractor or noncontracting  
43 provider shall investigate the inquiry and verify whether the person was  
44 eligible for services at the time that covered services were provided. If

1 the claim was paid or should have been paid by the system, the provider that  
2 has a contract with a contractor or noncontracting provider shall not  
3 continue billing the member.

4 2. If the claim was paid or should have been paid by the system and  
5 the disputed claim has been referred for collection to a collection agency or  
6 referred to a credit reporting bureau, the provider that has a contract with  
7 a contractor or noncontracting provider shall:

8 (a) Notify the collection agency and request that all attempts to  
9 collect this specific charge be terminated immediately.

10 (b) Advise all credit reporting bureaus that the reported delinquency  
11 was in error and request that the affected credit report be corrected to  
12 remove any notation about this specific delinquency.

13 (c) Notify the administration and the member that the request for  
14 payment was in error and that the collection agency and credit reporting  
15 bureaus have been notified.

16 3. If the administration determines that a provider that has a  
17 contract with a contractor or noncontracting provider has billed a member for  
18 charges that were paid or should have been paid by the administration, the  
19 administration shall send written notification by certified mail or other  
20 service with proof of delivery to the provider that has a contract with a  
21 contractor or noncontracting provider stating that this billing is in  
22 violation of federal and state law. If, twenty-one days or more after  
23 receiving the notification, a provider that has a contract with a contractor  
24 or noncontracting provider knowingly continues billing a member for charges  
25 that were paid or should have been paid by the system, the administration may  
26 assess a civil penalty in an amount equal to three times the amount of the  
27 billing and reduce payment to the provider that has a contract with a  
28 contractor or noncontracting provider accordingly. Receipt of delivery  
29 signed by the addressee or the addressee's employee is prima facie evidence  
30 of knowledge. Civil penalties collected pursuant to this subsection shall be  
31 deposited in the state general fund. Section 36-2918, subsections C, D and  
32 F, relating to the imposition, collection and enforcement of civil penalties,  
33 apply to civil penalties imposed pursuant to this paragraph.

34 M. The administration may conduct postpayment review of all claims  
35 paid by the administration and may recoup any monies erroneously paid. The  
36 director may adopt rules that specify procedures for conducting postpayment  
37 review. A contractor may conduct a postpayment review of all claims paid by  
38 the contractor and may recoup monies that are erroneously paid.

39 N. The director or the director's designee may employ and supervise  
40 personnel necessary to assist the director in performing the functions of the  
41 administration.

42 O. The administration may contract with contractors for obstetrical  
43 care who are eligible to provide services under title XIX of the social  
44 security act.

1 P. Notwithstanding any other law, on federal approval the  
2 administration may make disproportionate share payments to private hospitals,  
3 county operated hospitals, including hospitals owned or leased by a special  
4 health care district, and state operated institutions for mental disease  
5 beginning October 1, 1991 in accordance with federal law and subject to  
6 legislative appropriation. If at any time the administration receives  
7 written notification from federal authorities of any change or difference in  
8 the actual or estimated amount of federal funds available for  
9 disproportionate share payments from the amount reflected in the legislative  
10 appropriation for such purposes, the administration shall provide written  
11 notification of such change or difference to the president and the minority  
12 leader of the senate, the speaker and the minority leader of the house of  
13 representatives, the director of the joint legislative budget committee, the  
14 legislative committee of reference and any hospital trade association within  
15 this state, within three working days not including weekends after receipt of  
16 the notice of the change or difference. In calculating disproportionate  
17 share payments as prescribed in this section, the administration may use  
18 either a methodology based on claims and encounter data that is submitted to  
19 the administration from contractors or a methodology based on data that is  
20 reported to the administration by private hospitals and state operated  
21 institutions for mental disease. The selected methodology applies to all  
22 private hospitals and state operated institutions for mental disease  
23 qualifying for disproportionate share payments.

24 Q. Notwithstanding any law to the contrary, the administration may  
25 receive confidential adoption information to determine whether an adopted  
26 child should be terminated from the system.

27 R. The adoption agency or the adoption attorney shall notify the  
28 administration within thirty days after an eligible person receiving services  
29 has placed that person's child for adoption.

30 S. If the administration implements an electronic claims submission  
31 system, it may adopt procedures pursuant to subsection H of this section  
32 requiring documentation different than prescribed under subsection H,  
33 paragraph 4 of this section.

34 Sec. 3. Section 36-2905, Arizona Revised Statutes, is amended to read:  
35 36-2905. Removal of medicaid special exemption for payments to  
36 contractors; civil penalty

37 A. Notwithstanding any other law, beginning on October 1, 2003, each  
38 contractor shall pay to the director of the department of insurance a tax  
39 equal to two per cent of the total capitation, including reinsurance, and any  
40 other reimbursement paid to the contractor by the administration for persons  
41 eligible pursuant to section 36-2901, paragraph 6, subdivisions (a) and (g)  
42 ~~and article 4 of this chapter~~. The tax shall be paid in four payments  
43 pursuant to subsection C of this section and deposited in the state general  
44 fund pursuant to sections 35-146 and 35-147.

1 B. The contractor shall not deduct any disallowance or penalty imposed  
2 by the administration pursuant to this chapter from the financial information  
3 submitted to the director of the department of insurance.

4 C. Each contractor shall file the estimated tax and documentation with  
5 the director of the department of insurance on a form prescribed by the  
6 director of the department of insurance to pay the estimated tax. A  
7 contractor shall make estimated tax payments to the director of the  
8 department of insurance for deposit in the state general fund pursuant to  
9 sections 35-146 and 35-147. The tax payments are due on or before September  
10 15, December 15, March 15 and June 15 of each year. The amount of the  
11 payments shall be an estimate of the tax due for the quarter that ends in the  
12 month that payment is due.

13 D. On or before April 1, 2004 and annually on or before April 1  
14 thereafter, the director of the department of insurance shall use data  
15 provided by the administration to reconcile the amount paid by each  
16 contractor pursuant to this section with the actual amount of title XIX ~~and~~  
17 ~~title XXI~~ reimbursement made by the administration to the contractor in the  
18 preceding calendar year. If there is a discrepancy in the two amounts, the  
19 director of the department of insurance shall notify the contractor of the  
20 difference, provide a notice of right of appeal and bill the contractor for  
21 the unpaid amount of the premium tax or, if there is an overpayment, the  
22 director of the department of insurance shall either refund the amount of the  
23 overpayment to the contractor or issue a credit for the amount of the  
24 overpayment that the contractor can apply against future tax obligations  
25 prescribed by this section.

26 E. A contractor who fails to file an estimated payment or pay an  
27 unpaid premium tax as prescribed by this section is subject to a civil  
28 penalty equal to the greater of twenty-five dollars or five per cent of the  
29 amount due and is subject to interest on the amount due at the rate of one  
30 per cent per month from the date the amount was due.

31 Sec. 4. Section 36-2905.08, Arizona Revised Statutes, is amended to  
32 read:

33 36-2905.08. Nicotine replacement therapies; tobacco use  
34 medications

35 A. ~~Notwithstanding section 36-2989,~~ For contract years beginning  
36 October 1, 2008, the administration may expend monies to provide nicotine  
37 replacement therapies and tobacco use medications to members eligible  
38 pursuant to this article or article 2 or 3 of this chapter.

39 B. The administration shall not use monies from the state general fund  
40 for the purposes of this section.

1           Sec. 5. Section 36-2907, Arizona Revised Statutes, is amended to read:  
2           36-2907. Covered health and medical services; modifications;  
3   related delivery of service requirements

4           A. ~~Unless modified pursuant to this section~~ **SUBJECT TO THE LIMITATIONS**  
5 **AND EXCLUSIONS SPECIFIED IN THIS SECTION**, contractors shall provide the  
6 following medically necessary health and medical services:

7           1. Inpatient hospital services that are ordinarily furnished by a  
8 hospital for the care and treatment of inpatients and that are provided under  
9 the direction of a physician or a primary care practitioner. For the  
10 purposes of this section, inpatient hospital services exclude services in an  
11 institution for tuberculosis or mental diseases unless authorized under an  
12 approved section 1115 waiver.

13           2. Outpatient health services that are ordinarily provided in  
14 hospitals, clinics, offices and other health care facilities by licensed  
15 health care providers. Outpatient health services include services provided  
16 by or under the direction of a physician or a primary care practitioner ~~but~~  
17 ~~do not include occupational therapy, or speech therapy for eligible persons~~  
18 ~~who are twenty-one years of age or older.~~

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. Beginning January 1,  
23 2006, persons who are dually eligible for title XVIII and title XIX services  
24 must obtain available medications through a medicare licensed or certified  
25 medicare advantage prescription drug plan, a medicare prescription drug plan  
26 or any other entity authorized by medicare to provide a medicare part D  
27 prescription drug benefit.

