Senate Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

CHAPTER 18

SENATE BILL 1479

AN ACT

AMENDING SECTIONS 36-2939, 36-2953 AND 46-294, ARIZONA REVISED STATUTES; RELATING TO HUMAN SERVICES BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 36-2939, Arizona Revised Statutes, is amended to read:

36-2939. Long-term care system services

A. The following services shall be provided by the program contractors to members determined to need institutional services pursuant to this article:

1. Nursing facility services other than services in an institution for tuberculosis or mental disease.

2. Notwithstanding any other law, behavioral health services if these services are not duplicative of long-term care services provided as of January 30, 1993 under this subsection and are authorized by the program contractor through the long-term care case management system. If the administration is the program contractor, the administration may authorize these services.

3. Hospice services. For the purposes of this paragraph, "hospice" means a program of palliative and supportive care for terminally ill members and their families or caregivers.

4. Case management services as provided in section 36-2938.

5. Health and medical services as provided in section 36-2907.

B. In addition to the services prescribed in subsection A of this section, the department, as a program contractor, shall provide the following services if appropriate to members who ~~are defined as persons with~~ HAVE A developmental ~~disabilities pursuant to~~ DISABILITY AS DEFINED IN section 36-551 and are determined to need institutional services pursuant to this article:

1. Intermediate care facility services for a member who has a developmental disability as defined in section 36-551. For purposes of this article, ~~such~~ a facility shall meet all federally approved standards and may only include the Arizona training program facilities, a state owned and operated service center, state owned or operated community residential settings ~~or existing licensed facilities operated by this state or under~~ AND PRIVATE STATE LICENSED FACILITIES THAT contract with the department ~~on or before July 1, 1988~~.

2. Home and community based services that may be provided in a member's home, ~~or~~ AT an alternative residential setting as prescribed in section 36-591 or AT other behavioral health alternative residential facilities licensed by the department of health services and approved by the director of the Arizona health care cost containment system administration and that may include:

(a) Home health, which means the provision of nursing services or home health aide services or medical supplies, equipment and appliances, ~~which~~ THAT are provided on a part-time or intermittent basis by a licensed home health agency within a member's residence based on a physician's orders and in accordance with federal law. Physical therapy, occupational therapy, or

speech and audiology services provided by a home health agency may be provided in accordance with federal law. Home health agencies shall comply with federal bonding requirements in a manner prescribed by the administration.

(b) Home health aide, which means a service that provides intermittent health maintenance, continued treatment or monitoring of a health condition and supportive care for activities of daily living provided within a member's residence.

(c) Homemaker, which means a service that provides assistance in the performance of activities related to household maintenance within a member's residence.

(d) Personal care, which means a service that provides assistance to meet essential physical needs within a member's residence.

(e) Day care for persons with DEVELOPMENTAL disabilities, which means a service that provides planned care supervision and activities, personal care, activities of daily living skills training and habilitation services in a group setting during a portion of a continuous twenty-four hour period.

(f) Habilitation, which means the provision of physical therapy, occupational therapy, speech or audiology services or training in independent living, special developmental skills, sensory-motor development, behavior intervention, and orientation and mobility in accordance with federal law.

(g) Respite care, which means a service that provides short-term care and supervision available on a twenty-four hour basis.

(h) Transportation, which means a service that provides or assists in obtaining transportation for the member.

(i) Other services or licensed or certified settings approved by the director.

C. In addition to services prescribed in subsection A of this section, home and community based services may be provided in a member's home, in an adult foster care home as prescribed in section 36-401, in an assisted living home or assisted living center as defined in section 36-401 or in a level one or level two behavioral health alternative residential facility approved by the director by program contractors to all members who ~~are not defined as persons with~~ DO NOT HAVE A developmental ~~disabilities pursuant to~~ DISABILITY AS DEFINED IN section 36-551 and are determined to need institutional services pursuant to this article. Members residing in an assisted living center must be provided the choice of single occupancy. The director may also approve other licensed residential facilities as appropriate on a case by case basis for traumatic brain injured members. Home and community based services may include the following:

1. Home health, which means the provision of nursing services, ~~or~~ home health aide services or medical supplies, equipment and appliances, ~~which~~ THAT are provided on a part-time or intermittent basis by a licensed home health agency within a member's residence based on a physician's orders and in accordance with federal law. Physical therapy, occupational therapy, or

speech and audiology services provided by a home health agency may be provided in accordance with federal law. Home health agencies shall comply with federal bonding requirements in a manner prescribed by the administration.

