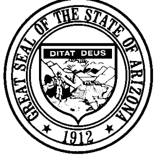

House of Representatives

HB 2010/SB 1009

2013-2014; health; welfare; budget reconciliation.

Sponsor: Representative Pratt

DPA	Caucus and COW
X	As Transmitted to the Governor

Overview

HB 2010 includes provisions to health and welfare necessary to implement the FY 2013-14 state budget. The affected agencies are the Arizona Health Care Cost Containment System (AHCCCS), the Arizona Department of Health Services (ADHS), the Arizona Department of Economic Security (ADES).

Provisions

AHCCCS

- Continues AHCCCS for ten years until July 1, 2023, contains a purpose section and a retroactivity clause to July 1, 2013.
- Contain a delayed repeal of the Healthcare Group statutes from and after December 31, 2013 and repeals the Healthcare Group Fund statute from and after December 31, 2014.
- Specifies that effective August 1, 2013 no new members may be enrolled in Healthcare Group.
- Changes the title of the AHCCCS Fund, Long-term Care System Fund and the Third-party Liability Fund by adding *Recovery Audit*.
- Specifies, that in addition to monies paid by third-party payors and lien and estate recoveries, that the Third-Party Liability and *Recovery Audit Fund* is comprised of monies paid by first-party payors and medical services providers for recovery audit contractor findings.
- States for inpatient hospital services rendered on or after October 1, 2011 the prospective tiered per diem payment rates are permanently reset to the amounts payable for those services as of October 1, 2011.
- Codifies AHCCCS' authority to cover specified transplants and continues to exclude pancreas only transplants.
- Provides coverage for well exams.
- Repeals, from and after December 31, 2013, the section that allows AHCCCS, subject to approval of the Centers for Medicare and Medicaid Services (CMS), to authorize any political subdivision of this state to provide monies necessary to qualify for federal matching monies in order to provide health care coverage to persons who would have been eligible for AHCCCS coverage.
- Permits a freestanding children's hospital with more than 100 beds to continue to participate in the Safety Care Net Pool (SNCP) program through December 31, 2017, if approved by CMS and limits the growth of supplemental payments from the SNCP and DSH payments to 3% annually.

- Allows AHCCCS to continue the risk contingency rate setting, at funding levels that were imposed for contract year beginning October 1, 2010, for all managed care organizations for the contract year beginning October 1, 2013 and ending September 30, 2014.
- Allows AHCCCS to participate in any Special Disability Workload 1115 Demonstration Waiver offered by CMS and any credits must be used in the fiscal year the credits are made available to fund the state share of any medical assistance expenditures that qualify for federal financial participation under the Medicaid program. AHCCCS must report the receipt of any credits to the Director of the Joint Legislative Budget Committee (JLBC) by December 31, 2013 and June 30, 2014.
- Mandates AHCCCS, on or before December 31, 2013, to report to the Directors of JLBC and the Governor's Office of Strategic Planning and Budgeting (OSPB) on the use of emergency departments for nonemergency purposes by AHCCCS enrollees.
- Requires AHCCCS, on or before December 31, 2013, to submit a report to the Governor, the Legislature and a copy to the Secretary of State on the use of air ambulance services by AHCCCS in the preceding five years that determines:
  - The cost of AHCCCS' use of air ambulance service.
  - Whether the use of air ambulances complied with the rules.
  - The number of times reimbursement for air ambulance services was denied.
  - The specific medical conditions that required immediate intervention as prescribed by rule.
- Declares the intent of the Legislature for FY 2013-14 that AHCCCS implement a program within the available appropriation.
- States it is the intent of the Legislature for FY 2013-14 that AHCCCS comply with the federal False Claims Act and maximize savings in AHCCCS programs.
- Provides for FYs 2014-15 and 2015-16 that it is the intent of the Legislature that AHCCCS' capitation rate increase not exceed 3%.
- Requires AHCCCS, its contractors and subcontractors to provide remuneration for ambulance services for persons covered by or enrolled in AHCCCS in an amount equal to 80% of the amount prescribed by ADHS.
- Mandates AHCCCS to make annual adjustments to the fee schedule according to ADHS' approved ambulance service rate in effect as of July 1 of each year and the rate adjustments are effective beginning October 1 of each year.
- Specifies that for dates of service, as amended by this act, on and after October 1, 2012 through September 30, 2014, AHCCCS and its contractors must reimburse ambulance service providers in an amount equal to 68.59% of the amounts prescribed by ADHS.
- Requires AHCCCS and its contractors to reimburse ambulance service providers for dates of service on and after October 1, 2014 through September 30, 2015 in an amount equal to 74.74% of the amount prescribed by ADHS of August 2, 2014.
- Allows AHCCCS to cover outpatient health services, medical supplies, durable medical equipment and prosthetic devices under certain condition. Requires AHCCCS to submit a report by January 1, 2016 on cost savings and repeals this from and after June 30, 2016.

