ARIZONA STATE SENATE

Fifty-Seventh Legislature, First Regular Session

ENACTED
AMENDED

FACT SHEET FOR H.B. 2945/S.B. 1734

developmental disabilities; appropriations; waivers.

Purpose

An emergency measure that appropriates $122,300,300 from the Prescription Drug Rebate Fund and $403,000,000 in Medicaid Expenditure Authority in FY 2025 to the Department of Economic Security (DES) for the developmental disabilities Medicaid program. Prescribes requirements for the Arizona Health Care Cost Containment System (AHCCCS) relating to DES's developmental disabilities Medicaid program.

Background

The Division of Developmental Disabilities (DDD) is the division of DES that empowers individuals with intellectual and developmental disabilities to lead self-directed, healthy and meaningful lives. DDD provides supports and services for eligible Arizonans diagnosed with one of the following developmental disabilities: 1) autism; 2) cerebral palsy; 3) epilepsy; 4) cognitive or intellectual disability; 5) Down syndrome; or 6) are under the age of six and at risk of having a developmental disability. DDD serves more than 50,000 people with developmental disabilities and their families throughout Arizona each year (DDD).

Section 1115 of the federal Social Security Act gives the U.S. Secretary of Health and Human Services the authority to approve experimental, pilot or demonstration projects that assist in promoting the objective of the Medicaid program. The purpose of the demonstration that gives states additional flexibility to design and improve their programs is to demonstrate and evaluate state-specific policy approaches to better serve Medicaid populations (Medicaid).

On April 6, 2020, AHCCCS received temporary authority from the U.S. Centers for Medicare and Medicaid Services (CMS) to allow parents of minor children with disabilities to be paid caregivers during the COVID-19 Public Health Emergency. On September 27, 2023, AHCCCS submitted an 1115 Waiver amendment to CMS to request making the authority permanent. On February 16, 2024, AHCCCS received approval from CMS to permanently allow parents of minor children with disabilities to be paid caregivers (DES).

The Prescription Drug Rebate Fund consists of prescription drug rebate collections, interest from prescription drug rebate late payments and federal monies for the operation of the AHCCCS prescription drug rebate program (A.R.S. § 36-2930).

S.B. 1734 appropriates a total of $122,300,300 from the Prescription Drug Rebate Fund and $403,000,000 in Medicaid Expenditure Authority in FY 2025 to DES.

Provisions

1. Appropriates $109,200,300 from the Prescription Drug Rebate Fund and $403,000,000 from the developmental disabilities Medicaid Expenditure Authority in FY 2025 to DES for developmental disabilities Medicaid program expenses.

2. Appropriates $13,100,000 from the Prescription Drug Rebate Fund in FY 2025 to DES for developmental disabilities cost effectiveness study-client services.

3. Requires DES to implement an electronic visit verification system that includes modifiers to delineate that a parent or a nonprofit provider is providing the direct care services.

4. Requires DES to implement unique modifiers for delineating both:
   a) whether a parent or nonparent provided the direct care services; and
   b) attendant care services and habilitation services.

5. Prohibits a parent from billing for attendant care services provided while the minor child is not present, including while the minor child is at school, in inpatient care or receiving care in a clinical setting.

6. Prohibits a parent caregiver from billing for attendant care services for housekeeping, laundry or meal preparation that would ordinarily be performed by a parent of a minor child who does not have a disability.

7. Requires AHCCCS and DES to provide the Joint Legislative Budget Committee (JLBC) Staff, at the end of each calendar quarter, a report on the use of attendant care and habilitation services by parent caregivers under the Parents as Paid Caregivers Program (PPCG).

8. Requires the quarterly report to include:
   a) the annual growth in the number of parents and members enrolled in the PPCG;
   b) the number of emergency department visits and inpatient hospitalizations in the quarter;
   c) the approved annual hours delineated by primary diagnosis; and
   d) how long a member who receives care under the PPCG has been enrolled in the Arizona Long-Term Care System.

9. Requires AHCCCS to adopt and DES to implement, by October 1, 2025, a strengthened standardized assessment tool to determine the need for extraordinary care for minor children under the PPCG.

