

REFERENCE TITLE: mental health conditions; medications; prohibitions

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2449

Introduced by
Representatives Montenegro: Carbone; Senators Gowan, Shamp, Shope

AN ACT

AMENDING SECTION 20-3402, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 31, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-3655; AMENDING SECTIONS 36-2901 AND 36-2907, ARIZONA REVISED STATUTES; RELATING TO MENTAL HEALTH TREATMENT.

(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 **ANY OF THE FOLLOWING:**

8 1. Emergency ambulance services and emergency services as specified
9 in section 20-2803. ~~;~~

10 2. Health care services arising after the initial medical screening
11 examination and immediately necessary stabilizing treatment as specified
12 in section 20-2803.

13 3. **PRESCRIPTION DRUG COVERAGE FOR THE TREATMENT OF A SERIOUS MENTAL**
14 **HEALTH CONDITION AS DEFINED IN SECTION 36-2901.**

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

17 Sec. 2. Title 20, chapter 31, article 1, Arizona Revised Statutes,
18 is amended by adding section 20-3655, to read:

19 20-3655. Exception; mental health condition; prescription
20 drugs

21 **A STEP THERAPY PROTOCOL MAY NOT BE USED FOR DRUGS THAT WERE**
22 **PRESCRIBED FOR THE TREATMENT OF A SERIOUS MENTAL HEALTH CONDITION AS**
23 **DEFINED IN SECTION 36-2901.**

24 Sec. 3. Section 36-2901, Arizona Revised Statutes, is amended to
25 read:

26 36-2901. Definitions

27 In this article, unless the context otherwise requires:

28 1. "Administration" means the Arizona health care cost containment
29 system administration.

30 2. "Administrator" means the administrator of the Arizona health
31 care cost containment system.

32 3. "Contractor" means a person or entity that has a prepaid
33 capitated contract with the administration pursuant to section 36-2904 or
34 chapter 34 of this title to provide health care to members under this
35 article or persons under chapter 34 of this title either directly or
36 through subcontracts with providers.

37 4. "Department" means the department of economic security.

38 5. "Director" means the director of the Arizona health care cost
39 containment system administration.

40 6. "Eligible person" means any person who is:

41 (a) Any of the following:

42 (i) Defined as mandatorily or optionally eligible pursuant to title
43 XIX of the social security act as authorized by the state plan.

44 (ii) Defined in title XIX of the social security act as an eligible
45 pregnant woman or a woman who is less than one year postpartum with a

1 family income that does not exceed one hundred fifty percent of the
2 federal poverty guidelines, as a child under the age of six years and
3 whose family income does not exceed one hundred thirty-three percent of
4 the federal poverty guidelines or as children who have not attained
5 nineteen years of age and whose family income does not exceed one hundred
6 thirty-three percent of the federal poverty guidelines.

7 (iii) Under twenty-six years of age and who was in the custody of
8 the department of child safety pursuant to title 8, chapter 4 when the
9 person became eighteen years of age.

10 (iv) Defined as eligible pursuant to section 36-2901.01.

11 (v) Defined as eligible pursuant to section 36-2901.04.

12 (vi) Defined as eligible pursuant to section 36-2901.07.

13 (b) A full-time officer or employee of this state or of a city,
14 town or school district of this state or other person who is eligible for
15 hospitalization and medical care under title 38, chapter 4, article 4.

16 (c) A full-time officer or employee of any county in this state or
17 other persons authorized by the county to participate in county medical
18 care and hospitalization programs if the county in which such officer or
19 employee is employed has authorized participation in the system by
20 resolution of the county board of supervisors.

21 (d) An employee of a business within this state.

22 (e) A dependent of an officer or employee who is participating in
23 the system.

24 (f) Not enrolled in the Arizona long-term care system pursuant to
25 article 2 of this chapter.

26 (g) Defined as eligible pursuant to section 1902(a)(10)(A)(ii)(XV)
27 and (XVI) of title XIX of the social security act and who meets the income
28 requirements of section 36-2929.

29 7. "Graduate medical education" means a program, including an
30 approved fellowship, that prepares a physician for the independent
31 practice of medicine by providing didactic and clinical education in a
32 medical discipline to a medical student who has completed a recognized
33 undergraduate medical education program.

