

Senate Engrossed

State of Arizona
Senate
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 153

SENATE BILL 1146

AN ACT

AMENDING SECTIONS 36-410 AND 36-2932, ARIZONA REVISED STATUTES; 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 36-410, Arizona Revised Statutes, is amended to
3 read:

4 36-410. County standards and guidelines; delegation

5 A. The director shall provide counties with nonbinding guidelines for
6 their use in establishing contract standards for adult foster care providers
7 that do not provide services pursuant to chapter 29, article 2 of this
8 title. These nonbinding guidelines shall include standards for the
9 self-administration of drugs that the foster care provider shall follow in
10 conjunction with home health services and outpatient services.

11 B. The director shall adopt rules that the counties OR THE ARIZONA
12 HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION shall use in prescribing
13 minimum standards for adult foster care providers that provide services
14 pursuant to chapter 29, article 2 of this title. The director shall conform
15 these rules with federally approved applicable standards for adult foster
16 care homes. The director shall delegate the authority to enforce these rules
17 to each county that accepts this delegation OR TO THE ARIZONA HEALTH CARE
18 COST CONTAINMENT SYSTEM ADMINISTRATION. The department shall monitor an
19 adult foster care program ~~in a county that accepts the delegation in order~~
20 to ensure compliance with department rules. If a county OR THE ARIZONA
21 HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION does not accept the
22 delegation, the department shall certify and monitor an adult foster care
23 home pursuant to section 36-409 if that home seeks to participate in the
24 Arizona long-term care system pursuant to chapter 29, article 2 of this
25 title.

26 Sec. 2. Section 36-2932, Arizona Revised Statutes, is amended to read:

27 36-2932. Arizona long-term care system; powers and duties of
28 the director; expenditure limitation

29 A. The Arizona long-term care system is established. The system
30 includes the management and delivery of hospitalization, medical care,
31 institutional services and home and community based services to members
32 through the administration, the program contractors and providers pursuant
33 to this article together with federal participation under title XIX of the
34 social security act. The director in the performance of all duties shall
35 consider the use of existing programs, rules and procedures in the counties
36 and department where appropriate in meeting federal requirements.

37 B. The administration has full operational responsibility for the
38 system which shall include the following:

- 39 1. Contracting with and certification of program contractors in
40 compliance with all applicable federal laws.
- 41 2. Approving the program contractors' comprehensive service delivery
42 plans pursuant to section 36-2940.
- 43 3. Providing by rule for the ability of the director to review and
44 approve or disapprove program contractors' request for proposals for
45 providers and provider subcontracts.

- 1 4. Providing technical assistance to the program contractors.
- 2 5. Developing a uniform accounting system to be implemented by program
- 3 contractors and providers of institutional services and home and community
- 4 based services.
- 5 6. Conducting quality control on eligibility determinations and
- 6 preadmission screenings.
- 7 7. Establishing and managing a comprehensive system for assuring the
- 8 quality of care delivered by the system as required by federal law.
- 9 8. Establishing an enrollment system.
- 10 9. Establishing a member case management tracking system.
- 11 10. Establishing and managing a method to prevent fraud by applicants,
- 12 members, eligible persons, program contractors, providers and noncontracting
- 13 providers as required by federal law.
- 14 11. Coordinating benefits as provided in section 36-2946.
- 15 12. Establishing standards for the coordination of services.
- 16 13. Establishing financial and performance audit requirements for
- 17 program contractors, providers and noncontracting providers.
- 18 14. Prescribing remedies as required pursuant to the provisions of 42
- 19 United States Code section 1396r. These remedies may include the appointment
- 20 of temporary management by the director, acting in collaboration with the
- 21 director of the department of health services, in order to continue operation
- 22 of a nursing care institution providing services pursuant to this article.
- 23 15. Establishing a system to implement medical child support
- 24 requirements, as required by federal law. The administration may enter into
- 25 an intergovernmental agreement with the department of economic security to
- 26 implement the provisions of this paragraph.
- 27 16. Establishing requirements and guidelines for the review of trusts
- 28 for the purposes of establishing eligibility for the system pursuant to
- 29 section 36-2934.01 and post-eligibility treatment of income pursuant to
- 30 subsection L of this section.
- 31 17. ACCEPTING THE DELEGATION OF AUTHORITY FROM THE DEPARTMENT OF HEALTH
- 32 SERVICES TO ENFORCE RULES THAT PRESCRIBE MINIMUM CERTIFICATION STANDARDS FOR
- 33 ADULT FOSTER CARE PROVIDERS PURSUANT TO SECTION 36-410, SUBSECTION B. THE
- 34 ADMINISTRATION MAY CONTRACT WITH ANOTHER ENTITY TO PERFORM THE CERTIFICATION
- 35 FUNCTIONS.
- 36 C. For nursing care institutions and hospices that provide services
- 37 pursuant to this article, the director shall periodically as deemed necessary
- 38 and as required by federal law contract for a financial audit of the
- 39 institutions and hospices that is certified by a certified public accountant
- 40 in accordance with generally accepted auditing standards or conduct or
- 41 contract for a financial audit or review of the institutions and hospices.
- 42 The director shall notify the nursing care institution and hospice at least
- 43 sixty days prior to BEFORE beginning a periodic audit. The administration
- 44 shall reimburse a nursing care institution or hospice for any additional
- 45 expenses incurred for professional accounting services obtained in response

