State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

CHAPTER 46

HOUSE BILL 2668

AN ACT

AMENDING SECTION 36-2903.08, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 29, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7; RELATING TO THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 36-2903.08, Arizona Revised Statutes, is amended to read:

36-2903.08. AHCCCS uncompensated care; hospital assessment; reports

A. On or before October 1, 2014, and annually thereafter EACH YEAR, the Arizona health care cost containment system administration shall report to the speaker of the house of representatives, the president of the senate, THE CHAIRPERSONS OF THE APPROPRIATIONS COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE and the directors of the joint legislative budget committee and the governor's office of strategic planning and budgeting on the change in uncompensated hospital costs experienced by hospitals in this state and hospital profitability during the previous fiscal year.

B. On or before August 1, 2014, and annually thereafter EACH YEAR, the Arizona health care cost containment system administration shall report to the speaker of the house of representatives, the president of the senate, THE CHAIRPERSONS OF THE APPROPRIATIONS COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE and the directors of the joint legislative budget committee and the governor's office of strategic planning and budgeting the following:

1. The AGGREGATE amount each hospital contributed for the hospital assessment ASSESSMENTS authorized pursuant to section SECTIONS 36-2901.08 AND 36-2999.72 in the previous fiscal year.

2. The AGGREGATE amount of estimated payments each hospital received from the coverage AND DIRECTED PAYMENTS funded by the assessment.

Sec. 2. Title 36, chapter 29, Arizona Revised Statutes, is amended by adding article 7, to read:

ARTICLE 7. HEALTH CARE FINANCIAL STABILIZATION

36-2999.71. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ADMINISTRATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-2901.

2. "BASE REIMBURSEMENT LEVEL":

(a) MEANS THE TOTAL EXPENDITURES BY THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM AND ITS CONTRACTED HEALTH PLANS FOR HOSPITAL SERVICES TO ELIGIBLE PERSONS IN STATE FISCAL YEAR 2019-2020.

(b) DOES NOT INCLUDE DIRECTED PAYMENTS MADE PURSUANT TO THIS ARTICLE OR PAYMENTS MADE THROUGH THE PEDIATRIC SERVICES INITIATIVE PURSUANT TO 42 CODE OF FEDERAL REGULATIONS SECTION 438.6(c).

3. "DIRECTOR" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-2901.

36-2999.72. Hospital assessment; rules; collection; enforcement

A. IN ADDITION TO THE ASSESSMENT ESTABLISHED PURSUANT TO SECTION 36-2901.08, BEGINNING OCTOBER 1, 2020, THE DIRECTOR SHALL ESTABLISH,
ADMINISTER AND COLLECT AN ASSESSMENT ON HOSPITAL REVENUES, DISCHARGES OR
BED DAYS WITH RESPECT TO INPATIENT OR OUTPATIENT SERVICES, OR BOTH, FOR
THE PURPOSES PRESCRIBED IN SECTION 36-2999.73.

B. THE DIRECTOR SHALL ADOPT RULES REGARDING THE METHOD FOR
determining the assessment, the amount or rate of the assessment and
modifications to or exemptions from the assessment. The assessment is
subject to approval by the Centers for Medicare and Medicaid Services to
ensure that the assessment is not established or administered in a manner
that causes a reduction in federal financial participation.

C. THE DIRECTOR MAY ESTABLISH MODIFICATIONS TO OR EXEMPTIONS FROM
the assessment. In determining the modifications or exemptions, the
director may consider such factors as the size of the hospital, the
specialty services available to patients at the hospital and the
geographic location of the hospital.

D. THE DIRECTOR SHALL PRESENT ANY CHANGE TO THE HOSPITAL ASSESSMENT
METHODOLOGY TO THE JOINT LEGISLATIVE BUDGET COMMITTEE FOR REVIEW.

E. THE ADMINISTRATION SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146
AND 35-147, THE MONIES COLLECTED PURSUANT TO THIS SECTION IN THE HEALTH
CARE INVESTMENT FUND ESTABLISHED BY SECTION 36-2999.73.

F. A HOSPITAL MAY NOT PASS THE COST OF THE ASSESSMENT ON TO
PATIENTS OR THIRD-PARTY PAYORS THAT ARE LIABLE TO PAY FOR CARE ON A
PATIENT'S BEHALF. AS PART OF ITS FINANCIAL STATEMENT SUBMISSIONS PURSUANT
TO SECTION 36-125.04, A HOSPITAL SHALL SUBMIT TO THE DEPARTMENT OF HEALTH
SERVICES AN ATTESTATION THAT IT HAS NOT PASSED ON THE COST OF THE
ASSESSMENT TO PATIENTS OR THIRD-PARTY PAYORS.

G. IF A HOSPITAL DOES NOT COMPLY WITH THIS SECTION AS PRESCRIBED BY
THE DIRECTOR OF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM, THE
DIRECTOR OF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM MAY SUSPEND OR
REVOKE THE HOSPITAL'S ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM PROVIDER
AGREEMENT REGISTRATION. IF THE HOSPITAL DOES NOT COMPLY WITHIN ONE
HUNDRED EIGHTY DAYS AFTER THE DIRECTOR OF THE ARIZONA HEALTH CARE COST
CONTAINMENT SYSTEM SUSPENDS OR REVOKES THE HOSPITAL'S PROVIDER AGREEMENT,
THE DIRECTOR OF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM SHALL
NOTIFY THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES, WHO SHALL
SUSPEND OR REVOKE THE HOSPITAL'S LICENSE PURSUANT TO SECTION 36-427.

