REFERENCE TITLE: children's health insurance program

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

HB 2127

Introduced by
Representative Cobb

AN ACT

AMENDING SECTIONS 36-2985 AND 36-2986, ARIZONA REVISED STATUTES; RELATING TO THE CHILDREN'S HEALTH INSURANCE PROGRAM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 36-2985, Arizona Revised Statutes, is amended to read:

36-2985. Notice of program suspension or termination; spending limit

~~A. If this state's federal medical assistance percentage for the program is less than one hundred percent, the administration shall immediately notify the governor, the president of the senate and the speaker of the house of representatives and shall immediately stop processing all new applications.~~

A. IF THE DIRECTOR DETERMINES THAT THE AMOUNT OF STATE MONIES APPROPRIATED COMBINED WITH AVAILABLE FEDERAL MONIES MAY BE INSUFFICIENT FOR THE PROGRAM, THE DIRECTOR SHALL IMMEDIATELY NOTIFY THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. AFTER CONSULTING WITH THE GOVERNOR, THE ADMINISTRATION SHALL STOP PROCESSING NEW APPLICATIONS FOR THE PROGRAM UNTIL VERIFYING THAT FUNDING IS SUFFICIENT TO BEGIN PROCESSING APPLICATIONS.

B. IF THE FEDERAL GOVERNMENT ELIMINATES FUNDING FOR THE PROGRAM AS SPECIFIED IN 42 UNITED STATES CODE SECTION 1397ee, THE ADMINISTRATION SHALL IMMEDIATELY STOP PROCESSING ALL NEW APPLICATIONS AND SHALL PROVIDE AT LEAST THIRTY DAYS' NOTICE TO CONTRACTORS AND MEMBERS THAT THE PROGRAM WILL TERMINATE.

~~B.~~ C. The total amount of state monies that may be spent in any fiscal year by the administration for health care provided under this article shall not exceed the amount appropriated or authorized by section 35-173.

~~C.~~ D. This article does not impose a duty on an officer, agent or employee of this state to discharge a responsibility or create any right in a person or group if the discharge or right would require an expenditure of state monies in excess of the expenditure authorized by legislative appropriation for that specific purpose.

Sec. 2. Section 36-2986, Arizona Revised Statutes, is amended to read:

36-2986. Administration; powers and duties of director

A. The director has full operational authority to adopt rules or to use the appropriate rules adopted for article 1 of this chapter to implement this article, including any of the following:

1. Contract administration and oversight of contractors.

2. Development of a complete system of accounts and controls for the program, including provisions designed to ensure that covered health and medical services provided through the system are not used unnecessarily or unreasonably, including inpatient behavioral health services provided in a hospital.

3. Establishment of peer review and utilization review functions for all contractors.

4. Development and management of a contractor payment system.

5. Establishment and management of a comprehensive system for ~~assuring~~ ENSURING quality of care.

6. Establishment and management of a system to prevent fraud by members, contractors and health care providers.

7. Development of an outreach program. The administration shall coordinate with public and private entities to provide outreach services for children under this article. Priority shall be given to those families who are moving off welfare. Outreach activities shall include strategies to inform communities, including tribal communities, about the program, ensure a wide distribution of applications and provide training for other entities to assist with the application process.

8. Coordination of benefits provided under this article for any member. The director may require that contractors and noncontracting providers are responsible for the coordination of benefits for services provided under this article. Requirements for coordination of benefits by noncontracting providers under this section are limited to coordination with standard health insurance and disability insurance policies and similar programs for health coverage. The director may require members to assign to the administration rights to all types of medical benefits to which the person is entitled, including ~~first party~~ FIRST-PARTY medical benefits under automobile insurance policies. The state has a right of subrogation against any other person or firm to enforce the assignment of medical benefits. The provisions of this paragraph are controlling over the provisions of any insurance policy that provides benefits to a member if the policy is inconsistent with this paragraph.

9. Development and management of an eligibility, enrollment and redetermination system, including a process for quality control.

10. Establishment and maintenance of an encounter claims system that ensures that ninety percent of the clean claims are paid within thirty days after receipt and ninety-nine percent of the remaining clean claims are paid within ninety days after receipt by the administration or contractor unless an alternative payment schedule is agreed to by the contractor and the provider. For the purposes of this paragraph, "clean claims" has the same meaning prescribed in section 36-2904, subsection G.

