

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HOUSE BILL 2099

AN ACT

AMENDING SECTIONS 36-2907 AND 36-2989, ARIZONA REVISED STATUTES; RELATING TO
THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 36-2907, Arizona Revised Statutes, is amended to
3 read:
4 36-2907. Covered health and medical services; modifications;
5 related delivery of service requirements; definition
6 A. Subject to the limitations and exclusions specified in this
7 section, contractors shall provide the following medically necessary health
8 and medical services:
9 1. Inpatient hospital services that are ordinarily furnished by a
10 hospital for the care and treatment of inpatients and that are provided under
11 the direction of a physician or a primary care practitioner. For the
12 purposes of this section, inpatient hospital services exclude services in an
13 institution for tuberculosis or mental diseases unless authorized under an
14 approved section 1115 waiver.
15 2. Outpatient health services that are ordinarily provided in
16 hospitals, clinics, offices and other health care facilities by licensed
17 health care providers. Outpatient health services include services provided
18 by or under the direction of a physician or a primary care practitioner.
19 3. Other laboratory and x-ray services ordered by a physician or a
20 primary care practitioner.
21 4. Medications that are ordered on prescription by a physician or a
22 dentist licensed pursuant to title 32, chapter 11. ~~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. Medical supplies, durable medical equipment and prosthetic devices
29 ordered by a physician or a primary care practitioner. Suppliers of durable
30 medical equipment shall provide the administration with complete information
31 about the identity of each person who has an ownership or controlling
32 interest in their business and shall comply with federal bonding requirements
33 in a manner prescribed by the administration.
34 6. For persons who are at least twenty-one years of age, treatment of
35 medical conditions of the eye, excluding eye examinations for prescriptive
36 lenses and the provision of prescriptive lenses.
37 7. Early and periodic health screening and diagnostic services as
38 required by section 1905(r) of title XIX of the social security act for
39 members who are under twenty-one years of age.
40 8. Family planning services that do not include abortion or abortion
41 counseling. If a contractor elects not to provide family planning services,
42 this election does not disqualify the contractor from delivering all other
43 covered health and medical services under this chapter. In that event, the
44 administration may contract directly with another contractor, including an
45 outpatient surgical center or a noncontracting provider, to deliver family

1 planning services to a member who is enrolled with the contractor that elects
2 not to provide family planning services.

3 9. Podiatry services ordered by a primary care physician or primary
4 care practitioner.

5 10. Nonexperimental transplants approved for title XIX reimbursement.

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

8 **12. HOSPICE CARE.**

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

11 1. ~~Beginning on October 1, 2002,~~ Circumcision of newborn males is not
12 a covered health and medical service.

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

14 (a) Outpatient health services do not include occupational therapy or
15 speech therapy.

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

20 (c) Insulin pumps, percussive vests and orthotics are not covered
21 health and medical services.

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

23 (e) Podiatry services do not include services performed by a
24 podiatrist.

25 (f) Nonexperimental transplants do not include the following:

26 (i) Pancreas only transplants.

27 (ii) Pancreas after kidney transplants.

28 (iii) Lung transplants.

29 (iv) Hemopoetic cell allogenic unrelated transplants.

30 (v) Heart transplants for non-ischemic cardiomyopathy.

31 (vi) Liver transplants for diagnosis of hepatitis C.

32 (g) Beginning October 1, 2011, bariatric surgery procedures, including
33 laparoscopic and open gastric bypass and restrictive procedures, are not
34 covered health and medical services.

35 (h) Well exams are not a covered health and medical service, except
36 mammograms, pap smears and colonoscopies.

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

40 D. The director shall adopt rules necessary to limit, to the extent
41 possible, the scope, duration and amount of services, including maximum
42 limitations for inpatient services that are consistent with federal
43 regulations under title XIX of the social security act (P.L. 89-97; 79 Stat.
44 344; 42 United States Code section 1396 (1980)). To the extent possible and

1 practicable, these rules shall provide for the prior approval of medically
2 necessary services provided pursuant to this chapter.

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

12 F. The director shall adopt rules for the coverage of behavioral
13 health services for persons who are eligible under section 36-2901, paragraph
14 6, subdivision (a). The administration shall contract with the department of
15 health services for the delivery of all medically necessary behavioral health
16 services to persons who are eligible under rules adopted pursuant to this
17 subsection. The division of behavioral health in the department of health
18 services shall establish a diagnostic and evaluation program to which other
19 state agencies shall refer children who are not already enrolled pursuant to
20 this chapter and who may be in need of behavioral health services. In
21 addition to an evaluation, the division of behavioral health shall also
22 identify children who may be eligible under section 36-2901, paragraph 6,
23 subdivision (a) or section 36-2931, paragraph 5 and shall refer the children
24 to the appropriate agency responsible for making the final eligibility
25 determination.

26 G. The director shall adopt rules for the provision of transportation
27 services and rules providing for copayment by members for transportation for
28 other than emergency purposes. Subject to approval by the centers for
29 medicare and medicaid services, nonemergency medical transportation shall not
30 be provided to persons who are eligible pursuant to sections 36-2901.01 and
31 36-2901.04 and who reside in a county with a population of more than five
32 hundred thousand persons. Prior authorization is not required for medically
33 necessary ambulance transportation services rendered to members or eligible
34 persons initiated by dialing telephone number 911 or other designated
35 emergency response systems.