36-2999.73. Health care investment fund; purposes; approval

A. THE HEALTH CARE INVESTMENT FUND IS ESTABLISHED CONSISTING OF THE
FOLLOWING:

1. MONIES DEPOSITED IN THE FUND PURSUANT TO SECTION 36-2999.72.
2. INTEREST EARNED PURSUANT TO THIS SECTION.
3. LEGISLATIVE APPROPRIATIONS.

B. THE DIRECTOR SHALL ADMINISTER THE HEALTH CARE INVESTMENT FUND.
THE DIRECTOR MAY NOT USE FUND MONIES TO PAY FOR THE BASE REIMBURSEMENT
LEVEL FOR HOSPITAL SERVICES. THE DIRECTOR SHALL USE FUND MONIES AS
NECESSARY ONLY FOR THE PURPOSE OF FUNDING THE NONFEDERAL SHARE OF THE COST FOR THE FOLLOWING:

1. TO MAKE DIRECTED PAYMENTS TO HOSPITALS PURSUANT TO 42 CODE OF FEDERAL REGULATIONS SECTION 438.6(c) THAT SUPPLEMENT THE BASE REIMBURSEMENT LEVEL FOR HOSPITAL SERVICES TO ELIGIBLE PERSONS AS DEFINED IN SECTION 36-2901.

2. TO INCREASE BASE REIMBURSEMENT RATES FOR SERVICES REIMBURSED UNDER THE ADMINISTRATION'S DENTAL FEE SCHEDULE AND PHYSICIAN FEE SCHEDULE, NOT INCLUDING THE PHYSICIAN DRUG FEE SCHEDULE, TO THE EXTENT NECESSARY AS DETERMINED BY THE ADMINISTRATION TO RESTORE THESE PROVIDERS' RATES TO THE RATE LEVELS IN EXISTENCE BEFORE FISCAL YEAR 2008-2009, IF THESE EXPENSES DO NOT EXCEED THE LESSER OF $70,500,000 OR TWENTY PERCENT OF THE TOTAL ASSESSMENT MONIES DEPOSITED PURSUANT TO SECTION 36-2999.72 FOR THE FISCAL YEAR.

3. TO PAY FOR THE NONFEDERAL SHARE OF THE COSTS FOR ADMINISTRATIVE EXPENSES INCURRED BY THE ADMINISTRATION OR ITS AGENTS IN PERFORMING THE ACTIVITIES AUTHORIZED BY THIS SECTION, IF THESE EXPENSES DO NOT EXCEED ONE PERCENT OF THE TOTAL ASSESSMENT MONIES DEPOSITED PURSUANT TO SECTION 36-2999.72 FOR THE FISCAL YEAR.

C. THE ADMINISTRATION SHALL DEVELOP A PROCESS TO ENSURE THAT CONTRACTORS PASS THROUGH DIRECTED PAYMENTS TO ELIGIBLE PROVIDERS IN A TIMELY MANNER. CONTRACTORS MAY NOT REDUCE CONTRACTED RATES AS A RESULT OF DIRECTED PAYMENTS.

D. MONIES IN THE HEALTH CARE INVESTMENT FUND:

1. ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSE OF APPROPRIATIONS.

2. ARE CONTINUOUSLY APPROPRIATED.

3. ARE TO BE CREDITED AGAINST THE TOTAL HOSPITAL ASSESSMENT TO BE COLLECTED PURSUANT TO SECTION 36-2999.72 FOR THE SUBSEQUENT FISCAL YEAR IF NOT EXPENDED FOR THE PURPOSES AUTHORIZED UNDER THIS SECTION WITHIN THE SAME FISCAL YEAR THE MONIES ARE DEPOSITED IN THE FUND.

4. MAY NOT BE USED TO SUPPLANT EXISTING AND FUTURE APPROPRIATIONS TO THE ADMINISTRATION FOR EXISTING AND FUTURE PROGRAMS.

E. THE ADMINISTRATION MAY NOT USE THE MONIES IN THE HEALTH CARE INVESTMENT FUND PURSUANT TO THIS SECTION UNTIL THE CENTERS FOR MEDICARE AND MEDICAID SERVICES APPROVES THE USE OF THE ASSESSMENT MONIES FOR DIRECTED HOSPITAL EXPENDITURES PURSUANT TO 42 CODE OF FEDERAL REGULATIONS SECTION 438.6(c) AND FEDERAL FINANCIAL PARTICIPATION ELIGIBILITY FOR THE DIRECTED HOSPITAL EXPENDITURES CONTEMPLATED UNDER THIS SECTION.

F. ON NOTICE FROM THE ADMINISTRATION, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE HEALTH CARE INVESTMENT FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.
Sec. 3. AHCCCS; rulemaking exemption
For the purposes of this act, the Arizona health care cost
containment system is exempt from the rulemaking requirements of title 41,
chapter 6, Arizona Revised Statutes, for one year after the effective date
of this act.
Sec. 4. Conditional repeal; refund; notice
A. Title 36, chapter 29, article 7, Arizona Revised Statutes, as
added by this act, is repealed as of the effective date for which the
centers for medicare and medicaid services notifies the Arizona health
care cost containment system administration that the centers for medicare
and medicaid services has made a final determination that the hospital
assessment established pursuant to section 36-2999.72, Arizona Revised
Statutes, as added by this act, is no longer eligible for federal
financial participation. The administration shall refund any monies
remaining in the health care investment fund established by section
36-2999.73, Arizona Revised Statutes, as added by this act, to hospitals
in proportion to the amounts paid by each hospital. The refund amount
shall be reduced for any authorized expenditures associated with a period
for which the hospital assessment is eligible for federal financial
participation.
B. The administration shall notify in writing the director of the
Arizona legislative council of this date.
