

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

SENATE BILL 1479

AN ACT

AMENDING SECTIONS 36-2939, 36-2953 AND 46-294, ARIZONA REVISED STATUTES;
RELATING TO HUMAN SERVICES 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 36-2939, Arizona Revised Statutes, is amended to
3 read:

4 36-2939. Long-term care system services

5 A. The following services shall be provided by the program contractors
6 to members determined to need institutional services pursuant to this
7 article:

8 1. Nursing facility services other than services in an institution for
9 tuberculosis or mental disease.

10 2. Notwithstanding any other law, behavioral health services if these
11 services are not duplicative of long-term care services provided as of
12 January 30, 1993 under this subsection and are authorized by the program
13 contractor through the long-term care case management system. If the
14 administration is the program contractor, the administration may authorize
15 these services.

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

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

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

21 B. In addition to the services prescribed in subsection A of this
22 section, the department, as a program contractor, shall provide the following
23 services if appropriate to members who ~~are defined as persons with~~ HAVE A
24 developmental ~~disabilities pursuant to~~ DISABILITY AS DEFINED IN section
25 36-551 and are determined to need institutional services pursuant to this
26 article:

27 1. Intermediate care facility services for a member who has a
28 developmental disability as defined in section 36-551. For purposes of this
29 article, ~~such~~ a facility shall meet all federally approved standards and may
30 only include the Arizona training program facilities, a state owned and
31 operated service center, state owned or operated community residential
32 settings ~~or existing licensed facilities operated by this state or under~~ AND
33 PRIVATE STATE LICENSED FACILITIES THAT contract with the department ~~on or~~
34 ~~before July 1, 1988.~~

35 2. Home and community based services that may be provided in a
36 member's home, ~~or~~ AT an alternative residential setting as prescribed in
37 section 36-591 or AT other behavioral health alternative residential
38 facilities licensed by the department of health services and approved by the
39 director of the Arizona health care cost containment system administration
40 and that may include:

41 (a) Home health, which means the provision of nursing services or home
42 health aide services or medical supplies, equipment and appliances, ~~which~~
43 THAT are provided on a part-time or intermittent basis by a licensed home
44 health agency within a member's residence based on a physician's orders and
45 in accordance with federal law. Physical therapy, occupational therapy, or

1 speech and audiology services provided by a home health agency may be
2 provided in accordance with federal law. Home health agencies shall comply
3 with federal bonding requirements in a manner prescribed by the
4 administration.

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

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

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

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

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

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

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

26 (i) Other services or licensed or certified settings approved by the
27 director.

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

41 1. Home health, which means the provision of nursing services, ~~or~~ home
42 health aide services or medical supplies, equipment and appliances, ~~which~~
43 **THAT** are provided on a part-time or intermittent basis by a licensed home
44 health agency within a member's residence based on a physician's orders and
45 in accordance with federal law. Physical therapy, occupational therapy, or

1 speech and audiology services provided by a home health agency may be
2 provided in accordance with federal law. Home health agencies shall comply
3 with federal bonding requirements in a manner prescribed by the
4 administration.

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

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

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

14 5. Adult day health, which means a service that provides planned care
15 supervision and activities, personal care, personal living skills training,
16 meals and health monitoring in a group setting during a portion of a
17 continuous twenty-four hour period. Adult day health may also include
18 preventive, therapeutic and restorative health related services that do not
19 include behavioral health services.

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

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

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

28 9. Home delivered meals, which means a service that provides for a
29 nutritious meal containing at least one-third of the recommended dietary
30 allowance for an individual and which is delivered to the member's residence.

31 10. Other services or licensed or certified settings approved by the
32 director.

33 D. The amount of money expended by program contractors on home and
34 community based services pursuant to subsection C of this section shall be
35 limited by the director in accordance with the federal monies made available
36 to this state for home and community based services pursuant to subsection C
37 of this section. The director shall establish methods for the allocation of
38 monies for home and community based services to program contractors and shall
39 monitor expenditures on home and community based services by program
40 contractors.

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

44 F. In addition to services provided pursuant to subsections A, B and C
45 of this section, the director may implement a demonstration project to

1 provide home and community based services to special populations, including
2 persons with disabilities who are eighteen years of age or younger, medically
3 fragile, reside at home and would be eligible for supplemental security
4 income for the aged, blind or disabled or the state supplemental payment
5 program, except for the amount of their parent's income or resources. In
6 implementing this project, the director may provide for parental
7 contributions for the care of their child.