2. Home health aide, which means a service that provides intermittent health maintenance, continued treatment or monitoring of a health condition and supportive care for activities of daily living provided within a member's residence.

3. Homemaker, which means a service that provides assistance in the performance of activities related to household maintenance within a member's residence.

4. Personal care, which means a service that provides assistance to meet essential physical needs within a member's residence.

5. Adult day health, which means a service that provides planned care supervision and activities, personal care, personal living skills training, meals and health monitoring in a group setting during a portion of a continuous twenty-four hour period. Adult day health may also include preventive, therapeutic and restorative health related services that do not include behavioral health services.

6. Habilitation, which means the provision of physical therapy, occupational therapy, speech or audiology services or training in independent living, special developmental skills, sensory-motor development, behavior intervention, and orientation and mobility in accordance with federal law.

7. Respite care, which means a service that provides short-term care and supervision available on a twenty-four hour basis.

8. Transportation, which means a service that provides or assists in obtaining transportation for the member.

9. Home delivered meals, which means a service that provides for a nutritious meal containing at least one-third of the recommended dietary allowance for an individual and which is delivered to the member's residence.

10. Other services or licensed or certified settings approved by the director.

D. The amount of money expended by program contractors on home and community based services pursuant to subsection C of this section shall be limited by the director in accordance with the federal monies made available to this state for home and community based services pursuant to subsection C of this section. The director shall establish methods for the allocation of monies for home and community based services to program contractors and shall monitor expenditures on home and community based services by program contractors.

E. Notwithstanding subsections A, B, C and F of this section, no service may be provided that does not qualify for federal monies available under title XIX of the social security act or the section 1115 waiver.

F. In addition to services provided pursuant to subsections A, B and C of this section, the director may implement a demonstration project to

provide home and community based services to special populations, including persons with disabilities who are eighteen years of age or younger, medically fragile, reside at home and would be eligible for supplemental security income for the aged, blind or disabled or the state supplemental payment program, except for the amount of their parent's income or resources. In implementing this project, the director may provide for parental contributions for the care of their child.

G. Subject to section 36-562, the administration by rule shall prescribe a deductible schedule for programs provided to members who are eligible pursuant to subsection B of this section, except that the administration shall implement a deductible based on family income. In determining deductible amounts and whether a family is required to have deductibles, the department shall use adjusted gross income. Families whose adjusted gross income is at least four hundred per cent and less than or equal to five hundred per cent of the federal poverty guidelines shall have a deductible of two per cent of adjusted gross income. Families whose adjusted gross income is more than five hundred per cent of adjusted gross income shall have a deductible of four per cent of adjusted gross income. Only families whose children are under eighteen years of age and who are members who are eligible pursuant to subsection B of this section may be required to have a deductible for services. For the purposes of this subsection, "deductible" means an amount a family, whose children are under eighteen years of age and who are members who are eligible pursuant to subsection B of this section, pays for services, other than departmental case management and acute care services, before the department will pay for services other than departmental case management and acute care services.

Sec. 2. Section 36-2953, Arizona Revised Statutes, is amended to read:

36-2953. <u>Department long-term care system fund; uniform accounting</u>

A. The department shall establish and maintain a department long-term care system fund, which is a separate fund to distinguish its revenues and its expenditures pursuant to this article from other programs funded or administered by the department. Subject to legislative appropriation, the fund shall be used to pay administrative and program costs associated with the operation of the system. The department long-term care system fund shall be divided as follows:

1. An account for eligibility determination pursuant to section 36-2933, if the administration enters into an interagency agreement with the department pursuant to section 36-2933, subsection E.