Counties

- Sets the county Arizona Long Term Care System (ALTCS) contributions for FY 2013-14 at $244,696,100.
- Specifies that if the overall cost for the ALTCS line item exceeds the amount in the General Appropriations Act for FY 2013-14, the State Treasurer must collect from the counties the difference of the amount specified and the counties' share of the state's actual contribution.
- Requires AHCCCS to transfer to the counties such portion as may be necessary to comply with the Patient Protection and Affordable Care Act regarding the counties proportional share of the state's contribution on or before December 31, 2014 for FY 2013-14.
- Sets the County Acute Care Contributions for FY 2013-14 at $47,851,000 and states it is the intent of the Legislature that the Maricopa County contribution be reduced to reflect changes in the GDP price deflator.
- Sets the amount of $2,646,200 to be collected from the counties, other than Maricopa, for the County Acute Care Contribution for hospitalization and medical care services administered by AHCCCS. Specifies that the county contributions are excluded from the county expenditure limitations.
- Continues to exclude the Proposition 204 administration costs from the county expenditure limitations.

ADHS

- Extends rule making authority, from July 1, 2013 to April 30, 2014 to adopt rules regarding health care institutions that reduce the monetary or regulatory costs on people and streamline the process; promote the use of deemed status for behavioral health organizations that are accredited by recognized national organizations; and facilitate licensure of integrated health programs that provide both behavioral and physical health services.
- Exempts ADHS, for purposes related to rules regarding health care institutions, from the rule making requirements until April 30, 2014, except that ADHS must provide public notice and an opportunity for public comment on proposed rules at least 30 days before a rule is adopted or amended. Applies retroactively to June 30, 2013.
- Allows ADHS to determine the percentage of the costs to be reimbursed by a county for commitment of an individual deemed to be sexually violent and county contributions are excluded from the county expenditure limitations:
  - It is the intent of the Legislature that ADHS set the percentage rate at a level that would increase the state share of the cost by $1,800,000 in FY 2013-14.
- Requires a city or county to reimburse ADHS for 100% of the costs of inpatient competency restoration treatment for FY 2013-14 and county contributions are excluded from the county expenditure limitations.
- Allows ADHS to use monies in the Health Research Account in an amount specified in the General Appropriations Act for Alzheimer's disease research.
- Transfers all monies remaining in the Hearing and Speech Professionals Fund to the Health Services Licensing Fund on the effective date of this act.
- Exempts ADHS from rule making requirements for purposes of implementing this act, for one year after the effective date of this act.

- States it is the intent of the Legislature that ADHS may increase behavioral health service provider rates up to 3% above the September 30, 2013 rates beginning on October 1, 2013.

Hospitals

- Establishes the following DSH payments for FY 2013-14:
  - Maricopa Medical Center - $89,877,700, $4,202,300 is distributed to Maricopa County Special Health Care District. If there remains available DSH payment authority after safety net care pool payments are made, any additional funds must be deposited into the state General Fund (GF).
  - Arizona State Hospital - $26,724,700 and the entire amount is deposited in the GF.
  - Private qualifying DSH hospitals – $9,284,800.
- States for FY 2013-14, the DSH payment attributed to Maricopa County Special Health Care District must not exceed $89,877,700.
- Continues to allow local governments, tribal governments and universities to contribute state match monies for DSH payments in FY 2013-14.