28           ~~5. Emergency dental care and extractions for persons who are at least~~  
29 ~~twenty-one years of age.~~

30           ~~6.~~ 5. Medical supplies, **DURABLE MEDICAL** equipment and prosthetic  
31 devices, ~~not including hearing aids or dentures~~, ordered by a physician or a  
32 primary care practitioner. Suppliers of durable medical equipment shall  
33 provide the administration with complete information about the identity of  
34 each person who has an ownership or controlling interest in their business  
35 and shall comply with federal bonding requirements in a manner prescribed by  
36 the administration.

37           ~~7.~~ 6. For persons who are at least twenty-one years of age, treatment  
38 of medical conditions of the eye, excluding eye examinations for prescriptive  
39 lenses and the provision of prescriptive lenses.

40           ~~8.~~ 7. Early and periodic health screening and diagnostic services as  
41 required by section 1905(r) of title XIX of the social security act for  
42 members who are under twenty-one years of age.

43           ~~9.~~ 8. Family planning services that do not include abortion or  
44 abortion counseling. If a contractor elects not to provide family planning

1 services, this election does not disqualify the contractor from delivering  
2 all other covered health and medical services under this chapter. In that  
3 event, the administration may contract directly with another contractor,  
4 including an outpatient surgical center or a noncontracting provider, to  
5 deliver family planning services to a member who is enrolled with the  
6 contractor that elects not to provide family planning services.

7 ~~10.~~ 9. Podiatry services ~~performed by a podiatrist licensed pursuant~~  
8 ~~to title 32, chapter 7 and~~ ordered by a primary care physician or primary  
9 care practitioner.

10 ~~11.~~ 10. Nonexperimental transplants approved for title XIX  
11 reimbursement.

12 ~~12.~~ 11. Ambulance and nonambulance transportation, EXCEPT AS PROVIDED  
13 IN SUBSECTION G OF THIS SECTION.

14 B. THE LIMITATIONS AND EXCLUSIONS FOR HEALTH AND MEDICAL SERVICES  
15 PROVIDED UNDER THIS SECTION ARE AS FOLLOWS:

16 1. Beginning on October 1, 2002, circumcision of newborn males is not  
17 a covered health and medical service.

18 2. FOR ELIGIBLE PERSONS WHO ARE AT LEAST TWENTY-ONE YEARS OF AGE:

19 (a) OUTPATIENT HEALTH SERVICES DO NOT INCLUDE OCCUPATIONAL THERAPY OR  
20 SPEECH THERAPY.

21 (b) PROSTHETIC DEVICES DO NOT INCLUDE HEARING AIDS, DENTURES, BONE  
22 ANCHORED HEARING AIDS OR COCHLEAR IMPLANTS. PROSTHETIC DEVICES, EXCEPT  
23 PROSTHETIC IMPLANTS, MAY BE LIMITED TO TWELVE THOUSAND FIVE-HUNDRED DOLLARS  
24 PER CONTRACT YEAR.

25 (c) INSULIN PUMPS, PERCUSSIVE VESTS AND ORTHOTICS ARE NOT COVERED  
26 HEALTH AND MEDICAL SERVICES.

27 (d) DURABLE MEDICAL EQUIPMENT IS LIMITED TO ITEMS COVERED BY MEDICARE.

28 (e) PODIATRY SERVICES DO NOT INCLUDE SERVICES PERFORMED BY A  
29 PODIATRIST.

30 (f) NONEXPERIMENTAL TRANSPLANTS DO NOT INCLUDE THE FOLLOWING:

31 (i) PANCREAS ONLY TRANSPLANTS.

32 (ii) PANCREAS AFTER KIDNEY TRANSPLANTS.

33 (iii) LUNG TRANSPLANTS.

34 (iv) HEMOPOETIC CELL TRANSPLANTS.

35 (v) ALLOGENIC UNRELATED TRANSPLANTS.

36 (vi) HEART TRANSPLANTS FOR NON-ISCHEMIC CARDIOMYOPATHY.

37 (vii) LIVER TRANSPLANTS FOR DIAGNOSIS OF HEPATITIS C.

38 (g) BEGINNING OCTOBER 1, 2011, BARIATRIC SURGERY PROCEDURES, INCLUDING  
39 LAPAROSCOPIC AND OPEN GASTRIC BYPASS AND RESTRICTIVE PROCEDURES, ARE NOT  
40 COVERED HEALTH AND MEDICAL SERVICES.

41 (h) WELL EXAMS ARE NOT A COVERED HEALTH AND MEDICAL SERVICE, EXCEPT  
42 MAMMOGRAMS, PAP SMEARS AND COLONOSCOPIES.

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

4 D. The director shall adopt rules necessary to limit, to the extent  
5 possible, the scope, duration and amount of services, including maximum  
6 limitations for inpatient services that are consistent with federal  
7 regulations under title XIX of the social security act (P.L. 89-97; 79 Stat.  
8 344; 42 United States Code section 1396 (1980)). To the extent possible and  
9 practicable, these rules shall provide for the prior approval of medically  
10 necessary services provided pursuant to this chapter.

11 E. The director shall make available home health services in lieu of  
12 hospitalization pursuant to contracts awarded under this article. For the  
13 purposes of this subsection, "home health services" means the provision of  
14 nursing services, home health aide services or medical supplies, equipment  
15 and appliances, which are provided on a part-time or intermittent basis by a  
16 licensed home health agency within a member's residence based on the orders  
17 of a physician or a primary care practitioner. Home health agencies shall  
18 comply with the federal bonding requirements in a manner prescribed by the  
19 administration.

20 F. The director shall adopt rules for the coverage of behavioral  
21 health services for persons who are eligible under section 36-2901, paragraph  
22 6, subdivision (a). The administration shall contract with the department of  
23 health services for the delivery of all medically necessary behavioral health  
24 services to persons who are eligible under rules adopted pursuant to this  
25 subsection. The division of behavioral health in the department of health  
26 services shall establish a diagnostic and evaluation program to which other  
27 state agencies shall refer children who are not already enrolled pursuant to  
28 this chapter and who may be in need of behavioral health services. In  
29 addition to an evaluation, the division of behavioral health shall also  
30 identify children who may be eligible under section 36-2901, paragraph 6,  
31 subdivision (a) or section 36-2931, paragraph 5 and shall refer the children  
32 to the appropriate agency responsible for making the final eligibility  
33 determination.

34 G. The director shall adopt rules for the provision of transportation  
35 services and rules providing for copayment by members for transportation for  
36 other than emergency purposes. **SUBJECT TO APPROVAL BY THE CENTERS FOR  
37 MEDICARE AND MEDICAID SERVICES, NONEMERGENCY MEDICAL TRANSPORTATION SHALL NOT  
38 BE PROVIDED TO PERSONS WHO ARE ELIGIBLE PURSUANT TO SECTIONS 36-2901.01 AND  
39 36-2901.04 AND WHO RESIDE IN A COUNTY WITH A POPULATION OF MORE THAN FIVE  
40 HUNDRED THOUSAND PERSONS.** Prior authorization is not required for medically  
41 necessary ambulance transportation services rendered to members or eligible  
42 persons initiated by dialing telephone number 911 or other designated  
43 emergency response systems.

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

6 I. If the director does not receive bids within the amounts budgeted  
7 or if at any time the amount remaining in the Arizona health care cost  
8 containment system fund is insufficient to pay for full contract services for  
9 the remainder of the contract term, the administration, on notification to  
10 system contractors at least thirty days in advance, may modify the list of  
11 services required under subsection A of this section for persons defined as  
12 eligible other than those persons defined pursuant to section 36-2901,  
13 paragraph 6, subdivision (a). The director may also suspend services or may  
14 limit categories of expense for services defined as optional pursuant to  
15 title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United  
16 States Code section 1396 (1980)) for persons defined pursuant to section  
17 36-2901, paragraph 6, subdivision (a). Such reductions or suspensions do not  
18 apply to the continuity of care for persons already receiving these services.

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

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

25 1. Emergency services and specialty services provided pursuant to  
26 section 36-2908.

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

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

42 M. The director shall adopt rules that prescribe the coordination of  
43 medical care for persons who are eligible for system services. The rules



1 shall include provisions for the transfer of patients, the transfer of  
2 medical records and the initiation of medical care.

3 Sec. 6. Section 36-2907.04, Arizona Revised Statutes, is amended to  
4 read:

5 36-2907.04. Family planning services

6 A woman whose eligibility under section 36-2901, paragraph 6,  
7 subdivision (a), item (ii) ended no earlier than March 1, 1995 and who is not  
8 otherwise enrolled in the system is eligible to receive voluntary family  
9 planning services for two years, if approval of the waiver requesting family  
10 planning services pursuant to this section is approved by the United States  
11 department of health and human services. This two year period begins on the  
12 first day following the end of that woman's sixty day federal eligibility  
13 period that begins on the last day of her pregnancy. Family planning  
14 services under this section are limited to those available pursuant to  
15 section 36-2907, subsection A, paragraph ~~9~~ 8.

