

REFERENCE TITLE: mental health medication; prior authorization

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1395

Introduced by
Senator Shope

AN ACT

AMENDING SECTIONS 20-3402 AND 36-2907, ARIZONA REVISED STATUTES; RELATING
TO MEDICAL INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-3402, Arizona Revised Statutes, is amended to
3 read:

4 20-3402. Prior authorization; exceptions

5 A. A health care services plan or its utilization review agent may
6 impose a prior authorization requirement for health care services provided
7 to an enrollee, except for emergency ambulance services and emergency
8 services as specified in section 20-2803, health care services arising
9 after the initial medical screening examination and immediately necessary
10 stabilizing treatment as specified in section 20-2803.

11 B. A health care services plan must allow at least one modality of
12 medication-assisted treatment to be available without prior authorization.

13 C. A HEALTH CARE SERVICES PLAN OR ITS UTILIZATION REVIEW AGENT
14 SHALL COVER, WITHOUT PRIOR AUTHORIZATION, ANY PRESCRIBED DRUG FOR THE
15 TREATMENT OF A MENTAL DISORDER IF ALL OF THE FOLLOWING APPLY:

16 1. THE DRUG IS PRESCRIBED TO ASSESS OR TREAT AN ENROLLEE'S SERIOUS
17 MENTAL ILLNESS. FOR THE PURPOSES OF THIS PARAGRAPH, "SERIOUS MENTAL
18 ILLNESS" MEANS A MENTAL DISORDER, AS DEFINED IN THE MOST RECENT EDITION OF
19 THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS OF THE AMERICAN
20 PSYCHIATRIC ASSOCIATION, THAT RESULTS IN SERIOUS FUNCTIONAL IMPAIRMENT AND
21 THAT SUBSTANTIALLY INTERFERES WITH OR LIMITS ONE OR MORE MAJOR LIFE
22 ACTIVITIES.

23 2. THE DRUG IS A COVERED BENEFIT.

24 3. THE PRESCRIBER INDICATES THE DRUG IS MEDICALLY NECESSARY AS
25 DEFINED IN SECTION 20-3651.

26 4. THE PRESCRIPTION DOES NOT EXCEED THE DOSAGE AMOUNT RECOMMENDED
27 BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION.

28 5. THE PRESCRIBER PERFORMS AN ANNUAL REVIEW OF THE PATIENT TO
29 EVALUATE THE PRESCRIPTION DRUG'S CONTINUED EFFICACY, CHANGES IN THE
30 PATIENT'S HEALTH STATUS AND POTENTIAL CONTRAINDICATIONS.

31 Sec. 2. Section 36-2907, Arizona Revised Statutes, is amended to
32 read:

33 36-2907. Covered health and medical services; modifications;
34 related delivery of service requirements;
35 definition

36 A. Subject to the ~~limitations~~ LIMITS and exclusions specified in
37 this section, contractors shall provide the following medically necessary
38 health and medical services:

39 1. Inpatient hospital services that are ordinarily furnished by a
40 hospital ~~for the~~ TO care FOR and ~~treatment of~~ TREAT inpatients and that
41 are provided under the direction of a physician or a primary care
42 practitioner. For the purposes of this section, inpatient hospital
43 services exclude services in an institution for tuberculosis or mental
44 diseases unless authorized under an approved section 1115 waiver.

45 2. Outpatient health services that are ordinarily provided in
46 hospitals, clinics, offices and other health care facilities by licensed

1 health care providers. Outpatient health services include services
2 provided by or under the direction of a physician or a primary care
3 practitioner, including occupational therapy.

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

6 4. Medications that are ordered on prescription by a physician or a
7 dentist licensed pursuant to title 32, chapter 11. Persons who are dually
8 eligible for title XVIII and title XIX services must obtain available
9 medications through a medicare licensed or certified medicare advantage
10 prescription drug plan, a medicare prescription drug plan or any other
11 entity authorized by medicare to provide a medicare part D prescription
12 drug benefit. DRUGS PRESCRIBED FOR THE TREATMENT OF A MENTAL DISORDER ARE
13 NOT SUBJECT TO ANY PRIOR AUTHORIZATION REQUIREMENT, STEP THERAPY OR OTHER
14 PROTOCOL THAT COULD RESTRICT OR DELAY DISPENSING THE DRUG IF ALL OF THE
15 FOLLOWING APPLY:

16 (a) THE DRUG IS PRESCRIBED TO ASSESS OR TREAT A PERSON'S SERIOUS
17 MENTAL ILLNESS. FOR THE PURPOSES OF THIS SUBDIVISION, "SERIOUS MENTAL
18 ILLNESS" MEANS A MENTAL DISORDER, AS DEFINED IN THE MOST RECENT EDITION OF
19 THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS OF THE AMERICAN
20 PSYCHIATRIC ASSOCIATION, THAT RESULTS IN SERIOUS FUNCTIONAL IMPAIRMENT AND
21 THAT SUBSTANTIALLY INTERFERES WITH OR LIMITS ONE OR MORE MAJOR LIFE
22 ACTIVITIES.