2. An account for the provision of long-term care services as prescribed in section 36-2939, subsections A and B.

B. The department long-term care system fund shall be ~~comprised~~ COMPOSED of:

1. Monies paid by the administration pursuant to the contract.

2. Amounts paid by third-party payors.

3. Gifts, donations and grants from any source.

4. State appropriations for the department long-term care system pursuant to this article.

5. Interest on monies deposited in the long-term care system fund.

C. The department shall submit a prospective long-term care budget as prescribed by the administration.

D. The administration shall prescribe a uniform accounting system for the fund established pursuant to subsection A of this section. Technical assistance shall be provided by the administration to the department in order to facilitate the implementation of the uniform accounting system.

E. The department shall submit an annual audited financial and programmatic report for the preceding fiscal year as required by the administration. The report shall include beginning and ending fund balances, revenues and expenditures, including specific identification of administrative costs for the system. The report shall include the number of members served by the system and the cost incurred for various types of services provided to members in a format prescribed by the director.

F. The department shall submit additional utilization and financial reports as required by the director.

G. The director shall make at least an annual review of the department's records and accounts.

H. All monies FROM CAPITATED PAYMENTS in the department long-term care system fund that are unexpended and unencumbered at the end of the fiscal year revert to the state general fund on or before June 30 of ~~that~~ THE FOLLOWING fiscal year. The transfer amount may be adjusted for reported but unpaid claims and estimated incurred but unreported claims, subject to approval by the administration.

Sec. 3. Section 46-294, Arizona Revised Statutes, is amended to read:

46-294. Duration of assistance

A. A needy family is ineligible for a cash assistance grant awarded under this article, except in case of hardship, if any of the following applies:

1. The needy family includes a head of household or the spouse of the head of household who has received cash assistance for himself for a total of ~~twenty-four~~ TWELVE months.

2. The needy family includes a cash assistance ineligible parent or the spouse of the ineligible parent who has received cash assistance on behalf of an eligible dependent child for a total of ~~twenty-four~~ TWELVE months.

3. The needy family includes an adult nonparent relative head of household or the spouse of the adult nonparent relative head of household who has received cash assistance on behalf of an eligible dependent child for a total of ~~twenty-four~~ TWELVE months.

B. The time limit prescribed in subsection A applies retroactively to cash assistance received under this article or the Arizona works program on or after October 1, 2002. The time limit applies regardless of:

1. Whether the ~~twenty-four~~ TWELVE months are consecutive.

2. The source of funding for the program.

C. The ~~twenty-four~~ TWELVE month time limit prescribed in this section does not apply to child only cases.

D. In determining the number of months that assistance has been received, the department shall disregard any month during which assistance is received by:

1. A foster parent, an unrelated adult or a nonparent relative, in a child only case.

2. An assistance unit during the time in which the assistance unit resides on an Indian reservation in which the unemployment rate of the adults residing on the Indian reservation exceeds fifty ~~per cent~~ PERCENT.

3. An assistance unit if the cash assistance grant is less than the full monthly amount of cash assistance for which the assistance unit qualifies based on the date of the application.

4. An adult recipient who as a minor child was not a head of household or married to a head of household.

E. Except in case of hardship, an assistance unit in which any adult or minor parent of a dependent child who is a head of household or married to a head of household has received sixty months of assistance funded in whole or in part by the temporary assistance for needy families block grant in this or any other state or United States territory or from a tribal temporary assistance for needy families program shall not be eligible to receive under any circumstances more than sixty months of such assistance.

~~F. Cash assistance shall terminate on the first day of the first month following the effective date of this amendment to this section for any family, without regard to whether the family meets the financial criteria established for a needy family, that has received twenty-four or more months of cash assistance as of that date.~~

F. CONSISTENT WITH THE ADOPTED STATE PLAN, CASH ASSISTANCE SHALL TERMINATE ON JULY 1, 2016 FOR ANY FAMILY, WITHOUT REGARD TO WHETHER THE FAMILY MEETS THE FINANCIAL CRITERIA ESTABLISHED FOR A NEEDY FAMILY, THAT HAS RECEIVED TWELVE OR MORE MONTHS OF CASH ASSISTANCE AS OF THAT DATE.

