

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.34.1501 pertaining to) PROPOSED AMENDMENT
Developmental Disabilities Program)
Incident Reporting and Handling)

TO: All Concerned Persons

1. On September 15, 2023, at 9:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rule. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/89044101968?pwd=My9OODdtR1I1Q3VHNEZEEOG1JT2dmdz09>, meeting ID: 890 4410 1968, and password: 221290; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 890 4410 1968, and password: 221290. Find your local number: <https://mt-gov.zoom.us/u/khEXFfrKJ>.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on September 1, 2023, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.34.1501 INCIDENT REPORTING AND HANDLING, PURPOSE

(1) ~~These~~ This rules governs the reporting and handling of incidents which harm or could result in harm to a persons with a developmental disability who receives services funded by the Developmental Disabilities Program of the department.

(a) The Developmental Disabilities Program Incident Management ~~Procedures~~ Manual, dated ~~February 1, 2013~~ July 1, 2023, sets forth further requirements and criteria that govern the incident management system for the Developmental Disabilities Program of the department.

(b) The department adopts and incorporates by reference the Developmental Disabilities Program Incident Management ~~Procedures~~ Manual, dated ~~February 1, 2013~~ July 1, 2023.

(c) remains the same.

(d) Incidents constituting abuse and neglect of a child as defined in 41-3-102, MCA or abuse, neglect, and/or exploitation of a person with a developmental disability as defined in 52-3-803, MCA are subject to the statutory and rule provisions governing the reporting, investigation, and protection of those circumstances.

AUTH: 53-20-203, 53-20-204, MCA
IMP: 53-20-205, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.34.1501.

The following summary explains the reasonable necessity for the proposed rule amendment.

The purpose of this amendment is to adopt and incorporate into rule the revised Incident Management Manual. The manual was revised to eliminate unnecessary and duplicative procedures, as required by 53-20-215, MCA. The changes to the manual include updated incident types, streamlined responsibilities and reporting timeframes for state staff and providers, a linked glossary, updated language, implementation of the High-Risk Review form, and alignment with the data management system. The manual will be dated July 1, 2023. Notwithstanding that date, the department intends that providers will begin following the manual only when this rule is finalized and effective.

The department's authorizing statute is 53-20-203, MCA, which states that the department shall carry out the review of administrative rules, policies, and procedures provided for in 53-20-215, MCA, and take the steps necessary to eliminate or change a rule, policy, or procedure found by the review to be unnecessary, duplicative, or in need of revision, including applying for any amendments to Medicaid waivers.

Fiscal Impact

The proposed rule amendment has no anticipated fiscal impact implications.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov, and must be received no later than 5:00 p.m., September 22, 2023.

6. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in paragraph 5.

8. An electronic copy of this notice is available on the department's web site at <https://dphhs.mt.gov/LegalResources/administrativerules>, or through the Secretary of State's web site at <http://sosmt.gov/ARM/register>.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

11. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.

/s/ Brenda K. Elias
Brenda K. Elias
Rule Reviewer

/s/ David Gerard
David Gerard, Deputy Director
Department of Public Health and Human
Services

Certified to the Secretary of State August 15, 2023.