ADES

- Permits ADES to use monies in the long-term care system fund for any operational or programmatic expenses in FY 2013-14.
- Allows ADES, for FY 2013-14, to reduce income eligibility levels for child care assistance, to manage within appropriated and available monies, and ADES must notify JLBC of any changes in income eligibility levels within 15 days after implementing the change.
- Specifies, on or before September 1, 2013, the Directors of JLBC, OSPB and ADES must report to the Governor and the Legislature recommendations for consolidating into one report - the child welfare report, the financial and program accountability report and other child welfare reports required by ADES and outlines provisions the report must address.
- Requires the Auditor General to provide to the Governor, the Legislature and the Directors of JLBC and OSPB specified reports relating to the expenditure of monies for children support services in ADES.

Medicaid Expansion

Definition of Eligible Person

- Expands the definition of an *eligible person*, for purposes of AHCCCS eligibility, to include a person whose household's modified adjusted gross income is more than 100% but equal to or less than 133% of federal poverty guidelines (FPL), effective January 1, 2014 and includes:
  - Children under 19 years of years of age and whose family income does not exceed 133% FPL.
  - Persons under 26 years of age and who were in the custody of the ADES when the person became eligible.
- Requires AHCCCS to discontinue eligibility for persons between 100-133% FPL if the Federal Medicaid Assistance Percentage (FMAP) is less than 80% and AHCCCS must discontinue eligibility if the maximum amount that can be assessed under the hospital assessment without causing a reduction in federal financial participation, in combination with other funds is insufficient to cover the costs of the Proposition 204 and the adult expansion population.

- Conditionally repeals this section and requires the Director to notify the Director of Legislative Council if:
  - The FMAP drops below 80%.
  - The Patient Protection and Affordable Care Act is repealed.
  - The maximum amount that can be assessed under the hospital assessment without causing a reduction in federal financial participation, in combination with the monies from the Hospital Assessment Fund (Fund) and any other monies appropriated for the costs associated with the expansion and Proposition 204 populations, is insufficient to cover the costs.

Hospital Assessment

- Beginning January 1, 2014, requires the Director of AHCCCS to establish, administer and collect an assessment on hospital revenues, discharges or bed days for the purpose of funding the nonfederal share of the costs, except for costs related to persons for behavioral health services, that are incurred for AHCCCS eligible individuals and that are not covered by the Proposition 204 Protection Account and the Arizona Tobacco Litigation Settlement Fund or any other monies appropriated to cover these costs, for the following individuals:
  - Persons who are defined eligible pursuant to § 36-2901.07 (adult expansion population 100-133% FPL).
  - Persons who are defined eligible pursuant to Proposition 204.
- Requires the Director to adopt rules regarding the method for determining the assessment, the amount or rate of the assessment and modifications or exemptions from the assessment. The assessment is subject to approval by the federal government to ensure that the assessment is not established or administered in a manner that causes a reduction in federal financial participation.
- Allows the Director to establish modifications or exemptions to the assessment by considering factors such as the size of the hospital, the specialty services available to patients and the geographic location of the hospital.
- Stipulates that the Director, before implementing the assessment and annually thereafter if the assessment is modified, must present the methodology to JLBC for review.
- Specifies that AHCCCS must not collect an assessment for costs after the effective date of any reduction of the FMAP to less than 80%.
- Requires AHCCCS to deposit the revenues collected from the hospital assessment into the Fund.
- Prohibits that hospitals from passing the cost of the assessment on to the patients or third party payors and requires hospitals to submit to ADHS an attestation to that effect.
- Allows the Director of AHCCCS to suspend or revoke the hospital's AHCCCS provider agreement registration if the hospital does not comply with the provisions of the hospital assessment.
- States that if the hospital does not comply within 180 days after the Director of AHCCCS suspends or revokes the hospital's provider agreement, the Director must notify the Director of ADHS, who must suspend or revoke the hospital's license.
- Allows the Director of ADHS to suspend, revoke, in whole or in part, the license of any health care institution if its owners, officers, agents or employees fail to comply with the hospital assessment.