Sec. 4. Child care assistance eligibility; notification

Notwithstanding section 46-803, Arizona Revised Statutes, for fiscal year 2015-2016, the department of economic security may reduce maximum income eligibility levels for child care assistance in order to manage within appropriated and available monies. The department of economic security shall notify the joint legislative budget committee of any change in maximum income eligibility levels for child care assistance within fifteen days after implementing the change.

Sec. 5. Department of economic security; drug testing; TANF cash benefits recipients

During fiscal year 2015-2016, the department of economic security shall screen and test each adult recipient who is otherwise eligible for temporary assistance for needy families cash benefits and who the department has reasonable cause to believe engages in the illegal use of controlled substances. Any recipient who is found to have tested positive for the use of a controlled substance that was not prescribed for the recipient by a licensed health care provider is ineligible to receive benefits for a period of one year.

Sec. 6. Auditor general; child safety reports

A. The auditor general shall provide to the governor, the speaker of the house of representatives, the president of the senate and the directors of the joint legislative budget committee and the governor's office of strategic planning and budgeting the following reports concerning the department of child safety that shall address:

1. Child removal processes. This report shall address the department of child safety's methods and decision-making approach for determining whether a child should be removed from the child's home. The report shall include a review of the department's child safety and risk assessment practices, including the factors that are considered in determining whether to remove a child and a comparison of these practices to other states' practices and best practices and shall include recommended improvements.

2. The use of a differential response system and case screening. This report shall evaluate the merits and disadvantages of a differential response system when responding to reports of child maltreatment, including the state's historical use of the family builders program established by section 8-816, Arizona Revised Statutes. A differential response system would contract out the initial investigation of low-risk reports of child maltreatment as well as case management and the provision of services. The report also shall address the appropriateness of using set criteria to screen out reports of child maltreatment from investigation. In evaluating differential response and case screening, the auditor general shall include best practices in other states and recommend improvements.

3. Permanency practices for children in out-of-home care. This report shall address the appropriateness of the department of child safety's permanency practices and examine whether the department's permanency practices allow adequate attention to be focused on seeking permanent families for out-of-home children. The report shall also address best practices in other states and recommend improvements.

B. The auditor general shall submit the report prescribed by subsection A, paragraph 1 of this section on or before September 30, 2015, the report prescribed by subsection A, paragraph 2 of this section on or before March 31, 2016 and the report prescribed by subsection A, paragraph 3 of this section on or before September 30, 2016.

1 Sec. 7. Child welfare; joint report
2 The Arizona early childhood development and health board and the
3 department of child safety shall jointly report to the joint legislative
4 budget committee on their collaborative efforts to address child welfare
5 issues of common concern. The report shall include information about the
6 level of coordination among the department of child safety, the Arizona early
7 childhood development and health board and community groups to promote the
8 well-being of children and families that are identified in reports of abuse
9 or neglect. The joint report shall be submitted on or before February 1,
10 2016 for the prior year.
11 Sec. 8. Effective date
12 Section 46-294, Arizona Revised Statutes, as amended by this act is
13 effective to from and after June 30, 2016.

APPROVED BY THE GOVERNOR MARCH 12, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 12, 2015.

Passed the House March 6 7, 2015,

by the following vote: 32 Ayes,

27 Nays, 1 Not Voting

Speaker of the House

Jim Drake

Chief Clerk of the House

Passed the Senate March 7, 2015,

by the following vote: 17 Ayes,

12 Nays, 1 Not Voting

President of the Senate

Susan Rawes
Assistant

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

9th day of March, 2015,

at 2:44 o'clock P. M.

Trista Bryman

Secretary to the Governor

Approved this 12th day of

March, 2015,

at 5:45 o'clock P M.

Doug A. Ducey

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 12th day of March, 2015,

at 601 o'clock P. M.

Michele Reagan

Secretary of State

S.B. 1479