16 Sec. 7. Section 36-2907.10, Arizona Revised Statutes, is amended to  
17 read:

18 36-2907.10. Transplants; extended eligibility

19 A. If during a redetermination process for eligibility pursuant to  
20 this article a person who is enrolled and who is eligible pursuant to this  
21 article for a medically necessary and appropriate transplant pursuant to  
22 section 36-2907, subsection A, paragraph ~~11~~ 10 is determined ineligible for  
23 coverage pursuant to section 36-2901.04 due to excess income or ineligible  
24 for coverage pursuant to section 36-2901, paragraph 6, subdivision (a), item  
25 (i), (ii) or (iii) and that person has not yet received the transplant, the  
26 person may extend the person's eligibility based on the total spend down  
27 requirement for the household divided by the number of persons in the  
28 household.

29 B. In order to extend eligibility the person shall enter into a  
30 contractual agreement with a hospital to pay the amount of excess income  
31 determined pursuant to this section. The hospital shall only be reimbursed  
32 by the administration at the contracted rate of the transplantation surgery,  
33 including up to one hundred days of posttransplantation care. The  
34 administration shall deduct the amount of excess income that the person  
35 agrees to pay the hospital before payment is made to the hospital for  
36 transplant services authorized by this section. The amount of excess income  
37 shall not be changed once the extended period of eligibility begins. The  
38 administration is not responsible to pay any of the spend down amount if the  
39 person does not pay the hospital. The contracting hospital shall submit a  
40 copy of the person's contractual agreement with the hospital to the  
41 administration.

42 C. The administration shall authorize extended eligibility services  
43 only for transplant candidates.

1 D. Extended eligibility pursuant to this section is for one  
2 twelve-month continuous period of time and is funded only pursuant to section  
3 36-2907.12.

4 E. This section does not prohibit a person from applying for  
5 eligibility pursuant to any other applicable law.

6 F. If the administration and a hospital that performed a transplant  
7 surgery on a person who is eligible pursuant to this section do not have a  
8 contracted rate, the administration shall not reimburse the hospital more  
9 than the contracted rate established by the administration.

10 G. A person who has extended eligibility pursuant to section  
11 36-2907.11 is not eligible for services pursuant to this section.

12 H. The extended eligibility of a person who is determined to be no  
13 longer medically eligible for a transplant terminates at the end of the month  
14 in which it is determined the person is not medically eligible for the  
15 transplant unless the person is otherwise eligible for services pursuant to  
16 section 36-2901, paragraph 6, subdivision (a).

17 Sec. 8. Section 36-2907.11, Arizona Revised Statutes, is amended to  
18 read:

19 36-2907.11. Retaining transplant status

20 A. If during a redetermination process for eligibility pursuant to  
21 this article a person who is eligible for a medically necessary and  
22 appropriate transplant as determined by the administration pursuant to  
23 section 36-2907, subsection A, paragraph ~~11~~ 10 is determined ineligible for  
24 coverage pursuant to section 36-2901.04 due to excess income or ineligible  
25 for coverage pursuant to section 36-2901, paragraph 6, subdivision (a), item  
26 (i), (ii) or (iii) and that person has not yet received the transplant, the  
27 person may enter into a contract with a hospital to pay the amount of excess  
28 income. For purposes of this section, the administration shall compute  
29 excess income based on the total spend down requirement for the household  
30 divided by the number of persons in the household. The administration shall  
31 recompute excess income pursuant to this section at the time the transplant  
32 becomes available.

33 B. If the hospital enters into the contractual agreement with the  
34 person, the hospital shall allow the person to retain the person's transplant  
35 candidacy status as long as the person is medically eligible but the person  
36 is not eligible for services pursuant to this article unless that person is  
37 determined eligible pursuant to subsection D of this section.

38 C. A person who has extended eligibility pursuant to section  
39 36-2907.10 is not eligible for services pursuant to this section.

40 D. Once a transplant is scheduled or performed the person shall  
41 reapply for eligibility pursuant to section 36-2901, paragraph 6, subdivision  
42 (a) and, if a spend down of excess income is necessary in order to be  
43 eligible for services pursuant to this article, the administration shall  
44 compute this income pursuant to the process specified in subsection A of this

1 section. If the transplant is performed within thirty days before the date  
2 of the eligibility determination, the administration shall pay the hospital  
3 on a retroactive basis at the contracted rate for costs of the transplant  
4 surgery, including up to one hundred days of posttransplantation care. The  
5 administration shall deduct the amount of excess income that the person has  
6 agreed to pay the hospital before payment is made to the hospital for  
7 transplant services pursuant to this section. The amount of excess income  
8 shall not be recomputed after the date the person becomes eligible pursuant  
9 to this section. The administration is not responsible for paying any spend  
10 down amount if the person does not pay the hospital. The contracting  
11 hospital shall submit a copy of the person's contractual agreement with the  
12 hospital to the administration.

13 E. Eligibility pursuant to this section shall be funded only pursuant  
14 to section 36-2907.12.

15 F. This section does not prohibit a person from applying for  
16 eligibility pursuant to any other applicable law.

17 G. If the administration and a hospital that performed a transplant  
18 surgery on a person eligible pursuant to this section do not have a  
19 contracted rate, the administration shall not reimburse the hospital more  
20 than the contracted rate established by the administration.

21 Sec. 9. Section 36-2912, Arizona Revised Statutes, is amended to read:  
22 36-2912. Healthcare group coverage; program requirements for  
23 small businesses and public employers; related  
24 requirements; definitions

25 A. The administration shall administer a healthcare group program to  
26 allow willing contractors to deliver health care services to persons defined  
27 as eligible pursuant to section 36-2901, paragraph 6, subdivisions (b), (c),  
28 (d) and (e). In counties with a population of less than five hundred  
29 thousand persons, the administration may contract directly with any health  
30 care provider or entity. The administration may enter into a contract with  
31 another entity to provide administrative functions for the healthcare group  
32 program.

33 B. Employers with two eligible employees or up to an average of fifty  
34 eligible employees under section 36-2901, paragraph 6, subdivision (d):

35 1. May contract with the administration to be the exclusive health  
36 benefit plan if the employer has five or fewer eligible employees and enrolls  
37 one hundred per cent of these employees into the health benefit plan.

38 2. May contract with the administration for coverage available  
39 pursuant to this section if the employer has six or more eligible employees  
40 and enrolls eighty per cent of these employees into the healthcare group  
41 program.

42 3. Shall have a minimum of two and a maximum of fifty eligible  
43 employees at the effective date of their first contract with the  
44 administration.

1 C. The administration shall not enroll an employer group in healthcare  
2 group sooner than ninety days after the date that the employer's health  
3 insurance coverage under an accountable health plan is discontinued.  
4 Enrollment in healthcare group is effective on the first day of the month  
5 after the ninety day period. This subsection does not apply to an employer  
6 group if the employer's accountable health plan discontinues offering the  
7 health plan of which the employer is a member.

8 D. Employees with proof of other existing health care coverage who  
9 elect not to participate in the healthcare group program shall not be  
10 considered when determining the percentage of enrollment requirements under  
11 subsection B of this section if either:

12 1. Group health coverage is provided through a spouse, parent or legal  
13 guardian, or insured through individual insurance or another employer.

14 2. Medical assistance is provided by a government subsidized health  
15 care program.

16 ~~3. Medical assistance is provided pursuant to section 36-2982,~~  
17 ~~subsection I.~~

18 E. An employer shall not offer coverage made available pursuant to  
19 this section to persons defined as eligible pursuant to section 36-2901,  
20 paragraph 6, subdivision (b), (c), (d) or (e) as a substitute for a federally  
21 designated plan.

22 F. An employee or dependent defined as eligible pursuant to section  
23 36-2901, paragraph 6, subdivision (b), (c), (d) or (e) may participate in  
24 healthcare group on a voluntary basis only.

25 G. Notwithstanding subsection B, paragraph 2 of this section, the  
26 administration shall adopt rules to allow a business that offers healthcare  
27 group coverage pursuant to this section to continue coverage if it expands  
28 its employment to include more than fifty employees.

29 H. The administration shall provide eligible employees with disclosure  
30 information about the health benefit plan.

31 I. The director shall:

32 1. Require that any contractor that provides covered services to  
33 persons defined as eligible pursuant to section 36-2901, paragraph 6,  
34 subdivision (a) provide separate audited reports on the assets, liabilities  
35 and financial status of any corporate activity involving providing coverage  
36 pursuant to this section to persons defined as eligible pursuant to section  
37 36-2901, paragraph 6, subdivision (b), (c), (d) or (e).

38 2. Prohibit the administration and program contractors from  
39 reimbursing a noncontracting hospital for services provided to a member at a  
40 noncontracting hospital except for services for an emergency medical  
41 condition.

42 3. ~~Beginning on July 1, 2005,~~ Require that a contractor, the  
43 administration or an accountable health plan negotiate reimbursement rates.