1 to a specific request by the administration. Upon ON request, the director
2 of the administration shall provide a copy of an audit performed pursuant to
3 this subsection to the director of the department of health services or his
4 THAT PERSON'S designee.

5 D. Notwithstanding any other provision of this article, the
6 administration may contract by an intergovernmental agreement with an Indian
7 tribe, a tribal council or a tribal organization for the provision of
8 long-term care services pursuant to section 36-2939, subsection A, paragraphs
9 1, 2, 3 and 4 and the home and community based services pursuant to section
10 36-2939, subsection B, paragraph 2 and subsection C, subject to the
11 restrictions in section 36-2939, subsections D and E for eligible members.

12 E. The director shall require as a condition of a contract that all
13 records relating to contract compliance are available for inspection by the
14 administration subject to subsection F of this section and that these records
15 ~~shall be~~ ARE maintained for five years. The director shall also require that
16 these records ~~shall be made~~ ARE available on request of the secretary of the
17 United States department of health and human services or its successor
18 agency.

19 F. Subject to applicable law relating to privilege and protection, the
20 director shall adopt rules prescribing the types of information that are
21 confidential and circumstances under which that information may be used or
22 released, including requirements for physician-patient confidentiality.
23 Notwithstanding any other law, these rules shall provide for the exchange of
24 necessary information among the program contractors, the administration and
25 the department for the purposes of eligibility determination under this
26 article.

27 G. The director shall adopt rules which specify methods for the
28 transition of members into, within and out of the system. The rules shall
29 include provisions for the transfer of members, the transfer of medical
30 records and the initiation and termination of services.

31 H. The director shall adopt rules which provide for withholding or
32 forfeiting payments made to a program contractor if it fails to comply with
33 a provision of its contract or with the director's rules.

34 I. The director shall:

35 1. Establish by rule a grievance and appeal procedure, including time
36 limits for appeals of eligibility, for use by program contractors, providers,
37 noncontracting providers, counties, members, eligible persons, those persons
38 who apply to be providers and those persons who apply to be members,
39 including persons who have been determined to be ineligible for system
40 coverage. Grievance procedures shall cover grievances arising pursuant to
41 this article. With the exception of eligibility appeals and grievances filed
42 pursuant to section 36-2904, subsection H, a grievance or appeal shall be
43 filed in writing with and received by the administration not later than sixty
44 days after the date of the adverse action, decision or policy implementation
45 being grieved. A grievance for the denial of a claim for reimbursement for

1 services may contest the validity of any adverse action, decision, policy
2 implementation or rule that related to or resulted in the full or partial
3 denial of the claim. The grievance and appeal procedure shall contain
4 provisions relating to the notice to be provided to aggrieved parties,
5 including notification of final decisions, complaint processes and internal
6 appeals mechanisms. A grievance and appeal procedure not specified pursuant
7 to this paragraph, but identified pursuant to title 41, chapter 6, article
8 6, also applies. Final decisions of the director under the grievance and
9 appeal procedure established pursuant to this paragraph are subject to
10 judicial review under title 12, chapter 7, article 6.

11 2. Apply for and accept federal monies available under title XIX of
12 the social security act in support of the system. In addition, the director
13 may apply for and accept grants, contracts and private donations in support
14 of the system.

15 3. ~~No~~ NOT less than thirty days prior to the implementation of BEFORE
16 THE ADMINISTRATION IMPLEMENTS a policy or a change to an existing policy
17 relating to reimbursement, ~~the director shall~~ provide notice to interested
18 parties. Parties interested in receiving notification of policy changes
19 shall submit a written request for notification to the administration.

20 J. The director may apply for federal monies available for the support
21 of programs to investigate and prosecute violations arising from the
22 administration and operation of the system. Available state monies
23 appropriated for the administration of the system may be used as matching
24 monies to secure federal monies pursuant to this subsection.

