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'~~STRIKETHROUGH~~' TEXT YOU ARE REMOVING
USE 'UNDERLINE' FOR NEW TEXT YOU ARE ADDING
Example: ~~Strikethrough first~~, underline second.

All rulemaking materials MUST be sent to the OLA as soon as possible upon completion or **4 weeks** prior to the SOS filing date.

Rulemaking materials include: official text changes, statement of reasonable necessity, fiscal impact statement, small business impact, and Medicaid performance-based rulemaking information (if applicable)

All Rule Forms are on the OURS web site under the Director's Office page at:
http://ours.hhs.mt.gov/director/index.shtml

PLEASE CONTACT GWEN KNIGHT WITH ANY QUESTIONS, EXT 444-4094
OR TODD OLSON, EXT 444-9503.

THIS TEXT IS BEING PROVIDED AT THE REQUEST OF: Dani Feist
DATE TEXT PROVIDED: 8/20/18

37.86.1103 OUTPATIENT DRUGS, FRAUD, WASTE, AND ABUSE

(1) Medicaid, Healthy Montana Kids, and Mental Health Services Plan members may be subject to investigation for prescription fraud and abuse in accordance with 42 CFR 455.

(2) "Fraud" means the intentional deception or misrepresentation with knowledge that the deception could result in some unauthorized benefit to the individual or some other person. Examples include:

(a) doctor shopping;

(b) reported cash payment for drugs of abuse where it is suspected that the member has circumvented the Medicaid benefit system to avoid detection; and

(c) reports from providers of suspected drug misuse or diversion.

(3) "Abuse" means the misuse of the prescription drug program resulting in undue expenditures or substance abuse. Examples include:

(a) high utilization;

(b) multiple provider usages that result in the receipt of unnecessary services;

(c) seeking of medical services that are not medically necessary;

(d) repeated use of emergency rooms or urgent care clinics; and

(e) unwarranted multiple pharmacy usage.

(4) "Drug not covered" means that a member is unable to receive a selected medication or class of medication unless a prior authorization is granted.

(5) "Opioid naïve" means a member has not received a prescription for an opioid within the last 45 days.

~~(5)~~(6) Pharmacy providers may notify the department when Medicaid members pay cash for controlled substances (CII-CV), ultram (tramadol), ultracet (tramadol and acetaminophen), carisoprodol, and gabapentin.

~~(6)~~(7) Prescriptions for noncontrolled substances may be refilled after 75% of the estimated therapy days have elapsed. Prescriptions for controlled substances (CII-CV), ultram (tramadol), ultracet (tramadol and acetaminophen), carisoprodol, and gabapentin may be refilled after 90% of the

estimated therapy days have elapsed. Members who have a "drug not covered" in place may be required to have 100% of the estimated therapy days elapse prior to a refill being authorized.

~~(7)~~(8) As stated in ARM 37.86.1102, the department does not authorize payment for medications dispensed in quantities greater than a 34-day supply excluding maintenance medications and where manufacturer packaging precludes the 34-day supply limit. Authorization for early refills, lost or stolen medication, or vacation supplies will not be granted.

(9) Opioid naïve members, without a cancer diagnosis, will be limited to a 7-day supply and 50 morphine milligram equivalents (MME) per day for all opioids.

~~(8)~~(10) The use of tamper-resistant pads for written prescriptions is required. The department follows ARM 24.174.831 established by the Montana Board of Pharmacy to define tamper-resistant prescriptions.

~~(9)~~(11) As stated in ARM 37.86.1102, the department may impose prescription limitations and requirements due to inappropriate use of drugs, as determined by professional review. These limitations or requirements may include:

(a) random drug screening;

(b) random pill counts;

(c) implementation of a treatment contract with one prescribing physician;

(d) restrictions through "Drug Not Covered";

(e) member requirement to have utilized 100 percent of the estimated therapy days prior to granting a prescription authorization; or

(f) member referral to the team care program, as outlined in ARM 37.86.5303. (History: 53-2-201, 53-6-113, MCA; IMP, 53-2-201, 53-6-101, 53-6-111, MCA; NEW, 2014 MAR p. 1405, Eff. 7/1/14; AMD, 2014 MAR p. 3094, Eff. 1/1/15; AMD, 2018 MAR p. 1607, Eff. 8/11/18.)