1 The reimbursement rate for an emergency medical condition for a  
2 noncontracting hospital is:

3 (a) In counties with a population of more than five hundred thousand  
4 persons, one hundred fourteen per cent of the reimbursement rates established  
5 pursuant to section 36-2903.01, subsection H. The hospital shall notify the  
6 contractor when a member is stabilized.

7 (b) In counties with a population of less than five hundred thousand  
8 persons, one hundred twenty-five per cent of the reimbursement rates  
9 established pursuant to section 36-2903.01, subsection H. The hospital shall  
10 notify the contractor when a member is stabilized.

11 4. Use monies from the healthcare group fund established by section  
12 36-2912.01 for the administration's costs of operating the healthcare group  
13 program.

14 5. Ensure that the contractors are required to meet contract terms as  
15 are necessary in the judgment of the director to ensure adequate performance  
16 by the contractor. Contract provisions shall include, at a minimum, the  
17 maintenance of deposits, performance bonds, financial reserves or other  
18 financial security. The director may waive requirements for the posting of  
19 bonds or security for contractors that have posted other security, equal to  
20 or greater than that required for the healthcare group program, with the  
21 administration or the department of insurance for the performance of health  
22 service contracts if funds would be available to the administration from the  
23 other security on the contractor's default. In waiving, or approving waivers  
24 of, any requirements established pursuant to this section, the director shall  
25 ensure that the administration has taken into account all the obligations to  
26 which a contractor's security is associated. The director may also adopt  
27 rules that provide for the withholding or forfeiture of payments to be made  
28 to a contractor for the failure of the contractor to comply with provisions  
29 of its contract or with provisions of adopted rules.

30 6. Adopt rules.

31 7. Provide reinsurance to the contractors for clean claims based on  
32 thresholds established by the administration. For the purposes of this  
33 paragraph, "clean claims" has the same meaning prescribed in section 36-2904.

34 J. With respect to services provided by contractors to persons defined  
35 as eligible pursuant to section 36-2901, paragraph 6, subdivision (b), (c),  
36 (d) or (e), a contractor is the payor of last resort and has the same lien or  
37 subrogation rights as those held by health care services organizations  
38 licensed pursuant to title 20, chapter 4, article 9.

39 K. The administration shall offer a health benefit plan on a  
40 guaranteed issuance basis to small employers as required by this section.  
41 All small employers qualify for this guaranteed offer of coverage. The  
42 administration shall offer to all small employers the available health  
43 benefit plan and shall accept any small employer that applies and meets the  
44 eligibility requirements. In addition to the requirements prescribed in this

1 section, for any offering of any health benefit plan to a small employer, as  
2 part of the administration's solicitation and sales materials, the  
3 administration shall make a reasonable disclosure to the employer of the  
4 availability of the information described in this subsection and, on request  
5 of the employer, shall provide that information to the employer. The  
6 administration shall provide information concerning the following:

7 1. Provisions of coverage relating to the following, if applicable:

8 (a) The administration's right to establish premiums and to change  
9 premium rates and the factors that may affect changes in premium rates.

10 (b) Renewability of coverage.

11 (c) Any preexisting condition exclusion.

12 (d) The geographic areas served by the contractor.

13 2. The benefits and premiums available under all health benefit plans  
14 for which the employer is qualified.

15 L. The administration shall describe the information required by  
16 subsection K of this section in language that is understandable by the  
17 average small employer and with a level of detail that is sufficient to  
18 reasonably inform a small employer of the employer's rights and obligations  
19 under the health benefit plan. This requirement is satisfied if the  
20 administration provides the following information:

21 1. An outline of coverage that describes the benefits in summary form.

22 2. The rate or rating schedule that applies to the product,  
23 preexisting condition exclusion or affiliation period.

24 3. The minimum employer contribution and group participation rules  
25 that apply to any particular type of coverage.

26 4. In the case of a network plan, a map or listing of the areas  
27 served.

28 M. A contractor is not required to disclose any information that is  
29 proprietary and protected trade secret information under applicable law.

30 N. At least sixty days before the date of expiration of a health  
31 benefit plan, the administration shall provide a written notice to the  
32 employer of the terms for renewal of the plan.

33 O. The administration shall increase or decrease premiums based on  
34 actuarial reviews by an independent actuary of the projected and actual costs  
35 of providing health care benefits to eligible members. Before changing  
36 premiums, the administration must give sixty days' written notice to the  
37 employer. For each contract period the administration shall set premiums  
38 that in the aggregate cover projected medical and administrative costs for  
39 that contract period and that are determined pursuant to generally accepted  
40 actuarial principles and practices by an independent actuary.

41 P. The administration shall consider age, sex, health status-related  
42 factors, group size, geographic area and community rating when it establishes  
43 premiums for the healthcare group program.

1 Q. Except as provided in subsection R of this section, a health  
2 benefit plan may not deny, limit or condition the coverage or benefits based  
3 on a person's health status-related factors or a lack of evidence of  
4 insurability. A health benefit plan shall not provide or offer any service,  
5 benefit or coverage that is not part of the health benefit plan contract.

6 R. A health benefit plan shall not exclude coverage for preexisting  
7 conditions, except that:

8 1. A health benefit plan may exclude coverage for preexisting  
9 conditions for a period of not more than twelve months or, in the case of a  
10 late enrollee, eighteen months. The exclusion of coverage does not apply to  
11 services that are furnished to newborns who were otherwise covered from the  
12 time of their birth or to persons who satisfy the portability requirements  
13 under this section.

14 2. The contractor shall reduce the period of any applicable  
15 preexisting condition exclusion by the aggregate of the periods of creditable  
16 coverage that apply to the individual.

17 S. The contractor shall calculate creditable coverage according to the  
18 following:

19 1. The contractor shall give an individual credit for each portion of  
20 each month the individual was covered by creditable coverage.

21 2. The contractor shall not count a period of creditable coverage for  
22 an individual enrolled in a health benefit plan if after the period of  
23 coverage and before the enrollment date there were sixty-three consecutive  
24 days during which the individual was not covered under any creditable  
25 coverage.

26 3. The contractor shall give credit in the calculation of creditable  
27 coverage for any period that an individual is in a waiting period for any  
28 health coverage.

29 T. The contractor shall not count a period of creditable coverage with  
30 respect to enrollment of an individual if, after the most recent period of  
31 creditable coverage and before the enrollment date, sixty-three consecutive  
32 days lapse during all of which the individual was not covered under any  
33 creditable coverage. The contractor shall not include in the determination  
34 of the period of continuous coverage described in this section any period  
35 that an individual is in a waiting period for health insurance coverage  
36 offered by a health care insurer or is in a waiting period for benefits under  
37 a health benefit plan offered by a contractor. In determining the extent to  
38 which an individual has satisfied any portion of any applicable preexisting  
39 condition period the contractor shall count a period of creditable coverage  
40 without regard to the specific benefits covered during that period. A  
41 contractor shall not impose any preexisting condition exclusion in the case  
42 of an individual who is covered under creditable coverage thirty-one days  
43 after the individual's date of birth. A contractor shall not impose any  
44 preexisting condition exclusion in the case of a child who is adopted or

1 placed for adoption before age eighteen and who is covered under creditable  
2 coverage thirty-one days after the adoption or placement for adoption.

3 U. The written certification provided by the administration must  
4 include:

5 1. The period of creditable coverage of the individual under the  
6 contractor and any applicable coverage under a COBRA continuation provision.

7 2. Any applicable waiting period or affiliation period imposed on an  
8 individual for any coverage under the health plan.

9 V. The administration shall issue and accept a written certification  
10 of the period of creditable coverage of the individual that contains at least  
11 the following information:

12 1. The date that the certificate is issued.

13 2. The name of the individual or dependent for whom the certificate  
14 applies and any other information that is necessary to allow the issuer  
15 providing the coverage specified in the certificate to identify the  
16 individual, including the individual's identification number under the policy  
17 and the name of the policyholder if the certificate is for or includes a  
18 dependent.

19 3. The name, address and telephone number of the issuer providing the  
20 certificate.

21 4. The telephone number to call for further information regarding the  
22 certificate.

23 5. One of the following:

24 (a) A statement that the individual has at least eighteen months of  
25 creditable coverage. For THE purposes of this subdivision, "eighteen months"  
26 means five hundred forty-six days.

27 (b) Both the date that the individual first sought coverage, as  
28 evidenced by a substantially complete application, and the date that  
29 creditable coverage began.

30 6. The date creditable coverage ended, unless the certificate  
31 indicates that creditable coverage is continuing from the date of the  
32 certificate.

33 W. The administration shall provide any certification pursuant to this  
34 section within thirty days after the event that triggered the issuance of the  
35 certification. Periods of creditable coverage for an individual are  
36 established by presentation of the certifications in this section.