10. Requires the assessment tool to separate household tasks that would ordinarily be performed by a parent of a minor child that does not have a disability.

11. Specifies that a parent, except as otherwise provided in the minor child's plan of care, may only provide attendant care services and habilitation services under the PPCG between 6:00 AM and 10:00 PM.

12. Specifies that a parent may only be employed by a single agency to provide attendant care services and habilitation services under the PPCG.

13. Prohibits AHCCCS from submitting to CMS, or its successor agency, a new amendment proposal for a Section 1115 demonstration waiver or from including any new proposed provision in a Section 1115 waiver extension, unless the amendment or provision has been authorized by the Legislature in the form of a statute, if the waiver does any of the following:
    a) expands eligibility for Title XIX or Title XXI coverage to populations not statutorily authorized as of January 1, 2025;
    b) adds new categories of covered services or benefits not statutorily authorized as of January 1, 2025; or
    c) will lead to an annual increase in utilization greater than 10 percent for specific services affected by the proposed amendment or provision above what the utilization would have been without the proposed amendment or provision.

14. Requires AHCCCS, before submitting a new amendment proposal or including a new proposed provision in a waiver extension, to determine whether the proposed changes are subject to the outlined prohibition.

15. Requires any proposed changes that are subject to the outlined prohibition to be reviewed by the Health and Human Services Committees of Reference (CORs), or their successor CORs, and the COR must forward their recommendation to the Senate and House of Representatives on whether to approve the proposed changes.

16. Stipulates that, if AHCCCS determines the proposed changes are not subject to the prohibition, AHCCCS must monitor the changes in annual utilization specific to the services impacted by the new waiver changes for three years after the implementation of the changes to determine whether the changes led to an annual increase in utilization greater than 10 percent for the specific services affected by the waiver change above what the utilization would have been without the waiver change.

17. Requires AHCCCS, if the utilization monitoring demonstrates that the changes led to an annual increase in utilization greater than 10 percent for the specific services affected by the waiver change above what the utilization would have been without the waiver change, to notify the President of the Senate, Speaker of the House of Representatives and Chairperson of JLBC.

18. Specifies that, if the Legislature has not enacted a statute authorizing the specific waiver change that led to the increased utilization within one year of AHCCCS's notification, AHCCCS must submit a request to CMS to terminate the new waiver changes that were not authorized by the Legislature.

19. Requires AHCCCS to notify JLBC in writing of any Section 1115 waiver application or amendment submitted, regardless of whether legislative approval is required, at the time the application or amendment is posted for public comment.

20. Requires AHCCCS and DES, beginning July 1, 2025, to implement the 40-hour per week per child care services limit pursuant to the Parents as Paid Caregivers Program amendment approval by CMS to the state's Section 1115(a) demonstration waiver dated February 16, 2024.

21. Requires a parent, subject to CMS approval, to be an Arizona resident for at least six months to be eligible to provide care under the PPCG.

22. Requires the Director of the Governor's Office of Strategic Planning and Budgeting (Director), by September 1 of each year or with the submission of each budget unit's budget estimates, to report to JLBC Staff on the use of federal monies by any state agency that receives or anticipates receiving federal monies or that administers a program supported by federal monies, except for universities under Arizona Board of Regents jurisdiction.

23. Requires each state agency's report on federal monies to:
    a) delineate the federal monies received for the preceding fiscal year;
    b) delineate the federal monies to be used by the state agency for the current and upcoming fiscal year, including any programs supported by federal monies in which the loss of federal monies may impact the continuity or delivery of services;
    c) identify the date, if known, that federal monies are set to expire;
    d) identify any obligations, agreements, joint exercise of powers agreements, maintenance of efforts agreements or memoranda of understanding that may be impacted by federal or state decisions regarding federal receipts, including state matching requirements; and
    e) calculate the percentage of federal monies from the total monies available for the state agency for the fiscal year.

24. Requires the Director's report to JLBC Staff, if any state agency received notice of a reduction in federal monies from a specific federal grant of 50 percent or more from the previous fiscal year's funding, to identify the plan to reduce or eliminate the services provided through the grant or to continue services without any increase to any state resources.