- Establishes the Fund to be administered by the Director.
- Specifies the Director must only use Fund monies as necessary to supplement monies in the Proposition 204 Protection Account (Prop 204) and the Arizona Tobacco Litigation Settlement Fund.
- Provides that monies in the Fund do not revert to the state GF, are exempt from the lapsing of appropriations and are continuously appropriated.
- Exempts AHCCCS, for purposes of the hospital assessment, from the rule making provisions except that AHCCCS must provide notice and opportunity for public comment at least 30 days before establishing or implementing the administration of the hospital assessment.
- States it is the intent of the Legislature that the hospital assessment added by this act, be subject to approval by the federal government does not adopt federal law by reference.
- Specifies that the requirement for AHCCCS to establish a hospital assessment does not delegate legislative taxing authority to AHCCCS and the Director must impose the assessment in accordance with clear guidance provided in this act.
- Provides that the hospital assessment be used for the benefit of hospitals for the purpose of providing health care for persons eligible for coverage funded by the hospital assessment.
- States it is the intent of the Legislature that the provision added related to Medicaid and Medicaid expansion are for the support and maintenance of a state government department and institution.
- Conditionally repeals this section and requires the Director to notify the Director of Legislative Council if:
  - The FMAP drops below 80%.
  - The Patient Protection and Affordable Care Act is repealed.
  - The maximum amount that can be assessed under the hospital assessment without causing a reduction in federal financial participation, in combination with the monies from the Hospital Assessment Fund (Fund) and any other monies appropriated for the costs associated with the expansion and Proposition 204 populations, is insufficient to cover the costs.

Medicaid Federal Circuit Breaker and Outcomes Study Committee
(Study Committee)

- Establishes the Study Committee, outlines the membership and their duties. Repeals the Study Committee from and after December 31, 2016.
- Requires the Study Committee, on or before October 1, 2014, to submit to the Governor and the Legislature a report of its findings and recommendations related to the potential impact on AHCCCS due to a decrease in federal funding.
- Mandates that the Study Committee, on or before January 1, 2016, submit to the Governor and Legislature an evaluation of the impact of restoring Medicaid coverage and the hospital assessment.

AHCCCS and ADHS

- Mandates AHCCCS to establish work groups to study and provide input on the development of the hospital assessment. The work groups, at a minimum, must include representatives from the urban, rural and critical access hospitals.

- Provides that AHCCCS must pursue cost sharing requirements for members to the maximum extent allowed under federal law and AHCCCS is exempt, for purposes relating to cost sharing, from the rule making requirements for one year after the effective date of this act.
- Subjects the cost sharing requirements to approval by CMS and specifies beginning January 1, 2014 that AHCCCS must charge and collect from each enrollee the following:
  - A premium of not more than 2% of the person's household income.
  - A copayment of $200 for nonemergency use of an emergency room if the person is not admitted to the hospital.
  - A copayment of $200 for nonemergency use of an emergency room if there is a community health center, rural health center or urgent care center within 20 miles of the hospital.
- Requires the Directors of AHCCCS and ADHS to jointly submit a report on hospital charge master transparency to the Governor, the Legislature and provide a copy to the Secretary of State.
- Requires AHCCCS to provide a notice to new members at the time of enrollment that their eligibility may be dependent on the availability of federal financial participation.
- Specifies that AHCCCS, on or before October 1, 2013 and annually thereafter, must report to the Legislature, the Directors of JLBC and OSPB on the change in uncompensated hospital costs experienced by the hospitals and hospital profitability during the previous fiscal year and repeals this provision from and after January 1, 2018.
- Specifies that AHCCCS, on or before August 1, 2014 and annually thereafter, must report to the Legislature, the Directors of JLBC and OSPB the amount each hospital contributed for the provider assessment and the amount of estimated payments each hospital received from the coverage funded by the assessment . This section is repealed from and after January 1, 2018.
- Appropriates to AHCCCS sufficient monies, in addition to any other appropriations made in FY 2013-14, to implement the provisions of Medicaid and Medicaid Expansion.
- Appropriates to ADHS sufficient monies, in addition to any other appropriations made in FY 2013-14, to implement the provisions of Medicaid and Medicaid Expansion.

Miscellaneous

- Specifies, effective from and after December 31, 2013, that a municipality must not levy or impose an assessment, fee or tax on hospital revenues, discharges, beds or services.
- Defines *modified adjusted gross income.*
- Makes technical and conforming changes.