34 8. "Malice" means evil intent and outrageous, oppressive or
35 intolerable conduct that creates a substantial risk of tremendous harm to
36 others.

37 9. "Member" means an eligible person who enrolls in the system.

38 10. "Modified adjusted gross income" has the same meaning
39 prescribed in 42 United States Code section 1396a(e)(14).

40 11. "Noncontracting provider" means a person who provides health
41 care to members pursuant to this article but not pursuant to a subcontract
42 with a contractor.

43 12. "Physician" means a person who is licensed pursuant to title
44 32, chapter 13 or 17.

- 1 13. "Prepaid capitated" means a mode of payment by which a health
2 care contractor directly delivers health care services for the duration of
3 a contract to a maximum specified number of members based on a fixed rate
4 per member notwithstanding:
- 5 (a) The actual number of members who receive care from the
6 contractor.
- 7 (b) The amount of health care services provided to any member.
- 8 14. "Primary care physician" means a physician who is a family
9 practitioner, general practitioner, pediatrician, general internist, or
10 obstetrician or gynecologist.
- 11 15. "Primary care practitioner" means a nurse practitioner or
12 certified nurse midwife who is ~~certified~~ LICENSED pursuant to title 32,
13 chapter 15 or a physician assistant who is licensed pursuant to title 32,
14 chapter 25. This paragraph does not expand the scope of practice for
15 nurse practitioners or certified nurse midwives as defined pursuant to
16 title 32, chapter 15 or for physician assistants as defined pursuant to
17 title 32, chapter 25.
- 18 16. "PRIOR AUTHORIZATION REQUIREMENT" HAS THE SAME MEANING
19 PRESCRIBED IN SECTION 20-3401.
- 20 ~~16.~~ 17. "Regional behavioral health authority" has the same
21 meaning prescribed in section 36-3401.
- 22 ~~17.~~ 18. "Section 1115 waiver" means the research and demonstration
23 waiver granted by the United States department of health and human
24 services.
- 25 19. "SERIOUS MENTAL HEALTH CONDITION" MEANS ANY OF THE FOLLOWING:
26 (a) A BIPOLAR DISORDER, HYPOMANIC, MANIC, DEPRESSIVE OR MIXED.
27 (b) CHILDHOOD AND ADOLESCENT DEPRESSION.
28 (c) A MAJOR DEPRESSIVE DISORDER, SINGLE EPISODE OR RECURRENT,
29 INCLUDING POSTPARTUM.
30 (d) AN OBSESSIVE-COMPULSIVE DISORDER.
31 (e) A PARANOID PERSONALITY DISORDER OR ANY OTHER PSYCHOTIC
32 DISORDER.
33 (f) A SCHIZOAFFECTIVE DISORDER, BIPOLAR OR DEPRESSIVE.
34 (g) SCHIZOPHRENIA.
- 35 ~~18.~~ 20. "Special health care district" means a special health care
36 district organized pursuant to title 48, chapter 31.
- 37 ~~19.~~ 21. "State plan" has the same meaning prescribed in section
38 36-2931.
- 39 22. "STEP THERAPY PROTOCOL" HAS THE SAME MEANING PRESCRIBED IN
40 SECTION 20-3651.
- 41 ~~20.~~ 23. "System" means the Arizona health care cost containment
42 system established by this article.

1 Sec. 4. Section 36-2907, Arizona Revised Statutes, is amended to
2 read:

3 36-2907. Covered health and medical services; modifications;
4 related delivery of service requirements; rules;
5 definition

6 A. Subject to the limits and exclusions specified in this section,
7 contractors shall provide the following medically necessary health and
8 medical services:

9 1. Inpatient hospital services that are ordinarily furnished by a
10 hospital to care FOR and treat inpatients and that are provided under the
11 direction of a physician or a primary care practitioner. For the purposes
12 of this section, inpatient hospital services exclude services in an
13 institution for tuberculosis or mental diseases unless authorized under an
14 approved section 1115 waiver.

15 2. Outpatient health services that are ordinarily provided in
16 hospitals, clinics, offices and other health care facilities by licensed
17 health care providers. Outpatient health services include services
18 provided by or under the direction of a physician or a primary care
19 practitioner, including occupational therapy.

