

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 106
HOUSE BILL 2706

AN ACT

AMENDING SECTION 36-2939, ARIZONA REVISED STATUTES; RELATING TO THE
ARIZONA LONG-TERM CARE SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-2939, 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
6 contractors to members who are determined to need institutional services
7 pursuant to this article:

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

10 2. Notwithstanding any other law, behavioral health services if
11 these services are not duplicative of long-term care services provided as
12 of January 30, 1993 under this subsection and are authorized by the
13 program contractor through the long-term care case management system. If
14 the administration is the program contractor, the administration may
15 authorize 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
18 members 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 6. Dental services in an annual amount of not more than one
22 thousand dollars per member.

23 B. In addition to the services prescribed in subsection A of this
24 section, the department, as a program contractor, shall provide the
25 following services if appropriate to members who have a developmental
26 disability as defined in section 36-551 and WHO are determined to need
27 institutional services pursuant to this article:

28 1. Intermediate care facility services for a member who has a
29 developmental disability as defined in section 36-551. For purposes of
30 this article, a facility shall meet all federally approved standards and
31 may only include the Arizona training program facilities, a state owned
32 and operated service center, state owned or operated community residential
33 settings and private facilities that contract with the department.

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

40 (a) Home health, which means the provision of nursing services,
41 SKILLED HOME HEALTH AIDE SERVICES, home health aide services or medical
42 supplies, equipment and appliances, that are provided on a part-time or
43 intermittent basis by a licensed home health agency within a member's
44 residence based on a physician's orders and in accordance with federal
45 law. Physical therapy, occupational therapy, or speech and audiology
46 services provided by a home health agency may be provided in accordance

1 with federal law. Home health agencies shall comply with federal bonding
2 requirements in a manner prescribed by the administration.

3 (b) SKILLED HOME HEALTH AIDE, WHICH MEANS A HOME HEALTH SERVICE
4 ORDERED BY A PHYSICIAN ON THE MEMBER'S PLAN OF CARE AND PROVIDED BY A
5 LICENSED NURSING ASSISTANT UNDER THE SUPERVISION OF A REGISTERED NURSE
6 PURSUANT TO SUBSECTION G OF THIS SECTION.

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

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

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

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

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

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

28 ~~(h)~~ (i) Transportation, which means a service that provides or
29 assists in obtaining transportation for the member.

30 ~~(i)~~ (j) Other services or licensed or certified settings approved
31 by the director.

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

45 1. Home health, which means the provision of nursing services, home
46 health aide services or medical supplies, equipment and appliances, that

1 are provided on a part-time or intermittent basis by a licensed home
2 health agency within a member's residence based on a physician's orders
3 and in accordance with federal law. Physical therapy, occupational
4 therapy, or speech and audiology services provided by a home health agency
5 may be provided in accordance with federal law. Home health agencies
6 shall comply with federal bonding requirements in a manner prescribed by
7 the administration.

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

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

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

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

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

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

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

32 9. Home delivered meals, which means a service that provides for a
33 nutritious meal that contains at least one-third of the recommended
34 dietary allowance for an individual and that is delivered to the member's
35 residence.

36 10. Other services or licensed or certified settings approved by
37 the director.

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

1 E. Notwithstanding subsections A, B, C, ~~and~~ F AND G of this
2 section, ~~no~~ A service may NOT be provided that does not qualify for
3 federal monies available under title XIX of the social security act or the
4 section 1115 waiver.

5 F. In addition to services provided pursuant to subsections A, B
6 and C of this section, the director may implement a demonstration project
7 to provide home and community based services to special populations,
8 including persons with disabilities who are eighteen years of age or
9 younger, are medically fragile, reside at home and would be eligible for
10 supplemental security income for the aged, blind or disabled or the state
11 supplemental payment program, except for the amount of their parent's
12 income or resources. In implementing this project, the director may
13 provide for parental contributions for the care of their child.

14 G. IN ADDITION TO SERVICES PROVIDED PURSUANT TO SUBSECTIONS A, B, C
15 AND F OF THIS SECTION, THE DIRECTOR SHALL IMPLEMENT A PROGRAM UNDER WHICH
16 SKILLED HOME HEALTH AIDE SERVICES MAY BE PROVIDED TO MEMBERS WHO HAVE
17 DEVELOPMENTAL DISABILITIES, WHO ARE UNDER EIGHTEEN YEARS OF AGE AND WHO
18 ARE ELIGIBLE TO RECEIVE CONTINUOUS SKILLED NURSING OR SKILLED NURSING
19 RESPITE CARE SERVICES PURSUANT TO CHAPTER 5.1, ARTICLE 1 OF THIS TITLE BY
20 A PARENT, GUARDIAN OR FAMILY MEMBER WHO IS A LICENSED NURSING ASSISTANT
21 EMPLOYED BY A MEDICARE-CERTIFIED HOME HEALTH AGENCY SERVICE PROVIDER. THE
22 DIRECTOR SHALL REQUEST ANY NECESSARY APPROVALS FROM THE CENTERS FOR
23 MEDICARE AND MEDICAID SERVICES TO IMPLEMENT THIS SUBSECTION AND TO QUALIFY
24 FOR FEDERAL MONIES AVAILABLE UNDER TITLE XIX OF THE SOCIAL SECURITY ACT OR
25 THE SECTION 1115 WAIVER.

26 ~~G.~~ H. Subject to section 36-562, the administration by rule shall
27 prescribe a deductible schedule for programs provided to members who are
28 eligible pursuant to subsection B of this section, except that the
29 administration shall implement a deductible based on family income. In
30 determining deductible amounts and whether a family is required to have
31 deductibles, the department shall use adjusted gross income. Families
32 whose adjusted gross income is at least four hundred percent and less than
33 or equal to five hundred percent of the federal poverty guidelines shall
34 have a deductible of two percent of adjusted gross income. Families whose
35 adjusted gross income is more than five hundred percent of adjusted gross
36 income shall have a deductible of four percent of adjusted gross income.
37 Only families whose children are under eighteen years of age and who are
38 members who are eligible pursuant to subsection B of this section may be
39 required to have a deductible for services. For the purposes of this
40 subsection, "deductible" means an amount a family, whose children are
41 under eighteen years of age and who are members who are eligible pursuant
42 to subsection B of this section, pays for services, other than
43 departmental case management and acute care services, before the
44 department will pay for services other than departmental case management
45 and acute care services.

H.B. 2706

APPROVED BY THE GOVERNOR APRIL 17, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2019.