37 X. The healthcare group program shall comply with all applicable  
38 federal requirements.

39 Y. Healthcare group may pay a commission to an insurance producer. To  
40 receive a commission, the producer must certify that to the best of the  
41 producer's knowledge the employer group has not had insurance in the ninety  
42 days before applying to healthcare group. For the purposes of this  
43 subsection, "commission" means a one time payment on the initial enrollment  
44 of an employer.



1           Z. On or before June 15 and November 15 of each year, the director  
2 shall submit a report to the joint legislative budget committee regarding the  
3 number and type of businesses participating in healthcare group and that  
4 includes updated information on healthcare group marketing activities. The  
5 director, within thirty days of implementation, shall notify the joint  
6 legislative budget committee of any changes in healthcare group benefits or  
7 cost sharing arrangements.

8           AA. The administration shall submit the following to the joint  
9 legislative budget committee:

10           1. Quarterly reports regarding the financial condition of the  
11 healthcare group program. The reports shall include the number of persons  
12 and employer groups enrolled in the program and medical loss information and  
13 projections.

14           2. An annual financial audit.

15           3. The analysis that is used to determine premiums pursuant to  
16 subsection 0 of this section.

17           BB. Beginning July 1, 2009, and each fiscal year thereafter,  
18 healthcare group shall limit employer group enrollment to not more than five  
19 per cent more than the number of employer groups enrolled in the program at  
20 the end of the preceding fiscal year. Healthcare group shall give enrollment  
21 priority to uninsured groups.

22           CC. For the purposes of this section:

23           1. "Accountable health plan" has the same meaning prescribed in  
24 section 20-2301.

25           2. "COBRA continuation provision" means:

26           (a) Section 4980B, except subsection (f)(1) as it relates to pediatric  
27 vaccines, of the internal revenue code of 1986.

28           (b) Title I, subtitle B, part 6, except section 609, of the employee  
29 retirement income security act of 1974.

30           (c) Title XXII of the public health service act.

31           (d) Any similar provision of the law of this state or any other state.

32           3. "Creditable coverage" means coverage solely for an individual,  
33 other than limited benefits coverage, under any of the following:

34           (a) An employee welfare benefit plan that provides medical care to  
35 employees or the employees' dependents directly or through insurance,  
36 reimbursement or otherwise pursuant to the employee retirement income  
37 security act of 1974.

38           (b) A church plan as defined in the employee retirement income  
39 security act of 1974.

40           (c) A health benefits plan, as defined in section 20-2301, issued by a  
41 health plan.

42           (d) Part A or part B of title XVIII of the social security act.

43           (e) Title XIX of the social security act, other than coverage  
44 consisting solely of benefits under section 1928.

- 1 (f) Title 10, chapter 55 of the United States Code.  
2 (g) A medical care program of the Indian health service or of a tribal  
3 organization.  
4 (h) A health benefits risk pool operated by any state of the United  
5 States.  
6 (i) A health plan offered pursuant to title 5, chapter 89 of the  
7 United States Code.  
8 (j) A public health plan as defined by federal law.  
9 (k) A health benefit plan pursuant to section 5(e) of the peace corps  
10 act (22 United States Code section 2504(e)).  
11 (l) A policy or contract, including short-term limited duration  
12 insurance, issued on an individual basis by an insurer, a health care  
13 services organization, a hospital service corporation, a medical service  
14 corporation or a hospital, medical, dental and optometric service corporation  
15 or made available to persons defined as eligible under section 36-2901,  
16 paragraph 6, subdivisions (b), (c), (d) and (e).  
17 (m) A policy or contract issued by a health care insurer or the  
18 administration to a member of a bona fide association.  
19 4. "Eligible employee" means a person who is one of the following:  
20 (a) Eligible pursuant to section 36-2901, paragraph 6, subdivisions  
21 (b), (c), (d) and (e).  
22 (b) A person who works for an employer for a minimum of twenty hours  
23 per week or who is self-employed for at least twenty hours per week.  
24 (c) An employee who elects coverage pursuant to section 36-2982,  
25 subsection I. The restriction prohibiting employees employed by public  
26 agencies prescribed in section 36-2982, subsection I does not apply to this  
27 subdivision.  
28 (d) A person who meets all of the eligibility requirements, who is  
29 eligible for a federal health coverage tax credit pursuant to section 35 of  
30 the internal revenue code of 1986 and who applies for health care coverage  
31 through the healthcare group program. The requirement that a person be  
32 employed with a small business that elects healthcare group coverage does not  
33 apply to this eligibility group.  
34 5. "Emergency medical condition" has the same meaning prescribed in  
35 the emergency medical treatment and **ACTIVE** labor act (P.L. 99-272; 100 Stat.  
36 164; 42 United States Code section 1395dd(e)).  
37 6. "Genetic information" means information about genes, gene products  
38 and inherited characteristics that may derive from the individual or a family  
39 member, including information regarding carrier status and information  
40 derived from laboratory tests that identify mutations in specific genes or  
41 chromosomes, physical medical examinations, family histories and direct  
42 analyses of genes or chromosomes.  
43 7. "Health benefit plan" means coverage offered by the administration  
44 for the healthcare group program pursuant to this section.

1           8. "Health status-related factor" means any factor in relation to the  
2 health of the individual or a dependent of the individual enrolled or to be  
3 enrolled in a health plan including:

4           (a) Health status.

5           (b) Medical condition, including physical and mental illness.

6           (c) Claims experience.

7           (d) Receipt of health care.

8           (e) Medical history.

9           (f) Genetic information.

10          (g) Evidence of insurability, including conditions arising out of acts  
11 of domestic violence as defined in section 20-448.

12          (h) The existence of a physical or mental disability.

13          9. "Hospital" means a health care institution licensed as a hospital  
14 pursuant to chapter 4, article 2 of this title.

15          10. "Late enrollee" means an employee or dependent who requests  
16 enrollment in a health benefit plan after the initial enrollment period that  
17 is provided under the terms of the health benefit plan if the initial  
18 enrollment period is at least thirty-one days. Coverage for a late enrollee  
19 begins on the date the person becomes a dependent if a request for enrollment  
20 is received within thirty-one days after the person becomes a dependent. An  
21 employee or dependent shall not be considered a late enrollee if:

22          (a) The person:

23           (i) At the time of the initial enrollment period was covered under a  
24 public or private health insurance policy or any other health benefit plan.

25           (ii) Lost coverage under a public or private health insurance policy  
26 or any other health benefit plan due to the employee's termination of  
27 employment or eligibility, the reduction in the number of hours of  
28 employment, the termination of the other plan's coverage, the death of the  
29 spouse, legal separation or divorce or the termination of employer  
30 contributions toward the coverage.

31           (iii) Requests enrollment within thirty-one days after the termination  
32 of creditable coverage that is provided under a COBRA continuation provision.

33           (iv) Requests enrollment within thirty-one days after the date of  
34 marriage.

35          (b) The person is employed by an employer that offers multiple health  
36 benefit plans and the person elects a different plan during an open  
37 enrollment period.

38          (c) The person becomes a dependent of an eligible person through  
39 marriage, birth, adoption or placement for adoption and requests enrollment  
40 no later than thirty-one days after becoming a dependent.

41          11. "Preexisting condition" means a condition, regardless of the cause  
42 of the condition, for which medical advice, diagnosis, care or treatment was  
43 recommended or received within not more than six months before the date of  
44 the enrollment of the individual under a health benefit plan issued by a

1 contractor. Preexisting condition does not include a genetic condition in  
2 the absence of a diagnosis of the condition related to the genetic  
3 information.

4 12. "Preexisting condition limitation" or "preexisting condition  
5 exclusion" means a limitation or exclusion of benefits for a preexisting  
6 condition under a health benefit plan offered by a contractor.

7 13. "Small employer" means an employer who employs at least one but not  
8 more than fifty eligible employees on a typical business day during any one  
9 calendar year.

10 14. "Waiting period" means the period that must pass before a potential  
11 participant or eligible employee in a health benefit plan offered by a health  
12 plan is eligible to be covered for benefits as determined by the individual's  
13 employer.

14 Sec. 10. Repeal; children's health insurance program; reversion

15 A. Title 36, chapter 29, article 4, Arizona Revised Statutes, is  
16 repealed.

17 B. Any monies remaining in the children's health insurance program  
18 fund shall revert to the state general fund one year after the effective date  
19 of this act.