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

22 4. Medications that are ordered on prescription by a physician or a
23 dentist who is licensed pursuant to title 32, chapter 11. Persons who are
24 dually eligible for title XVIII and title XIX services must obtain
25 available medications through a medicare licensed or certified medicare
26 advantage prescription drug plan, a medicare prescription drug plan or any
27 other entity authorized by medicare to provide a medicare part D
28 prescription drug benefit.

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

1 another contractor, including an outpatient surgical center or a
2 noncontracting provider, to deliver family planning services to a member
3 who is enrolled with the contractor that elects not to provide family
4 planning services.

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

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

10 11. Dental services as follows:

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

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

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

21 13. Hospice care.

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

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

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

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

29 15. Subject to approval by the centers for medicare and medicaid
30 services, medically necessary chiropractic services that are performed by
31 a chiropractor who is licensed pursuant to title 32, chapter 8 and that
32 are ordered by a primary care physician or primary care practitioner
33 pursuant to rules adopted by the administration. The primary care
34 physician or primary care practitioner may initially order up to twenty
35 visits annually that include treatment and may request authorization for
36 additional chiropractic services in that same year if additional
37 chiropractic services are medically necessary.

38 16. For up to ten program hours annually, diabetes outpatient
39 self-management training services, as defined in 42 United States Code
40 section 1395x, if prescribed by a primary care practitioner in either of
41 the following circumstances:

42 (a) The member is initially diagnosed with diabetes.

43 (b) For a member who has previously been diagnosed with diabetes,
44 either:

1 (i) A change occurs in the member's diagnosis, medical condition or
2 treatment regimen.

3 (ii) The member is not meeting appropriate clinical outcomes.

4 B. The limits and exclusions for health and medical services
5 provided under this section are as follows:

6 1. Circumcision of newborn males is not a covered health and
7 medical service.

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

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

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

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

14 (d) Durable medical equipment is limited to items covered by
15 medicare.

16 (e) Nonexperimental transplants do not include pancreas-only
17 transplants.

18 (f) Bariatric surgery procedures, including laparoscopic and open
19 gastric bypass and restrictive procedures, are not covered health and
20 medical services.

21 C. The system shall pay noncontracting providers only for health
22 and medical services as prescribed in subsection A of this section and as
23 prescribed by rule.

24 D. The director shall adopt rules necessary to limit, to the extent
25 possible, the scope, duration and amount of services, including maximum
26 limits for inpatient services that are consistent with federal regulations
27 under title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42
28 United States Code section 1396 (1980)). To the extent possible and
29 practicable, these rules shall provide for the prior approval of medically
30 necessary services provided pursuant to this chapter.

31 E. The director shall make available home health services in lieu
32 of hospitalization pursuant to contracts awarded under this article. For
33 the purposes of this subsection, "home health services" means the
34 provision of nursing services, home health aide services or medical
35 supplies, equipment and appliances that are provided on a part-time or
36 intermittent basis by a licensed home health agency within a member's
37 residence based on the orders of a physician or a primary care
38 practitioner. Home health agencies shall comply with the federal bonding
39 requirements in a manner prescribed by the administration.

40 F. The director shall adopt rules for the coverage of behavioral
41 health services for persons who are eligible under section 36-2901,
42 paragraph 6, subdivision (a). The administration acting through the
43 regional behavioral health authorities shall establish a diagnostic and
44 evaluation program to which other state agencies shall refer children who
45 are not already enrolled pursuant to this chapter and who may be in need

1 of behavioral health services. In addition to an evaluation, the
2 administration acting through regional behavioral health authorities shall
3 also identify children who may be eligible under section 36-2901,
4 paragraph 6, subdivision (a) or section 36-2931, paragraph 5 and shall
5 refer the children to the appropriate agency responsible for making the
6 final eligibility determination.

7 G. The director shall adopt rules providing for transportation
8 services and rules providing for copayment by members for transportation
9 for other than emergency purposes. Subject to approval by the centers for
10 medicare and medicaid services, nonemergency medical transportation shall
11 not be provided except for stretcher vans and ambulance transportation.
12 Prior authorization is required for transportation by stretcher van and
13 for medically necessary ambulance transportation initiated pursuant to a
14 physician's direction. Prior authorization is not required for medically
15 necessary ambulance transportation services rendered to members or
16 eligible persons initiated by dialing telephone number 911 or other
17 designated emergency response systems.