25. Requires a university under Arizona Board of Regents jurisdiction to submit an audited schedule of federal award spending for the preceding fiscal year to JLBC Staff.

26. Removes the requirement for the Director to report to the Legislature at each regular session on the following:
    a) the total amount of federal grants-in-aid received by state agencies during the prior fiscal year;
    b) the total amount of federal grants-in-aid available to state agencies during the prior fiscal year and the reasons for any differences between the number of monies available to the amount accepted by state agencies; and
    c) the adequacy of grant-in-aid programs in the state.

27. Requires the Auditor General (OAG) to conduct or contract for a special audit of the PPCG in DES.

28. Requires the special audit to review DES's implementation of the strengthened standardized assessment tool, including a comparison of Arizona's PPCG components to best practices in similar programs in other states.

29. Requires the OAG, by August 1, 2026, to submit a report of its special audit, including any findings and recommendations to the Governor, President of the Senate and Speaker of the House of Representatives and provide a copy to the Secretary of State.

30. Requires DES and AHCCCS to cooperate with and provide information necessary for the special audit in the time frame and format specified to the facilitate completing the special audit.

31. Repeals the special audit requirement on January 1, 2026.

32. Appropriates $355,000 from the Prescription Drug Rebate Fund in FY 2025 to the OAG for the special audit and exempts the appropriation from lapsing.

33. Defines terms.

34. Makes technical and conforming changes.

35. Becomes effective on signature of the Governor, if the emergency clause is enacted.

Amendments Adopted by Committee

1. Adds beginning date of July 1, 2026, for the Parents as Paid Caregivers Program care services limit of 20 hours per week per child.

2. Adds, to AHCCCS's required waiver amendment request, a July 1, 2026, start date for the 20-hour per week per child care services limit.

Amendments Adopted by Committee of the Whole

1. Removes the requirement for capitation rate adjustments for the succeeding fiscal year to be specified in the general appropriations act.

2. Requires DES to implement an electronic visit verification system that includes modifiers to delineate that a parent or a nonprofit provider is providing the direct care services.

3. Requires DES to implement separate billing modifiers for delineating both:
   a) whether a parent or nonparent provided the direct care services; and
   b) attendant care services and habilitation services.

4. Prohibits a parent from billing for attendant care services provided while the minor child is not present, including while the minor child is at school, in inpatient care or receiving care in a clinical setting.

5. Prohibits a parent caregiver from billing for attendant care services for housekeeping, laundry or meal preparation that would ordinarily be performed by a parent of a minor child who does not have a disability.

6. Requires AHCCCS and DES to provide JLBC Staff, at the end of each calendar quarter, a report on the use of attendant care and habilitation services by parent caregivers under the PPCG.

7. Requires the quarterly report to include:
   a) the annual growth in the number of parents and members enrolled in the PPCG;
   b) the number of emergency department visits and inpatient hospitalizations in the quarter;

c) the approved annual hours delineated by primary diagnosis; and
d) how long a member who receives care under the PPCG has been enrolled in the Arizona Long-Term Care System.

8. Requires AHCCCS to adopt and DES to implement a strengthened standardized assessment tool to determine the need for extraordinary care for minor children under the PPCG.

9. Requires the assessment tool to separate household tasks that would ordinarily be performed by a parent of a minor child that does not have a disability.

10. Specifies that a parent, except as otherwise provided in the minor child's plan of care, may only provide attendant care services and habilitation services under the PPCG between 6:00 AM and 10:00 PM.

11. Specifies that a parent may only be employed by a single agency to provide attendant care services and habilitation services under the PPCG.

12. Prohibits AHCCCS from submitting to CMS, or its successor agency, a new amendment proposal for a Section 1115 demonstration waiver or from including any new proposed provision in a Section 1115 waiver extension, unless the amendment or provision has been authorized by the Legislature in the form of a statute, if the waiver does any of the following:
    a) expands eligibility for Title XIX or Title XXI coverage to populations not statutorily authorized as of January 1, 2025;
    b) adds new categories of covered services or benefits not statutorily authorized as of January 1, 2025; or
    c) will lead to an annual increase in utilization greater than 10 percent for specific services affected by the proposed amendment or provision above what the utilization would have been without the proposed amendment or provision.