20 Sec. 11. Section 36-3408, Arizona Revised Statutes, is amended to  
21 read:

22 36-3408. Eligibility for behavioral health service system;  
23 screening process; required information

24 A. Any person ~~OR THE PERSON'S PARENT OR LEGAL GUARDIAN~~ who requests  
25 behavioral health services pursuant to this chapter ~~or the person's parent or~~  
26 ~~legal guardian~~ shall comply with a preliminary financial screening and  
27 eligibility process developed by the department of health services in  
28 coordination with the Arizona health care cost containment system  
29 administration and administered at the initial intake level. A person who  
30 receives behavioral health services pursuant to this chapter and who has not  
31 been determined eligible for title XVIII and for the medicare part D  
32 prescription drug benefit, ~~OR title XIX or title XXI~~ services shall comply  
33 annually with the eligibility determination process. If the results indicate  
34 that the person may be eligible for title XVIII and for the medicare part D  
35 prescription drug benefit, ~~OR title XIX or title XXI~~, in order to continue  
36 to receive services pursuant to this chapter, the applicant shall submit a  
37 completed application within ten working days to the social security  
38 administration, the department of economic security or the Arizona health  
39 care cost containment system administration, which shall determine the  
40 applicant's eligibility pursuant to title XVIII and for the medicare part D  
41 prescription drug benefit, section 36-2901, paragraph 6, subdivision (a), ~~OR~~  
42 ~~section 36-2931, paragraph 5 or section 36-2981, paragraph 6~~ for health and  
43 medical or long-term care services pursuant to chapter 29 of this title. The  
44 applicant shall cooperate fully with the eligibility determination process.

1 If the person is in need of emergency services provided pursuant to this  
2 chapter, the person may begin to receive these services immediately provided  
3 that within five days from the date of service a financial screening is  
4 initiated.

5 B. Applicants who refuse to cooperate in the financial screening and  
6 eligibility process are not eligible for services pursuant to this chapter.  
7 A form explaining loss of benefits due to refusal to cooperate shall be  
8 signed by the applicant. Refusal to cooperate shall not be construed to mean  
9 the applicant's inability to obtain documentation required for eligibility  
10 determination. The department of economic security and the Arizona health  
11 care cost containment system administration shall promptly inform the  
12 department of health services of the applications that are denied based on an  
13 applicant's failure to cooperate with the eligibility determination process  
14 and, on request, of applicants who do not submit an application as required  
15 by this section.

16 C. The department of economic security, in coordination with the  
17 department of health services, shall provide on-site eligibility  
18 determinations at appropriate program locations subject to legislative  
19 appropriation.

20 D. This section only applies to persons who receive services that are  
21 provided pursuant to this section and that are paid for in whole or in part  
22 with state funds.

23 E. A person who requests treatment services under this chapter shall  
24 provide personally identifying information required by the department of  
25 health services.

26 F. Except as otherwise provided by law, this section and cooperation  
27 with the eligibility determination process do not entitle any person to any  
28 particular services that are subject to legislative appropriation.

29 Sec. 12. Laws 2009, third special session, chapter 3, section 2 is  
30 amended to read:

31 Sec. 2. ALTCs; reversion of excess appropriation; counties;  
32 fiscal year 2008-2009

33 Notwithstanding the distribution percentage specified in section  
34 11-292, subsection M, Arizona Revised Statutes, for fiscal ~~years~~ YEAR  
35 2008-2009 ~~and 2009-2010~~, while the state is receiving the enhanced federal  
36 match rate, if any monies in the funds for the purpose of title 36, chapter  
37 29, article 2, Arizona Revised Statutes, remain unexpended at the end of the  
38 fiscal year, of the amount specified by the director of the Arizona health  
39 care cost containment system administration, the state treasurer shall  
40 distribute sixty-two and two-tenths per cent to the counties pursuant to  
41 section 11-292, subsection B or C, Arizona Revised Statutes.

1           Sec. 13. ALTCs; transfer of excess elderly and physically  
2   disabled lump sum appropriation; counties; fiscal  
3   year 2009-2010

4           Notwithstanding the distribution percentage specified in section  
5 11-292, subsection M, Arizona Revised Statutes, for fiscal year 2009-2010 the  
6 Arizona health care cost containment system administration shall transfer to  
7 the counties such portion, if any, of the federal monies received by this  
8 state under section 5001 of the American recovery and reinvestment act of  
9 2009 (P.L. 111-5), as may be necessary to ensure that the final savings  
10 achieved as a result of section 5001 of the American recovery and  
11 reinvestment act of 2009 (P.L. 111-5) are split sixty per cent to the  
12 counties and forty per cent to this state.

13           Sec. 14. ALTCs; transfer of long-term care medicare clawback  
14   payments; counties; fiscal years 2008-2009 and  
15   2009-2010

16           Notwithstanding the distribution percentage specified in section  
17 11-292, subsection M, Arizona Revised Statutes, for fiscal years 2008-2009  
18 and 2009-2010 the Arizona health care cost containment system administration  
19 shall transfer to the counties such portion, if any, of the federal monies  
20 received by this state under section 5001 of the American recovery and  
21 reinvestment act of 2009 (P.L. 111-5), as may be necessary to ensure that the  
22 final savings achieved as a result of section 5001 of the American recovery  
23 and reinvestment act of 2009 (P.L. 111-5) are 45.5 per cent to the counties  
24 and 54.5 per cent to this state for long-term care medicare clawback  
25 payments.

26           Sec. 15. ALTCs; county contributions; fiscal year 2010-2011

27           A. Notwithstanding section 11-292, Arizona Revised Statutes, county  
28 contributions for the Arizona long-term care system for fiscal year 2010-2011  
29 are as follows:

30           1. Apache	\$ 563,100
31           2. Cochise	\$ 4,827,600
32           3. Coconino	\$ 1,690,400
33           4. Gila	\$ 1,948,100
34           5. Graham	\$ 1,287,300
35           6. Greenlee	\$ 146,600
36           7. La Paz	\$ 743,600
37           8. Maricopa	\$138,339,400
38           9. Mohave	\$ 6,574,900
39           10. Navajo	\$ 2,330,600
40           11. Pima	\$ 35,803,700
41           12. Pinal	\$ 13,357,800
42           13. Santa Cruz	\$ 1,721,400
43           14. Yavapai	\$ 8,428,400
44           15. Yuma	\$ 7,220,800

1 B. The amounts specified in subsection A of this section reflect  
2 \$39,706,700 in decreases in county contributions for the Arizona long-term  
3 care system pursuant to section 5001(g)(2) of the American recovery and  
4 reinvestment act of 2009 (P.L. 111-5).

5 C. The amounts specified in subsection A of this section reflect  
6 \$3,221,700 in decreases in county contributions for the Arizona long-term  
7 care system pursuant to section 5001(g)(2) of the American recovery and  
8 reinvestment act of 2009 (P.L. 111-5) for medicare clawback savings.

9 D. The county contributions for the Arizona long-term care system  
10 would have otherwise totaled \$267,912,100 in fiscal year 2010-2011.

11 Sec. 16. ALTCs; transfer of excess elderly and physically  
12 disabled lump sum appropriation; counties; fiscal  
13 year 2010-2011

14 Notwithstanding the distribution percentage specified in section  
15 11-292, subsection M, Arizona Revised Statutes, for fiscal year 2010-2011 the  
16 Arizona health care cost containment system administration shall transfer to  
17 the counties such portion, if any, of the federal monies received by this  
18 state under section 5001 of the American recovery and reinvestment act of  
19 2009 (P.L. 111-5), as may be necessary to ensure that the final savings  
20 achieved as a result of section 5001 of the American recovery and  
21 reinvestment act of 2009 (P.L. 111-5) are split 59.3 per cent to the counties  
22 and 40.7 per cent to this state.

23 Sec. 17. ALTCs; transfer of long-term care medicare clawback  
24 payments; counties; fiscal year 2010-2011

25 Notwithstanding the distribution percentage specified in section  
26 11-292, subsection M, Arizona Revised Statutes, for fiscal year 2010-2011 the  
27 Arizona health care cost containment system administration shall transfer to  
28 the counties such portion, if any, of the federal monies received by this  
29 state under section 5001 of the American recovery and reinvestment act of  
30 2009 (P.L. 111-5), as may be necessary to ensure that the final savings  
31 achieved as a result of section 5001 of the American recovery and  
32 reinvestment act of 2009 (P.L. 111-5) are 45.3 per cent to the counties and  
33 54.7 per cent to this state for long-term care medicare clawback payments.

34 Sec. 18. AHCCCS transfer; counties; federal monies

35 On or before December 31, 2010, notwithstanding any other law, for  
36 fiscal year 2009-2010 the Arizona health care cost containment system  
37 administration shall transfer to the counties such portion, if any, of the  
38 federal monies received by this state under section 5001 of the American  
39 recovery and reinvestment act of 2009 (P.L. 111-5), as may be necessary to  
40 comply with section 5001(g)(2) of the American recovery and reinvestment act  
41 of 2009 (P.L. 111-5), but not more than the counties' proportional percentage  
42 of the original amount of the county acute care contribution and the hospital  
43 and medical care contribution to the state's contribution for fiscal year  
44 2008-2009.

1           Sec. 19. AHCCCS transfer; counties; federal monies

2           Notwithstanding any other law, on or before December 31, 2011, for  
3 fiscal year 2010-2011 the Arizona health care cost containment system  
4 administration shall transfer to the counties such portion, if any, of the  
5 federal monies received by this state under section 5001 of the American  
6 recovery and reinvestment act of 2009 (P.L. 111-5), as may be necessary to  
7 comply with section 5001(g)(2) of the American recovery and reinvestment act  
8 of 2009 (P.L. 111-5), but not more than the counties' proportional percentage  
9 of the original amount of the county acute care contribution and the hospital  
10 and medical care contribution to the state's contribution for fiscal year  
11 2008-2009.