18 H. The director may adopt rules to allow the administration, at the
19 director's discretion, to use a second opinion procedure under which
20 surgery may not be eligible for coverage pursuant to this chapter without
21 documentation as to need by at least two physicians or primary care
22 practitioners.

23 I. If the director does not receive bids within the amounts
24 budgeted or if at any time the amount remaining in the Arizona health care
25 cost containment system fund is insufficient to pay for full contract
26 services for the remainder of the contract term, the administration, on
27 notification to system contractors at least thirty days in advance, may
28 modify the list of services required under subsection A of this section
29 for persons defined as eligible other than those persons defined pursuant
30 to section 36-2901, paragraph 6, subdivision (a). The director may also
31 suspend services or may limit categories of expense for services defined
32 as optional pursuant to title XIX of the social security act (P.L. 89-97;
33 79 Stat. 344; 42 United States Code section 1396 (1980)) for persons
34 defined pursuant to section 36-2901, paragraph 6, subdivision (a). Such
35 reductions or suspensions do not apply to the continuity of care for
36 persons already receiving these services.

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

39 1. Emergency services and specialty services provided pursuant to
40 section 36-2908.

41 2. That the director may allow the delivery of health and medical
42 services in other than the geographic service area in this state or in an
43 adjoining state if the director determines that medical practice patterns
44 justify the delivery of services or a net reduction in transportation
45 costs can reasonably be expected. Notwithstanding the definition of

1 physician as prescribed in section 36-2901, if services are procured from
2 a physician or primary care practitioner in an adjoining state, the
3 physician or primary care practitioner shall be licensed to practice in
4 that state pursuant to licensing statutes in that state that are similar
5 to title 32, chapter 13, 15, 17 or 25 and shall complete a provider
6 agreement for this state.

7 K. Covered outpatient services shall be subcontracted by a primary
8 care physician or primary care practitioner to other licensed health care
9 providers to the extent practicable for purposes including, but not
10 limited to, making health care services available to underserved areas,
11 reducing costs of providing medical care and reducing transportation
12 costs.

13 L. The director shall adopt rules that prescribe the coordination
14 of medical care for persons who are eligible for system services. The
15 rules shall include provisions for transferring patients and medical
16 records and initiating medical care.

17 M. Notwithstanding section 36-2901.08, monies from the hospital
18 assessment fund established by section 36-2901.09 may not be used to
19 provide EITHER OF THE FOLLOWING:

20 1. Chiropractic services as prescribed in subsection A, paragraph
21 15 of this section.

22 ~~N. Notwithstanding section 36-2901.08, monies from the hospital~~
23 ~~assessment fund established by section 36-2901.09 may not be used to~~
24 ~~provide~~

25 2. Diabetes outpatient self-management training services as
26 prescribed in subsection A, paragraph 16 of this section.

27 N. IN DEVELOPING A PREFERRED DRUG LIST FOR THE PURPOSES OF
28 PRESCRIPTION DRUG COVERAGE, THE ADMINISTRATION SHALL ENSURE THAT THE
29 PHARMACY AND THERAPEUTICS COMMITTEE REVIEWS ANY DRUG THAT IS NEWLY
30 APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION FOR THE
31 TREATMENT OF SERIOUS MENTAL HEALTH CONDITIONS AT THE FIRST MEETING OF THE
32 PHARMACY AND THERAPEUTICS COMMITTEE FOLLOWING THE DATE OF THE DRUG'S
33 APPROVAL.

34 O. THE ADMINISTRATION AND ITS CONTRACTORS MAY NOT IMPOSE A STEP
35 THERAPY PROTOCOL OR PRIOR AUTHORIZATION REQUIREMENT FOR THE USE OF ANY
36 DRUG PRESCRIBED FOR THE TREATMENT OF A SERIOUS MENTAL HEALTH CONDITION.

37 ~~O.~~ P. For the purposes of this section, "ambulance" has the same
38 meaning prescribed in section 36-2201.