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

27 Sec. 2. Section 36-2953, Arizona Revised Statutes, is amended to read:

28 36-2953. Department long-term care system fund; uniform
29 accounting

30 A. The department shall establish and maintain a department long-term
31 care system fund, which is a separate fund to distinguish its revenues and
32 its expenditures pursuant to this article from other programs funded or
33 administered by the department. Subject to legislative appropriation, the
34 fund shall be used to pay administrative and program costs associated with
35 the operation of the system. The department long-term care system fund shall
36 be divided as follows:

37 1. An account for eligibility determination pursuant to section
38 36-2933, if the administration enters into an interagency agreement with the
39 department pursuant to section 36-2933, subsection E.

40 2. An account for the provision of long-term care services as
41 prescribed in section 36-2939, subsections A and B.

42 B. The department long-term care system fund shall be ~~comprised~~
43 **COMPOSED** of:

44 1. Monies paid by the administration pursuant to the contract.

45 2. Amounts paid by third-party payors.

- 1 3. Gifts, donations and grants from any source.
2 4. State appropriations for the department long-term care system
3 pursuant to this article.
4 5. Interest on monies deposited in the long-term care system fund.
5 C. The department shall submit a prospective long-term care budget as
6 prescribed by the administration.
7 D. The administration shall prescribe a uniform accounting system for
8 the fund established pursuant to subsection A of this section. Technical
9 assistance shall be provided by the administration to the department in order
10 to facilitate the implementation of the uniform accounting system.
11 E. The department shall submit an annual audited financial and
12 programmatic report for the preceding fiscal year as required by the
13 administration. The report shall include beginning and ending fund balances,
14 revenues and expenditures, including specific identification of
15 administrative costs for the system. The report shall include the number of
16 members served by the system and the cost incurred for various types of
17 services provided to members in a format prescribed by the director.
18 F. The department shall submit additional utilization and financial
19 reports as required by the director.
20 G. The director shall make at least an annual review of the
21 department's records and accounts.
22 H. All monies FROM CAPITATED PAYMENTS in the department long-term care
23 system fund that are unexpended and unencumbered at the end of the fiscal
24 year revert to the state general fund on or before June 30 of ~~that~~ THE
25 FOLLOWING fiscal year. The transfer amount may be adjusted for reported but
26 unpaid claims and estimated incurred but unreported claims, subject to
27 approval by the administration.
28 Sec. 3. Section 46-294, Arizona Revised Statutes, is amended to read:
29 46-294. Duration of assistance
30 A. A needy family is ineligible for a cash assistance grant awarded
31 under this article, except in case of hardship, if any of the following
32 applies:
33 1. The needy family includes a head of household or the spouse of the
34 head of household who has received cash assistance for himself for a total of
35 ~~twenty-four~~ TWELVE months.
36 2. The needy family includes a cash assistance ineligible parent or
37 the spouse of the ineligible parent who has received cash assistance on
38 behalf of an eligible dependent child for a total of ~~twenty-four~~ TWELVE
39 months.
40 3. The needy family includes an adult nonparent relative head of
41 household or the spouse of the adult nonparent relative head of household who
42 has received cash assistance on behalf of an eligible dependent child for a
43 total of ~~twenty-four~~ TWELVE months.

1 B. The time limit prescribed in subsection A applies retroactively to
2 cash assistance received under this article or the Arizona works program on
3 or after October 1, 2002. The time limit applies regardless of:

- 4 1. Whether the ~~twenty-four~~ TWELVE months are consecutive.
- 5 2. The source of funding for the program.

6 C. The ~~twenty-four~~ TWELVE month time limit prescribed in this section
7 does not apply to child only cases.

8 D. In determining the number of months that assistance has been
9 received, the department shall disregard any month during which assistance is
10 received by:

- 11 1. A foster parent, an unrelated adult or a nonparent relative, in a
12 child only case.
- 13 2. An assistance unit during the time in which the assistance unit
14 resides on an Indian reservation in which the unemployment rate of the adults
15 residing on the Indian reservation exceeds fifty ~~per cent~~ PERCENT.
- 16 3. An assistance unit if the cash assistance grant is less than the
17 full monthly amount of cash assistance for which the assistance unit
18 qualifies based on the date of the application.
- 19 4. An adult recipient who as a minor child was not a head of household
20 or married to a head of household.