25 K. The director shall adopt rules which establish requirements of
26 state residency and qualified alien status as prescribed in section
27 36-2903.03. The administration shall enforce these requirements as part of
28 the eligibility determination process. The rules shall also provide for the
29 determination of the applicant's county of residence for the purpose of
30 assignment of the appropriate program contractor.

31 L. The director shall adopt rules in accordance with the state plan
32 regarding post-eligibility treatment of income and resources which determine
33 the portion of a member's income which shall be available for payment for
34 services under this article. The rules shall provide that a portion of
35 income may be retained for:

36 1. A personal needs allowance for members receiving institutional
37 services of at least fifteen per cent of the maximum monthly supplemental
38 security income payment for an individual or a personal needs allowance for
39 members receiving home and community based services based on a reasonable
40 assessment of need.

41 2. The maintenance needs of a spouse or family at home shall be in
42 accordance with federal law. The minimum resource allowance for the spouse
43 or family at home shall be IS twelve thousand dollars adjusted annually by
44 the same percentage as the percentage change in the consumer price index for

1 all urban consumers (all items; United States city average) between September
2 1988 and the September before the calendar year involved.

3 3. Expenses incurred for noncovered medical or remedial care that are
4 not subject to payment by a third party payor.

5 M. In addition to the rules otherwise specified in this article, the
6 director may adopt necessary rules pursuant to title 41, chapter 6 to carry
7 out this article. Rules adopted by the director pursuant to this subsection
8 may consider the differences between rural and urban conditions on the
9 delivery of services.

10 N. The director shall not adopt any rule or enter into or approve any
11 contract or subcontract which does not conform to federal requirements or
12 which may cause the system to lose any federal monies to which it is
13 otherwise entitled.

14 O. The administration, program contractors and providers may establish
15 and maintain review committees dealing with the delivery of care. Review
16 committees and their staff are subject to the same requirements, protections,
17 privileges and immunities prescribed pursuant to section 36-2917.

18 P. If the director determines that the financial viability of a
19 nursing care institution or hospice is in question the director may require
20 a nursing care institution and a hospice providing services pursuant to this
21 article to submit quarterly financial statements within thirty days after the
22 end of its financial quarter unless the director grants an extension in
23 writing before that date. Quarterly financial statements submitted to the
24 department shall include the following:

25 1. A balance sheet detailing the institution's assets, liabilities and
26 net worth.

27 2. A statement of income and expenses, including current personnel
28 costs and full-time equivalent statistics.

29 Q. The director may require monthly financial statements if he
30 determines that the financial viability of a nursing care institution or
31 hospice is in question. The director shall prescribe the requirements of
32 these statements.

33 R. The total amount of state monies that may be spent in any fiscal
34 year by the administration for long-term care shall not exceed the amount
35 appropriated or authorized by section 35-173 for that purpose. This article
36 shall not be construed to impose a duty on an officer, agent or employee of
37 this state to discharge a responsibility or to create any right in a person
38 or group if the discharge or right would require an expenditure of state
39 monies in excess of the expenditure authorized by legislative appropriation
40 for that specific purpose.

~~APPROVED BY THE GOVERNOR APRIL 19, 2001.~~

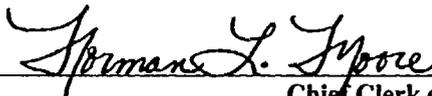
~~FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 20, 2001.~~

Passed the House April 16, 2001,

by the following vote: 55 Ayes,

1 Nays, 4 Not Voting


Speaker of the House


Chief Clerk of the House

Passed the Senate February 7, 2001,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting


President of the Senate

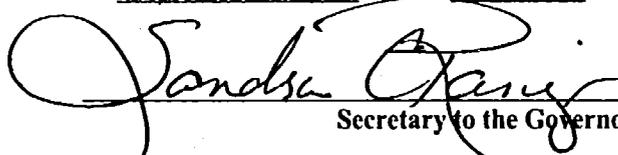

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

16 day of April, 2001,

at 4:53 o'clock P M.


Secretary to the Governor

Approved this 19 day of

April, 2001,

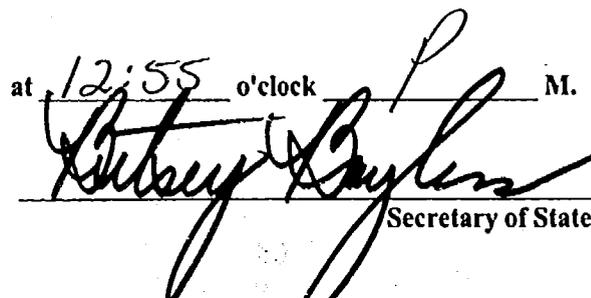
at 2:17 o'clock P M.


Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of April, 2001,

at 12:55 o'clock P M.

Secretary of State

S.B. 1146