12           Sec. 20. AHCCCS; local expenditure; federal matching monies

13           Notwithstanding any other law, subject to the approval of the centers  
14 for medicare and medicaid services, the Arizona health care cost containment  
15 system administration may spend federal monies made available by local or  
16 tribal spending. The administration shall not spend these federal monies if  
17 the expenditure would reduce the enhanced funding available under the  
18 American recovery and reinvestment act of 2009 (P.L. 111-5) or would cause  
19 the administration to exceed any limitations on federal spending.

20           Sec. 21. County administrative costs; refund

21           Notwithstanding any other law, for fiscal year 2010-2011, the Arizona  
22 health care cost containment system administration shall refund to the  
23 counties the portion, if any, of the monies received by this state from the  
24 counties pursuant to section 11-292, subsection 0, Arizona Revised Statutes,  
25 for the costs of administering sections 36-2901.01 and 36-2901.04, Arizona  
26 Revised Statutes, as may be necessary to comply with section 5001 (g)(2) of  
27 the American recovery and reinvestment act of 2009 (P.L. 111-5).

28           Sec. 22. Sexually violent persons; county reimbursement; fiscal  
29                                   year 2010-2011; deposit; tax withholding

30           A. Notwithstanding any other law, if this state pays the costs of a  
31 commitment of an individual determined to be sexually violent by the court,  
32 the county shall reimburse the department of health services for twenty-five  
33 per cent of these costs for fiscal year 2010-2011.

34           B. The department of health services shall deposit the reimbursements,  
35 pursuant to sections 35-146 and 35-147, Arizona Revised Statutes, in the  
36 Arizona state hospital fund established by section 36-545.08, Arizona Revised  
37 Statutes.

38           C. Each county shall make the reimbursements for these costs as  
39 specified in subsection A of this section within thirty days after a request  
40 by the department of health services. If the county does not make the  
41 reimbursement, the superintendent of the Arizona state hospital shall notify  
42 the state treasurer of the amount owed and the treasurer shall withhold the  
43 amount, including any additional interest as provided in section 42-1123,  
44 Arizona Revised Statutes, from any transaction privilege tax distributions to



1 the county. The treasurer shall deposit the withholdings, pursuant to  
2 sections 35-146 and 35-147, Arizona Revised Statutes, in the Arizona state  
3 hospital fund established by section 36-545.08, Arizona Revised Statutes.

4 D. Notwithstanding any other law, a county may meet any statutory  
5 funding requirements of this section from any source of county revenue  
6 designated by the county, including funds of any countywide special taxing  
7 district in which the board of supervisors serves as the board of directors.

8 E. County contributions made pursuant to this section are excluded  
9 from the county expenditure limitations.

10 Sec. 23. Competency restoration treatment; city and county  
11 reimbursement; fiscal year 2010-2011; deposit; tax  
12 withholding

13 A. Notwithstanding section 13-4512, Arizona Revised Statutes, if this  
14 state pays the costs of a defendant's inpatient competency restoration  
15 treatment pursuant to section 13-4512, Arizona Revised Statutes, the city or  
16 county shall reimburse the department of health services for one hundred per  
17 cent of these costs for fiscal year 2010-2011.

18 B. The department of health services shall deposit the reimbursements,  
19 pursuant to sections 35-146 and 35-147, Arizona Revised Statutes, in the  
20 Arizona state hospital fund established by section 36-545.08, Arizona Revised  
21 Statutes.

22 C. Each city and county shall make the reimbursements for these costs  
23 as specified in subsection A of this section within thirty days after a  
24 request by the department of health services. If the city or county does not  
25 make the reimbursement, the superintendent of the Arizona state hospital  
26 shall notify the state treasurer of the amount owed and the treasurer shall  
27 withhold the amount, including any additional interest as provided in section  
28 42-1123, Arizona Revised Statutes, from any transaction privilege tax  
29 distributions to the city or county. The treasurer shall deposit the  
30 withholdings, pursuant to sections 35-146 and 35-147, Arizona Revised  
31 Statutes, in the Arizona state hospital fund established by section  
32 36-545.08, Arizona Revised Statutes.

33 D. Notwithstanding any other law, a county may meet any statutory  
34 funding requirements of this section from any source of county revenue  
35 designated by the county, including funds of any countywide special taxing  
36 district in which the board of supervisors serves as the board of directors.

37 E. County contributions made pursuant to this section are excluded  
38 from the county expenditure limitations.

39 Sec. 24. State employee health benefits

40 Beginning October 1, 2010, for fiscal year 2010-2011, the department of  
41 administration shall not implement a differentiated health insurance premium  
42 based on the integrated or nonintegrated status of a health insurance  
43 provider available through the state employee health insurance program.

1           Sec. 25. AHCCCS; reimbursement rates

2           A. Notwithstanding any other law, for rates effective October 1, 2010  
3 through September 30, 2011, the Arizona health care cost containment system  
4 administration shall not increase the institutional or noninstitutional  
5 schedule rates above the rates in effect on September 30, 2010.

6           B. Notwithstanding any other law, in addition to any rate adjustments  
7 made pursuant to subsection A of this section, for rates effective October 1,  
8 2010 through September 30, 2011, the Arizona health care cost containment  
9 system administration may reduce the institutional and noninstitutional  
10 schedule rates up to five per cent.

11           C. If proposition 100 is not approved by the voters at the May 18,  
12 2010 special election, in addition to any reductions made pursuant to  
13 subsections A and B of this section, the Arizona health care cost containment  
14 system administration may reduce the institutional and noninstitutional  
15 schedule rates an additional ten per cent.

16           Sec. 26. AHCCCS; disproportionate share payments

17           Disproportionate share payments for fiscal year 2010-2011 made pursuant  
18 to section 36-2903.01, subsection P, Arizona Revised Statutes, include:

19           1. \$89,877,700 for a qualifying nonstate operated public hospital.  
20 The Maricopa county special health care district shall provide a certified  
21 public expense form for the amount of qualifying disproportionate share  
22 hospital expenditures made on behalf of this state to the administration on  
23 or before May 1, 2011 for all state plan years as required by the Arizona  
24 health care cost containment system 1115 waiver standard terms and  
25 conditions. The administration shall assist the district in determining the  
26 amount of qualifying disproportionate share hospital expenditures. Once the  
27 administration files a claim with the federal government and receives federal  
28 funds participation based on the amount certified by the Maricopa county  
29 special health care district, if the certification is equal to or greater  
30 than \$89,877,700, the administration shall distribute \$4,202,300 to the  
31 Maricopa county special health care district and deposit the balance of the  
32 federal funds participation in the state general fund. If the certification  
33 provided is for an amount less than \$89,877,700, and the administration  
34 determines that the revised amount is correct pursuant to the methodology  
35 used by the administration pursuant to section 36-2903.01, Arizona Revised  
36 Statutes, the administration shall notify the governor, the president of the  
37 senate and the speaker of the house of representatives, shall distribute  
38 \$4,202,300 to the Maricopa county special health care district and shall  
39 deposit the balance of the federal funds participation in the state general  
40 fund. If the certification provided is for an amount less than \$89,877,700  
41 and the administration determines that the revised amount is not correct  
42 pursuant to the methodology used by the administration pursuant to section  
43 36-2903.01, Arizona Revised Statutes, the administration shall notify the  
44 governor, the president of the senate and the speaker of the house of

1 representatives and shall deposit the total amount of the federal funds  
2 participation in the state general fund.

3 2. \$28,474,900 for the Arizona state hospital. The Arizona state  
4 hospital shall provide a certified public expense form for the amount of  
5 qualifying disproportionate share hospital expenditures made on behalf of the  
6 state to the administration on or before March 31, 2011. The administration  
7 shall assist the Arizona state hospital in determining the amount of  
8 qualifying disproportionate share hospital expenditures. Once the  
9 administration files a claim with the federal government and receives federal  
10 funds participation based on the amount certified by the Arizona state  
11 hospital, the administration shall distribute the entire amount of federal  
12 financial participation to the state general fund. If the certification  
13 provided is for an amount less than \$28,474,900, the administration shall  
14 notify the governor, the president of the senate and the speaker of the house  
15 of representatives and shall distribute the entire amount of federal  
16 financial participation to the state general fund. The certified public  
17 expense form provided by the Arizona state hospital shall contain both the  
18 total amount of qualifying disproportionate share hospital expenditures and  
19 the amount limited by section 1923(g) of the social security act.

20 3. \$9,284,800 for private qualifying disproportionate share hospitals.  
21 The Arizona health care cost containment system administration shall make  
22 payments to hospitals consistent with this appropriation and the terms of the  
23 section 1115 waiver, however, payments shall be limited to those hospitals  
24 that meet the mandatory definition of disproportionate share qualifying  
25 hospitals under section 1923 of the social security act.