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

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

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

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

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

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

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

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

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

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

38 Sec. 2. Section 36-2989, Arizona Revised Statutes, is amended to read:
39 36-2989. Covered health and medical services; modifications;
40 related delivery of service requirements

41 A. Except as provided in this section, ~~beginning on October 1, 2001,~~
42 health and medical services ~~as defined~~ PRESCRIBED in section 36-2907 are
43 covered services and include:

- 1 1. Inpatient hospital services that are ordinarily furnished by a
2 hospital for the care and treatment of inpatients, that are medically
3 necessary and that are provided under the direction of a physician or a
4 primary care practitioner. For the purposes of this paragraph, inpatient
5 hospital services exclude services in an institution for tuberculosis or
6 mental diseases unless authorized by federal law.
- 7 2. Outpatient health services that are medically necessary and
8 ordinarily provided in hospitals, clinics, offices and other health care
9 facilities by licensed health care providers. For the purposes of this
10 paragraph, "outpatient health services" includes services provided by or
11 under the direction of a physician or a primary care practitioner.
- 12 3. Other laboratory and x-ray services ordered by a physician or a
13 primary care practitioner.
- 14 4. Medications that are medically necessary and ordered on
15 prescription by a physician, a primary care practitioner or a dentist
16 licensed pursuant to title 32, chapter 11.
- 17 5. Medical supplies, equipment and prosthetic devices.
- 18 6. Treatment of medical conditions of the eye, including eye
19 examinations for prescriptive lenses and the provision of prescriptive lenses
20 for members.
- 21 7. Medically necessary dental services.
- 22 8. Well child services, immunizations and prevention services.
- 23 9. Family planning services that do not include abortion or abortion
24 counseling. If a contractor elects not to provide family planning services,
25 this election does not disqualify the contractor from delivering all other
26 covered health and medical services under this article. In that event, the
27 administration may contract directly with another contractor, including an
28 outpatient surgical center or a noncontracting provider, to deliver family
29 planning services to a member who is enrolled with a contractor who elects
30 not to provide family planning services.
- 31 10. Podiatry services that are performed by a podiatrist licensed
32 pursuant to title 32, chapter 7 and that are ordered by a primary care
33 physician or primary care practitioner.
- 34 11. Medically necessary pancreas, heart, liver, kidney, cornea, lung
35 and heart-lung transplants and autologous and allogeneic bone marrow
36 transplants and immunosuppressant medications for these transplants ordered
37 on prescription by a physician licensed pursuant to title 32, chapter 13
38 or 17.
- 39 12. Medically necessary emergency and nonemergency transportation.
- 40 13. Inpatient and outpatient behavioral health services that are the
41 same as the least restrictive health benefits coverage plan for behavioral
42 health services that are offered through a health care services organization
43 for state employees under section 38-651.
- 44 14. HOSPICE CARE.

1 B. The administration shall pay noncontracting providers only for
2 health and medical services as prescribed in subsection A of this section.

3 C. To the extent possible and practicable, the administration and
4 contractors shall provide for the prior approval of medically necessary
5 services provided pursuant to this article.

6 D. The director shall make available home health services in lieu of
7 hospitalization pursuant to contracts awarded under this article.

8 E. Behavioral health services shall be provided to members through the
9 administration's intergovernmental agreement with the division of behavioral
10 health in the department of health services. The division of behavioral
11 health in the department of health services shall use its established
12 diagnostic and evaluation program for referrals of children who are not
13 already enrolled pursuant to this article and who may be in need of
14 behavioral health services. In addition to an evaluation, the division of
15 behavioral health shall also identify children who may be eligible under
16 section 36-2901, paragraph 6, subdivision (a) or section 36-2931, paragraph 5
17 and shall refer the children to the appropriate agency responsible for making
18 the final eligibility determination.

19 F. The director shall adopt rules for the provision of transportation
20 services for members. Prior authorization is not required for medically
21 necessary ambulance transportation services rendered to members initiated by
22 dialing telephone number 911 or other designated emergency response systems.

23 G. The director may adopt rules to allow the administration to use a
24 second opinion procedure under which surgery may not be eligible for coverage
25 pursuant to this article without documentation as to need by at least two
26 physicians or primary care practitioners.

27 H. All health and medical services provided under this article shall
28 be provided in the geographic service area of the member, except:

29 1. Emergency services and specialty services.

30 2. The director may permit the delivery of health and medical services
31 in other than the geographic service area in this state or in an adjoining
32 state if it is determined that medical practice patterns justify the delivery
33 of services or a net reduction in transportation costs can reasonably be
34 expected. Notwithstanding section 36-2981, paragraph 8 or 11, if services
35 are procured from a physician or primary care practitioner in an adjoining
36 state, the physician or primary care practitioner shall be licensed to
37 practice in that state pursuant to licensing statutes in that state that are
38 similar to title 32, chapter 13, 15, 17 or 25.

39 I. Covered outpatient services shall be subcontracted by a primary
40 care physician or primary care practitioner to other licensed health care
41 providers to the extent practicable for purposes of making health care
42 services available to underserved areas, reducing costs of providing medical
43 care and reducing transportation costs.

1 J. The director shall adopt rules that prescribe the coordination of
2 medical care for members and that include a mechanism to transfer members and
3 medical records and initiate medical care.

4 K. The director shall adopt rules for the reimbursement of specialty
5 services provided to the member if authorized by the member's primary care
6 physician or primary care practitioner.