11. Establishment of standards for the coordination of medical care and member transfers.

12. Requiring contractors to submit encounter data in a form specified by the director.

13. Assessing civil penalties for improper billing as prescribed in section 36-2903.01, subsection K.

B. Notwithstanding any other law, if Congress amends title XXI of the social security act and the administration is required to make conforming changes to rules adopted pursuant to this article, the

administration shall request a hearing with the joint health committee of reference for review of the proposed rule changes.

C. The director may subcontract distinct administrative functions to one or more persons who may be contractors within the system.

D. The director shall require as a condition of a contract with any contractor that all records relating to contract compliance are available for inspection by the administration and that these records be maintained by the contractor for five years. The director shall also require that these records are available by a contractor on request of the secretary of the United States department of health and human services.

E. Subject to existing law relating to privilege and protection, the director shall prescribe by rule the types of information that are confidential and circumstances under which this information may be used or released, including requirements for physician-patient confidentiality. Notwithstanding any other law, these rules shall be designed to provide for the exchange of necessary information for the purposes of eligibility determination under this article. Notwithstanding any other law, a member's medical record shall be released without the member's consent in situations of suspected cases of fraud or abuse relating to the system to an officer of this state's certified Arizona health care cost containment system fraud control unit who has submitted a written request for the medical record.

F. The director shall provide for the transition of members between contractors and noncontracting providers and the transfer of members who have been determined eligible from hospitals that do not have contracts to care for these persons.

G. To the extent that services are furnished pursuant to this article, a contractor is not subject to title 20 unless the contractor is a qualifying plan and has elected to provide services pursuant to this article.

H. As a condition of a contract, the director shall require contract terms that are necessary to ensure adequate performance by the contractor. Contract provisions required by the director include the maintenance of deposits, performance bonds, financial reserves or other financial security. The director may waive requirements for the posting of bonds or security for contractors who have posted other security, equal to or greater than that required by the administration, with a state agency for the performance of health service contracts if monies would be available from that security for the system on default by the contractor.

I. The director shall establish solvency requirements in contract that may include withholding or forfeiture of payments to be made to a contractor by the administration for the failure of the contractor to comply with a provision of the contract with the administration. The director may also require contract terms allowing the administration to operate a contractor directly under circumstances specified in the

contract. The administration shall operate the contractor only as long as ~~it is~~ necessary to ~~assure~~ ENSURE delivery of uninterrupted care to members enrolled with the contractor and to accomplish the orderly transition of members to other contractors or until the contractor reorganizes or otherwise corrects the contract performance failure. The administration shall not operate a contractor unless, before that action, the administration delivers notice to the contractor providing an opportunity for a hearing in accordance with procedures established by the director. Notwithstanding the provisions of a contract, if the administration finds that the public health, safety or welfare requires emergency action, it may operate as the contractor on notice to the contractor and pending an administrative hearing, which it shall promptly institute.

J. For the sole purpose of matters concerning and directly related to this article, the administration is exempt from section 41-192.

K. The director may withhold payments to a noncontracting provider if the noncontracting provider does not comply with this article or adopted rules that relate to the specific services rendered and billed to the administration.

L. The director shall:

1. Prescribe uniform forms to be used by all contractors and furnish uniform forms and procedures, including methods of identification of members. The rules shall include requirements that an applicant personally complete or assist in the completion of eligibility application forms, except in situations in which the person has a disability.

2. By rule, establish a grievance and appeal procedure that conforms with the process and the time frames specified in article 1 of this chapter. If the program is suspended OR TERMINATED pursuant to section 36-2985, an applicant or member is not entitled to contest the denial, suspension or termination of eligibility for the program.

3. Apply for and accept federal monies available under title XXI of the social security act. Available state monies appropriated to the administration for the operation of the program shall be used as matching monies to secure federal monies pursuant to this subsection.

M. The administration is entitled to all rights provided to the administration for liens and release of claims as specified in sections 36-2915 and 36-2916 and shall coordinate benefits pursuant to section 36-2903, subsection F and be a payor of last resort for persons who are eligible pursuant to this article.

N. The director shall follow the same procedures for review committees, immunity and confidentiality that are prescribed in article 1 of this chapter.