26 Sec. 27. Arizona health care cost containment system  
27 administration; appropriation; disproportionate  
28 share payments

29 In addition to any other appropriations made in fiscal year 2010-2011  
30 to the Arizona health care cost containment system, the sum of \$3,000,000 is  
31 appropriated from the state general fund and \$5,784,800 in additional  
32 expenditure authority of federal monies is appropriated in fiscal year  
33 2010-2011 to the Arizona health care cost containment system for  
34 disproportionate share payments.

35 Sec. 28. County acute care contribution; fiscal year 2010-2011

36 A. Notwithstanding section 11-292, Arizona Revised Statutes, for  
37 fiscal year 2010-2011 for the provision of hospitalization and medical care,  
38 the counties shall contribute the following amounts:

39	1. Apache	\$ 268,800
40	2. Cochise	\$ 2,214,800
41	3. Coconino	\$ 742,900
42	4. Gila	\$ 1,413,200
43	5. Graham	\$ 536,200
44	6. Greenlee	\$ 190,700

1	7. La Paz	\$ 212,100
2	8. Maricopa	\$20,761,900
3	9. Mohave	\$ 1,237,700
4	10. Navajo	\$ 310,800
5	11. Pima	\$14,951,800
6	12. Pinal	\$ 2,715,600
7	13. Santa Cruz	\$ 482,800
8	14. Yavapai	\$ 1,427,800
9	15. Yuma	\$ 1,325,100

10 B. If a county does not provide funding as specified in subsection A  
11 of this section, the state treasurer shall subtract the amount owed by the  
12 county to the Arizona health care cost containment system fund and the  
13 long-term care system fund established by section 36-2913, Arizona Revised  
14 Statutes, from any payments required to be made by the state treasurer to  
15 that county pursuant to section 42-5029, subsection D, paragraph 2, Arizona  
16 Revised Statutes, plus interest on that amount pursuant to section 44-1201,  
17 Arizona Revised Statutes, retroactive to the first day the funding was due.  
18 If the monies the state treasurer withholds are insufficient to meet that  
19 county's funding requirements as specified in subsection A of this section,  
20 the state treasurer shall withhold from any other monies payable to that  
21 county from whatever state funding source is available an amount necessary to  
22 fulfill that county's requirement. The state treasurer shall not withhold  
23 distributions from the highway user revenue fund pursuant to title 28,  
24 chapter 18, article 2, Arizona Revised Statutes.

25 C. Payment of an amount equal to one-twelfth of the total amount  
26 determined pursuant to subsection A of this section shall be made to the  
27 state treasurer on or before the fifth day of each month. On request from  
28 the director of the Arizona health care cost containment system  
29 administration, the state treasurer shall require that up to three months'  
30 payments be made in advance, if necessary.

31 D. The state treasurer shall deposit the amounts paid pursuant to  
32 subsection C of this section and amounts withheld pursuant to subsection B of  
33 this section in the Arizona health care cost containment system fund and the  
34 long-term care system fund established by section 36-2913, Arizona Revised  
35 Statutes.

36 E. If payments made pursuant to subsection C of this section exceed  
37 the amount required to meet the costs incurred by the Arizona health care  
38 cost containment system for the hospitalization and medical care of those  
39 persons defined as an eligible person pursuant to section 36-2901, paragraph  
40 6, subdivisions (a), (b) and (c), Arizona Revised Statutes, the director of  
41 the Arizona health care cost containment system administration may instruct  
42 the state treasurer either to reduce remaining payments to be paid pursuant  
43 to this section by a specified amount or to provide to the counties specified

1 amounts from the Arizona health care cost containment system fund and the  
2 long-term care system fund.

3 F. It is the intent of the legislature that the Maricopa county  
4 contribution pursuant to subsection A of this section be reduced in each  
5 subsequent year according to the changes in the GDP price deflator. For the  
6 purposes of this subsection, "GDP price deflator" has the same meaning  
7 prescribed in section 41-563, Arizona Revised Statutes.

8 Sec. 29. Hospitalization and medical care contribution; fiscal  
9 year 2010-2011

10 A. Notwithstanding any other law, for fiscal year 2010-2011, beginning  
11 with the second monthly distribution of transaction privilege tax revenues,  
12 the state treasurer shall withhold one-eleventh of the following amounts from  
13 state transaction privilege tax revenues otherwise distributable, after any  
14 amounts withheld for the county long-term care contribution or the county  
15 administration contribution pursuant to section 11-292, subsection 0, Arizona  
16 Revised Statutes, for deposit in the Arizona health care cost containment  
17 system fund established by section 36-2913, Arizona Revised Statutes, for the  
18 provision of hospitalization and medical care:

19	1. Apache	\$ 87,300
20	2. Cochise	\$ 162,700
21	3. Coconino	\$ 160,500
22	4. Gila	\$ 65,900
23	5. Graham	\$ 46,800
24	6. Greenlee	\$ 12,000
25	7. La Paz	\$ 24,900
26	8. Mohave	\$ 187,400
27	9. Navajo	\$ 122,800
28	10. Pima	\$1,115,900
29	11. Pinal	\$ 218,300
30	12. Santa Cruz	\$ 51,600
31	13. Yavapai	\$ 206,200
32	14. Yuma	\$ 183,900

33 B. If the monies the state treasurer withholds are insufficient to  
34 meet that county's funding requirement as specified in subsection A of this  
35 section, the state treasurer shall withhold from any other monies payable to  
36 that county from whatever state funding source is available an amount  
37 necessary to fulfill that county's requirement. The state treasurer shall  
38 not withhold distributions from the highway user revenue fund pursuant to  
39 title 28, chapter 18, article 2, Arizona Revised Statutes.

40 C. On request from the director of the Arizona health care cost  
41 containment system administration, the state treasurer shall require that up  
42 to three months' payments be made in advance.

1 D. In fiscal year 2010-2011, the sum of \$2,646,200 withheld pursuant  
2 to subsection A of this section is allocated for the county acute care  
3 contribution for the provision of hospitalization and medical care services  
4 administered by the Arizona health care cost containment system  
5 administration.

6 E. County contributions made pursuant to this section are excluded  
7 from the county expenditure limitations.

8 Sec. 30. Proposition 204 administration; county expenditure  
9 limitation

10 County contributions for the administrative costs of implementing  
11 sections 36-2901.01 and 36-2901.04, Arizona Revised Statutes, that are made  
12 pursuant to section 11-292, subsection 0, Arizona Revised Statutes, are  
13 excluded from the county expenditure limitations.

14 Sec. 31. AHCCCS; capitation payments; suspension

15 A. Notwithstanding any other law, the Arizona health care cost  
16 containment system shall suspend acute care capitation payments in 2011 in  
17 the amount of \$344,201,700 for up to two months.

18 B. Notwithstanding sections 35-342 and 44-1201, Arizona Revised  
19 Statutes, delinquent payments to health care plans that are made pursuant to  
20 subsection A of this section and that are due in 2011 bear interest at a rate  
21 of five-tenths of one per cent a year.

22 Sec. 32. AHCCCS; ambulance rates; fiscal year 2010-2011

23 For fiscal year 2010-2011, section 36-2239, subsections D, F and G,  
24 Arizona Revised Statutes, do not apply to a remuneration made pursuant to the  
25 Arizona health care cost containment system.

26 Sec. 33. AHCCCS; risk contingency rate setting

27 Notwithstanding any other law, for the contract year beginning  
28 October 1, 2010 and ending September 30, 2011, the Arizona health care cost  
29 containment system administration may continue the risk contingency rate  
30 setting for all managed care organizations and the funding for all managed  
31 care organizations administrative funding levels that was imposed for the  
32 contract year beginning October 1, 2009 and ending September 30, 2010.

33 Sec. 34. Exemption from rule making; Arizona health care cost  
34 containment system

35 The Arizona health care cost containment system is exempt from the rule  
36 making requirements of title 41, chapter 6, Arizona Revised Statutes, for two  
37 years after the effective date of this act, for the following purposes:

38 1. Implementing section 36-2907, Arizona Revised Statutes, as amended  
39 by this act, and for the purpose of making changes to the amount, duration or  
40 scope of services provided pursuant to section 36-2907, subsection D, Arizona  
41 Revised Statutes.

42 2. Establishing and maintaining rules regarding standards, methods and  
43 procedures for determining eligibility necessary to implement a program  
44 within the available appropriation. The agency shall provide public notice

1 and an opportunity for public comment on proposed rules at least thirty days  
2 before rules are adopted or amended pursuant to this paragraph.

3 Sec. 35. Intent; false claims act; savings

4 It is the intent of the legislature that the Arizona health care cost  
5 containment system administration comply with the federal false claims act  
6 and maximize savings in, and continue to consider best available technologies  
7 in detecting fraud in, the administration's programs.