COMMITTEE ON HEALTH

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1087
(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

"Section 1. Section 36-2985, Arizona Revised Statutes, is amended to read:

36-2985. Notice of program suspension or termination; spending limit

A. If this state's federal medical assistance percentage for the program is less than one hundred percent, the administration shall immediately notify the governor, the president of the senate and the speaker of the house of representatives and shall immediately stop processing all new applications.


B. IF THE FEDERAL GOVERNMENT ELIMINATES FUNDING FOR THE PROGRAM AS SPECIFIED IN 42 UNITED STATES CODE SECTION 1397ee, THE ADMINISTRATION SHALL IMMEDIATELY STOP PROCESSING ALL NEW APPLICATIONS AND SHALL PROVIDE AT LEAST THIRTY DAYS' NOTICE TO CONTRACTORS AND MEMBERS THAT THE PROGRAM WILL TERMINATE.

B. C. The total amount of state monies that may be spent in any fiscal year by the administration for health care provided under this article shall not exceed the amount appropriated or authorized by section 35-173.

C. D. This article does not impose a duty on an officer, agent or employee of this state to discharge a responsibility or create any right in
a person or group if the discharge or right would require an expenditure of
state monies in excess of the expenditure authorized by legislative
appropriation for that specific purpose.

Sec. 2. Section 36-2986, Arizona Revised Statutes, is amended to
read:

36-2986. Administration; powers and duties of director

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

1. Contract administration and oversight of contractors.

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

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

4. Development and management of a contractor payment system.

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

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

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

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

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

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

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

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

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

B. Notwithstanding any other law, if Congress amends title XXI of
the social security act and the administration is required to make
conforming changes to rules adopted pursuant to this article, the
administration shall request a hearing with the joint health committee of
reference for review of the proposed rule changes.
C. The director may subcontract distinct administrative functions to one or more persons who may be contractors within the system.

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

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

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

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

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

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

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

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

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

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

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

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

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

Amend title to conform

And, as so amended, it do pass

HEATHER CARTER
CHAIRMAN