

State of Arizona  
Senate  
Fifty-fourth Legislature  
First Regular Session  
2019

# SENATE BILL 1088

AN ACT

AMENDING SECTION 36-2907, ARIZONA REVISED STATUTES; APPROPRIATING MONIES;  
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;  
6 definition

7 A. Subject to the limitations and exclusions specified in this  
8 section, contractors shall provide the following medically necessary  
9 health and medical services:

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

16 2. Outpatient health services that are ordinarily provided in  
17 hospitals, clinics, offices and other health care facilities by licensed  
18 health care providers. Outpatient health services include services  
19 provided by or under the direction of a physician or a primary care  
20 practitioner, including occupational therapy.

21 3. Other laboratory and X-ray services ordered by a physician or a  
22 primary care practitioner.

23 4. Medications that are ordered on prescription by a physician or a  
24 dentist licensed pursuant to title 32, chapter 11. Persons who are dually  
25 eligible for title XVIII and title XIX services must obtain available  
26 medications through a medicare licensed or certified medicare advantage  
27 prescription drug plan, a medicare prescription drug plan or any other  
28 entity authorized by medicare to provide a medicare part D prescription  
29 drug benefit.

30 5. Medical supplies, durable medical equipment, insulin pumps and  
31 prosthetic devices ordered by a physician or a primary care practitioner.  
32 Suppliers of durable medical equipment shall provide the administration  
33 with complete information about the identity of each person who has an  
34 ownership or controlling interest in their business and shall comply with  
35 federal bonding requirements in a manner prescribed by the administration.

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

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

42 8. Family planning services that do not include abortion or  
43 abortion counseling. If a contractor elects not to provide family  
44 planning services, this election does not disqualify the contractor from  
45 delivering all other covered health and medical services under this

1 chapter. In that event, the administration may contract directly with  
2 another contractor, including an outpatient surgical center or a  
3 noncontracting provider, to deliver family planning services to a member  
4 who is enrolled with the contractor that elects not to provide family  
5 planning services.

6 9. Podiatry services that are performed by a podiatrist who is  
7 licensed pursuant to title 32, chapter 7 and ordered by a primary care  
8 physician or primary care practitioner.

9 10. Nonexperimental transplants approved for title XIX  
10 reimbursement.

11 11. For persons who are at least twenty-one years of age, emergency  
12 dental care and extractions in an annual amount of not more than ~~one~~  
13 ~~thousand dollars~~ \$1,000 per member.

14 12. Ambulance and nonambulance transportation, except as provided  
15 in subsection G of this section.

16 13. Hospice care.

17 14. Orthotics, if all of the following apply:

18 (a) The use of the orthotic is medically necessary as the preferred  
19 treatment option consistent with medicare guidelines.

20 (b) The orthotic is less expensive than all other treatment options  
21 or surgical procedures to treat the same diagnosed condition.

22 (c) The orthotic is ordered by a physician or primary care  
23 practitioner.

24 15. FOR WOMEN WHO ARE AT LEAST TWENTY-ONE YEARS OF AGE AND IN ANY  
25 STAGE OF PREGNANCY, COMPREHENSIVE DENTAL CARE.

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

28 1. Circumcision of newborn males is not a covered health and  
29 medical service.

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

31 (a) Outpatient health services do not include speech therapy.

32 (b) Prosthetic devices do not include hearing aids, dentures,  
33 bone-anchored hearing aids or cochlear implants. Prosthetic devices,  
34 except prosthetic implants, may be limited to ~~twelve thousand five hundred~~  
35 ~~dollars~~ \$12,500 per contract year.

36 (c) Percussive vests are not covered health and medical services.

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

39 (e) Nonexperimental transplants do not include pancreas-only  
40 transplants.

41 (f) Bariatric surgery procedures, including laparoscopic and open  
42 gastric bypass and restrictive procedures, are not covered health and  
43 medical services.

1 C. The system shall pay noncontracting providers only for health  
2 and 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  
8 Stat. 344; 42 United States Code section 1396 (1980)). To the extent  
9 possible and practicable, these rules shall provide for the prior approval  
10 of medically necessary services provided pursuant to this chapter.

11 E. The director shall make available home health services in lieu  
12 of hospitalization pursuant to contracts awarded under this article. For  
13 the purposes of this subsection, "home health services" means the  
14 provision of nursing services, home health aide services or medical  
15 supplies, equipment and appliances that are provided on a part-time or  
16 intermittent basis by a licensed home health agency within a member's  
17 residence based on the orders of a physician or a primary care  
18 practitioner. Home health agencies shall comply with the federal bonding  
19 requirements in a manner prescribed by the 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,  
22 paragraph 6, subdivision (a). The administration acting through the  
23 regional behavioral health authorities shall establish a diagnostic and  
24 evaluation program to which other state agencies shall refer children who  
25 are not already enrolled pursuant to this chapter and who may be in need  
26 of behavioral health services. In addition to an evaluation, the  
27 administration acting through regional behavioral health authorities shall  
28 also identify children who may be eligible under section 36-2901,  
29 paragraph 6, subdivision (a) or section 36-2931, paragraph 5 and shall  
30 refer the children to the appropriate agency responsible for making the  
31 final eligibility determination.

32 G. The director shall adopt rules PROVIDING for ~~the provision of~~  
33 transportation services and rules providing for copayment by members for  
34 transportation for other than emergency purposes. Subject to approval by  
35 the centers for medicare and medicaid services, nonemergency medical  
36 transportation shall not be provided except for stretcher vans and  
37 ambulance transportation. Prior authorization is required for  
38 transportation by stretcher van and for medically necessary ambulance  
39 transportation initiated pursuant to a physician's direction. Prior  
40 authorization is not required for medically necessary ambulance  
41 transportation services rendered to members or eligible persons initiated  
42 by dialing telephone number 911 or other designated emergency response  
43 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  
3 surgery 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  
7 budgeted or if at any time the amount remaining in the Arizona health care  
8 cost containment system fund is insufficient to pay for full contract  
9 services for the remainder of the contract term, the administration, on  
10 notification to system contractors at least thirty days in advance, may  
11 modify the list of services required under subsection A of this section  
12 for persons defined as eligible other than those persons defined pursuant  
13 to section 36-2901, paragraph 6, subdivision (a). The director may also  
14 suspend services or may limit categories of expense for services defined  
15 as optional pursuant to title XIX of the social security act (P.L. 89-97;  
16 79 Stat. 344; 42 United States Code section 1396 (1980)) for persons  
17 defined pursuant to section 36-2901, paragraph 6, subdivision (a). Such  
18 reductions or suspensions do not apply to the continuity of care for  
19 persons already receiving these services.

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

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

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

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

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