21 E. Except in case of hardship, an assistance unit in which any adult
22 or minor parent of a dependent child who is a head of household or married to
23 a head of household has received sixty months of assistance funded in whole
24 or in part by the temporary assistance for needy families block grant in this
25 or any other state or United States territory or from a tribal temporary
26 assistance for needy families program shall not be eligible to receive under
27 any circumstances more than sixty months of such assistance.

28 ~~F. Cash assistance shall terminate on the first day of the first month
29 following the effective date of this amendment to this section for any
30 family, without regard to whether the family meets the financial criteria
31 established for a needy family, that has received twenty four or more months
32 of cash assistance as of that date.~~

33 F. CONSISTENT WITH THE ADOPTED STATE PLAN, CASH ASSISTANCE SHALL
34 TERMINATE ON JULY 1, 2016 FOR ANY FAMILY, WITHOUT REGARD TO WHETHER THE
35 FAMILY MEETS THE FINANCIAL CRITERIA ESTABLISHED FOR A NEEDY FAMILY, THAT HAS
36 RECEIVED TWELVE OR MORE MONTHS OF CASH ASSISTANCE AS OF THAT DATE.

37 Sec. 4. Child care assistance eligibility; notification

38 Notwithstanding section 46-803, Arizona Revised Statutes, for fiscal
39 year 2015-2016, the department of economic security may reduce maximum income
40 eligibility levels for child care assistance in order to manage within
41 appropriated and available monies. The department of economic security shall
42 notify the joint legislative budget committee of any change in maximum income
43 eligibility levels for child care assistance within fifteen days after
44 implementing the change.

1 Sec. 5. Department of economic security; drug testing; TANF
2 cash benefits recipients

3 During fiscal year 2015-2016, the department of economic security shall
4 screen and test each adult recipient who is otherwise eligible for temporary
5 assistance for needy families cash benefits and who the department has
6 reasonable cause to believe engages in the illegal use of controlled
7 substances. Any recipient who is found to have tested positive for the use
8 of a controlled substance that was not prescribed for the recipient by a
9 licensed health care provider is ineligible to receive benefits for a period
10 of one year.

11 Sec. 6. Auditor general; child safety reports

12 A. The auditor general shall provide to the governor, the speaker of
13 the house of representatives, the president of the senate and the directors
14 of the joint legislative budget committee and the governor's office of
15 strategic planning and budgeting the following reports concerning the
16 department of child safety that shall address:

17 1. Child removal processes. This report shall address the department
18 of child safety's methods and decision-making approach for determining
19 whether a child should be removed from the child's home. The report shall
20 include a review of the department's child safety and risk assessment
21 practices, including the factors that are considered in determining whether
22 to remove a child and a comparison of these practices to other states'
23 practices and best practices and shall include recommended improvements.

24 2. The use of a differential response system and case screening. This
25 report shall evaluate the merits and disadvantages of a differential response
26 system when responding to reports of child maltreatment, including the
27 state's historical use of the family builders program established by section
28 8-816, Arizona Revised Statutes. A differential response system would
29 contract out the initial investigation of low-risk reports of child
30 maltreatment as well as case management and the provision of services. The
31 report also shall address the appropriateness of using set criteria to screen
32 out reports of child maltreatment from investigation. In evaluating
33 differential response and case screening, the auditor general shall include
34 best practices in other states and recommend improvements.

35 3. Permanency practices for children in out-of-home care. This report
36 shall address the appropriateness of the department of child safety's
37 permanency practices and examine whether the department's permanency
38 practices allow adequate attention to be focused on seeking permanent
39 families for out-of-home children. The report shall also address best
40 practices in other states and recommend improvements.

41 B. The auditor general shall submit the report prescribed by
42 subsection A, paragraph 1 of this section on or before September 30, 2015,
43 the report prescribed by subsection A, paragraph 2 of this section on or
44 before March 31, 2016 and the report prescribed by subsection A, paragraph 3
45 of this section on or before September 30, 2016.

1 Sec. 7. Child welfare: joint report

2 The Arizona early childhood development and health board and the
3 department of child safety shall jointly report to the joint legislative
4 budget committee on their collaborative efforts to address child welfare
5 issues of common concern. The report shall include information about the
6 level of coordination among the department of child safety, the Arizona early
7 childhood development and health board and community groups to promote the
8 well-being of children and families that are identified in reports of abuse
9 or neglect. The joint report shall be submitted on or before February 1,
10 2016 for the prior year.

11 Sec. 8. Effective date

12 Section 46-294, Arizona Revised Statutes, as amended by this act is
13 effective to from and after June 30, 2016.