23 (b) THE DRUG IS A COVERED BENEFIT.

24 (c) THE PRESCRIPTION DOES NOT EXCEED THE DOSAGE AMOUNT RECOMMENDED
25 BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION.

26 (d) THE PRESCRIBER PERFORMS AN ANNUAL REVIEW OF THE PATIENT TO
27 EVALUATE THE PRESCRIPTION DRUG'S CONTINUED EFFICACY, CHANGES IN THE
28 PATIENT'S HEALTH STATUS AND POTENTIAL CONTRAINDICATIONS.

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

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

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

41 8. Family planning services that do not include abortion or
42 abortion counseling. If a contractor elects not to provide family
43 planning services, this election does not disqualify the contractor from
44 delivering all other covered health and medical services under this
45 chapter. In that event, the administration may contract directly with
46 another contractor, including an outpatient surgical center or a

1 noncontracting provider, to deliver family planning services to a member
2 who is enrolled with the contractor that elects not to provide family
3 planning services.

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

7 10. Nonexperimental transplants approved for title XIX
8 reimbursement.

9 11. Dental services as follows:

10 (a) Except as provided in subdivision (b) of this paragraph, for
11 persons who are at least twenty-one years of age, emergency dental care
12 and extractions in an annual amount of not more than \$1,000 per member.

13 (b) Subject to approval by the centers for medicare and medicaid
14 services, for persons treated at an Indian health service or tribal
15 facility, adult dental services that are eligible for a federal medical
16 assistance percentage of one hundred percent and that ~~are in excess of~~
17 EXCEED the limit prescribed in subdivision (a) of this paragraph.

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

20 13. Hospice care.

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

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

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

26 (c) The orthotic is ordered by a physician or primary care
27 practitioner.

28 B. The ~~limitations~~ LIMITS and exclusions for health and medical
29 services provided under this section are as follows:

30 1. Circumcision of newborn males is not a covered health and
31 medical service.

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

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

34 (b) Prosthetic devices do not include hearing aids, dentures,
35 bone-anchored hearing aids or cochlear implants. Prosthetic devices,
36 except prosthetic implants, may be limited to \$12,500 per contract year.

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

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

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

42 (f) Bariatric surgery procedures, including laparoscopic and open
43 gastric bypass and restrictive procedures, are not covered health and
44 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~~ LIMITS 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 transportation
33 services and rules providing for copayment by members for transportation
34 for other than emergency purposes. Subject to approval by the centers for
35 medicare and medicaid services, nonemergency medical transportation shall
36 not be provided except for stretcher vans and ambulance transportation.
37 Prior authorization is required for transportation by stretcher van and
38 for medically necessary ambulance transportation initiated pursuant to a
39 physician's direction. Prior authorization is not required for medically
40 necessary ambulance transportation services rendered to members or
41 eligible persons initiated by dialing telephone number 911 or other
42 designated emergency response systems.

43 H. The director may adopt rules to allow the administration, at the
44 director's discretion, to use a second opinion procedure under which
45 surgery may not be eligible for coverage pursuant to this chapter without

1 documentation as to need by at least two physicians or primary care
2 practitioners.

3 I. If the director does not receive bids within the amounts
4 budgeted or if at any time the amount remaining in the Arizona health care
5 cost containment system fund is insufficient to pay for full contract
6 services for the remainder of the contract term, the administration, on
7 notification to system contractors at least thirty days in advance, may
8 modify the list of services required under subsection A of this section
9 for persons defined as eligible other than those persons defined pursuant
10 to section 36-2901, paragraph 6, subdivision (a). The director may also
11 suspend services or may limit categories of expense for services defined
12 as optional pursuant to title XIX of the social security act (P.L. 89-97;
13 79 Stat. 344; 42 United States Code section 1396 (1980)) for persons
14 defined pursuant to section 36-2901, paragraph 6, subdivision (a). Such
15 reductions or suspensions do not apply to the continuity of care for
16 persons already receiving these services.

17 J. All health and medical services provided under this article
18 shall be provided in the geographic service area of the member, except:

19 1. Emergency services and specialty services provided pursuant to
20 section 36-2908.

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

32 K. Covered outpatient services shall be subcontracted by a primary
33 care physician or primary care practitioner to other licensed health care
34 providers to the extent practicable for purposes including, but not
35 limited to, making health care services available to underserved areas,
36 reducing costs of providing medical care and reducing transportation
37 costs.

38 L. The director shall adopt rules that prescribe the coordination
39 of medical care for persons who are eligible for system services. The
40 rules shall include provisions for transferring patients and medical
41 records and initiating medical care.

42 M. For the purposes of this section, "ambulance" has the same
43 meaning prescribed in section 36-2201.