13. Prohibits AHCCCS from submitting to CMS any waiver amendment that was approved by January 1, 2024, and that expanded the qualified providers to provide covered services or benefits that are statutorily authorized unless the waiver extension has been authorized by the Legislature in the form of a statute.

14. Requires AHCCCS, before submitting a new amendment proposal or including a new proposed provision in a waiver extension, to determine whether the proposed changes are subject to the outlined prohibition.

15. Requires any proposed changes that are subject to the outlined prohibition to be reviewed by the Health and Human Services Committees of Reference (CORs), or their successor CORs, and the COR must forward their recommendation to the Senate and House of Representatives on whether to approve the proposed changes.

16. Stipulates that, if AHCCCS determines the proposed changes are not subject to the prohibition, AHCCCS must monitor the changes in annual utilization specific to the services impacted by the new waiver changes for three years after the implementation of the changes to determine whether the changes led to an annual increase in utilization greater than 10 percent for the specific services affected by the waiver change above what the utilization would have been without the waiver change.

17. Requires AHCCCS, if the utilization monitoring demonstrates that the changes led to an annual increase in utilization greater than 10 percent for the specific services affected by the waiver change above what the utilization would have been without the waiver change, to notify the President of the Senate, Speaker of the House of Representatives and Chairperson of JLBC.

18. Specifies that, if the Legislature has not enacted a statute authorizing the specific waiver change that led to the increased utilization within one year of AHCCCS's notification, AHCCCS must submit a request to CMS to terminate the new waiver changes that were not authorized by the Legislature.

19. Requires AHCCCS to notify JLBC in writing of any Section 1115 waiver application or amendment submitted, regardless of whether legislative approval is required, at the time the application or amendment is posted for public comment.

20. Removes the requirement for AHCCCS to submit a waiver amendment request to CMS to implement a 20-hour per week, per child limit for the PPCG.

21. Requires a parent, subject to CMS approval, to be an Arizona resident for at least six months to be eligible to provide care under the PPCG.

22. Defines terms.

23. Makes technical and conforming changes.

<u>Amendments Adopted in the Additional Committee of the Whole</u>

1. Adds a deadline of October 1, 2025, for AHCCCS and DES to adopt and implement a strengthened standardized assessment tool.

2. Requires DES to implement unique modifiers rather than separate billing modifiers.

3. Removes the prohibition on AHCCCS submitting to CMS any waiver amendment that was approved on and after January 1, 2024, that expanded the qualified providers to provide statutorily authorized covered services or benefits, unless the waiver extension has been authorized by the Legislature in the form of a statute.

4. Requires the OAG to conduct or contract for a special audit of the PPCG in DES.

5. Requires the special audit to review DES's implementation of the strengthened standardized assessment tool, including a comparison of Arizona's PPCG components to best practices in similar programs in other states.

6. Requires the OAG, by August 1, 2026, to submit a report of its special audit, including any findings and recommendations to the Governor, President of the Senate and Speaker of the House of Representatives and provide a copy to the Secretary of State.

7. Requires DES and AHCCCS to cooperate with and provide information necessary for the special audit in the time frame and format specified to the facilitate completing the special audit.

8. Repeals the special audit requirement on January 1, 2026.

9. Removes the Arizona Competes Fund and Housing Trust Fund as funding sources for the Developmental Disabilities Medicaid Program supplemental appropriation.

10. Increases the FY 2025 appropriation from the Prescription Drug Rebate Fund to the DES for Developmental Disabilities Medicaid Program expenses from $61,200,300 to $109,200,300.

11. Appropriates $355,000 from the Prescription Drug Rebate Fund in FY 2025 to the OAG for the special audit and exempts the appropriation from lapsing.

12. Adds an emergency clause.

13. Makes technical and conforming changes.

House Action

APPROP	4/15/25	DPA	11-10-0-0
3rd Read	4/23/25		48-11-1-0

Senate Action

APPROP	4/15/25	DPA	6-4-0
3rd Read	4/24/25		28-1-1

(H.B. 2945 was substituted for S.B. 1734 on 3rd Read)

Signed by the Governor 4/24/25
Chapter 93

Prepared by Senate Research
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