

423 FINANCIAL RESPONSIBILITY FOR COURT ORDERED TREATMENT FOR DUI/DOMESTIC VIOLENCE OR OTHER CRIMINAL OFFENSES

EFFECTIVE DATE: October 1, 2019

REFERENCES: A.R.S. §§ 28-1301, 28-1381, 28-1382, or 28-1383; A.R.S. § 36-2021 et seq.

DELIVERABLES: Monthly Outpatient Court Ordered Treatment

This Policy applies to Division's Administrative Services Subcontractors (AdSS). The purpose of this Policy is to provide clarification regarding the financial responsibility for the provision of specific mental health treatment/care when such treatment is ordered because of a judicial ruling.

Definitions

Court-Ordered Alcohol Treatment - Detoxification services or treatment provided according to A.R.S. Title 36, Chapter 18, Article 2.

DUI Client -An individual who is ordered by the court to receive DUI screening, DUI education, or DUI treatment as a result of an arrest or conviction for a violation of A.R.S. §§28-1381,§28-1382, or §28-1383.

DUI Education - A program in which a person participates in at least sixteen hours of classroom instruction relating to alcohol or other drugs.

DUI Screening - A preliminary interview and assessment of an offender to determine if the offender requires alcohol or other drug education or treatment. (A.R.S. §28-1301)

DUI Services - DUI Screening, DUI education, or DUI treatment provided to a member eligible for the Division.

DUI Treatment - A program consisting of at least twenty hours of participation in a group setting dealing with alcohol or other drugs in addition to the sixteen hours of education. (A.R.S. §28-1301)

Driving Under The Influence (DUI)

The AdSS is responsible for covering and reimbursing for services when the services are Division or AHCCCS covered, medically necessary services described in Statute, Rule, Contract or Policy. A court order is not necessarily a substitute for the AdSS obligation to determine the amount, duration and scope of medically necessary services. The AdSS should not assume that a court or administrative agency ordering DUI screening, education or treatment services is aware of the scope of the Division or AHCCCS covered services or of how medical necessity is defined for purposes of the Medicaid program. Nevertheless, the AdSS may take into consideration, the medical information and factual findings of the court or administrative agency in making the AdSS determination of medical necessity.

When a DUI screening, education or treatment is ordered by the court for a person who has been charged for driving under the influence pursuant to A.R.S. §36-2027, the cost

of the screening, education and/or treatment is the responsibility of the county, city, town, or charter city whose court ordered the screening, education and/or

treatment. See A.R.S. §36-2027 (E). The county, city or town is a source of third party liability for any court ordered evaluation and/or treatment services that are also Division or AHCCCS covered services. Upon receipt of the claim, the AdSS should deny the claim and return it to the provider with directions to bill the responsible county, city or town.

Domestic Violence Offender Treatment

When a person is convicted of a misdemeanor domestic violence offense, pursuant to A.R.S. §13-3601, the sentencing judge must order the person to complete a domestic violence offender treatment program that is provided by a facility approved by the Department of Health Services or a probation department. Pursuant to A.R.S. §13-3601.01. A person who is ordered to complete a domestic violence offender treatment program must pay the cost of the program.

Although a judge may determine that court ordered domestic violence offender treatment (including educational classes to meet the requirements of the court order) is the financial responsibility of the offender under A.R.S. §13-3601.01, a member eligible for the Division cannot be considered a legally responsible third party with respect to themselves. As a result, it is the Division's expectation that the AdSS responsible for the provision of behavioral health services will provide domestic violence offender treatment when the service is deemed medically necessary. The member is not a source of first or third party liability as defined in A.A.C. R9-22-1001 when required prior authorization is obtained and/or the service is provided by an in-network provider. The AdSS must provide medically necessary services and ensure that the member's medical record includes documentation to justify the medical necessity for the services rendered.

Court Ordered Treatment For Persons Accused Of Other Crimes

Pursuant to A.R.S §36-2027, a court may order evaluation and treatment at an approved treatment facility of a person who is brought before the court and charged with a crime if:

- A. It appears the person is an alcoholic, and
- B. Such person chooses the evaluation and treatment procedures. The court cannot order the person to undergo treatment and evaluation for more than 30 days.

The cost of evaluation and treatment of an indigent patient treated pursuant to a court order under A.R.S. §36-2027 is the responsibility of the county, city, town or charter city whose court issued the order for evaluation.

When evaluation or treatment is ordered pursuant to this statute, the county, city, town or charter city whose court issued the order for evaluation is responsible for the cost of services to the extent ordered by the court. To the extent those services are

also Division covered services and the AdSS receives a claim for the services, the AdSS may direct the provider to bill the appropriate county, city, town or charter city.

Financial responsibility for the provision of medically necessary behavioral health services rendered after the completion of court-ordered evaluation is outlined in this Policy Manual, Policy 437.